

LEGISLATIVE COUNCIL

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

Friday, 26th October, 1956

The Council met at 2 p.m.

PRESENT

The Deputy Speaker,
Mr. W. A. Macnie, C.M.G., O.B.E.—
—in the Chair,

Ex-Officio Members:

The Hon. the Chief Secretary,
Mr. F. D. Jakeway, C.M.G., O.B.E.

The Hon. the Attorney General,
Mr. G. M. Farnum (Ag.)

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

Nominated Members of Executive Council;

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

The Hon. P. A. Cummings (Mem-
ber for Labour, Health and Housing)

The Hon. W. O. R. Kendall (Mem-
ber for Communications and Works).

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

The Hon. R. B. Gajraj

Nominated Unofficials:

Mr. T. Lee

Mr. W. A. Phang

Mr. C. A. Carter

Mr. E. F. Correia

Rev. D. C. J. Bobb

Mr. H. Rahaman

Miss Gertie H. Collins

Mrs. Esther E. Dey

Mr. R. B. Jaifal

Mr. Sugrim Singh

Clerk of the Legislature

Mr. I Crum Ewing.

Assistant Clerk of the Legislature

Mr. B. M. Viapree (Ag.)

Absent:

His Honour the Speaker, Sir
Eustace Gordon Woolford, O.B.E.,
Q.C.—on leave.

The Hon. R. C. Tello —on leave.

The Hon. L. A. Luckhoo, Q.C.

Mr. W. T. Lord, I.S.O.—on leave.

Mr. J. I. Ramphal—on leave,

Dr. H. A. Fraser.

The Deputy Speaker read prayers.

The Minutes of the meeting of the
Council held on Friday, the 19th of Oc-
tober, 1956, as printed and circulated,
were taken as read and confirmed.

PAPERS LAID

The Chief Secretary: I beg to lay on the table —

Trading and Profit and Loss Accounts and the Balance Sheet of the Lethem Trade Store for the year 1955, together with the Director of Audit's certificate and report thereon.

The Financial Secretary: I beg to lay on the table —

Order in Council No. 66 of 1956 made under section 8 of the Customs Ordinance, Chapter 309, on the 26th day of September, 1956, and published in the Gazette on 20th October, 1956.

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

The Post and Telecommunications Annual Report — January — December, 1955.

GOVERNMENT NOTICES

CONFIRMATION OF ORDER IN COUNCIL,
No. 66 OF 1956.

The Financial Secretary: I beg to give notice of the following motion:

BE IT RESOLVED: That this Council in terms of section 9 of the Customs Ordinance, Chapter 309, confirms Order in Council No. 66 of 1956 which was made on the 26th day of September, 1956, and published in the Gazette on 20th October, 1956.

OTHER NOTICES

AMENDMENT OF STANDING
ORDER NO. 35

Mr. Lee: I beg to give notice of the following motion:

"BE IT RESOLVED: That this Council approves of Standing Order No. 35 being amended by the addition of the following new paragraph (4) thereto:

(4) The provision of paragraph (2) of this Standing Order shall not apply to a debate on any motion which in the opinion of the Speaker relates to the expenditure of public funds or is of great public interest."

INTRODUCTION OF BILLS

The Chief Secretary: I beg to give notice of the introduction and first reading of the following Bills—

Interpretation (Amendment) Bill, 1956.

The Executive and Legislative Councils (Remuneration of Members) (Amendment) Bill, 1956.

The Financial Secretary: I beg to give notice of the introduction and first reading of the following Bill—

The Industries Aid and Encouragement (Amendment) Bill, 1956.

Sir Frank McDavid (Member for Agriculture, Forests, Lands & Mines): I beg to give notice of the introduction and first reading of the following Bill—

The Hydro-Electric Power Bill, 1956.

ORDER OF THE DAY

The following Bills were read a first time:

INTERPRETATION (AMENDMENT) BILL,
1956.

A Bill intituled "An Ordinance to amend the Interpretation Ordinance."

EXECUTIVE AND LEGISLATIVE COUNCILS
(REMUNERATION OF MEMBERS) (AMENDMENT) BILL, 1956.

A Bill intituled "An Ordinance to amend the Executive and Legislative Councils (Remuneration of Members) Ordinance, 1953."

INDUSTRIES AID AND ENCOURAGEMENT
(AMENDMENT) BILL, 1956.

A Bill intituled "An Ordinance to amend the Industries Aid and Encouragement Ordinance."

HYDRO-ELECTRIC-POWER BILL, 1956

A Bill intituled "An Ordinance to make provision for the grant of licences authorising the utilisation of the waters

of the Colony for the purpose of generating electrical energy, and for matters connected therewith."

PUBLIC UTILITY UNDERTAKINGS AND
PUBLIC HEALTH SERVICES
ARBITRATION BILL

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

"An Ordinance to provide an arbitration tribunal for the settlement of disputes in public utility undertakings and in certain services and to prohibit strikes and lock-outs in such undertakings or services in certain circumstances, and for purposes in connection therewith."

In doing so I should like to invite the attention of this Council to the Trade Disputes (Essential Services) Ordinance (Chapter 114) which this Bill seeks to repeal and to re-enact in a more desirable manner. That Ordinance was on our Statute Books and in force since 1942. It was enacted as a wartime measure to meet purposes similar to those proposed in the present Bill. It is still in force, but everyone who has had anything to do with it admits its defects which, though to some extent are excusable during wartime, are not excusable now. While it provides adequate protection for the life and health of the community, it does not ensure a corresponding measure of protection of the rights and interests of the workers in essential services. For example, it provides for the appointment by the Governor of an Advisory Committee under the Labour Ordinance, to enquire into any trade dispute that may arise in any essential service. Neither the Essential Services Ordinance, nor the Labour Ordinance, nor any other Ordinance prescribes any time limit on the deliberations of the Advisory Committee or

any other effective means of circumventing undue delay in deciding on the Advisory Committee's recommendations. Also — I think this is very important — the present Ordinance does not provide for the findings of the Advisory Committee to be binding on any of the parties to a dispute.

The Bill before Council provides for settlement by arbitration of disputes in essential services and undertakings which cannot be otherwise settled, and for the setting up of a Standing Arbitration Tribunal for this purpose. Provision is also made for a time-limit to be put on the Tribunal to make its decision, and for the decision or award to be legally binding on both parties until varied by a subsequent decision or award. Equally important is the requirement that the existence of joint negotiation machinery should be a prerequisite to the inclusion of any schedules which may form part of the Bill. This requirement both reduces the risk of disputes arising in essential services and facilitates voluntary arbitration which may obviate the need for compulsory arbitration. It is only after every effort has been made to arrive at a mutual settlement that steps will be taken to involve this form of settlement.

To this end provision is made in the Bill for reference to a joint negotiation machinery, and it will be the policy of the Ministry of Labour to encourage sides in industry or those branches of industry that are declared essential services to make specific provision in the constitution of their joint negotiation machinery for disputes to be referred automatically to voluntary arbitration in the first instance. In that event unless one or both sides of

[Mr. Curramings]

the dispute should fail to accept the award or decision arrived at by voluntary arbitration, it would not be necessary to invoke the assistance of the provision in this Bill before the Council. I think I should draw attention to the fact that provision is made in the Bill for the Governor to appoint three members and a secretary of the Tribunal. That will be normally done on the recommendation of the Ministry.

I now invite hon. Members' attention to the Objects and Reasons for the Bill.

Clause 3 seeks to make provision for the report of a trade dispute to the Governor in Council, for the consideration of the dispute by him, for the reference of such a dispute for negotiation or arbitration, and for the reference to the Tribunal constituted under the Ordinance.

Clauses 4, 5, 6 and 7 of the Bill seek to provide for the constitution of a Tribunal to be known as the Public Utility and Public Health Services Arbitration Tribunal, consisting of a Chairman and four other members appointed by the Governor in Council. Of the four members other than the Chairman one must be chosen to represent employers and another to represent employees. These representative members of the Tribunal will be selected by the Governor in Council from time to time from panels constituted by the Governor in Council after consultation with organisations representative of employers and employees respectively.

Clause 8 seeks to provide for the appointment of a secretary and officers of the Tribunal by the Governor.

Clauses 9, 10 and 11 seek to prescribe the procedure to be observed by the Tribunal.

Clause 12 seeks to prohibit lock-outs and strikes unless the dispute has been reported to the Governor in Council and no action has been taken by the Governor in Council for the settlement of the dispute within one month from the date of the report.

Clause 13 seeks to provide for the reference for advice of any matter in connection with a trade dispute by the Governor in Council to the Tribunal.

Clause 14 seeks to prescribe a maximum period within which the Tribunal shall make its award. It also seeks to enable the Tribunal to make its award retrospective to any date not earlier than the date on which the dispute first arose.

Clauses 15, 16 and 17 are self-explanatory.

Clause 18 seeks to enable the Governor in Council to pay to any member of the Tribunal out of the general revenues of the Colony such remuneration as may be determined.

Clause 19 seeks to make it an offence for any employer to declare or to take part in a lock-out, and any employee to take part in a strike, contrary to the provisions of the Ordinance.

Clause 20 seeks to provide for the display of extracts of the Ordinance.

There is a Schedule to this Bill which is rather important, because hon. Members will bear in mind that although the intention is to seek stability in the relationship between employer and employee we can only be justified, if we are to observe the

fundamental industrial practice, in including those services which are essential to the health and life of the community. I have heard the criticism that this should be extended further, but it must be borne in mind that we are restricting the essential right of trade unions to strike, and we must only do that where it is in the interest of life and health of the community, and not generally. If we do it we must make the sort of provision we are now seeking to make, so that when we restrict the right there is a certain limitation of the restriction. I now formally move that the Bill be read a second time.

Sir Frank McDavid: I beg to second the motion.

Mr. Lee: I would like to invite the hon. mover's attention to clause 16 which reads:

"16. For the purpose of dealing with any matter referred to it, the Tribunal shall have all the powers of the Supreme Court to summon parties and witnesses and to compel the production of any document, so as to elicit all such information as in the circumstances may be considered necessary, without being bound by the rules of evidence in civil or criminal proceedings:

Provided always that, if any witness objects to answering any question or to producing any document on the ground that it will tend to incriminate him, or on any other ground, he shall not be required to answer such question or to produce such document, nor shall he be liable to any penalties for refusing to do so.'

The effect of this clause, in my opinion, is that if a witness is given the right to refuse to answer a question or to produce a document on the ground that to do so might incriminate him, the whole proceedings before the Tribunal would be upset, because the Tribunal would not be able to arrive at a decision without that essential evidence. I submit that it should be

for the Tribunal to decide whether an answer to a question or the production of a document would tend to incriminate a witness. In civil and criminal proceedings it is the Magistrate who warns the witness if he thinks the answer to a question might incriminate him.

Mr. Correia: This clause has also worried me, as it appears that the proviso negatives the whole purpose of the clause.

I would also like to inquire of the hon. mover whether the Bill was discussed with the leading trade unions and the Trade Union Council before it was presented to this Council. If that has been done I will have nothing more to say on it.

Mr. Sugrim Singh: I rise to support this Bill which I think has been necessary for a long time. My two hon. friends appear to be somewhat anxious about clause 16. *Prima facie* the language appears to be intricate, but the whole purpose of the inquiry by the Tribunal would be defeated if the rules of evidence were rigidly applied. There is precedent for the procedure in other Ordinances providing for similar inquiries, in which the rules of evidence have been relaxed. But although the rules of evidence have been relaxed the proviso to the clause provides the necessary protection for the witness from whom information is being sought, in that the Tribunal cannot use its powers to elicit evidence which might tend to incriminate the witness.

It is an established rule of evidence which everyone knows, that any trial judge or magistrate is entitled to intervene whenever an incriminating question is put to a witness; that right is

[Mr. Sugrim Singh]

preserved in this proviso. The hon. mover touched on an important point for trade unionists all over the world, and that is, that this proposed Ordinance does indeed appear to take away the immunity of the right of trade unions to go on strike.

In England, hon. Members will recall, there has been a lot of see-saw in this matter. When the recent Labour Party Government was in power in England during the war, it saw to it that this immunity was preserved in the laws. Trade unionists contended that it had been a long struggle to achieve it, about 75 years, and they were very reluctant to surrender it. It was, however, evidently clear that even in England there were some trade unionists who encouraged strikes and started strikes, and many of us recall the dock strikes during the regime of that Government, when several commodities which England needed at the time had to be dumped overboard because of these strikes. When the Conservatives returned to power they saw to it that provisions were made to protect essential services.

Mr. Deputy Speaker : I do not want to interrupt the hon. Member, but I think the fact is that during the war years there was in power a national or coalition Government, and the Labour Party Government came into power at the first general election after the war.

Mr. Sugrim Singh : I am grateful to you for your intervention. Here in British Guiana we have had examples of people using this right indiscreetly, but this country can now rest assured that the provisions now being made to protect essential services which appear in the Schedule of this Bill, and others which will be put into it in due course, will offer them protection and at the

same time preserve the right of trade unionists to go on strike. I think this Bill is timely and it will go a long way to lift harmonious relations between employer and employee in this country.

Mr. Carter : It is not my policy to shower bouquets on Members of this Council, but this is one Bill which, in spite of its limitations, has earned the hon. mover my approbation and support. The trade union movement in this country is comparatively young: not from the point of view of its years of existence but from the view of the arduous and slow process of building a consciousness of responsibility in the workers. Not that the leaders are not doing their very best, but that there is not a sufficient desire for trade union education and the benefits that could be derived therefrom by those who need them most.

It is a fact known to all and sundry that the trade union movement is very necessary in democratic countries, yet we find that in the past almost nothing was done among employers and Government alike to see that relationships between employees and employers were such as would minimize the necessity for trade disputes. Conciliation as a process for settling disputes has been preferred by the employers but it never works in that neither the trade union nor the employer is compelled to implement the recommendations of the conciliatory body. The Labour Ordinance enables the trade union to get a committee of inquiry set up to go into a dispute but even the recommendations of that body are not supposed to be accepted or adhered to by the trade union or the employer. Seeking arbitration through the process of the Supreme Court is a very expensive proposition and is not relished by the trade unions because they cannot afford it. The employer on his part will not include compulsory arbitration in a collective bargaining agreement as a final means of settling trade disputes because he knows he will be compelled by law to

implement the awards of an arbitrator. The solution therefore lies in providing machinery of law in the form of an arbitration tribunal for the settlement of trade disputes, and my only regret is that the hon. mover did not find it politic to extend this measure to include concerns other than essential services.

As a trade unionist I am accustomed to the process of negotiation, and have had much to do with collective labour agreements. I remember in one such agreement the trade union included a clause whereby the union reserved the right to give 30 days' notice to strike, after the process of negotiation had failed. The employer did not want that clause included because he felt that there was no need for it: if he made an agreement with the union for one year the company would expect the union to keep to that agreement—which meant that it should be a year free from strikes. I was strong in my objection to the deletion of that clause because the fifth stage of the grievance procedure was to re-open negotiations with the manager, and that would have been a merry-go-round. I pointed out that I would only agree to that, if the company agreed to compulsory arbitration. The company did not agree. The union's case was that if they could not resolve a dispute through the ordinary process of negotiation when the company does not want a strike, then the only means of settling that dispute was to go to arbitration.

This Bill is very timely. This might be out of the question, but I do not agree with the hon. Member, Mr. Sugrim Singh, that this Bill will deny trade unions the right to strike.

Mr. Sugrim Singh : Just let me, sir, rise on a point of correction. What I did say was, that I agree with the hon. mover that this Bill would appear to take away the right of trade unionists to strike, but while that was so this Bill also adequately protected trade

unionists. I was quoting the hon. mover.

Mr. Carter : I thank the hon. Member for his correction. The fact is that the Bill enables a trade union to call upon the Governor in Council to examine a trade dispute and if he thinks fit, send it to the arbitration tribunal. That is the reason why I think that any trade union should be allowed the privilege of carrying a dispute to the arbitration tribunal if the Governor in Council agrees it should go. We all know that strikes are very expensive to all concerned; they interfere with the wages of the workers, they interfere with the profits of the employer, they interfere with the revenue of the Colony, and if it is possible that machinery can be set up towards their elimination, then it should be set up.

Mr. Deputy Speaker : Does any other Member wish to speak on the second reading?

Mr. Cummings (replying) : I am very grateful to those hon. Members who expressly supported this Bill and to those whose support is implied, even though they ask that certain considerations be made. In regard to the hon. Mr. Lee's point, what clause 16 seeks to do is to give to the tribunal powers of the Supreme Court in eliciting evidence necessary for its consideration, but in a Bill of this nature there must be checks and balances and one does not wish to deny a citizen the fundamental common law privilege that he ought not to be compelled to give evidence which is likely to be incriminating. As far as I understand the law this also applies to any document. If he has any books which he has been "cooking" he has to produce those books, but if a question is put to him and he knows that if he answers it he can be charged by the Income Tax Commissioner, then he need not answer the question. That is nothing peculiar in the Ordinance proposed. It is a general principle which should

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run through all Ordinances which set up tribunals with the power to take evidence.

With regard to the hon. Member's objection to section 17, I would invite his attention to the Interpretation Ordinance where the word "person" includes anybody or body of persons. In most cases it would be a union acting, as against a body of employers as an individual. Mr. Correia has enquired whether the Bill was discussed with the T.U.C. and other Labour organisations; I can say that it was. In fact, the whole subject was discussed with them and this was one of the things they embodied in the May Day resolution so I would not inflict upon them the responsibility that we ought to include local industrial organisations. On this question of legislation, I feel that where you have organizations they should be consulted. Members should appreciate that these Bills are published and the very object of the publication is that people with objections should bring those objections to the notice of the Government. In this particular case I have consulted the bodies and they have agreed.

Mr. Carter has asked the Government to consider the question of full compulsory arbitration, and I avoided making any pronouncement about this before because I was attending a Conference of Labour Ministers in London. This question was brought up and, as I was asked by the unions, I introduced the point and we discussed it forcefully. The consensus of opinion was,—or rather, there were some people who felt it was something that should come in later on. It does exist in a very narrow way in England and it is used by the Ministry of Labour very sparingly. It is only when they feel that national welfare is in jeopardy that they would think of going in for complete national

arbitration. The minute there was something like it on the statute books and everybody could refer to it they would try and find the alternative of collective bargaining and they would see why as unions, they should say what the employees should get. There is, however, the other view and it is for us to say if we differ from the rest of the Commonwealth on this subject which was very well aired at the Conference in London. I think I have dealt with all the points raised, and I hope that hon. Members are fully satisfied.

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 1 and Schedule passed as printed.

Clauses 2 to 15 passed as printed.

Clause 16—*Evidence*.

Mr. Lee: I am not satisfied with the explanation given by the Member in charge of this Bill, if he is correct in allowing a witness to be the judge as to whether a question is incriminating or otherwise.

Mr. Cummings: May I answer and say I did not answer the hon. Member on that point, but the answer is simple. What the hon. Member has in mind is exactly what he knows perhaps—that a witness need not answer a question if he feels that the answer would incriminate him. The judge must be satisfied that it would incriminate him and he is the one to question him. I do not know whether the Attorney General would desire to say something on the point.

The Attorney General: I think I can allay any fear by pointing out that

it is implicit in section 16 that the tribunal must be of the opinion that the question is incriminating. To give an example: Suppose counsel asked a witness what day the rain fell, surely the witness would be able to say: "I refuse to tell you unless the tribunal says I must do so". I must point out also that the section says that the tribunal shall have all the powers of the Supreme Court. One of the powers of the Court is to investigate the *bona fides* of a witness's objection.

Mr. Lee: I can tell my legal brethren this: In every Ordinance a point is interpreted by the Court as it is published in the Statute Book. The proviso nullifies all the other things in section 16 of the original law. I will read the proviso because it simplifies or enlarges the section. It says:

"Provided always that, if any witness objects to answering any question or to producing any document on the ground that it will tend to incriminate him or on any other lawful ground, he shall not be required to answer such question or to produce such document, nor shall he be liable to any penalties for refusing to do so."

If the witness says he is the holder of a book or document the production of which in his opinion would tend to incriminate him, the Tribunal can do nothing about it. It cannot put him in gaol as he is the judge of that. Often at a trial when Counsel puts a certain question to a witness the Judge or the Magistrate would say to the witness—Do not answer it. It is an incriminating question.—How then can it be said that the Supreme Court has the power to make him do so. I say it has not. The witness himself is saying that it is an incriminating question and he is not answering it, or that he has a document which would incriminate him and he is not producing it.

Mr. Cummings: The hon. Member's argument seems very persuasive. It does seem, when one looks at the last

sentence—nor shall he be liable to any penalties for refusing to do so—, the Tribunal can do nothing if the witness refuses. Perhaps we may, subject to the hon. the Attorney General's advice, use the words that we have in the Evidence Ordinance—in the opinion of the Tribunal.

The Chairman: Where will you insert that?

The Attorney General: I would suggest, after the words "on the ground that it will tend to incriminate him"—the words—"which in the opinion of the Tribunal may tend to incriminate him"—may be inserted.

The Chairman: I agree entirely with what the hon. Member has said, and I have attempted to draft an amendment before this proposal. Would the Council agree to defer consideration of this clause—16—in order to give the hon. the Attorney General a few minutes. We will go on to the other clauses. It may mean deferring the third reading, but I hope not.

Further consideration of clause 16 deferred, and consideration of other clauses proceeded with.

Clauses 17 and 18 passed as printed.

Clause 19—*Offences and Penalties*.

Mr. Correia: There is a printer's error in the marginal note—the word "penalties".

The Chairman: Yes, it is wrongly spelt. The letter "l" is omitted.

Clause amended accordingly and passed.

Clauses 20 and 21 and Schedule passed as printed.

Mr. Cummings: I beg to move that Council resumes. I think the point

[Mr. Cummings]

raised on clause 16 is of sufficient importance to defer consideration of the clause. It may be that the intention is that the gentlemen to preside over this tribunal will not be trained lawyers and we ought not to put on them this difficult task of deciding whether or not evidence is incriminating and, therefore, it is left to the witness to refuse. On the other hand, if you do that it may defeat the very object of the Bill. I think it needs further consideration, and on that ground I move that Council resumes and clause 16 be left in Committee for consideration at the next meeting of the Council.

Question put, and agreed to.

Council resumed.

Mr. Lee: I am sorry—

Mr. Deputy Speaker: The Council has resumed and the Bill is not before the Council.

Mr. Lee: I would have liked to refer to the Schedule and to ask that it be recommitted.

Mr. Deputy Speaker: When next the Bill comes before the Council in Committee I will give you an opportunity to discuss that. I am sure hon. Members will agree.

EDUCATION (AMENDMENT) BILL.

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

“An Ordinance to amend the Education Ordinance with respect to the constitution of the Education Committee.”

It is a very straightforward Bill. It merely seeks to increase the membership of the Education Committee from the restricted number of seven to the larger number of fifteen. Conse-

quently there must be an alteration of the size of the quorum. It has been found with the increasing variety of educational institutions in this country—primary, secondary, Grammar and Technical Women’s Training Institutions, etc., that the Director of Education greatly needs a more comprehensive Committee drawn from all walks of national life who will have valuable experience to draw on when advising on these various complicated educational questions.

It was intended, first of all, that this Bill should be slightly larger and should contain also variations of the functions of the Education Committee. That is a rather more complicated task, and as the result of discussions with the Governing Bodies and the Teachers’ Association we have reached a stage where, I hope, we will be able to put forward to this Council for consideration a further Bill which will clarify and improve the operation of the machinery as well as its personnel. We do not wish to hold up the increase in the size of membership of the Education Committee until that further examination is completed. Hence this first stage of the Bill. I think it is generally agreed that it is a good move to increase the size of the Education Committee. I beg to move the second reading of this Bill.

The Attorney General: I beg to second the motion.

Rev. Mr. Bobb: I rise to lend my support to the Bill before this Council. I will say, as the hon. Mover has intimated, this is a step forward and a very timely one too. In fact I have been a little bit exercised for some time that some of the functions covered by this Ordinance would be effectively carried out by the Education Committee as composed, and as at present suggested. There is a wider scope of functions of the Education Committee as proposed

in the circular sent down to the Governing Bodies. I was particularly interested in the number of things which, one may say, has at last been recognised as being important enough to be looked into. The hon. Mover has referred to some, but I am referring particularly to Planning and Policy, Building and Site of proposed primary schools, Adult Education and Education throughout all its stages. I think that the field is becoming wider and wider, and there is just one thing in my mind—whether the number — 14 — would be adequate to cover this wide field. I am tempted to suggest that perhaps it may be safer to increase the maximum by two. I will give my reason for making that suggestion.

Quite apart from what I said about increasing recognition of the importance of our education system, there is also the fact that the Governing Bodies continue to play an effective part in education, and the practice has been in making appointments to the Education Committee to nominate persons from the membership of the Christian Social Council to whom matters have been referred. The Christian Social Council, as everyone knows, represent at least three different points of view—the point of view of the Roman Catholic Church, that of the Church of England and that of the Free Churches. There are instances, generally speaking, when the three different points of view converge and I know everything is done in order to give the widest possible opportunity for every view point to be represented on that Council. I can visualize however cases arising when this may not be the case.

I would like to draw attention to sections 50 and 51 of the present Ordinance:

“50. If after considering the findings of the board the governing body and the Director, or either of them, is of opinion that the teacher's certificate should be cancelled or suspended or any other penalty imposed the matter shall be referred to

the Committee whose decision shall be final.”

“51. (1) The provisions of this Part of this Ordinance shall not affect the exercise, in respect of a certificated teacher, of the authority and jurisdiction conferred by sections 6 and 7 of this Ordinance.

Provided that in any case where the Director is of opinion that the teacher should be dismissed or his certificate cancelled or suspended, the teacher may appeal to the Committee whose decision shall be final.

(2) When under section 6 of this Ordinance the Director transmits a statement specifying the acts constituting a charge to a magistrate, the Director may request the governing body to interdict the teacher from duty pending the decision on the charge and the governing body shall give effect to the request.”

In both of those sections the functions of the Committee are very clear, and what I am trying to suggest is that in view of the importance of the Committee provision should be made to ensure that the greatest possible breadth of view can be relied upon in arriving at decisions, and if the number of functions set out in the circular and suggested by the hon. mover will be the normal business in the future it means that the personnel of the Committee will be heavily taxed with a great deal of business. I am therefore inclined to think a maximum of 14 members might be inadequate, for it is not inconceivable that the time will arise when we will have many members appearing on several Committees. If we are indeed going to develop our educational system and several sub-Committees are appointed, it would be useful to have more persons brought in. For that purpose I would ask the hon. mover to consider the need for increasing the number of members of the Committee to 16 or 17, so that there may be more persons to draw upon for the sub-committee work.

I am very pleased that the Bill has been brought forward at this time and

[Rev. Mr. Bobb]

I would congratulate the hon. Member's Ministry for all the back-room work which, I know, has been done in order to bring the Bill forward at this stage, and I hope it will have the speedy passage it deserves.

The Chief Secretary: Perhaps I should say a word in regard to the point made by the hon. Member. I hesitate to say that the total number of 15 members of the Committee, including the Chairman (it is not a maximum but a specific number) has any claim to sanctity. It may be that experience may prove that what the hon. Member has said is true, but we have tried to fix an optimum number which is not on the one side so small as to prevent the Committee being as representative as possible, and not on the other hand so large that the Committee will prove unwieldy in practice.

It is true, as the hon. Member has hinted, that we contemplate various functions for this Committee, and it will be that it will delegate certain of those functions to sub-committees, but I think the intention is that the sub-committees will be able to co-opt other members. The Central Committee of 15 must remain an advisory body. I am not in a position to say at the moment what will be the Committee's function in relation to the delicate matter of discipline. I think a Committee of 15 is too large to deal with matters of disciplinary action; this may have to be dealt with by a different tribunal.

There will be another Ordinance coming forward, and if we find in the course of what will be a comparatively short period of experience that 15 is the wrong number we will not hesitate to admit it and suggest a larger number of members. I do suggest at the moment that we give a trial to the number of 15 which has been very carefully considered.

Question put, and agreed to.

Bill read a second time.

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

Clause 1.—*Short Title.*

Agreed to.

Clause 2.—*Amendment to section 42 of Cap. 91.*

The Chief Secretary: I beg to move a verbal amendment in each of the subclauses (a), (b) and (c). I am advised by the hon. the Attorney General that the strict drafting term is not "deletion" but "repeal". I therefore move that the word "repeal" be substituted for the word "deletion" in each case.

Rev. Mr. Bobb: I would like to refer to another point which does not effect a change, verbal or otherwise, in the construction of the clause, but concerns something which I am asking the hon. mover to bear in mind. In the matter of choosing the personnel of the Committee it is the view of not only myself but quite a few people, that wherever it is found possible or convenient officers of organisations should be appointed as such instead of in their personal capacities. It would make for continuity and remove some of the personal responsibility which so many persons might not wish to carry if they are in some respects accountable to an organisation.

Mr. Deputy Speaker: I do not know what the hon. mover feels about it, but I would like to make a point and possibly give the Council the benefit of my experience. I have had a good deal of experience on Committees, both as an independent person and as the representative of an organisation. Once Mr. "X" represents organisation "Y" he

can only put forward the views of organisation "Y". The Committee is thus debarred from getting his personal opinions, for the simple reason that Mr. "X's" personal opinion may not be the opinion of the organisation which he represents. I would therefore suggest to the hon. mover that he take that aspect of the matter into consideration.

The Chief Secretary: Perhaps I should not say much on the point. Appointments to the Committee are in the hands of the Governor and it is not intended that the Committee should be a collection of delegates or representatives of various organisations interested in education. In fact it is the precise object and intention that the Committee should be a collection of people—not necessarily educational experts themselves, although some of them will be—broadly representative of the nation, who will contribute from their wisdom and experience what they think is the best educational policy. They would not be asked to go back and consult some organisation. I think that would produce a completely impossible state of affairs. The members of the Committee will be expected to act as entirely independent persons. I am afraid I cannot say that Government will consider a change on the lines suggested by the hon. Mr. Bobb, because it is not the way we intend that the Committee should operate.

Rev. Mr. Bobb: I may say that if the intention is altered from what it used to be, then I can see the reasonableness of the hon. mover's contribution, but as far as I can recall it has been more or less the case that some members of the past Education Committee have been chosen because of their representative character rather than their individual character. That, I would like to say, should be continued as far as is possible, but I think with the right that they may give full weight to their views.

On this aspect I can see the dangers as well. It happened on one or two occasions in my own case. I appeared as a representative of an organisation on a committee and my view was completely different from that of the organization. But the other point is, we have in a representative member the opportunity of getting his organization's opinion whenever it is required. On the Local Government Board, for example, matters have arisen and they have had to be deferred in order that the views of one or more organizations on them might be ascertained. As I said, I can see the other side of the picture as well, but I feel that it may not be out of place to have as far as possible this balancing effect.

Question put, and agreed to.

Amendment carried.

Clause 2 passed as amended.

Title and enacting clause passed.

Council resumed.

The Chief Secretary: I beg to report from Committee a Bill with amendments, namely an "Ordinance to amend the Education Ordinance with respect to the Constitution of the Education Committee," and to move that the Bill be read a third time and passed.

The Attorney General: I beg to second the motion.

Question put, and agreed to.

Bill read a third time and passed.

SUPREME COURT (AMENDMENT)
BILL

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

"An Ordinance to amend the Supreme Court Ordinance"

[The Attorney General]

The purpose of this Bill is set out in the memorandum of Objects and Reasons. Briefly, the Bill seeks to introduce very necessary measures to enable the Supreme Court of the Colony to get through as expeditiously as possible the considerable number of civil matters awaiting trial by permitting the Courts to sit during the court vacation for trial of civil matters. It also seeks to enable the Full Court in its appellate functions to sit in more than one Division.

Clause 2, as it stands, seeks to enable the Courts to hear civil cases in vacation time if a judge so directs. In Committee I propose to move an amendment to vest that power in the Chief Justice, as the most appropriate authority.

I now beg to move the second reading of this Bill.

The Financial Secretary: I beg to second the motion.

Mr. Lee: There is only one thing I would like to say: if we are going to ask the judges to do more work, then we should give them some compensation—in the form of an allowance, perhaps. There is no doubt that there is a lot of civil cases to be tried—some cases are more than three years old.

Mr. Deputy Speaker: Does any other Member wish to speak?

Question put, and agreed to.

Bill read a second time.

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

Clause 1 passed as printed.

Clause 2.—*Amendment of section 42 of Cap. 7.*

The Attorney General: The amendment I wish to move is the substitution of the words "Chief Justice" for the words "a judge" in the fourth line of this Clause.

Question put, and agreed to.

Amendment carried.

Clause 2 passed as amended.

Clause 3 and the title and enacting clause passed as printed.

Council resumed.

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

The Financial Secretary: I beg to second the motion.

Question put, and agreed to.

Bill read a third time and passed.

NEXT MEETING

The Chief Secretary: I beg to move that Council do now adjourn until this day next week.

Council was adjourned until Friday 2nd November, 1956.