

THE
PARLIAMENTARY DEBATES
OFFICIAL REPORT

[VOLUME 5]

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

14th Sitting

2.00 p.m.

Thursday, 1st July, 1971

MEMBERS OF THE NATIONAL ASSEMBLY

Speaker

His Honour the Speaker, Mr. Sase Narain, J.P.

Members of the Government

People's National Congress

Elected Ministers

The Hon. L.F.S. Burnham, S.C.,
Prime Minister

(Absent)

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

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

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

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

The Hon. Miss S.M. Field-Ridley,
Minister of Education (Absent)

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

The Hon. D.A. Singh,
Minister of Trade

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

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

Appointed Ministers

The Hon. S.S. Ramphal, S.C.,
Attorney-General and Minister of State (Absent)

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

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

The Hon. Sylvia Talbot,
Minister of Health

Parliamentary Secretaries

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

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

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

Mr. A. Salim,
Parliamentary Secretary, Ministry of Agriculture

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

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

Other Members

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

(Absent – on leave)

Members of the Opposition

People's Progressive Party

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

(Absent)

(Absent)

(Absent – on leave)

(Absent – on leave)

Mr. Bhola Persaud
Mr. I.R. Remington, J.P.
Mrs. R.P. Sahoye
Mr. V. Teekah

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

United Force

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

(Absent – on leave)

Independent

Mr. R.E. Cheeks

OFFICERS

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

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

The National Assembly met at 2 p.m.

[Mr. Speaker in the Chair.]

Prayers

ANNOUNCEMENTS BY THE SPEAKER**LEAVE TO MEMBERS**

Mr. Speaker: The hon. Member Mr. Zaheeruddeen has been granted leave for today and tomorrow, and the hon. Member Mrs. Branco from today's sitting.

PUBLIC BUSINESS**SUSPENSION OF STANDING ORDER NO. 23 (3)**

The Minister of Trade (Leader of the House) (Mr. Ramsaroop): May it please Your Honour. I crave your leave this afternoon to move the suspension of the Standing Orders of this National Assembly in order to table a Motion of Condolence to the people and Government of Trinidad and Tobago upon the death of Lord Constantine and to couple with that Motion a record of sympathy also upon the recent Russian tragedy, by way of the death of three cosmonauts.

Question put, and agreed to.

Standing Order No. 23 (3) suspended.

2.10 p.m.

MOTION**Death of Lord Learie Constantine**

Mr. Ramsaroop: Your Honour, a few months ago I breathed a sigh of relief when I learnt that the late Lord Constantine had indicated a desire to retire from public life. I thought that after a tempestuous and colourful career this late gentleman would have been given the opportunity to enjoy a peaceful and quiet life. That relief was soured and turned into shock and tragedy this morning when I learnt of the death of Lord Constantine. Indeed, he has now passed, as the Poet Wordsworth would say, into the quiet haven into which we must all pass.

This afternoon my breast is actuated by an emotion which stirred me when I learnt of the death of the late Sir Frank Worrell some years ago, an emotion that is born of profound grief and disappointment.

What, sir, have been the elements that compounded the greatness and goodness of Lord Constantine? What have been the stars that shone in his life? These, sirs, are well known to all of us. As a cricketer in the field of sport he distinguished himself with a rare professional dedication to his job and indeed the books of Wisden, the great cricketer annals of the world, have all been recorded their high praise and admiration for his super-human pursuit and mastery of this game.

But there are many who are professionals in their own right yet, because of that fact, do not show an appreciation for the game that they perfected. Lord Constantine showed such perfection because not only as a cricketer, a man on the field did he distinguish himself, but as a commentator. Those of us who have had a good fortune to listen to him would have observed that he displayed a rare insight and a peculiar, indeed cunning, grasp of the essentials of this game. All these facts have placed him as an outstanding sportsman and an equally outstanding cricketer.

It was not only in the field of sport that Lord Constantine distinguished himself. We all know that for many years now, as a diplomat par excellence in London, he stoutly and valiantly represented the cause of Trinidad and Tobago. Indeed, my colleague the hon. Attorney General said this morning in a commentary of the life of this late gentleman that he represented not only Trinidad but all West Indians in the pursuit of his diplomatic life. He shall long be remembered for such activity.

Beyond the field of diplomacy and sport the late Lord Constantine followed cricket himself with distinction. It is probable that in this field he identified himself more closely with common humanity than in the fields to which I referred a short while ago. I refer to his works in the areas of public relations and public service because it is now a household word that whenever controversy arose in London with respect to the civil rights of West Indians, whenever, controversy or disputation arose over the social problems faced by West Indians, Lord

Constantine was a forthright, a fearless and a courageous protagonist of the grievances and problems of the people who suffered.

Today we regret his passing not only because of the eclipse of the professional qualities I referred to but because of his disconnection with some of the burning social problems that now bedevil English society. His will no longer be the voice of soberness in a world that is a fast becoming the storm of controversy and discrimination.

Sometimes many of us, when he identified himself with these causes, labeled him a radical but I think it is written in the scriptures that “a light shineth in the darkness and the darkness comprehendeth not.” Maybe posterity and time will justify the righteousness of the causes that he fought. It was Edmund Burke, the great writer, who said “What shadows we are and what shadows we pursue.” Today I can say, in moving this Motion of condolence, that Lord Learie was certainly not a shadow in his seat but a man of substance who will long be remembered. He has been the embodiment of the hopes, the fears and aspirations of not only the West Indians, but of the suffering of this sometimes cold and ungrateful world.

Death is not only for me a time for commiseration, but it is a time when one can draw morals and one of the morals that can be drawn from the death of Lord Constantine is the ideals to which he dedicated himself, ideals of professionalism, ideals of West Indian nationhood and ideals of common humanity.

It is certainly a statement that can be made without contraindication that this world will be richer and will be better if all men can follow in the footsteps of Lord Constantine to emulate some of the ideals that have made him not only a great man but a good man. Shakespeare the bard said that “death will have its day” and it is indeed having its day today when the world, the Caribbean, stand shocked and dismayed over the death of this great statesman, diplomat and sportsman.

On behalf of the Government and people of Guyana I crave your indulgence with humility to move a Motion of condolence upon the death of Lord Constantine. We proffer to the

sorrowing relatives our deepest condolence upon the death of someone who has been a source of inspiration to the entire world.

DEATH OF COSMONAUTHS

I wish to couple with this Motion the deep sympathy for, and appreciation of, the Russian tragedy of which we learnt yesterday. I understand that a cable of condolence has already been sent on behalf of the Government and people of Guyana and I take this occasion at this level to endorse that condolence and to couple our sympathy with this Motion which is to be extended to the Government and people of the U.S.S.R. upon what is certainly a universal tragedy in the cause of scientific pursuit and inquiry.

I hereby move this Motion, leave for which has been granted by you, in the name of the Government of Guyana and in the name of all members of this House.

Question proposed.

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

2.30 p.m.

Mr. Ram Karran: I beg to second the Motion so ably moved by my friend the Minister of Trade and Leader of the House on the death of such a noted West Indian Leader, Lord Constantine. We all remember perhaps when as small boys we went on a few occasions to see him play cricket in Georgetown, recall the very interesting and thrilling times he gave us on the field. But, as the hon. Minister said, Lord Constantine was indeed a man of many parts, and aside from cricket in which he excelled and was indeed one of the best in the whole world he made another great achievement, because it was at a very late age of his life that he decided to study and pass the law examination. Perhaps life was too hectic, he was too busy a man to devote much time at the Bar, but, as far as we know, whenever he appeared, particularly in the English courts, it was in the interest mainly of West Indians and people against whom society at that time, and indeed up to the present time, continue to discriminate.

Lord Constantine was certainly not a Marryshow, nor a Cipriani, nor a Critchlow but, as I said just now and as the hon. Minister said, he excelled in the field of cricket and as a politician. It is as a politician that I met the gentleman in Port-of-Spain a few years ago in connection with the setting up of television in Guyana. Trinidad, as it will be recalled, was not then blessed with television and as Minister of Communications and Works in Trinidad he certainly held very healthy views, views which more or less coincided with the views of the then Government of Guyana about keeping out television of the type which was expected during that period – the cheap canned American programme which Sir Leary, as he was then, thought would more impair the eyes and the health of the young people who he thought would be better prepared for life if they were to bruise their knees on the grass in healthy games rather than to pore over these cheap television programmes canned and brought from America.

It must be recalled that for his generation and for the people among whom he worked he had reached the topmost rung of the ladder sought by men of his generation in that he created history by becoming, if not the first, the second coloured man to enter into the House of Lords where he thought he could serve his people.

The Opposition associates itself with the Motion moved by the Government and urges that letters of condolence be sent to his relatives. And, indeed, I should like to suggest to the hon. Minister to include the Government of Trinidad and Tobago since Lord Constantine was at one time a Member of the Trinidad Government.

May I also add the Opposition's support to that part of the Motion moved by my hon. Friend expressing sympathy on the tragedy which occurred on the three brave men of the Soviet Union who lost their lives in the quest of greater learning for the benefit of mankind. They, sir, like the earlier pioneers who have given their lives, have tried to pioneer in space; they have tried to reach the unknown for the benefit of all humanity.

We, on this side would wish to urge the acceptance of this Motion and a letter from this House to the appropriate organization in the Soviet Union expressing our sympathy to the Government and the relatives of those three brave men who lost their lives in the attempt to solve some of the mysteries of the world.

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

Mr. Sutton: Mr. Speaker, on behalf of this section of the Opposition we would be falling in our duty if we did not wholeheartedly support the Government's Motion, the first part of which deals with the passing of Lord Constantine. I am sure that both my generation and the generation before, were deeply impressed with this gentleman. As a school boy I certainly remember him very clearly playing cricket in this country. Therefore, we have no doubt whatsoever that there will be wholehearted agreement in the expression of condolence and regret at the passing of Lord Constantine who has done so much both in the field of international sports and in the general field of politics and social activity to command the respect of the people normally referred to as the people of the Third World. I can think of no parallel to Lord Constantine. He has made a contribution to the peoples of these parts and has demanded a degree of respect and respect for all people who have been aspiring to equal his contribution in this difficult world of ours. When the record is written I am absolutely certain that Lord Constantine's contribution will be second to none as far as the creation of respect in the people of the underdeveloped countries, and particularly the peoples of the Caribbean, is concerned.

I am sure those of us who heard it, or read it, will never forget the maiden speech which Lord Constantine made on his taking his seat in the House of Lords. He had often been referred to by several people who were considered more diligent as an apologist and an Uncle Tom, and things of that nature. They must have done a lot of second thinking in our territory when they heard the speech that Lord Constantine made on taking up his seat in the House of Lords, which to put it mildly, was a direct attack on the equality of the peoples of the underdeveloped territories as against those who are resident in England and the spread of racialism in England, chiefly against the coloured people.

2.30 p.m.

We, therefore, this section of the Opposition, without any reservation of any kind, will fully support the Government's Motion in this respect and the request of the other section of the Opposition to have their condolences recorded not only to the family of Lord Constantine but to the Trinidad Government and his connections in England.

We would also like to associate ourselves in expressing regret on the death of the Russian cosmonauts, who dies obviously in trying to further the progress of science in the world. It is a loss which is deeply felt not only by Russia but by science generally. We therefore would like to record our association with the expression of regret on the death not only of Lord Constantine but also on the death of the three Russian cosmonauts.

Mr. Bissember: Mr. Speaker, it will be remiss on my part as a Member of the National Assembly of the Republic of Guyana, not to rise to support this Motion, having regard to the fact that the death of Lord Constantine has brought back memories of many years ago, when he was a contemporary of mine at the Inns of Court. Maybe, upon reflection, I would try to recall my last meeting with him in 1970, in the month of May, when I was on my way to Jersey in the Channel Islands.

I met him then in the company of the then Lord Chancellor as we were attending a luncheon in the House of Commons. As I began to speak with him, he tried to reflect upon what life was like as a student in England after the war, and the trials and tribulations which confronted him, especially as he went on his way on week-ends to play cricket.

Incidentally, he captained the Inns of Court team and the Vice Captain then was Alan Rae. He once recalled taking the train at Charing Cross to go to Sidcup in Kent, when he was approached by many youngsters for his autograph, and he took great delight in narrating this story as he said to me, "You know, Neville, those young chaps want my autograph. I am a black man but I lived a life in England where they and their parents have respected me for the part I played in the field of international cricket."

When the Guyana delegation was going to England in the occasion of the 1963 Independence Conference, he solicited to make available to me at the airport in Trinidad, the then Trinidadian National Registration legislation. I thought it was very kind of him not because he knew me and he knew the aspirations of the Guyanese people but because he felt that Trinidad was part of the Caribbean and he also felt that not only Trinidad was part of the Caribbean but unless the Caribbean peoples, who had fought so hard to win their Independence,

were to decide upon one strategy, and agree that unity is the only means of defence against those who want to destroy their freedom today, they will not survive.

These sentiments were those coming from a man who had not only played his role in hemispheric politics but a man who had played a tremendous role in the international field. Indeed, he was known in the United Nations, he was known on the occasions of the Commonwealth Parliamentary Association Conferences, people referred to him, he was known as a man who had lived not only for himself but for the Caribbean people as a whole.

Mr. Speaker, I am personally much grateful to you for permitting me to speak on this occasion of tremendous shock and loss to the entire Caribbean. I am grateful to you, sir, for this opportunity you afforded me to be associated with the remarks expressed here today and to be able to add my quote on the life of this great man, a life which those of us who live should emulate and follow.

All hon. Members stood for three minutes

Question put and agreed to.

Motion carried.

BILL – SECOND AND THIRD READINGS

FOOD AND DRUGS BILL

A Bill intituled:

“An Act relating to foods, drugs, cosmetics and therapeutic devices.” [The Minister of Health.]

The Minister of Health (Dr. Talbot): Your Honour, I beg to move that the Food and Drugs Bill, 1971, be now read a Second time. One of the major responsibilities of the Ministry of Health at central level is to provide certain non-personalized health services which are beyond the capacity of the individual to provide for himself. These non-personalised health services are designed to ensure not only the safety and wholesomeness of the environment but also the safety

and wholesomeness of the products of items or commodities used by the public, by the consumer.

The legal basis for action in this regard can be found in the Public Health Ordinance, Chapter 145, in the Sale of Food and Drug Ordinance, in the Pharmacy and Poisons Ordinance, in the Antibiotics Ordinance, and in the Dangerous Drug Ordinance. However, these Ordinances have been found to be severely limited in their capacity to allow for regulation and control of new practices in an increasingly sophisticated society with sophisticated tastes and demands. For example, the existing Ordinances, even with the several provisions for the regulation and control of pesticides, or cosmetics, both of which are widely used in our society. The Ordinance has no provision for dealing with such practices as false advertising and importation of unsafe or ineffective drugs, practices which are inimical to public health.

2.40 p.m.

Notwithstanding attempts at amending these Ordinances, they have not kept pace with the changes and the many problems arising from the methods of production, and the sale and the use of consumer items. Because of this, Government brings for the approval of this honourable House the Food and Drugs Bill 1971.

It is not intended that this Bill replace immediately the several Ordinances which I have enumerated previously. As a matter of fact, it is proposed that only the Sale of Food and Drugs Ordinance and section 53 of the Public Health Ordinance be repealed. The other Ordinance will continue in operation until such time as the entire set of public health laws can be reviewed.

May I say here that plans are in train for the complete revision of these laws to commence in another two or three months. In theory, until such time as this revision is done there will be a small amount of overlapping especially among the Public Health Ordinance and Pharmacy and Poisons Ordinance and the new Food and Drugs Bill. In practice, however, the Food and Drugs Bill will supersede all others wherever or whenever applicable.

What is intended is that the Pharmacy and Poisons Ordinance will be pared to exercise control over the practice of pharmacy, training and regulation of pharmacists and licensing of

drug stores. The Public Health Ordinance will be primarily concerned with conditions of eating places and the sale of prepared food in contrast to the Food and Drugs Bill which will exercise control primarily, but not exclusively, over manufacture, sale and importation of packaged foods, drugs, cosmetics and therapeutic devices.

The Dangerous Drugs Ordinances and the Antibiotics Ordinance will deal exclusively with narcotics and antibiotics respectively. The Food and Drugs Bill is aimed at bringing under central and stricter control over a wider range of articles used by the public. It also aims at imposing more severe penalties for offences because of the serious nature of these offences.

What are those features which commend the Bill to this honourable House? What are the features which represent an improvement over existing legislation? Let us look at the Bill and identify those features which achieve these aims.

First, the Bill deals with a wider range of consumer items: food, drugs, includes pesticides. For the first time, Government, through the Ministry of Health, will be empowered to regulate the sale and manufacture of cosmetics, therapeutic devices and pesticides. One of the by-products of modern scientific and technological civilization is the explosive rate of development and use of consumer items. Although in most countries where these items are manufactured there are strict requirements for safety assays, Government accepts the responsibility of ensuring the quality and safety of these items when they reach the consumer.

Secondly, the Bill seeks to prohibit false and misleading advertisement and labeling with respect to food, drugs, cosmetics and devices. No doubt advertisement is a powerful force in sales promotion and its value in informing the public of new and improved items can well be appreciated. However, there is urgent need to stop the dishonest practice of misinforming the public through advertisement, including labeling, as regards the nutritional value of certain food preparations and the need for the regular use of certain medicinal preparations.

Especially dangerous to public health is misinformation about the efficacy of certain medicines in the treatment of certain ailments considered to be so serious that they require proper medical attention, advice and supervision. This type of advertisement encourages self-diagnosis

and self-medication, both of which could prove detrimental to the consumer. These disorders or diseases are listed in the First Schedule of the Bill and it is to these that section 4 of Part 1 refers.

Another novel feature of the Bill is the provision for the making of regulations prescribing standards and the emphasis on the maintenance of standards. It is not intended that a unique set of standards be established for Guyana. The trend is towards the use of international standards and the standards which are proposed are those used and accepted internationally and are listed in the Second Schedule.

One of the most useful factors of the Bill is the provision for examination of items at the point of entry into Guyana. In the absence of such legislation Guyana has been exposed to the danger of becoming a dumping ground for sub-standard or injurious commodities which may not have come up to the standards of their country of manufacture. The provision would preclude the importation of an article which does not satisfy the standards of the country where the article was manufactured.

It would also prohibit the importation of drugs, the potency and efficacy of which is questionable because they are “stale”, that is, the expiration date of the drug has passed.

2.50 p.m.

In practice, what would obtain is that as soon as this Bill is enacted and regulations are prepared, importers will mail the Bill to their principals. Articles for which standards have not been set here in Guyana will be imported only if they met standards of the country of manufacture. Random sampling will be carried out continuously.

The Bill also makes provision for community participation and for high quality technical advice to be made available through the establishment of the advisory committees, both the Food Advisory Committee and the Drug Advisory Committee. This is absolutely essential to cope with the enormous amount of technical information about food and drugs and devices and the constant changes which are required when results of research are made known.

May I say here, Mr. Speaker, that as recently as February 21st a representative from the Guyana Government signed the Convention of Pyschotropic Substances. This Convention is set up by the United Nations to deal with manufacture, use of importation, transportation, etc., of what is called psychotropic substances. After its ratification by the Government certain regulations will have to be made to institute effective control of these substances. It is in this respect also that a Committee such as the Drug Advisory Committee will prove extremely valuable to the Minister in carrying out the authority and the powers of the Bill.

Section 36 contemplates binding the State to the provisions of the Bill. This is a particularly significant feature since it forces the State to maintain the same standards which are required of non-governmental agencies. The flexibility of the Bill is a novel feature. It allows the Minister wide scope to make regulations under section 25. This is a marked improvement over the other Ordinance for which changes could only be effected by succession of amendments taken to Parliament on each occasion. This of course has proved very cumbersome. The objective of section 25 is to enable the making of regulations to give effect to the purposes and provisions of the Bill with the least possible delay.

Another distinctive and valuable feature is that the Bill places the onus of providing the safety of articles offered for sale on the manufacturer or the person offering the article.

Generally, the Food and Drugs Bill is aimed at protecting the consumer against dangers to his health. In drafting the Bill serious consideration was given to such factors as public convenience and professional and business interest. However, the overriding consideration is, in the first instance, public safety and then secondary to that would be public convenience. In the first stage after the Bill is enacted, the intention is to educate rather than to prosecute. The effects on public health of contravention of this law are so serious that Government considers it of the utmost importance to ensure that all concerned are adequately informed.

Because of the long period of three weeks which was given to enable the public to react to the Bill I should like to introduce certain Amendments. I would just briefly discuss what these Amendments include. The first Amendment refers to section 13 of the Bill subsection (2). Since

pesticides are included in the category of drugs it is appropriate to include Entomologists as a category of practitioners who will be exempted from subsection (1) of that section of the Bill.

There was also some concern about penalties in clause 33 and it is proposed to amend that section so that it will give the fine as “not less than \$100” in (a) and in (b) “on conviction upon indictment to a fine of not less than one thousand dollars nor five thousand dollars. This will help to impress on the public the gravity of the offences and also to ensure that when penalties are made that they are not of such a nature that they will not act as a deterrent.

It is also suggested that in the First Schedule of the Bill - but this is merely a correction in spelling it is a typographical error – instead of “Alopticia” it should read “Alopecia” and this means baldness. It is also proposed that we delete “influenza” as an ailment to be included on the First Schedule.

In the Third Schedule I should like to propose that the words “Appetite suppressant agents (anoretics), excluding amphetamine, its derivatives and their salts except those specifically exempted by the Regulations” be deleted and that the following phrase be substituted:

“Appetite suppressant agents (anoretics) except those specifically exempted by the regulations, amphetamine, its derivatives and their salts”.

3 p.m.

I should also like to propose that we insert in alphabetical order:

“Barbituric acid, any derivative thereof, and any salt thereof

Lysergide

Mescaline and its salts

Methamphetamine, its derivatives and salts

Methysergide”.

These are all considered as psychotropic substances, and this being done in conformity with the Convention on psychotropic substances.

Finally, in these remarks I have dealt with responsibility of Government, responsibility of manufacturers, and responsibility of persons offering for sale those articles which form the subject of this Bill. I should like to add and underscore the responsibility of the individual, the responsibility of each consumer for health protection. There is the tendency for persons to relax their own vigilance because of a feeling of false security generated by the knowledge that such legislation is being enforced. This is unfortunate because the aims of this Bill would be achieved in a much more thorough sense if the public is well informed about the provisions of the Bill and if the public responds by co-operating and by exercising sanctions wherever necessary.

Question proposed.

Mr. Chandisingh: Mr. Speaker, this Bill before Parliament today is a long awaited measure in the interest of the protection of the health of the people of this country and we hope that it will serve that purpose. It is true that we on this side have been urging from time to time that this measure be brought forward as early as possible, and, from time to time also, we on this side have been referring to certain of the problems which the absence of such legislation occasions.

I should like to say at the very beginning that broadly speaking, so far as the main objectives of this legislation are concerned, we on this side are only too happy to indicate our support. As a matter of fact, in a country such as this where private enterprise and competition for the sale of almost everything enters into our daily lives, where not only in respect of drugs but other commodities, items and commodities are advertised so widely, each producer or agent, or seller competing to sell his own particular product, each one ascribing to his own product qualities and attributes better than the products of his competitor and rival, it is clear that the public generally is to a large extent, if not fleeced by false advertisements, at least the public is caused unnecessary expenditure for things which many people perhaps may not have need of at the particular time, but which, due to the pressure of advertisements, they are forced into a position of wanting to buy such items.

Generally, on this question of advertising its broadest aspect, the people of this country are being made to pay, we would feel, much more for the products than if there was not such a great competition in this field. Even more so, in the case of items like drugs, we can well appreciate the importance of legislation which seems to put an end to false advertising which not only causes people to waste their hard-earned money but, at the same time, as the Minister has pointed out and we have pointed out on past occasions, there is a lot of suffering, even harm to life of persons who purchase certain drugs or patent medicines in the belief that these drugs would help to relieve or to cure their diseases.

We have no quarrel with the aim if this aspect of the legislation. There may be certain aspects of the legislation which we are not very happy about, but we shall refer to those in due course,

I should like in referring generally to the purposes of the legislation, that we should bear in mind that perhaps although this particular bit of legislation may not include as food or drug, an item such as cigarettes – I am not sure how this would be classified – I just want in passing to indicate that it would be a good thing if the Government could take some action with respect to advertising in this field also.

I do not want to belabor this point at this stage, perhaps on another occasion I may do so, but I do wish that the Ministry, the Government, will see the desirability of at least for a start, of taking some action with respect to cigarette advertising. Such measures have already been taken in other countries such as the United States and we feel this should be done also to protect the health, particularly of the young people have not even started to acquire the habit of smoking, unlike some of the older ones who may be addicted to this habit. We hope this will be considered very carefully and urgently in order to discourage, more or less, younger people from taking up this habit of smoking.

We hope, too, that in the course of operation of this legislation that adequate attention will be given to alcoholic drinks and some measures may be found perhaps to discourage certain methods of putting over the advertisements of various alcoholic drinks, which would put an end

to the attractiveness, so to speak, of such drinks, rum, beer, or what have you, in the minds and the eyes of the public generally.

3.10 p.m.

I noted that the hon. Minister referred in her remarks to the fact that this Food and Drugs Bill will mainly operate in respect to packaged and manufactured food. If this is the case I do not see where in the Bill itself, in the legal provisions here, such restriction is even implied. The hon. Minister in making her reply, or when we get to this but it seems to me that although this may be the intention, nevertheless the drafting of this Bill would open the possibility for action to be taken in respect of all places where food is on sale, in other words, restaurants, street vendors who sell black-pudding, cook-up rice and all these things.

Here again we should like some explanation as to the intention. It seems from what I heard that the existing Public Health Ordinance is going to be used for such purposes as controlling the suitability or quality of food, the cleanliness and so on of food which is sold by restaurants, by street vendors and others. If this is the case, we would like to have a proper explanation because we think that some action is called for, not only with respect to the manufacture of foodstuff but also with respect to restaurants and other places where food, if not manufactured, is at least prepared and stored and sold to the public.

As I have said, it seems from the Bill that powers are contained herein to cover all these fields. I am just maintaining that it seems from what the hon. Minister says – unless I am mistaken – this Bill will only have effect for the time being, in any case, for manufactured food.

In this respect I also observed and noted very clearly the Minister's comments with respect to the need to educate rather than to prosecute. This was a point that I had also intended to raise at this stage and I wish to support fully the contention that for such an Act to be implemented strictly at the very date of its coming into operation would cause great havoc, to put it that way, unless the food inspectors who are appointed under the Act give considerable advice to the persons, particularly in the category of those who prepare for sale food on a small scale and who may be selling in the open air or in certain types of small restaurants.

I think it is necessary at the outset to have a high publicity campaign in which health education should play a very prominent role to see to it that the sanitary standards, hygienic standards, which would be required to be maintained under the Act should be widely known.

For example, one would expect that food inspectors would be able to inspect the premises in which food may be prepared or the conditions under which the foodstuff is sold to the public and they would exercise some discretion, at least for a period of time, in order to ensure that such persons are not penalized due to ignorance of the law and not only ignorance of the law, but ignorance of the terms “unsanitary conditions” or “free from contamination” and that sort of thing.

We note that there are many places where food is prepared and sold and we can see many flies pestering these places. Of course the existence of flies – they carry diseases and have harmful effects on human beings who eat such food. It may be that in the whole area concerned flies are prevalent at a particular time because of general insanitary conditions in the vicinity. What would be needed would be an integrated programme involving several categories of health personnel to ensure that food is prepared or manufactured in healthy conditions, free from disease and from the possibility of disease contamination and so on.

Referring again to the question of drugs, I should like to note that while the false advertising of drugs is a harmful practice, one wonders whether the Government, perhaps through the Drug Advisory Committee which will be appointed, will look even further into the whole question of the value of patent medicines generally. I am not suggesting that at this stage there be incorporated in this Bill provisions against sale of patent medicines because we have to take into account the availability of medical services, the adequacy of doctors, and the availability of drugs and so on.

We also have to take into account the cost to people buying drugs, the charges that people have to pay doctors to get prescriptions and so on. I am just throwing this out for consideration in the future. We are aware that the patent medicine business is one of the most lucrative, generally speaking, to producers in the world today. It is said that the patent medicine business comes second only to the arms industry in so far as profitability is concerned. Thus I think that we

should begin now to adopt an attitude, at least towards such medicines and to formulate systems by which such medicines could be evaluated and further action taken as may be recommended following such analyses.

3.20 p.m.

I want to pass on to the question of administration. It seems to me that the law which we are being asked to pass today provides, what I may call, enabling legislation. It would take at least some time before the whole system comes into operation. It is noted that at the very beginning the Act will come into force on a date fixed by Order by the Minister and it is noted also that regulations have to be made which will give effect to the purposes of the Act.

It is also noted that the Minister will appoint two Committees to advise on certain aspects relating to the Act itself. Unless the hon. Minister can tell us what progress has already been made, it is likely that it may be some time before the whole machinery gets into motion. Notwithstanding that fact, I should like to ask administrative technical machinery is being or has been provided or will be provided in order to make this Act fully operative and really beneficial to the community. It is quite obvious that unless the machinery has provided the number of analysts or assistant analysts and trained inspectors, the law is going to remain to a large extent a dead letter. In the past we have seen that the main problem with respect to carrying out the implementation of several of the laws which already exist on the Statute Book has been the lack of adequate staff. For example, the Public Health Ordinance may be cited by which it is known that there are several things which can be done under the Public Health Ordinance but which very often are not carried out because of the absence of staff. For example, certain tasks which are assigned to Public Health Inspectors, the taking of samples of milk, for instance, I do not think, from what we have been able to observe, that this in itself has been carried out adequately or sufficiently, because of the fact that the existing staff is so tied up with so many other duties. As a matter of fact, I recall that the 1969 Report of the Ministry of Health stated that Sanitary Inspectors very often cannot even carry out their routine duties with respect to sanitation, because they are so committed in making plans for house building and that sort of thing.

It is with this in mind that we would like to find out what sort of machinery will be provided, if we have not at the moment or if we expect that there would be a sufficient number of scientific staff speedily, within a matter of hours or at least a few days, as the case may be, to give analyses and write reports, and issue certificates for these analyses. It is clear that in several cases samples of food for example that are taken by an Inspector could spoil within a short time if they are not analysed sufficiently quickly and persons may even be penalized or be open to being penalized if the administrative machinery is not geared to very speedily handle such analyses and examinations.

Mr. Speaker, I have so far referred to certain general considerations and I have referred to the positive aspects of this Bill in its broad aims and intentions. I have said that we on this side are fully in support of the objectives as contained in this Bill: advertising the power to take samples of foodstuffs which are imported into this country to examine for quality and so on. We feel that if this is done, the consumer will be provided with a higher standard of quality of foodstuffs. This is something desirable. We support also the principle of the Government being able to require certificates from overseas suppliers to the effect that the foodstuffs or other items being supplied to this country do not contravene any Act in the country where the goods are manufactured. In short, all of these things, more or less, we have been calling for on this side and we are very happy that the Government has seen fit also to think in this direction.

But it may be opposite for me at this stage to refer to the fact that there are certain negative aspects of this legislation that we are very unhappy over. We are mindful, for example, that there were other bits of legislation which from time to time had been brought to this House and which, though the general purpose was to do good, to help the public, nevertheless, the specific details in such measures or some of them have been found to be detrimental to the public or certain sections of the public.

3.30 p.m.

It is with this in mind that we are expressing our concern on this measure. We do not feel that a measure such as this concerns the health of the public, ought to be one which is bandied around by the Government and the Opposition. We feel it

would be highly desirable and useful that we should arrive at the greatest degree of consensus on such matters and the criticisms which we on this side would make and the Amendments which we shall introduce are intended to serve the public interest.

On the one hand, we are concerned about the public being fleeced by manufacturers and others in the field of drugs, cosmetics, and food, and we wish that the law be sufficiently geared to ensure the cessation of such practices. But on the other hand, we must also see that powers which are conferred under such an Act are not subject to wide abuse. We must also be concerned that persons who may be involved in the preparation and manufacture and sale of food and drugs are not unduly and unjustly open to penalties simply because the drafting of the law in question may not have taken into account the full implications or repercussions involved. It is for such reasons that we would also wish to have adequate explanations from the Minister when we come to this point.

I do not wish at this stage to deal extensively with this question, but just by the way of example of what we are referring to, I may refer to the powers of an inspector to enter the premises, to seize items, to examine any documents that he may find, and to make copies thereof, etc. This seems to us to clothe the inspector with powers even over and above powers which ordinary policemen have and we feel that the purpose behind such a measure could equally be served by changes to this section, which are in keeping with certain other provisions, that are contained in the Public Health Ordinance and the Antibiotics Ordinance, and so on. But we notice there are certain changes made in this particular Act, which enable an inspector to enter anyone's premises or home, as the case may be – although it says at any reasonable time – and to look at any document and make copies.

We are not saying that the Government intends it otherwise at the moment. It may be the intention of the Government that the inspectors so appointed will do their jobs without causing unnecessary embarrassment to persons, but once the law leaves the whole question open, it is quite possible, for example, for an inspector to enter a doctor's private surgery where drugs are stored for sale, and for him, under the law as it is presently worded, not only to demand the production of the relevant documents concerning the particular drugs: it seems that the inspector

can search the entire premises, look at any medical records and files of patients, and make extracts of these records for purposes other than the purposes of the Act. This could be very detrimental and socially undesirable. And in many other ways such powers can be abused. This is one example that we bring forward. We shall have an Amendment later on.

An inspector can demand to see the relevant documents. Under the provision for Regulations, the Minister may make Regulations setting out the type of documents and books required to be kept by a person manufacturing or selling drugs, food, etc. We feel, for example, that the inspector can be empowered to demand the production of such books which are required, or other documents relevant to the purpose of the Act, and penalties can be provided for non production of such records. But having such sweeping powers, we feel, is going too far. Regardless of what the present Minister may have in mind, the fact is, so long as the law is so wide and open, we have very misgivings on this point.

Then there is the question of penalties. The hon. Minister in her introductory remarks in the Second Reading, did refer to an Amendment which the Government intend to introduce, in order to vary penalties. But on looking at the change which is contemplated, it does not seem to me to give the required flexibility to a magistrate taking into account all the circumstances of a case. As a matter of fact, it is comparable to the penalties for the breach of certain price control legislation or in connection with the ETB fixed prices, where a magistrate – once a person has been convicted, no matter what the circumstances of the case may have been, once a technical breach of the law has been committed: is forced to fine the person what is stated in the law. I believe cases have already come up where a magistrate has made some expressions on his inability to vary the sentence because the law requires that this be done.

I just wish to refer to one other point before my hon. colleague Mr. Derek Jagan deals in more detail with some of these discrepancies which seem to litter the present legislation. On the question of the appointment of analyst and inspectors, I would presume that the practice will be followed of setting out certain qualifications for analyst and assistant analyst, and what have you, and also for inspectors, whether they are called food or drug inspectors or not that qualifications would be set out, be perhaps in the Regulations, and

that the persons appointed would come under the Public Service Commission. Generally speaking, what I want to impress is that we hope that it would not be that people are just appointed by the Ministry without qualifications being set out, and so on.

3.40 p.m.

This, in our opinion, is very important particularly because of the powers which are vested in the inspectors as they now stand. Even if the Minister accepts our amendment such persons will have great powers. We hope that the situation does not develop, as in certain other departments and ministries, where persons are appointed because of political affiliation or for other considerations when their qualifications are below standard and when their standards of honesty and dedication fall below what is required for such posts. We would hope that the hon. Minister in her reply will give us certain assurances. I said we presume that these things will be done in the summer, but we would like certain assurances from the hon. Minister in view of the remarks we have made.

In conclusion, I merely wish to say once again that we are quite prepared to support the measure, particularly if certain amendments are acceded to by the Government side. We are in favour of the broad principles, the aims and objectives of this Bill. We are concerned, however, about the administrative machinery shortly to come into existence so as really to implement the provisions of this legislation.

Finally, we are not very happy over the fact that regulations which may be made by the Minister will not, as the Minister said, be brought to Parliament. At least this is my understanding when the Minister described the Bill as being very flexible and as containing powers which are given to the Minister to make regulations. This is a novel situation whereby regulations will not have to be brought to Parliament either to be negative or approved, as the case may be.

We would also urge the Government to reconsider this matter as we feel very strongly that all laws and regulations must come under the purview of the Parliament of the land, which is

supposed to represent the Guyanese people, to look into their rights. With these few remarks I wish to conclude my observation. *[Applause.]*

Mr. Speaker: The hon. Member Mr. Yacoob Ally.

Mr. Ally: Mr. Speaker, I would agree with my colleague who said that this measure should have been brought to this House a long time ago.

I should like to read clause 5 of the Bill under Part 11:

“Any person who sells an article of food which – .

(a) has in or upon it any poisonous or harmful substance;

(b) is unfit for human consumption;

(c) consists in whole or in part of any filthy, putrid, rotten, decomposed or diseased animal or vegetable substance;

(d) is adulterated; or

(e) was manufactured, prepared, preserved, packaged or stored under insanitary conditions,

shall be guilty of an offence.”

These are very good provisions but they can very well be abused. We have seen what has happened with the advent of E.T.B. which is destroying its main purpose. When we check we find that the Government is the biggest culprit in this whole affair. Let us analyse it: putting aside the black marketing – at times this Government sells cabbages at black market prices – we sometimes find that the cabbages have large worms. They are rotten, they should Government takes them in lorries to the small man in the country districts and forces them on him. This is something that the Government should look into.

We find that cornflour at times has worms also and nobody condemns it. there is nobody to say that it is unfit for the small man. It has to be dumped and sold.

Let us check what is happening with pasteurized milk. Government runs the pasteurized milk plant. Advertisements fool people that this is genuine milk, but it is nothing but “powdered water milk” and the price has increased. It is water adulterated with some milk powder. Let the members of the Government deny this. There is great deal of adulteration taking place at the Rice Marketing Board. Government can adulterate when it wants conveniently but it can accuse other people of doing this same thing.

I mentioned earlier the blunder with the External Trade Bureau. Today I can tell you that the E.T.B. is responsible for the chaos. There is a big racket going on with the importation of curry powder. Curry powder comes in tins and the Government fixes the price of curry powder at 7 cents an ounce. But there is nothing to prevent people from adulterating the product in tins by mixing it with other inferior curry powder and selling it to the public. These are things the Government must investigate.

My colleague was remarking on cigarettes. The Government knows that cigarette smoking causes cancer. I wonder if it is bold enough to come out to try to prevent at least the young people from involving in this bad practice. I should like the Government not only to preach, but to practice what it preaches. Consumers expect Government to be fair and impartial.

I mentioned the E.T.B. We find Government is the sole importer and some saltfish that is being imported is rotten; it is gathering worms. When you ask for a rebate none is given. Government is the sole importer but nobody can condemn the saltfish which is imported. We find garlic also is rotten.

Mr. Speaker: Hon. Member Mr. Ally, I am not in the habit of interrupting a debate, but certainly if you look at clause 35 of the Bill you will see that the State is made liable. Please, therefore do not continue to say that the State is not liable.

Mr. Ally: Possibly it is hard for the Government to hear this, but I should like to let the Government know that if corruption can come to an end we would be able to do something by which the people could benefit in Guyana.

Sanitary conditions. It is only yesterday I read in the newspapers and I ask your permission to quote from it “Blame Health Minister Medical Officer of Health tells the City Council”. This is the medical officer of health of Georgetown blaming the Central Government. But we find the issue is one throwing the blame on the other and it is a former P.N.C. Minister Merriman. He was making no bones about –

The Chairman:Mr. Ally please refer to the hon. Gentlemen in his proper form- Not “Merriman.”

Mr. M.Y. Ally: That Hon. Gentleman. I should like to refer to the stench about the markets where people have to cook and sell food. We have the cookshops where people eat but nothing is being done. Up to last week there was a sale at the Transport and Harbours Department and no Government officer wants to condemn these things that were being sold. These goods were in the bond over a year – canned stuff, things like sardines and the like. They were angling to get the highest bidder. This is the policy of this Government.

My colleague was referring to black-pudding. Every member of the P.N.C. eats black-pudding. I do not know if you realize what is this black pudding. It is something black and shine like a camoudi. I understand some of these same gentlemen do not eat it only by the slice but by the half yard or by the foot. Similarly with cook-up rice. But let us come back to realities. *[Laughter.]* This would be very interesting to all those gentlemen who consume black-pudding. Let us go into how this black-pudding is being prepared. For the enlightenment of our friends who consume the black-pudding let us see how it is made. The basic ingredient is cow blood. How do they get the cow blood? I should like the now Minister of Health to look into this, because she seems so unconcerned. Women go to the Abboitair and collect the blood in a bucket, then they beat it up and take it to make the black-pudding. If that blood is diseased, if it has T.B. infection I should like the Minister to tell me what precaution has been mounted – *[Interruption.]* If that animal is suffering from T.B. and that same blood is being collected to make black-pudding that very blood is not being condemned but it is being consumed by the public. Let the Minister deny this. This is something I am asking that the Government look into because this is

an everyday occurrence and these chaps who like this black-pudding, once it is their comrades involved making the black-pudding they would not do anything to hurt. I appeal, sir, because it is affecting the health of our country.

Again we find in the manufacture of casreep, some standard should be set. We find that casreep is manufactured from the bitter cassava, but there is adulteration from coconut and burnt sugar. We find also in the line of pepper sauce and guava cheese. These are some of the items where the innocent public can suffer. Unless Government really means to improve sanitary conditions of the country as a whole it should not be prejudice to a non-party supporter by harassment, by spite, charges and fines, but it should be broad minded. If a certain principle is not good regardless of political affiliation, if it is not good for one it must not be good for anybody. It would serve no good to Guyana. We will be a laughing-stock for the entire world. The Minister has said that it would be a non-personalised service to the community. But my view point is unless this Government is prepared, even if it is its own P.N.C. members committing these offences it should be generous enough to protect the community at large and try to prevent it being damaged.

Mr. Speaker: I think perhaps this may be a convenient time to suspend the Sitting.

Sitting suspended at 3:57 p.m.

4.25 p.m.

On resumption –

Mr. Speaker: The hon. Member Mrs. DaSilva.

Mrs. DaSilva: We of this part of the Opposition are pleased to give our support to this Food and Drugs Bill which is before the House. We see that it is a step in the right direction, a step that is long overdue. We have likewise supported other Bills that have come before this House because they were for the benefit of all the citizens of Guyana. We saw that they were right. However, it is the implementation of such Bills that is important and we would urge first of

all that the Minister makes quite sure that she has adequate personnel in her Ministry to implement the Bill. I shall deal with this a little further on.

In congratulating the Minister for bringing this Bill before the House I should like also to congratulate her for at last making it necessary for all food handlers to have health checks. I have been in this House for about two years and ever since I have been here I have, whenever the occasion arose, spoken about the need to have all food handlers medically checked. I am very pleased to see in a report in the *Guyana Graphic* of the 10th June, 1971, that the Minister in a Press Release has stated that as from July 15th arrangements will be made for all persons who handle food to be medically examined, to have chest x-rays and blood and stool tests. This is very important and is certainly a great step forward in the health programme of Guyana.

In the Press Release it was stated that a badge will be given to each person who is checked and found medically fit. This, I think, is an excellent idea and I urge the Minister to encourage the people to wear their badges and to wear them proudly. We have a peculiar idea about having medical checks and I think it is a good thing for this to be made a requirement in the law of the country. Those persons who are examined and found fit should wear their badges proudly as it would be a means of identifying those who have been found to be medically fit.

I think particularly of people who earn their livelihood selling sweets and food outside school. We are very pleased that people earn their livelihood in this way and we would want them to continue to do so but for their sakes and for the sake of the public who buy food we are glad that there will be a medical test. I would not dream of suggesting that these people are medically unfit but we would be sure that they have been examined and have passed a medical fitness test

I should like also to suggest to the Ministry that not only should these persons wear their badges but that a certificate should be awarded to the shops and their staff where food is handled and that such certificates should be displayed. This will all help to build up confidence and make the scheme work better.

We come now to the proper control of drugs. We are going to have inspectors to help with this. I wish, however, to refer to the Pharmacy and Poisons (Amendment) Bill which was passed in this House last October. I referred at that time to the sad fact that there are only two men in this whole country responsible for the control of drugs. How could two men possibly handle this work? I understand that the appointment of two more men is now under consideration and I hope that these appointments will be made as quickly as possible and that they will be able to get on with the job, but I think everybody will agree that four persons will not be adequate although it is certainly an improvement.

With the coming into force of this Food and Drugs Bill and with the appointment of more inspectors I think greater control will be possible. I do hope that there will be many inspectors to carry out the work of servicing this Food and Drugs Bill. We do not want this project of the Ministry of Health to be like the External Trade Bureau which is now increasing and strengthening its staff. It is no good closing the stable door after the horse is out. The Minister of Health must learn from the mistakes made by the Ministry of Trade and see that she has adequate staff to implement the provisions of this Bill. Otherwise, we can stay here and talk from now until doomsday and it will be absolutely worthless because the Bill will not be implemented.

I wish to refer to the inspector when we come to the administrative part of the Bill. The Minister may establish a Drug Advisory Committee and a Food Advisory Committee and these Committees –

“shall be representative of lay and professional interests and shall comprise such persons as by reason of their knowledge, interest and experience are considered suitable for appointment thereto.”

It is spelt out clearly the type of people to be appointed to these Committees. Let us hope that this is clear and that we do not have political appointees, party hacks, square pegs in round holes. Let us hope that the people who are appointed to these Committees are knowledgeable and suitable. I do hope that this provision will be adhered to because too often has this Government been accused of filling posts with political appointees. I hope also that the Minister will make sure that not only professional people are appointed but persons who “by reason of their

knowledge, interest and experience are considered suitable for appointment thereto.” The members of this House must be aware of a recently formed Association called the Guyana Consumers Association. The Minister has said that this Bill has a lot to do with consumer goods. This is quite true. The members of the Guyana Consumers Association are reliable and responsible citizens whose duty it is to try to uplift standards and improve the quality of consumer goods that are sold in this country. I hope the Minister will think of this body of people and perhaps get one or two of them on her Advisory Committees.

4.35 p.m.

I can assure her that this is a very worthwhile organization.

One other thing about the inspectors. In appointing the inspectors, they would naturally be people who are qualified and knowledgeable, who are pharmacists, and who would know what they are about in the drug section, because this enactment is going to place, I feel sure, a great drain on our druggists.

We come now to the point of labeling and advertising. This, too, is a very excellent part of the Bill. It is necessary that the label on the bottle does not give a false impression of what the bottle contains. It is also very necessary that this be gone into very carefully, and when it comes to the question of advertisements, this refers not only to the advertisements on the labels but on the radio or in the newspapers. Say, like about somebody taking something for his liver. There was a case of a drug that was made in Australia. It is strictly for Guyanese and comes to Guyanese. This sort of thing is not in the interest of the health of the citizens, and it is high time such drugs are controlled. I am pleased this is one aspect of the question that is taken into account and I should like to urge the hon. Minister of Health that we would have to change the labels on those bottles and a label of the time contents be used instead. But that is going to take time.

Then there are the people who for years have taken their patent medicines. They get their medicines from the drug store just around the corner. Maybe it is no good taking that out, but if the inspectors, in going into this matter of standards, say these drugs really do no good but there

is nothing harmful in taking them, although they do not give the extra spring which the labels say the drugs will give, maybe, in their advertising the manufacturers should not be allowed to say so. This is something that has to be very carefully handled. I want to make it clear that although we feel something should be done, the people who are accustomed to these things should still be able to have them, once it is clearly understood that they are not harmful to them.

I should also like to raise the question of drugs and the advisory committee. We hear nowadays, and we know for a fact of the rising cost of living, not only in foodstuffs but also in the drug field. We know that the cost of drugs is high. It cannot be helped in some cases for reasons of exchange control, the countries from which they come, but there are institutions from which drugs can be brought down more cheaply. We have to watch the case of the advisory committee. In trying to bring down the price of drugs, bring down drugs using the generic name rather than a brand name. This is a good thing but there are two sides to this story still. For and against.

There are many drug houses springing up on the Continent, in the United States and in Britain, but there are the drug houses with which we are accustomed to deal, houses like Parke Davis, well-established houses. We know those drug houses are well established but these new houses have not had the years of research, and they do not have the staff with the years of experience in research. Because these new drug houses do not have to pay this type of staff with years of experience which the well-established houses have had to pay, naturally their prices are lower.

There is one particular drug that has been approved and recommended and it proves to be half the price of the present recognized drug in Guyana. Another point is drugs that have come into Guyana, which, on analysis, have not passed this disintegration test. There us this tablet which is supposed to dissolve in water. This tablet does not disintegrate and when it is taken into the system, it builds up a resistance. After a while, it does not help the person and he does not get the best of the tablet. Therefore, I would ask the hon. Minister to think very carefully about the buying of drugs by generic names as against brand names.

There is no doubt that these products of the new drug houses can be used to bring down the high cost of drugs, but it is necessary that they be properly tested before they are put on the market. The other brand names we know so well, we naturally have to pay more for them because of their high cost of production, they have their good names to protect, and they would not be giving a drug that is not fit to be taken.

Whilst I am talking of the high cost of drugs, I would like to ask in this House about the price of insulin. Could the hon. Minister tell this House why is it that insulin has gone up from \$2.80 to \$3.50? Could she give us any explanation? I understand that at some places it is sold at \$4.50 but the regular price is \$3.50

4.45 p.m.

Another thing, too. The inspectors could do a lot to help to ensure that the drugs are properly entered and properly stored. I do hope that the Ministry will have adequate staff to see to this.

Also, sir, certain drugs are sold to young people without any scruples. This is happening all over the country. A teenager went into a drugstore and bought Duraphet tablets – and these are very dangerous tablets – but they were sold without the name of the drugstore on it; it just had the word Durophet on it. the Government should see that these drugs are properly labeled and sold to and by authorized people.

I wish to deal with the question of samples. I understand that duty is being charged on the samples. Can the hon. Minister clarify this point and say if this is really so? Because duty ought not to be charged on samples. It may not be duty as such but it may take the form of the 3 percent Defence Levy or some other type of fee.

Then there is the question of penalties. I am very pleased to see in the Amendments circulated by the hon. Minister when she dealt with Clause 33. She said in her introduction of this Bill that the purpose is to educate. Sometimes these laws are broken not deliberately but through carelessness or through ignorance. Or in the case, for example, I think it

was last week or the week before – of the unfortunate shopkeeper in the market who was fined and imprisoned for breach of the Price Control regulation. I do hope in this case that the penalties will be reduced and more scope given to these magistrates to use their discretion.

I should like to ask when she says in Clause 33(a) that a person who commits an offence for the first time shall be liable to pay not less than \$100 nor more than \$500 and to imprisonment, does “and” mean “and/or”? I should like to have this clarified. For instance, when a magistrate convicted a man last week under the Price Control Ordinance the man might not have been in prison now and we would not like the same thing to happen again.

Another matter is that the shopkeepers have got to be considered. For example, there are going to be penalties and fines and/or imprisonment for adulteration and stale food. But the point is the shop assistant doing the selling on behalf of the owner or proprietor of the place. That shop assistant is faced with the alternative of selling stale or adulterated stuff – and these days a job is very difficult to get – or the shop assistant is fired. He might say to himself I will take the chance; I might get off. So quite clearly that shop assistant is going to be penalized because he or she was ordered by the employer to do so. But it is the employer’s responsibility and not the employee’s. This point should be considered very carefully.

Not forgetting too, sir, the Government Analyst Department upon which great strain is going to be put. That Department we know is already overworked and this is going to add the burden of the already hard-working staff. Consideration ought to be given to strengthening the Analyst Department.

These, I think, are just about a few of the points that I would wish to make. This Food and Drugs Bill can be of great service to Guyana but I want to be quite sure and quite clear that there will be knowledgeable people and properly trained staff to carry it out. If all these things are taken into consideration this Bill will be of great service to this country.

Mr. Jagan: Your Honour, as my colleague the hon. Member Mr. Chandisingh said earlier, this Bill has nothing to do with politics but I think we all agree that it is intended to safeguard the public from unscrupulous persons dealing with goods, drugs etc. At the same time, I think punishing those persons who should be punished, one should take care that innocent persons are not punished as a result of what we are trying to prevent people from doing.

Therefore, I wish to draw to the Government's attention certain aspects of the Bill which, in my view, would also affect many innocent persons, and considering the penalties that may be imposed on a person who is found guilty, we must consider whether a person, who might be acting innocently, should be subjected also to the same severe penalty as a person who deliberately sells goods which are unfit for human consumption.

With respect to advertisement, I think everyone agrees that many people purchase goods on the mere fact of what they have read, as to how good the foodstuffs, drugs, etc. are. As a result, I think it is very important that persons should be protected and persons should not advertise that goods, drugs, etc. could cure persons of ailments when in fact it is not so.

One must at the same time take into account the case of persons who may advertise innocently, or persons who may do so in the course of their duties. For instance, I had a look at the English Food and Drugs act, 1955, which exempts newspapers, radio stations, and so on, which may receive and advertisement on behalf of merchants or persons who deal with goods, and the section in England gave the person a defence, provided he could prove that when he advertised the goods, he received it and he did so in the course of his business and without knowledge that it was contrary to the provisions of the Act.

I intend to move an Amendment at a later stage and I hope that the Government will accept the Amendment that I propose moving because, as I said, we do not want people to be subjected to severe penalties unless they were doing something to their benefit.

Apart from advertisements, as I understand the Bill as presented, from clause 5 onwards dealing with food, drugs, cosmetics, and devices, anyone who sells these goods, as set out in the

various clauses, which are unfit for human consumption, would be guilty of an offence. Here, again, I feel that there may be cases where an employee is selling goods in a shop or in some business, and because he is employed to do so, he sells the goods. If these goods are goods which should not be sold as required by the Act, not only the employer would be guilty of an offence but also the person who actually sells the goods on behalf of the employer. I feel that in such a case where a person is employed by someone and he is doing something in the course of his employment, that person should be excused unless he sold those goods knowing that they were in contravention of the Act.

[Interruption.]

Your Honour, my friend the hon. Minister of Home Affairs asks how would it be proved that he knowingly sold the goods. As you know, sir, this could easily be proved and the Act would deal with this. I do not want to waste time because some of these things will be dealt with in Committee. Let me give an example that may easily occur.

A person may sell milk to the milk pasteurization plant which in turn is sold to a shopkeeper. The shopkeeper buys that milk and puts up that milk for sale. If that milk is unfit for human consumption, although it is sold in the same state in which it was bought from the milk pasteurization plant, that person would be guilty of an offence. In such a case, a person, who in fact had every reason to believe that the goods were fit for human consumption, should be liable to be penalized. The Bill, in section 5 and those subsequent sections, deals only with the question of a person who sells. The word "sell" was also interpreted in the English Food and Drug Act.

It is interpreted to mean when property passes but until the property in the goods passes to a consumer, a purchaser, there is no sale, and this is why the English Act also makes provision that the person who has the goods, if he proposes to sell, or if he has them there for the purpose of sale, or about to sell, if those goods are in contraindication of the Act, in all those cases, that person should be prosecuted. In the Act as it is framed, it is only when the person actually sells the goods and the property has been passed to the purchaser –

Mr. Speaker: Have you looked at the definition of the word, “sell” and the interpretation? Page 55 clause 2.

Mr. Jagan: Yes, sir, but apart from that, in the English Act for instance, if a merchant has manufactured commodities and they are still in this building or deposited with someone, if those goods are unfit and eventually may be put up for sale, but are being retained there – I do not think the definition of the word “sell” is so wide here as to take into account those cases also. I presume that if a person sells goods, which are unfit for human consumption, to someone, and that person in turn sells it to someone else, then both persons would be caught under section 5. But if this is not so, then I would suggest that everybody who takes part in a sale of goods, regardless of whether there were two or three sales of the goods, each of those persons should be prosecuted.

In dealing with the question of the sale of goods, whether that would take care of persons who had previously sold to the person who was selling when the property had passed, I would suggest that the section or the definition should be amended and that the word “knowingly” should be included – that any person who knowingly sells – section 5 dealing with food, section 9 dealing with drugs, section 14 dealing with cosmetics, section 17 dealing with devices.

Apart from the selling of the goods, we would also find in section 6 and section 10 and many other sections, the question of the labeling of goods. If a person puts information on a label which would misrepresent the quality of the goods, then that person can be found guilty of an offence. Let us take a case of a person working in a factory. His duty is only to paste on a label on a commodity. He does not know what the commodity is comprised of. It would mean that once he attaches those labels on the commodity, if the label misrepresents what in fact the commodity is, then that person would be guilty of an offence, but I am sure the Government would want to prosecute the person manufacturing the goods and not the person who unknowingly affixed the labels to that commodity.

I would recommend to the Government that it should reconsider these aspects of the matter. Apart from that, as I understand the Act, it only applies where the person sells within the definition of “sell”, namely sell “includes offer for sale, expose for sale, have in possession for sale, and distribute.”

I have in mind a case. Let us say a person has commodities which he knows are unfit for human consumption but which can be used, say, to feed cattle and someone goes to him to buy those commodities and he sells the goods to be used not for the purpose of human consumption but for feeding cattle. Now, granted that the seller makes known to the purchaser his intention and it is with such intention that the goods are sold, I wonder if the seller would still be guilty of an offence. In my view the provision is not clear.

As I said, I think the intention of the Government is to protect consumers. This Bill, as I see it, deals with the question of sale or offer for sale. The English Act went further and makes it an offence for anyone to give goods free to people for the purpose of consumption if those goods are unfit for human consumption. Therefore, I think the Government should include such a clause in the Bill. In many cases people may have goods or drugs, or whatever it may be, which goods are unfit for human consumption. If they sell them they may be prosecuted, but if there is some distress somewhere they may take the opportunity to give the goods away in order to have the publicity and the credit for having given goods to people in the time of great distress. I do not think that the Bill, as framed, has taken into account that such persons should be penalized. It is wrong to give goods to people to be used when such goods are unfit for human consumption.

Under clause 21 the inspector has certain power. I think that in certain cases the power is too wide and in other cases it is too narrow. I have looked to see whether there is a definition of “place”, but apparently there is none. I would say that the inspector should have wider power in respect of clause 21 (1) (a), which gives him power to “enter any place” and to take a sample of goods.

Different persons may have different interpretations of the word “place”. The English Act therefore permits the person who corresponds to an inspector in this country to enter into any “ship, aircraft, vehicle or place” to take samples and to examine goods. I do not think the word “place” could be interpreted to include a vehicle or aircraft or a ship but, whether it can or not, it would cause different persons to have different views and raise arguments. I would therefore suggest that the Government should extend the power of an inspector and give him power to enter into ships and so on to take samples.

There is nothing in the Bill to permit an inspector to seize goods or to take samples of goods that may be in transit. If a person, for instance, is sending goods from Georgetown to New Amsterdam or elsewhere in the country by truck it would seem that the inspector has no power under this Bill to take samples of those goods while they are on the truck. I would suggest to the Government that the inspector should be given power to deal with cases where goods may be in transit.

Where samples of any drugs, foods or any cosmetics or devices are taken samples should be divided into parts and labeled by the inspector. One part should be given to the person who was in possession of the goods, or the owner of the goods, so that he himself could have the right to have the goods analysed, perhaps by the Government Analyst. Under the Bill we do not know who the Analyst will be. There is nothing to say what his qualifications will be, therefore we do not know how well he will be equipped to analyse.

For that reason, the person who is to suffer this great penalty should have some opportunity also to prove that the finding of the Analyst, whoever he is, is incorrect. The Analyst could make a mistake, but unless the owner of the goods also has a sample analysed he would find great difficulty in showing that the inspector analysed the sample incorrectly.

As I said, one does not want to penalize innocent persons. We want persons who commit offences for the sake of gain and to what detriment of the community to be punished, but at the same time we do not want innocent persons punished. Even people who may be charged should have an opportunity to prove whether they are guilty or not.

In clause 21, as I have pointed out, the inspector may take samples of goods but apart from taking samples he may also seize articles which he may detain. The word “article” is defined as any food, drug, cosmetic or device. If it is found that the goods from which the sample was taken were not in contravention of the Act then provision is made that the person should be compensated if the sample cannot be returned to him. But what of the case where a person’s articles are taken away from him under clause 21 (1) (d)? His articles may also be taken away from him and if it is found that the articles which were taken are not in contravention of the Act there is no provision for him to be compensated when those articles are not destroyed.

5.15 p.m.

Your Honour, dealing with Clause 4 of the Act where an inspector goes for information and so on I feel that the person should give him all information required so that he would carry out his duties properly. There is one cardinal principle of law which we all know, that is, a person should not be made to answer questions which may tend to incriminate him. I feel that clause 21 (4) is so widely drafted that unless some amendment is to put to it, it means that person may be required to answer any question whether it would incriminate him or not. I propose to move an amendment in due course to add proviso to that subclause so that a person need not answer any question which may tend to incriminate him.

One of my colleagues seem to have some fear. I myself have certain fears as to the question when a person makes a statement to an Inspector verbally or in writing under clause 21 (4). There is some fear that if the statement is made verbally or even if a statement is not made and the person is prosecuted an Inspector can go to court and say, “Well the defendant or the accused has said so and so”. And in many cases the onus of proof is now on the defendant to prove his innocence in the Act. We feel that statements in writing only should be used against a person since the onus in many cases now is on the defendant.

With respect to the question of the Inspector’s power to take samples of goods that may be lying at bonds when goods arrive in the country, Inspector has power to take samples of goods which in due course he would send to the Analyst for examination. But there is nothing there to

say within what time this sample should be sent to the Analyst, or within what time the report of the Analyst should be given or anything like that. Since this Act deals with very perishable goods, I feel that there should be a time limit within which the sample should be sent to the Analyst, say within two days or so; and within another few days the report should be given. Once a sample is taken the goods are held up at the bonds or at the wharves and unless the report is given within a very short time you may find that the goods lying at the bond and at the wharf would deteriorate in such a manner that it would be useless to the owner.

There again, I have not seen it. Maybe there is something in the Act somewhere which says that in such a case because of the delay in sending the sample and causing a report to be made, after all of that has been done the Inspector is of the view that the goods are not in contravention of the Act we then find they are of no use to the owner. Would the Inspector compensate the owner of the goods in such a case? I feel that in such a case the person, through no fault of his, has lost maybe his whole life's savings and therefore he should be compensated.

Your Honour, certain provisions are set out in the Act under Clause 29 dealing with all persons who may sell packaged goods. As I understand section 29, the defence that is given to a person is only in respect of packaged goods. It says that if a person who sells packaged goods can prove that he has sold them in the same package in which he had bought them, then it would be a defence to him. I do not think that the defence should only be in respect of the packaged goods but it should be extended to all types of goods which the Act covers. Because as I have given an example earlier, suppose a person buys milk to sell in a shop from the Milk Pasteurisation Plant – *[Interruption.]* Well if that is regarded as a package there are many other many other examples where goods may not have been bought in packaged form but could be sold in the form in which it is bought and it would not be a defence.

That is why I have checked the English Act also to see, because I am sure in England they also wanted to penalize. *[Interruption by an hon. Member.]* But there are goods which may be sold in loose quantities which would not be a defence although seller is selling it without any knowledge that it is in contravention of the Act and he has bought it without any knowledge that it is in contravention of the Act. I am sure that it is not the intention of the Government to

penalize those persons. A person may have innocently bought goods and I will deal with this question perhaps under penalties.

But I also feel that a person should be guilty of an offence under this Act where he is knowingly contravening the provisions of the Act because, under the provisions of the Act, if a servant of the employer sells goods then, whether the employee knew about it or not, he is guilty because there are strict liabilities. Let us take an example: a person has a cake shop somewhere, but he has an employee working there; he has taken ill and admitted to the Georgetown Hospital. Whilst in the hospital his employee carrying on the business bought some goods. The goods were unfit for human consumption and the employer was unaware of this. It would mean that although the employer is lying in hospital he is guilty of an offence. Surely in such a case the employer could prove that when the offence of which he is charged was committed, it was committed without any default by him. *[Interruption.]*

5.25 p.m.

Your Honour, in a case like that, the Court will decide whether the person is at fault or not. As I said, we want to catch people who are guilty. We do not want people who are innocent to suffer. This same provision that I am advocating is in the English Food and Drugs Act which has been interpreted. People have been prosecuted under it.

Lastly, I wish to deal with the question of penalties. My view is, that even with the proposed Amendment by the Minister, we have not gone far enough. I see no objection unless the Government has no confidence in the Court. I see nothing wrong in giving the Court a discretion to be exercised – whether judges or magistrates. I think it is stated in the Bill itself that a person could be prosecuted under the Summary Jurisdiction Offences Ordinance within twelve months of the commission of the offence.

Normally, unless a person is prosecuted within the 12 months, if the Government wants to prosecute that person, it would have to move by indictment. Maybe the inspector was sleeping and did not prefer the charge within the 12 months. Then he would have to go by indictment although it is the same offence. If the person is prosecuted in the magistrate's court, he would be

fined to a certain maximum, but just because of the delay in prosecuting him, and he has to be prosecuted by indictment, the sum that he would have to be fined is much in excess of what he would have been fined in the magistrate's court. That is why, even in such a case, even in a fit case, the judge would impose the maximum penalty. There might be a minor offence, where although by strict liability the person might be guilty, the Court might feel that in truth and in fact, he was not really responsible for the offence. I feel the Court should be given a discretion as to what penalty should be imposed, unless the Government has no confidence in the Court.

I have made certain suggestions where I feel the powers of the inspectors should be increased in relation to the question of the giving out of free goods and so on. All those persons should be caught. This has nothing to do with politics but we feel the onus of proof is now on the defendant. I hope the Government will consider some of the points I have raised.

Dr. Talbot (replying): Mr. Speaker, in matters relating to health, I do not think we should be prepared to make compromises. Since we cannot determine that an offence is a minor offence when it comes to health, it would seem to me that some of the concessions that the hon. Members have been requesting should really not even be considered. I get the feeling after listening to some of the hon. Members of the Opposition, that perhaps the reason that this Bill has not be brought before the House earlier has been the unwillingness of the members of the Opposition in allowing for very stringent regulations to be enforced concerning the contraventions of this Bill. I should like only to make a few comments on some of the matters which have been raised.

One set of comments refers to the administration of the Bill. I think this is very important for the House to be aware of. The question was: what machinery are we proposing for the administration of the Bill and how far along the way are we really in establishing this machinery? I should like to mention that we have been considering the establishment of a consumer protection unit at the central level in the Ministry of Health and we will work towards the establishment of a single agency for administering this Bill.

However, since it is the intention of Government to first of all educate the members of the public, I may mention here that obviously if members of the public were to keep themselves

informed about the provisions of the Bill and to accept the responsibility for health protection, then some of the situations which have been brought to our notice by some of the hon. Members would really not occur.

It is the intention of Government to strengthen the staff at the Analyst Department and to strengthen the inspectorate. We are about to advertise for additional posts of Inspectors of Pharmacies and these persons will have combined responsibilities for administering the Pharmacy and Poisons Board and in some parts, for administering the drug section of the Food and Drugs Bill.

5.35 p.m.

We propose also, in the initial stages of administration of the Bill, to use specially trained public health inspectors to do this sampling and inspection required by the Bill. This is going to be of greater advantage in this respect: since both of the Public Health Ordinance and the Food and Drugs Bill will be in operation at the same time, the inspectors who ordinarily will be responsible for administering the Public Health Ordinance will also be responsible for administering the food section of the Food and Drugs Bill.

We are quite aware of some of the disadvantages of this arrangement but it would seem to me at this point in time that we could have move ahead much faster if we were to use the staff we have at the moment with certain additions, re-train them in order to carry out these functions and move progressively to the point where we can establish, at the central level, a single Food and Drugs Agency.

There was some question, I believe – perhaps it was merely a comment – about the functioning of the Drug Advisory Committee but I think that I have tried to assure this honourable House that obviously we will attempt to involve the people who can give the best technical information, the best technical advice, the best technical help, in this respect.

In response to a comment made about the ordering of drugs, using the generic term, and the difficulties encountered in getting drugs which may not be of the standard, I should also like to assure the House that the drug disintegration test is a relatively simple test. it is being done

right now and it is because it is being done that we are aware that some of the drugs that come here are really not of the standard that we would like to see them. The whole purpose of the Bill is to improve the situation. The mere fact that Government is attempting to have the Bill enacted should assure the hon. Members and should assure the public that these are matters which will be taken care of.

In addition to that, we are actively involved in attempting to set up a regional drug testing laboratory and this drug testing laboratory would be doing the more complicated tests on drugs. This is an institution which may take some time to be established but in the meantime I should like to emphasize that there are very valuable tests which are being done here and which can be done in the national Analyst's Department.

Some of the examples that were given by the hon. Member Mr. Jagan, I think, underscore this fact that individuals ought to be responsible for this type of health protection. As far as I understand, ignorance of the law is no excuse. Hon. Members speak of the fact that advertising could be done innocently. I do not accept a situation where advertising could be done innocently. As a matter of fact, the mass media receives substantial sums of money for advertising and it is their responsibility to understand the Food and Drugs Bill and to see it that they are not implicated in any way.

That is why I pointed out the provision which puts the onus of proof on the manufacturers, on the people who offer the items for sale, because we will never be able to change the situation. Hon. Members criticize the fact that it is a bad situation which exists now where people are offered food unfit for human consumption and they are offered drugs that are sub-standard all that sort of thing. We are attempting now to avoid the situation, to correct it. you cannot correct it unless you deal severely with the people who contravene the law. The whole point of the law is to emphasize the seriousness of offences which are committed.

There were some other situations which are taken care of. For example, a question was raised about the term "place" for a change in the term "place". I do not really see a need for changing the term "place" because it is generally understood what "place" means and the section does not contemplate involving, for example, aircraft. It is specifically stated that inspectors will

be allowed to enter places where food is manufactured, preserved, packaged or stored. This would not necessarily occur on an aircraft. In any case this one and the situation which was brought to our attention in terms of the need to examine these items in transit will be taken care of in section 100 of the Public Health Ordinance.

I would also not favour the setting of a time limit for samples to be sent to the Analyst and reports to be received from the Analyst. I think that we could reasonably assume that in the cases where the items are perishable the Analyst will carry out his work expeditiously. Therefore, I see no need for any change to be made in this provision.

5.45 p.m.

There was also a comment and criticism made on the provision dealing with penalties. I feel, as I said before, that these offences are very serious. I do not know what anyone would call a minor offence when it refers to health. Certainly a milk vendor who adulterates his milk may cause a Typhoid epidemic. Could this be considered a minor offence? It is very difficult to classify some of these offences as minor offences. Therefore, I am inclined to feel that the penalties should remain severe and I will not look with favour on any attempt to reduce these penalties in any way.

There was also a question referring to section 33. The question was whether in (a) it is meant “and/or” on summary conviction for a first offence to a fine of 500 and/or to imprisonment. I am advised that it definitely means and/or a fine or imprisonment.

I think that these are all the comments which I feel we should make. I see that we have received an additional document. I think we would deal with these matters as the clauses are discussed.

Bill read a Second time.

Assembly in Committee.

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

Clause 4

Mr. Jagan:Mr. Chairman, I think I had more or less during my speech made references to this Amendment. I think it is quite clearly set out and I would recommend that the Government accepts this Amendment because this is not a case where the manufacturer or the owner of the goods is doing it, this is where the newspaper or the radio is carrying out an advertisement on behalf of someone, the owner of the goods should be charged but the newspaper or the news media should not in my view be charged.

Amendment –

- (i) That the following be inserted as subsection (3):

In proceedings under this Act for an offence consisting of the advertisement for sale of any food, drug, cosmetic or device, it shall be a defence for the person charged to prove that being a person whose business it is to publish, or arrange for the publication of, advertisements, received the advertisement for publication in the ordinary course of business.

- (ii) That the following be inserted as subsection (4):

(a) Any person who –

- (i) knowingly offers or exposes for sale or has in his possession for the purpose of sale or of preparation for sale; or
(ii) deposits with or consigns to, any person for the purpose of sale or of preparation for sale,

any food, drug, cosmetic or device intended for but unfit for human consumption or use shall be guilty of an offence.

(b) Subject as aforesaid where food, drug, cosmetic or device in respect of which an offence under paragraph (a) (i) of the foregoing has been committed was sold to the offender by some other person, that person shall also be guilty of an offence.

- (c) Where a person is charged with an offence under paragraph (a) (ii) of this subsection, or under the last foregoing paragraph, it shall be a defence for him to prove either –
- (i) that he gave notice to the person with whom he deposited, or to whom he cosigned or sold, the food, drug, cosmetic or device in question that it was not intended for human consumption or use, or
 - (ii) that, at the time when he delivered or dispatched it to that person, either it was fit for human consumption or use or he did not know and could not with reasonable diligence have ascertained, that it was unfit for human consumption or use.

Put, and negatived.

Clause 4, as printed, agreed to and ordered to stand part of the Bill.

Clause 5

Mr. Jagan: Mr. Chairman, in my view I think that this proposed Amendment should be accepted by the Government because it would deal with employees who may be employed to sell articles on behalf of their employers. I do not think that those employees should be prosecuted unless they know that it is an offence. As matter of fact, I was just looking at the Evening Post and I notice there is a letter written by Mr. George De Peana in which he was expressing the same view that really the employers are the persons who should be prosecuted and not the innocent employees who are employed to sell these goods. If they know that the goods are in contravention of the Act then they should be prosecuted also. This is an Amendment which I think the Government should accept.

Amendment –

That the word “knowingly” be inserted between the words “who” and “sells”.

put, and negatived.

Clause 5, as printed, agreed to and ordered to stand part of the Bill.

Clause 6.

Mr. Jagan: This is not a question of selling here. In my view it should be looked at in this way: goods have been manufactured by the employer and the workman is asked to paste a label on a tin and he knows nothing about the contents of the tin, I feel that he should not be made to pay these penalties but that the employer should be made to pay. Because really the employee's job maybe is just to stick on the labels on tins. The employee would not know about the contents or the material used; the person who should know is the manufacturer – the employer. Therefore, the employee should not be made to pay these high penalties.

Amendment –

That the word “knowingly” be inserted between the words “who” and “labels”

put, and negative.

Clause 6, as printed, agreed to and ordered to stand part of the Bill.

Clause 7.

Mr. Jagan: I wish to move the Amendment in my name.

Amendment-

That the word “knowingly” be inserted between the words “who” and “labels”

put, and negatived.

Clause 7, as printed, agreed to and ordered to stand part of the Bill.

Clause 8 agreed to and ordered to stand part of the Bill.

Clause 9

Mr. Jagan: Your Honour, my same argument I would put forward here.

Amendment –

That the word, “knowingly” be inserted between the words, “who” and “sells”,
put, and negatived.

Clause 9 as printed agreed to and ordered to stand part of the Bill.

Clause 10

Mr. Jagan: Your Honour, I move the Amendment having regard to what I said.

Amendment –

That the word “knowingly” be inserted between the words “who” and “labels” in
subsection (1),
put, and negatived.

Clause 10 as printed agreed to and ordered to stand part of the Bill.

Clause 13

Dr. Talbot: I beg to move the Amendment standing in my name in clause 13 and
subsection (2).

Amendment –

That the following words, “or to be an entomologist” be inserted after the word,
“Pharmacist” in subsection (2),

put, and agreed to.

Clause 13, as amended, agreed to and ordered to stand part of the Bill.

Clause 14

Mr. Jagan: Your Honour, I move the Amendment standing in my name having regard to what I have said earlier.

Amendment –

That the word, “knowingly” be inserted between the words, “who” and “sells”,
put, and negatived.

Clause 15, as printed, agreed to and ordered to stand part of the Bill.

Clause 16, agreed to and ordered to stand part of the Bill.

Clause 17

Mr. Jagan: I move the Amendment standing in my name.

Amendment –

That the word, “knowingly” be inserted between the words, “who” and “sells”,
put, and negatived.

Clause 17, as printed, agreed to and ordered to stand part of the Bill.

Clause 18

Mr. Jagan: I move the Amendment standing in my name:

Amendment –

That the word, “knowingly” be inserted between the words “who” and “labels” in subsection (1),

put, and negatived.

Clause 18, as printed, agreed to and ordered to stand part of the Bill.

Clauses 19 and 20 agreed to and ordered to stand part of the Bill.

Clause 21

Mr. Jagan: Your Honour, I have heard what the hon. Minister has said. I must say that I disagree with her in respect of the interpretation of the word “place.” I still feel that the Amendment as proposed should be accepted by the Government. The Government says that we want to limit the powers of the inspector. Here is a case where I feel the inspector will have greater powers.

(1) Amendment –

That the word “place” in the first line of paragraph (a) of subsection (1) be deleted, and the words, “ship, aircraft, vehicle, stall or place” be substituted therefor,

put, and negatived.

(ii) Amendment -

That the following proviso be inserted at the end of paragraph (a) of subsection (1):

“Provided that any sample so taken shall forthwith be divided into two parts to be marked and sealed or fastened up in such manner as its nature shall permit and one part shall be given to the person who was in possession of the food, drug, cosmetic or device”,

put, and negatived.

(iii) Amendment –

That the following proviso be inserted at the end of subsection (4):

“Provided that nothing in this subsection shall be construed as requiring a person to answer any question or give any information if to do so might incriminate him.”

put, and negatived.

(iv) *Amendment –*

That the words, “either verbally or” be deleted from paragraphs (c) of subsection (5),

put, and negatived.

(v) *Amendment –*

That the following proviso be inserted at the end of subsection (6):

“Provided that the inspector so removing an article shall give to the person in possession of the article a written statement of the amount so seized”,

put, and negatived.

Mr. Jagan: I think in this case, this is a reasonable request. If an inspector takes goods away from a person, he should give a statement as to how much he has taken from the person so that if the question of compensation arises afterwards, one would be able to prove how much was taken away from him.

6.05 p.m.

Amendment –

That the following proviso be inserted at the end of subsection (6):

“Provided that the inspector so removing an article shall give to the person in possession of the article a written statement of the account so seized.

put, and negatived.

Mr. Jagan: With regard to clause 21 (7), provision is made for paying compensation where the inspector cannot return the sample. I think that Government should, in addition, compensate a person where the article itself cannot be returned. I do not see any provision in the Bill itself for payment of compensation for the article if it cannot be returned. If there is no such provision and if the Government intends to pay for the sample which it cannot return I do not see why it cannot pay for the whole article also if the article cannot be returned because of the fault of the inspector.

Dr. Talbot: I crave your indulgence to explain that the word “proviso” was used in the British law to which the hon. Member is referring and therefore I see that there was no need for the inclusion of such terms as “ship”, “aircraft” and so on. However, we have decided to use the word “place” in clause 21 (1) (a) which gives a much wider definition.

In addition to that, it is proposed that regulations made under the Bill will make provision covering what is required in 21 (1) (a) and also covering 21 (6) where a written statement is to be made by the inspector.

Also, in clause 21 (7), the Bill covers the payment of compensation for the sample and not for the article. If it is a consignment of 100 cartons of a particular drug the 100 cartons are not going to be seized. What will be seized is one bottle, jar or box of the item. That particular sample will be paid for.

Mr. Jagan: I cannot blame the hon. Minister. I wish my learned friend would advise her. She referred to the fact that in the English Act the word “promise” is used. That is true. She is saying that that is covered by using the word “place”, but if my learned friend looks at section 101 of the English Act he will see that they use the words “ship”, “aircraft”, “vehicle” or “place”. I do not think the argument the hon. Minister has used is correct, namely, that the word “place” would cover those things.

Apart from that, what the hon. Minister is saying in respect of a consignment of the goods, that will be dealt with under clause 22. Clause 21 (1) (d) deals with an article that is

seized. It does not say the quantity of the article that is seized under 21 (1) (d). [Dr. Talbot: “A sample is a sample.”] Clause 21 (1) (a) deals with the question of taking a sample, whereas when one goes to (1) (d) there is no mention of sample. It deals with the seizing of an article and “article” is described as any food, drug, cosmetic or device.

Amendment –

That the words “or articles” be inserted between the words “sample” and “if” in the sixth line of subsection (7)

put, and negatived.

Clause 21, as printed, agreed to and ordered to stand part of the Bill.

Clause 22

Mr. Jagan: Your Honour, as I have said earlier, there should be some time within which the inspector should send the sample to be analysed because it might affect large sums of money. People’s perishable goods may be held up for a long time and there is no provision for compensating those persons if their goods are destroyed or have deteriorated.

Amendment –

That the full stop at the end of subsection (1) be deleted and the following words inserted:

“who shall give his report on the samples within seventy-two hours after the samples were taken.”

put, and negatived.

Mr. Jagan: May I deal with clause 22 (3). In view of the fact that there is no time limit within which the inspector has to send the sample to be analysed and within which the report has to be sent, a person’s goods may deteriorate to such an extent that they may be useless to him. I think that in such a case the Government should compensate the owner of the goods. The

proposal is that the owner should be compensated if through no fault of his he could not take delivery of his goods when they arrived.

Mr. Ram Karran *rose* –

The Chairman: I have not proposed the question.

Mr. Ram Karran: I merely want to ask the Minister is she knows that the law provides for compensation to be paid to people when samples are taken by Government.

The Chairman: Hon. Member, when the amendment is proposed you may speak on it.

Amendment-

That the following proviso be inserted at the end of paragraph (b) of subsection (3):

“Provided that the inspector shall compensate the owner of the food, drug, cosmetic or device for any depreciation in its value resulting in the delay of its delivery.”

proposed.

The Chairman: Hon. Member, you may now speak.

Mr. Ram Karran: I wish to ask the hon. Minister is she recognizes that the law provides that when public inspectors take samples of goods from people, in particular milk vendors, they must pay for the samples. I see no reason for deviation from this arrangement when samples were taken by the Government or by any authority for the purpose of having goods analysed. [Mr. Singh: “Didn’t you hear what the Minister said?”] I would urge the hon. Members to stand when speaking. I can see no reason why the Government should wish to deprive these people of compensation.

The Chairman: Does the hon. Minister of Health wish to reply?

Dr. Talbot: I would like to draw the attention of the hon. Member to clause 21 (7), to which I have already referred. It states:

“Where an inspector in exercise of his powers under this Act has taken a sample of any food, drug, cosmetic, or device - ”

I wish the hon. Member Mr. Jagan to understand that the word is “sample” and not “article”:

“and it appears from any examination or investigation by the analyst or the inspector that the sale of any such food, drug, cosmetic or device would not be in contravention of this Act, the inspector shall pay compensation to the owner of the sample if it cannot be returned to the owner without prejudice to the owner.”

What is the hon. Member arguing about? Provision is made for the person to be compensated if the sample is damaged.

Mr. Jagan: Apparently the hon. Minister was not listening when I was speaking. I am quite aware of 21 (7). We have dealt with that and our amendment was negatived. We are dealing with clause 22. A person imports goods into this country; when the goods arrive in this country an inspector goes to the bond and says he wants samples. In the meantime delivery of the goods cannot be given. The inspector could take his time to send the samples to the analyst to be analysed. He could take his time to send a report and, when all that is done, it may be found that the goods could have been brought into the country. It may happen that by the time that decision is taken the goods may be of no use to the person who imported them as they may have deteriorated to such an extent as to be of no value.

6.15 p.m.

This is what I am dealing with. I am not talking about a case where a sample had been taken: I am talking about where a sample had been taken by the Government Analyst and the goods could not have been delivered because of the delay by the Government and as a result after the analyst has carried out his test and it is found that the goods could be imported, distributed or sold in this country, the fact that it has been kept in the bond through no fault of the owner of the goods it is of no use to him. This is what I am dealing with.

Amendment -

That the full stop at the end of subsection (1) be deleted and the following be inserted:

“Who shall give his report on the samples within seventy-two hours after the samples were taken.”

That the following proviso be inserted at the end of paragraph (b) of subsection (3):

“Provided that the inspector shall compensate the owner of the food, drug, cosmetic or device for any depreciation in its value resulting in the delay of its delivery.”

put, and negatived.

Clause 22, as printed, agreed to and ordered to stand part of the Bill.

Clause 23 and 24, agreed to and ordered to stand part of the Bill.

Clause 25

Dr. Talbot: Mr. Chairman, may I crave your indulgence to move an Amendment to 25 (3)? I beg to move the Amendment that Section 25 (3) be read as follows: --

The Chairman: Hon. Minister of Health I have no such Amendment before, [*After a pause.*]

Dr. Talbot: I should like to withdraw the Amendment.

Clause 25, agreed to and ordered to stand part of the Bill.

Clause 26 to 28, agreed to and ordered to stand part of the Bill.

Clause 29

Dr. Jagan: Mr. Chairman, I have already dealt with this aspect of the proposed Amendment. I have said I see no reason why a person should have a defence in respect of goods in packaged form.

The Chairman: May I just enquire if you want to deal with sections 1, 2 and at the same time?

Mr. Jagan: Yes, sir, the whole section. I see no reason why a person should have a defence when he sells goods in packaged form and he should not have a defence in respect of goods sold otherwise. I have heard the reply by the hon. Minister, sir, and I feel that the Government should accede to this Amendment having regard to what I have already said.

Amendment –

That the following be submitted for Clause 29:

“Defences. 29. (1) A person against whom proceedings are brought under the Act, shall upon information duly laid by him and on giving to the prosecution not less than three clear days’ notice of his intention, be entitled to have any person whose act or default he alleges that the contravention of the provisions in question was due brought before the court in the proceedings; and if, after the contravention has been proved, the original defendant proves that the contravention was due to the act or default of that other person, that other person may be convicted of the offence, and if the original defendant further proves that he has used all due diligences to secure that the provisions in question were complied with, he shall be acquitted of the offence.

(2) Where a defendant seeks to avail himself of the provisions of the foregoing subsection of the prosecution, as well as the person whom the defendant charges with the offence, shall have the right to cross-examine him if he gives evidence, and any witness called by him in support of his pleas, and to call rebutting evidence.

(3) Where it appears to the authority concerned that an offence has been committed in respect of which proceedings might be taken under this

Act against some person and the authority are reasonably satisfied that the offence of which complaint is made was due to an act or default of some other person and that the first-mentioned person could establish a defence under subsection (1) of this section, they may cause proceedings to be taken against that other person without first causing proceedings to be taken against the first-mentioned person.

In any such proceedings the defendant may be charged with, and, on proof that the contravention was due to his act or default, he convicted of, the offence with which the first-mentioned person might have been charged.”

put, and negatived

Clause 29, as printed, agreed to and ordered to stand part of the Bill.

Clauses 30 to 32, agreed to and ordered to stand part of the Bill.

6.25 p.m.

Clause 33

Dr. Talbot: I beg to move the Amendment to clause 33 standing in my name.

Mr. Jagan: Your Honour, as I have said earlier, it may in a case due to the fault of the inspector that a person cannot be prosecuted summarily and as a result he has to be moved against by indictment. If he was moved against in the magistrate's court, under the first part of this clause, (a), he would have been liable under those penalties, whereas, just because of a delay of the prosecution, he would have to be moved against under (b), where there is a minimum fine of \$1,000.

Having regard to the fact that it is the same offence that he may have committed and it is just a question of when he was prosecuted, I wonder whether the Government would not

consider instead, in relation to (b), using the words, “of not more than \$5,000”, so that the judge would have a discretion in fining the person up to \$5,000, because there is a delay in prosecution, and if he had gone into the magistrate’s court, he might have been fined only a maximum of \$500. I feel that the Government should agree to give the judge a discretion to fine him, if he so feels, up to \$5,000 rather than a minimum of \$1,000, because it may be just due to a delay in prosecution. He should not suffer so much more penalty just because of the delay in prosecution and he has to go to the Supreme Court – more expensive also. I would suggest to the Government that the provision for not less than \$1,000 be deleted, and the provision that a person could be fined up to \$5,000 be retained.

The Chairman: The hon. Minister will reply? [**Dr. Talbot:** “No, sir.”] I will now put the Amendment.

Amendment –

That the following clause be substituted for clause 33:

“Penalties. 33. Save as otherwise provided by regulations made pursuant to

Section 25, every person who commits an offence against this Act shall be liable -

(a) on summary conviction for a first offence to a fine of not less than one hundred dollars nor more than five hundred dollars and to imprisonment for not less than one month nor more than three months, and for a subsequent offence to a fine of not less than five hundred dollars nor more than one thousand dollars and to imprisonment for not less than three months nor more than six months;

(b) on conviction upon indictment to a fine of not less than one thousand dollars nor more than five thousand dollars and to imprisonment for not less than one year nor more than three years.”,

put, and agreed to.

Clause 33, as amended, agreed to and ordered to stand part of the Bill.

Clause 34 agreed to and ordered to stand part of the Bill.

**INTERRUPTION OF PROCEEDINGS – SUSPENSION OF STANDING
ORDER No. 9(2)**

Mr. Ramsaroop: Your Honour, pursuant to Standing Order No. 9(2), it would appear that we cannot go beyond the hour of 6.30 p.m., therefore I move that we suspend the Standing Order so that we can proceed beyond 6.30 p.m. to wind up the Debate on this Bill.

Mr. Ram Karran: I have no objection, sir.

Question put, and agreed to.

Standing Order No. 9(2) suspended.

FOOD AND DRUGS BILL

Clauses 35 to 38 agreed to and ordered to stand part of the Bill.

First Schedule

Dr. Talbot: Mr. Chairman, I beg to move the Amendments to the First Schedule standing in my name.

Mr. Chandisingh: I merely wish to ask the hon. Minister of Health why “influenza” has been deleted from the First Schedule. I do not know if there is some cure.

Dr. Talbot: Mr. Chairman, just to answer the question, it was felt that this was a minor illness, the symptoms of which can be relieved by certain very popular drugs and we felt it would create undue hardship if it was included.

Mr. Chandisingh: Would it not be better to retain this provision, in other words, not to delete it in which case persons who advertising certain tablets for the relief of feverishness would describe it as such and not in terms of curing influence. It could be mistaken as a cure for the ailment. This would only be an offence if the person advertising the tablet advertised it as being a cure for influenza, but the same thing can be had as a person advertising the drug for relieving discomfort, headache, feverishness, and so on. There may be several things which can provide certain relief. For instance, take suppositories for haemorrhoids, which give relief but may be caught under this Act if advertised as such.

Dr. Talbot: This is not crucial. We feel that drugs used for the relief of the symptoms are not that harmful and my technical officers have advised that we delete it.

(i) *Amendment –*

That the word, “Alopecia” be substituted for the word, “Alopecia”,

put, and agreed to.

(ii) *Amendment –*

That the word, “influenza” be deleted,

put, and agreed to.

Second Schedule agreed to and ordered to stand part of the Bill.

Third Schedule

Dr. Talbot: I beg to move the Amendments to the Third Schedule standing in my name.

(i) *Amendment –*

That the following words be deleted:

“Appetite suppressant agents (anoretics), excluding amphetamine, its derivatives and their salts, except those specifically exempted by the regulations”,

and the following words be substituted therefor:

“Appetite suppressant agents (anoretics) except those specifically exempted by the regulations, amphetamine, its derivatives and their salts”

put, and agreed to.

(ii) *Amendment -*

That the following words be inserted in their correct alphabetical order:

“Barbituric acid, any derivative thereof, and any salt thereof

Lysergide

Mescaline and its salts

Methamphetamine, its derivatives and salts

Methysergide”,

put, and agreed to.

Third Schedule, as amended, agreed to and ordered to stand part of the Bill.

Assembly resumed.

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

ADJOURNMENT

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

Adjourned accordingly at 6.35 p.m.
