LEGISLATIVE COUNCIL

FRIDAY, 29th AUGUST, 1947.

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

PRESENT:

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

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

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

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

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

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

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

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

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

The Hon. J. Gonsalves, O.B.E. (Georgetown South).

The Hon. Peer Bacchus (Western Berbice).

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

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

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

The Hon. V. Roth (Nominated).

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

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

The Clerk read prayers.

PRESENTATION.

IMPERIAL SERVICE MEDAL TO MR. A. G. ADAMS.

The PRESIDENT: With the Council's permission I propose to make a presentation of the award of the Imperial Service Medal to Mr. Alphonso Gladston Augustus Adams.

Mr. Adams, by command of the King conveyed to me through His Majesty's Secretary of State for the Colonies, I have much pleasure in presenting to you in the presence of this Honourable Council the Imperial Service Medal. You have served the Government of British Guiana devotedly for a period of more than 35 years, and it is true to say that in your retirement from the post of Steward at the Mental Hospital, Berbice. Government has lost the services of a very competent and a most loyal servant. It gives me very great pleasure to present you with this award, and I offer you my cordial congratulations. (Applause).

MINUTES.

The Minutes of the meeting of the Council held on Friday, 22nd August, 1947, as printed and circulated, were confirmed.

PAPERS LAID.

The ATTORNEY-GENERAL (Mr. Holder) laid on the table the following document:—

> Report of the Committee appointed to examine and report on the Landlord and Tenant Bill.

The COLONIAL TREASURER (Mr. McDavid) laid on the table the following document:—

> Minutes of the meetings of the Finance Committee held on the 24th and 25th of July, 1947.

NOTICE OF QUESTION

SALE OF WINE AND MALT IN RESTAURANTS.

Mr. ROTH gave notice of the following question:—

> With reference to Government's Answer No. 4 dated 5th September, 1946, stating that "Government contemplates amending the Intoxicating Liquor Licensing Ordinance, Chapter 107, and consideration will be given to the inclusion, with other matters, of an amendment to permit the sale of wine and malt liquor in restaurants and cakeshops for consumption on the premises", will

Government state when it proposes to complete such contemplation and introduce the proposed amendments ?

W.I. FEDERATION CONFERENCE. ....

Mr. EDUN : May I crave Your Excellency's indulgence to raise a matter of great public interest at this stage of today's proceedings ? If Your Excellency will permit me I will read what I propose to say because I want to be very specific in my statement. It is very brief. I refer to the question of Federation, seeing that nothing is on record regarding the authority of the delegates who are expected to proceed to the Montego Bay Federation Conference. I want to make it clear that the delegates to that Conference have no authority or mandate to commit this country to the acceptance of any kind of proposal. As a matter of fact they are going to that Conference as observers, if I may be permitted to use that specific term, as expressly understood at the time of their selection.

So far as my personal position is concerned and that of the M.P.C.A.—the organization which I am pleased to represent—we are definitely opposed to Federation until such time when and after each Colony is granted self-government and is master of its own destiny.

May I be also permitted to read a copy of a resolution in this connection from the M.P.C.A. submitted to the Caribbean Labour Conference to be held on the 21st September at Kingston, Jamaica ? It reads:

> "Resolved : That the M.P.C.A. Trade Union and the M.P.C.A. Political Party are opposed to Federation until such time when and after every Colonial unit shall have achieved Self-Government."

With those observations I must thank you, Sir, for the indulgence granted me in this particular regard.

Mr. RAATGEVER : The hon. Nominated Member has stolen my thunder. I intended to make some reference to Federation also, and I shall do so. I wish to refer to the Message from the Secretary of State for the Colonies which appeared in the *Daily Argosy* of August 18, from which, with your permission, Sir, I will read the relevant part. It is as follows :

> "I feel sure that delegates will approach these problems as representative West Indians fully informed of the circumstances obtaining and of the opinion predominating in the Colonies from which they come."

I should like to say that the delegates who will leave this Colony have no mandate from the people of the Colony; they cannot express the opinion of the people of the Colony. The only opinion they can express is their own opinion which, in my opinion, is worthless, because it cannot bind the people of this Colony.

At the informal meeting we had under Your Excellency's presidency I made it quite clear that I was entirely against Federation, as I felt that it was detrimental to the best interests of our Colony and people, and I suggested then that a mandate should be obtained from the people of the Colony before the delegates left, in order to ascertain what their wishes were. I said then, and I repeat, that we cannot sell the birthright of the people of our Colony without consulting them and obtaining their opinion. I wish it to be placed on record that those remarks were made then and I repeat them now and say definitely that the delegates leaving this Colony have no mandate from the people, and have no authority to speak on behalf of the Colony. Their going to Jamaica is, in my opinion, a waste of the taxpayers' money. It was for that reason I refused nomination on both occasions when we met to discuss the matter under the chairmanship of Sir Eustace Woolford.

The PRESIDENT : In the Secretary of State's Message it is made abundantly clear that the delegates cannot commit the Colony. Isn't that so ?

Mr. RAATGEVER : I am sorry I do not agree with you, Sir.

The PRESIDENT : If the hon. Member reads the whole Message through, I think, he will find that the delegates are not in a position to commit the Colony to any scheme of Federation. They will have to come back and report to this Council.

Mr. SEAFORD : It seems to be the idea that this Colony is doomed to Federa-

tion. As far as I know, the question of Federation does not arise at the moment at all. It is a question of Closer Union with the idea of eventual Federation, but actual Federation does not arise at all at present. The delegates are going to Jamaica with the idea of seeing how Closer Union can be achieved. It is just a question of sitting around a table and discussing the matter. The delegates we are sending have not the power or right to bind the Colony. That can only be done by this Legislative Council after they have reported. The hon. Member remarked that the opinions of the delegates are worth nothing. I do not agree with him on that point. I think that some of us have opinions that are worth something sometimes.

Mr. RAATGEVER : I did not mean it in that sense.

The PRESIDENT : The delegation will at least be able to reflect the views of the hon. Member

Mr. SEAFORD : I think they were selected to go there to put forward the various views. I think the hon. Member will admit that he was one who selected the delegates, and if he did not wish to send a delegation that was the time to say so, and there would have been no selection.

The PRESIDENT : I do not think we can pursue the discussion fruitfully.

ORDER OF THE DAY.

FACTORIES BILL, 1947.

The Council resolved itself into Committee and resumed consideration of the following Bill intituled :—

> "An Ordinance to provide for the registration and regulation of factories, and for purposes connected with the matters aforesaid."

The ATTORNEY-GENERAL : It will be recollected that at the last meeting of the Council clause 29 was deferred in view of the comments which were made by hon. Members. I then expressed the hope that I would be able to make a redraft of the clause which would preserve the principles on which there was agreement and at the same time provide for some elasticity to enable employers and employees to get together and come to an arrangement in respect of this question of overtime rates. Hon. Members have now before them clause 29 as redrafted, and I hope it will meet with their approval. On perusal of the clause it will be seen that the principle of an eight-hour day is preserved, and that appears in sub-clause (1) (a) which reads

> "(a) in respect of work on any day in excess of eight hours or in respect of work in any week in excess of the normal hours of work prescribed under paragraph (a) of subsection (1) of section twenty-six of this Ordinance."

Then the question of overtime pay for work performed on public holidays is preserved in paragraphs (b) and (c). Paragraph (b) deals with general holidays while (c) deals with Sundays, Christmas Day, the day after Christmas, the first day of January, Good Friday, Easter Monday or Whit-Monday. It will be a matter for arrangement between employer and employee whether there should be a difference in the rates of overtime pay for work performed on the holidays referred to in paragraph (c) and the minor holidays dealt with in paragraph (b).

Sub-clause (2) gives the Governor in Council power to make Regulations, and sets out the kind of Regulations to be made. Paragraph (b) provides that Regulations may be made

> "(b) either generally or in relation to any area or to any class of factory or any particular factory or to any particular occupation in a factory;"

It will be appreciated that that allows considerable elasticity in dealing with different areas in the Colony and different factories in various parts of the Colony. Paragraph (c) contemplates Regulations :

> "(c) prescribing different rates in respect of different branches of the operation of a factory;"

It will be appreciated that people are employed in different types of work in the same factory. Then there is paragraph (d) which provides for Regulations :

> "(d) prescribing different rates in respect of different periods of the year."

That also is a very desirable provision. Paragraph (e) providing for the making of Regulations "*according to the season, where the carrying on of a factory or of any part of the operations thereof is influenced by seasons;*" Paragraph (f) "*prescribing different rates in relation to men, women and young persons*" and (g) provides "*subject to such conditions as the Governor in Council may think fit—and Regulations may contain such supplemental and consequential provisions as the Governor in Council considers necessary for giving full effect to the Regulations.*"

Sub-clause (3) provides :

> "(3) Where the hours of work, or any of them, under pararaph (a) of subsection (1) of this section also fall under paragraphs (b) or (c) of the said subsection, the provisions of paragraph (b) or paragraph (c) of the said subsection shall apply in respect of such hours."

That sub-clause is not as complicated as it may appear to be. All it means is that with regard to paragraph (a) of sub-clause (1), which deals with the normal working hours, if a person works for eight hours he would be paid accordingly. If he works on Sunday he would be paid according to the rates which are prescribed or agreed upon, and if he works on any of the minor holidays he would be paid according to the rates agreed upon or prescribed by the Regulations.

Sub-clause (4) preserves the principle which was discussed a week ago. It says :

> "(4) Where, in relation to any factory or to any occupation in a factory the appropriate rate under paragraphs (a), (b) or (c) of subsection (1) of this section has not been fixed in Regulations made under this section, such rate shall be in the case of work on any day specified in paragraph (c) of subsection (1) of this section, twice the rate at which the person employed would but for this section be paid, and, in the case of any other work, one and a half times the rate at which the person employed would but for this section be paid."

In other words, this sub-clause preserves the principle of double rate and one and a half times the normal rate where a person works on any day prescribed in paragraph (c) of sub-clause (1). In the absence of any agreement then the rates are fixed as they appear in this clause. Hon. Members will see that while preserving the principle, with regard to which there was agreement, by the Regulations giving the Governor in Council power to act, provision is made for elasticity in respect of different factories and different parts of the Colony. I hope that hon. Members will appreciate that whilst preserving the principle agreed upon we have endeavoured to meet all sides of the questions raised and the opinion expressed by them. I move that clause 29 as redrafted be adopted.

Mr. ROTH : I would like to congratulate the hon. the Attorney-General on having drafted one of the most cleverly worded amendments it has been my good fortune to read. It provides that Regulations may be made by the Governor in Council, so that until the Governor in Council makes those Regulations the position remains exactly the same as it is in the clause as printed. I think it should be made obligatory on the Governor in Council to make those Regulations. I can visualize that for some definite period it may not be convenient for the Governor in Council to make those Regulations, and if passed clause 29 would come into force automatically. I suggest that clause 29 (1) be amended to read : "The Governor in Council shall make Regulations."

The ATTORNEY - GENERAL : The answer to the hon. Member's point is that we are endeavouring to give an opportunity to employers and employees to arrive at an agreement, and then that agreement will be covered by means of Regulations made by the Governor in Council. If no agreement is arrived at, then no Regulations would be made with respect to overtime, and sub-clause (4) would operate. The word "may" does not mean that the Governor in Council will sit back and not make Regulations It simply means that this Council is giving power by law to the Governor in Council to make Regulations in respect of these matters. We have preserved the principle of an eight-hour day and overtime pay in respect of work done after eight hours and in respect of holidays, but this new clause allows employers, employees and trade unions to make agreements, then Regulations will be made accordingly. As a first step I

think hon. Members will agree that it is desirable to allow employers, employees and their unions an opportunity to deal with these matters themselves, but there must be payment for overtime. What we have not set out is the amount of payment where there is no agreement and no Regulations.

Mr. EDUN : I would like to know what would be the practical effect of this new clause. If this Bill is made law then *ipso facto* every factory will have to pay double time for holidays, and time and a half for overtime work after the normal working hours. Why, therefore, should a trade union concern itself about making agreements with employers as regards overtime rates? I must confess that I do not see any sense in the redraft because, in my opinion, it is a repetition of clause 26 which prescribes the number of hours during which a person may normally be employed.

If other factories want to negotiate they would have to negotiate above these rates, but there is no possibility of their doing so. If that is so my objection holds good because, as soon as this Bill becomes law these factories *ipso facto* will have to pay double time for holidays and time and a half for overtime. Therefore, I do not see that anything has been lost in so far as the trade unions are concerned and I do not see why any change or substitution should come in. I see nothing wrong in accepting the Bill as it is.

The ATTORNEY-GENERAL : I think the hon. Member will appreciate the fact that this allows opportunity for negotiation or for an agreement with regard to any part of the Colony. The hon. Member is thinking perhaps only in terms of the mills but there are, I presume, conditions in the interior which are quite naturally within this clause and, therefore, if there is the admitted efficacy or the admitted principle of an eight-hour day employees in those parts of the Colony may wish to work over that time, but the employers may not be able in any undertaking which is just beginning to pay double time or time and a half and, therefore, they will put forward to their employees what they are prepared and in a position to pay. That would be the subject of arrangement and maybe less than double time or time and a half would be paid, but it would mean that the workers concerned are getting overtime pay not only in the same way as regards factories.

All we have done is that while preserving the principle to which the hon. Member has referred, we have, at the same time, provided a further desirable opportunity for negotiation and arriving at some figure which will be satisfactory to both parties, having regard to their particular circumstances—perhaps the time of the year, perhaps the place where the work is being carried out, and so on.

Mr. EDUN : May I enquire whether an employee will have the right to come to Government and say "In the case of such and such a factory, or such and such an area, these rates should apply ?"

The ATTORNEY-GENERAL : That is in regard to the Regulations under subclause (2). One must have regard to the definition of "factory"; one cannot consider it in terms of large sugar factories only. There are small concerns which come within the definition of "factory" and, consequently, there is that rigidity which appears in the Bill to prevent difficulties in so far as other factories are concerned and in so far as some of the areas in the Colony are concerned.

Mr. HUMPHRYS : When I read this amendment last night, at first glance it seemed all right. I have been looking at it again, however, and with all due respect to the hon. the Attorney-General, I think, the whole point made during the last debate has escaped him. At the last debate the question was whether the rates for overtime should be fixed by statute, or whether it should be a matter for arrangement and agreement between the trade unions and the employers, and on that point there was considerable discussion. I urged—and other Member also—that it should be a matter for the trade unions and the employees to decide and that the rates should not be fixed by statute.

If Government does not make Regulations automatically the rates would be time and a half and double time. The clause should remain as originally printed

because under sub-clause (4) overtime and double time follow automatically. Therefore, this amendment does not meet the point at all. What provision does it make for discussion between the trade unions and the employers ? We have not got any further with the matter at all.

The CHAIRMAN : The hon. Member's point was that there should be no chance to negotiate because if this clause is enacted these rates—time and a half for overtime, and double time for holidays—must apply. What the hon. Member wants, if I may say so, is some "breather" to make arrangements.

Mr. HUMPHRYS : That is the point.

The CHAIRMAN : What I would suggest then is the insertion of such a provision so that the point would be covered if the Ordinance comes into effect by Proclamation.

Mr. JACOB : As I understand the position. the hon. the Attorney-General while moving the substitution of this clause made it perfectly clear that double time for holidays and time and a half for overtime is the minimum to be paid.

The ATTORNEY-GENERAL : We have left it to the parties themselves. In other words, what this draft is endeavouring to do is to leave the parties—employers and employees—free to have discussion and to come to agreement in so far as overtime is concerned. If such a step is taken by the parties themselves, having agreed they could go to the Governor in Council and ask for Regulations for factories in the area. If no agreement is reached as a result of the discussion, no Regulations could be made in connection with that area or factories therein and then, of course, clause 4 would come into play.

Mr. JACOB : That is the point that was being made. I think the hon. Member for Eastern Demerara and the hon. Member for Georgetown North will now have an opportunity to get into touch with the trade unions concerned and fix these rates over and above the amounts mentioned here, and in the absence of any such negotiation or agreement this Bill, when it becomes law, will have effect. That is how I understand the situation. A good deal has been said about the right to negotiate and make agreements and so on, and while I am not against that to some extent I am wholly in favour of enacting legislation to meet these things, especially in a country like this.

A workman will now understand that if he works overtime on an ordinary day he would be entitled to time and a half, and double time in respect of certain holidays. I have nothing to say but to approve of that principle. The Guiana United Trade Union sent copies of a certain letter to the Commissioner of Labour, the Colonial Secretary and the Attorney-General today, giving typical cases of what happens in certain factories in this Colony. There the point was made that certain factories are operating for 18 hours a day. Certainly, 18 hours a day cannot be two shifts of eight hours each. Then, certain work has to go on for two or three hours after normal activities cease and the workers concerned get no extra pay for working during that period. The letter makes it clear that some workers have to work 8, 10 and even 12 hours a day for a wage of 64 cents per day.

Even when overtime is paid the total wage of these workers only amounts to between 96 cents and $1.20 per day—for working 9, 10, 11, or 12 hours a day. That certainly cannot be disputed, and I do not know whether those employers who want opportunities for negotiation and agreement will be expected to reduce these rates. So far as I can see, this Bill is going to make it difficult for anyone to reduce these rates, but there is this loophole. In the present state of the labour market an employer can reduce the basic rates to anything—to 60 cents or even 50 cents per day—so that when these people work overtime the total wage for the day will only amount to 96 cents, or $1 or $1.08. Therefore, I think a minimum basic rate should be fixed for certain kinds of work in this Colony but, perhaps, that is too difficult a job.

I think it is only fair to say that this Bill has given rise to other points which Government should consider very carefully. Everyone in a factory compound goes in

there to work—that point is made very clear here. He goes into the compound, remains there and leaves it in the same way as all the other employees do, but if certain employees get injured they are not considered factory hands and will not be able to get compensation. I cannot understand that. Several cases of that kind have come to my knowledge and I will mention one of them. There was an agreement made recently between certain parties—a trinity—the Labour Department, the Trade Unions and the Sugar Producers' Association. According to the agreement certain rates were to be paid to estate workers but they did not apply to people residing in the compound. As a matter of fact, certain names were removed from the list so that they could not get the increased rates.

Then there is the question of costs and other things which should be discussed. I merely bring these things to the notice of Government so that Government will not be able to say at some future date that they are not aware of these difficulties. Workers are so disorganised and so weak that they are unable to do anything to remedy the present state of affairs. I congratulate Government on bringing forward this amendment and, I think, it is a step in the right direction.

Mr. HUMPHRYS : Looking at this matter from the point of view that the Ordinance will only come into force by Proclamation, I think that after the Proclamation has been published a period ought to be allowed within which these Regulations have to be passed. The Governor in Council can only make Regulations if representations are made by certain industries and so long as the representatives of labour agree. Let us take the rice industry; surely there will have to be negotiations between employers and employees and then Government will have to pass Regulations saying that the rates will be so and so. Surely a date should be specified by the Ordinance, and not before that date should this sub-clause (4) apply. It seems to me that a few words can be inserted in sub-clause (4) by way of amendment, and I think Your Excellency was on the right line when you made such a suggestion. I formally move that after the word "section" in the fifth line of sub-clause (4) the words "by a date to be specified by Order in Council" be inserted.

The ATTORNEY-GENERAL : I appreciate the point the hon. Member is making and I also appreciate the suggestion made by Your Excellency, but there is one point which occurs to me and that is the question of a proper period under par. (a) of sub-clause (2). The question arises as to factories, and there will have to be a sort of wholesale act dealing generally with factories. That is with regard to factories—both general and specific. If some factories come forward and say "We have an agreement to pay double time or time and a half in respect of holidays or overtime", then, of course, Regulations would be made and they would apply, but where no Regulations are made in respect of any factory then we will have to say "on a date to be specified" as regards any factory or any occupation in a factory. In other words, the Order will have to be a sort of comprehensive order. To make an Order saying that rates will not be applicable unless they have been fixed by a specified date, that Order will have to be in respect of all factories.

The COLONIAL TREASURER : Isn't there another difficulty ? If once you make Regulations under such an agreement would you be able to change them again ?

The ATTORNEY-GENERAL : The Governor in Council always has the power to change Regulations; but this will not deal with factories *en masse* but in relation to any particular factory or to any particular occupation in a factory. All those who stand bound will have to come under sub-clause (4). The point I am making is that the date to be fixed will deal with factories as a whole, and after that date then sub-clause (4) will apply.

The COLONIAL SECRETARY : I think this is rather complicated and, perhaps, some of us in this Council would agree that it may be difficult to explain it to the people. It seems to me that if this Bill becomes law the Labour Department should explain it to the various factories and unions con-

cerned before Your Excellency brings it into operation. There is no idea of holding up the Ordinance, but some of the factories are quite away in various parts of the country and, if Your Excellency proclaims the Ordinance, it might be difficult for some of them to understand it. I do not know if we should have some arrangement whereby the Commissioner of Labour would explain the Ordinance to them before it is proclaimed.

Mr. C. V. WIGHT : With regard to the sugar factories and the mining concerns they would probably understand it, but my fear is in relation to those rice factories and the other small factories in the country districts that we have heard so little about. I feel sure that as regards the rice factories in Essequibo attention will be given to the Bill as soon as possible, because they will be having the rice crop in October and the Ordinance will not apply to them then. I do not expect that a very high percentage of these rice factories will come under any agreement; they may probably go along taking advantage of the workers on the sly and come under sub-clause (4). If this Bill is not passed early it would not affect the rice factories before next year, but I do not think Government should allow such a long period of time to elapse.

Mr. JACOB : The hon. the Attorney-General stated from the outset that this clause is not as complicated as it appears to be. Sub-clause (4) will now read :—

> "(4) Where, in relation to any factory or to any occupation in a factory the appropriate rate under paragraphs (a), (b) or (c) of sub-section (1) of this section has not been fixed in Regulations made under this section, such rate shall be, in the case of work on any day specified in paragraph (c) of sub-section (1) of this section, twice the rate at which the person employed would but for this section be paid, and, in the case of any other work, one a half times the rate at which the person employed would but for this section be paid."

I take it that when this goes through and the Bill is assented to by Your Excellency it will become law.

The ATTORNEY-GENERAL : No; it will become law by Proclamation.

Mr. JACOB : I am going to suggest that this Bill should come into effect immediately; that is to say, immediately after it becomes law Your Excellency should put it into effect by Proclamation. Then, such as factories in the interior, if they find that they cannot pay the rates set out should negotiate with the workers to accept lower rates of pay, all well and good. I do not think this Bill should lie dormant for an indefinite period, but that it should be put into operation as soon as possible.

The COLONIAL SECRETARY : I did not suggest that the Bill should lie dormant for an indefinite period. I suggested that Government should not proclaim it until satisfied that the people whom it affects understand it. In other words, I am suggesting that the Bill should be explained to the public through some proper channel, and as soon as the Commissioner of Labour could satisfy Government that that has been done we should proclaim the Ordinance.

Mr. JACOB : I think we are at cross purposes. I suggest that this Bill should come into effect immediately and that Your Excellency should proclaim it as soon as possible. The point I wish to stress is, this negotiation procedure that is in process in this Colony should come into effect now. The shoe is now on the other foot. The worker has got his rates fixed by legislation, and if the employer finds he cannot pay those rates he must get into negotiation with his employees and get the rates reduced. In the absence of any reduction those rates stand. Then on the other hand the people in the interior may ask that the rates be even increased, or the people on the coastland may ask that the rates be increased. I do not know what provision is being made for that aspect of the matter. In some industries in some parts of the world you have overtime and the people are paid double pay when they work after eight hours. They are not only given time and a half but double pay because it is considered a very great strain having to work day after day for six days a week of eight hours a day and overtime calls for double energy and, therefore, there should be double compensation for that. As a result the 44

working hours a week has been reduced in some cases to 42 hours and 40 hours. I think after everything has been said and done, when this Bill becomes law and Your Excellency gives your assent to it, you should go further and proclaim it as soon as possible.

Mr. RAATGEVER : With all due respect to the hon. the Attorney-General for whom I have very great regard, I do not think the amendment carries us any further or clarifies the position from where we were originally. If we are to have development of the Colony, of individuals and of the mining industries with people coming here with money to develop those industries, I am against legislation fixing the rates of pay for overtime. It is not the correct thing to do. It is a matter for collective bargaining. This thing puts us in exactly the same position where we were. We have to pay double time and time and a half. What is to prevent the labour people refusing to come to an agreement and this thing thereby remaining in operation ? I do not think, Sir, it is desirable and I suggest that this matter be further postponed for consideration.

Mr. EDUN : The Governor in Council would have the right of reasoning with both sides so that the prescribed rates would be justifiable. Therefore I do not see there is any question of restriction of development at all. I shudder to think we can develop this country by sweated labour. Perhaps the hon. Member who has just spoken ought to think of the Bauxite Company and satisfy himself as to whether we can hope to expand this Colony by doing the things that have been done there. We want development, but at the same time we want humane treatment of the people who have to work there. I think both should go together. As a matter of fact when I saw the Bill, I said that what I had in my mind was there. I do not think we should make legislation to add to the difficulties of administration. I think that to clarify the whole situation you should bring it to the Council and let something be hammered out there. This is, I think, a fair labour standard and the industries in the interior can do certain things, because the workers there will not work for eight hours a day but want to work 15 hours in order to be able to return to their homes early.

Mr. C. V. WIGHT : I think the answer to the hon. Nominated Member, Mr. Raatgever, would be if the Unions do not come to an agreement, probably the employers would not employ any worker overtime.

Mr. HUMPHRYS : The hon. Nominated Member, Mr. Edun, as is his usual way, would descend to mention certain companies. He made mention of sweated labour and the Demerara Bauxite Company. The hon. Member should know that is a deliberately untrue statement.

Mr. EDUN : I did not say there was sweated labour at the Demerara Bauxite Company. What I said was you could not expect to develop this country with sweated labour. I said there were conditions at the Demerara Bauxite Company which were not conditions that modern labour welcome.

Mr. HUMPHRYS : Now that he has explained that, it is quite in order but he did not say that. I think, Sir, the position as regards the Government in this matter would be perfectly clear if the Governor in Council could only make regulations with respect to the various factories—sugar, rice, gold or whatever it is—and if within a specified time given by the Governor in Council those rates are not fixed by agreement then the rates put down here would apply. If this Ordinance is passed before or even after the proclamation is made, the Governor in Council can cause representation to be made by the different industries in respect of those rates and then get the Labour Union and the employers or owners of the industries to come together and say whether the rates are fair. If they can agree on that, then the rates would be published; if they cannot agree then the rates would be those in the Ordinance. You must have a specific date on which they should make representation.

The ATTORNEY-GENERAL : I appreciate the hon. Member's point and I propose to deal with it in the manner suggested, but I would like to point out that Regulations may be varied or amended at any time. No regulations having been made,

the rates stand fixed for all time. I have said that in answer to the pont raised in connection with Regulations, but in so far as sub-clause (4) is concerned that remains fixed because that is a specific part of the enactment of the law, and that only says where there are no regulations existing then these shall be the overtime rates. But as the hon. Member for Eastern Demerara (Mr. Humphrys) has said, first of all open negotiation machinery for the parties to come together and reach an agreement and to submit that agreement to the Governor in Council which will be covered by way of Regulation, but if you look at the beginning of the clause it says : "The Governor in Council may from time to time make Regulations." From a practical point of view it would appear that the more desirable course is to pass these Regulations for agreement between the parties, but in cases where there is no agreement and it has been represented from every point of view it is desirable that Regulations be made to cover specific factories or specific areas, then the Governor in Council may make such Regulations. Where no regulations are made at all then sub-clause (a) comes into play.

The CHAIRMAN : Does the Committee wish to hear the Labour Commissioner on this particular point ?

Mr. BISSELL (Commissioner of Labour) : My concern is over the words whch have been suggested by the hon. Member for Eastern Demerara when he says to include after the word "section" in line four the words "by a date to be specified by Order in Council". As I read the sub-clause with the suggested amendment by the hon. Member, it would mean this : Unless an industry has come to an agreement, or unless an industry has persuaded the Governor in Council to pay something different from that specified by a date which is to be specified, then forever afterwards they would be required to pay what is specified now in the clause. That is the main point, but I should like to be informed on this because I see a tremendous difficulty. When it comes to industries it seems to me that the intention of the new clause as a whole will be defeated, in the sense that it is thought to permit a degree of elasticity so that at any time during the lifetime of the clause the parties in an industry may meet together to consider money problems with which they are faced in that industry and come to such an arrangement which will receive recommendation from the Governor in Council. That is as I see it, and it seems to me that before altering the clause at all, which to my mind meets all that is asked for by the Council, the date on which the Ordinance comes into operation should give sufficient time to allow the parties to consult each other and arrive at such an agreement as they may wish and then have the agreement incorporated in the Regulations. The Regulations can be altered in the future, whereas this sub-clause 4 seems to me to be statutory law which cannot be altered except by the Legislative Council. That is why I am afraid of the words which have been suggested as an amendment by the hon. Member.

Mr. JACOB : I am inclined to agree with that. Those words should not be put in. I think the clause as originally drafted is good enough, and that the addition of those words will further complicate matters. There is another matter. I am somewhat concerned about the definition of "factory". As I mentioned during the course of what I had to say, there is a lot of controversy as to what is called a factory or who is an employee in a factory. Certain people who go in and out of a factory during the day are not considered factory-hands. I do not know if this definition here is wide enough as to mean that anyone employed either partly or wholly in a factory compound will be considered a factory-hand. The point has arisen and is being raised every day, and in several places there is this controversy at the present time. I think it should be made clear in the definition here, and it should go as far as to say that anyone who goes in and out—as for instance a man taking wood into the factory—should be considered a factory-hand because without the wood the factory cannot operate and whilst taking the wood into the factory anything can happen by way of a machine injuring that person. As long as any employee goes into a factory compound that employee should be considered a worker within that factory.

Mr. RAATGEVER : I am going to move the deletion of sub-clause (4).

Mr. EDUN : I do not think there will be any difficulty to administer this clause at all, because the major factories of this Colony are paying these rates at the moment and it is just those factories which are not conforming to modern standards will have to come in. We ought to trust the Governor in Council in a matter of this kind. The Proclamation may not be made tomorrow; it may take two weeks. When everyone gets to know all about it, Government can be told what factories will have to be eliminated from this clause. It seems to be covered by clause 40. You will make a slight delay in proclaiming until the people have had an opportunity to come to an agreement. If they come to an agreement there is no need to amend the clause.

Mr. RAATGEVER : There may never be an agreement, in which case the clause remains as it is. It will operate against the workers as they will never get more than the double-time or time and a half rate. At the present time Waterfront workers are getting double-time and there is no agreement about it. I think it is in the labourers' own interest to leave it to collective bargaining. I move the deletion of the clause.

Question "That clause 29 as redrafted by the Attorney-General stand part of the Bill" put, and the Committee divided, the voting being as follows :

Against : Messrs. Raatgever, Roth and Humphrys—3.

For : Messrs. Thompson, Edun, Jacob, Peer Bacchus, Gonsalves, Percy C. Wight, Dias, C. V. Wight, Seaford, the Colonial Treasurer, the Attorney-General and the Colonial Secretary—12.

Clause passed as redrafted.

Clause 2—Interpretation of Terms.

The ATTORNEY-GENERAL : I propose to ask for the insertion of the words "not being part of the railway vested in the Governor" be inserted after the word "siding" in Clause 2 (2), because under the Transport and Harbours Ordinance the railway is vested in the Governor.

Question put, and agreed to.

Clause passed as amended.

The Council resumed.

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

Mr. C. V. WIGHT seconded.

Question put, and agreed to.

Bill read a third time and passed.

LANDLORD AND TENANT BILL, 1947.

The ATTORNEY-GENERAL : As hon. Members know, earlier in the day I laid on the table a copy of the Report of the Committee appointed to consider the Landlord and Tenant Bill. I wish to ask permission of this Council to deal with this Bill today and to consider the Report of the Select Committee at the time the Bill is being dealt with in Committee. I beg to move that this Council resolve itself into Committee to consider the Bill clause by clause.

Mr. C. V. WIGHT seconded.

Question put, and agreed to.

COUNCIL IN COMMITTEE.

Clause 12—Waiver of a covenant in a lease.

The ATTORNEY-GENERAL : I move that in sub-clause (2) the word "effected" be substituted for the word "affected".

Question put, and agreed to.

Clause passed as amended.

Clause 14—Things privileged from distress.

The ATTORNEY-GENERAL : The Select Committee recommended that in the place of the words "ten dollars" the words "twenty dollars" be substituted. The view was held that the cost of tools has increased since the days when this figure was fixed and in fact in England it is now £5.

Question put, and agreed to.

Clause passed as amended.

Clause 15—Fixtures, etc. of tenant.

The ATTORNEY-GENERAL: The Committee asked that a new sub-clause (2) be inserted. The Civil Law Ordinance, Chapter 7, came into operation from the 1st January, 1917 and that has reference to that. Under this the proviso to sub-section (1) of this section, subject to the provisions of paragraph (f) of the proviso to paragraph (d) of section 3 of the Civil Law of British Guiana Ordinance, shall not apply to fixtures and buildings removed before the commencement of this Ordinance, but subject thereto the provisions of this section shall have effect and be deemed always to have had effect as from the first day of January nineteen hundred and seventeen. I ask that that be substituted for sub-clause (2) as printed.

Mr. C. V. WIGHT: I was not a member of this Committee and, I think, I must pay due regard to what the members of that Committee did, but here there seems to me a very dangerous principle is being introduced, and that is, a tenant may disfigure a house. The hon. the learned Attorney-General says it does not mean that. We only speak from experience in this Colony. If a tenant is permitted to put all kinds of fixtures and remove them, provision should be made as to damage by that removal. I do not know if the hon. Members of that Committee gave any thought to that because in these days we have a lot of fixtures that can be put into a house and can be removed and that house will be in a sorry plight, the interior, when those fixtures are removed. I can very well imagine a landlord having the whole of a room disfigured by gadgets here and there, plugs put in here and there for electric appliances and so on. I do not know if the hon. Members of that Committee gave that any consideration.

Mr. GONSALVES: With regard to this clause I have spoken to the hon. the Attorney-General and, I think, he agreed. In the Committee there was a lot of discussion around this clause and I endeavoured to point out to him that even if the section stands in the Ordinance, amendments are necessary to (b) and (c). As those paragraphs read, it seems to me that the words "damage to any other building or other part of the tenement" suggest that a landlord will only be compensated for damage to some part of a tenement other than that to which some fixture is attached. The Civil Law of British Guiana Ordinance speaks of "any other building or other part of the holding." I think the hon. the Attorney-General is mixing the provisions of the Agricultural Holdings Act with tenements. I agree with what the hon. Member for Western Essequibo (Mr. C. V. Wight) has said. If this clause is to remain, I think, paragraphs (b) and (c) should be amended to read: "damage to any part of the tenement or any other building". The hon. the Attorney-General has discussed the matter with me, but he has not convinced me that those words in paragraphs (b) and (c) should remain. If he persists in that view I shall have to vote against the entire clause.

The ATTORNEY-GENERAL: Those words are taken from the Agricultural Holdings Act of 1923, section 22 (1). I suggest that "other part" remains other part after the removal of the fixtures. Those words seem to be worrying the hon. Member but I suggest to him that it is after the removal of the fixtures. "Tenement" includes the same building. The hon. Member is suggesting that the words "other part" mean any other part of the tenement except the particular part to which the fixture is attached. I suggest that any damage done as a result of the removal of the particular fixture will come within the ambit of this clause. It cannot be some other part unrelated to the removal of the fixture.

Mr. C. V. WIGHT: This doctrine of the Common Law is a very sore point in this Colony. We have had several decisions on the point, and it appears to me that by this clause we are going to give lawyers a nice harvest. My other objection to it is that it introduces a new branch of the law of real property in this Colony when that law does not really apply in this case. It is particularly exempted by the Civil Law of British Guiana Ordinance. This clause is going to lead to considerable litigation and to a crop of new cases. We have by Statute law arrived at some sort of settled state of mind as to

what is and what is not immovable property, and I am not as optimistic as the hon. the Attorney-General is as to what will be the result of any decision on the point. I thought the Committee would have given some short explanatory note as to what difference in the present law this would make. Mortgagees will have some difficulty. Fixtures may be the most valuable part of a building, and to that extent we may find mortgagees somewhat more critical in respect of properties on which they intend to give mortgages. That will hamper the smaller persons who desire to obtain mortgages, but I suppose this clause will bring more grist to the lawyers' mill.

Mr. GONSALVES : As an example of the point I was making just now, there is a hat rack screwed on to that wall. If that fixture is removed and in the removal damage is caused, will that be "any other building or other part of the tenement ?"

The ATTORNEY-GENERAL : It is part of the tenement. It is held that what is affixed to the soil belongs to the soil. If in the removal of your fixture you cause damage then, of course, you have to pay compensation. That is all that the paragraph means. According to the hon. Member's argument, the particular part of the wall from which the hat rack is removed will not come within the question of compensation. I say it will.

Mr. C. V. WIGHT : I compliment the hon. the Attorney-General on his boldness. He has set out very boldly to give a legal interpretation of this particular clause. There have been cases in England, but we have none here. How can we refer to anything in the Agricultural Holdings Act ? There is nothing to prevent a landlord contracting out of this clause He can tell his tenant that any fixture he puts in his house will belong to him. It seems to me that there will be interminable law suits under this clause. We have not entirely eliminated our Roman-Dutch Law, and we have our own local law of real property. We are going to build up new case law. If we pass this clause we would be striking out on a new departure.

The ATTORNEY-GENERAL : It is not a question of departure at all. In the Civil Law of British Guiana Ordinance passed in 1917 you began to consider this question of fixtures first with regard to matters partaining to agriculture, so that it is not a question of making a complete departure by saying that fixtures put up by a tenant remain the property of the landlord

Mr. GONSALVES : If the hon. the Attorney-General says that the provisions of this clause relate only to fixtures put on land, and do not apply to fixtures in a building, I will agree with him, but if the clause is to apply to fixtures in buildings then it is in the interest of both landlord and tenant to know what their position is as regards fixtures in a building. The words "or other part of the tenement" may mean something other than what they are intended to mean. It is no good leaving the clause in a state of confusion for a Judge to construe the meaning of those words.

Mr. C. V. WIGHT : I think the Council would be well advised to go very carefully into this matter. The hon. the Attorney-General has said that this provision is in the Civil Law of British Guiana Ordinance. I can tell him that many a Judge, even from the West Indian islands, has come here and said that that Ordinance is hardly interpretable. It has presented many a problem. I visualize a considerable amount of difficulty in respect of this clause, if it is persisted with and passed.

The CHAIRMAN : Does the hon. Member wish to move an amendment ?

Mr. WIGHT : As I have indicated, the only amendment I can move will be the deletion of the clause. I do not know how that will affect the *format* of the other clauses.

Mr. HUMPHRYS : It seems to me very simple. Surely the words "damage to any part of the tenement" will cover it, because "tenement" is defined.

The CHAIRMAN : I assume that there might be damage to an adjoining tenement. I think that is what is meant.

The ATTORNEY-GENERAL : Yes, Sir, but it is as regards any other part of the tenement.

Mr. GONSALVES : "Tenement" is defined as "any land or buildings in possession of a tenant under a tenancy." So that if it is left at tenement alone the adjoining premises would not come in. There may be two buildings.

The CHAIRMAN : Then what recourse would a person in an adjoining building have ?

Mr. GONSALVES : I think the word "other" might be deleted and the words "to any" substituted.

The ATTORNEY-GENERAL : I have pointed out where those words have been taken from. I have not changed those words because it is desirable to have the benefit of the decisions on those words. I suggest that clause 15 be deferred for further consideration.

Clause deferred.

Clause 33—Distress for rent exceeding four hundred and eighty dollars per annum.

The ATTORNEY-GENERAL : I wish to state that certain representations have been made with regard to this clause by the Trade Union Council. Apparently there is some misunderstanding on their part, as it is suggested that the clause is discriminatory. I wish to point out that this provision is to be found in the Rent Recovery Ordinance, Chapter 92, and now it is desirable that the same provision should be extended and made general. The only discretion with regard to this is, that in cases where the rent is in excess of $480 per annum—the higher tenancies as one might term it—the landlord may authorize his own bailiff to levy distress, whereas under the small tenancies the Court's bailiff makes the levy. That has been the procedure from time immemorial. It is desirable that there should be a Court's bailiff in respect of the small tenancies because very often those tenants cannot protect themselves. I mention that because of the misunderstanding which exists as regards this clause and the fact that it was thought that we were bringing in some descriminatory measure.

Clause 33 passed.

Clause 38—Payments by under tenant or lodger to superior landlord.

Mr. GONSALVES : I suggest that this clause be amended by the insertion of the word "be" between the words "lodger shall be deemed to" and the words "the immediate tenant".

Amendment put, and agreed to.

Clause 38, as amended, passed.

Clause 43 — Distress levied on goods and chattels formerly comprised in bill of sale or purchase agreement.

The ATTORNEY-GENERAL : There is to be an amendment by the substitution of the word "conditions" for the word "provisions" in sub-clause (5). This is a result of certain representations made to me.

Amendment put, and agreed to.

Clause 43, as amended, passed.

Clause 44—Conditions implied in the letting of houses.

The CHAIRMAN : Perhaps I should state that I have received representations myself as regards some of these tenants who have no kitchens or sanitary conveniences. The question arises whether under this clause these amenities will be provided for tenants. I do not know what the Attorney-General thinks. I do feel myself that no tenement should be regarded as fit for human habitation unless there is a kitchen and a latrine or some form of water closet. I understand that a good many tenements in Georgetown have no such amenities. Is that correct ?

Mr. C. V. WIGHT : That is so as regards kitchens, but they are all supposed to be connected to the sewerage system. A number of landlords do not provide proper kitchens and there are many "box kitchens", as they are commonly called. There is provision, however, in the City Building By-laws to compel landlords to provide these things. I do not think we can bring in anything like that in this clause because it is really a re-enactment of section 212 of the Local Government Ordinance—Chapter 84—which I think was repealed not designedly, and representations have been made for its re-enactment.

The ATTORNEY-GENERAL : This clause was to be re-enacted in the Ordinance passed last year—No. 9 of 1946. I think the hon. Nominated Member, Mr. Critchlow, was pressing for an enactment of this nature because the condition of some of the buildings left much to be desired. The Council was then informed that as soon as the Landlord and Tenant Bill was brought forward this provision would be incorporated in it. With regard to the point raised by Your Excellency—about buildings not having certain conveniences —I think we should make provision in this clause to meet it. I have been considering the point this morning and, perhaps, something might be agreed upon as a new subclause which will give a certain amount of time for those who have not supplied these conveniences to obtain the necessary materials and have these very desirable matters attended to. An Order will be published in the *Gazette* and the Governor in Council will be able to give due consideration to any circumstance which may operate against these things being carried out. Your Excellency will say it is necessary that these things be done—in order that those landlords who are not sufficiently solicitous of the welfare of their tenants and who receive rent from them should do something regarded as necessary.

Mr. GONSALVES : I think there are some Regulations under the Town Council Building By-laws which require kitchens to be put up by owners of property. Probably there are quite a few owners who have not provided these kitchens, but I would like to get an assurance from Government that if they are going to ask the Town Council to carry out the By-laws they would at the same time give instructions to the Controller of Supplies to issue the materials required by landlords to carry out the work. Such instructions will have a double effect —they will enable the landlords to provide the conveniences for the tenants and they will enable labouring men—carpenters and others—to get some work.

Mr. SEAFORD : I do not think it is necessary to give such instructions at all. Whenever an application comes before the Control Board and it is one for sanitary requirements like a kitchen or a latrine it is granted immediately. The City Engineer is a member of that Board, and in every such case he certifies that the materials are urgently needed and the application is granted immediately.

Mr. GONSALVES : I am glad to hear that statement and I hope due publicity will be given to it, because we frequently hear of cases where materials cannot be obtained by landlords to carry out urgent work.

Mr. SEAFORD : I think it is, perhaps, because they did not point out what work the materials were wanted for.

Mr. C. V. WIGHT : Like the hon. Member for Georgetown South, I also would like publicity given to the statement made by the last speaker. It will save me at least one hour a day in time spent in trying to get materials for various people to repair their houses.

Mr. SEAFORD : I am not speaking about houses; my remarks apply to sanitary conveniences. What some people want is to make too many applications with regard to houses but we will not grant them.

Mr. WIGHT : As regards the hon. the Attorney-General's amendment, I think it will involve a considerable amount of time and expense. First of all, a survey will have to be made of the City and I can envisage that whole lots will have to be surveyed in some cases because of the nature of the structures on them. The City M.O.H. who is now retired was the person who suggested "box kitchens," but there are some cases which we saw in various parts of the City that are not a credit to the landlords concerned. I know that when I was in the Chair as Mayor there used to be prosecutions, especially against people found using coalpots in houses.

I have made representations to the Authorities and in such cases if there is an omission to provide a kitchen then, of

course, the tenant is not prosecuted but the landlord. If a kitchen has been provided and a coalpot is being used then, of course, the tenant would be prosecuted because it is a fire hazard. If any of these cases are brought to the attention of the City Engineer a prosecution is brought and, I think, a certain landlord appeared in Court every Tuesday for some time owing to the type of kitchen he provided. Every new building plan has to carry conveniences of this nature before it is passed. The City Engineer would not pass a plan if it does not provide for them, but it is a difficult matter to control as regards some of the poorer tenants.

Mr. THOMPSON: I shall be glad myself if publication is given to the statement made by the hon. Member for Georgetown North about the availability of materials for carrying out sanitary measures, because there are many cases where such supplies cannot be obtained. I know of some myself and it is very surprising that we can hear that statement this afternoon when the Control officers tell us something else.

The CHAIRMAN: The position is whether we should make any provision for those conveniences in the law. I think all tenants should have conveniences. The hon. Member who has just spoken was referring to the country districts, but I am referring to City tenants particularly. The poor man who rents a little habitation should have at least a kitchen and some sanitary conveniences. Of course, if a building is unfit for human habitation in a country district the tenant may go to the village authority, but one cannot do so in the City.

Mr. WIGHT: I think there are Regulations under the Public Health Ordinance, 1934, governing the rural areas. Those Regulations are similar to those obtaining in the City.

Mr. PEER BACCHUS: There is no doubt that building materials are not to be had. There are scores of cases where landlords have been unable to get supplies to carry out work, and I would be glad if the statement made by the hon. Member for Georgetown North is given wide publicity. Many persons want materials for sanitary conveniences in the country districts and elsewhere but cannot get them.

Mr. SEAFORD: I may point out that only last Thursday the District Sanitary Inspector was asked to send in the names of those persons who wanted materials for sanitary purposes. In some cases, however, the materials are granted but the work is not done. The materials were used for purposes other than those stated and in some cases the applicants have taken nails and blackmarketed them.

Mr. PEER BACCHUS: In one district alone there were some 300 or 400 applications for materials for sanitary conveniences and not one has been granted.

The CHAIRMAN: I do not think there should be any long argument over that question. The point is that Government should not bring in any provision stipulating that these conveniences should be provided unless we are satisfied that the materials are there. If the hon. the Attorney-General wishes to give further consideration to this clause it can be allowed to stand over.

Mr. GONSALVES: I think provision should be made that if a prosecution is brought against a landlord and he produces evidence to show that he applied for the necessary materials but could not get them from the Controller, that would be an answer to the prosecution and to what has been stated here today.

Mr. C. V. WIGHT: Is the hon. the Attorney-General going to say that this amendment, which is already a condemnation of the landlord, will entitle a tenant to damages? If the property is not fit for human habitation it seems to me that the Court would have no hesitation in granting damages to the tenant. In other words, the Governor in Council will be sitting there and deciding in this matter as between landlord and tenant.

The ATTORNEY-GENERAL: I think hon. Members would agree that in this modern world where you do not provide for a thing specifically, little or no attention is given to it. If landlords want their rent and the full value for their premises, it

seems to me they should provide the necessary conveniences for their tenants. It is not only a question of interfering with the tenants concerned, but they do not know how far the lack of these conveniences will affect the health of other people. The health of the community is at stake in matters of this sort.

Mr. WIGHT : May I suggest that this Bill be passed and that this point be considered later ? You are going to have to go right back into the whole of the sewerage question—to decide how many points we want and so on—in order to deal with this point, and that sewerage question which engendered a great deal of heat and argument is not really settled. There are still some Members who feel that Government did not treat the Town Council fairly in providing payment for the sewerage system and so on. There are still certain premises that are not connected to the system at all, and a good many of them are down in Water Street. I am afraid that if we start with the question of sanitary conveniences we would find ourselves going right back to the sewerage embroglio. In cases where there is an absence of proper kitchens prosecutions are brought against the landlords.

The CHAIRMAN : This law applies throughout the country. It applies, for instance, to estates. The law already says that the landlord shall keep the building in all respects fit for human habitation. Whether that means that there can be an absence of a latrine or a kitchen, I do not know.

Mr. WIGHT : That is really a matter for the Central Board of Health. They are in charge of the rural areas and can control that question in the same manner as the Town Council does in Goergetown.

Mr. SEAFORD : The Central Board of Health takes most stringent measures. The plan is far too severe. We cannot clean the stables overnight.

Mr. C. V. WIGHT : The provision is there.

The CHAIRMAN : I want to put this obligation on the landlord. If he has a house and wants to rent it he should not be allowed to do so unless he fixes it up. What the proviso is. I do not know.

The ATTORNEY-GENERAL : I ask to defer the clause in the light of the views expressed, but it seems clear that it is desirable that we should have a provision in regard to this matter. I have to examine it. May I ask that sub-clauses (2) and (3) be deferred. If one looks at the 1946 Ordinance it would be seen that our present sub-clause (3) was subsection (3) of section 3 and sub-clause (4) was a separate section. We are now having the whole thing in this form. It comes at the end of the section instead of where it is. I ask leave to defer it in the light of the points raised. We will deal with the question of a provision for kitchen and sanitary accommodation.

Clause deferred.

Clause 45—Neglect to pay rent a determination of tenancy in certain cases.

Mr. GONSALVES : I drew the hon. the Attorney-General's attention to what I thought was an omission. I thought the word "five" in the second line was intended to be changed to "ten".

The ATTORNEY-GENERAL : I suggested to the hon. Member to raise the point, as there was no decision in Committee in regard to that. The hon. Member's point is that rentals have gone up and $5.00 represented the rentals in the days then. I suggested to him to increase it to $10.

Mr. GONSALVES : I think, we agreed on $10.

Mr. SEAFORD : What is the reason for the alteration ?

The ATTORNEY-GENERAL : The reason is "Where the tenant of any building held by him as a tenant from month to month or weekly at a rent which does not exceed the rate of five dollars a month, fails to pay the rent due within seven days after the day on which it becomes due and payable, the failure shall for the purpose of enabling the landlord to recover possession be deemed a determination of the tenancy...." What represents $5 rent nowadays is probably $15. It is only a question of increasing it.

Mr. SEAFORD : The point I want to know is, how you arrived at $5 or $6, or $10.

The ATTORNEY-GENERAL : What I suggest to the hon. Member is this : We can go further—100 per cent. of the figure representing 10 or 5 years ago.

Mr. GONSALVES : The answer is in clause 20. There the amount used to be $2.40 and it has been increased to $4.80. It is suggested that this $5 should be increased to $10 I move as an amendment that the word "ten" be substituted for the word "five."

Amendment put, and agreed to.

Clause passed as amended.

Clause 46—Recovery of possession after termination or determination of tenancy where tenancy is at a rate not exceeding $1,200 a year.

Mr. EDUN : I am very deeply concerned about this clause because it affects quite a large number of tenants on the sugar plantations. Owing to the peculiar circumstances of immigration there is still a large number of workers living in houses belonging to the Sugar Companies. Some of them have been living there for 50 years or more, and some have gone in there free of rental. But although they live there for 50 years or 40 years they can be turned out within seven days. I must say this : I raised the question in the Select Committee and the matter was thoroughly discussed and much sympathy was expressed by the Members of the Committee in the matter, but it was found impracticable to have special legislation for this special circumstance. It has been suggested that in the case where a man came as an immigrant to an estate and was given a free house to live in and he has been living there for 50 or 60 years, when he is to be evicted the circumstance of the length of time he has been residing there should be considered. For that reason, Sir, it was suggested that those special cases should have an appeal to the Governor in Council. I do not know how far that can be made practicable. It is a very commendable attitude on the part of the Sugar Companies that they are making every effort to provide a housing scheme and are laying out lands in order that the "logies" on their plantations should be eliminated and the workers secure their own piece of land and be assisted by them to build houses thereon. But between the inception of this housing scheme and the day when the last of the "logies" are eliminated there will be a transition period of not less than ten years. Therefore those people will be still residing in the estate houses and can be turned out in seven days or three days as it suits the Magistrate's discretion.

I have given the hon. the Attorney-General an indication of how, I think as a layman, provision can be made in this Bill to meet that circumstance, and that is : The Magistrate should have the right to examine all the circumstances of the length of time the tenant is residing there and then give him a period of time which is equitable to vacate, but the Committee did not see eye to eye with me. As a matter of fact I suggested these amendments in paragraph (b): The words "does not show to the satisfaction of the Magistrate reasonable cause...." should be deleted. It should not be left to the arbitrary decision of a Magistrate. It should be provided that it would be reasonable cause to show (1) that the tenant had been in tenancy possession for the past ten years or a number of years; (2) that alternative accommodation is not available which is reasonable and suitable to the means of the tenant and the needs of him and his family as regards the extent, character and proximity to work; and (3) that the premises are let on terms of a long security of tenure. The hon. the Attorney-General said that provision could not meet the circumstances, and the members of the Select Committee, although they sympathized with my viewpoint, could not bring their minds to agree that this is a special circumstance of a peculiar nature—the immigrants came there and should remain there. There are no immigrants now and the labourers are residing in the houses belonging to the Companies. I know that these conditions will cease to exist in a period of years.

You will agree, Sir, that it was the policy of the British Government that workers should be free to live in houses and on land which give them the right to bargain, and employers should have no lien on the property on which the houses are situated. But that policy was abolished

because of the peculiar financial circumstances on the part of the British Government and its inability to augment the project. The Sugar Companies, however, are meeting the situation. There is no doubt about that. They are laying out land and assisting the workers to get houses. They have gone so far as to sell rooms at a nominal figure to the workers in order to give the workers an appreciable amount of materials to begin erecting their new homes. Those are good things in themselves, but they will take time, and I am asking that some provision be made, if it can be, for a period of years, so that a man who was a good worker for a period of 25 or 50 years could not be found to be such an undesirable individual that he should be put out of the house he occupies in seven days. In the majority of cases the Magistrate does not give more than a month, although the worker has been living in the house for a period of 30 or 40 years. Therefore in those circumstances I plead with you, Sir, and with Government that something be done, some provision be made to meet the circumstances. It is a situation of a peculiar nature no doubt, but we have to meet it and it does not concern a dozen tenants but thousands, probably more tenants than there are in this City or in the town of New Amsterdam. I think it is the duty of this Government to make some provision to meet the situation. The Draughtsmen of the Attorney-General's Office perform their work very cleverly, and I have gone so far as to indicate that they have the ingenuity to do anything possible when it comes to draughtsmanship. I think in this case something should be done.

Apart from that, I want Your Excellency to examine the question of appeal to the Governor in Council in the case of a man who has been living at a place for 50 years and the Magistrate gives him seven days to get out. I think, I have fully indicated what is passing through my mind and, I think, the hon. the Attorney-General and Members of the Select Committee know exactly what I meant when I stated that these things should be considered by the Governor in Council. I plead with you, Sir, to give it consideration.

Mr. C. V. WIGHT: While I am in entire sympathy with the hon. Member I do not see how with no legal maxim, no legal entity, you can enact such. The position is, as the hon. Member has suggested, an appeal to the Governor in Council. I should say the appeal should be in the nature of an appeal to the conscience of the landlord or prayers to the Almighty. If you are going to have an appeal from the Magistrate to the Governor in Council, what about the Appeal Courts, where do they come in? Surely this is a matter which must be at the discretion of the Magistrate. We have certain restrictions on the rights of the landlord obtaining possession, and those rights and restrictions are not confined to one particular section and industry or to one particular company or companies. The same principles apply to all and, I think, the hon. Member himself intends them to apply to the proprietors of some rice estates whose consciences are not so elastic as those of the sugar proprietors. I think, perhaps, more injury, more injustice, more intimidation is done there than you find on sugar estates. I do not think the sugar estates increase their rental as on the rice estates where they take delight in increasing the rent on their lands. Even though it is in the Magistrate's discretion he does not give possession in a day nor in a week, and in some cases he may give six months. I know some cases where Magistrates have given six months or three months. It is only in very rare cases a Magistrate gives immediate possession, unless the tenant is to be blamed and is causing trouble and is undesirable. It is not done in the majority of cases. I think the tenant is protected in regard to the discretion exercised by the Magistrate. I do not think an appeal to the Governor in Council will have very much effect. I do not see how an appeal can be made to the Governor in Council in such a matter without going through the channel of the law. It seems a question of general policy, both in regard to political expediency and in regard to the Courts' jurisdiction and the administration of the Courts. It seems the form of appeal should be from the Courts to the Governor in Council.

Mr. GONSALVES: The hon. Member had raised the question in the Committee. I would like to draw attention to sub-clause (1) (e). It is rather difficult to have legislation for one set of people and to have a Magistrate being directed as to

what he should do and what period of time he should give. Paragraph (e) entirely leaves it to the Magistrate, if he is satisfied on the reasons put forward, to postpone the date of possession. Fairly wide powers are given there, and I cannot see that if a reasonable case is put up a Magistrate is going to refuse. If he does, then the tenant has the right, as any tenant in Georgetown has in respect of an order made by a Magistrate, to take it to the Appeal Court and the Appeal Court has power to extend the time. I sympathize with the hon. Nominated Member. There may have been good or bad reasons for what took place. Since there has been improvement all around, I hope those conditions do not still exist as he claims. In discussing paragraph (b) he must not close his eyes to paragraph (e).

Mr. THOMPSON. There is one thing I do not quite understand. If the hon. Member can speak in such glowing terms of the behaviour of the sugar planters, as I am given to understand that the estates are doing their very best to assist the people, I do not see how they can suddenly turn out to be so unkind. It seems that when their action is very undesirable is when they resort to ask for the ejectment of the worker from the premises. In the circumstances we cannot discriminate. This matter took up much time on the Select Committee. It was gone into thoroughly, and while I sympathize with the hon. Member I do not see how we can make a law to suit one section of the community and not the other. If the estate proprietors had been so lenient, it follows naturally that if a man becomes undesirable the best thing is to get him off the premises. So I do not subscribe to the special enactment which my hon. Friend is asking for. We cannot take a Magistrate's decision to the Governor in Council. It is impossible.

Mr. EDUN: Perhaps I did not explain my reason for asking that an appeal be made to the Governor in Council. It was for the reason of the question of cost. To take an appeal of this nature from the Magistrate to the Supreme Court it will mean expenditure on the part of the worker. That is my reason for requesting an appeal to the Governor in Council. As a matter of fact that was suggested to me by no less a person than a legal authority, as it is a question of cost and expenditure on the part of the working man. In the days of immigration he had the right to go to the Immigration Officer and to go to the Governor in Council.

Mr. C. V. WIGHT: I do not think any hon. Member of this Council, if he be only a credit to his own race, will allow the Administration to interfere with the course of justice.

The CHAIRMAN: I do not think it is a suggestion we can possibly accept that there should be an appeal to the Governor in Council against the Magistrate's decision. We have certain powers. Government has the Whitley Council as a Court of Appeal. If the hon. Member says there are thousands of these immigrants on the estates who are affected and if there are unreasonable evictions, how do you expect the Governor in Council to deal with them?

The ATTORNEY-GENERAL: As I pointed out and hon. Members have already heard, there was considerable discussion over this clause, and the hon. Nominated Member, Mr. Edun, put forward various points in support of his contention. I pointed out to him that this was a general Bill dealing generally with the relationship of landlord and tenant, and the point which he advanced with regard to the sugar estates' workers, if it is to be dealt with at all, will have to be dealt with by special legislation. That is the only way, as I see it, it can be approached. The Rent Restriction Ordinance whittled down the ordinary Common Law rights of the landlord to meet a recent situation which had developed in these years, but in so far as the suggestion made by the hon. Nominated Member that the appeal should be to the Governor in Council, I think, the hon. Member would appreciate the fact, as Your Excellency has said, it is quite impracticable and is really not a desirable answer to the question at all. I suggest to the hon. Member that his point will be considered, but it is extremely difficult to frame legislation to meet these circumstances. May I then ask to be allowed to put the two or three amendments to that clause?

Amendments put, and agreed to.

Clause passed as amended.

The Council resumed and adjourned to Thursday next, 4th September, 1947, at 2 p.m.