

LEGISLATIVE COUNCIL.*Friday, 2nd January, 1942.*

The Council met at 12 noon. His Excellency the Governor, Sir Gordon Lethem, K.C.M.G., President, in the Chair.

PRESENT.

The Hon. the Colonial Secretary.
Mr. G. D. Owen. C. M. G.

The Hon. the Attorney-General,
Mr. E. O. Pretheroe, M. C., K. C.

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

The Hon. E. A. Luckhoo, O. B. E.,
(Eastern Berbice).

The Hon. E. G. Woolford, K. C.,
(New Amsterdam).

The Hon. E. F. McDavid, M. B. E.
Colonial Treasurer.

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

The Hon. M. B. G. Austin, O. B. E.,
(Nominated Unofficial Member).

The Hon. W. A. D'Andrade, O. B. E.,
Comptroller of Customs.

The Hon. M. B. Laing, O. B. E.,
Commissioner of Labour and Local Government.

The Hon. G. O. Case, Consulting
Engineer.

The Hon. B. R. Wood, Conservator
of Forests.

The Hon. F. Ogle, Director of Edu-
cation, (Acting).

The Hon. Percy C. Wight, O. B. E.,
(Georgetown Central).

The Hon. J. I. deAguiar (Central
Demerara).

The Hon. C. R. Jacob (North-West-
ern District).

The Hon. A. G. King (Demerara
River).

The Hon. J. W. Jackson (Nominated
Unofficial Member).

The Hon. T. Lee (Essequibo River).

MINUTES.

The minutes of the meeting of the Council held on the 31st December, 1941, as printed and circulated, were confirmed.

ANNOUNCEMENTS.

C. B. E. FOR MR. McDAVID.

THE PRESIDENT: Hon. Members, it is my pleasant duty this morning to congratulate the hon. Colonial Treasurer on the high honour—a very well deserved honour—conferred upon him by His Majesty the King. The hon. Colonial Treasurer is not only a man efficient in his professional duties, but he possesses that special quality which is of even greater importance in a public service, and that is moral courage. I have the greatest pleasure in expressing to him this congratulation in the name of the Government and, I am sure, of this Council.

Mr. LUCKHOO: On behalf of the Electives I desire to join Your Excellency in the congratulations offered the hon. Colonial Treasurer. I have always regarded the hon. Colonial Treasurer as a hard-working and conscientious officer. He is well deserving of the honour conferred upon him.

Mr. McDAVID (Colonial Treasurer): I do not know if I am in order, but may I be permitted to say how very deeply touched I am at the expressions which have fallen from Your Excellency's lips and from those of the hon. Member for Eastern Berbice (Mr. Luckhoo). I have been very fortunate in that I have served under some very able and efficient men and also that I have a good staff. I feel that any credit which comes to me falls not only on me personally but on those with whom

I am associated in my official duties. I beg to thank you, sir, and the Council for your kind expressions.

THE PRESIDENT: I have also one other announcement to make. Yesterday I not only congratulated the hon. Colonial Treasurer but I had a discussion with him on the authorizing of the expenditure for 1942. We were glad that we got through the draft estimates in Committee on New Year's Eve, but, as hon. Members know, pending the enactment of the Appropriation Ordinance there is no legal authority for the expenditure. Further, I require the concurrence of the Secretary of State for the Colonies for certain items, such as any important increase of expenditure or any increase in establishment. It has been the custom in such circumstances to issue a provisional warrant authorising the Colonial Treasurer to pay out any money necessary for the essential services. That was the previous custom, but this year in accordance with what I have already said to hon. Members of Council I have rather expanded that custom in three specific ways by saying, firstly, no expenditure shall be incurred on new appointments unless specifically approved; secondly, no expenditure shall be incurred on items in the Estimates shown as "Extraordinary" until a requisition has been made and specifically approved for the whole or part of the expenditure; and thirdly, on a large number of items which come under "other charges" I have directed that the expenditure be limited for a period of the year—up to the 30th June—and thereafter the Heads of Departments will be required to come to Government and make requisition for further expenditure.

This last system of requisition has not been in common practice in this Colony, but it is one to which I am accustomed and has certain advantages. One advantage is that only a limited portion of the sum allowed on the Estimates is issued to the Heads

of Departments. That enables necessary savings, if required, to be enforced in a late period of the year, but still more it makes it necessary for the Heads of Departments to come to Government quarterly or at the end of the half year and say whether their votes are going to cover anticipated expenditure, whether they want more or whether savings will be effected. That is the procedure I propose to put into effect. That brings home more than any other the personal responsibility of the Heads of Departments, and a great advantage, as I have already said, is that it will act as a liaison between the Council in respect of its financial responsibility and the Executive Government and bring them together as closely as possible. I have said that I was somewhat concerned with the extraordinary number of special warrants issued within the last few days. I am very well aware of the difficulties—the rise in prices and rise in wages—but at the same time I would like to see another procedure followed, where the Executive Council is not directly concerned with finances whereas the Legislative Council very definitely is. I hope that the steps I take now in regard to expenditure on the 1942 vote would bring about that liaison between the Executive Government and the Legislative Council I desire.

To-day's business is the consideration of three Bills—the Summary Jurisdiction (Offences) Bill, of which it is only proposed to take the first reading and not proceed with the later stages. I propose to proceed with the later stages of that Bill only after we have considered and dealt with the Labour Bill. In respect of the Labour Bill, there is a number of amendments to clauses which will be taken in due course in Committee, but I do not think they go to the essence or crux of the Bill. I therefore see no particular objection to our debating the second reading this morning on the principle and essence of

the Bill, and I shall be glad to proceed with that stage as far as I can without going into Committee on the particular clauses.

With those remaining Bills there is other business that we have in front of us. We have a resolution that we must take on the present Constitution. The other resolution is the one that I intimated to the hon. Member for Central Demerara (Mr. de Aguiar). I am prepared to consider on the manner of the placing of certain items—self-balancing expenditure or loans—in our Budget and any other business of that kind. I hope to complete the business of the Council this month, because I am very desirous of spending a good deal of the month of February in the Essequibo district. There are certain proposals which the Comptroller for Development and Welfare in the West Indies is prepared to support. They are not, perhaps, major ones, but ones which he and I regard as being particularly important, and I shall like to make a first-hand acquaintance with them before the visit of the Comptroller in March.

I therefore propose to proceed with the business of the day.

ORDER OF THE DAY.

SUMMARY JURISDICTION (OFFENCES) (AMENDMENT) BILL, 1941.

THE ATTORNEY-GENERAL (Mr. Pretheroe): I ask leave of the Council to introduce and have read the first time the following Bill:—

A Bill intituled an Ordinance to amend further the Summary Jurisdiction (Offences) Ordinance, Chapter 13.

MR. SEAFORD seconded.

Question put, and agreed to.

Bill read the first time.

THE ATTORNEY-GENERAL gave notice that at the next or a subsequent meeting of the Council he

would move that the Bill be read the second time.

DIAS PENSION BILL, 1942

THE COLONIAL SECRETARY (Mr. G. D. Owen): I move that the following bill be read a second time:—

A Bill intituled an Ordinance to make provision for granting pensions to Marjory Aileen Dias and Richard Frederick Francis Dias, widow and child, respectively, of Frederick Francis Dias, deceased.

Mr. Dias lost his life in 1940 while he was performing his public duties. He came under the Old Pension Act, Chapter 204, which made no provision for payment of any special pension either to a widow or a child or children in such circumstances. In November last a Bill was passed by this Council enabling the dependents of officers to be granted special pensions in future, if accidents of that sort occur when an officer is performing his duties. Government feels that in view of the circumstances surrounding Mr. Dias's death, the Legislature should be asked to pass a special Bill granting special sympathetic treatment to the widow and child in this case. I move that the Bill be read a second time.

MR. McDAVID seconded.

MR. LUCKHOO: Whatever is to be granted as the result of this Bill, I take it, will take place as from the date of death.

THE COLONIAL SECRETARY: That is the proposal.

Question put, and agreed to.

Bill read the second time.

The Council resolved itself into Committee and proceeded to consider the Bill, clause by clause.

Clause 1—Short Title.

THE ATTORNEY-GENERAL: I

move that the clause be amended by substituting the figures "1942" for the figures "1941," in the second line thereof.

Question put, and agreed to.

Clause as amended passed.

The Council resumed.

THE COLONIAL SECRETARY moved and Mr. McDavid seconded: that the Bill be read a third time and passed.

Question: "That this Bill be read a third time and passed" put, and agreed to.

Bill read the third time.

LABOUR BILL, 1942.

THE PRESIDENT: There is a number of amendments to be taken in the Committee stage, but there can be no objection to commencing the debate on the essence of the Bill in the second reading.

Mr. SEAFORD: May I ask if it is possible for consideration of this Bill to be deferred and the second reading taken at another time? My reason is, it is a very important Bill affecting the whole Colony—the people in the Colony, interests and everything else—and, as you see, sir, there are very few Elected Members present. I feel sure that had it been known that this Bill was coming up to-day they would all have been here, especially those of the Legal fraternity, who we always hope and look forward to, to help us when matters such as this come up for discussion. Further, I accept Your Excellency's word for it, that there is nothing in these amendments—4 pages of them—but I would like to go through them. One does not know how they affect the Bill and, perhaps, much of what one might say now might be wasted and unnecessary after having gone through them. May I

suggest that when any important Bill, such as this, is coming up for consideration that notice thereof be given Members of Council? It came rather as a surprise to all of us when we heard that this Bill was to be taken to-day.

THE PRESIDENT: Perhaps I am at fault for not intimating it the day before yesterday, but it does seem to me that hon. Members should have been aware of it. I have great sympathy with what the hon. Member says, but I am very anxious to get on with public business. One other matter comes into the question and that is, several Government Officers will be unable to be present next week, and that is due to the fact that I have already postponed for a whole month very important matters touching Development and Welfare Schemes, and had notified the Council during the last week in December that I proposed getting right ahead with them. Therefore I propose not to take any controversial business of the Council during the whole of next week.

Coming back to the hon. Member's point—that a large number of Elected Members wish to take part in the debate on the second reading of this Bill—I appreciate that very much, but at the same time I am anxious to get a start. I do not think there will be any objection to the motion for the second reading being moved. I see very definite advantages in that, as anything said will be on record. If any other hon. Member wishes to address the Council this morning he can also do so, and after that, if it is the feeling of Unofficial Members that the matter be not put to the vote with this large Government majority in the Council, I am perfectly prepared to let that stand over. We have got four hours in front of us, and can we not whip up some of these recalcitrants? For all I know, it may be obstruction on their part. We will see how far we go to-day.

Mr. LAING (Commissioner of Labour

and Local Government; I beg to move the second reading of—

A Bill intitled an Ordinance to provide for the appointment of a Commissioner of Labour, for the regulation of the relationship between employer and employees and for the settlement of differences between them.

When I was appointed in 1938 to my dual post of Commissioner of Labour and Commissioner of Local Government, one of my instructions as Commissioner of Labour was "to study legislation dealing with labour matters and to submit recommendations to Government for revision." In the same year, 1938, the preliminary draft of the Labour Code was prepared and submitted to Government, and after full consideration by the Law Officers and the Executive Council it was published for general information in April, 1939. At the same time the comments of interested persons and bodies were asked for. In 1939 I was absent from the Colony on sick leave in England, but in 1940 the preliminary draft of regulations in regard to the safety of workers on docks and ships was submitted and also the preliminary draft of the Factories Bill and the preliminary draft of a Bill to regulate the hours of work particularly at night in bakeries. I may say that all these Regulations and Bills were drafted with the assistance of Committees consisting of representatives of the employers and representatives of the employees. Last year recommendations were submitted by a Committee of which I was Chairman regarding improvement in the working hours and conditions of employment of shop assistants.

A degree of impatience has been expressed by the Trades Unions and other persons concerned regarding the delay which has occurred in placing these several matters before this Council, but I wish to make it quite plain that the success of a Labour Department does not depend entirely on legislative sanction. Since my appointment in 1938 I have made every endeavour to establish the vol-

untary principle in dealing with all labour matters. The voluntary principle has worked successfully in England and the results achieved are lasting. It presupposes a strong organization of the employers on the one hand, and an equally strong organization of labour on the other, both parties having more or less equal bargaining power. But while the organization of labour in this Colony may be regarded as weak, it has gathered strength and I considered it sufficient to proceed with the voluntary principle. Employers have therefore been encouraged to adjust their wages, rates and conditions of employment, by collective bargaining and to compose their differences, which must arise from time to time, by direct negotiation between the representatives of the employers and the representatives of labour. Considerable advance has been made in establishing this principle.

The Labour Branch of my Department was formed during a period of acute discontent. Strikes had been frequent, some short and sporadic but others bitter and prolonged. The workers generally had become more assertive, and Trades Unions had been formed. In fact, the relation between the management of the various undertakings and the working people was the greatest problem confronting my Department at the time. It was realized that some settled relation between the employers and the Trades Unions was essential, but the obstacles to be overcome on both sides were considerable.

After the Labour Branch of my Department was formed, strikes continued and, I think, this introduced in the minds of the employers a hostile bias against Trades Unions. This feeling was not entirely unjustified for the reason that the Trades Unions did not live up to many of their undertakings, but I think, too, that the employers expected a higher standard of efficiency, responsibility and organization from

the local Trade Unions than could be reasonably expected at this stage of their development. Perhaps, too, it was overlooked that the less healthy traits in a trade union are more likely to be overcome by toleration than by repression. Be that as it may, considerable strides have been made in the settlement of relations between employers and Trade Unions.

The policy of the Department, as I have stated, is to try and get the parties concerned to compose their differences by direct negotiation, and intervention by my Department does not occur until reasonable opportunity has been given for reaching a settlement. If hon. Members would refer to the reports of the labour section of my Department for the years 1938, 1939 and 1940, it would be seen that in 1938 there were 37 stoppages of work; in 1939 when I was absent from the Colony for many months in England the stoppages increased to 71; in 1940 there were eight stoppages of work and last year (1941) there have been 16. It is important here to observe that although the number of strikes increased during 1941, I found it necessary to intervene in only four instances. I might say that the increase in the number of strikes during 1941 was not unexpected, for the reason that the continual upward movement in the level of prices and the cost of living indices has only been neutralized, to a small extent, by the addition to the wages of workers of war bonuses. Results achieved show that the foundation of the voluntary principle has been well and truly laid. The officers who are to take over this part of my work, building on this foundation and working in the more tranquil atmosphere which has been created, will therefore be able to do much to further advance the welfare of the working people of this Colony.

But while the voluntary principle works well with the good employers there have been occasions—too many

occasions—on which my Department has been rendered impotent owing to the lack of some residual power in dealing with the not so good employer. It is this power that the Bill now before the Council seeks to give to the Commissioner of Labour.

Turning to the Bill itself, it will be seen that, among other things, it provides for the appointment of a Commissioner of Labour, for the regulating of the relationship between the employers and the employees and the settlement of differences between them. Apart from the definition clause—clause 2—the Bill is divided into nine parts. These parts are:—

- (1)—Appointment of Commissioner of Labour and Staff;
- (2)—Conciliation;
- (3)—Regulation of Wages;
- (4)—Rights of Employees and Duties and Obligations of Employers;
- (5)—Payment of Wages and Deductions therefrom;
- (6)—Prohibition of Payment of Wages in Retail Spirit Shops;
- (7)—Accidents;
- (8)—Hours of Work of Employees;
- (9)—Miscellaneous.

The Bill is in the main an adaptation of certain provisions of English Acts. These are the Conciliation Act, the Industrial Courts Act, the Trade Boards Acts, The Truck Acts, the Payment of Wages in Public Houses Prohibition Act and the Notice of Accidents Act. I would like to state at the outset that while we always go to England for a model for all social legislation, these Acts have not been lifted out of the English Statute and applied wholesale, but have been modified considerably to meet local requirements.

Clause 2, which is the Definition clause, defines "Contract" or "Contract of Service," "Employer," and "Wages." These definitions are taken

from an existing Ordinance—Employers and Servants Ordinance—Chapter 261. The expression “employee” is not defined in clause 2, so that (except in Part IV where “employee” is defined and in Part VIII which does not apply to shop assistants) it would be possible, in case of need, to make use of the provisions of the Ordinance with respect to any class of employee whatsoever. The expression “occupation” is defined in its widest possible sense as including agriculture, business, commerce, industry and trade.

Clause 3 provides for the appointment of a Commissioner of Labour, an Assistant Commissioner of Labour and his staff. As you have informed this Council, sir, these appointments have been already made and the Department has been already set up.

THE PRESIDENT: The hon. Member cannot say the appointments have been made, but he can say that provision has been made for them. I have asked for that, but I am not yet informed whether the appointments have been made.

Mr. LAING: Thank you, sir. Provision for these appointments has been made, as Your Excellency stated. Part II deals with Conciliation. Despite the general effectiveness of the voluntary machinery which has been set up by some employers and the Trade Unions for the settlement of disputes as they arise from time to time, disputes are bound to arise in which there is failure to reach a settlement. Provision has, therefore, been made in clause 4 for assistance to be available for preventing and settling such differences. This assistance is at present rendered by the Labour Department. Sub-clause (1) (a) and (b) is taken from the English Conciliation Act of 1896 and gives legislative effect to the existing practice to which I have referred, while sub-clause (1) (c) is also an adaptation of provisions from the Conciliation

Act of 1896 and the Industrial Courts Act of 1919, and provides for the settlement of differences by an arbitrator. It will be noted that the arbitrator is to be appointed by the Governor and arbitration proceedings are not taken, unless the consent of both parties to the difference has been secured. Sub-clause (3) provides for the keeping by the Commissioner of a record of all settlements of differences between employers and employees by way of conciliation or arbitration.

The object of clause 5 is that arbitration proceedings shall not be subjected to legal technicalities of any kind. I might mention that provisions relating to conciliation are applicable to all employees; that is to say, to all persons employed in any occupation.

Part III of the Bill deals with the regulation of wages. Recognition by employers of the right of Trade Unions to negotiate with them in all matters affecting either the common or the individual interests of their members has led to an improvement in the settled relations between the employers and the Trade Unions. As a result of these better relations it has been possible to promote collective bargaining. But while it is desirable that wages and conditions of employment should also be regulated by joint negotiation between employers and representatives of Trade Unions, experience has shown that provision for statutory wage regulation is necessary. Further, no legislation has been introduced in this Colony to give effect to the International Labour Convention (No. 26) relating to minimum wage-fixing machinery.

Part III of the Bill reproduces the substance of the Trade Boards Act of England, the details of which have been considerably modified, and provides for a simplified procedure. The Trade Boards' system is the oldest existing system of State wage intervention in Great Britain. The earlier

Act was framed after some 20 years' agitation for the suppression of sweating. The earlier Act therefore relates only to certain trades known at that time as sweated trades. The later Act is based on the recommendations of the "Whitley" Committee and extends the provision of the earlier Act to all trades in which there is no adequate machinery for the effective regulation of wages. When a Trade Board desires to fix or vary a rate of wages, public notice of such proposal must be given and, if after considering any objections thereto by employers or employees it is decided to fix or vary that rate, the matter is brought to the notice of the Minister of Labour and he normally makes an Order confirming the rate or variation. These Orders are enforceable under penalty of a fine. The employers concerned are required to exhibit copies of these Orders and to maintain such records of hours worked and wages paid which are necessary to show that employees are paid at not less than the appropriate rate. I may say that in England there are some 50 Trade Boards dealing with 43 trades.

Clause 6 in Part III of the Bill empowers the Governor-in-Council to appoint an Advisory Committee to investigate conditions of employment in any occupation and to make recommendations as to the rate of wages which should be payable. The Advisory Committee will, as do the Trade Board of England, include representatives of employers and employees and such other persons as the Governor-in-Council may deem fit. The Order, which is made by the Governor-in-Council as the result of the recommendations of the Committee, may relate to time rates, piece rates and overtime rates or any of them. This is provided for in clause 7, sub-clause (2). "Overtime rate" is defined in clause 7 (6) and this definition should be read in conjunction with clause 38 in Part VIII, which confers power on the Governor-in-Council to make regula-

tions as to the hours of work in any occupation.

The procedure to be adopted before the Governor-in-Council makes an Order is laid down in clause 8. This clause is adapted from the First Schedule of the Trade Boards Act of 1918. Clause 9 provides for the keeping by an employer of a record of wages when an Order has been made under clause 7 prescribing the rates of wages payable. Clause 10, sub-clause (1), provides for the employment of persons incapable of earning wages at the prescribed rates. Such persons may be employed at a less rate with the permission of the Commissioner of Labour and subject to such conditions as he may prescribe. The effect of clause 11 is that the deductions which may be lawfully made from wages under Part V (Clauses 22 to 30) of the Bill under ordinary circumstances cannot be made when wages have been prescribed under Part III of the Bill. It will be observed that where an Order has been made, an employer may not make deductions which are mentioned in clause 27 of the Bill but may only make deductions in respect of loans advanced on account of wages and tools and implements supplied by the employer to his employee.

Clause 11, sub-clause (3), provides for the recovery of wages from the employer when a conviction has been recorded for failing to pay wages to an employee at not less than the prescribed rate. Sub-clause (4) provides that when the offence of failing to pay wages at not less than the prescribed rate has in fact been committed by an agent of the employer, the agent shall be liable to be proceeded against for the offence in the same manner as if he were the employer. Sub-clause (5) provides for the exemption of the employer from conviction of the offence of failing to pay wages at not less than the prescribed rate when he proves to the satisfaction of the Magistrate that he has used due diligence to enforce the execution of

Part III of the Bill, and that the offence was committed by his agent without his knowledge, consent or connivance. In such an event, however, the Magistrate may still order the employer, under clause 11 (3) to pay to the employee any sum which appears to be due to the person on account of wages. Sub-clause (6) is adapted from the Trade Boards Act of 1909, and its object is to provide that if an employer pretends or seeks to make it appear that he is not an employer, as for example, that he is purchasing goods from the worker, he shall be deemed to be the employer of the worker. It therefore prevents evasion of the penalty for failing to pay wages at the prescribed rate. Sub-clause (8) provides that on any prosecution of a person for failing to pay wages at not less than the prescribed rate, it shall be on that person to prove that he has not paid wages at less than the prescribed rate. Here I may mention that this is adapted from the Trade Boards Acts of 1909 and 1918.

Clause 12 empowers the Commissioner of Labour in circumstances therein stated to take civil proceedings against an employer for the payment to an employee of wages at the prescribed rate. Clause 13 (1) empowers the Governor to appoint officers for the purpose of investigating complaints, and provides for the enforcement of their power of entry and inspection. Clause 14 provides that any agreement for the payment of wages in contravention of Part III of the Bill shall be void. This also is an adaptation from the Trade Boards Act of 1909.

Part IV of the Bill deals with the rights of employees and the duties and obligations of employers. Clause 15 excludes domestic servants, shop assistants, clerks, out-workers and railway workers in receipt of a salary of more than sixty dollars (\$60) a month, members of the employer's family dwelling in his house, or a person whose employment is of a casual nature,

Neither a shop assistant nor a clerk is at present a "servant" within the meaning of the Employers and Servants Ordinance, Chapter 261, which is the law at present in force. Clause 16 relates to the duration and the mode of determination of a contract of service. A contract of service is defined in clause 2. Clause 16, I may mention, is adapted from the existing law, Chapter 261.

Clause 17 provides that an employer shall inform the employee upon the offer to him of piece-work or time-work or as soon after on the same day as may be practicable, whether he is to be paid wages for it by piece-rates or time-rates, or at what rate. It is felt that a worker has a right to know what is the value of the task he undertakes before he commences work on that task. Clause 18 specifies the remedies available under Part IV to an employee against his employer for breach of contract, and is adapted from the Employers and Servants Ordinance, Chapter 261. It will be noticed that clause 18 provides for the award of compensation but does not impose a penalty. Clause 19 (1), which relates to the time for payment of wages, is adapted from the Employers and Servants Ordinance, Chapter 261; subclause (2) relates to the remedy of the employee, for payment of his wages and is also adapted with modifications, from the existing law, and so also is subclause (3). Clause 20 prohibits the attachment of the wages of any employee. There has been some discussion on this point; and here I may remark that this clause is adapted from the Wages Attachment Abolition Act of 1870.

Clause 21 preserves the right of an employee to recover damages or wages under the common law. It will be observed that the provisions of the Employers and Servants Ordinance, Chapter 261, relating to penalties on an employee for breach of contract or for negligence in his work have been

omitted in the Bill. Your Excellency is no doubt aware of the correspondence that has taken place from time to time in regard to the abolition of penal sanction. The provisions in the present law are objectionable. If reference is made to clause 39 of this Bill, it will be seen that it provides for the imposition of a penalty on an employee who having entered into a contract receives an advance of wages and fails to enter upon his service without having repaid the advance. There has been considerable correspondence on this point, but I would like to point out that it is considered that where a man takes an advance and does not enter upon his employment it is really a species of fraud on the employer. The penalty imposed is not for a mere breach of contract and, therefore, it is considered that this penal sanction should be retained.

Part VI of the Bill prohibits the payment of wages in retail spirit shops. I think the reason for this provision is obvious to all persons. Part VII of the Bill deals with the question of the notification of accidents. In this case, it will be noted that an amendment to the Bill has been proposed. The reason for this is that since the drafting of the Labour Bill the Dock Regulations and the Factories Bills have also been drafted and these provide for the notification of accidents at docks and in factories. It is therefore considered necessary to redraft clause 34 of the Bill so as to bring it into line with the existing practice. I may remark that although the law at present does not provide for the reporting of accidents, employers have very willingly rendered returns so that some statistics may be prepared in connection with the accidents that occur. These statistics are available to me at the present time and have proved of very great assistance. Clause 35 empowers the Governor-in-Council by order to direct a formal investigation to be held of an accident involving loss of life or bodily injury. It is the Accidents Investiga-

tion Ordinance, Chapter 267, which, it will be noticed, clause 51 of the Bill seeks to repeal. The Clause merely re-enacts the existing law on that subject.

Part VIII of the Bill gives power to the Governor-in-Council to make Regulations, prescribing the number of hours which may normally be worked by an employee in any week or any day in any occupation and the time to be allowed by the employer to his employee for his meals. The provisions of clause 38 do not apply to shop assistants for the reason that their hours of work are now defined in the Shops Regulation Ordinance, Chapter 77.

Part IX of the Bill deals with miscellaneous matters. I have already referred to clause 39.

The remaining clauses of the Bill deal with matters relating particularly to procedure. But clause 41 is of importance inasmuch as it gives power to the Commissioner of Labour to visit and inspect premises in which labour is employed and to obtain and to require from the employer information as to the wages, hours and conditions of work of those employed. This clause is also to be amended to make provision for the amendment in the Part of the Bill dealing with accidents and to give power to the Commissioner to ask for returns in relation to accidents.

I do not think the other clauses require any further comment except clause 51 which seeks to repeal certain existing laws amongst which is the Apprenticeship Ordinance, Chapter 195, which combines Ordinances 1 of 1854 and 21 of 1861. It is obsolete and contains provisions which cannot be defended at the present day. Apprenticeship is now provided for under the Board of Industrial Training which has been resuscitated. I commend this Bill to the favourable consideration of Members of this Council.

Mr. WOOD (Conservator of Forests) seconded.

THE PRESIDENT repeated his remarks made earlier in Council as to the necessity for proceeding with the second reading of the Bill as far as possible that day, owing to the fact that the Council would not be sitting during the following week as both he and the hon. Mover of the motion (Mr. Laing) would be going on a visit to the Essequibo Coast during that week.

Mr. LEE : I would like to say that I welcome this Bill on behalf of the workers of the Colony, but there is one omission I notice in the Bill and that is in respect of the payment of wages of registered workers in the interior. Certain capitalists or foreign investors come to this Colony and form local companies which contract labourers to work in the interior, and later the concerns fail and the contractors are not held liable for the wages due to the workers. That has occurred on more than one occasion in this Colony, and I am asking Government to consider the inclusion under Part V of some provision whereby the wages of registered workers in the interior will be protected.

Another point that I would like to bring to the notice of Government is : that arbitration or conciliation cannot be done except with the consent of both parties. I am asking Government to consider the question of introducing legislation whereby, if in the opinion of Government there is no attempt at arbitration in a dispute, Government should have power to order through the Commissioner of Labour compulsory arbitration. In saying that, I voice the opinion of the workers. Your Excellency, within the last few years disputes have occurred and employers just sat on the fence and refused to take the matter to arbitration ; they refused to attend meetings called by the Commissioner of Labour and so caused a deadlock

between their employees and others working under employers who are willing to go to arbitration. I feel that in such an event Government should be in a position to compel some form of arbitration by making it compulsory for those employers to abide by the result of the arbitration. Employers are realizing now, however, that arbitration and conciliation are the best methods of dealing with disputes. The Trade Unions in this Colony have just started and require some measure of force whereby both employers and employees can be made to see some reason and logic in settling their differences. I may say that legislation compelling arbitration is only a war measure at the moment, but at the same time it has done much good in settling many disputes.

I would also like Government to define "casual labour" in order to prevent any dispute between employers and employees. There is no definition in this Bill in respect of casual labour, and such a definition will make both employers and employees know the true position definitely. I must draw the attention of Government, too, to the fact that Part III of the Bill depends on the constitution of the Executive Council. If the future constitution of the Executive Council would be without Members of the Legislative Council then I would take exception to clause 6 (2), because I feel that in any dispute between employers and employees after the representatives of both employers and employees have been chosen by the parties the Governor should have authority to say who should sit on the Board as Government nominees. If the Executive Council would be comprised of all Members drawn from the Legislative Council whether they be Nominated or Elected Members, then I feel that this clause is in order because they can come to this Council and be able to answer any criticism which may be hurled at any arbitration proceedings at which they were members of the Advisory Committee.

Under Part II, clause 5 (2) gives the Governor-in-Council power to make Regulations for the conduct of arbitration proceedings, but after having arrived at a decision by arbitration which will be to the detriment of both employers and employees, I feel Government should be given power to enforce the Committee's decision. The Commissioner of Labour has quoted no particular case. But when there was the bakers' dispute in respect of night work, some of the employers were willing to fall into line under a trade agreement carrying out a recommendation which was beneficial to the industry and some others were against that, with the result the workers were left without redress in the enforcement of the recommendation although it was admitted that the recommendation was beneficial. I feel sure that if Government could have that power it would be beneficial to all parties. The Bill does not give power to the arbitration proceedings being of a semi-judicial nature where the representatives will be acting in a manner which will be just. I feel that the Bill should have such a provision, as thereby witnesses would be made to give evidence on oath and could be dealt with by punishment for false testimony. In these proceedings the truth is wanted in order to give justice to both parties, and I feel that provision should be made for that purpose.

The Bill provides in clause 20 that no order for the attachment of the wages of any employee shall be made by the Supreme Court or a Magistrate's Court. Your Excellency, although I am not in favour that no attachment of workers' wages should be made, yet at the same time I think that in fairness to the shopkeeper, who has credited the worker during the whole month, he should be protected. That shopkeeper has to a certain extent credited those goods which he sold on credit to the worker, and he is liable for payment while the worker goes scot-free. That should not be. I am of the opinion that

certain exceptions should be made, especially where the debt contracted by the worker is for essentials or necessities. Attachment of his wages in such a case will be fair and just. It can be said that there is remedy in judgment-summons proceedings, but in these days that is very expensive to some poor people who board and lodge workers, and in that way the ends of justice are defeated to a certain extent.

I must commend the Commissioner of labour on his review of the Bill. It is an impartial review of the whole trouble between employers and employees. He has given to the public a fair view of what are the difficulties of Labour, both from the point of view of the employer and the employee. The workers are very anxious that this Bill be put through as early as possible in order that their minimum wage, which in their opinion will be the maximum wage they are receiving, will be settled as early as possible. I would like employers to understand that the wages paid previous to the war were not commensurate with the cost of decent living, and so when considering the fixing of a minimum wage in any branch of work I make the appeal that every aspect of the matter be considered in order that a proper, just and fair wage would be given to the worker.

Mr. AUSTIN: I just rise to say that it is inevitable that a Bill of this nature should come before this Council, and the time has arrived that it should go through. Although employers do not see eye to eye with all the clauses of the Bill, yet they hope that in the Committee stage their objections will be thrashed out and the clauses put in a proper form. I hope that some alterations will be made which, however, will in no way interfere with the general meaning of the Bill. I do not want to go too deeply into past history. This Bill begins a new era and I trust that Capital and Labour will be able to work satisfactorily for the good of both

parties and for the good of the Colony as a whole. I agree with the hon. Commissioner of Labour and Local Government that conditions during recent months have improved a great deal, and I think some of the past misunderstandings would never have occurred if the leaders of the Labour Union had been really leaders of the working-people. I know them all personally, and they have told me—not privately nor in confidence—that they have a hard road to plod, and there must be a certain amount of trouble when they have to deal with a crowd which really has no understanding of Labour Union ideas.

I feel sure we are going to have a better time in the future, as these leaders—I do not mean it impertinently—are going to be educated into the new ideas which obtain generally. It is obvious already, as when we as employers meet these labour leaders there is a friendlier feeling than there was at the beginning of 1941. There are one or two points I would like to raise when we are in Committee on the Bill and I will conclude now by saying that I hope we shall see happier times in labour matters in this Colony.

Mr. KING: May I rise to a point of order? I have no desire to speak on the second reading but if I may, I wish to make a suggestion to Government that it may be advisable for Your Excellency to see your way to appoint a small select committee of this Council consisting of Members of the Nominated and Elected Sections to go through this Bill before it comes to be finally considered by this Council. I remember when a Bill of a somewhat controversial nature was before this Council that a good deal of time was saved by the Governor appointing a small committee which thrashed out the provisions and came into the Council with a Bill acceptable to most of the Members. I feel sure much more will be accomplished in a round table conference of that nature than in this Council where speeches will

be made on the various aspects of the Bill. Personally, I feel that we would save a tremendous amount of the time of the Council if that suggestion is adapted.

THE PRESIDENT: I am not personally aware of the history of the Bill before the Council, but I think it has been a long time under consideration.

Mr. LAING: It was first published in April, 1939, but it has been revised from time to time. The Bill now before this Council was published in November, 1941.

THE PRESIDENT: It has been published two months. As I have said there can be no objection to proceeding with the second reading. I am quite prepared to appoint a select committee for the consideration of the Bill before the Council goes into Committee on it. Has any Member any other point or suggestion to make?

Mr. LEE: When this Bill was published in 1939, I think, Government said they were sending it to the Secretary of State for the Colonies for his approval. I do not know if I am correct in assuming that that has been done, but the Trade Union has received a communication from England to the effect that the Bill as submitted is acceptable. Consequently I believe it was sent to the Secretary of State for the Colonies and accepted by him.

THE PRESIDENT: As I have said in my address to the Council at the opening of the Annual Session, I am bound to put forward labour legislation and, I think, that is quite well known. I do not think there is any need to delay the second reading, but consideration in the Committee stage is another matter.

Mr. LAING: May I suggest that a select committee be appointed before the Bill goes into Committee of the Council, so that we may discuss among

ourselves the several amendments that Members of the Council may wish to propose ?

THE PRESIDENT : That seems to be workable.

Mr. KING : Am I to understand, Your Excellency, it is intended to proceed with the second reading to-day ?

THE PRESIDENT : I do not say we must proceed to the vote to-day, as that is a different matter. I have been asked to defer consideration of the Bill, but I would like to see how far we go with the second reading to-day. I do not see a large number of Unofficial Members present to vote. I think that is unfortunate, and there may be reason for it. Discussion is now open on the second reading. (*After an interval of a few minutes*). Is it the feeling of Unofficial Members that we defer the debate ?

Mr. SEAFORD : Personally I would rather have further debate deferred as I want to get legal advice on one or two points.

THE PRESIDENT : But the Bill was published since November.

Mr. SEAFORD : Admittedly, but I do not know what are all these amendments that have been submitted.

THE PRESIDENT : The hon. Commissioner did not refer to them in detail.

Mr. LAING : The proposed amendments do not affect, as Your Excellency has said, the essence of the Bill. There is a number of amendments dealing with the question of notice of accidents ; they are merely for the purpose of bringing clauses 34 and 35 into line with the appropriate draft clauses in the Docks Regulations and the Factories Bill. The other amendment dealing with the regulation of wages under clause 27 provides particularly for the balata industry. The clause

states that the total amount which may be deducted from an employee's wages in any one month for the various items enumerated from (a) to (f) in sub-clause (1) shall not exceed one-third of the wages in that month. In the balata industry the workers are not paid by the month but at the end of the trip, payment being made in accordance with the amount of balata collected. The advances made by the employer are deducted from the amount then. The amendment is introduced to give effect to that local practice. The amendments are rather long occupying four typewritten sheets, but they do not affect the essence of the Bill.

THE PRESIDENT : The second reading is on the principle of the Bill which has been known to hon. Members since 1939 and recently again since November 1941. Is there any need to lose two and a half hours to-day by deferring the second reading to week after next ?

Mr. SEAFORD : Unless we can appoint a committee to go into the Bill in the meantime. Would it not save time if a committee is appointed ? That will not interfere with the second reading and the committee can meet during next week.

THE PRESIDENT : That seems a very good suggestion, but the Commissioner himself will be away.

Mr. LAING : I have no objection to the appointment of a committee. I think that committee's decision will be very useful in the Committee stage of the Bill.

Mr. SEAFORD : I have several amendments I would like to move, and, if we could discuss them among ourselves it would save a lot of the time of the Council in the Committee stage.

THE PRESIDENT : I have no objection to that course and to adjourning the debate on the second reading.

Mr. LEE: I do not see the necessity for postponing the second reading. The amendments can be discussed in Committee of the Council. I feel that after the second reading is gone through, a committee can then be appointed to go into the details of the Bill before the Council proceeds with its consideration of the Bill in Committee.

THE PRESIDENT: The point has been made that a number of Unofficial Members, who are not here would like to speak on the Bill.

Mr. LEE: I do not think so.

Mr. KING: I know at least two Members, who are not here and who are very anxious to be present when this Bill is being discussed, will have much to say in the matter.

THE PRESIDENT: They cannot turn up to-day?

Mr. KING: No, sir; they are engaged in another place.

Mr. LEE: I would not like it to be said that I assisted Government to "shut their mouths" (laughter), but I feel they have had this Bill since 1939 and they could have expressed their views by letter to Government.

THE PRESIDENT: Hon. Members only had notice this morning that we were going to debate the second reading to-day.

Mr. SEAFORD: There is no point in saying that Members can express their views by letter to Government, as I am afraid Government does not take much cognizance of them. Another Member did write Government on the point.

THE PRESIDENT: I take it the general feeling is that we defer the debate on the second reading. Before doing so the hon. Commissioner of Labour and Local Government will reply to the points raised.

Mr. LAING: The hon. Member for Essequibo River (Mr. Lee) has referred

to contract labour, particularly in the hinterland. If he refers to the original Bill as published in 1939 he will find that a part of that Bill refers to the question of contracts. After giving the matter very careful consideration this Government decided to take that part out of the Bill now before the Council. A separate Bill dealing with contracts is in draft and will be placed before this Council at a later date. In that draft Bill full provision is made to safeguard the wages of labourers in the hinterland.

As regards the question of compulsory arbitration, the hon. Member is a leading Trade Unionist and he should know that the Trade Unions in England have steadfastly opposed the question of compulsory conciliation or arbitration, for the reason that they adhere to the voluntary principle in dealing with all matters in regard to the adjustment of labour differences. He has stated, and is correct, that there is at the present time in England provision for compulsory conciliation and arbitration. But that is a war measure and it should not form any part of the Bill before the Council to-day. The hon. Member struck the nail on the head when he referred to an arbitration tribunal as being a semi-judiciary body. That is the reason why the Trade Unions in England as a whole are opposed to compulsion in these matters. Representatives of Trade Unions and employers, meeting around a table in friendly discussion of difficulties, are more likely to come to a satisfactory settlement than if they come before a judicial tribunal as adversaries and litigants.

He also considers that any decision of the arbitration tribunal should be enforced by law. That seems reasonable but the difficulties are very great. If the arbitrators come to a decision which a large section of Labour disagrees with, it would be impossible to coerce Labour into carrying out the decision of the arbitrators. This is the

reason why I am satisfied that if arbitration proceedings are commenced there must be agreement on both sides to accept the award of the arbitrators.

THE PRESIDENT: Is it not fair that the rate of wages should be made compulsory? You cannot have compulsory arbitration, but you can have compulsory wages.

Mr. LAING: Compulsion is provided for in regard to the payment of minimum wages. The Governor, if he thinks fit, may appoint an Advisory Committee under Part III of the Bill and if on its recommendations the Governor-in-Council make an order prescribing minimum wage, payment of those wages may be enforced by law under penalty.

THE PRESIDENT: In other words, that and the section dealing with hours of work give compulsory power in the same way as if the arbitration was compulsory.

Mr. LAING: The hon. Member referred to the constitution of the Executive Council under the new Constitution. I am not qualified to discuss that matter. I think, however, the hon. Member would be satisfied with the constitution of the Advisory Committee under Part III of the Bill which deals with the regulation of wages, if the members are appointed by the Governor-in-Council.

The hon. Member referred to the attachment of wages. That matter I must leave to the hon. Attorney-General to deal with, for the reason that it is merely a reproduction of the English Law on the point.

THE PRESIDENT: Touching the composition of the Executive Council, I would repeat what I said before. I am not wedded to a ruling that the Executive Council should be taken other than from the Legislative Council. I am prepared to stand by the present practice. That matter will come up in due course when we have a resolution and debate on the Constitution for submission to the Secretary of State for the Colonies. The other point is when he expressed fear that the Members of the Executive Council may have a good deal to say on the appointment of the Advisory Committee, and I understood the hon. Member to say that the Governor has power in himself. In actual fact, under the Constitution the Governor has power in himself; the Executive Council is only advisory. The Governor at all times makes his own decision, even in the face of unanimous opposition by the Executive Council, and gives reasons in his report to the Secretary of State for the Colonies on his action. I think the hon. Member does not understand that.

Mr. LEE: I did not.

THE PRESIDENT: I propose to adjourn the debate to the next meeting of the Council on Tuesday the 13th, when we will go on with the second reading. I have invited the hon. Member for Central Demerara (Mr. de Aguiar) to move a resolution on the Budget and there is the resolution on the Constitution to be taken. I take it that consideration of the Labour Bill will take a day or two. The Council is adjourned until 12 noon on Tuesday, the 13th.

The Council adjourned accordingly.