LEGISLATIVE COUNCIL

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

FRIDAY, 21ST JUNE, 1957.

The Council met at 2 p.m.

PRESENT :

His Honour the Speaker:

Sir Eustace Gordon Woolford, O.B.E., Q.C.

Ex-Officio Members:

The Hon. the Chief Secretary, **Mr. M. S. Porcher** (Ag.)

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

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

Nominated Members of Executive Council:

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

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

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

The Hon. **R. B. Gajraj**

The Hon. **R. C. Tello**

Nominated Official:

Mr. J. I. Ramphal

Nominated Unofficials:

Mr. W. A. Phang

Mr. C. A. Carter

Mr. E. F. Correia

Mr. H. Rahaman

Miss Gertie H. Collins

Mrs. Esther E. Dey

Dr. H. A. Fraser

Mr. R. B. Jailal

Mr. Sugrim Singh

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

Clerk of the Legislature:

Mr. I. Crum Ewing

Assistant Clerk of the Legislature;

Mr. E. V. Viapree

Absent:

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

Mr. T. Lee—on leave.

Mr. L. A. Luckhoo, Q.C —on leave.

Rev. D. C. J. Bobb—on leave

The Speaker read prayers.

The Minutes of the meeting of the Council held on Thursday, 20th June, 1957, as printed and circulated, were taken as read and confirmed.

ANNOUNCEMENTS

LEAVE TO MEMBERS

Mr. Speaker: Mr. Luckhoo is unable to be present today. He has two motions on the Order Paper. I propose to have them deferred until next week. The Rev. Mr. Bobb has asked to be excused. He is still not feeling well. Mr. Farnum has asked to be excused from today's meeting.

PAPERS LAID

The Attorney General (Mr. Austin): Sir, I beg to lay on the table:

Preliminary Report of the Land Registration Committee appointed by the Executive Council to consider and report on the desirability of the introduction of a modern Land Registration System in British Guiana and the form which such system should take, dated 30th day of April, 1957, together with Sessional Paper No. 11/1957 thereon.

ORDER OF THE DAY

The Attorney General: Sir, I beg to move that this Council agrees to proceed forthwith with the second reading of the following Bills:—

1. D'Abreu Pension Bill, 1957.
2. Dias Pension Bill, 1957.
3. Volunteer (Amendment) Bill, 1957.
4. Deeds Registry (Amendment) Bill, 1957.
5. Development Fund (1955 and 1956 Appropriation) Bill, 1957.
6. Excise Regulations (Amendment) Bill, 1957.
7. Post and Telegraph (Amendment) Bill, 1957.
8. Local Government (Hopetown and Bel Air Country Districts) (Special Provisions) Bill, 1957.
9. Animals (Control of Experiments) Bill, 1957,

and a resolution regarding superannuation benefits of the Government House staff.

The Chief Secretary (Mr. Porcher, acting): I beg to second the motion.

Mr. Ramphal: Sir, I would hesitate to detain the Council one minute, but I rose because I would not wish to do anything now that would be a precedent and therefore I am thinking of guidance more than anything else. This motion is, shall I say, an omnibus one, of several matters to come, and I am asking the Chair's guidance as to whether we can anticipate the several items that have been enumerated. It is purely on that point that I have risen for assistance.

Personally I think that it might have been better to deal with them as we get to them. Look at the word "forthwith"—we may not finish the motions today. In addition, there may be much time elapsing before we arrive at some. There may be other urgent matters that come between them in course of time.

Mr. Speaker: I regret that I cannot concede to the hon. Member's request much as I would like to do so. I have expressed my own views to a certain extent. I am not prepared to say it is altogether correct to give notice of so many motions but there is very little difference between putting them on the Order Paper and asking that the resolution be passed. Instead of moving them separately, they are moved in mass.

Mr. Ramphal: I was only asking for guidance on procedure. I appreciate everything about the urgency of the matter.

Mr. Speaker: In the circumstances the Government is practically asking the Council to do it. There is no objection. I think the present moment could be called a necessity—I am not not prepared to say it is.

Mr. Ramphal: I would agree, Sir, that it is an urgent necessity.

Mr. Speaker: If the Government thinks it would eliminate the danger of anything being deferred, I think I could have it this way. I would like the motion moved by the hon. the Attorney General approved.

Question put, and agreed to.

Motion affirmed.

D'ABREU PENSION BILL

The Chief Secretary: I rise to move the second reading of the Bill which stands as item 2 on the Order Paper. This is a very short piece of legislation the object of which, I think, is fully explained in the Objects and Reasons.

Very briefly, Mrs. Pauline D'Abreu served as Senior Instructress of the Carnegie Trade School from 1937 up to 1946. She then retired after attaining the age of 60 years and received a small gratuity. The post was made pensionable and she was subsequently re-employed for a further 10 years or so, and the Government feels that she should be allowed to draw a pension in respect of that long and faithful service which she has given. I very much hope that Members will support this Bill which I now move.

The Attorney General: I beg to second the motion.

Mr. Speaker: Does anyone wish to speak on this motion?

Question put, and agreed to.

Bill read a second time.

COUNCIL IN COMMITTEE

Council resolved itself into Committee and passed the Bill as printed.

Council resumed.

The Chief Secretary: I beg to move that the Bill be read a third time and passed.

Question put, and agreed to.

Bill read a third time and passed.

DIAS PENSION BILL

The Chief Secretary: I rise to move the second reading of the Bill which stands as item 3 on the Order of the Day, and intituled:

"An Ordinance to make special provision in regard to the Pension and Gratuity payable to Vivian Charles Dias",

This is a similar type of Bill, in respect of Mr. Vivian Charles Dias, Crown Solicitor, who is retiring in November of this year.

Mr. Dias was appointed as Crown Solicitor in 1942 but he was appointed in an acting capacity because the substantive holder of the office, Mr. King, was seconded to special duties arising out of the war. Mr. King continued to serve in those special duties on secondment until 1947 and the post did not become vacant until then. Therefore Mr. Dias could not be appointed substantively to it until 1947, so out of a total of 15 years service, only 10 years counted for pension, but in fact he has served in the post continuously for 15 years.

[The Chief Secretary]

Government feels in view of his efficient and faithful service and the fact that through no fault of his own he could not be appointed to the post earlier, special legislation should be passed to enable the whole of his service to be counted for pension. I now move the second reading of this Bill.

The Attorney General: I beg to second the motion.

Question put, and agreed to.

Bill read a second time.

COUNCIL IN COMMITTEE

Council resolved itself into Committee and passed the Bill as printed.

Council resumed.

The Chief Secretary: I beg to move that the Bill be now read a third time and passed.

The Attorney General: I beg to second the motion.

Question put, and agreed to.

Bill read the third time and passed.

VOLUNTEER (AMENDMENT) BILL

The Chief Secretary: I rise to move the second reading of the Bill which stands as item 4 on the Order of the Day and intituled:

"An Ordinance to amend the Volunteer Ordinance".

This Bill should really be taken in conjunction with the Bill which deals with the Police Ordinance, the second reading of which I proposed for next week.

Hon. Members, and very likely some members of the public, must have been somewhat concerned over a headline which appeared in one of the daily newspapers during this week in connection with the Police Bill, which gave the impression that that Bill was attempting to create a military force; but I think that this Bill now before us proves conclusively that that headline was wrong, because the object of this Bill is to transfer the command and responsibility of the Volunteer Force from the Commissioner of Police, who is at present responsible for it as the Commandant of Local Forces, to the Commanding Officer of the Volunteer Force. So the Commissioner of Police will no longer in future have to deal with military ranks.

The Bill also contains provisions for two oaths which members of the Volunteer Force should take. One renders them liable for service within the Colony alone and the other renders them liable to serve Her Majesty the Queen wherever they are called to do so. It is entirely optional to each member of the Force which oath he takes.

The rest of the clauses of the Bill are largely consequential amendments. I now beg to move the second reading.

The Attorney General: I beg to second the motion.

Question put, and agreed to.

Bill read a second time.

COUNCIL IN COMMITTEE

Council resolved itself into Committee and passed the Bill as printed.

Council resumed.

The Chief Secretary: I beg to move that the Bill be now read a third time and passed.

The Attorney General: I beg to second the motion.

Question put, and agreed to.

Bill read a third time and passed.

DEEDS REGISTRY (AMENDMENT) BILL

The Attorney General : I beg to move the second reading of the Bill intituled:

"An Ordinance further to amend the Deeds Registry Ordinance".

This Bill is specially connected with the Report of the Land Registration Committee, which was laid on the table earlier in this sitting as a Sessional Paper, and it is unfortunate Members have not had the opportunity to read the report. It is a very interesting document and deals with a very important subject. I think it might help if I briefly give the background to this Deeds Registry (Amendment) Bill.

Hon. Members will recall that a Committee — a very strong Committee — was appointed in May 1956 to examine the question whether a modern system of land registration should be introduced in British Guiana. The Committee was to be presided over by the Attorney General, Mr. Wylie, at the time. It included the Commissioner of Lands and Mines, the Registrar of Deeds, and a number of competent legal practitioners. Mr. Wylie left British Guiana shortly after the appointment of the Committee. Mr. J. Edward de Freitas assumed the Chairmanship and has been heading the Committee in its work until he went on leave a short time ago.

The work of the Committee is a very stupendous task — to examine the system of land tenure in this country and to recommend whether or not a new system should be adopted, either to revise the present system or let it run side by side with a supplementary one. Undertaking their work which, as I say, included a complete review of the system of land tenure and the practice of conveyancing including the work of the Deeds Registry, the Committee did come to certain firm conclusions on minor points regarding the working of the Deeds Registry. The Committee felt that if certain comparatively minor amendments were made to the Deeds Registry Ordinance it would assist the conveyancing work and would speed it up and make it altogether more efficient. In anticipation of Government's acceptance of the recommendations as to a change in the existing laws and practice, the Committee submitted a draft Bill on which the present Bill is based.

The Land Registration Committee in the performance of its work circularized the public and particularly members of the mercantile and banking organisations, ascertaining their views on certain points dealing with the existing system and in particular whether they thought the number of advertisements of transports and mortgages, now required — three times — before passing should be reduced to one, and secondly whether or not the time for entering opposition to transports and mortgages, which is now fourteen days might not with convenience be reduced slightly under that term of time in order that the clerks could do their work of recording the opposition and have it ready with the transport for the Transport Court at the earliest opportunity.

Another question was whether or not cancelment of mortgages could with advantage be executed before a Notary Public and not before the Registrar himself. The replies received by the Committee in general accepted those points, namely, that the advertisements of transports and mortgages should be reduced from three to one, that the time for entering opposition should be slightly reduced. At the

[The Attorney General]

moment opposition has to be entered by noon on the third Saturday following the first publication of a transport or mortgage, and the recommendation now is that the time for opposition should end at 3.30 o'clock on the afternoon of the day before, thereby the opposition time would be reduced from 14 days to more than 13 days. Also it was generally accepted that cancelment of mortgages should either be effected before a Notary Public or the Registrar.

Except for the reduction in the number of advertisements of transports and mortgages from three to one, this Bill seeks to implement particularly the recommendation of the land Registration Committee on these points. Government has considered the recommendations which hon. Members will read in paragraph 46 of this Committee's very able report, and it is felt that it is in the interest of the community that these amendments should be made early.

The reduction in the number of advertisements would occasion amending the Rules under the Deeds Registry Ordinance, but we are not concerned with that in connection with this Bill. The amended Rule has been made and in due course will be laid on the table of this Council.

Clause 2 of the Bill seeks to amend section 16 of the Deeds Registry Ordinance. That section reads:

> "No cancellation of any mortgage shall be of any force or effect or be in any way pleadable or be allowed to be pleaded in any court of justice in the Colony, unless it is passed and executed before the Court and filed as of record in the registry, but the provisions of this section shall not affect any cancellation duly executed and passed in accordance with the requirements of the law in force when it is passed."

The "court" means the Transport Court or the Registrar and includes the Deputy Registrar. The cancellation of mortgages is a relatively unimportant procedure and the Committee recommended that the system would be adequately served even if the cancelment of mortgages is executed before a Notary Public. This would be particularly appreciated in New Amsterdam when ordinarily the Registrar or Deputy Registrar has to go once a month for that purpose. There is a Notary Public in New Amsterdam, and anyone who pays off the mortgage on his property instead of having to wait on the visit of the Registrar or Deputy Registrar or coming to Georgetown to have the cancelment executed, can have it done at any time in Berbice.

There is a new subclause to be added to section 16 which provides that where any mortgagee has any disability or is absent from the Colony, or his presence cannot be secured in order to execute a deed of cancellation of a mortgage, his mortgage debt having been paid, if the Registrar is satisfied that the debt has been paid, he may in the absence of the mortgagee cancel the mortgage. There are times when the debt which has been secured by a mortgage has been repaid but the mortgagee is not available to execute the cancellation of the mortgage and the property remains encumbered, which is inconvenient to the owner of the property if he should want to sell or to raise another loan on a mortgage, which cannot be done so easily if there still exists the paid off mortgage on the register.

Though the mortgage debt has been paid and the mortgagee should die intestate before the cancellation of the mortgage, it is not possible without some difficulty for some representative to come along and execute the cancelment of the mortgage. Similarly

where a mortgage is granted to a company and the company is wound up and cancellation has not been effected there is some difficulty at the moment in removing the mortgage from the register. This provision will enable the Registrar to say that the property is free from the debt which has been paid and execute the cancelment of the mortgage.

Clause 3 of the Bill seeks to give effect to the recommendation that the time for entering opposition should be reduced from 14 days to just over 13 days. When a transport or mortgage is published in the Gazette on the Saturday, the time for entering opposition under the present system is 14 days, and the Rules of Court provide that opposition must be entered by 12 noon on the third Saturday. What happens is, if opposition is entered the Registrar has to get to work to enter and file that opposition and have the transport or mortgage ready for the Transport Court on the following Monday. By the slight reduction of the time for entering opposition, it will enable the Registrar time to get through his work since the volume has increased very considerably. I understand that before the War there used to be 15 now the number is between 100 and 200.

This provision gives the Registrar time to do his work. Consequently, if there is space between the limit of the time for entering opposition and the time for the Transport Court, it does give the parties an opportunity to settle difficulties and to remove the cloud so that the transport or conveyancing can take effect and the Transport Court can pass the conveyancing without any delay on the following Monday.

This provision is actually in the Rules of Court, which are made by the Judges and have to be laid on the table of the Council. The Chief Justice has approved of the amendment of the Rule in this way. Those are the reasons behind this Bill and I move that the Bill be now read a second time.

The Financial Secretary: I beg to second the motion.

Question put, and agreed to.

Bill read a second time.

COUNCIL IN COMMITTEE.

Council resolved itself into Committee and passed the Bill as printed.

Council resumed.

The Attorney General: I beg to move that the Bill be now read a third time and passed.

The Financial Secretary: I beg to second the motion.

Question put and agreed to.

Bill read a third time and passed.

DEVELOPMENT FUND (1955 AND 1956 APPROPRIATION) BILL, 1957

The Financial Secretary (Mr. Essex): I beg to move the second reading of a Bill intituled:

"An Ordinance to make provision for the appropriation to the Development Fund of certain sums of money transferred thereto from the revenues and funds of the Colony".

This is a very formal Bill. It is really intended to regularise the position relating to development expenditure from the Colony's own resources. The Development Fund Ordinance 1954 provides that the Fund shall include such sums *inter alia* appropriated by law to the Fund from the revenues of the Colony. In 1955 we transferred the $2,644,579 from general revenue into the Development Fund to cover expenditure on development projects shown in the Estimates as being financed from Colony revenue. Similarly in 1956 Legislative Council agreed that $4,881,705 be provided from the General Revenue Balance, the reserves, to

[The Financial Secretary]

cover part of the expenditure in the Development Estimates. This Bill is to give Legislative sanction for the appropriation of these two amounts from the Revenue Balance on the Fund to cover the amounts that were actually spent on approved projects in 1955/1956.

The Attorney General: I beg to second the motion.

Question put, and agreed to.

Bill read a second time

COUNCIL IN COMMITTEE

Council resolved itself into Committee and passed the Bill as printed.

Council resumed.

Mr. Speaker: I noticed that the Bill was published in the Official Gazette in the form of a preamble.

The Financial Secretary: I beg to move that the Bill be now read a third time and passed.

The Attorney General: I beg to second the motion.

Question put, and agreed to.

Bill read a third time and passed.

EXCISE REGULATIONS (AMENDMENT) BILL

The Financial Secretary: This Bill is more exciting than the last one. We have said so often in this Council the words "a step in the right direction." This is a real step in the right direction. In 1955 it was provided that the excise duty on beer should be 50 cents per liquid gallon. Unfortunately, however, there is no special provision in the law as it stands for excise supervision and control of the manufacturing of beer. There is no doubt we shall have to have sooner or later, and preferably sooner, a completely new excise law to consolidate and bring up to date all the various laws we have on the subject. But there is now a special urgency that in the excise laws there should be power to provide for supervision and control of the manufacture. I am informed that the local factory will be producing beer in commercial quantities in a matter of weeks.

It is very important therefore that we should have some legal means of making regulations to control particularly the excise aspects as soon as possible.

The Excise Regulations Ordinance, Chapter 312, contains the rather more complicated regulations which were devised in connection with the brewery, and the Bill we are now considering will enable the Governor-in-Council to make regulations covering a wider variety of things than in the present Ordinance. I think all the provisions are self explanatory, and I therefore move that the Bill be read a second time.

Mr. Cummings (Member for Labour, Health and Housing): I beg to second the motion.

Mr. Speaker: Would any member like to speak on this Bill?

Mr. Correia: I am glad to hear that Bank Breweries Limited will be producing beer within weeks. It is heartening to note that at least one of the several recently established pioneer industries will be going into production soon. I would be glad to hear of others following suit. Those are the remarks I wish to make.

Question put, and agreed to.

Bill read a second time.

Council resolved itself into Committee to consider the Bill clause by clause, and passed it without amendment.

Council resumed.

The Financial Secretary: The Bill having been passed in Committee stage without amendment, I beg to move that it be now read a third time and passed.

Mr. Cummings: I beg to second the motion.

Question put, and agreed to.

Bill read a third time and passed.

POST AND TELEGRAPH (AMENDMENT) BILL

Mr. Kendall (Member for Communications and Works): I beg to move the second reading of the Bill standing in my name and intituled:

"An Ordinance to amend the Post and Telegraph Ordinance."

This Bill, with special reference to clause 2, seeks to permit the transmission by post of radio-active substances in accordance with and subject to conditions prescribed in regulations made under the Post and Telegraph Ordinance, notwithstanding the provisions of section 29 thereof, or noxious substances by post.

The Government Analyst reported that small amounts of minerals containing radio-active constituents have in fact been exported from this Colony without special packing by the Geological Department, though not in sufficient quantity to be harmful. In future Government may wish to use these radio-active substances for therapy and diagnosis, and also, there is the possibility of the Analyst Department finding it necessary to use such substances for analytical purposes. It is on this ground that this Bill is introduced. It is proposed to amend section 29 of the Post and Telegraph Ordinance, Chapter 132, and to enact suitable regulations modelled on the United Kingdom legislation.

Mr. Gajraj: I beg to second the motion.

Question put, and agreed to.

Bill read a second time.

COUNCIL IN COMMITTEE

Council resolved itself into Committee and passed the Bill as printed.

Council resumed.

Mr. Kendall: I beg to move that the Bill be read a third time and passed.

Mr. Gajraj: I beg to second the motion.

Question put, and agreed to.

Bill read a third time and passed.

LOCAL GOVERNMENT (HOPETOWN AND BEL AIR COUNTRY DISTRICTS) (SPECIAL PROVISIONS) BILL

Mr. Gajraj: On behalf of the hon. the Member for Local Government, Social Welfare and Co-operative Development (Mr. Farnum), I beg to move the second reading of the Bill intituled:

"An Ordinance to provide for the collection of rates levied by the Hopetown and Bel Air Country Authorities in respect of the year 1956, and to make better

[Mr. Gajraj]

provision for the collection of moneys due to Local Authorities."

The position is very simple. At the 31st December 1956, there were two Country Authorities, Hopetown Country Authority and Bel Air Country Authority and, of course, by virtue of of their constitution, they were entitled to collect rates and taxes and other revenue. But as in all such institutions, collection of rates is not 100 per cent, so at the end of 31st December 1956 when a new Authority came into being there were some outstanding amounts. As the Ordinance stands, there is no provision for the Authority which succeeds the old one to demand and collect rates outstanding and it has become necessary, therefore, for legislation to be introduced giving to this new joint country authority the right to collect rates which were due and owing to the two old ones; those which ceased to exist at the 31st December, 1956.

That is the main purpose of this Bill before the Council. In order to avoid the repetition of the same circumstances, there is set out in clause 4 of the Bill a provision whereby if in the future one authority is joined with another, it shall be lawful for the new authority to collect rates which may be owing to the two, or more, authorities which ceased to exist.

The Bill is a simple one. It is necessary. I feel sure Members of the Council will agree to pass it, and I do so move.

Mr. Kendall: I beg to second the motion.

Mr. Jailal: Well, I cannot raise objection to the Bill itself, but I feel I should take this opportunity to make this Council aware of the very difficult situation with respect to this particular country district. For some years Hopetown was the biggest producer of arrowroot in this country. At the same time, for a long while now, Hopetown suffered from bad drainage facilities and absolutely no irrigation facilities.

I am ashamed to think that the Local Government sees fit to draw money and assess at the rate of $13 per acre lands which lie totally undrained. It is no use saying it is a sea defence area because there is nothing to defend it against. A large amount of silt has accumulated in front of the villages and I know that the villagers themselves are attempting to clear their village of this.

As I know it, the villagers themselves in an attempt to clear the channels are actually digging outside the defences. I mention it for what it is worth, and I mention it in the hope that it would reach the ears of the Local Government. New districts which never paid any rates have been squeezed into this new district. I know one private landlord provided the people of Hopetown with all their rice lands for which they paid him a small fee. He had his own drainage. That land, together with others, has been drafted wisely or unwisely into a Country District.

Already Hopetown is in a miserable plight and cannot pay the new rates levied. The position is made extremely difficult; because added to this $13 is a rental of $10. This means the average rice farmers would have to pay at the rate of $23 per acre in order to get 15 bags of

padi. It is a ridiculous situation. There is no water and the people have to depend entirely on the rainfall for their water supply. The drainage is good in only one section of this whole area from the gasolene station at Bush Lot to the Hopetown School.

Sir Frank McDavid: May I ask if it is a declared drainage area?

Mr. Jailal: I cannot answer that firmly because I do not think it is. It has only just recently been declared a Country District, and it is a Sea Defence area.

Sir Frank McDavid: I was trying to ascertain the reason for the high rates.

Miss Collins: I would suggest that this matter be deferred.

Mr. Jailal: I do not wish to introduce any opposition to the Bill because all it seeks to do is to give authority for the collection of rates, which are fixed by the Local Government.

Mr. Cummings: I would like to enquire for the purpose of clarification what the hon. Member, Mr. Jailal, means by saying the Local Government has fixed the rates. I was under the impression that the Local Authorities themselves fixed their own rates and the estimates are approved by the Local Government Board.

Mr. Jailal: If my understanding of the term "Local Government" is correct no Local Authority which is a member of the Local Government Board fixed its rates.

Mr. Cummings: It is misleading for the reason that it gives the idea that somebody, other than the people themselves, fixes the rates which they cannot pay. It is the Local Authority, the Chairman and Members who fix the rates and those rates are then approved by the Local Government Board. I think it is misleading to make people feel that an appointed body, other than the representatives of the people, fix the rates which they, the people, are not able to pay.

Dr. Fraser: I rise to support the hon. Member, Mr. Cummings. The Local Authorities fix their own rates which are then approved by the Local Government Board. Nobody else fixes the rates.

The Attorney General: I think it would be most unfortunate if this Bill does not become law, because a lot of people who have to pay their rates would be in a precarious position if the Bill is not made law.

Mr. Ramphal: I rise to support the motion before the Council. I want to congratulate the hon. Member now in charge of the Bill that even at this late stage he should finally get possession of a Bill. I am sure he did it in a very masterly manner. I wish to use this opportunity, as we are virtually coming to a close, to draw attention to a wild statement and my objection to it. The objection is that Government is slowly introducing the Marshall Plan throughout the country without that Plan as a document coming before this Council and before it has been decided as a policy of this Government.

I am saying that throughout this country today — those of us who have ears would hear — there is a strong feeling that a policy is being put into operation by this Central Government without this Council having debated or decided on the question. I am sorry the hon. Member in charge of Local Government is not here in per-

[Mr. Ramphal]

son to hear the criticism that is being levelled outside against the initiation of the Marshall Plan. I know what the position is inside. I think Government should come out and tell the people what is happening. We are merely trying to complete the Marshall Report but that is not understood outside. I take this opportunity, after congratulating my hon. Friend on the able way in which he has handled this Bill, to say what is being said outside about the Marshall Plan.

Mr. Gajraj: I would like to take this opportunity to thank hon. Members for enlivening the proceedings of the Council at this stage. Apparently, we have got through our Bills too easily, and this has given them the opportunity of joining hands. Particularly, I want to thank the hon. Member, Mr. Ramphal, for his kind references to me. May I say right now, I do not myself believe the hon. Member, Mr. Jailal, was attacking the principle of the Bill, and I am glad he said so subsequently, because as I pointed out in presenting the motion for the second reading, the Bill merely tries to provide the legal machinery for this Local Authority, created on 1st July, 1957, to collect debts which were outstanding to the known predecessors of this Authority which ceased to exist legally on the 31st December, 1956. That is all we are at the moment discussing.

The point the hon. Member, Mr. Jailal, raised regarding the inclusion in this Country District of areas which are not part of the two seperate districts—they were not in existence. Because the hon. Member mentioned it, we got an officer of the Local Government Board to give us the facts. It is true that it includes an area of Crown Lands which is part of a private estate and the one to which the hon. Member particularly directs attention is an estate which was part of the old Authority for many, many years, but which, we are told by some curious mischance was never rated and for the first time it has been rated. If that is so, I would suggest it may have some relation to the future of this country district, but it is not part of the consideration of the Bill.

All it can serve to do is that the appropriate department would take cognizance of the remarks and look into it. So far as the point raised by the hon. Member, Mr. Ramphal, is concerned, I am sure his remarks would receive the attention of the hon. Member for Local Government, but at this stage I am sure the hon. Member would appreciate that the Marshall Report was not got through in time for this Council to discuss it and what is known as the implementation of the Marshall Plan. It is not necessary for me to say any more, and I do ask that the motion be put.

Mr. Ramphal: That is exactly what is the wrong impression of the people—there is an attempted implementation of a policy of the Plan without any acceptance by this Council. The hon. Mover is right and that is why I said what I did.

Question put, and agreed to.

Bill read a second time.

COUNCIL IN COMMITTEE

Council resolved itself into Committee and considered the Bill clause by clause without amendment.

Council resumed.

Mr. Gajraj: I beg to move that this Bill be read a third time and passed.

Mr. Kendall: I beg to second the motion.

Question put, and agreed to.

Bill read a third time and passed.

ANIMALS (CONTROL OF EXPERIMENTS) BILL

Mr. Cummings (Member for Labour, Health and Housing): I beg to move the second reading of a Bill intituled:

> "An Ordinance to regulate the practice of experiments on living animals, and matters in connection therewith."

I do not think I need dilate on the necessity for such a Bill. The object is really a very humane one. It is to ensure when it is necessary, as it often is, to use live animals for the purpose of experiments that the person undertaking such experiments does so in a manner as provided by law—under the control of the Medical Department.

The experiments are being carried out in conformity with the principles of the enacted Regulations. It has been considered by the Secretary of State — and his views have been considered by other Commonwealth authorities — that we should be very careful about the manner in which these experiments would be performed.

The Objects and Reasons of the Bill set out in detail what are the various things to be done. Hon. Members will see that clause 3 seeks to prohibit any person other than a licensee from performing an experiment, and that a licensee must perform any experiment in accordance with the terms of his licence. Clause 4 seeks to prevent the performance of any experiment for attaining manual skill.

Clause 5 seeks to permit the performance of experiments for illustrating features subject to certain conditions, while clause 6 seeks to prohibit the performance of any experiment except for the purposes and subject to the conditions set out therein. When one looks at the Bill he would see that there is provision (in clause 9) for the grant of a special permit to perform an experiment without administering anaesthetic to an animal or without killing the animal before it recovers from the influence of such anaesthetic. I do not think it is necessary for me to say anything more about the Bill.

Sir Frank McDavid: I beg to second the motion.

Dr. Fraser: I do not think the Objects and Reasons of this Bill are very clear. So far as I know, experiments are not carried out on animals in this Colony. What I would like to know, however, is if a medical practitioner has to take out a licence in the case where he is diagnosing a disease calling for the inoculation of an animal. To my mind, it would not be fair for this Bill to apply to such a person. It is a matter of routine in the diagnosis of certain diseases that one has got to resort to animal inoculation, and it would not be fair for a medical officer or a veterinary surgeon to have to take out a licence to do so under this Bill. Reference has been made herein to the

[Dr. Fraser]
question of performing an experiment for the purpose of illustrating a lecture, and here again I would like it to be made quite clear that if a medical officer or a veterinary surgeon wants to do so it should not be necessary for him to take out a licence under this Bill. As a matter of fact, I do not think that the Medical Department, including the hospitals, is aware of the Bill.

Mr. Cummings: I think there is a difference between an experiment and the kind of treatment (to animals) that the hon. Member (Dr. Fraser) is speaking about. I do not regard the inoculation that Dr. Fraser speaks about, as an experiment. I have been looking into certain things recently when we had a medical expert using mice and so on for experiments, but I think that is quite different from what Dr. Fraser is saying. I am not in a position to say however that the only definition of "experiment" is one which means that an experiment is calculated not to cause any pain. My interpretation of this is that it is limited to guinea pigs especially — domestic animals suitable for that purpose.

The Attorney General: This legislation is based on United Kingdom legislation and has been adopted in Jamaica and other West Indian territories. I think the idea behind this is to differentiate between an experiment of this nature and an operation. If an experiment is performed with an animal it may not be for the good of the animal, but for some other purpose — not necessarily for the good of the animal itself.

Mr. Speaker: Will the hon. Dr. Fraser give the Council some idea of what he fears with regard to himself as a veterinary surgeon?

Dr. Fraser: I am trying to find out whether, if I wish to diagnose a disease and having to use a rabbit or a guinea pig, for instance, it would be necessary for me too take out a licence ?

Mr. Cummings: My answer would be "yes".

The Attorney General: I think that would be something to the animal that might not be for its good. I do not think there would be any objection to an injection or an operation that is intended to benefit the animal.

Mr. Cummings: I am grateful to the Attorney General, but I do not agree with the view expressed. It is not the stick of the injection itself that matters, to my mind, but the fact that he (Dr. Fraser) must be granted permission to do so. I feel that the answer to his question is "yes": he would have to take out a licence. I do not think anybody else would be allowed to carry on such an experiment, and Dr. Fraser would have to do it in the proper way. Government does not bring these Bills before the Council without getting the advice of people who know.

Mr. Ramphal: We all know that Dr. Fraser is a Veterinary Surgeon, and I think he should be particularly disturbed about this clause—to know that he will have to take out a licence in the circumstances referred to.

Mrs. Dey: One does not need to visit Berbice to know that Dr. Fraser is a Veterinary Surgeon, and I do not see why it should be necessary for him to take out a licence to practise the profession which he went abroad and studied, and returned later to serve the Government for seven years.

Mr. Ramphal: I am afraid the hon. Member is missing the point.

Mr. Cummings: Mr. Speaker, I am rising to a point of order.

Mr. Speaker: We are not in Committee yet.

Mr. Cummings: On a point of order.

Mr. Speaker: I think you had better cover your point in your reply.

Mr. Cummings: I think I have already replied.

Mr. Speaker: Then somebody else will speak on the point.

Mr. Jailal: I wanted to know from the hon. Member what is going to happen in terms of the clauses and so forth. I feel the object of this Bill is to allow the Government Bacteriological Department to conduct experiments of this type as freely as it wishes. But we have to consider that in places like the laboratory at Queen's College toads are dissected from time to time in science classes.

Will the Bill affect such activity? If a horse is suffering from a certain type of disease and a vet wants to try out a certain serum on that animal and he uses one of the guinea pigs one can find all over the place, do you mean to tell me he must take out a licence for that purpose? Is he not licensed enough to do that, as a doctor?

If a layman was seeking to do that, then I can well understand the necessity for a licence. But the doctor is making life safer by his experiments, and I cannot really understand why any doctor should take out a special licence to do curative work. I feel this sort of provision should apply to a medical doctor, because he tries out a lot of things on poor vertebrates like myself. If he has at hand a new antibiotic, he may try it out on you and then you owe him, though he is not sure about it. If that is the case, all doctors will have to take out a special licence.

Mr. Gajraj: May I point out that there is no fee attached to the licence — it just gives permission to persons who have certain qualifications, knowledge and ability to perform this type of experiment. In other words, as I see it as a layman, it prevents people from indiscriminately doing to animals this sort of experimentation which might result in, let us say, a complete absence of a particular type of animal.

Mr. Cummings: I readily admit there is a degree of merit in the hon. Member's objection. My own view is, that it is a slightly absurd position that a group of laymen should licence someone who is professionally qualified to do a certain act. But not all doctors — in fact, very few — go in for research work, and while it might be irksome and farcical for a surgeon to be licensed for this, there are several other doctors on whom it is necessary that an eye should be kept in matters like this.

It is very difficult to bring about this legislation just exempting a small section of the profession, but it is my desire to see this humane Bill made law, apart from the fact that it is something that is done by a number of civilized countries — England, Jamaica and others.

I may add this: not everything the Secretary of State invites us to do is done by us merely out of his *ipse dixit*. We must think for ourselves and sometimes we cannot do what is suggested at all. But the Secretary of State says on this matter:

> " . . . The replies to my circular savingram under reference show that in Colonial territories generally there is no specific

[Mr. Cummings]

> legislation limiting the practice of experiments on living animals to those persons licensed to perform them. I consider it to be important that such experiments should be subject to proper control by legislation and, in reply to a further Parliamentary question on this subject, I have therefore undertaken, in view of the position revealed by the replies to my circular, to invite Governments to give consideration to introducing such legislation.
>
> I consider it to be important that the main provisions in this Act, which relate to the control of experiments on living animals by means of a licensing system, should be adopted wherever possible . . ."

As I have said, it is not who said it that matters, but what is said. This is a gradual processing after parliamentary questioning and after discussion of it locally, and our Director of Medical Services feels we were justified in putting this legislation forward.

Mr. Speaker: Surely a qualified man should not ask permission to do what he is qualified to do.

Mr. Cummings: The Bill means to do what it says. He should not be exempted. Any person who is going to perform experiments on a living animal must be licensed to do so. As far as doctors are concerned, it is an automatic application to the Director or the Licensing Authority without any questions being asked or conditions imposed; but, as far as the lay people are concerned, there may be imposed a number of conditions.

I think I see the point my friend is making, still I think it is highly desirable we should go further with this non-controversial Bill. *(Laughter).*

Question put, and agreed to.

Bill read a second time.

COUNCIL IN COMMITTEE

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

Clause 3—*Interpretation*

Mr. Ramphal: This clause really puts the matter in a nutshell. In other words, it is a humanitarian movement. We are saying there shall be no experiments at all, but if an experiment is to be carried out, it should be done by a licensee. The Governor in Council will decide who are to be those people and they will be properly trained to carry out such experiments. I think that is the proper perspective to look at it.

Clauses 3 to 13 passed as printed.

Clause 14—*Penalty.*

Mr. Speaker: The clause says —

> ". . . upon conviction thereof shall be liable to a fine of $240 or to imprisonment for any term not exceeding six months or to both such fine and such imprisonment."

It is a specific penalty.

Mr. Cummings: It would appear that the word "liable" is capable of construction which is rather flexible. I am rather aware of a decided bush rum appeal case in which the Court found that the Magistrate was bound by the provision which contained the same words used here. I propose, however, to amend it to say "liable to a fine not exceeding $240". I think that will meet the case.

Question put, and agreed to.

Clause 14, as amended, passed.

Clause 15 passed as printed.

Council resumed.

Mr. Cummings: I beg to move that this Bill be read a third time and passed.

Sir Frank McDavid: I beg to second the motion.

Question put, and agreed to.

Bill read a third time and passed.

SUPERANNUATION BENEFITS FOR GOVERNMENT HOUSE EMPLOYEES

The Chief Secretary: I beg to move the following motion standing in my name on the Order Paper—

"Whereas the salaries and wages of the domestic employees employed at Government House were provided for in the Estimates since 1955 and such employees thereupon became Government employees entitled to superannuation benefits in accordance with the rules for such benefits; and

Whereas prior to 1955, the said employees were not entitled to such superannuation benefits; and

Whereas the Finance Committee of the Legislative Council at a meeting held on 3rd January, 1955, had agreed that the service of such employees prior to 1955, should be treated for superannuation purposes as if such service had been with the Government;

Be it resolved: That this Council approves of the service prior to the 1st January, 1955 of persons employed as domestic employees on and after that date at Government House being deemed to be service with the Government so that such service may be included in calculating the superannuation benefits to be paid to such employees on their retirement in accordance with the existing rules governing such awards approved by Council by Resolution No. LII of the 6th July, 1951 as amended by Resolution No. LVI of the 8th May, 1957".

This is a formal resolution to implement a decision of Finance Committee taken last year. Before 1955 all the employees of Government House were paid from the Allowances of the Government. They were not Government employees. In 1955 they became Government employees and are now paid from Government funds, although the Governor will contribute towards a portion of the cost. The purpose of this resolution is to enable those employees who are serving on and after the 1st of January, 1955, to obtain superannuation benefits. As I say, it has been agreed by Finance Committee, and this is a formal resolution to ratify it. I beg to move the resolution.

Mr. Cummings: I beg to second the motion. I wish to record the view that this is a very necessary and desirable step so far as domestics are concerned, and I am hoping that this Legislature would approve of steps being taken by the Administration of this Colony to put them in a similar position to public servants. One hopes that many employers of domestic servants have taken this as an example and do something for these people who work for them and for whom very little is done.

Mr. Ramphal: May I state that this resolution appears to restrict the date from which the right to these superannuation benefits would exist. There are certain people who retired last year, and some matters relating to them were brought before the Finance Committee. I was hoping that the resolution would have included one particular person—and I referring particularly to the Governor's chauffeur who I thought had retired before 1955. This resolution puts the matter in the right perspective.

FISHERIES REGULATIONS DEFERRED

Mr. Speaker: The next item (12) is a motion by the Member for Agriculture for the approval of Fisheries (Licences) Regulations, 1957, and Fisheries (Marketing) Regulations, 1957.

Sir Frank McDavid: I think this item got on the Order Paper a little in advance of time and I would therefore ask that it be deferred. I only gave

[Sir Frank McDavid]

notice of it yesterday and I am not quite ready to go ahead today.

Item deferred.

MARRIAGE (AMENDMENT) BILL

The Chief Secretary: I beg to move the second reading of the Bill intituled:

"An Ordinance further to amend the Marriage Ordinance."

Within the last 30 years several attempts have been made to introduce changes in the law relating to the marriage of Hindoos and Muslims. The first attempt, I think, was made at the instance of the Indian leaders in 1921. This led to the drafting of a Bill which was called the Hindu and Muslim Marriage Bill. By 1927 that Bill was still in draft and a Committee called the Asiatic Marriage Committee was appointed to consider and prepare a new draft. Ten years later the Bill was still in draft, and so it went on.

The Hindoos and the Muslims seemed to have wanted changes in the law, but they have never been able to agree what those changes should be. Despite the many differences which have existed and still exist, I think there is general agreement between the parties that there is one matter which should be remedied and that is, a means should be found to abolish the non-impediment certificate which is required to be obtained under the Indian Marriage Ordinance.

This certificate was required by the original Immigration Ordinance of this country for valid reasons but, unfortunately, the requirement of the law went further and it imposed the obligation of obtaining this certificate not only on the original immigrants but also on the descendants in perpetuity. I think it is very understandable that Guianese of the third and fourth generations who are descended from Indians have a feeling of resentment because whenever they wish to marry in accordance with the religious rites, in order to get that marriage registered they have to continue to obtain a certificate which dubs them as immigrants, and unless a change is made their children and their children's children will have to do the same thing.

I suppose the obvious remedy would be to dispense with the impediment certificate altogether, but there are still a number of original immigrants living here, and for the time being there are good reasons administratively why that certificate should be retained. About two years ago the present Government decided that it was time a comprehensive Marriage Ordinance was introduced to cover the residents of British Guiana irrespective of their religion. That proposal was examined by a special Committee and it was finally concluded that the time was still not ripe for introducing such an Ordinance.

The Government felt, however, that although this advice must be accepted it had the responsibility to provide now a more up-to-date means for Muslims and Hindoos to get married according to their own religious rites. It was therefore decided to introduce this Bill and, at the same time, to leave undisturbed the provisions of the Indian Labour Ordinance. In this way Muslims and Hindoos would be given alternative methods whereby they can get married, and it is entirely up to them to decide which method to adopt. The intention is that these two methods should be allowed to run concurrently for a period and in the light of experience we can see which one is preferred. If people show that they prefer one method, the other can then be dispensed with.

When I gave notice of the introduction of this Bill you, Sir, kindly advised me to proceed with caution, and I am thus grateful to you for that advice, for, as you said, the questions which concern the personal law of the individual are very difficult and must be dealt with, with great delicacy. Your Honour will recall that when I stated the objects of this Bill, I said that I would not proceed with undue haste and that I would provide the opportunity for anybody who wanted to see me to make representation about the Bill. That, Sir, I have done.

On Monday last, 17th June, I met representatives of three Hindu organisations and four Muslim organizations. I do not wish to hide anything from this Council, and therefore I will say straight away that the majority of those present expressed opposition to the Bill. Having made that statement Your Honour may be wondering why I am now proceeding with the second reading of the Bill. I am doing so because although the majority of those persons expressed disagreement with the Bill I am, and the Government are, by no means convinced that the reasons which were put forward for opposing the Bill, with one exception, were really sound; and indeed I should say that the reasons were so varied that one could say that there was no united opposition to the Bill on common ground. I should also add that I have received several letters from religious organizations telling me that they support the Bill whole-heartedly. Those organizations, or some of them at least, were not represented at the meeting.

The hon. Member, Mr. Sugrim Singh, was present at the meeting and indeed he would not argue with me if I describe him as the principal spokesman for the 'opposition.' I have no doubt we shall be hearing from him later in this debate, but hope he will forgive me if I attempt to summarize the four main points he made at that meeting. First of all, he claimed that Hindoos and Muslims who came to this country under the indenture system understood they would be allowed to carry on their ways of life in accordance with their personal laws, and he said that the enactment of the Indian Labour Ordinance and particularly the carrying out of Hindu and Muslim marriage ceremonies were in conformity with this principle.

Secondly, he claimed that any changes in the existing law as it affects Hindoos and Muslims must be initiated by Hindoos and Muslims themselves.

Thirdly, he said the Government, no matter how good its intentions—and I would like to mention he said our intentions were good — was insufficiently versed in Hindu and Muslim matters to introduce a Bill of this kind, and that it did not have consultations with Hindu and Muslim organizations before preparing the Bill. Lastly, he said that the Indian Labour Ordinance was antiquated and should be brought up to date; that while there was need to keep pace with changing conditions, the Bill I was bringing forward in this Council was unsuitable.

Mr. Singh's first point, is, I think, the most important because it refers to a misconception on which most of the opposition rests. If in fact Government were to interfere in any way with the personal laws of the individual it would be a very serious matter indeed, but my conviction is that there is no interference whatever. As I said before, all the Government is doing is to introduce an alternative method of getting married for Hindoos and Muslims. There is no compulsion on

[The Chief Secretary]

anybody to use this method. The existing law, which is in force today, will remain. Life can go on unchanged for those who wish it so. It is as though there was a building which has a stairway. It is decided to put in a lift but the stairway is retained. Those who wish can continue to walk up the stairway, but those who decide to use the new contrivance can use the lift.

I will take Mr. Singh's next two points together. As I have said, during the last thirty-six years there have been several attempts to amend the Hindu and Muslim marriage law, and the reason why the attempts have failed is because no one has ever been able to get all the various organizations to agree.

If one accepts that only Hindoos and Muslims can bring forward any amendment of the law, that is tantamount to saying they would never bring forward any amendment of the law. To say that the Government has not consulted, and is not sufficiently versed in these matters to be able to bring forward a law like this, is also quite untrue.

There is a wealth of information on Government files acquired during the years on this subject, and Government is fully aware of every viewpoint. That is the reason why we have decided not to proceed with a comprehensive Ordinance at the present time.

I should now like to turn to the Bill itself and mention one important amendment I shall move in Committee. Clause 3 of the Bill provides that a marriage officer who professes either the Islamic or Hindu religion and who solemnizes a marriage in accordance with the Ordinance can solemnize no other form of marriage. That is probably the most contentious clause in the Bill. Certainly that was made very clear to me last Monday. The pundits and moulvis were deeply concerned about this clause and what effect it would have on them.

Their problem is that if they seek appointment as marriage officers under this Bill, they would be precluded from solemnizing any other marriages, and that would put them in a very difficult position. I think the pundits are in a very peculiar position, as I understand, that according to the Hindu faith there are family priests. They pointed out that if the same members of a family decided to marry under this Bill and others decided to remain under the Indian Labour Ordinance, the family priests would be in a difficult position.

Government has recognized this difficulty, and with Your Honour's permission I propose in the Committee stage to move a small amendment which, I hope, would go a good way towards rectifying that position. The effect of the amendment will be to enable marriage officers to perform marriages both under the Marriage Ordinance and under the Indian Labour Ordinance. So priests of the Hindu and Islamic religions will be able to solemnize marriages under both laws but they will not be allowed to solemnize unregistered marriages.

Another point in connection with this clause which was brought out is, how will Government know whether persons are suitable for appointment as marriage officers? That is easily answered. Any responsible Government would make the most careful inquiries before appointing anyone as a marriage officer. If a person belongs to a particular religious organization.

Government would inquire from that organization whether that person is fit and proper to be so appointed. If he is, what is termed "independent" in a religious sense, then Government would make inquiries in the area from which he came and satisfy itself beyond any doubt that he is a fit and proper person before appointing him as a marriage officer. I do not think it is necessary or very practicable to write all this down in the law. I think it is a reasonable presumption that Government would do that.

The next important provision which in fact affects the entire population, Christians as well as Hindoos and Muslims, is clause 6 of this Marriage (Amendment) Bill, which provides the minimum ages for males and females for marriage — 16 for males and 14 for females. I do not think there is much dispute about those ages. One Hindu organisation had mentioned they thought the figures high, but on the other hand the hon. Member, Mr. Sugrim Singh, who did some research on the subject, informed us that recently in India the ages had been raised to 18 and 16 respectively. I think everyone would agree that it is desirable to have some form of minimum age written in the law. There is none in the Marriage Ordinance.

Hon. Members will also notice that there is a subclause which enables a female who becomes pregnant before the age of 14 to apply by petition to the Chief Justice for permission to get married before that minimum age and, if necessary, to be married to a male of under 16 years. In clause 9 are set out requisites of a valid marriage contracted under this Bill according to the rites of the Hindu or Islamic religion. It is significant that although Government is accused of lack of knowledge of these matters and failing to consult all the organisations, at my recent meeting with the religious representatives, no reference was made to these requisites. They were not challenged at all. I think in that case it is reasonable to assume they are not objectionable and should be accepted.

Lastly, there is clause 12 which enables persons who are already married according to the rites of the Hindu or Islamic religion, to have their marriages registered under this new law, provided they obtain exemption from the Indian Labour Ordinance and they register their marriages within 12 months of the date of enactment of this Bill.

Those are the most important questions. As I have already said, the provisions of this amending Bill will enable Hindoos and Muslims to marry under the same Ordinance as everyone else. And incidentally, the Bill also enables persons professing the Muslim or Hindu religion who do not come from India to marry according to their religious rites and to get their marriages registered. At the present moment they cannot do so. I have said, this Bill is forcing nothing on anybody. The community may take advantage of it if they wish, or may ignore it if they wisb. I move that the Bill be now read a second time.

The Attorney General: I beg to second the motion.

Mr. Sugrim Singh: It is rather unfortunate that Government has decided to proceed with this Bill which seeks to amend the substantive Marriage Ordinance, Chapter 164, to include Hindu and Muslim marriages, and also to include the Hindu and Muslim priests as

[Mr. Sugrim Singh]

marriage officers. I want to say at the outset, as stated by the hon. Mover of this Bill, that the intention of Government in bringing this amendment is undoubtedly good, but I do say that this amendment does not even touch, much less heal, the burning question which for the last 31 years has been occupying the attention of Government and of both the Hindu and Muslim population in this Colony.

As stated by you, Sir, this matter of amending and bringing up to date the marriage laws affecting Hindoos and Muslims is not an easy one. One of the things to which I gave priority when I went to India was an inquiry into the marriage laws of India, so as to find out how much information I could collect and place before Hindu and Muslim organizations in this Colony, to assist in solving this difficult matter. I found after consultation with the law officers attached to the Government of India that there are no enactments bearing directly on this problem, and if I may be permitted I will read the third paragraph of a letter I received from the Ministry of External Affairs in India, at the head of which is Pandit Nehru. It says:

> "We have no statutory provision regarding Muslim marriages"

For the first time in the history of India divorce is permitted, by the Hindu Marriage Act, No. 25 of 1955, and before this Act there was no provision for divorce under Hindu law in India. A very representative Committee of head men sat and as a result provision was made for divorce.

It might interest hon. Members to know that there is no provision for divorce under Hindu law, and all of this is relevant because there were no divorced wives and as the women could not marry they were faced with a life-career of ostracism. It was realised that while this law might have suited ancient days every one could not sit down and worship the inequity and, quite rightly, provision for divorce was made for the first time. I fully appreciate the fact that the Indian Labour Ordinance has served its time and purpose under the old system of indentureship, but in these more modern days immigration is a matter of history and the Ordinance cannot hold water or meet the requirements of the younger generation.

Educated and other people among us are now alive to their rights and feel some degree of opprobrium when told of what they must experience under the Ordinance—appear before a Justice of the Peace to get a non-impediment certificate and things like that—facing all the attendant evils in the matter.

Let us examine what the proposed amendment seeks to do. So far as I know there are two systems of marriage under the Labour Ordinance and it is possible for a man to marry and register his marriage on the same day he receives a non-impediment certificate. I think it is regrettable that even in these enlightened days we still have Hindoos and Muslims among us who insist that they are not going to have their children legally married. The result is that after all the arrangements have been concluded for a wedding the bridegroom's parents also agree that the couple should not be legally married. I have already stated — without casting aspersions on any particular person—that this system merely amounts to a trial marriage whereby the man takes the woman to live with him and if she meets his satisfaction in all aspects, then he decides whether he would marry her.

I want to say here and now that I stick my neck out on this. I shall never compromise in any way which would help to perpetrate the painful and the disgraceful practice, in these enlightened days, of allowing marriages to be contracted by young people when those marriages are totally illegal. The time for this practice is past. Marriages must be brought up to the general standard, in conformity with the general marriage laws of the Colony. To put it in a negative way, no Muslim or Hindu marriage must be contracted in this Colony unless it is lawful. I say that in the face of opinion expressed by people who are orthodox only on occasions and who do not practise what they preach.

Coming back to this point, I would like to see introduced such an amendment as would put an end completely to the obsolete Indian Labour Ordinance and bring all marriages on the same plane, with certain provisions to accommodate the personal law of Hindoos and Muslims. I am against this question of choosing to get a marriage registered. I want to see it made compulsory. Government is evading this with good reasons — to avoid the criticism of a certain section of people who write letters on the subject. But I would remind Government that in no country is legislation of this nature introduced with unanimous approval.

In this country the East Indian population is nearly fifty per cent. Among the Hindoos are two sections — the Aryan Samajs (who have their college in D'Urban Street) and the Sanatans (who meet in Lamaha Street). I met the leaders of both sections and, as hon. Members have seen in the Press, they decided unanimously to put an end to illegal marriages.

More than seventy-five per cent. of the Muslims are in favour of having legal marriages, but there is a small group who hold the view that these marriages should not be made lawful, and they rely on Mohamedan law. To throw some light on this, I would like to quote from D. F. Mulla's book, "Principles of Mohamedan Law" (11th Edition), at chapter XIV; sections 194, 198 and 198A:

> "Marriage (*nikah*) is defined to be a contract which has for its object the procreation and the legalising of children . . . Marriage according to Mohamedan law is not a sacrament but a civil contract . . . "

In Muslim law,

> "A Mohamedan may have as many as four wives at the same time, but not more. If he marries a fifth wife when he already has four, the marriage is not void but irregular." . . . "It is not lawful for a Mohamedan woman to have more than one husband at the same time. A marriage with a woman, who has her husband alive and who has not been divorced by him, is void."

It was argued that if the Mohamedan law allowed four wives, how could this be made to fit in with English law which accepted only a monogamous form of marriage. In English law the first marriage is legal and others contracted while a spouse in that marriage is alive are bigamous.

As I have said before, the Hindoos have seen fit to change the laws in India to meet with the changing times.

In Trinidad there is a special Ordinance for Hindoos and a special Ordinance for Muslims. The hon. the Attorney General can bear me out on that. In Surinam it is the same. The point I am making is that Government instead of introducing this

amending Bill should face the entire issue and come out with a complete scrapping of the Indian Labour Ordinance as there is no immigrant now living. Let us compare the marriages under the Indian Labour Ordinance and those under this proposed amending Bill.

Under the Indian Labour Ordinance one goes to the Immigration Department and gets a form which he fills in giving certain particulars. Section 142, subsection (1) of the Ordinance provides that before a marriage is contracted the parties must first obtain a certificate signed by the Immigration Agent-General to the effect that there does not appear on the records of the Department any impediment to the marriage. The marriage is not deemed to be contracted unless that certificate is obtained.

On the same day one can obtain the certificate and contract the marriage. On the other hand under this amending Bill the contracting parties have to give notice to the Registrar's Office for three weeks and if there is no objection within that period then a certificate is issued before that marriage can take place. On the one hand you have the facility of obtaining the certificate in one day and on the other hand you have to wait three weeks to obtain the certificate.

Secondly, we have the curious anomaly that under the Indian Labour Ordinance a boy must be 15 years and a girl 14 years of age before they can marry and their marriage registered under the Ordinance. Under the Indian Labour Ordinance if a girl is under the age of 14 and finds herself *enciente* and desires to be married she can without the expenditure of money go to the Immigration Agent-General who is authorized by law to grant her permission to marry. Under this amending Bill she has to make application to the Chief Justice in chambers and put forward very good arguments before her application is granted.

My point is, while I strongly advocate that these special facilities or peculiar practices must be brought in line with the general marriage laws of the Colony, the time has not come when we must completely have no regard or we must disrespect completely those special facilities which have been provided under the Indian Labour Ordinance.

Under the Indian Labour Ordinance parties can go before a Magistrate to obtain a divorce, otherwise they would have to go before the Supreme Court. This amending Bill seems to be what I describe as a dual system leaving the Muslims and the Hindoos to choose which road they wish to tread. I am completely against any dual system.

The hon. the Chief Secretary has indicated the intention of Government is to meet one situation by allowing a marriage officer under this amending Bill to also marry under the Indian Labour Ordinance. Why is Government just scratching on the surface of this problem? I can only say they would not like to hurt or interfere or exercise any direct influence as to the question of having the marriages compulsorily registered.

At the meeting on Monday last there were three Hindu organizations and there were Muslim organizations, and I want to say for the information of the hon. Mover that those organizations, unanimously through their delegates, asked Government not to pursue this amending Bill. They are responsible and practically the only Hindu and Muslim organizations in this country.

I only wish to ask Government not to pursue this Bill. One only has to get in touch with the leading Muslim priests and he would be told that they have actually prepared a Bill which they have informed Government about, and they are asking Government to consider it in the hope that it would be satisfactory to all sides. In such a controversial matter as this, I think it would be well for Government to examine any Bill intended to be introduced locally in the light of the similar Ordinances in Surinam, Trinidad and other neighbouring colonies.

I am aware of the fact that the Chief Secretary has been asked to table this amendment, but I think it would be more advisable to get one comprehensive or two separate Bills — one for Hindoos and one .for Muslims — in order to bring everything up to standard under the Marriage Ordinance. It is not desirable that one Bill only should be introduced; it is going to cause more controversy than Government can anticipate. For three years there have been different shades of opinion on this question, and I ask Government whether there has been any single organization asking for an amendment of this nature. Even before I became a professional lawyer I had a lot to do with this matter.

As I stand here I speak for the delegates of a certain organization who attended the Conference and I appeal to Government to reconsider this matter. I am sure that Government would not like to disregard the views of the Hindoos and the Muslims in the Colony by taking this amendment through the Council. I do ask hon. Members who are familiar with the situation, some perhaps more than I am, to have some regard for the feelings of these Hindoos and Muslims.

Perhaps it would be said that we have been discussing this question for many years and that there is no hope of a settlement in the foreseeable future, but that is not the point. These people (Hindoos and Muslims) have actually got a draft Bill prepared which might solve the situation in a manner suitable to them. Government would be in the position that if anything happens — if any hardships arise from the Bill — they would be able to say that the Bill is the choice of these people themselves but it is subject to amendment.

Right now in Jamaica — according to information given to me by the Indian Commissioner who passed through that Colony recently, there is a similar Bill being introduced there for the benefit of a small group of people — some 35,000 Indians residing there. This Bill affects a much larger number of people residing in this country, but it has not even scratched the surface of the intricate problems with which it deals.

I do ask the hon. Mover of the Bill to give some indication as to what body or group of persons has asked for an amendment of this nature. Under the Indian Labour Ordinance provision is made whereby anyone who does not want to remain under certain conditions could apply to the Immigration Department and obtain a non-impediment certificate. I think the late Mr. Justice Luckhoo was the first man who used that section of the Ordinance to divest himself of this stigma which affects immigrants and their relatives.

I can only ask what is the idea of having an Ordinance for only a few people if it would never work. Why should these people be made to find money in order to go to a judge in Chambers, or a Justice of the Peace, or to retain Counsel before they could

[Mr. Sugrim Singh]

do certain things under the Indian Labour Ordinance? All that is to be done is that they should go to the Immigration Agent-General and get from him a non-impediment certificate.

I think I have spoken enough on this question and I will conclude by saying that while I believe that the intention of Government in this matter is good, the system (of marriage) which the Bill seeks to introduce has something to do with those over which there is no controversy, and is interwoven with them. I do appeal to the Members of this Council to realize that this issue is one which borders on the personal law of Hindoos and Muslims and that some consideration should be given to the Bill which they have drafted — one which would bring complete harmony among them once and for all.

Right now I know of a case where a man who was not legally married has died and his estate valued at some $70,000 or $80,000 is going "down the drain". The marriage problem among these people is not merely a case of "boy meets girl"; there are several intricate questions involved. My research has disclosed that there are some 37 cases before the Supreme Court right now touching upon this question.

If one looks at the advertisements published by the Public Trustee from time to time with respect to monies escheated by the Government, one would find that many of those cases relate to persons who have not been legally married. Those are the things Hindoos and Muslims must bear in mind. One must not in this case put new wine in old bottles. The point is, in the Indian Labour Ordinance the only ground on which the Indian immigrant can apply to the magistrate for a divorce is misconduct. There is no provision for non-consummation of the marriage, desertion or any other ground.

I may have exceeded my time in speaking, but I do ask Government to consider that it is the unanimous request of Hindoos and Muslims in this Colony — and I speak with some authority — to examine the proposed draft Bill and not just devise an extra method acceptable to a small group who consider it *infra dig* and opprobious, in these modern days, to be described as immigrants.

It is impossible to get unaminity on this question in this country, and I think that Government should not take this attitude because a few people throw a spanner in the works. It is not a question of politics or my trying to 'stand out' : this matter affects personal issues, and I do ask Government and my colleagues in this Council who are even more familiar with this matter more than I am, not to rush this amendment through. It does not touch the problem, and although this Council is soon to be prorogued, if this matter is allowed a little more time it will solve itself to the mutual satisfaction of everybody.

Mr. Speaker: Is the hon. Member proposing to submit an amendment?

Mr. Sugrim Singh: Yes, Sir.

Mr. Speaker: Well, try to do that in writing before we reach the Committee stage.

Mr. Ramphal: If the hon. Member is referring to a complete amendment of the Marriage Bill ——

Mr. Sugrim Singh: I want to say—

Mr. Gajraj: I think it is now 120 years since immigrants from India first came to British Guiana, and it was in the year 1918 that the last ship bringing immigrants here touched these shores. Nearly 40 years have passed by since then — enough time for two generations to have been born and grown up out of the loins of those who made that last trip to British Guiana. The Indian Labour Ordinance to which reference has been made so many times this afternoon was designed and intended to be used in the interest of those people who came here as Immigrants.

It not merely gives to them certain privileges which, because they were a new people coming into a strange country and meeting with customs which were to some extent different from those they left behind in their own country, and because in normal circumstances one would expect that a Government which arranges to bring people from a far-off land into a strange land would consider it obligatory upon it to make provisions which although not in the laws governing the rest of the population and on the surface they may appear to be discriminatory and in favour of the immigrants, were nevertheless necessary for their well being.

But when the immigrants came into this country, they came under certain conditions — conditions which gave them the right of return passages to their native land — and under those conditions we may have the claims of their children, if those children and the parents wish to return to India at the same time and by the same ship.

So we find in the section in the Indian Labour Ordinance which deals with marriage and divorce reference is made to the immigrants introduced into the country. That is where, I think, the framers of the law made a mistake when they referred to the children as descendants. In section 131 we find that an immigrant means "any person introduced or coming to the Colony from Asia, whether directly or indirectly, and whether wholly or in part at the expense of the immigration fund or otherwise, and includes any descendant of that person." That is how the children of those immigrants and their grandchildren and great grandchildren continue for the purposes of marriage and divorce to be dubbed as immigrants. In this Colony those of us who have been born here recognize this country as our home and are prepared to make every contribution towards the advancement of this country.

Alongside the other people of whatever race, we feel this is our country and we feel that in the same way as they, we are subjected to all the penalties of the law if we commit offences, and so far as our children are concerned we do not expect them to be regarded as second class citizens and to be dubbed "immigrants" and to be made to use some of the provisions of this Ordinance which we have heard this afternoon refer to the immigrants who no longer exist. It is unfair and unjust if we are going to take our place and share in the Colony's opportunities as well as privileges.

It is true that we can make application for exemption from the provisions of the Indian Labour Ordinance, but if one looks at page 1456 of Volume II dealing with Chapter 104 of the Laws of the Colony, there is a form of declaration which any person seeking exemption from that Ordinance must fill in and sign. It

[Mr. Gajraj]

is clear from that, that the only persons whom the Ordinance had in mind to be dubbed as immigrants are those who came to this Colony and their children.

The declarant has to say either that he is an immigant who came from India or an immigrant born in this Colony. He has to declare by what ship and on what date his father or mother arrived in this Colony and to which plantation they were indentured. If that is not clear enough proof that the Indian Labour Ordinance was only intended to cover immigrants and their first offsprings, then I do not think it is necessary for me to continue.

There is another point which I would like the hon. Member (Mr. Sugrim Singh) to appreciate. That is, under the Indian Labour Ordinance as soon as Indians accept the Christian religion they automatically move out from the provisions of that Ordinance and go under the general laws of the Colony. I refer to section 135 and the subsequent sections, which show that very clearly. So it is only those persons who wish to retain the religion of their forefathers—Hinduism or Islam—who are personally affected by this Ordinance because if a Hindu or a Muslim seeks exemption from the Ordinance he would be granted that quite easily. I know that.

He then steps out into the open where no longer can he claim any of the benefits or protection of the Indian Labour Ordinance and has to live under the general laws of the Colony. That is as he wishes it to be.

But so far as marriage is concerned he would find a void awaits him, as there is no provision in our laws that a Hindu or Muslim who has been granted exemption from the provisions of the Indian Labour Ordinance can have his marriage solemnized under his own religious laws and be able to have the marriage registered under the laws of the Colony.

That is the void that faces us — a void that we cannot fail to discuss and consider very seriously. It is to be observed that a Hindu or Muslim who wants to get married under his own marriage law may do so and then go to the Registrar General and have his marriage registered. To say that he would have to face the humiliation of having a second marriage performed after his own religious marriage is not the only important point to my mind. The object of this Bill is to fill that void—to make provision for Hindoos and Muslims who desire to seek exemption under the Indian Labour Ordinance and be able to marry in accordance with their own religious laws providing that every marriage is registered within a given time.

I have no desire to join issue with my colleague (Mr. Sugrim Singh) who has just spoken. I have listened to all he has had to say and I can only come to the conclusion that he has proved conclusively that it is Government's duty at this stage to provide an opportunity to any section of the Indian community—Hindoos or Muslims—to abandon the provisions of the Indian Labur Ordinance and enjoy the protection of the general law as the other citizens of this country.

It is no good saying that the religious organisations are prepared to do this or that. It is positive action that counts. If the organisations to which the hon. Member has referred have before them a Bill which covers both sides of the controversy, then it is their duty to pass it on to Government for Government's consideration.

There is no doubt that this present Government would not be able to give consideration to it. The measure we have before us today has taken some two years of hard work to prepare; there have been many changes in the original draft Ordinance and we feel that what is proposed here now is just, fair and reasonable, and would be accepted by a considerable number of persons of both the Hindu and the Muslim faith. I also make the statement that as the years roll by more and more Hindoos and Muslims will make use of this Bill, if accepted by the Council, than they are making of the present Ordinance. I am one of those who have stated that the marriage of Hindoos and Muslims should be legalised.

On reading the Indian Labour Ordinance more closely I find that even in those early years when it was enacted, the intention was that with the arrival of every immigrant ship the agent was empowered to find out whether there were husbands or wives among the immigrants and to have them registered as such in accordance with the laws of the Colony. Further provision is made in the Ordinance for permission to be granted to immigrants to marry, providing notice of 21 days is given.

Then, there is provision for marriage in accordance with one's personal religious law, and that is where marriage in accordance with the Islamic faith comes in. A non-impediment certificate could be obtained from the Immigration Agent General, and from this certificate it could be seen whether any of the parties who propose to marry were already married. It is only reasonable to assume that that was the correct thing to be done.

The certificate had to be obtained from the Immigration Department because that is where the records were kept. No one is going to suggest that persons born in B.G. but who have no connection with the country except with the family tree of an immigrant, should be subjected or should continue to subject themselves to this form of law.

My hon. Friend (Mr. Sugrim Singh) has made capital of the fact that one can apply for the non-impediment certificate and that if one is fortunate he could have his marriage performed on the same day that he gets this certificate. I am going to ask him, as a leader of his group and as a parent of children whether he does not consider it in their interest that those who contract marriage should give some degree of notice and have each marriage registered? Otherwise, there would be marriages in circumstances which the parties would regret afterwards. I feel myself that such notice should be given by both Hindoos and Muslims and that when used properly it would provide a time lag between the agreement to marry (in accordance with the laws of either religion) and the actual ceremony of marriage by the parties concerned. In the case of a Hindu the ceremony confirming the engagement and arranging details of the marriage ceremony is known as a *Tilak* and in the case of Muslims it is known as a *Mangni*. In some cases there are double ceremonies—two *Tilaks* and two *Mangnis*. So that in the marriage system we have the ingredient of publicity —publicity of intention to marry, and if there is any impediment it can be brought to notice before the ceremony is actually performed. That, in my opinion, completely negatives any argument that there should be no period of time for notice to be given of the proposed marriage.

I want to say that I was rather disappointed to hear my hon. Friend (Mr. Sugrim Singh) say he was sorry to know that Hindu and Muslim priests

[Mr. Gajraj]

would be registered as marriage officers. For years and years the people in this Colony of Indian descent have been clamouring —

Mr. Sugrim Singh: I am sorry my friend did not understand me. I would like to see them registered as marriage officers. I want him to bear that in mind. I am sorry if I created the wrong impression.

Mr. Gajraj: I thank the hon. Member, but I had put down his exact words. However, those words may not have conveyed his views exactly.

There have been many others who have accepted this claim to be registered, and they must take the obligations which go with the privileges. All good citizens would agree that if one claims privileges one must also accept responsibilities.

So far as this important aspect of human life is concerned, it is my firm opinion that there should be a comprehensive Marriage Ordinance which will cover the requirements of all the people of British Guiana, whatever religion they may belong to. It is true that in Trinidad there are three Marriage Ordinances. There is in that colony a general Marriage Ordinance which like ours was drafted to cover those who belong to the Christian faith. Many years ago the Hindu Marriage law was passed, and then followed the Muslim Marriage law. I am not in a position to say how the Hindu Marriage law operates —I have heard the hon. Member (Mr. Sugrim Singh) say that the Hindu religion does not accept divorce. But in the case of the Muslim Marriage law in Trinidad, I am in a position to state that from the divorce angle there have been innumerable abuses and today the Muslims of Trinidad, or very many of them, refuse to have their daughters married under the Muslim Marriage and Divorce Ordinance and have them registered according to the general laws of the colony. In Islam, it is true, any person of proper age and education may preside over the marriage of two persons. There must be publication of the marriage and at least two credible witnesses to be there. In the matter of divorce Islamic methods are adopted and the marriage officers are also registered as divorce officers.

The very thing my friend (Mr. Sugrim Singh) was talking about: people getting married and at the same time the law being pushed aside, has been happening in Trinidad. Today the Ordinance is almost a dead-letter on the Statute Book of Trinidad. I would not like to see that happen here. We must benefit from the experience of others.

Here we are proposing to amend the Marriage Ordinance. We are not stepping on the corns of one or both of the religions concerned. All we are saying through this Bill is, "carry out your marriage ceremonies according to the tenets of your religion.' Indeed no one can make a priest perform a marriage ceremony in any other form than his church lays down. So no pundit or moulvi can be pushed into doing one thing or the other. But having carried out that marriage in accordance with his religion, he is bound by his acceptance of registration to have that marriage registered.

In order to make this thing apply 100 per cent. to all Hindoos and Muslims I am claiming that the very priests—the pundits and the moulvis—are the ones who should refuse to solemnize any marriage between a

couple unless that marriage is going to be registered, I lay this charge at their doors, that it is these pundits and moulvis who are to a great extent responsible for the confusion to which my hon. Friend (Mr. Sugrim Singh) referred. For if they are the ones accepted as religious heads in the various sections of the country and they are looked up to for guidance, and still they do not see to it that marriages in accordance with their religious laws are also made legal in accordance with the laws of the country, then no one else can be blamed for it.

To say that the parents of the parties marrying have also contributed to the ill-doing is not to state the truth. I know of many cases to which Mr. Sugrim Singh has referred, where the priests themselves have been saying, "Oh, it is not necessary to register the marriage" when it comes to the marriage of their sons. But I know that the same priests, when it comes to the marriage of their daughters, saying, "Boy, you have to sign this paper before you get married to my daughter."

In other words, they protect their own but not the daughters of other men. That I think is an unfair and wrong thing. I am sure I am going to be a very unpopular man among the pundits and moulvis as a result of what I have said; but truth is truth and it will stand the test of time.

I am glad my friend (Mr. Sugrim Singh) spoke of the grounds for divorce under the Indian Labour Ordinance; that if there is misconduct a party can take his or her case to the magistrate who is empowered to act as a judge, and if there is enough evidence he can decide that the marriage should be dissolved. That provision was made in the days when people were still coming from India as indentured Immigrants, when they did not know how to make use of the laws here, when they needed help and protection. But I say that for people who have been born here two generations after, that form of mollycoddling has no place.

Apart from that, there is protection of Indian wives. For example section 151 says:

> "151. Everyone who entices away or cohabits with the wife of an immigrant, or unlawfully harbours the wife of an immigrant who has left her husband without just cause, shall be liable to a penalty not exceeding twenty-four dollars or to imprisonment, with or without hard lahour, for any term not exceeding three months, or to both the penalty and imprisonment, and, on a second or any subsequent offence; shall be deemed guilty of a misdemeanour and be punishable accordingly:
>
> Provided that no one shall be convicted under this section for cohabiting with the wife of an immigrant if he establishes to the satisfaction of the magistrate or court before whom he is tried, that the wife was deserted by her husband, or that the husband compelled her to leave his house, or that the cohabitation was with the knowledge and consent of the husband."

Those provisions are put there for a people uprooted from their native country and brought here and not for those of us born here and who rub shoulders with the other races and consider ourselves equal citizens with all. I claim that the provisions of the Indian Labour Ordinance may remain in force as long as there are people here who are entitled to their benefits, but there is no such obligation for the younger generation.

[Mr. Gajraj]

My few words have indicated how strongly I feel in favour of this Bill. I feel it is a great step forward for Hindoos and Muslims when their respective religion is accepted as not inferior to the State religion, Christianity. I think it is something they should be proud of, that this Government appreciates and acknowledges.

If at any time the Hindu and Muslim sections of the community wish to put forward any proposals to the Government, this Government would be willing to give consideration to them. This Bill is what we need and I have no hesitation in saying that we should grasp it with both hands.

The Chief Secretary: I move that Council adjourn to Tuesday.

Council adjourned to 2 p.m. on Tuesday, 25th June, 1957.