

Dr. the Hon. Charles Jacob Jr., —Minister of Finance (Member for Vreed-en-Hoop)

Dr. the Hon. F. H. W. Ramsahoye —Attorney-General (Member for Canals Polder)

The Hon. E. M. G. Wilson —Minister of Communications (Member for Boerasirie)

Parliamentary Secretaries

Mr. G. Bowman —Parliamentary Secretary to the Ministry of Natural Resources (Member for Corentyne Central)

Mr. L. E. Mann —Parliamentary Secretary to the Ministry of Finance (Member for Mahaicony)

Other Members

Mr. S. M. Saffee —(Member for Berbice—West)

Mr. G. L. Robertson —(Member for Leonora)

Mr. M. Bhagwan —(Member for Essequibo Islands)

Mr. J. B. Caldeira —(Member for Pomeroy)

Mr. V. Downer —(Member for Berbice—East)

Mr. M. Hamid —(Member for Demerara—Central)

Mr. D. C. Jagan —(Member for Suddie)

Mr. M. Shakoore —(Member for Corentyne River)

Members Constituting the Minority

(i) *People's National Congress*

Mr. W. O. R. Kendall, —Deputy Speaker (Member for New Amsterdam)

Mr. J. Carter —(Member for Werk-en-Rust)

Mr. E. F. Correia —(Member for Mazaruni-Potaro)

Mr. N. J. Bissember —(Member for Campbellville)

Mr. R. S. S. Hugh —(Member for Georgetown—South)

Mr. R. J. Jordan —(Member for Upper Demerara River)

Mr. C. A. Merriman —(Member for La Penitence—Lodge)

Mr. H. M. S. Wharton —(Member for Abary)

(ii) *United Force*

Mr. P. d'Aguiar —(Member for Georgetown—Central)

Mr. S. Campbell —(Member for North West)

Mr. R. E. Cheeks —(Member for Georgetown—North)

Mr. I. Crum Ewing—Clerk of the Legislature

Mr. E. V. Viapree—Assistant Clerk of the Legislature.

ABSENT :

His Honour the Speaker, Mr. R. B. Gajraj—on leave

Mr. H. Lall—on leave

Mr. L. F. S. Burnham, Q.C., on leave

Mr. W. A. Blair (Berbice River)

Mr. J. G. Joaquin (Member for Kitty)

Mr. E. E. Melville (Member for Rupununi).

**NOTICE OF SITTING
QUESTIONED**

Mr. Bissember (Campbellville): Mr. Deputy Speaker, on a point of order. Before the matters which appear on the Order Paper are proceeded with, I wish to make objection to this sitting and to make a report for Your Honour's ruling. The first point I wish to make is that in some cases no notices have been received by certain members of the P.N.C. for this meeting. The second point is that in some cases, particularly in my case, the notice was received on Saturday afternoon. I wish to submit, with great respect, that that notice is inadequate for this meeting.

We know that when the House was adjourned on Thursday night, the Leader of the House on the Government side moved the adjournment to a date to be fixed. In other words, the House was adjourned *sine die* on Thursday night last. The point I wish to urge for Your Honour's ruling is that there is provision under Standing Order 23, at page 18, for the period of notice, and the Standing Order reads as follows:

"(1) Except as provided in the next succeeding paragraph a notice of a Government motion shall not be placed upon the Order Paper of any sitting earlier than the day following the day upon which it was published in the Notice Paper.

(2) With the consent of the Speaker, a notice of a Government motion may be placed upon the Order Paper for the sitting of the day following that on which it was given to the Clerk."

It is my humble interpretation that these sections suggest that 24 hours after the motion has been handed in to the Clerk it should be placed on the Order Paper for the next day's sitting. But when one interprets the second section of our Standing Orders, one has to interpret it together with the common parliamentary uses and customs which operate and are in fact followed in the British House of Commons. It is my submission that the interpretation to be placed on Standing Order No. 23 is that reasonable notice ought to be given.

May I refer Your Honour to the English practice where, even if there is a state of emergency in England, six days are deemed to be reasonable notice before the House is called back into session to debate any new matter. In this country, from Thursday last to today no state of emergency is in existence, according to Article 14 of the Constitutional Instrument. Article 14 refers to matters which do not exist in British Guiana at the moment.

The point I wish to urge for Your Honour's consideration is this: When one looks at the Order Paper, one sees many new and important matters on it. It is my submission that adequate notice was not given to the members of my party to enable us to discuss what appears on the Order Paper. What appears on this Order Paper will need a considerable amount of time to study. Later on another member of my party will speak on what is to be discussed here today.

2.20 p.m.

But it has never been the practice that, when the House has adjourned indefinitely, a notice is handed to a legislator or Member of the House at four o'clock on a Saturday afternoon, asking the Member to appear in the House on Monday to discuss matters which one can find to be very important to the country as a whole.

Apart from the fact that the notice is inadequate and not reasonable in the sense that it has not complied with the usage of the British House of Commons which gives six days' notice, I reiterate that notice was not even given to the hon. Member for Berbice River. No notice was given to him either by telegram or post. He has no official notice of this sitting today, and that is why he is not in Georgetown. It is of great parliamentary importance that Members be notified and given adequate notice.

The hon. Member for Berbice River lives in New Amsterdam. The Clerk of the House knows his address in New

[**MR. BISSEMBER**]

Amsterdam, but no telegram or letter was received by him. I am instructed that a notice addressed to him was handed in somewhere else, but not at the place to which he informed the Clerk all correspondence should be sent.

That is one case where I know as a fact no notice was received by that hon. Member. Assuming that under our Standing Orders 24 hours' notice is sent, I am submitting that the matters appearing on the Order Paper are so important, and so grave as to affect the country, that reasonable notice should have been given to hon. Members of the House to study them.

Mr. d'Aguiar (Georgetown Central): I rise in support of the point of order. I wish to state that, in so far as I am concerned, the papers were received this morning and they were incomplete. Page two happens to be a blank page on my Order Paper. I am informed by the hon. Member for Rupununi (Mr. Melville) that he received his notice this morning at 9 o'clock. He had previously gone to the hospital for a check-up, which could have been postponed had the Order Paper been received at a reasonable time giving him due notice.

I, therefore, support the point of order that insufficient notice has been given. I repeat that I received my papers this morning, and they are incomplete. The second page is a complete blank. Consequently, I am not properly informed of the business before this House.

The Attorney-General (Dr. Ram-sahoye): If my hon. and learned Friend, the Member for Campbelville, wants to make an objection on a point of order, then I presume he should endeavour to put to this House some particular provision which he says or claims has been infringed. The argument which I have heard him put forward, to the effect that this matter which is to be discussed in this Assembly is one of great public importance, is not sufficient. Indeed, it is irrelevant.

If the provisions of Standing Order 23 are being considered in relation to this matter, Standing Order 23 warrants notice of 24 hours, and it would be adding to the Standing Order if we were to say that when there is a matter of urgent public importance, longer notice should be given. Hon. Members of the House are supposed to be in readiness. Indeed, when this House is adjourned, if nothing is said, it is adjourned to the next sitting day. This is clearly stated in one of the Standing Orders.

On the last occasion when the House adjourned, it was adjourned to a date to be fixed. Notice of a Motion was given on the 27th April to provide for certain expenditure in order to enable the business of Government to be carried on. It is a constitutional convention in the United Kingdom that it would affect the dignity of the nation if it were to go without supplies. I wonder if my hon. and learned Friend knows this and, if he did, whether he would still venture to filibuster and make dilatory objections to the consideration of the Motion.

It offends the dignity of the nation to refuse supplies to the Government. My hon. and learned Friend must know that today is the last day over the period of four months during which there was statutory authority for spending public funds to carry on the Public Services of this country.

2.30 p.m.

I can see no objection either in law or in fact falling from my hon. and learned Friend. The hon. Member for Georgetown Central (Mr. d'Aguiar) added his support, and they both claim that hon. Members did not know of this meeting. This is purely hearsay. Those are not statements upon which Your Honour would be justified in saying that no notice was received or given. It is not a case where a Member has come subsequently and said he was not informed of the meeting. Indeed, in one case an hon. Member knew of the meeting and he

should have been here. In the other case the hon. Member for Campbellville (Mr. Bissember) says that there was inadequate notice. This is not information, on the basis of which Your Honour can be expected to act. In this case notices have been sent to hon. Members, and there is the presumption that they have been received. In the circumstances I say that the hon. Member for Campbellville, in taking his point of order, was himself out of order, and so was the hon. Member for Georgetown Central, and I think the business of the House should be proceeded with.

Mr. Wharton (Abary): I would like to state to the House that up to the moment of speaking here I have not received the Order Paper, and I am here out of courtesy. I was 57 miles away from Georgetown at my country home when I heard over the air on Saturday that there was likely to be a sitting of this Assembly today, and I thought that at least I should have received a telegram duly signed, but, unfortunately, up to this moment I have received no such communication. On arrival at my Georgetown residence I found that there was still no Order Paper, and I was a little surprised when I entered this House to be shown one by one of the members of my party. When I come to this House it is my desire to contribute intelligently to whatever comes before the House, but at the moment I am in total darkness as to what is to take place at this meeting. I do not know what the hon. the Attorney-General will have to say on this point, because I am sure that the hon. Member for Berbice River (Mr. Blair) is not here because he has not received an Order Paper and does not know that there is a meeting today. So I regret very much that I will not be able to enter intelligently in any discussion which may take place here this afternoon.

Mr. Campbell (North West): I received my Order Paper around ten o'clock this morning—four hours ago. The Attorney-General says that 24 hours' notice gives sufficient time to Members to look through the Order Paper. I have only had four hours, and I have only looked at one

item. Really I do not think 24 hours' notice is sufficient to enable Members to go through a mass of figures and statistics, and there is a new book, a blue one, which is supposed to be another Estimate. I would like at least one week to go through it. So I am not at all conversant with the business to be discussed here this afternoon, therefore I shall be merely looking on.

The Minister of Home Affairs (Mr. Rai): Mr. Deputy Speaker, you have already ruled on this matter, and what you are being asked to do is to overrule yourself. I say that the business of the House should proceed because you have already applied your mind to what has been put on the Order Paper. Standing Order 23(1) states:

"23(1). Except as provided in the next succeeding paragraph a notice of a Government motion shall not be placed upon this Order Paper of any sitting earlier than the day upon which it was published in the Notice Paper."

It merely speaks about placing a Motion on the Order Paper, no doubt to give so many hours' notice. The Notice Paper in my possession states that it was circulated on the 28th April, so that the placing of this Order Paper on the Table today is in full compliance with this Standing Order. I would also like to draw attention to Order 25 which states:

"25. Notice shall not be dispensed with in the case of a motion or in respect of any proceedings for which notice is required, except with the consent of the Speaker and the assent of the majority of the Members present at the time."

So I take it that the matters in this Order Paper have received your consent, and being of an urgent nature, and having been discussed before, no Member has been taken by surprise. I therefore say that there is full authority to proceed with the business of the House under Standing Order 23, and if there is any doubt about the matter, under Standing Order 25 Your Honour's consent has already been given.

Mr. Carter (Werk-en-Rust): I am really surprised at the Attorney-General and the Minister of Home Affairs. The

[MR. CARTER]

hon. Members for Campbellville and Georgetown Central have pointed to the impropriety of the shortness of the notice which was sent, and in at least one case, the fact that no notice at all was sent. Speaking for myself, the notice arrived at my home at 10.30 a.m., and came into my hands at 1.20 p.m. today, so that less than an hour before the commencement of this debate this afternoon I received notice of today's meeting and of the business of today's meeting.

So far as the hon. Member for Berbice River (Mr. Blair) is concerned, there is an envelope similar to this one which I know is lying at the office of the People's National Congress, and I suspect that enclosed in that envelope is the Order Paper giving him notice of this meeting. Possibly the Clerk of the Legislature can verify whether the notice was sent to the party office for the Member for Berbice River. It is one thing to have Standing Orders which are written, and another thing to keep in line with the spirit of parliamentary procedures which have had the sanction of time.

The hon. Member for Campbellville (Mr. Bissember) has rightly pointed out that notice to Members of Parliament is sent out at least six days before a meeting, except of course in cases of emergency. The regular time is 14 days. The whole purpose of giving Members of Parliament or a Legislature adequate notice is that they may be able to contribute intelligently to a debate, and I see no reason for this indecent haste on the part of the Government to rush through something in a situation which was brought about as a result of its negligence. Members of the Government have only themselves to blame for the Appropriation Bill being rejected last Thursday, and this ruse which is being attempted today is improper. I therefore recommend that this sitting be suspended in order that Members of the Opposition may be given adequate time to study the questions which have been

raised on the Order Paper, so that we can make our usual intelligent contributions to the debate.

Mr. Correia (Mazaruni-Potaro): The hon. Attorney-General remarked that today is the last day for the Appropriation Bill, but whose fault is it? The Government had four months in which to look after its business, and waited until the eleventh hour to come in haste to this House with this Bill. The Minister of Home Affairs mentioned that the Order Paper was approved by the Deputy Speaker. I agree that it was approved by the Deputy Speaker, but on a certain date. But what I want to know is when was this Order Paper sent out, and what time did Members have to study it? Some Members on this side have not yet received the Order Paper. I received mine on Saturday evening when I returned home, but there are other Members who have not yet received theirs.

Mr. Checks (Georgetown North): I support the point of order raised on this side. I received my Order Paper after four o'clock on Saturday afternoon. It was by the merest chance that I was at home. Sunday is for me a day of worship, and I do not do any business on that day. Therefore I only got my Order Paper 16 hours before this meeting, and it was impossible for me to study the volume of matter in order to be able to take part intelligently in the debate this afternoon.

2.45 p.m.

I observe that there are several Orders here dealing with the period of notice, and I trust that Your Honour will use your discretion, bearing in mind that we of the Opposition must be able to know what is facing us in order to be able to take part intelligently in any discourse. Behaviour of this sort and attempts to rush matters in this way make me feel that certain hon. Members on the other side are not interested in having any Opposition at all and are doing all in their power to destroy or neutralize, at least, the Opposition.

I ask Your Honour, bearing in mind that this notice was so very short and that the young man who brought it to me just handed it to me and ran away as if he were afraid—I should have signed for the receipt of the papers, but the man ran away.

Mr. Rai: I think the hon. Member should be asked to withdraw his comments against the Speaker of this House by making such remarks. His point of order is a point of disorder.

RULING BY THE DEPUTY SPEAKER

Mr. Deputy Speaker: Hon. Members, I have listened attentively to the arguments advanced with respect of the notice sent to Members as being inadequate. The Order Paper that was delivered to hon. Members had my consent, and under Standing Order No. 23 there was adequate time for it to be delivered.

One hon. Member said that if one looks at the Order Paper one will find so many new items, and that longer notice should have been given of the meeting. From the 31st January to the 13th April hon. Members were apprised of all the items on it. The only item which may be regarded as new is an item which should be fresh in the minds of all hon. Members, and that is the matter dealing with the Motion which the hon. Finance Minister hopes to move today.

It is unfortunate that the hon. Member for Berbice River, the hon. Member for Abary and a few Members in Georgetown did not receive the Order Paper on Saturday. The hon. Member for Berbice River should have been sent a telegram informing him of this meeting. However, I do not think that it is the fault of the Deputy Speaker, if these notices were not delivered as some hon. Members feel they should have been delivered on Saturday. I want the hon. Members to bear in mind that the matter to be discussed today is of some importance to this country, and they should endeavour to

have a certain amount of understanding with respect to the important issue before us. Inasmuch as we have so many members of the Opposition present who are conversant with everything on this Order Paper, I am ruling that the Order Paper is in order.

ANNOUNCEMENTS BY THE SPEAKER

LEAVE TO MEMBERS

Mr. Deputy Speaker: The hon. Member for Ruimveldt (Mr. Burnham) has asked to be given leave from the 27th April to the 27th May, 1962.

REPORT ON ELECTION PETITION

Mr. Deputy Speaker: Hon. Members will recall that on the 20th December, 1961, this House was informed of the receipt of a Report from the Judge in connection with an Election Petition in the case of *Hamilton Green, Petitioner, vs. George McLinton Henry and Lloyd Goddette, Respondents, and in the matter of an application by Ashton Chase.*

I have now received a further Report in the matter from the same Judge which I will read to the House. It is as follows:

28th April, 1962.

"Your Honour,

I wish to inform you that upon the hearing of a motion made before me pursuant to the provisions of section 37 of the Legislature (Appointment, Election and Membership Controversies) Ordinance, 1961, No. 34 of 1961, I have today ordered that the incapacity to which Mr. Ashton Chase is subject by virtue of my report to the Speaker on 30th November, 1961, shall henceforth cease.

2. I enclose herewith a copy of my decision.

I have the honour to be,
Your honour,
Your obedient servant,
(sgd.) H. A. Fraser
Puisne Judge."

PRESENTATION OF PAPERS
AND REPORTS

The Minister of Finance (Dr. Jacob):
Your Honour, I beg to present—

Mr. Carter: On a point of order. The hon. Minister of Finance is purporting to lay on the Table what he describes in the Order Paper as Interim Estimates of Expenditure, 1962. I submit that such a course would be improper, because the Constitution does not make any provision for any Interim Estimates of Expenditure. Articles 108-109 of the Constitutional Instrument, 1961, make provision for finance. Article 108 makes provision for Estimates, and it states:

“(1) The Minister responsible for Finance shall, before the end of each financial year, cause to be prepared annual estimates of revenue and expenditure for public services during the succeeding financial year, which shall be laid before both chambers of the Legislature.”

Article 109(1) refers to the Appropriation Bill. It states:

“109 (1) The Minister responsible for finance shall, in respect of each financial year, at the earliest convenient moment introduce in the Legislative Assembly an Appropriation Bill containing, under appropriate heads, for the several services required, the estimated aggregate sums which are proposed to be expended (otherwise than by way of statutory expenditure) during that financial year.”

Article 109(2) makes provision for supplementary estimates. It states:

“Whenever—

(a) any expenditure is incurred or is likely to be incurred in any financial year upon any service which is in excess of the sum provided for that service by the appropriation law relating to that year; or

(b) any expenditure (other than statutory expenditure) is incurred or is likely to be incurred in any financial year upon any service not provided by the appropriation law relating to that year,

a supplementary appropriation Bill, which shall contain that expenditure under appropriate heads, shall be introduced in the Legislative Assembly.”

This is, I submit, an improper procedure. I would like the hon. the Attorney-General, who is described as the greatest Constitutional Lawyer in the West Indies to show me—[**An hon. Member (Government):** “Are you jealous about that?”]—I am not jealous; it may be unethical for me to question that—where there is provision for Interim Estimates. There is provision for the *quasi* Estimates we had here last week. We had the example of certain members of the Government not being present to vote on such an important Bill—the most important Bill that has ever come before this Assembly. The Estimates have been rejected, so what are these Estimates which the hon. Minister of Finance is purporting to lay on the Table?

Sir, if there is no provision for Interim Estimates, the hon. Minister of Finance cannot lay Interim Estimates on the Table, and he cannot present any Interim Estimates when there is no provision in the Constitution for doing so. I wonder whether this is an example of what we are likely to get from this Government, if it is still in power when Independence comes? Will this Government try to adopt all of these unconstitutional procedures?

The Attorney-General: Your Honour, since the days of *Magna Carta* it has been the tradition in England that the House of Commons has absolute control over the expenditure of public funds. This tradition is passed to British Guiana, and the powers to be exercised by the Legislative Assembly are regulated by Article 109 of the British Guiana Constitution. The Constitution itself is, in a great measure, borrowed from the Constitution of Singapore, a copy of which I have here, but in framing Article 109 the draftsman of our Constitution allowed much wider terms and powers.

[THE ATTORNEY-GENERAL]

The hon. Member for Werk-en-Rust is taking objection to the laying of the Interim Estimates. Article 109 of the Constitution provides that the Legislative Assembly can by resolution approve Estimates. Does not my hon. and learned Friend see that the Estimates which are presented here to allow for expenditure over a 2-month period are Estimates within the meaning of the word? Any set of figures presented here as figures which it is desired to be spent on the Public Service are Estimates within the meaning of the Article. I take full responsibility for advising the hon. members of the Government of this country that they are fully within their legal right to lay these Estimates on the Table.

3 p.m.

If my hon. and learned Friend feels that what we are doing is wrong, this is not the forum in which he should challenge it, because there is no Standing Order which would allow him to raise this point of order. He must challenge it in Her Majesty's Courts, and there the matter will be fully and thoroughly defended by those who represent the Crown.

It is not for us in this Assembly to enter into the bewildering intricacies of English law and the ramifications of Article 109 of this Constitution. These are matters for Her Majesty's judges, and I would suggest that the hon. Member takes the resolution, if it is passed, to the Supreme Court and attempt to have it set aside. I think it would be quite improper for him to raise the objections which he has attempted to raise by reference to the Standing Orders. I do not see how our Assembly can be the proper forum for questioning this.

"Estimates", I submit, are "estimates" once they amount to something which provides figures for money which it is desired to spend for public services. They are estimates, and it is within the

provisions of Article 109(4) (a) (ii) of the Constitution. If he thinks I am wrong, there is one forum in which he should question it and in which an attempt may be made to set it aside.

Mr. d'Aguiar: Point of order—

Mr. Deputy Speaker: We are dealing with the *laying* of this document brought by the hon. Minister of Finance.

Mr. d'Aguiar: In relation to the point of order raised by the hon. Member for Campbellville, which I support, I cannot find any provision in the Constitution or Standing Orders which provides for the laying of "interim estimates". I give notice of my intention to dispute these matters in the highest court. Nevertheless, I do not think it is proper for this House to sacrifice legalities and leave this to the Court. We must carry out the constitutional provisions and carry them out completely.

Article 108 refers to the annual estimates. It says:

"The Minister responsible for finance shall, before the end of each financial year, cause to be prepared annual estimates..."

Then (2) goes on to say:

"The estimates of expenditure shall show separately the sum required to meet statutory expenditure and the sums required to meet other expenditure."

The only fair and reasonable interpretation is that it means "annual estimates", and when you come to (2) it can only mean "annual estimates". If it did not mean that, I can see nothing in the Standing Orders, from Standing Order 62 on, which would make any provision or any suggestion whatever for the laying of "interim estimates" before this Assembly. From Standing Order 62 onwards, the Standing Orders give the correct methods of laying estimates—how they move into the Committee of Supply and so on. There is absolutely no provision in the Standing Orders for anything else but "annual estimates".

[MR. d'AGUIAR]

We have had the "annual estimates" and they have been rejected in the whole. I would submit that we all know that the parts make the total. The whole is the sum total of its parts and that which has been rejected as a whole cannot be reintroduced in part. That is apparently what is being attempted today. I submit that if the Government is intending to introduce here "interim estimates", they cannot be considered because first of all they are contrary to Standing Order 21(3) which states :

"When a question for debate has been proposed, debated and decided, it shall not be competent for any Member to raise a question substantially identical thereto in the same session except upon substantive motion for rescission."

I submit further that it would contravene Standing Order 37(1), which states:

"It shall be out of order to anticipate a bill by discussion upon a motion dealing with the subject matter of that bill."

The Bill that is being anticipated is the required Appropriation Bill which cannot be presented in the present circumstances. Therefore, there is no question of its being brought before the Assembly before a reasonable time. My submission is that the Appropriation Bill is necessary, and without that, these interim estimates of expenditure, which are nothing but a reprint of the original, cannot be considered.

Mr. Deputy Speaker: What I would like to know is whether there is any Standing Order which prevents the Government from laying any document on the Table.

Mr. d'Aguiar: What I am submitting is this: the finance bills are carefully and in detail—

Mr. Deputy Speaker: I would suggest that all you are saying there should wait until we get to the Motion. There is nothing to prevent the Government from laying any document on the Table. The document is laid now.

Mr. d'Aguiar: There is no harm in allowing it to be laid, except that it has no significance to this Assembly.

Motor Vehicles and Road Traffic
(Amendment) Regulations, 1962. [The
Minister of Communications.]

QUESTIONS TO MINISTERS

SHALLOW WELLS AT BLACK BUSH POLDER

Mr. Cheeks (Georgetown North): I beg to ask the Minister of Labour, Health and Housing Question No. 9 standing in my name on the Order Paper: Bearing in mind that shallow wells tap water from the first impervious layer of earth and are therefore always liable to contamination, will Government state what precautions have been taken to purify, or prevent contamination of, the system of shallow wells being laid down at Les Beholden, Black Bush Polder?

The Minister of Labour, Health and Housing (Mr. Chandisingh): The so-called "shallow wells" at Black Bush Polder do not tap water from an impervious layer. They are not really shallow since they tap an artesian aquifer at a depth of over 150 feet in nearly all cases. The term "shallow" came into use because these wells tap the upper sand aquifer which can only be considered as shallow from a geological standpoint and certainly not by public health standards.

Consequently, there is a thickness of impervious clays for contamination to penetrate before entry into the well. However, the area around the well is cemented as a further safeguard to preclude contamination. The well casing comprises 20-foot lengths of 2-inch plastic pipe cemented together, the bottom length of which is slotted to permit water to enter the well from the sand bed. These wells are all capped on completion and a tap fitted in order that water may be obtained direct from the well in which there is no possibility of contamination.

ATTACKS BY "CHOKE AND ROB" GANGS

Mr. Bhagwan (Essequibo Islands): I beg to ask the Minister of Home Affairs Question No. 10 standing in my name on the Order Paper: Will the honourable Minister of Home Affairs state what measures are being taken to protect the public from the daring and increasing attacks by the "choke and rob" gangs operating in the city?

The Minister of Home Affairs (Mr. Rai): It is unfortunate that since the arson and looting of Friday, 16th February, cases of larceny from the person and robbery with violence have increased.

Every effort is being made to provide more policemen on the streets of the City and to increase their mobility. For obvious reasons it will not be advisable to publicize in detail how these will operate but already they are having a deterrent effect on the situation.

I am much concerned about this matter and would appeal to citizens to give all co-operation to the Police in ridding the country of these lawless elements. In view of the apparent widespread misunderstanding I wish to add that a person who "chokes and robs" another is liable to imprisonment for life and to flogging or whipping and it is gratifying to note that Judges of the Supreme Court have shown a commendable readiness to order flogging in appropriate cases.

PUBLIC BUSINESS

MOTION

APPROVAL OF ESTIMATES
OF EXPENDITURE

"Whereas article 109(4) (b) of the Constitution limits to four months ending 30th April the period during which public funds may be expended in pursuance of the provisions of the Financial Administration and Audit Ordinance, 1961, in anticipation of the passage of the appropriation law; and

Whereas the appropriation law for the year 1962 will not be passed before the expiry of the said period and it is necessary to provide for expenditure on the public services pending the passage of this law:

Be it resolved: that this Legislative Assembly approves in accordance with Article 109 (4) (a) (ii) of the Constitution one-sixth of the expenditure provision proposed under each of the subheads of the Estimates of Expenditure which have been laid on the Table, to a total of nine million, three hundred and ninety-one thousand, seven hundred and forty-three dollars as detailed by heads in the under-mentioned Schedule.

SCHEDULE

Head	Annual Estimate \$	Provision Required \$
Governor	5,300	833
Governor's Office	52,492	8,749
Volunteer Force	117,306	19,551
Supreme Court and Deeds		
Registry	369,597	61,600
Magistrates	437,470	72,912
Legislature	59,442	9,907
Premier's Office, Council of Ministers and Ministry of Development and Planning	565,380	94,230
Ministry of Natural Resources	1,038,870	173,145
Agriculture	2,130,193	355,032
Lands and Mines	614,199	102,366
Forest	681,653	113,609
Ministry of Works and Hydraulics	44,359	7,393
Public Works—Establishment	1,960,405	326,734
Public Works and Sea Defences—Annually Recurrent	4,625,937	770,990
Public Works—Non-Recurrent	550,000	91,667
Drainage and Irrigation—Establishment	668,401	111,400
Drainage and Irrigation—Annually Recurrent	725,250	120,875
Ministry of Home Affairs	95,469	15,912
Local Government	632,326	105,388
Interior	282,161	47,027
Police	3,704,857	617,475
Prisons	603,296	100,549
Fire Prevention	570,525	95,088
Printery	562,586	93,764
Probation	92,797	15,466
Essequibo Boy's School	99,268	16,545
Ministry of Labour, Health and Housing	237,707	39,618
Medical—Establishment	1,567,268	261,211
Medical—Bacteriological	204,581	34,097

SCHEDULE		
HEAD	Annual Estimate	Provision Required
	\$	\$
Medical—X-ray	108,201	18,034
Medical—Hospitals & Dispensaries	4,916,922	819,486
Town and Country Planning	89,553	14,926
Registration of Births, Deaths, Immigration etc.	88,987	14,831
Analyst	78,912	13,152
Labour	211,653	35,276
Ministry of Trade and Industry	555,728	92,621
Ministry of Finance	568,942	94,824
Accountant General	1,567,712	261,285
Central Registry	34,967	5,828
Customs and Excise	781,258	130,210
Inland Revenue	191,415	31,902
Licence Revenue	70,895	11,816
Post Office Savings Bank	64,314	10,719
Ministry of Education and Social Development	4,126,107	687,684
Ministry of Education and Social Development—Schools, Institutions and Miscellaneous	8,338,158	1,389,692
The Palms	365,746	60,958
Attorney General	120,138	20,023
Crown Solicitor, Public Trustee and Official Receiver	36,976	6,163
Ministry of Communications	71,497	11,916
Post Office	1,618,289	269,715
Post Office—Telecommunications and Electrical Inspection	1,046,414	174,402
Transport and Harbours	2,199,300	366,550
Civil Aviation	558,211	93,035
Audit	209,361	34,894
Public Prosecutions	45,943	7,657
Public Service Commission	170,740	28,457
Pensions and Gratuities	505,624	84,271
Public Debt	3,969,401	661,566
Loans from Public Funds	340,000	56,667
	\$56,350,459	\$9,391,743*

[The Minister of Finance]

Mr. Bissember: Sir, I wish to take a point of order on the Motion which is about to be introduced by the Minister of Finance.

Mr. Deputy Speaker: State your point.

Mr. Bissember: The point is that this Resolution is *ultra vires* and unconstitutional, and this House has no power to entertain such a Resolution. The hon. Minister of Home Affairs in his reply—

Mr. Rai: On a point of order! There is no Resolution before the House; it is merely something on the Order Paper. There is no Resolution, as such, put by you, sir.

Mr. Bissember: I thought the Minister of Finance was going to introduce a Resolution.

Dr. Jacob: In accordance with Standing Order 21 of the Standing Orders of the House, I signify that the Governor has recommended the following business for consideration by the Legislative Assembly

The Motion standing in my name first on the Order Paper is self-explanatory. However, I intend to state very briefly the reasons for this Motion. In so doing, I have to say that the Motion seeks the approval of the Legislature, in accordance with the constitutional provision, to spend one-sixth of the provision proposed under each of the Subheads of the estimates of expenditure which have been laid on the Table a short while ago. This amounts to \$9,391,743 and is as set out against each Head in the Schedule which is attached to the Motion.

Article 109(4) of the Constitution of British Guiana which deals with authority for public expenditure not covered by law states as follows:

“(4) No such warrant shall be issued for the purpose of meeting any expenditure other than statutory expenditure—

- (a) unless that expenditure has been authorised for the financial year during which the withdrawal is to take place—
 - (i) by an appropriation law; or
 - (ii) by inclusion in estimates laid before the Legislative Assembly and approved by resolution of the Assembly; or
- (b) except in accordance with the provisions of any law of the Legislature making moneys available in advance of appropriation for the purpose of meeting unforeseen expenditure or for the purpose of covering any period not exceeding four months between the end of a financial year and the coming into force of the law authorising the appropriation for the next following financial year.”

3.15 p.m.

Thus, under Article 109(4)(b) the granting of interim authority which has hitherto covered expenditure in 1962, is limited to the period ending April 30, 1962. Indeed, this was intended to be an interim arrangement until expenditure could be authorized under Article 109(4)(a) of the Constitution, that is, by an Appropriation Ordinance. It is now impossible to secure this authority before the end of the month. It is therefore necessary to have authority for further expenditure until the Appropriation law is passed. It is impossible to provide such authority under Article 109(4)(a) (ii) of the Constitution. For this purpose Estimates relating to the expenditure proposed have been laid on the Table, and the Motion seeks the approval of the Assembly accordingly. With that explanation of the reasons and the circumstances which make this Motion necessary, I formally beg to move the Motion standing in my name.

Mr. Carter: To a point of order, Mr. Deputy Speaker! I submit that this Motion is irregular, a violation of parliamentary procedure and practice, for the following reasons: First, it seeks to decide matters already decided during the same session of this House; (2) it amounts to a reintroduction of a Motion which has been negatived; (3) it anticipates a matter yet to be determined, but which has up to the present been rejected. Standing Order No. 21(3) says:

"21(3). When a question for debate has been proposed, debated and decided, it shall not be competent for any Member to raise a question substantially identical thereto in the same session except upon substantive motion for rescision."

Our Standing Orders follow the English practice, and I would like to refer to Sir Thomas Erskine May's *Treatise on The Law, Privileges, Proceedings and Usage of Parliament*, 15th Edition, at page 380—

"Matters already decided during the same session.—A motion or an amendment may not be brought forward which is the same, in substance, as a question which has been decided in the affirmative or negative during the current session."

Then this Rule is explained so far as Motions are concerned, and on page 499 of the same volume the learned author deals with Bills, and the position with regard to Bills is exactly the same as that relating to Motions. I quote:

- (5) **Bills with the same purpose as other bills of the same session.**—There is no rule or custom which restrains the presentation of two or more bills relating to the same subject, and containing similar provisions
- (s). But if a decision of the House has already been taken on such a bill, for example, if the bill has been given or refused a second reading, the other is not proceeded with if it contains substantially the same provisions, and such a bill could not have been introduced on a motion for leave. But if a bill is withdrawn after having made progress, another bill with the same objects may be proceeded with.
- (t). Bills having the same short title are distinguished by a number, according to priority in date of introduction, printed in brackets after the title."

In other words, if a Bill is withdrawn before it is rejected by the House, then it is possible to reintroduce that Bill in the same session, but if a Bill has been approved or rejected it cannot be reintroduced a second time during the same session. The author goes on to give an example:

"The following examples illustrate the application of the rule laid down by the Commons on 1 June, 1960, that 'no bill of the same substance be brought in the same session (u)'.

"On 7 July 1840 Mr. Speaker called attention to a motion for a bill to relieve dissenters from the payment of church rates, before he proposed the question from the chair (a). Its form and words were different from those of a previous motion, but the object was substantially the same; and the House agreed that it was irregular and ought not to be proposed from the chair (see p. 380). On May 1860 the order for the second reading of the Charity Trustees Bill was withdrawn, as it was discovered to be substantially the same as Endowed Schools Bill, which the House had already put off for six months (b)."

There is a note which says:

"(c) By Mr. Speaker's instructions the notice of presentation of the Hospital Lotteries Bill was removed from the Paper on the ground that leave had on 19 May 1931 been refused to bring in the same bill under S.O. No. 10 (now No. 12) (Private Ruling, 4 June 1931)."

[MR. CARTER]

As the hon. the Attorney-General and the hon. Minister of Home Affairs (Mr. Rai) said when they were discussing the point of order raised by the hon. Member for Campbellville (Mr. Bissamber), what is being sought by this Motion is precisely the same as what was rejected in the Appropriation Bill only a few days ago, to be exact, on the 26th April, 1962. The fact that this Motion seeks to introduce only a section of the Estimates makes no difference whatsoever. The whole Appropriation Bill—not part of it—with the Schedule and everything was rejected on Thursday evening last, and this procedure is a ruse on the part of the Minister of Finance to get around the difficulty of the rejection of the Appropriation Bill. This is a short cut and, as most short cuts, must necessarily fail.

The proper procedure, I submit, would be for the Government to take steps to have this Legislative Assembly prorogued and then reassemble afresh, and a new Appropriation Bill introduced for the consideration of this Assembly. This short cut cannot and must not succeed. It is improper and unconstitutional; it is invalid. There is no authority—no authority can be produced to justify the presentation of a second lot of Estimates after the whole has been rejected. Is it being said that the whole has been rejected, therefore Government can reintroduce a part of the whole? It would be consummate folly to ever imagine that such a thing could possibly be done. I am asking you, sir, to rule that this Motion cannot be debated because it brings back substantially what this House has considered in the same session, and which it has rejected.

The second ground which I mentioned originally as the third ground, is that the Motion “anticipates a matter yet to be determined, but which has up to the present been rejected.” The Minister of Finance is himself saying in his Motion:

“Whereas Article 109(4)(b) of the Constitution limits to four months ending 30th April the period during which public funds may be expended in pursuance of the

provisions of the Financial Administration and Audit Ordinance, 1961, in anticipation of the passage of the appropriation law;”

The second paragraph of the preamble of the Motion presupposes and anticipates a new Appropriation Bill, and we cannot discuss in this House any Motion which anticipates a Bill. That is laid down in Standing Order No. 37, paragraph (1), which says:

“37(1) It shall be out of order to anticipate a bill by discussion upon a motion dealing with the subject matter of that bill.”

One has only to look at the second paragraph of the preamble of the Motion which says:

“Whereas the appropriation law for the year 1961 will not be passed before the expiry of the said period and it is necessary to provide for expenditure on the public services pending the passage of this law:”

There is no escape. This Motion is in the teeth of Standing Order 37(1) which I have just quoted, and paragraph (2) of the same Order says:

“(2) It shall be out of order to anticipate a bill or a notice of motion by discussion upon amendment or a motion for the adjournment of the Assembly.”

Paragraph 2 of the preamble of the Motion says that a new Appropriation Bill is anticipated. In these circumstances I submit that this Motion is out of order and cannot be entertained by this House.

3.30 p.m.

I know that the members of the Government are going to say that this measure is to enable them to pay civil servants and Government employees, and that the business of Government cannot be carried on unless the Appropriation Bill is passed or a Motion adopted to permit the payment of salaries to officers. That is not important. What is important is that we must recognize at this stage that we are on the verge of Independence, and we must show due regard to constitutional procedures. If we permit this thing to pass today, what is going to happen when Independence comes? This Government must realize that this is not a game of cricket we are

playing. We are playing with people's lives. We have certain Constitutional Instruments to guide us, and we must abide by the guidance in these Constitutional Instruments. If we ignore any of these Instruments, no matter how small it may be, then the habit of ignoring what is laid down in the Constitution will begin, and that will lead from one error to graver errors.

May I now deal with the Motion as set out. It states:

"Whereas Article 109(4)(b) of the Constitution limits to four months ending 30th April the period during which public funds may be expended in pursuance of the provisions of the Financial Administration and Audit Ordinance, 1961, in anticipation of the passage of the appropriation law; and..."

It is true that sections 18 and 19 of the Financial Administration and Audit Ordinance make provision for expenditure by way of warrants for the first four months of the year. Government is now seeking by way of a Motion to vary what is laid down in Article 109(4)(a)(2). Article 109(4) states:

"No such warrant shall be issued for the purpose of meeting expenditure other than statutory expenditure—

- (a) unless that expenditure has been authorised for the financial year during which the withdrawal is to take place—
 - (i) by an appropriation law; or
 - (ii) by inclusion in estimates laid before the Legislative Assembly and approved by resolution of the Assembly;"

In other words, what was being sought to be provided for here was the regular estimates and no other supplementary estimates, because 109(4)(a) must be read in conjunction with Article 108, which is part of the scheme of the Articles relating to Finance.

Now in the first paragraph of the preamble to Article 109(4)(b), and this is what this Government is trying to abuse, we find:

"(b) Except in accordance with the provisions of any law of the Legislature making moneys available in advance of appropriation for the purpose of meeting unforeseen ex-

penditure or for the purpose of covering any period not exceeding four months between the end of a financial year and the coming into force of the law authorising the appropriation for the next following financial year."

Are my hon. Friends on the other side going to argue that the Estimates are unforeseen expenditure? The whole basis of the structure now disappears because the *raison d'être* in this Motion is based upon the first paragraph. There is no substance in the first paragraph, because there is no unforeseen expenditure. For the second reason, this Motion does not seek to make provision for any expenditure during the first four months of the year. What the hon. Minister of Finance tells us is that this Motion seeks to make provision for expenditure for the next two months, which would be outside of Sections 18 and 19 of the Financial Administration and Audit Ordinance.

So, Mr. Speaker, I suppose the hon. the Attorney-General and the hon. Minister of Home Affairs will address their minds to this question, and tell us how they are going to find the procedure laid down in our Standing Orders as reinforced by the practice in the House of Commons from which these Standing Orders were copied; and then tell us what is the unforeseen expenditure for which this Motion seeks to make provision.

Mr. d'Aguiar: I would like to make two general points of order in support of the points which have already been raised by the hon. Member for Werken-Rust. We must realize the fundamental principle that the whole is the sum of its parts, and the whole of the Appropriation Bill has been rejected. Now an attempt is being made to bring it back in part. The whole having been rejected, it is impossible to bring back 1/6 of the original Appropriation Bill to this House for consideration. The general principle of taxation is that the Legislature cannot levy arbitrary taxes upon the people. For this reason the time-honoured principle applied is that the total of expenditure must be publicly

[MR. d'AGUIAR]

analysed and approved by the Legislature before taxes can be levied. Today we are being asked to depart from this principle. In other words, we are being asked to levy taxation which is coming up later in respect of a financial year, without an appropriation for the same financial year. This is a breach of the Constitution is its most important aspect.

It is true, Mr. Speaker, that we must admit that Government is in an embarrassing situation. It has failed to pass an Appropriation Bill within the 4-month period allowed by the Constitution. It is the proper function of this House to uphold rigidly what is laid down in the Constitution in relation to the rules of procedure. Government failed through its own fault to have the Bill passed, and it is not proper for this House to find loopholes and circumventions to enable the Government to rectify its mistakes. The purity of the Constitution should be preserved, and it should not be prostituted for the sake of saving the virtue of the Government. If the Government wishes to prostitute it that is its business, but we should not prostitute the purity of our Constitution in order to save the Government.

My four specific points are: (1) With respect to Standing Order No. 21(3) raised by the hon. Member for Werk-en-Rust; (2) Standing Order No. 37, with respect to the question of anticipation which has also been raised by the hon. Member for Werk-en-Rust; (3) The Motion to be moved by the hon. Minister of Finance purports to approve something in accordance with Article 109(4) (b), and that is strictly out of order. It starts off with a recital which is inadequate, namely, "that the appropriation law for the year 1962 will not be passed before the expiry of the period mentioned"

3.40 p.m.

whereas in truth and in fact, the appropriation law for the year 1962 was defeated. Secondly, it purports to

authorise estimates which have already been rejected with the rejection of the appropriation law. From Standing Orders 62 and 63, it is clear that the estimates are tied to the rejection of the appropriation law, and the rejection of the Bill includes the rejection of the Estimates of Expenditure.

It is true that the Constitution in Article 109(4)(a)(ii) provides for estimates before the Legislative Assembly and approved by resolution of the Assembly, but neither in the Standing Orders nor in the Financial Administration and Audit Ordinance, 1961, has provision been made for the passing of a resolution approving estimates. Therefore, the position is that even if Standing Orders can be suspended, the position cannot be helped for the simple reason that there is no provision for the implementation of Article 109(4)(a)(ii), and if that can be implemented, when this Session is prorogued, as it has to be, all the resolutions will fall to the ground.

I took an extract from Erskine May's *The Law, Privileges, Proceedings and Usage of Parliament*, 15th Edition, pages 692 and 682, which reads as follows:

"The prorogation or dissolution of Parliament without an Appropriation Act is a constitutional irregularity, as thereby all the grants of the Commons are nullified, and the sums must be voted again in the next session, before a legal appropriation can be effected."

I also found this interesting quotation:

"On the advice of Mr. Pitt in 1784, and of Lord Grey in 1831. The Commons, in 1784, resolved that the persons who acted on supply grants, unsanctioned by an Appropriation Act, would be guilty of a high crime and misdemeanour."

Then it goes on:

"Taxation—The relation between the financial initiative of the Crown and taxation has in modern procedure become indirect. In earlier procedure the voting of taxes was the regular response of the Commons to the royal demand for supply."

The principle clearly established is this: that you cannot vote taxes until you have voted your appropriation, and

the principle also is that if your Parliament prorogues between the two, then this resolution that we are asked to adopt would, on the prorogation of this Parliament, become a nullity. What is the point of debating it when we know that this Session is to be prorogued and, according to the parliamentary rules to which we are subject, at that point all this appropriation would become nullified?

Therefore I think it is indeed a very serious situation and it is one that wants a good deal of thought. And maybe we have been asked here, as was originally suggested, without due and proper notice, for it has already been shown how much study was necessary, and possibly, how much carelessness has crept into the Government's Motion in its haste to push the Motion through before the specified date. I submit that this resolution should be declared out of order and the debate on it should not continue.

The Attorney-General: Your Honour, my hon. and learned Friend, the Member for Werk-en-Rust, raised the question that a resolution of this nature would offend Standing Order 37(1) of the Standing Orders of this House. Let me say at once that this is a completely erroneous interpretation of this particular Standing Order. Firstly, it says this:

"It shall be out of order to anticipate a bill by discussion upon a motion dealing with the subject matter of that bill."

I interpret this Standing Order to mean that there must be, in existence, a Bill before the House and some Member must attempt to debate the question relating to the existing Bill. I am confident of this. I have no doubt about this. My hon. and learned Friend cannot anticipate the future existence of a Bill and attempt to apply Standing Order 37 to it. The resolution says that there will be an appropriation law, but there is no Bill. The Bill is dead; it is non-existent, and for them to take Standing Order 37, there will have to be in existence before this House, a Bill.

Standing Order 21(3) states:

"When a question for debate has been proposed, debated and decided, it shall not be competent for any Member to raise a question substantially identical thereto in the same session...."

I felt that if this particular Standing Order was applicable, there would have been no difficulty in giving appropriate notice to suspend it. But, Your Honour, is this resolution asking for an interim approval for expenditure of one-sixth of the Estimates the identical question with a question already decided in this House? Certainly not. The question which was decided was with respect to the Third Reading of an Appropriation Bill. It was not an interim measure asking for one-sixth of the expenditure to enable the Government to carry on, and they will be stretching their arguments very far indeed to say that it is the identical question. I submit that it is a completely different question, for a different purpose, under a different provision of the Constitution, and one which under the Constitution and by right of law, the Government is quite in order to bring.

Your Honour, English law is difficult, and as I said earlier, its intricacies are bewildering. In exercising our vigilance we must remember, not only its letter, but the spirit. English law is made for people who have time and again exhibited love and understanding for each other. English law is framed to permit high principles of honour and integrity. This is why the English law of trusts, whereby one man holds property in trust for another, is so strict; this is why in the English law of negligence the duty of care which one man owes to another is so wide. One can understand this. One cannot interpret English law unless one can get this feeling; one cannot interpret, in the light of fundamental principles of interpretation, the various provisions which we make from time to time.

We did not give ourselves that Constitution. Article 109(4)(a)(ii) angers the Opposition. If it were intended that the Government should have no interim powers, it would not have been drafted as it has been drafted here. It would

[THE ATTORNEY-GENERAL]

have been taken out completely. It would have been put in as a separate paragraph and one would have excluded the other. But the Article is so drafted to show that there are clear alternatives for expenditure in this country. One can have expenditure without an appropriation law provided that expenditure is approved by the Legislative Assembly. This is the result of the Constitution which we did not give ourselves. There are three clear alternatives for expenditure: first, by an appropriation law; secondly, by estimates approved by resolution; and thirdly, by an Ordinance which can give power to spend for only four months.

We have operated under Article 109(4)(a)(ii), and it has angered the members of the Opposition. But they cannot get any of Her Majesty's judges to agree with them. I say again it is unfair for them to try to make this honourable Assembly the Supreme Court or the Federal Supreme Court or the Judicial Committee of the Privy Council. If they think their interpretation is right, they can move the Court to quash the resolution. They cannot come here with strained arguments to say that we are debating the same question or that we are anticipating the Bill. The Bill must be in existence. The Article quoted cannot apply; I have no doubt about this at all in my mind.

3.50 p.m.

A Bill must be in existence, otherwise that Article cannot apply. I have no doubt about this at all.

Mr. Bissember: It is rather surprising that the hon. the Attorney-General has ventured to say that no Judge of the Supreme Court would agree with the Opposition's point of objection. I would like to know if he knows the minds of the Chief Justice or the Judges of the Supreme Court. But that is beside the point. I have risen to support the point of order taken by the hon. Member for Werk-en-Rust, and to ask Your Honour

to consider this question: one-sixth of what Estimates is this Motion seeking approval? I submit that it is one-sixth of the Estimates which were thrown out last week in this House, and that if Your Honour agrees with me on that point, I further submit that if the whole of something was rejected by the House, a part of it cannot be approved by Resolution at the same session. I would wish the Attorney-General to reply to this aspect of the question. Can the House reject a whole and be asked at the same session to approve by Resolution of a part of that whole? The Motion before the House seeks approval of one-sixth of the identical Estimates which were rejected by the House last Thursday night. I have never heard of such a procedure being adopted in any country which upholds parliamentary democracy. This Government has resorted to the subterfuge of seeking approval by Resolution of one-sixth of Estimates which were thrown out last Thursday night when the third Reading of the Appropriation Bill was defeated.

Mr. Rai: I am very much distressed at the tactics of the Opposition in trying to delay Government business which is the people's business. [**Mr. Bissember:** "Were you here on Thursday night?"] Anyone who knows anything about parliamentary procedure and the passing of Bills knows that the Third Reading of any Bill is a mere formality. It has grown out of historical reason, in the same way as the First Reading of a Bill, but the crucial stage of any Bill is the Second Reading. Every item of the Estimates was passed in Committee of Supply. All that has happened to the Appropriation Bill, 1962, is that on a mere formality and technically the Third Reading was not passed.

The Opposition will try to make the most of this in order to embarrass the Government, but it is not good ground on which to fight the Government. Members of the Opposition are doing a disservice to all the people, and not doing a service even to their own supporters.

While Members of the Opposition must be vigilant they must not embarrass themselves or the people of the country.

The rejection of the Third Reading of the Appropriation Bill was a mere accident. The point was well taken by the Attorney-General that there is no Bill on the Order Paper, and no question of debating something which is substantially identical with the Appropriation Bill which has been rejected. There was an Appropriation Bill before the House seeking to appropriate a large sum of money, but what is now before the House? A Motion seeking expenditure of one-sixth of the Estimates. The House may willingly and gladly agree to vote one-sixth of those Estimates. After all, the Second Reading of the Appropriation Bill was never rejected, and every item of the Estimates was passed by the House. The points raised are not points of order but points of disorder, challenging the authority of the Deputy Speaker who has already ruled by authorizing the inclusion of the Motion on the Order Paper, thereby signifying that it is in regular form and in compliance with the Standing Orders of the House.

Mr. Cheeks: I would like to support the point of order raised by the hon. Member for Werk-en-Rust (Mr. Carter). Perhaps there is a way out for the Government, but we are not here to teach the Government. There is no provision in our Standing Orders or in the Constitutional Instruments which empowers the Government to introduce interim estimates. There is no reference at all to interim estimates. I see reference to supplementary estimates and annual estimates, and I believe the introduction of this Motion is just an attempt to circumvent the Constitution. Under the guidance of the Speaker the House must be the guardian of the Constitution. If we allow any provision in our Constitution to be discarded or brushed aside, even in a matter which may appear to be slight, it would in future be referred to as a precedent, and breaches of much greater importance may well become common in this House. Is Government to be allowed

to commit a breach of the Constitution now? If it is allowed, what must we expect when this country achieves Independence? Since there is no provision either in our Standing Orders or in the Constitution empowering the Government to introduce interim estimates I am asking you, Mr. Deputy Speaker, to discard all the fine legal arguments by Members of the Government and rule this Motion out of order.

Mr. Deputy Speaker: I think it is time to suspend the sitting for tea.

Assembly adjourned for half an hour until 4.30 p.m.

4.30 p.m.

On resumption—

Mr. Deputy Speaker: Any further comment on the point of order which has been raised by the hon. Member?

Mr. Jordan (Upper Demerara River): Yes, sir. With respect to the question of anticipation, Standing Order No. 37 states:

"37. (1) It shall be out of order to anticipate a bill by discussion upon a motion dealing with the subject matter of that bill.

(2) It shall be out of order to anticipate a bill or a notice of motion by discussion upon amendment or a motion for the adjournment of the Assembly."

It is not because a Bill has not been put up or laid here in writing that we say it is not anticipated. In support of that I want, with Your Honour's permission, to quote from page 383 of Erskine May's Fifteenth Edition which reads as follows:

"The fact that a bill has not been printed does not withdraw it from the operation of this rule,..."

The mere fact that you say $\frac{1}{6}$ clearly anticipates something. You cannot anticipate $\frac{1}{6}$ of something that does not

[MR. JORDAN]

exist, and the fact that it is $\frac{1}{3}$ of what the Government has in mind will lead one to think that it is $\frac{1}{6}$ of the Estimates that have already been rejected. It is $\frac{1}{6}$ of what has been rejected, and it is anticipating what is to come up later. On that ground, I do not think we can accept this Motion.

4.45 p.m.

Mr. Wharton: I do not know anything about the law; therefore, I shall not attempt to quote anything that sounds like law. But it is a known fact that the Bill was rejected by a majority of votes and now the Government is asking us, this afternoon, to pass "interim estimates" amounting to one-sixth of what has been rejected by the popular vote.

I want us to work a little bit of mathematics. Suppose this House were to pass one-sixth of the interim estimates, as they are called here, and then, on a subsequent occasion, the wily Government comes back to this House and asks us to pass two-thirds of the interim estimates. That done, the members return on a subsequent occasion and ask us to pass one-sixth. Then, they will pat themselves on the back and say, "There we are—six-sixths make the whole. Look at what these people have done: they rejected something at one moment and now they have passed it". In other words, they would prove to us, the Opposition, that we know not what we are doing. In that case, I shall support the objection raised by the Opposition and say that this Motion is not properly before the House.

Mr. Merriman (La Penitence-Lodge): The hon. Attorney-General referred to the indignity of not having ourselves maintained, because of inability to pay for such services, I presume. We are not guided by sentiment. We are guided by a certain code. In this case, it is the Constitutional Instruments which tell us of our rights, privileges and powers and of certain procedures to be followed.

On this occasion, we are dealing with the Appropriation Bill which deals with finance. It is laid down clearly in the Constitutional Instruments what the procedure should be. Article 108 says that the Minister shall prepare "annual estimates". The Constitution also provides that if, within that period, there is the application of the word "interim", it should relate to the period for which constitutional provisions are made—that is, the first four months.

When once that is done, anyone would realize that the Instrument was conceived on the possibility of delay or adjustment within that period and to give flexibility to the Legislature to operate during such delay. The necessary provision was made to take care of all the services during that period. On this occasion, it is being suggested by the Government that the Opposition is standing in the way of good Government, that the Opposition is filibustering, as it were, now that a measure is presented to enable our services to be maintained.

But the Government has not taken into full account the period which is legitimately prescribed for such adjustments and such manoeuvrings. Almost at the end of the prescribed period we find it presenting its Appropriation Bill. That Bill has been defeated in this House and in this Session of the Legislature. It is patent that the Government is glibly passing over the reasons for the defeat. The Government had all the means for its simple and easy passage. There is no doubt about that. The Government has been engaged in activities which, I am told, claimed the attention of its members in seeing off men who were going to Cuba on scholarships.

Mr. Bhagwan: On a point of order! I do not think, on the question of order or procedure, that the hon. Member can take this as an opportunity to attack the Government. What is at issue is the question of your ruling on a point of order, and so far as I am aware, and this House, you have already made a ruling

on the Order Paper and what would appear as the business of the House today. I think we should proceed, in the interest of the business of the House, since we have heard most of the arguments which can be made by Members on the opposite side, in the interest of the expedient conduct of the business of the House.

Mr. Deputy Speaker: We are discussing now a point of order with respect to the Motion by the Minister of Finance. I gave permission that the Order Paper be prepared to be discussed at this meeting because I felt, with the proper distribution under Standing Order 23, there could have been a meeting of the Assembly today. There is nothing to prevent any hon. Member, after coming here, from questioning any portion of that Order Paper; in this case—the Motion by the Minister of Finance—the question relates to the section under which he has brought this Motion. This is what we are discussing, and until I am satisfied that every hon. Member has been given an opportunity of expressing his views on that point of order, I shall not prevent the discussion from going on on it.

Mr. Saffee (Berbice West): Is it not out of order for a debate to follow a point of order?

Mr. Deputy Speaker: Until I am satisfied that it has reduced itself to a debate, we will proceed. Will the hon. Member for La Penitence-Lodge confine his remarks to the point of order as put forward by the hon. Member for Werk-en-Rust and state his views whether the particular item is in order, as suggested, as coming from Article 109(4)(a)(ii) of the Constitutional Instruments?

Mr. Merriman: I was endeavouring, at this juncture, to deal with the point of order on a point which was made by the Government that the Second Reading of the Bill was passed and because of some misadventure the Third Reading was defeated, and that this has occasioned the necessity for bringing this Motion

now. This, to us, has no right to be before the House. That was the aspect I was dealing with when I was challenged on a point of order.

A period of four months is clearly laid down as the legitimate period during which this House has any manoeuvring power, as it were, with an Appropriation Bill. We have before us for consideration “interim estimates of expenditure”. The reason for objecting to the acceptance of these interim estimates of expenditure is that they would relate to a period—“interim” means between now and then—which is not prescribed within our Constitution or our Standing Orders. The Motion is obviously out of order and should not be accepted.

The point was made that these interim estimates of expenditure relate to the Appropriation Bill which was “thrown out” a few days ago by this House. That is patent. Indeed, one sees clearly the identical figures contained in the two propositions. In the 1962 estimates, at the beginning, there will be found eight pages numbered in Roman figures. These have been taken out in the “interim estimates”, but one finds the same figures in both sets of estimates from Head 1—Governor, right through to the end. There are a few figures changed, in ink; I do not know who has done that. The items contained on the pages from page 109 onwards of the original estimates are not necessary—they are not included in the proposed interim estimates! To my mind, the document remains the same.

5 p.m.

It has been clearly shown by other Members of the Opposition that the Appropriation Bill having been negatived, this interim estimate has no place before the House. In the preamble to the Motion by the Minister of Finance one sees clearly the relationship to the Appropriation Bill. We of the Opposition will support and, when necessary, criticize the Government within the context of our Standing Orders and the Constitu-

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tion, but the Government cannot expect that we will subscribe to anything which is illegal, *ultra vires* or unconstitutional. It is clear that the Appropriation Bill was considered by the House as prescribed by the Constitution and our Standing Orders, and thrown out on the Third Reading. That was the legal process. In the circumstances the Government cannot reasonably expect us to cooperate in a procedure which is unconstitutional and improper.

Mr. Deputy Speaker: Mr. Attorney-General, have you any further observations to make?

The Attorney-General: I am very pleased, indeed I am grateful for the opportunity to make this observation. There is a passage at page 401 of the 16th edition of Erskine May's *Parliamentary Practice* in which it is pointed out that there is difficulty in saying whether a question is substantially the same if it is raised in a Motion and then in a Bill. There is authority for the view that a Motion and a Bill have different purposes, and that if a question is raised in a Motion and the Motion is defeated, and in the same session the same question is raised in a Bill, then the questions are not substantially identical, and the Bill would be allowed. There is authority on this.

In this case the argument of the Opposition is on the reverse. The opposition is saying that there has been a question proposed in a Bill and Estimates were considered in Committee of Supply which, for the purposes of this question, is not the House. The Assembly is not the same as a Committee of Supply. I say that the principles are the same; that the timing of the Motion and the Bill is irrelevant for the purpose of the distinction, and if it is not substantially identical when the Motion is placed before and the Bill after, then it would not be substantially identical if the Bill is placed before and the Motion after. I quote the following passage on page 401 of the 16th edition of May's *Parliamentary Practice*:

"On 8 December, 1857, a resolution was proposed for extending limited liability to joint-stock banks, to which an amendment

was proposed affirming the same principle in modified form. The House refused to permit either of these propositions to form part of the question, which was consequently reduced to the single word 'that'. On 11 February following, a bill to the same effect was brought in without objection, the House having pronounced its judgement upon a question not substantially the same."

I think that the authority of this case has closed the question which is now in issue so far as Standing Order 21(3) is concerned. I go further and say that a Motion asking for \$9 million to spend for two months is not substantially identical with a Bill asking for the appropriation of \$59 million for one financial year. The two things are different in essence and purpose, in the same way as a Motion is different in its essence from a Bill, and I do not see how it could ever be argued that the House is being asked to decide two identical questions.

With respect to anticipation of the Appropriation Bill, the hon. Member for Upper Demerara River (Mr. Jordan) cited an authority which is clearly against him. In that case it would appear that the Bill had already been laid but had not yet been printed, and it was said that one could not anticipate it even if it was not yet printed. In this case the Bill is not in essence; it is not in being, and I am firmly of the opinion, having regard to that case, that the Opposition cannot apply Standing Order 37 to plead anticipation of a non-existent Bill. It is conceded on all sides that the Appropriation Bill met its sad end on the night of the 26th April. I think that the points in this case are amply concluded by authority, namely, that there cannot be an identical question raised in one case by a Motion and in another case by a Bill. There would have to be two Motions and two Bills, and I contend that Standing Order 37 cannot apply unless there is in question a Bill which can be anticipated. The propositions are clearly set out, and the authorities which conclude the matter are to be found on pages 401 to 403 of Erskine May's 16th edition. I thank you, Mr. Deputy Speaker.

Mr. Deputy Speaker: Hon. Members, I think you will agree with me when I say that this first session of our Legislative

Assembly has produced very vital and important matters. I think it is the first time in our colonial history that we are faced with a situation such as this, in which the Government has to introduce a Motion of this nature in order to carry on the functions of Government. So that to those of you who feel that too much latitude was given to Members of this House to express their views on this matter I want to say that on rare occasions such as this, one must be given an opportunity to express one's views, especially on a matter which is not usually before a Legislative Assembly. So that if you feel that I have given too much tolerance to Members you will appreciate the circumstances which led to the present situation.

I have listened attentively to the arguments on both sides of this question, as to whether this Motion should come under Article 109(4)(a)(2) of the Constitution, and I think my ruling on the point of order which has been raised should be given careful thought. I therefore propose to defer further consideration of this Motion until our next sitting which, should be on Wednesday, in order that I may have an opportunity to give my ruling on this issue as put forward by the hon. Member for Werk-en-Rust. I do not think that the short delay will interfere very much with Government business, because tomorrow (Tuesday, 1st May) is a public holiday, and on Wednesday I will give my ruling in order that it may be placed on record in this House.

We will now proceed to item 2 on the Order Paper—the hon. Minister of Finance to move the Second Reading of the Bill intituled: "An Ordinance to amend the Tax Ordinance."

TAX (AMENDMENT) BILL

The Minister of Finance (Dr. Jacob): In moving the Second Reading of the Tax (Amendment) Bill, 1962, I wish to point out that this Bill arises out of the proposals made in Sessional Paper No. 2 of 1962. Clause 2 of the Bill seeks to increase the

Excise duty on rum from \$9.60 to \$14.40 per proof gallon. Clause 3 seeks to increase the Excise duty on beer from 75 cents to \$1.40 per gallon.

5.15 p.m.

The yield from this increase in Excise duty will amount to about \$2½ million per annum.

Clause 4 seeks to increase the stamp duty on certain legal documents like affidavits, declarations and agreements, and the new rates of these stamp duties are set out in the Clause. The increase in the stamp duties may yield about \$50,000 per annum.

Clauses 2, 3 and 4 will be deemed to have come into operation from January 31, 1962.

Clause 5 seeks to increase the cost of pawnbrokers' licences, and I wish to announce here that I propose to move, in Committee stage, certain Amendments to Clause 5 of this Bill.

Clause 6 seeks to increase the amount charged for moneylenders' licences from \$150 to \$250.

Clauses 7, 8, 9 and 10 seek to increase licence duties for licensed premises and bonded warehouses.

Clauses 5, 6, 7, 8, 9 and 10 will go into operation as from January 1, 1962.

I wish to announce, also, that in regard to Clause 12, I propose to move Amendments when the Bill reaches Committee stage. That, Mr. Speaker, gives the reasons for this Bill. I, therefore, beg to move that the Tax (Amendment) Bill, 1962, be read a Second time.

Mr. d'Aguiar: Consideration of these tax Bills in my view, and I think it is borne out by parliamentary procedure, is that they hinge upon the estimates of expenditure. It is a principle laid down that the people must know what is going to be spent from public funds before they can

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be taxed to provide for these funds. This is a principle that is absolutely clear. Now we are being asked to consider taxation in relation to estimates which are non-existent. We do not have them before us, and it would be highly improper, in my opinion, to go on with the consideration of tax Bills which by their very nature derive from the provision of expenditure: the principle being that the public should have the right as well as the Opposition to examine the expenditure to see that it is reasonable and then to vote levies to raise funds to provide for such expenditure. We are now asked to raise funds to provide for what? Nothing at all. This is highly improper.

I would like to quote from an extract from Constitutional Law by Hood Phillips—Second Edition, page 187—which shows to students the principle laid down in theory:

“The theory of the Constitution with regard to finance is clearly shown in the special enacting formula of the annual Finance Acts: “Most Gracious Sovereign, We, Your Majesty's most dutiful and loyal subjects the Commons of the United Kingdom in Parliament assembled, towards raising the necessary supplies to defray Your Majesty's public expenses, and making an addition to the public revenue, have freely and voluntarily resolved to give and grant unto Your Majesty the several duties hereinafter mentioned; and do therefore most humbly beseech Your Majesty, that it may be enacted, and be it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—”.

That clearly shows a principle carefully laid down, and it is followed in our Constitution. Furthermore, in our Standing Orders it is indicated that the supplies or the estimates of expenditure should be approved before taxation measures. I, therefore, submit that it would be out of order to consider any taxation measure in relation to the Budget today. Further, I repeat the point that I made earlier that in the event of this Legislature being prorogued, as it is to be, all of these measures

will fall to the ground because it would be highly improper to leave the Budget, so to speak, in suspense in one session of the Legislature; prorogue the Legislature, and then reintroduce in the new session a part of the Budget.

In my view all of these Bills hinge on the original Budget which was introduced by the hon. Minister of Finance on January 31. He introduced his proposals for the year, and he outlined these proposals for taxation hinging upon his Budget. The whole thing is part and parcel of a single unit, and a study of our Constitution and Standing Orders clearly presupposes that. I submit that it would be out of order to consider any taxation in relation to expenditure which is not before this House and has not been passed by this House.

While the original objection has been overruled by Your Honour, namely, that due notice was not allowed within 21 days as required, I would further submit that, that having been overruled and accepted, under the Standing Orders it is provided that reference to the Legislative Council shall apply to the Chambers of the Legislature. None of these matters were laid before the Senate within the time required by the Ordinance. The Ordinance said the Legislative Council.

Mr. Deputy Speaker: What aspect are you dealing with now?

Mr. d'Aguiar: I am dealing with Bill No. 5 of 1962.

Mr. Deputy Speaker: That Bill cannot go to the Senate until it is passed by this House.

Mr. d'Aguiar: Under Ordinance No. 309, it requires—

Mr. Deputy Speaker: This matter has nothing to do with Ordinance No. 309. Please let us deal with Bill No. 5 of 1962. I take it that you feel it should not be discussed now because of the fact that the Appropriation Bill was defeated on its

Third Reading. That point has been taken by me, and I will now ask the hon. the Attorney-General to give his views on it.

The Attorney-General: Your Honour, nowhere in the Constitution or in the Standing Orders of this House is there any rule or regulation to preclude the House of Assembly from proceeding with the Bills to raise revenue. Article 110 of the Constitution provides that the public debt should be charged on the revenues of British Guiana. Article 108 refers to statutory expenditure, and all over this Constitution one finds provisions like this relating to the salaries of Judges, the Director of Public Prosecutions and other officers who were paid from the beginning of the year. That is why nowhere in the Constitution or in the Standing Orders of this House will one find any rule or regulation indicating that measures cannot be taken to raise revenue to provide for the annual estimates for recurrent expenditure.

In addition to that Government has to provide for statutory expenditure which goes into millions of dollars. The hon. Member for Georgetown—Central has raised no point of order. It must be a point of order relating to the debates in this House, and he must point to the relevant Order which he alleges is being infringed. He is talking about the Constitution, but he is not quoting anything to support this unusual and unprecedented submission.

It is difficult to understand that law was made for man; that man was not made for law, and it is this fundamental distinction which the hon. Member for Georgetown—Central and certain other hon. Members of the Opposition have not grasped. It is a waste of time to use these delaying tactics.

5.30 p.m.

I would submit that the submission by the hon. Member for Georgetown Central has no merit and that he could point to

no Article of the Constitution or Standing Order of this House which would support this unprecedented contention.

Mr. d'Aguiar: I would point to Standing Order 85 which says in paragraph (1):

"In any matter not herein provided for, resort shall be had to the usage and practice of the Commons House of Parliament of Great Britain and Northern Ireland, which shall be followed as far as the same may be applicable to the Assembly, and not inconsistent with these Standing Orders nor with the practice of the Assembly."

I would also refer to the quotation I gave from Hood Philips which points out that the principle of taxation, as applicable in the United Kingdom, is that the supplies should be made before taxes are raised. It is a very important principle. You cannot tax *in vacuo*.

The principle is that you cannot be allowed to raise taxes frivolously. Taxes must be raised for a specific purpose, and we demand the right to know for what purpose these taxes are going to be raised, for the appropriation of what. If the hon. Attorney-General can answer that question, I would willingly submit. But, I submit, he cannot, and it is therefore entirely out of order to proceed with this question of raising taxes.

Mr. Carter: The arguments of the hon. Member for Georgetown Central are quite sound. There is a stipulated procedure that has obtained for hundreds of years in the House of Commons for specific reasons. One has the Budget proposals of the Finance Act and an Appropriation Act.

The hon. Member referred to Hood Philips which is a students' book on Constitutional Law and should be known to the hon. Attorney-General. I wish to refer to the Second Edition of Hood Philips on Constitutional Law. On page 186, it sets out the procedures and states as follows:

"The Committee of Ways and Means considers ways and means of meeting the supply granted to the Crown. In practice this means a general debate on policy arising

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out of the Chancellor of the Exchequer's Budget proposals. Near the beginning of of the financial year the Chancellor of the Exchequer introduces his "Budget" into this Committee. The Budget consists of (a) a financial review of the previous year; (b) an estimate of the total amount required for the coming year, and proposals (by way of alteration in direct and indirect taxes) for meeting these requirements; and now includes (c) a statement of the Government's general financial and economic policy. The biggest item is the standard rate of income tax for the year, machinery for the collection of which is provided by permanent Income Tax Acts.

The Committee of Ways and Means, as we have seen, also authorises payments out of the Consolidated Fund.

When the Budget resolutions have been passed they are embodied in the annual *Finance Act*.

The Finance Act and the Appropriation Act must be passed by the end of the session, i.e., early August."

Then, it goes on:

"The theory of the Constitution with regard to finance is clearly shown in the special enacting formula of the annual Finance Acts: "Most Gracious Sovereign, we, Your Majesty's most dutiful and loyal subjects the Commons of the United Kingdom in Parliament assembled, towards raising the necessary supplies to defray Your Majesty's public expenses, and making an addition to the public revenue have freely and voluntarily resolved to give and grant unto Your Majesty the several duties hereinafter mentioned; and do therefore most humbly beseech Your Majesty, that it may be enacted, and be it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—".

Then the Royal Assent follows. The whole point towards raising the necessary supplies is to defray Her Majesty's public expenses, so that the whole purpose of taxation is to defray expenses which have been provided in the Budget and in the Estimates. If these estimates have not been approved, then it follows that you cannot have an Appropriation Act or a Finance Act until they have been approved.

The estimates have been rejected. Therefore, there is nothing for which this Government can raise money, so that it cannot come now and introduce tax legislation to meet estimates which do not exist.

Mr. Deputy Speaker: The House accepted the Development Estimates.

Mr. Carter: I am not speaking about that. I am speaking of the estimates which form part of the Appropriation Act—the estimates of revenue. That is why there is this enactment formally referring to the necessary supplies to defray Her Majesty's public expenses and making an addition to the public revenue.

This Bill seeks to add to the public revenue and as such it cannot be entertained at this moment. I do not say it cannot be entertained forever, but we cannot, at this stage, consider any tax legislation, any Bill which seeks to raise public revenue, until the estimates have been approved by this House. These estimates which form part of the Appropriation Bill have not been approved—they have been rejected.

May I just go on and speak about the provisional collection of taxes. I quote:

"...it had been the practice to anticipate the passing of legislation by collecting certain taxes on the authority of resolutions of the Committee of Ways and Means. In *Bowles v. Bank of England* Mr. Gibson Bowles M.P. challenged the legality of the deduction of income tax from interest accruing to him at the Bank, and Parker J. declared this usage to be a violation of the Bill of Rights. To legalise within limits the provisional collection of revenue the Provisional Collection of Taxes Act, 1913, was passed."

That meets the point entirely. We have no provisional collection of taxes in this country. It goes on:

"This Act gives statutory force under certain conditions for a period of four months to resolutions of the Committee of Ways and Means varying, renewing or re-imposing customs or excise duties or income tax."

Therefore this is completely out of order.

Mr. Deputy Speaker: Do you wish to make any further point, hon. Attorney-General?

The Attorney-General: I wish only to say that the Development Estimates and the public debt are charged on the annual revenues, and the statutory expenditure in relation to the Judges, the Director of Public Prosecutions and other people are already charged on the revenues so that it cannot be argued that there is no reason for the collection of taxes in this country. Indeed, because of the development and statutory charges and the public debt it is urgently necessary, in terms of the Constitution, for the tax legislation to go through.

I have never heard that a Bill properly before the House is not to be passed because of principles not in the Standing Orders of the House. I have never heard of its being unconstitutional for taxes to be levied where there are not expenses under recurrent estimates, but where development estimates and statutory expenditure have been approved. These propositions I have never heard or read and they cannot be accurate because, once the House has committed itself to development estimates and once the Constitution of this country charges the revenues with certain statutory expenditure, the House is in duty bound to find the means of raising these moneys.

Mr. Bissember: I do not want to speak on this but I agree with the hon. Attorney-General when he said he has never heard what he has heard now. I know that tax proposals are being introduced in this House when there is no expenditure to be met by these taxes which are being sought. I wish to support the point by the hon. Member for Werk-en-Rust that we cannot proceed with the Second Reading of the Bill, because the elementary principle of tax proposals is to meet expenditure.

The amendments which are now sought were introduced by the hon. Minister of Finance when he made his famous Budget Speech, that historic Budget Speech. The estimates submitted to allow the proposed taxation to be in

force have been rejected, and there are now no expenses to be met. Therefore, these tax proposals cannot be proceeded with.

One has only to look at the British Parliamentary practice to see these things. I must say, with the greatest respect to the hon. Attorney-General, that he knows as a matter of principle, that one does not find them in Articles of Constitutions. They are found in the long-established practices of the British House of Commons which we follow in this country.

Mr. d'Aguiar: May I make a further point, Mr. Speaker?

Mr. Deputy Speaker: I do not think you can pursue this point.

Mr. d'Aguiar: It is in relation to a point the hon. Attorney-General made in reply to a point I made. The point that he made was that we have the Development Estimates, we have the public debt and we have the Civil List which are charges on the finances of the country. But we also have the existing income tax laws, the existing customs duties laws, which accrue revenue normally.

The fact is that these tax Bills are related to a Budget which listed new expenditure, and the object of these tax Bills is not to meet recurrent expenditure or to pay the public debt or to meet statutory expenditure. They are estimated to meet expenditure which was listed in the Budget and the Appropriation Bill. That having been removed, so to speak, the tax Bills cannot be discussed separately from the new expenditure which their provisions are intended to meet. That is the point.

Mr. Deputy Speaker: Is there anything to prevent these Bills from being passed by the House prior to the passage of the Appropriation Bill?

Mr. d'Aguiar: I would say that the whole principle is one which is absolutely essential and important in order to raise new revenue. You have the laws in

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regard to old revenue. They exist, for customs duties have to be collected and income tax continues to be paid.

5.45 p.m.

But in order to raise new revenue the position is that Government has to show the people that they have created new demands for new expenditure. Having shown what the new expenditure is to be, the House would be asked to provide it by new taxation. That is a principle which has been applied for hundreds of years, and woe betide this Government if it deviates from that time-honoured principle. If a vote for new expenditure is not approved, the public cannot be asked to pay these additional taxes. The point made by the Attorney-General is amply covered by the existence of the ordinary taxation.

Mr. Carter: May I further clarify my point by bringing to the notice of the House the procedure laid down by Hood-Phillips at page 186. I quote:

"The allocation of the sums voted in Committee of Supply is afterwards embodied in an Act called the Appropriation Act. The annual Appropriation Act authorises in detail the application of the amounts voted to the purposes for which voted. It usually happens, however, that money is wanted by the departments before the Appropriation Act is passed. Interim statutes called Consolidated Fund Acts are therefore passed from time to time, incorporating resolutions of the Committees of Supply and Ways and Means. The annual Appropriation Act, following on these, deals with the balances of money voted but so far undisposed of, and confirms retrospectively the appropriations made by the Consolidated Fund Acts. In a sense, therefore, the Appropriation Act is itself a Consolidated Fund Act."

There is this legislation in England which, if we had it here, would have got us out of this difficulty, but it does not exist here.

Mr. Deputy Speaker: I have listened attentively to the arguments which have been put forward on both sides. A few days ago when the Third Reading of the Appropriation Bill was defeated, all the

Heads of the Estimate had been passed in Committee of Supply. All I can say now is that the points raised by Members of the Opposition have been noted. The Second Reading of the Bill was passed, and all the Heads of the Estimate were accepted by majority vote in the Committee of Supply. After that all that was necessary was that the Bill be given its Third Reading, but all the Members on the Government side were not present when the vote was taken, and the Motion for the Third Reading was defeated. Do hon. Members at this stage, after their views have been noted, still desire that consideration of this Motion be deferred until a new Appropriation Bill is put before the House?

Mr. d'Aguiar: I think it is imperative. The whole trouble has arisen from the original sin of creating a new Budget within the old Budget.

Mr. Deputy Speaker: That is a different matter. We are considering something which was laid on the Table since the 31st January. Let us deal with that. We are through with the Appropriation Bill.

Mr. d'Aguiar: Your Honour asked certain questions, and the answer is that in my view it is imperative that a new Appropriation Bill be presented, and following from that taxation be levied to meet the expenditure envisaged by that Bill. It would be improper to endeavour to approve of taxation in respect of expenditure which is not known. If your decision is to adjourn, and as a result of the adjournment expenditure of one-sixth of the Estimate is approved, at least we should have something. At present we have nothing. But even that, I submit, would be out of order. I submit that the procedure must follow the normal channels which have been laid down in British Guiana in the past, and in the United Kingdom for a number of years. We do not know what new appropriation will be voted. It may be reduced, in which

case we may argue that as the expenditure is now less we are against the imposition of a particular tax. To proceed out of the normal order is, in my view, totally wrong.

Mr. Deputy Speaker: Can the hon. Member tell me whether the increased taxation is not already effective, and whether the consuming public is not paying increased prices for certain items?

Mr. d'Aguiar: The principle is that from the date when the Budget is presented the Provisional Collection of Taxes Order comes into effect and the new taxes are collected, the object being to prevent undue speculation. The taxes are collected until they are passed by the Legislature in the proper manner. It is the right of the people to know how the money they are asked to pay in taxation is going to be expended. In this case the Government is trying to put the cart before the horse. It is the expenditure which demands the revenue, not the revenue which creates expenditure. This would be a very serious infringement of a well established principle.

The Minister of Communications (Mr. Wilson): Much stress is being laid on the fact that we must follow the Mother of Parliaments. The hon. Member for Werk-en-Rust drew attention to the fact that in the United Kingdom Parliament there is such a thing as the Consolidated Act which makes provision for an interim collection of revenue. If we do not have such a provision in our Constitution or our legislation, then it is obvious that we would be following the United Kingdom practice in doing something which is tantamount to what is provided in the Consolidated Act in the United Kingdom, to which the hon. Member referred. That is what we are doing now—to follow the practice in the United Kingdom Parliament.

Mr. Carter: One last contribution. I recall that at the opening of this Assembly His Honour the Speaker remarked that the price of Democracy is eternal

vigilance, and he was no doubt speaking to the Opposition when he said that. What we are contending now is not a mere technicality; it is not a technical objection. It is something which is substantial and fundamental. We are protecting our Constitution from infringement. That is what we are trying to do. When there is no provision in our Standing Orders we follow the practice in the United Kingdom Parliament. It stands to reason that this House cannot legislate for the expenditure of money unless it is satisfied about what that money is to be spent on. For instance, if an item on the Estimate is rejected by another vote of 13—13 or 13—12, it would mean that we are making provision to collect revenue for expenditure which has not been approved.

The Premier and Minister of Development and Planning (Dr. Jagan): I wonder if I could, not on the ground of a technicality but on the ground of getting on with the business, appeal to hon. Members of this House? Members of the House who are lawyers, and those who have been advised by lawyers, have been arguing on technicalities. If there was a serious infringement of the Constitution which would deny anybody's rights, whether in this House or outside, then objection would be valid, and indeed must be given a great deal of consideration. But as you rightly pointed out, sir, what we are dealing with is merely a matter which arose out of a mere technicality. The fact is that when the Third Reading of the Appropriation Bill was moved, Members on this side of the House, who are in the majority, were not all in their seats, and the Members of the Opposition took the irresponsible decision to vote against the Third Reading of the Bill which is a mere formality. [**An hon. Member:** "Irresponsible,?"]. Yes, I say "irresponsible" because the Motion for the Second Reading of the Bill was carried.

Mr. Jordan: To a point of order! Is the Premier speaking on the point of order which was properly raised?

The Premier: As Your Honour pointed out, the Motion for the Second Reading of the Bill was passed, and the various Heads of expenditure were also passed in Committee of Supply. That is why I say that the Third Reading of the Bill was a mere formality. What is the purpose of parliamentary procedure?—to protect the rights of people and to get on with the business of the country.

6 p.m.

This is the purpose of Parliament or the Legislature. We should get on with the business of the House as well as the Government, and we should see to it that the affairs of the country are carried on expeditiously.

As I said, we can quibble and spend a lot of time here, but it is obvious and clear that, whatever may have happened at the last sitting of this Assembly, we must have provision for the disbursement of salaries and other commitments which the Government will have to meet from tomorrow. This is the reality of the situation. It is not that the Government is seeking to do something unconstitutional which will deny anybody of his or her rights. If hon. Members were arguing along that line, I would say that we should give such an argument the consideration it deserves. What the Government is seeking to do at the moment is to find some method for permitting funds to be disbursed. The matter was brought before the House by way of a Bill, but today this Government has brought a Motion in order that the taxes which are being levied can continue to be levied. That is all the Government is doing.

Let us be realistic. We can legally say that no Appropriation Bill is before the House, but the hon. Members who have perused the Estimates which have been laid today will realize that the Government is seeking to correct what took place a few days ago. I think hon. Members will agree that this has to be done. Let us be grown-up in this House, and see that this is done as soon as pos-

sible. [**Mr. Bissemer:** “We will be guilty of collusion.”] I would appeal to hon. Members not to debate points which will obstruct the business of the Government. The business of the Government is very urgent and necessary, and something must be done so that public commitments can be met. [**An hon. Member:** “You are putting the cart before the horse.”] An hon. Member is now saying that we are putting the cart before the horse by submitting the Interim Estimates for approval. It is clear that the Government intends to introduce again the— [**An hon. Member:** “Anticipation.”] You may intelligently anticipate; let us hope so—Estimates in a new way.

One may say that an oversight has resulted in the Appropriation Bill not being passed a few days ago, and I would therefore ask hon. Members to allow the business of the House to be proceeded with today. Let us get along with the Bill. If it is not passed today it will be passed next week, because the Government has not yet lost its majority in this House. One has to look at the function of this House not merely formal, but in substance.

If the Government had lost its support in the House, then one could very well say that the form of what happened at the last meeting and the substance coincide and, therefore, it is necessary for us to wait. But, surely, that is not the position. Therefore I would like to appeal to the hon. Members, having had a glimpse of the new Estimates of Expenditure, having realised that it will be necessary to have some taxation measures which will be passed this week or next week, to let us get along with the business of the House and approve this Bill. Let us deal with it now, and see whether it will be passed or rejected. [**An hon. Member:** “You have the numbers on your side now.”] That is the position at the moment.

It is clear, as I have said, that the Government still commands a majority in this House, because, the same evening when the Third Reading of the Appropriation Bill was not passed, a Motion

for the approval of the Development Estimates was carried. I think the hon. Members are merely quibbling at the moment. This is no time for quibbling. I am sure that hon. Members on both sides of the House have a lot of work to do inside as well as outside of the House. Therefore the quicker we get along with this matter, instead of wasting time by merely arguing on technicalities, the quicker we will be able to solve some of the difficulties which are facing this country today.

Mr. Deputy Speaker: Hon. Members we have listened to the appeal put forward by the hon. the Premier. I want to say, again, that this Bill deals with taxation measures that are already in operation. I do not know whether hon. Members of the Opposition feel that, in view of the fact that the measures are already in operation and the people are paying these taxes, it is not necessary to take this Bill through all of its stages today. The question is, "That this Bill be read a Second time". Those in favour please say "Aye"; those against will say "No".

The Assembly divided: Ayes 18, Noes 10, as follows:

Ayes	Noes
Mr. Shakoor	Mr. Cheeks
Mr. Jagan	Mr. Campbell
Mr. Hamid	Mr. d'Aguiar
Mr. Downer	Mr. Wharton
Mr. Caldeira	Mr. Merriman
Mr. Bhagwan	Mr. Jordan
Mr. Robertson	Mr. Hugh
Mr. Saffee	Mr. Bissember
Mr. Mann	Mr. Correia
Mr. Bowman	Mr. Carter—10.
Mr. Wilson	
Dr. Ramsahoye	
Dr. Jacob	
Mr. Chandisingh	
Mr. Rai	
Mr. Ram Karran	
Mr. Benn	
Dr. Jagan—18.	

6.10 p.m.

Bill read a Second time.

Assembly in Committee.

Clauses 1 to 4 agreed to and ordered to stand part of the Bill.

Clause 5.

Dr. Jacob: I beg to move two amendments to Clause 5—firstly, that the word "four" be substituted for the word "five" in line eight; secondly, that the words "one hundred and twenty" be substituted for the words "two hundred" in the last line.

Clause 5 as amended, ordered to stand part of the Bill.

Clauses 6 to 11 agreed to and ordered to stand part of the Bill.

Clause 12.

Dr. Jacob: I beg to move the following amendments to Clause 12: firstly, that a colon be substituted for the full stop at the end of subsection (1); secondly, that the following proviso be inserted as a proviso to subsection (1)—

"Provided that—

- (a) notwithstanding anything to the contrary provided in sections 29, 31 and 33 of the Stamp Duties (Management) Ordinance, no person shall be liable to any penalty under such provisions in respect of any instrument executed prior to the enactment of this Ordinance and which, by reason only of the coming into operation of section 4 of this Ordinance, is not duly stamped;
- (b) no criminal proceedings shall be instituted against any person in respect of any instrument where prior to the enactment of this Ordinance, by reason only of the coming into operation of section 4 of this Ordinance, such instrument is not duly stamped."

Clause 12, as amended, ordered to stand part of the Bill.

Assembly resumed.

Bill reported with amendments to Clauses 5 and 12; as amended, considered; read the Third time and passed.

6.20 p.m.

**AUCTIONEERS (AMENDMENT)
BILL**

The Minister of Finance (Dr. Jacob): In moving the Second Reading of the Auctioneers (Amendment) Bill, I wish to explain that this amending Bill seeks to raise the rate payable by the purchaser at any auction sale from 2 per cent. to 3 per cent., and also to increase the rate payable by the seller from 1 per cent. to 2 per cent. This Ordinance will be deemed to have come into effect from 31st January, 1962.

Question put, and agreed to.

Bill read a Second time.

Assembly in Committee.

Bill considered and approved.

*Bill reported without amendment,
read the Third time and passed.*

**MOTION—MOTOR VEHICLES AND
ROAD TRAFFIC REGULATION**

“Be it resolved: That the Legislature in terms of section 98 of the Motor Vehicles and Road Traffic Ordinance, Chapter 280, approves Regulation No. 1 of 1962 which was made on the 29th day of January, 1962, and published in the Gazette on the 31st January, 1962.” (The Minister of Finance.)

Dr. Jacob: This regulation seeks to increase the amount payable for drivers' licences, from \$1 to \$3 per year. The estimated yield in revenue per annum as a result of this increase will be about \$50,000.

Question put, and agreed to.

Motion affirmed.

**MOTION—CUSTOMS ORDER
NO. 5 OF 1962.**

“Be it resolved: That the Legislature, in terms of Section 9 of the Customs Ordinance, Chapter 309, confirms Order No. 5 of 1962 which was made on the 30th day of January 1962, and published in the Gazette on the 31st day of January, 1962.” (The Minister of Finance.)

Dr. Jacob: I wish to explain that Order No. 5 which was made under Section 8 of the Customs Ordinance, Chapter 309, on the 30th January, 1962, and published in the Gazette on the 31st January, arose out of proposals in Sessional Paper No. 2 of 1962. This Order, which raised the import duties on various articles, and the export duty on greenheart, was estimated to yield additional revenue of \$5½ million on the former, and estimated additional revenue of \$1 million on the latter, that is on greenheart. This Order was amended on the 21st February, 1962, by Order No. 15 which was published on the 22nd February, and the confirmation of which will be sought immediately hereafter.

It should be noted that all of the additional import duties introduced by this Order were subsequently withdrawn, except those on a few items which were coffee, concentrates for alcoholic beverages, tobacco, motor cars and motor cycles (excluding autocycles). The export duty on greenheart was left unchanged. I formally beg to move the Motion.

Question put and agreed to.

Motion affirmed.

**MOTION—CUSTOMS ORDER
NO. 15 OF 1962.**

“Be it resolved: That the Legislature, in terms of Section 9 of the Customs Ordinance, Chapter 309, confirms Order No. 15 of 1962 which was made on the 21st day of February, 1962, and published in the Gazette on the 22nd of February 1962.” (The Minister of Finance.)

Dr. Jacob: In moving the Motion at item 6 on the Order Paper, I wish to explain that Order No. 15 was made under Section 8 of the Customs Ordinance, Chapter 309, on 21st February, 1962, and published in the Gazette on the 22nd February. This Order arose out of the decision of the Government to withdraw all of the import duties introduced by Order No. 5, except those in respect of coffee, concentrates for non-alcoholic

beverages, alcoholic beverages, tobacco, motor cars and motor cycles (excluding autocycles). I beg to move the Motion.

6.30 p.m.

Mr. Hugh (Georgetown-South): Mr. Deputy Speaker, I would like to point out something and to ask the hon. Minister to clarify the position. We are asked to approve Order No. 15, but if one looks at the back of the Customs Tariff in the Second and Third Schedules one finds under the Second Schedule Commodity 029-09.2-Milk-based infant foods approved as such by the Chief Medical Officer. One finds the same Commodity, 029-09.2, under the Third Schedule. The same thing applies to diesel and semi-diesel engines for water craft (marine) outboard, 711-05.6 These engines are referred to under the Second and Third Schedules. The same thing applies to electric batteries and radio receivers. If the hon. Members of this House pass this Order as it is, I wonder whether it would not create confusion among the officers in the Customs Department when these officers try to fix the duty on items coming into this country? As the Order stands Customs Officers may find some difficulty in deciding what they should charge people under the Second Schedule or the Third Schedule.

I believe that the Government had enough time to find out these errors and correct them. For the past two months the hon. Members on this side have been drawing attention to mistakes made by the Government printery. If the printers cannot do the work properly, Government should get people to do proper work. I would like the hon. Minister of Finance to clarify the points which I have raised.

Mr. Deputy Speaker: Does the hon. Minister wish to defer consideration of this matter?

Dr. Jacob: I think we had better defer consideration of the Motion.

Mr. Deputy Speaker: Can you explain to the hon. Member for Georgetown-South why you have the same items in the Second and Third Schedules?

The Attorney-General: In this case there are reasons connected with certain sections of the Customs Ordinance. Certain legal questions are involved, and the idea was that the second Order should vary and re-enact the original items which have been repealed by the first Order. That is responsible for some measure of similarity between the items in the Second and Third Schedules.

Mr. Hugh: This is going to lend itself to corruption. Is the hon. Minister of Finance asking us to agree to Commodity No. 029-09.2, Milk-based infant foods with a preferential Tariff of 5 per cent. and a General Tariff of 10 per cent in the Second Schedule, when the rates as set out in the Third Schedule are 2½ per cent preferential Tariff and 5 per cent General Tariff? This will be giving the officers in the Customs too much power, and they will insist on the higher rate of taxation. We cannot sit here and allow the same items to be placed under two different Schedules and two different rates of Tariff.

Mr. Deputy Speaker: During the time the hon. Minister of Finance is endeavouring to satisfy the hon. Member for Georgetown-South I would like to suggest that, in view of the fact that we have just one other item on the Order Paper, hon. Members would allow the sitting to continue until we have disposed of it, so that there will be no need for us to return at eight o'clock.

Agreed to.

Dr. Jacob: I should like to move an amendment now, because it was always the intention of the Government that the lower rates should apply. In the Second Schedule, Item No. 029-09.2, Milk-based infant foods, etc., I move that the Preferential Tariff be changed from 5 per cent to 2½ per cent and the General Tariff to 5 per cent instead of 10 per cent.

Mr. Hugh: I am wondering how this will affect the entry of goods coming into this country having identical items under two separate Schedules. In my opinion merely reducing the rate of duty in the Second Schedule to correspond with what is in the Third Schedule does not make much difference and it does not help the situation. There must be some particular reason for a Second and a Third Schedule. Why put three items in the Second Schedule and the same three items in the Third Schedule? If I interpret the hon. Minister's amendment correctly, it means that we should do away with one of the Schedules.

Dr. Jacob: I have been informed that the intention was to delete the Second Schedule here which is at the higher rate, and to substitute the Third Schedule in its place. If hon. Members will look to the first page of the Order, item 2(b) and (c), they will see the position. I should therefore like to ask Your Honour's permission to delete the Second Schedule.

Mr. Campbell (North West): I do not understand the law, and I will not vote on it.

6.40 p.m.

Mr. Deputy Speaker: Is the hon. Member for North West (Mr. Campbell) saying that he has not his Order Paper?

Mr. Campbell: I have the Order Paper.

Mr. Deputy Speaker: Are you saying that you do not understand what is being discussed now? The hon. Minister of Finance is suggesting the deletion of the Second Schedule as stated on the front page of Order No. 15 of 1962.

Question put, and agreed to.

Motion Carried.

**BILL—SECOND READING
BRITISH GUIANA CREDIT
CORPORATION (AMENDMENT) BILL**

Dr. Jacob: In moving the Second Reading of the Bill intituled:

“An Ordinance to amend the British Guiana Credit Corporation Ordinance, 1954”

I would like to offer the following explanation of this measure. The Limitation Ordinance, Chapter 26, limits the periods within which actions may be brought to recover debts. After these periods have lapsed, it is not possible to recover these debts by process of law, but Section 15 of that Ordinance provides that nothing in it shall affect the rights of the Crown or apply or extend to any bond, bill, note, or other evidence of debt issued by any bank, corporation or by the Colony. It is now sought to introduce an amendment so that the Limitation Ordinance shall, in the same manner, not apply to the rights of the British Guiana Credit Corporation for the recovery of loans.

The Credit Corporation is a body which uses public funds, and it is the public generally which would suffer if these amounts are not recovered. At the moment, the Corporation has arrears of debts, outstanding over three years, which amount to nearly \$900,000. A large portion of these debts is secured upon movable property and there is, therefore, a great danger that the amounts owing to the Corporation may not be recovered. The Bill seeks to provide for the British Guiana Credit Corporation to take steps in the Courts to recover these amounts which are owing for a period of over three years. I therefore beg to move the Second Reading of the Bill.

Question put, and agreed to.

Bill read a Second time.

Assembly in Committee.

Bill considered and approved.

Assembly resumed.

Bill reported without amendment, read the Third time and passed.

ADJOURNMENT

Resolved, “That this Assembly do now adjourn until Wednesday, 2nd May, 1962, at 2 p.m.” [Mr. B. H. Benn]

Adjourned accordingly at 6.45 p.m.