

LEGISLATIVE COUNCIL

THURSDAY, 26th FEBRUARY, 1953.

The Council met at 2 p.m.

PRESENT :

The President, His Excellency the Officer Administering the Government, Mr. John Gutch, C.M.G., O.B.E.

The Hon. the Colonial Secretary, Mr. J. L. Fletcher, O.B.E., T.D. (Acting).

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

The Hon. the Financial Secretary Mr. W. O. Fraser, O.B.E. (Acting).

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

The Hon. T. Lee (Essequibo River).

The Hon. W. J. Raatgever, C.B.E. (Nominated).

The Hon. V. Roth, O.B.E. (Nominated).

The Hon. G. A. C. Farnum, O.B.E., (Nominated).

The Hon. Capt. J. P. Coghlan, (Demerara River).

The Hon. J. Fernandes, (Georgetown Central).

The Hon. Dr. G. M. Gonsalves (Eastern Berbice).

The Hon. Dr. C. Jagan, (Central Demerara).

The Hon. W. O. R. Kendall, (New Amsterdam).

The Hon. A. T. Peters, (Western Berbice)

The Hon. W. A. Phang (North Western District),

The Hon. L. A. Luckhoo, (Nominated).

The Hon. W. A. Macnie, C.M.G. O.B.E., (Nominated).

The Clerk read prayers.

OATH OF ALLEGIANCE

The Oath of Allegiance was administered to the acting Financial Secretary and Treasurer Mr. W. O. Fraser, O.B.E., who then took his seat.

The President : I am sure hon. Members would like to join with me in welcoming Mr. Fraser once again to this Council.

MINUTES

The Minutes of the meetings of the Council held on Thursday, the 19th of February and Friday, the 20th of February, 1953, as printed and circulated, were taken as read and confirmed.

PRESENTATION OF REPORTS AND DOCUMENTS

The Colonial Secretary (Mr. J. L. Fletcher, acting) : I beg to lay on the table the following documents:—

The Report by the Director of Audit, British Guiana, on the audit of the Accounts of the Government of British Guiana for the year ended 31st December, 1951.

The Report of the Financial Secretary and Treasurer for the year 1951.

GOVERNMENT NOTICES

SPECIAL REVISAL BILL

The Attorney-General : I beg to give notice of the introduction and first reading of a Bill intituled—

“An Ordinance to make provision for the division of the Counties of this Colony into revisal districts for the purpose of the preparation in relation to each revisal district of a Register of all British subjects of full age other than persons subject to certain disqualifications who on the first day of January, 1953, were resident in British Guiana for two years or more, and for purposes connected therewith and incidental thereto.”

REGISTRATION OF VOTERS

Dr. Jagan: Sir, before the Order of the Day is taken, once again I would like to crave your indulgence to refer to the revision of the Voters' Lists. As a result of representations made to the hon. the Attorney-General, the last date on which claims were to be submitted by persons to be registered was extended by four days, but I have just received word that there are a number of persons who were unable to secure the necessary forms for registration which were supposed to be available at the Post Offices, even up to Friday last. I think the hon. the Attorney General has given notice of the Bill which is to be discussed, I hope, very shortly. I do hope an attempt will be made to discuss it either tomorrow or possibly at the next meeting of the Council next week. Many persons are under the impression that they will be given an op-

portunity to register their names on the day on which the Revision Court is held, at the various places.

I spoke to a former Enumerator and he is also under that impression. Unfortunately, those notices which were supposed to be posted up in the various districts went too late, and the original notice published in the newspapers, setting out the dates of the holding of various Revision Courts, did not make it quite clear what the procedure was going to be. Consequently I hope that those persons who have not been able to get the registration forms to lodge their claims within the prescribed date will be allowed to go to the Revising Court on the prescribed day and submit their names to the Revising Officer, so that they will have an opportunity up to the last day to have their names placed on the register for their particular constituencies.

I do not know when the hon. the Attorney General intends to take the Bill. It is most unfortunate that we are going through with the machinery for the revision of the Voters' List and the Bill is not yet prepared. I do not know if it has been printed already. The hon. the Attorney-General told me by telephone yesterday that it was to be printed and published today. I have not seen it, if it has been published today. I hope, however, we will be discussing this Bill tomorrow.

The Attorney-General: So far as the Bill is concerned it has been published today. The hon. Member has raised two points. They are points of considerable importance, and I am sure he would not wish me, nor would hon. Members wish me to give an expression of opinion without having had time

for adequate consideration, having regard to the possible implications. It will be appreciated that if we extend the dates of the Revision Courts so as to allow for the addition of the names of persons who have submitted claims to the Revising Officer, it means that we will have to extend the period to allow for objections to those claims. In other words, if a claimant goes before a Revising Officer in person, as suggested by the hon. Member, and makes a claim without having filled in a form, then opportunity should be given to any possible objector to raise his objection, otherwise there might be duplication. There may be cases where such persons are not qualified either by residence or age. I am sure the hon. Member appreciates that point.

As to the cases where there may have been genuine errors of omission on the part of the Enumerators, it will be realized that in the machinery of the Special Registration Ordinance, which was enacted about a year ago, there is a provision inserted, I think at the instance of the hon. Member for Eastern Demerara (Mr. Debidin), which ensures that the lists prepared by the Enumerators are to be posted up in prominent places in each sub-district. Consequently, sufficient time has been afforded to enable persons to examine those lists which were posted up and see whether their names were on the lists or not. If there have been omissions, such as the hon. Member referred to, I think that may be attributed to the fault of the Enumerators themselves in putting down the names of other people and omitting to put down their own names. The point which the hon. Member has taken is fully appreciated.

There is another aspect of the question, and that is if those persons who are seeking now to have their names

placed on the Voters' List are sure that their names are not on the List in the districts in which the enumeration was carried out, it is quite conceivable that there are persons, whose names are on a List of a district where enumeration was carried out, who removed subsequently to some other district. Such persons may come along and make representation that their names are not on the List of the district in which they now reside. The hon. Member said that representations were made to him. Can the hon. Member say with any degree of certainty that their names are not on the List of any electoral district? There are 24 electoral districts, and the procedure adopted for registration was in order to ensure that the highest possible number of voters would be on the List, and consequently it was done by means of the method adopted in 1916 in regard to the preparation of the Census.

I would like to say that emphasis has to be placed on the question that opportunity must be given to objectors to make the necessary objections, otherwise there is always the possibility at this late stage of persons, for one reason or another, either through misrepresentation or through some misconception, trying to have their names placed on the List. As all hon. Members will agree, we must endeavour to avoid duplication. If a claimant presents himself to a Revising Officer and says "My name is not on the List", it is very difficult for the Revising Officer himself, having regard to the large number of persons registered and the large number of claimants, to say he is not on the Register. But it is clear, having regard to the procedure which is adopted, that the maximum number of voters is already put on the Register. There may be, as the hon. Member has indicated, cases of omission, but those cases

of omission will be very few. It is quite clear that the Government must ensure that only persons who are qualified within the provisions of the law are permitted to register.

There is also another factor, and that is that to give further opportunity for registration may throw the whole machinery and time-table out of gear. There is, of course, possible alteration, and provision will have to be made for Revising Officers to hold a second Revising Court. In regard to these late claims, special provision will have to be made so as to avoid any possibility, as has been already intimated, of misrepresentation, or duplication, or any improper conduct. I may mention for the information of hon. Members that the last Revision Court is fixed for the 7th of March. There are, as hon. Members are aware, 24 lists, and two of these have been already completed. These 24 lists involve 140 registration areas, and the total number of voters on the preliminary lists is 205,296. The date for sending claims to those Revision Courts, which will sit on the 2nd, 3rd and 4th of March, has passed, but there is still some time for sending claims to those Courts which will sit on the 5th, 6th and 7th of March. In other words, there is still time to send in claims and for objections to be lodged to those Courts which are scheduled for the 5th, 6th and 7th of March.

As I say, I am not in a position, neither do I think hon. Members would wish me to make any commitment so far as the procedure which may be adopted is concerned in the case of any omissions in respect of claimants who have been registered during the course of the enumeration. So far as the Bill of which I have given

notice of introduction is concerned, I hope to be able to take that next week.

Dr. Jagan: It will mean that if the Bill is taken, the whole machinery of the revision of the Voters' List will be put out of gear. That is the point, and I cannot see why the Bill cannot be taken tomorrow. Some period must be allowed for objection to these claims. I see no difficulty with that because, if only a small number are likely to make such claims on that particular date, there is no reason why the list cannot be posted up in the particular district, and if there is any objection then a supplementary list could be drawn up.

The Attorney General: Nothing I have said could be interpreted to be a ruling or a definite statement of that nature. The whole matter has been examined in the light of the machinery, the question of printing and the question of the Revising Officers going back to the districts for purposes such as were mentioned.

Dr. Jagan: From the last statement made by the hon. the Attorney-General, if the Bill is to be discussed next week, say Wednesday, some Revising Courts will have sat already, and there would be no opportunity given to register claims.

The Attorney General: If it is hon. Members' wish I have no objection to proceeding with the Bill tomorrow.

Dr. Jagan: I would be very grateful if you proceed tomorrow, so that we can iron out these points and, if necessary, adopt the procedure which has been recommended. So far as the date is concerned, I do not see that it would affect the machinery too much, and I do not see why the Attorney-General is afraid of

the election not coming off on April 27. I do not think that date has been fixed by God and cannot be changed. And even if the hon. Member for Georgetown North and the hon. Member for Demerara-Essequibo will be going to the Coronation, I do not know whether that will have any bearing on the election date. For that matter I do not know that they will be returned at the elections in any case.

The Attorney General: The hon. Member has taken on the roll of a prophet. If it is the wish of hon. Members that the Bill be taken, not at this meeting but at the earliest possible opportunity, I will then have to accede to their request.

Mr. Lee: I do not know whether we can carry the Bill through all stages now.

The Attorney-General: The Bill was published in an Extraordinary *Official Gazette* today and the point is that the Standing Rules and Orders provide that Bills be read a second time not less than seven days after publication, but I propose to ask that the Standing Rules be suspended in order to enable me to proceed with the reading of the Bill in view of the urgency of the matter, as hon. Members have indicated.

Mr. Fernandes: I have no doubt hon. Members are keen on getting the matter settled, and that the hon. the Attorney-General will get permission to move the suspension of the Standing Rules and Orders.

The President: I am very anxious to be assured that hon. Members will come back here tomorrow quite prepared to go on with the matter which is now adjourned. Council will proceed to the Order of the Day.

ORDER OF THE DAY

IMPORTATION OF TALLOW.

Dr. Jagan asked, and the Colonial Secretary laid over replies to the following questions:

Q. — Will Government say whether tallow recently imported into the Colony without an import licence has been allowed entry? If not, will Government say whether the tallow has been reshipped to the suppliers?

A:—Yes. The commodity is an essential ingredient in the manufacture of common laundry soap, and as it was required at that time by local soap manufacturers the shipment was taken over by the Comptroller of Supplies and Prices and distributed to them.

PADARAT'S BURNT EARTH CONTRACT

Mr. Lee on behalf of **Mr. Debidin** asked, and the Colonial Secretary laid over replies to the following questions:

Q. 1.—Is it a fact that Padarat of Pn. Airy Hall, East Coast, Demerara, has been burning earth heaps for the Public Works Department and worked in various other capacities, e.g., in making up sea-dams and the public road?

A. —Yes. Padarat worked with a donkey cart on road maintenance in the Springhall-Abary Area previously to 1942 at which time he became a burnt earth contractor to the Public Works Department.

Q. 2.—Is it true that he is no longer given a contract to burn earth?

A:—Yes.

Q. 3.—Why has no further contract been given to Padarat for burning earth?

A:—Padarat ceased to be approved as a contractor or sub-contractor for Government in June, 1952, following complaints made by his labourers of non-payment of wages. Investigations showed that Padarat did not always pay wages when due, and further, had not complied with the Fair Wages Rules in keeping Time and Wages Books, and had not declared the arrears of wages due when claiming payment from the Public Works Department.

Q. 4.—Is it true that his sons applied to burn earth but their applications have also been refused? If so why?

A:—No.

Q. 5: Is it true that the last heap that Padarat was burning was at Recess, East Coast, Demerara, and that usual further advances to Padarat were stopped because of a report by one Sankar, the foreman of Padarat, that he was not paid certain moneys?

A. The last heap burnt by Padarat was at Recess, East Coast, Demerara. Padarat's work-people, seven in number, reported to the Public Works Overseer the non-receipt of arrears of wages to the total sum of \$69.86. As a result of this report the matter was referred to the Commissioner of Labour who directed that any amounts outstanding to Padarat's account should be used for the payment of arrears of wages and this was done. Further the owner of the land on which Padarat's heap was sited, prevented Padarat from burning any more earth until he had paid him the rent of \$10 for the heap site.

Q. 6: Is it not a fact that Padarat and his witnesses were able to prove that Sankar was trying to claim more money than he was entitled for cartage when his cart never worked for as many days as Sankar alleged? Is this allegation sufficient for the Labour Department to intervene when Sankar should have been made to have resort to the Court in a dispute?

A. Sankar's claim for arrears of wages from Padarat was not entertained by the Department of Labour since it was considered that his relationship with Padarat was more in the nature of a partner than an employee. Sankar was advised to take civil proceedings against Padarat if he wished to recover his money.

Q. 7: (a) Is it a fact that the Labour Department paid off the labourers and

(b) has in hand the sum of \$25.00 for Padarat on the quantity of burnt earth measured on the heap?

A. (a) The Department of Labour has paid all the labourers whose claims for payment could be substantiated.

(b) After Padarat's work-people had been paid off, a balance of \$28.48 remained, and this sum Padarat agreed to distribute between two men who had supplied him with wood. Their claims were for \$181.00 and \$54 respectively. He subsequently changed his mind and uplifted the amount, to which he was legally entitled, from the Personnel Officer, Public Works, Department on 11th November, 1952.

Q. 8: Is it a fact that Padarat as a result owes \$234.00 for wood supplied to the burnt heap and is this not because he was not permitted to continue his heap by building and burning to the capacity of 200 cubic yards; and had he been enabled to burn his heap by the usual advances made would he not have been able to pay off his indebtedness for wood and make a profit?

A: Padarat is indebted in the sum of \$235.00 for wood supplied. If Padarat were permitted to complete the quantity of burnt earth for which he held the District Engineer's authority, i.e., by burning a further 53 cubic yards, he would have been further involved financially.

Q. 9: Is it not a fact that Padarat had taken 8 cords of wood at the heap valued \$68.00 which would have enabled him to burn 60 cubic yards more of a value of \$216.00 but because of the suspension he lost this amount and also the wood which was almost all stolen away?

A: No. Padarat had approximately 1 cord of wood at the heap site when he was forced to suspend burning operations. After the payment of outstanding wages he asked to be allowed to continue burning to complete the heap. This request was refused, as it was felt that he would become further involved financially. In spite of the Overseer's instructions he persisted and

transported approximately two cords of wood to the heap site in an effort to force the Overseer's hand.

Q 10 : Is it not a fact that to stop advances is to deprive the burner from burning or continuing to burn, and that this is what has happened in Padarat's case?

A: This question is not understood. Advances are only made when sufficient work has been completed to warrant such advances.

Q 11 : Will Government through the relevant Departments consider renewing contracts with Padarat on the usual terms and conditions of advances etc., in order to enable him to pay off his debts and recoup his losses by virtue of his long and meritorious service in the past?

A : No. Government does not see any reason to alter its decision.

ECONOMY IN STAFFING OF SCHOOLS

Mr. Carter asked, and the Colonial Secretary laid over replies to the following questions:

Q 1 : What was the number of pupils enrolled in the years 1950, 1951 and 1952?

		Pupils Enrolled
A :	1950	73,570
	1951	77,421
	1952	77,575

Q 2 : What was the number of teachers—Assistants and Pupil Teachers employed during 1950, 1951 and 1952?

A :	Year	No. of Teachers employed.
		Assistants Pupil Teachers
	1950	1,342 219
	1951	1,371 180
	1952	1,371 132

Q 3 : In the terms outlined in Reg. 29 (2) of the Education Code how many teachers—Assistants and Pupil Teachers—should have been employed in 1951 and in 1952?

A	Year	No. of Teachers that could have been employed in accordance with the Education Code.
		Assistants Pupil Teachers
	1951	1,333 486
	1952	1,403 482

Q 4 : How many teachers were granted sick leave in excess of one week during the years 1950, 1951 and 1952?

A	1950	— 657
	1951	— 643
	1952	— 467

Q 5 : Is Government satisfied that the present conditions as indicated by the answers to Questions 1 to 4 will not seriously affect the standard of education in the schools?

A In 1951, owing to the urgent need for economy, it was decided to depart from the maxima allowed under Rule 29 (2) of the Education Code and to include Head Teachers in the teaching staff allocated to schools, thus saving one Assistant Teacher per school.

Experience proved, however, that normal standards could not be maintained with this reduction of staff, and it has therefore been decided to revert to the maximum staff allowed under Rule 29 (2) so far as Assistant Teachers are concerned. Financial considerations still, however, preclude the employment of more than two pupil teachers in any school.

It is considered that these arrangements will be adequate to maintain efficiency at a satisfactory level.

Q 6 Will Government state what was the amount saved by the curtailment of Staff in 1951 and in 1952?

A	1951	-- Approximate savings--
		\$ 82,000
	1952	-- Approximate savings--
		\$ 100,000.

Q 7 : Were the Estimates for Education based on the Staffing authorised in Reg. 29 (2) of the Education Code?

- A Yes. It was decided to implement the terms of the economy circular by leaving unfilled, vacancies that occurred in schools which had a larger staff than was prescribed in the circular, rather than by terminating the services of the teachers concerned immediately. Thus it was still necessary to base the estimates on the standards allowed by the Education Code as the economy measures could only be introduced gradually.

UNDESIRABLE PUBLICATIONS (PROHIBITION OF IMPORTATION) BILL

The Attorney-General: Sir, I beg to move the first reading of a Bill intituled:

"An Ordinance to make provision for prohibiting the importation of undesirable publications and for purposes connected therewith."

The Colonial Secretary: I beg to second the motion.

Dr. Jagan: I beg to take objection to the first reading of the Bill at this time, because I feel it is constitutionally out of order. Sir, sometime ago, a Bill was passed giving—

Mr. Luckhoo: Sir, to a point of order! I beg to refer the hon. Member to Rule 33 (b) which states that all Bills of which notice has been given must be read a first time before any debate can be taken on the topic.

Dr. Jagan: I am not debating the Bill. I am only referring to the fact that it would be constitutionally out of order if Council accepted such a Bill.

The President: The Bill is only being given its first reading; it is not yet before the Council at all. I put the question that the Bill be read a first time.

Question put, and agreed to.

Bill read a first time.

FORESTS BILL, 1953

Council resolved itself into Committee to resume consideration of the Bill intituled:

"An ordinance to consolidate and amend Law relating to forests."

The Attorney-General: When the Bill was under consideration by the Committee, certain clauses were deferred in the light of comments made by hon. Members. Those clauses were 3, 9, 12, 15, 16, 19 and 28. The hon. the Fifth Nominated Member (Mr. Smellie) raised a point with regard to clause 3 in connection with the expression "Crown Forests". But, sir, I understand from the Conservator of Forests that this gives the Governor-in-Council the power to declare that certain areas shall be administered by the Conservator. Therefore, the term "Crown Forests" is applied to distinguish such lands from other lands which are administered by the Commissioner of Lands and Mines—to make a difference between Crown lands and Crown Forests, so that the Crown Lands Ordinance does not apply to the Crown Forests.

Hon. Members will recollect that in the course of the second reading the point was made that there should not be any idea of dual control in so far as the administration of these forests is concerned. It is therefore desirable that there should be no confusion of the expression used in relation to land from which forest produce is taken. It was therefore decided to have some expression which would avoid any confusion as to land over which the Conservator of Forests exercises any control or supervision, and which he administers, as against those lands which the Commis-

sioner of Lands and Mines exercises control and which he administers. Consequently, the term which is being used here in this clause provides a suitable expression for avoiding such confusion.

I think if the hon. the Fifth Nominated Member were here he would have been satisfied with the explanation which I have given. And it must be clear that at the moment in the accepted desirability of avoiding dual control of the Crown Forests for this purpose, it will be necessary or essential to have some different expression with regard to the two types of areas administered by the Conservator of Forests on the one hand as Crown Forests, and those administered by the Commissioner of Lands and Mines as Crown lands. One has to do with lands and mines, the other with a good deal of forests.

Mr. Roth: While the hon. the Attorney-General was speaking, a point struck me and it is that in making up the Civil List all rights to the land were returned by the Crown. Reference was made to this section as if it was apart from each other. It is the same Crown lands on which there were Crown forests and upon which revenue is collected.

The Attorney-General: That does not affect the point of definition which I was endeavouring to make. I appreciate the point the First Nominated Member has made, but these two points are used to avoid any confusion between the functions of the Conservator of Forests and the Commissioner of Lands and Mines. I have tried to indicate that Crown forests deal with the areas which will come under the supervision of the Conservator of Forests, to be administered by him in connection with forests

and dealing with the question of royalties and things of that nature, particularly having regard to forests. Crown lands, dealing particularly with lands and mines and matters where the emphasis is placed on land itself, will come within the control and supervision of the Commissioner of Lands and Mines. These are separate functions to prevent any confusion whatever. The hon. the First Nominated Member's point is that the Crown forest is still Crown land.

Mr. Roth: It is a question of revenue from Crown lands. A very large portion of the revenue comes from forest lands, and I feel there should be some protection of those forests under this Ordinance in that respect. I quite understand and appreciate the dual control by the Commissioner of Lands and Mines and the Conservator of Forests, but the question is Crown revenue we are discussing.

Dr. Jagan: The hon. the Attorney-General said it is done to avoid confusion, but as far as I see it is going to cause greater confusion, because one Department will be administering land on which forests grow, while the other Department — the Dept. of Lands and Mines, will be administering land on which there are bauxite, gold, minerals, etc. I cannot see the reason for bringing such a confusion before the public at the moment. I think the way it has been done all along is fairly good. Many persons will have to decide to which Department they should go. Instead of making Crown lands and Crown forests and having them being administered by a Conservator of Forests and another set of lands administered by the Lands and Mines, I think Government would be much better off for revenue if the two Departments were together, calling them Crown Lands and Mines and Forests, and so simplify this matter of

administration a great deal. At the moment we have a great deal of overlapping in the functions of Departments. We sometimes have the Local Government Board functioning through the Department of Agriculture and sometimes the Agriculture Department functioning through some other Department.

Mr. Roth: That is exactly what this Ordinance proposes to do—to stop this overlapping.

Dr. Jagan: That is not going to prevent it. As far as I can see it is going to mean further misunderstanding with the Forest Department having its own staff and officers working separately from another Department dealing with lands and mines. That is what is going to happen under this Bill. We will eventually find ourselves spending more money administering the Government Departments. Apart from confusion, I do not see the necessity of putting what we may consider forest under the Conservator of Forests. I think a better idea would be to join the two Departments together under the Ordinance.

Mr. Luckhoo: This is a question of consolidating and amending the law relating to forests. There is no question of overlapping of the two Departments.

The Attorney-General: If it were a small place like Barbados, yes, that might be alright, but this is a big Colony of 87,000 square miles, a large portion of which is taken up in forests and land utilised in the interior development of the Colony. It is desirable, I submit, that the functions of these two Departments should be in no confusion whatever, and that the Forest Department should be permitted to

deal with matters which come within its purview and concern. Hon. Members must bear in mind that forestry in this Colony has developed within recent years. Forestry is no longer done the ordinary way, it must proceed along the most scientific lines. It is essential that in this Colony where we have such forest value; it should be developed in the best possible way. I think this is a step in the right direction.

Mr. Luckhoo: There seems to be some confusion with the hon. Member for Central Demerara (Dr. Jagan) who started off by referring to overlapping. The object of the Bill is to consolidate and amend the law relating to the proper administration of it.

Dr. Jagan: The hon. Member obviously did not follow me. I said that at the moment we have two Departments which are functioning in one area which is divided into compartments, and as a result of these functions, in many cases they are overlapping each other. If we have this Bill going through we will have the Department of Land and Mines supervising one area and next to it another area being supervised by the Forest Department; each one having its own officers to carry out examinations, etc. Let the hon. Member speak of the tremendous amount of travelling allowances charged against this Colony as a result of these overlapping functions. I say again, if the hon. Member followed me he would have seen what I am speaking about, and he would have realised that there is nothing incongruous in what I said. I am not against the Forest Department being run in a proper manner.

The Attorney-General: We are not creating any Department; the Department exists.

Dr. Jagan: Exists yes, but sooner or later we will need more staff, more this and that. That is what I am against. If the hon. the Attorney General and hon. Members are going to waste taxpayers' money, I am not. If the Attorney General is willing to do that, his bread must be buttered well—not mine.

The Attorney-General: Perhaps the hon. Member's bread is buttered better than mine.

Dr. Jagan: I hope this Council in trying to make any improvement in development, sees to it that we do not waste the taxpayers' money, and that is why I am opposed to supporting the Bill. I deplore the administrative methods of the Forest Department.

The President: In the new House of Assembly that will be the responsibility of the Minister of Forests.

The Attorney-General: At Clause 9, the hon. the Fifth Nominated Member raised the point with regard to continuance of the position of leases now held, and what will be the outcome of that. The Conservator of Forests stated that all existing leases and licences are to remain in force until the ordinary date expires under the terms and conditions prescribed by the Commissioner of Lands and Mines. The only difference is that the Conservator of Forests will deal with the lessees on any point that arises in regard to supplies, and advises the Commissioner, as is the practice at the present time. In other words, that the Conservator of Forests will assume and take over those functions hitherto exercisable by the Commissioner of Lands and Mines in relation to any of these leases, licences and forest holdings which have hitherto come within the purview of the Commissioner of Lands and Mines in relation to Crown forests.

Where a lease expires the lessee can, as before, apply for its renewal, but instead of submitting his application to the Commissioner of Lands and Mines under the Crown Lands Ordinance he may make application to the Conservator of Forests for a renewal under the Forests Ordinance.

In the case of wood-cutting leases renewals will be granted on conditions which may be slightly different from the old ones, but the Conservator states that he sees no reason to alter the terms of balata licences, and he will probably adopt the form of agreement used by the Commissioner of Lands and Mines. I think that was the point raised by the hon. the Fifth Nominated Member (Mr. Smellie) with regard to balata licences.

Mr. Roth: On behalf of the hon. the Fifth Nominated Member (Mr. Smellie) I thank the hon. the Attorney-General: That is exactly the information the hon. Member wanted to get.

Question 9 put, and agreed to.

Clause 9 passed as printed.

Clause 12. — *Ownership of forest produce.*

The Attorney-General: In reply to the point taken by the hon. Member for Georgetown Central (Mr. Fernandes) I pointed out on the last occasion that the Conservator will have power to demand royalty as soon as it becomes payable. This clause empowers the Conservator of Forests to take such steps as he considers advisable for the collection of royalty as soon as a tree is felled. The Conservator states that in most cases royalty will be collected at the loading or landing beaches, but he considers that the Conservator of Forests should have power to collect it at stump, where necessary, in order to deal with persons who fell trees and

leave them lying in the forest. It will be appreciated that royalty on hundreds of logs is lost every year in that way. We are really empowering the Conservator of Forests to take steps for the collection of royalty at the stump rather than to wait to do so at the loading beaches. It is left to him to take whatever steps he thinks best, but it is desirable that a provision of this nature should be included in the Bill.

Mr. Fernandes: The hon. the Attorney-General will remember that when I raised the issue on this clause I said it was my opinion that the Conservator had put this clause in to force those persons who cut trees down without any intention whatever of bringing them out, to pay royalty, but I did not think it could possibly have been his intention to collect royalty generally in this manner, because he would need two or three collectors. Apart from that there will be considerable difficulty to find out on what logs and on what firewood royalty has not been paid. The point I made then was that I wanted an assurance that small people who at present remove their produce from a wood-cutting track to the point of sale, with a permit and pay royalty before a sale is made, will not find that under this clause they will have to pay royalty before the produce is removed from the track. I pointed out that if the present system was not allowed to continue quite a number of those small people would have to cease operations. I do not want to see that, because they are making a livelihood out of it and contributing quite a lot to the production of those articles.

The other point made by the hon. the Attorney-General was that the Conservator of Forests would only sell a small portion of a man's produce to cover royalty. I have since

had an opportunity to speak the the Conservator, and I think he does realize that if a man cuts firewood six or seven miles from the river and royalty was demanded on the spot and he did not have money to pay, the Conservator would have to sell the entire lot of firewood. But I doubt whether he would get a sale for it, because the person who buys it would have to provide transport of the wood from the stump to Georgetown, which no person in that business would want to do. It was just for the protection of those small people that I raised the issue, and to make sure it was not the intention of the Conservator to employ a large staff in order to change the system of collection which has been in operation ever since I can remember—at least for the last 40 years.

The Conservator was out of Georgetown and I therefore did not have an opportunity to consult him before I came into Council on the last occasion, but I did realize that there was need for a clause of this kind as long as it is clearly understood that it will only operate where persons cut more logs than they intend to remove, and having failed to remove them after six months, the Conservator may take steps to recover royalty. But except perhaps in the case of greenheart, and possibly crabwood, I doubt whether logs sold at the stump would fetch sufficient to cover the royalty. It has been my experience in cases where people have cut wood on Crown land and seizures have been made that the upset price was the amount of royalty, but in many cases the wood was not sold and remained where it was cut.

The Attorney-General: I wish to assure the hon. Member that the Conservator has no intention of doing anything which would create any hardship on the small man, and that he wishes

to give every facility to enable him to continue his operations, but of course it will be appreciated that the Conservator does not wish anybody to put one on him or his Department. I think the hon. Member can rest assured that the power given by this clause will not be used with any departure from the procedure which is being adopted at present. If the Conservator gets a satisfactory assurance from the small man that he proposes to pay royalty at a reasonable time from the date when logs are felled, then of course the Department would give all the facilities required, but I must emphasize that as Conservator he has also to serve the interests of his Department.

Mr. Fernandes: There was one other point I made, to which I hoped to get a reply. I raised the issue as to how royalty could be paid on charcoal as soon as the tree was severed from the ground. It takes approximately three months from the time a tree is severed before the charcoal is removed.

The Attorney-General: The Conservator of Forests wishes to assure the Council, through me, that the same procedure adopted with regard to charcoal will continue. He has no desire to change it at all, although that is not specifically mentioned. The power which is given by the clause is one which the Conservator should have, but it is the exercise of that power that the hon. Member is commenting on. As hon. Members will appreciate, throughout these provisions the Conservator is following along the present line of procedure in a large measure, but what I wish to emphasize is that the Conservator will deal with everything in a manner incidental to having Crown forests under his control and supervision.

Mr. Fernandes: Is the hon. the Attorney-General satisfied that charcoal

is included in the definition of "forest produce" in paragraph (a) of clause 2? It is stated there that "forest produce" includes timber, trees and firewood, and it seems to me that charcoal should be included.

The Attorney-General: We have learnt to think of charcoal as a sort of independent product, but on reflection it will be realized that it would probably come within the definition of "forest produce" in paragraph (b) of clause 2. I think it should come under the head of a produce of a plant, because after a tree has been felled it takes some time to burn it into charcoal. I do not pretend to know anything about it, therefore I will not compete with the hon. Member's knowledge on this particular subject.

Mr. Fernandes: Charcoal is made from a tree, and if a plant is regarded as a tree I see no need for paragraph (a) at all, because it is firewood which is burnt to make charcoal.

The Attorney-General: To save the hon. Member further argument I will ask leave at a later stage to recommit clause 2 to amend the definition of "forest produce" to include charcoal in paragraph (a).

Dr. Jagan: I would like to have an assurance that the Conservator of Forests will not use his powers in any way to deprive any small logger or worker of any of his rights. I think the hon. Member for Georgetown Central (Mr. Fernandes) made a very good point in dealing with the question of the collection of royalty. We must not lose sight of the fact that many of these small traders live a very hand-to-mouth existence and do not have any money in their pockets until they have sold their produce. On one occasion I mentioned in this Council how advantage was being taken of those small people

who had to fell the timber and transport it to the sawmills which paid them whatever prices they were disposed to pay in the absence of any Government control of the prices of these products. I can see that this clause would work admirably if Government had set-up a timber pool or an organization similar to the Rice Marketing Board, which could purchase timber on the spot and collect royalty. In the absence of such an organization I cannot see how those small people are going to be in a position to pay royalty. The hon. the Attorney-General has said that the Conservator of Forests will use his discretion, but I do not think that is good enough when we are making legislation. We should be more specific when we are making a law.

The Attorney-General: This is more or less the law now. All the hon. Member for Georgetown Central (Mr. Fernandes) has asked is whether there would be a departure from the present procedure by the Conservator, if and when this Bill becomes law. The hon. Member wanted to know whether the Conservator would follow the practice adopted by the Commissioner of Lands and Mines, and I have given him the assurance that he would, provided there is no attempt by the worker to cheat or do anything improper.

Dr. Jagan: I do not say that the Conservator would not follow the same procedure adopted by the Commissioner of Lands and Mines, but I would like to know whether the law as it now stands is the same as stated in clause 12 of this Bill. If the law is to be the same and the same procedure is going to be adopted, there can be no objection, but if the law is changed and we are only to assume that the same procedure will be adopted, I do not think that is good enough. A Magistrate once said he was not interested in what was said

in this Council; he had to deal with the law as he found it. Therefore, if the law is being changed I will move an amendment to make the procedure for the collection of royalty specific.

The Attorney-General: The principle is the same, except that the Commissioner of Lands and Mines had no power to remove the logs or to collect royalty from the person concerned. The only point is whether the Conservator of Forests is going to make some startling departure from the procedure which has been adopted in the past. There is no difficulty whatever with regard to this Bill. The moment the Conservator assumes control over what are to be termed Crown forests, then all the other things incidental to that control will follow. It is no use arguing that he should have control and not give him the power which would make that control efficient. It is quite correct to say that a Court is only concerned with what is stated in the law, but here it is a matter of administration, and the procedure to be adopted has been explained to hon. Members.

Mr. Fernandes: I only wanted to be sure that there would be no change from the procedure we are accustomed to, and I have been given that assurance. Under the new Constitution we are going to have a Minister of Agriculture, Lands, Mines and Forests, and I daresay he will not permit any variation from the assurance given in this Council, when the law is passed. If he does, the electorate would know what to do with him when he comes forward again for election.

Clause 12 put, and agreed to.

Clause 15. — *Precautions against fire.*

The Attorney-General: As a result of the suggestion made by the hon. the Sixth Nominated Member (Mr. Luck-

hoo) I propose that clause 15, as printed, be re-numbered 15 (1), and that the following new sub-clause (2) be added:

"(2) Any person who contravenes any of the provisions of sub-section (1) of this section will be guilty of an offence and shall be liable on summary conviction thereof to a fine not exceeding one hundred dollars."

It would be left to the Court to impose whatever fine it thinks fit, having regard to the circumstances. I think that meets the point raised by the hon. Member.

Dr. Jagan: I quite appreciate the advantage of a clause such as this, but how is one to know whether a person negligently lit a match or other material? That is going to be a difficult proposition, and I am wondering whether the hon. the Attorney-General can tell us in what way it would be determined whether someone negligently lit or threw a match or other lighted or inflammable material which caused a forest fire.

The Attorney-General: I am sure it will appeal to the hon. Member as to other hon. Members, that this will be a matter of proof, but it is very difficult for me to say here exactly now it can be proved. In one case there may be a party of men working, and someone with complete abandon and indifference may throw away the end of a lighted cigarette or cigar, or some other lighted material, even though he may have been warned not to do so. That is a matter for proof. In another case a person may be walking through the forest and may cause a large conflagration, but it may not be possible to establish that he did it negligently or at all. All these matters must obviously depend upon the circumstances and the facts which are capable of proof when the case is presented to the Court. If there is no proof then the person would be acquitted or not charged at all.

Mr. Fernandes: I agree entirely that this clause and the penalty should be there, as it will prevent carelessness in the forest. I speak with authority. In 1926 nearly everything I owned was burnt in a forest fire. I had to drive a tractor through a road with fire on both sides, in trying to save the little thatched house we had there from being burnt down. In that case no one knew what had started the forest fire. Some time in 1946, or early in 1947—I cannot remember rightly the exact time—I suffered another loss from forest fire. In this case, however, it was a small loss and we were able to establish with a reasonable amount of certainty where the fire started. It was started by a prospecting party working for a big firm. Because of the difficulty of exact proof as to who was the individual who lighted the match and caused the fire which did damage, I could not attempt to take legal proceedings for damages.

I had no idea that the Company or firm concerned had been informed that it was the fault of the prospecting party they had in the area, and about six months after I got a telephone message from their lawyers informing me that they understood I had suffered loss from the forest fire and that they were awaiting my claim. I promptly told them that it was no use my claiming because if they turned down my claim I could not take the matter any further, since I had no exact proof as to who had caused it. I was then told that the Company was aware that it was the fault of their employees and that if I claimed they would consider it. I had not taken an actual physical stock to know what was lost to a penny, but eventually I agreed to accept what was approximately a little less than half of what the loss was thought to be. I was quite happy to get that.

I admit that it is very difficult to prove beyond doubt that a particular person started a forest fire. There is reason for that. One does not notice it until a day after it has started, and unless it starts nearby it takes some time before he realizes that his area is on fire. I take it that a Magistrate will not convict anyone, except there is proof that that person did the act. I think this clause should remain, if as nothing else, as a deterrent. It will be known that if it is proved the person convicted is liable to pay up to \$100.

Dr. Jagan: In view of what has been said, I am quite prepared to accept the amendment and the clause. I said it is a serious matter. We all know how much trouble and loss to a country a forest fire can cause. I am wondering what is the basis for assessing the fines and the damages. In this case, we have a fine not exceeding \$100. It was told to us a moment ago that it is very difficult to detect a person who may have started a forest fire. Therefore if any prosecution is to take place successfully, it means that the finger of guilt must be pointed to a person definitely and specifically. In such a case I think the fine should be increased and not placed only at \$100. If one reads the Subversive Literature Bill which is before the Council, he would see that simply for importing or publishing something which is prohibited, a fine not exceeding \$500 and imprisonment not exceeding twelve months' or both fine and imprisonment, may be imposed.

In the opinion of some people that may be a very heavy penalty to impose on one merely because he imports or sells something which Government thinks is harmful, but which other people do not think is

harmful. But here in this case, a man negligently causes a forest fire which may cause thousands of dollars in damage not only to the Colony but to individuals also, and we find that a fine not exceeding \$100 is to be imposed. I would like to know from the hon. the Attorney-General what basis has been used to calculate the fine before I vote for this \$100. Otherwise, I will vote for the deletion of the penalty.

The Attorney-General: I thought the hon. Member would have moved that it be increased to \$500 as both are causing fires. The hon. Member is beyond me. I always thought the hon. Member developed his submissions and arguments in a logical manner. One moment he says "What is the good of bringing a case of this kind? How is it going to be proved when it has been shown that proof will depend on the circumstances. Then, later the hon. Member comes along brandishing a Bill which he has in his hand and in which he seems to be particularly interested, saying "Here the fine is \$500." If the hon. Member thinks this is deserving of a fine of \$500 he can put it up to \$500. The hon. Member is raising a question as to the difference and has pointed his finger at the \$500. He says that a forest fire may cause millions of trees to be destroyed and forest produce to be damaged, etc. Consequently, I gather from him that he thinks the fine should be increased. If that is so, I am quite willing to accept his motion for the increase.

Mr. Fernandes: There is a great difference between these two penalties and it is a very simple difference too. The fine is not the end in the case of causing a forest fire, though it is a criminal offence. There is nothing to prevent a person who has suffered from that fire from recovering damages civilly from the person who started the

fire. I do not smoke and so do not walk with matches, but if I was a smoker and I lighted a cigarette and threw the burning match down while walking through the forest and as a result a fire started, if several persons saw when I did it I could be charged and convicted. Let us assume that the Magistrate imposes the maximum of \$500; that would not relieve me if that fire destroys other people's buildings and forest produce, from having to pay damages under a civil claim. In the other case of a fine of \$500, whatever damage is done there can be no civil claim.

Dr. Jagan: The hon. the Attorney-General referred to causing fire in both cases. I do not think his statement is quite correct, because in the case of banning books and literature, gramophone records and pictures, we are bringing a fire which is going to burn out British Imperialism and the system of exploitation in this Colony—

The Chairman: Will the honourable Member take his seat?

Dr. Jagan: Will the hon. Member say what point he was making when he got up?

The Chairman: Will the honourable Member take his seat? The hon. Member is quite out of order in introducing discussion on a Bill which is not under debate in the House. I have exercised much leniency in allowing him to make the remarks he did. The hon. the Attorney-General alluded to the remarks in his reply. The matter is now closed.

Dr. Jagan:—I asked the hon. the Attorney-General what was the basis or yardstick used in assessing the fine. That is what I asked him.

Clause 15, as amended, passed.

Clause 16—Public to assist in extinguishing fires

The Attorney-General: As hon. Members would see, this clause has been redrafted as subclause (3) to meet the suggestion which was made by the Hon. Member as to the compensation which should be paid a person who is required to assist in extinguishing a fire and is injured or dies as a result. It was suggested, sir, that the Workmen's Compensation Ordinance should be applicable to a case where a person has sustained injury while assisting in extinguishing a forest fire. That was considered, and accordingly this clause was redrafted to meet that suggestion. But I will point out to hon. Members that the subclause, as originally printed in the Bill, provides for a simple procedure and that consideration will have to be given to the alternative as suggested by honourable Members of this Council, whereby the provisions of the Workmen's Compensation Ordinance are being introduced in relation to a person who is injured so that persons would know that there is some formula by which compensation would be made.

Hon. Members can envisage the possibility of a person being injured and as a result of representations made the Conservator of Forests makes his report to the Governor in Council and there is an assessment of the amount which it is considered should be paid to the person who has received the injury. On the other hand, to follow the suggestion made by hon. Members that the Workmen's Compensation Ordinance should apply, it would mean that where a person is injured in remote areas or in Crown Forests the procedure of submitting a claim and the holding of a

Court of Enquiry would have to be gone into. I do not know whether it was the intention of hon. Members that the computation to be applied should be on the basis of the Workmen's Compensation figures, or whether the whole procedure should be revised.

Mr. Luckhoo: When I raised this matter on the last occasion I felt conscious that the machinery here was of a simpler nature than that under the Workmen's Compensation Ordinance, but I felt that this Bill should provide the yardstick by which the computation would be effected. In other words, I can see no harm in this clause remaining as it is if we are going to use some basis upon which the computation will be made. If that basis is to be that obtaining under the Workmen's Compensation Ordinance, then this clause can remain so that persons would know that there is some formula by which compensation would be made. If this clause remains like that—without having a formula by which compensation would be assessed—then it would be left to the arbitrary duty of the Governor-in-Council to make the award. Certainly we should have some form of assurance—if I may use the word of the hon. Member for Georgetown Central. There should be a formula used in arriving at the figure to be awarded, and it should not depend upon the whims and fancies obtaining at the time. I say, by all means let us have a simple machinery and not one that is rather complicated.

The Attorney-General: I may inform the hon. Member that in any case where my Department has to advise in matters of this nature we generally follow the basis of computation in the Workmen's Compensation Ordinance. I do not know whether it is desired that it should be tied down to the Workmen's Compensation Ordinance.

ance. That is quite fixed, but there may be certain cases in which the Governor-in-Council may wish to give a little more to the persons who have sustained injury or have been injuriously affected.

Mr. Lee: I think the hon. Sixth Nominated Member (Mr. Luckhoo) should leave it as it is — Governor-in-Council — as under the Constitution there will be a majority of Elected Members on the Executive Council.

Mr. Fernandes: I was going to suggest that the clause would be all right if something is put in to say that the amount of compensation should not be less than what can be got under the Workmen's Compensation Ordinance. It is the minimum we are thinking about. It is not only a question of the whims and fancies of the Executive Council but the whims and fancies of the Legislative Council as well. No matter there will be a new Constitution, one should be sure in a case of this kind that a certain limit is the lowest which a person can be awarded.

The Attorney-General: That has difficulties on reflection. Human nature is human nature, and there will be a case where a person is injured despite all the warnings and the regulations and everything else, and consequently will be left to the Governor-in-Council to decide what compensation should be awarded when the man has brought it on his own head. Even though the Member for Essequibo River (Mr. Lee) has pointed out that there will be Ministers on the Executive Council, it will be those Ministers whom we are tying down when their particular concern will be to investigate the matter and to decide upon the amount to be paid. Even those Ministers themselves may feel that the person is not deserving a farthing. But the honourable Mem-

says it should not be less than he would have received under the Workmen's Compensation Ordinance. Hon. Members are avoiding on the one hand the inclusion or introduction of the Workmen's Compensation Ordinance procedure, and on the other hand they are having a simple procedure with the provisions of the Workmen's Compensation Ordinance. We cannot have it both.

Therefore, if the hon. the Sixth-named Member (Mr. Luckhoo) asked that we have the Workmen's Compensation provisions and all the procedure that goes with that Ordinance such as going to the Court and the Magistrate determining the matter, we cannot have the other provisions as well.

On the other hand, we can have this simple procedure in the Bill and leave it at that. I do not think I can agree to have a procedure one half one way and the other half another way. Let us have it this way or under the Workmen's Compensation Ordinance, so that the man who gets injured will know what the procedure is, what the law provides and what he is entitled to get. This is a simple procedure—he goes to the Governor in Council who will go into all the circumstances, have the matter investigated and then make an award. It may possibly be that the person who is injured may receive more consideration if the matter goes to the Governor in Council than if it is tied down to the Workmen's Compensation Ordinance. Either you must have faith in your Governor in Council, particularly in view of the change of the Constitution to which the hon. Member for Essequibo River has referred, or you must not.

Mr. Fernandes: I would like to point out to the hon. the Attorney-General that this is not the ordinary case where a person who is employed is in-

jured. This is a case where a person is forced to work whether he likes it or not, and if he does not work he is liable to be fined. I know what is a forest fire, and forcing a man to work there is quite different. A man is told to go in and put out the fire, and he has to do so even when he knows that in doing so there is liable to be certain injury. If he does not go he is liable to be prosecuted, and if he goes and is injured, then it is to be left to the whims and fancies of somebody to award him compensation. I think there should be something put in for the protection of those persons. I have a case where a gentleman walked into my office and told me he was allowed a certain amount of damages in the matter of the Georgetown Fire Brigade accident. I asked him if he agreed to it and he said: "Yes; but someone not as seriously injured as I was got more money." I then said to him "You agreed to the amount of damages and you have been paid, and there is nothing more I can do to help you in the matter."

I only mention that to show that it is possible that the person making representations on behalf of a particular party may have some effect on the amount of damages that will be paid. Whatever it is, I do not mind what he gets on the good side, but certainly I would not like to see him get less than he would have got if he had been working with an ordinary individual and was injured. It must be considered that he went in to fight the fire voluntarily and was injured. It is all right to leave it to the Governor in Council, but the award should not be less than he is normally entitled to under the Workmen's Compensation Ordinance.

Mr. Luckhoo: After the expression of opinion given, I am minded to let the provision remain as it is in the original clause. I am persuaded by the