

SECOND LEGISLATIVE COUNCIL

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

Thursday, 20th October, 1960

The Council met at 3.30 p.m.

PRESENT :

Speaker, His Honour Sir Donald Jackson

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

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

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

} *ex officio*

The Honourable Dr. C. B. Jagan	—Member for Eastern Berbice (Minister of Trade and Industry)
„ „ B. H. Benn	—Member for Essequibo River (Minister of Natural Resources)
„ „ Janet Jagan	—Member for Western Essequibo (Minister of Labour, Health and Housing)
„ „ Ram Karran	—Member for Demerara-Essequibo (Minister of Communications and Works)
„ „ B. S. Rai	—Member for Central Demerara (Minister of Community Development and Education).
Mr. R. B. Gajraj	—Nominated Member
„ W. O. R. Kendall	—Member for New Amsterdam
„ R. C. Tello	—Nominated Member
„ F. Bowman	—Member for Demerara River
„ L. F. S. Burnham, Q.C.	—Member for Georgetown Central
„ S. Campbell	—Member for North Western District
„ A. L. Jackson	—Member for Georgetown North
„ E. B. Beharry	—Member for Eastern Demerara
„ S. M. Saffee	—Member for Western Berbice
„ Ajodha Singh	—Member for Berbice River
„ Jai Narine Singh	—Member for Georgetown South
„ R E. Davis	—Nominated Member
„ A. M. Fredericks	—Nominated Member
„ H. J. M. Hubbard	—Nominated Member.

Mr. I. Crum Ewing — Clerk of the Legislature

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

ABSENT :

Mr. A. G. Tasker, O.B.E. — Nominated Member — on leave.

The Clerk read prayers.

MINUTES

The Minutes of the meeting of the Council held on Wednesday, 19th October, 1960, as printed and circulated, were taken as read and confirmed.

PETITIONS

RAMA KRISHNA DHARMIC SABHA
(INCORPORATION OF TRUSTEES)
BILL

Mr. Ajodha Singh: I beg to present a petition on behalf of the Kitty Hindu Temple Society, a religious organization, to be known as the Rama Krishna Dharmic Sabha, praying to be incorporated. I respectfully ask that the Petition be read.

The Clerk read the following Petition:

"To His Honour The Speaker,
And To Honourable Members of
The Legislative Council.

The Humble Petition Of Ramkissoon Bharatt And Pandit Paltooram Respectfully Sheweth:

1. Your Petitioners are the President and Secretary, respectively, of a Hindu Religious Organisation known as the Kitty Hindu Temple Society.

2. The office of the above Society is located at Lot 105, Barr Street, Kitty, East Coast, Demerara.

3. The Society owns the following property. *viz.*

"East half of Lot 105 (one hundred and five) Alexanderville, in the Kitty and Alexanderville Village District, situate on the east sea coast of the county of Demerara and Colony of British Guiana, the said lot being shown on a diagram of Kitty by J. P. Prass, Sworn Land Surveyor, dated 24th March, 1888, and deposited in the office of the Registrar at Georgetown on the 24th November, 1888, without the building and erection thereon."

and has recently erected a Temple at W¹/₂ Lot 105, Barr Street, Kitty, aforesaid, at a cost of about \$35,000. This Temple was declared open by His Excellency the Governor, Sir Patrick Muir Renison, K.C.M.G.

4. The Society wishes to vest all its property in an Organisation to be

known as the RAMA KRISHNA DHARMIC SABHA which will continue to propogate Hindu religion, philosophy and culture, and to incorporate certain persons, *viz.*

- (i) PIRTRAM SINGH of Lot 161, Alexander Street, Kitty, East Coast, Demerara.
- (ii) PANDIT PALTOORAM of Lot 110, Barr Street, Kitty, East Coast, Demerara.
- (iii) BALKARAN SINGH of Lot 15, Owen Street, Kitty, East Coast, Demerara.
- (iv) UMR0WH BHARATT of Lot 8, Railway Street, Kitty, East Coast, Demerara.
- (v) BHOLANAOUTH of Lot 6, Station Street, Kitty, East Coast, Demerara.
- (vi) BHAGWANDAI BABOOLALL of Lot 1, Lamaha Street, Kitty, East Coast, Demerara.
- (vii) RAMKISSOON BHARATT of Lot 8, Railway Street, Kitty, East Coast, Demerara.
- (viii) PHAGU of Lot 159, Alexander Street, Kitty East Coast, Demerara.

as Trustees of the RAMA KRISHNA DHARMIC SABHA with power to acquire and dispose of property, with the right to sue and subject to the liability to be sued.

Your Petitioners respectfully request permission to have introduced by AJO-DHA SINGH, ESQ., Elected Member of the Legislative Council for Berbice River, a BILL intituled AN ORDINANCE TO INCORPORATE CERTAIN PERSONS AS TRUSTEES OF THE BODY KNOWN AS THE RAMA KRISHNA DHARMIC SABHA; TO VEST IN SUCH PERSONS CERTAIN PROPERTY; AND FOR PURPOSES CONNECTED WITH THE MATTERS AFORESAID.

AND YOUR PETITIONERS AS IN DUTY BOUND WILL EVER PRAY.

RAMKISSOON BHARATT,
PANDIT PALTOORAM,
Petitioners.

105, Barr Street,
Kitty,
East Coast, Demerara,
British Guiana."

RAISING OF A MATTER OF
PRIVILEGE

DEBATE OF PRIVATE MEMBERS'
MOTIONS

Mr. Bowman: With your permission, Sir, I would like to draw attention to Standing Order No. 22 (2) which provides that "not less than fourteen days' notice shall be given in respect of a Private Member's motion," and to point out that I gave notice of a motion on the 9th May last. The motion was quashed in December when the Council was prorogued. I, again, presented the motion on the 5th January, 1960, and in June I tabled a question asking Government why it did not see fit to debate my motion. As a matter of fact there were two very important motions which should have been discussed — I considered them very important. One dealt with the question of increasing tax concession from five to seven years; and the other dealt with the establishment of a contributory pension scheme for sugar workers, as recommended by the Venn Commission in 1949.

This Government which claims to be the people's Government—

Mr. Speaker: You have a privilege to bring motions and questions into this Council. If there is violation of the Standing Orders you can mention it, but, until there is something definite before me, I cannot permit you to make a long speech at this stage.

Mr. Bowman: I will have to tell the Members of Council what was in the motions. One concerned the establishment of a contributory pension scheme for sugar workers, as recommended by the Venn Commission in 1949. Since May last I tabled that motion; in January this year I tabled it again, and in June I tabled a Question asking Government why my Motion was not debated. Up to this moment it has not been placed on the Order Paper for discussion. I would like to have the two Motions de-

bated, because they are of very great importance.

Mr. Tello: I, too, desire to refer to a matter of privilege. Standing Order 17(2) provides that questions be answered within a fortnight of the day in which the notice is given. On the 18th and 27th June this year I tabled two questions that I regard to be of great importance to the public. One dealt with the implementation of the recommendation of the *Ad Hoc* Advisory Committee's Report on Watchmen; and the other with the Richardson's Report recommending the establishment of a contributory provident fund, etc.

I regard these two Questions to be of great interest to the public, and for that reason I wrote the Clerk of Council quite recently asking that the Ministers concerned should make some effort to answer them. I have not yet had any reply to my Questions, and I think it is contrary to the provision in Standing Order 17 (2). I feel that I should bring this matter to the attention of the Council as a matter of privilege.

The Chief Secretary (Major Smith) : Firstly, Your Honour, I am doubtful about this question of privilege in that I thought "privilege" related to matters between Members of this hon. Council and persons outside of the Council. However, if Your Honour wishes that answers should be given, I would ask the Ministers concerned with the particular Questions if they would answer them.

Mr. Speaker: I do not think you are accurate when you say that "privilege" can only arise where somebody outside is concerned. I think if you look at the "Book," you will see you are not accurate; but so far as the matters raised are concerned, they might be of some importance.

In point of fact, I understand that the Standing Orders were revised by a Select Committee just before I was appointed Speaker. I have not looked into

[MR. SPEAKER]

the particular aspect of it, but I will do so when I have the opportunity. So far as I am concerned, the complaint as made ends where it ends, but I will look into the question.

If you or the Ministers wish to say anything on the question, I will not stop you. If there is nothing said, then I shall pass on to the next item. [Pause].

INTRODUCTION OF BILL

The Chief Secretary: I beg to give notice of the introduction and First Reading of the

Marriage (Amendment) Bill, 1960.

ORDER OF THE DAY

BILL — FIRST READING

The following Bill was read the first time:

A Bill intituled "An Ordinance to amend the Marriage Ordinance."

MOTIONS

THE DEMERARA ELECTRIC COMPANY'S BY-LAWS

The Attorney-General (Mr. Austin): Sir, I beg to move the following Motion:

"Be it resolved: That in pursuance of the provisions of section 17 (1) of the Demerara Electric Company Ordinance, Chapter 239, this Council approves of the By-laws made by the Directors of the Demerara Electric Company, Limited, on the 6th September, 1960."

From the Sessional Paper which was available to hon. Members yesterday, it will be seen that the basis of the take over of the Demerara Electric Company is the purchase of the entire share capital of the Company by the Government.

Now, the Company is incorporated by Statute and has a share capital which is divided into 4,250 shares; 4,208 are

held by the International Power Company of Canada and its nominees. Forty-two shares, which is roughly 1%, are held by outside shareholders. It is usual, when there is what is commonly known as a take over, for the Company to have the power to acquire, compulsorily, shares of shareholders who may not be willing to sell their shares in accordance with the take over terms. But nevertheless, if the great majority of the shareholders and the Directors of the Company consider that the offer of take over is in the interest of the shareholders and should be accepted, and the great majority of the shareholders having accepted, it is clear that the few outstanding ones cannot be allowed to remain in the way of the deal going through to the advantage of the majority.

Our Companies legislation has no power of compulsory acquisition of shares, in the circumstances I have described. Such a power exists in the last edition of the Companies Act in England and when we revise our legislation we shall incorporate it. But, in the meanwhile, in order to deal with the Demerara Electric Company's take over, the Directors of that Company have sought to give themselves the power to acquire the minority shares, if necessary, by amending their By-laws which are the equivalent of the Articles of Association dealing with the Management of the Company. They amended their By-laws on the 6th September this year, under Section 17 of the Demerara Electric Company's Ordinance, primarily for the purpose of including this power to acquire the shares, if necessary.

It may well be that some of the 42 shares held by outside shareholders will be willingly sold at the price that will be paid for the I.P.C. shares, but it will be necessary to exercise this power of acquisition because, it is understood, some of the outside shareholders cannot be traced. One was last heard of in the Australian bush and it is unlikely he will be contacted in time; so that when the deal goes through under which the D.E.C. will undertake to transfer all the shares

of the Company to the Government, it will be necessary to exercise this power to acquire those shares.

The new By-laws, otherwise, are in common form. They deal with such things as the Directors of the Company, general meetings, the accounts, the audit and so on and, in accordance with the law, they have to be approved by the Governor and the Legislative Council and when published in the Gazette have the force of law. They have been approved by the Governor and it now remains for approval to be obtained from this hon. Council. In the circumstances I recommend to Members of the Council that they do so by approving and passing the Motion that I have read out.

Mr. Burnham: Mr. Speaker, though it is conceded that a Government Motion can be brought up after one day's notice, I would ask that this Motion be adjourned in view of what passed yesterday. We were only given notice yesterday. Shortly before the adjournment we heard that only the non-controversial matters would be proceeded with today. Some of us had not the opportunity to study or have studied the By-laws, and I would ask the Mover of the Motion to agree to an adjournment. I have not had the opportunity of studying it, and there was no indication given yesterday. Mention was made by the hon. Chief Secretary of a number of Bills the Second Reading of which would be proceeded with, but there was no intimation that this Motion will be proceeded with today; and I hardly think it will be fair to Members to have this passed without giving them an opportunity of studying the By-laws.

Mr. Jai Narine Singh: I would wish to urge a similar proposition, that it be deferred.

The Attorney-General: It is very unfortunate that this suggestion has been made. I appreciate it, but there is an element of urgency about the Motion. We want this Motion to go through as soon as possible, as I am sure all hon. Mem-

bers of the Council do. It is for this reason that copies of the By-laws were circulated to Members some days ago so that they may—and I think they were accompanied by a note that the Motion would be moved at the first opportunity—be able to read them.

It is not really right that, when this Motion is passed, these new By-laws should necessarily be connected with the take over deal. The point is that the Company has the right, as all companies do, to change their By-laws or Articles when they consider it necessary to do so; and the Company, even if no take over was contemplated, might wish to change their By-laws in the same way as they are put forward for consideration today. The relation of the By-laws to the take over is through the inclusion of this common power of acquisition of shares. A delay would have the effect of slowing up the take over deal because once the Company have got the By-laws passed in legal form they have to set about contacting the outside shareholders, and it may be difficult to do so. Unless Members feel very strongly about it, I would suggest that we go ahead. On the other hand, if they do not agree that we should go on, I can defer the Motion; but it is most unfortunate. [Pause] I would ask that they look at the By-laws tonight and debate the Motion tomorrow.

Mr. Burnham: I would like, if the Attorney-General does not agree, to formally move the adjournment of this particular business. It does not really lie in the mouth of the Government to stress the urgency of this today in view of the four months' holiday; and only yesterday this Motion was thrust at us, also the White Paper. We are prepared to give and take, and I would formally move that discussion of this Motion be formally adjourned.

Mr. Kendall: I beg to second the Motion.

Mr. Jai Narine Singh: I think we can take it tomorrow as suggested by the

[MR. JAI NARINE SINGH]

hon. Attorney-General. I wish to move an Amendment that this Motion be taken tomorrow.

Mr. Gajraj: I beg to second the Amendment.

The Attorney-General: I have, in anticipation of Members of the Council, provisionally arranged for the By-laws to be published in the Gazette on Saturday.

It was agreed that discussion be adjourned until the next day.

ORDER IN COUNCIL
NO. 63 OF 1960

PHOTOGRAPHIC X-RAY FILMS

The Financial Secretary (Mr. D'Andrade): I beg to move:

“That this Council in terms of section 9 of the Customs Ordinance, Chapter 309, confirms Order in Council No. 63 of 1960, which was made on the 20th day of June, 1960, and published in the Gazette on the 2nd of July, 1960.”

Sir, Ordinance No. 3 of 1959 sanctioned certain amendments to the Customs Ordinance increasing the rates of duty on certain items as part of the 1959 Budget proposals. Included in the items so increased was item 862-01.2, which was intended to cover photographic films.

It was overlooked at the time when the Amendment was drafted that the item also included X-ray film, and this Order in Council seeks to restore the tariff for this material to what it was prior to 1959, that is, 20% preferential and 36% general.

The Minister of Natural Resources (Mr. Benn): I beg to second the Motion.

Mr. Speaker: If there is no objection, I will put the Motion.

Question put, and agreed to.

Motion affirmed.

**MOTOR VEHICLES AND ROAD
TRAFFIC (AMENDMENT) REGULATIONS, 1960 (No. 20)**

ARTICULATED VEHICLES

The Financial Secretary: I beg to move:

“That this Council in terms of section 98(3) of the Motor Vehicles and Road Traffic Ordinance, Chapter 280, confirms the Motor Vehicles and Road Traffic (Amendment) Regulations, 1960 (No. 20), which were made on the 21st of September, 1960, and published in the Gazette on the 8th of October, 1960.”

Sir, the Motor Vehicles and Road Traffic Ordinance, Chapter 280, at proviso(a) after item 20 of the First Schedule, provides that no articulated vehicle should be granted a licence to operate between Georgetown and Rosignol or Vreed-en-Hoop and Parika, which are railway routes. Rates of duty all provided for operation on non-railway routes.

It is now proposed that articulated vehicles should be allowed to operate on railway routes. The sugar bulk-load transportation will be done in articulated vehicles of sizes over five tons — larger than that provided for in the Ordinance. It is, therefore, proposed to remove the prohibition against the use of articulated vehicles on railway routes and to provide licence duties in line with those existing for other types of vehicles, non-articulated, in the same Schedule in the Road Traffic Ordinance.

The Ordinance does not provide for very large trucks, and provision is included in the amending Regulations for a higher rate of licence duty for trucks exceeding five tons in capacity running on railway routes, and the usual licensing distinction between trade and hire has been made. Rates of duty provided by railway routes are: a trade licence for an articulated vehicle exceeding five tons — \$500 per annum; and for a hire licence — \$700 per annum.

Mr. Burnham: I wonder if the Financial Secretary would assist by telling us what is an "articulated vehicle"; even a Member on this side who is interested in vehicles does not seem to know what it is. [*Laughter*].

The Financial Secretary: I must confess that I was similarly puzzled. Anyway, I think it means a vehicle that is jointed.

Mr. Jai Narine Singh: Has the Government taken into consideration the tremendous damage done to the roads by heavy trucks such as those this Order in Council will cater for? Has Government also taken into consideration that such vehicles might use diesel fuel instead of gasolene, which would be, in effect, a further privilege? It is a matter of concern to the general public that the users of diesel fuel do not pay as much for the consumption of that fuel as do the users of gasolene. Forty cents per gallon is roughly what we pay in duty for gasolene, while we have Mercedes-Benz vehicles running on the roads and using diesel fuel. This is an unfair advantage which I think the Financial Secretary should take cognizance of.

The Financial Secretary: On the question of damage to the roads, this is a question that was most carefully considered in consultation with the Ministry of Communications and Works, and we have been told that the opinion of the experts is that the weight is so evenly distributed in the case of these vehicles that the possibility of damage to the road is actually less than with the average two or three ton non-articulated vehicles.

As regards the rate of duty on diesel fuel as against gasolene, this is a difficult question. The whole purpose of taxing gasolene is to tax semi-essential and luxury vehicles, and we have always tried to offer some facility to the industrial user by way of a low rate of duty on diesel fuel. In some cases where it has not been possible, as with rice machinery, we have had to give special rebates on

the gasolene duty. The point is that the rate of tax of 32c. per gallon is not the sort of rate one wants to impose on industrial transportation. That is really intended for private motoring and that sort of thing. The idea is to relieve industrial transport of the burden of indirect taxation as much as possible.

Mr. Jai Narine Singh: I do not know if you would permit me to answer the hon. the Financial Secretary, Sir.

Mr. Speaker: I am in a permitting mood this afternoon.

Mr. Jai Narine Singh: Thank you, Sir. The Financial Secretary must know by now that very much competition is being exercised by vehicles with diesel engines against vehicles using gasolene. I am sure that people who are today bringing in trucks and other vehicles which run on gasolene have to pay a much higher duty than those who bring in vehicles that are diesel driven. A lot of cheating is going on as far as I know, and I do not want the Government to be part of it or the Financial Secretary to be closing his eyes or conniving in the matter.

Mr. Speaker: I shall put the question.

Question put, and agreed to

Motion affirmed.

REPORT ON COLONY'S ACCOUNTS, 1958

Mr. Kendall: I beg to move the Motion standing in my name as item 5 on the Order Paper, which reads:

"Be it resolved: That the Report of the Public Accounts Committee of the Legislative Council on the Director of Audit's Report on the Accounts of the Colony for the year ended 31st December, 1958, be referred to the Government for its consideration."

In moving this Motion I would just like to observe that the length of time which Government takes to consider these Reports by the Public Accounts

[**MR. KENDALL**]

Committee reduces the value of the efforts made by the members of the Committee, and I and the members of the Committee would be grateful if Government would speed up its consideration of these Reports in order that their value may be appreciated by the Heads of Departments concerned.

Mr. Burnham: I beg to second the Motion.

Question put, and agreed to.

Motion affirmed.

TRANSPORT AND HARBOURS DEPARTMENT'S ACCOUNTS, 1958

Mr. Kendall: I beg to move the following Motion:

"Be it resolved: That the Report of the Public Accounts Committee of the Legislative Council on the Director of Audit's Report on the Accounts of the Transport and Harbours Department for the year ended 31st December, 1958, be referred to the Government for its consideration."

The observation I made with respect to the previous Motion is applicable to this one.

Mr. Burnham: I beg to second the Motion.

Question put, and agreed to

Motion affirmed.

FFRENCH-MULLEN PENSION BILL

The Chief Secretary: In terms of Standing Order No. 48 I beg to move that, with the consent of hon. Members, we proceed to the Second Reading and other stages of the Bill intituled:

"An Ordinance to make special provision with respect to the pension of Massy Desmond ffrench-Mullen".

Question put, and agreed to.

The Chief Secretary: In moving the Second Reading of the Bill I would like to explain to hon. Members that Mr ffrench-Mullen, formerly Deputy Director of Agriculture, who held the post of Chief Research Officer in the Department of Agriculture, was seconded from his post for duty with the British Guiana Fibre Research Company, Ltd. as Managing Director of the Berbice Fibre Research Company, with effect from the 1st June, 1952, and continued in that employment until the 31st March, 1956 when he was appointed Deputy Director of Agriculture. While he was holding the post of Managing Director of the Berbice Fibre Research Company Mr. R. O. Williams was appointed Chief Research Officer, Department of Agriculture, the post previously held by Mr. ffrench-Mullen. Therefore Mr. ffrench-Mullen could not be said to have held the post from the time Mr. Williams was appointed until such time as he was appointed Deputy Director of Agriculture.

In the Government Order which was issued in 1952 it was clearly stated that Mr. ffrench-Mullen, though on secondment to the Company, would retain his status as an officer of the Colonial Agricultural Service. At the same time the Company paid into Government its contribution towards his pension. But because Mr. Williams was appointed to the post which was held by Mr. ffrench-Mullen it could not then be said that Mr. ffrench-Mullen had continuous service in Government, although that had been the intention. The object of the Bill is to provide for the period of Mr. ffrench-Mullen's service with the Company to be deemed to be pensionable service.

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

Mr. Burnham: It is appreciated that sometimes the necessity arises for doing violence to the provisions of the Pensions Ordinance, but I hardly think that the Chief Secretary can on this occasion justify the violence which he seeks to have done. As I see it, Mr. ffrench-

Mullen was transferred to a post with the Berbice Fibre Research Company. We have not been told by the hon. the Chief Secretary that what he was doing there was of great service to this country. We have not been told that he worked for a lesser salary on his transfer. We have not been told that there was any contract between him and the Government that during the period of his secondment his service would count for pension.

I cannot understand this preferential treatment for this gentleman, for whom a special post in the Department of Agriculture was created. This is the man. Government suddenly found when Mr. ffrench-Mullen was no longer connected with the Berbice Fibre Research Company, that it needed a Deputy Director of Agriculture (Administration), and when Mr. ffrench-Mullen, obviously as a result of strictures in this Legislative Council, did not see before him a picture of the Directorship of Agriculture, we understand that he accepted a post outside of British Guiana. Since Mr. ffrench-Mullen left the Service it was found necessary, in the interest of economy and in the interest of efficiency, to abolish that post. I shall be against this Bill. We are not here to give any preference to blue-eyed boys of some individual or individuals. This gentleman has already had preferential treatment. He had no right to be made Deputy Director of Agriculture (Administration), but while he held that post he enjoyed certain privileges for some time.

So far as I am concerned, this would be a waste of taxpayers' money. Mr. ffrench-Mullen is not one of those indispensable experts who, from time to time, we may have to bring into this country to help us in our development programme; he is not one of those experts who are so difficult to find. That a Government like the present Government should have the temerity and inconsistency to bring this Bill before this Council is unworthy of words.

The Chief Secretary (replying): I should like to answer a few of the points

which have been made. First of all Mr. ffrench-Mullen was seconded from the Government Service on the strict understanding — you can call it a contract if you like — that his status as an officer in the Colonial Agricultural Service would not be disturbed for the purpose of his pension. Secondly, the service to which he was seconded was expected to result in great benefit to the country in the fibre research that he was undertaking.

In this case it is not a question of preferential treatment, for this has been done in a number of similar cases. What we have done on occasions — and it is the easier way of doing it — is to make provision for a supernumerary post on the Estimates just to continue the particular officer's pensionable service. So I would like to stress that this is no special measure for any "blue-eyed boy". This is in fairness to the officer. Whatever hon. Members may have said about the other appointment I am not in a position to argue. This Bill is merely to safeguard the pension of the officer who, in my opinion, would be done an injustice if his pensionable service were not made to continue. The whole object of the secondment was on that premise, and the officer would stand to lose, and Government would be guilty of a breach of faith to the officer if this were not done.

Question put.

Council divided and voted as follows:

<i>For</i>	<i>Against</i>
Mr. Bowman	Mr. Jackson
Mr. Beharry	Mr. Burnham
Mr. Hubbard	Mr. Kendall — 3.
Mr. Gajraj	
Mr. Campbell	
Mr. Ajodha Singh	
Mr. Saffee	
Mr. Rai	
Mr. Ram Karran	
Mrs. Jagan	
Mr. Benn	
Dr. Jagan	
The Financial Secretary	
The Attorney-General	
The Chief Secretary — 15.	

[THE CHIEF SECRETARY]

Motion carried.

Bill read a Second time.

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

COUNCIL IN COMMITTEE

Clause 1. *Short title.*

Mr. Burnham: May I inquire from the hon. the Chief Secretary what was the salary given to Mr. French-Mullen when he went over to the British Guiana Fibre Research Company Ltd., and what salary he was earning in the Government Service before he took up this outside appointment? [*after a long pause*]. In view of the fact that the hon. the Chief Secretary is having some difficulty in finding the information, I move that we report progress and ask for leave to sit again.

The Chief Secretary: I am sorry I have taken so long, but I do not see the relevancy of the questions. Mr. French-Mullen received a salary at the rate of \$5,280 per annum as Chief Research Officer; on secondment he received the same salary in addition to an expense allowance of £300 per annum as well as a rent allowance of £100. As an Agricultural Officer he was given a Government house.

Clause 1 agreed to as printed.

Clause 2. *Interpretation.*

Mr. Burnham: On the information elicited from the hon. the Chief Secretary, this gentleman went over at an increase of \$160 per month— from \$5,280 to \$7,200 per annum. Certainly that compensated him for the four years. Why now should he be compensated by giving him an extra \$160 per month?

The Chairman: I do not think you have heard the hon. the Chief Secretary correctly. I understand him

to say that as an Agricultural Officer he had a Government house, and on secondment he was given £100 per annum in lieu of the house.

Mr. Burnham: As an Agricultural Officer he could not get a free Government house; he was allowed to rent a Government house. He would have been better off than the Chief Justice, if he were given a free Government house.

The Chairman: Did you say that the Chief Justice should be given a house rent-free?

Mr. Burnham: No, Sir. I said that if the Agricultural Officer were given a free house and the Chief Justice could not get the same treatment, then things would have gone very bad. I do not see how an Agricultural Officer can get what the Chief Justice cannot get. This gentleman was working for \$160 more per month. Why should we, after he has been given this extra money, still give him an advantage that another person would have enjoyed who did not get the extra \$160? What did he do, and what has he done?

The hon. the Chief Secretary said that he went off on some research which might not have benefited the country. He was going to use the positive rather than the conditional, but he corrected himself and said "might have". He gets \$160 more per month while he is doing this useless work. He is then taken back in the Service, and permitted to enjoy the same privileges as if he had remained with the Government for a continuous period. When he returned to the Service, he re-entered on promotion—he was made to jump his seniors! The argument given to Civil Servants making representation on this point was "that you could not reduce a man's actual stipend". Who is Mr. French-Mullen? Who are his connections? Who are his relatives? Nobility?

Mr. Gajraj: The point, I believe, which is being completely missed by the hon. Member for Georgetown Central is that an agreement was made between

the Government, Mr. French-Mullen and the Fibre Research Company, Limited, whereby this officer, who was a civil servant, was being permitted to come and do a certain type of work on the distinct understanding that for the period he was so employed he would not lose his pensionable rights. That, in my opinion, is the crux of the matter. If there were no such arrangement, then the point that the hon. Member has raised may have some bearing on the matter, but so long as that agreement was made. I submit that it is necessary to have the legislation to support the Government in maintaining an agreement that was made by the Government previous to the one which is now in office.

We are moving on to a stage when we are going to be independent. We are hoping that when the time comes we will be able to bring into positions of authority in this country, more and more Guianese than we have now, which would mean that those who are from outside of our territory would go elsewhere. We must be very careful not to create the impression that we, as a people, are prepared to go against our agreements. We must honour those agreements. It is a principle that is at stake and that, to my mind, is something that is of more overriding importance than the difference of pay when the officer went over to the Fibre Research Company.

On the side as to whether the work he has done may or may not have been of value, I believe that the time when this idea of jute research was considered by the Government of the day, it was at a time when the price of jute bags had risen considerably owing to the partitioning of the former British India into two independent territories of India and Pakistan. At that time what happened was that the jute growing population happened to be in one country and the mills in the other; and as a result of the differences which took place between the two countries, the price of the raw material rose to such an extent that

the price of the bags became almost out of proportion to the articles stored in them. It became difficult, also, for the articles to be received by countries like ours whereby sugar and rice had to be packed; and so it was suggested by the British Government that a country like ours, with low-lying land, should grow jute. It was the Jute Association of the United Kingdom that put up the proposal whereby there was some tripartite arrangement for the experiment to be made in British Guiana.

Very valuable information has come out of the experiment. It was financed by the United Kingdom organization and British Guiana paid a proportional cost, and the property was turned over to the British Guiana Government. So we have received not only information, but I think, also, physical assets which have been turned over to this country. I will stress again, and repeat: we must be careful not to give the impression that we can unilaterally break any agreement which has been made by the Government.

Mr. Burnham: I am grateful to the hon. Member for his polemics; but he is talking of an agreement when the Chief Secretary does not tell us anything about it. There is a distinction between an undertaking and an agreement and, consequently, I would like to find out why even an undertaking is not mentioned. An undertaking is not a contract or an agreement. In other words, what does the Chief Secretary say before we were interrupted by these polemics? Mr. French-Mullen moved out and improved his position. Let us ask ourselves whether Mr. French-Mullen would have returned if the research project had proved a success? He was compensated by being pitch-forked over his seniors. If there was an agreement let us hear it. Do not let us hear it from the hon. Member. Let us hear from the Chief Secretary if there was an agreement. Where is it? We do not play with the taxpayers' money like this. There is no question of the sanctity of an agreement. I am submitting that from the information we have before us, there was no agreement, and

[MR. BURNHAM]

if, perchance, the Chief Secretary feels embarrassed he must, in future, see that the Objects and Reasons of his Bills are full. [Pause].

Mr. Speaker: That seems to be all; then I shall put the Question.

Mr. Burnham: Is the file with this agreement—with this undertaking—lost? Are we, in view of the silence, free to suspect the Chief Secretary's veracity when he issues these statements?

The Chief Secretary: I can assure the hon. Member that I am not embarrassed. I thought, because of the type of Bill, that the Objects and Reasons were sufficient. But there is an agreement, and it says:

"British Guiana Government has arranged with the B.G. Fibre Research Company, Limited, that Mr. French-Mullen shall be transferred from duty with the said Government to the employment of the Subsidiary at the same time retaining his status as an officer in the Colonial Service in order to carry out the duties of Managing Director of the Subsidiary."

Mr. Burnham: That is not an agreement! As a lawyer, that is not an agreement. [Interruption]. I will not be put down by a layman on a legal point. Where is the consideration moving from Mr. French-Mullen to the British Guiana Government? That is not a binding agreement and, secondly, assuming it is a binding agreement, which I authoritatively say it is not, who gave that Government or any other Government the power to commit the Government? They should have sought the authority of the law-making body, first. And that is not an answer to my question. My question is: what Mr. French-Mullen would have done if the experiment proved successful and he were to continue in the other post?

Clause 2 put, and agreed to.

Clause 3 put, and agreed to.

Council resumed.

The Chief Secretary: I beg to report that the French-Mullen Pension Bill has been considered in Committee and passed without amendment, and I beg to move that the Bill be now read the Third time, and passed.

Question put, and agreed to.

Bill read the Third time and passed.

COMMISSIONER OF TITLE (ADDITIONAL POWERS) BILL

The Attorney-General: I beg to move the Second Reading of the Bill intitled,

"An Ordinance to confer additional power on a Commissioner of Title".

I think it is known that presently Judges of the Supreme Court are working under very great pressure. There are arrears of civil work and, indeed, some cases now being heard have been awaiting trial for two or three years.

Mr. Jai Narine Singh: Five years also.

The Attorney-General: It is hoped that every opportunity will be taken to assist the Judges in their work in order to bring the work of the Supreme Court up to date as soon as possible.

It has been suggested that certain cases, namely, suits for declaration of title to land and the hearing of appeals against partition awards, can properly be dealt with by the Commissioner of Title appointed under the Land Registry Ordinance. The reason is that the Commissioner of Title has jurisdiction over the Land Court established by the Ordinance, and he has the powers of a Supreme Court Judge when dealing with the matters coming before him under the Ordinance. These matters are similar to the suits that I have mentioned, namely, the granting of title to land and partition awards.

There are at present 32 suits before the Supreme Court awaiting trial in connection with claims for ownership to land, while 70 partition appeals are waiting to be heard. If these cases can be dealt with by, as it were, a special

Judge, it would relieve the other Judges of the Supreme Court and enable them to concentrate on arrears of other work.

The cases under the Title to Land (Prescription and Limitation) Ordinance involve precisely the same issues that are dealt with by the Commissioner of Title when granting declaration of title under the Land Registry Ordinance; and as far as partitions are concerned, the Commissioner of Title has the powers of a Partition Officer under the Land Registry Ordinance.

This Bill seeks to confer on him the power to hear appeals from partition awards, and, in the view of the Government, it would be perfectly proper for a Commissioner of Title to hear these appeals. The reason is that before 1948 appeals from the decisions of Partition Officers were heard by the Local Government Board. It was felt, however, that it would be better if appeals were heard by a legally qualified person, a judicial officer, and for that reason the law was amended and thereafter appeals were heard by a Judge in Chambers.

The basic requirement is that they should be heard by a lawyer with judicial experience, and not necessarily by a Supreme Court Judge who has, of course, a far wider jurisdiction than just land matters.

The question of giving the power to the Commissioner of Title to handle these two types of cases was submitted to the Bar Association and the Law Society of British Guiana for their views. Taking all the circumstances into consideration — including arrears in the Supreme Court, which everybody wants to see cleared off — the Law Society agreed that these powers should be given. The Bar Association also agreed, but said that powers conferred on the Commissioner should apply only to the present arrears in the Supreme Court, and they also felt that this law should be of temporary duration.

It is quite right that a law of this

type, which is designed as an expedient for exceptional circumstances, should only be for a limited duration, and the Government feels that it should be in force for one year and the position should be reviewed just before the expiration of that year; also, if it is considered necessary to continue the powers further the law should be extended by resolution of the Legislative Council. As regards the idea of limiting the powers to the existing arrears of work in connection with partition appeals and declaration of title suits, the Bill provides that the Commissioner of Title should only have jurisdiction to hear cases which are sent to him by the Chief Justice, and therefore the work would be controlled. As soon as it is possible for this work to be dealt with by a Supreme Court Judge, the expediency would have been satisfied and the law will be repealed.

The Commissioner of Title was appointed at the beginning of this year under the Land Registry Ordinance to deal, of course, with land registration matters. The Commissioner has done a considerable amount of work in the first registration area on the West Bank. He is held up at present through the shortage of surveyors, so that if he were to take on this additional work it would not hold up his land registration work.

In these circumstances, and as the Bill is supported by the associations representing legal practitioners, and has been requested by the Chief Justice and supported by the Government, I am asking hon. Members to give it their support. I move that the Bill be read a Second time.

The Chief Secretary: I beg to second the Motion.

Mr. Jai Narine Singh: Is the adjournment being taken now, Sir? I wish to speak on the Bill.

Mr. Speaker: If you wish to speak, please proceed.

Mr. Jai Narine Singh: I see it is five o'clock.

Mr. Speaker: I know that it is five o'clock.

Mr. Jai Narine Singh: I thank you very much, Sir. Among the reasons the hon. the Attorney-General has adduced for this Bill is that there are a lot of cases in the Supreme Court which are not being heard. That is very true, and for some time Members of this Council have been trying to draw Government's attention to the hardship which is being caused the general public. Only this week I had a case which was filed on the 7th January, 1954. Three of the witnesses and one of the defendants have since died.

Mr. Speaker: When were the pleadings completed?

Mr. Jai Narine Singh: The pleadings were completed in 1955.

Mr. Speaker: When was the case put on the hearing list?

Mr. Jai Narine Singh: In 1955. It is now seven years since the case was filed. In spite of the proposal to give the Commissioner of Title power to hear appeals, there is no proper accommodation for the Commissioner who sits in a little room with a table. There is no dignity or respect for the office he holds; there is no Marshal in attendance on the Commissioner who works from 8.30 a.m. until 5.30 p.m. I am now told that he sits until 8.30 p.m. on some occasions. It is a very grave situation so far as the administration of justice is concerned. Not only is there a shortage of Judges but no accommodation for them.

At the current Criminal Assizes jurors have had to wait in the Judge's chambers while a point of law was being argued in Court. There was no other accommodation for them. It is a serious state of affairs which should not be treated lightly, as Government seems inclined to do. I think the hon. the Attorney-General should go into the matter and see

whether a Judge should not be appointed for this purpose. If the Commissioner of Title is capable enough, give him the status of a Judge and the salary and dignity attached to the post.

Mr. Burnham: I have not much to say. I agree with the general object of the Bill but there is something that bothers me as to whether or not, in spite of the words used in Clause 3 — "shall be deemed to have been made a judge of the Supreme Court"—litigants would have the right to appeal to the Federal Supreme Court. I would have thought that it should be made eminently clear that the right of appeal to the Federal Supreme Court is preserved.

Mr. Speaker. If no other Member wishes to speak I shall put the Question that the Bill be read a Second time.

The Attorney-General: I will reply very shortly, Sir. The Government is very conscious of the arrears of work in the Supreme Court. The Chief Justice is worried about it and so are other officers of the Government who are directly concerned. I may mention that when I leave here I expect to be in a Committee sitting until 10 or 11 o'clock tonight considering matters connected with this very problem. The shortage of Judges is part of the overall problem which I can assure hon. Members is being closely studied.

As regards the lack of accommodation, steps have already been taken to examine the possibility of building new Court-rooms, and when I say that it is under consideration, I really mean it. It is actively before those who are concerned with the matter.

So far as the status and salary of the Commissioner of Title is concerned, in dealing with these matters it must be remembered that a Judge of the Supreme Court has a status, dignity and salary in relation to the fact that he has unlimited jurisdiction in all matters. In this case the Commissioner of Title is a Solicitor, so that he cannot be appointed a Judge

of the Supreme Court. He has limited jurisdiction to deal only with land matters, although the jurisdiction in this respect is equivalent to that of a Judge of the Supreme Court.

As regards the point raised by the hon. Member for Georgetown Central (Mr. Burnham), the matter has been very carefully considered and the Clause has been phrased with the object of bringing it within the scope of the Federal Supreme Court Ordinance. This provides that the Federal Supreme Court has power to hear appeals from the orders of Judges, and as the orders of the Commissioner of Title will be

deemed to be the order of a Judge of the Supreme Court, it is considered sufficient.

Question put, and agreed to.

Bill read a Second time.

The Chief Secretary: I move that Council be now adjourned until 2 p.m. tomorrow.

ADJOURNMENT

Council adjourned at 5.12 p.m. until 2 p.m. on Friday, 21st October, 1960.