

LEGISLATIVE COUNCIL

THURSDAY, 21st AUGUST, 1947.

The Council met at 2 p.m., His Excellency the Governor, Sir Charles Woolley, K.C.M.G., O.B.E., M.C., President, in the Chair.

PRESENT

The President, His Excellency the Governor, Sir Charles Campbell Woolley, K.C.M.G., O.B.E., M.C.

The Hon. the Colonial Secretary, Mr. W. L. Heape, C.M.G.

The Hon. the Attorney-General, Mr. F. W. Holder, K.C.

The Hon. the Colonial Treasurer, Mr. E. F. McDavid, C.B.E.

The Hon. Sir Eustace Woolford, O.B.E., K.C. (New Amsterdam).

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

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

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

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

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

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

The Hon. Peer Bacchus (Western Berbice).

The Hon. H. C. Humphrys, K.C. (Eastern Demerara).

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

The Hon. T. Lee (Essequibo River).

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

The Hon. V. Roth (Nominated).

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

The Hon. G. A. C. Farnum (Nominated).

The Clerk read prayers.

The minutes of the meeting of the Council held on the 14th August, 1947, as

printed and circulated, were taken as read and confirmed.

ANNOUNCEMENT.

UNITED KINGDOM ECONOMIC CRISIS.

The PRESIDENT: Hon. Members, I am laying on the table today copies of a Message to the peoples of the Colonies which I have received from the Right Honourable the Secretary of State for the Colonies this morning on the subject of the economic crisis in the United Kingdom, which is as serious as any, to quote his exact words, in the Mother Country's long history. I commend the terms of this Message to the serious notice and study of both hon. Members and the public generally, affecting, as it does, ourselves in no less degree than all other parts of the Empire. I need hardly say that in the light of it this Government is taking prompt action on the lines indicated in it, and that such action will necessarily include restriction in and tight control of our imports from whatever source.

On the day of my arrival in British Guiana some four and a half months ago—and coming events even then cast their shadow — I emphasized in no uncertain manner and with set purpose the need in our own interests for increased production, and in the course of my travels in the Colony I have lost no opportunity since of rubbing home the point, the importance of which is so clearly endorsed in the Message I now place before you. As it was during the war so now we are again faced with a testing-time of our grit and courage to pull through a crisis, and I am quite certain myself that we can, but insofar as what I say may apply to any of us let us no longer live in a fool's paradise but put our shoulders resolutely to the wheel.

Following is the text of the Message:—

“The United Kingdom is facing an economic crisis which is as serious as any in her long history. Our ability to surmount it is a great test and requires in the economic field efforts as strenuous as we made in the major crisis of the war. I feel sure that Colonial peoples will want to understand the nature of these economic difficulties, how they affect Colonial territories and what Colonial peoples can do in collaboration with us to win through to conditions of greater sta-

bility and prosperity. For this reason I am sending this personal message to them.

2. The Colonies are so closely linked with the United Kingdom in finance and trade that the economic stability of this country must always be of vital interest to them. But apart from that material interest the fortunes of the United Kingdom and the Colonies are linked by bonds of friendship—bonds which have been strengthened by the common effort made by the peoples of the British Commonwealth and Empire in the war.

3. In that common effort the United Kingdom and the Colonies alike put in the best and the most they could. The United Kingdom started with the greatest accumulated resources and threw them all into the struggle without reservation of thought of future material loss. That is why our present financial position is one of comparative, though we believe, temporary weakness. But against that weakness can be placed the underlying permanent strength which can be drawn in the interests of both Britain and yourselves from the natural resources and people of this country and those of its overseas connections. We can, I believe, if a common effort is made, rebuild a strength greater than that enjoyed before the war.

4. The basic position is that the United Kingdom, which for many years prior to 1939 enjoyed a substantial income from overseas investments, has now lost the greater part of that income as a result of having realized many of its investments and incurred large debts in the process of financing a war. It has therefore become difficult for us to go on paying from current income for our previous scale of imports, certainly we cannot do so without substantial increase of our earnings from the sale of exports. These difficulties have hitherto been mitigated and their true character partly concealed by a large proportion of our imports having been financed either under lease lend and mutual aid during the war or by the American and Canadian credits since the war.

5. The United Kingdom must now balance its overseas accounts without any external assistance of that kind. At the same time the country is still faced with the task of restoring extensive war damage and making up for arrears of maintenance during the war as well as undertaking other necessary and desirable developments at home and overseas.

6. The situation has been made much worse by the rise during the last

two years in world prices of food and other primary products by drought and famine in many parts of the world and by the world shortage of American dollars. This shortage is due to the need of countries all over the world to import from the United States more than they can pay for with their current exports. As we ourselves are not able to replace the U.S. as a source of supply of goods, other countries have been driven, in order to acquire the necessary additional dollars to pay for these imports from America, to require the United Kingdom to pay directly or indirectly in dollars for the goods we buy from them. This additional drain on our dollar resources has led to the measures just announced limiting the spending in the dollar area of sterling held by certain foreign countries.

7. The immediate problem of the United Kingdom remains the large adverse balance in dollars but the basic cause is as indicated above, our current inability to pay with exports for the goods we desire to import.

8. The measures which are being taken by H.M. Government fall broadly therefore into the two categories of reducing imports where that is possible and of increasing production whether in substitution for goods which would otherwise have to be imported, or for direct export. These measures inevitably demand from the British people both sacrifices in consumption and an increased effort in production.

9. The Colonial territories can help in several ways. They can ensure that they do not add to the United Kingdom's difficulties by themselves importing more than they can pay for with current earnings since that would involve using up Colonial reserves and asking the United Kingdom to export goods without any return in imports

10. Secondly they can help by confining their imports wherever possible to a level below that of the actual earnings of their exports, thereby adding to their financial balances and strengthening the general position of the sterling area. The restriction of imports for current consumption has the same practical importance in the colonies as in the United Kingdom itself. It is particularly important that there should be no unnecessary expenditure in American dollars, but it is also in current conditions necessary that there should be the greatest possible economy in imports from any part of the world, including the sterling area itself. Such imports e.g. from the United Kingdom make a call on export capacity which might otherwise have

been used to earn hard currencies and correct the overall dollar deficiency. Practical ways in which this limitation can be given effect will be discussed with Colonial Governments.

11. Thirdly many Colonial territories can help by increasing their production of goods which the United Kingdom at present has to pay for in dollars or of goods which can be exported and sold for dollars, so relieving the immediate problem of deficiency of dollars in the sterling area as a whole. As in the United Kingdom itself only an increase in production can afford a satisfactory long-term solution of these difficulties. Restriction of consumption must be regarded as a temporary expedient which it would be most undesirable to continue as a permanent policy. The increase of Colonial production is therefore the major long-term contribution which Colonial territories can make. The needs of the world for food and raw materials offer unprecedented opportunity for the Colonies to develop their production and their trade on lines which, as with all soundly organised trade, will bring mutual advantage to both parties to it.

12. H.M. Government are anxious therefore to help the Colonies in every possible way in their efforts to increase production. Technical investigations in many fields are already being carried out in order to ensure that the Colonial territories are enabled to derive full benefit from their natural resources, and capital for promoting undertakings will be available from the Colonial Development Corporation. But advice and money are not enough. The wholehearted co-operation of the Governments and the people of the Colonies is essential if Colonial production is to play its part in the rehabilitation of a world ravaged by war in the restoration of economic stability in the United Kingdom and in the development of the Colonies themselves. I am confident that H.M. Government will receive this co-operation and that everyone in the Colonies will show a willingness to help in the common cause by putting up with such discomforts as may result from restriction of imports, and by striving to increase production."

PAPERS LAID.

The COLONIAL SECRETARY (Mr. Heape) laid on the table the following documents :—

The Health (Mosquito Control) Regulations, 1947.

The Annual Report on the working of the Post and Telecommunications Department for the year 1946.

NOTICE OF QUESTIONS.

GOVERNMENT'S POLICY ON PUBLIC WORKS.

Mr. ROTH gave notice of the following questions :—

1. What is the policy of Government in regard to works being undertaken by the Public Works Department or by private contractors ?
2. Has Government decided to award the construction of the New Amsterdam Prison work to a private contractor or to the Public Works Department ?
3. If Government has decided to have this work done by the Public Works Department, was its decision governed by the fact that that Department's estimate was lower than those submitted by private contractors : if not what were the factors governing such decision ?
4. Is Government assured that the estimate of the Public Works Department for this work included the cost of technical supervision, use of machinery, insurance and depreciation ?
5. Was Government advised by the Director of Public Works that the contract for this work should be given out to private contract ?
6. Can Government assure Council that if this work is done by the Department of Public Works it will be completed within the estimate already given by that Department ?
7. Will Government quote any works carried to completion by the Department of Public Works within the original estimates within the past five years ?
8. What political considerations, if any, govern the awarding of Public Works contracts ?
9. Is Government aware that, in view of the irrecoverable costs incurred by private firms in submitting tenders called for by the Public Works Department, the awarding of such tenders to the Public Works Department will render private contractors chary of tendering for such works in the future ?

MAHAICONY-ABARY RICE EXPANSION
SCHEME.

Mr. EDUN gave notice of the following questions :—

1. Will Government lay on the table the names of the administrative personnel of the Mahaicony-Abary Rice Expansion Scheme ?
2. Do the personnel receive any emoluments in connection with the administration of the said Scheme ?
3. If so, will Government state the names of such personnel, and the emoluments which all or any of such personnel receive ?
4. If such personnel is in receipt of such emoluments, will Government state why, and for what ?
5. Is it within the knowledge of Government that properties that belonged to a Member of this Honourable House and who is also one of the administrative personnel of the said Scheme, have been sold to and bought by Government in connection with the said Scheme ?
6. If so, will Government state the nature of the properties so acquired, and price or prices paid therefor ?
7. If the answers to questions 2, 3, 4, 5 and 6 are in the affirmative, will Government inform this Honourable Council whether administrative behaviour as of the kind and nature is not a contravention of the principles underlying the constitution of this Honourable House and, incidentally, an act inimical and wholly detrimental to the desired well-being of the public interest ?
8. Has Government submitted to this Honourable House a detailed and comprehensive report of the Scheme in question ?
9. If not, why not ?
10. Does the financial outlay on this Scheme justify its intended utility and consequent continuance in the public interest ?
11. If not, what is Government's reason for its continuance and what is the total sum involved in the loss or losses thereby accruing ?

1947 GENERAL ELECTIONS.

Mr. LEE : Your Excellency, before the Order of the Day is taken I would like

to bring to your notice that the Conference in Jamaica on closer Union is scheduled to take place near the time of the General Elections and I would like to know whether Government is considering the question, as many Members of the Council are going to that Conference, of awaiting their arrival back in the Colony before the Elections are held. As you see, the Conference starts some time between the 11th and the 13th, and apart from the actual days of the Conference it may take a few days before Members are able to return to the Colony. I sincerely hope that Your Excellency with your Executive Council will consider the matter and fix the date of the General Elections for some time after the return of the delegates from the Conference.

The PRESIDENT : The hon. Member can rest assured that I have already taken note of what he has said and had borne it in mind in fixing the date of the elections.

ORDER OF THE DAY.

FACTORIES BILL, 1947.

The ATTORNEY-GENERAL (Mr. Holder) : Sir, the Report of the Select Committee, which was appointed to examine and make recommendations on the Factories Bill, was laid at a meeting of this Council. That Report is to be taken into consideration when the Council resolves itself into Committee to consider the Factories Bill. I beg to move that this Council now resolves itself into Committee to consider the Bill clause by clause in the light of the Committee's Report.

Mr. CRITCHLOW seconded.

Question put, and agreed to.

COUNCIL IN COMMITTEE.

The ATTORNEY-GENERAL : I propose to deal with the various suggestions as embodied in the Report of the Committee as we reach each particular clause referred to in the Committee's Report. I may add that the Committee had the benefit of the advice of the Commissioner of Labour during its discussion of this Bill. He was present at all the meetings except the first.

Clause 2—*Interpretation of Terms.*

The ATTORNEY-GENERAL : In paragraph (b) of the definition of "Factory" in clause 2 (1) the Committee recom-

mends the substitution for the words "the First Schedule hereto" of the words "the First Schedule hereto and any other premises from time to time specified by Order of the Governor in Council." The Committee also recommends the deletion of the definition of "fume" and the substitution thereof of "fume includes gas, vapour or smoke;" and in the definition of "work of engineering construction" the words "as may from time to time be specified" be substituted for the words "as may be specified". I beg to move those amendments.

Mr. SEAFORD: Sub-clause (2) reads: "Any line or siding which is used wholly or mainly in connection with and for the purposes of a factory shall be deemed to be part of the factory.....". There are certain factories in the Colony where you have a siding going up to them for the transporting of produce. That siding is maintained by the Transport and Harbours Department and owned by that Department, but it is kept there for the purpose of the factory. Now anyone being injured there, under this Bill as it now stands the proprietor or factory will be liable although the factory does not control the work there or the lines, as that line is maintained for the purposes of the factory. I do not know if the hon. the Attorney-General can make it more explicit. The people who are working there have nothing to do with the factory.

The ATTORNEY-GENERAL: To answer that, the line is being used for the factory's purposes and if an accident occurs as the result of shunting or some operation on the line itself which is done by the factory, then the factory would be liable. But the point which, I think, arises from the hon. Member's comment is this: As the line itself is maintained by the Transport and Harbours Department and as the result of a defect in the line itself some injury or damage is caused, that is a different matter. But so far as that is concerned it is where the operations are carried on incidental to the work and activities of the factory that the factory is liable. The only point is, where the factory is concerned, in as much as it does not repair or maintain the line then the liability will go to the people who maintain the line.

Mr. SEAFORD: The Transport and Harbours Department does the shunting and everything else on that line and should be liable, but according to this sub-clause the siding is part of the factory.

The ATTORNEY-GENERAL: Although it is part of the factory, if the maintenance and the control of the line and the repair of the line is a matter for the Transport and Harbours Department and injury or damage is caused as the result of their failure to maintain properly the line itself, then it would be ordinary negligence.

Mr. SEAFORD: It may not be due to maintenance of the line but to the carelessness of one of the servants of the Department in shunting.

The ATTORNEY-GENERAL: That is a question of fact. If there are persons responsible for the shunting and the various manoeuvring on the line itself and there is negligence, then it is a liability of the Department, but if on the other hand the factory pays out for that service then the factory would be liable. The factory itself will not be liable where the maintenance is by the Transport and Harbours Department.

Mr. HUMPHRYS: I am afraid, Sir, that the clause does not bear out what the hon. the Attorney-General says. Under this clause if there was an accident due to the carelessness of the driver of a locomotive, the factory would still be liable as the clause stands because it is for the purposes of the factory the line is there, although it is owned by the Transport and Harbours Department and the Department maintains it. If a man is injured on the line the owners of a sugar factory would be liable because the line is part of the factory. The Transport and Harbours Department can disclaim liability under this clause. It is a difficult subclause and we had much discussion on it. I think we ought to meet it somewhere. Accidents in sidings do take place though not very often. Such accident may have nothing to do with maintenance; it may be through sheer carelessness on the part of the locomotive driver.

Mr. JACOB: What I think has escaped the attention of the last two speakers—the hon. Member for Georgetown North and the hon. Member for Eastern Demerara—is to my mind this: Workmen are

employed in either bringing in or taking out produce or stores belonging to the estate, and if they are injured certainly someone must be responsible. It is not only the maintenance of the line that may cause injury, but when estate workmen are employed there and are injured someone is to be liable for it, and, therefore, the factory must be liable. I think the clause is quite in order.

Mr. SEAFORD : The hon. Member has missed the point completely. The point I am making is that it is the service of the Transport Department and not the service of the factory. This clause makes an employee of the Transport Department liable to claim damages from the proprietors of the factory. That is the point I am trying to make.

Mr. LEE : I do not see it, when all these sidings belong to the proprietors of the estates.

Mr. SEAFORD : No, Sir; they belong to the Transport and Harbours Department and are maintained by the Transport and Harbours Department.

Mr. LEE : But they are used in carrying out the produce of the estate and are not there for the use of any other person. I think this clause is put there to make the factory liable for any injury sustained by any workman employed in removing produce from the estate.

The ATTORNEY-GENERAL : I think there are two aspects of the question—the hon. Member on my left on the one side and the hon. Member on my right on the other. First of all it is owing to the peculiar circumstances the line itself is maintained and repaired by and belongs to the Transport and Harbours Department, but in the operation of the factory, the factory itself desires the use of the locomotive along that line for the purpose of removing the produce of the factory. Therefore so far as the Bill is concerned the line is attached to the factory and is regarded as part of the factory for the purpose of the removal of what the factory produces. That is the one side. So far as the other aspect of it is concerned, if there is a defect in the line and there is no responsibility on the proprietors of the factory themselves, we see that the

line is in good repair and can carry the engines without any mishap, then of course it is a question for the Transport and Harbours Department. We are assuming that the Department keep the line as their other lines in proper repair for the purpose for which they have the line — for running their trains and for their traffic. The same thing would apply to the line which runs direct from Georgetown to Rosignol, but you have to bear in mind that the line itself goes into the factory and becomes part of the factory for the purpose of removal of the produce of the factory, as otherwise they would not be removed.

Mr. SEAFORD : It could be by road or water.

Mr. LEE : I now see the point of view of the hon. Member for Georgetown North. If any accident occurs while a train is in the siding, though the siding belongs to the Transport and Harbours Department by this clause that siding would be deemed to be part of the factory. Who would be liable, the Transport Department or the factory? According to this clause the sidings belongs to the factory and any workman injured there will have to be paid compensation by the owners of the factory.

Mr. JACOB : Mere ownership of the line makes no difference. If a workman is injured there and he is employed by the estate the owners of the estate should be liable.

Mr. SEAFORD : The line is owned and maintained by the Transport Department, and the people working on the line are the servants of the Transport Department, and not of the estate at all.

The ATTORNEY-GENERAL : If you approach the matter from the point of view of workmen's compensation, and a workman receives an injury, then the liability fixes on the person who employs him. Therefore, the point which the hon. Member for Georgetown North is making relates to the question of compensation, and not to the ownership of the line.

Mr. C. V. WIGHT : Two questions would have to be decided in such a case. One is the question of negligence, and the other is whether there is a case under the

Workmen's Compensation Ordinance. The Court would have to find in whose employ was the injured workman. I really do not see where the factory comes in, or what the ownership of the line has to do with it.

Mr. HUMPHRYS : I am not thinking of workmen's compensation at all. In such a case the question would be : in whose employ the injured person was. I am thinking of an ordinary accident on the line to someone who has a right to be there—a person who is neither in the employ of the factory nor the Transport Department. If the Bill says that the line is to be deemed as part of the factory then it would be the duty of the factory to see that it is kept in good repair. If an accident occurs as a result of the line being in a state of disrepair it follows that the owners of the factory would be liable.

The ATTORNEY-GENERAL : This is only for the purpose of the definition of "factory". The points raised by hon. Members are really questions of fact. In other words, this does not interfere with the principles of the Common Law as regards trespass or licence.

Mr. C. V. WIGHT : It seems to me that in the case raised by the hon. Member for Eastern Demerara (Mr. Humphrys) it would be a question of fact, and the ordinary Common Law of negligence would apply.

Mr. HUMPHRYS : That does not take the matter any further. The first thing to be ascertained is: whose premises are they? Once it is established that they are the premises of the factory then the owners of the property become liable for negligence.

Mr. SEAFORD : I would like to move an amendment that, after the words "any line or siding", the words "other than a siding owned and maintained by the Transport and Harbours Department," be inserted.

Mr. JACOB : I knew that that was what the hon. Member was aiming at all the time—to remove all liability from the owners of the factory. I do not think I can support that.

Mr. LEE : The Transport Department is only liable up to \$100, but I do not think

the hon. the Attorney-General would refuse to issue a *flat* for the purpose of an action against the Government.

The ATTORNEY-GENERAL : The other point that arises is that the track is on the land of the factory, and a person walking on that track is on the land of the factory. If a person is going towards the factory to do some work there, is the Transport Department to be regarded as liable for any injury sustained by that person? On the face of it the owners of the factory would be liable. The only point would be whether there was a defect in the line, but regard must be paid to the fact that the use of the line is to inure to the benefit of the factory which desires to get its product out, or supplies into the factory, and because of that the Bill regards the line as part of the factory itself. Basically, it is the interest of the factory, therefore anything that arises whereby injury to a person results must inure against the factory. All that is being done is to enlarge the extent of the factory from its four walls to the operations which take place outside for removing its produce and bringing in supplies.

Mr. SEAFORD : I cannot agree with the reason behind this provision which has been taken from an Ordinance in another country where the factories own their own sidings. If the Transport Department does not maintain its line properly, and one of its locomotives is derailed a mile away from a factory, would the owners of that factory be liable for injuries to persons in such a case?

Mr. EDUN : I would ask the hon. the Attorney-General to tell us something about the English Act on this subject. We must be guided by experience in other countries, and I know that this Bill has been drafted on the English Act.

Mr. JACOB : This Council has to protect the workmen. If the line is a mile away from a factory, certainly the owners of the factory would not be liable, but if the line is used in connection with the transport of produce to or from the factory, certainly the owners would be liable. It would be the duty of the factory to see that its siding is kept in proper order. It is not merely the line that is involved but the ordinary coming and going from day to day.

Mr. SEAFORD : The owners of a factory cannot keep the siding in order; they have not the power or the right to do so.

Mr. PEER BACCHUS : I do not know how the Common Law can be merged into this legislation, but from a commonsense point of view I think the railway sidings run into the estates for the mutual benefit of the Transport Department and the owners of the sugar estates. I think it must be made clear that their responsibilities and obligations are separate.

The CHAIRMAN : Is there any contract between the Transport Department and the estates ?

Mr. SEAFORD : There is an agreement for the transport of produce at so much per ton.

The CHAIRMAN : No agreement as regards liability for accidents ?

Mr. SEAFORD : No, sir. But would such an agreement override the Common Law ?

The ATTORNEY-GENERAL : This definition is taken from the English Factories Act of 1937 in which it is provided :

"(2) Any line or siding (not being part of a railway or tramway) which is used in connection with and for the purposes of a factory, shall be deemed to be part of the factory; if any such line or siding is used in connection with more than one factory belonging to different occupiers, the line or siding shall be deemed to be a separate factory."

Mr. HUMPHRYS : These sidings we are talking about are part of the railway.

The ATTORNEY-GENERAL : It has been made clear in the Railways Act in England that the sidings are the property of the factories concerned. The point which emerges is that hon. Members consider that by this definition there would be liability attached to somebody, and the question is to whom it should be attached, having regard to all the circumstances. That, I suggest, would be a question of fact. There are two aspects of the question—one where the line is maintained by the Transport Department, and one can easily foresee that there are circumstances in which an accident might occur as a result of the operations of the factory

of which the siding forms part. Therefore I suggest to the hon. Member that it is purely a question of fact in the circumstances.

Mr. C. V. WIGHT : Whatever the wording of the definition is there will be cases. Therefore I suggest that we wait until a case arises. I suggest to hon. Members to leave the definition as it is, because, however it is worded, there will be considerable doubt in the construction, and there will be cases. I personally cannot see any particular danger in the wording. As the hon. the Attorney-General has said, it would be a question of fact in each case.

The ATTORNEY-GENERAL : I have endeavoured to see this question from both points of view. The hon. Member for Georgetown North (Mr. Seaford) is quite willing to have the liability fixed on the factory where injury results from the operations of that factory, but he is against any liability inuring to the detriment of the factory where it arises as a result of a defect in the siding over which the owners of the factory have no control. May I suggest that this clause be deferred for further consideration in view of the various comments made by hon. Members ?

Mr. EDUN : I do not think it should be deferred. It may be possible for the estate proprietors to make some arrangement with the Transport Department to take over their sidings, and that would put an end to the matter. It would be a very convenient arrangement.

The CHAIRMAN : If there is an accident due to the negligence of the Transport Department in not keeping its line in proper condition, surely the Department should be liable, but we can also visualize a case in which trucks are being loaded with sugar, and through the negligence of the estate authorities a sack of sugar falls on a man and perhaps kills him. Obviously, although the man may be in the employ of the Transport Department the owners of the factory would be liable. I think it is a case of being fair to both sides. It would be as unjust to fix the liability solely on the factory as solely on the Transport Department. The Attorney-General suggests that we leave it over for the present and he will en-

deavour to suggest something which would meet the point of view expressed by hon. Members.

Mr. JACOB: Is it the intention to pass this Bill now? It has been hanging over for years. The Council will be dissolved very soon, and I think it ought to be passed.

The CHAIRMAN: We can return to this clause later. I will put clause 2 with the exception of sub-clause (2) which will be deferred.

Agreed to.

Clause 3.—

The ATTORNEY-GENERAL: I move that paragraph (a) of sub-clause (1) be amended by the substitution for the word "coaling" of the words "coaling or refuelling," and by the insertion of the words "or vessel" between the word "ship" and the word "in."

Amendment agreed to.

The ATTORNEY-GENERAL: The hon. Nominated Member, Mr. Roth, has suggested to me that paragraph (c) of clause 3 (1) should be amended by deleting the words "mining operations" and substituting therefor the words "ore treatment or milling operations as applied to mining." The general term of mining is intended to cover all the activities in connection with matters of this sort, but the hon. Member considers that it is desirable to limit it as I have just indicated.

Mr. ROTH: I confirm what the hon. the Attorney-General has said, because the inclusion of mining operations generally in clause 3 (1) (c) would undoubtedly lead to confusion between the Department of Labour and the Department of Lands and Mines. I have discussed the matter at considerable length with the Commissioner of Lands and Mines who is a mining engineer, and with your permission, Sir, I will read an extract from a memorandum I have received from him. He writes:

"Confusion may be caused between the Labour Department and the Department of Lands and Mines under Part V of the Factories Ordinance. Although this section is more complete than as provided in the Mining Regulations, 1931, it is my inten-

tion that the new Regulations will cover all the points covered under Part V, and in addition provision will be made for dust elimination at rock-handling points, and the reporting by a medical practitioner of cases of miners' phthisis. I am of opinion that the intention is that the provision of the Ordinance should apply to "ore treatment" or "milling operations as applied to mining." Surface mining operations such as the opencast mining of bauxite would also be covered by the Mining Regulations. The ore treatment portion of the bauxite plant would come under the Factories Ordinance."

I support the amendment as indicated by the Attorney-General.

The ATTORNEY-GENERAL: The answer to the hon. Member's point seems to be that we are endeavouring to split up these provisions under various pieces of legislation. In other words, the activities of the Bauxite Company would come under this Ordinance, but other mining activities would be dealt with by Mining Regulations which at present do not cover the points as fully as they are covered by this Bill. It is suggested that the Mining Regulations be amended to such an extent as would embrace the points which are being put forward, and provided for in this Bill in connection with mining. That is what appears to emerge from the hon. Member's comment.

Mr. ROTH: Why have redundant Regulations then? We have Regulations dealing with mining matters only. Are we going to scrap them and deal with those matters under this Bill?

The ATTORNEY-GENERAL: "Mining" embraces various degrees of mining activities, but one has to envisage circumstances under which mining operations have reached a point such as the Bauxite Company's works. The word "factory" is largely comprehensive, and embraces all aspects of a factory and its activities. The hon. Member's suggestion is that we should deal with mining under the Mining Regulations, and that mining operations which have reached the point of industrialization, such as the Bauxite Company's operations, should be dealt with under this Bill. In other words he sought to split it up into several parts, but that is very difficult because it means that you would be creating

legislation of a certain nature at one point and of another nature at another point. I appreciate the hon. Member's point, and I am only expressing what appears to be grounds for retaining the clause as it is printed.

Mr. JACOB : I do not think clause 3 (1), (a) and (b) are comprehensive enough to meet local conditions. I notice that clause 3 (1) (a) speaks of "every dock, wharf, quay, stelling and warehouse and all machinery or plant used in the processes of loading or unloading or coaling any ship....." These things have little application to local conditions and I do not know whether "ship" includes sailing craft and other craft propelled by oars or pulled by oxen or even manpower. I do not think this clause is going to meet the case. Another point I would like to get cleared up is whether "dock" includes a dock around the factory. I do not think it does. I would like the Attorney-General to clarify all these things.

The ATTORNEY-GENERAL : The hon. Member, if I may say so, should appreciate the fact that the emphasis in par. (a) is on the words "all machinery or plant used in the processes of loading or unloading or coaling any ship....." Further, if there is a sailing vessel and machinery or plant is used in the process of loading or unloading, or coaling or refuelling, then the hon. Member's point is met. It is not the ship that arises for consideration; it is a question of the applicability of the provisions of this Bill. The clause — 3 (1) — says :—

"3. (1) The provisions of this Ordinance.....shall apply —
(a) to every dock, wharf, quay, stelling and warehouse and all machinery or plant used in the processes of loading or unloading....."

Therefore, even if there is a ballahoo it is possible that these provisions can apply to it.

The CHAIRMAN : In other words, the ship is not the issue; it is the machinery used in loading or unloading, and so on. Is that right ?

The ATTORNEY-GENERAL : Yes, Sir.

Mr. JACOB : Since you have the word "ship", I think you should put the words

"or other craft". Members of the legal fraternity may have to find a lot of argument to put up if "ship" alone is left. I think that if the definition of "ship" is made to include all kinds of vessels it would be better. It is stated here—in clause 2 (1) —that "ship", "vessel" and "harbour" have the same meanings as are respectively assigned to them in the Merchant Shipping Act, 1894." In that Act the term "vessel" includes vessels propelled by oars, but there are other vessels that are used and I think it would be very much better to use the words "ship and other craft."

The ATTORNEY-GENERAL : I will consider that. The point, so far as the effect of this par. is concerned, is in the loading or unloading, and it is a question of extending the meaning of "factory" in the provisions of this Bill. It is not a question of the ship, it is the machinery used in the loading or unloading of the ship.

The CHAIRMAN : I think that has been made quite clear.

Mr. JACOB : I think there is a good analogy between this and the clause we have omitted. The hon. Member for Georgetown North was arguing that if anything happens outside the factory the employer must not be responsible.

Mr. SEAFORD : Excuse me, that was not my point. My point was about anything happening on the property of other people which they maintain, such as the lines of a locomotive.

Mr. JACOB : The hon. Member is trying to limit what he said, but I am putting the question generally.

Mr. SEAFORD : I object to the hon. Member saying that I am trying to limit what I said. What I have said is perfectly clear to everyone except the hon. Member who never seems to be able to understand anything I say.

Mr. JACOB : My hon. friend must be personal, yet he is one who complains against personalities.

The ATTORNEY-GENERAL : I do not think that is necessary at all. I propose to add the words "or re-fuelling" after the word "coaling", and the words "or vessel" after the word "ship".

Mr. JACOB : That would suit me.

Amendment put and agreed to.

Clause 3, as amended, passed.

Clause 9—Inspectors of factories and machinery.

The ATTORNEY-GENERAL : I wish to point out that it may be necessary to have an increase in the staff of the Labour Department as regards Inspectors. I think the hon. Member for Georgetown North would bear me out when I say that that point was brought to our attention by the Commissioner of Labour.

The CHAIRMAN : I think the Council should realize what it means when legislation like this is passed.

The ATTORNEY GENERAL : That is why I have drawn it to the attention of hon. Members.

Clause 9 passed as printed.

Clause 12—Appointment of examining surgeons.

The ATTORNEY GENERAL : - The words "any may" in the third line of sub-clause (1) should read "and may", while the words "for that factory" should be inserted after the word "surgeon" at the end of sub-clause (2).

Amendment put and agreed to.

Clause 12, as amended, passed.

Clause 19—Power to exclude children from factories.

The ATTORNEY-GENERAL : There are to be two new sub-clauses, and it is proposed that clause 19 as printed should be renumbered sub-clause (2) and the following inserted as sub-clauses (1) and (3) :—

"(1) No child shall be employed in any factory, or in the business of a factory outside the factory, or in any business trade or process ancillary to the business of a factory."

"(3) In this section the expression "factory" includes the premises, machinery, operations, works and factories specified in section three of this Ordinance."

Further, the marginal note will be deleted and the following substituted therefor :—"Prohibition of employment of children in factories, and power to exclude children therefrom."

Amendment put and agreed to.

Clause 19, as amended, passed.

Clause 20—Construction and sale of new machinery.

Mr. SEAFORD : I saw something in the recommendations of the Select Committee and I think the Attorney-General would remember that at clause 20 (2) the point was raised by some of us in Committee that if a person imports a certain machine which has to be erected in his factory and it is found that that machine is not properly adjusted—that there is some fault in the manufacture—then the manufacturer and not the importer should be held liable since the importer would not know what he is getting until he sees the machine.

The ATTORNEY-GENERAL : If the factory imports the machine through an agent it would still become liable as against the person who acted as agent, but you cannot make the principal or the person who sells abroad liable. The only alternative is to get the person next to you—the agent.

Mr. SEAFORD : Sometimes you get things coming out in a half-finished condition and it would seem rather hard on an importer if he finds a key sticking out of his wheel or something of the kind to make him liable.

The ATTORNEY-GENERAL : You cannot put it on the manufacturer; it is the seller who would have to be liable because of his connection with the purchaser.

Mr. SEAFORD : Take the rice machinery coming out here from abroad : they all have bolts and keys, but not one of them is protected. The manufacturers are not going to alter them for the benefit of the people here.

The CHAIRMAN : There is no amendment before the Council. I will therefore put the clause as printed.

Mr. HUMPHRYS : I can see the point made by the hon. Member for Georgetown North, but I cannot see how we can get away from the point of making the seller liable.

Clause 20, as printed, passed.

Clause 21—Notification of accidents.

Mr. SEAFORD : My point here is that the onus or responsibility lies on the factory to report an accident, but it is not incumbent on an employee to do so. The point made in Committee was that if a man has had an accident it should be incumbent upon him to report it. The employer cannot report it unless he knows about it.

The ATTORNEY-GENERAL : I do not think the hon. Member is considering those cases where a person is seriously injured and not in a fit condition to make a report. He is thinking of cases where the injury is not of a serious nature and where after some long interval of time the injured person reports and finds that the responsible person in the factory is not aware of it. I think we would have to put this in somewhere.

Mr. ROTH : In clause 21 I think we have a redundancy. Under this clause, where any accident causing disablement is notified and after notification it results in the death of the person disabled, notice in writing of the death shall be sent to the Commissioner by the occupier of the factory or the employer as soon as the death comes to his knowledge, yet under the Mining Regulations he is bound to report to the Commissioner of Lands and Mines. I suggest, Sir, that all operations governed by the Mining Regulations should be exempted from this clause.

The ATTORNEY-GENERAL : In other words, the hon. Member is saying that so far as mining operations go when accidents occur the reports should be sent to the Commissioner of Lands and Mines, and that under the general provisions where the Commissioner of Labour is the Authority the report should be sent to him. If there is to be any change at all, I suggest that all reports should go to the Commissioner of Labour who have all the statistics relating to accidents, etc., not only in mining but in all other operations.

Mr. ROTH : With all due deference to the Commissioner of Labour, is he duly qualified to deal with mining operations? Mining operations are of a very highly technical nature and I do not think it would be fair to put this responsibility on him. I suggest again that all operations governed by the Mining Regulations should be exempted from this clause.

Mr. SEAFORD : I think that all operations relating to mining above ground should come under this clause and that those relating to mining below ground should come under the Mining Regulations.

The CHAIRMAN : I should like to hear the Commissioner of Labour on this very important point.

Mr. W. BISSELL (Commissioner of Labour) : Sir, it seems to me that there is much in what the hon. Nominated Member (Mr. Roth) has said. The question of mining is specialised work and unless a mining engineer is attached to the Department we would not be able to appreciate the various difficulties which arise in mining operations. It seems to me that the point might be covered if surface work only is dealt with by the Commissioner of Labour and the various plant such as power equipment and so on do not form part of the mining equipment. The question of mining proper—underground mining and all operations in surface mining—should be dealt with by the Commissioner of Lands and Mines.

Mr. C. V. WIGHT : I have heard the Commissioner of Labour and if there are suspicions about the clause I do not think we should give anybody an opportunity to argue what is surface mining and what is not surface mining. It would mean a lot of definitions and we would have to go round and round to make interpretations and meet the difficulty. It seems to me that whatever operation is considered to be mining we should let it come under one particular authority.

Mr. LEE : I do not see why two notices could not be given about an accident or a death resulting from one operation. It only means that if the operations were taking place in the interior a notice should be given to the Commissioner of Lands and Mines also. What harm would there be

if the employer notifies both parties—the Commissioner of Lands and Mines and the Commissioner of Labour.

The COMMISSIONER OF LABOUR : If the hon. Member has some doubt on the situation it might be possible to include some special definition of surface mining and leave that for myself and the Deputy Commissioner of Labour to deal with, and in so far as mining operations are concerned leave that to the Commissioner of Lands and Mines.

Mr. LEE : If employers in the interior are to notify only the Commissioner of Lands and Mines, but how would the Commissioner of Labour be able to keep proper records as regards accidents and so on ? Is there any harm in an employer in the interior notifying both parties when an accident takes place ?

Mr. SEAFORD : I think the point is that it is not only intended to keep a proper check of accidents, but of the way in which business is conducted—from the health point of view and everything else.

The ATTORNEY-GENERAL: I appreciate the suggestion made by the Commissioner of Labour, but one has to examine the Bill having regard to other matters in which the Commissioner of Labour is particularly concerned. If we fix the situation so that mining operations should come under the Commissioner of Lands and Mines, then there might be certain aspects of mining which would still have to come under the Commissioner of Labour. Therefore it seems to me that the position should be examined and not decided now.

The CHAIRMAN : I should think the Commissioner of Labour would be competent to receive a report as well as the Commissioner of Lands and Mines. It is only a matter of reporting to Government. As regards the other question raised—whether the employer or the injured person (if he is capable of doing so) should report an accident—that seems to me to be worthy of consideration, because you get cases where a man is injured but says nothing about it, then three months afterwards he comes along and says "I was injured and want compensation", although there is no proof of the injury.

Mr. JACOB : Would not that be met in case the employee applied for compensation ? The question would then be investigated to see whether he was actually injured during the course of employment or not. I do not see any object in saddling the employee with that. I think the Bill is quite in order.

The CHAIRMAN : If he does not say anything about it one may think it is a trifle. Three or four months later he comes along and says he was injured but there is no evidence, yet from his point of view he thinks he should get compensation.

Mr. LEE : It is definitely stated in the clause that the accident should be reported. The question of a slight accident does not arise.

The CHAIRMAN : If it is slight enough not to be reported in three days then it is pretty slight. I have heard of cases where a man said nothing and several months after he came along and tried to get evidence to support him. He did not report to the Manager and they disclaimed liability.

Clause 23—Notification of industrial diseases.

Mr. EDUN : I would like an amendment to sub-clause (2). Instead of the last two words "ten dollars" I think they should be "twenty-five dollars". The employer is being asked to send in his report when an accident occurs and he is expected to pay a fine of \$25 if he fails to report, why then should not the Doctor pay a similar amount if he fails to give notice ?

The CHAIRMAN : I suppose the employer is a richer man than the medical officer. The question is whether \$10 is a sufficient deterrent.

Mr. EDUN : I do not wish to argue. It is a question of poisoning, and the sooner it is reported the better it is for everyone. If it is only a matter of \$10 I would not worry. Put it on the same basis as the fine for the employer.

Mr. LEE : I think it should be left like that.

Dr. SINGH : The Doctors are objecting to that fine. I think they are to

approach the hon. the Attorney-General on that point.

The CHAIRMAN: Would you tell the Council on what ground they object?

Dr. SINGH: They feel that the medical officer should be free, as theirs is a noble profession and they would never fail to go when called upon in a case of accident. It is their duty to answer every call on their services and, therefore, they should not be fined. If a fine is imposed they feel they would have to take their names off the Register.

The CHAIRMAN: This is a case of notification of industrial diseases.

Mr. C. V. WIGHT: I think the hon. Member is mixing this up with the Workmen's Compensation Ordinance.

The CHAIRMAN: Notification of industrial diseases to the Companies is a duty thrust on the Doctors under the law, and everyone is subject to a fine just the same as the Manager is liable in the previous clause.

The ATTORNEY-GENERAL: The hon. Member says the Doctors will take their names off the Register as the result of this provision. I may say it applies in England just the same. The Factories Act of 1937, section 66, subsection (2) dealing with the notification of industrial diseases reads:

"If, in contravention of the provisions of this section, any medical practitioner fails to send any notice in accordance with the requirements thereof, he shall be liable to a penalty not exceeding forty shillings."

Mr. JACOB: I am inclined to agree with the hon. Member for Demerara-Essequibo, (Dr. Singh). I think the medical practitioners ought to object. I do not know how this affects Government Medical Officers, but I think Government is now bringing in this clause to penalize its own officers. I remember quite distinctly when the Elections Ordinance was going through it was suggested that several things had happened in the past and might happen again and those people who were held responsible should be made liable to a penalty of a fine like other people, and Government strongly opposed it. But here now

it is suggested that ~~medical practitioners, including Government Medical Officers,~~ should be liable to a penalty of a fine. I hope the principle will be applied to other officers when they do irregular things. I am opposed to it and I am opposed moreover to the fine being increased to that of an employer.

Mr. LEE: I do not think my hon. Friend is right in that. Let us assume that there is a workman afflicted with an industrial disease. Should it not be a statutory obligation on a medical officer to notify it before other workmen are infected? This clause, I think, makes it a statutory duty of a doctor to notify Government and imposes a fine of \$10 for failure to do so. I feel that if my hon. Friend considers the matter more he would waive his objection.

Clause passed as printed.

Clause 25—Power to direct formal investigation of accidents and cases of disease.

The ATTORNEY-GENERAL: I move the following recommendations by the Committee—the substitution of the word "Jurisdiction" for the word "Jurisdiction" —a printer's error in paragraph (c)—the deletion of the words and commas, "and not being the employer of the person killed or injured, or in the employment of that employer," in paragraph (d), and the substitution of the words "was in any degree due to the act" for the words "was due to the act" and also the words "to be paid in whole or in part" for the words "to be paid" in paragraph (f).

Question put, and agreed to.

Clause passed as amended.

Clause 26—Hours of Work.

The ATTORNEY-GENERAL: With regard to this clause it will be seen from the recommendations of the Committee that it is desired that it be deleted and a new clause substituted therefor. The Labour Committee pointed out to the Committee that so far as clause 26 (a) is concerned it is not desirable to have that as a limit because, if at any time as the result of an emergency or a break-down, those who would go to work and make a good job of it as quickly as possible would be precluded from working more than sixty hours. The

Committee felt that in matters of this sort it would be better to legislate by way of regulations which would provide for a certain amount of elasticity. So the clause as it stands in the printed Bill should be deleted and the clause which appears in the recommendation be substituted therefor, and that reads :

Hours of work.

26. (1) The Governor in Council may make Regulations —

- (a) prescribing the number of hours during which a person may normally be employed in a factory on any day or in any week;
- (b) prescribing that a person employed in a factory shall, in every week, have a break of such number of consecutive hours as may be specified in the Regulations;
- (c) prescribing the conditions under which the Commissioner shall have power to exempt factories from the operation of regulations made under paragraph (b) of this subsection.

(2) Regulations under this section may be made —

- (a) for a limited period or without limit of period;
- (b) either generally or in relation to any area or to any class of factory or any particular factory or to any particular occupation in a factory;
- (c) prescribing different hours in respect of different branches of the operation of a factory;
- (d) prescribing different hours in respect of different periods of the year;
- (e) according to the season, where the carrying on of a factory or of any part of the operations thereof is influenced by seasons;
- (f) prescribing different hours in relation to men, women and young persons;
- (g) subject to such conditions as the Governor in Council may think fit,—

and the Regulations may contain such supplemental and consequential provisions

as the Governor in Council considers necessary for giving full effect to the Regulations.

- (3) The provisions of this Ordinance shall not apply to a shop assistant as defined in section two of the Shops Ordinance, 1944.

Mr. LEE : I disagree with the Commissioner of Labour and Government on this. If they want, to have any exemption in respect of emergencies they can easily put in the Bill "No person shall be employed in a factory for more than sixty hours in any week save and except emergencies to be decided by the Commissioner of Labour or the Governor in Council." But to leave it to the Governor in Council to make regulations, they may make regulations for more than sixty hours. We have to protect ourselves in this way. At the present moment, save and except for two Members of the Executive Council who in my humble opinion protect labour conditions, the majority of the Members may pass it for more than sixty hours, but we want to limit the hours. The labour group in this Colony wants to limit the working hours to sixty hours. Government can certainly close its eyes to any breach when there is any emergency. We have done that before. Make it specific as in the Bakers' Ordinance and that permission be sought of the Governor in Council to work beyond those hours, but do not let us have it as a statutory enactment leaving it in the hands of the Executive Council when we cannot tell who will be Members of that Council. I do not approve of any change in this clause. If Government wants it can say "Save and except in cases of emergency it shall be decided by the Governor in Council." I will accept that.

The ATTORNEY-GENERAL : The hon. Member will appreciate the fact that it reaches the point where it is desirable that Unions and representatives of Unions get together with employers and negotiate in so far as these matters are concerned. I am sure the hon. Member agrees with that fact. What we have in the Bill is sixty hours. That means that you are fixing your maximum, tying it down whatever happens. It is not a question of closing your eyes to things. It is no good coming here and passing legislation and then suggesting that Government or anybody else will close their eyes to what is passed.

Consequently what is being suggested is that we should provide along the lines of your Labour Ordinance, familiarly called the Labour Code of 1942, where it is provided that the Governor in Council may make regulations prescribing the number of hours which may normally be worked by employees in any occupation. You have that here, but instead of fixing the maximum working hours at sixty all that is being sought is that we adopt the same course and that the same provision be put in this Bill. Instead of occupation you will have the various occupations comprised in the operations of a factory. I think the hon. Member would appreciate the point that these things would be done with the advice of the Commissioner of Labour. It is not a question of whether the Members of the Executive Council have no sympathy or understanding or appreciation of the points the hon. Member makes. It is a question of regulation of labour or the hours of work. The hon. Member presupposes that matters of this sort do not receive the fullest consideration by Members of the Executive Council. I suggest to hon. Members that this is the best course to adopt in a matter of this sort.

Mr. JACOB : I am afraid I cannot agree with the hon. the Attorney-General. I am opposed to this amendment. Government seems to have no policy. Here is a draft Bill fixing the hours of work, and here is a report by a Committee, a packed Committee, a picked Select Committee—

The ATTORNEY-GENERAL : I do not know the hon. Member is justified in using the term "packed".

The CHAIRMAN : I think the hon. Member should withdraw it. That Committee was appointed by the Governor on a resolution of this Council; to call it a packed committee is offensive and untrue. I must ask him to withdraw it.

Mr. JACOB : I wish to say this : It is a committee appointed by the Governor without anybody's advice. It was a committee appointed here, and no one was asked to say whether that committee should be comprised of Members of that kind. I maintain I am within my right, this Council not having had an opportunity to suggest anything or to say anything on the

matter. I am very strong on this point. Most of the committees appointed by this Government are packed committees. If Your Excellency wishes me to withdraw the statement I would, but I am very strong in my opinion on that.

The CHAIRMAN : I must take strong objection to the hon. Member's suggestion that committees are packed. The word "packed" has a very definite connotation—the people appointed are those who just please Government or some interested party. No such thing enters my mind or that of any Governor. The connotation of the word is almost objectionable, and I must insist on the hon. Member to withdraw the word. What he said otherwise, he was quite entitled to say.

Mr. JACOB : Having suggested that I withdraw it I do so, but I am repeating that it is my firm conviction that most of the committees of this Government are packed committees. If Your Excellency wishes me to withdraw it I do so. Your Excellency was not here, and any remark I may make has no reference whatever to Your Excellency.

The CHAIRMAN : I am not regarding the remarks as personal, and I hope the hon. Member does not think so.

The COLONIAL SECRETARY : I appointed the Select Committee in question and, I think, I should say that I consulted the Attorney-General, the Colonial Secretary and the Colonial Treasurer by notes from the Chair when I appointed it. I may inform this Council that I have appointed several Select Committees of this Council when in the Chair, and this is the first time any Member has accused me, or anybody in this Chair, of selecting wrongly members of a committee. In every case I tried to put on them every representative Member around this Table who should properly sit on them. I very strongly repudiate the hon. Member's remarks.

Mr. JACOB : I am very glad for this opportunity, and I would like the hon. the Colonial Secretary to understand that I mentioned this to him one day when I spoke to him.

The COLONIAL SECRETARY : The names of those comprising the Committee are—the Attorney-General, Mr. Seaford,

Mr. C. V. Wight, Mr. Critchlow, Mr. Humphrys, Mr. Edun and Mr. G. A. C. Farnum.

The CHAIRMAN: Would the hon. Member proceed with this point?

Mr. JACOB: I have made my point.

The CHAIRMAN: I have made mine too.

Mr. JACOB: I hope the majority of the committees which will be appointed now will not be considered "packed" by me.

The COLONIAL SECRETARY: I think the answer to that is, they should always include the hon. Member as a member.

Mr. JACOB: I accept that in the usual way. I know what the hon. the Colonial Secretary means, and he knows what I mean too. I object too to the hon. the Attorney-General's suggestion that these things should be done by negotiation.

The ATTORNEY-GENERAL: I did not suggest that. I hope the hon. Member does not think so. What I said was, that it would be appreciated that it is desirable in matters of this sort that the Employees and Employers should get together.

Mr. JACOB: Then I go further. This thing has a peculiar ring to me these days. I have seen what negotiations are bringing the Colony into now. Certain people get together, advance their money and are given all kinds of things. They have on their side a majority including this Government. When they are told we should have fixed legislation on certain matters, they say "Oh, no". Liability is shifted and you hear "Let there be negotiation." Not all Trade Unions can negotiate with most employers. They negotiate with certain Unions and there are no proper means of negotiation with others. I say this most solemnly. This Government is heading for disaster if it goes on in this way.

The CHAIRMAN: What way?

Mr. JACOB: Negotiation by means of private correspondence and other means. I think the Labour Department has blundered very seriously, and not only the Labour Department but certain big employers of labour. Your Excellency will hear further about it if you have not heard it already.

Discussion was raised on working on holidays. I suggest that the original clause in this Bill should stand.

Mr. LEE: I must reply to the hon. the Attorney-General. If Government can give any excuse or reason why it was put in the original Ordinance and why it now wants an amendment, then perhaps I may accept the explanation given by the hon. the Attorney-General; but when you read the clause you see it has a purpose. I ask Your Excellency's permission to read it:

"Except as otherwise provided in Regulations made under this section by the Governor in Council—

(a) no person shall be employed in a factory for more than sixty hours in any week;"

It does not say a person cannot be employed for less than sixty hours. It does not say that negotiation cannot take place between Labour Unions and employers for less hours. But it definitely states a statutory obligation that no person shall be employed for more than 60 hours. If there is any emergency the Governor in Council will be able to make such regulations. Why could it not be stated here "Except in case of emergency when regulations may be made by the Governor in Council: There is a definite purpose in this enactment. It is that Government had considered, that on account of the weakness of certain employees in factories to negotiate properly with their employers it should be made a statutory obligation on the employer that the working hours should not exceed sixty hours. If that is so, why then should Government want to put it in the hands of the Governor in Council now? Why not legislate and say an employee cannot be employed more than sixty hours a week? If there is an emergency no Member of this Council, no employer, no worker would abstain from working for more than sixty hours a week. It has been proved conclusively by the Labour Department that when there is an emergency the Governor in Council issues an order and it is carried out. In the baking industry of this Colony it has been and is done, why then can it not be done in this case? Government wants to protect the weak employees, and that is why it should remain as it is. It should remain law that workers should not be employed for more than sixty hours a week.

except in the case of an emergency. Leave it at that. I do not mind if they work the whole six days, night and day, if it is a case of emergency, but let us protect those weak employees in a factory who cannot for reasons, perhaps, best known to the Labour Department speak for themselves. I, as a sympathiser with labour, say that this legislation is absolutely necessary, and I am surprised to see that certain Members who were sitting on that Committee allowed it to be amended to what I see here. I cannot say that it is in the interest of the workers of this Colony, and for that reason I am asking Government to pass the clause as it is printed.

Mr. EDUN: Your Excellency, it appears to me that the two hon. Members who have just spoken were grasping at shadows in order to vent their feelings in this matter. Had they gone about it correctly they would have seen the interests of the workers are well provided for in clause 29 which says that no worker must work on any day for more than eight hours. Before the whole myth is exploded. When Members want to challenge the integrity of other Members they ought to name themselves before. But the point they do so in order to vent their spleen against Government, perhaps against me because I sat on that Committee. Members of that Select Committee can tell you, Sir, that I took precious care to see that the provisions of the International Labour Organization are maintained in this Bill.

If hon. Members would examine the industries of this Colony they would realize that in the case of the rice industry, which is seasonal, there is such a provision as provided in this Bill. In Select Committee we have been afforded every opportunity to examine the question thoroughly, and I challenge the hon. Member to dispute that. Perhaps hon. Members should be reminded that the General Elections are very near, and they may want some little palliative to put before the electors, but it is sheer nonsense to suggest that the interests of the workers are being circumvented in this Bill. No worker can work more than 8 hours per day, and it is the first time in the history of this Colony that we have been able to secure such an excellent arrangement for overtime rates. Members

who consider themselves socialists and protagonists of labour ought to think more and read the Bill before they speak.

I have had the privilege of sitting on a Committee which initiated this Bill. I spoke on the principle of the Bill when it was presented to this Council, and as a member of the Select Committee I did everything possible to protect the interests of the workers. In clause 29 it will be found that the interests of the workers are greatly preserved. Let us see what this great hullabaloo is about. In the substituted clause before the Council it is provided that in such factories where the operations are seasonal, or in factories in certain areas of the Colony, the Governor in Council may make Regulations permitting persons to work 60 hours per week, but in no case can a worker work more than 8 hours per day, and if he does he gets overtime pay. I am sure hon. Members have not read the Bill!

Mr. LEE: The hon. Nominated Member has referred to clause 29, sub-clause (b) (ii) of which limits the working hours to 8 hours per day, after which overtime will be paid. Clause 26 limits the number of hours a person may work in a factory, but having the interest of certain people at heart the hon. Member wants them to work 12 hours per day or 84 hours per week. Government, however, has seen fit to limit the hours of work to 60 hours per week. Why should we then allow the Governor in Council to say how many hours they should work?

Mr. JACOB: I think I should inquire who were the members of the Committee which made recommendations with respect to the framing of this Bill. I think I made the point with the Colonial Secretary, that he had appointed persons who were largely interested in this business, and persons who had made those recommendations were appointed to examine their own recommendations. It will therefore be of interest to have it on record who were the persons appointed in the first instance with the Commissioner of Labour as Chairman, and let their names be compared with the members of the Select Committee. That particular Committee was packed.

The CHAIRMAN: I must ask the hon. Member to withdraw that remark. I have

ruled him out of order for using that word in that sense, and I must ask him to withdraw it.

Mr. JACOB : I withdraw the word but I ask that the names be given so that the Council might have a proper perspective of what I intended to say.

The COLONIAL SECRETARY : The hon. Member is perfectly correct. I did put on the Select Committee all those who had been members of the previous Committee that considered the Bill. I did that on purpose, because I thought they were best qualified to deliberate on the subject. It is possible to say that we should have had a completely different Select Committee, but I thought this was the best Select Committee, and I added a few names of persons outside the previous Committee. There is no doubt that many members of the previous Committee were appointed to the Select Committee, but it was intentionally so. I did it on purpose, and I consulted the Attorney-General.

Mr. EDUN : The original Bill, or the Committee's recommendations, did not provide for Part VI of this Bill, and when the Bill came into my hands I saw an opportunity which was very favourable, and which was put in by the good Labour Commissioner we had, Mr. Colin Fraser. He particularly stressed that the question of overtime hours should be definitely made law. Even the Committee did not recommend that, although we did everything possible to expedite the introduction of this Bill. If hon. Members examine the Bill carefully they will find that it would meet every contingency and protect the welfare of Labour.

Mr. LEE : It will not. For instance, there are firemen at the sawmills who have to turn out to work between 5 and 6 o'clock in the morning, take their breakfast at the furnace, and work until 5 or 6 in the evening. Isn't that inhuman? There are other firemen in certain other places who have to work 12 hours a day. The sugar estates have introduced an 8-hour day, but there are other places which continue to operate a 60-hour week. I am appealing to Government to leave the clause as it is, and make those employers who are sweating their workers comply with the law.

Mr. EDUN : When this Bill becomes law no employer will be able to make a workman work more than 8 hours per day.

Mr. LEE : I do not know if my friend expects that a man should work 8 hours a day and also work overtime.

Mr. SEAFORD : Is it a fact that this Bill has been introduced in order to get over those conditions referred to by the hon. Member? I thought that was the whole object of the Bill.

Mr. EDUN : I suggest that the hon. Member for Essequibo River examine the Bill to see where there is any question of a 60-hour week. If the hon. Member is returned at the General Election, and is appointed to the Executive Council, we will have to depend on him in these matters.

Mr. LEE : Government knew that the workers were being sweated. After all overtime pay does not compensate for a man's health.

The CHAIRMAN : Certain difficulties with respect to the conditions of employment can be overcome by providing for them in Regulations. The hon. Member may look at clause 31. I do not wish the hon. Member to have the impression that nothing will be done.

Mr. LEE : I do not say that Members of the Executive Council in the new Council will not protect the workers' interests, but here is law being introduced.

Mr. CRITCHLOW : Since 1941 we have been advocating that there should be a Factories Bill. I was a Member of the Committee which went into the matter very thoroughly. While the normal working day is fixed at 8 hours it will be realized that emergencies will arise and, as happens all over the world, workers are given extra pay for working overtime. I personally feel that there should be 8-hour shifts so as to avoid overtime work. It is not true that the representatives of the workers on the Committee did not take an interest in this matter; we took a great deal of interest. There are hon. Members who have been in this Council long before I was nominated, but none of them agitated for this Bill. The B.G. Labour Union advocated its introduction continuously. I therefore do not see why those Members

should try to prevent it from being passed. As a result of experience gained we could amend the Ordinance from time to time.

Mr. LEE : As a member of the Select Committee why did the hon. Member agree to this change in the original Bill ?

Mr. CRITCHLOW : In Committee we must abide by the decision of the majority. I will never go outside and say that certain members voted for one thing and other members for another.

The ATTORNEY-GENERAL : Having heard the different points of view expressed by hon. Members, I think the Committee will agree that the rights and interests of the workers are being preserved as fully as possible by the amendment which has been recommended by the Select Committee, and which is now under consideration. I think that some hon. Members have really expressed the view that the Governor in Council, with the advice of the Commissioner of Labour, and with their general knowledge, would do something to outrage the interests of the workers. The whole principle of this Bill is to safeguard the interests of all those concerned in the working of factories. Having regard to our local conditions, to our seasonal employment, and the fact that on the coastlands conditions may be different from what they are in the interior, it was considered very desirable to frame this clause in this particular way, so that the Governor in Council, with its mind on the varying conditions, would preserve the rights of the workers, and would not have something done which would be impracticable.

What we are endeavouring to do is to provide a certain amount of elasticity in the legislation so as to enable the whole matter to be successfully carried through in the interest of the workers. I do not think hon. Members appreciate the difficulty of having a fixed period of 60 hours per week. After all we cannot think only in terms of Georgetown or factories on the coastlands. We must also think of the people in the interior, so that when advice is given by the Commissioner of Labour as to what should be applicable with regard to factories on the coastlands might not be applicable to factories in the interior. The basis of the whole thing is to preserve the interests of

the employees in factories, and at the same time to see that the work is sensibly carried out.

If we get down to bedrock we will see that the members of the Committee endeavoured in every possible way to go into the various aspects of the question. The points raised by the hon. Member for North Western District (Mr. Jacob) and the hon. Member for Essequibo River (Mr. Lee) were also discussed, but in the ultimate analysis it was realized that it was not desirable to have a hard and fast rule which could not be altered except by way of other legislation in cases where conditions were such in other parts of the Colony that the general provisions of the Bill might not be workable. I think hon. Members will fully appreciate that this is a genuine endeavour to have proper working factories legislation so as to safeguard and ensure the interests of all those who have to work in factories.

Mr. LEE : Clause 29 provides for an 8-hour working day, therefore a worker is compelled to work on Sundays. A working week of seven days at 8 hours per day would mean 56 hours per week.

Mr. EDUN : Clause 29 provides that no person shall work on holidays unless he gets double the normal rate of pay. I must confess that I was thinking that some hon. Members would be budding statesmen some day, but I think they are still parochial leaders of Labour, trying to confuse the issue.

The Committee divided on the amendment and voted :

For — Messrs. Farnum, Raatgever, Roth, Edun, Humphrys, Peer Bacchus, Critchlow, Seaford, Dr. Singh, the Attorney-General and the Colonial Secretary—11.

Against — Messrs Lee and Jacob—2.

New clause 26 carried.

Clause 27.—*Intervals of rest.*

The ATTORNEY-GENERAL : I move the deletion of clause 27 and the substitution of the following:

“27. Every person employed in a factory or in any occupation in a factory

shall, during his work on any one day, have such an interval for rest as may from time to time be approved by the Commissioner, and in approving such an interval for rest for any person, or for any class of persons, so employed the Commissioner shall have regard —

- (a) to whether the person, or the class of persons, is or is not employed on the shift system; and
- (b) to the nature of the operation on which the person, or the class of persons, is employed."

The argument which I have just used in regard to clause 26 also applies to this clause which seeks to give the Commissioner of Labour power to approve of arrangements. In moving the second reading of the Bill I pointed out that certain difficulties might arise in connection with clause 27 as printed, and I think hon. Members will agree that this new clause meets the case.

Mr. LEE : I certainly wish to record my protest against this amendment. It is an established principle of labour that no worker should remain in a factory longer than six hours, and that if he does remain longer certain penalties would be attached to such a breach. I therefore protest against any power being given the Commissioner of Labour to vary that principle.

The Committee divided and voted :

For— Messrs. Farnum, Raatgever, Roth, Edun, Humphrys, Critchlow, Seaford, Dr. Singh, the Attorney-General and the Colonial Secretary—10.

Against—Messrs. Lee and Jacob—2.

New clause 27 carried.

Clause 29—Overtime.

The ATTORNEY-GENERAL : Certain hon. Members who were members of the Committee expressed disagreement with this clause remaining in the Bill.

Mr. SEAFORD : I beg to move the deletion of this clause altogether. I propose to give my reasons for doing so as briefly as I can and I am sure that if hon. Members approach the subject with an open mind they would agree with the points I am going to make. I will repeat what the hon. the Attorney-General said

and that is the whole of this clause was not in the recommendations of the Committee. How it got into this Bill I do not know, but it seems to me that it is entirely against the principles of trade unionism because it would be doing away with collective bargaining and voluntary agreements. We have been told here—and we read it in the newspapers and everywhere else—that the one thing we should try to get is collective bargaining. This clause suggests something which does not exist in the English Act.

It was the hon. Nominated Member, Mr. Edun, who stated quite recently that we cannot make laws to meet cases peculiar to this Colony, but it seems to me that we are doing that here. I am quite satisfied that the T.U.C. in England would not agree to a clause such as this because it would take away from them the right of bargaining with the various companies and manufacturers, and it seems to me that if we are going to regulate industries—as we are trying to do in this Colony—we would have no further use for trade unions at all. Government would control everything and by providing clauses such as this you are letting down the trade unions here because it shows that you have no faith in them. I am sure that is not the true spirit.

I am accused of being interested in sugar but, fortunately, I cannot be attacked in this case because in the sugar industry we already have an 8-hour day and we also have collective bargaining. But, let us take other industries like the mining industry; you are limiting the hours of work in the interior. At present some of the men work from early morning until dusk and they like to do it because they and their families benefit from it. I am sure that if you stipulate that the wage-rate must be time and a half after an 8-hour day no gold company would employ these people. Already, some of these companies are not certain whether they should go ahead or shut up shop, but I do not think that if you limit the hours of work the men are going to be happy in any way. It is not only the gold and diamond industries that will be affected, and I would like hon. Members to think what this means. It means that production generally is going to go down instead of going up.

You have today, Sir, read to this Council a Message from the Secretary of State for the Colonies, and what does it say? It asks us to produce—and produce. The only way we can get over this crisis is to produce more than we are doing at the present time, and it seems to me unfortunate that we should bring into a Bill of this kind a provision that would have the tendency to limit production. I am sure that we in this Colony, realising the position of the Empire, would not do anything deliberately to limit production. I know that we have among us some very conscientious people who would never do anything to hamper the progress of the Mother Country. We are trying to develop the interior and we should make conditions as easy as possible and do not hinder the work of people who are willing to go there and put mills in the country. Let us try and make their path as easy as possible.

Hon. Members should also remember the poor farmer with his little "caban" in his rice field. What is the good of bringing in a law here when there is no hope of fulfilment? The hardest hit would be the people working in the outlying districts and they are going to suffer much more than they are doing at the present time. It seems to me that if this clause goes through you would be fixing the rate at which overtime should be paid—at 1½ times the ordinary wage rate—and for holidays and Sundays, double time. That means that those people who are employed today and who are getting double pay for overtime work are going to lose that double pay, and I am referring to wharf labourers particularly. They are getting double time today for overtime work and I wonder how they are going to like time and a half. I am satisfied that this clause is going to reduce productivity in this Colony of ours.

Mr. EDUN: This is the clause that made me consent to the substitution of clause 26 by a new clause. I am quite convinced that the interest of the workers would be preserved by this clause 29 and I do not agree with the hon. Member for Georgetown North when he says that it is going to hamper production. As a matter of fact, we do not expect to secure more production in this Colony unless employers are prepared to give workers more incentive

—better conditions of work, a fairer standard of wages and so on.

It is all well and good to talk about more production—a good slogan for a period of crisis—but the workers are not interested in production for production sake. They would be interested in production when part of that production goes into their pockets and that is the only inducement for more production. You must have certain fair standards of wages—certain yardsticks—and when the hon. Member says it is a question of negotiation and collective bargaining I disagree with him because there must be certain definite standards before you can get more production. These standards must be set by the Legislature—by law—and I maintain, Sir—

Mr. SEAFORD: To a point of order: I would ask the hon. Member whether this is in the English Act.

Mr. EDUN: I would be disappointed if I did not find it in the English Act. We are not progressing in trade unionism and in collective bargaining and so on. The history of trade unionism shows that when the Imperial Government decided to give Colonial Development and Welfare funds, Colonial Governments were instructed that certain laws must be altered immediately and this is one of them. We would be guilty of dereliction of duty as Members of this Council, however, if we go back and fail to create proper standards of employment. We have not yet reached the stage where we can secure these conditions by collective bargaining. We know that there are parochial leaders of labour who are fretting themselves over nothing, but the whole thing is in clause 29. It is surprising to hear men who are supposed to be leaders of labour talking such arrant nonsense. If we check up our present standard now what incentive would we find in the minds of labourers?

An 8-hour day, I submit, would give workers better opportunities of employment and that is what we want. We want the industries to absorb more labour and these conditions would assist them to do so. I totally disagree with the hon. Member when he says that this clause would tend to reduce production. They cannot

get more production in England in spite of all the crisis they are talking about. It is necessary to give the workers more incentive—it is not a question of regimentation. This is a broad principle in order to protect the workers in the factories and it should have been introduced long ago. It was the bone of contention in Select Committee, and there I went further and mentioned the question of holidays. I asked the Committee to accept the suggestion that Hindus and Mussulmen should be provided with separate holidays, but I met with some objection so I do not intend to proceed with that contention.

I think Whit-Monday should be included as a holiday, however, and that the provision should not read "Good Friday or Easter Monday" but, rather, "Good Friday, Easter Monday and Whit-Monday", in the last line of clause 29 (a). I would ask hon. Members to support that amendment.

Mr. CRITCHLOW : In supporting this clause—29—I would say that all over the world the principle is to pay higher rates for overtime and holidays. With regard to the question of holidays for Hindus and others, I was prepared to deal with that along the same lines it is dealt with in other countries. In England there is the principle of paying for holidays, but in Water Street and in certain industries here we have to get special agreements. There must be special rates for overtime also, but whenever the workers ask for anything here they are told that it would send employment backward instead of forward.

When I first began to fight for a shorter working day I was told that the workers would produce less but time has proved that they are working harder and producing more. When I was a boy spirit shops and provision shops were allowed to open until midnight on Saturdays and 11 o'clock on ordinary nights; they are closing much earlier today but yet they are selling as much if not more than they did before. I heartily support this clause.

Mr. SEAFORD : I would ask the hon. Member when he speaks of more work in shorter hours whether he is referring to the loading of ships also ?

Mr. CRITCHLOW : If you put us to work under the same conditions as formerly

we would produce much more. We used to work double shift in previous years but the firms said that it created too much expenditure.

Mr. JACOB : It appears that a great deal of negotiations and promises were made by the Select Committee when this Bill was being considered. I am supporting it with certain amendments, however, and it would be interesting to see what effect this clause would have. Another point I would like to say something about is the question of production. I have heard very much about production within the last six or seven hours, but what do we find taking place ?—shortages everywhere and lack of opportunities for the people to produce.

I am saying that the people are not being given opportunities to produce, except in certain recognised channels which bring benefits for certain people only. Reference was made to the Message from the Secretary of State for the Colonies, but I have seen many of these things circulated, then allowed to slide or studiously avoided, and in some cases just taken for granted. I want to see more production and not only to hear about producing and producing.

Mr. HUMPHRYS : I do not think any Member of this Council would ignore facts, whether he is a trade unionist, a capitalist, or else. There can be no question that the average working man is not seeking a shorter working day. What he wants to do is to work as long as he can when he gets extra rates. Therefore he likes an 8-hour day and not more at ordinary rates, and for any work done over and above that he wants time and a half or double time as the case may be. Surely, this question of overtime is one which should be decided between each employer and his employee. There are many employers including firms who differ on the question of paying double time for holidays, and some of them pay time and a half only. Many of these employers see no ground for employing overtime men if they have to pay more than half rate above the ordinary rate, and when the hon. Member for Georgetown North speaks of reducing production I have no doubt that that is what he has in mind.

There are some places in the City—wharves and others which pay double time

for overtime work, but there are others which perhaps cannot afford to pay more than time and a half. I should like to issue a word of warning to the trade unions by suggesting that they are cutting the ground from under their own feet when they advocate a provision such as this. It is a matter for employer and employee to say what they would do in a matter of this kind, and if you are going to fix it by legislation then you will be doing away with the usefulness of trade unions to a great extent. In England this question of overtime pay is not fixed by legislation, and I do not see why it should be necessary to fix it in this Bill. We should make provision that after an 8-hour day a worker should be paid such overtime as agreed upon between the employer and himself. I think that is all that is necessary.

The ATTORNEY-GENERAL : I have not got it quite clearly how the hon. Member says this provision should be made.

Mr. HUMPHRYS : The clause could be made to state that a worker should be paid overtime after an 8-hour day at a special rate agreed upon between the employer and himself, and that he should also be paid special rates for Sundays and holidays. By stating definitely what rate he should get, you would not only be putting a handicap on the employee but also on the employer. If the provision is made as I have suggested an employee might get more than the rate fixed in this clause, but as it stands you are binding both the employee and the employer. The employer would not be able to pay less and the employee would not be able to accept more.

Subject to correction, I think it would be an offence on the part of the employee and also on the part of the employer if the former accepted less than the rate provided and this legislation, I submit, goes far

beyond anything that is fair or wise either to the employer or the employee. I entirely agree with the principle that if an 8-hour day is fixed there must be overtime pay after that period, but I repeat that the rate for overtime should be a matter for arrangement between the employer and the employee. I therefore think this clause should be amended accordingly. I cannot understand how trade union leaders in this Council can stand by and agree that overtime rates should become substantial legislation, taking everything out of their hands when they are receiving subscriptions from members to look after their interest.

I think members of the trade unions would be well advised to cease paying subscriptions because they have everything here in black and white already for them. I would repeat that this clause should be amended to make it clear that there would be overtime pay after an 8-hour day but that would be a matter for arrangement between the employer and the employee. This Council should feel that it would be unwise to pass this provision—unwise for the employee, unwise and unjust for the employer and, above all, ruinous for the trade unions.

Mr. LEE : I think the hon. Member for Central Demerara does not realise—or if he does he is overlooking the fact—that when an employee is called upon to do overtime work whether he likes it or not he has to do it or off he goes. My point is that there are not sufficient industries in this Colony to absorb all the workers and this is the least that we can do for them, leaving it to the trade unions to demand higher rates for overtime work.

The ATTORNEY-GENERAL : I move that the Council adjourns.

The CHAIRMAN : The Council will now adjourn until 2 p.m., tomorrow.