

# SECOND LEGISLATIVE COUNCIL

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

Thursday, 8th June, 1961

The Council met at 2 p.m.

## PRESENT :

**Speaker**, His Honour Sir Donald Jackson

**Chief Secretary**, Hon. Major I. O. Smith, O.B.E. (acting) } *ex officio*  
**Attorney-General**, Hon. A. M. I. Austin, Q.C. }

The Honourable **Dr. C. B. Jagan** — *Member for Eastern Berbice*  
(Minister of Trade and Industry)

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

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

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

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

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

„ **R. C. Tello** — *Nominated Member*

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

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

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

„ **Ajodha Singh** — *Member for Berbice River*

„ **Jai Narine Singh** — *Member for Georgetown South*

„ **R. E. Davis** — *Nominated Member*

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

„ **H. J. M. Hubbard** — *Nominated Member*

„ **A. G. Tasker, O.B.E.** — *Nominated Member.*

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

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

## ABSENT :

Financial Secretary, Hon. W. P. D'Andrade — on leave

The Honourable Janet Jagan — Minister of Labour, Health and Housing—on leave

Mr. F. Bowman — Member for Demerara River.

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

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

The Clerk read prayers.

## MINUTES

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

## ANNOUNCEMENTS

## LEAVE TO MEMBER

**Mr. Speaker:** I wish to announce that the Minister of Labour, Health and Housing has asked for leave today and tomorrow. I have noticed that the Minister of Trade and Industry is with us again.

## ORDER OF THE DAY

## PUBLIC BUSINESS

## BILLS — SECOND READING

CRIMINAL LAW (PROCEDURE)  
(AMENDMENT) BILL

**Mr. Speaker:** Hon. Members, at the adjournment yesterday the hon. Attorney-General had completed his speech on the Second Reading of a Bill intituled:

“An Ordinance to amend the Criminal Law (Procedure) Ordinance.”

The Motion for the Second Reading of the Bill has been duly seconded.

**Mr. Davis :** With a certain amount of consciousness of my limitation to speak on a matter appertaining to law and bearing in mind that one of my colleagues, the hon. Nominated Member, Mr. Gajraj, was once warned about “fools rushing in . . .” when speaking on points appertaining to law, I shall still endeavour to make a contribution to this debate. I should like, first of all, to congratulate the Government on its decision to make it open for women to sit as jurors together with men.

I was very intrigued, Mr. Speaker, with your reminder that some of the smaller Islands have already done that—

perhaps again it is a case where the little ones have led them. For a long number of years now women have earned their right to accept positions of responsibility; they have availed themselves of the opportunity of attaining scholarly progress; they have obtained degrees, and they now demand equal rights and equal pay with men. I think this piece of legislation is a good step in the right direction, and I commend the Government for having introduced it.

I am not in agreement with Clause 4 of this Bill. I am wondering whether the hon. Attorney-General in his reply will quote instances and give us reasons for this discrimination. At first blush I would say that the contents of this Clause could be described only as discrimination between men and women, and such discrimination should not be written in our statutes. Clause 4 states:

“32A. (1) A judge before whom a case is or may be heard may, at any time, in his discretion, on an application made by or on behalf of the prosecutor and the accused or either of them, or at his own instance, order that the jury shall be composed of men only.”

Why, at this stage when we are going to open this field to women, should this discrimination take place? If it is felt desirable that such a Clause should remain on our Statute Book, then I venture to suggest that the converse should also be considered. That is to say, in certain circumstances there should be a jury composed entirely of women. I believe that sound arguments could be adduced to support my suggestion. I do not understand the reason for this discrimination, if you are giving women the right to serve as jurors.

Now as regards the remainder of the Bill, it seems to me that the hon. the Attorney-General or his officers have been making an effort to tidy up this particular bit of legislation. But I wonder what could have happened that the Third Schedule of this Ordinance, which is to be found on page 110, has

escaped his or their attention. This Schedule refers particularly to the remuneration of jurors, and it is stated here that a juror shall be paid, provided he satisfies the Taxing Officer that he has, by reason of his attendance, incurred a loss, at the rate of \$1.00 per day. Jurors who reside outside a radius of 12 miles of the Court are to be paid at the rate of \$1.44 per day, and those in another category \$2.00 per day.

It seems to me that this rate of pay is out of all proportion with the rates of pay that prevail today, and I would like to bring that forcibly to the attention of the Government. It seems to me that this is a very intricate and delicate piece of study, and is part of our everyday ups and downs of life. I think that when a man is asked to go to the Courts to serve as a juror he should be able to do so without the loss of any portion of his day's pay. That aspect of the matter should be more reasonably considered and cannot be ignored. Today the minimum wage of the ordinary casual unskilled worker is \$3.05 per day.

How can we reasonably expect justice to be done when a man has to leave his work at a minimum rate of pay of \$3.05 per day and go to serve as a juror for the amount of money mentioned in this Schedule? It seems that may be one of the reasons why there have been attempts at contamination of our jury in the past. Make no mistake about it, it costs the Government much more in the end. This is a matter in which steps should be taken to put it right as the cost becomes greater in the long run. Now that we are going to have women jurors we should not think of offering such a low scale of pay.

I have been reminded that it is called "allowance". I can think of many ways, many avenues of occupation that women can explore where they will get more pay for less time of service. Now that we are about to put on our Statute Book a jury system to include the female section of our community, it is my considered opinion that this old Schedule should be reviewed in the light of the prevailing rates

of pay. I will suggest with a certain amount of fear and trepidation that, perhaps, the hon. the Attorney-General may like to report progress so that this matter may be considered with a view to introducing an amendment to this Bill. As regards the other parts of the Bill, I will give them my support.

**The Attorney-General:** I wonder if I can mention at this stage, for the benefit of other speakers who may wish to make the same point, that the Government is in process of revising the remuneration of jurors and witnesses.

**Mr. Jai Narine Singh:** There is only one point I wish to make on this Bill, and that is the inadequate accommodation of the Courts. If we are now going to have ladies serving on the jury, I think that the very crude form of having persons sitting on a hard bench for three hours—if counsel is lengthy in the conduct of his case, as your Honour well knows, it can be very much longer than that—should be improved. The Government should consider providing better accommodation for our ladies when they are listening to matters which engage their attention as jurors.

I also think that proper care should be taken, now that we are going to have ladies on the jury, to see that they are given the care and attention which they deserve and will deserve in this instance. Not only are matters lengthy, but have to be held up for the purpose of the jurors having their lunch. But sometimes, on account of the urgency of the situation, dinner has to be served to the jurors at the Court. I feel that, having reached the standard where ladies will be jurors, we must provide proper accommodation for them at the Court. It marks a step towards our destiny as a nation in the making.

**Mr. Speaker:** In some cases elsewhere the women serving as jurors as well as men have had to be locked up for days in a murder trial.

**Mr. Tello:** I have but one small matter to raise on the Bill which has been introduced so ably by the hon. the Attorney-General, and I would like him to allay my fears. I have had very little to do with the Criminal Courts, but the little I have had has given me an idea about the practising lawyers in the Courts, which struck me each time I attended a Court. I discovered that most of the lawyers concentrated their efforts on appealing to the sentiment of the jurors. I have been in Court on more than one occasion when the trial Judge had to remind the practising counsel that they were dealing with a matter of facts.

Why I have made mention of this is because we know that women are usually more sentimental and emotional than men. I can give no legal authority for it, but it is the practice in places like the United Kingdom to have a ratio of male and female jurors sitting in a case—9 men to 3 women in a jury of 12. What is responsible for that ratio is that the registration of persons as jurors is somewhere around that ratio. In British Guiana it is possible to have a smaller ratio.

But the hon. the Attorney-General has also said that the actual panel of the jury is dependent on a matter of ballot or chance. I am not satisfied that such an important thing as justice should be left solely to chance. In the City of Chicago a friend of mine took me to see the working of a criminal court. There I saw women jurors shed tears during the trial. That sort of emotion would influence justice to a great extent. I seem to think that in British Guiana we should not take such chances. We must be sure there is a sufficient quantity of hard boiled male jurors to balance the women jurors who are weighted with emotion.

I am appealing for this workable method, which is not contrary to universal practice, to be adopted here, and that a Clause be inserted in our Statute Book

limiting the ratio of male and female jurors. I will be satisfied, after some experiment, that the Clause be removed altogether. The hon. the Attorney-General did not give any specific reason why in the United Kingdom there is this preference for a majority of males on a jury. I am asking him to give it close attention at this experimental stage, and to provide a Clause to control the ratio at once.

**Mr. Speaker:** My experience is that male jurors do not sit long, if there are women on the jury.

**Mr. Tello:** Possibly in British Guiana it might be the opposite.

**Mr. Jackson:** As one who believes in the equality of sexes, and as one who endeavours to establish that all people have the same ability or the same possibilities to exercise judgment in the same manner and to the same degree, it is somewhat gratifying to know that in yet another field the old prejudice of man, which he has had for all these generations, is further disappearing. In professions there are women who have measured themselves, successfully, with their male counterparts. We have seen, in every field, our womenfolk demonstrating in no uncertain manner that whatever their male counterparts can do, they also can do; and it is only right and just that this other step should be taken.

We have seen our womenfolk in politics, and I think it would be right to say that in that field, also, they are demonstrating, without any doubt, that they are equal to their male counterpart. I am not sharing the view that they can be any more emotional than our menfolk. If the fear which has just been expressed by the hon. Nominated Member, Mr. Tello, is going to be the pattern, then I am sure that everyone would agree with me that our menfolk are also emotional. We have seen men shedding tears over matters in the same way as women because they appeal to their emotion.

Our womenfolk are not as emotional as we sometimes seem to think. It is my view that they can sometimes reason more clearly than men; and I hold the view that they are not as easily influenced as our menfolk. And those of us who have the experience of relationship with them would know that they are very hard bargainers. They do not easily lend themselves to all that men want them to do, and whatever they do is after a calculation of their intention or desire.

Those of us who are married would know exactly to what extent we have had to bow to them. It is clear that they are, in many respects, stronger than our menfolk. They mould a nation much better than men do; so it is erroneous to express the view that they can be more easily influenced in matters of this nature. As a matter of fact, it is an unfair assessment of their qualities. I have yet to learn that they can be easily influenced as men sometimes are. I have no doubt in my mind that the presence of women on juries would be a tremendous advantage to the pattern of justice which we have always sought and which we should continue to seek. It may well be as you have said, Mr. Speaker, that, wherever you have been and as far as your knowledge and experience go, they do not take as long in determining a verdict as when there is a panel made up entirely of men.

What I would not like to see is any attempt made to fix a limit. I do not care whether in the United Kingdom, the number of men chosen is less than women. That shows clearly how slowly the prejudice is disappearing. In my view, it should be possible for a jury comprising all women to be chosen. There should be nothing wrong in having an all-women jury and panel because, in my opinion, there is no difference in the exercise of thought between men and women. It is also my opinion that the reason for having a ratio in England and elsewhere is the result of the prejudices we have had for so many generations over our womenfolk. I want to see no limitations but an exten-

sion of the rights of women, whether in the field of jury or in any other field. I repeat, the time for this has been long overdue, and I am glad to see that steps have been taken to give our womenfolk an opportunity to demonstrate their ability to serve, and serve well.

**Mr. Gajraj:** I would like to say how pleased I am with the Government for having proposed this measure, for I feel, myself, that the women of this country should more and more take an equal place with men in the field of public as well as private endeavour.

For myself, I have found it necessary to state in this Council that I am a Muslim, and from what I have read in the local press recently, probably I would be stamped a somewhat "irreligious person" or fanatic when I say that my religion does not agree entirely with the doctrines of Christianity, nevertheless, my religion has taught me, as well as all who belong to it, that men and women are considered equal in the sight of the Lord. Therefore, it is my conviction that women must be given every opportunity which is given to men. I feel very pleased to see that women would be given the opportunity to serve on the jury and, in that way, to help in seeing that justice is properly administered.

What I do not like about the measure is the provision whereby the Judge, at his discretion, may decide what particular case should be tried by an all-male jury. In other words, this would give me the impression that the Government, itself, is not too sure that women could function as members of a jury to the satisfaction of the Judge and the public, in every single case. I do not see why there should be this discretion because, as has been pointed out by the hon. Member for Georgetown North, a woman is no less or no more emotional than a man, but women can be relied upon in many cases to deal with matters in a more objective form than men are known to do.

[MR. GAJRAJ]

While my hon. Colleague on my left, Mr. Tello, feels that men would probably be able to bring justice to their minds in such matters better than women, let me say this, that not only in the courts of our country but in courts of other countries as well, there has been introduced in the system of jury trials the pernicious practice of some people trying to get at jurymen in order to influence their decision at the end of the case. I feel, myself, that if men are prone to change, for reward, what should be the right view in such circumstances, I would prefer to leave my fate in the hands of women in such cases. So I feel it would do this country's jury system a great deal of good if we allow women to sit on juries and use their commonsense and judgment—judgment which they indicate more than men—and we would get better justice, perhaps, at such trials. I say I welcome this measure, but I do not like the provision for the Judge to decide whether there should be an all-male jury.

Looking at the First Schedule which sets out the persons exempted from service on a jury, I wonder whether Government has not thought it fit to include, in the cases of the municipalities of Georgetown and New Amsterdam, the Mayors of each of those local authorities. It has been my experience that persons holding the office of Mayor—particularly the Mayor of Georgetown—have been called upon for jury service and we know, in these days, how long trials last; then they are unable to function properly as Mayors because they have meetings to attend. We see that Members of the Legislature would be exempted from such service. If they could be exempted, I feel that persons who occupy the position of Mayor of New Amsterdam and Mayor of Georgetown should, also, be exempted from such service.

**Mr. Hubbard:** Like other Members, I welcome the proposal that women should be given the right to sit as jurors in our courts. I regret, however, that

it has not been seen fit to do away with the archaic provision that the qualification of a juror rests on property. The possession of property is by no means synonymous with the possession of intelligence.

The important thing about a juror is that he should be intelligent and not that he should be possessed of property. I think I remember reading in the newspapers many years ago that a learned Judge commented on what he called the low level of intelligence of the jury, and he was told that that was not the qualification for sitting as a juror. I welcome the provision, but regret, as I have said, that we still have "one foot in Arcady".

**The Attorney-General:** I am gratified at the response this Bill has received. I think it is very useful, if I may say so, that Members have given so much thought to this measure and have raised a number of interesting points. The hon. Nominated Member, Mr. Davis, raised the point which was also referred to by Mr. Gajraj that Clause 4 gives the Judge a discretion to order that a jury should be composed of men only. I do not want hon. Members to have any misunderstanding of this provision. It is not intended as a way of avoiding the principle that women should sit on juries. Such a discretion would be exercised judiciously and not capriciously; no Judge, whatever his views are about women, would say: "I do not want women on the jury, and I am going to take this opportunity of exercising my discretion in order that this case should be heard by men only." Judges are lawyers of great experience, learning and responsibility, and only if the circumstances of the case justify the exercise of this discretion, which I imagine would be rarely resorted to, would a Judge consider it right to do so.

I am trying to give an indication of the rare circumstance in which this provision might be used. It is, as it were, a safety valve. Men and women, as the

hon. Nominated Member, Mr. Gajraj, said, are different constitutionally, and I believe a Frenchman once said "*Vive la difference.*" But one must realize that women have feelings which flow from their constitutional make up, and there may well be cases in which it would not be fair to ask them to sit and hear charges. There are certain charges involving men only—homosexual charges—which no decent man in his right mind would expect a jury of women only to try. There was a famous murder case in England in 1920 when a man called Vacquier, a Frenchman with a large black beard, murdered his mistress under horrible circumstances, and the Judge ordered that the trial should be heard before a jury of men only. Admittedly, it was only a year or two before that women had become eligible to serve as jurors. Vacquier was convicted of murder by an all male jury, and one of the grounds of appeal was that the Judge wrongly exercised his discretion to direct that the trial should be before such a jury. It is the same discretion that we have in our Bill. The English Court dismissed the appeal and said that the Judge had a perfect right in the circumstances to order a trial by a jury of men only.

I think times have changed not only in England, but also in British Guiana. I doubt whether this discretion would be used in a murder case in this country, but it may well be used in particularly revolting sexual cases. I hope that hon. Members will realize that this is no escape from the principle of women jurors, but a safety valve to enable the legislation to operate successfully.

The hon. Nominated Member, Mr. Davis, has suggested that the Third Schedule to the Ordinance which provides for the remuneration of jurors had been overlooked. It is undesirable that as we are dealing with jurors we should have dealt with their remuneration at the same time. There has been for a long time a justifiable complaint that jurors are not adequately remunerated for their

services, which entail a considerable amount of expenditure both physical and mental in the public interest.

Not only is the juror's remuneration out of line with reasonable current requirements, but also the remuneration of witnesses, and the Government has for some time been going into this matter. I am pleased to say that arrangements are almost finalized for the necessary amendments to be made to increase the remuneration and subsistence allowances for jurors and witnesses in the Supreme Court, witnesses in the magistrate's court, and witnesses and jurors in the coroner's court. It is a comprehensive exercise and it is being done separately, but I can assure the Council that this matter will be rectified before long.

It is quite clear that the age of chivalry is not passed, judging from the thoughtful speech by the hon. Member for Georgetown South in which he referred to the physical well-being of the ladies who would be called upon to serve on the jury. He suggested that jury service entails a considerable amount of waiting about until cases come on. The point has already been taken by the proper authorities that there should be adequate rest room and toilet accommodation for ladies. He also mentioned that jurors have to sit on seats for several hours, and I agree that the seats should be made either of cane or be padded. At present there are just wooden benches, and I will take note of these useful suggestions and have them implemented. He also suggested that there should be a juror's room where jurors could take their meals, and I will give this suggestion the necessary consideration.

I cannot, on the other hand, agree with the hon. Nominated Member, Mr. Tello, when he says that we should banish sentiment from the courts. It is because jurors are at times sentimental that progress is made in dispensing justice. It is because jurors are sentimental that we are getting rid of the death penalty. Two hundred years ago most offences were

[ATTORNEY-GENERAL]

punishable with death. Once a Judge presided over a trial where a youth had been convicted of stealing a watch, and he said: "Young man in grasping time you have seized eternity" and sentenced him to death. People were sentenced to death for stealing sheep, and jurors, because they were sentimental, revolted over the death penalty for minor offences and brought in verdicts which did not involve this penalty. The Legislature of those times felt that there was no point in keeping the death penalty for such offences, because sentimental and reasonable jurors would not pay any regard to it.

For that reason the law has developed. It is because men and women are flesh and blood with sentiments that we get fair justice, so there is no question of not allowing lawyers to appeal to the sentiments of jurors. Heaven forbid that we should ever put a limit to that and make jurors almost like cash registers. Nor, indeed, is there any justification for putting a limit on the ratio of men and women on juries. It works out very well in practice, because it usually happens that there are usually not so many women who are qualified to have their names entered in the Juror's Book as men. I think we can follow what is done in other places and avoid tinkering with the provision of the Bill.

The hon. Nominated Member, Mr. Gajraj, raised a very interesting point that never occurred to me. It is that the Mayors of municipalities should be exempted from jury service because they are extremely busy men. They have many calls on their time in the public interest, and if the Mayor of Georgetown or the Mayor of New Amsterdam were selected on a panel of jurors it may well dislocate the affairs of the local authority. I will look into this matter and see what can be done.

Finally, there is the point made by the hon. Nominated Member, Mr. Hubbard, who said quite rightly that a person's

wealth is not necessarily a test of his intelligence or morality, or his ability to understand complicated issues and arrive at a fair and sensible conclusion. Of course there are exceptions to the rule, but up to now both here and elsewhere the yardstick has been that of holding property. It has stood the test of time, and, until some other adequate system of testing intelligence is devised, I think we shall have to retain the present qualifications. I now formally move that the Bill be read a Second time.

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

*Question put, and agreed to.*

Bill read a Second time.

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

#### COUNCIL IN COMMITTEE

Clauses 1, 2 and 3 passed as printed.

Clause 4:—*Insertion of Section 32A in Chapter 11.*

**Mr. Jackson:** Mr. Chairman, I move the deletion of this Clause on the ground that I disagree with the views of the hon. the Attorney-General as to why women who are jurors should not be permitted to hear certain cases. In this present age and in our present generation, whatever transpires in a Court of Law is published in the main by our newspapers. Women read all that has been repeated by the lawyers and the Judges and hear all that is said by other persons who attended the Court. As a matter of fact there are many occasions, even though the newspapers failed to report all that transpired, when the information is carried by word of mouth of all that happens in the Courts.

I do not agree with the limitation of the function of women jurors. I do not agree with any provision which will give to a trial Judge the right of the exercise of discretionary power as envisaged by this Clause.



**The Attorney-General:** I cannot support the hon. Member for Georgetown North (Mr. Jackson) in his proposal that this particular Clause be deleted.

**Mr. Jackson:** I think the hon. the Attorney-General has made a deep impression on this side of the Council when he said that he did not think it will ever or hardly be used, because in the United Kingdom, where it has been part of the law for some time, it has been said that the Judges hardly make use of it. If something is never or rarely used anywhere else, why burden our Statute Book with such a provision?

**Mr. Tello:** I do not support the comments made by the last speaker. I do not see the need for deleting this Clause. The hon. the Attorney-General spoke in the light of experience, and said it is necessary to have this provision. I feel that only two Amendments are needed in sub-clauses (1) and (3), and I am suggesting the insertion in subsection (1) of the words "or women" between the words "men" and "only" in the last line, so that the Judge will have the right of discretion to order a total panel of jury of either sex, and by the same insertion in subsection (3) of the words "or women" between the words "men" and "only" in the second line. We should not restrict the Judge merely to the selection of men only to sit as a jury in a case. He should have the right of choice between the two sexes.

**The Chairman:** I desire only to remind the hon. Member that there is the right of challenge of the jury for the elimination of those they do not want.

**The Attorney-General:** It is correct that challenges might be used to get women off the jury in a case. The occasion will rarely arise when a trial Judge will order that a jury be composed of men only, and it is extremely unlikely that he will order that a jury be composed of women only. It is to be noted however, that in Trinidad and Jamaica

the same provision is placed in the law. They have been realistic enough to have the provision giving the discretionary power to the Judge.

**Mr. Jackson:** Challenges with respect to a jury are on the strength of the individual, not on the ground of sex. That is, the accused has the right to challenge a certain number of jurors without giving the cause for his challenge. Therefore, if even you want to challenge a woman who is on the panel, it does not follow that the challenge deprives another woman of the right to take her place on the jury.

I cannot see any justification whatever, for retaining this Clause in the Bill, having conceded the ground that there is no danger. The hon. the Attorney-General, in spite of the objections raised, argues for the retention of this Clause in the Bill because it operates in some part of the world. But we say it ought not to be. It is unnecessary and should be removed from the provisions of this Bill.

**The Attorney-General:** If an accused exercises his primary right to challenge a woman who happens to be on a jury because she is a woman, she may be replaced by a woman or a man. Once the panel is there in the proportion of men and women on the Jury Book, the jurors are picked out for the trial by ballot. It may well be that a man replaces a woman and *vice versa*.

**Mr. Jackson:** Therefore, there is no need for this Clause.

**Mr. Tello:** I should be guided by the hon. Attorney-General, but I do not agree with him. The Clause is empowering the Judge and other interested persons to have an entire male jury, and if there is a challenge it must be replaced by another male because of the power given under this Clause to have an entire male jury. I think the explanation is correct, that the challenged person should be replaced by either a male or a female juror.

[MR. TELLO]

What I personally feel is that a Judge in his knowledge and experience may deem it fit that in a certain case there should be a jury of either sex solely. I want to give the Judge some power when he feels it is proper that a case be tried by a female jury only, and when he feels it is necessary to have a jury of males only.

**The Attorney-General:** I cannot understand why Members of the "Opposition" have not comprehended. A woman is a modest being and it would not be courteous to press her to sit as a juror at a trial of a person accused of an unpleasant and indecent offence. Hon. Members ought to realize that. This Clause tries to meet the innate modesty of women, and I cannot understand why hon. Members opposite, who have been told that elsewhere this system has been tried, should oppose this provision which has been found, from time to time, to be reasonable and necessary and which is not used in a way that does violence to the principle of having women on juries.

**Mr. Jackson:** Never before have I heard such a childish excuse. What is there innate in a woman or, in any case, to be hidden from a woman in this day and generation. Our people know all that there is to be known. We read all that is said in our courts of law. We walk the streets and hear them. We either condemn or applaud them. This is an old idea and subject. In our present day we even urge that our children be taught all the problems relating to sex and matters of a similar kind, yet we are being told that the adult population should not be allowed to hear what happens in our courts.

Let them be more educated if you think they are not! They are good enough for jurors, yet you want to say that there may be some things that should be hidden from them because they should not know what has happened in a case. That is something which should not be

tolerated. If they have the quality to be jurors, let them have the opportunity to take part in every trial in which justice ought to be done. As a matter of fact, they may be able to assist better in matters of the kind; and I cannot see why Government has something to hide. You are giving them something with one hand and taking it away with another.

**The Minister of Community Development and Education (Mr. Rai):** It seems to me that some hon. Members are under the impression that women will be excluded from sitting on certain types of cases, but it is not so—not according to the Bill which they have been asked to approve. It says women would be entitled to sit on all cases, but that the Judge may, in his discretion, on an application made by or on behalf of the prosecutor and the accused or either of them, or at his own instance, order an all-male jury.

We have every confidence in our Judges, and we are sure that a Judge will, in the exercise of the discretion which is being conferred upon him by the Legislature, give very careful consideration to the application, having regard to the weight of public opinion. A Judge does not act in an arbitrary manner. He usually gives reasons for his decisions. This Section does not say women cannot sit in all cases. They can, but the decision as to whether they should sit or not is left to the Judge.

**Mr. Jackson:** I never try to argue with a member of the legal profession, but this is one occasion on which I shall do so with the Minister of Community Development and Education because he has not given the answer which I had expected. A Judge, according to him, is given the discretion to say whether a woman should sit on the panel to hear "X" case or "Y" case. The provision says that somebody can apply to the Judge to have women exempted, and upon that application the Judge would determine

whether or not women would be exempted. That, in effect, is giving the accused or the prosecutor a further right of challenge than at present exists.

At the moment, an accused person has the right to challenge any juror in the case in which he is being tried. A Judge has no discretion in this matter. The prosecutor also has the right to challenge; so both sides can challenge. In this case you are not envisaging the challenging of a person, but the challenging of one of the sexes. You are going to give the right to somebody to have a panel made up entirely of men, which is going to defeat the purpose for which this Bill has been presented. So I cannot see Government's argument for keeping this Clause. Delete the entire Clause and let the existing right to challenge continue. Do not give the Judge any discretion in this respect.

**Mr. Rai:** I do not know if I understood my hon. Friend correctly, but a Judge would not have any right, under this Section, to say whether or not a particular woman can sit, but whether women, in general, can or cannot sit.

**The Chairman:** I understand him to say that they should have a right to challenge, but why challenge the sex?

There are two Amendments: one by Mr. Tello, that in the last line of Section 32A(1), the words "or women" be inserted between the words "men" and "only". So that the subsection would read: "A judge before whom a case is or may be heard may, at any time, in his discretion, on an application made by or on behalf of the prosecutor and the accused or either of them, or at his own instance, order that the jury shall be composed of men or women only."

Question put, and Amendment negatived.

**The Chairman:** The next Amendment, which was moved by Mr. Jackson, is that Clause 4 be deleted. It reads thus:

"32A.(1) A judge before whom a case is or may be heard may, at any time, in his discretion, on an application made by or on behalf of the prosecutor and the accused or either of them or at his own instance, order that the jury shall be composed of men only.

(2) Written notice of an intention to make an application under the preceding subsection shall be given by the party intending to make the application to the other party and to the Registrar not later than three days before the first day of the sitting of the Court.

(3) When a judge has ordered that a jury shall be composed of men only, any piece of card or parchment, or ball drawn out of the box under section 37 of this Ordinance which bears the name or number of a woman of the panel shall be set aside."

Question put: Council divided and voted as follows:

<i>For</i>	<i>Against</i>
Mr. Gajraj	Mr. Tasker
Mr. Jackson	Mr. Fredericks
Mr. Kendall —3.	Mr. Tello
	Mr. Jai Narine Singh
	Mr. Campbell
	Mr. Aiodha Singh
	Mr. Saffee
	Mr. Rai
	Mr. Ram Karan
	Mr. Benn
	Dr. Jagan
	The Attorney-General
	The Chief Secretary
	—13.

*Did not vote*  
Mr. Davis —1.

Amendment negatived.

Clause 4 passed as printed.

Clauses 5 to 13 passed as printed.

**The Attorney-General:** I beg to move an Amendment to Clause 14. The new Clause proposed has been circulated

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to hon. Members. I feel that it is necessary to amend the Clause because, as I said in my speech on the Second Reading of the Bill, it is found that in order to get women registered in the Jurors' Book as soon as possible it would be necessary to postpone the coming into force of the next jurors' book for three months. Normally the jurors' book would come into force in October, and this new Clause provides that the present Book should remain in force until 31st December this year to enable the new jurors' book including women to be prepared and brought into force from the beginning of next year. The Amendment reads as follows:

"Continuation in force of existing Jurors' books, and preparation and coming into force of Jurors' books under this Ordinance.

14.(1) Notwithstanding anything to the contrary provided by the Principal Ordinance as amended by this Ordinance, every jurors' book in force at the commencement of this Ordinance shall, in so far as such book relates to jurors other than special jurors, continue in force until the 31st December, 1961.

(2) The jurors books prepared for the first time in pursuance of the provisions of the Principal Ordinance as amended by this Ordinance, shall come into force on the 1st January, 1962, and shall continue in force until the 31st August, 1962.

(3) For the purposes of preparing any juror's book referred to in subsection (2) of this section, any reference to the month of August or September in sections 24 and 25 of the Principal Ordinance, shall have effect as if there were substituted therefor a reference to the month of October or November respectively."

**The Chairman :** I do not have a copy of that Amendment.

[At this stage the Clerk handed the Chairman a copy of the Amendment.]

**The Attorney-General:** The reference to the 31st December, 1961, is the day the new jurors' book should be published in the Gazette, and it will come into force on the 1st January, 1962.

Question put, and agreed to.

Clause 14, as amended, ordered to stand part of the Bill.

#### FIRST SCHEDULE

**The Attorney-General:** I think it would be a good thing to leave the Bill as it is at this stage. I will look into the point raised by the hon. Nominated Member, Mr. Gajraj. There is one other small point regarding the Second Schedule which I should like to deal with at a later stage.

Council resumed.

**The Attorney-General:** I beg to report that the Bill has been considered in Committee and Amendments have been made. I now ask leave to report progress and to sit again.

Question put, and agreed to.

**The Attorney-General:** I do not know whether hon. Members would be prepared to take the Miscellaneous Enactments (Amendment) Bill before the Motor Vehicles and Road Traffic (Amendment) Bill, as it would assist me. I have already spoken to the Minister of Communications and Works, and he has no objection.

**Mr. Speaker :** After which one?

**The Attorney-General:** There is the the Third Reading of the Representation of the People (Amendment) Bill to be dealt with which will not take very long.

**Mr. Speaker:** Do you think you can complete that one? I would prefer to complete one of the Bills. We have two

Bills incompletely dealt with, and I should like to hear the views of hon. Members. I understand that we can complete item No. 4, so let us do that.

Agreed to.

**REPRESENTATION OF THE PEOPLE (AMENDMENT) BILL**

Council resolved itself into Committee and resumed consideration of the following Bill Clause by Clause:

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

**COUNCIL IN COMMITTEE**

**The Attorney-General :** The Bill was taken through Committee stage last week, and I should like to make a small formal Amendment to Clause 30. I beg to move that Clause 30 of the Bill be recommitted in order to enable me to move the Amendment which has been circulated to hon. Members.

Question put, and agreed to.

Clause 30 recommitted.

**The Attorney-General:** I beg to move the detetion of Clause 30 and the substitution therefor of the following new Clause:

"General amendment of Principal Ordinance.

30. The Principal Ordinance amended as herein-after provided, exclusive of section 114 thereof, is hereby amended by the substitution for every reference therein to the Legislative Council or the Special Reserve Police Force, of a reference to Legislative Assembly or the Special Constabulary respectively."

The slight variation in the wording is due to the fact that in two places in the Bill it has been discovered that reference is made to "Council" and not the "Legislative Council", and this new general reference will cover the changes from

the "Legislative Council" to the Legislative Assembly" and also "Council" to "Assembly". It is purely a formal Amendment.

Amendment put, and agreed to.

Question, "That Clause 30, as amended, stand part of the Bill" put, and agreed to.

Clause 30, as amended, passed.

Council resumed.

**The Attorney-General :** I beg to report that the Bill has been considered Clause by Clause in Committee, and I now move that it be read the Third time.

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

Question put, and agreed to.

Bill read the Third time and passed.

**MISCELLANEOUS ENACTMENTS (AMENDMENT) BILL**

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

"An Ordinance to amend certain enactments enacted by the Legislature of British Guiana."

**The Attorney-General:** From time to time points arise in legal practice which show that certain Ordinances should be amended, sometimes only formally and at other times in a minor respect which does not justify the passing of special legislation to deal with that point alone. In the Attorney-General's chambers a book has now been kept for the last four years in which these desirable Amendments in the laws are entered, so that when the appropriate time comes some of them can be incorporated in Bills that are drafted for other purposes. Others, however cannot be so dealt with, and such minor matters which do not involve any points of

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policy would never be dealt with unless special action is taken. The expedient has been adopted of drafting a Bill to enable a number of these small amendments to be passed to amend the respective Ordinances. This will bring the laws up to date.

There are no matters of policy dealt with in this Bill. The Objects and Reasons give the background of these small amendments. I will outline, as shortly as possible, the reasons behind each of the Amendments.

The first Amendment is to the Law Reform (Miscellaneous Provisions Ordinance). While no interest is payable as of right on an accruing debt, section 13 (1) provides that a court may, in giving judgment, award interest at a rate not exceeding 6 per cent. per annum between the date when the cause of action arose and the date of the satisfaction of the judgment.

Section 13 (2) however, provides that every judgment debt shall carry interest at the rate of four per cent. The result is that a judgment debt may be caught by both subsections in so far as judgment to satisfaction is concerned. The Amendment seeks to avoid the ambiguity by providing that subsection (1) shall be concerned with interest from the date of the cause of action to the date of judgment, and subsection (2) with interest from the judgment until the satisfaction of the judgment.

The second Amendment is merely to correct a drafting error in the Interpretation Ordinance, Chapter 5. Some time ago the Interpretation Ordinance was amended and provision was made that where a power to make an appointment was given in any Ordinance there was to be implied the power to revoke any such appointment. It only affected the Ordinance that existed at that time. It is proposed to extend it to Ordinances which are in force at any time.

The third Amendment is to the Criminal Law (Offences) Ordinance. There is a provision that where the punishment for a misdemeanour is a term of imprisonment, it has been possible to impose in suitable cases an alternate of a fine. This is not possible in the case of a felony, although the distinction between a misdemeanour and a felony is now largely academic. Some misdemeanours are more serious than felonies. The object of the Amendment is to bring the two into line so as to enable the Courts in suitable cases to inflict a fine instead of imprisonment in a case of felony as well as misdemeanour.

The fourth Amendment is to the Summary Jurisdiction (Procedure) Ordinance. It is to remove any doubt when a police constable is serving a warrant of commitment for non-payment of a fine, as to his being able to receive the money if the person is prepared to pay it to him. There has been a doubt as to whether the policeman can do so without taking the person to the prison as the law states, the officer in charge of a prison is to receive the money. It is ridiculous for the Police to arrest a person and bring him some distance to the prison only for the person to pay the money there. This amendment provides clearly that the Police can receive the money.

Then there are four Amendments to the Evidence Ordinance, Chapter 25, which have been found desirable. The first is to enable the Government Bacteriologist and Pathologist and the Radiologist as well as the Government Analyst to give evidence by certificate in cases where evidence is of a technical nature. This is limited to evidence in a Magistrates' Court. In a case of homicide, however, the Government Bacteriologist and Pathologist will have to go and give evidence.

The second Amendment is to enshrine in the law it is in fact the practice in the Courts, that the evidence of an infant (that is a person under the age of fourteen years) should not be accepted unless it is corroborated.

The third Amendment is in respect of the use of depositions—the admissibility of documentary evidence when a person has left the country. Sometimes a deposition is available in a criminal trial when the witness who made the deposition at the preliminary enquiry has either died or is away. There is a provision which can be used if the person is beyond the seas, and it is not reasonably practicable to secure his attendance. But if a person is out of British Guiana it is not always the case that he is beyond the seas, for instance, if he has gone to Surinam, Venezuela or Brazil. He is still in the country so far as South America is concerned, and not beyond the seas. The Amendment is intended to put a more realistic provision in the law.

The last Amendment to the Evidence Ordinance is to the proof that is necessary when a person is outside the country and you want to prove that he is. The Ordinance provides that it is sufficient evidence that the person goes on board the vessel bound for some port outside this country and the vessel beyond the territorial limit. It has been found in the first place that it is unrealistic merely to say that a person is on board a vessel that has left the country, because in these days people very often travel by air. It is inconvenient for a witness to have to go out to the harbour limits in a launch to see that a person does not swim back. The Judge will decide what is sufficient evidence. The new section of the Ordinance will read:

“It shall be sufficient evidence of absence from British Guiana within the meaning of this section to prove that the deponent was on board a vessel or aircraft on its outward journey from British Guiana bound for some port or place beyond British Guiana, and that on enquiry being made from the deponent before trial at his last or most usual place of abode or business he could not be found.”

The result is, therefore, that it will be sufficient if the person is known to be on board a ship or aircraft which is seen to leave the port of Georgetown or Atkinson Airport.

The next Amendment which is to the Old Age Pensions Ordinance, Chapter 63—Enactment No. 6—is merely to give power to the Governor in Council to direct that an old age pension can be paid when it is out of time. The intention is that the power will be delegated to an appropriate officer.

The Amendment to the Labour Ordinance, Chapter 103—Enactment No. 7—is the insertion of two words which were inadvertently left out in amending the Bill last year; similarly, the Amendment to the Holidays with Pay Ordinance, Chapter 108—Enactment No. 8—is a small formal one, altering one figure for another.

Enactment No. 9—the Mental Hospital Ordinance, Chapter 140: This Amendment is to give effect to what happens in practice. The law says that the magistrate of the judicial district in which any person alleged to be of unsound mind is living, upon the information given on the oath of any informant that such informant has good cause to believe and does believe that such person is of unsound mind and a proper subject for confinement, may in any convenient place examine such person and in the same or in some other place may hold an inquiry as to the state of mind of such person.

In practice, if a person found to be of unsound mind resides in the Interior, he is removed to Georgetown or New Amsterdam where an inquiry is held and he can be examined by the doctors in those districts. This Amendment allows a magistrate not only of the district where the person resides, but also of the district where the person happens to be, to carry out the inquiry.

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The Amendment to the tenth Enactment — the Local Government Ordinance, Chapter 150—deals with the recovery of the payment of interest on rates. If interest on rates is not paid in time, no provision is made for its recovery. It is a lacuna in the law which is now covered.

Amendment to the Drainage and Irrigation Ordinance, Chapter 192 — Enactment No. 11: Surveys can only be ordered under the Ordinance for certain purposes. It is found, however, that whenever a survey is required for the purpose of the Ordinance, it is necessary for the survey personnel to have authority to go on the land and carry out the survey. This Amendment provides accordingly.

Enactment No. 12 — the Rice Marketing Ordinance, Chapter 249: This Amendment provides that a manufacturer shall give a receipt to a rice farmer for milling fees. It has been found that this is not always done and sometimes a farmer cannot get any proof of having given the money to the manufacturer.

Enactment No. 13 — the River Navigation Ordinance, Chapter 270: Amerindians are exempted from the regulations controlling the use of boats on rivers. They need not carry lights on their boats, but it is found that with the increase of river traffic, on the lower reaches, it is now unsafe for Amerindians to use their boats without lights at night. This provision would oblige them to have lights in their own interest and in the interest and safety of others.

Enactment No. 14 — the Motor Vehicles Insurance (Third Party Risks) Ordinance, Chapter 281: This Amendment is to enable a magistrate to order the disqualification of a person from driving if he is convicted of a driving offence, even though an appeal has been filed against the conviction. It has been held in the past that when a person is convicted

of a driving offence and is ordered to have his driving licence revoked, notice of appeal automatically cancels the revocation of the licence. This provision applies everywhere else and will ensure that the magistrate may revoke the licence pending the outcome of an appeal.

There is a formal Amendment to the Customs Ordinance, Chapter 309 — Enactment No. 15 — to provide that any person may be appointed a custom officer by the Comptroller of Customs. Usually, in remote areas, either custom officers or Police officers perform the functions of custom officers, and this provision is to cater for places where such officers are not residing.

The Amendment to the Patents and Designs Ordinance, Chapter 342 — Enactment No. 16 — is to enable an examiner to be appointed *ad hoc*.

Enactment No. 17 — the War Graves Ordinance, Chapter 356: The name of Imperial War Graves Commission has been changed and the Amendment is to give effect to the new name of the Commonwealth War Graves Commission.

The last Amendment is to the Non-pareil Park (Lease to the Indian Education Trust of British Guiana) Ordinance No. 3 of 1960 — Enactment No. 18. Provision is made for a formal Amendment by the alteration of the number of the Plan.

I beg to move the Second Reading of this Bill.

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

Question put, and agreed to.

Bill read a Second time.

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

COUNCIL IN COMMITTEE

Clauses 1 to 3 passed as printed.



**The Attorney-General :** I am afraid I omitted to mention in the Second Reading that I want to move a further Amendment to the Schedule—Amendment No. 19.

**The Chairman:** I just had a glance at it. I do not know how far it goes. It is entirely a new thing to amend the Ordinance in this way. It affects, seriously, the people's rights. I wonder whether you can?

**The Attorney-General :** It removes a doubt.

**The Chairman:** People might think it had slipped in in this way. It is not that the Amendment had been published. It may be altering something substantially. It is a question that affects the general public. It has not been published and nobody knows about it. The Members may know, but the general public may like to have a say. No reference at all has been made about it; and if it is inserted like this, it may be the cause of complaints. It is indeed a substantial change relating to income tax.

#### SCHEDULE

Enactments 1 to 4 passed as printed.

Enactment 5(d) *Evidence Ordinance, Chapter 25, Section 95.*

**Mr. Tasker:** In the fifth line of the proposed new subsection, may I suggest that the word "of" be deleted. It should read "on board a vessel" and not "on board of a vessel."

Agreed to.

**The Attorney-General** I think we should insert the word "an" in front of the word "aircraft".

Agreed to.

Enactment 5 passed as amended.

Enactments 6 to 18 passed as printed.

**The Attorney-General :** I was going to move this Amendment by inserting an Amendment to the Income Tax Ordinance to clear up the ambiguous proviso relating to the allowance to be claimed on insurance policies. It is considered that the original intention of the law was not clearly expressed although it has been carried out. This, I admit, is a voluminous Amendment which Members have not had the opportunity of studying. I would willingly give them an opportunity to do so if you feel it is advisable.

**The Chairman:** I do not think so. It should be published.

Council resumed.

**The Attorney-General :** I beg to report that Council has considered the Bill in Committee and approved it with Amendments, and I now move that it be read the Third time.

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

Question put, and agreed to.

Bill read the Third time and passed.

#### MOTOR VEHICLES AND ROAD TRAFFIC (AMENDMENT) BILL

**The Minister of Communications and Works (Mr. Ram Karran):** I beg to move the Second Reading of the Bill intituled:

"An Ordinance to amend the Motor Vehicles and Road Traffic Ordinance."

For some time now the Commissioner of Police has represented to Government that the Ordinance dealing with motor vehicles and road traffic gave him certain powers and that his office was required at the same time to prosecute offenders under the said Ordinance. He mentioned that it was not in keeping with the duties of the Police Department to discharge certain duties referred to in the Ordinance.

**Mr. Speaker:** It is very difficult for me to hear you.

**Mr. Ram Karran:** I am sorry, Sir. The Bill seeks to transfer, with a few exceptions in matters relating to the regulation of traffic, the functions now exercised by the Commissioner of Police as the Licensing Authority and Prescribed Authority under the Motor Vehicles and Road Traffic Ordinance, Chapter 280, to the Minister for the time being responsible for the subjects of road transport and traffic.

The Advisory Board established under section 94 of the Ordinance to advise the Prescribed Authority in respect of all matters connected with road service, hire car and goods transportation licences and other matters under the Ordinance is to be replaced by a Road Transport Advisory Board. It is proposed to reorganize the Road Transport Advisory Board which will have as its chairman the Licensing Revenue Officer. I think this is a step in the right direction. Prior to the introduction of the Ministerial System of Government the Commissioner discharged such duties. Now that we have a Ministerial System, I feel that this Council will have no objection to the introduction of this Amendment whereby the Minister in charge of road traffic will discharge these duties.

Another aspect of this Bill is the creation of a new offence of causing death by reckless or dangerous driving of motor vehicles. I have been informed that juries are very reluctant to convict people under the existing legislation, because a person who is convicted has to face a serious sentence for motor manslaughter, I think it is. In the circumstances, Government proposes to introduce the new offence to which I have just referred. It is a new offence with a new penalty attached, and it is hoped that the courts will take it into consideration when dealing with the large number of offenders in this field.

I may mention that the Road Transport Advisory Board will be composed of the Licensing Revenue Officer, Chairman, the Director of Public Works, the General Manager of Transport and Harbours Department and others. The Director of Public Works will advise on the strength of the roads, and the General Manager of Transport and Harbours Department will ensure that the Government-run transport services are not given excessive competition. That has been the practice of the old Board which we seek to reorganize by this bit of legislation.

During the time the Commissioner of Police performed the duties of the Prescribed Authority this Board served in an advisory capacity to the Commissioner but, as will be seen in the legislation we are about to amend, he need not take the advice of the Board. Now that those duties will be taken over by the Minister the Board will advise the Ministry on road transport policy.

I see nothing controversial in this Bill, and I am sure that hon. Members will appreciate Government's desire, in the first place, to bring this bit of legislation up-to-date and, secondly, to ensure that the number of deaths, serious accidents and even trivial accidents are reduced. Hon. Members will recall that this Ordinance has been amended more than once during the life of this Council, and this is another attempt to bring our legislation up-to-date. I hope, therefore, that hon. Members will give the Bill the support it deserves. I may mention that there are a few Amendments which I propose to move in the Bill when we reach Committee stage.

**Mr. Benn:** I beg to second the Motion.

**Mr. Tasker:** I support the provisions of this Bill—particularly the provisions of Clause 7. During the last two or three years efforts have been made, both by the Government in its official

capacity and by voluntary bodies, to attack as intelligently as possible this problem of road accidents and road deaths. On the evidence available as to the cause of accidents and deaths on the road during the last few years, there is no doubt that reckless driving is accounting for an increasingly large number of accidents and deaths.

One is always hesitant about adding to the penalties for road offences, but, with the narrow roads and in many cases the inadequate surface of these roads, as well as the steady increase in the traffic making use of them, it seems to me that if commonsense will not prevail in terms of speed and recklessness, then the penalty must be severe. I regard this additional Clause as a very valuable one, and I hope that it will have the effect of an additional deterrent to what is at the moment a very frightening situation.

**Mr. Gajraj:** The hon. Minister in his usual suave manner has suggested that there is nothing controversial in the Bill, and it should have the support of the Council. I can assure him that the intention behind it is one which is shared by all of us, and that we would like to see more effective provisions put into the law which would act as a deterrent to the very deplorable situation we have in this country. At the present time, with a larger number of motor vehicles going on the road each day and with a corresponding number of licensed drivers to such vehicles getting behind their wheels, we see a mad race between them as they move up and down the narrow strips of coastal roads which we have in British Guiana.

I think all of us who have driven or have to be driven in motor vehicles on our roads today must be very much frightened at times when we see people, apparently inexperienced, driving new and powerful motor vehicles at speeds far in excess of the maximum permitted by law, darting in and out of traffic as though they were moving along on a bicycle in olden days.

But I wonder whether the provision of this Clause 7 which permits imprisonment for a term not exceeding five years for this offence of motor manslaughter is going to solve our problem. I feel that a great deal of our troubles originate partly from the policy of the Prescribed Authority. We have to deal with the matter of insurance, and it is well known that today quite a number of motor vehicles are registered for private use when, in fact, they are intended to be used as taxis for hire from the time they leave the dealers.

Enquiries have revealed that the owners of those vehicles wish to circumvent the law by registering them for private use when, in fact, they are to be used as taxis for the dropping of passengers here and there. They are denied the registration of their vehicles for hire by the Prescribed Authority. We understand that not more than a certain number of hire cars can be registered. Under the Motor Vehicles and Road Traffic Ordinance the number of hire vehicles was stipulated for certain areas by the Motor Vehicles Committee.

Those quotas may have been right and correct many years ago when we had a smaller number of motor vehicles registered, and when the population had less need for transportation by motor vehicles. But that is not so today. With the increase of our population and the increased need of the people in the outlying areas to get from place to place, we have proof of the need for an amendment of that provision so that the most use can be made of the roads for transportation.

We have heard the hon. Minister speak of the General Manager of the Transport and Harbours Department being on the Advisory Board to safeguard the interests of the Transport and Harbours Department railway services. But I happen to know that the traffic on the railways is about three to four times what it used to be, and the railways have not got the additional rolling stock to take care of the increased traffic.

[MR. GAJRAJ]

We have to realize that even though the interests of the Transport and Harbour Department railways must be protected in some way, the reality of the situation demands that road transportation be given its full opportunity to expand and cater for the needs of the people who live along the coastal belt. Therefore, by refusing people their hire licences we are driving them to circumvent the law by taking out private car licences and using the cars for hire.

This is what happens. Firstly, the Licence Revenue Department or the general revenue of the Colony suffers, because the cost of a licence for a hire vehicle is about 33 1/3 per cent. more than that for a private vehicle. Secondly, under the Third Party Motor Vehicles Ordinance insurance must be carried on hire vehicles to include the passengers, whereas in so far as private vehicles are concerned third party insurance is only carried for any damage or injury to the person. It is for personal injury to a certain extent only.

Therefore, if a car which is registered as a private car is carrying passengers for reward and an accident happens, the passengers who are injured have very little recourse to claiming or obtaining damages from the driver of the vehicle for injuries or loss of work sustained as a result of the accident, as in the case of a hire vehicle where they can go to the insurance company and get such damages. So we have two things happening: the general revenue of the country suffering by this refusal to grant licences for hire cars, and the people who travel by these vehicles are not protected by the law.

I feel myself and have thought that as there was to be an Amendment to this Ordinance, opportunity would have been taken to strengthen this particular Schedule of the Ordinance. If a wider power is needed by the Prescribed Authority, we should give it. We have to be realistic, and no matter how we may try to protect the interest of the Transport and Harbours

Department Services, the road transport services are very essential and will have to be improved. We have to depend on them more and more and we should do what is right.

I would like to take the opportunity of saying this—it arises out of a statement made by the hon. Minister on the Motion for the Second Reading. While the General Manager of the Transport and Harbour Department must protect the interest of his Department against competition by road transportation, we must be realistic enough to let him, or whoever has the ultimate responsibility, see that public transport in the form of the Transport and Harbours Services are not run at such a highly subsidised figure as to place the common carrier at a disadvantage.

The cost of running motor vehicles has increased over the years as in other spheres, and we know that the cost of running the railways has gone up. We have had wages increasing considerably, and that of quite a number of other things which have increased the cost of the Department year after year and have completely nullified the overhead savings which the General Manager has been able to put in. So we find the nett deficiency of the Department is in the vicinity of \$2 million a year.

I think the hon. Minister would know better than I, that on the last occasion when an attempt was made by the Department to have the passenger rates as well as goods charges revised, over those years the cost of operating the Services had gone up. While I am sure that all members of this Council will agree that the public services provided by Government for the inhabitants of this country should not be looked upon as money-making, nevertheless, we should try to bring the charges in line with the operating cost. If the operating cost has gone up by a fair percentage, as I believe it has, then the time has come when an effort should be made to increase the charges, particularly for the carriage of goods by the Department's services.

If we do not attempt to be realistic and we find ourselves competing with private carriers in such a way as to drive them off the road, and our own public carriers have not the means whereby we can take care of all the services needed by the people of this country, then we must have this contravention of the law. I make mention of this in the hope that the hon. Minister will bring it to the attention of the proper Authority to look into the question of increasing the charges of the Department, to bring it more in line with the increasing of operating cost, thereby reducing to some extent the nett deficiency of this Department year by year.

**The Attorney-General :** I should like to say that the reason for this new provision is that juries seem to be reluctant to convict of motor manslaughter. For a charge of manslaughter to succeed the prosecution has to prove gross negligence, that is negligence to a very high degree. The new offence has been introduced elsewhere to set the crime of running down and killing a person, in proper perspective.

The Amendment makes it possible on a charge of causing death by reckless driving, for a person to be alternately convicted of dangerous driving. Dangerous driving is very often not adequate to meet the circumstances. It is for that reason this Ordinance has been brought in line with what has been done in the same circumstances elsewhere, and I hope that hon. Members will support the Bill and, particularly, approve of this new Clause.

**Mr. Ram Karran :** I am very grateful for the measure of support given to the Bill by the hon. Members who have spoken. Perhaps, I should make mention of this one fact relating to what the hon. Nominated Member, Mr. Tasker, has said about accidents involving loss of life.

It is true to say that there has been a great increase of loss of life on the roads, particularly among small children, not so

much on the part of the drivers, but on account of the fact that children are allowed to wander on the roads. Perhaps, I should say that the Road Safety Association and the Traffic Section of the Police Department have been doing some work in the schools with a view to impressing upon the school children the need for carefulness as they walk on the roads.

I have listened very attentively to the hon. Nominated Member, Mr. Gajraj, as he spoke on this Bill and, perhaps, it is a good opportunity to say that private vehicles operating as hire or for hire, apart from the fact that it is illegal, passengers travelling in these vehicles are not covered by insurance whether they pay a fare or not. In fact, I brought this to the attention of the insurance companies sometime ago and thought that they would have been interested to publicize this fact. I think this Council is an excellent forum to do so because people involved in serious accidents may find that when they travel by private vehicles used as hire cars they are not covered by insurance companies.

I am willing, at this stage, to admit that there are inadequate transport facilities on certain of the Colony's roads, but it is my opinion, and I think it is an opinion shared by other people much more knowledgeable, that the type of solution to this problem is a public transport system. I admit that the Prescribed Authority and the Licensing Authority, possibly in the future, will be faced with a bottleneck so far as the system of transport is concerned, but one has to look very carefully at the amount of transport facilities that is being operated by private individuals. We have, in addition to that, a multiplicity of operators in certain areas—I am talking about public transport (buses and lorries)—where it is very, very difficult to get operators to accept the non-peak periods. They all wish to join the peak traffic; and it has been a matter of considerable concern to the Prescribed Authority.

[MR. RAM KARRAN]

In some areas, as I said, there might be a considerable number of vehicles available for the transportation of passengers, but I wish to repeat and emphasize that the type of motor vehicles we have is not necessarily the solution to the problem. Perhaps, at this stage, I may promise that after August we will go into this question—[*Laughter.*]—and carefully examine the situation as it affects the road transport system. We can draw from the experience of members of the public and hon. Members in formulating a decent policy of road transport for British Guiana.

I wish, once again, to thank hon. Members who have supported the Bill.

Question put, and agreed to.

Bill read a Second time.

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

#### COUNCIL IN COMMITTEE

Clause 1.—*Short title.*

**Mr. Ram Karran :** I indicated, when I moved the Second Reading of this Bill, that I shall move one or two Amendments. I want to insert in the Arrangement of Sections, a new Clause 8—“8. Amendment of section 58A of Chapter 280.”—between Clauses 7 and 8.

**The Chairman :** I really do not follow you.

**Mr. Ram Karran** *rose* —

**The Chairman :** You want to amend the top, not knowing what section is going to be amended below? You are putting the cart before the horse. When we get to the Amendment of the section then we will know.

Clauses 1 to 4 passed as printed.

Clause 5.—*Amendment of section 31 of Chapter 280.*

**Mr. Ram Karran :** I beg to move an Amendment to Clause 5 by the deletion of the words and figure “section 12 of”.

**The Chairman :** Is this appearing in subsection 2?

**Mr. Ram Karran :** Yes, Sir.

Question put, and agreed to.

Clause 5 passed as amended.

Clause 6 passed as printed.

Clause 7.—*Insertion of section 35A in Chapter 280.*

**The Chairman :** Your Amendment is, instead of “Cap 12” it should be “Cap 13”?

**Mr. Ram Karran:** Yes, Sir.

Question put, and agreed to.

Clause 7 passed as amended.

**The Chairman :** Before we get to Clause 8, the Amendment is that the following Clause shall be inserted as Clause 8:

<p>“Amendment of section 58A of Chapter 280.</p>	<p>8. Subsection (6) of section 58A of the Principal Ordinance is hereby amended by the insertion after the word ‘owner’ of the words ‘or the driver or other person in control or in charge.’”</p>
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Question put, and agreed to.

**The Chairman :** The next Question is that Clauses 8, 9, 10, 11 and 12 of the Bill shall be re-numbered 9, 10, 11, 12 and 13, respectively.

Question put, and agreed to.

Clauses 9 to 13 passed as printed.

**The Chairman:** Under the Arrangement of Sections there is inserted a new Clause 8 after Clause 7, and the other Clauses are re-numbered accordingly.

Question put, and agreed to.

Council resumed.

**Mr. Ram Karran:** I beg to report that the Motor Vehicles and Road Traffic (Amendment) Bill 1961 has been considered in Committee and passed with certain Amendments, and I beg to move that the Bill be now read the Third time.

**The Minister of Community Development and Education:** (Mr. Rai): I beg to second the Motion.

Question put, and agreed to.

Bill read the Third time and passed.

#### ADJOURNMENT

**The Chief Secretary:** I move that the Council adjourn to Wednesday of next week, the 14th June, at 2 p.m.

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

Question put, and agreed to.

*Council adjourned to Wednesday 14th June, 1961, at 2 p.m.*