

**LEGISLATIVE COUNCIL**

FRIDAY, 15TH JUNE, 1951

The Council met at 2 p.m., His Excellency the Officer Administering the Government, Mr. John Gutch, O.B.E., President, in the Chair.

**PRESENT:**

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

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

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

The Hon. the Financial Secretary and Treasurer, Mr. W. O. Fraser (Acting).

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

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

The Hon. Dr. J. A. Nicholson (Georgetown North).

The Hon. T. Lee (Essequibo River).

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

The Hon. C. P. Ferreira (Berbice River).

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

The Hon. D. P. Debidin (Eastern Demerara).

The Hon. J. Fernandes (Georgetown Central).

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

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

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

The Hon. J. Carter (Georgetown South).

The Hon. R. B. Gajraj (Nominated).

The Clerk read prayers.

The Minutes of the meeting of the Council held on Thursday, the 14th of June, 1951, as printed and circulated, were taken as read and confirmed.

**UNOFFICIAL NOTICES****ASSISTANCE FOR FARQUHARSON EXHIBITIONER**

Mr. FERNANDES gave notice of the following motions:—

Whereas Yvonne Eastman, a student of Bishops' High School, has been awarded a Farquharson Memorial Exhibition at the University College of the West Indies;

And Whereas she is unable to accept it without financial assistance from Government;

Be It Resolved that this Council recommend to Government the granting of the necessary financial assistance by way of a grant or a loan and a grant.

**SUBSIDY FOR ST. STANISLAUS COLLEGE**

Be It Resolved that this Council recommend to Government that a subsidy be granted to the St. Stanislaus College.

**SENIOR AIR TRAFFIC CONTROL OFFICER**

Mr. CARTER: Sir, before we proceed to the Order of the Day I crave

leave to bring to the attention of this Council a matter of some importance to this country, and one in which a very grave principle is at stake. On many occasions Members of this Council have emphasized the need for appointments in this country to be made from among the number of qualified British Guianese. That is, that when there are any vacant posts and there are Guianese qualified to fill them, it is only right and fair that Guianese should have some preference. I understand that an appointment is about to be made with regard to the post of Senior Air Traffic Control Officer. During the Estimates debate, and while the Estimates were being considered in Committee, it came out that there was a very well qualified Guianese who was particularly suited for this post; that he had served four or five years during the war and attained the rank of Flight Lieut., and that he had qualified at the London University School of Economics, securing a degree in Economics, specializing in Transport. Although the hon. the Financial Secretary and Treasurer gave no undertaking at the time, he promised to give this candidate serious consideration, and many Members expressed the view that he seemed particularly qualified to fill the post.

When the Estimates were being considered in open Council I believe the hon. Member for Central Demerara (Dr. Jagan) raised the question. I raise it again today because I feel that we are going away from a very important principle. It has happened in the past that we have lost some very good Guianese, very qualified Guianese, because other people were brought to this country to fill certain posts which they could have filled. I think it is time we stopped that practice, and that wherever we have Guianese qualified and equipped to fill posts, those posts should be given to them.

The PRESIDENT: I will note what the hon. Member has said. This particular matter to which he has referred was brought to my attention this morning, and I have asked the Colonial Secretary to look into it and

let me have the facts. I do not think it is possible to say any more about the matter at the moment.

The COLONIAL SECRETARY (Mr. D. J. Parkinson, acting): Sir, I can say that this post was considered by the appropriate Board, the Technical Appointments Board, and the claims of the candidate to whom I think the hon. Member is referring, were considered for the post of Senior Air Traffic Control Officer. The officer appointed has to take charge of Air Traffic Control with six other officers under him, of whom there are four at present. The candidate in question, while having considerable knowledge of flying, was not, in the opinion of the Board, possessed of the necessary experience for appointment to this senior post. He had earlier on been informed that he would be considered for one of two posts of Air Traffic Control Officers which it was proposed to create, and which were included in the 1951 Estimates. I have just been informed that two other local candidates have been appointed to those posts, and I will enquire further into that particular matter.

He was told he would be considered, but not for the post of Senior Air Traffic Control Officer, for which is required an officer with considerable practical experience. We could not appoint a man who had just taken a course of training and had no practical experience. In fairness to the other local officers already serving, we could not put someone over them who did not have the required practical experience. He was therefore told that he would be considered for the post of Air Traffic Control Officer. I have not got a full report from the Board and I am not in a position to make a statement about those two particular vacancies, but I have been told that two other local candidates were selected.

I think I must add that hon. Members will remember that on the previous occasion this question was raised by the hon. Member for Central Demerara (Dr. Jagan). I think His Excellency the Governor expressed

himself rather strongly on the subject of the advancement of the claims of individual candidates in this Council, and I think I must again record my objection to that practice. Obviously, the selection of candidates must be according to merit and not according to their influential political connections. That would have most disastrous effects on the morale of the Public Service if it came to be felt that that was the practice. I do not think there is more I need say on the subject. There is no question of discrimination in this case. The post of Senior Air Traffic Control Officer was advertised in the Caribbean. We had applications from local candidates and people from Jamaica, Trinidad and Barbados, but the fact is that there was no local candidate with the necessary experience for that Senior post.

Dr. NICHOLSON: Sir—

The COLONIAL SECRETARY: To a point of order, Sir. I do not think we can engage in a debate on the subject without due notice. The hon. Member has raised the matter and I have made a statement in reply. I do not think we would be in order, unless a motion was moved for this Council to have a debate on the subject.

Mr. KENDALL: In view of what the hon. the Colonial Secretary has said I would like to move the suspension of the Standing Rules and Orders in order that the matter may be discussed now.

The PRESIDENT: I do not think that the procedure proposed by the hon. Member would be in order. I have already informed the Council that the matter was brought to my attention this morning, incidentally by an hon. Member, and I immediately asked for the facts. The Colonial Secretary has been looking into the matter, and as far as he has been able to do, he has made a statement on the subject, but he has not yet had an opportunity to look into the matter as a whole, particularly into the question of the filling of the two junior posts. If it is the

wish of the Council, certainly there would be no objection to a debate on any motion that may be moved on the subject in the future, but I do not think a debate at this juncture would really serve any useful purpose. The matter is being looked into by the officials concerned, and if it is the wish of the Council, at a future date the whole matter can be thoroughly ventilated.

Dr. NICHOLSON: I had risen to ask a question when the hon. the Colonial Secretary intervened. The question is: must we understand that the post of Senior Airport Superintendent has not yet been filled?

The COLONIAL SECRETARY: No, sir. An offer has been made but I am not sure whether it has been accepted yet. The post is Senior Air Traffic Control Officer.

The PRESIDENT: The Council will now proceed to the Order of the Day.

#### ORDER OF THE DAY

#### TAX (AMENDMENT No. 2) BILL, 1951

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

“An Ordinance further to amend the Tax Ordinance, 1939”.

Clause 2.—*Insertion of new section in the Principal Ordinance.*

The ATTORNEY-GENERAL: Towards the end of the debate on this Bill yesterday afternoon it was suggested that a new section 21A containing the amendments which hon. Members had indicated that they were agreeable to, should be set out in cyclo-styled form. I have prepared copies which I believe are before hon. Members. I should point out that there is a mistake in sub-clause (5) in which the words “nineteen hundred and fifty-one” should be “nineteen hundred and fifty-two.”

From the copies which Members have before them, it will be seen that sub-clause (1) provides for the appointment of a Committee by the Governor in Council during the month of July in each year, and also that the Committee shall consist of the Director of Medical Services as Chairman, and six Members of the Legislative Council, to consider applications for licences for the sale of drugs and patent and proprietary medicines.

Sub-clause (3) provides for the examination of applications for licences by the Committee who may in their discretion, approve or reject an application.

Sub-clause (5) takes account of the suggestion that the procedure with regard to licences should operate from 1952, but that the Committee should be established and take all the necessary steps, in order to be in a position to issue licences to be effective from the 1st of January, 1952. I think that will meet the wishes of hon. Members as expressed during the course of the debate. I therefore move that the proposed new section 21A be substituted for that contained in the Bill as printed:—

21A (1) The Governor in Council shall, during the month of July in each year, appoint a Committee (hereinafter referred to as "the Committee") consisting of the Director of Medical Services (who shall be Chairman) and six members of the Legislative Council to consider applications for licences for the sale of drugs and patent and proprietary medicines.

(2) Any person who desires to take out a licence for the sale of drugs and patent and proprietary medicines shall make application to the District Commissioner who shall forthwith submit such application to the Committee.

(3) The Committee shall examine every such application and may in their discretion approve or reject the application.

(4) Any person aggrieved by the refusal of the Committee to approve his application may appeal to the Gov-

ernor in Council, who may reverse, modify or confirm the decision of the Committee. The decision of the Governor in Council shall be final.

(5) From and after the first day of January, nineteen hundred and fifty-two, and subject to the provisions of section twenty-seven of the Pharmacy and Poisons Ordinance, no licence as aforesaid shall be issued to any person unless his application has been approved under the provisions of this section."

Mr. LEE: I would like to hear the views of the members of the Legislative Council Medical Advisory Committee on the proposed constitution of the Committee. The Medical Advisory Committee made certain recommendations to Government which were accepted, and the Bill was drafted in the light of those recommendations. It is now proposed to override those recommendations. It cannot be said that the Medical Advisory Committee is too unwieldy, because it is now proposed that the Committee shall consist of seven members. I would like to hear what the members of the Medical Advisory Committee think about it. I move that the Committee shall consist of the Director of Medical Services and four Members of the Legislative Council instead of six. There would be no casting vote by the Director of Medical Services.

The ATTORNEY-GENERAL: I do not want to prolong the debate but I am not sure whether the hon. Member was present when it was suggested that the Legislative Council Advisory Committee to the Medical Department is the Committee which should function under this Ordinance. It was pointed out, however, that that Committee was not a statutory Committee and therefore it would not be possible to put that in this Ordinance. There are six Members of the Legislative Council who form this Advisory Committee and therefore it was suggested that they should form the Committee which would function under this Ordinance.



Mr. LEE: I would like to know who are the six Members.

The ATTORNEY-GENERAL: I think they are the hon. Dr. Singh (who is the Chairman), Dr. Nicholson, Mr. Raatgever, Dr. Gonsalves, Dr. Jagan and Mr. Kendall.

Mr. LEE: I still adhere to my opinion; I have moved an amendment.

Mr. DEBIDIN: I think, sir, we are all agreed that the six Members should serve. I do not think there was any dissention on that issue. With regard to the cyclostyle amendments laid over today, I must observe that they are silent as to the first amendment moved by me. They are also silent with respect to the second amendment which I moved. I presume that sub-clause 21A. (5) in the cyclostyle amendments is seeking to meet my first amendment by making it operative as from 1952, but it is still in the air as to what is the position with regard to the licences which are being granted for the year 1951. We therefore come back to the suggestion made by the hon. Member for Georgetown Central that an assurance be given that all these people will get their licences this year. It is to be assumed from what took place yesterday and today that that would happen, but we would like to know from the Attorney-General who is the pilot of this Bill whether that would be so or not so that there should be no doubt whatever in the matter. Hansard could be referred to, and the persons who have to issue these licences for 1951 should proceed to do so. I should like the assurance to be recorded so that if it is not included in the law it could be referred to when the time comes for the taking out of licences. If that is done I would not pursue the first amendment which I moved yesterday.

So far as the second amendment is concerned, however, I would certainly press for a decision of this Council on it. I took opportunity recently to peruse the Pharmacy and Poisons Ordinance

and it is clear under section 27 that the Committee is bound by certain considerations only. For the benefit of hon. Members I shall read the section which states:—

“27.—(1) Notwithstanding anything contained in this or any amending Ordinance, the Governor in Council may, in areas remote from the coastlands, authorise the sale of drugs and patent or proprietary medicines by persons not registered as chemists and druggists.

“(2) The drugs or medicines that may be sold in any area, the boundaries of every area, and the names of the persons authorised to sell, shall be published in the *Gazette*.

“(3) The Governor in Council may make rules regulating the sale of drugs and medicines under this section.”

It is clear that the Governor in Council would have no authority to deal with appeals going to it. The Governor in Council then would have, according to the present state of the law, simultaneous power when this Bill is passed, to grant licences for areas remote from the coastlands. What I am asking might appear at first blush to be the same thing, but really it is not. Here one is restricted by two things—the decision of the Governor in Council from which there would be no appeal, and the fact that the permission can only be for areas remote from the coastlands. I do not know exactly what the words “remote from the coastlands” mean if we take the true definition of “coastlands” which I have seen defined as being 40 miles from high water mark. It seems to me therefore that we would be dealing with areas in the hinterland or in the far reaches of our rivers. What I and other Members who supported the amendment yesterday have been thinking is that there are areas in the coastlands where there are reasonably large populations, but where there are no chemists and druggists, the result being that people from those areas have to travel long distances and get to the Public Hospital, Georgetown, in case of illness. I think every Member of this

Council will agree that some power should be given to the Committee to be appointed under this Bill to consider such cases and grant licences for those areas.

I feel that I can, with some justification, pursue the amendment because if we consider the service to be given by these drug stores and also the fact that many of them have been operating before, we would realize that no power is given to the Committee to consider such applications. I think the Attorney-General would admit that important fact with respect to my amendment. The Committee would have no power to consider an application from a sicknurse and dispenser who has had even 20 or 30 years' experience in an estate hospital and who has been compounding dangerous drugs and so on under the Ordinance. I would like to know if such a man applied for a licence at a place like Cabacaburi whether it would be granted. There are similar areas and for the moment I would like to refer to the area I represent, especially those portions that are in the upper reaches of the Mahaica and the Abary rivers—more than 15 miles away from the coastlands—and also the land settlement scheme at Cane Grove from where the estate hospital has been removed. Surely, if persons desire to set up businesses in those areas they should be granted licences to sell drugs for the benefit of the people there. Our safeguard is that there would be medical men on the Committee in whom we can place every confidence to see that men who are not competent would not be given licences. I feel that the amendment is justifiable and that it comes within the Ordinance. I respectfully submit again that in 21 A(1) the whole function of the Committee is set out. It says:—

"(1) The Governor in Council shall, during the month of July in each year, appoint a Committee (hereinafter referred to as "the Committee") consisting of the Director of Medical Services (who shall be Chairman) and six Members of the Legislative Council to consider applications for

licences for the sale of drugs and patent and proprietary medicines."

This, therefore, is the place where the necessary powers and functions should be given to this Committee to deal with applications from a certain class of people. If this clause is left as it is, these qualified and experienced people that we are thinking of would not be able to make application because the law would not permit them to do so. We should not make two bites at the same cherry, and I repeat that this clause should be amended so as to give power to the Committee to receive applications from the class of people I have referred to and to grant them when reasonable.

Mr. WIGHT: Apparently there is a typographical error in sub-clause (5) because the year should be 1952, as the Attorney-General has stated, and not 1951. As regards the clause itself, what has been puzzling me is this: Why should anyone be apprehensive as regards being refused permission to sell any drug or patent or proprietary medicine? If he has the right to do so then he should apply any time after January 1, 1952, and obtain his licence. This Ordinance has not yet come into force and has not yet received His Excellency's assent. What has also strengthened my belief as to the necessity for protecting the public is the fact that in Court this morning—and I think the hon. Member for Georgetown South was also present—we were told how one of the leading chemists in this Colony was approached by a mother of several children who told him over the telephone that they had put their hands on something in a bluish bottle which they were playing with and that she wanted to know what she should do. Apparently knowing what it was, the chemist was able to tell her to wash their hands and so on. He then got into a car promptly and went to the house only to find there, a phial with potassium cyanide which was apparently what the children had been playing with. If that is so I would like

to know how that phial got there and under whose control it was. That shows that some control is necessary for the sale of drugs and so on.

It seems to me that the amendment now proposed by the Attorney-General can hardly have any disastrous effect on anyone. I feel sure that the intention of the Committee set up under the Pharmacy and Poisons Ordinance is not to deprive anyone from selling any particular drug but to ensure that there is control—that every packet or bottle is properly marked with the name of the chemist and so on, so that in case anything goes wrong one would know whom to approach. If this is not done it would be difficult to pin down negligence or otherwise against any particular individual. Therefore it can hardly be doubted that this Ordinance is for the protection of the public and is not intended to prevent half a dozen people from making a livelihood by the sale of these drugs and medicines. From what the hon. Member for Essequibo River has said today he seems to be in doubt whether the Committee which would function under this Ordinance should be comprised of the six members of the Legislative Council Advisory Committee to the Medical Department and therefore we should consider whether a couple of members from the Chemists and Druggists Association should not be included in the Committee.

It seems to me that without casting any reflection on the hon. Members concerned we might very well consider whether there should not be a leavening of this Committee and whether we should confine it entirely to the six Members of the Legislative Council. The hon. Member for Eastern Demerara—I do not know whether I understood him correctly—he does not seem to understand me and sometimes I do not understand him—seems to suggest that because certain hon. Members are going to be on this Committee one district might be served

better than another. Surely the hon. Member is not suggesting that when an hon. Member of this Council sits on a Committee his consideration is merely confined to the district he represents.

Mr. DEBIDIN: To a point of correction: I can assure the hon. Member that that was far from my mind and I said nothing which would enable him to come to such a conclusion.

Mr. WIGHT: I am glad to hear that. When any hon. Member of this Council sits on a Committee he should do so for the benefit of the Colony as a whole. If any hon. Member who sits on a Committee feels that the interest of his constituency is diametrically opposed to the interest of the Colony as a whole, it is his duty to do as his conscience dictates. I second this amendment moved by the Attorney-General and while I am still on my foot I would move that the question be now put.

Mr. LEE: To a point of information: Can the question be put now when we are in Committee?

Mr. WIGHT: Of course.

The CHAIRMAN: We will take clause 21 A. I will put the amendment moved by the hon. Member for Essequibo River for the substitution of "four" for "six" Members of this Council on the Committee. If this amendment is negatived I will put the clause as it stands.

Mr. LEE'S amendment put and lost.

Clause 21 A (2), as printed, passed.

Clause 21 A (3).

Mr. DEBIDIN: Subject to your ruling, Sir, I would ask that the amend-

ment which I moved yesterday be inserted at this stage. I do not know whether you would consider it more convenient to take it as an independent paragraph, (4), now, or whether it would be taken later.

The CHAIRMAN: I think it would be best for me to put that separately.

Mr. DEBIDIN: Very well, Sir.

Clause 21 A (3), as printed, passed.

The CHAIRMAN: I will now take the amendment moved by the hon. Member for Eastern Demerara but, as I have already pointed out, if anything of this sort is to be provided by legislation it should be put into the Pharmacy and Poisons Ordinance. The amendment is for the insertion of the following new paragraph between paragraphs (4) and (5) of the amendment proposed by the Attorney-General:—

"(4) The Committee may grant a general licence to any person to sell all drugs in the Schedules to the Pharmacy and Poisons Ordinance, Chapter 163, if in the opinion of the Committee such person is competent to sell such drugs."

Mr. DEBIDIN: I think this should really have been an amendment to paragraph (2), but I would ask you to take a vote on it.

The CHAIRMAN: I will take the vote on it now.

The ATTORNEY-GENERAL: I would like to emphasize to hon. Members of this Council what you, sir, have already pointed out, yesterday. It is that this is a proposal to give the Committee certain powers which would negative the effect of the prohibition in the Pharmacy and Poisons Ordinance, and therefore the amendment should not be made now. I will register a protest against it if carried.

Mr. FERNANDES: I made that point very clear at the beginning—that

while the amendment is desirable I do not see how it could be made in this Bill. I think it would be perfectly in order for the hon. Member for Eastern Demerara to give notice of a motion setting out exactly what he wants to do in this amendment. Since this Committee would not have to issue licences this year he has plenty of time to get the motion in and as long as he gets the support of this Council he will achieve the same thing he is trying to achieve today. I am in sympathy with his recommendation but I did not say anything because I did not want to discuss the Pharmacy and Poisons Ordinance while it was not before us.

Dr. SINGH: I more or less hinted that the Committee to be appointed would perhaps be empowered later on to work that point out.

The CHAIRMAN: I do not think anybody is in any doubt on the matter.

Mr. DEBIDIN: The Committee will be appointed in July and applications may be called for some time in October. On that point I feel that there should be some regulation as to the procedure of the Committee. Let us assume that applications will be called for before 1952, if a motion is moved in this Council, and unless it is taken as an emergency measure, those persons who may apply may be left out.

Mr. LEE: Applications for licences are already at the District Commissioners' offices throughout the Colony. If this Bill is passed those who had licences last year would be granted licences for this year. My friend cannot move such an amendment because it would be creating a precedent.

Mr. DEBIDIN: I feel that the Bill is wrongly headed "Tax (Amendment No. 2) Bill." because it has nothing to do with the Tax Ordinance. It merely deals with the appointment of a Committee and its functions. We are told now that we cannot move in something which would tell the people how to apply for licences.



Dr. JAGAN: This clause, even if passed, will not give the Committee the power which the hon. Member is seeking to give it. The Committee would only be able to determine the competency of a person to sell drugs on the requirements of the Pharmacy and Poisons Ordinance. It could only say that Mr. "A" should get a general licence because he is a chemist and druggist, and Mr. "B" because he is a dispenser. In other words the amendment would not achieve what the hon. Member is seeking to obtain. What is necessary is an amendment of the Pharmacy and Poisons Ordinance.

The CHAIRMAN: I will put the hon. Member's amendment.

The Committee divided on Mr. Debidin' amendment and voted:

For—Messrs. Debidin and Far-num—2.

Against—Messrs. Gajraj, Carter, Peters, Kendall, Fernandes, Roth, Wight Drs. Nicholson, Singh and Jagan, the Financial Secretary and Treasurer, the Attorney-General and the Colonial Secretary—13.

Did not vote—Mr. Lee.—1.

Amendment lost.

The ATTORNEY-GENERAL'S amendment was then put and carried.

Council resumed.

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

Mr. WIGHT seconded.

Question put, and agreed to.

Bill read a third time and passed.

#### MUSIC & DANCING LICENCES BILL

At the request of the ATTORNEY-GENERAL consideration of the Music

and Dancing Licences (Amendment) Bill, 1951, and the Licensed Premises (Amendment) Bill, 1951, was deferred.

#### APPLICATION OF FIRES PREVENTION (METROPOLIS) ACT, 1774

The ATTORNEY-GENERAL: I beg to move the motion standing in my name on the Order Paper, which reads:

Whereas it is enacted by section twenty-five of the Civil Law of British Guiana Ordinance, Chapter 7, that the Legislative Council may by resolution declare that any statute of the Parliament of the United Kingdom or of Great Britain or of England passed before the fourth day of March, eighteen hundred and thirty-one, or any part of that statute, shall be part of the law of the Colony as from a date specified in the resolution;

And whereas it is necessary and expedient to declare that a certain part of Fires Prevention (Metropolis) Act, 1774, (14 Geo. 3.C. 78), passed in the year 1774 by the Parliament of Great Britain shall be part of the law of the Colony as from the date hereunder mentioned;

Be it resolved by this Council that on and after the 1st day of July, 1951, section 86 of the Fires Prevention (Metropolis) Act, 1774, (14 Geo. 3, C. 78) shall by the Parliament of Great Britain shall be part of the law of the Colony.

This motion comes before the Council as a result of certain representations made with regard to the law as to the responsibility for fire. In England it is provided by section 86 of the Fires Prevention (Metropolis) Act of 1774 that no action shall lie against any person in whose house etc. any fire shall accidentally begin. Although section 15 of the Civil Law of British Guiana Ordinance provides that the law relating to questions of fire assurance shall be the law administered for the time being by the High Court of Justice in England, some doubt has arisen as to whether the Act of 1774 applies to the Colony of British Guiana in any case of fire in which an insurance company is not directly or indirectly concerned. It would therefore be anomalous to have one law applicable to fire assurance

cases and another applicable to any case where a fire assurance question did not arise, and in a city such as Georgetown, where practically all the buildings are constructed of wood, the benefit of the provisions of the Fires Prevention (Metropolis) Act of 1774 should apply, and the law in the Colonies should be the same as that in the United Kingdom.

Sections 83 and 86 of the Fires Prevention (Metropolis) Act, 1774, are the only two remaining sections in this Act, the others having been repealed by a subsequent Statute. Of these two sections, section 83 clearly has reference to questions of fire assurance, as it deals with the manner in which insurance money recovered for houses destroyed by fire is to be applied. In my opinion this section already applies in this Colony by virtue of section 15 of the Civil Law of British Guiana Ordinance. Section 86, however, is rather different. Its marginal note reads :

"No action to lie against a person where the fire accidentally begins".

The purpose of this legislation, it was pointed out in the case of *Musgrove vs. Pandelis* (1919) 1 K.B., at page 317), was

"to remove the common law presumption that a fire which was not proved to have been caused by some other person was caused or kindled by the householder, and to free him from liability for fires accidentally begun."

As amended, section 86 of the English Act now reads as shown in the note appended to the motion. From the wording of that section it will be seen that it has application to cases other than those which would have reference to questions of fire assurance, and such cases are not covered by section 15 of Chapter 7 of the Laws of this Colony. It will be appreciated that the adoption of this legislation will certainly benefit householders, particularly with regard to fires accidentally begun, for which, at present, they would appear to be

liable for damage caused to others. Section 25 of the Civil Law of British Guiana Ordinance says :

"25. The Governor and Legislative Council may by resolution declare that any statute of the Parliament of the United Kingdom, or of Great Britain, or of England, passed before the fourth day of March, eighteen hundred and thirty-one, or any part of that statute, shall be part of the law of the colony as from a date specified in the resolution, and upon the publication of the statute or part thereof together with a copy of the resolution in the *Gazette* and in one daily newspaper circulating in the colony, that statute or part thereof shall so apply to the colony".

Hon. Members will observe that the resolution suggests that the date should be on or after the 1st day of July, 1951. With those remarks I formally move the motion.

Mr. ROTH : While this motion appears to be very simple I would like to know what is behind it. Why has Government suddenly decided to bring in English Law which is over 100 years old?

The PRESIDENT : Will the hon. Member wait for the motion to be seconded?

Mr. ROTH : I second it for the purpose of discussion. I would like to know what is behind the motion. I am not of a very suspicious nature but it does seem strange. If it had been brought before 1945 I would have understood. The marginal note quoted by the hon. the Attorney-General refers to "fires accidentally begun". Does that mean an accident as the result of negligence? An accident may be the result of negligence on the part of the person concerned. Does that mean that nobody would be able to recover damages against the person responsible for the fire?

The ATTORNEY-GENERAL : If negligence is established the householder would be liable. That is why I referred to the case of *Musgrove v. Pandelis*.

It was held in that case that the Fires Prevention (Metropolis) Act did not affect the question of negligence. I think that explains it. This will not exonerate a person where negligence is established.

Mr. DEBIDIN : I think the first part of the question has not been answered. I am also curious to know what inspired this motion.

The ATTORNEY-GENERAL : I think I began by saying that representations were made to Government with regard to this point.

Mr. DEBIDIN : By whom?

The ATTORNEY-GENERAL : By solicitors. In the course of the communication it was pointed out that it would be anomalous to have one law applicable to fire insurance cases and another if a fire insurance question did not arise. This has been the law obtaining in the United Kingdom since 1774.

Mr. WIGHT : There seems to be some necessity for legislation of this sort. I do not think hon. Members need have any idea that there is anything lurking in the background. I myself exhibited such a frame of mind when it was first put before me, that it might have had some connection with matters of which this Council is well aware, but I would like to ask the hon. the Attorney-General why he has picked out this particular part of the Fires Prevention (Metropolis) Act; if he considers that the other parts should not be incorporated; whether the Statute Law Revision Committee has sat to consider the other parts of the Act, and whether they might be incorporated? It would perhaps have been an appropriate send-off to the Committee which has been recently formed, if it had been asked to consider whether we should not incorporate a few more sections of that Act which are working so well in England.

Mr. DEBIDIN : The hon. the Attorney-General is perhaps well aware of the case of *Rylands v. Fletcher*. I appreciate the point raised by the last speaker. The remaining provisions of the English Act may make exceptions in cases, for instance, like an explosion at the gasoline bulk storage tanks at Ruimveld, resulting in damage to an adjoining canfield. I would like to know to what extent a provision like this, taken from the English Act, exempts the operation of the principle laid down in the case of *Rylands v. Fletcher*. There are properties, especially in the country districts, which are not covered by insurance, and may suffer damage as a result of fire originating in another building. While it is true that negligence must be proved in such a case I feel that the adoption of this legislation might result in the police not pursuing minute investigations into the circumstances of a fire which might establish negligence. We have to be cautious about introducing legislation of this kind and taking it out of its context in the English Act.

The PRESIDENT : I would like to remind the hon. Member that the Council is not in Committee.

The ATTORNEY-GENERAL : As I explained to hon. Members in my opening remarks, representation was made to Government in this matter, and that the Fires Prevention (Metropolis) Act of 1774 has only two sections now remaining. One of those sections (83) deals with money insured on houses burnt, and how it is to be applied. The other section (86), as I have already said, has a marginal note which says :

"No action to lie against a person where the fire accidentally begins".

On the question of negligence I will read from *Halbury's Laws of England*, Second Edition, Vol. XXIII,

at page 624, where there is a note which says:

"Fires Prevention (Metropolis) Act, 1774 (14 Geo. 3. c. 78), s. 86. Although this is a local Act, this provision applies to the whole country. It does not, however, affect agreements on the subject between landlord and tenant (ibid); . . . Liability was by this Act removed from one on whose premises fire accidentally commenced. Doubt at one time existed whether in view of this provision liability would attach to an accidental fire, even if there were negligence in causing it . . . but it is now decided that where negligence is proved liability will still attach . . . The effect, therefore, is that, if a fire be proved to be accidental, the plaintiff must show that there was negligence before he can recover".

That covers the hon. Member's point, and I do not think hon. Members need have any fears about this motion. It is only to introduce a measure which has been the law for almost two centuries in England, and on which the Courts have made pronouncements, the result of which is that once negligence is established the householder is not exonerated. One appreciates the fact that fire can start accidentally without there being any question of negligence whatever, and as the law stands a person would be responsible for something which every reasonable person would be satisfied was not due to negligence.

Motion put, and agreed to.

WIDOWS AND ORPHANS PENSION  
(AMENDMENT) BILL, 1951.

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

"An Ordinance further to amend the Widows and Orphans Pension Ordinance".

This Bill seeks to reduce the minimum number of contributors required to vote at an election of Directors of the Fund from 50 per centum to 25 per centum and to repeal section 26 of the Principal Ordinance which

enacts that the widow of a contributor to the Fund who marries again shall cease to receive a pension from the date of marriage. Representations were made by certain associations including the British Guiana Civil Service Association, the Professional, Technical and Administrative Officers' Association and the Post Office Workers' Union for the consideration of certain proposals and amendments relating to the Ordinance. There was a meeting between the directors of the Fund and representatives of these associations some time last year, and the directors of the Fund accepted the two suggestions made by the representatives and it was agreed that the number of contributors required to vote at an election of directors of the Fund should be reduced from 50 to 25 per cent. This Bill is a result of the representations made and the discussions which took place with the directors of the Fund. I think hon. Members will agree that in both cases these recommendations can be very well implemented by the legislation which we now seek to have enacted. I beg to move that this Bill be now read a second time.

The COLONIAL SECRETARY seconded.

Mr. ROTH: There is one point that I am not quite in agreement with, and that is the leaving of the provision in the Principal Ordinance whereby a widow under the Fund continues to receive a pension, if she marries again. If a widow marries again she ceases to be a widow. I do agree that on the demise of her second husband she should come back into the Fund, but if her second husband is alive she is no longer a widow. I should like an amendment to provide that in case of the death of her husband and she becomes a widow again, she should come back into the Fund.

Mr. FERNANDES: This provision was made and accepted in order to prevent widows of deceased civil ser-



vants from being forced to live immoral lives in order to retain their position. It was felt that they were entitled to their pension because it was contributed to by their husbands and, normally, they were entitled to it. Had there been an insurance policy for the payment of a pension at the end of the life of any one of the married couple, that pension would have been paid whether the widow married again or not.

Mr. WIGHT: I am rather glad to see that Government has found it necessary to restrict immorality in this way, under the Widows and Orphans Pensions Ordinance. I hope that will be considered at the next Budget Session when we are considering the question of income tax. It seems to me that the same Ordinance should apply then. If a married woman has an income and her husband has an income also, it would be perfectly easy for them to divorce and live in concubinage with each other. If Government gives approval to this Bill it should also give consideration to the Income Tax Ordinance whereby persons, in order to save a few dollars, might violate the law and the sanctity of their marriage contract. I believe that such a thing obtains at present in certain places, and I hope Government would give due weight and consideration to the matter. I see the hon. Member for Western Berbice looking at me, and I feel sure he would support an amendment on the part of Government if he is satisfied to that effect.

Motion put and agreed to.

Bill read a second time.

#### COUNCIL IN COMMITTEE

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

Clause 2—*Amendment of section 12 (2) of the Principal Ordinance,*

The ATTORNEY-GENERAL: I beg to move the insertion of the word "per" between the words "twenty-five" and "centum" in the last line.

Amendment put and agreed to.

Clause 2, as amended, passed.

Council resumed.

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

The COLONIAL SECRETARY seconded.

Motion put and agreed to.

Bill read a third time and passed.

#### WIDOWS' AND ORPHANS' PENSION (AMENDMENT NO. 2) BILL, 1951.

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

"An Ordinance to amend the Widows' and Orphans' Pension (Amendment) Ordinance, 1950."

Section 2 of the Widows' and Orphans' Pension (Amendment) Ordinance, 1950, enables an officer who was a contributor under the Palestine Widows' and Orphans' Pensions Ordinance, 1944, immediately before the termination of the mandate, to make a lump sum payment under the Widows' and Orphans' Pension Ordinance, Chapter 207, equal to the accumulated contribution he had paid under the Palestine Ordinance. This Bill now seeks to provide that section 2 should apply only to those officers transferred direct from Palestine to the service of the British Guiana Government.

I think hon. Members will recall that the original Bill was published in June, last year, and was enacted in July. I do not think there were many officers affected, and it

was not anticipated that there would be many cases arising under section 2 of the Ordinance, No. 33 of 1950. The intention was that it should only apply to officers transferred direct from Palestine to this Colony, but the wording of the section is wide enough to make it applicable to other officers. It is, therefore, desirable that this section should be amended in order to avoid any misapprehension with regard to the legislation, and not to exclude any officer with intervening service in British Guiana. I beg to move that this Bill be now read a second time.

The COLONIAL SECRETARY seconded.

Mr. FERNANDES: I would just like to ask whether this amendment will affect any person already in the Service in British Guiana.

The FINANCIAL SECRETARY & TREASURER: No, it only affects officers who would be transferred to the Colony from Palestine. At the moment there are only two officers to whom the Ordinance will apply, if passed. I can see no possibility of the Ordinance being applied to anyone else, because they would have to be transferred direct from Palestine to this Colony. The point is that in order to qualify for the concession which the amendment is allowing, the officer must come direct from Palestine.

The COLONIAL SECRETARY: This particular Bill does not affect any officer at present in the Service. The fact is that the Secretary of State has pointed out that as the Principal Ordinance stands it might also cover, in future, other persons who come into the Colony from Palestine but in the meantime has served in other places.

Mr. FERNANDES: That is the answer I wanted. I think that is correct. As long as the Bill does not affect anyone already in the Service it is all right.

Motion put and agreed to.

Bill read a second time.

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

Council resumed.

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

Mr. WIGHT seconded.

Motion put and agreed to.

Bill read a third time and passed.

#### MATRIMONIAL CAUSES (AMENDMENT) BILL, 1951

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

“An Ordinance to amend the Matrimonial Causes (Amendment) Ordinance, 1950.”

Hon. Members will recollect that this matter was considered towards the end of last year and that the Bill sought to provide that the Court should have jurisdiction to entertain a petition for divorce brought by a wife on the ground of desertion where she was domiciled in this Colony immediately before the marriage. In the course of the consideration of the Bill in the legislative Council, certain amendments were made to clause 2, but a consequential amendment to clause 4 was omitted. As a result of the omission to make the consequential amendment referred to, the Matrimonial Causes (Amendment) Ordinance, 1950 empowers the Court to entertain a petition presented by a wife on the ground of cruelty where she was domiciled in the Colony immediately before marriage, but does not confer such jurisdiction on the Court in the case of a petition presented by the wife in the case of desertion. This result was not intended, as hon. Members will appreciate. This

Bill now seeks to empower the Court to entertain a petition for divorce presented by a wife on the ground of malicious desertion, instead of on the ground of cruelty where she was domiciled in the Colony immediately before her marriage. The section it affects is section 4 of the *Matrimonial Causes (Amendment) Ordinance, 1950*, which reads:—

“Anything in the provisions of section two of the Principal Ordinance to the contrary, notwithstanding, the Court shall have jurisdiction to hear and determine any petition for divorce presented by a wife on the ground specified in paragraph (b) of subsection (1) of section nine of the Principal Ordinance as substituted by section two of this Ordinance where the petitioner was, immediately before the marriage, domiciled in the Colony.”

This clause should have been amended following upon an amendment made in the course of the debate. This Bill now seeks to make the necessary amendment. Clause 2 provides that:—

“2. Section four of the Principal Ordinance is hereby amended by the substitution for the words “on the ground specified in paragraph (b) of subsection (1) of section nine of the Principal Ordinance as substituted by section two of this Ordinance” of the words “on the ground of malicious desertion.”

I beg to move that this Bill be now read a second time.

The COLONIAL SECRETARY seconded.

Mr. DEBIDIN: There is one observation I would like to make and that is, when one peruses the third and fourth paragraphs of the *Objects and Reasons* one finds some inconsistency in that the jurisdiction to be given on the ground of domicile before marriage, as expressed in paragraph 3, is not being given for both cruelty and malicious desertion. In paragraph 4 we find the peculiar wording that the “Bill seeks to empower the Court to entertain a petition for divorce presented by a wife on the ground of

malicious desertion instead of on the ground of cruelty where she was domiciled in the Colony immediately before her marriage.” The point I wish to make is that I do hope jurisdiction will be given for both grounds—cruelty and malicious desertion. I think the draughtsman should have stopped at paragraph 3. It is quite conceivable that circumstances might arise which would result in one of the spouses leaving the Colony, therefore jurisdiction should be granted on the ground of cruelty as well as on the ground of desertion. I think the hon. the Attorney-General should consider the question of deferring the Bill in order to incorporate both of those grounds. I do support him as regards the need for the amendment, because there is a definite anomaly in the amending Ordinance at present. I think he would appreciate the point that the same provision for jurisdiction by reason of domicile before marriage should apply to both malicious desertion and cruelty.

Mr. FERNANDES: I think that is exactly what the Bill intends. The original Bill permitted a person to get a divorce on the ground of cruelty if that person was domiciled in the Colony before marriage, but at the time that was passed cases of desertion were left out. This Bill, as I see it, is intended to include desertion now, and provision for cruelty is already there. I support the Bill, providing as it does for cases of malicious desertion.

Mr. CARTER: I support the Bill, but I am concerned about one aspect of the matter. This Bill shows that even lawyers make mistakes. Some lawyers, after this Bill was passed last year, thought that cases of malicious desertion had been provided for and so they filed several petitions in the Supreme Court on the ground of malicious desertion in the usual course. If there is to be this provision now, I would suggest that in order to save litigants some useless expenditure, something should be inserted to make this Bill retrospective so that cases filed in 1950 would not

have to suffer. I think it was intended by the Attorney-General that in the Bill passed last year cases of malicious desertion should have been included. I think I am also right in saying that if this Bill is not made operative for last year cases of malicious desertion filed between then and this year would be out of Court.

Mr. LEE: I am going to support the suggestion made by the hon. Member who has just taken his seat. The Council was of the opinion that cases of malicious desertion were included when the original Bill was passed.

The ATTORNEY-GENERAL: With regard to the point made by the hon. Member for Georgetown South, I do appreciate his statement relating to the matters already filed on the ground of malicious desertion. The object of this Bill is to correct what is clearly an omission resulting from an amendment which was proposed and pursued with considerable vigour during the course of the debate.

Hon. Members will recollect the vigorous attack which was made upon the principal clause of the Bill by the hon. Member for Eastern Demerara (Mr. Debidin), with the result that there was a deletion of certain provisions, and this particular provision which hinged on those provisions which were deleted, should have been consequentially amended. That was lost sight of in the course of the debate. One cannot keep one's eyes on every point. Now the Bill comes before the Council to correct that oversight.

The hon. Member for Georgetown south (Mr. Carter) is making the point that if the correction had taken place at the time, those who have filed matters in the Supreme Court arising out of this would have been in order, and therefore consideration should be given to the question of making it retrospective to the same date when the original Bill was enacted.

Mr. CARTER: No, the point is that after the original Bill was passed last year lawyers were under the impression that provision was made for cases of malicious desertion. Cases based on malicious desertion have been filed since 1950.

The ATTORNEY-GENERAL: That is just the argument which took place in this Council on the previous occasion, and after full consideration and a considerable amount of controversy and debate, the Council decided not to accept that. I do not know how we can go behind that.

Mr. WIGHT: As regards the point made by the hon. Member for Georgetown South (Mr. Carter) it does seem to me that such a situation will hardly arise, because of the fact that malicious desertion is a continuing offence, and while it might start at a period when there was an interregnum, my friend knows very well that it would be quite possible to obtain an amendment of a petition as regards the date from which the desertion took place.

Question put, and agreed to.

Bill read a second time.

#### COUNCIL IN COMMITTEE

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

Clause 2.—*Amendment of Section 4 of the Principal Ordinance.*

Mr. DEBIDIN: I regret to say that the hon. Member for Georgetown South (Mr. Carter) has fallen into a grave error. He has probably not studied the purpose of this Bill. The Bill deals with the question of domicile and the right of a wife to present a petition to the Court for divorce. We are not dealing with the grounds for divorce which are all settled. The remarks of the hon. Member for



Georgetown South (Mr. Carter) seemed to imply that I did not know that cruelty and malicious desertion were included in the grounds for divorce. The original Bill contained all three grounds—malicious desertion, cruelty and unsound mind. This Bill seeks to give a wife the right to present a petition for divorce on the ground of malicious desertion, provided she satisfies the Court that she was domiciled in the Colony before she became married. By the removal of the ground of desertion for three years, and the substitution of the ground of malicious desertion, a wrong reference has been made only to the ground of cruelty. That was my point which, apparently, was not understood.

The hon. the Attorney-General is seeking in this Bill to delete from section 4 of the Principal Ordinance the words "on the ground specified in paragraph (b) of subsection (1) of section nine of the Principal Ordinance as substituted by section two of this Ordinance."—which is the ground of cruelty. If he removes the ground of cruelty he would be giving the right to present a petition only on the ground of malicious desertion. A similar situation may arise on the ground of cruelty. The hon. Member for Georgetown South seems to suggest that malicious desertion was not a ground for divorce before. It has been before and since that amending Ordinance, a ground of divorce, and I have presented several petitions on that ground before and after that amendment. I think the hon. the Attorney-General agrees with me that a wife should have the right to present a petition for divorce on the ground that she was domiciled in the Colony before she was married.

The CHAIRMAN: I would ask hon. Members to be careful about handing up amendments with respect to this Bill which is necessitated by the fact that an amendment was made in the course of the debate on the previous Bill and there was an oversight regarding its effect upon this particu-

lar section of the Ordinance. It was pointed out by the Secretary of State's legal advisers, and also by certain practising barristers here, and as a result we have this amending Bill before us. I should hesitate to allow another amendment to be introduced at this stage.

Mr. CARTER: I think the amendment which was made on the last occasion was moved by a solicitor and not a barrister. (Laughter.)

Mr. DEBIDIN: There was no amendment. The position is that something was not amended.

Mr. CARTER: I must point out that the last speaker was in error when he said that I was under the impression that no provision was made for malicious desertion. Malicious desertion was omitted from a section of the previous amending Bill, but we all know that it is a ground for divorce. The reason for introducing the whole section was to include lunacy as a ground for divorce, but there was some confusion during the debate, and the ground of malicious desertion was omitted. I agree with the hon. Member for Eastern Demerara (Mr. Debidin) that we should include all the grounds in the new amendment, and not merely substitute malicious desertion for persistent cruelty.

Mr. WIGHT: I am inclined to suggest that the entire Matrimonial Causes Ordinance be subject to scrutiny and revision. I feel that these frequent amendments lead to considerable confusion even in the minds of lawyers who find it very difficult to advise in matrimonial matters. Hon. Members have referred to the question of domicile but I would remind them that there is an Ordinance which applies both here and outside the Colony, whereby a married woman is not tied down now to her husband's nationality as she was before. She can retain her own nationality and her own domicile.

I quite agree with you, sir, that amendments made in Council without due consideration of their effect on other sections of an Ordinance may lead to a certain amount of chaos. It supports the point I have made on several occasions, that in view of the frequent amendments there is need for consolidated Ordinances. Hon. Members who are practising members of the Bar will no doubt agree with me when I say that it is becoming increasingly difficult to keep abreast of these frequent amendments. If the hon. the Attorney-General thinks it is necessary to reconsider the position I would suggest that consideration of this Bill be deferred. Perhaps a Select Committee might be appointed to consider the whole Ordinance.

The ATTORNEY-GENERAL: The position is that the amendment sought to be made by this Bill is a matter of urgency, because the section as passed in the Ordinance of 1950 has created an anomalous and inconsistent position. Certain hon. Members, however, wish to have the position further inquired into with respect to the question of domicile applying to cruelty as well as desertion but, personally, I would not wish any hasty amendment to be passed by the Council. It is all very well to sit down and hurriedly put words together, but those words ultimately have to stand careful scrutiny and examination by Courts of law, and in a matter such as divorce, which is constantly engaging the attention of the Courts, it is desirable that the language which is used should be accurate, and that there should be no room for any anomalies and inconsistencies. If hon. Members who practise in the Courts are minded to submit amendments they may do so, but I would suggest that there should not be hasty scribbling of amendments.

Mr. DEBIDIN: I move that the following be substituted for clause 2 as printed in the Bill;

"2. Section 4 of the Principal Ordinance is hereby amended by the substitution of the word 'grounds' for the word 'ground' and the deletion of the words 'paragraph (b) of' in the fourth line thereof."

Sub-section (1) contains the three grounds, therefore by the deletion of those words in paragraph (b) we would be enlarging the scope to include all the grounds in paragraph (1).

The CHAIRMAN: As I have already said, I am not prepared to proceed with any amendment of this Bill until the Law Officers have had time to study it. The purpose of this amending Bill is to put right the hiatus created by the insertion of an amendment during the debate on the original Bill.

The ATTORNEY-GENERAL: Is that the only amendment?

Mr. CARTER: If the Bill is to be deferred until the next meeting of the Council I would ask the hon. the Attorney-General to consider whether this new amendment should not be made retroactive, to take effect as from the 1st January, 1950.

The ATTORNEY-GENERAL: I move that the Council resume with leave to the Committee to sit again.

Council resumed.

#### SUGGESTED ABOLITION OF RICE MARKETING BOARD.

The next item on the Order Paper was a motion by Mr. DEBIDIN which read as follows:

Whereas the rice industry in British Guiana is one of the largest industries and offers greatest scope for expansion and absorption of the Colony's steadily increasing population;

And Whereas the Rice Marketing Board functioning under the Rice Marketing Ordinance, 1946, has been controlling

the price of paddy as well as is the sole marketing organisation for the export of rice;

And Whereas the present price of paddy is uneconomic for the majority of rice farmers;

And Whereas the cost of production and other circumstances demand that the price of paddy be not less than \$5.00 per bag of 140 pounds;

And Whereas the ability to pay this purchase price for paddy would depend on the Board securing immediately for the unexpired period of the contracts between the Board and the last Contracting Colonies in the West Indies at least the minimum world market prices for the rice exported to the Colonies;

And Whereas the following motion was carried in the Legislative Council on the 24th of November, 1950 "that this Honourable Council recommend to Government that they request the British Guiana Rice Marketing Board to approach the Governments of the Caribbean Colonies concerned with a view to securing such an increase in the export price of rice as would bring it on a level with prevailing average world market prices of equivalent grades";

And Whereas the Rice Marketing Board took no action on this Resolution;

And Whereas it should be apparent to the Board, and to the Contracting Colonies, that devaluation of sterling and various other supervening causes, which have affected and will affect cost of production considerably, and which could not have been contemplated at the time the contracts were made between this Colony and the Caribbean Colonies concerned for the supply of rice at the prices fixed thereunder, would make it proper to repudiate, vary or reopen the said Contracts in so far as the selling prices are concerned, and the Board ought in all circumstances to have taken steps to secure payment immediately of at least the minimum world market prices by the Contracting Colonies;

And Whereas the functioning of the Board is to be regarded as being highly unsatisfactory and inimical to the interest of rice producers in the Colony;

And Whereas the Rice Marketing Ordinance, 1946, is not in the best interest and aspiration of Rice Producers and the industry;

Now, therefore, be it resolved that this Honourable Council recommend the immediate repeal of the Rice Marketing Ordinance, 1946, and all amendments thereto, and the abolition of the Rice Marketing Board;

And be it further resolved that this Honourable Council recommend to Government that it should take immediate steps to organise and place the industry on a truly co-operative basis in the direct interest of the rice producers of the Colony.

Mr. DEBIDIN: I am asking your leave, Sir, and the leave of this Council to have this motion deferred for a while. I do not suggest that it be deferred for an indefinite period, but I wish to draw attention to the fact that, as published in the Press, there is at present a dispute between the Rice Marketing Board and the Government of Trinidad with respect to the contract price for the export of rice from British Guiana. Personally I feel that the time has come when we should call Trinidad's bluff and let it be known that we can export our rice to other countries.

Mr. FERNANDES: To a point of correction. I would like to say that there is no dispute between the Rice Marketing Board and Trinidad over the proposed new price for our rice. The position is that we have not received a reply from Trinidad, as stated in the Press.

Mr. DEBIDIN: I have seen something else, but in view of the fact that the hon. Member who has spoken is the Chairman of the Rice Marketing Board, I am prepared to accept what he has said as being more correct than the information I have gathered, that the matter might reach the point of arbitration. In the circumstances I think it would be expedient to defer consideration of my motion, because while it does not concern the question of the contracts with the West Indian Islands discussion of it at this stage might prejudice the negotiations which

are taking place. The fact remains that if my motion is accepted it would mean that contemporaneously with the abolition of the Board a co-operative organization would have to be established, and would have to accept whatever contract is entered into with the present Board.

The PRESIDENT: I am not quite clear what the hon. Member is driving at. Is he speaking against his own motion which suggests that Government should take immediate steps to do certain things?

Mr. DEBIDIN: If it is your wish, Sir, that I should proceed with this motion I shall be willing to do so. I was willing to defer it in the interest of the rice producers, in view of the negotiations which are taking place with Trinidad.

Mr. LEE: If the hon. Member wishes to have his motion deferred he could move accordingly.

The PRESIDENT: I was merely pointing out that to defer a motion which asks that immediate steps be taken, would be rather a contradiction.

Mr. DEBIDIN: It is because of that excuse that I am asking for a deferment. If it is passed now it would mean that immediate steps would have to be taken. I think what I have said is quite reasonable. I am asking that in view of the remarks I have made that this motion be deferred for a while—perhaps, until the conclusion of the agreement with Trinidad.

Mr. FERNANDES: The hon. Member has asked that the motion be deferred, but I think I have a right to say that I am against that.

Mr. WIGHT: To a point of order: The motion for the deferment has not been seconded.

Mr. LEE: I will second the motion for the deferment.

Mr. FERNANDES: I am sorry for rising before my time, but I am going to oppose the deferment of the motion. This motion asks, as you have said, sir, for immediate action. If it is the desire of the rice producers in this Colony to abolish the Board, I think the best time would be now. The hon. Member for Eastern Demerara has always been complaining about his motions being deferred and kept back by Government, and now that he is being given an opportunity to debate this one—a motion which calls for the immediate abolition of the Rice Marketing Board—he does not want to move it. If it is deferred at all, it would mean for such time as the hon. Member sees fit to bring it forward, but it was tabled for immediate action.

Mr. DEBIDIN: The hon. Member has misinterpreted the motion. The word "immediate" would only come into play if the motion is accepted by this Council.

Mr. WIGHT: I am going to support the opposition to the deferment of this motion. I do so because there are two places in which the motion calls for "immediate" action. One is where it calls for the "immediate" repeal of the Rice Marketing Ordinance, 1946, and all the amendments thereto; and the other is where it calls for the taking of "immediate" steps to organise and place the industry on a truly co-operative basis. I would add further to what the hon. Member for Georgetown Central has said, by expressing the view that all those interested in the rice industry would seriously oppose the repeal of the Rice Marketing Ordinance or the abolition of the Board at any time. If the motion is deferred we would have a certain amount of uncertainty in the minds of those to whom this industry means so much. They would be told or left to infer that the Rice Marketing Board is doing something they do not desire. They are in the throes of the planting for the October crop and there would be uncertainty in their minds as to what is going to



happen to the industry, and what are the immediate steps which Government will take to organise the industry on a co-operative basis. It seems to me that if this motion remains on the Order Paper in any shape or form it would do nothing but disturb the minds of those who desire these things. I think the rice producer would be the last person in this Colony to want the abolition of the Rice Marketing Board.

Mr. DEBIDIN: I would like to ask the hon. Member what is his authority for saying that, because he is absolutely wrong.

Mr. WIGHT: I would like to point out that I always give way when the hon. Member rises because I expect him to be right in doing so, but I must ask the hon. Member to observe the Rules of this Council. The hon. Member had no right to interrupt me. I am entitled as any other hon. Member, to express my views and I am never afraid to do so, either inside or outside of this Council. I repeat that this motion is indirectly against the interest of the rice producers in this Colony, and to defer it would create uncertainty in their minds. Therefore, I oppose the motion for its deferment.

Mr. LEE: I think we are all out of order, Sir.

The PRESIDENT: I think the hon. Member has already spoken.

Mr. LEE: No, Sir; I only seconded the motion. What I am saying is that the mover of any motion on the Order Paper can ask leave of the President to defer it for another day. That does not need any seconder or otherwise, and the hon. Mover is asking the Chair to permit that. If the Chair feels like granting that leave it would do so. In the past I myself have had to ask for the deferment of motions which I tabled, and in each case I just asked the Chair for leave to defer it for another day. The alternative which the hon. Member for Eastern Demerara

has is to withdraw his motion and bring it back next week if he wishes to. I think we are all out of order and not adopting the right procedure.

The PRESIDENT: I think we are quite in order. I have to hear the opinion of the Council as to whether the motion should be proceeded with or not.

Dr. JAGAN: I am going to vote against the deferment of the motion. For one thing, I know that paper is very costly in these days and that it takes a lot of time to mimeograph a motion like this—when it is so long. If the hon. Member wanted to have the motion deferred he should have informed the Clerk of the Council and the motion would have been taken off the Order Paper and left to await his convenience. While the hon. Member for Essequibo River has said that in the past he was permitted by the President to defer motions he had tabled, I think that after a motion has been put on the Order Paper only the Council can allow it to be withdrawn or deferred.

The PRESIDENT: The position is that according to Rule 9 the business should be taken in the Order arranged. If the hon. Member is requesting that the motion be deferred he is really moving a suspension of the Standing Rules and Orders, and that is a matter for the Council. I will put the question to the Council that the hon. Member has moved—that the motion be allowed to stand down for some subsequent date.

Motion put, the Council dividing and voting as follows:—

For: Messrs. Debidin, Lee and Dr. Singh—3.

Against: Messrs. Gajraj, Carter, Peters, Kendall, Dr. Jagan, Fernandes, Farnum, Wight, the Financial Secretary and Treasurer (Acting)—9.

Did not vote: The Attorney-General and the Colonial Secretary (Acting)—2.

Motion lost.

The PRESIDENT: Will the hon. Member for Eastern Demerara proceed with his motion?

Mr. DEBIDIN: I am very grateful for having got the opinion of this Council on the motion. I see exactly how the wind is blowing. I shall go to the people of the country, and I intend to bring the motion back again after I have had the people stirred.

Mr. FERNANDES: I am not sure whether the hon. Member has the right to withdraw the motion without the consent of the Council. If the Council does not give him permission to do so then, I think, he should not withdraw it.

Mr. WIGHT: I quite agree with the hon. Member for Georgetown Central that the motion has been put before the Council for discussion. It is on the Order Paper and the business of the Council must be carried on. I am submitting that without the leave of the Council the motion cannot be withdrawn. I also submit that the Attorney-General, having heard the discussion, will corroborate what I have said. The leave of the Council is necessary for the deferment or withdrawal of a motion while it is on the Order Paper, in spite of what the hon. Member for Essequibo River has said.

Dr. SINGH: I have been a Member of this Council for about 22 years and such action has never been taken before. I regret that it is being taken today under your Chairmanship, Sir.

Mr. DEBIDIN: I may point out that I have only been here for a few years, but my challenge is that Mr. Debidin remains unmoved and has never been made to run away from whatever stand he has taken.

Dr. JAGAN: I may point out to the hon. Member that if he did not intend to move the motion today all he had to do was to walk out before it came up. He can do so even now while I am speaking. The motion has not been formally moved and seconded as yet, and if he chooses to walk out he can do so. I have not seconded the motion but that does not say I am not in agreement with some of the things said in it. I would prefer the hon. Member to move it, and in that case I will second it. There are lots of things wrong with the Rice Marketing Board and I, personally, would like to have a full and frank discussion of everything. I see no reason why we should refrain from discussing the motion now because a rice contract is being entered into with Trinidad. I urge upon the hon. Member to proceed with the motion.

Mr. LEE: Again I feel that we are proceeding in the wrong direction. I feel that a Member who has tabled a motion has a right to ask the leave of the Chair to withdraw it. I will say that unless Rules can be produced to show that I am wrong.

Mr. WIGHT: To a point of order. The hon. Member has submitted that the procedure we are adopting is wrong, but I reiterate that once a motion has been put on the Order Paper it can only be withdrawn with the leave of the Council.

Mr. DEBIDIN: The hon. Member has not risen to a point of order: He is making a speech on the motion.

Mr. LEE: If the Council permits the motion to be deferred I sincerely hope that the hon. Member for Eastern Demerara would amend the resolution. There is no doubt that the rice producers desire to have a single-selling organisation, but not as stated in the motion.

The ATTORNEY-GENERAL: I think the last speaker has made several speeches already. The point is that the hon. Member for Eastern Demerara can only withdraw the motion with the leave of the Council. If a motion has

been put on the Order Paper and the Council has seen it, it can only be withdrawn with their leave. What the hon. Member for Essequibo River is referring to is the fact that the Chair gives consent on behalf of the Council to withdraw a motion but, constitutionally, a motion can only be withdrawn with the leave of the Council. The Council accepts the ruling of the Chair that the motion may be withdrawn, but hon. Members have already expressed their views and it is a question for this Council as to whether the hon. Member will be allowed to withdraw his motion. If the hon. Member wants methods adopted which are adopted in another place, that is a different matter; but so far as constitutional procedure is concerned he has to get the leave of the Council.

The PRESIDENT: These matters of procedure are very often particularly difficult, especially as we have landed in this Council under a different Constitution. We are being guided by the procedure in the House of Commons and, according to May's Parliamentary Practice, an hon. Member can only withdraw a motion with the leave of the House and without a dissenting voice.

Mr. DEBIDIN: I move that the Council be adjourned, as it is now 5 o'clock.

Dr. JAGAN: I beg to second that.

The PRESIDENT: I will take the feeling of the Council as to whether the hon. Member should be allowed to withdraw his motion.

Mr. LEE: Is Your Excellency taking the wish of the Council that the adjournment be taken now?

The PRESIDENT: If that motion is carried, then the other motion falls to the ground. I will now put the question for the withdrawal of the motion.

Motion put, the Council dividing and voting as follows:—

For: Messrs. Peters, Debidin and Lee—3.

Against: Messrs. Gajraj, Carter, Kendall, Dr. Jagan, Fernandes, Farnum, Dr. Singh and Wight—8.

Did not vote: The Financial Secretary and Treasurer, the Attorney-General and the Colonial Secretary—3.

Motion lost.

Mr. DEBIDIN: I am grateful to hon. Members for wishing to have this motion discussed. I do not mind moving it, especially if hon. Members feel that it does not affect the contract being made with Trinidad. Since it is already 5 o'clock, however, I move that the Council be now adjourned. I take it that I will proceed first thing on the date of resumption to move the motion, and I shall be very happy to do so.

The PRESIDENT: Council will now adjourn to 2 p.m., on Wednesday next, June 20.