

# SECOND LEGISLATIVE COUNCIL

(Constituted under the British Guiana (Constitution) (Temporary Provisions)  
Orders in Council, 1953 and 1956).

*Tuesday, 11th July, 1961*

*The Council met at 2.00 p.m.*

## PRESENT:

**Speaker**, His Honour Sir Donald Jackson

**Chief Secretary**, Hon. D. M. Hedges

**Attorney-General**, Hon. A. M. I. Austin, Q.C. *ex officio*

The Honourable **B. H. Benn** —Member for *Essequibo River*  
(Minister of Natural Resources)

**Janet Jagan** —Member for *Western Essequibo*  
(Minister of Labour, Health and  
Housing)

**Ram Karran** —Member for *Demerara-Essequibo*  
(Minister of Communications and Works)

„ **B. S. Rai** —Member for *Central Demerara*  
(Minister of Community Development  
and Education).

Mr. **R. B. Gajraj** —Nominated Member

„ **W. O. R. Kendall** —Member for *New Amsterdam*

„ **R. C. Tello** —Nominated Member

„ **F. Bowman** —Member for *Demerara River*

„ **L. F. S. Burnham, Q.C.** —Member for *Georgetown Central*

„ **A. L. Jackson** —Member for *Georgetown North*

„ **S. M. Saffee** —Member for *Western Berbice*

„ **R. E. Davis** —Nominated Member

„ **A. M. Fredericks** —Nominated Member.

Mr. E. V. Viapree—Clerk of the Legislature (acting)

„ V. S. Charan—Assistant Clerk of the Legislature (acting).

## ABSENT:

The Honourable the Financial Secretary, Mr. W. P. D'Andrade—on leave

The Honourable Dr. C. B. Jagan—Minister of Trade and Industry—on leave

Mr. Ajodha Singh—Member for *Berbice River*

Mr. S. Campbell—Member for *North Western District*

Mr. Jai Narine Singh—Member for *Georgetown South*—on leave

Mr. E. B. Beharry—Member for *Eastern Demerara*

Mr. H. J. M. Hubbard—Nominated Member—on leave

Mr. A. G. Tasker, O.B.E.—Nominated Member—on leave.

The Clerk read prayers.

## MINUTES

The Minutes of the meeting of the Council held on Friday, 7th July, 1961, as printed and circulated, were taken as read and confirmed.

## LEAVE TO MEMBERS

**Mr. Speaker :** Applications for leave have been made by the hon. the Financial Secretary, Mr. D'Andrade, from the 11th to the 14th instant. He is out of the Colony on official business; the hon. Nominated Members, Mr. Tasker and Mr. Hubbard, have asked to be absent from today's sitting.

**The Minister of Labour Health and Housing** (Mrs. Jagan): Sir, excuse me. The Minister of Trade and Industry, as you know, and the Financial Secretary are leaving today for Trinidad for talks. Perhaps the letter has not yet reached you.

**Mr. Speaker :** No, not yet. And the Minister of Trade and Industry.

ORAL ASKING AND ANSWERING  
OF QUESTIONS

## PARIKA BARTICA ROAD

**Mr. Speaker :** The Member for Demerara River (Mr. Bowman) is to ask two Questions.

**Mr. Bowman:** Mr. Speaker, I would like to ask the Minister of Communications and Works Questions Nos. 22 and 23 standing in my name on the Order Paper. They are: Will the Minister of Communications and Works state what are the chief considerations that influenced Government decision to award the contract to the Venezuelan Del Conte firm to construct the Parika-Bartica Road?; and: Will the Minister of Communications and Works state whether any other road-construction firms from England, the United States, West Germany

or Italy, had tendered for the contract, and whether Government had made efforts to get tenders from those countries, as they have made to get the Venezuelan tender?

**The Minister of Communications and Works** (Mr. Ram Karran): The answer to the hon. Member's first Question is as follows: (a) The financial arrangement proposed by Del Conte— $4\frac{1}{2}$  per cent interest over a repayment period of ten years—offered a longer repayment period than that of the other bid received and was therefore considered to be more advantageous in view of the difficulty experienced in obtaining funds for other development projects of a similar nature at the present time. (b) The technical competence of the Grupo Del Conte was satisfactorily established whereas the Director of Public Works advised that he was not in a position to make a pronouncement in respect of the other firm's ability to undertake such an extensive construction project.

The answer to the second Question is: The Government sought bids from a United States firm, a locally established firm of Dutch origin, a British firm and three West Indian firms. The United States firm, after an extension of time to file a bid, declined to do so. The firm of Dutch origin submitted a bid. The British firm had stated that they were not interested in contractor-financing road projects. One of the West Indian firms indicated its interest in the construction but not in the financing and the other two indicated that they were not interested. Government is satisfied that the bid by the Del Conte Group was the best available to them.

## ORDER OF THE DAY

## DEFERMENT OF ITEMS

**The Chief Secretary** (Mr. Hedges): Sir, with your permission, I would ask that items 1 and 3 be deferred from to-

day's sitting to Friday next as the hon. the Financial Secretary and the hon. Minister of Trade and Industry, who should be dealing with these two Bills, are out of the Colony on official business.

Agreed to.

**LEGISLATURE (APPOINTMENT,  
ELECTION AND MEMBERSHIP  
CONTROVERSIES) BILL**

**Mr. Speaker :** The hon. Attorney-General to move the Second Reading of the following Bill:

A Bill intituled: "An Ordinance to make provision with respect to the reference to and determination by the Supreme Court of questions concerning the validity of the appointment or election, or affecting the tenure of office, of Members of the Senate or Legislative Assembly or a Speaker of the Assembly who is not elected from the Members thereof."

**The Attorney-General (Mr. Austin):** The right to challenge the validity of the election of a member to the Legislature or, indeed, to challenge where once he has been elected and he has vacated his seat by virtue of incurring a disqualification, is a natural corollary to the right to be elected to a seat in the Legislature. Now, this right of challenge, which people readily understand by the name of the process implied—a Writ of Election Petition—is provided for at present and, in relation to this Council, in Part V of the Representation of the People Ordinance, 1957, which hon. Members are aware deals with the election of members to this Council.

With a bicameral Legislature, which we shall have by virtue of the new Constitution, one has to provide not only for challenging the election of members to the Lower House and whether or not he has vacated his seat once he has taken it, but also whether or not a Senator has incurred any of the disqualifications that exist and has vacated his seat.

Thirdly, there is provision in the new Constitution that the Speaker may be elected from amongst the Members of the Lower House, or may be elected from persons outside the House, and in that event there is to be a procedure for challenging whether or not he had been validly elected Speaker, or having been elected Speaker, whether he has incurred some of the disqualifications.

It is quite appropriate to deal with this right of challenge in the Representation of the People Ordinance which deals with the elected Lower House, and so also it is appropriate that special legislation be introduced for this purpose to provide in one enactment this fundamental right of challenge of elections—challenge as to whether any person in the Legislature has incurred disqualification.

The Bill before the Council seeks to provide for this important matter. Of course the procedure will not apply until the new bicameral Legislature is in force and, indeed, the elections have been held. Once the elections have been held, maybe the very next day, the right to challenge the elections will be required to be used. Therefore it is necessary for us to have this legislation in operation on that day. There is no time for it to be passed by the new Legislature, and so the Constitutional Instruments endow this Council with the power to pass this form of legislation.

This legislation follows an accepted pattern. The pattern is set in the Representation of the People Ordinance in respect of election petitions. As I have said earlier in connection with another Bill that we were dealing with, rather we are repealing the provisions of the Representation of the People Ordinance and are re-enacting them in this Bill together with provisions dealing with the election of a Speaker from outside the House. So there is nothing fundamentally new. It sets out the procedure for this more important application or petition to the Supreme

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Court to hear this challenge of election, and the Bill is modelled on the corresponding West Indies legislation.

I would just draw the attention of hon. Members to one or two main provisions. The Bill provides for three sorts of application to the Supreme Court. First of all, there is what is known as the Representation Petition which used to be called an Election Petition. The Representation Petition is a petition brought to the Supreme Court by any person who is qualified. Normally a person entitled to vote challenges the election of a Member who has been returned to the Legislative Assembly or, indeed, to file a Representation Petition if a returning officer has for some reason or other failed to return a Member after an election. Normally that sort of petition has to be lodged in the Supreme Court within 28 days of the return of the Member to the Legislative Assembly.

The second sort of petition is appropriate in a case where it is suggested that a sitting Member of the Lower House has incurred some disqualification which makes him liable to vacate his seat. He may have suffered imprisonment, or incurred one or more technical disqualifications that commonly apply to Members of the Legislature, and there is a procedure which has reference to the Supreme Court to decide whether or not the Speaker, who had been elected from outside the House, had been validly elected and should vacate his seat.

It is important to draw hon. Members' attention to the fact that it has existed in our present legislation that the application to the Supreme Court and the decision of that Court is final. There is no question of appeal in this matter. It may interest hon. Members to know that in clause 15 of this Bill the Director of Public Prosecutions, who will be an officer appointed under the new Constitution,

appears in legislation for the first time. This clause deals with the power of the Supreme Court in hearing an election petition to summon witnesses who the Judge may consider to be of assistance in determining the petition. As in England, the Director of Public Prosecution is charged with obeying any direction of the Court, and has the right to examine or cross-examine any of the witnesses.

The Director of Public Prosecution is named in this Bill because election petitions are always concerned with factual issues, and naturally to look at with an independently, non-political and neutral attitude, it is quite right that officer in the form of the Director of Public Prosecution, who is not answerable to any form of political control, should be the neutral person who should assist the Court in this way.

Clause 22 provides that if there is equality of votes the Court finds on an election petition, the issue is to be decided by lot. That follows the existing procedure. There is provision also that if the Court, that has been considering a writ of petition brought on the ground that illegal or corrupt practice has taken place, has been able to name any person after due investigation as having committed illegal or corrupt practice or an election offence, after that person has been heard, that person shall be subjected to the disqualification of being unable to stand as a candidate for the particular electoral district during the lifetime of that term.

The Bill is largely procedural, and many of the details are prescribed by the Rules of Court. Provisions for the Rules of Court are to be made for this purpose. There is nothing unusual in this Bill. It is really one of re-enacting provisions that have been in existence. I trust that the Bill will receive the support of the Council. I now move the Second Reading of the Bill intitled:

...."An Ordinance to make provision with respect to the reference of and determination by the Supreme Court of questions concerning the validity of the appointment or election, or affecting the tenure of office of Members of the Senate or Legislative Assembly or a Speaker of the Assembly who is not elected from the Members thereof."

**The Chief Secretary:** I beg to second the Motion.

**Mr. Burnham :** There is not much to say except that it is existing practice to have an Ordinance like this at this time. But there are a few observations I desire to make. They are critical on certain omissions and inclusions. For instance, I am rather concerned with the fact that there seems to be a principle of this Bill that if a corrupt or illegal practice is committed not only by a candidate but also by his agent, the election can be void, or rather the election of the candidate becomes void.

That seems all the stronger in view of that fact of Section 2 subsection (6) of the Representation of the People Ordinance of 1957, as it was before it was repealed. For instance, the illegal practice of making a false statement did not cause a candidate to lose his seat, or for his election to be declared void. It would appear that the principle in Ordinance No. 3 of 1957 is that there should not be a vacuous liability on the part of the candidate, and I am rather surprised that principle is not changed.

In clause 30(c) of the present Bill we see "That a corrupt or illegal practice was committed in connection with the election by the candidate, or with his knowledge and consent, or by any agent of the candidate."

There is no such limitation in the original Ordinance, No. 3 of 1957. When one looks at the proviso to section 74 which had also been repealed

in the Bill passed by this Council a few weeks ago, one sees that a candidate shall not be liable for any illegal procedure committed by his agent other than the election agent.

The new provision in Section 13 of this Bill before us today places a tremendous burden upon the candidate, because he now becomes vicariously liable for every illegal or corrupt practice committed by an agent other than his election agent. One can understand making him liable for acts committed by his election agent because he is his *alter ego* who would be chosen with a certain amount of care, and in most cases an election agent is a candidate himself. Perhaps an argument that can be put up against my observation is that a person may not be an election agent of a candidate, but he may be able to influence the election by corrupt or illegal practices.

The answer to that is to be found in Section 30(1)(a) which states that if the prevalence of corrupt or illegal practices was such as to lead the Court to believe that the election was substantially affected by them, the Court could declare the election void. I have no objection to that. But imagine this trifling illegal practice being committed by a person who is not authorized and without the knowledge of a successful candidate, rendering him liable to the penalty of losing his seat even if such illegal practice did not materially affect the outcome or results of the election! I wonder whether the hon. Attorney-General and the Government consider this point carefully. It seems to me that it is against the principle which was established in the 1957 Ordinance, and it seems to me that any possible effect it can have on the election can be encompassed within paragraph (a).

There is one other point that calls for observation, and that is the lot-drawing which would decide the election in the case of an equality of votes. This is referred to in Clause 22 of this Bill. It

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seems to me that, with a small legislature such as we will have of 35 members with the possibility of, perhaps, power hinging on one seat as happened in Zanzibar a few months ago, we should not make ourselves gamblers so far as the decision in the case of equality of votes is concerned. In the case of equality of votes there should be an appeal to the electorate; there should be an election in the electoral district, and the voters should be given an opportunity, in the context of the importance of the election, to make their choice firmly and clearly, but to give the lot a decisive influence which it will have under Clause 22 is something I cannot agree to. These are the two main criticisms which I have of this Bill, though there are verbal amendments which I propose to move when the Bill reaches Committee stage.

**The Attorney-General :** Sir, the point raised by my hon. Friend as to the liability of a candidate for the wrong acts of his election agent is interesting and needs study. He may be aware that all that he has said is not entirely accurate, because there is provision in Clause 36(1) which states that a candidate shall not be subject to any incapacity, nor shall his election be avoided, under this Ordinance for any illegal practice committed—

“(a) by his election agent contrary to section 58 of the Ordinance where the Court reports to the Speaker that it has been proved at the trial of a representation petition relating to the election that the illegal practice was committed without the sanction or connivance of the candidate;

(b) by his agent, other than his election agent, contrary to section 72 of the Ordinance unless the Court reports to the Speaker that it has been proved at the trial that the candidate or his election agent has authorised or consented to the committing of such illegal practice by such other agent, or has paid for the circulation of the false statement constituting the illegal practice, or that the election of the candidate was procured or

materially assisted in consequence of the making or publishing of such false statement; or

(c) by his agent, other than his election agent, contrary to section 74 of the Ordinance.”

On the other hand, the point he has raised is one of substance, and I shall endeavour to consider it and see what the answer is.

So far as the point about having a re-election if there is an equality of votes is concerned, I do not think he seriously presses that. An election is an expensive matter, and it may well be that certain people who voted at one election may be, for one reason or another, unable to vote at a subsequent election. I think the election by lot applies to the Georgetown Town Council for Mayors where there is a tie for the election of the Mayor.

**Mr. Burnham :** No, in the case of the Mayor the matter goes back to the electorate for a decision.

**The Attorney-General :** It is not a novel procedure.

Question put, and agreed to.

Bill read a Second time.

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

#### COUNCIL IN COMMITTEE

Clause 1.—*Short title and commencement.*—agreed to.

Clause 2.—*Interpretation.*

**Mr. Burnham :** Mr. Chairman, I beg to move the deletion of the words “at the commencement of the Ordinance” and the substitution therefor of the words “from time to time.”

**The Chairman :** In what line?

**Mr. Burnham :** It is just a little above the marginal note “No. 3 of 1957.” It is in the eleventh line which sets out the

definition of "the Ordinance". My Amendment is the deletion of the words "at the commencement of this Ordinance" and the substitution therefor of the words "from time to time". Leaving the definition of the Ordinance as it is makes the position very static, and one can find an anomalous position where one will have an amendment to Ordinance No. 3 of 1957, but that amendment would not give any mention to the Ordinance in this particular Bill as referable to the Representation of the People Ordinance, 1957, as it says at the commencement. I think perhaps, it is an oversight.

I remember, for instance, in the case of *McDavid v McDavid* the question arose as to what is the divorce law of this country. Because of the wording of our Matrimonial Clauses Ordinance, it was held that the divorce practice of British Guiana was the divorce practice existing in England and any subsequent change in the Ordinance affected our law. I am wondering what went wrong here.

**The Attorney-General :** Nothing went wrong. I do not mind accepting that amendment.

**Mr. Chairman :** What would happen if all the words after "1957" were left out?

**Mr. Burnham :** If all the words after "1957" were left out, to my view, subject to what some court may hold, you will then have the sense of what I am endeavouring to introduce, because the Representation of the People Ordinance, 1957, is the Representation of the People Ordinance, 1957, as amended from time to time. Out of abundant caution I would like to insert the words "from time to time". This question arose in the maritime case under the Maritime Shipping Act, and I would suggest out of abundant caution that we insert the words "from time to time."

**The Chairman :** Would you accept the Amendment?

**The Attorney-General :** Yes, Sir—that "at the commencement of this Ordinance" be deleted and replaced by the words "from time to time."

Question put, and agreed to.

Clause 2 passed as amended.

Clause 3 passed as printed.

Clause 4.—*Presentation and service of representation petition.*

**Mr. Burnham :** This Clause presents a little difficulty to me because one sees under paragraph (b) subsection (1) that a person who votes as an elector at the election or who has a right so to vote may present a representation petition; and when one looks at sub-paragraphs (1) to (3) it seems to me that it is possible to give the right to bring a representation petition with respect to, say, constituency 1 by an elector in constituency 20. Because if it is a General Election, just to say "a person who voted as an elector at the election", seems to me, at least at first blush, to give the right to bring a representation petition to persons who do not have the right to vote in a particular constituency in respect of which he is not registered. Similarly, a person who is a candidate for a particular electoral district can bring a representation petition with respect to the electoral district in which he is not a candidate. I may be wrong. That is why I merely raise the question.

**The Attorney-General :** I think what my hon. Friend has suggested is intended to be in relation to a particular electoral district, if you are entitled to vote in that particular district. I cannot put my finger on the answer at the moment. Perhaps, we can leave over this Clause. I will consider it.

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Clause 4 deferred.

Clauses 5 to 18 passed as printed.

Clause 19.—*Production of election documents.*

**The Attorney-General :** There is a typographical error in the side note—the spelling of the word “document”. It is spelt “documenst”.

Clause 19 passed as amended.

Clauses 20 and 21 passed as printed.

Clause 22 deferred.

Clauses 23 to 29 passed as printed.

Clause 30 deferred.

Clauses 31 to 51 passed as printed.

Clauses 52 to 55 passed as printed.

**The Attorney-General:** I beg to move that the Council resumes.

Council resumed.

**The Attorney-General :** I beg to report that the Bill has been considered in Committee, and ask leave for the Committee to sit again.

Agreed to.

#### LEGISLATURE (DISQUALIFICATION) BILL

**Mr. Speaker :** The hon. the Chief Secretary to move the Second Reading of the Bill intituled:

“An Ordinance to make provision for disqualifying the holders of specified offices and persons belonging to the regular armed forces of the Crown, or the Police Force, or interested in Government contracts, for membership of the Legislature.”

**The Chief Secretary :** The holding of an office of emolument under the Crown has always been a disqualification for election to the Legislature unless especially exempted. An office of

emolument under the Crown immediately brings to mind the holding of an office in the Civil Service, but there are many others. All appointments to statutory boards and authorities which are made by the Government are offices under the Crown, and those in respect of which emoluments are paid beyond out-of-pocket expenses are offices of emolument under the Crown which disqualify for elected membership of the Legislature.

This broad definition, which applies throughout the Commonwealth, has given trouble from time to time, because a public-spirited person has, on occasion, been obliged to vacate his seat in a Legislature because it was found after careful legal investigation that an office which he held was in fact an office of emolument under the Crown, although it was genuinely thought not to be so. For instance, it has been held that an office is an office of emolument under the Crown even where the holder declined to receive the emoluments that are attached to the office.

In order to get rid of this badly termed disqualification for membership of the Legislature and avoid “booby trap” offices, it was decided in the United Kingdom after the last war that offices which should disqualify for membership of the Legislature should be set out clearly in legislation. A candidate or member would then know where he stands. If he holds a prescribed office he is liable to disqualification, but if the office is not prescribed, even though it may be an office of emolument under the Crown, he could be elected a member and retain his seat in the Legislature.

At the British Guiana Constitutional Conference held in London in April 1960 it was decided that disqualifications for membership of the Senate and the Legislative Assembly by reason of holding offices of emolument under the Crown, should be specified by legislation on the lines of the House of Commons Disqualification Act of 1957. This is set out

in paragraph 43 of the Report of the B.G. Constitutional Conference—Cmmd. 998. This Bill seeks to provide for this and also to prescribe the circumstances in which persons interested in Government contracts would be disqualified for election to the Legislative Assembly or appointment to the Senate.

Clause 3 of the Bill provides that a person should be disqualified from membership of either Chamber of the new Legislature, if he holds a post in the public service or as a member of the Police Force. Members of the regular Armed Forces of the Crown are also disqualified, and so are members of any other Legislature.

So far as members of the Civil Service are concerned, the holding of such an office has always been held to be incompatible with membership of the Legislature. The reason is that civil servants must preserve the political neutrality of the Civil Service. They cannot be denied personal support for one political Party or another, but it would be quite wrong to allow members of the Civil Service to enter the Legislature.

The First Schedule to the Ordinance lists other disqualifying offices which disqualify either because they are offices of a judicial or quasi-judicial nature, or because they are offices which are otherwise incompatible with membership of the Legislature. The Manager of the British Guiana Rice Marketing Board and the General Manager of the British Guiana Rice Development Company are listed because these organizations are important arms of the Government, and the offices carry valuable emoluments. If the chief executive of either of these organizations were a member of the Legislature his respective duties would tend to conflict.

The Second Schedule lists three offices that do not disqualify for membership of the Legislature. It is anticipated that the Attorney-General, under the new Constitu-

tion, will be a Minister, but the office is listed as "not disqualifying" for membership of the Legislature out of caution, because until the end of the year there will be a Civil Service post of Attorney-General, and it might be considered that the Attorney-General would therefore be disqualified from membership of the new Legislature. Similarly a member of the Advisory Council on the prerogative of mercy is also listed out of abundant caution.

The Electricity Ordinance of 1957 provides that membership of the Electricity Corporation should not be deemed to be an office of emolument under the Crown so as to disqualify the members from the present Legislature; as the basis of disqualification has now been changed and in order to preserve the position of members of the Corporation, it is necessary to list membership of the Electricity Corporation as an office which does not disqualify for membership of the Legislature.

It is probably true to say that Ministers of the Government are not holders of offices of emolument in the Service of the Crown, in a civil capacity in respect of the Government of British Guiana. They are, however, clearly exempted from disqualification under Clause 4 which states in effect that a person shall not be disqualified for membership of the Legislature if he holds an office which is established by any current law that relates to membership of the Legislature. Ministers and Parliamentary Secretaries are referred to in the British Guiana (Constitution) Order in Council, which is a law enacted prior to the coming into force of this enactment.

Clause 5 deals with disqualifications for membership of the Legislature by reason of having an interest in a Government contract. It is not all Government contracts that disqualify, but only those under which the contractor supplies goods or services to the Government. So that,

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for instance, a member who leases land or a building to the Government would not be disqualified. Moreover, the disqualification only arises if the person does not disclose the nature of his interest in the contract within prescribed time.

Although this Bill relates to disqualifications for the Senate and the Legislative Assembly under the new Constitution, this Council as presently constituted is authorized to enact this Bill by virtue of section 9 of the British Guiana (Constitution) Order in Council of 1961. It should be pointed out, however, that so far as disqualifications are concerned relating to the holding of offices and Government contracts, there is only authority to legislate for the purpose of candidature for election to the Legislative Assembly or for appointments to the Senate. The law will have to be amended after the General Elections to provide that the same disqualifications will apply, once a person is a member of either Chamber and he will vacate his seat if he is appointed to a disqualifying office or does not disclose his interest in a Government contract.

I think this is an omission in the drafting of the Constitution. The intention is that the disqualifications should not only be exclusively for the elections to the new Legislature, but should be carried on when the Legislature is constituted. There are certain amendments—three in all—which I would like to introduce, but these can be left until we reach the Committee stage. I beg to move that the Legislature (Disqualifications) Bill be read a Second time.

**The Attorney-General :** I beg to second the Motion.

**Mr. Burnham:** As the person who raised this question of disqualification at the London Conference last year with particular reference to the Public

Service, I know what I had in mind. I remember clearly what the Chairman of the Conference said after I raised the question, but it would appear that this Government in introducing this Bill has something else in mind and a completely different approach to the question.

I remember that the piece of legislation which was looked at was the House of Commons Disqualification Act, 1957, which sets out the disqualification from being a member of the House of Commons. I remember that the question was raised this way: that there should be specific legislation dealing with disqualification following the pattern of the House of Commons Disqualification Act, 1957, not following the details, not following the categories, not following the pattern, and that only such persons named by office or otherwise as may be named in the Act, Ordinance, or Schedule should be disqualified from becoming members of the legislature of British Guiana.

Unfortunately, both the Official Government and the Political Government—the latter seem to forget all that they said in 1952 about the Waddington Commission. These are the people who accuse others of changing their stand. Both the Official Government and the Political Government have chosen not only to copy the principle of the English Act of 1957, but even to copy the categories in the main part of the Bill from the main part of the Act and by so doing they place the disqualification on all persons who hold offices under the Crown. They have in this Bill disqualified all civil servants.

It is not at all surprising to hear the hon. Chief Secretary, with his background and membership of the Colonial Service, telling us about the imaginary advantages of an allegedly politically neutral Civil Service. But, perhaps, I may tell him that in 1945 when the Right Honourable Mr. Hall was Secretary of State for the Colonies and I, as a student, was criticizing

him as a Minister and his party as a government for doing nothing about the Colonies in spite of the wonderful noise he used to make when he and his party were in opposition, he told me that they were quite willing to give effect to what they had been saying as Members of the Opposition but they got nowhere with their proposals because of a Conservative Civil Service which they had inherited from the Conservative Government.

I think it is one of the myths that the British have succeeded in selling to the world; that there is a politically neutral being called a civil servant. I think that in a country like Guiana we have to face the realities of the situation, and stop prattling off those myths that have been sold to us by our masters. In any case, even if we are to assume that inability to contest a seat can be defined as political neutrality, we must compare the situation in Guiana with the situation in the United Kingdom before copying wholesale from the latter.

The economic situation in the United Kingdom is such that the Civil Service does not, as in the case of Guiana, recruit the majority of the best brains amongst the young men and young women. In fact you will find a greater number of those outside of the Civil Service than inside in the United Kingdom. Let us face facts in Guiana. In Guiana the majority of young men and women leaving schools chiefly, of course, because of our Colonial background and the undeveloped nature of our economic system, look forward to a Civil Service job.

**The Attorney-General:** Not now.

**Mr. Burnham:** I did not quite hear the Attorney-General. Perhaps he will permit me, a native of Guiana not by accident but by birth and heritage, to speak about my country. Perhaps he will permit me, who left school in Guiana as a young man, to say how I felt and the majority of other young men felt when

we were leaving school. For people like me the only opportunity was the Civil Service. In those days people like me could not dream of going to bookers; you either had to work on the water front or be a messenger — a hewer of wood and drawer of water. Therefore it is unfair in the circumstances of Guiana to prevent civil servants from taking an active part in politics. It would in fact mean a political conniving of a very large section of those who, all things being equal, would be able to make the best contribution.

I am not unaware of the fact that certain complications must arise if civil servants, or a number of civil servants have reached a particular point in the service. When he reaches the Administrative grade, when he is an Administrative Assistant, when he is a Permanent Secretary, when he is the Head or Deputy Head of a Department, it would be important that he should have no obvious political ties. Therefore the original idea which I had was that in the Schedule to the Ordinance there should have been named by category or post.

I concede that from the Administrative grade up, civil servants should not be able to take an active part in politics because of the amount of embarrassment that could arise because they would have reached a point where they have to advise the Minister. The Minister may reject the advice, because he may feel that the person advising him is a member of another political party. Furthermore, those officers in the group from which advisers are taken may well be advising the Minister, and then use the information which they get on the political platform.

I agree that such a situation could be embarrassing and is not to be encouraged, as I am at present advised. But the Class 1, Class 11, and Class 111 Clerks, who are not in a position to give advice, who cannot affect the destinies of the Government or the Administration as much as an ant could an individual, should be given an opportunity to take

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an active part in politics. Why should they be robbed of their right, if they so desire, to take an active part in politics and contest a seat for the legislature? Why should a steno-typist be robbed of that right merely because she works in the Civil Service, when for her the Civil Service offers the best opportunity for employment including rates of remuneration?

In the United Kingdom it is different, and apart from the fact, as I have observed before, that there is no such thing as a politically neutral Civil Service, in the United Kingdom the restriction, prohibition, or disqualification would not work such hardship on the community as a similar restriction, prohibition, or disqualification would work in the case of Guiana.

My original suggestion was and still is that members of the Civil Service should not be excluded *ipso facto* after certain names of officers, and that should be sufficient. For instance, I cannot see why you are going to disqualify a doctor. I cannot see why. But let the same persons be somewhat more unfavourably employed, still, by the Government, you will give them the right. Let them be employed on the open vote, then they have the right to take an active part in politics. Let them be employed and paid by Government through a corporation like the Transport and Harbours Department, then they are allowed to take part in politics. Let them be employed and paid by Government as primary school teachers, then they are allowed to play an active part in politics. That is rank discrimination. That is what happens when you are copying and copying. You are attempting to employ, in a strange context, something that has no relevance.

It seems to me that we should not copy the Disqualification Act of the United Kingdom; because it amounts to robbing our civil servants of certain political rights

which they ought to have. And it should not be a particularly difficult thing to work out. For those who will be permitted to take part, the necessary regulations could be prepared and adapted for them to get leave at particular times; for them to be deemed to be on leave without pay and without losing their pensionable service for such time as they are serving in the Legislature, because the disqualification provision says if a civil servant is to run, he has to resign and he loses his pensionable service. It does not say that a civil servant is, for all time, banned. And if he loses, it is a serious matter. It means, therefore, it is a terrible gamble which many civil servants are not prepared to take. If he wins, he also loses his pensionable service; and if he wins once and loses the second time, he is nowhere.

It seems to me you can easily propose a formula whereby a civil servant whose right we should not take away, should be allowed to run for a seat in the Legislature; and for such time that he occupies this seat, he shall be deemed to be on leave and should not lose his pensionable service. If we want everyone to participate in the Government of this country as far as possible, I do not see why we should put these obstacles in his or her way. We are moving away now. We are moving towards independence. Are you going to tell us what Britain does and does not do? You are forgetting that the House of Commons Disqualification Act of 1957 removes the disability of contract so far as membership to the House of Commons is concerned by stipulating that if you are to hold office you must disclose your contract. The *raison d'être* of a contract is the supply of merchandise and, incidentally, it is not merely the supply of merchandise that constitutes a contract in Britain. It is not only the supply of merchandise in the United Kingdom that makes one liable for disqualification.

It is significant that the original disqualification legislation was enacted 1782. Before the Party Government had become

as strong as it eventually did become. People could have lost their positions as Members of the Legislature but benefited themselves, personally. But as you moved on, the Party Government became stronger. First of all, you had the 1801 Amendment; then you had the 1931 Amendment and then you had the repeal in 1957. As the Party Government became stronger and, also as the Government took a greater part in the affairs of the country—the financial and industrial affairs of the country—the usefulness of it became more obvious.

We, in Guiana, are not going to expect a fair type of Government. We are not going to have a Government after this which will accept the thesis that the role of the Government is to hold the scales evenly and take as little part in the running of corporations, industries, etc. The greater the part the State plays, the greater the number of persons who will become civil servants and be subject to disqualification.

I can understand the hon. the Attorney-General growing up in the school in which he has; and the Chief Secretary. That is part of their abiding—that the civil servant must appear to be neutral. I do not quarrel with them. I quarrel with the Elected Government. This contract of services, the supply of goods, publication and all that is, to my mind, nonsense. We claim to be progressive and yet what even our erstwhile masters have banned and thrown aside we will have here. This is certainly what I have had in mind when I sat at the Conference table at Lancaster House. This was not so accepted, I found, by the Chairman.

One final word: I do not quite understand the remark made by the hon. the Chief Secretary. He said something about there being two Attorney-Generals until the end of the year. I do not follow that because, as I understand, there will be only one Attorney-General for Guiana at any given time. And I cannot understand why it has been specifically stated that he

would not be disqualified, because it is clear in the Constitution that he is a Minister who has a political appointment. On the other hand, I cannot understand why it has been specifically stated that the Director of Public Prosecutions should be disqualified. Although it is patent in the Constitution that that post was a public service post, if I had my way, I would have made the Director of Public Prosecutions a person who could contest a seat and retain his office or membership in the Service. But these are details which can be worked out from time to time.

My final observation is this: In point of fact, this Bill is a waste of paper, because it does not give the right to participate actively in politics to anyone who does not have the right to vote. If you had checked your legislation carefully, you would have stopped wasting your time and our time producing a Bill like this, because the categories are the same and the persons are the same. You just want to have on the Statute Book a Bill entitled the "Legislature (Disqualification) Bill, 1961."

**Mr. Bowman:** Like the Member for Georgetown Central, I feel that this Bill is too rigid. I have listened to politicians, especially those on the opposite side, expressing the opinion that civil servants in the lower bracket or those in the lower categories should be allowed to exercise the right to take part in politics. *[Interruption.]* If they want to deny that, let them do it; but I am quite sure I have heard them express that several times. And there is one other part of the Bill which deals with the question of preventing or disqualifying persons who may be drafted into the Civil Service on a temporary basis or on acting appointments.

For example, I am a member of the Public Accounts Committee and I know that on a few occasions certain Heads of Departments complained that there are certain persons who had resigned should be re-employed to assist in training the young civil servants. If such persons are

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re-employed on a temporary basis, why should they be disqualified. Supposing a man who is in an acting appointment comes off the job two days after the election and has been elected at the elections, I do not feel that such a person should be disqualified as the result of his acting appointment. On the whole I do not feel that any person in an acting appointment in the Civil Service should be disqualified at all.

If the Government wishes that those in the higher bracket of the Service should not be allowed to take part in politics, that is all right, but those in the lower bracket who do not have any responsibility should be allowed to take part in politics, and not be disqualified as a result. There is one attitude of Government in this Bill which, I think, is discriminating. I notice in the Second Schedule of this Bill mention is made of the members of the Electricity Corporation.

I would like to know why the Government has mentioned this particular Corporation. There is another permanent Corporation, the British Guiana Credit Corporation, but no mention has been made of the members of that particular Corporation to exempt them from disqualification. Those are things which, I think, the person responsible for bringing this Bill should consider. I think that it is unfair that the members of the Electricity Corporation should be exempted and not those of the Credit Corporation.

**Mr. Davis :** I had the great privilege of hearing this matter raised in London by the hon. Member for Georgetown Central, and my impression is really that he seems to have got more than he bargained for. However, I want to mention two specific small points that could be very material to the elections which are due to take place shortly.

I desire to refer particularly to clause 5, sub-section (2) (b) which states—

“In relation to the Legislative Assembly, unless within fourteen days before the day for the receiving of his nomination for election thereto, the person causes to be published in the Gazette and in daily newspapers a notice setting out the nature of such contract and his interest of any firm or company aforesaid, therein.”

It appears to me that if the date of nomination has been fixed for the 27th July, and assuming that His Excellency the Governor gives his assent in time for it to be published in Saturday's Gazette, which date will be the 15th July, it would appear to me but a simple process of subtraction when the time would have to be, and I would like to draw that to the attention of Government.

My other small criticism is that I see under the First Schedule of persons who are to be disqualified for membership of either of the two Chambers, the member of an Assessment Committee constituted under the Rice Farmers (Security of Tenure) Ordinance is to be disqualified. I pose the question “would he be an officer of the Crown or receiving emoluments from the Crown?” I believe that there is provision for him to receive travelling, and this cannot be considered as emoluments from the Crown.

I also see that the Manager of the Rice Marketing Board and the General Manager of the B.G. Rice Development Co. Ltd. have also been named. It has occurred to me that the Chairman of these organizations should also be named. I have heard my friend, the hon. Member for Demerara River (Mr. Bowman) make mention of another corporation. I take it that the Government has taken note of that. With these small comments I would like to support the Bill.

**Mr. Jackson:** We are approaching independence and taking on increased responsibility, yet in practice we are taking away from some people what they have already got. I wonder if the Government had examined a number of categories of civil servants who at the moment have the right to take part in

politics and whether they rightly think they are justified to take away the rights of those people who can now take part actively in politics. Perhaps the Government is continuing its act of prejudice in the way of designating certain categories of employees. The Post Office worker is still not regarded by Government as a member of the Civil Service.

For Government's information I would like to say that up to the present time certain categories of Post Office workers enjoy the right to take part in politics, to speak on political platforms or to contest elections if they want to, and under existing arrangements provision has been made for their leave-taking and their subsequent course of action if elected to the Legislature, or if they fail to win at the election they are contesting. I think if my memory serves me correctly this exists in the United Kingdom where Post Office workers and other categories of workers in the Government Service are free to take an active part in politics.

Post and Telegraph clerks etc. have the right at the moment. Why does this Government want to remove that right at the moment? Why does this Government want to remove that right from them instead of extending it to other categories who have nothing to do with administrative matters and are not called upon to advise the Ministers of the Government, or to be Heads of Departments? Government is withdrawing a right which exists. Is this the approach to Independence? It is unfair for Government to hold on to this Bill. I am supporting the views of the hon. Member for Central Georgetown in this respect, that there is no earthly reason why Class 11 clerks in the Civil Service or even Class 1 clerks should not be free to take part in politics. I see no reason why Post and Telegraph clerks should not be free to take part in politics. The line should be drawn when those officers reach the stage of being advisers to the Government and

Heads of Departments. I feel that Government should accede to the request coming from this side of the Table. If Government does not accede to the request, then it will be taking away the rights of certain people.

I know that when the Waddington Commission came here that was a sore point with the People's Progressive Party. I think the Minister of Communications and Works will bear me out on this point, because he then belonged to the movement of which he knows so very much—the Federation of Unions of Government Employees—he may remember when we went together and pressed for the freedom of civil servants to take part in politics. We have a situation today where steps are being taken in this Bill to deprive certain people of their rights. I would ask Government to reflect very carefully upon this point and refrain from going through with this Bill as it is printed.

I want to know why persons appointed to the Public Utility and Public Health Services Arbitration Tribunal should be listed among those people who are disqualified? I cannot see the reason for it, because those people who are likely to be chosen to serve on such a tribunal are not regularly employed by the Government. It is quite true they receive a certain sum of money for every day they sit to hear evidence in a dispute which has been referred to them, but when they are not actually hearing a dispute they do not receive any emoluments. If I were to be asked to serve on a tribunal now, under this Ordinance there is nothing to prevent me from being paid for every day I have to deal with the dispute which exists and which is being heard by the tribunal.

Let us examine the people who are serving now. You have a retired civil servant, who was at one time a Head of a Department, as a Chairman of a tribunal. You have a barrister-at-law who practises his profession whenever he wants to. Why are you seeking to prevent

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this barrister-at-law, if he wants to, from taking part in politics? He is not your servant. Can you really say that this is an office which receives emoluments from the Crown when the teacher gets his emoluments from the Crown and you allow him to enter politics; when the Manager of Transport and Harbours Department can also take part in politics? That post is not listed as being disqualified. Why should a retired civil servant whom you may want to be a Chairman of a tribunal be refused the opportunity of taking part in politics, if he so desires? Unless these posts are going to be regarded as full-time posts, I cannot see any reason why such officers should be deprived of the opportunity to take an active part in politics.

A civil servant is someone who is engaged as a whole-time officer of the Government. You cannot, by any stretch of imagination, believe that the Chairman of a tribunal can be your servant. The whole thing is more restrictive than it has ever been. A member of the British Guiana Volunteer Force within the meaning of the Volunteer Ordinance, other than a member to whom section 30 applies, cannot take an active part in politics. What is wrong with a member of the Volunteer Force deciding, if he wants, to take part in politics and contest the election?

As a matter of fact the Police Force is no longer a military force; it is a civil force. Why should not a policeman be able to take part in politics, if he wants to do so? As long as you place in the Regulations certain rules whereby his taking part in the elections should be abridged to, I see nothing wrong with the matter. I agree that when the Police Force was a military force, restriction was necessary. You have taken away his rifle; he no longer owns one. This is sheer "monkeyism", Mr. Speaker.

If we are approaching independence we must say what we want, and our people should say how we want to run our

country. If we say that this legislation should be different from what obtains elsewhere, it should be done. This is the awareness of a concept based upon the old pattern: it is based upon the status of Colonialism and it does not have the concept of freedom as we envisage it. I feel that it is wrong to import into our legislation what is done in other parts of the world. We have heard it said time and again that something is done here or there, and sometimes we want to feel that we have followed too much what is done in other places. I feel that the time is ripe for us to ignore limitations, restrictions and inhibitions which people experience in other parts of the world. Let us as Guianese take on the responsibility of our country.

A number of posts listed in the First Schedule to this Bill are posts which have no relationship whatsoever to the Public Service as such, and I feel that the whole matter should be recast. I wish the Government would not pursue this Bill any further, and would examine it at the close of today's sitting with a view to bringing amendments tomorrow to the Schedule. We feel that certain people should be given the freedom and the right to take part in politics, but that the line should be drawn between those who have to advise a Minister on a matter of policy.

**The Attorney-General:** The first criticism of this Bill came from my hon. and learned Friend, the Member for Georgetown Central, and in his speech he was completely misleading, as he often is, because he says that this Bill is not appropriate for this country, that the Government has not only copied slavishly the principle of the Bill, but also the categories of people who are disqualified. He referred most particularly to the member of the Civil Service. He went on to say that just because they did it in the United Kingdom it did not necessarily follow that we should do it here. That is a most distorted picture, because what we have done in this Bill is not only what they do in the United Kingdom, but what

they do practically everywhere in the Commonwealth: in Trinidad, Barbados, Jamaica and in various overseas territories.

**Mr. Burnham:** Can't you be original?

**The Attorney-General:** I am just pointing out where the hon. Member is wrong, because the obvious inference from his remarks is that everywhere else they did something different, but we have slavishly copied from the United Kingdom alone and that only in the United Kingdom are civil servants prevented from taking an active part in politics. It is clear to members in the Civil Service in British Guiana as in the Commonwealth what is the general rule rather than the exception. There are one or two limited exceptions that I know of where certain members of the Civil Service for special reasons have in the past been given an opportunity to serve on the legislature.

For instance, in Malaya, in order to bolster up the Malaysians who were a less strong section of the community, it was felt that if they did not allow certain members of the Malayan community to serve, then they would not have any representation at all. I believe that similar arrangements were made in Kenya to allow special categories of the Civil Service to be members of the legislature.

The general principle is to have a neutral and unpolitical Civil Service. Why? Because this is what any Cabinet of Ministers would want. They would want to feel that they are served by a Civil Service which has no axe to grind; they would want to feel that the members of the Service through their successive Governments have built up experience that qualifies them to give advice to the Minister and serve him completely and independently. How embarrassing would it be if the Minister found that the person who had to advise him was a Civil Servant who had been in

politics before as a member of an opposing party who had lost his seat and had come back to work with Government? Would the Minister have any confidence in such an adviser?

My hon. Friend says: "Why caponise the Civil Service" He suggests that the best brains in British Guiana go into the Civil Service. That may have been so at one time, but, with great respect, I do not think that is so now. One hopes, possibly, that the position may be resumed, but certainly not now, because the Civil Service is very hard put to fill positions as a result of greater attractions over in industries. By and large, that is why we have a Salaries Commission sitting. Although there should be exceptions—and I know there are one or two able people amongst the clerical grades—it is more likely that the brains that he wishes to see in this Council ought to be found in the administrative grades whom he admits should be disqualified. So I would stress on hon. Members that this Bill, in disqualifying members of the Civil Service, is doing nothing more or nothing less than what is done in comparable Services in the Commonwealth.

It is also important to remember that the Civil Service is neutral because its members have access, even in the clerical grades, to information which it is not in the public's interest to disclose; and what confidence would people have in the members of the Civil Service if you allow persons in the clerical grades to go on platforms and discuss one subject or another with the advantage, possibly, of information that they have received as a result of their positions. It is just not right. And whichever way you look at it, the members of a neutral Civil Service will serve this country best in the long run. There are able people outside the Civil Service, as I said, in increasing numbers, now.

## [THE ATTORNEY-GENERAL]

My hon. Friend raised the point about the Attorney-General being listed as a qualifying office rather than a disqualifying office. It is very understandable. This was put in out of abundant caution. The point is, the office of the Attorney-General is an official office which is in the Estimates, and will be until the end of the year. The idea at the London Conference was that the office of Attorney-General under the new Constitution would be political although I should hasten to say that the Attorney-General is never mentioned in the new Constitution at all; and so although it may well be that the Attorney-General under the new Constitution would be a politician, there is nothing to say that he should not be an official. But the intention is that he should be a politician, and because he is a politician and paid as a Minister, there will be, at least until the end of the year, on the Estimates, the official post of Attorney-General; and in order not to embarrass him with any possible challenge as to his authority as a Member of one Chamber of the Legislature or the other, we thought it wise to put him down as a person who is qualified, because the official Attorney-General, of course, is disqualified by being a member of the Public Service.

My hon. Friend, the Member for Demerara River, raised some interesting points which showed that he has, obviously, done his homework very well. He talked about members of the Board of the Electricity Corporation being specially qualified in Part II of the Schedule. The reason for that is this: that the Electricity Corporation Ordinance was designed to make members of the Board eligible for election to the Legislature. In other words, membership of the Board does not disqualify a person, today, because it says that membership of the Board shall not be deemed to be an office of emolument under the Crown; and today, an office of emolument under the Crown disqualifies a person. What we

want is to perpetuate this position so that members of the Electricity Corporation, under the new Constitution and at the time of the new Legislature, would not be disqualified. We thought it better to put it in because somebody may take a pot-shot and try to say that the Electricity Corporation is an arm of the Government, therefore the membership of the Board is an office in the Public Service.

So far as the Credit Corporation is concerned, the Credit Corporation Ordinance specifically provides that members shall be disqualified from membership of the Legislature and, therefore, there is no need to put it in.

My hon. Friend then said: "Why should persons who act in offices be disqualified, because they are not in the same position as those who are holding posts permanently?" That is not true because whether you hold a post substantively or act in it you have the same powers and same privileges and opportunities of securing information and opportunities to, as it were, win friends and influence people. Therefore, there is no difference between acting in a post and holding it substantively as far as a disqualifying post is concerned.

Several members raised the question of disqualifications being applied to, for instance, a medical referee appointed for the purposes of the Workmen's Compensation Ordinance, and the hon. Member for Georgetown North, my sitting friend, said: "Why should a member of the Public Utility and Public Health Services Arbitration Tribunal be disqualified, because it is not a regular employment?" The reason is this: It has nothing to do with whether the post is permanent or temporary. These are posts, the holders of which perform judicial or quasi-judicial functions, and it is a cardinal principle that anybody who has any judicial function to perform should be entirely neutral and should not be tainted with politics. That is why these disqualifications have been put in.

So far as the General Manager of the Transport and Harbours Department is concerned, my hon. Friend, the Member for Georgetown North, said he is not listed, so he can stand for election. He cannot stand because he is a Public Officer, under the Transport and Harbours Department Ordinance, and therefore he would be caught in the provision of Section 3(a).

As to the volunteers, it relates only to the permanent staff of officers. My information is that it is the permanent staff who are disqualified because they are, as it were, regular soldiers of the armed forces; but the volunteers who go for practice twice a week are not disqualified.

As to the Police, everybody knows they must be entirely neutral. It is an accepted principle that in order to manifest such neutrality, they are prohibited from joining trade unions. They have a trade union of their own which is a means of putting forward their grievances. But the Bill is not the extraordinary creature that a number of Members opposite are trying to point out. It follows the traditional lines which do not apply only to the United Kingdom, but apply to everywhere else in the Commonwealth as well; and so I shall certainly support the Bill.

**The Chief Secretary :** It seems to me there is really not very much wrong with this Bill. The hon. Member for Georgetown North stated that if Permanent Secretaries, Heads of Departments and Deputy Heads of Departments cannot enter into the political field then, he claims, people in the clerical field—the stenotypists—should be able to do so; but the whole thing is a chain—from the Permanent Secretary and Assistant Secretary down to the clerical grades. The Permanent Secretary dictates his correspondence to his typist; and I think he would like to feel that he or she is just as impartial or just as neutral as himself. I do not think it would be a good thing for

members of the clerical grades to be granted permission to enter the political field. It must lead to instability. One thing that we have here is stability. There may be a change of Government, but your Civil Service remains constant and the same; and whichever Government is in power it is just as loyal to the one as to the other.

There is just one other point raised by the hon. Member for Georgetown North (Mr. Jackson) who claims that in the past, Post Office workers and certain other categories of Government employees have been able to speak on public political platforms, but that under this Bill they are precluded from doing so. He also mentioned the telegraph clerks and linesmen. I am not sure what category they fall into, but it is not everyone who gets his pay from the Government that is precluded from speaking on political platforms or standing for nomination as a candidate for the Legislature. In general terms it is only those who hold offices of emolument under the Crown in respect of whose appointments the Public Service Commission advises the Government, are excluded from both public speaking and seeking nomination as a candidate.

The hon. the Attorney-General mentioned the Police Force. Obviously it must be neutral. It must be clearly shown and known to everyone that the Civil Service is without any political party bias, and I hope this neutrality of the Service will remain.

**Mr. Speaker :** What about the point raised by the hon. Nominated Member, Mr. Davis? Are you not replying to that?

**The Chief Secretary:** With regard to the point raised by the hon. Nominated Member, Mr. Davis, it is our intention to get this Bill passed as quickly as possible. It is true that Clause 5 subsection (2) (b) states

“In relation to the Legislative Assembly unless within fourteen days before the day for the receiving of his

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nomination for election thereto, the person causes to be published in the Gazette and one daily newspaper a notice setting out the nature of such contract and his interest, or the interest of any firm or company aforesaid, therein."

But it still allows plenty of time.

Question put, the Council divided and voted as follows—

| <i>For</i>           | <i>Against</i> |     |
|----------------------|----------------|-----|
| Mr. Tello            | Mr. Bowman     |     |
| Mr. Gajraj           | Mr. Fredericks |     |
| Mr. Saffee           | Mr. Jackson    |     |
| Mr. Rai              | Mr. Burnham    |     |
| Mr. Ram Karran       | Mr. Kendall    | —5. |
| Mrs. Jagan           |                |     |
| Mr. Benn             |                |     |
| The Attorney-General |                |     |
| The Chief Secretary  |                | —9. |

*Did not Vote*  
Mr. Davis 1.

**Mr. Speaker :** The motion is carried and the Bill will therefore be read a Second time.

Question put, and agreed to.

Bill read a Second time.

**The Chief Secretary :** I beg to move that the Council resolve itself into Committee to consider the Bill clause by clause.

#### COUNCIL IN COMMITTEE

Clauses 1 and 2 passed as printed.

Clause 3—*Disqualification*.

**Mr. Jackson:** I move that the deletion of paragraph (a) of clause 3. I do so because there is no clear picture in the mind of the hon. the Chief Secretary with respect to those people in the Post Office Department to whom I referred. It is erroneous to include postal and telegraph clerks for disqualification. Those people

are on the Pensionable Establishment, and as far as I know, all appointments to those posts are covered by the Public Service Commission and the Chairman of the Public Service Commission is serving on a sub-committee to deal with one of the categories to which I referred. It therefore follows that if he is Chairman of that sub-committee that category or office is covered by the Public Service Commission.

Since that is so, then I submit again that Government is taking away rights which already exist, and it is never the pattern of any progressive legislation to take away rights already in existence and enjoyed by the people. I would be glad to hear from the hon. the Chief Secretary what is proposed to be done with respect to those people who, I know for certain, have the right to take part in politics.

**The Attorney-General :** So far as I know, no member of the Public Service, whether in the Post Office or any other department is eligible to sit in this Chamber, and as far as I know, according to this Bill which follows the old principle, no member of Post Office or any other department of the Public Service will be eligible to stand for election as a candidate for the Legislature. I do not understand what the hon. Member is trying to suggest.

**Mr. Jackson :** That is as far as the hon. the Attorney-General knows, which is a limitation of his knowledge as far as I know. He does not know, but it happens. This is local history of which he knows nothing. It is, therefore, only fair and right that he should go back and look at the history of the case and see that what I am saying is correct, that those people are free to speak on political platforms. They do it now and they have the right, if they so wish, to go up as candidates for election.

**The Attorney-General:** The question of taking part in political affairs and standing as a candidate are in law two different

things, and whereas Government allows the holders of public offices below a certain grade to be free to take part in political affairs by speaking on platforms or holding office in political parties, that does not mean to say that *ipso facto* they are eligible to be candidates under a Constitution which sets out a disqualification.

**Mr. Burnham:** Assuming the hon. the Attorney-General is right, he has confounded himself, because on the motion for the Second Reading he said the civil servants who have access to files and information can give out that information. But Government is allowing certain grades of civil servants to speak on political platforms. Why insist on paragraph (a) of clause 2 because the chief thing Government wants to guard against is civil servants being able to use official information on public platforms?

**The Attorney-General:** The members of clerical grades are in the category of those entitled to take part in political affairs overtly. It is only those who hold offices below the clerical grade. I was speaking generally when I referred to civil servants, and further stated that members of the Post Office have the right to stand for election or, indeed, to take part overtly in political affairs.

**Mr. Jackson :** I do not know how to distinguish between being permitted to take part at meetings of a political nature overtly and this limitation on the very individuals having the right to contest at the election. Seeing that the hon. the Attorney-General does not know the situation, it would be better if he said he did not know how it originated and would go into it. That is the more natural attitude for him to adopt.

**The Attorney-General:** The hon. Member imputes dishonestly to me, but I am most honest in this matter.

**Mr. Burnham:** I wonder whether the hon. the Attorney-General can tell us why this particular phrasing, and not

that in the House of Commons Act? What is the significance? Is it to catch a wider group of persons?

**The Attorney-General :** The answer to that is that this law was drafted in conformity with the drafting of the Constitution which it is designed to reflect. The definition of "public officer" is set out at page 62, Article 115 of the British Guiana Constitutional Instruments, 1961, as follows:

"public officer" means the holder of any public office and includes any person appointed to act in any such office."

**Mr. Burnham:** That certainly is not the answer. The Constitution in its interpretation Article has defined public officer for purposes of the Constitution. We are not dealing with the Constitution now, we are dealing with the persons who should be disqualified from being members of the legislature. The Constitution does not prescribe for public officers who can be members of the legislature. There are two different things we are looking at, and I feel that there is wider phrasing in this Legislature (Disqualification) Bill than there is in the House of Commons (Disqualification) Act. The intention was to catch a greater number of persons, but this Government wants to go even further in its restrictions than the United Kingdom Government. As I have already said, the facilities and opportunities for persons outside of the Civil Service in the United Kingdom are greater than similar facilities and opportunities in British Guiana.

**The Chief Secretary :** Sir, I beg to report progress, and ask leave to sit again tomorrow at two o'clock.

Council resumed.

ADJOURNMENT

**Mr. Speaker:** Council is now adjourned until 2 p.m. on Wednesday, 12th July, 1961.

*Council adjourned accordingly, at 5.10 p.m.*