

LEGISLATIVE COUNCIL

FRIDAY 14th FEBRUARY, 1947.

The Council met at 2 p.m., His Excellency the Officer Administering the Government, Mr. W. L. Heape, C.M.G., President, in the Chair.

PRESENT :

The President, His Excellency the Officer Administering the Government, Mr. W. L. Heape, C.M.G.

The Hon. the Colonial Secretary, Mr. D. J. Parkinson (acting).

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

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

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

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

The Hon. J. I. De Aguiar (Central Demerara).

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

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

The Hon. Peer Bacchus (Western Berbice).

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

The Hon. T. Lee (Essequibo River).

The Hon. V. Roth (Nominated).

The Hon. T. T. Thompson (Nominated).

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

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

The Hon. J. A. Veerasawmy (Nominated).

The Clerk read prayers.

The minutes of the meeting of the Council held on the 13th February, 1947, as printed and circulated, were taken as read and confirmed.

ANNOUNCEMENTS.

PRICE CONTROL AND PROFIT MARGINS INQUIRY

The PRESIDENT: Today I have some announcements of myself to make

I have decided with the full support of my Executive Council to appoint a Committee to enquire into Price Control and the Margins of Profit allowed on imported goods. The precise terms of reference of this Committee are still under careful consideration, but generally its duties will be to find out the relevant facts, report them to Government and make recommendations.

I am very happy to report that Mr. Stanley Heald of Fitzpatrick, Graham & Co., has consented to be Chairman, and I am most grateful indeed to him. The other members will be Mr. R. A. Dummett, Mr. G. F. Messervy (the Controller of Supplies and Prices) and Mr. K. S. Stoby, if his services can be spared.

Mr. RAATGEVER: Sir, there is no representative of the commercial community on that Committee. Perhaps it is an oversight. If it is not, then it is not equitable.

The PRESIDENT: I do not think you are in order! At a later time you may raise the question.

D.D.T. CONTROL.

I have another important announcement to make. This morning on the suggestion of the Director of Medical Services I went to Kitty to see the D.D.T. squad in action. I do not really think that the community generally has any idea of what this branch of the Medical Department is achieving. I went with Dr. Hetherington and met Dr. Giglioli and Dr. de Calres, and we went into various houses and saw the gang in action. I have often said in this Council that I, personally, and the other Officers, with whom I have been consulting all this time, agree that the real effects of this D.D.T. Control are going to be enormous. In fact it is going on the very sound principle that prevention is better than cure. We really do believe at this stage that the effects will be shown immediately in the birth rate, death rate and in the hospitals. I asked Dr. Giglioli to give me a short report, and I will just give you a few of the very important facts contained in that report. I will have this report published in full. It is not very long, but I am so deeply impressed

with this work of D.D.T. Control that I want to lay particular emphasis on it in order that it can be fully appreciated by the community.

It was initiated just two years ago, in February, 1945, and up to the end of 1946, 60,000 people were under D.D.T. Control. During 1946 while I was acting Governor I had a meeting with the technical officers concerned and, as a result, instead of D.D.T. Control being confined to research work, we have pooled our resources and established one unit for the control of mosquitoes. The result of that decision is now being felt in the Colony. The Legislative Council voted the necessary funds quite willingly and, I think, Members will be pleased to know that with the help and support of a special gang employed by the Sugar Producers we will shortly be doing 150 houses a day, and by the end of the year we hope to have 220,000 people under D.D.T. Control. The whole of Georgetown within a week will be protected—and I quote the words of the report :

“by a solid peripheral barrier of D.D.T. treated houses extending from Ruimveldt to Bel Air, the East Bank District up to Diamond, and the whole of the West Bank District and the Canals Polder. In Berbice, the Highbury District on the East Bank and Plns. Blairmont and Bath on the West Bank have already been sprayed. Next month, operations will be extended to the suburbs and East barrier of New Amsterdam and to the lower Canje District. The Essequibo Estuary islands are next on the priority list.”

It is very interesting. Dr. Giglioli is most anxious to start Leguan and Wakenaam, because he is very confident that once those islands have been treated and have been got under control by spraying the mainland, at Parika for instance which is a very bad area, they will not have to be treated again. That is still in its experimental stage. I will not go into too much detail except the last which, to my mind, is the most important of all. I would like Members to pay particular attention to this :

“The first village which was treated was Lodge Village. It has a population of close on 3,000 residents. It was notorious as a malarial suburb

of Georgetown. In the years 1938 to 1945, before D.D.T. Control started, approximately 60 per cent. of the school children were found to show evidence of chronic malaria. The birth rate was low and the death rate was high. In most of those years the number of deaths exceeded the number of births. Infant mortality ranged from 235 to 355 per thousand live births. D.D.T. Control was applied in July, 1945, for the first time and has been repeated twice since. In 1946 the number of births was twice as great as in any of the seven years preceding the application of D.D.T. There were 234 births for every 100 deaths; infant mortality dropped to 96 per thousand live births as compared with 235 to 355 before D.D.T. was applied, and in the last malarial survey only 18 per cent. as compared with 60 per cent., of the school children showed evidence of chronic malaria.”

I do ask Members to appreciate what an enormous effect this D.D.T. Control is going to have on the health of the community. It has now passed the experimental stage, and the Officers concerned are completely confident as to the success of it.

ASSISTANCE TO EX-SERVICEMEN

I have just one other announcement to make. On the 31st December, 1946, this Council approved a supplementary vote of \$10,000 under Head XXII “Miscellaneous.” sub-head 40, for the assistance of Ex-Servicemen. Members will appreciate that it was impossible to spend that money in 1946. I am now asking the permission of Members to revote that money for 1947 at once, because the Resettlement Committee is being embarrassed for lack of funds. Therefore with your approval I propose to sign the necessary special warrant. The money was approved on December 31, 1946, and it has not been spent.

PAPER LAID.

The COLONIAL SECRETARY (Mr. Parkinson, Acting) laid on the table the following document :—

List of Articles not ordinarily exempt from duty which have been specially exempted by the Governor in Council under item 2 of the Fourth Schedule of the Customs Duties Ordinance, 1935, as amended by Ordinance No. 25 of 1944 during 1946.

PROCEDURE OF BUSINESS.

The PRESIDENT : Before we proceed with the Order of the Day I am not sure what the wishes of Members are. If it is their wish, I suggest that we proceed with item 1.

PRICE CONTROL COMMITTEE OF INQUIRY.

Mr. RAATGEVER : Before you proceed with the Order of the Day, if I am in order, I would like to make strong comments as to the personnel of the Committee appointed by the Governor in Executive Council to go into the question of Price Control and other matters. I think it is desirable that a member of the commercial community and also a Member or two of this Legislative Council should be included in the personnel of the Committee.

Mr. JACOB : Do I understand the personnel of the Committee to be Mr. Stanley Heald, Chairman; Mr. R. A. Dummett (ex-Controller of Supplies and Prices), Mr. G. F. Messervy (Controller of Supplies and Prices), and Mr. K. S. Stoby, Stipendiary Magistrate, who was connected with the Control Office for some time? It looks very obvious to me that this is a Committee not fully representative of the public. It is true, these gentlemen have knowledge of what is going on. They have all, except Mr. Stanley Heald who is a Chartered Accountant, been connected with the Control organisation. I have always made the point here that the public through their official representatives should have a say in matters of this kind. There had been a lot of complaints about Price Control and the margin of profit and that these things must be under constant review. I think there was some amendment, a very wise one too, recommended by the Economic Adviser. There again you have a Government Officer in the picture. Certain things were done, but the public were not adequately represented at any time since Price Control came into being. I do not know when Price Control was reviewed. I suggest to you—I do not think it is late—that this Committee be strengthened by the inclusion of Members of this Council, so that the public may have confidence in it. It is only right, I think,

that the public should be represented on this Committee.

The PRESIDENT : The views of both hon. Members who have spoken will be borne in mind, and I would like to see both of them at any time. As hon. Members know, the appointment of the personnel of Committees of this nature is not done without very careful thought indeed. Advice had been taken by me but, of course, I have the sole responsibility. All the factors that have been mentioned by the hon. Nominated Member, Mr. Raatgever, and the hon. Member for North Western District have been very carefully considered, but I would like at any time to discuss the matter with them, either together or separately, and to put my views to them.

Mr. SEAFORD : I do like to make one point. Relative to this matter I would like to say this : I personally feel that the Committee should take evidence from the commercial community and others. If you have on that Committee persons other than those connected with commerce, it is much more likely to get the full facts because some of the evidence may be of a very confidential nature, and one would not like to put forward such information to a Committee with others who have to deal in the same commodities. There is nothing to prevent the Committee getting any information from the commercial community, the Chamber of Commerce or anything else.

The PRESIDENT : It is the intention that the Committee will obtain all information and will no doubt invite the Chamber of Commerce and commercial firms to put forward their views. The terms of reference have not been drafted as yet. It is a great pity that Colonel Spencer has to go to England and cannot participate, but he will help in the drafting of the terms of reference.

ORDER OF THE DAY.

INCOME TAX (AMENDMENT No. 2)
BILL, 1947.

The Council resumed the debate on the second reading of the following Bill :—

A Bill intituled "An Ordinance to amend the Income Tax Ordinance with respect to the incidence of Income Tax and to relief from double taxation and in other respects."

The PRESIDENT: Mr. Colonial Treasurer! I think I am right that you have introduced the second reading and made your speech, but I am not quite sure of the practice here, whether when the second reading is deferred Members are allowed to speak again although they had spoken once. Mr. Colonial Treasurer, do you wish to speak again?

The COLONIAL TREASURER (Mr. McDavid): Yes, sir, in answer to the debate.

The PRESIDENT: You want to wind up?

The COLONIAL TREASURER: Yes, but I did understand from the hon. Nominated Member, Mr. Raatgever, that there is some question of postponing it. I do not know if he still wishes that. I am quite ready to go on with it.

The PRESIDENT: Does any Member wish to speak on the principle of the Bill? (After a short pause) I shall therefore ask the hon. the Colonial Treasurer to wind up the debate.

The COLONIAL TREASURER: At the close of the debate, the last time this Bill was before the Council, it was arranged that I should meet Members in order to afford them some more detailed explanation of the provisions of this Bill than was possible in the full Council. A meeting was duly held yesterday afternoon, but I am sorry to say that unfortunately not many Members were present. However, those Members who were present gave me the opportunity to speak very fully on the measure and I answered such enquiries as were addressed to me. So there is very little more I need add at the present time, because I think most Members have more or less made up their minds as to this particular measure. Nevertheless in view of the speeches made by hon. Members when the second reading was taken, I think for the sake of record I ought very briefly to wind up the debate. I do not want to make a

second speech as when introducing the Bill, but nevertheless what I have to say may sound as if I am introducing the Bill a second time. That is inevitable.

I just want to say again that this Bill is particularly important. Its principal clause—clause 8—gives the Governor in Council power to make arrangements with the United Kingdom Government and in fact with any territory outside the Colony whether in the British Empire or outside of it, by which this Colony can get the full amount of its tax on profits which accrue in it. That is a provision which, as I had explained, did not obtain previously. In the case of the United Kingdom that has already been agreed upon, and this arrangement between His Majesty's Government and this Colony will take effect as from the year 1946. In so far as it applies to trading profits I wish to remind the Council that a very very substantial sum of money is involved. So much for the main principle of the Bill.

There are two matters, which I call extraneous, in the main principle of the Bill which received some criticism during the debate on the second reading. The first was the clause which seeks to give power to the Commissioners to call on taxpayers to produce a statement of assets and liabilities. Such statement, of course, is to relate to the property of both the taxpayer and his wife. I want to emphasize again that that power is sought entirely and wholly to be used in the case of attempted evasion or suspected attempts at evasion. There will be no question about a prescribed return calling on every individual to submit such a statement. The power will be only used at the discretion of and when the Commissioners consider that in the interest of revenue it should be used. I am told there is some doubt as to whether this power exists elsewhere. Under the English Finance Act, which I have just looked up—an old Act—the Commissioners have power to issue what they call "precepts" calling on individuals to submit statements of their property. In this clause the words used are "assets and liabilities", because it is in the interest of the taxpayer to

return his liabilities or to state his liabilities. He may state his assets without stating his liabilities, but it would be in his interest to state his liabilities as then we would get his real worth. I do hope that Members will agree that this provision should be included. It is a very necessary one.

The other extraneous matter is the clause which seeks to give the Commissioners power to deal with assessments over a period of five years instead of three years as at present with the power of reopening assessments and granting refunds to taxpayers over the same period. During the meeting I was told some Members thought five years too long and some suggested three years and, I think, one or two thought five years should be allowed to stand.

The PRESIDENT: Do you make the point that it is reciprocal?

The COLONIAL TREASURER: Yes, sir; it is entirely reciprocal. That is to say, the taxpayer has the right to have his return reopened within the period and, if it is found to be wrong, to have a re-assessment and refund. Similarly, the Commissioners will have that right. It is not really for the purpose of reopening the assessment so much, but because of the applications and the time factor and delay in these days when Income Tax and Excess Profits Tax give so much difficulty and trouble in making assessments. Lastly, I come to the bone of contention which is clause 2.

As I said before, clause 2 is an important concession which forms part of the framework of this new scheme for double relief. If this Bill is enacted clause 2 imposes a tax on incomes which are derived from investments abroad held by residents, whether or not such incomes are remitted to the Colony. At the present time no tax can be levied on taxpayers' income from investments unless that money is brought into the Colony. Here again I want to emphasize that the taxpayer will not pay more but will be relieved from double taxation. That principle still holds good. That is to say, the principle that only the higher of the two

taxes is paid remains unimpaired. On the question of paying taxes in the country where the interest originated and also in the country to which it is remitted, that is no question at all. You may ask, how then will this Colony gain? Well there is the possibility of an increased yield, but only in those cases where the taxpayer in this Colony is a man of such a large income that the effective rate of tax on that income exceeds the effective rate in the United Kingdom. It is only in such circumstances will the Colony gain more.

There is one other point which I make last, and this is an important point. It is the point which I have noted has been the most opposed by Members during the course of discussion at the informal meeting. There is a small number of individuals in this Colony who have invested their money out of the Colony in War Loans Stocks in the United Kingdom. That is the War Loan of the last war. Under a condition by which the United Kingdom Government exempts interest on such loans from taxes altogether, non-residents of the United Kingdom holding such war loans are exempted from tax in the United Kingdom. Now, it follows that under the present law, since a taxpayer may retain that income in the United Kingdom, he is in the privileged position of not paying any tax on it whatever. It is quite obvious that if this tax is collected those few persons owning such War Loan would have to pay tax on the income in this Colony. And, I submit, sir, that ethically, morally and in every other way it is right and proper that a resident of this Colony should pay tax on that class of income whether or not he is exempted from it in the United Kingdom.

I want to say this: that if this clause is rejected then Members of this Council must understand that they themselves are taking the responsibility for saying that we in this Colony do not wish to place a tax on income of that class. It is a responsibility which this Council will be taking because this Bill is really framed by His Majesty's Secretary of State for the Colonies on the basis of an

arrangement made with the Inland Revenue Department and it is a concession which His Majesty's Government is willing to give to this Colony. Consequently, this Council will have to make the decision that we in this Colony do not wish to tax individuals in that privileged class.

The PRESIDENT: Can I intervene? You mean that if this Council throw out clause 2 they should be aware that they would be definitely granting a concession to a particular class?

The COLONIAL TREASURER: Yes, sir,—that the Council in rejecting the clause will be taking upon themselves the responsibility of granting a particular relief to a particular class of investments held by certain people in this Colony.

Mr. de AGUIAR: That is today.

The COLONIAL TREASURER: That is the position and I wish to say that it is a responsibility which this Council will be taking upon itself. The rejection of this clause, I must say, will not in any way vitiate the main framework of the Bill. It is a matter entirely for the Council.

The PRESIDENT: The second reading has been moved and seconded, and Members have spoken on the principle of the Bill. I will now put the motion for the second reading.

Question put, and agreed to.

Bill read a second time.

COUNCIL IN COMMITTEE

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

Clause 2—Amendment of section 5 of the Principal Ordinance.

Mr. de AGUIAR: I am going to move, formally, the deletion of this clause. I want to take opportunity of drawing attention to something which I have only just discovered—since coming into the Council. Under Ordinance No. 5 of 1943 an amendment was made to section 10 (1) of the Principal Ordinance whereby par. (i) was deleted and a new par. substituted. Par. (i) in the Principal Ordinance

had for its object the granting to the Commissioners of discretionary power in certain cases and was also intended to grant special relief in regard to capital works that were being undertaken as a result of the desire to increase War production. My fear at the moment is that to substitute this now would be giving the Commissioners specific powers after having taken away altogether the general powers conferred in the same par. in the Principal Ordinance. I would like to know whether my understanding of the position is correct because if it is I think we might take opportunity today to amend something that is not strictly correct. I still believe it is necessary to clothe the Commissioners with certain powers for certain cases and, in any event, it would be wrong to remove general powers from the Commissioners. If I am right I think we might add a new sub-clause—possibly (j)—in order to give effect to what I have said.

The COLONIAL TREASURER: Of course, the particular point raised by the hon. Member is not relevant to the present Bill at all. I am quite sure that section of Ordinance No. 5 of 1943 which the hon. Member quoted did not in any way remove any power or right which is inherent in section 10 of the Principal Ordinance. I remember very well that the particular reason for Ordinance No. 5 of 1943 was to grant under the Income Tax Ordinance the same amount of amortization which was granted under the Excess Profits Tax Ordinance, and the only difference is that the par. is numbered (i) whereas in the Principal Ordinance there is no par. In the meantime there have been many other amendments in the section and we cannot just say now how and why that particular section was amended.

Mr. de AGUIAR: If by accident that power was removed, I take it that a more suitable opportunity will be taken to amend the section. Incidentally, I have been hearing about a desire to consolidate these Ordinances for a long time and I sincerely hope we will see that done before many more moons have passed.

The COLONIAL TREASURER: I agree with the hon. Member that it is

a growing need and I am determined that it should be done before the end of this year.

Mr. SEAFORD: I am thankful for that. I have taken up this matter with Government and the Colonial Treasurer because we have been told about what is done in the United Kingdom, but in some cases the United Kingdom gives relief where we don't. The Colonial Treasurer knows that I am referring to questions like temporary buildings which the United Kingdom makes allowances for while we don't. In other words, we are taking more than the United Kingdom does, and I do think that point deserves consideration. The Colonial Treasurer says "No" because he is cut to grasp by fair or foul means every ha'penny that he can get.

The CHAIRMAN: I do not think that is a proper remark.

Mr. SEAFORD: I can assure you, sir, that in the House of Commons recently I heard very much worse remarks than that. What I mean by "fair or foul means," sir, is—

The CHAIRMAN: By hook or crook. (Laughter).

Mr. SEAFORD: That is not really what I mean.

Mr. RAATGEVER: Can Government let this Council know what amount of revenue would be received if this section is passed?

The COLONIAL TREASURER: I haven't the faintest idea.

Mr. RAATGEVER: I understood the Colonial Treasurer to say yesterday that he did not think there would be any additional revenue if it is passed.

The COLONIAL TREASURER: I think, I would have to answer the hon. Member for Georgetown North very briefly because the point he has made is now the subject of correspondence. It is a very technical subject because it is really excess profits tax. In England excess profits tax would allow for the computation of this tax because tax-payers get their assessments reopened so that they could claim

relief in respect of expenditure incurred on items like maintenance—repairs, rehabilitation and so on—which might have been done during the pre-war years but for the war. There is this catch to it:—that during the war there was no power to withhold payment of a certain amount of taxes in those cases where the taxpayer could prove that he wanted and was able to do certain repairs but could not do so; therefore, at the present time when the tax is abolished that amount of taxes would be refunded or allowed to the taxpayer. I would ask Members of this Council whether they think it will be practical for this Government to keep alive provisions in the Excess Profits Tax Ordinance which have now been abolished in order that persons can come forward and claim for a period of years on that which but for War conditions they would have done themselves—either by way of repairs or else—and get their assessments reopened so as to claim a refund of taxes. I cannot see how a taxpayer can substantiate that in the year 1942 he could have repaired his machinery and that a particular repair that is going to be done in the year 1946 should cost "so much money" and therefore the excess profits tax assessment for 1941 should be reopened in order that he should be allowed that item as a reduction. I am not for one moment suggesting that it is impossible—it is a matter for the people concerned in this Colony—but, nevertheless, the door will be wide open.

Mr. de AGUIAR: I have reason to say that this is one of the first blessings to be received from the repeal of the Excess Profits Tax Ordinance. I would say one thing more and that is Government has certainly been saved a great deal of headache on the part of the Commissioners who would have had to study the various questions to which the Colonial Treasurer has referred. That is why I for one supported the deletion of that measure. It is a blessing that we will not be able to face without some trouble, and it has resulted from the fact that the Council was wise and accepted the suggestion that excess profits tax be abolished.

Mr. SEAFORD : Am I to understand that the hon. Member is suggesting that Government should not do justice because it would give the Commissioners a headache ?

The CHAIRMAN : Does any other Member wish to speak on the merits of the clause ? It has been moved that clause 2 be deleted.

Mr. JACOB : I am only interested in the question of excess profits tax, and I am still in doubt as to whether the law has been repealed in England. From enquiries made recently I do not think it has been repealed as yet. Perhaps the hon. the Colonial Treasurer, who spoke about it just now, will either confirm or deny what I have said. My information is that the tax has not yet been repealed in England.

The CHAIRMAN : We are dealing with clause 2 of this Bill.

Mr. JACOB : Why leave me in grave suspicion ? I have never been able to get Government to come straight in this matter. The Colonial Treasurer speaks here and says nothing, but the hon. Member for Georgetown North says the tax was repealed.

The CHAIRMAN : I said something important and that is, that we are dealing with clause 2.

Mr. JACOB : I always suspect certain things and they always work out. The hon. Member for Western Essequibo said something about the Chancellor of the Exchequer and "this and the other." He said the tax was repealed in England, and Your Excellency said nothing.

The CHAIRMAN : You can table your question and I will answer it.

The COLONIAL TREASURER : I said that so far as I knew excess profits tax was being repealed in England with effect from some date in 1946 but I do not know the date and, I assume, it would be from the date of the accounting period—March 31, 1946. In almost all such cases in this Colony, sir, we will go further back inasmuch as we will have the end

of our accounting period on December 31, 1945.

The CHAIRMAN : I think that is the answer. If the hon. Member for North Western District is dissatisfied he would ask his question in the proper manner and we would get the information from England.

Mr. JACOB : Very well, sir. The Colonial Treasurer said that excess profits tax in England is being repealed as from some date.

The COLONIAL TREASURER : I will find out, and it seems to me that a most reasonable suggestion has come from the Chair.

Mr. JACOB : It is only right and proper that when we are discussing a matter of this kind we should get precise information.

The CHAIRMAN : If it is possible.

Mr. JACOB : The Colonial Treasurer said the tax is being repealed in England, and I challenge those words.

The CHAIRMAN : We will find out. Does any other Member wish to say anything more on clause 2 of this Bill ?

The COLONIAL TREASURER : No, sir.

The CHAIRMAN : I think, really, the discussion has had its merits and its difficulties. As far as I am concerned, as a result of this very clause and the informal talks that have taken place we know what each side thinks about this matter. Some hon. Members want this clause deleted, and I think that for purposes of record, the Member who moved the deletion should say why he wants it deleted, and then the motion will be put to the vote.

Mr. SEAFORD : I think this matter was discussed already—during the second reading of the Bill.

The CHAIRMAN : I think it would be a good thing to record your objection.

Mr. de AGUIAR : I do not think that is necessary because, as the hon. Member

for Georgetown North has said, we dealt fully with this clause during the debate on the second reading, but if hon Members have no desire to say what the position is, then it is a matter for them. Clause 2 seeks to amend section 5 of the Principal Ordinance which reads :—

“5. Income tax, subject to the provisions of this Ordinance, shall be payable at the rate or rates herein specified for each year of assessment upon the income of anyone accruing in, derived from, or received in, the Colony.....”

Now, sir, the change that is proposed in clause 2 reads :—

“.....(a) by the substitution for the words “income of anyone accruing in, derived from, or received in, the Colony” of the words “income of any person accruing in or derived from the Colony or elsewhere, and whether received in the Colony or not;” and (b) by the addition thereto of the following proviso—

Provided that in the case of income arising outside the Colony which is earned income, or which arises to a person who is not ordinarily resident in the Colony or not domiciled therein, the tax shall be payable on the amount received in the Colony.”

I submit that this is a very very wide extension of the section in the Principal Ordinance. When the Colonial Treasurer moved the second reading of this Bill, he was at pains to point out that it was just and equitable that all profits earned in the Colony should be taxed—that this Colony claims a prior right of taxation before it is subject to taxation elsewhere. I am positive that no Member of this Council and no reasonable person in this Colony would disagree with that, but it seems to me that we would be going a bit too far, if we are going to insist that if a man has any investment elsewhere and if he chooses not to bring the income into the Colony it should still be subject to taxation. I do not see in what way such income should be subject to taxation; he did not earn it in this Colony and did not bring it in. It seems to me that we will be going far beyond the range of income tax principles to make such a provision in our Ordinance. Whilst I entirely agree that whatever income is earned in

the Colony should be subject to taxation and that we should have a prior right to tax it, in the same way I feel that income earned elsewhere and not brought into the Colony should not be subject to taxation. Clause 2 has been put into this Bill for the reason I have stated, and I have moved its deletion so that the measure should be allowed to remain as it was before. If hon. Members do not agree with me then this clause would have to remain but, I think, sir, that it should be deleted.

The COLONIAL TREASURER : I would just ask the hon. Member if he is seriously supporting the view that investments belonging to persons in this Colony should be transferred out of the Colony to earn income abroad and that the Colony should not tax that income? In other words, that people should transfer income earned here and let it earn interest abroad and not be taxed.

Mr. de AGUIAR : I suggest that the hon. Member should take the other view and that is, whether it would be better to allow the income to remain in the Colony and let the people try to take steps at evasion of the tax? I can assure hon. Members that if this clause is allowed to remain the capital in this country would be removed from it in a form which the Colonial Treasurer or nobody else would be able to ascertain. It would be moved out in such a form that nobody would know what is happening and nobody would be able to trace it.

Mr. PEER BACHUS : This Bill, sir, seeks to give relief from double taxation to the people in this Colony, and I cannot agree with the hon. Member's view.

Mr. de AGUIAR : I would like to remind the hon. Member that relief from double taxation will only be applicable in cases where there is a reciprocal arrangement.

The COLONIAL TREASURER : I beg your pardon! This form of relief which is put in this Bill is only applicable where arrangements have been made, but where arrangements have not been entered into under the terms of the Bill there is no

change. Relief from double taxation is always available.

Mr. PEER BACCHUS : I sense the feelings of Members who are opposing this clause, especially on the point made by the hon. the Colonial Treasurer, are that under specific conditions the income from War Loans, which they have taken up, will not be taxed. If a citizen of this Colony earns any income elsewhere, whether that income is brought into the Colony to be spent or invested, it is only fair and right that such income should be taxed. If that income earned should not be taxed except it is brought into the Colony, then I say the clause would be useless as it stands here. What can happen is, that instead of a draft coming from London to be paid through the Banks here it will be paid by that income earned there and, therefore, that income will never reach this Colony but the money which ought to have been paid towards the draft will remain in the Colony. It would be a farce to allow such a condition, that if the income has not been brought into the Colony it should not be taxed. I think it is but fair that anyone earning income anywhere should be taxed on it in the Colony in which he resides, providing that double taxation relief is being operated in such colony.

Mr. JACOB : As I understand the matter, the hon. Member for Central Demerara (Mr. de Aguiar) merely rose to move formally the deletion so as to make a point. In developing it he has actually moved the deletion. Is that the position ?

The CHAIRMAN : He said so, but that is the position.

Mr. SEAFORD : The hon. Nominated Member, Mr. Raatgever, asked how much would this measure bring in, and the hon. the Colonial Treasurer is unable to say. That means Government is not relying on it for any revenue at all.

The CHAIRMAN : Only on principle!

Mr. SEAFORD : The principle, you have put up here, in one way is correct but in another sense it is not correct, for the simple reason that there is no question that certain people did buy War Loans, as mentioned, on the certain con-

dition that such income would be free of tax. It seems to me by moving this thing now, Government after allowing them to buy those War Loans is saying "I am going to tax you for buying them."

The CHAIRMAN : I do not want to interrupt the hon. Member, but this Government never gave any undertaking either by implication or inference. What those who bought the Loans got was a guarantee that such income would not be taxed in the United Kingdom. That guarantee still holds good, but when they bought the law of this Colony did not permit it to be taxed here. Government never implied that they would never be in that position at all. If people wish to buy War Loans in order to avoid taxation, they must be satisfied with the advantage they have. They cannot expect that advantage to go on forever. There has been no breach of faith by this Government.

Mr. de AGUIAR : What we are doing in this Colony is, we are accepting certain principles of the Income Tax law and blinding our eyes at the others. This effort to introduce this taxation in this Colony is wrong in principle. Your Excellency says it is not a breach of faith, but I am sure it is. When Income Tax was passed in 1927 it was never intended. If it was intended, it would have been brought in then. The reason why it could not have been brought in then and not up to now, is our Income Tax laws are deficient.

The CHAIRMAN : We are trying to put it right.

The COLONIAL TREASURER : I hate to interrupt, but our Income Tax law is not deficient because it is based on a model which was prepared on a framework constructed by His Majesty's Government for use throughout the Empire and which did not allow us to tax that. It was not a defect.

Mr. de AGUIAR : It is a defect. We are accepting the principles of Income Tax and stopping short of a certain important principle. I am saying without any fear of contradiction that our Income Tax laws are defective in this respect. Here we are introducing something which was never intended when Income Tax was first introduced in this Colony. It went on for

a good number of years without it having been brought in. It should have been done, if they had the right to do so. Hon. I am not going to deal with that. May Members have talked about War Loans. I ask why is it our Income Tax laws do not provide for varying rates—a tax on earned income and a tax on unearned income? That is an important defect. Why is there not a lower rate of tax on earned income and a higher rate on unearned income? Why do you not do that in this Colony? That is one of the principles of Income Tax law, but we do not accept that. The hon. Member for Western Berbice (Mr. Peer Bacchus) and other hon. Members referred to interest received on War Loans. That is an unearned income, but in this Colony as the result of the way in which our rates are being boomed up it seems the time is overdue, if we are going to accept all these little niceties that come into the picture. Let us put the whole thing on the correct United Kingdom basis. It is no use our accepting just a portion of it.

The CHAIRMAN: Does the hon. Member want to pay the same tax here as in the United Kingdom?

Mr. de AGUIAR: We are not very far off.

Mr. SEAFORD: Had it not been for the crisis it would have been.

The COLONIAL TREASURER: Oh, no!

Mr. de AGUIAR: My hon. friend on my left (The Colonial Treasurer) knows I am correct. Some people talk about people in the higher income bracket not being very far off. I do not think that can be contradicted. Perhaps those in the lower income group are better off. Allow those who champion their cause to take that up. The position of Income Tax laws in this Colony is such that the only way to get a true picture is to have the whole thing consolidated, but you keep on putting in these things. I know what is going to happen, and that is why I am speaking so strongly. When the time comes for consolidating these laws this Council will be told you accepted it in 1946, 1945 or 1947 and it is only a repetition of what

transpired then. I want to say right here and now that when the consolidating Bill is brought I am going to look it over very carefully, because I am positive you will only find these items that you see on the credit side of the Income Tax ledger, and you will hardly find any of those that should appear on the debit side.

Mr. JACOB: I think this clause should be put. We have spent quite a lot of time on it. I agree with the hon. Member for Central Demerara. We have to raise our Income Tax to that in England. We must make a start and begin with this one. Later on we will do everything just as in England.

Mr. de AGUIAR: I do not think I said that. The hon. Member must import nothing in the words I use.

The COLONIAL TREASURER: I must say this: The hon. Member said a lot about War Loans. Members must realize that if an individual who holds War Loans removed from British Guiana and went to the United Kingdom to live, he would pay tax on that income; if he went to live in Canada he would have to pay tax on it; if he went to live in a foreign country like Argentina, Brazil or U.S.A. he would have to pay tax on it. But apparently we in British Guiana feel, if I judge the feelings correctly of the majority of Members who have spoken, we can afford to be generous to allow a block of interest which comes in and which belongs to the people of the Colony to go free of tax. I wish Members to understand that they are taking full responsibility for rejecting something which has been offered by His Majesty's Government.

Mr. SEAFORD: His Majesty's Government has not offered anything in the matter. His Majesty's Government is not taking anything from us. That does not arise. With all due deference to the hon. the Colonial Treasurer I do not see it. The point does not strike me. He says we are losing all this money, but he is not prepared to say how much. I do not think it makes one bit of difference to our revenue.

Mr. RAATGEVER: The hon. the Colonial Treasurer said that if Members

lived in England they would have to pay Income Tax on War Loans. I challenge that statement. Certain War Loans were sold on the distinct understanding that they were free of Income Tax to the residents in England.

The COLONIAL TREASURER : The hon. Member is quite incorrect. The only War Loans sold free of Income Tax were those of the last war, and they were only free of Income Tax to non-residents of the United Kingdom and not to residents of the United Kingdom. As a matter of fact some people in this Colony who hold War Loans do not take the trouble to claim relief on them, but it is a condition of the Bond that if you are not resident in England you can make a claim for relief. There is no War Loan of the United Kingdom which is free of Income Tax to a resident in the United Kingdom.

Mr. de AGUIAR : I would like to ask the hon. the Colonial Treasurer, what about Defence Bonds and Savings Bonds ?

The COLONIAL TREASURER : I think I may be wrong. There are some issues, Savings issues of this last war which are free of tax.

Mr. RAATGEVER : The hon. the Colonial Treasurer is wrong. I have some of those Bonds and they are free of tax.

The CHAIRMAN : Except you are not living in the United Kingdom.

Mr. RAATGEVER : I understand some War Loans sold in Trinidad, I may be incorrect but I understand, are free of Income Tax in Trinidad. I was told so by one of the Banks' Managers recently. I would like to know if that is correct.

Mr. JACOB : Does this clause concern War Loans only ? I do not think so, because I know, I am not certain of the details. There are large numbers of people who earn money here and send it away possibly yearly or half-yearly, and those amounts are invested in England. I wonder if they include the interest on those investments in their Income Tax returns in this Colony ? This clause covers those people, and that is a very large sum of money involved. I think that the Income Tax people should be very

vigilant about this business. It includes Government Officers as well as those people, who always talk of England as their home although they were born here or in the West Indies. They are avoiding payment of Income Tax by having two banking accounts, one being abroad, and having the money earned on that money left abroad. It is not fair. I am surprised that two Members are asking for this thing all the time. I cannot give all the facts, but I know it is so.

Mr. de AGUIAR : The hon. Member starts off by saying "I do not know much about the subject." I agree with him. I suggest that he knows nothing about it. Income from investments in the United Kingdom, except War Loans referred to, are subject to Income Tax in England and the resident in this Colony, if he wants relief, has to declare his income to the local Income Tax Authorities in order to obtain relief. So the hon. Member—

Mr. ROTH : Sir, I move that the question be now put.

Mr. JACOB : I beg to second that.

The CHAIRMAN : I do not know if we are quite through. Then I will do so.

Question for the deletion of the clause put, and the Committee divided, the voting being as follows :—

For :—Messrs. Raatgever, de Aguiar. C. V. Wight, Seaford—4.

Against :—Messrs. Veerasawmy, Far-num, Thompson, Roth, Lee, Jacob, Peer Bacchus, Dr. Singh, Critchlow, the Colonial Treasurer, the Attorney-General, the Colonial Secretary—12.

Motion lost.

Clause 5—Amendment of section 35 of the Principal Ordinance.

Dr. SINGH : Relative to the last four words in the last line of paragraph (a)—"or of his wife", I know that Government is doing all the research work possible and is probing every avenue in order to improve tax collection, and I know that this Bill exists elsewhere—in the United Kingdom and in some of the Islands in the Caribbean—but those

words do not exist in their legislation I am asking for their deletion.

Mr. C. V. WIGHT : I must say that the very fact, that it would appear to be illogical to vote in support of clause 2 and then turn round and vote against this clause, compels me to support it. While I might have had some doubt I have none now, and I say that with a great deal of precision and after I have fully weighed the words I intend to say. If we are going to have incomes earned everywhere brought in, let us have the whole income. As it is now we are assessed on the joint income of wife and husband. Sometimes that carries you up in rates and sometimes it has no effect. It seems, if we are going to arrive at a man's income by his assets and liabilities, it is only logical that you should also include his wife's income. If the man is to be made to give a statement of his assets and liabilities, all he has to do is to transfer his savings into his wife's name and give her an income. There is only one difficulty in that, as the Commissioner of Income Tax explained to us yesterday. I had at one time thought that a wife, a man's legal wife according to the laws of the Colony, was not included. Of course, there are some people here who are married according to national custom, but that will be put right. It is quite logical that, if you want all the income of a man brought into the melting pot for the purpose of taxation, as I indicated on the last occasion, there is a way of building up a man's income if you are not sure what you are going to assess on. The Income Tax Authorities and legal Members of this Council would know that you can build it up by an arbitrary system, but, as the Commissioner of Income Tax, Mr. de Broglio, explained yesterday, that takes so long that you probably will only be able to build up that frame in one out of 25 cases. If there is a full disclosure of assets and liabilities, it seems, the whole thing would be settled.

Mr. VEERASAWMY : On the first occasion I spoke against this clause, and I am still prepared to oppose it now for this reason : I am satisfied, as one hon. Member has said his legal friends told him, that the Ordinance is not sufficiently

strong. I am satisfied that the Commissioners have sufficient power to get all the information they want. We are here passing something to ask people to lay over the assets and liabilities of themselves and wives. This amendment seeks that where a person has income then the Commissioners shall have power to ask for certain particulars. In my humble opinion that is already provided for in the Ordinance. What do we find in the Objects ? It says "Clauses 5 and 7 seek to make clear the extent of the Commissioner's powers under section 35 and 44 of the Ordinance." I would have expected someone to tell us, there is some doubt in the minds of the Commissioners that if recourse is made to the Law Courts opinion will be expressed against their having powers to do this and that. Had that been so, I would have supported the amendment. I think they have sufficient powers in the Ordinance to ask for any particulars in respect of anybody's income.

The CHAIRMAN : Income and not assets !

Mr. VEERASAWMY : In order to find out what is taxable they can ask any question within a specific time.

The COLONIAL TREASURER : The governing words are "in respect of any income."

Mr. VEERASAWMY : They can call on anybody to lay over a statement, and they can satisfy themselves as to what is what. I am surprised at the hon. Member for Western Essequibo (Mr. C. V. Wight) who has changed his view merely because he voted against clause 2. I am a bit disappointed in the way in which Members, because their interests are affected, think twice and turn around. I am opposed to this clause.

The CHAIRMAN : Did the hon. Member attend the meeting when the Commissioner of Income Tax explained this clause ?

Mr. SEAFORD : I am only sorry the hon. Member did not attend that meeting, as he would have had quite a different view on this question. It means increasing the number of Income Tax Officials very considerably. This is a much quicker way, an

easier and cheaper way, of getting at the facts.

The COLONIAL TREASURER : I would like to support what the hon. Member for Western Essequibo said. I have been unduly pressing the point of clause 2, and it is quite obvious if the taxpayer who has investments out of the Colony is going to be pressed to include all his income, we must use every endeavour to get at other people who have made incomes which they do not disclose to do so. The whole point about this clause is, it is going to be used with discretion. It will only be used in cases where the Commissioners have reason to believe the taxpayer is attempting to evade the tax by having a larger income than he has disclosed. It is an easy way of getting the whole of it, otherwise the Commissioners will have to dig those facts themselves. They have no power under the law to call on a taxpayer to do anything other than to give his income. Here we say he must give his assets and liabilities also.

Mr. JACOB : I always supported the principle of no evasion at all. I agree with the hon. Member for Central Demerara (Mr. de Aguiar) that all those rabbits must be dug out of their holes.

The CHAIRMAN : Not a rabbit, but a badger out of its hole !

Mr. JACOB : I am against burdening the Statute Book. I agree that the Commissioners have all the powers they want under the existing legislation. The weakness of their case, as presented in this way, is that this power will be used with discretion. That cannot be right. Once the clause is there, once the law is there, you cannot use it with discretion. It is there that a person has to supply these things, and he must supply his liabilities and assets.

Mr. de AGUIAR : I do not think the hon. Member has looked into it very carefully. Section 35 of the Ordinance, sub-section (1), demands the return of an Income Tax statement, and sub-section (2) which is now being amended states :

"The Commissioner may by notice in writing require anyone to furnish him within a specified time any particulars in writing, he requires for the

purposes of this Ordinance with respect to the income of such person."

In sub-section (1) it is obligatory for the taxpayer to furnish a return of his income.

The CHAIRMAN : Does any hon. Member wish to move formally an amendment to this clause—5 ?

Mr. VEERASAWMY : I move the deletion of the whole clause.

The CHAIRMAN : We postponed consideration of this Bill in order to let hon. Members know the reason for this point. Hon. Members met the Colonial Treasurer at an informal meeting and it was explained.

Mr. RAATGEVER : I was not convinced. I attended the meeting but was not convinced.

The CHAIRMAN : I was not present, but I understand that hon. Members were convinced. If the Colonial Treasurer does not wish to say anything more, I will proceed to put the amendment.

The COLONIAL TREASURER : I think it is a question of sentiment on the part of certain Members. What I understand is that some hon. Members dislike giving power to the Commissioners to call on persons to supply information about their wives and so on. The hon. Member stated that the Commissioners had power to do so already, but the hon. Nominated Member, Mr. Veerasawmy, slurred over the words "with respect to income." The only power the Commissioners have is to assess individuals properly, but they cannot do so unless they have particulars of a man's property and his possible earnings. This section is designed to give to the Commissioners power to do a simple thing—to call upon an individual to give a statement of his assets and liabilities — and that is very necessary in some cases.

The CHAIRMAN : It is not going to be done in every case, but only in essential cases.

Mr. C. V. WIGHT : I would like to say that no man who returns his correct income need be afraid of disclosing his assets and liabilities. If he has given the correct income of himself and wife he need

not fear about giving a statement of his assets and liabilities, because the Income Tax Commissioners would be able to reconstruct their respective income and see whether he is correct. It is the fellow who wants to indulge in shifting or ducking something that is going to have some trouble. He may even tie up a property and prevent it from paying estate duty. He may not even trust his wife beyond a certain extent and may only give her a life interest in the property so that if she marries again she would lose it. I repeat that if a man gives correct return of his income and that of his wife he should not fear anything.

Mr. PEER BACCHUS : I am supporting this clause as printed. I do not see why any honest taxpayer should have any objection if he is asked to give a statement of his assets and liabilities. Sometimes the Commissioners ask for it and, for the information of the Council, I would say that I have already furnished the Commissioners with such information.

The CHAIRMAN : If hon. Members take their seats I would put this amendment to the vote. Those in favour of the deletion of clause 5 will say "aye" and those in favour of the Bill standing as printed will say "no."

Amendment put to the vote and lost.

Clause 5, as printed, passed.

Clause 6—Amendment of section 41 of the Principal Ordinance.

Mr. C. V. WIGHT : My opinion has always been that this period should be three years instead of five, and I do not think there would be any objection to that on the part of the Colonial Treasurer or the Commissioners of Income Tax. I therefore move that the word "three" be substituted for the word "five."

Mr. SEAFORD : It has been suggested that this period—five years—was put in to allow the Commissioners to collect from evaders the tax they retain.

Mr. JACOB : According to our local law, I think, if you fail to collect money in five years the debt becomes prescribed. I am against this provision; I think the

period should be made two years instead of five.

Mr. C. V. WIGHT : May I point out to the hon. Member who has just taken his seat that three years is the prescribed period for simple contract debts—like buying goods and other simple contracts not in writing ?

Mr. VEERASAWMY : I rise to support the suggestion of the last speaker. I think three years is very reasonable.

Mr. ROTH : We were told yesterday that the collection of income tax was very much behind hand and that the Commissioners wanted this period to be five years. If we are going to cut the time asked for it is reasonable to assume that the collection would remain behind hand, and I trust that the hon. Members who are opposing the period of five years would be ready to vote an increase of staff when asked for.

The COLONIAL TREASURER : If it is moved that the word "three" be substituted for the word "five" I would be prepared to accept that. It will require more than three years to get the income tax returns completed, and the fact is that companies have been finding it difficult to do so. I suggest that several years after the excess profits tax is repealed we will still be going into various questions. A longer period than three years is required, but I am prepared to accept it.

Mr. de AGUIAR : I have just turned up the Principal Ordinance and I am amused at the argument put forward. The section we are trying to amend is section 41 which reads :—

"41. Where it appears to the Commissioner that anyone liable to tax has not been assessed or has been assessed at a less amount than that which ought to have been charged, the Commissioner may, within the year of assessment or within two years after the expiration thereof assess the person at such amount or additional amount as according to his judgment ought to have been charged, and the provisions of this Ordinance as to notice of assessment, appeal, and other proceedings hereunder shall apply to that assessment or additional assessment and to the tax charged under it."

The proposal now is that we must make the period two years instead of five. I am going to support the printed proposal of five years because my view is that if a man has been successful in evading payment of income tax for two or three years and he is caught he should be roped in. This provision is to give the Commissioners the power to go after evaders for longer than three years. Income tax is a secret affair and, while I do not claim to have any knowledge about it, I have a suspicion that certain people have been evading it and they think they will not be caught during this period.

Mr. JACOB : I do not know what has happened to the hon. Member who has just taken his seat. When we were discussing clause 2 he knew all about this business—he knew that if we passed clause 2 we would not collect a copper more—but now he does not know a thing. I am prepared to support a period of 10 years but I think the officers of the Income Tax Department should be made to do their work. If this Council wants to allow them to leave assessments for possibly 10 years before they look at them it would be better. If we are going to extend the period for 10 years and collect more revenue that would have my support.

The CHAIRMAN : We have had various views expressed and if the majority of hon. Members are in favour of three years I would put that amendment. It is desirable, however, to find out first whether hon. Members are in favour of the clause as printed.

Clause 6, as printed, put, the Committee divided and voted as follows :—

For : Messrs. Thompson, Roth Critchlow, de Aguiar, Seaford, the Col. Treasurer, the Attorney-General and the Col. Secretary—8.

Against : Messrs. Veerasawmy, Farnum, Raatgever, Lee, Jacob, Peer Bacchus, Dr. Singh and C. V. Wight—8.

The CHAIRMAN : I declare in favour of the clause standing as printed.

Clause 6, as printed, passed.

Clause 8—Insertion of new sections 49A, 49B, and 49C in the Principal Ordinance.

The CHAIRMAN : This is a very long clause. Are Members in favour of taking it as a whole ?

Mr. VEERASAWMY : Yes, sir—as a whole.

Clause 8 put, and agreed to.

Council resumed.

The COLONIAL TREASURER : With the permission of the Council, as this Bill is very urgent, I desire to move the third reading now. I therefore move that this Bill be now read the third time and passed.

The COLONIAL SECRETARY seconded.

Question put, and agreed to.

Bill read a third time and passed.

TEACHERS PENSIONS (AMENDMENT) BILL, 1947.

The PRESIDENT : The Attorney-General will now proceed with the second reading of the Teachers Pensions Bill

The ATTORNEY-GENERAL : I beg to move the second reading of the following Bill :—

A Bill intituled “An Ordinance further to amend the Teachers Pensions Ordinance with respect to the computation of pensions and the payment of a reduced pension with a gratuity, and by providing that where teachers are appointed to the Civil Service their right to pensions earned by them as teachers shall be preserved.”

The objects of this Bill will be seen from the memorandum which is affixed to it and which states :—

“The effect of the definition of “aided school” in section 2 of the Teachers Pensions Ordinance is to limit the payment of pensions with respect to service in aided schools to those teachers who serve in fully aided schools only. It is considered equitable that teachers in schools which are not fully aided should also be eligible for pensions. Clause 2 of the Bill seeks by an amendment of the definition of “aided school” to give effect to that decision.

"2. In section 3A (2) of the Teachers Pensions Ordinance, no provision is made as to the manner in which an uncertificated teacher whose name is entered in the Teachers Pension Register and who subsequently becomes a certificated teacher, may exercise his option under that subsection to be paid a reduced pension with a lump sum gratuity. The object of clauses 3 and 6 of the Bill is to remedy that omission.

"3. A number of teachers to whom the Teachers Pensions Ordinance applies have, with the consent of the Governor, been released for service connected with the war. It is sought by clause 4 to preserve the pension rights of those teachers with respect to the period of such service to the same extent as the pension rights of public officers are preserved." It would be agreed that that is fitting and proper.

"4. Where a teacher, whose name is entered in the Teachers Pension Register, ceases to be employed as a teacher in schools of the Colony for a period of more than 5 years, he loses all his pension rights in respect of his service as a teacher; and this rule applies even where the teacher is promoted to the Civil Service. It is considered equitable to provide that the pensions, under the Teachers Pensions Ordinance, of all teachers promoted to the Civil Service should be preserved. Clause 5 of the Bill seeks to give effect to that decision".

In other words, the service of a teacher would be acknowledged and he would not under the provisions of this Bill lose that service if after a period of 5 years he goes into the Civil Service. There was another point raised during my absence from the Colony, I believe, and it will be answered by the Colonial Treasurer. It is with respect to certain officers—certain teachers—who have ceased to be teachers and have gone into the Civil Service proper. That matter has been considered by the Governor in Council and the Colonial Treasurer will deal with it when he comes to second this motion. I beg to move that this Bill read the second time.

The COLONIAL TREASURER : I beg to second this motion, and I desire also to announce that Government has given consideration to the question of the pension of a teacher who is promoted or transferred to the permanent Civil Service. This Bill, as the hon. mover has pointed

out, contains a clause which preserves the right of that teacher to pension under the Teachers Pensions Ordinance and, of course, in the normal course the teacher who is so transferred will also get an appropriate pension or gratuity under the Public Officers Pensions Ordinance. Representations have been made that it would be more equitable if a teacher in such circumstances should be granted a pension for his services in respect of both periods; that is, in respect of his period as a teacher and also for the period during which he was a public servant. It will be a fixed pension and that is the point which I wish to bring before this Council. There is a regulation—No. 10—in the Public Officers Pensions Ordinance which provides that where service in a non-pensionable office was paid for out of a lump sum vote and is immediately followed by service in a pensionable office, that person, if and when retired, is allowed to count for pension two-thirds of the service paid for out of a lump sum vote. The Governor in Council has considered this matter and has decided to put before this Council another Bill to amend the Public Officers Pensions Ordinance and which, they believe, would give the teacher a similar right. That is to say, a teacher's pension will be computed by taking two-thirds of his service as a teacher and adding that to his years of service in his new post. In that way he will be brought into the same position as a Government employee who was previously in a non-pensionable office under an open vote.

The PRESIDENT : It is quite possible that a teacher transferred to the Civil Service might be an elderly man and might have only a few years as a civil servant, and therefore it might not be best for him to accept pension under the Public Officers Pensions Ordinance. It might pay him better to take a gratuity in the Civil Service and full pension under the Teachers Pensions Ordinance. But I take it that this amending Bill will be approved by hon. Members and that it will be left to the teacher to decide which to do. In other words, he can elect to take the most favourable decision; isn't that so Mr. Treasurer ?

The COLONIAL TREASURER : That is so, sir. He can elect to take pension

as a teacher under the Teachers Pensions Ordinance or to come under the Public Officers Pensions Ordinance. In other words, he will be allowed to choose whichever is most favourable to him. If there is a teacher who joins the Service at an elderly age and is able to serve only a few years as a Public Officer, it may pay him to come under this Bill — take the Teachers' Pension plus a gratuity for public service with Government, but if he has comparatively longer years of service as an Inspector then he would be able to get the continuous service pension in the way I have suggested—two-thirds of his service as a teacher plus his full service under a pensionable office. That Bill is already in preparation and will be brought into the Council as soon as possible. I think that will meet justice as well as equity in the case of the teachers.

Mr. PEER BACCHUS : So far as the remarks, made by the hon. the Colonial Treasurer just a while ago about those teachers who were in the profession and were promoted to the Civil Service, are concerned I take it that it is an undertaking that has been given by Government, that provision will be made and a Bill will be introduced.

The PRESIDENT : That will be introduced, but it is up to this Council to pass it.

Mr. PEER BACCHUS : I must take it as an undertaking !

The PRESIDENT : Yes.

Mr. THOMPSON : I have to express thanks to Government for having delayed this discussion. I had asked for it, and the real object was to obtain conditions as existing in the Caribbean so as to unify the whole thing. We find that the moment a teacher is advanced or promoted—the hon. the Colonial Treasurer prefers to say "transferred" — to the Civil Service in Jamaica, Trinidad and Barbados, he gets a pension wholly on his Civil Service status; it is not given in part. When one considers the low grade of pension given teachers in this Colony, it is a disadvantage. I am asking that we follow along the same lines as done in the Islands and add his years of service as a teacher to his years of service in the Civil Service for pension. This will affect only a few.

The PRESIDENT : And all the future ones.

Mr. THOMPSON : You will not have many coming in. I find the teachers very hard-working in that direction and have gone out without getting anything as pension. We have one to go shortly, and he will suffer. When he enters the Service he has to comply with all the requirements as to contribution to the Widows and Orphans Fund, whether he is willing or not, and when he gets to fifty-five he may be called upon to retire, while the Teachers Pension Ordinance provides for his retirement at sixty. That difference of five years has to be taken into account. I do not think in the circumstances of the small number of teachers in this line, I can do better than to ask respectfully that the Bill be so worded as to take the whole of their service for pension as Civil Servants. A teacher may go into the Civil Service late in life; if he takes the Teachers' Pension he will get a very small margin retiring as a first class—a pension of \$40.50 on a maximum salary of \$160—whereas on the other hand as a Civil Servant he will get 50 per cent of his salary. You see the hardship that will be created, and in the circumstances I respectfully request that teachers drafted into the Civil Service be paid a pension along the lines as in Jamaica and Barbados. In Trinidad and Tobago the teacher's pension is computed for the whole of the time he served. There is no break in the service. In Jamaica and Barbados for computation of pension, the provision in the Ordinance reads :

"Service in the Government or otherwise as a teacher which by virtue of the School Teachers' Pension Ordinance as from time to time amended is pensionable service, provided that for the period of such service in the Government of the Colony or otherwise being service paid for from public funds not provided for the specific appointment only one-half is counted as pensionable service for the purpose of this Ordinance."

The COLONIAL TREASURER : I hope the hon. Member realizes what I said.

The PRESIDENT : We are better—two-thirds !

Mr. THOMPSON : The whole period is taken. He is not granted a pension in

respect of his teaching service, but the whole of that service as a teacher is taken into account with his service as an Inspector for pension. Those teachers referred to who have had continuous service will certainly be affected by taking only part of the time they served as teachers. I sincerely hope it will be thought over and the whole of the period as a teacher taken into account for pension on his retirement as a Civil Servant.

The PRESIDENT : I think the hon. Member has overlooked the fact that, if we do as the hon. Member wants us to do, we would be treating the teachers more favourably than other Government Officers. Where you have Government Officers paid from an open vote, the law provides only for two-thirds of that period of his service to be made pensionable, and I do not think it will be right to give teachers the whole of their service and the rest of Government Officers two-thirds.

Mr. VEERASAWMY : May I ask when this proposed new Ordinance will be introduced ?

The PRESIDENT : Immediately.

Mr. VEERASAWMY : I am pleased for that, as if they are giving up their profession those teachers who are acting would like to know what pension they would get. We should be responsible for the new Bill.

The PRESIDENT : I can guarantee that it will be introduced, but not that it will be passed.

Mr. VEERASAWMY : I am sorry it is not possible to grant the teachers what the last speaker asked for them—full service. I think there is a distinction in the case cited by Your Excellency. When the ordinary Civil Servant in the Unclassified Service joins the Service he knows that he is not entitled to a pension, and if by chance he is put above the line then two-thirds of his service is taken into account for pension. What I gather is that these teachers are under their own Pension Ordinance. Government realizes and appreciates that teachers will be given a pension. Persons of outstanding ability are taken from their number and put above the line. If from the start they are entitled to pension, I most respectfully beg to submit that I cannot see that they will

be put in any better position than what has been called by you Civil Servants, because the men on the Unclassified List are not regarded in the same light as the men above the line. It is too late it seems, Government having made up its mind, to ask that my view be considered. If from the start the teacher is under a Pensions Ordinance, then it is a concession his ability entitles him to when he goes higher. He should be entitled to the whole of his service. We are willing, however, to fall in with you in view of what you have assured us.

The COLONIAL TREASURER : The hon. Nominated Member, Mr. Thompson, has read a certain section from certain laws of the Colonies. It is true that in Trinidad teachers are given the complete concession and in Barbados they are Civil Servants. In Jamaica they have adopted a similar provision to what I have just announced, but there the equivalent fraction is only one-half while here it is proposed that it should be two-thirds. So we should be slightly better than Jamaica and our teachers are not Civil Servants.

Mr. JACOB : I am glad that the views of Members are in favour of this new arrangement. It would mean that teachers would become Civil Servants or practically so.

The PRESIDENT : Oh, no; those who are promoted !

Mr. JACOB : It is opening the door for Policemen, for Transport and Harbours Department employees and all those people to become Civil Servants. I think it is a very wise thing to do. I think the matter should be given very favourable consideration, and I support the view.

The PRESIDENT : I wonder if the hon. Nominated Member, Mr. Veerasawmy, has looked at this ? The Unclassified officers never expect to draw pension at all and, therefore, they are given two-thirds of their period of service as pensionable, whereas the teachers always expect pension but they too do not expect to get into the Civil Service List. I do not think there is any difference. Both are fortunate; both join the Service without any expectation, and I really do not think that when a man is promoted to a very much higher respon-

sibility in duties he should be given the whole of his service for pension, when in fact he had been previously doing very much less important work. I think it is generous to give him two-thirds.

Question put, and agreed to.

Bill read a second time.

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

The Council resumed.

The ATTORNEY-GENERAL: With the approval of the Council I beg to move that the Bill be now read a third time and passed.

Mr. CRITCHLOW seconded.

Question put, and agreed to.

Bill read a third time and passed.

PUBLIC OFFICERS' GUARANTEE FUND BILL, 1947.

With Council's consent item 3 on the Order Paper—Council to resume in Committee consideration of the following Bill intitled —

"An Ordinance to repeal the Public Officers' Guarantee Fund Ordinance, Chapter 202, and authorise refunds to certain contributors."

was deferred.

RENT RESTRICTION (AMENDMENT) BILL, 1947.

Item 4—Second reading of the following Bill intitled —

"An Ordinance to amend the Rent Restriction Ordinance, 1941, by enlarging the application and the duration of the Ordinance, by making provision for the fixing of maximum rents, and for purposes connected with the matters aforesaid."

Item deferred.

Mr. C. V. WIGHT: I have been asked by one or two Members—I think it is a good suggestion—that this Rent Restriction Bill may be investigated by the same Committee of this Council which investigated it in the first instance. In other words, there was a Committee before with five or six Members of this Council with the hon. the Attorney-General as Chairman. I do not know who the members were.

The ATTORNEY-GENERAL: I think the hon. Member is referring to the Committee on Implied Terms.

Mr. VEERASAWMY: I do not know what the Committee was. This is going to be a very controversial subject and, personally, I will ask at a later stage that, as another Bill is to be put before us, this one be incorporated so that the whole thing may be ready soon. It is very difficult and troublesome to handle these Bills. The landlords want certain concessions and the tenants want certain concessions, and their interests are being represented and every effort is being made in their behalf. I congratulate Government on bringing it forward. Many decisions have been given since these Bills have been introduced in England from 1920 up to 1933, making loopholes in the English Act. We introduced this legislation in 1941 and only took part of it from the English Act. I feel sure in the interest of both sides and as a credit to Government that with the assistance of many legal Members here we can put up cases for the landlords to strengthen their position and in the interest of the tenants as well. I am proud to be associated with this Bill. There are three things which have taken place since I have been here—the concession given to the Magistrates and to the Police and this Bill—and this Bill should be the star of all the Bills that have been introduced during the short period that I happen to be here. Give us time and we will give whole-hearted support and our legal experience as well, as the matter is important to both sides, the landlords and the tenants. I do not approve of any unknown Committee dealing with this matter.

Mr. SEAFORD: May I ask, will this be another delay of years? I know what a Committee of this Council means. They go on everlasting.

Mr. VEERASAWMY: The hon. Member has just returned from England and does not know that recent committees of this Council under the chairmanship of the hon. the Attorney-General have been really giving excellent service in assisting the Council without the delays of the old committees which the hon. Member is referring to.

Mr. SEAFORD : It is existing now. One has not even met, though it has been appointed four months ago.

Mr. VEERASAWMY : That is the one I am referring to, that I do not know the Members and that I am not interested in.

Mr. CRITCHLOW : I want to appeal to you, sir, that this Bill be taken through all its stages and passed as early as possible. It is long overdue. I do not know why there is this attempt to keep back this Bill.

Mr. FARNUM : I beg to join in the request by the hon. Member for Western Essequibo, (Mr. C. V. Wight), that a Committee should go into this matter. This Rent Restriction matter is causing a great deal of worry to the landlords. I am not a landlord. They refer to this Bill as the "Kill the Landlord Bill." There are good landlords and bad tenants and equally bad landlords and good tenants. What the landlords want is to go before a Committee and put their point of view, so that the Bill can be so drafted as to be acceptable to both parties and to Government. I think the suggestion requires some consideration.

The ATTORNEY-GENERAL : The only point is this : I appreciate hon. Members desire to have a Committee because I realize, and everyone must realize, that a Bill of this nature must be controversial and full of dispute. But at the same time from the point of view of procedure can we appoint a Committee before the Bill has been read a second time? So far as that is concerned all I would suggest to Members is, when the Bill comes before the Council for the second reading and we take it, the matter can then be referred to a Committee to iron out any outstanding points of difficulty. At the present I cannot accede to the request.

Mr. JACOB : I am inclined to agree with the hon. the Attorney-General. The Bill should be debated first, the points raised noted and those points taken to a Select Committee of the Council for consideration. I am not in favour of having this matter delayed for an indefinite period. I am in favour that there should be complete control. At one time we left out \$480 per annum rent; another time we left

out \$720 per annum rent. If there should be control there should be complete control of the whole thing. There must not be these loopholes left. If this Bill attempts to have control, there should be control of everything.

The PRESIDENT : And with retrospective effect too !

Mr. C. V. WIGHT : No one wants to keep the Bill back. I was one who suggested and gave instances why it should be brought forward in this form, but it has gone past certain little ideas and, as the hon. Nominated Member, Mr. Farnum, has quite rightly said, the landlords have got away with the idea that the Bill allowed people not to pay their rent. I can give my hon. friend on my left (Mr. Critchlow) two instances why that is so. Only the other day a poor person had a property mortgaged to the hilt and a gentleman living in it and paying \$1.00 per month rent. He owed \$16.25 and only paid \$1.35, and he distinctly said he was not getting out. Another case is that of a tenant who owed a landlord nearly \$250.00 and would not pay a penny towards the rent. We cannot get him out and have just appealed to the Appeal Court in the matter. That matter is still to be heard. By the time that appeal is heard we shall have him owing \$500.00

The PRESIDENT : Personally I am entirely in sympathy with hon. Members, but in view of the views expressed by the hon. the Attorney-General we should debate the Bill in its second reading and, if necessary, go into Committee first. That cannot be done this afternoon. Therefore let us debate the second reading at the next meeting of the Council.

Bill deferred.

WIDOWS AND ORPHANS PENSIONS (AMENDMENT) BILL, 1947.

The ATTORNEY-GENERAL : I beg to move the second reading of the following Bill intituled —

"An Ordinance further to amend the Widows and Orphans Ordinance with respect to the control, management and valuation of the Fund, voluntary contributions, repayment of contributions, contributions after retirement, and payment of pensions; and for purposes connected with the matters aforesaid."

The primary object of this Bill is to give effect to certain recommendations contained in the Report of a Committee appointed in 1934 by the Secretary of State to report on questions relating to the grant of pensions to widows and orphans of officers in the Colonial Service. The recommendations, which have been incorporated in the Bill, are those which can suitably be adopted with respect to the local Widows and Orphans Fund established under the Widows and Orphans Pension Ordinance, Chapter 207. The Committee expressed the opinion that the increase in the liabilities of a fund involved by such additional concessions as are proposed will make no material encroachment upon the margins inherent in the actuarial benefit tables and is within the limits of safety provided. The clauses in the Bill, which give effect to the Committee's recommendations, are based on corresponding clauses of a model Bill received from the Secretary of State. Opportunity has also been taken to include in the Bill certain necessary amendments to correct errors and omissions in the existing Ordinance.

I may point out to hon. Members, as a matter of interest, in the report of the Committee reference was made to that historical survey and that provision of the grant of pension to the widows and orphans of deceased Civil Servants was first made in British Guiana in 1873. It was felt that owing to the high cost of living Officials could not make provision for their families. It would be seen from the beginning of that historical survey British Guiana took the lead among the Colonies in connection with the Widows and Orphans Fund.

Clause 3 of the Bill repeals section 3 (2) of Chapter 207 as its provisions are included in a different form in clause 6 of the Bill. Clause 4 corrects a printer's error in the 1930 Revised Edition of the Laws. Clause 5 provides that the Colonial Treasurer shall be a director, and the Chairman of the Board of Directors, of the fund. Clause 6 sets out the receipts and payments which may properly be made into and out of the Fund, and further provides that all moneys belonging to the Fund shall be deposited in the Treasury, and that investments made shall be approved by the Governor. Clause 7 provides that annual

accounts of the Fund shall be prepared by the Col. Treasurer; that the accounts shall be audited by the Auditor; that the Directors shall prepare an annual report on the working of the Fund; and that the accounts as audited along with the report shall be laid before the Legislative Council. Clause 8 provides that the actuary shall set out in his report the methods by which, in his opinion, any surplus may appropriately be dealt with or any deficit may appropriately be made good. The object of clause 9 is to abolish for the future the provisions of the law which permit additional voluntary contributions by officers with the object of increasing the pensions for their widows and children. Government has to pay a subsidy on such voluntary contributions, and as is stated in par. 62 of the Report, "Government cannot fairly be called upon to supplement the private thrift of its officials." Clause 11 re-enacts the provisions of sub-sections (3) and (4) of section 24.

The object of clause 12 of the Bill is to carry into effect the recommendations in pars. 89, 93 and 104 of the Report which provide that—

- (a) the refund to be granted in the case of a bachelor who dies or leaves the service from any cause other than dismissal should be his own contributions with compound interest at 2½ per centum per annum. At present the refund is one-half of the contributions without interest;
- (b) the refund to be granted in the case of a widower without children of pensionable age who dies or leaves the service from any cause other than dismissal should be all contributions, with compound interest at 2½ per centum per annum paid by him since the death of his wife or cessation of liability in respect of his children, whichever is the later. At present the refund is one-half of such contributions without any interest; and
- (c) is a bachelor or a widower without children or pensionable age is dismissed from the public service, he should receive a refund as under (a) or (b) as the case may be, but without interest.

"12. Section 25 of Chapter 207 relates to officers whose salaries have been reduced, as well as to officers who have retired. Clause 13 of the Bill seeks to

limit the operation of the section to officers whose salaries have been reduced.

“13. The object of clause 14 of the Bill is to re-enact the provisions of section 25 of Chapter 207 relating to officers who have retired, and also to carry into effect the recommendations in par. 82 of the Report wherein it is stated that—

- (a) if an officer retires on pension on account of ill-health, he should have an option of paying contributions on his salary, or on his pension, or of ceasing to contribute. At present an officer retiring on pension from whatever cause has merely an option to continue to contribute on his salary, or to contribute on his pension, but he cannot cease to contribute;
- (b) as a matter of administration, he should continue to contribute on the salary that he was receiving immediately prior to retirement, unless and until he exercises an option to contribute on his pension or to cease to contribute, in either of which events his registered pension will be adjusted accordingly; and
- (c) if an officer retires on pension on account of ill-health and elects to contribute on his pension, his widow should receive the full registered pension for which he was registered at the date of his retirement if he dies within three years after that date; while if he elects to cease to contribute, the full registered pension should be paid if he dies within two years after the date of his retirement.

“14. The object of clause 15 of the Bill is to carry into effect the recommendations in par. 85 of the Report. The officer on the pensionable staff who leaves the service by reason of ill-health before he has served the qualifying period for pension should be placed on the same footing as the officer who retires on pension on the ground of ill-health but elects not to contribute further.

“15. The object of clause 16 of the Bill is to carry into effect the recommendation in par. 107 of the Report that the pensionable age for boys should be raised from 18 to 21. It is considered that boys should be given the greater advantages which the increase of three years in the maximum pensionable age would provide.”

As I have said, this matter is the result of a report by a Committee set up by the

Secretary of State some years ago and there has also been more recently a local Committee comprised of the Col. Treasurer, the Solicitor General (Mr. Duke), and Mr. Smith. This Bill now comes before Council for ratification and I think the memorandum of Objects and Reasons sets out fully and in detail all the relevant points. I beg to move that the Bill be now read the second time.

Mr. CRITCHLOW seconded.

The PRESIDENT: Does any Member wish to speak on the principle of the Bill? I will therefore put the motion for the second reading.

Question put, and agreed to.

Bill read a second time.

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

Council resumed.

The ATTORNEY-GENERAL: With the permission of hon. Members, sir, I beg to move that this Bill be now read a third time and passed.

Mr. CRITCHLOW seconded.

Question put, and agreed to.

Bill read a third time and passed.

TRADE UNIONS (AMENDMENT) BILL, 1947.

The ATTORNEY-GENERAL: I beg to move the first reading of the following Bill:—

A Bill intituled “An Ordinance further to amend the Trades Unions Ordinance by providing that a Trustee of a Trade Union or of a branch thereof shall not at the same time hold any office in the Union or in any branch thereof and for purposes connected therewith.”

Mr. CRITCHLOW seconded.

Question put, and agreed to.

Bill read a first time.

HOSPITAL FEES (AMENDMENT) REGULATIONS, 1947.

The ATTORNEY-GENERAL: I beg to move the following motion standing in my name as item 7 in the Order Paper:—

"That, this Council approves of the Hospital Fees (Amendment) Regulations, 1947."

Hon. Members, I am sure, have read these Regulations and as will be seen from Regulation 2, "the special rates for in-patient treatment (applicable to all Public Officers and other Employees) set out in Schedule VII to the Principal Regulations, as amended by the Hospital Fees (Amendment) Regulations, 1946, are hereby made applicable to all Employees of the Transport and Harbours Department." In other words, these Regulations seek to extend to the employees of the Transport and Harbours Dept. the special rates which have been provided for all Public Officers.

Mr. CRITCHLOW seconded.

Motion put, and agreed to

LICENSED PREMISES (AMENDMENT)
BILL, 1947

The ATTORNEY-GENERAL: I beg to move the first reading of the following Bill:—

A Bill intituled "An Ordinance to amend the Licensed Premises Ordinance, 1944, with respect to the opening and closing hours of licensed premises and for other purposes connected therewith."

Mr. CRITCHLOW seconded.

Question put, and agreed to.

Bill read a first time.

The PRESIDENT: We have done very well today. Council now stands adjourned until 2 p.m. on Thursday next.