

LEGISLATIVE COUNCIL

Thursday, 15th March, 1945.

The Council met at 2 p.m., His Excellency the Governor, Sir Gordon James Lethem, K.C.M.G., President, in the Chair.

PRESENT.

The President, His Excellency the Governor, Sir Gordon James Lethem, K.C.M.G.

The Hon. the Colonial Secretary, Mr. W. L. Heape, C.M.G.

The Hon. the Attorney-General, Mr. E. O. Pretheroe, M.C., K.C.

The Hon. the Colonial Treasurer, Mr. E. F. McDavid, C.B.E.

The Hon. E. G. Woolford, O.B.E., K.C. (New Amsterdam).

The Hon. F. J. Seaford, C.B.E. (Georgetown North).

The Hon. J. A. Luckhoo, K.C. (Nominated).

The Hon. C. V. Wight (Western Essequibo).

The Hon. J. I. de Aguiar (Central Demerara).

The Hon. J. W. Jackson, O.B.E. (Nominated).

The Hon. M. B. G. Austin, O.B.E. (Nominated).

The Hon. Percy C. Wight, O.B.E. (Georgetown Central).

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

The Hon. H. C. Humphrys, K.C. (Eastern Demerara).

The Hon. C. R. Jacob (North-Western District).

The Hon. T. Lee (Essequibo River).

The Hon. A. M. Edun (Nominated).

The Hon. V. Roth (Nominated).

The Hon. A. A. Thorne (Nominated).

The Clerk read prayers.

MINUTES.

The minutes of the meeting of the Council held on the 14th March, 1945, as printed and circulated, were taken as read.

The PRESIDENT: There seems to be some correction necessary at the bottom of page 2 where it states:—

“The Colonial Treasurer moved and the Colonial Secretary seconded that Council should not resolve itself into Committee to consider the schedule.”

It was rather the other way around. The amendment I would suggest, is the deletion of the word “not.” Thereafter it reads—

“After discussion, the President put the question. Agreed to. Mr. Jacob requested that his vote against should be recorded.

I further suggest that the words “which was negatived and the Council continued” be added after the word “question”, the words “Agreed to” be deleted, and the word “dissent” substituted for the words “vote against”. On page 3 it states—

“Council resolved itself into Committee to consider the Schedule.”

I suggest that the words "on a motion by the Colonial Treasurer seconded by the Colonial Secretary" be inserted after the word "Council," because hon. Members will remember the hon. the Colonial Secretary said a few words at that point. That is desirable to be inserted. Is that quite clear to Members?

Amendments put, and agreed to.

Minutes, as amended, were confirmed.

ANNOUNCEMENTS.

INACCURATE NEWSPAPER REPORTING.

The PRESIDENT: I would just like to say one word of explanation with regard to the reporting of yesterday's proceedings. I was reported as saying that the hon. Provisional Nominated Member (Mr. Thorne) was described by me as the primary culprit. I am sure he does not feel I meant that in any derogatory sense. In fact I meant it as a word of praise and appreciation.

There is another point touching the newspapers reports. The "*Daily Chronicle*," it seems, is badly wrong in two places. It states:

"The Colonial Secretary said that in October, 1944, Government wrote to the present contractor accepting his terms. Some time in December, the Legislative Council reduced the contract by \$1,200. In answer to a letter from the Postmaster-General late in December asking that the amount be increased, he replied saying "Yes"."

That is quite wrong. The Colonial Secretary did not say the amount should be increased. What he said was that the Postmaster-General was bound to go on with his contract. No question of increasing the actual sum on the Budget arose at that point. The other is at the end of the account which says:

"After further discussion the Governor appointed the Deputy President to go into the matter as expeditiously as possible after the adjournment."

Hon. Members would remember what I requested the Deputy President to do. It had nothing to do with the previous debate. It was that I was asking him to pursue the matter I had asked hon. Members before in respect of the Constitution for the purpose of obtaining a more expeditious working of the Finance Committee. It had nothing to do directly with the debate on the Essequibo Mail Contract. I think the Press should take note of the need of correcting yesterday's account. I think the other newspaper (The "*Daily Argosy*") has not got that.

ORDER OF THE DAY

SUPPLEMENTARY ESTIMATES— JANUARY—MARCH, 1945.

The Council resolved itself into Committee to resume consideration of the Schedule of Additional Provision for the period 1st January, 1945, to 31st March, 1945.

The CHAIRMAN: The hon. Member for Eastern Demerara was speaking when the adjournment was taken yesterday.

POST OFFICE.

ESSEQUIBO MAIL CONTRACT.

Item 5—*Conveyance of Mails*—
(a) *Internal* \$1,200.

Mr. HUMPHRYS: I will not be much longer in my remarks. I had very much difficulty in coming here today, and I have done so not only because of my feelings in the matter but through courtesy to the Chair, as I was on my feet when the Council rose yesterday. I had stopped at a stage where I produced a letter which had been sent to the Colonial Secretary by Members of this Council complaining of what had been done as regards the execution of

the contract, and I remarked that I was sorry I was not there when the Finance Committee considered the matter. I wish to say that I am in no doubt whatever, and I do not think any Member of the Council is in any doubt whatever, that had the question not been raised by that letter nothing would have been said to the Council of the fact that notwithstanding the reduction of the vote by the figure the contract has to be carried out at the original figure, I am strengthened in that belief by the fact that the actual Supplementary Estimates, as printed and issued, contained not a word of this contract requiring an increase of \$1,200 on Supplementary Estimates. It is contained in the departmental supplementary estimate which was submitted after the Finance Committee had met. As Your Excellency is aware, there was one issued in February, which I hold in my hand here. It contained no mention of this additional \$1,200. It is not haphazard or a guess but a certainty, as if there had been no complaint nothing would have been said and the contract would have been carried out at the figure originally reduced by this Council. This sort of thing makes Members of this Council very suspicious. One cannot help being righteously indignant, because one wonders how often that sort of chicanery has not taken place in the past when this Council on past occasions reduced a vote.

The COLONIAL SECRETARY: On a point of order! What I did was no chicanery. I did it in good faith.

The COLONIAL TREASURER: I would like to explain that in Finance Committee when this matter was discussed, as the hon. Member mentioned, this item did not appear in the departmental sheets of items placed before that Committee. It is perfectly true it was put on at the specific request and decision of that Finance Committee meeting. It was decided, to use a term,

the honest thing to do was to put it back in this form so as to allow this discussion to take place as early as possible. There is no chicanery.

The CHAIRMAN: It was specifically asked by two Members of the Executive Council, who are also signatories to that complaint, that it should be put back.

Mr. HUMPHRYS: That, I say, is chicanery. The hon. the Colonial Secretary seems to take great umbrage at the remark. That word bears a wide interpretation in matters of this kind. If this Council decides that a vote be reduced and the item carried out at a certain figure but the work is done at another figure, that would be chicanery. The hon. the Colonial Secretary said he meant well and he did it in good faith. No one questions that, but he was absolutely and hopelessly wrong to cause this matter to come before the Council now. I am submitting that this Council cannot be made to put it back on Supplementary Estimate so as to make good what has been done wrong, and, I will repeat, it would not have been put back on Supplementary Estimates but for the fact that it has been raised. It was put back at the request of certain Members when in Finance Committee. That I accept, but what I do say is that it would not have been put back had it not arisen in Finance Committee. If that had not happened what would have been the result? The contract would have been carried out at \$240 per month and this Council would not have known that it had been carried out against their wishes that it be carried out at \$140.

The CHAIRMAN: I should say the Council would certainly have known.

Mr. HUMPHRYS: I take the assurance from you, but when they would have known?

The CHAIRMAN: As soon as it came to my knowledge.

Mr. HUMPHRYS: I am accepting that assurance that you would have informed the Council when it came to your notice. I am quite sure, with your views as regards what is right constitutionally and what is wrong, you would not have agreed to this contract being signed.

The CHAIRMAN: Government is anonymous.

Mr. HUMPHRYS: I say the President would not have allowed such a thing to be done. To put the matter as shortly as I can—I submit that once this Council has come to a decision that a vote be carried out at a certain amount, Government has no authority to replace that amount on a Supplementary Estimate. The decision of the Council is final and that decision has got to stand. I was met with this—I am told—the contract having been signed the contractor is entitled to damages. If the contractor is entitled to damages, if Government is so advised, Government would have to come forward with a proposal that the damages be met in order to protect those Officers who had no legal authority to enter into that contract at all. Why come by way of a Supplementary Estimate to make good something that the Council expressly said should not be done in the Estimates? I submit that if this matter is to be righted it must be righted in the proper way and not by methods of this description, though it has been done at the request of certain Members of the Council. They are wrong and that wrong can only be righted by a special resolution and, therefore, this Council is to be asked to provide the fund to meet whatever damages may be incurred. My remarks on this matter are confined purely to this: This is a constitutional question. If Government is wrong in this matter Government must bear the consequence and not seek to make good by putting back on Supplementary Estimates something the Council has negated on the main issue. I

am going to refer Your Excellency to Articles 61 and 62 of our Constitution Order in Council (Chapter 2 of our laws):—

“61—Subject to the provisions contained in the following Article of this Order all questions proposed for decision in the Council shall be determined by a majority of votes of those present and voting. The Governor or other presiding officer shall not have an original vote on any question, but he shall have a casting vote if the votes shall be equally divided. The votes of Members of the Council shall be taken in the inverse order of their precedence.

“62—Any matter requiring a vote or enactment of the Council may be decided by the Governor in Executive Council notwithstanding that such decision may be contrary to the vote of a majority of the Legislative Council; provided that the Governor shall by writing under his hand declare such decision to be in his opinion necessary in the interests of public order, public faith, or other first essentials of good government including the responsibilities of the Colony as a component part of the British Empire. Where any matter as aforesaid has been decided by the Governor in Executive Council under this Article, such decision shall be deemed to be the decision and determination of the Legislative Council and shall be so construed.

Provided, however, that effect shall not be given to any such decision until the Governor has reported fully to the Secretary of State all the circumstances of every case in which he shall make any such declaration of opinion and the approval of a Secretary of State first obtained, save in cases of urgency where in the opinion of the Governor in Executive Council delay would be contrary to the public interests, in which cases such decision shall nevertheless be subject to review by a Secretary of State after considering the report of the Governor; and provided further that the Governor shall forward to the Secretary of State any statements or representations which any Member or Members of the Legislative Council may desire to make on the matter if made within fourteen days of the making of such declaration of opinion.”

This is a matter in which, if you think it is of sufficient importance, you can use your over-riding power. If you do not think it is of sufficient importance, then the vote of this Council must stand. But this matter must be gone

about in quite another way. I wish to say as regards the hon. the Colonial Secretary's assurance today, as he thought he was acting in the best interests of everyone, that to say the least of it he was very much misguided because he was not in the Council at the time the amount was introduced. It should not have been attempted without recalling the Council and putting the whole matter before the Council and asking the Council to reconsider the result of its decision in curtailing the vote.

There is one other point I wish to touch upon. Not only is this contract signed for one year but for two years. What a farce this amounts to? A certain amount is put down per year; the next year that vote is put down on the Estimates for the same amount. What would any new Member of this Council think when he sees these Estimates? He would not be under the impression that the contract has been signed for two years and, therefore the money is already earmarked and has got to be found whether he likes it or not. He would regard it as money he is being asked to vote. What is the point in doing the Estimates at all if that is to be done? Am I further to understand it has been the practice in these contracts to sign them for two or three years? If that is so, it is wrong constitutionally because each year the Estimates have to come up for approval by the Legislative Council. This Government has no power to sign a contract for more than one year when the vote has to come before the Legislative Council each year. Nevertheless that has been done in the past.

Your Excellency, I am very sorry that all this explanation by the hon. the Colonial Secretary did not come before to the Members who raised it by way of letter in the first instance and then by way of discussion in Finance Committee. The impression of most of us is that this Council curtailed the vote and notwithstanding that Government says it must be so. The hon. the Colonial Secretary may not for one

moment intend that, but that is not the way to go about it. This matter has left a bad taste in the mouths of many Members, and it will take a long time to get over it. I feel sure this is an illegal act, that the contract is illegal, that the Government through the Colonial Secretary and the Postmaster-General—whoever signed the contract—had no legal authority to do so. That being so it cannot stand. If Government is satisfied that there should be a contract for that amount and with that contractor, then Government should come back to this Council and say: "We cannot have the contract done for less than \$240. We think this is a good amount to do the contract. Let us have a new contract for that amount." Government has not done that but has done what I must describe as a hole and corner business. I am not concerned as to whether that contract is worth \$240 or not or whether the man who has got it is a good contractor. That might be quite in order. That is a matter for the Executive Government. What concerns me is this: This Council thought that contract should not be carried out for more than \$140 and so informed Government by its vote. Apart from that, Government cannot allow this matter to stand as it is. I for one feel so strongly about this constitutional issue that, speaking for myself alone, I cannot attempt to think the matter will be allowed to rest here unless Government withdraws the estimate asked for and delete that matter in the proper way. Personally I will take the matter further myself.

Mr. PERCY C. WIGHT: This matter arose in Finance Committee and, I think, I waxed unnecessarily warm on that occasion. What I do feel is that the hon. Member for Eastern Demerara has certainly put the case very clearly and has recounted the facts, and it is unnecessary for me to go over them. I am going to pay the hon. the Colonial Secretary this tribute by saying that at the time the matter arose he seemed to have

been at sea on the subject matter and appealed to the Postmaster-General before he answered, and the Postmaster-General's explanation was far from satisfactory. I think the hon. the Colonial Secretary did say he was not in a position to answer questions but he did not ask for a postponement to get the facts. I am going to view this matter from an entirely different standpoint. That document was sent around for signatures to everybody and we were invited to make comments and alterations. As Your Excellency would observe, I was the last person to sign. I gave it considerable thought and was satisfied in my mind that it was the right thing to do, the Legislature having knocked out the amount. It came up by way of a communication to Government and up to the present that communication has not been replied to. I resent that seriously. I think every communication is certainly entitled to a reply. I am going to ask my brother Members to insist on a written reply on that score.

I feel myself it is simply flouting the wishes of the Elected Members. I say that emphatically and without any apology. I am not here to be treated as a child, to be told I do not mean what is in my mind foremost. The fact is, I have been told distinctly not in words but action: "We do not care what you have done. We are going to execute this contract and you can do what you like." That is the attitude I resent. Gathering from the remarks made at the last Finance Committee meeting, it seems to me that a good deal of signatures to that document are turning turtle. I am not going to do that. I am going to hold on to my right and take the matter to the last resource unless I get a satisfactory answer. The matter may be considered small as it involves only a couple of pounds (sterling) a year, but that is not the way to look at it. We are to be treated here with respect. We are to be listened to and any objection taken by us, it is only natural, that attention should be

paid to it. I repeat, it is undoubtedly nothing short of flouting the opinions expressed here, and I am going to ask the hon. Member to insist on getting a reply and to give publicity to the matter in its entirety. I sincerely do feel very small at having been treated in this manner. I am always very respectful, and I certainly expect to be treated in the said manner. I say clearly, and with your permission, Your Excellency ought to see that a reply is sent to that communication. I am entirely against the inclusion of the item in this Schedule before us, and I shall vote against it. The hon. Member for Eastern Demerara has laid down the law and I am not competent to go into those details, but viewing it from the point of common courtesy I am strongly opposed to it.

Mr. deAGUIAR: It was at my suggestion the item appears before the Council in the form it does today. I would like to say at once that I am not at all sorry that I made the suggestion because I think it has afforded those Members, who wrote the letter to which those Members who have spoken referred, an opportunity to ventilate their views on what appears to be a most vexatious subject. It seems that the crux of the matter is this, whether the constitutional privileges of the Council have been impugned as the result of the action taken by the hon. the Colonial Secretary in signing the contract, the subject matter of which provoked a long debate in this Council and a majority decision was recorded against it.

Whatever the issues are it seems to me that one thing we must be careful about is that we must avoid any breach of faith on the part of the person who signed the contract or gave instructions to that effect. Speaking for myself--and I think I voice the opinions of those Members who have taken their seats--

I am satisfied that the person who gave instructions that the contract should be signed did so with the best of intentions. After listening to the explanation made in Finance Committee I am perfectly satisfied that those instructions were given without any intention of flouting the decision of the Council, but merely because of the issues involved.

We have heard the opinion expressed here by one of our Members, who is a very eminent authority on the law, that that act was an illegal one, and at first blush it might appear to be so. I am just an ordinary layman, but what struck me when those words were being uttered was this: What would be the position of this Government if the successful tenderer was met with a refusal when the time came for the contract to be signed? He would no doubt have applied to the Supreme Court for a mandamus to compel Government to comply with the contract which had been awarded to him. I think that so far as that goes Government should obtain the advice of the Attorney-General on that point. I am a little bit disturbed about it because my knowledge of commercial dealings tells me that in these circumstances the tenderer would be successful in his application, and Government would be bound to complete the contract. However, I have no desire to match my smattering knowledge of the law against that of the hon. Member for Eastern Demerara (Mr. Humphrys), but I have just mentioned the point in order that Government might obtain the advice of the Attorney-General, and this Council would, I have no doubt, be guided accordingly. I offer no apology at all for making the suggestion — in fact I am very glad that I did suggest that the matter be brought up in this form, because I can see little difference between the form adopted and if the Council had been approached by way of a special

resolution. If a special resolution had been put before the Council the same procedure would have applied. In fact I venture to say that a more limited procedure would have applied, because the Colonial Secretary would have moved the motion and Members would have had an opportunity of speaking only once on the subject. To-day we are in Committee, and the hon. Member for Eastern Demerara (Mr. Humphrys) will have an opportunity to reply immediately to any point I have raised. Therefore it seems to me that the procedure adopted is a much easier way to settle what I prefer to describe as a domestic squabble.

If the hon. Member for Eastern Demerara feels, like myself, that this is a breach of constitutional privilege, that is the point I would like to have settled—not so much the validity or otherwise of the contract, or the reasonableness of it, but I would like to have some expression of opinion from the Government side as to whether Government feels that there has been a breach of the constitutional privilege of this Council. That is a question of which Members of this Council are always jealous, and must always be careful to see that there is no breach either from the Government or the Unofficial side, otherwise I am afraid we would be in a state of chaos.

There is one further point on which I would like to obtain some information. The hon. Member for Eastern Demerara stated that the contract had been entered into for two years. He admits that similar contracts have been made in the past, and I have no doubt that similar contracts will be made in the future,—not only contracts of this nature but contracts of various forms. There must come a time—in fact it happens very often, more particularly in the case of contracts for services—when it is desirable in the interest of the Colony that they should be made for a longer period than one year. The point raised by the hon. Member is a

very nice one. I have not had an opportunity to see the contracts in question but it seems to me that whenever Government desires to award a contract for a longer period than one year one of two things must happen. The Council must either be approached in the proper form, as was done in other cases I happen to know of, and its approval sought for a contract to be entered into for a longer period than one year, or it should be made a condition of the contract that it was subject to the amount of money involved being voted by this Council at the end of each year. As a contractor I do not think I would like to accept such a contract, and it seems to me that if a contract has to be entered into for a longer period than one year the best method for Government to adopt would be to approach the Council for the necessary authority.

I do not think we should make too much of this matter. It is one of those unfortunate incidents that occur once in a while. There can be no doubt about it that somebody erred, and so long as this Council is satisfied that the error was made in good faith it seems to me that we should accept the explanation which has been given. That I am prepared to do.

The ATTORNEY-GENERAL: I should not join in the debate at all, except for the fact that the hon. Member for Eastern Demerara (Mr. Humphrys) raised a certain number of legal points. In the ordinary course of events I should have asked Mr. Luckhoo to answer those points, which I know he would have done, but it so happens that he was not in Council when the hon. Member spoke. I therefore wish to make a few remarks, but before doing so I would like to say that I knew nothing whatever about this contract before it was signed, so that I am in no way involved or implicated. However, it did so happen that on the 21st of December I interjected a remark which the hon. Member for

Eastern Demerara said was wrongly reported in the Press. Quite frankly I have not the slightest idea of what I did say on that occasion. All I can say is what was in my mind. Looking at the papers before me I saw that the contract was to come into force on the 1st of January in the following year. We were then talking late at night and I felt quite sure that if the contract had to take effect as from the 1st of January it must have been concluded before that date, because all Government contracts are concluded about two months before in order to give the contractors an opportunity to make arrangements in advance. I only asked the question for information, and not because I knew anything about it.

I would like to refer solely to the legal part of this contract. The actual legal facts are very short. I think I am right in saying that the tender was accepted on the 16th of October when a letter was sent to the tenderer, and from the time the letter was posted, whatever happened in this Council or elsewhere, short of a Bill, that contract is perfectly legal and a binding contract on this Government. It was a legal and binding contract from the moment the letter accepting the tender was dropped into the box. Whatever happened on the estimates would not alter that, and it has to be honoured. The fact that a formal contract was signed afterwards makes no difference to the enforcement of the contract. All Government contracts are reduced to writing in order that there should be no doubt as to their nature. The Council itself did not realize on the 21st December that actually, while we were talking, the tenderer was in possession of a document which he could take before the Supreme Court and have it enforced. Whatever the Council decides on this vote to-day that contract remains perfectly valid and enforceable, and Government will have to pay.

If the vote is struck out and comes before the Council again Government might then have to ask the Council to vote an amount for damages and any special damages which the tenderer might successfully claim. Government would then have to come to the Council a second time and ask for money for the Essequibo mail contract. It seems to me that as a matter of very practical politics and ordinary commonsense Government will have to pay the tenderer, and as he already has the new tyres and has to get the money we should let him do the contract as well. But I did not desire to speak on the facts.

The hon. Member for Eastern Demerara says that it is completely improper—in fact illegal for Government to enter into a contract for more than one year without the previous approval of this Council. That is completely wrong. There is only one form of contract in respect of which Government has to come to this Council before it is entered into, and that is a contract in which it is specifically stated that it is made subject to the approval of this Council. In England there is one such contract—the contract for the carriage of foreign mails, and that is the only contract which, under the Law of England, has to go before Parliament before it can be fully executed. I have looked through the records of this Council but I cannot find any such right reserved, and in the absence of such reservation the ordinary wheels of Government revolve. It is open to Government to make a contract for one, two, or more years. In the very near future contracts will be made for the carriage of air passengers and mail, and if we do not make contracts for more than one year we shall be left standing. It is more economical to contract for a longer period in some cases. If this Council does not wish that to be done then there must be a resolution stating that no contract relating to whatever matter shall be binding until approved by this Council. In that case the invita-

tion for tenders will have to state that the tender is accepted subject to the approval of the Legislative Council. It was not put in the invitation for tenders for this mail contract, therefore we are bound whether we like it or not.

The hon. Member went on to say that the contract was unlawful. He did not really mean that. There is nothing unlawful about it.

Mr. HUMPHRYS: I do not think I said "unlawful." I said that in the circumstances it was illegal—the Postmaster-General had no power to sign it.

The ATTORNEY-GENERAL: I beg the hon. Member's pardon. He says it is illegal. Even that is not right. It is perfectly legal and enforceable. The only question at issue is the conduct of the person who caused it to be executed. The Courts are perfectly able to look after that. The contract is neither unlawful nor illegal. The question is: should it have been signed? I completely disagree with the Colonial Secretary in the attitude he has taken in the matter when he says that he admits that he made a mistake. I do not think he did. I cannot see why he should not stand his ground, and in fact I told him so beforehand. The fact is that he knew that we were bound hand and foot in October, but the Council discussed the matter in December and did not know that. It was Christmas week and the Council could not be recalled. What was he to do? If he had recalled the Council that week we certainly would not have had a quorum. The contract had to be carried out, what was he to do? As the first Executive Head of the Government he had to do something, and it was his paramount duty to see the wheels of the Administration revolve and keep revolving.

I agree that there were two ways of dealing with the matter. One way is the best, but there is another way, and

that other way need not necessarily be the wrong way. If the Colonial Secretary had been in the Colony a little longer he should have shuffled out of it and probably got a small Committee to decide something for him. But whether he consulted a small Committee or this Council the answer would have been the same — "We do not know." He decided to make the best of a bad job and sign the contract. I cannot see what is wrong in that. Whatever happened this Council had to pay. If Essequibo has to have any letters this year somebody else has to be paid if this contract is not honoured. Is Essequibo to have its mails this year or not? Must we go through the solemn farce of coming back to the Council and asking for authority to enter into another contract? I cannot think that in these hectic days, when everybody is working to death, we should be called upon to do that. I am not suggesting that in normal circumstances it is not best when in doubt to come back to the Council and ask for instructions. As you know, sir, when I am asked to interpret some resolution of this Council I have always said "If there is any doubt go back and ask the Council." Had I been asked on this occasion I think I should have done exactly the same thing, but the fact that it was Christmas week would have had some influence.

On the 21st December this Council expressed dissent. It did not strike out the item by the way, but reduced the whole vote for the carriage of mails, which is a very different thing. The contract came into force on the 1st January, and in those circumstances what is to happen? That is the decision this Council has to make. If you wish you can strike out the vote and come here again and solemnly vote the same sum or more.

Mr. SEAFORD: I rise to thank the Attorney-General for the very explicit manner in which he has put the case, and also for clearing up one or

two points on which I, as a layman, was not clear. I should also like to congratulate the hon. Member for Central Demerara (Mr. de Aguiar) for his very able explanation, and to say that to-day I agree with everything he has said. (laughter.)

When the matter was considered at the Estimates meeting of the Council I was one who voted for the retention of the amount, and my reason for doing so then was because we were told that a letter had already been sent to the tenderer. We were told that that amounted to a contract, and I felt that if it was not agreed to Government's good faith would have been impugned. I know that you, sir, especially are very anxious that above all else the good faith of this Government should be above suspicion. Had we at that time tried to get out of it I feel that Government's good faith would have been impugned, and that was my reason for voting for the retention. That is my reason for standing up today to support the revote of this amount.

I am not a lawyer but we have been told that it is a breach of constitutional privilege. There is one question I would like to ask the Attorney-General. We are told it is a breach of privilege because anything thrown out cannot be brought up again within six months, but I think that refers to Bills before the Council. I did not know that it applied to voting of a certain sum of money.

The ATTORNEY-GENERAL: The point raised is quite right. If any question or motion has been either assented or negatived it cannot be raised again at the same session. That refers to a question or motion of which notice has been given. Of course, in this case the motion was that the Estimates for 1945 be approved. There was no formal motion with regard to this item. It is the same as in England

where a Member may move a reduction of a Minister's salary. That is frequently done at one session.

Mr. SEAFORD: If that is so there can be no breach of constitutional privilege, and from a commonsense point of view it seems to me to be the natural interpretation. Supposing a certain amount of money usually voted was thrown out and Government had no money to carry on, and did not have the power to come back to the Council, it would mean that the work of Government might come to a standstill.

Another point I wish to make is this: Members are talking about a breach of constitutional privilege, but the amount was not reduced on the vote for the carriage of the Essequibo mails but on the total amount of the item for the conveyance of mails. I will admit that Members did speak chiefly about the Essequibo mail contract, but for there to be a breach of privilege the whole item would have to be struck out. There was no reason why, with the vote as it stood on the estimate, that \$1,200 could not have been saved on the other votes under the same head. Therefore I cannot see how that can be a breach of constitutional privilege. I admit that it might have been happier if circumstances had permitted Government to come back to the Council, but as the Attorney-General has pointed out, time was short, and we have heard from the Colonial Secretary what the position was. I accept what he has said in absolutely good faith, and I do not think anybody really does impugn Government's honesty. I think some gentlemen's *amour propre* has been hurt, and they are hanging their hats on that. I accept the explanation by the hon. the Attorney-General.

Mr. JACOB: This question has raised so many issues that one could speak on it for several hours, but I am not going to speak for any length of time. I am just going to record my

views on this very vital matter, touching as it does two issues — the constitutional issue and the spending of public money. I wish first of all to congratulate the hon. Member for Eastern Demerara (Mr. Humphrys) on the very able way in which he has put forward the case, and the way he has expressed the views of, I think, the majority of the Elected Members who signed that letter. I see that some of the Elected Members, or at least one of them up to now, have somersaulted and are prepared to support Government in its entirely wrong attitude. What struck me most forcibly was the total disregard of this Legislature's vote. From what has been said by two of the Government Members, and by two Elected Members of this Council, it seems to me that this Council's vote has absolutely no weight with the Government, and I should like to express —

Mr. deAGUIAR: To a point of order! The hon. Member wants these things to go on record. I wish he would have recorded an accurate statement. As far as I know I did not refer to it, nor do I think the hon. Member for Georgetown North (Mr. Seaford) did.

Mr. JACOB: That is my interpretation of the speeches I heard. I wish Government to understand that it is a vote of this Council which Government and every officer should be guided by, and not the inverse order — that this Council should be guided by what executive officers like to do. If that is the idea I may remind them that that has been completely upset in Jamaica. The Governor has no reserve power and has to be guided by the Legislative Council and the Executive Council. The Council having reduced the amount of that vote the Executive Government had no alternative but to sign the contract for that reduced amount. If the contractor would not accept the reduced amount the Government had one of two things to do. One was to

come back to the Council or tell the contractor that he might seek redress.

I am not a lawyer and I do not wish to be one, but I think that in every matter in which a vote of the Council is required it should be made clear that it is subject to the approval of the Legislative Council. If Government has not been doing that in the past it has been arrogating to itself powers which it did not have.

I would like to reply to what the Attorney-General has stated. I question whether the person who signed the contract is legally bound when this Council did not vote the money for the payment. I consider this a very big constitutional issue, and Government should learn something if it has not learnt anything up to this stage, and should respect the wishes of the Members of this Council.

The hon. Member for Georgetown Central (Mr. Percy C. Wight) spoke about no reply having been received from Government to the letter sent by Members of the Council. That has been the habit of Government. I make no exception — every officer of this Government seems to think, or there is some old instruction to disregard replies to letters from Elected Members. Government officers believe they have a perfect right to chuck a letter aside and to say that they are not going to reply, or to say that the replies to the points raised in a letter are in the affirmative. That has been the practice. It is a grossly mistaken idea if Government officers believe that they can treat Elected Members of the Council as they do. I speak very feelingly on this matter. Yesterday I raised the question that it was highly irregular to have the item on this Schedule. This debate is unconstitutional. It is against the Order in Council to have a question like this debated when it was completely thrown out not two months ago. As a student

of Constitutional History I am sorry to differ from the hon. the Attorney-General that this matter can be considered in the form it is and this Council has all powers to allow it to pass. I am objecting very strongly whatever the vote may be. I know there will be some somersaulting as I have heard some views expressed here on behalf of Government that it has done the right thing. On objection being raised that this matter is irregular and illegal the President ruled me out of order yesterday. Now it has come back to the Council in a different way. That has not been the principle and practice in this Council for many years so far as I know. If it is the wish of the Members of Council to upset the Rules and burn the Order in Council the President would agree to such a course being adopted. If one single individual of this Council objects to anything done in an irregular way and not in accordance with the Order in Council and the Standing Rules of this Council, the President has no right to take a vote on the matter. In that way we should have no Standing Rules at all. We should just meet here and decide any irregular thing. That is how the Constitution is interpreted by the President of the Council, up to yesterday I am sorry to say. It is all grossly wrong. I speak feelingly because I look upon the Constitution as a sacred thing, and no Officer, it does not matter whether he is in the Chair or not, should flout the wishes of Members of this Council and disregard the instructions of the Standing Rules. I say the debate is unnecessary. It is useless. The matter should come back to this Council in another form.

Regarding the amount, this Government is aware of the fact that the mails can be carried in Essequibo for the previous amount whatever it was, \$125 or \$140 per month. Why should this Government agree to pay \$240 per month? Is Government not aware of the fact that the previous contractor

is willing to do the work which he has done practically forty-years? Why pay this additional \$160 per month. According to War Restrictions now in force Government can do almost anything. Government refused to give the old contractor motor car tyres and spare parts, whatever they are, but can give another person \$160 more to do the work. I am sorry I cannot agree with the hon. Member for Central Demerara that he has no interest in the man who carries the mails. As one of the Representatives of the people of this country I am interested in seeing that the taxpayers' money is not wasted and friends and acquaintances get contracts when they are not entitled to them. I am always plain and blunt. I maintain this Government has done a grossly illegal thing in flouting the wishes of this Council, disregarding the Constitution and paying \$160 per month more for two years on this contract. Is this Colony rich enough to pay independent people such huge sums of money yearly for something that can be done for less? I maintain Government has no legs to stand on. As has been stated, the Officers of Government do exactly as they like. They march into their offices, sign papers and reply to letters or not reply to them, and just go on as bosses of the country. They are not concerned with the Legislators, whether they represent the public or not. That is my impression. I am very sorry to say it. I had that impression thrust upon me, and I wish to protest against the attitude of Government in matters of this kind.

Mr. J. A. LUCKHOO: I am one of those who signed the letter which was addressed to the Colonial Secretary on this matter. I did so because I had grave doubts in my mind as to whether what was done had any constitutional propriety. Since that letter has been written the Colonial Secretary has explained the reason why that contract was signed after the vote under this Head was reduced. I may say here that I do not agree altogether with what the

hon. Member for Georgetown North has stated, because I think the hon. Member for Central Demerara made it quite clear that he was attacking the item with respect to the carriage of mails on the Essequibo Coast—an item for \$2,400,—and he was moving the reduction of that item by the sum of \$1,200. So we must not hide anything under that large sum for conveyance of mails in this Colony.

Mr. SEAFORD: To a point of order! Under that one head is it not \$128,000? I think that was the vote. I do not think when the Estimates come up in Council we should pick at every little item. There is nothing given in respect of that item which shows what is for the carriage of mails in Essequibo. What I am pointing out is that under the heading there is no item for the carriage of mails in Essequibo.

Mr. LUCKHOO: It is quite clear it was mentioned that the sum for the carriage of mails on the Essequibo Coast was \$2,400, and the hon. Member for Central Demerara moved the reduction by \$1,200.

Mr. JACOB: I have the Estimates here. I am not speaking from memory. Under "Other Charges" item 5—"Conveyance of Mails"—reads:

"Conveyance of Mails—

(a) Internal	\$18,000
(b) External	12,000
(c) Air Mails		100,000

\$130,000"

When the item was under consideration—"Internal mails, \$18,000"—it was in connection with the Essequibo Mail contract that the item was reduced. What the hon. the Fourth Nominated Member stated is perfectly true.

Mr. SEAFORD: My point is that no such item as Essequibo Mails is stated in the details of the Estimates, and I say that is correct.

Mr. LUCKHOO: Whilst it is correct that there is no specific item of the carriage of Essequibo Mails, the matter was debated from that standpoint and the vote was taken on that ground and, therefore, one cannot offer that as an excuse at all. What I am concerned about is this: If Government moved into the Estimates a sum of money under a particular item and that item was fully debated in this Council and the Council by a majority carried a reduction of that amount to a lower figure in respect of the particular item, would it not be committing a breach of the privileges of this Council by going back upon what the Council by a majority has decided? The better thing would have been for those in charge of this matter to have brought to the notice of the Members who had moved the reduction that the circumstances were not fully disclosed to them, and it might be this matter might not have occupied Your Excellency's attention this afternoon. From what I have heard since the reduction was passed here, I am quite satisfied that the hon. the Colonial Secretary acted in the best interest of the community in Essequibo. He may have acted unconstitutionally, but in his own way he acted in the best interest of those people, and I do not agree that he is solely to be blamed for taking the course he did. I have heard him say that on several occasions, I think the blame should be laid at the door of the Postmaster-General who was present here and who ought to have given the full particulars of what occurred during the previous year to make him decide to award the contract to the particular person who is now performing the service on that coast.

I am not saying that the contract for the carriage of mails is unlawful, nor do I say it is illegal, but what I do say is that the amount inserted in the contract is unauthorized. That is clear, and I do not think there can be any gainsaying about that at all.

Having explained the matter as he did, I think, if we not only look to our own self interest but to the interest of the people in Essequibo who would like their mails delivered, as we would like, regularly, we ought in this Council to ratify what the hon. the Colonial Secretary has done in the circumstances. As I said before, it would have been better if this matter was reported to Members of Council and their assent had to what he subsequently did.

With respect to the question of the contract being for two years, I think I should remind hon. Members that the previous holder of this contract for the carriage of mails on the Essequibo Coast had a contract for five years. I think these facts are correct and I do not see anything wrong with a contract for two years provided it is brought to the notice of Members of this Council when the matter is being dealt with. There is very good reason for a contract for two years being entered into because it is necessary to get the contractor to expend a certain amount of money in the purchase of tyres and other necessary parts for keeping his vehicle in order so that the mails may be regularly delivered at the various Post Offices on that Coast.

The hon. Member for North-Western District said that even Your Excellency has not the power to make this contract, despite the fact that the Council had voted a reduction of the amount on the Estimates, and he said further that the Governor has no reserve power and he instanced the case of Jamaica, but—

Mr. JACOB: I beg to rise to a point of correction! I did not say that.

Mr. LUCKHOO: He said that even the Governor's reserve power in Jamaica was questioned and he had no reserve power. Whatever the term may be, it seems that in the interest of public order, public good faith or

good government the Governor has such power. I think you are not bereft of such power in this Colony. I do not think I should say anything more, because it may be said that I have interest in this contract, in as much as I am counsel for the contractor who has succeeded in obtaining this contract from Government. I signed that letter myself because I felt, as I said before, it may not have been constitutionally proper to have adopted the way in which the contract was dealt with by the hon. the Colonial Secretary. But let us put an end to this debate on this point. The mails have to be carried. The people on the Essequibo Coast have to be served, and whatever mistakes have been made we can always remedy them. In this whole matter the hon. the Colonial Secretary in good faith authorized the signing of that contract. I think the only thing we can do in the circumstances is to have a ruling from Your Excellency as to what the rights of this Council are, but in this case let us together ratify what was done in order that we may find the money to pay the contractor who is serving Government at the present time.

Mr. LEE: I would like to enter my protest to the manner in which this money is being asked for to pay the contractor. I would like to make my position very clear because, if I remember rightly, when the debate took place, it was questioned as to what was the amount to be paid for the carriage of mails in Essequibo. The amount was stated and many Members of Council present asked what was the amount paid to the old contractor and why the increase was made. I remember rightly that I asked the Government whether the contract was signed and I received the assurance that it was signed. As a result when the voting took place I voted on behalf of the Government because,

as I explained in the debate, it would have meant that Government would have had to pay damages because the contract had been already signed. In that case it would have been far better as Government would not accept the old contractor to let the Colony pay the money, but to my surprise my attention was called by certain Members—I see some of them present—to the fact that the contract was not signed until in January, and I understand that is so. If that is so, I say it is a breach of the constitutional privileges and rights of this Council that Government or any Officer of the Government should go behind the ruling of the Council in a matter in which finance is concerned. We are assured by the Imperial Government that Treasury control is in our hands, and if we by a majority vote here that this money should not be spent I do not think it is right and equitable for this Government to do that.

The hon. Nominated Member, Mr. Luckhoo, is asking us to ratify the agreement made by Government. Why did not Government come to us, as is done in a matter of importance or expediency, and ask us to ratify it as it is necessary that it be carried into effect in the interest of the taxpayers? But no, Government asks us under a supplementary estimate to vote the amount required to cover the increase in the Essequibo Mail Contract. That means to say, the Officer has flouted the ruling or resolution passed by this Council and, therefore, I cannot in any way vote with Government in this matter. If the Officer knew and the Postmaster-General who was present also knew that the Council was not in favour of the contract, I think their duty was to call for fresh tenders. As far as I understand, but I hope it is not so, the tenders are only opened by the Postmaster-General and not by the Tender

Board. If that is so, that is another breach on the part of Government. I ask that in all fairness to the inhabitants some enquiry be made into it and, if it is found to be so, that it be stopped and not continued in the future, because greater sums than this may be involved in the future. When hon. Members of Council object to a vote and Officers of Government feel it should be and, therefore, Government comes back and asks for the additional vote, it is not fair to the taxpayers. I am not speaking on the merits of the contractor or the deposed contractor. If anybody has served Government and he has tendered, his claim should be considered. As to whether he can carry out the contract or not, there was no complaint by the Postmaster-General against the contractor who had been carrying on for a number of years. The only complaint made was by hon. Members of this Council that the old contractor had to hire cars to carry the mails. He could not get tyres from the Controller of Supplies in order to fulfil the contract, and so he had to hire cars to carry the mails. Why then should the contract be taken away from him and given to another person? Has the other person proved by recommendations or otherwise that he can fulfil the contract?

I feel that on a constitutional point this Government has not acted fairly to this Council and, further than that, I do not think it is right that Government should come back and ask for an excess when the Council had already passed the vote. If Government did not accept it at the time, Government should have deferred consideration of the item and subsequently should have gone further into it with Members of Council. The Council was asked that the amount be allowed to go through but it was reduced, and Government

should now come back for the excess. I do not think that is fair. I ask Government not to adopt that procedure in future. It is done now in this small case, but if continued it would bring about a crisis of a constitutional nature. Supposing for the sake of argument we were a self-governing colony and in a small matter like this for \$1,200 Government is defeated on the vote, Members of the Opposition can move a vote of censure of the Government calling upon it to resign, and the Government will be bound to resign as the result of the majority vote. It is a constitutional issue as to whether the Member on the Official side was right or not and, therefore, Government is to be blamed for whatever is done now. This, however, should not be taken as a precedent in all constitutional issues.

Mr. EDUN: I have been privileged this afternoon to listen to a great exposition of law by the most eminent legal luminaries of British Guiana, free gratis and for nothing. It is indeed a great privilege to be listening to the debates, but I think we are not going further than just talking. I can remember very well in Finance Committee when I alone raised the question as to the motive behind Government in bringing it up in Finance Committee. What I asked then was that this matter should be brought up in open Council and discussed properly in order to alleviate the feelings of the people that this Government is endeavouring to ride roughshod over their constitutional rights and privileges. That action has been taken, and the result is we are discussing it this afternoon. I have before me the minutes of that meeting and, with your permission, I would like to read portions of it just to quote one or two remarks of Members who criticized Government's action in the matter as being a breach of consti-

tutional procedure. Although certain Members were prepared to accept the hon. the Colonial Secretary's explanation and to consider the matter, on the other hand other Members held the matter was at an end in Finance Committee. Going further into the minutes it is stated:

"Members would either take the opportunity of publicly expressing their views on the matter when the Schedule of Additional provision for January—March quarter, 1945, comes before the Legislative Council for approval."

I think, I particularly asked that the consent of the hon. Member for Eastern Demerara be had before anything else can be done. I also asked that a reply be given to the letter sent by the twelve Members of Council, I being a signatory to that letter also. Sir, you will observe that I happen to be a Nominated Member of this Council, but I feel in this matter that a grave constitutional blunder was committed and Government did not take the opportunity offered it at the time to brave the issue and call the Legislature to ratify its action. However, I consider it is not too late, but having heard the remarks made by the hon. Member for Eastern Demerara, who also is a legal practitioner of some eminence, and having expressed an opinion I feel certain that we cannot proceed with this debate at all or with this item except by bringing it back in a special resolution. I have heard the hon. the Attorney-General express an opinion. I have heard also an eminent King's Counsel, the hon. Nominated Member, Mr. J. A. Luckhoo, express another opinion, but those expressions of opinion in law will not help us. I agree that we ought to take a commonsense view of this matter and bring it to an end.

What has given me a feeling of exhilaration is the lively interest

taken by the hon. Member for Eastern Demerara nowadays (laughter) Perhaps he would pardon me if I ask what is the reason for it. I am a public man and a newspaperman at that, and I do not want to be dragged in as a Member of this Council in the hope of allowing anybody to use this Council for a legal squabble. I know that the contractor, who has been fortunate enough to secure the contract, is a friend of an hon. Member of this Council, a very good friend indeed, and maybe political influence has been used for him to get the contract. Well as he received the contract, the other old contractor who did not receive it also has got his friend who is a Member of this Council.

The COLONIAL SECRETARY: To a point of correction! I must correct the hon. Member. The contract was awarded as the result of deliberation by the departmental committee with the Postmaster-General and with the advice of Mr. Orrett. There was no political influence at all at work in awarding the contract. I can give my personal assurance on that.

Mr. EDUN: I think I know much more than the Colonial Secretary about political influence used in these matters, and no matter what he says I am not going to be led into believing that we are all so innocent as that. Nobody would have heard anything about this contract if it did not concern two rival contractors. Political influence was used in order that one man should get the contract. That is the crux of the matter in a nutshell. I do not want to say who was responsible for bringing this matter up to this point. When I made my observations—very strong observations indeed—in Finance Committee that the matter should be brought back into the Council and discussed openly I was prompted by the pure and simple motive that nobody in this country should ever hope

to violate the constitutional privileges of the people of British Guiana any longer. What gives me some reassurance that this Government is not going to do that is the courageous attitude of the Colonial Secretary in accepting the responsibility. "Gentlemen," he said, "I have blundered and I regret it." I think the matter should have ended there. That is the kind of attitude every Government officer should adopt. The Colonial Secretary having accepted the responsibility that he has blundered, and blundered in good faith, this Council ought to give him *carte blanche* to go ahead. I want to commend him further; he is living up to the tempo of the times, because Government officers realize that they cannot ride roughshod against the wishes of the people any longer. That time has gone forever, and we are going to boss this country no matter what any officer says about it.

The highest Officer in the Country, second only to His Majesty's representative, tells us he is sorry. I want Government to take this as a lesson and an indication of what would happen in the future if any one of the Government officers makes a blunder of this kind again. I think the easiest way out of the difficulty would have been to reply to the letter signed by Members of this Council. The courtesy of a reply from one man to another is an essential ingredient in the affairs of men, and far more so in the affairs of a servant of the people in the person of the Colonial Secretary. He, more than anybody else, ought to reply to letters, and as quickly as possible. The first thing he should have done was to have replied saying: "Well, gentlemen, I have received your letter. The matter is being investigated and sooner or later I shall reply." Even that was not done, and even that was a blunder.

This debate has proved beyond any doubt that no matter what their political ideologies may be, Members are prepared to guard the constitutional privileges of this Council. Having

heard the hon. Member for Eastern Demerara (Mr. Humphrys) who, for the last few years, seemed not to have concerned himself with political events but is staging a come-back (laughter), I consider that a reassuring event, and I hope every such Member with that conservative ideology will endeavour to regard the constitution of this Council and the economic, social and political affairs of this country as his own, and thereby keep in harmony with the common people and fight their cause. I am happy this afternoon to feel that even a Member like the hon. Member for Georgetown Central (Mr. Percy C. Wight) spoke in a mood of vexation. "I do not expect to be treated like a child here," he said. Very firm that expression was, and it shows the soul of the man—that he is not going to allow a vote which has been opposed in this Council to be brought back here with indecent haste. That is the kind of urge I expect to see from every Member—an urge to make this country progress—and I think the best we can do is to get constitutional power. If we could have the power in this Legislature to move the deletion of every vote which we think is being overspent by Government officers, I think every officer would think a hundred times before overspending votes. That is why I am questioning the comparison between one contract and another.

Without consulting this Legislature the vote was increased, and now this Council is asked to regularize the whole situation, but I do not think it should be regularized at all in this debate or by any vote taken now. I think it can only be regularized by a special resolution moved by an Unofficial Member. Then and only then, I think, we could rectify a constitutional blunder so badly committed. I do not wish to be a party to adding further to the discomfiture of the Colonial Secretary. I want to accept his explanation in all good faith, and I want to commend him on his strength of character for being courageous enough to say that he has blundered. There was once a Colonial

Secretary in this Colony who would have acted differently. He would have said: "All you Members of this Council are simply pestilent agitators and talking rot." But times are changing, and men's minds are changing. Therefore I have to commend this great man for being courageous enough to come among men and say: "Well, gentlemen, I have blundered and you ought to rectify my blunder." I am going to help him to rectify it.

Mr. HUMPHRYS: There is one thing I would like to get quite clear before I reply, and that is an assurance from the Colonial Secretary that he did say that he blundered and that he was sorry, because I have not heard him say that yet.

The COLONIAL SECRETARY: To a point of order! What I said yesterday was this: "He took the matter on himself as time was very short. The decision was a right one, but he was sorry he did not consult them."

Mr. HUMPHRYS: I think you said you should have come to the Council before.

The COLONIAL SECRETARY: What I said was reported accurately in the *Argosy*.

Mr. HUMPHRYS: I accept that. The position is this: I am not going to be a party to anything that is irregular and unconstitutional. The Colonial Secretary has told us that he made a mistake and he is sorry—he should have come to the Council before he did it. That assurance and apology, of course, Members of the Council will accept, but the matter cannot be rectified by means of an increased vote on this supplementary estimate. It is all very well for the hon. Member for Central Demerara (Mr. de Aguiar) and the hon. Nominated Member, Mr. Luckhoo, to say "Let us have an end of this." It cannot be done in that way. The Colonial Secretary having expressed regret and admitted his mistake, if a resolution

were put before this Council explaining what had been done, and that it was a mistake, I do not think there would be any division in this Council about it. Certainly, any one of us can make a mistake and express regret. That expression of regret having been accepted, if a proper motion were put before the Council I for one would support it, but I am not going to be ridden over roughshod by any slipshod attempt to get an increase of the vote on supplementary estimate.

With every respect I disagree with the law as laid down by the hon. the Attorney-General. In so far as tenders are concerned I consider that tenders made to the Government of this Colony are accepted subject to the Legislative Council voting the necessary money. If Government considers otherwise then it should not accept tenders without the consent of this Council being first obtained.

So far as the contract is concerned there is no doubt about its legality as a contract, but the question is who is liable under that contract? It must be borne in mind that an officer has signed it without any legal authority. He could not have legal authority because the Council did not vote the money for that contract. Therefore he was an agent without authority, and in the circumstances that contract is not binding on this Government. I do not for one moment say that the contractor has not a right of action, but against the officers who signed the contract, not against the Government. I have no doubt that that is the position.

As regards the constitutional aspect, again I submit that the hon. the Attorney-General cannot be in any doubt. This Council by a majority decided that the vote should be reduced by \$1,200. That is final, and the item cannot be brought up on a supplementary estimate. It is not a case of increased expenditure having been incurred since that item was passed.

That is not the position at all. It is in order to make good something which should have been done properly. Government would be well advised to put this matter in proper order because, if it is going to be contended by the passage of this vote that there has been no breach of the constitutional rights of this Council, I am prepared to take the matter very much further. I am prepared to submit it for the decision of the Secretary of State for the Colonies ("Hear, hear.") because I say there has been a breach of the constitutional rights of this Council. If that is not admitted and the vote is rushed through the Council, then the position must remain like that. If, on the other hand, Government adopts the procedure of bringing forward a special resolution I would be the first to support the Colonial Secretary and say: "You have done wrong but we will ratify the contract."

There is just one more word I would like to say in reply to the hon. Nominated Member, Mr. Edun, who doubted my honesty. I would like to tell him that my sole interest in this matter is that I consider that there has been a breach of the constitutional privileges of this Council. I have no other interest in it. As far as I am concerned the contract is finished. At one time I was consulted as counsel by the person who did not secure the contract. That is finished now. I only asked for the information as to what the new contractor was getting because I had heard that he had been awarded the contract at a considerably increased amount, which I thought was unjustified, and I still think so. If Government thinks it is right that is a matter for the Executive Government, but we must have things done in a proper manner. This has been done most improperly, and as President of this Council I am asking you, sir, in all sincerity whether you consider that there has not been a breach of the constitutional privileges of this Council? If Your Excellency does not wish to answer that question I will not force you, but I do ask that the matter be

put in proper form, failing which I should be compelled to vote against this item and take such further steps as I think fit.

Mr. ROTH: There is one brief remark I would like to make in reply to the statement made by the hon. the Sixth Nominated Member (Mr. Edun) who compared the Colonial Secretary's attitude in this matter with that of one of his predecessors who had referred to Members of the Legislature as "pestilent agitators." I wish to point out that that remark was not made in this Council Chamber; it was made in 1914 on the Barrack square at Eve Leary in addressing the troops, of whom I was then one.

Mr. THORNE: Perhaps I may be allowed to make a statement. On a similar matter to this about 40 years ago in this Chamber a vote under the Treasury was altered, and the then Governor either did not communicate to the Secretary of State the decision of the Combined Court, or the Secretary of State did not observe it. It was a peculiar coincidence that the Secretary of State appointed an officer to come to the Treasury whose name was Tripp, but the Combined Court stuck to its gun and struck out the vote. Mr. Tripp duly arrived in the Colony, spent a month and had to go back. He had a trip and the Secretary of State admitted that he could not go beyond the Constitution. The Combined Court having arrived at a decision on a financial matter, he was bound by the decision. I mention that because there are young Members in this Council, and I think Government would also like to know about it. They can find that recorded in the debates in connection with the Treasury somewhere about 1907 or 1908. I think the vote of the Electives was unanimous.

I may also mention for the information of Government that something similar to this occurred many years ago and cost the Colony a good deal of

money. That was before I became a Member of the Combined Court—some-where about 1892—and it left the Government with Pln. Christianburg on its hands. An action was brought in the Supreme Court which the Government lost, and it had to pay the Pattersons for Christianburg, which thereafter became a Colony estate. I have mentioned those two incidents because on this subject, Members would be well advised to consider those points.

The CHAIRMAN: As an alternative procedure has been suggested I hold up the item.

The Council resumed.

The PRESIDENT: I would like to have the motion in the name of the

Treasurer with regard to the revised salary scales, taken as early as possible, and as I should possibly have to go out of town tomorrow afternoon I propose to take the motion between 2 and 3 o'clock tomorrow.

Mr. LEE: May I ask that you re-commit the item under "Agriculture" with regard to the development of the fishing industry?

The PRESIDENT: I would like to ask the advice of the officers concerned. It is my intention to adjourn the Council at 3 o'clock tomorrow afternoon.

The Council was adjourned until 2 p.m. the following day.