

# LEGISLATIVE COUNCIL

*(Constituted under the British Guiana  
(Constitution) (Temporary Provisions)  
Order in Council, 1953).*

WEDNESDAY, 10TH APRIL, 1957

The Council met at 2 p.m.

## PRESENT:

*His Honour the Speaker,*  
Sir Eustace Gordon Woolford, O.B.E.  
Q.C.

### *Ex-Officio Members:*

The Hon. the Chief Secretary,  
Mr. F. D. Jakeway, C.M.G., O.B.E.

The Hon. the Attorney General,  
Mr. A. M. I. Austin.

The Hon. the Financial Secretary,  
Mr. F. W. Essex.

### *Nominated Members of Executive Council:*

The Hon. Sir Frank McDavid,  
C.M.G., C.B.E. (Member for Agriculture,  
Forests, Lands and Mines).

The Hon. W. O. R. Kendall (Member  
for Communications and Works).

The Hon. G. A. C. Farnum, O.B.E.  
(Member for Local Government, Social  
Welfare and Co-operative Development).

The Hon. R. B. Gajraj

The Hon. R. C. Tello

### *Nominated Official:*

Mr. J. I. Ramphal.

### *Nominated Unofficials:*

Mr. L. A. Luckhoo, Q.C.

Mr. C. A. Carter

Mr. E. F. Correia

Rev. D. C. J. Bobb

Mr. H. Rahaman

Miss Gertie H. Collins

Mrs. Esther E. Dey

Dr. H. A. Fraser

Mr. R. B. Jailal

Mr. Sugrim Singh

### *Clerk of the Legislature:*

Mr. I. Crum Ewing.

### *Assistant Clerk of the Legislature:*

Mr. B. M. Viapree (Ag.)

### *Absent:*

The Hon. P. A. Cummings (Member  
for Labour, Health and Housing)  
on leave.

Mr. T. Lee—on leave.

Mr. W. A. Phang—on leave.

Mr. W. T. Lord, I.S.O.

The Speaker read prayers.

**Mr. Speaker:** With the permission of Members I would suggest that page 3 of the minutes in connection with the third reading of the Labour (Conditions of Employment of Certain Workers) be amended. The minutes read "On a suggestion by the Speaker, consideration of this item was deferred to enable the Member for Labour, Health and Housing to consider the advisability of defining the expression 'Charwoman' in the Schedule to the Bill". The hon. Member is not here, but I have prepared an amendment, and, subject to consideration, I am suggesting that the minutes should read "whether the expression 'Charwoman' is an appropriate one to use in connection with the services rendered by women in restaurants". The word 'Charwoman' is not a common one. The word 'Charwoman' might be allowed to remain providing what it means is defined. I ask that with that amendment the minutes be confirmed

The minutes of the meeting held on Friday, 5th April, 1957, as printed and circulated, were confirmed as amended.

#### ANNOUNCEMENTS

**Mr. Speaker:** Lady Waddington has sent a card expressing her grateful appreciation of the Council's Resolution of sympathy extended to herself and family in their recent bereavement.

#### LEAVE TO MEMBERS

Mr. Cummings is on leave in Trinidad to attend a Conference in connection with the Federal Capital site. Mr. Phang is still ill,

#### PAPERS LAID

**The Chief Secretary:** I beg to lay on the table:

The Fourth Report of the Public Service Commission for the period 1st January to 31st December, 1956.

#### STATEMENT BY MEMBER OF EXECUTIVE COUNCIL

#### Water Supply in the Bartica Village District

**Mr. Farnum** (Member for Local Government, Social Welfare and Co-operative Development): With your permission, Sir, I would like to make a statement with respect to the water supply in the Bartica Village District.

"Reports have appeared in the press in recent weeks with regard to the inadequacy of the water supply in Bartica. As members of the Legislative Council are aware, the Committee under the chairmanship of the Commissioner of Local Government, has been endeavouring to formulate comprehensive proposals for a supply of water for fire fighting and general purposes. This Committee has been unable to conclude its deliberations as it is awaiting information of a technical nature from certain Departments.

"On the morning of 9th April, 1957, an appeal from the Chairman of the Bartica Village Council was addressed to the Commissioner of Local Government asking that the Georgetown Fire Brigade supply 1150 feet of hose to enable the vats and tanks in Bartica to be filled. Immediate action was taken by the Commissioner of Local Government in consultation with the Superintendent, Georgetown Fire Brigade, Drs. Jones and Warner of the Medical Department and Mr. Bentley, Chief Engineer of the Sewerage and Water Board, with the result that it was possible to despatch a telegram that afternoon which reads as follows:

'Arrangements being made by T. & H. Dept. to supply pump and 17 lengths close from H.M.P.S. earliest possibly today stop Fireman will arrive to operate pump tomorrow Wednesday stop Fire-boat arriving Friday stop Medical

Department advised all residents to be instructed to boil water at least 5 minutes before use for drinking or cooking stop It is hoped that some degree of purification may be possible later stop New County Health Officer will visit and give advice as soon as possible stop'

"While this action was proceeding a telegram was received by me from Mr. Correia, M.L.C., asking that action be taken to obtain hose from the Fire Brigade.

"The presence of the fire float will have a double advantage in that firstly, it would assist in the event of an outbreak of fire, and secondly, would help to draw water some distance from the river bank where it is likely to be less polluted than at the water side.

"The stationing of a fire float at Bartica has been agreed, but the question of the contribution by the Local Authority towards the annual maintenance cost is yet to be decided."

## INTRODUCTION OF BILLS

**Mr. Farnum:** I beg to move the introduction and first reading of a Bill intituled

"An Ordinance to amend the Georgetown Sewerage and Water Ordinance" published on the 9th April, 1957."

## ORDER OF THE DAY

### GEORGETOWN SEWERAGE AND WATER (AMENDMENT) BILL

A Bill intituled

"An Ordinance to amend the Georgetown Sewerage and Water Ordinance" was read a first time.

## MONEYLENDERS BILL

Council resumed the debate on the motion for the second reading of the Bill intituled:

"An Ordinance to consolidate and amend the law relating to moneylenders."

**Mr. Sugrim Singh:** I tried to follow the opening remarks of the hon. mover of the Bill (the Financial Secretary) and also those of two hon. Members on the floor, but if the object of this Bill, as I understand it, is to curb the rapacity (I can find no better word) of harsh and unconscionable moneylenders, I think it has missed its target. In effect, this Bill closes the door to persons who lend money in good faith and by no stretch of reason can be placed in the category of moneylenders, or people whose business is that of moneylending. We have the commercial banks and the Credit Corporation, but I am sure that hon. Members who have been following the reports in the local newspapers are aware that the people in the villages, the peasants and small farmers, are very eloquent and critical about the difficulty in obtaining loans from the Credit Corporation. In fact they have actually asked for the restoration of the old Co-operative Credit Banks in the villages.

The point I wish to make is that we know as a fact that certain money-lending concerns lend money on a first mortgage to a person who desires to purchase a property. Usually that person has only about one-third of the purchase price, and the amount of the loan offered by the lending company on a first mortgage may not be sufficient to cover the purchase price of the property. He therefore has to resort to a second mortgage, and it is a known fact, of which we may take judicial notice, that no reputable lending company today is willing to undertake such a venture. I am very glad the hon. Member for Local Government (Mr. Farnum) is here, as I wish to draw on his wide experience in these matters. As a re-

sult of this Bill a small man who desires to purchase a property would be placed at a great disadvantage in securing a second mortgage. If a private person desired to go to his rescue he would have to go to a Magistrate to get a certificate in order to be able to obtain a moneylender's licence. When such a person is confronted with such cumbersome things he is likely to decline to give a loan, and the borrower is placed in an awkward position.

I brought this point to the notice of the hon. the Financial Secretary, and I have discovered that two attempts were made to amend the Moneylenders Ordinance. The first was in a Bill published in the Official Gazette on the 20th December, 1952, which made special provision for the exemption of such persons from the cumbersome procedure affecting moneylenders. Clause 2 of that Bill provided:

“2. Section two of the Principal Ordinance is hereby amended—

(a) by the insertion of the following paragraph — (e) anyone in good faith lending money by way of mortgage;”

In another Bill which was published in the Gazette on the 19th September, 1953, we find in clause 2; among the exemptions from the term “moneylender”—

“(e) any person in good faith lending money by way of mortgage;”

This legislation was brought into force by a Government which, as they said, catered for the poor people of this country—

**The Financial Secretary:** It was not legislation. It was a Bill which was never passed into law.

**Mr. Sugrim Singh:** I accept the correction by the hon. the Financial Secretary who is in a better position than I, having studied the sequence of events in this matter. The fact I desire to urge is that an attempt was made in 1952; and repeated in 1953, to grant this exemption, but it has been completely omitted from the present Bill.

**Mr. Speaker:** Not even under paragraph (d) of clause 2?

**Mr. Sugrim Singh:** My attention was drawn to paragraph (d) which read:

“(d) any person in good faith carrying on the business of banking, or insurance, or in good faith carrying on any business not having for its primary object the lending of money, in the course of which and for the purposes whereof he lends money;”

The hon. mover and the hon. the Attorney General have said that the point is covered by this paragraph. My interpretation of that is, he is exempted if he lends money in the course of the lawful business he is carrying on. May I give a political illustration? If a shopman has a small business and one of his customers is in debt and wants to secure himself by means of obtaining a second mortgage on his property, that person cannot be deemed a moneylender and is therefore excluded. A widow, who is old and decrepit and cannot go into business, is bequeathed a sum of money and wishes to take that money from the Bank which gives her 1½ per cent., interest, and assist some enterprising individual with a mortgage in order to get a little more than the Bank is giving her. Although her rate of interest would be far less than 12 per cent., she would have to get a certificate from the Magistrate, according to this Bill, or her trans-

action must be considered that of a large moneylender though it was done in good faith. I wish to say that she is not covered by this Bill.

I am asking the hon. Mover to consider very carefully the merit of my contention. I am confident that what I have said has some merit. In spite of what has been said I am prepared to say that the small man should not be debarred from lending money. Can there not be a ceiling amount for anyone to lend money and not fall within the ambit of a moneylender under this Bill? The Credit Corporation and other lending companies do not give second mortgages. Who else has the small man to fall back upon for financial assistance to carry on his business? There is a general feeling that when a person who has a transport lodges that transport with another person for a loan it is a secured loan, but it is not. Members of this Council who are in the field of law know that there is a clear decision of the Supreme Court that it is not a security, and that such loss cannot be placed, as in this Bill as a secured loan.

I do ask the hon. Member to consider the question of not putting a bar by this Bill on these cases of money-lending by persons whose business is not money-lending, who have no business, but who give small loans in good faith. I am prepared to fix a ceiling for private money-lending. Over and above that amount you may call them money-lenders. The Banks whose business is that of money-lending lend at 7½ per cent., and they are covered by this Bill.

Why private persons should not be given the same protection? This Bill as it stands is going to cause serious hardship where

persons wanting some financial help cannot go to the Credit Corporation, the Insurance Companies or the Banks. I am asking hon. Members to consider the points raised and lend their support in asking that these *bona fide* people who lend money in good faith and not having a business be exempted. That was done in the two previous attempts by this very Government to make the law.

**Mr. Tello:** I want to associate myself with those supporting this Bill. I am very grateful to the hon. Member who has just taken his seat for his reference to the ruling of the Supreme Court in his very entertaining speech. I want to say that if the hon. Member can assure this Council that frankly the money-lenders' habit was to lend money in good faith at less than 9 per cent, as he would like to impress upon us, using the term "widow" to impress us, the need for such a Bill as this would not be there, but generally the innocent always pays for the guilty. The Moneylenders Bill has been brought to protect the very unfortunate people who must seek a loan through a second mortgage. These people never think of the small interest charges which my good friend would like this Council to believe do exist.

I commend to this Council and stress that British Guiana is desperately in need of development. If there is a lot of money locally seeking good investment, why not think of investing it that way? The money-lenders keep a little pocket book and lend money out at exorbitant interest. Personally, I feel that one of the great obstacles to the development of British Guiana is the prevalence of money-lending at a very high rate of

[Mr. Tello]  
interest on mortgages. It is quite true that I have not the exact figures but most of the properties that exchange hands in New Amsterdam and Georgetown are the outcome of foreclosure.

Most of these poor people, my good friend wants to befriend, were forced to obtain loans from these money-lending extortioners, and the result was that most of them had their mortgages foreclosed and a consequential change of ownership.

I seem to think that this Bill as it is, is a good one. I must say that my friends, the lawyers, can interpret it better than I can, as they have to interpret the laws in the Courts of Law. Probably, when the Bill goes down to the Committee stage my hon. friend may suggest to the hon. the Attorney General such phraseology to mean something that the ordinary layman can understand. With regard to embarrassing a good many borrowers, I think Government has employed every machinery to protect the small persons from borrowing money at heavy interest.

The Co-operative Department for instance, is doing its best in fostering and encouraging Credit Unions, and as the small man develops a greater faith in the Credit Unions soon we will find them getting away from the moneylending sharks from whom we are steering them. I am sure that the principle of the Bill is fully supported by the hon. Member who last spoke, but there are few minor things which, I hope, at a later stage, will be made clear to his satisfaction. Certainly, I do not agree with him that we must remove the measure provided here for control. That is one of the prime needs of the Bill.

**Mr. Luckhoo:** Sir, any form of control must necessarily be welcome in respect of moneylending in this Colony. This is needed not only by one's everyday experience, but indeed it has been handed down by our Supreme Court that the law with respect to money-lending should be placed on a strenuously firm footing for the protection not only of the people who are borrowing money, but in a measure also of the moneylenders and in order that we might be able to create a class of moneylenders who might not descend into the category of "Shylocks"—I think that is the word the hon. Member on my left (Mr. Correia) used. There are several points upon which I would like to bring attention in the Committee stage, perhaps it would be better for me to do so then, but I would like to bring to the hon. Member's attention that although this Bill is approximately similar to the type of legislation in Trinidad, the moneylenders Ordinance in Trinidad provides a scale of interest which is very much like our transport fees and where the period is over 6 months, for example, loans not exceeding \$24.00 will carry with a certain per cent., \$48.00—a certain per cent; in each case the per cent reduces as the amount increases. I am told that this works well in Trinidad and so one asks whether consideration has not been given as to whether we can have some graduated scale in this Colony.

In England, section 10 of the Moneylenders Act of 1927, approaches it somewhat differently. If the rate of interest is 48% it is presumed to be excessive and the moneylender has to show that it is not. If it is less than 48% the borrower has to show that it is excessive. I feel that in most of these cases—in Bills of this nature—that the correct approach is to give it a trial and if hardships are created or the circumstances are such as would require amendment, then Government should not hesitate to bring forward those amendments. So often, one finds at

first blush a Bill appears to be in order, but when put into practical execution the Bill does not live up to the expectation which one wishes for it. There is one point in respect of secured loans under section 12. The secured loan does not include a deposit of such deeds as a transport, but in our country, as is known very well, the position is unlike England.

I feel, Sir, that in Bills of this nature which affect people in the country alike, particularly if it is accepted by the Council, every measure should be taken to explain to the people as to the implications and what has happened under the new laws, because so many people are not permitted to read the Gazette and so the intricacies of an Ordinance or a Bill which is presented, and where matters of this kind do affect them materially and their every day dealing, every step should be taken, every measure adopted, in order that the full implications of the Bill — the benefits which people would now derive from a Bill of this nature should be brought to their attention that they might be acquainted as to what is the law. Those are the only two observations I have to make in respect of a Bill, the general principle of which I support; but, two points I make in particular is whether we should not have a sliding scale—whether it is contemplated, or considered — because I am told that it works efficiently and effectively in Trinidad.

**Mr. Farnum:** I was one of the persons appointed to sit on that Committee to go into the question of amending the Moneylenders Ordinance. This Committee went into the matter very fully; a large number of meetings were held and the Committee was fortunate enough to have magistrates come before it and to tell of the experiences they had had with moneylenders who had come before them in their courts—and I would say that we were able to come to good decisions, which we thought

were in the best interests of the community.

I think I heard the hon. Member, Mr. Sugrim Singh, say that as a rule lending companies never lend more than one-third of the value of a property to the person seeking the loan. In that I think he is absolutely wrong. The reputable companies lend up to 60 and 75 per cent. of the value of a property on the first mortgage. As regards his plea for widows: if a widow lends money on mortgages, she is engaging in business and why, then, should she be exempted? If on the other hand she lends and takes no promissory note—

**Mr. Speaker:** That is exactly what the hon. Member is contending.

**Mr. Sugrim Singh:** Thank you, Sir.

**Mr. Speaker:** If you look at clause 2(d), you will see that it excludes certain people. I think the hon. Member meant a widow who wants to get rid of it and the mortgage expires, but the court finally decides matters like those.

**Mr. Farnum:** I always understood that in the case where there is only one transaction such is not regarded as a business and one would not then have to take out a licence.

**Mr. Speaker:** That applies to the person who announces it as his business. But a person who in good faith carries on such a business, the primary object of which is not moneylending—just one transaction—is not counted. He does so without attracting the business public. There is the danger, Mr. Farnum, of a person lending money in one isolated act, but not carrying on such a business.

**Mr. Farnum:** The Co-operative Department is trying to teach our people, especially those in the rural districts, to pool their savings and thus be able to borrow from one another through such pooling, at 12 per cent., interest. The Department is hoping that moneylending, unless on a co-operative basis,

would hardly come into the economic life of the people in the future.

As regards the lodging of a transport, I do not see how that can be regarded as collateral security. I know of an opinion given by an eminent lawyer some years ago, in which he advised that the mere deposit of a transport cannot be deemed as security since transports are not equitable mortgages.

**Mr. Ramphal:** I congratulate the Government for bringing forward this particular Bill. There are some of us who have been advocating, from as far back as 1928, controls such as these which are now about to be put into force. I am going to endorse generally what the hon. Member, Mr. Luckhoo, has said and I am going to support what has been said by Mr. Sagrim Singh, except to say that we should not make provisions especially for widows or old women—I know, when it comes to women we will find it very difficult to define exactly where the dividing line enters between “young” and “old”. But it is good law to make absolutely clear what the provision is, and I shall have more to say when we come to the Committee stage. What I expect to do when we come to the Committee stage is to draw attention to the quantum of interest that is charged. I do not know if there is any magic in the figure 12: I think a nicer figure is 10 and I am going to suggest that as a much lower figure than 12.

There is something else I am going to suggest: I see no reason why Bills of Sale should have an advantage over mortgages—unless a more liquid form of transaction is sought—because I think as much security is given the moneylender, and any advantage that is given to him, if any, by way of a Bill of Sale, should not be as great as 50 per cent., more. I shall, however, bring that up in the Committee stage when I shall support the Bill in principle.

**Mr. Carter:** This Bill before the Council, to all intents and purposes, is to protect the borrower from the unscrupulous moneylender, and with that in mind I am prepared to support it provided some amendments are made. It is absolutely necessary to have moneylending in a community; without it, the wheels of industry, shipping and commerce would come to a standstill. The individual who enjoys the facilities of this form of business is the small man particularly and he realizes that its continued existence depends on his honesty; but we know that if the rapacious moneylender did not gradually develop that characteristic to offset his losses suffered through the dishonest borrower his business might not have made a profit. As a business it must operate at a profit, in the same way as a merchant sells his goods at a profit. But I believe that the greatest offenders are to be found among the moneylenders. A merchant sells at a profit ceiling and is controlled by competition. Some moneylenders lend money on interest according to the exigencies of the borrower who sometimes accepts a loan on almost any terms, not knowing or caring whether he has the ability to repay it. Such moneylenders are considered to be loan sharks, and the Bill seeks to curb their activities by placing a ceiling on the interest charges as well as to curb other nefarious practices resorted to as a loan increases in age. But there are a number of moneylenders of whom we hear nothing about, because they do not find it necessary to go to the Courts every day, as their business is transacted on decent and human principles. Such people would be up against great difficulty if the Bill is passed as presented. It would be a case of the innocent paying for the guilty.

We must keep in mind that moneylending is a form of business with great risk to the lender and absolute necessity to the borrower. The law should encourage the decent moneylender rather than drive him to invest his money in other avenues in which he can get nearly as much profit at less risk and worry. One of the restrictions in the Bill imposes an obligation on a moneylender to apply to a Magistrate for a certificate in order to obtain a licence, which certificate is to be based chiefly on character. I do not feel that one's character has anything to do with a person's fitness to be a moneylender, provided he conducts his business according to the provisions of the law. I know for certain that if this Bill is passed as it is, certain moneylenders are prepared to close shop. I feel that moneylenders should be able to apply for licences without having to get a certificate from a Magistrate, and that the Moneylenders Ordinance should be administered by the Co-operative Department. The Registrar of Friendly Societies should keep a register with the names and addresses of licensed moneylenders which should be published in the Official Gazette as soon as licences are granted. If I were a moneylender I would not like to know that I have to apply to a Magistrate for a certificate to enable me to obtain a licence to invest my money.

I expect that several amendments will be brought forward relative to the rates of interest on various loans. Mr. Ramphal and Mr. Luckhoo gave us an idea of some of those amendments, and when they are placed before us I am prepared to support anything that is reasonable.

**The Financial Secretary:** It seems to me that every Member who has spoken has supported the Bill in principle, and that most of the points which

have been raised by Members can be dealt with in full in the Committee stage. One thing has struck me about the speeches, however, and that is how right I was when I said, in introducing the Bill, that things like rates of interest are so much matters of opinion. There is no yardstick; no one can say that this rate is good or that rate is bad, unless it is obviously quite unconscionable. I think that from the five or six Members who have spoken we have had four completely different rates of interest suggested. Mr. Correia, who spoke first, said he thought the 24 per cent. interest on secured loans, as in the published Bill was better than the 32 per cent. which we now propose. Mr. Jailal suggested some variation of this by having a different rate of interest for loans up to \$100. Mr. Luckhoo referred to the Trinidad system which we considered very carefully before we hit upon our suggestion of 32 per cent. I may say that I do not think the Trinidad rates would be acceptable to this Council in view of the sentiments which have been expressed, because they go up to 84 per cent., per annum. In my opinion it is a very complicated system.

Mr. Ramphal was rather more conservative. He suggested that 12 per cent. should become 10 per cent. for secured loans, and also raised the question of bills of sale, expressing the opinion that they were as good a security as a mortgage, an opinion with which, with respect, I disagree. It seems to me that a mortgage on movable chattels could never be as secure as a mortgage on land. But that also we can discuss in the Committee stage.

Mr. Sugrim Singh presented a very harrowing picture of a rather Chaucerian widow somewhat advanced in age, and what he suggested seems to cut right into the fabric of the Bill. It is quite true that in the early drafts of the Bill there was a phrase about any

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one in good faith lending money on a mortgage should be exempted from this legislation. I do not know what is meant by "any person in good faith lending money on a mortgage," but it certainly cuts right across what a Committee of this Council recommended in 1949 when it made it clear that loans on mortgages should come within the purview of the legislation. It seems to me that if we take mortgages out we give rise to all sorts of devices to get around the law. I would like to say that the intention of this Bill is not to bring within its confines a person who casually makes a loan. The intention is, as it is in the United Kingdom Act, from which this provision in the Bill is taken word for word, that it must be the business of the lender. In other words, it is not the quantum of the lending which a person does, but what else he does for a living as compared with the moneylending business. But it is a matter for the Court to decide. It is extremely difficult to define exactly where the business of moneylending ends and the poor old widow's mortgage lending begins.

I do not think I need to say very much else, but I do commend to the Council Mr. Luckhoo's suggestion that the Bill should be regarded as a trial. We know from experience and we have seen in this Council that interest rates are a matter of opinion. One does not know exactly what would be the effect of fixing artificially what is after all a natural interest rate, because we do not really know what the effect is going to be on the potential borrowers. I think it is necessary that we should have clearly in our minds that this legislation is in a sense a trial, and so far as Government is concerned it will always keep its finger on the pulse to see how the patient is getting on under this Bill when it becomes law. I formally move that the Bill be read a second time.

**Mr. Speaker:** If Members would allow me (I may not have another opportunity to do so) I would like to refer to the practice which is very prevalent in this Colony, of transports being regarded as collateral security. A previous Colonial Secretary, the late Sir John Waddington, issued a Circular to all Magistrates to the effect that transports produced by persons offering themselves as sureties for persons who wanted bail should remain in the custody of the Magistrate's Court. I am not making any complaint about it, but in my opinion such a directive should never have been issued from the Secretariat. Transports are not retained in the Supreme Court, but a note is kept of the number of the document, so that if a person fails to honour his security for a person charged before the Criminal Court it is quite easy to know exactly what property he owns.

The idea of holding a transport as collateral security is quite wrong. It is worth nothing. There is no other way of putting a stop to the practice except the Secretariat withdraws that Circular. The effect of it is that a person who out of sympathy becomes surety for somebody who needs bail, is deprived of the use of his transport for any other purpose. I will now put the question that the Bill be read a second time.

Question put, and agreed to.

Bill read a second time.

### Council In Committee

Council resolved itself into Committee to consider the Bill clause by clause.

Clause 1 was amended by the substitution of the numerals "1957" for "1956".

Clause 2. — *Interpretation*

**Mr. Sugrim Singh:** I move the insertion in the list of exemptions from the definition of "moneylender", of a new paragraph (f) to read:

"(f) any person in good faith lending money by way of mortgage, provided that the interest charged on such mortgage shall not exceed a simple interest rate of 12 per cent., per annum".

**The Chairman:** You want to exclude that class.

**Mr. Sugrim Singh:** Yes. As I have said, in the main these provisions with the exception of the 12 per cent, you will find in the provisions made on the previous two occasions.

**The Chairman:** You argue that this class of persons should be excluded from the application of the term "moneylender."

**Mr. Sugrim Singh:** It may be brought in under (e) and made (f). It is actually in the original draft Bill as "(e)".

**The Financial Secretary:** May I ask what the hon. Member means by "draft Bill"? As I explained, two Bills were published but did not get beyond the first reading.

**Mr. Sugrim Singh:** I think "draft Bill" and "proposed Bill" are synonymous.

**Mr. Ramphal:** I said I would support the amendment. I thought the hon. Member was going to propose an amendment to make it abundantly clear that a person who not by way

of business but in the course of living has to engage in a mortgage transaction should not be deemed a moneylender. I was willing to lend support to that, but what he has said is something quite different. Anybody engaged in business who lends money, provided that the charge is not over 12 per cent., should not be deemed a moneylender. I cannot agree to that.

**Mr. Sugrim Singh:** I thought I made myself clear. It is the case of persons who have no business within the meaning of (e).

**The Chairman:** I do not wish to argue, but it does appear to me that if you exempt that class of person you would be including practically everybody.

**Mr. Sugrim Singh:** I do not know if the hon. Mover can extend (d) to cover my point rather than making a new subclause (f).

**Mr. Luckhoo:** What I understood the hon. Member was getting at is the case of a person who is not a regular moneylender. The hon. the Financial Secretary's reply is that persons are not included in the definition because moneylending is not the primary purpose of this business. It is a matter of legal interpretation as to what is a moneylender. How many transactions were to constitute a person a moneylender? I think the hon. Member, Mr. Sugrim Singh, was endeavouring to assist the Council by translating into words the general intention of hon. Members.

**The Financial Secretary:** If the amendment of the hon. Member, Mr. Singh, goes through, the only effect it would have, as far as I can see, is that anyone who lends secured loans other than mortgage

[Financial Secretary]

would charge 32 per cent, and anyone who lends on mortgages would not be covered by the Ordinance.

**Mr. Farnum:** (Member for Local Government, Social Welfare and Co-operative Development): There is another feature. A person who lends money on mortgage is excluded under the Ordinance and is able to introduce in the terms of agreement such things as a charge for inspection of the property every year and all sorts of other charges as well as any amount as interest.

**Mr. Sugrim Singh:** A has no business and lends B \$5,000. Is A by this subclause (d) a moneylender? If the hon. Mover can give an assurance that such transaction could not put him under the category of a moneylender, there is no need to pursue the matter. My interpretation is he cannot be, as it is not his business, but lending money in the course of his business would be interpreted by the Court as a full-fledged moneylending transaction.

**Mr. Correia:** Take a person who has a property and sells it to someone else who cannot pay the full amount of the sale price, but the seller is willing to accept a mortgage for the difference. Where does that person stand?

**Mr. Luckhoo:** In the Interpretation Ordinance, we have that a moneylender includes every person whose business is that of moneylending. As I have said before, it is meant to draw a line between what is business and moneylending. The only place to decide that is the Court. If anyone is aggrieved by any action of the lender he can take the matter to the Court. It is the Court to decide whether the transaction is that of a moneylender. I do not think (d) is taken from a

United Kingdom Act as there is nothing about mortgage in their definition.

**Mr. Sugrim Singh:** I may place before the hon. Mover these two original documents in which there is (d). In addition to that provision any person can in good faith lend money on mortgage.

**The Financial Secretary:** (d) has nothing to do with it. I do not know why the hon. Member keeps bringing it in. The 1949 Committee simply said that mortgages should be brought into the proposed Bill to which the hon. Member, Mr. Singh, referred: But that was discounted. No notice was taken of what that Committee said, and it was decided not to include mortgages. Now it is being sought to include a mortgage by someone whose business is not that of a moneylender. I say that the intention of the Bill is not to make a person who lends money on a casual mortgage a moneylender because moneylending is not that person's business.

**Mr. Sugrim Singh:** I find it difficult to understand. One of the foundations of the definition is that the person has to lend money. In the light of the definition that may be so but in the opinion of some persons concerned they are not.

**Mr. Ramphal:** I think the hon. Member is flogging a dead horse. The issue he has raised is to my mind actually covered.

**The Attorney General (Mr. Austin):** I think it is very clear looking at the definition of "moneylender," that the whole Bill is designed to deal with people whose business it is to lend money, as the hon. the Financial Secretary said. It says "moneylender includes every person whose business is that of moneylending or who advertises himself as carrying on that business", and it excludes

four categories of people carrying on business and lending money who are nevertheless not regarded as moneylenders for the purpose of the Bill. Therefore, any individual or person who happens to lend money on mortgage, I will say, could not be held by a Court to be included in this definition of moneylender as printed in the Bill, which is based on United Kingdom legislation. I would say that we ought to leave the definition as it is. If this small point ever comes up again we can give consideration to it, but I think it is advisable to leave the definition as it is.

**The Chairman:** Leave it to be raised by some borrower.

**Mr. Sugrim Singh:** I am dealing with the old Bill. I am withdrawing the proviso I added.

**Mr. Luckhoo:** I feel that the hon. Member, in view of what the hon. the Attorney General has said, would give some consideration to it.

**Mr. Ramphal:** As I see it, (d) exempts two classes persons whose primary business is that of moneylending, such as the Banks and the Insurance Companies, and persons whose business is not moneylending.

**The Chairman:** (To Mr. Sugrim Singh) Why not withdraw it?

**Mr. Sugrim Singh:** As the result of pressure from the Council I desire to withdraw the entire amendment. I must add that these discussions are very helpful later in finding out the intention of the legislation when questions arise in cases in the Supreme Court. But you will admit that the definition is still ambiguous.

**The Chairman:** The hon. Member has been persuaded to withdraw the amendment.

Clause 2 passed as printed, also clause 3.

Clause 4—*Certificate required for grant of Moneylender's Licence.*

**Mr. Carter:** I rise to ask that clauses 4, 5 and 6 be debated, as they all deal with certificates.

**The Chairman:** It is better to take them by degrees. The hon. Member wants the whole of clause 4 deleted.

**Mr. Carter:** Yes; I feel it is necessary for one to get a moneylender's licence after he has gone into the business for a year and has a favourable reputation. That, I feel, should be the only certification.

**Mr. Jaisal:** I cannot support that because I cannot permit a man to lend money for a year to "feel out" the response for his business and then finally decide whether he is a moneylender or not. In the first place, that fellow may well have several notes to collect after that period has expired and I am not sure whether at that time he would still have the qualifications for a certificate.

I submit that a Magistrate of a district is not the correct person to whom we should refer certain things like these. The Magistrate himself may not be well acquainted with the business and with all the people in the district. The person I feel who should be substituted is the District Commissioner and I am asking that this be done. In almost every case of this kind it is the District Commissioner who functions: as a competent authority, a licensing authority and so on. Why should we go to the Magistrate? Are we ensuring that just in case any applicant has a criminal record the Magistrate can peruse that record before he grants the certificate? That is the question in my mind. That would be the only ad-

vantage of having the Magistrate in this position. If the certification cannot be done by the District Commissioner then it can be done by the normal licensing authority.

**Mr. Farnum:** I cannot agree with the last speaker. The reason for naming a Magistrate is because in the granting of a certificate it is the applicant's character that counts, and the Magistrate would know, from the matters coming before him, whether the applicant is of good character. The District Commissioner would not be in a position to know.

**Mr. Carter:** I honestly fail to see why a Magistrate — or any other person for that matter—should grant a man a certificate to do business. The law provides for the interest of the moneylender and the borrower and there are several penal clauses for the moneylender—if he commits a breach of the Ordinance he will have to suffer for it.

**Mr. Ramphal:** I would ask the hon. Member to look at clause 6. He will see why it is necessary. I think the whole object is to protect, as far as possible, the borrowers. On the question that character does not matter in a business, I want to join issue with him: in this particular type of business character is of paramount importance, especially where ordinary people are concerned and therefore it is necessary to give every safeguard possible. I am not one of those people, however, who believe that every moneylender is a Shylock, Jew or shark. This Bill is to give the whole business of moneylending a more honourable status and I therefore wish to ask other hon. Members here not to consider this part of the Bill obnoxious.

**Mr. Correia:** On a point of order: I would like the hon. Member to withdraw the word "Jew."

**Hon. Member:** Are you a Jew ?

**Mr. Ramphal:** I use it in the colloquial sense—it has nothing to do with the word Jew as a proper noun.

**Mr. Jailal:** Referring to what the last speaker has said, it was for that very reason that I spoke earlier on this aspect. Since we must have certification and the matter is put in the hands of a Magistrate, this lends itself to the feeling that applicants must have had some kind of past criminal record. I personally know there is a feeling among people that the Magistrate would only be more competent to tell the character of persons applying if he has had dealings with them in court. Certification of all kinds is done by Justices of the Peace, doctors, legislators and others, but in this particular thing we want a Magistrate. I do not think it is fair, and to my mind it savours of the existence somewhere of a criminal record. Even though the Member for Local Government has said the District Commissioner cannot do it, I feel that is the man in any district who knows or who should know the character of the people. I feel pretty sure that any District Commissioner who serves in any district would know almost everyone in the district. If I am wrong, then I am wrong. I feel he would know much more about the character of the people than any good Magistrate because any good Magistrate is not as free a mixer as the District Commissioner is supposed to be.

**Mr. Farnum:** I do not agree with the last speaker. It would take a sort of superman to know everybody in a district. After all District Commissioners have very large districts to administer and if the hon. Member would look at the Marshall Report he will see listed there on about three consecutive pages the duties of District Commissioners. Why not suggest the chairman of the local authority in the district instead?

**Mr. Carter:** May I through you, Sir, ask the Financial Secretary to give us a better explanation why a moneylender should have a certificate?

**Mr. Tello:** I think that is very simple. A person, for example, applies for a rumshop licence because the selling of liquor involves the possibility of undesirable reactions on the part of a customer who takes too much liquor.

**Mr. Jailal:** You don't apply to the Magistrate; you apply to the Liquor Licensing Board.

**Mr. Tello:** The best person available in this case is the Magistrate. But how is a Liquor Licensing Board constituted? We would like to be sure we are dealing with people holding certificates testifying to their good character.

**Mr. Carter:** If good character is the criterion for granting a certificate and a licence, then why have the other parts of the Ordinance? Why must the moneylender be told that his books must be audited every 12 months otherwise he would not be granted another licence, unless good character was in his favour? What has character got to do with moneylending when it is controlled by law?

**Rev. Mr. Bobb:** I am really not in favour of District Commissioners taking on additional duties. Even at the present time so many things are required of them that they do some at great physical pressure and we should very much like to see some of the duties separated. More and more it appears to me that additional duties are given to the District Commissioners outside the sphere of their immediate office.

Now, as far as the Magistrate is concerned, I think he is the correct

person to be asked other than the District Commissioner. I do not subscribe to the idea that he is not a judge of character generally. He is the fit and proper person to ask. I am not saying that is the criterion; there are other impartial holders of office, but the Magistrate is the best choice—he commends himself to this particular service. Further, the procedure of certification is set by regulation and some legal aspects are included. The Magistrate is a person with legal knowledge who would be best able to give correct interpretation.

**Mr. Luckhoo:** There would be some difficulty for the District Commissioner, because clause 6 (2) states that:

"Any person aggrieved by the refusal of a Magistrate to grant a certificate may appeal to the Full Court in the manner provided by the Summary Jurisdiction (Appeals) Ordinance."

In other words, this is being given a complete legal complexion—ajudication by the Magistrate and appeal to the Full Court.

**The Financial Secretary:** On the question whether this clause should be deleted, I strongly oppose this. The Select Committee's recommendation was that the United Kingdom practice should be adopted and that certificates of appropriateness and fitness should be issued. In the United Kingdom the certificates are granted by the Petty Sessional Court having jurisdiction in the district where the business is to be set up. In the metropolis a certificate would not be granted except by a Police Magistrate, and to carry Mr. Luckhoo's point further, a person refused a certificate in the Petty Sessional Court may appeal to the Court of Quarter Sessions, and may be granted it if refused by a Court of summary juris-

diction. In other words, a judicial weighing of the facts of the case, the merits whether or not a certificate should be granted, is necessary for the protection of the borrower and for the advertisement of the *bona fides*, if you like, of the moneylender.

Moneylending, rightly or wrongly, is one of those trades which is subjected to abuse and vilification. Obviously there may be some persons operating in it wholetime, perfectly good persons, upright and straightforward in their conduct who are fit and proper to take the responsibility of issuing loans, but I cannot see that anyone would really object, in view of the principles and precedents in other places, that there should be judicial appraisal of the character of persons seeking certificates.

Clause 5.—*Procedure on application for a certificate.*

**Mr. Luckhoo:** I observe that clause 5 (1) says:

“5 (1) A person intending to apply for a certificate under this Ordinance shall, fourteen days at least before the application, give notice by registered letter sent by post of his intention so to do. . . .

Subclause (2) says:

“(2) The Governor in Council may make rules with respect to the procedure to be followed in making applications for certificates, including the notice to be given of intent to make such application, and certificates shall be in such form as may be prescribed by rules so made.”

It all seems quite ambiguous.

**The Chairman:** I intended to call attention to it. There seems to be something wrong.

**Rev. Mr. Bobb:** It struck me as being superfluous.

**The Financial Secretary:** I think we should delete subclause (1).

**Mr. Luckhoo:** I notice that clause 29 states that the Ordinance shall come into operation on such day as the Governor shall appoint by Proclamation. I would like to know what would be the position of moneylenders in respect of loans made in the interim period when the Governor in Council is producing the rules ?

**The Chairman:** Existing loans may not all reach maturity this year. Some may go into next year. Would those moneylenders be able to sue for the recovery of such loans ?

**The Financial Secretary:** Where there is no retrospective provision current loans would be covered by the existing Ordinance.

Clause 5, as amended by the deletion of subclause (1), agreed to.

Clause 6 passed as printed.

Clause 7.—*Licences and certificates void unless granted in accordance with the Ordinance.*

**The Financial Secretary:** I move that clause 7 be amended by the substitution of the figures and word “5, 6 and 26” for the figures and word “5 and 6.”

Agreed to.

Clauses 8 to 11 passed as printed.

Clause 12.—*Interest to be charged.*

**The Financial Secretary:** I move the deletion of subclause (1) of clause 12 and the substitution thereof of the following new subclause (1):

“(1) The interest which may be charged on loans by a moneylender shall not exceed—

- (a) in the case of secured loans other than loans secured by bills of sale, simple interest at the rate of twelve per centum per annum;
- (b) in the case of loans secured by bills of sale, simple interest at the rate of eighteen per centum per annum; and
- (c) in the case of unsecured loans, simple interest at the rate of thirty-two per centum per annum."

The effect of this amendment is to maintain the 12 per cent. rate of interest in the printed Bill in the case of secured loans other than loans secured by bills of sale, and to introduce a new rate of 18 per cent. interest for loans secured by bills of sale, and to increase the rate of interest on unsecured loans from 24 to 32 per cent.

**Mr. Correia:** I move as an amendment that the rates should be (a) 10 per cent., (b) 12 per cent., and (c) 20 per cent.

**Mr. Jailal:** When I spoke on the second reading I made the suggestion that in the case of small loans there was a lack of incentive to moneylenders. I pointed out that there were young people who borrowed money on very short terms—a week or a month—up to a maximum of \$100. As the Bill stands, would a moneylender lend \$100 for one month to get a few paltry cents as interest? People borrow money for things like hospitalization, sudden illness and to meet expenses in other directions. I suggested that on loans of \$100 the interest rate should be increased to about 40 or 48 per cent., or reduce the interest rate and allow it to accrue monthly, so that on a loan of \$100 a moneylender could get \$3 per month as interest, which would be a sufficient incentive. I do not consider 20

cents or even \$1 a sufficient incentive, as a moneylender would have to make loans to the amount of \$20,000 or \$25,000 in order to make a living out of moneylending on this small basis. I do not propose to move an amendment, but I merely make the suggestion. Money is not as free in this Colony as some people think. Money is short, even with the existence of the Credit Corporation and the Commercial Banks.

**The Chairman:** I think I know the class of moneylenders you are referring to. I do not think they would be given certificates by a Magistrate.

**Mr. Ramphal:** I rise to support Mr. Correia's amendment for the substitution of 10 per cent. for 12 per cent. in (a) and 12 per cent. for 18 per cent. in (b). I regret I cannot agree with his proposal to substitute 20 per cent. for 32 per cent. in paragraph (c).

**Mr. Jailal** has spoken about incentive, which I think is a point to be considered. Assuming that the proposal of 32 per cent. interest on unsecured loans is passed, it would mean that on a loan of \$20 a moneylender would get \$6.40 interest at the end of a year. There is great need for small business of this kind, especially among our less fortunate people. I am going to do what may appear very strange, and that is to suggest that 32 per cent. should be increased to 36 per cent. for unsecured loans, because it is easier to calculate 36 per cent. as 3 per cent. per month.

**Mr. Sugrim Singh:** I must support the last speaker on (c). I was expecting him to deal with the question of the interest on unsecured loans. A man lends \$20 in the hope of getting 50 cents per month as interest, and he has to write four or five letters of

[Mr. Sugrim Singh] demand involving the purchase of a four cent stamp on each occasion and stationery. Very few borrowers respond to those letters. Instead of that man getting 50 cents, that amount is being whittled down to 36 cents by this Bill. There is no allowance for the risk involved in these loans and, absolutely no incentive provided by this Bill. I was hoping to see 40 per cent. fixed as the rate of interest.

**Mr. Luckhoo:** I think it was the hon. the Financial Secretary who pointed out that many aspects of this Bill put us in the position of groping in the dark, as we are not quite sure what the reaction will be. After it has been given a trial Government would not hesitate, I take it, to make adequate and appropriate amendments, if what is put forward here does not meet the case. On that score, I would respectfully suggest and ask hon. Members that we accept that which has been put before us — in respect of the percentages. That does not mean that Government should not be vigilant in observing the reaction from all points of view and the matter again engage our attention at a later date. It is rather difficult at this stage to say this should not be 24 or that should be 40 and not 24. It is preferable to take what is suggested now and let it remain at that for the present.

**Rev. Mr. Bobb:** Actually, in the rural areas small unsecured loans are made as at high a rate of interest as 60 to 70 per cent. I know of a case of one person who had been lending money at the rate of 24 cents per dollar per week and \$1 on \$5 per month. I myself have not made up my mind as to what is a reasonable figure to the interest charge. I think, as the hon. Member, Mr. Luckhoo, has

said, we should wait and see what the practical reaction is when this legislation goes into effect. I think that to suggest 40 per cent. may be just as harmful as to suggest 20 per cent. or anything below that. We should wait and see what the reaction is.

**Mr. Carter:** When it comes to the interest charges on loans, some hon. Members seem to forget that money-lending is a business and, as such, it must make a profit. I would not like to know that I invest a dollar for a year and receive only 12 cents from it. If hon. Members keep in mind the fact that moneylending is a business they would not encourage the money-lender very much more than is necessary.

**The Chairman:** The pawnbrokers get 24 per cent. on a loan of \$5 and that is on a secured loan.

**The Financial Secretary:** That is quite right. It is the existing legislation.

**The Chairman:** When this business is over I am going to draw the notice of the Committee to a very important class of moneylenders. I can see a lot of trouble in respect of them.

**Mr. Correia:** With your permission I would like to change my suggested figures in respect of (c).

**The Chairman:** Let us get through with the other amendments first. Mr. Correia's amendment "That the word "ten" be substituted for the word "twelve" in paragraph (a)."

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

| <i>For:</i>    | <i>Against:</i>         |
|----------------|-------------------------|
| Mr. Singh      | Mr. Luckhoo             |
| Mrs. Dey       | Mr. Farnum              |
| Miss Collins   | Mr. Kendall             |
| Mr. Rahaman    | Sir Frank McDavid       |
| Rev. Mr. Bobb  | The Financial Secretary |
| Mr. Correia    | The Attorney General    |
| Mr. Carter     | The Chief Secretary.—7  |
| Mr. Ramphal.—8 |                         |

*Did not vote:*

Mr. Jaisal  
Dr. Fraser  
Mr. Tello.—3

Amendment affirmed.

**Mr. Correia:** At this stage, may I ask whether all the amendments could not be put together as they cover subclause (1)?

**The Chairman:** I now put the next amendment — that the word “twelve” be substituted for the word “eighteen” in paragraph (b)

**The Financial Secretary:** I did not actually speak on this subclause. What I would have done was to merge the suggestions made by the two hon. Members and see how they work.

**The Chairman:** The amendment is reducing the rate of interest.

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

| <i>For:</i>    | <i>Against:</i>         |
|----------------|-------------------------|
| Mr. Singh      | Mr. Luckhoo             |
| Mrs. Dey       | Mr. Tello               |
| Miss Collins   | Mr. Farnum              |
| Mr. Rahaman    | Mr. Kendall             |
| Mr. Correia    | Sir Frank McDavid       |
| Mr. Carter     | The Financial Secretary |
| Mr. Ramphal.—7 | The Attorney General    |
|                | The Chief Secretary.—8  |

*Did not vote:*

Mr. Jaisal  
Rev. Mr. Bobb  
Dr. Fraser.—3.

Amendment negatived.

Question that “eighteen” as printed stand part of the Bill put, and agreed to.

**Mr. Correia:** In paragraph (c) I move that it be 24 instead of 32.

**Mr. Carter:** I move that instead of 32 the figure be increased to 36.

**The Financial Secretary:** I would like to say, with regard to 4 that, as Your Honour has said, the present rate of interest is 24 per cent., for secured loans. We shall be publishing legislation very shortly in which that rate of interest will be retained. The Committee not only recommended changes to the Moneylenders Ordinance but to the Pawnbrokers Ordinance as well. They have recommended 24 per cent., for the Pawnbrokers.

One must realize the relationship of the two and the proposal to keep that rate of 24 per cent., for secured loans on pledges and to have that same rate for unsecured loans on promissory notes or pieces of paper is quite ridiculous. If 24 per cent., were passed for unsecured loans by moneylenders, it would be ridiculous to have the same rate for the pawnbroking business. I think that the moneylender who cannot calculate 32 per cent. per annum simple interest should not pass the examination to be a moneylender.

**Mr. Ramphal:** It is not the moneylender but the borrower who is concerned.

**Mr. Correia:** On the explanation provided I withdraw my amendment and will let the figure suggested remain.

**The Chairman:** I put Mr. Carter’s amendment — that 36 be substituted for 32.

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

| <i>For</i> —   | <i>Against</i> —        |
|----------------|-------------------------|
| Mr. Ramphal.—4 | Dr. Fraser              |
| Mr. Singh      | Mrs. Dey                |
| Mr. Jaisal     | Miss Collins            |
| Mr. Carter     | Mr. Rahaman             |
|                | Rev. Bobb               |
|                | Mr. Correia             |
|                | Mr. Luckhoo             |
|                | Mr. Tello               |
|                | Mr. Farnum              |
|                | Mr. Kendall             |
|                | Sir Frank McDavid       |
|                | The Financial Secretary |
|                | The Attorney General    |
|                | The Chief Secretary.—14 |

Amendment negatived.

**The Financial Secretary:** I beg to move the deletion of subclause (4), substituting therefor:

“(4) In this section, the expression ‘secured loans’ includes mortgages and loans made on all forms of collateral security, and the expression ‘bills of sale’ has the meaning assigned to it in the Bills of Sale Ordinance.”

Question put, and agreed to.

Amendment carried.

Clause 12 passed as amended.

Clauses 13, 14 and 15 passed as printed.

Clause 16.—*Employment of agents or canvassers by moneylender prohibited.*

**Mr. Ramphal:** At subclause (2) I want to ask a question. How does a solicitor stand with respect to fees he may charge in getting two parties together in a moneylending transaction? I think maybe the practising members of the profession here might

help. I know they can protect themselves very well, but I am wondering whether the law governing the practice of their profession and this provision will conflict.

**The Chairman:** You don't worry about that.

**Mr. Carter:** I understand from the Rules of Court that the law allows a solicitor to negotiate a loan on a mortgage and he collects a fee, a commission, depending on the size of the loan. How would the Court regard this in view of this clause?

**Mr. Luckhoo:** I do not see that the solicitor would be prejudiced in any way. In any case the solicitor can always get around it, if not a commission, a fee for the purpose of legal work. There are so many ways.

**Mr. Ramphal:** I wonder if we may not accept it just as it is now and leave it to the hon. the Attorney General to see whether there is conflict. I am not pressing the point, but I think solicitors are to be protected.

**Mr. Jaisal:** This clause says:

“No moneylender or any person on his behalf shall employ any agent or canvasser for the purpose of inviting any person to borrow money or to enter into any transaction involving the borrowing of money from a moneylender, and no person shall act as an agent or canvasser, or demand or receive directly or indirectly any sum or other valuable consideration by way of commission or otherwise for introducing or undertaking to introduce to a moneylender any person desiring to borrow money.”

I said a short while ago that this moneylending business is one that gives a lot of assistance to the small man. Within recent times he has been getting money a little easier than in the past because he has been able

to know more people engaged in the business. Formerly, a man wanting a loan just did not know where to go. I feel we should not preclude the moneylender from employing a canvasser if he is duly licensed and his business is a legitimate one. I think there is no harm in anyone saying in the newspapers that he lends money.

**The Financial Secretary:** He can, in clause 20.

**Mr. Jailal:** It is a little bit confusing if we allow a man to advertise but do not allow any form of canvassing. One fellow while drinking in a bar might say to another, "Man I need some money to start my rice planting and I am in bad grace with the Credit Corporation. I'd like to get it from somebody." The other man says to him, "Yes, I know of Mr. 'X'; he can lend you some money." Is it easy to say that the latter fellow is breaking the law? How are we going to get around this invidious system?

If I may make myself clear: there are touts for moneylenders and there are touts for lawyers, and touts are paid. I am saying, Sir, as you know, and everybody else knows, touting is going to be done. Some touts take would-be borrowers to the moneylenders. If he or she borrows \$15 his fee is \$5, so the total amount borrowed is \$20; a note is made and he is given his \$5.

**Mr. Carter:** A moneylender must tell the borrower how much money he is borrowing.

**The Chairman:** I am afraid I cannot interpret the law for you. It is nearly time to adjourn, but I want before we do so to refer to something of which we are all aware. It is with respect to a condition of life in this

Colony whereby certain people, as a rule very honest by reputation, who are called box-holders carry on business. If I make a mistake, hon. Members will excuse me, but a box-holder is a person who receives, from teachers, clerks and other people, a certain amount of money each week. The box-holder is trusted and they give no receipt. The persons contributing the money take a chance and draw lots, and whoever draws 'number one' gets the collected total of the money first, and so on, and the box is kept alive, going on for years. This has been going on for years and nobody is going to prevent it from going on. If the box-holder dies the box ceases to exist—it cannot continue. Instead of putting their money in the savings bank people enter into box-holding because they get a lump sum or because the money on the savings bank would take long to accumulate. I mention this because in lending money to people who contribute to the box the box-holder becomes a moneylender. Am I not right?

**Mr. Correia:** You are quite right, Sir. I consider the box-holder—

**The Chairman:** One moment. In this way there are vast sums collected annually in Georgetown and throughout the Colony, and sometimes the system causes the greatest nuisance. The box-holder continuing in business is a moneylender.

**Voices:** Oh, no.

**The Chairman:** Wait a minute. She uses that money lent and charges interest, and there are some cases in which she charges a commission. I am sure now we come to consider the Moneylenders Ordinance, we will

[The Chairman] -

consider how this works, because they are really moneylenders. They should be brought within the range of this Bill and I should like a definition included.

**Mr. Farnum:** I do not think it is the custom to give a note. However, we are trying to get such persons to join Co-operative Societies.

**Sir Frank McDavid:** As I know it, box-holding or box-drawing is very popular in this Colony and it exists even in some ranks of the Civil Service. It is usually among friends—a co-operative effort by people to get at one time the sum total of all the contributions made weekly or monthly, and, of course, the most desirable feature is to get it first. Lots are drawn and you are lucky if you get all the subscriptions first, and you are unlucky if you have to wait for the last. It is a voluntary, club arrangement among friends.

A “box” holder is a person who collects the subscriptions and distributes the amount. It is strange to me to hear that there is any commission or promise of interest.

**The Chairman:** Yes. The “box” holder takes a percentage; she is a moneylender.

**Mr. Luckhoo:** I move the recommitment of clause 9 which provides for a transfer of a moneylender’s business to other premises. Under clause 6 a person who is refused a certificate for a licence as a moneylender has a right of appeal to the Full Court. I think it is only equitable that in the case of a refusal of a moneylender’s application for a transfer of his business to other premises he should have the same right of appeal.

I also suggest that some consideration should be given to providing in the Schedule the form in which applications should be made for such transfers, similar to that provided for applications for certificates.

**The Chairman:** I suggest that the hon. Member might move the recommitment of the clause at the end of the consideration of the Bill in Committee.

Council resumed.

**Mr. Speaker:** Council is adjourned until 2 p.m. tomorrow, 11th April, 1957.