

LEGISLATIVE COUNCIL

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

THURSDAY, 6TH JUNE, 1957

—————
The Council met at 2 p.m.

—————
PRESENT

His Honour the Speaker :

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

Ex-Officio Members:

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

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

*Nominated Members of Executive
Council:*

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

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

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

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

The Hon. R. B. Gajraj

The Hon. R. C. Tello

Nominated Unofficials:

Mr. W. A. Phang

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

Mr. C. A. Carter

Mr. H. Rahaman

Miss Gertie H. Collins

Mrs. Esther E. Dey

Dr. H. A. Fraser.

Mr. R. B. Jaital

Mr. Sugrim Singh

Clerk of the Legislature :

Mr. I. Crum Ewing.

Assistant Clerk of the Legislature :

Mr. E. V. Viapree.

Absent:

The Hon. the Chief Secretary,
Mr. M. S. Porcher (Ag.) —on leave.

Mr. J. I. Ramphal—on leave.

Mr. T. Lee — on leave.

Mr. E. F. Correia—on leave.

Rev. D. C. J. Bobb—on leave:

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

The Speaker read prayers.

The Minutes of the meeting of the
Council held on Friday 31st May, 1957,
as printed and circulated, were taken
as read and confirmed.

ANNOUNCEMENTS

Leave to Members

Mr. Speaker: The Rev. Mr. Bobb has applied for leave of absence on account of illness. He has furnished a medical certificate for two weeks leave at least. We will make it specific dates from the 1st to the 14th June. Mr. Correia is in the interior and has asked to be excused today and tomorrow. Mr. Ramphal has asked to be excused from today's meeting.

PAPERS LAID

The Financial Secretary (Mr. Essex): I beg to lay on the table:

The Annual Report of the Licence Revenue Officer for the year 1956.

Sir Frank McDavid (Member for Agriculture, Forests, Lands and Mines): I beg to lay on the table:

The Report of the Directors and Statement of Accounts for the year ended 31st August 1956, for the British Guiana Rice Development Company, Limited.

Mr. Kendall (Member for Communications and Works): I beg to lay on the table:

The Annual Report and Statement of Accounts of the Demerara Electric Company, Limited for the year ended 31st December, 1956.

OTHER NOTICES

Land for Immigrants

Mr. Sugrim Singh: I beg to give notice of a motion a copy of which I have here:

Be it resolved: That this Council requests the Government to undertake a survey to ascertain the number of immigrants who are entitled to be repatriated under the Indian Labour Ordinance (Cap. 104; and thereafter to introduce a Scheme

to enable such immigrants in terms of section 193 of the Indian Labour Ordinance (Cap. 104) to surrender their right to return passages to India in lieu of the grant or transport of suitable lands to each immigrant, or in the case of immigrants who are old, sick and incapable of working, a cash payment.

ORDER OF THE DAY

PAWNBROKING (AMENDMENT) BILL

Council to resume consideration in Committee of the Bill intituled:

"An Ordinance to amend the Pawnbroking Ordinance.

Mr. Speaker: Does the hon. the Financial Secretary wish to resume the debate in committee of the Pawnbroking (Amendment) Bill?

The Financial Secretary: I would like to. I admit there are rather a lot of amendments but if I may say so they are not very shattering.

Mr. Speaker: I have not seen them; I cannot form an opinion. I don't know whether Members have seen them and would like the debate deferred. Does any Member wish to postpone consideration of the Bill?

Mr. Luckhoo: I think we may continue.

The Financial Secretary: I beg to move Sir, that the Council resolve itself into Committee to resume consideration of a Bill intituled:

"An Ordinance to amend the Pawnbroking Ordinance."

Sir Frank McDavid: I beg to second the motion.

Question put, and agreed to.

COUNCIL IN COMMITTEE

Clauses 6 to 22 renumbered.

The Financial Secretary: I hope, Sir, that you will bear with me and that the Members of the Council will bear with me. This is getting rather like a jigsaw puzzle and if I slip up I hope I shall be excused. I think that the first thing that we might do is to renumber en bloc sections 6 to 22 as 7 to 23. The reason for this is that for the sake of neatness I would like to substitute a numbered clause for the additional clause which we included in the last meeting and which we called 5A. 5A becomes 6, which means that 6 to 22 now become 7 to 23. I don't think we need recommit all the clauses to renumber them.

Amendment put and agreed to.

Clause 6 — *Amendment of Section 11 of Chap. 336.*

The Financial Secretary: I would like to move that the new clause 6 be recommitted, that is the one referred to as 5A on the paper that has been circulated. It commences:

"Section 11 of the Principal Ordinance is hereby amended.

Last week, Sir, we did add Section 5A and this is virtually the same as that. The real alteration is that instead of saying:

"The Governor in Council may from time to time vary by order the amounts prescribed in the second schedule hereto relating to charges for insurance of pledges".

It now says:

"The Governor in Council may by Order published in the Gazette vary the amounts prescribed in Part III of the second schedule hereto."

Sub section 3 says:

"Any order made under this section may be revoked or varied by any subsequent order."

That is only repetition. I think the reason for the addition is quite clear. It means that when an order is made altering the one per cent. that order itself could be varied by a subsequent order.

I therefore beg to move that section 6 as printed on the circulated paper with the amendment of Section 11 of Chapter 336 be inserted in place of Clause 5A.

The Chairman: Publication in the Gazette does not reach the public.

The Financial Secretary: We would publicize it as far as possible. We would put it in the newspapers too.

The Chairman: Publication in the Gazette does not affect anybody except those interested.

Clause 6, as amended, passed.

The Financial Secretary: I beg to move that clause 7 which is now clause 8 be recommitted.

Question put, and agreed to.

Clause 8 recommitted.

The Financial Secretary: I move that the words "the amount of the loan and profit" be replaced by the words "the amount of the loan, profit and charge for insurance."

Mr. Jailal: Sir, we prefer consideration of the Schedule. If we pass this now, I do not know how it is going to affect the Schedule itself because I have several amendments which I want to propose when we go into the Schedule and particularly with respect to this

[Mr. Jailal]

insurance duty. I have an amendment that I would like to bring forward. I would like therefore to suggest that if it is going to be recommended, that we might do this after we have done the schedule. We can consider the Schedule now instead because it seems to me that it is one that is going to affect my amendment.

The Chairman: Have you submitted the amendment to the Mover?

Mr. Jailal:No, Sir. There was no reason for wanting to submit it because I have already said I am not supporting certain clauses.

The Chairman: You did not move a formal amendment. There is nothing in the records for me to look into.

Mr. Jailal: In effect, what I said

The Financial Secretary: May I suggest that we take the clause because it does not affect the Schedule. All this clause says is—

"Where any pledge which has been pawned for above \$5- is sold for more than the amount of the loan and profit due at the time of the sale, the pawnbroker shall pay the surplus to the Public Trustee on behalf of the pawner not later than six months after the date of the sale."

This is a question of surpluses that can be paid to the Public Trustee. All Section 16 of the Ordinance says is that if the sale produces a surplus, the pawnbroker shall pay the surplus to the Public Trustee—a surplus over loan, profit and insurance charge. It does not affect the Schedule.

The Chairman: Does the hon. Member still think it should be paid to the Public Trustee?

Mr. Jailal: That is one of the suggestions on which I got your advice. I ask that we defer the consideration of this particular clause to pay to the Public Trustee. I don't see that it is necessary. We might consider the charge based on it. I think Your Honour was speaking largely on the question of this charge.

The Chairman: What I said was, that all the funds coming into the Public Trustee may be sent to the Trustee and they are not distributed for four years. That is the point; under the Ordinance one does not want to keep people's money for five years. I suggested that the pawnbroker when he sells should in his advertisement give the number so that the people can go and collect it from him — in the way you would advertise price pledges that have not been redeemed.

The Financial Secretary: We feel, Sir, that it says quite specifically that if the Public Trustee is satisfied that some person is *bona fide*, he should pay.

The Chairman: You know best what you are doing here. It is alright that you are causing a hardship.

Mr. Jailal: Sir, I agree with what you say there, because in a small amount of money where a man has pledged something worth \$40, it took \$20 to get back the other \$20. It would take him all of that unless we amend that law and we can't say whether we can do that. I feel that it would be quite right for this Council to advertise the amounts in excess of the ticket because the people who are borrowing this type of money — people who are in absolutely indigent circumstances — \$20 would mean a lot more than ever to get it back having lost their jewellery.

The Financial Secretary: I don't understand what the hon. Member is getting at. What \$20?

The Chairman: When the matter goes to the Public Trustee he would advertise the surplus.

Mr. Farnum: As one of the members of the Committee I would say that the point before the Committee was this: When an article is sold at public auction and it fetches more than the amount for which it was pledged the surplus is kept by the pawnbroker for a period of 3 years. Therefore, it was felt the pawner was ignorant of the section of the law relating to the matter, and in the view of the Committee the pawner should get the surplus money. It is felt that if there is going to be any forfeiture of the money as is done in a good many cases, it should not go to the pawnbroker but into the public chest.

The Chairman: What is to prevent the pawnbrokers from advertising the surplus during the three years they would have it in their possession? They advertise sales every year and can easily show what articles have been sold and what is the surplus from the sale after deducting all expenses.

Sir Frank McDavid: May I enquire whether the statement has been made by Your Honour that monies deposited by the Public Trustee cannot be withdrawn within five years?

The Chairman: I said "properly."

Sir Frank McDavid: My information from an enquiry which I have just verified is that the Public Trustee is obliged to publish all monies in his hands for a period of six months and

upwards. It is a notice calling upon all persons interested to submit their claims within a certain number of days from the date of publication. That does not mean that the money cannot be withdrawn until five years.

The Chairman: They do not do it.

Sir Frank McDavid: They would avoid the getting of legal advice.

The Chairman: It is no good leaving the matter like this; let us agree for the surplus to be sent to the Public Trustee.

The Attorney General: This Bill seeks to impose a duty on the Public Trustee that is very clear. It is a piece of legislation which results from an interpretation of the Public Trustee Ordinance and if it came to be interpreted a Court will find that the Moneylenders Ordinance would apply since it was enacted after the Public Trustee Ordinance.

The Chairman: I was merely saying that people who come to the Colony often go to the Public Trustee for information.

Sir Frank McDavid: Then there should be a revision of the Public Trustee Ordinance.

The Chairman: Nobody would do it. The pledges are bound to be advertised, since they are kept for three years. The pawnbroker would know when a pawner has a surplus as against what he borrowed.

The Financial Secretary: That is so; it is a question of principle and I explained at some length why this division was made. It was made on the recommendation of the Committee. The report said quite def-

[The Financial Secretary] initially that when there was a surplus in the hands of the pawnbrokers the owner of the pledge never got it back. The main point in this clause is to make it clear to everybody when the Public Trustee has a surplus money in his hands. It is to be published in the newspapers.

Mr. Luckhoo: For the purpose of the records, may I enquire whether the hon. Member, Mr. Farnum, is not the Chairman of a Pawnbroking Company?

The Chairman: No; he is the Secretary.

Mr. Farnum: If you will permit me, Sir, I think Your Honour was at one time the Chairman of a Pawnbroking Company.

The Chairman: Yes, I founded a Company. I know about all of them.

Mr. Jailal: What I am suggesting is that a pawnbroking should be made to keep a surplus for three years—until the pawner goes for it. I think what we are doing here is shifting that duty from the pawnbroker to the Public Trustee. Is it a question that instead of allowing the pawnbroker to get the surplus Government wants to do so? I want to prevent these poor people who pledge articles from having to go through all this misery—a lot of swearing to affidavits before Justices of the Peace and so on—before they can get the surplus. I think all that is necessary is to say that the surplus should be advertised in the newspapers after being in the hands of the pawnbroker for a certain time and if it is not claimed by the pawner within a period of years it should become the property of the Government.

The Financial Secretary: As Mr. Jailal has stated, this provision is in the interest of the pawner.

Mr. Jailal: I should like to move an amendment to clause 16 (1), with respect to this question of a surplus (in the case of sale of a pledge article).

The Chairman: We will give you an opportunity to do that later; we can go on with other clauses now.

The Financial Secretary: I explained at some length the purpose of the concession and no one, during the second reading, said they did not agree with it in principle.

Mr. Luckhoo: Is the hon. Member, Mr. Jailal, saying that the surplus should not go into the general revenue of the Colony?

The Chairman: No, the position is this: so far as any surplus balance resulting from a pledge is concerned, if the company does not get certain advice, they do not pay it out. That is an amount the pawnbroker keeps and has the power to keep. The point is, this amendment says that whatever the amount, the pawnbroker has a lien on it and it should be paid in to the Public Trustee after the pawnbroker's expenses have been deducted. That is to say, if a man does not attend the sale, the suggestion is, in order to bring it to his notice it should be advertised that the Public Trustee has a surplus balance available to the pledger. The pledger may then submit his ticket and get his surplus.

Mr. Luckhoo: What happens to the surplus? It must go to the general revenue.

The Chairman: It says, an advertisement must be put in the Official Gazette.

The Financial Secretary: No Sir; with all respect. It does say "publish".

The Chairman: Publish where ?

The Attorney General: In a daily newspaper.

The Chairman: By the Public Trustee?

The Attorney General: Yes. He shall publish "in one daily newspaper circulating in the Colony a list of the names of the persons on behalf of whom he is holding surplus balances".

The Chairman: Assuming it does go into the newspaper, what would be the position if a person cannot get it for five years?

The Attorney General: If a pledge is sold for more than the loan, the interest and the insurance charged, and in the absence of the claimant, it is rather like an estate which goes to the Crown, the administrators not having claimed it. The pawnbroker, however, has got to receive some amount—he is entitled to it. It is actually *bona vacantia*.

The Chairman: What the Public Trustee will be doing in this matter has been done for years in other matters.

Mr. Luckhoo: May I make one final observation. As I understand it, the purpose of this clause is that at the end of three years the money, if still unclaimed, goes to the general revenue.

The Chairman: The Public Trustee.

Mr. Luckhoo: The Public Trustee who usually pays it into the general

Trustee shall pay into the general revenue of the Colony any surplus balances in his possession for more than three years." But at the moment it does not go to the public revenue—it goes to the pawnbroker.

The Financial Secretary: This was done in the interest of the pledger—to protect the pledger; not to swell the general revenue.

The Chairman: Nobody has suggested that, Mr. Financial Secretary. Could we not defer this clause?

The Financial Secretary: Yes, certainly, Sir.

Question put, and agreed to.

Clause 7 deferred.

The Chairman: Would you like to go on with clause 9, Mr. Financial Secretary ?

The Financial Secretary: Yes,

Clause 9 recommitted. *Amendment of section 18 (1) of Cap. 336.*

The Financial Secretary: I move that this clause be amended to read as follows:

"10. Subsection (1) of section 18 of the Principal Ordinance is hereby amended by relettering paragraphs (a) and (b) of the proviso as paragraphs (b) and (c) respectively, and by the insertion of the following as paragraph (a)

(a) the rate of profit charged shall not exceed the rate prescribed in Part I of the second schedule hereto."

I think this Committee has accepted the principle that though a special contract need not now have a prescribed rate of interest it should in future. This is to ensure that the maximum rate chargeable on ordinary loans is also applicable to the rate on special

Question put, and agreed to.

Clause 9 passed as amended and renumbered as 10.

Clause 10 renumbered as 11, and clause 11, renumbered as 12.

The Financial Secretary: I move that clause 11, renumbered as clause 12, be recommitted.

Question put, and agreed to.

Clause 12 recommitted. *Amendment of section 21 of Cap. 336.*

The Financial Secretary: I move that this clause be amended by the substitution of the following for the printed clause :

“Section 21 of the Principal Ordinance is hereby repealed and the following substituted therefor:—

21. Where a pledge is stolen, or is destroyed or damaged as a result of fire, the pawnbroker shall nevertheless be liable on application within the period during which the pledge would have been redeemable to pay the value of the pledge after deducting the amount of the loan and profit, and charge for insurance of the pledge.”

Question put, and agreed to.

Clause 12 passed as amended.

The Financial Secretary: I move that clause 12, renumbered as clause 13, be recommitted.

Question put, and agreed to.

Clause 13 recommitted. *Amendment of section 23 (1) of Cap. 336.*

The Financial Secretary: I beg to move that this clause be amended by the substitution of the following for the clause as printed:

“13. Paragraph (b) of subsection (1) of section 23 of the Principal Ordinance is hereby amended:—

(a) by the insertion of the words ‘or Justice of the Peace’ after the words ‘before a Magistrate;’

(b) by the substitution for the words ‘on the third day’ of the words ‘one month’; and

(c) by the deletion of the brackets and the words occurring after the words ‘by the pawnbroker.’”

I think you yourself, Sir, made a point in regard to (a), that it would be hard on the magistrates if they only are able to deal with declarants. We thought we should widen the scope of this clause and so enable pledgers to make a declaration before a Justice of the Peace, as well as a Magistrate.

Question put, and agreed to.

Clause 13 passed as amended.

The Financial Secretary: I move that clause 13, renumbered as clause 14 be recommitted.

Question put, and agreed to.

Clause 14 recommitted. *Amendment of section 24 of Cap. 336.*

The Financial Secretary: I move that this clause be amended by the substitution of the words “loan, profit and charge for insurance” for the words “loan and profit” in the fourth line of the printed clause.

Question put, and agreed to.

Clause 14 passed as amended.

Schedules.

The Financial Secretary: I move that clause 20, renumbered as clause 21, be recommitted.

Question put, and agreed to.

Clause 21 recommitted.—*Amendment of second schedule to Cap. 336.*

The Financial Secretary: I move that this clause be amended by the sub-

stitution or the following for what is printed in the Bill:

"21. Parts I to V of the second schedule to this Ordinance are substituted for Parts I to V of the second schedule to the Principal Ordinance."

In the First Schedule, in Form 1, 'Pledge Book', at the third column from the right, an amendment seeks to correct a printer's error.

In Form 2, 'Pawn-ticket', A, the words as follows, are substituted:

"The pawnbroker is also entitled to charge in addition to the foregoing charges a minimum of $\frac{1}{2}$ % of the value of this pledge to cover insurance against loss by fire or theft."

Instead of saying "a minimum of $\frac{1}{2}$ per cent. of the value of this pledge to cover loss by fire or theft....." That makes it abundantly clear what is intended.

The Chairman: I would like to see exactly where it comes in.

The Financial Secretary: In the 9th line which reads: "The pawnbroker is also entitled to charge..". Similarly is the case in respect of Ticket B (special contract).

Mr. Jailal: Whatever I say here goes for the other schedule, I feel that it is quite wrong that there is no description of the article pledged provided for on these pawn tickets. The pawnbroker is entitled to charge two cents for the ticket, but I think that charge in the first place is wrong. In other established businesses which go in for hire-purchase, are you going to say that the person entering into such an agreement has to pay for the agreement? I do not agree that that is a fair charge to the individual. It is a fair charge on the business which must

The Chairman: The hon. Member wants no charge to be made for the ticket.

Mr. Jailal: Yes, Your Honour.

The Chairman: They say it is to meet the cost of printing.

Mr. Jailal: The tickets cost less to produce in actual fact than the hire-purchase agreements. Therefore, I feel that if all other businesses can carry the cost of providing hire-purchase agreements, then the pawnbroker with his terrific charge of 24 per cent. on loans ought also to be made to bear the cost of the tickets in his case. It is a charge on the business itself. I know that what I am saying is a departure from what is happening today. But that is no reason why we should perpetuate something that is not right.

Mr. Farnum: If I may say so, under the English Pawnbroking Ordinance the pledger has to pay for the ticket. It is also the case in the British West Indian Islands although in Trinidad the pawnbroker is allowed to charge interest at the rate of 48 per cent. on loans in addition. I may also point out that in the other West Indian territories the rate of interest chargeable by the pawnbroker is very much higher than here, and in every case the pledger has to pay for the ticket. The ticket is a form of contract and is exempted from stamp duty.

The Chairman: I can tell hon. Members this, if I may be permitted to do so, that in regard to hire-purchase agreements the person entering it is not given a copy of the contract.

Mr. Jailal: The amount involved is merely a penny, but what I feel is if the same principle does not obtain to other printed forms this should not be allowed to continue. It is said that it is

[Mr. Jailal]

duty is payable. But is not a hire-purchase agreement a form of contract also?

The Chairman: In this case the person gets the ticket, but in the other case he does not get a copy of the agreement.

Mr. Jailal: We do—the concern with which I work — give the person entering into a hire purchase agreement a copy of the contract, and that is why I am raising it as a matter of principle, because I feel that the cost of printed forms should be a charge on the business itself. The hon. Mover started out on this Bill by saying that pawnbroking is an established business. If we are giving the pawnbroker a large rate of interest on small loans than the money-lender, then this particular charge is basically wrong; it savours of a cheat.

The Financial Secretary: The price of these tickets has been in existence since 1874. It is really a principle to be changed.

Mr. Jailal: We are a small people in the country and have to think in some degrees in a small way. Not because a thing has been existing 400 years, we should not want to stop it and do the right thing. That is why we keep amending our laws. I do not want to raise a hornet's nest about a simple item, but I must in the light of a politician feel that the people who came to me about the one Bill would return to me and say "This is what you did, allow the pawnbroker to print tickets and make the person borrowing pay for it" and I cannot defend it. If it is the desire of the Council, however, to go on with it, I would just call for a division on it.

The Chairman: Let me tell the hon. Member something about these tickets for which the pledgers pay two cents. They take them to somebody

and sometimes sell them or take another loan on them. If they had not the ticket they could not raise any more money and could not traffic with it.

Mr. Jailal: I am not saying that we should deprive the pledger of the right of obtaining a ticket from the pawnbroker, but that he must not be made to pay for it. The cost must come out of the business. The business must produce it without cost to the borrower. I would like to put all my proposed amendments together so that they can be replied to at one time. I have several others which I would like considered.

The Chairman: On this particular Schedule?

The Financial Secretary: They relate to the Second Schedule.

The Chairman: The hon. Member will be given an opportunity when we come to the Second Schedule.

Mr. Jailal: I do not know which is the Second Schedule.

The Chairman: The hon. Mover will remind you. You will find it at page 7 of the Amendments. It is headed "Special Contracts". That is where you have come in.

Mr. Gajraj: I do not want to dilate on this point, but it has been accepted that a pawn-ticket is a contract between the pledger and the pawnbroker. I do not know if the hon. Member knows that if any individual enters into an agreement with Government for the performance of some job, like the movement of mails, he has got to pay for the cost of preparing that contract by the Crown Solicitor. In like manner if one goes down to the everyday membership of organisations

of the working class, I am advised that the members of trade unions are issued a membership ticket and they have to pay for it. So the question of having to pay for the visual sign of having entered into some agreement or contract rests with the person involved and definitely not as the hon. Member tries to make out, with the person running the shop or business. In effect therefore, it is accepted in every sphere of activity that the person wishing to enter into an agreement must pay for the possession of the visual sign of it.

The Financial Secretary: The provisions for contract tickets, subject to the hon. Member's point which has been raised, are passed.

Mr. Jialal: I see here no provision is made for the amount to be placed on the face of the ticket — the amount of the value of the article which is pledged. I want to suggest that it should be placed on the face of the ticket instead of on the reverse side with the regulations governing the destruction of the pledge by fire. It seems that you are going to establish the value of the article at the time it was pledged. It only means it was pledged for a lesser sum.

The Financial Secretary: I am not quite clear about that.

Mr. Jialal: It is very easy to understand. We have among the borrowers to a large degree people who are illiterate. You start off by lending them money and putting one thing in front of the ticket, and people can connive to wean or wrest their hard-earned cash this way. I would like to see the value of the article placed on the face of the ticket so that anyone can know what is the value.

I buy insurance from time to time and I can say that it is just the little

— things that one never reads — which are very important. Very often it is only when one gets hurt that he finds out how difficult or important these clauses are.

The Financial Secretary: The law will remain as it stands here; it is not usual for anything else to be put in at the back of the ticket. If Mr. Jialal feels strongly on this point, it could be arranged for the value of the article to be put on the front of the ticket. I would not mind it and I do not see where there is going to be any hardship on the pawnbroker or anyone else if the clause remains as printed.

Mr. Tello: I have just noticed that this amendment says:

"The value of this pledge as agreed between the pawnbroker and pawner is the sum of . . . dollars and is insured against fire and theft for that sum."

Therefore, it must be understood that the amount would be agreed upon between the pawnbroker and the pawner of the article. Personally, I can hardly agree that there will be insurance of an article for less than the amount it has been pledged for.

Mr. Jialal: I asked a question relating to this provision (for setting out the value of a pledge), and care should be taken about the question of loss. I am wondering whether instead of saying "insured against fire and theft . . . it would not be better to say "insured against loss from any cause".

The Financial Secretary: If the pawnbroker loses the pledge he has to pay for it. All I would say is that he has to insure it against these things. I suppose one policy of insurance would be sufficient to cover him for the dis-

Mr. Speaker: I think the provision is all right; it includes two factors the amount of the pledge given by the pawnbroker and the value of the article pledged.

Mr. Jailal: If legal minds think that this provision is all right, I will sit down.

Mr. Speaker: In this case it would be indemnifying the owner of the article pledged against loss. It looks all right.

The Attorney General: The principle is that once all legitimate claims are satisfied, as in the case of a pawnbroker, and he is entirely satisfied, with the result of his contract any surplus from a claim should go to the State. All unclaimed property goes to the State.

The Financial Secretary: We have not yet seen the amendment proposed. If it provides that during the six months that a pawnbroker could keep the pledge he should advertise it, I would have no objection.

Mr. Jailal: I will agree to that. All I wanted is that there should be some means whereby people would be able to get back their money (due as surplus) from the sale of a pledge.

The Financial Secretary: We shall have to think it out. But if the idea meets him, to the effect that if the pawnbroker keeps it for "X" months, from the date, etc., he gets a certain amount.

Mr. Farnum: If there is no claim for the surplus at the end of three years, what happens to it?

The Attorney General: There are two advertisements within the space of two months because six months

after the sale which produced the surplus, the pawnbroker has to advertise that he has sold the article and it has produced a surplus over and above the capital, profit and interest. If that advertisement has not produced any claim, it is turned over to the Public Trustee, and within three months it is advertised again.

The Chairman: There is no obligation on the bank to do that in the case of unclaimed balances.

The Financial Secretary: It is money which the pawnbroker has not earned in any sense. I compromise up to that.

Mr. Jailal: Rather than produce an amendment which would mean more than the actual charge, to some degree, I am willing to accept the condition whereby the pawnbroker can, if possible, within a limited time, advertise that he has a certain amount for a certain person, and so on. I am further willing to accept that if the broker fails to find a person to come and uplift that money within a period of time, a prescribed time, then the money should be turned in forthwith to the Public Trustee and he can then advertise.

What we are trying to do is not to wrest money from people but to save it and turn it back to them. If we have to advertise every five months what does it matter? What the Attorney General was referring to just now was a period of nine months—almost a year.

The Financial Secretary: I am afraid it is going to mean a lot of consequential amendments. We shall have to include a penalty clause to say what happens to the pawnbroker who has a surplus which he has to hand

over, to the wrong person — an indemnity clause. There is none now.

The Chairman: He is covered if the person swears and makes a declaration.

The Financial Secretary: I think this discussion has thrown up a potential fallacy in the Bill; it is not clear what happens after the auction and there is a surplus, and the owner goes to the pawnbroker a few days later and says to him, "I know you made more; can I have it?" He can only say, "I am sorry, but it has to go across the road to the Public Trustee."

The Chairman: Mr. Farnum, you can confirm this. There have been people who claimed that they lost their tickets, whereas in fact the jewellery in this connection was pawned somewhere else.

Mr. Farnum: Yes, such cases have been dealt with by the courts.

The Chairman: If the pawnbroker pays the wrong person that person can be prosecuted. We will see what can be done. We now come to the Second Schedule.

Mr. Jialal: There is one thing in this Schedule that I wish to deal with. The charge for insurance. I cannot agree with it. I feel that in the law the pawnbrokers themselves are bailors, and therefore that charge should rest with them as part of their expenses. I said before that that is one of the reasons why they should keep this money.

The Financial Secretary: The crux of the matter is that you are forcing the man to insure and you are not leaving him an option to do so. You are insisting that he insures,

Mr. Jialal: We are insisting, but are we not right in insisting?

The Financial Secretary: No.

The Attorney General: The point in law is that the bailee has to take reasonable care. I am talking from memory. He does not guarantee anything. What the bailor holds in bail is held until he has to return it. If a thing is stolen from him, he would have to prove that he was not negligent. He would have to take such care of it as if it were his own and then he cannot be held liable. This provision for insurance is to cover the bailor in cases where the article is lost or destroyed, even though the bailee takes reasonable care.

Mr. Jialal: I will take the explanation because, as I have said before, I have no legal knowledge.

The Financial Secretary: I am afraid the substituted clause 8 will have to be redrafted.

The Chairman: In practice, the pawnbroker can do it, without its being made compulsory.

The Financial Secretary: I think the bigger flaw is that the pawnbroker has not the power to hand over the money.

Question put, and agreed to.

Schedules as substituted passed.

(The substituted Schedules as passed are attached to the minutes of the meeting).

Council resumed.

Further consideration of the Bill deferred.

PRISON BILL

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

“An Ordinance to make better provision for the regulation of Prisons.”

Executive Council decided in April 1956, that a request should be made to the Secretary of State for a visit to the Colony of an expert in Prison Administration from the United Kingdom. In accordance with this decision, Mr. R. D. Fairn, Commissioner of Prisons and Director of Prison Administration for England and Wales, arrived in the Colony on the 4th August, 1956, for a stay of two weeks, and subsequently submitted his report. Following upon the consideration of the report, one of the questions which has been receiving the special attention of Government is that of revising legislation affecting the Prisons. A new Prison Ordinance is before members and the purpose of this Paper is to give members an indication of the changes which it is proposed to make in the existing legal position.

In his Review, Mr. Fairn commented on the fact that the existing Prison Ordinance dates from 1892, and the Rules from 1913, that it has shackled the Judiciary with a system of Prison sanctions which is quite irrelevant to British Guiana, and that the rules made under it are so archaic, and there are so many of them, that neither officers nor prisoners know what they are or indeed where they are.”

Revolutionary changes in prison administration have taken place since 1892. Our Prisons Ordinance is not only inappropriate, but prescribes such forms of punishment as work at “the tread-wheel, shot-drill, crank or capstan.” More important, it has become a matter

of extreme difficulty to administer the prisons effectively without a complete revision of the Ordinance and of the Rules.”

“The Prisons Ordinance (Chapter 83) was enacted in 1892 and is completely outmoded in view of the revolutionary changes in prison administration which have taken place since then. Accordingly it has become a matter of extreme difficulty to ensure the efficient running of the Prisons Department under the existing Ordinance and Rules.

This Bill which is based upon the Jamaica Prison Law (Chapter 307) which was enacted in 1947 seeks to bring the law in this Colony relating to prisons into line with modern developments in prison administration.

Clause 3 of the Bill seeks to provide for the establishment of prisons and lock-ups, and to declare that prisons established under the Prison Ordinance shall be prisons for the purposes of the proposed Ordinance.

Clause 4 seeks to vest the general charge and control of prisons in the Superintendent of Prisons, subject to the orders of the Governor.

Clauses 5 to 15 seek to provide for the appointment of prison staff by the Governor, for the administration of the prison, and for the discipline of members of the subordinate staff as defined in clause 2.

Clauses 16 to 17 seek to prescribe the powers of the prison staff in relation to prisoners.

Clause 19 seeks to provide for a Prison Fines Fund into which shall be paid all pay forfeited by and fines inflicted upon members of the subordinate staff.

Clauses 20 to 26 seek to make provision for the custody of prisoners and persons detained in the lock-ups, and to make provision for their production before any court or at any place where their presence is required.

Clause 28 to 32 seek to provide for the removal of sick prisoners to appropriate hospitals.

Clauses 34 and 35 seek to provide for the segregation of prisoners and the transfer of prisoners apparently under the age of sixteen to an approved school.

Clause 37 to 47 seek to provide for the discipline and control of prisoners.

Clause 48 to 49 seek to provide for a Board of Visiting Justices.

The remaining clauses are self-explanatory. It is proposed by separate legislation to abolish sentences of penal servitude and imprisonment with hard labour as such sentences are not in accord with modern views on prison reform. That has been done by the Criminal Justices Bill which has just been passed. I beg to move that the Bill be now read a second time.

Mr. Gajraj: I beg to second the motion.

Mr. Speaker: Does anyone wish to speak on the second reading of the Bill?

Mr. Sugrim Singh: I must support this Bill. I think it is long overdue, and I am indeed very glad that it has been brought before this Council. As explained by the hon. Mover, it will bring our Prison Rules up to date, at least in consonance with not only what exists in every British Caribbean Colony but prison development within the Commonwealth. One aspect of this Bill I am pleased to see is that dealing with young offenders. This has been

a problem for years now. Year after year we have had reports from the Superintendent of Prisons expressing in somewhat strong language the necessity for separate accommodation and definite arrangements to tackle this question of the young offenders.

As one of the members of the Board of Official Visitors, I think that the staff of our Prisons are working at a great disadvantage, pressed as they are and placed as they are for accommodation. Before I go into this, I must make this point. I consider it an eyesore — the Georgetown Prison being where it is. Year after year we have been expressing the desire for something to be done in that direction.

Everything else, every other department of Georgetown has moved on in improvement, but the Georgetown Prison remains in the heart of the City as a monument reminding the rising generation in the City of its existence as they see the prison population, the guests of Her Majesty's Government, come and go. It is a principle of prison life that there must be some degree of isolation not only by being incarcerated in a cell but by being away from the busy community life. In fact and indeed the Penal Settlement at Mazaruni had been established along those very lines.

Right now it has been my experience that crowds gather around the Georgetown Prison compound on the days of the execution of a condemned murderer, which are somehow known to them, and among them are children and young people, and they even hear the thud outside when the person is executed inside the prison and would say with some degree of accuracy "That is the end of the job". I say that is a shame, and all the modern improvements it is hoped to bring about by this Bill will fail to have the desired

[Mr. Sugrim Singh]

effect unless something substantial is done to remove this eye-sore from the central portion of Georgetown.

It may have served its purpose in the good old days when the City was sparsely populated and the outlook on prison life was completely not in consonance with modern prison life. At the Georgetown Prison, prisoners stay in their cells and converse freely with relatives and friends standing in D'Urban Street. I have seen that, parking my car in the vicinity. Messages pass from prisoners to outsiders and business discussed before our very eyes, and no one can stop it. I do support this Bill, but I do say that it is no use putting this Bill into effect if this prison is to remain in the heart of the City.

My other point is this: I think I can speak with some authority. I have visited some of these institutions in England and noticed that a part of the staff actually live on the premises. In our Prison report this fact has been referred especially in regard to the Georgetown Prison. Members of the staff live away from the Prison and this to some extent affects administration, supervision and control. But I want to say again that the Prison staff is doing admirably well at Georgetown, the Settlement and New Amsterdam. I think the provisions of this Bill are long overdue.

Apart from the removal of the Georgetown Prison, we should tackle properly this question of the young offenders, rather than having them isolated in the North or South Block—the North Prison. I am grateful to the hon. Member (Mrs. Dey) who is closely associated with the institution for giving me the correct name. I know the administration is doing its best, but the

accommodation is far from satisfactory. I wish to support this Bill.

Mrs. Dey: I rise to support this Bill, and in so doing I can repeat the remark made by the last speaker when he referred to me "as one closely associated with the Prisons", as truly applicable to me and I do say that I am very proud of that fact. Like the Governor of the Prison of Dublin, I have had the good fortune of having been a 'prisoner' in the Georgetown Prison in the sense that I had to work within the Prison as long as eight continuous days at a stretch, though I had not committed any crime nor was I there under a sentence of a Judge or a Magistrate. In such circumstances, the hon. Member is right in saying that I know the conditions obtaining in the Georgetown Prison.

I should like to endorse the statement about the siting of the Georgetown Prison. Apart from being an eyesore and apart from having a bad psychological effect upon the members of the public there, through morbid curiosity people could be seen holding discussions on the streets when something is happening, or appears to be happening inside. These crowds gather mostly at the corner of Camp and D'Urban Streets and cause a considerable amount of disorder in traffic before they disperse.

I want to recommend to the authorities concerned that consideration be given to the question of changing the site of the Georgetown Prison. I think the present buildings could be sold at a reasonable figure and that they can be replaced by a block of modern buildings which would make a very good appearance. It would certainly be a good idea to remove the institution from its present site and I might say something more when we come to consider the Bill clause by clause. At the moment, however, I am proud to support the Bill,

Mr. Luckhoo: There are a few comments I would like to make. The real object of prison life has certainly changed with the passage of time. Quite recently—yesterday to be precise—I heard over the B.B.C. of experiments being made whereby prisoners were permitted to speak to each other from their cells within the prison compound. We have suffered in this Colony of British Guiana with respect to our Prison Administration because of failure to have a set of proper rules and regulations upon which we could rely at all times.

Although the object of prison life has changed, it is necessary that discipline should be maintained and that there should be proper regulations to control and maintain this discipline. It is now a matter of some six or seven years since I moved a motion which was accepted in this very Council, recommending to Government the setting-up of a Borstal. From time to time I have made enquiries as to the possibilities, if there were any, and invariably I was met with the answer that although there was a good deal of sympathy about the matter, it was not practicable to carry out such a measure. One hopes that with ideas of this kind in the report we have had, there will be a revival of interest generally in Prison administration and that this particular matter would receive some attention, I do hope the hon. Member (Mr. Farnum) will inform us in his reply whether this project has been completely shelved or merely pigeon-holed temporarily,

The hon. Member, Mr. Sugrim Singh, has referred to the question of one being likely to hear a rather ominous thud outside the Prison walls on the occasion of an execution. I do not know of that myself, but I do know that perhaps one of the most unenviable experiences I have had was to visit the Prison with a certain person who was completely affected on witnessing through

the peep-hole of a cell a prisoner who was condemned to die and was awaiting not a sound but execution itself. That prisoner was subsequently freed, but that person has often told me that the effect of that incident has never been out of his mind. I am of the opinion that in a case like this the prisoner should be segregated and kept apart from the others. I do not know how it could be done, but it should be possible to give some attention to the idea.

Another question that should be brought to the attention of the authorities is that of providing proper rooms for counsel who desire to interview clients. It has always been a very unhappy experience to visit the Prison, especially if the person concerned is on a capital charge, and to find that there is inadequate provision for consultation and instructions in privacy. There is only a small room available and it adjoins a general one being used by the warders. I have not visited there recently, however, and do not know whether the same conditions exist at the present time, but I would ask the hon. Member (Mr. Farnum) to try and improve that state of affairs. One appreciates the fact that a prisoner consulting his counsel should be in a place where he could be observed, but I think there is a great deal of difference between that and the proximity of a warder where his confidences and instructions could be heard.

There are some small points which I will take the opportunity to mention. I know of a case where a prisoner on a very grave charge applied to be examined by a private medical practitioner, and it took five days before that examination could take place, in the presence of the official doctor.

It is very important, especially when it concerns a charge of murder,

that when a prisoner makes certain complaints and he wishes to be examined by his own medical officer, he should be permitted at least that privilege of being so examined in the presence, if necessary—and I think it is necessary — of the Government Medical Officer.

In the case of which I spoke, it took five days. Things like injuries, marks and so on can be effaced by that time. Perhaps in the making of regulations some indication might be given as to what is the principle to be adopted. I may mention that the case I referred to was not one in Georgetown but New Amsterdam.

One is happy to find before this Council a Bill aiming to clarify the position with regard to prisons, and to produce a general pattern which will be complete control of the constitution and administration of prisons and lock-ups. One wonders whether prior to this legislation there were such things as standing orders. I heard of old stacks of papers and rules and regulations which were completely moth-eaten and could not be read.

On the whole I think that local officers and prison supervision generally are up to a fair standard. But that standard can be improved, and as such I welcome this Bill. It approaches the matter from the fundamentals right up to administration; it will make for better organization, and as such I have to support this Bill.

Mr. Speaker: Would any other Member like to speak on the second reading of this Bill?

Mr. Farnum (replying): There are a few points on which I would like to give some explanation and clarification. With respect to the new Georgetown

Prison, this is a matter that has been giving the Government some concern for quite a number of years. Mr. Fairn in his report referred to it. This is what he said:

“The Georgetown Prison is confined within a 2.1 acre site, in a valuable part of the town. If a loan could be raised to cover the immediate expenditure, I believe it would ultimately pay the Colony to sell the site and build a new prison on the outskirts, more adapted to the needs of prisoners in these days.”

Government has been trying to find a new site on the outskirts of the city, and His Excellency has set up a Committee already to go into the question of the design of a new prison and the site on which it ought to be put. The Superintendent of Prisons is Chairman of that Committee. It is perhaps fortunate for us that he is in this position because he was responsible for building a new prison in Jamaica. But the difficulty is to find a suitable site. Anyhow, investigations are still being made in that direction and the Committee will do its best to carry out its task.

The next point is the segregation of young offenders. Mr. Fairn also commented on this. He said:

“I recognize the special difficulties and I therefore recommend the following solution for want of a better. New Amsterdam, with its farm and playing field reasonable neighbourhood facilities, should be set aside for first and young offenders; those with long sentences should do their first year there.”

In keeping with that recommendation the “old lags,” as we call them have been brought down to Georgetown and put into the prison there. Government is already erecting new quarters at Mazaruni, and they will be ready in the near future for young offenders. So there too, efforts are being made to separate the young and first offenders from the “old lags.”

As regards a borstal institution, that is another feature on which Mr. Fairn wrote. He suggested that an open borstal should be set up a certain place in the Colony, but the authorities concerned would not hear of it, so difficulty has been encountered in carrying out Mr. Fairn's recommendation.

I understand it is not a very easy matter to operate a borstal. Officers in charge must be specially trained for such work. There must be no suggestion of a prison about it, and no prison officer should be promoted to be a borstal officer. However, Government is giving full consideration to the matter. The compromise which I think is best in the meantime is segregation, and that is being done.

In respect of the point made by Mr. Luckhoo that suitable accommodation has not been provided at the prison for legal practitioners to interview prisoners, I have just been told by the Superintendent of Prisons that this is being attended to, and Mr. Luckhoo and other legal practitioners would be able to interview their clients in privacy.

I think those are the points I have to refer to; when we come to consider the Bill in Committee Members will be able to get any further information they may require.

COUNCIL IN COMMITTEE

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

Clauses 1 to 8 passed as printed.
Clause 9—*Standing Orders*.

The Chairman: The marginal note has "Standing Orders." What are they?

The Financial Secretary: Standing Orders are regulations for day to day operations. They are made by the Superintendent but the Rules have to be approved by the Governor.

Clause passed as printed.

Clause 10—*Powers to interdict*.

Mr. Luckhoo: May I enquire whether this provision refers to a departmental enquiry or investigation?

Mr. Farnum: Yes, that is so.

The Financial Secretary: I think it relates to clause 12 which talks about the Superintendent holding enquiries.

Clauses 10 and 11 passed as printed.

Clause 12—*Enquiries into Prison Offences*.

Mrs. Dey: I take these enquiries will be held departmentally and then the Superintendent may decide whether the charge should be taken further.

The Chairman: The clause says if he is satisfied he may award certain punishment.

Clauses 12 to 18 passed as printed.

Clause 19—*Prison Fines Fund*.

Mrs. Dey: This clause is not quite clear. What will happen to the

[Mrs. Dey]

accumulated amount of the Fund? I cannot see that a man who has a wife and children, committing an offence should be made to pay a fine and after that the money is to be used to hold dances, when the wives and children of those fined were deprived of that money when the fine was imposed. I think something should be done whereby the wives and children who suffered as the result of the infliction of the fines would get something from it.

Miss Collins: In view of what the last hon. Member has said I can say I know that officers were fined as much as \$85.

Mrs. Dey: I have had to do with the catering for no fewer than six dances where all the money used was obtained from fines against Prison Officers.

Mr. Farnum: In the old days, perhaps, fines were used to organize dances and so on, but I am told by the Superintendent that that system does not exist today. The fines are used to assist children and other relatives of prisoners; they are given financial assistance in cases of hardship.

Mrs. Dey: I am satisfied with that explanation, Sir. I am sure that has not been started very long ago.

Clause 20 — *Persons sentenced, etc. to be committed to prison.*

Mrs. Dey: This clause states (in subclause 2) that:

“(2) Every person awaiting trial or remanded in custody may be committed to and detained in either a prison or lock-up.”

There has been something that has been worrying me since November last year and it relates to this clause. If a woman goes before a Magistrate — it does not matter on what sort of charge — and she is fined but does not pay the fine, the law takes its course. Let us say that she is taken in at midday on Saturday after the gaol delivery has been taken; and she is taken to Brickdam and kept until Monday perhaps before she is sent to New Amsterdam.

I would like this Council to know that I am speaking about a member of my sex and that I am very unhappy about the sanitary arrangements she would have to put up with in the meanwhile. She spends Saturday, Saturday night, Sunday, Sunday night under those conditions and it is not until she reaches New Amsterdam on Monday that she gets what she should have had since one o'clock on Saturday. I have inspected the arrangements made for female prisoners at the Brickdam Police Station and they are not good enough. In my days (when I served as a Matron at the Prisons) female prisoners, in such cases, were taken to the Georgetown Prison, and I should like to know that better sanitary arrangements would be provided for them than those available at present.

Mr. Farnum: This matter has been drawn to the attention of the Prison authorities and arrangements have been made to improve conditions.

The Chairman: Does that mean that the improvements have been already made?

Mr. Farnum: No, Sir; arrangements are being made.

Mr. Speaker: That is not good enough; that is the official answer.

Mrs. Dey: If a woman is taken to the Brickdam at one o'clock on Saturday she should be able to get sanitary convenience and kept comfortable if and until she is to be transferred to New Amsterdam.

The Chairman: I do not think there is any bed in the ante-room in this building; there is not very much to be proud about here. I have been trying for the last four years to get some improvements made but I have not succeeded. I am ashamed when visitors come here; there is no kind of hospitality possible.

Mr. Luckhoo: I hope Your Honour's remarks would be duly noted and brought to the attention of the authorities and the Members concerned.

The Chairman: The hon. Member (Mr. Farnum) has promised that this matter will receive attention. That is the final reply.

Mr. Farnum: I may say that the matter has been brought to our attention by the hon. lady Member (Mrs. Dey), and I think she knows that action is being taken in the matter.

Clause 20 passed as printed.

Clauses 21 to 33 passed as printed.

Clause 34—*Separation of prisoners.*

Mrs. Dey: This is the clause to which the Attorney General promised

that I should refer with regard to expenditure from improvement funds. The clause reads:

“34. (a) No male prisoner shall be detained in the same part of any prison as any female prisoner;

(b) no civil prisoner (so far as possible) shall be detained in the same part of any prison as any criminal prisoner;

(c) no young prisoner shall be detained (so far as possible) in the same part of any prison as any other prisoners;

(d) no person awaiting trial or remanded shall (so far as possible) be detained in the same part of any prison as any other prisoner.”

I also referred to the question of penal servitude and pointed out that at the moment British Guiana has no special provision for dealing with prisoners in that category but it may have provisions relating to hard labour. I should like to have the situation clarified since we have to improve many things.

The Chairman: It will be noticed that this clause deals with prisoners under four different classes. I do not know, however, why “civil prisoners” should be put into a particular class.

Mrs. Dey: That is what I am referring to, Sir.

Mr. Farnum: I would draw the hon. Member's attention to the words “so far as possible”. Separation will be as far as the position allows. After all, the hon. Member knows prison administration quite well—

Mr. Dey: Better than you, Sir.

Mr. Farnum: I am sure we can leave it to the Superintendent of Prisons to do the best he can as the need arises.

Mrs. Dey: Thank you, Sir.

Question put, and ree to.

[Mrs. Dey]

Clause 34 passed as printed.

Clauses 35 to 57 passed as printed.

Clause 58. — *Making of Rules.*

Powers of Governor.

The Chairman: Is this just a question of empowering the Governor in Council? These are rules, are they not?

Mr. Farnum: New rules are being prepared.

Question put, and agreed to.

Clause 58 passed as printed.

Clause 59 and the title and enacting clause passed as printed.

Council resumed.

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

Mr. Gajraj: I beg to second the motion.

Question put, and agreed to.

Bill read a third time and passed.

INDUSTRIES AID AND ENCOURAGEMENT (AMENDMENT BILL)

The Financial Secretary: I beg to move the second reading of a Bill intitled:

“An Ordinance to amend the Industries Aid and Encouragement Ordinance”.

This is not a controversial Bill. The object of it is to enable the Governor in Council to accept duty free materials which are to be used to build a new township, or where they are for establishing a new industry or developing an existing industry. It is not difficult to find cases in which this would apply. For example, this Council has already agreed to the alumina industry and to

the setting up of a manganese industry. This legislation shall be used in cases of that sort, where a large labour force has to be employed. It is part of the policy of Government to exempt such capital investment from Import Duties. This is a step further on the road towards that. I, therefore, beg to move that this Bill be now read a second time.

Sir Frank McDavid: I beg to second the motion.

Question put, and agreed to.

Bill read a second time.

COUNCIL IN COMMITTEE.

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

Council resumed.

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

Sir Frank McDavid: I beg to second the motion.

Question put, and agreed to.

Bill read a third time and passed.

APPRECIATION OF MANGANESE INDUSTRY AGREEMENT

Mr. Luckhoo: I have great pleasure to move the following motion standing in my name—

“Be it resolved: That this Honourable Council welcomes the announcement made in Sessional Paper No. 10 of 1957 and requests that an expression of its commendation be conveyed to the representatives of the North West Guiana Mining Company, Limited.”

This motion expresses the pleasure of the Legislative Council in recording the execution of the Agreement between our Government and the North West Guiana Mining Co. Ltd., relating to the establishment of a large-scale manganese mining undertaking in the North West District. I would like very briefly to

remind this Honourable Council of some of the facts pertaining to this Agreement so as to be in a better position to evaluate what this means to the country. It is for a period of at least three years and then for a further period of 30 years with the right of renewal for 30 years.

The rates of Royalty are stipulated. One will observe that the rates are fixed and the concessions agreed upon are attractive. They necessarily must be so, because if we wish to attract to this country capital, then we must provide attraction for capital. The Royalty rates imposed are in full satisfaction of any export duty, and in addition to that the Company will enjoy free timber rights and concessions for transportation by railway.

The concessions under the Aid to Industries Ordinance will also give help to the Company. The Company has given an expression of its *bona fides*. By perusing the figures of the Company, the policy and programme of exploration and preparatory development works, they indicate in no small measure the desire of this company to work and to spend their capital in developing the areas which are being leased to them. The capital investment is one of \$20 million. This is a substantial sum which will reflect itself not only in the developmental works of the Company but in bringing to this country a medium for more employment and also for giving to Government its appropriate share of revenue.

Employment, it is said in the Sessional Paper, will be one for a large number of people. The pay-roll will be in the vicinity of \$450,000 rising to \$600,000 yearly, and in terms of Government revenue we will enjoy a matter of \$720,000 rising to \$864,000. This has correctly been construed an act of faith by the investors in undertaking such a large-scale mineral investment in this

Colony. The words I use are taken out of the Sessional Paper, because I feel that they appropriately express the sentiments of everyone who is a Guianese. In congratulating and expressing our appreciation of this Company, one would also like to congratulate Government on having successfully carried out this negotiation. Invariably, one finds this part of the Floor most critical of Government's action. It is a credit to Government to be able to pay full tribute on their successfully carrying out this negotiation.

But there are two points I would like to make in connection with this motion, whereby we are welcoming this announcement of Government and asking that an expression of our thanks be conveyed to the Company. The first is, one would wish to see this Company prosper and make money. That will be the greatest credential to show to the world that Companies come in here and bring large capital, and are obtaining from their capital investment an appropriate amount of interest.

The second point is, in my day one would like to see further prosperity for our industries which are already in the Colony. One should not begrudge industries already in the Colony which are making money.

These are our best means of advertising the Colony to the world as a Colony that welcomes capital, as a Colony in which capital is not only going to find a welcome but will have the right of being able to expand itself.

A few days ago we heard in this very Council Chamber figures that there are today in the schools some 126,000 children and a matter of 15,900 to 17,000 coming out of school every year. What are these children to do to walk the streets and end up in a state of frustration? The only thing we should do is to get more capital for the development and

[Mr. Luckhoo]

wider industrialisation of our country. That is our only hope and the sooner people get it into their heads the better it would be — that capital is the answer to our problems, and that we should do everything possible to welcome it.

I am confident that capital will be coming more into this country than it has done in the past. What is necessary is that we should have a stable Government and the requisite taxing centres. Unless we have a stable Government and can assure people abroad that the Government we have will enjoy their confidence at all times and not just want their money, no one would be willing to invest here. It is not for me to determine whether we will have a stable Government or not; it would be for the people of this country to do so in August this year (when the general election takes place).

This question was considered in the House of Commons recently, and I have here a Parliamentary copy of *Hansard* of May 6, in which reference is made to it (on page 733) by Mr. Nigel Fisher. This is what he said:

“When I was in British Guiana there was no sign of the emergence of any united moderate party which could command sufficient electoral support to hope to form a Government. At that time, there was really no alternative to either Jagan or Burnham, or Jagan and Burnham. Since then, Mr. Lionel Luckhoo has formed his National Labour Front, which is certainly the most stable and constructive party which will contest the election. I think that it is a genuine moderate, Labour Party, quite untinted with any Communist leanings. It is somewhat difficult to assess its electoral prospects, but I think that, if elected, it would provide a stable and progressive Government. I don't think that the same can be said, with any confidence, of a Government led by Dr. Jagan.

“British Guiana certainly needs stable Government, and it also needs capital development. It needs more and better

roads, it needs drainage and irrigation and land settlement and greater industrialisation. We ought to finance these things but I should feel much happier about doing so if I could be sure that there was a stable Government to put the funds to proper use. I do not quite see why the British taxpayer who is probably the most heavily burdened taxpayer in the world, should pay for these very expensive projects if they are to be misused by a Communist Government in a British Colony.

“Nor do I think that private capital, which is also very much needed there, is likely to flow in from Great Britain, the United States or Canada if Dr. Jagan is in power. Frankly, I do not see why it should. Greater political security and stability are really essential pre requisites for investment of further private capital. There is a shortage of capital in the world, and I do not think that one can blame industrialists if they look at an area to see whether there is a measure of political stability before they invest in it. . .

“Of course, the Guianese want to govern themselves, and that is a reasonable aspiration in which we should assist them. But Dr. Jagan had his chance, and I do not think he is the man best able to teach them how to do it. I believe that the Guianese are realists, and while they want self-Government they also want progress, development and a better standard of living. They would rather back a party which could have some hope of bringing those things to them, than a party which cannot.

“What I would say to the Guianese is this: ‘We shall tax the British people to finance the things that you need, but we would be happier in doing so if you would elect a stable and progressive Government with which we and the rest of the West Indian colonies can work and which will itself seek to work the Constitution we have offered.’ If that were said, I believe that the Guianese, being realists, would probably be much influenced in the elections which are to take place in August.

“The next step would be the restoration of the Waddington Constitution, or something very like it to which we all want to come. But that cannot be restored if Dr. Jagan and his friends are elected, because they cannot be trusted not to abuse it as they did last time.”

Those words, uttered by Mr. Nigel Fisher in Parliament, reflect the sentiments of many others — persons in these parts and elsewhere. It is not necessary for me to repeat what has been stated in such clear, concise and unambiguous language by this gentleman, but I wish to say that we, Guianese, should recognise that private enterprise must be given every sympathy and encouragement and, most of all, a clean deal. What I am endeavouring to do this afternoon by this motion, is to say that we in this Council request that our humble expression of thanks and commendation be conveyed to the representatives of the North West (Guiana) Mining Company Limited and to assure them that we not only welcome them to British Guiana, but we hope that their efforts and enterprise would be wholly successful here.

Mr. Sugrim Singh: I wish to support this motion and to add a very small point to what has been mentioned by the last speaker. We have been hearing in this Colony talks about independence within the Commonwealth, but there has since been silence in a certain quarter and we are not quite certain whether the independence wanted is intended to be within the Commonwealth or without the Commonwealth.

What has been responsible for the change I do not know. I am pleased to see, as this motion indicates, that British Guiana with its rather limited financial capacity, is now endeavouring to pay its way to secure more capital for its development instead of relying on the British Exchequer. As all of us know, the Colony's economy depends mainly on sugar, rice and bauxite. We have been plodding along for many years, and sometimes we "went under" slightly, so far as the Colony's finances are concerned. If we are to improve our economic position by the introduction of capital, we have to make

sure that we have political stability on which to build financial security.

The coming of capital to this Colony is a very welcome sign. We should protect it since it is going to provide employment for a large number of people. We have heard this afternoon of the large payroll that would be reached eventually by this Company, and I think that all sane and sober Guianese should welcome this fine gesture. Although it has been referred to already in certain quarters, I am pleased to see that as Members of this Council we are welcoming it openly as a credit to this Government. I think it is a laudable move and that we must support this motion as I do this afternoon.

Thank to all the officials who have been able to put in some work in this matter. Undoubtedly there have been a lot of negotiations behind the scenes in order to make this project materialize. In this country today, we have two schools of thought. The first may be put this way: "Let us sit in the corner, talk, and ruminate on our natural resources until such time as heaven-sent manna is received, and we will then harness these resources. Foreign capital is taboo. We can take over this country and do this and do that."

The other school of thought is progressive, as against the first: "Let us make a little headway with strengthening the economy of this country while we can, until we can get bigger capital investment."

As has been mentioned by the hon. Mover, it is now left to the people of this country to provide the next requisite: stable government. This would not only serve as an incentive to this company but as an inducement for the

[Mr. Sugrim Singh]

investment of foreign capital generally for a long time. Without this, the country will be marking time for years to come.

This Government has produced the blueprint from which a plan of economic advancement can be carried out, as in Puerto Rico. Capital, which is, in my view, the saviour of this country can play its part in the realization of that plan.

Sir Frank McDavid: I shall be brief. I would like on behalf of the Government to express our thanks to the hon. Member, Mr. Luckhoo, for his most graceful act in presenting this motion for its acceptance. I feel sure that the terms of the motion, which I am equally sure will be passed, are worthy of the organization and they, too, will be grateful and will be touched by the good wishes which will have been expressed by the Council this afternoon.

There were two ceremonial occasions in connection with this agreement. One was the signing of the mining lease on March 21, 1955—which was signed by His Excellency the Governor, Sir Alfred Savage — and the second was a recent one, which took place on May 6, 1957, when the supplementary agreement was signed by His Excellency the Officer Administering the Government, the Hon. F. D. Jakeway. On the first occasion there was a great

deal of publicity in the Press, and I took the opportunity of making a short statement which was published in the Press at that time. I shall like very much, if I may, to read what I then said so it can be recorded in the *Hansard*. I am reading from the "Daily Argosy" of March 22, 1955:

"I take this opportunity once again to express to the representatives of the Company my appreciation of the spirit of goodwill and helpful co-operation which they exhibited throughout the negotiations that are culminating today in the execution of this document.

While they naturally endeavoured to secure adequate protection for the interests of their principals, they were at all times mindful of the fact that we, for our part, had to ensure that the interests of the Government and people of this country were fully safeguarded.

The participation of this organization with its world-wide connections in the economic development of British Guiana is most welcome and I am sure that we all hope that the Company's operations will be of lasting and mutual benefit of all concerned."

I very heartily commend Mr. Luckhoo for having brought this motion before the Council.

Question put, and agreed.

Motion affirmed.

At this stage Council adjourned until the following Wednesday, 12th June at 2 p.m.