

# LEGISLATIVE COUNCIL

*(Constituted under the British Guiana  
(Constitution) (Temporary Provisions)  
Order in Council, 1953)*

THURSDAY, 17TH JUNE, 1954.

The Council met at 2 p.m. His Honour the Speaker, Sir Eustace Woolford, O.B.E., Q.C., in the Chair.

## PRESENT :

His Honour the Speaker, Sir Eustace Gordon Woolford, O.B.E., Q.C.

### *Ex-Officio Members:—*

The Hon. the Chief Secretary,  
Mr. John Gutch, C.M.G., O.B.E.

The Hon. the Attorney-General,  
Mr. G. M. Farnum (Acting).

The Hon. the Financial Secretary,  
Mr. W. O. Fraser, O.B.E.

### *Nominated Members of Executive Council :—*

The Hon. P. A. Cummings (Member for Labour, Health and Housing).

The Hon. W. O. R. Kendall (Member for Communications and Works).

The Hon. G. A. C. Farnum, O.B.E. (Member for Local Government, Social Welfare and Co-operative Development).

The Hon. G. H. Smellie

The Hon. R. B. Gajraj.

The Hon. R. C. Tello.

### *Deputy Speaker;—*

Mr. W. J. Raatgever, C.B.E.

### *Nominated Officials :—*

Mr. W. T. Lord, I.S.O.

Mr. J. I. Ramphal.

### *Nominated Unofficials;—*

Mr. T. Lee.

Mr. W. A. Phang.

Mr. L. A. Luckhoo, Q.C.

Mr. W. A. Macnie, C.M.G., O.B.E.

Mr. C. A. Carter.

Mr. E. F. Correia.

Rev. D. C. J. Bobb.

Mr. H. Rahaman.

Miss Gertrude H. Collins.

Mrs. Esther E. Dey.

Dr. H. A. Fraser.

Lt. Col. E. J. Haywood, M.B.E., T.D.

Mr. R. B. Jailal.

Mr. Sugrim Singh.

### *Clerk of the Legislature—*

Mr. I. Crum Ewing.

### *Assistant Clerk of the Legislature—*

Mr. H. H. Tross (acting).

### *Absent :—*

The Hon. Sir Frank McDavid, C.M.G., C.B.E. (Member for Agriculture, Forests, and Lands and Mines).  
—on leave.

The Speaker read prayers.

## MINUTES AMENDED

**Mr. Speaker:** In the Minutes of the last meeting hon. Members will see under the caption "British Guiana Credit Corporation Bill, 1954" that it is recorded that the Speaker "informed Members that there were certain grammatical imperfections in the Bill which it was desirable should be corrected." The record is not strictly accurate because there were not only grammatical but other imperfections. I therefore suggest that the word "verbal" be substituted for the word "grammatical".

**Mr. Smellie:** On page 5 of the Minutes it is recorded:

"Miss Collins moved the insertion of the following words at the end of subparagraph (2):  
"except with the approval of the Governor in Council."

My recollection is that there was a division on the amendment which is not recorded in the Minutes.

**Mr. Speaker:** It has been corrected. The division is recorded in the amended Minutes which have been circulated.

Minutes of the meeting of the Council held on Friday, 11th June, 1954, as amended, were confirmed.

## REPORTS AND DOCUMENTS

**The Financial Secretary** (Mr. W. O. Fraser, O.B.E.) laid on the table: Order in Council No. 35 of 1954 made under the Customs (Consolidation) Ordinance, 1952.

**Mr. Kendall** (Member for Communications and Works) laid on the table:

Order in Council No. 31 of 1954 made by the Governor in Council under section 16 (2) of the Post and Telegraph Ordinance as amended by Section 2 of the Post and Telegraph (Amendment) Ordinance, 1945, (No. 7 of 1945) on the 31st May, 1954.

Order in Council No. 32 of 1954 made by the Governor in Council under section 16 (2) of the Post and Telegraph Ordinance as amended by Section 2 of the Post and Telegraph (Amendment) Ordinance, 1945, (No. 7 of 1945) on the 31st May, 1954.

The Annual Report of The Demerara Electric Company, Limited.

## GOVERNMENT NOTICES

**The Financial Secretary** gave notice of the following motion:

"That in terms of Section 9 of the Customs (Consolidation) Ordinance, 1952, (No. 69) this Council confirms Order in Council No. 35 of 1954 which was made on the 8th June, 1954, and published in the Gazette on the 12th of June, 1954."

**Mr. Farnum** (Member for Local Government, Social Welfare and Co-operative Development) gave notice of the introduction and first reading of a Bill intituled:

"An Ordinance further to amend the Indian Labour Ordinance."

## UNOFFICIAL NOTICES

## PRIVATE BILLS

**Mr. Lee** gave notice of the introduction and first reading of a Bill intituled:

"An Ordinance to incorporate the British Guiana Conference of the Moravian Church and to vest therein all property in the Colony of British Guiana now held and which may hereafter be acquired by any person or by any association, society or other body of persons on behalf of or for the use or benefit of the British Guiana Conference of the Moravian Church in the Colony and to make provision for the administration thereof."

**Lt.-Col. Haywood** gave notice of the introduction and first reading of a Bill intituled:

"An Ordinance to consolidate and amend the law relating to the Diocese of British Guiana,

## ORDER OF THE DAY

CO-OPERATIVE SOCIETIES (AMENDMENT)  
BILL

Item 1 on the Order Paper was the second reading of the Bill intituled:

"An Ordinance to amend the Co-operative Societies Ordinance, 1948, to provide for the minimum number of persons capable of registration and for the compulsory sale of produce through a registered society in certain cases."

**Mr. Speaker:** I observe that this Bill is not being proceeded with today.

**The Chief Secretary:** I understand from the Clerk that the Bill which is to replace the one referred to at item 1 has been received by him and will be published on Saturday. This Bill will later be withdrawn.

**Mr. Speaker:** Are you ready to proceed with the second reading of the Bill which is the next item?

## FIRE PREVENTION BILL

**The Chief Secretary:** Yes, Sir. I beg to move the second reading of the Bill intituled:

"An Ordinance to provide for the inspection of certain premises in the City of Georgetown, the town of New Amsterdam, Kitty and Alexanderville Village District and certain other areas in the Colony; to provide for the elimination of fire hazards in connection with such buildings; and for purposes connected with the matters aforesaid."

I do not think any Bill, the object of which is to facilitate fire protection measures in certain built-up areas in British Guiana, requires very much commendation to Members from me. The Bill is quite a simple one. It provides first of all for the constitution of a Board to be called the Fire Advisory Board. I should explain that this Board has already been in exist-

ence for, I think, something like two years on a non-statutory basis, purely on an advisory basis, and has given very valuable assistance to the Administration in advising on all matters connected with fire protection. The purpose of clause 3 of the Bill is merely to put the Board on a statutory basis.

Clauses 5 and 6 confer powers on the Superintendent of the Fire Brigade to enter and inspect premises and also to require alterations to premises to be carried out in order to lessen the risk of fire on such premises, or to make it easier to arrest the progress of fire, or to provide adequate means of escape in the case of a fire. It might be thought that these powers are drastic and might involve individuals in certain expenditure. Therefore, provision is made for appeals to the Fire Advisory Board and, if persons are not satisfied with their decision, then further appeals would lie under clause 7 to the Governor in Council.

I should mention that I propose to move an amendment to clause 10 to provide power to make Regulations for the registration of certain premises and for prescribed specifications for such premises to be laid down as precautionary measures, which must be taken by occupiers against an outbreak of fire. The object of this amendment is to enable special conditions to be laid down in the case of premises used for particular purposes. There have been cases, since this Bill was originally drafted, in which fires broke out on account of the use of locally-made welding plants and representations have been received from the Fire Insurance Companies that steps be taken to ensure that the people operating these welding plants take appropriate precautions against the outbreak of fire. It is impossible to impose such measures on them with-

[The Chief Secretary]

out there being provision in the law for that purpose. The intention is only to use this particular provision in the case of industries and premises in which there are those particular risks of fire breaking out. I beg to move that this Bill be now read a second time.

**The Attorney-General** seconded.

Question put, and agreed to.

Bill read a second time.

#### COUNCIL IN COMMITTEE

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

#### Clause 3—*Fire Advisory Board.*

**The Chief Secretary:** I desire a very small verbal amendment here without any alteration of the sense of the clause in any way—in paragraph (8) the substitution of the words “among the members thereof” for the words “in the Board.” It is proposed to re-word paragraph (9) as it is considered cumbersome. It should read:

“The Board may appoint a Secretary at such salary, if any, as the Governor may in his discretion approve.”

Amendments put, and agreed to.

Clause as amended passed.

Clause 5—*Entry and inspection of premises.*

**The Chief Secretary:** I propose an amendment here also—the insertion of the words “or other” between the words “manufacturing” and “process” in the brackets. For instance, the welding process which I just mentioned may not be “manufacturing” but the repairing of something.

Amendment put, and agreed to.

Clause as amended passed.

Clause 6—*Power of Superintendent to require alterations to be made, etc.,*

**The Chief Secretary:** My learned friend, the hon. the Attorney-General, wants the last three lines of sub-clause (1) to read:

“notice which in the opinion of the Superintendent would reduce the risk of fire, arrest the progress of any fire or provide adequate means of escape from fire”. In other words, delete the first “or” before the word “arrest”.

Amendment put, and agreed to.

Clause as amended passed.

Clause 7—*Appeals.*

**The Chief Secretary:** In sub-clause (2) there is no provision at the moment for the Board to confirm appeals, and it is proposed to amend the sub-clause by inserting the word “confirm” and a comma between the words “may” and “revoke”, and substituting the word “requirements” for the word “terms”. The sub-clause would read:

“Upon the hearing of any such appeal the Board may confirm, revoke or vary the requirements of the notice.”

Amendment put, and agreed to.

Clause 7, as amended, passed.

Clause 8—*Offences.*

**Mr. Luckhoo:** May I preface my remarks by saying that I have not been able to study this Bill and have only been reading it within the last few minutes. I would be glad to get some elucidation on this point. Notice is served on a person who does not comply with a notice, and he is allowed the right

of appeal. There is a penalty of not exceeding \$25.00 for every day he continues to be in default. Will that commence as from the time of the notice and his failure to comply with it or from the time of his conviction, or from the time when his appeal is disallowed by the Board or the Governor in Council? I have not studied it, but it strikes me as being ambiguous. From when would the time commence to run for this person to be liable? Would it be from the time of the service of the notice, the expiration of the time of the notice, the expiration of the right of appeal, or from the time of conviction?

**The Attorney-General:** Perhaps, if we continue with the Bill I may consider this clause by the time we get to the end of the Bill. If necessary, I may have to make some slight amendment to take care of the point raised so as to put the matter beyond doubt.

**Mr. Luckhoo:** I am grateful.

**Mr. Speaker:** The moment a person is convicted and there is an appeal from the conviction, everything remains in *status quo* until the appeal is decided. I do not think the clause expresses that view. We will defer consideration of the clause for the present.

**The Chief Secretary:** I should like to say, as a layman, that no offence at all could be committed until the time stated in the notice has expired. When it expires, everything would be held up automatically until the matter is finally disposed of. However, I am not a lawyer. There are some other slight amendments proposed in relation to clause 8, and I should mention them now. In line 3 of sub-clause (3) (b) a semicolon has crept in by mistake. It is a printing error. Then, at the end of that paragraph I propose to add the words "so to do". There will be an insertion

of the semicolon after the word "premises" in the third line.

Amendments agreed to.

**Mr. Speaker:** The clause is deferred for further consideration as regards sub-clause (b). What court is it that is referred to here?

**The Chief Secretary:** This is the court which tries the offence.

Clause 8 deferred.

Clause 10—*Regulations*.

**The Chief Secretary:** An amendment to this clause is set out in the cyclo-styled sheet that has been circulated. It reads as follows:

**Clause 10 (1).**

Add—

"and without prejudice to the generality of the foregoing, the Governor in Council may make Regulations—

- (a) providing for the registration of any premises in respect of which, by reason of any process carried on therein, there is in the opinion of the Governor in Council, a danger of an outbreak of fire;
- (b) prescribing the specifications to which any premises mentioned in paragraph (a) of this subsection shall conform; and
- (c) prescribing the precautionary measures to be taken by the occupier of any premises against the outbreak or spread of fire."

Amendment put and agreed to.

Clause 10, as amended, passed.

**The Attorney-General:** With reference to the point raised by the hon. Member, Mr. Luckhoo, a while ago, it seems to me that his objection may be met by prescribing the time within which one has a right to appeal to the Governor in Council. I think hon.

[The Attorney-General]

Members will agree with me that where a right of appeal is given and is exercisable within the Ordinance itself, no Court will convict for failing to comply with the notice while the appeal can still be brought. I suggest, therefore, an amendment to clause 7 (3) by substituting thereof the following:

"(3) Any person aggrieved by the decision of the Board on any appeal under the provisions of subsection (1) of this section may, within 14 days, appeal to the Governor in Council whose decision shall be final".

**Mr. Luckhoo:** May I point out that I, also, desire to have the time fixed for appeal to the Board.

**The Attorney-General:** It will be 14 days. This is where the occupier of a premises is appealing against the notice served on him by the Inspector. The other section deals with failure to comply with the notice which will include the notice amended by the Board or the Governor in Council.

**Mr. Luckhoo:** I do not know if I have taken the amendment correctly, but I want to suggest the insertion of the word "thereafter" after the word "days". I may also state that I am not enamoured of the suggestion by Your Honour that the procedure should be governed by the Appeals Ordinance.

**The Attorney-General:** I should like to draw attention to section 14 of the Appeals Ordinance, Chapter 16, which reads as follows:

"14.—(1) If anyone entitled to appeal is unavoidably prevented from so doing in the manner or within the time hereinbefore specified, he may apply to the Court for special leave to appeal.

(2) On the application the Court may, if satisfied that the applicant was entitled to appeal and that he was unavoid-

ably prevented from so doing as aforesaid, grant leave to appeal on any terms and conditions it thinks just.

Provided that no such leave shall be granted unless the opposite party has had an opportunity of being heard on the application and, if the Court thinks fit, of adducing evidence against the granting of the leave.

(3) Where the leave is granted the provisions of sections four and five of this Ordinance shall apply as though the date of granting leave were the date of the pronouncement of the decision by the magistrate".

In view of this section, I do not see how it is necessary to adopt the suggestion made by Your Honour.

Amendment put, and agreed to.

Clause 7, as amended, passed.

Clause 8, as amended, passed.

Council resumed.

**The Chief Secretary:** With the permission of the Council, I beg to move that this Bill be now read a third time and passed.

**The Attorney-General** seconded

Question put, and agreed to

Bill read a third time and passed.

#### CONVICTS' LICENCES AND REMOVAL OF PRISONERS BILL

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

"An Ordinance to confer on the Commissioner of Local Government certain functions in respect of convicts' licences and the removal of prisoners presently exercisable by the Chief Secretary."

**The Chief Secretary:** The amendments proposed to this Bill are set out on a cyclostyled sheet. The Law Officers have recommended that the clauses be expressed in an entirely different way, mentioning the fact that an amendment was made by the Governor in Council in 1953—the amendment which turned the Colonial Secretary into the Chief Secretary.

**Mr. Speaker:** We will take the Bill clause by clause.

Agreed to.

Clause 2—*Amendment of Section 14 of the Convicts' Licences Ordinance, Chapter 22.*

**The Chief Secretary:** I beg to move that clauses 2 and 3 be amended as set out on the cyclostyled sheet, the amendment being that the printed clauses be substituted by the following:

"2. The Convicts' Licences Ordinance as amended by the Governor in Council on the eleventh day of April, 1953, under the provisions of section three of the Official Designations Ordinance, 1938, is hereby further amended—

- (a) by the substitution for the words "Chief Secretary" in section fourteen of the words "Commissioner of Local Government";
- (b) by the substitution for the words "Chief Secretary" in section fifteen of the words "Commissioner of Local Government"; and
- (c) by the substitution for the words and brackets "Chief Secretary [or Assistant Colonial Secretary]" in Form 1 of the First Schedule of the words "Commissioner of Local Government".

Amendment put, and agreed to.

Clause 2, as amended, passed.

Clause 4—*Amendment of Section 2 of the Prison Ordinance, 1929; No. 50 of 1929; No. 31 of 1950.*

**The Chief Secretary:** I beg to move that the following new clause 3 be substituted for clause 4:

"3. Section two of the Prison Ordinance, 1929, as amended by the Governor in Council on the eleventh day of April, 1953, under the provisions of the Official Designations Ordinance, 1928, and amended by the Prison (Amendment) Ordinance, 1950, is hereby further amended by the substitution for the words "Chief Secretary" of the words "Commissioner of Local Government".

Amendment put and agreed to.

Clause 4, as amended, passed.

Council resumed.

**The Chief Secretary:** With the permission of the Council, I beg to move that this Bill be now read a third time and passed.

**The Attorney-General** seconded

Question put, and agreed to.

Bill read a third time and passed.

#### PREVENTION OF CRIMES (AMENDMENT) BILL.

**The Chief Secretary:** I beg to move the second reading of the Bill intituled:

"An Ordinance to prohibit the carrying of offensive weapons in public places without lawful authority or reasonable excuse."

Here again I do not think hon. Members will have much difficulty in appreciating the need for this measure. Quite apart from the current situation, the number of offences in which knives and other offensive instruments have been used has grown most alarmingly within the last few years. For instance, in cases of assault causing actual bodily harm the number of offences in 1949 was 927, but by 1952 the total had risen

[The Chief Secretary]

to 1,313. The number of cases of assault causing grievous bodily harm (I am now dealing with cases taken summarily) has increased from 18 in 1947 to 56 in 1952, while cases of wounding have increased from 5 in 1947 to 83 in 1952. Cases of wounding dealt with indictably have increased from 59 in 1947 to 189 in 1952, and to judge by the newspaper reports one reads every day of cases of wounding, I should imagine that the number of such cases in 1953 and this year will be even greater. The hon. the Attorney-General has told me that there are nine murder cases for trial at the present session of the Supreme Court in Demerara.

**Mr. Luckhoo:** Alleged murder cases.

**The Attorney-General:** I am not suggesting that the hon. Member's clients have murdered anybody, but the fact remains that the victims were murdered.

**The Chief Secretary:** I said "cases" of murder. There was one point which the hon. Member, Mr. Raatgever, was good enough to mention to me. He is anxious that while this legislation should cover the use of knives and instruments of that kind, it should also cover the case of a person going about with a small bottle of acid in his pocket with the intention of throwing it in somebody's face. I am advised that sub-clause (4) of clause 2 of the Bill is sufficiently wide to include such an article within the definition of "offensive weapon." I formally move that the Bill be read a second time.

**Mr. Gajraj** seconded.

**Mr. Lee:** I do not think we should adopt the law of the French rather than

that of the British in this matter. In this Bill a person charged will be called upon to prove his innocence. I would not object to the Bill if the words "the proof whereof shall lie on him" were deleted from the proposed new section 11A. (1). An accused person would have to prove that he was carrying an offensive weapon with lawful authority or reasonable excuse.

**The Chief Secretary:** I do not wish to interrupt the hon. Member who has expressed anxiety that we should not follow the French precedent, but I would like to assure him that we are following the English precedent, because the clause is modelled on the Prevention of Crimes Act, 1953, section IIA (I) of which reads:

"Any person who without lawful authority or reasonable excuse, the proof whereof shall lie on him, has with him in any public place any offensive weapon shall be guilty of an offence . . ."

**Mr. Lee:** That is when an area has been proclaimed by the Governor.

**The Chief Secretary:** I am quoting the English Act.

**Mr. Lee:** I do not think we should have such a law in this Colony. If it is the law in England I do not think we should have it here. As Your Honour knows, a person is deemed innocent until he is proved guilty, except in cases of unlawful possession in respect of which there is a unique piece of legislation in this Colony which does not exist in England. In this Colony a man who is suspected of having in his possession something unlawfully obtained, has to prove to the satisfaction of the Court that his possession of the article was lawful. A sugar estate labourer returning from the field with his cutlass might stop at a public meeting on the estate, or on the public road, and might be charged by a policeman with carrying an offensive weapon. Under this clause the burden of proof would be on



him, rather than on the prosecution. Only when an area has been proclaimed people are not permitted to walk with offensive weapons. In this Bill it is sought to make it a permanent feature of our law, that in cases where a person is charged with carrying an offensive weapon he has to prove that he was doing so with lawful authority or give a reasonable excuse.

If crimes of wounding are increasing and it is desired to put a stop to the use of offensive weapons the Courts could impose flogging in such cases, as was done some years ago in cases of praedial larceny. I would also remind Government that some years ago when it was difficult for persons to obtain bicycles, a person convicted of larceny of a bicycle could be flogged. I will not support the Bill unless the onus of proof of innocence is removed from a defendant.

**The Attorney-General:** I desire to allay the hon. Member's fears that this clause introduces something revolutionary. I would like to refer the hon. Member to the offence of being "found by night, having in his possession without lawful excuse (the proof whereof shall lie on him) any pick-lock, key, crow, jack, bit, or other instrument of housebreaking." That offence is already on our Statute Book. In the case of a man who is found with house-breaking implements he has to prove to the satisfaction of the Court that he has a reasonable excuse. Does the hon. Member suggest that this proposed legislation is any less desirable or of less importance to the community than the offence of being found with house-breaking implements by night?

I mention that in order to show that we are not departing from the British tradition; we are not following any colonial system. There are already sections of our law in which the onus of proof is thrust upon the defendant. I also refer to the fact that under the

law as it stands any excuse, qualification or exemption has to be proved by the defendant. I refer to a section with which I am perfectly sure the hon. Member is quite familiar. I refer to section 9 of Chapter 14.

**Mr. Lee:** I would like the hon. the Attorney-General to give me his first reference.

**The Attorney-General:** I referred first to section 227 (b) of Chapter 17. I now refer to section 9 of Chapter 14 which throws upon the defendant the onus of proof, any excuse, exemption, condition or qualification. The prosecution does not have to prove the absence of excuse; the defendant has to prove he has reasonable excuse.

**Mr. Lee:** It may be proved by the defendant.

**The Attorney-General:** It is clear law and cannot be disproved that, in cases such like this, the burden of proof of exemption or excuse is on the defendant. I would remind my hon. friend of the number of times he must have appeared in the Magistrate's Court defending people charged with selling rum without a licence. The prosecution does not have to prove the absence of a licence, it is the defendant who has to prove that he has a licence. I do not think I need say anymore. There are other offences, I understand. There are many other instances of a similar nature, and I really cannot understand my hon. friend's objection to our following an English enactment which was framed under very similar circumstances such as exist here, namely the considerable increase of crimes with violence. There was the formation of "posh gangs" and that legislation was framed to meet that emergency. This legislation is framed to meet the alarming increase in crimes with violence which is taking

[The Attorney-General]

place today. I fail to see how anyone can fail to appreciate that this measure, drafted as it is, is absolutely necessary at the present time.

**Mr. Ramphal:** I rise to support the Bill. I want just to repeat what the hon. the Attorney-General has just said, that this Bill follows what happened in England, especially when the "posh gang" began to operate. I wish to stress this point, that I do not believe it is our present emergency which gives rise to this Bill. It is because of the growth in the number of crimes, and we wish it to be known outside this Council that it is not the emergency situation which has led to the introduction of this Bill, but rather it is the growth of crimes in our midst. I am surprised to hear the hon. Member, Mr. Lee, who is bred in British tradition, saying that he will not support this Bill, especially as the hon. the learned Attorney-General has already said that we have so many similar provisions in our laws.

But, Sir, there is something, perhaps, in what the hon. Member has said, and that is, it can be used by the Police indiscriminately. We do not hope that it will be, but those who administer the law—the Heads of Departments and Members of this Council—have a right to look into these matters and, if they do so, this is the proper place to assert that right. They are not using this measure in England indiscriminately to the loss of liberty of the subject, and I do not expect it will be used to the disadvantage of the people here also. But I do want to lay stress on this point. I think the hon. Member, Mr. Lee, realizes that the defence is peculiarly within the knowledge of the person charged. Only a short while ago right in this Council a Member of Council used a penknife to sharpen a pencil. I do not take it he wanted to

intimidate Members with that knife, but if he was charged he could tell what he would have put as his defence; it would have been within his peculiar knowledge why he was walking with that penknife. The hon. Member will support the Bill, but he wants to be clear in mind that it is not a temporary measure but a substantive and permanent enactment in our laws.

**Mr. Macnie:** If I thought that this legislation before the Council had anything to do with the situation of recent occurrences, I would oppose it strongly and with all the forces at my command, if I thought it had anything to do with the political situation which arose towards the end of last year and may be continuing now. But I am satisfied it has nothing to do with that; it has to do with the increase of crimes with violence and, as the hon. the Attorney-General and my hon. friend, Mr. Ramphal, have said, it is based on similar legislation which has been enacted in England for a specific purpose similar to what is operating here. Everyone who moves around the country knows that crimes of violence of various types have been increasing for some time, and on that ground solely I will support this Bill.

I would also wish to support something said by the hon. Member, Mr. Lee, and that is the suggestion that Government should consider increasing the severity of the penalty. There is a great deal of force in what the hon. Member has said. For praedial larceny and other offences the punishment had been increased where the circumstances warranted it. This wave of crimes with violence has been going on for some time. It has nothing to do with the events of last year. It can be attributed to other reasons entirely and, I think, Government should consider whether it should not increase the severity of the punishment of those persons who are convicted of

crimes where they use such instruments. I support strongly the remarks made by the hon. Member, Mr. Lee, in that respect.

**The Chief Secretary:** In order to confirm what the hon. Member said, I have later figures which I would like to quote to hon. Members. These figures are for Georgetown only and relate to the last six months of last year—1st July—31st December, 1953.

“The number of incidents in which various types of weapons have been used against persons are—Ordinary knives—68; penknives—22; daggers—3; drawpoints—3; razors—7; cutlasses—45; sticks—39; bottles 34; axes and hatchets—8; guns—1; scissors—5; miscellaneous weapons—105, making a total of 340”.

**Mr. Lee :** May I be permitted to say something ?

**Mr. Speaker:** The hon. Member, Mr. Sugrim Singh, had risen to speak before you.

**Mr. Sugrim Singh:** I rise to support this Bill. I regret I have to part company with my astute and learned friend, the hon. Member, Mr. Lee, who is wedded to this principle of the prosecution must prove its case, but we cannot be unmindful of the fact that laws should not be static but subjected to changes. From what the hon. Mover has placed before us today, I think, there is every justification for the introduction of this Bill. I find myself thinking whether there has been in any of the British Caribbean Colonies similar circumstances necessitating a similar Bill. As a matter of fact I am asking the hon. Mover for some elucidation on that point. I know it is a wide question, but I would like to get some idea as to whether there has been cause for a similar Bill in those Colonies. The point behind it is this: We are introducing this Bill

today and are tacitly admitting a situation which we must face. Our Colony is degenerating, occasioning the introduction of this Bill. I find myself analysing this Bill.

How on a question of carrying weapons in the absence of this provision—it would be extremely difficult as the law is under section 227 of Chapter 17—could the prosecution ever prove their case ? The whole idea behind it would result in the creation of such a situation that the very object would be destroyed. But, Sir, I find myself disagreeing with my hon. friend, Mr. Macnie, and also the hon. Member, Mr. Ramphal, though I agree with them that the present political situation is not responsible for the introduction of the Bill. But the figures submitted by the hon. Mover make me think that while the present political situation is not the reason for the introduction of this Bill, yet as a result of the minds of the people being worked up there is this wave of violence. We cannot deny that it is so to some extent, and we have quite a few of these things having a political background.

What I am getting at is, once we put this Bill on our Statute Books it is going to remain as good law, and I find myself thinking—I am not pessimistic but optimistic about the situation in this Colony—that, perhaps, some future Legislative Council may consider removing it from the Statute Books, if they feel it should not be there. For the moment, however, in all consciousness I do say, having quite a lot to do with cases of this kind travelling around the country and having had the privilege of seeing the various types of weapons in the possession of the Police which were reproduced in the newspapers, that this Bill is very desirable. I regret to part company with my hon. friend who should consider the future welfare of

[Mr. Sugrim Singh]

the Colony. I strongly support the Bill as it stands.

**Mr. Raatgever:** I, too, rise to support this Bill and to congratulate Government for bringing it forward. If we agree to the suggestion of the hon. Member, Mr. Lee, the usefulness of this Bill would be nil, because the onus must be on the people to prove that they carry these weapons for some lawful purpose. While I appreciate the explanation given by the hon. Mover that sub-section (4) of section 11A in clause 2 of the Bill would cover "corrosive fluid" or similar acids, I am not happy about it. I am not a legal man, but the provision says:

"offensive weapon" means any article made or adapted for use for causing injury to the person, or intended by the person having it with him for such use by him."

Is liquid an article? As I say, I am ignorant of the law and I would like the hon. Mover to tell me whether the word "article" in the provision would cover "corrosive fluid."

**The Attorney-General:** If I may be permitted to say, the term "article" is sufficiently wide to cover "corrosive fluid". If I have a glass filled with acid, I have got an article in that glass and I intend to use it.

**Mr. Raatgever:** I accept that explanation, as long as the hon. the Attorney-General is certain about it. I would not like us to have to come back and enact another Bill within a short time to meet the situation.

**Mr. Lee:** Although we are only in the second reading stage, I would ask permission to explain something. If, however, you so desire I would wait until we are in the Committee stage to do so.

**The Chief Secretary:** I am afraid I had forgotten whether we were in Committee or not!

**Mr. Speaker:** We are discussing the second reading of the Bill. Are you indicating an amendment?

**Mr. Lee:** Yes, Sir. I wish to move an amendment for the deletion of the words "the proof thereof shall lie on him" in Clause 2.

Question put, and agreed to.

Bill read a second time.

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

#### COUNCIL IN COMMITTEE.

Clause 2—*Person in public place with offensive weapon.*

**Mr. Lee:** I am going to move the deletion of the words "the proof thereof shall lie on him" in the second line of IIA(1). My reason for doing so is really to show the weakness of the case of the Government. Those of us who practise law in this Colony know that section 227 (b), referred to by the hon. the Attorney-General, relates to anyone found by night to be in possession without lawful excuse (the proof thereof shall be on him) of any pick-lock, key, crow, jack, bit, or other implement of housebreaking.

First of all, the weapon or instrument in the possession of the person must be for the purpose of housebreaking. This section, if my learned Friend would explain, indicates that a policeman (or detective) would have the right, in the course of his beat, to arrest any person found in the possession of any of these weapons. The principle is that every person has a right to sleep in peace at night and should

not be frightened by anyone appearing suddenly in his bedroom. In other words, the idea is to prevent house-breakers from walking with these weapons by night. In Chapter 14 of the Summary Jurisdiction (Procedure) Ordinance it is stated that one should put into the complaint any section or otherwise constituting the offence. Therefore, if a defendant wants to rely on any of those exceptions, it is his duty, under section 9 of the Ordinance, to prove it. Similarly, if the prosecution alleges any facts that the defendant refutes, they must be proved from the witness box. Therefore, the reference that the learned Attorney-General has made does not have any bearing on the Bill now before this Council.

What I am saying is that this is going to be a permanent offence and if we take the conditions in this country and apply them to this offence, we would see that many an innocent man might be hauled before a Court if a policeman or constable has any grievance against him, for an offence that he did not commit. Recently a man was charged before the Court with having a penknife in his possession. He said that he was an electrician and that he used the penknife in the course of his work, but the Magistrate did not believe him and fined him \$26 (or two months). If we look into conditions in this country, we would see that a man might be held up whilst walking along a public road and charged with such an offence. He does not have to be in a place like a public hall or a schoolroom, as is provided in countries where there is more political advancement than in British Guiana. If any person wanted to be mischievous or malicious at a political meeting, for instance, he could pass a knife into the possession of another and then get him hauled before a Court on a charge with being in possession of a knife.

Furthermore, people are in the habit in this country of carrying sticks

by night (especially in the rural areas) to prevent themselves from being attacked by dogs especially, since there is no licence payable for dogs in the rural districts. As Your Honour knows, a stick is a dangerous weapon and it is possible for someone to draw a policeman's attention at a political meeting to any such person carrying a stick, thus getting him arrested and charged with being in possession of a dangerous weapon. This clause prohibits the carrying of any offensive weapon in a "public place", and I cannot agree with that. It does not even say "at any public meeting", or something of the sort. So far as my memory goes, a "public place" is defined as a public place where any person is permitted to walk; and even estate roads that lead towards railway stations in the rural districts are highways.

A person carrying even a light walking stick on any of these roads might be charged. I am not referring to the present conditions which have arisen out of the recent political situation—conditions which I am trying to forget. Apart from that, I am entirely against these provisions. For instance, it is also possible for a man to get another into trouble by asking him to hold a stick on a roadway while he goes into a house, as by the time he returns from the house it is possible for a policeman (or constable) to appear on the scene and arrest the person holding the stick. Even a labourer carrying his cutlass to work would be in danger of arrest.

**The Attorney-General:** May I point out that if this Bill is passed it would not mean, as my hon. Friend (Mr. Lee) seems to suggest, that any labourer going to his workplace and carrying his cutlass would be in peril of arrest and similarly, anyone walking along the road with a stick. My learned Friend has, inadvertently, failed to

[The Attorney-General]

realize that while the burden of proof or excuse rests upon the person charged, the prosecution has to prove that the person charged was in possession of an offensive weapon. In other words, it has to prove possession of an article made or adopted for use in causing injury. In the case of an indictable charge the jury would have to take the surrounding circumstances into account, in deciding whether or not the weapon was made for causing injury or adopted for use in causing injury. I repeat that a labourer going to his place of work with an agricultural fork or other implement, or a man going along the road with a stick would not necessarily be in danger of being charged.

The Court has to be satisfied that there was an intention to cause injury or that the article was made or intended to be used for causing injury. Then and only then would the person charged have to give an excuse for his possession. Similar legislation to this exists in England where the authorities are most anxious to preserve the rights of the subject. It has been found necessary to introduce it in England, and I repeat that it is even more necessary in this Colony. The crime figures quoted by the Chief Secretary strongly support my contention. It must also be remembered that a person is presumed to be innocent until he is found guilty. The picture is not as gloomy as my hon. Friend (Mr. Lee) wants to make out.

**Mr. Ramphal:** I should just like to point out that much latitude is given to a person who has to make an excuse in cases such as these and, within recent times, the question of reasonableness as regards the defence has been very widely interpreted. If I am charged with carrying a penknife and can give a reasonable excuse for doing so, it would be accepted. My hon. Friend (Mr. Lee) who is a practising lawyer

knows how very widely the Magistrates interpret the question of reasonable explanation in these days. On the other hand, it is reasonable to expect that if a man owns a dangerous weapon he would leave it at home.

**Mr. Lee:** I should like to point out one fact to the hon. the Attorney-General who has been a practising Barrister for a number of years. Can he say that a policeman in this Colony is the equal of a policeman in England or certain other countries?

**The Attorney-General:** I do say that it is the Magistrate who has to decide whether or not a defendant is guilty.

**Mr. Lee:** I do not want to detain the Council, but I would ask how many Magistrates do not take the prosecution at their word.

**The Chief Secretary:** I propose to amend clause IIA(I) by making the punishment read "not exceeding six months" instead of "not exceeding three months". There is also a misprint in clause 2, since the figures "II" should be represented by the word "eleven".

Amendments put, and agreed to.

#### QUESTION OF PROCEDURE.

**Mr. Speaker:** The hon. Member Mr. Lee, has moved the deletion of the words "the proof whereof shall lie on him" in the new section 11A. (1) proposed in clause 2 of the Bill. I propose to put the clause as printed.

**The Chief Secretary:** With all due respect, Sir, my recollection of the procedure is that the amendment is put, and if it is negatived then the clause as printed is put. I may be wrong.

**Mr. Speaker :** Mr. Lee's amendment relates to sub-clause (1).

**The Chief Secretary:** My amendment also concerns sub-clause (1).

**Mr. Speaker :** Yes, but yours relates to (1) (a). I propose to put sub-clause (1) separately. Members are only asked to vote on sub-clause (1). After that I will put the other amendment moved by the Chief Secretary. I will now put the question "That clause 11A. (1) stand part of the Bill."

The Committee divided and voted:

*For:* *Against:*

Mr. Sugrim Singh Mr. Lee—1.

Mr. Jailal

Lt. Col. Haywood

Dr. Fraser

Miss Collins

Mrs. Dey

Mr. Rahaman

Mr. Bobb

Mr. Correia

Mr. Carter

Mr. Macnie

Mr. Phang

Mr. Ramphal

Mr. Lord

Mr. Raatgever

Mr. Tello

Mr. Gajraj

Mr. Smellie

Mr. Farnum

The Financial Secretary

The Attorney-General

The Chief Secretary—22.

Sub-clause (1) carried.

**The Chief Secretary :** I hesitate to question your ruling, Sir, but the relevant Standing Rule says:

"When a Bill is under consideration in Committee, the Chairman shall call the several clauses in order, by reading the number of each clause. If it is proposed to move any amendments on a clause when called, he shall put them in their proper order. If the clause is not amended he shall put the question "That this clause stand part of the Bill." If the

clause is amended, he shall put the question "That the clause as amended stand part of the Bill."

**Mr. Speaker:** What are you reading from?

**The Chief Secretary :** From the Standing Orders.

**Mr. Speaker:** Which Standing Orders?

**The Chief Secretary:** The Standing Orders of the Legislative Council made under section 43 (1) of the British Guiana (Constitution) (Temporary Provisions) Order in Council, 1953.

**Mr. Speaker :** They have never been put to this Council.

**The Chief Secretary :** I thought you said you were proceeding under the Standing Orders of the Council.

**Mr. Speaker :** They have never been adopted by this Council. They were laid on the table but they were never approved by this Council for certain reasons.

**The Chief Secretary:** I think you will find that the Standing Rule which deals with Bills in the Committee stage is different from that which deals with motions.

**Mr. Speaker:** I agree, but it is a question all the same. The old Standing Rules which, to my mind, still exist, provide that in the particular circumstances the Chairman has to put the clause as printed, and that is what I have done.

**Mr. Ramphal :** Mr. Speaker, may I refer you to Rule 38 on page 8 of the Standing Orders of this Council?

**Mr. Speaker:** I have them before me. They were laid in this Council but never approved.

**Mr. Ramphal:** Those Rules, I submit, are the Rules of this Council.

**Mr. Speaker :** I have already said they have never been adopted by this Council. I saw what were shown to me as draft Rules and I pointed out to the Attorney-General one of them—that I could not see how it could be acted upon. I understood that it was to be amended but I have not seen any amendment. I do not wish to go into that now. At the present moment we must deal with what has been the existing rules and practice. I put the clause as printed in conformity with the existing Rule. I would be glad if something was done about the proposed Rules but I cannot take the initiative, and the Attorney-General is not in the Colony. The Chief Secretary has moved that in paragraph (a) of sub-clause (1) the words “not exceeding three months” be amended to read “not exceeding six months.” I will now put paragraphs (a) and (b) of the sub-clause.

**The Chief Secretary:** That is why I suggested that the better procedure, as adopted in the previous Council, was to put each amendment in order. The hon. Member's amendment would have been put and negatived. Then my amendment would have been put, and after all the amendments had been dealt with the Chairman would put the question “That the clause stand part of the Bill,” which would be voted on separately. That was the procedure in the previous Council. I very much hesitate to question your ruling, Sir, because your parliamentary experience is much longer than mine.

**Mr. Macnie:** With due respect I think I am correct in saying that you have said we have no Standing Rules. I would invite your attention to page 11 of the document in your hand, in which you will find it stated that Standing Orders were made by His Excel-

lency the Governor on the 4th of January this year, and that “the Standing Rules and Orders of the Legislative Council made on the 3rd day of October, 1953, and all amendments thereto are hereby repealed.” I submit that the document in your hand are the Standing Orders of this Council, and I support the hon. the Chief Secretary in his reference to Order 38 of the Standing Orders of the Council.

**Mr. Speaker:** I am not going to give any decision now. I have already said that in my opinion these Standing Orders have never been adopted by this Council. They were merely laid on the table. I think it is very undesirable that I should have to mention this, but if we had adopted these Standing Orders we would have had no Deputy Speaker. If hon. Members would look at section 38 of the British Guiana (Constitution) (Temporary Provisions) Order in Council, 1953, they would see that a member of the Council shall be appointed by the Governor from time to time to preside at sittings of the Legislative Council in the absence of the Speaker. It was never intended that there should be a permanent Deputy Speaker, yet an announcement was made by the hon. the Attorney-General that Mr. Raatgever was so appointed. But it is quite contrary to the Rules, which, if they had been adopted, would have precluded his appointment.

**Mr. Macnie:** Having read the Rules I realised the position of my friend, Mr. Raatgever, in the face of those Rules. They were tabled at the first meeting of this Council, and on reading them I realised that under those Rules, which I accepted as being the Rules of this Council, he is not the Deputy Speaker.

**Mr. Speaker:** I have said so before. That is my opinion and I have al-



ready mentioned it to His Excellency and the Attorney-General. I am not going to argue the matter as to whether I am right or wrong. Those Rules were laid on the table but were never put to the Council. I thought someone would have moved in the matter but nothing has been done. It is sometimes very difficult for a motion to be put in respect of a clause with more than one sub-clauses when there are amendments being proposed to some of them. I thought I was right and I still think I am right in putting the motion in the way I have.

**Mr. Carter:** Mr. Speaker, I fail to see how it can be done in any other form. If the hon. the Chief Secretary wants to put two amendments together, that would only apply to one clause. But since there are several sub-clauses and paragraphs involved, each amendment will have to be taken separately.

**Mr. Speaker:** I am afraid that Members of the past Legislative Councils found great difficulty in voting on Bills and clauses of Bills when there were several amendments, because of the wording of Rule 17.

**Mr. Ramphal:** May I say that I have discussed those words with no less an authority than Mr. Fellows. The old Rules that you referred to that caused all the difficulty to Members of the past, he himself could not make head or tail of them, and thought they should be changed. But until they are changed I think your ruling on there being no Standing Rules of this Council leaves us in a vacuum practically. I am suggesting that is a very serious decision to make. It appears to me these Rules were made properly under the Instrument of the Constitution, and we of this Council cannot take away the right of the Governor under the Constitution. Maybe the draft Rules he has made do not meet our needs, and

we can in time properly have those Rules changed. With all respect and due regard to you, Sir, I say they are the Rules of this Council.

**The Attorney-General:** To a point of clarification! Having looked up the relevant section I am satisfied that these being the first Standing Rules are properly made by the Governor, and there is no necessity for the Council to adopt them. Subsequent revision may be made by the Council, but the first Rules are made by the Governor. In my view, with all respect to you Sir, these Rules are the Rules of this Council.

**The Chief Secretary:** The difficulty about Mr. Raatgever does not seem to be a very real one. Notwithstanding this provision the Governor has intimated that in Your Honour's absence Mr. Raatgever shall be the Deputy Speaker. He has given that intimation, and we were very glad to learn of it.

**Mr. Speaker:** I am not questioning the competency of the Governor to make the Rules. I say they have not yet been adopted in this Council. They have only been laid on the Table like any other document. In my opinion they should be adopted by this Council as a result of a question being put. I have been trying to get these Rules adopted but I never had the opportunity of doing it. We can follow the usual Parliamentary Rules and Practice. As regards (a) there is an amendment moved for the substitution of the word "six" for the word "three". There are no other amendments.

**The Chief Secretary:** No other amendments.

Clause, as amended, passed.

Clause 3—*Commencement.*

**The Chief Secretary:** We propose to delete clause 3. The reason why this clause has got in there is that it is a faithful copy of the English Act. It does not seem to me to matter very much.

**Mr. Speaker:** The Bill is to come into operation by proclamation.

**The Chief Secretary:** By assent.

**The Attorney-General:** Would Your Honour put the deletion of clause 3?

Question put, and agreed to.

Clause deleted.

The Council resumed.

**The Chief Secretary:** I move that this Bill be now read a third time and passed.

**The Attorney-General** seconded.

Question put, and agreed to.

Bill read a third time and passed.

INTERPRETATION (AMENDMENT)  
BILL

**The Attorney-General:** I beg to move that the Bill intituled—

“An Ordinance further to amend the Interpretation Ordinance”  
be now read a second time. Hon. Members would readily understand from the Objects and Reasons that this legislation is consequential to the change in designation of the Crown Agents.

**The Chief Secretary** seconded.

Question put, and agreed to.

Bill read a second time.

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

Council resumed.

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

**The Chief Secretary** seconded.

Question put, and agreed to.

Bill read a third time and passed.

LOCAL GOVERNMENT (LOTS 67-74  
COUNTRY DISTRICT) BILL

**Mr. Farnum** (Member for Local Government, Social Welfare and Co-operative Development): I beg to move the second reading of the Bill intituled—

“An Ordinance to amend the Local Government Board Notice No. 1954 dated 5th December, 1949, appearing in the Gazette of 10th December, 1949, and for purposes connected therewith.”

Hon. Members would see from the Objects and Reasons that the object of this Bill is to correct a typographical error made in describing the northern boundary of Lots 67-74 Country District. By Notice No. 1954, dated 3rd December, 1949, in the *Official Gazette* of the 10th December, 1949, published in accordance with section 24 of the Local Government Ordinance, 1945, an area of land in the County of Berbice was declared a Country District to be known as “Lots 67-74 Country District”. In the Schedule to the Notice the number 61 was printed by error for the number 67, and it is now necessary to enact legislation rectifying and regularising the position.

Clause 2 of the Bill seeks to amend the Local Government Board Notice so as to rectify the error contained in it, while clause 3 seeks to validate any possible irregularities occasioned by the error by giving retrospective effect to the amendment. It is a very simple Bill, just to correct a typographical error.

Mr. Gajraj seconded.

Question put, and agreed to.

Bill read a second time.

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

COUNCIL IN COMMITTEE.

Clause 3—*Validity of Notice as amended.*

Mr. Lee : As the Notice is dated 5th December, 1949 I would like to find out if any execution sales have taken place in this District since then. If so, it means that this Bill cannot rectify those titles on the transports issued except the matter is taken to the Supreme Court.

Mr. Farnum : I am afraid that question has stumped me. I see no reference to such a matter in the Minutes of the Local Government Board.

The Attorney-General : As I understand it, the hon. Member is suggesting that certain difficulties may arise if there had been any changes in the ownership of any property in the boundaries of this District. I think that summarises what he has said. This is merely a correction of a mis-description appearing in a Notice in the *Gazette*.

Mr. Lee : If an execution sale took place the transport would have the old description.

The Attorney-General : It would meet the case if the matter is deferred for enquiries to be made. The Bill can be carried through at the next meeting of the Council. I am glad on this occasion to make a suggestion which meets with the approval of the hon. Member.

Mr. Lee : I bow to my learned friend.

Mr. Farnum : In that case the Bill will remain in Committee.

Mr. Speaker : Yes.

The Council resumed.

GEORGETOWN TOWN COUNCIL  
(AMENDMENT) BILL.

Mr. Farnum : I beg to move the second reading of the Bill intituled:

"An Ordinance to amend the Georgetown Town Council Ordinance with respect to the borrowing powers of the Council".

This is also a very simple Bill to increase the overdrafts of the Georgetown Town Council from \$100,000 to \$200,000. It has been found that as the result of the increase in transactions and commitments of the Georgetown Town Council, it is rather embarrassing to them to have only an overdraft of \$100,000. This Bill is to permit them to increase the amount to \$200,000.

Mr. Gajraj : I have much pleasure in seconding the motion.

Question put, and agreed to.

Bill read a second time.

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

Council resumed.

**Mr. Farnum:** With the permission of the Council, I beg to move that this Bill be now read a third time and passed.

**Mr. Gajraj** seconded.

Question put, and agreed to.

Bill read a third time and passed.

#### PRIVATE MEETING OF MEMBERS

**Mr. Speaker :** The Council is adjourned *sine die*. I shall ask hon. Members, however, to remain for a little while so that we may discuss certain matters relating to the proposed visit of the Parliamentary Commonwealth Association to Nairobi this year.

Council adjourned accordingly.