

SECOND LEGISLATIVE COUNCIL

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

Thursday, 1st June, 1961

The Council met at 2 p.m.

PRESENT :

Speaker, His Honour Sir Donald Jackson

Chief Secretary, Hon. Major I. O. Smith, O.B.E. (acting)

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

Financial Secretary, Hon. W. P. D'Andrade.

} *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*

„ **Ajodha Singh**

—Member for *Berbice River*

„ **Jai Narine Singh**

—Member for *Georgetown South*

„ **R. E. Davis**

—Nominated Member

„ **A. M. Fredericks**

—Nominated Member

„ **H. J. M. Hubbard**

—Nominated Member.

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

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

ABSENT :

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

Mr. S. Campbell—Member for North Western District

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

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 Wednesday, 24th May, 1961, as printed and circulated, were taken as read and confirmed.

ANNOUNCEMENTS

Leave to Member

Mr. Speaker: I beg to announce that the hon. Nominated Member, Mr. Tasker, has asked leave to be absent from today's meeting.

LOCAL AUTHORITIES (CONSTITUTION, ELECTION PROCEDURE, AND FINANCIAL PROVISIONS) BILL

Mr. Speaker: Hon. Members will recollect that sometime ago, a Bill intitled the Local Authorities (Constitution, Election Procedure and Financial Provisions) Ordinance, 1960, was debated on the Second Reading and Council decided that a Select Committee be appointed to consider the Bill and to report thereafter.

The hon. Minister of Community Development and Education was Chairman of that Committee, and the other members were: the Member for New Amsterdam, Mr. Kendall; Nominated Member, Mr. Gajraj; the Member for Georgetown Central, Mr. Burnham; and the Member for Georgetown South, Mr. Jai Narine Singh.

The Chairman of the Committee held three meetings of that Select Committee. One was summoned for the 6th February, this year; that fell through for want of a quorum. Another was summoned for the 20th February; that also fell through for want of a quorum. The Chairman, therefore, thought it necessary to attract the notice of the Committee to this fact. He, therefore, caused a special notice to be sent to the members of that Committee, intimating that two meetings had fallen through for want of a quorum and asking members to try to be present at the third meeting.

That third meeting was called on the 13th March, 1961 and, unfortunately, the request was either not heeded or forgotten. That also fell through for want of a quorum. It is right for me to say that there was one member, beside the Chairman, who was present on all occasions, the Member for New Amsterdam, Mr. Kendall.

You will find in your notices today, that the Bill is placed on the Supplementary Order Paper, and I propose, with your concurrence, to have the Bill put back on the agenda of the next meeting, or as soon as practicable thereafter, for the attention of the Committee of the whole Council. I do express the hope that a situation like this would not occur again. I do not know of its parallel in the history of this Council.

ORAL ASKING AND ANSWERING OF QUESTIONS**LEASE TO HOG ISLAND CO-OPERATIVE SOCIETY**

Mr. Jai Narine Singh: Mr. Speaker, I beg to ask the Minister of Natural Resources Question No. 11 standing in my name on the Order Paper: Will the Honourable Minister of Natural Resources state whether Government proposes to execute a lease to the Hog Island Co-operative Society, Registration No. 398 of 1954, for lands which the members have applied for since the year 1954, and for which they have paid the necessary fees, etc.? If so, when will the lease be executed? If not, why not?

The Minister of Natural Resources Government does not propose to execute a lease to the Hog Island Co-operative Society for lands which the members had applied for in 1954.

A survey of the area has disclosed that the land in which the Society is interested forms part of private property

(Pln. Hoop-en-Vries) and is therefore not available for allocation by Government.

CRABWOOD CREEK SELF-HELP HOUSING SCHEME

Mr. Bowman : Mr. Speaker, I beg to ask the hon. Minister of Labour, Health and Housing Question No. 16 standing in my name on the Order Paper: Will the Minister of Labour, Health and Housing ascertain whether an undertaking was given by the Community Development Organizer to the members of the Crabwood Creek Self-Help Housing Scheme to the effect that if members of the Scheme built self-help houses in the area, fifteen acres of land would be given each family for the cultivation of rice? If the answer is in the affirmative, will the Minister say when the Government proposes to implement the proposal?

The Minister of Labour, Health and Housing: The answer is: No, Sir. No undertaking was given.

INTRODUCTION OF BILLS

The Attorney-General (Mr. Austin): I beg to move the introduction and First Reading of the

- (i) Miscellaneous Enactments (Amendment) Bill, 1961.
- (ii) District Courts Bill, 1961.

The Minister of Community Development and Education (Mr. Rai): I beg to move the introduction and First Reading of the

- (i) Georgetown Town Council (Amendment) Bill, 1961.
- (ii) Local Government (Amendment) Bill, 1961.

ORDER OF THE DAY

BILLS — FIRST READING

The following Bills were read the First time:

- (i) A Bill intituled "An Ordinance to amend certain enactments."
- (ii) A Bill intituled "An Ordinance to provide for the establishment of District Courts and for matters pertaining to such Courts."
- (iii) A Bill intituled "An Ordinance to amend the Georgetown Town Council Ordinance."
- (iv) A Bill intituled "An Ordinance to amend the Local Government Ordinance."

DR. JAGAN ILL

Mr. Speaker: Hon. Members, I am sure you will permit me to interpose, at this stage, to intimate that the Minister of Trade and Industry is ill in hospital and, as a result, has asked leave of absence. We do hope that his ailment will not be prolonged.

REPRESENTATION OF THE PEOPLE (AMENDMENT) BILL

The Council resumed the debate on the Motion for the Second Reading of the following Bill:

A Bill intituled "An Ordinance to amend the Representation of the People Ordinance, 1957.

Mr. Speaker: If my recollection is correct, at the adjournment the hon. the Chief Secretary was replying to the debate, or was about to reply.

The Chief Secretary : Sir, as I have explained, a number of the points raised by the hon. Members when the Representation of the People (Amendment) Bill was being debated last week were in fact very carefully gone into. The hon. Member for Georgetown Central (Mr. Burnham) had raised the question, among others, of the extension of voting by proxy and the introduction of postal voting.

As regards voting by proxy, after careful consideration it was decided that the facility should not be extended beyond that laid down in the Principal Or-

[THE CHIEF SECRETARY]

dinance. It was felt that the categories would have to be extremely carefully limited, if not they would give rise to abuse and possible election petitions.

When it came to the introduction of postal voting, it was considered that this is a very complicated system which would also give rise to abuse. Apart from that, it will not be physically possible, because of the fact that there will be a very short time between the printing of the forms and Nomination Day, for distribution to the electoral districts in the outlying areas to enable persons to record their votes and return them in time for polling day. Any system which cannot be universally applied, it is felt, should be excluded.

On the question of the method of voting, again it was considered that we should not turn back the hands of the clock, and that the 1957 system should be retained. The 1957 system worked very well, and it is a matter of fact that of the votes that were polled under it only point seven (.7) of one percent were rejected in one way or another; and the various political parties have agreed that on this occasion there should be a common symbol for the candidates of each party, which would facilitate the casting of votes by even those who may be semi-literate. I am sure that will work satisfactorily.

The hon. Member for Georgetown Central also made the suggestion that provision should have been made for the right to challenge the vote by a candidate or by his agent. He thinks this would be an additional deterrent for persons pretending to vote and not being qualified. But I think that is covered by clause 9 of this Bill, which repeals section 27 of the Principal Ordinance.

The new section 27 (5) states:

"An elector, if required to testify as to his right to vote by the presiding officer, the poll clerk, one of the candi-

dates, or an agent of a candidate or by an elector present, shall, before receiving his ballot paper, take an oath or make an affirmation in the form as set out as Form No. 12 in the first schedule, and if he refuses to do so, an entry to that effect shall be made in the poll book and erasing lines shall be drawn through his name on the copy of the official list of electors furnished under subsection (1) of section 34, and he shall not be admitted to vote or be again admitted to the polling place."

There is provided that right of challenge.

The hon. Member also raised the question about the fact that in section 28 (1) (9) reference was made to Regulations to be made by the Governor. Section 11 (2) of the Principal Ordinance states that all Regulations made by the Governor in Council must be laid before the Legislative Council. Under the Constitution the "Governor" in this context is the "Governor in Council". I do give the assurance that all Regulations made under the Ordinance will be laid before the Legislative Council.

The hon. Member for Georgetown North (Mr. Jackson) raised the point that special arrangement should be made for the Police with regard to the casting of their votes. I can assure hon. Members that this is being looked into very carefully by the Commissioner of Police. Members of the Police Force, as far as can be arranged, will vote in their polling divisions, or otherwise arrangements will be made for them to vote by proxy.

Mr. Speaker: The question is, "That the Bill be read a second time."

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

Clauses 1 to 8 passed as printed.

Clause 9.—*Electors to vote only in polling division upon list for which their names appear.*

Mr. Bowman : I would like some amendments to be made to this clause. These amendments have been circulated. May I read them?

The Chairman: Are you proposing Amendments?

Mr. Bowman : I would like to delete the words "at any election" in the last two lines of the proviso, and insert a semicolon after the word "district".

The Chairman: Where do you want this semicolon?

Mr. Bowman : I will try, Sir.

The Chairman: I understand the first Amendment—that the words "at any election" at the end of the proviso to 27 (2). You want a semicolon somewhere.

Mr. Bowman : After the word "district" in the third line of the same proviso. After the semicolon I would like the following words to be inserted: "and any person found voting more than once in any electoral district, or voting in more than one electoral division, shall be liable to six months imprisonment without the option of a fine".

The Chairman: Anything else?

Mr. Bowman : I do not know if Your Honour intends to proceed to the next Amendment before deciding those Amendments I have proposed.

The Chairman: Perhaps, we had better take them one by one.

Mr. Bowman : My reason for introducing these Amendments is just what I said during the debate on the Motion for

the Second Reading last week. I said then that I had received many complaints that young people who had not reached the age of 21 years have registered their names as qualified voters. I said too, if that be the case then certain candidates and some of the political parties should do all they can to stop any such thing. I think these Amendments will be a great deterrent, as persons will know that they will be severely dealt with and sent to prison without the option of paying a fine, if they are caught in such practices. We should do everything possible to discourage people who, normally, without thinking of the importance of the election, would try to vote merely to make the party or the candidate they like win. This election will decide whether this country will remain within the orbit of the West or will join the Eastern section of the world — the Communist section.

The Chairman: You are dealing with the Amendment now.

Mr. Bowman : I am giving the reason why I have introduced the Amendment. It is for this Council to decide whether the Amendment is justified. I think it is, and I am leaving it to Members to decide. If they want to allow people to flout the electoral laws, which may cause certain people to lose at the election and place the country in the hands of those who are on the Communists' side, it is up to them. I am trying to prevent people from flouting the electoral laws, and to make sure that the people to whom I have referred do not win.

The Attorney-General : Sir, the hon. Member is apprehensive that no sanction is provided in the section for voting more than once, and he seeks to insert a penalty in subsection (2). But, in point of fact, a penalty is already provided by the Ordinance, and the scheme of the Ordinance is that the penal sec-

[THE ATTORNEY-GENERAL]

tion which deals with all voting offences is found under Section 75 which reads as follows:

- "75. (1) Any person who —
- (a) Votes as an elector otherwise than by proxy, either
 - (i) more than once in the same electoral district at any election; or
 - (ii) in more than one electoral district at a general election; or
 - (iii) in any electoral district at a general election, when there is in force an appointment of a person to vote as his proxy at the election in some other electoral district; or
 - (b) applies for a person to be appointed as his proxy to vote for him at any election without applying for the cancellation of a previous appointment of a third person then in force or without withdrawing a pending application for such an appointment;
 - (c) votes as a proxy for the same elector either —
 - (i) more than once in the same electoral district at any election; or
 - (ii) in more than one electoral district at a general election, shall be guilty of an illegal practice."

Any person who is guilty of an illegal practice under Section 76 is liable, on summary conviction, to a fine not exceeding five hundred dollars, and he shall be incapable of being registered as an elector, or voting, for a period of five years. Therefore the fear of the hon. Member is met by this provision, and I feel that his Amendment is not necessary. In fact it would be wrong to duplicate the penalty and put it in this part of the Ordinance.

Mr. Bowman : Sir, the hon. Attorney-General has given the impression that, perhaps, I am suffering from some misapprehension. It is nothing of the kind. I see that provision is made in

Clause 17, 36A (6) (b), for fines and imprisonment. I am saying that this election is so important that the greatest deterrent should be applied. I think the greatest deterrent would be to put such persons in gaol without the option of a fine. There are some people who would flout the law deliberately and pay a fine. I feel that people should not be permitted to do that, and such people should be sent to gaol without the option of a fine. That is the reason why I have introduced this Amendment. If hon. Members consider this election as seriously as I am, then I feel sure that they will accept the Amendment. If a man knows that he will get six months for committing such an offence he will not take the chance.

Mr. Tello: Sir, I appreciate the information offered by the hon. Attorney-General, but it comes within the realms and nicety of legal language and practice. We are dealing with something which must be understood by the ordinary man in the street. I can imagine the difficulty of someone studying this Ordinance and having to refer from one section to another in order to compare how one relates to the other.

Sir, what the hon. Member is trying to do is to offer a real service to the Colony, so that there can be no misunderstanding of what is to be expected of a voter and the penalty he will have to face if he commits an offence. I hope that the hon. Attorney-General, or one of the hon. Members on this side of the Table who are practising lawyers, would try to explain to me, a layman, what is wrong in inserting in this particular Bill the same penalties attached to a misdemeanour or illegal practices in order that the ordinary elector of twenty-one years of age, semi-illiterate or illiterate, can understand the full implication or impact of the law. If there is nothing wrong in legal practice, then I am pleading that this Amendment be given sympathetic consideration and be passed.

I endorse fully what the hon. Member says about certain people who will go to extremes and pay a fine. Since that is the case we should provide for strong deterrents, because we are dealing with an election to the most important Legislature in British Guiana's political history. For the sake of simplicity, I am pleading with Government to use simple language that is acceptable to legal custom and I am sure the hon. Member would accept it.

Mr. Burnham : Sir, I do not desire to deliver any polemic on the importance of the election. That, I think, is assumed. The information given to this Council by the hon. Attorney-General is unfair in suggesting that the Amendment moved by the hon. Member for Demerara River would amount to mere duplication because Section 76 of the Principal Ordinance provides for penalties.

If the hon. Attorney-General wants to oppose this Amendment, he owes this Council the courtesy of saying that at the same time this Government is opposed to punishment by peremptory imprisonment for voting more than once. I am inclined to the view that peremptory imprisonment would be a more effective deterrent, and we are more likely to achieve what we want by providing for such imprisonment.

If the hon. Attorney-General accepts the principle of peremptory imprisonment, I will suggest to the hon. Member for Demerara River that the Amendment be made to Section 76 (1) by the deletion of the words "fine not exceeding five hundred dollars" and the substitution therefor of the words "a term of imprisonment not exceeding six months."

Mrs. Jagan: Sir, it seems to me that while we can appreciate the anxiety of hon. Members that there should be no violation of the electoral law, and everyone would object to seeing voting

done by one person in more than one electoral district or on more than one occasion within the same electoral district, I think hon. Members are aware that Government has taken the precaution of seeing that that does not happen. I think it is wiser to prevent something from happening than to spend a great deal of time on the question of punishment.

As hon. Members will remember, following the suggestion of the hon. Member for Georgetown Central, it was agreed that persons voting will have a mark, or an ink stain, put on their finger in order to prevent them from voting more than once. Tests have indicated that it takes a very long time for this indelible ink to be removed. The hon. Attorney-General has tested the indelible ink, and I have observed the ink mark on his thumb for more than two weeks. Therefore I cannot see how any person could vote on one occasion; get the ink off his finger, and vote again the same day. That is the reason we have introduced this precaution. While I sympathize with the hon. Member for Demerara River, I do not think that his fears will materialize.

Mr. Burnham : If the Minister of Labour, Health and Housing were to proceed with her argument to its logical conclusion, we would have expected her to amend Section 75 (1) (c). If this use of indelible ink on the thumb or finger is a guarantee against voting more than once, then there is no necessity for Section 75 (1) (c). Apart from that, I have reduced her argument to the absurdity which it is. I can assure her that these stains can be removed provided you find the correct solvent, and this Government ought to know that the British Government had told them that they have not found a stain which will stand up to any solvent. It is just a question of finding a solvent. It may well be that "A" or "B" may not find a solvent, but "X" may find one; and this ques-

[MR. BURNHAM]

tion of "observing for two weeks" is nonsensical. Apart from the use of a solvent which persons may find, there is the further question of disfiguring the finger and coming back with it tied up. Are you telling me that in this circumstance you can prove, by staining, that the finger is not disfigured?

But let us go further and assume that this finger-staining is going to be a means of preventing double voting, there should be no objection to having peremptory imprisonment as a deterrent. Once you are going to have any deterrent, then let us have a deterrent which is really a deterrent, otherwise cut-out the paragraph completely. It is an insult to the intelligence of Members of this Council for a member of the Government to put forward such an argument; but, as I see, it is not a member of my profession who has put forward that argument.

Mrs. Jagan: It is the hon. Member who had suggested in the form of a Motion that we should implement his suggestion of inking the finger. He has termed his own suggestion nonsensical.

Mr. Burnham: Staining of the finger ensures the persons who have not found a solvent [*Laughter.*] The staining of the finger will ensure against double voting for a majority of people. It will make it difficult for a majority of people, but I am thinking, in this instance, of persons who can find a solvent; and any chemist will tell you that to any stain there is a solvent — to any staining of the human flesh there is a solvent — but to a majority of people a solvent may not be available and cannot be found. We want to safeguard against any person who may find a solvent, and that is all.

The Chairman: Under the question of penalty, there is another Amendment about the deletion of the words "at any election".

Mr. Bowman: I heard what the Member for Georgetown Central suggested just now concerning Section 76, and I am willing to accept his Amendment.

The Chairman: The penal Clause is Section 76 of the Principal Ordinance.

Mr. Bowman: Yes, Sir.

The Chairman: I take it you are thinking of the Section which reads thus:

"A person guilty of an illegal practice under this Ordinance shall, on summary conviction, be liable to a fine not exceeding five hundred dollars . . ."

That is what you are thinking of?

Mr. Bowman: Yes, Sir.

Mr. Tello: Mr. Chairman, may I have your guidance? Is it possible to introduce an Amendment to this Section, now?

The Chairman: In relation to what?

Mr. Tello: In relation to Section 76.

The Chairman: I do not take part in debates, but, if you will accept my opinion, I am inclined to the view that the proper place for the Amendment suggested by the Member for Georgetown Central is Section 76.

Mr. Tello: I am grateful for the advice, Mr. Chairman, but what I am trying to get from you is whether the hon. Member for Demerara River can introduce an Amendment to that Section now?

The Chairman: He can. A Member can amend any Section which may result in consequential Amendments to others. It might even amount to a revision of several other Sections.

Mr. Bowman : I am supporting the views expressed by the Member for Georgetown Central.

The Chairman : I will put the Amendments singly. The first Amendment I would put is for the deletion of the words "at any election". If no one wishes to say anything on that I will go on to the other Amendments.

Mr. Burnham : Mr. Chairman, I cannot understand why the hon. Member for Demerara River wants the deletion of the words "at any election", and he did not provide us with an explanation. I would recommend to him the withdrawal of that Amendment — the deletion of the words "at any election". [Pause.]

The Attorney-General : (Mr. Austin): Sir, I said that it is inappropriate to put a penalty in this Section, and in the scheme of this Ordinance it would not be right. The question is that all these penalties are dealt with elsewhere; but the hon. Member's Amendment is that an offence of this nature — plural voting — should involve a mandatory sentence of imprisonment. He suggested six months, and that is normally the maximum sentence of imprisonment for a summary trial before a magistrate. I think that mandatory sentences of imprisonment for summary trials are not good. On the other hand, members of the Government, who have been considering things together in order to try and meet the point, feel that what we can do — and I hope it will be acceptable — is to insert an alternative sentence of imprisonment of five hundred dollars or six months or both, which will give the magistrate a discretion. It is not very good to impose a minimum sentence because, particularly, lawyers know the number of factors which can arise and have a mitigating effect.

The difficulty about this Amendment coming in, as it were, at the eleventh hour, is that it is easy to say "put

an Amendment in here", but the Ordinance deals with a number of offences with punishments graded, and one does not want to upset the balance. I make this suggestion seeing that it fits into the pattern. We would accept the Amendment if the Member agrees to vary his Amendment that the penalty should be five hundred dollars or six months imprisonment as the maximum.

Mr. Burnham : The first observation I should like to make to the observation of the hon. the Attorney-General is that they had a long time to consider the framework of this Bill which is being presented now. I think we all knew more than a year ago that there was going to be an election, and there is nothing so far, in this Bill, which is dependent on the promulgation of the Order in Council to establish the constitution; therefore, we do not have to wait for that.

The second observation is, for myself, I am not agreeable to imposing five hundred dollars or six months or both. I would make it peremptory imprisonment. The hon. the Attorney-General said that a number of circumstances may arise from time to time. Well, if these circumstances which may be of a mitigating nature do arise, the prerogative of mercy still exists and that prerogative can be extended in suitable cases. It is necessary to have peremptory imprisonment but, if there are circumstances which the Director of Public Prosecutions, or whoever is advising the Government or person or body, thinks merit some special treatment, I say again, let them use the prerogative of mercy. Let the public know that the power of the magistrate is limited to putting them in gaol, and you will be surprised to see the deterrent effect it will have.

The Attorney General : These provisions worked perfectly well in 1957. Our Ordinance is not home-made. It is patterned on what applies in

[THE ATTORNEY-GENERAL]

many places; and the point has never been raised before. That is why the Government, in considering the last Amendment as insufficient to meet the requirement at the forthcoming election, did not consider amending this particular section and making the punishment one of a mandatory sentence of imprisonment.

I am opposed, in principle, particularly with short-term sentences given by magistrates, to mandatory sentences of imprisonment but, as I said, we are willing to meet the "Opposition's" point by a fine of five hundred dollars or six months' imprisonment. It is not out of line for punishment prescribed for other offences.

Mr. Burnham : It cannot be out of line. It follows as night the day.

The Attorney-General: The Amendment can be made in Section 76 (1). If the hon. Member withdraws his Amendment, I will move an Amendment, when we come to Section 76.

Mr. Bowman : Since the hon. the Attorney-General has given the assurance that he will insert the proposed Amendment, I am withdrawing my Amendment.

The Chairman : Are there other Amendments?

Mr. Burnham : I may be wrong, but it does seem to me that the proviso to subsection (2) of the new Section 27 is in conflict with the provision for voting by proxy. It states:

"Provided, however, that no person shall vote in more than one electoral district at a general election, or more than once in the same electoral district at any election."

The Chairman : Where is that?

Mr. Burnham : On page 3 of the Bill at Clause 9. There seems to be no exception made for persons voting as proxies, except for the inference in Section 76.

The Attorney General : Section 71.

Mr. Burnham : But 75, I think, says if you vote more than once, and that as a proxy, you shall not be committing any offence. The proviso to 27 (2) does not make any offence, it only says "shall not". Section 27 can be administrative. A presiding officer can refuse a person who attempts to vote a second time even though he is voting a second time as a proxy. That is how it appears to me.

I have been looking through the Ordinance and I have not seen anything to make me come to a different opinion. The proviso can administratively prevent a person voting as a proxy. The scheme, so far as a proxy is concerned, does not preclude a person voting for himself and as a proxy.

The Attorney General : I have noted the point. Section 27 (1) refers to the provisions made for proxies, but the proviso to subsection (2) is separate. I note the hon. Member's point and will consider it. I cannot do so at the moment.

The Chairman : The hon. Member for Demerara River (Mr. Bowman) has another Amendment which he intends to move, an Amendment to Clause 9, I think. Do you want to deal with that?

Mr. Bowman : I would like to amend clause 9 by deleting all the words after the word "so" in the seventh line and substituting the following words therefor: "he or she shall be detained by the police on duty pending an investigation into his or her qualification and

if the investigation proves such person to be an impostor the person shall be charged and a penalty of six months' imprisonment shall be imposed without the option of a fine."

Mr. Chairman : The hon. Member wants to delete the words "an entry to that effect shall be made in the poll book and erasing lines shall be drawn through his name on the copy of the Official list of electors furnished under subsection (1) of section 34 and he shall not be admitted to vote or be again admitted to the polling-place" and substitute the words "he or she shall be detained by the police on duty, pending investigation into their qualification, and if investigation proves such a person to be an impostor, the person shall be charged and a penalty of six months' imprisonment shall be imposed without the option of a fine."

Mr. Bowman : In view of what the hon. the Attorney-General has said, he agrees to accept that, I would like some penalty—a fine or term of imprisonment—put into this Amendment.

The Attorney-General: I have no doubt that in most voting-places there will be a policeman on duty, but possibly in the remote areas it may not be possible to have a policeman on duty. Whether there is a policeman on duty at a polling-place or not, if a person attempts to vote who is not entitled to do so, he is guilty of having committed an offence.

Section 74 of the Representation of the People Ordinance says:

"Any person who votes in person whether as an elector or as a proxy or induces or procures any person to vote whether as an elector or as proxy at any election, knowing that he or such other person is prohibited by this or any other Ordinance, from voting at such election shall be guilty of an illegal practice".

He would be guilty of the offence of attempting to commit this offence and, as I said, he would be liable to half the penalty provided by the law. So it is not a matter of if he refuses to take the oath. He must be detained, and if after enquiring he is found to be an impostor he would be arrested by the Police and charged, and on conviction would be sent to prison. As I have said, I propose to accept the hon. Member's Amendment, and it will be dealt with later.

Mr. Tello : I do not appreciate what the hon. the Attorney General has said. Whether that person is guilty of an electoral offence and can be dealt with is not the point. The point is, he would have already voted when it is discovered that he has committed an offence, but in the meantime he may cause a candidate to lose the election.

The Attorney-General: I think the hon. Nominated Member, Mr. Tello, is not quite correct in saying that the person would have already voted. Before this alleged impostor votes the presiding officer would require him to testify to his right to vote by taking an oath or making an affirmation of the fact. Subsection (5) sets out the procedure if he refuses to take the oath. It says:

"An elector, if required to testify as to his right to vote by the presiding officer, the poll clerk, one of the candidates, or an agent of a candidate, or by an elector present, shall before receiving his ballot-paper take an oath or make an affirmation in the form set out in Form No. 12 in the first schedule and refuses to do so, an entry to that effect shall be made in the poll book and erasing lines shall be drawn through his name on the copy of the official list of electors furnished under subsection (1) of section 34, and he shall not be admitted to vote or be again admitted to the polling-place".

[THE ATTORNEY-GENERAL]

This point I made when I spoke before is that what this person has done is to attempt to vote when he was not qualified to do so. For that, as I have said, there is a penalty.

Mr. Tello : That is a matter of legal opinion, but here in subsection (3) it is stated:

"Notwithstanding anything hereinbefore provided to the contrary, an elector shall not be excluded from voting on the ground that he is not a British subject or is not of the age of twenty-one years or upwards, or is subject to any disqualification mentioned in subsection (1) of this section, but this provision shall not affect the liability to any penalty for voting."

In the layman's mind that provision gives the impostor the right to vote. What will happen after he has voted does not matter, as he can always find friends willing to put up the money to pay the fine.

I think this Clause 9 (3) — I am trying to read both (3) and (5), Sir. Line three gives a man the right to vote. If it is discovered at some subsequent period that 150-odd people made false oaths when they voted, they would be fined but the election would have been decided, possibly, in favour of a Communist candidate who would have gained his seat through dishonest means.

I am asking the lawyers around this Table to cast their minds back to the days prior to the time when they read for the Bar, and think of people who are laymen and would like to make themselves conversant with this law. Section 3 says that the election officer has no power to stop this man from voting, he can only ask him to make an affirmation. He calls himself "John James" but he is not "John James", and he votes for candidate "B" who wins.

The Attorney-General: Sir, I do not know what the hon. Member wants, because the whole point of get-

ting people to make an affirmation is that if they swear falsely they will be guilty of perjury. There are people who would, in the face of any penalty, commit offences just as we see people committing murder although they know that the penalty is death. You cannot legislate against everybody trying to commit an offence, but there is provision for stiff penalties for those who contravene this law. Experience in the past has been that the penalties have been sufficient, and there is nothing to show that — whether this election happens to be a particularly important one or not—people are all the more likely to commit offences whether the penalty is five hundred dollars or not. As a layman, the hon. Member is being misguided on the point.

Mr. Burnham : Sir, while I agree, up to a point, with the hon. Attorney-General that there is a penalty provided for anyone who swears or affirms falsely in Form No. 11 and Form No. 12, I cannot agree with him that that penalty is for perjury. Under Section 329 of the Criminal Law (Offences) Ordinance, Cap. 10, a man who commits perjury shall be liable to imprisonment for two years. In the case of Section 4 of the Statutory Declarations Ordinance, Cap. 36, the maximum penalty for the offence is one year. So far as this Bill and the investigation of the alleged offence at the election are concerned, it will be necessary to prove materiality, etc. I do not think it is right to say that it is perjury. If the hon. Attorney-General feels that one or two years is a sufficient penalty, I will agree with him. However, I cannot allow him to get away with the statement he has made, because perjury carries a maximum penalty of life imprisonment.

The Attorney-General: Sir, I accept what the hon. and learned Member has said. I was dealing with perjury in a general way as an offence for making a false statement on oath. The

hon. Member is correct in saying that perjury is an offence punishable by life imprisonment, and the offence which would be committed by someone who swore falsely before an electoral officer would be another offence — he would be taking a false oath and that is punishable by two years imprisonment. I think that is a sufficient sanction.

Mr. Burnham : I agree with that.

Mr. Bowman : The point we have to bear in mind is that an elector, who is not even twenty years of age, may develop a determination to vote on election day despite the fact that he knows he is unqualified to do so. He may go to the polls; take his ballot-paper before taking the necessary oath, and between that point and the point of voting his pluck and determination may fail him and he exposes himself. I feel that provision is not in this Bill for dealing with such a person. I would like to see a deterrent placed in the Bill, because to exclude him from entering the voting place again is not enough. He may retain his determination to vote because his faith has not failed him, and his vote may cause a candidate to lose the election. We must bear such things in mind. If a deterrent is placed in the Bill it may cause such a person to expose himself, despite the fact that he may have been registered six months ago as a man qualified to vote. If the hon. Attorney-General is prepared to introduce a similar deterrent to the one he has introduced already I will accept it.

The Attorney-General: Sir, I have undertaken to move an Amendment to the penal section dealing with illegal practices which would cover the point raised by the hon. Member for Demerara River. I must point out that a person, who asks the presiding officer for a ballot-paper and has his name struck off the register because he refuses to make an affirmation when challenged, would not be allowed to vote or enter the polling place again. He is liable

to be charged with "attempting to vote", if he is not qualified to do so, and the maximum punishment would be half of what the punishment is for actually voting when unqualified. He would be liable to a fine not exceeding two hundred and fifty dollars, or imprisonment not exceeding three months.

Mr. Burnham : Sir, I am not so sure that I cannot successfully submit to a Judge that it would not be an attempt to vote.

The Chairman : What point is that?

Mr. Burnham : It seems to be a moot point whether it would be an attempt to vote.

The Attorney-General: He would have taken active steps to vote.

Mr. Burnham : Sir, I do not want to be pontifical, otherwise there would be no need for more than one lawyer and more than one Judge. It is a moot point and should recommend itself for serious consideration by the Attorney-General.

Mr. Bowman : Sir, I am not in a position to say whether provision is made in the Bill, and I am accepting the undertaking given by the hon. Attorney-General.

The Chairman: The Attorney-General proposes to make an Amendment to the penal Section in the Principal Ordinance, that is, Section 76. Perhaps you should wait until we reach Section 76 when the Attorney-General puts his Amendment to cover the point.

Mr. Bowman : I accept that, Sir.

The Chairman: I will not put the Clause finally at this stage; we will proceed to the next Clause.

Clause 10. Amendment of section 28 of Principal Ordinance.

Mr. Burnham : Sir, I do not recall whether the Attorney-General had an Amendment to propose regarding Section 28.

The Attorney-General: Sir, I seem to recall that the hon. Member for Georgetown Central, in the course of his speech during the Second Reading of this Bill, pointed out that Section 28(2) did not provide for Regulations to be laid before this Council, whereas Section 112 provided for that to be done. The distinction was drawn that under Section 112 Regulations were made by the Governor in Council, and under Section 28 they were made by the Governor. I have gone into this point, and I am satisfied that the Regulations referred to in Section 28(2) are in fact actually made under Section 112 and that they would be laid before this Council under Section 113. However the words "in Council" should be added after the word "Governor" in Section 28(2). That would then read:

"Any person whose name appears in the official list of electors for any electoral district specified by the Governor in Council for the purposes of this section in regulations made under this Ordinance . . ."

Section 112 provides that the Governor in Council may make regulations, generally, for giving effect to the provisions of this Ordinance, and Section 28 (2) is one of the provisions of this Ordinance; so that the actual regulation would be made under Section 112. I, therefore, beg to move an Amendment to Clause 10 to provide a new paragraph (d) which will read:

"(d) insert the words 'in Council' after the word 'Governor' wherever it appears in the Section."

Mr. Burnham : Mr. Chairman, that Amendment meets my original objection so far as giving the Council the opportunity to have a say, but, Sir, there is another question that arises under Clause 10 which seeks to amend Section 28 of the Principal Ordinance.

The Chairman: The suggestion is that the words "in Council" shall be added after the word "Governor" wherever it is placed in the Section?

The Attorney-General : Yes, Sir.

Mr. Burnham: Mr. Chairman, this Clause 10 seeks to amend Section 28 of the Principal Ordinance and Section 28 of the Principal Ordinance is the Section which sets out the list of persons entitled to vote by proxy; and I am still appealing to the Government to be consistent. Let us assume that there is some merit in the argument that postal voting would be too late for the on-coming election, I cannot see why there cannot be proxy voting as is provided for in the Local Authorities (Constitution, Election Procedure, and Financial Provisions) Bill, for those who are precluded from getting to their polling places owing to the general nature of their occupation, service or employment. We have not got an answer from the Chief Secretary. He tells us about postal voting. That seems to make sense, but what about proxy? Why do you have a wider ambit or category of persons who can vote by proxy in Local Government elections than the category of persons who can vote by proxy in the general election?

The Chief Secretary : The hon. Member well remembers what I said when we went into Committee stage. I said that to extend the categories, it would be extremely difficult to categorize the various persons other than those already listed in the Principal Ordinance, and it is likely to pose considerable responsibility on the Supervising Officer who will have to rule in every case or allegation made to him; and because of these difficulties and possibility of representations and appeals, we considered that it should be left to this limited number of categories which are to be found in the Principal Ordinance.

Mr. Burnham Mr. Chairman, I can assure the hon. the Chief Secretary that I am in a mood to be of assistance and I do not intend to be rude or preposterous. I, sometimes, am, but it seems to me that to say that it will be difficult to categorize is to say nothing. Prior to the enactment of Section 28 (1) paragraph 2, it was said that it was difficult to categorize, but still there was some categorizing. Number two: I do not see what the Supervising Officer has to do with this. It is the Returning Officer, and if you can have a claim made well in advance, the Returning Officer will have the opportunity to come to a decision, perhaps, with the advice of the Law Officers. And, certainly, if we use the general nature of the phrase and give the Governor in Council the power to categorize, then this Council will have the opportunity to help fix the categories firmly, irrevocably and clearly.

If these difficulties apply in the case of a general election, why did not they apply in the case of the Local Government elections. It would seem to me that what is sauce for the General Election goose is sauce for the Local Government elections gander. For the Chief Secretary has the weight of Members on his side but, I submit, he has not convinced us by logic. Why is it impossible to do it here and it is possible to do it somewhere else? He cannot tell me about time because I know this question was discussed with the Government clearly over eight months ago—the question of widening the categories of persons who can vote by proxy. I do plead with the members of the Government because I should have thought that the object of providing legislation like this is to ensure that everyone, as far as possible, should have the opportunity to exercise his vote.

You will find in the United States of America, a man who is leaving that country—not a member of the Army or the Armed Forces—within a certain period, is allowed to cast his vote before

election. That is just giving you an idea of what other countries have done so as to ensure voters the possibility of exercising their votes, if for one reason or another they happen to be absent from the country or particular electoral district. And I do not believe that this Government is so lacking in ingenuity as to be unable to adumbrate a scheme—**[The Chairman:** “Ingenuity or resourcefulness?”] both, ingenuity and resourcefulness — tackle this problem. I do not want to feel that this Government will sit here and refuse to give a great number of persons the right to vote.

There are persons who, for instance, are registered, say, in Georgetown or registered, say, in Mahaicony and they have gone to Matthew's Ridge so as to earn a living. Does this Government think it is right that such persons should be robbed of their right to vote because they have gone to Matthew's Ridge so as to earn a living for themselves and family? It will be absolutely impossible for a man to be allowed sufficient time on polling day to get down to vote. He will have to be allowed two or three days, and he will not be covered by the application of that section which makes it obligatory upon the employer to give his employee time to exercise the franchise. You can see what hardship this Government is creating. Cannot some ingenuity or resourcefulness be exercised by this Government?

Mr. Jackson : I want to add to what was said by the Member for Georgetown Central. Since the date of the registration, there have been a number of persons transferred from the place at which they were registered, to other points. I know several employees of Government who have been transferred since that day — some, as far as to Mabaruma. What is going to happen? Is Government going to grant them leave to get back to the places where they have been registered in order to vote? Which is more advantageous? It

[MR. JACKSON]

may be that a person cannot be spared to go on leave for the days required to permit him to go to his electoral district to vote. Is Government going to make provision for such cases? Those people were not able to change their registered address to the new polling area to which they were transferred.

Another thing is this. While we say that provision has been made for the employees of the Transport and Harbours Department working on the trains and steamers, that same view is not taken of persons working at sea who are registered electors and may have to leave the country during the night of the 20th August or the morning of the 21st August before polling starts. Are we going to exclude them from those given the right to vote by proxy? It seems this is an opportunity Government ought to grasp. I know of cases where people have been transferred to other areas since the day of registration and cannot get back unless they are given several days leave. They have a sound reason to be given the right to vote by proxy.

The Attorney-General : There is provision in the Ordinance which compels every employer to permit an employee to be absent from his work on polling day in order to be able to vote. The other point I wish to make is that the hon. Member for Georgetown Central (Mr. Burnham) said that it seems ridiculous while on the one hand Government has provided in another Bill before this Council that there should be postal voting and there should be a wider category of persons entitled to vote by proxy, yet on the other hand in this Bill amendments will be moved to delete postal voting and to bring the categories of those entitled to vote by proxy into line with the Representation of the People legislation. The reason for that is that fundamentally it is undesirable, unless absolutely necessary, for anybody to vote at a general election otherwise than in person.

An election is an extremely complicated thing to run, and hon. Members would only be satisfied if it is run in such a way that there is every safeguard to prevent abuses of plural voting and even acts which may bring about results which are not genuine. It is all very well to say that those going away should vote by proxy. Hon. Members do not seem to know what is involved. It has been very carefully considered by the Government, and it has been decided that it would be unwise to extend the categories of those who can vote by proxy beyond what was already provided for at the 1957 elections under the Ordinance.

Voting by proxy has to be buttressed by several safeguards taken by the Returning Officer, and it is considered they may well be abused. If the categories are left as they are it may be to the prejudice of a few, but the safeguards of the election provided by the existing machinery will be in the interest of the community as a whole. For that reason it is preferable to maintain security at the expense of the inconvenience of a few.

Mr. Burnham : Never have I heard anything so unconvincing or utterly weak. The hon. the Attorney-General is the leader of the Bar in British Guiana, and for him to say or attempt to say that Section 41 covers the case can only be intended to be facetious. Section 41 has not provided that an employer is compelled to give an employee reasonable time on polling day to go and cast his vote. A man registered at Mahaicony and is working at Lethem will require much more than a day's leave to be able to exercise his vote. But, says the hon. the Attorney-General, "I have been authorised by the Government to say a day is the proper time, because at the consideration of the Local Authorities Bill Amendments will be moved to delete the provision for postal voting and to reduce the categories of persons entitled to vote by proxy to coincide with

the provisions of this Bill. Is it not a shame at this second half of the twentieth century for us to be lectured as to how this is a copy from the United Kingdom legislation.

We expect to get something better than a copy of the legislation from the Mother Country. After Government has carefully considered something, put it up in a 105 pages document, introducing a new departure like postal voting and widening the scope of voting by proxy, it now says it was not considered. We have heard it from the horse's mouth after they had laboured to bring forth that Bill with new things they are now saying they want to cut them out.

We have heard that an election is a complicated affair and they do not want the public to deal with complicated matters. We have heard that it is going to be abused. What abuse will there be? If a man falls under the category of persons entitled to vote by proxy, what abuse is there as long as he does not vote twice? So what security measures are violated by having a larger number of persons to vote by proxy?

We talk of what is good for the community. At one time we heard what is good for the community in the United Kingdom is good enough for the community here. Now they tell us something else. In Trinidad policemen are allowed to vote before polling day. The same applies in the United Kingdom and the U.S.A. In the United States a private person leaving the country, who will not be back when the election takes place, is allowed to exercise his vote in advance. I beg the hon. the Attorney-General and the Government to see how ridiculous they look. Where is that abuse that makes them want to reduce the facilities for voting under the Local Government legislation to coincide with those of this Bill? It is a case of taking away the rights of the people in one case so that one set of people will not have more rights than the other, and of people who have been robbed of their rights. I think

Government ought to proceed to broaden the rights of the people instead of narrowing them down, but the hon. the Attorney-General has been made to use such facetious arguments. My Government, he says, has decided that no persons other than those provided for, will be allowed to exercise the vote by proxy, and further Government will use its majority in this Council to ensure there is no extension. At least I admire his courage.

Mr. Jackson : Mr. Chairman, we have been told that under the Ordinance an employer is compelled to give his employees time to vote.

The Chairman: I do not think there is any Amendment proposed on this point.

Mr. Burnham : Sir, I beg to move an Amendment to Clause 10 by the insertion of a new subsection (e) to read as follows:

"(e) by the addition of the following sub-paragraph to paragraph (ii) of section 28 (1) of the Principal Ordinance:

"(f) the general nature of the occupation, service or employment of the person."

Mr. Jackson : Sir, I have already given an indication why this Amendment should be accepted. I have said that there may be people who are working on ships which have to leave this country according to schedules fixed by the Companies which own them. There is nothing in the legislation which includes "on polling day" to take care of this point. On polling day means the 21st August, 1961. Employers are under an obligation to give their employees who are in this country an opportunity to exercise their franchise on polling day, but there is no provision regarding people who are working on ships scheduled to leave British Guiana on the 20th August, 1961. Through no fault of these people they will be unable to vote, if this Amendment is not accepted by the Government.

[MR. JACKSON]

Why should such people be denied the right to vote, because their employers' ships are scheduled to leave on the night of the 20th August, 1961? Suppose a ship is scheduled to leave this country at five o'clock on the morning of polling day? It is quite clear that anyone who is in this country after midnight on the 20th August is deemed to be in the country on the 21st August, but, as a result of the time fixed for opening the polling stations on polling day, some people would have to leave the country without exercising their franchise. Is this not a good reason why Government should accept this Amendment? No voter should be denied the right of casting his vote, if he is in the country at midnight on the 20th August and has to leave at five o'clock on the morning of the 21st August.

The Chairman: I shall put the last Amendment first. Mr. Burnham's Amendment affects Section 28(1) (ii) (e), and it is that a new subparagraph (f) be included to read "the general nature of the occupation, service or employment of the person."

Question put; the Committee divided and voted as follows:

<i>For</i>	<i>Against</i>
Mr. Bowman	Mr. Hubbard
Mr. Fredericks	Mr. Gajraj
Mr. Tello	Mr. Jai Narine
Mr. Jackson	Singh
Mr. Burnham	Mr. Ajodha
Mr. Kendall—6.	Singh
	Mr. Saffee
	Mr. Rai
	Mr. Ram
	Karran
	Mrs. Jagan
	Mr. Benn
	The Financial
	Secretary
	The Attorney-
	General
	The Chief
	Secretary—12.

The Chairman: The Amendment is lost.

Mr. Burnham: Sir, there is another question that arises with respect to this Clause. As I understand it members of the Police Force, Special Reserve Police and Rural Constables will be allowed to vote by proxy, if on polling day they are stationed outside of their polling district. What undertaking do we have that the members of the Police Force will not be transferred on the morning of polling day to stations outside of their electoral district? The provision for voting by proxy, is such that one has to give notice, normally, about two weeks before election day. Suppose the Commissioner of Police has an idea — I am sure he will have an idea to send men out to other stations the day before polling day. The police get their instructions like a military force. If they are transferred a few hours before polling day they will lose their proxy vote as well. That is what this Government is doing to the people.

The Minister of Community Development and Education (Mr. Rai): I was not aware previously of any such point raised by my hon. Friend, but I give an undertaking to this Council that, so far as it is possible, saving all cases of emergency, policemen will not be transferred from their normal stations at which they are posted.

Mr. Burnham: Sir, what is that undertaking worth? He says: "As far as possible, barring cases of emergency," but the Minister is not responsible for the distribution of the members of the Police Force, because he would not have had steel-helmeted policemen attending a meeting of the United Force held for about thirty people. Cannot they be given facilities similar to those of members of the Armed Forces outside of British Guiana? Such facilities are given in little Trinidad. I see the hon. Attorney-General shaking his head; let him listen to me before he shakes his head. In little Trinidad the police are allowed to vote in advance of polling day, so that

when emergencies arise they will not have lost their right to vote. If Trinidad can envisage these possibilities — provision for that is taken from the United Kingdom legislation — cannot the Government of British Guiana do the same? Is it that the Government of British Guiana is not interested in the maximum number of persons exercising their franchise?

The Chairman: We will proceed with the Amendment. There was an Amendment moved by the Attorney-General that in subsection 2 wherever the word "Governor" appears in Section 28 of the Principal Ordinance, the words "in Council" should appear after. That is the Amendment.

Question put, and agreed to.

Amendment carried.

The Chairman: I think, now, the way is clear to put Clause 10 as amended.

Question put, and agreed to.

Clause 10 passed as amended.

Clauses 11 and 12 passed as printed.

Clause 13.—*Amendment to Section 33 of Principal Ordinance.*

Mr. Bowman : Mr. Chairman, I would like to move an Amendment to Clause 13, Section 33 (1). I should like the words "if at" in the first line of the proviso deleted and the words "be extended to seven o'clock and if" inserted between the words "poll" and "there" in the first and second lines.

The Chairman: Your Amendment would read then: "Provided that the hour of closing of the poll be extended to seven o'clock and if there are any electors waiting in the queue at the polling-place to vote, they shall not be ex-

cluded from voting merely because it is past the said hour, but a person not actually in such queue at the hour of closing shall not be allowed to vote thereafter on that day." That is your Amendment?

Mr. Bowman: Yes, Sir. If I am to develop the point, the reason for introducing this Amendment is, I know, from experience as a sugar worker on the estate, that during the grinding season or about that time there will be the cutting of cane and, according to a system which was introduced sometime ago called 'cut and load', men usually leave their homes very early in the morning to load the punts. If they are not there to load the punts, they would not be doing anything at all for the whole day; so I am saying it may very well happen that the men would have to leave early in the morning and work the whole day up to six o'clock, and the extra hour would give them an opportunity to cast their votes. The other provision about persons standing in the queue can also be extended; but I am thinking of the people who might not be able to vote by six o'clock. I am asking the Government to facilitate those people.

The Chairman : The effective part of your Amendment is that the voting time be extended to seven o'clock. The other things are already provided for.

Mr. Tello: The Amendment is merely furthering the original intention of the Clause.

The Chairman: Strictly speaking, the effect of his Amendment is that the closing hour be extended. The other things will remain.

Mr. Burnham : I am in sympathy with the said Amendment, but I think the hon. Member is failing to achieve what he wants. His Amendment really should have been moved to subsection 1 of Section 33 which stipulates:

[MR. BURNHAM]

"33 (1) The poll shall be taken in each polling-place by secret ballot in accordance with the provisions of section 34 or of section 35 between the hours of six in the forenoon and six in the afternoon on election day."

He should have moved an Amendment to that, amending "six in the afternoon" to "seven in the afternoon." That is what he really wanted, then we would have had all the other Amendments. What he should move is the addition of a new subsection to Section 13.

Mr. Bowman : Mr. Chairman, I am in agreement with the view expressed by the Member for Georgetown Central. I am not familiar with the election law, and it is only in this Bill I see the words "closing of the poll." If that is the relevant Section, I agree to move the Amendment to it.

The Chief Secretary : We have, in the proviso, extended the time whereby any person who is in the queue by six o'clock is not prevented from voting. I do not see the necessity of an extension of the time of six o'clock.

Mr. Burnham : Mr. Chairman, I wonder whether the Chief Secretary can explain where the queue begins and where the queue ends, because this is going to be the subject matter of so much litigation? It was easy when you spoke about a polling-place, now you are going to talk about a queue. Where does this queue end? How will a Court ascertain where the queue will end? Is it not better, so as to take in people who are likely to be in the queue at six o'clock, to extend your polling time by one hour? It is going to be the subject matter of innumerable election petitions, if people are not allowed to vote. They may contend that they are in the queue, and the Presiding Officer may contend that they are not in the queue.

The Attorney-General: It may be difficult for the Member for Georgetown Central to understand that there are some people with a modicum of commonsense and who apply it; and Government feels that what the Amendment calls "a queue at the polling-place" is clear and understandable, provided that the head of the queue is at the polling-place and it is not likely to be five miles long. Let us be reasonable. People who are not able to get to the polling-place by six o'clock will not be able to vote. We do not contemplate any difficulty in the administration of this proviso.

Mr. Burnham: Commonsense is the last phase of a failing legal mind. Any lawyer who is worth his salt will know that. There were several such legal matters as had recently happened in the case of Rose Hall. I am merely advising them of the importance of commonsense, and commonsense rules the world. This is not commonsense, but a matter of legal interpretation. A man may be standing six feet away from the last man in the queue. Leave that to the court to decide, and the Judge, whose decision is final, will have been deemed to interpret it properly and all our commonsense is wasted. Is it not simpler to leave it "at the polling-place" which is a defined and definable area, and extend the time so that the greater number of persons can get into this defined and definable area? There will be less difficulty. I should have been a teacher.

Mr. Jai Narine Singh: It is a matter of importance to the rural areas. If you close the polling booths at seven o'clock in the evening the booths will have to be provided with light so that the people can see to vote. I want to know how much difficulty would arise in that provision. In the past persons between the ages of 40 and 50 had difficulty in voting when there was no light in the booths and it was dark. What is going to happen

now if voting is to go to seven o'clock in the evening? The polling station and the polling booths will have to be provided with lights. Maybe in August the longest day of the month is the 21st, which is two months off roughly. Six thirty o'clock may probably meet the requirements of the general working people in the rural areas. Six thirty is not bad lighting time, as we know it, I think six-thirty o'clock would meet the case and abolish the question of the queue.

Mr. Burnham : The hon. Member for Georgetown South (Mr. Jai Narine Singh) has made a point, but it does not go far enough. By August it will be already dark at six o'clock. If there are no lights, then it means that persons voting after six o'clock may be handicapped by virtue of not having sufficient light. We know that the polling booth is a closed area and must have light in it by six o'clock. I am aware of the fact that in the rural areas there are no electric lights, but it is an administrative matter to get lights installed. There are lots of storm lamps to be had. That is not difficult as far as I can see. If the hon. Member for Georgetown South thinks it is difficult I do not. Government must provide lights so that the people can vote after six o'clock. So, Your Honour, may I ask the hon. the Attorney-General, who will decide where the queue ends? The presiding Officer is supposed to be always inside the polling station.

The Attorney-General: This is the arrangement. If there is a police officer at the polling station, at six o'clock the people who are waiting to vote will be in a queue outside the polling station and the police officer will take his place at the end of the queue. Anyone who arrives at the polling station after six o'clock will then come behind the police officer and will not be allowed to vote.

Mr. Burnham : That is very interesting. That is giving power of judgment to a person who is not an election officer. It is not provided here in this Bill, and cannot be provided for in the Regulations. That will be *ultra vires*. It is elementary law.

The Attorney-General: It is quite in order to take such administrative steps. At the end of the queue the police officer will stand indicating that it is the end. The presiding officer will say to the police officer at six o'clock. "Stand at the end of the queue and no one must be allowed to come in who is behind you."

Mr. Burnham: The Ordinance does not say that where the police officer stands shall be taken to be the end of the queue.

The Chairman : I think what the hon. the Attorney-General means is that the presiding officer can assume the placing of the police officer at six o'clock after the last person in the queue to be an effective barrier to anyone coming to vote after six o'clock.

Mr. Burnham : I am still convinced that is not what the hon. the Attorney-General says. He says the presiding officer will tell the police officer to go to the end of the queue. In other words, it is the police officer's judgment as to the end of the queue.

Mr. Tello : I have not yet heard from the hon. the Attorney-General whether he accepts the Amendment. I think we should seek not to do things that the lawyers anticipate involve legal difficulties.

The Chairman : That is the question I was about to put.

Mr. Tello : I was hoping the hon. the Attorney-General would solve the difficulty by giving an assurance

The Chairman : The Amendment moved by the hon. Member for Demerara River (Mr. Bowman) is that in subsection (1) of section 33 in the third line the word "six" which follows the word "and" should be substituted by the word "seven". So the section will read "hours of six in the forenoon and seven in the afternoon."

Amendment put; the Committee divided and voted as follows:

<i>For</i>	<i>Against</i>
Mr. Bowman	Mr. Hubbard
Mr. Fredericks	Mr. Ajodha Singh
Mr. Davis	Mr. Saffee
Mr. Tello	Mr. Rai
Mr. Jackson	Mr. Ram Karran
Mr. Burnham	Mr. Benn
Mr. Kendall — 7.	The Financial Secretary
	The Attorney-General
	The Chief Secretary — 9.

Amendment negatived.

The Chairman: The Question is, that Clause 13, as printed, stands part of the Bill.

Question put, and agreed to.

Clause 13 passed as printed.

The Attorney-General: Before we go to the next Clause, I wonder whether I can raise a point? Certain Amendments were passed to Clause 10. I had inserted the words "in Council" after the word "Governor". But it does not read right in the section. Clause 10 starts by saying "Section 28 of the Principal Ordinance is hereby amended."

The Chairman : I take it that in Section 28 wherever the word "Governor" appears the words "in Council" are to be added. In the first instance you referred to subsection (2), and then I asked what about subsection (1) sub-paragraph (1).

The Attorney-General: What is worrying me is when it comes to the printing of the Ordinance it should read

"section 28 is hereby amended by (d) the insertion of the words "in Council" wherever the word "Governor" appears.

The Chairman: You know what it is.

The Attorney-General: Also the word "and" after sub-paragraph (b) should come out and be placed after sub-paragraph (c). I am sorry I did not raise that point before.

Mr. Burnham: The whole Bill is an untidy piece of work.

Clause 14. — Amendment of section 34 of Principal Ordinance.

Mr. Burnham: Sir, Clause 14 deals with Section 34 which prescribes the mode of taking the ballot. On the Second Reading of the Bill, I raised the question of using the 1953 mode of ballot. The hon. Chief Secretary in his brief reply could only say that we did not want to go back to the 1953 system. I wonder whether he can tell us what advantage this mode of voting has over what obtained in 1953? He will have to prove whether the mode proposed has advantages over the mode used in 1953. We have shown where the 1953 mode has advantages over the 1957 mode of voting.

The Chief Secretary : Sir, it is considered that the 1957 mode of voting was satisfactory, and, with the addition of the provision of a common symbol for each party, even a very illiterate person should be able to put his or her mark in the right place. A short-sighted person should be able to recognize a symbol even more easily than a number of photographs stuck up. It is very difficult sometimes for a short-sighted person to recognize the difference between a number of photographs, but he or she should be able to differentiate between a number of symbols.

Secondly, having decided to retain the 1957 mode of voting in this Bill, administrative preparations have been

made to proceed with the work involved. It would not be possible, at this stage, to change the arrangements which include the making of boxes and voting compartments and the preparation of instructions for the guidance of Returning Officers. A number of boxes and voting compartments have already been distributed to various electoral areas. With the time at our disposal, it will be physically impossible to revert to the 1953 system which we are yet to be convinced should be done.

Mr. Burnham: Sir, the best thing Government could have done was to repeal the Representation of the People Ordinance and introduce a new Bill. Why have you brought this Bill here and asked my opinion on it three months ago, as if it matters? You have wasted my time. What is the sense of going through the formality of consulting us when you have made a decision in the matter? I cannot see how there will be too short a time, if we decide to revert to the 1953 mode of voting. Does it take two months or six months to make ballot-boxes? What has happened to the 1953 ballot-boxes? Did they go with the Constitution? Did they go in the fire at the Customs? Why can't you order new ones? What is the difficulty about sending out ballot-boxes, since you have to send them out in keeping with the 1957 Ordinance as amended in 1961? Can't you send a new ballot-box to Monkey Mountain? The time-barrier operating against the 1953 system will also be the time-barrier against the 1957 system as amended by the 1961 Ordinance.

We are told by the hon. Chief Secretary that short-sighted people cannot see photographs, but they can see symbols. Perhaps he did not vote in 1953 — I do not know whether he had reached the qualifying age. In 1953 there were photographs as well as symbols. I cannot see how people, who cannot recognize a photograph on a box, can have sufficient acute sight to recognize a symbol.

The Chairman: He may not know the candidate.

Mr. Burnham: If he misses the candidate, he may see the symbol. I cannot understand what the hon. Chief Secretary is saying on behalf of this Government. Is he saying that the Government is not prepared to change its mind?

I know that the hon. Attorney-General will say that we have moved past the 1953 stage. The fact that we had 7 per cent. of spoilt votes in 1957 is no indication that this system is better than the 1953 system. Some people may have stayed away from voting, and spoilt votes is not the only means of judging the matter.

Mr. Jai Narine Singh: Sir, the statement made by the hon. Chief Secretary is deplorable, and I must join hands with the hon. Member for Georgetown Central in saying that it is an insult to this Council for the Chief Secretary to say that he has already made official arrangements for certain things to be done before the Bill is passed by this Council. I do not think a better system than the 1953 system can be devised. Government would be well advised to follow the 1953 system as closely as possible, if we are going to have the maximum results we desire. The 1957 Election cannot be taken as a gauge, because the percentage of the people who voted was rather low. I am of the opinion that the 1957 system of voting should not be used as the hallmark for any future system of voting in this country.

I would suggest to the hon. Chief Secretary that he should recast his ideas and follow the modern way of thinking that the Legislature is superior to the Government, and the Government should take orders from the Legislature. We cannot feel happy when the Chief Secretary has gone ahead making arrangements for sending out ballot-boxes be-

[MR. JAI NARINE SINGH]

fore we have agreed on the system to be used in 1961. There seems to be chaos in a country like this which is expanding rapidly. I do not agree with the steps which have been taken.

The point made by the hon. Member for Georgetown Central is well made. In 1953 only 80 per cent. of the people went to the polls and not a single ballot was spoilt. [An hon. Member: "Some were found on the floor."] Some may have been found on the floor, but that was due to the lack of administrative ability to arrange for an adequate amount of space in the polling-booth. [Mr. Burnham: "That is why he did not get in".] I think the photograph on the ballot-box and a symbol would be the best system, and Government should take steps in that direction. More care would have to be exercised as far as the size of the booth for voting is concerned. There are several inarticulate people who may wish to vote, and provision should be made whereby they could be assisted in doing so.

Mr. Tello : Sir, I must take my lead from the political leaders. It came as a surprise to me to hear two party leaders advocating the system of placing photographs in the polling stations. I thought it was our intention to educate the people and teach them to recognize that we are pursuing Party Government. When there is a symbol the electorate's mind begins to operate. Which is more important, the individual or the party? The symbol refers to the party, and the photograph to the individual. I do not think we should embarrass people to that extent. Let the people decide which party they will support, and the result of the coming election

will be a mandate to the party receiving the majority of the votes. I am not in favour of confusing the electorate.

Sir, I anticipate that we will not be having many individual candidates taking part in the coming election. I have no aspiration to be a party leader, but I think that the leaders of parties around this Table should endeavour to make the question of voting as simple as possible. It would be quite simple for us to pass legislation to provide for party symbols. I know that right now we are selling party and party policy. Why wait until the 21st August?

The Chairman: The hon. Member may have a chance.

Mr. Tello : I think that would be a good symbol.

The Chief Secretary : I suppose we can adjourn at this stage to tomorrow.

The Chairman: The hon. Member may continue tomorrow.

The Chief Secretary : I move that the Council resume.

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

Question put, and agreed to.

Council resumed.

The Chief Secretary : I move that the Council adjourn to tomorrow at 2 p.m.

Mr. Speaker: Council stands adjourned to tomorrow Friday, 2nd June, at 2 p.m.