

SECOND LEGISLATIVE COUNCIL

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

Thursday, 26th February, 1959

The Council met at 2 p.m.

PRESENT :

Speaker, His Honour Sir Donald Jackson

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

Financial Secretary, Hon. F. W. Essex.

} *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 Community Development and Education)

E. B. Beharry

Member for Eastern Demerara
(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).

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

Member for Georgetown Central

„ **S. Campbell**

Member for North Western District

„ **A. L. Jackson**

Member for Georgetown North

S. M. Saffee

Member for Western Berbice

Ajodha Singh

Member for Berbice River

„ **R. E. Davis**

Nominated Member

„ **H. J. M. Hubbard**

Nominated Member

„ **A. G. Tasker, O.B.E.**

Nominated Member.

Mr. I. Crum Ewing — Clerk of the Legislature

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

ABSENT

The Hon. the Chief Secretary, Mr. M. S. Porcher (acting) — on leave.

Mr. B. S. Rai

Mr. Jai Narine Singh

Mr. A. M. Fredericks.

The Clerk read prayers.

MINUTES

The Minutes of the meeting of the Council held on Wednesday, 25th February, 1959, as printed and circulated, were taken as read and confirmed.

ORDER OF THE DAY.

LOCAL GOVERNMENT (VALUATION OF PROPERTY) BILL

Mr. Speaker : Council is to resume consideration of the Local Government (Valuation of Property) Bill, 1959.

The Minister of Community Development and Education (Mr. Benn): I beg to move that Council resolve itself into Committee to resume consideration of the Bill intituled,

“An Ordinance to provide for valuation of property for rating purposes and for purposes connected therewith”.

The Minister of Trade and Industry (Dr. Jagan): I beg to second the Motion.

Question put, and agreed to.

COUNCIL IN COMMITTEE

The Chairman : We left off during discussion on the Motion by the Member for Georgetown Central for the deletion of subsection (7) of Clause 8.

Clause 8.—*Information and Returns.*

Mr. Burnham : Mr. Chairman, if I may correct you, my Motion for the deletion of subsection (7) was debated. I would like to urge, however, what I suggested, that if one looks at Clause 27 of this Bill one will observe that it is proposed that the contribution to the expenses incurred by the valuation officer in any area covered by the Local Authorities should be borne — at least part of these expenses — by the relevant Local Authority.

It seems to me to be deliberately asking for disagreements between the valuation officer and the Local Authority if you are going to retain subsection

(7) of Clause 8. It is a simple matter— if the valuation officer's expenses are to be borne by the Local Authority. Let the valuation officer make his own arrangements for all things, including those contemplated in subsection (7), then there will be no question whether or not an officer or servant of a Local Authority has complied with the request of the valuation officer, or has given him such assistance as he has requested.

It is true that in many cases, for the purpose of convenience no doubt, the valuation officer will prefer to have the services of an officer, or officers or servants of the relevant Local Authority. In those cases, the valuation officer may pay to the Authority, or to the officers concerned, the proper charges for the services rendered, and all that will be taken into account under Clause 27, and /or only a book entry made. But it seems to me that if Government pursues subsection (7) of Clause 8, it is going to be the cause of disagreements.

I have not heard the Minister on this subsection, and I wonder why on earth it was introduced when you have Clause 27. I do not know whether it was picked out from other legislation somewhere, or if it is the brain-wave of the Legal Draftsman at the last moment. Perhaps the Minister can explain to us.

Mr. Benn: It should be agreed by everyone that it is most desirable that the cost of the valuation should be kept to the barest minimum and if, as the hon. Member for Georgetown Central said just now, the valuation officer should make his own arrangements, and if the persons who may give him assistance should be paid by him — even if, perhaps some part of the payment should be given to the Local Authority — the cost will go up.

On the other hand, on this measure, the Local Authority will permit its servants, agents and officers to give such assistance — and this assistance is only with respect to the delivery and collect-

ion of returns — I see no reason why the hon. Member should feel that because this subsection is here the Government is inviting disagreement between the valuation officer and the Local Authorities.

It must be remembered that a Local Authority, as a body of lesser status, derives its powers and responsibilities from the Central Government, and while the valuation officer is doing valuation for the Local Authority he is employed by the Central Office of the Central Government. I see no reason why the valuation officer should not be expected to call, as the Commissioner of Labour or an Inspector of Labour does in other cases, for returns, or for any information he desires. So it is quite to the contrary of what the hon. Member said yesterday, that the valuation officer will be ordering officers of the Local Authority around, because the officers of the Local Authority will be in a better position to secure the necessary information for the valuation officer, and to make it extremely simple for him to carry out his work. It is most desirable that this subsection (7) of Clause 8 should remain.

We must also remember that during the Second Reading some of the Members on the other side spoke of avoiding heavy costs, so that we all feel the necessity of keeping down costs in all cases.

Mr. Burnham : That answer, I submit, has not been made after a careful study of subsection (7). Subsection (7) has nothing to do with the making of returns, it has nothing to do with the getting of information; it has merely to do with delivery and collection. In other words, although I agree with the Minister that in most cases the Local Authority will be most useful for getting information, subsection (7) does not contemplate that, or just a series of acts; it contemplates merely collection and delivery—not giving assistance in the preparation of the list—and, therefore, the analogy of the Commissioner of Labour is grossly misplaced. The Commissioner of Labour sends a circular asking for information

which is peculiarly within the knowledge of employers. In this case it is a question of delivery and collection.

I am not unaware of the fact that a Local Authority is a body of lesser status than the Legislative Council, but I am unaware that a Local Authority is of lesser status than a valuation officer. If Government proposes to raise its officers to the high estate of being superior to elected bodies it should tell us so, but a certain confusion of thought is seeping in here.

What I am saying is that if we deleted subsection (7) the valuation officer will still be in a position to request, and there will be no possibility of friction, because if a Local Authority said "Sorry, we cannot handle it" he will make his own arrangements. But, according to this Clause, if the Local Authority did not comply with his request he will surcharge the Authority and then, without question, the Local Authority will have to pay whatever expenses the valuation officer will have incurred.

I have already said that I do not see anything like this in any other legislation; I do not know where it has come from. The hon. Minister has attempted to explain the *raison d'être*, but he has not been able to convince us. If he says that it has to do with the preparation of information he may reconsider his last reply.

Mr. Jackson : The hon. Member has made that point very clear. The hon. Minister ought to give further consideration to the points raised by him, for it is clear that the intention in this subsection will be to call upon a Local Authority to collect returns from people who are supposed to make them. Nothing has been said as to how this collection is to be done.

It is clear that a Local Authority will have to employ additional staff to collect these returns. It is going to impose an additional burden upon Local Authorities, and is likely to create fric-

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tion between the valuation officer and Local Authorities. It is not the first time that the Minister has reminded this Council that Local Authorities are of lesser status than the Government. No one wants to be reminded of that, but a lesser body has rights, and whether a body is of lesser or greater status a certain degree of respect must be paid to it. I hope the Minister will give some consideration to the points made by the hon Member and accept the proposal he has put forward.

Mr. Tello: I thought the intention was to ensure co-operation between Local Authorities and the valuation officer in order to have the work done as quickly as possible; but this legislation is not going to achieve that objective. When legislation is being enacted it must be precise. Regardless of the ordinary duties of officers of a Local Authority they are to give assistance to the valuation officer in the delivery and collection of returns, and in default thereof any expenses incurred by the valuation officer in performing such functions will be charged against the Local Authority.

I do not think that is the intention of the Minister, and there is nothing wrong in having second thoughts on the subject. It is an accepted fact that relations between Local Authorities and Government have always been good, and there is no need for legislation of this kind which is likely to destroy the spirit of co-operation which exists.

I think the last line of the subsection is most unfair. I agree that it is desirable to keep expenses down, but we do not want to create friction and destroy the intention of this legislation. Compulsion always causes trouble. Local Authorities have always been willing to co-operate with Government. Why, therefore, the need for this legislation?

The Chairman : The Question is,

“that subsection (7) of Clause 8 be deleted.”

The Committee divided and voted as follows:

<i>For</i>	<i>Against</i>
Mr. Tello	Mr. Hubbard
Mr. Jackson	Mr. Ajodha Singh
Mr. Campbell	Mr. Saffee
Mr. Burnham — 4.	Mr. Bowman
	Mr. Ram Karran
	Mrs. Jagan
	Mr. Beharry
	Mr. Benn
	Dr Jagan
	The Financial Secretary
	The Attorney-General
	— 11.

The Chairman: the Amendment is lost.

The Attorney-General: I beg to move an Amendment to Clause 8 by the insertion of a new subsection (8) which reads as follows:

“(8) In this section and the following section ‘valuation officer’ shall be deemed to include any person authorised in writing by the valuation officer to exercise such powers and perform such duties as are imposed upon the valuation officer by these sections”.

Amendment put, and agreed to.

The Attorney-General : I crave the indulgence of hon. Members to permit me to go back to two Clauses that we have already considered to enable me to correct certain minor errors.

The Chairman: Please let me complete Clause 8 first.

Clause 8, as amended, put and agreed to.

The Attorney-General: If Your Honour and hon. Members agree, I would like to have Clause 2 recommitted.

Question put, and agreed to.

Clause 2 recommitted.

The Attorney-General: In Clause 2 (1), line 7, I beg to move the substitution of the word "erection" for the word "structure", because that is the word used in other parts of the Bill.

Question put, and agreed to.

The Attorney-General: We will now go back to Clause 7. I beg to move the substitution of commas and the words, "appraisers, or local authority" for the words "or appraisers" in the fourth and sixth lines.

Question put, and agreed to.

Clause 9.—*Power of entry.*

Mr. Jackson: I beg to move an Amendment to this Clause by the substitution of the words "seventy-two" for the words "twenty-four" in the second line. The Clause says "... after giving not less than twenty-four hours' notice in writing to the owner or occupier to enter on any survey or inspect any property in a local government area.", but it does not stipulate any other time limit which can be considered as a maximum. We must therefore regard twenty-four hours as the maximum time after which the valuation officer can enter and inspect a man's premises. When we take the circumstances of the entire country into consideration it may well be that the proprietor or owner may not get the notice served by the valuation officer within that twenty-four hours, and it would not be fair to the owner to inspect his premises without giving him due notice. This is a very reasonable suggestion, and I hope the hon. Minister will accept the Amendment.

Mr. Benn: I do not know why the hon. Member did not suggest ninety-six hours, a week, a month or even a year. I do not know why the hon. Member should come to the conclusion that in any Local Government area it would be so

difficult to have notices served on the people concerned. However, it is a small point and I have no objection to the Amendment.

Mr. Burnham: I beg to move an Amendment to subsection (2) by the insertion of the word "lawful" between the words "the" and "exercise" in the second line. I suggest the word "lawful" because it is written in other Ordinances. This is an important point which has engaged the attention of the Court over and over again in many matters. I cannot understand the hon. Minister of Community Development and Education—he grins so inanely over this matter!

Mr. Benn: Sir, am I to be insulted in this Council? The hon. Member is impudent; I did not tell him anything.

Mr. Ram Karran: A man cannot laugh now.

The Chairman: You do not expect me to rule if you remain on your feet. Not only that, you yourself say he is impudent. Surely you cannot expect me to say anything. You have applied your own sanction.

Mr. Burnham: Mr. Chairman, I would move the insertion of the word "lawful" to make it clear that the obstruction by any civilian will only be an offence if the exercise of the power is lawful within the meaning of Section 9. I will explain my point this way. The valuation officer should give 72 hours' notice before he enters. Circumstances are conceivable where without giving notice he enters, and then it will be an arguable point whether having entered and started his survey or inspection he is exercising his power. Certainly he has the power but it will not be a lawful exercise unless he gives the notice.

I will refer Members to Section 37 of Chapter 154, the Georgetown (Valuation and Rating) Ordinance, where the usual formula is adopted, qualifying the

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exercise by the word "lawful" to make it clear that any delay or any obstruction becomes an offence if it is a lawful exercise, that is, when all the prerequisites have been observed.

The Chairman: Hon. Members, the question is,

"That the word 'lawful' be inserted between the words 'the' and 'exercise' in the second line of subsection (2) of Clause 9.

The Committee divided and voted as follows :

<i>For</i>	<i>Against</i>
Mr. Jackson	Mr. Hubbard
Mr. Campbell	Mr. Ajodha Singh
Mr. Burnham	Mr. Saffee
Mr. Kendall. — 4	Mr. Bowman
	Mr. Ram Karran
	Mrs. Jagan
	Mr. Beharry
	Mr. Benn
	Dr. Jagan
	The Financial Secretary
	The Attorney-General.
	— 11.

Did not vote

Mr. Tasker. — 1.

The Chairman: I declare the Motion lost.

Mr. Burnham: I beg to move an amendment to subsection (2) by the substitution of the word "two" for the word "five" in the third line. This fine of five hundred dollars seems extraordinarily high and it is not the type of fine one sees with respect to this type of offence. It must have been an oversight when Government allowed this fine to creep in.

The Attorney-General: We will accept the amendment. In England it is five pounds.

Mr. Burnham: I beg to withdraw my amendment.

The Chairman: The Attorney-General is on his feet.

Mr. Burnham: I suggest fifty.

The Chairman: Is it agreed that the word "fifty" be substituted for the words "five hundred"? [Pause.] I hear no voices, so I shall put it.

Question put, and agreed to.

Subsection (2) passed as amended.

Clause 9 passed as amended.

Clause 10.—*Draft valuation list.*

The Chairman: Any comments ?

Clause 10 passed as printed.

Clause 11. — *Objection to draft valuation list.*

Mr. Tasker: In respect of subsection (2) it has been represented to me that the grounds of objection are too limited, and particularly, that they do not provide for appeal on the ground that the Valuation Officer was a prejudiced or an interested party. I realize that Clause 35 — *Performance of duties not to be a disqualification* — implies he should not sit if he is the owner of or if he is interested in any property included in the list, but my concern is that if he were so interested and he persisted in valuing the property, why should that not be included in the grounds for objection?

I do not know if the Government will argue that the wording of subsection (2) (a) of this Clause will cover it; that is, if the assessed value of any property is incorrect or unfair, it is a ground for objection.

[Long pause.]

Mr. Tasker: I will be more precise

and move an amendment to Clause 11, subsection (2),

"That there be added a new paragraph, (d) — the valuation officer is a prejudiced or interested party."

The Attorney-General: I think the hon. Member's point is probably met by the words in paragraph (a) of subsection (2) —

"the assessed value of any property is incorrect or unfair; . . ."

The assessment would be unfair if it was made by someone who was biased or prejudiced. This particular Clause is actually wider in the Local Government Act of the United Kingdom. Of course, if any Valuation Officer was interested or biased the objection would be taken straight away, probably before the appeal is heard. And I would say, speaking without going into the matter fully, this provision has been adequate before and elsewhere, but if the hon. Member prefers it, I will undertake to look into it more fully.

Mr. Benn: I wonder if the hon. Member would look at the Georgetown (Valuation and Rating) Ordinance, Chapter 154, Section 11(2) and compare it with this provision, and if he would still maintain his objection.

Mr. Tasker: Perhaps the hon. Minister would do me the favour of reading it.

Mr. Benn: Subsection (2) reads :

"(2) The objection may be based on one or more of the following grounds—

(a) the incorrectness or unfairness of the assessed value of any lot or part thereof or of any other matter included in the draft list;

(b) the insertion therein or omission therefrom of any matter;

(c) the inclusion in the list of one assessed value in respect of a lot whereon any house, building or other erection is the property of a person other than the owner of the land."

Mr. Tasker: I agree with the Minister that that is precisely the same as the draft, but in different words. It has been represented to me very firmly that as this subsection stands the following grounds of objection and no other may be urged. It is going to depend entirely upon how the Court interprets subsection (a). I would like a clear assurance that that would in fact cover the prejudice or interest of the valuation officer. With all respect to the hon. the Attorney-General, I feel that I must press to get that assurance, or let my Amendment stand.

The Attorney-General: I am afraid I cannot give the undertaking that my Friend asks, because we are trying to follow, as far as possible, a pattern, and there may be other sections which might affect the matter, and I would not like to put in something which, after going into it a little more fully, may be found to be unnecessary. If the hon. Member wishes to press his Amendment I would ask that the Clause be deferred to allow me time to study it.

Mr. Tasker: I accept the suggestion that the Clause be deferred.

Clause 11 deferred.

Clause 12. — *Revision of draft valuation list.*

Passed as printed.

Clause 13. — *Appeals.*

Mr. Burnham: I beg to move an Amendment to subsection (3) of Clause 13 for the deletion of all the words after the word "upon" in the second line. I feel that it is unfair to limit an appellant to the same grounds as if he were an original objector. It is most unusual, and a comparable provision under the Summary Jurisdiction (Appeals) Ordinance would be to limit an appellant to the grounds which he urged in the Court of first instance. One knows that during the hearing of an objection a new ground

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may become obvious, and perhaps an irregularity, of which the objector could have had no notice, becomes apparent. I therefore feel that it is unfair to limit the grounds of appeal to the grounds of objection.

So far as the limitation of the grounds of appeal is concerned I am in disagreement with that because, as you know, Mr. Chairman, in the Full Court of Appeal, the Federal Court of Appeal, the Court of Criminal Appeal and the Privy Council it is possible, with leave of the Court, to get an amendment of the original grounds. The object of allowing a right of appeal is to allow the persons interested or concerned an opportunity of having the whole matter reviewed and reconsidered, and not to prevent him from taking every single opportunity to have points raised at any stage. I think that the provision in subsection (3) amounts to an inroad on the rights of an appellant, which inroad does not appear or is not encouraged by any of the Appeal Ordinances under which lawyers are accustomed to practise in the Courts of British Guiana.

The Attorney-General: My hon. Friend has raised a point of substance. At first blush there appears to be a great deal in what he says. On the other hand we are trying to keep to a pattern which we consider to be a good one. There is the argument that these appeals which are directed against assessments are governed by a procedure which is intended to bring out the points of objection against the actual assessments, in order that the appeal tribunal can iron out the dispute at a low level and save everybody costs. But again this is a point of substance. I would not wish to say "No" right away, because there may be something in it. On the other hand I would not like to say "Yes" because maybe we could improve on the pattern, which is a good one. I think it is in the interest of the Council that in a matter of this importance we should get it right,

and should not risk getting it wrong merely for the sake of getting through the Bill quickly. I will look into the matter and give a reasoned answer, yes or no.

Mr. Burnham: I support the Attorney-General's suggestion that the Clause be deferred, and I want to take this opportunity to congratulate him on being one of the few open-minded Members of the Government who would give consideration to these points instead of trying to rush legislation through this Council.

The Chairman: Is it agreed that we should leave this Clause over ?

Members: Yes.

Clause 13 deferred.

Clause 14. — *Constitution of local valuation panels.*

The Attorney-General: I beg to move an Amendment to this Clause by adding a new subsection (3) :

"The Governor shall appoint one of the members of a local valuation panel to be the chairman thereof and may at any time revoke such appointment."

I would also move that subsection (3) as printed be re-numbered as subsection (4).

The first Amendment is designed to give the Governor power to appoint a Chairman for the local valuation panel because one is required under Clause 15. The actual committee is comprised of the Chairman of the panel and two other members.

Mr. Burnham: I can see the necessity for this provision, but I wonder whether the Attorney-General will insist on the Governor making the appointment rather than leaving the appointment to the panel at its first sitting, which procedure would be more democratic.

Mr. Benn: The hon. Member is

thinking about democracy, but the object of this Section is to make things work more efficiently. Under the Rice Farmers (Security of Tenure) Ordinance the Governor has the power to appoint the Chairman of the Rice Assessment Committee. It is most desirable that this power be left with the Governor so that the most qualified and proficient persons should be chosen for this task.

Mr. Burnham: It is most unfortunate that the hon. Minister of Community Development and Education has thought it fit to use the Rice Farmers (Security of Tenure) Ordinance as an analogy. It is provided in that Ordinance that the Chairman should have the status of a Magistrate. It is most significant that a lawyer would be appointed under that Ordinance, whereas in this case there is no prescription as to the type of persons you should have on the panel, and there is no suggestion that the Chairman has to carry out any judicial functions.

It is also unfortunate that the hon. Minister said that "if we want competent and efficient persons to do the job"—I was assuming that the Governor would appoint only competent and efficient persons to the panel. The hon. Minister seems to assume that competent and efficient persons may not be appointed. I will accept the information which he gives me and I will no longer oppose the proposal. The Minister said that the Members of the Assessment Committee in Georgetown are not competent, and he is now suggesting that the persons appointed to the panel may not be competent.

Mr. Benn: I used the words most competent and efficient persons.

The Attorney-General: The hon. Member for Georgetown Central said that the Chairman of the local valuation panel has no judicial functions to exercise, but the whole idea is for him to exercise judicial functions in finding out whether an appraisal or valuation is correct or not. This is a very important matter.

Mr. Burnham: There are many quasi judicial bodies like the valuation panel, the members of which elect their Chairman. For instance, there is the Mayor and Town Council of Georgetown. The New Amsterdam Town Council also exercises quasi judicial powers from time to time with respect to the registration of voters, appeals and so on, and I can see nothing wrong with giving the panel the right to choose its own Chairman.

In a body which has chosen its own Chairman—I understand that is one of the difficulties in the Rice Marketing Board—the members of the Board are dissatisfied because they cannot choose their own Chairman and the Chairman has to be chosen by the Governor. When members of a Board choose **their own** Chairman they will be satisfied to serve much more easily under his Chairmanship. This is a question of experience, and it is known that members will serve a Chairman faithfully if they appoint him themselves. It is not necessarily the expert who should be appointed as Chairman, but the person who will be most readily accepted and acceptable to the rest of the members of the particular panel.

I have made this suggestion not merely out of democratic principles, but also because I feel that the smooth functioning of the panel will be guaranteed if the Chairman were chosen by the members of the panel. I am a little concerned about this opposition to democratic practices and principles on the part of the Majority Party. The Majority Party agrees that the fact that the Rice Marketing Board cannot choose its Chairman is causing a lot of trouble.

The Chairman: That does not come in here.

Mr. Burnham: I apologize for mentioning the matter — it was mentioned before by the hon. Minister of Community Development and Education.

Mr. Benn: I would like to say that it is most unfortunate that the hon. Mem-

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ber should refer to the Rice Marketing Board as an analogy.

The Chairman: I have just ruled on that point and he has withdrawn his remark. If you wish to pursue the matter you may do so; he will reply, and then you will go on *ad infinitum*. If you wish to raise another question on it you may do so.

Mr. Benn: I have nothing further to say on the matter at this stage.

The Chairman: The question is that the following should take the place of Clause 14 (3):

“The Governor shall appoint one of the members of the local valuation panel to be the chairman thereof and may at any time revoke such appointment.”

and that the present subsection (3) should be re-numbered as subsection (4).

Question put, and agreed to.

Clause 14 passed as amended.

Clause 15.—*Local valuation committees.*

The Attorney-General: I beg to move a consequential Amendment to Clause 15 (3) by the deletion of the word “either” and the words “or the deputy chairman (or, if more than one, one of the deputy chairmen) thereof;” The Clause should now read :

“(3). Every such committee shall consist of the chairman of the local valuation panel and two members thereof to be selected by the panel”.

Mr. Burnham: I understand that, Mr. Chairman; but how is the Deputy Chairman to be appointed? Who is going to appoint him?

The Attorney-General: Sir, the answer to my hon. Friend’s question is, that there is no provision for a Deputy Chairman. The Chairman sits, and I imagine that if he cannot sit, the Gov-

ernor then exercises his power of revoking the appointment, and appointing somebody else.

Mr. Burnham: Well, the question arises: the Deputy Chairmen have no status. How would they come into being? Not like Topsy — “just grewed up.”

The Attorney-General: We are trying to avoid all reference to Deputy Chairman in this Bill.

The Chairman: Well, you stop at “panel”—is that it?

Mr. Benn: Yes.

The Attorney-General: Yes. It reads :

“(3) Every such committee shall consist of —

- (a) either the chairman of the local valuation panel or the deputy chairman (or, if more than one, one of the deputy chairmen) thereof; and
- (b) two other members of the local valuation panel”.

Mr. Kendall: In the event of the Chairman being unable to be present, there will be no panel, then?

The Attorney-General: The Financial Secretary, in his genius for this sort of thing, has suggested a far better wording, a simpler one, namely :

“(3) Every such committee shall consist of the chairman of the local valuation panel and two other members of such panel.”

Mr. Burnham: Well, then, may I suggest for the Attorney-General’s consideration a paragraph (b):

“in the absence of the chairman, the members present may elect one of their own members to preside”.

May I suggest that?

The Attorney-General: We run

into the same difficulty which was very clearly explained by my Friend, the Minister of Education.

Mr. Burnham: I see it is the same difficulty; therefore we will run into the difficulty of not having meetings. All you have to do is to take the Chairman out of the way. This kind of provision only applies to cases like the Rice Assessment Committees, where the Chairman is a legal man. I think you should make provision for someone presiding in the absence of the Chairman. I can understand this applying where you say that the Chairman shall be a Magistrate. There you cannot substitute a Chairman. [Long pause]. What about this? Suggest that the Governor shall appoint a Chairman who shall be a Magistrate, and if that is so, then the difficulty ceases.

The Attorney-General: The hon. Member is fishing in very fruitful waters. Government was not prepared to go so far as to insert in this Bill that the Chairman shall be a Magistrate. I shall therefore withdraw my Amendment and suggest one which is shorter, one suggested on the spot by the Financial Secretary. It will read thus :

“(3) Every such committee shall consist of the chairman of the local valuation panel and two members thereof to be selected by the panel.”

Mr. Tasker: Could we not shorten it even more, and say :

“(3) Every such committee shall consist of the chairman and two other members of the local valuation panel?”

The Chairman: Does it mean that the Chairman will be the Chairman of the valuation panel ?

The Attorney-General: We have a panel, one of the members of which has to be appointed Chairman, and when the Committee sits to hear an appeal, it shall be composed of the Chairman of a panel and two other members of the panel.

Mr. Burnham: An interesting question arises here, since it seems a small panel, who will be the other members who will sit on the Committee with the Chairman? I rather suspect the intention of 3 of 15 was to prescribe a quorum for the Committee. If it was not, well, then, who is going to appoint two other members?

The Attorney-General: I do not think it matters who appoints them, as long as they are members.

Mr. Burnham: But, as I understand it, the Committee is separate and distinct from the panel. In other words, who will form the Committee? You do not say that the Committee shall consist of the panel, and a quorum shall be the Chairman and two others. You say the Committee shall consist of the Chairman and two other members. Well, suppose that means that more than two other members cannot sit with the Chairman? You say that the Committee shall be three persons — the Chairman and two. Well, if the Governor appoints 12 members of the panel and all the members turn up one day and want to sit on the Committee? You are going to have a fight.

The Attorney-General: A Court may have more than one Judge, and it does not have to decide who shall be the other Judges besides the Chairman. I do not think it is laid down that the other judges shall be appointed by the Chief Justice. It is administrative, and to provide specifically for the two other members is irrelevant.

Mr. Burnham: I agree that how they get there is irrelevant. What I am saying is, if more than two arrive, what then? You are dealing with laymen. You are not going to get Judges of the Supreme Court squabbling who shall be members of the Appeal Court. You must give him the power to decide who his two brothers (or sisters) will be when he sits on the Committee.

Mr. Hubbard: It does appear that Clause 16 (1) has some bearing:

"... it shall be the duty of the chairman of that panel to arrange for the convening of such a committee".

Mr. Burnham: It shall be his duty to convene. As long as a member of the panel hears of a meeting, he is entitled to be there. Mr. Chairman, I hope I am not saying anything amiss, but I know what happens in these rural areas, and this may well be a matter of a fight between members of a panel who feel they are entitled to sit on a Committee. Unless it is clear who will be the two others to sit on the Committee, there is bound to be trouble. Subsection (3) has to fix a quorum rather than to fix a Committee, and we may re-word it to say that,

"the quorum of every such committee shall be the chairman and two other members".

and further up, say

"the local valuation committee shall be the local valuation panel".

Or, as an alternative, provide that the Governor shall appoint not more than three, and then the Governor may not be inclined to accept or exercise that advice.

Mr. Tasker: We have gone the full circle and we are back where we were. I would like to suggest an Amendment, and the subsection would then read:

"(3) Every such committee shall consist of —

- (a) the chairman of the local valuation panel, and
- (b) two other members of the local valuation panel appointed by the chairman".

The Attorney-General: I do not wish to make an issue out of it but it seems that there is nothing wrong in leaving it to an administrative act. It quite often happens in England where there is a Bench of Magistrates, and they arrange who would sit on certain days, and how they are selected is immaterial.

I am not sure that it is really right that the Chairman should appoint the members.

Mr. Jackson: I thought the hon. Member for Georgetown Central had made a point which had been seen by the Government. Supposing two members do not turn up at a meeting, what would be the quorum?

The Attorney-General: Is there any objection to the panel, with the Chairman, arranging amongst themselves who should sit on various dates when the Committee is due to sit to hear appeals? If "A" and "B" say they will attend on Thursday and "C" and "D" take the following week, if they are there the law is complied with.

Mr. Jackson: But you may find that there is no use for a panel, because the Chairman could at all times appoint the same two members.

Mr. Benn: The hon. the Attorney-General is not suggesting that the Chairman should appoint two. He says that the members of the panel should arrange among themselves.

Mr. Burnham: I am really trying to be of assistance on this point, and my suggestion is that we make the Committee the whole panel, and fix the quorum at the Chairman and two members.

The Attorney-General: I am not sure that that is a good idea, because normally when one fixes a quorum one hopes that more members than just the quorum will turn up to do the business of the Committee. Here you will be relying on only a quorum turning up at every time, because the members will get subsistence allowances and so forth, and it is not necessary for a panel to be composed of any more than three members — the Chairman and two other members.

The Chairman: Without taking any part at all in this discussion I am wondering whether the First Schedule is intended to give any clue?

The Attorney-General: When we come to the First Schedule we propose to move its deletion altogether.

Mr. Benn: May I suggest that the subsection should read —

“Every such committee shall consist of the chairman of the local valuation panel and two other members elected from among such panel.”

The panel should get together and elect two other persons who will sit on the valuation committee.

The Attorney-General: I think it would have to be appointed by the panel. We are prepared to accept an Amendment that the subsection should read —

“Every such committee shall consist of the chairman of the local valuation panel and two other members thereof to be appointed by the panel.”

The Financial Secretary: The word “appointed” is used in the case of the Executive Committee of the Rice Marketing Board.

Mr. Burnham: I see the point, but will the Minister show me where in this Bill the panel ever meets? There is no provision for any meeting of the panel. It must be remembered that under Clause 16(1) the Chairman is only responsible for the convening of the valuation committee and not the convening of the panel. A panel is a body from which certain persons may be drawn. The committee has a Chairman who has no duties with respect to the panel; he cannot convene a meeting of the panel. I do not know why the concept of a panel was introduced at all; I do not know where it came from.

The Attorney-General: I would like to ask the hon. Member whether he thinks that an assessment appeal would be held to be invalid when heard by a valuation committee composed by the Chairman and two members of the panel to whom he had spoken the night before, and both of whom had agreed to sit on the panel the following day? If they

then heard an appeal would that be improper or invalid? If not, I would suggest that the subsection be left as it is.

Mr. Burnham: I am not prepared to give a firm opinion because I am not prepared to go with the Attorney-General and say that there would be no irregularity if two persons who were asked by the Chairman came along. But what is there to prevent an extra member turning up and insisting that he should be one of the two? The Chairman is not given power to choose. You must understand the people in the rural areas.

The Attorney-General: We do. They are very reasonable people.

Mr. Burnham: If you get three cantankerous village fathers and each one decides that he will be one of the two members, where is the solution? Are you going to throw one out?

The Attorney-General: There is a right of appeal.

Mr. Burnham: The purpose of legislation is to reduce the number of difficulties, to anticipate those difficulties and to reduce or abolish them. If the Government does not want to listen to me it can go ahead. We lawyers will have a wonderful time with this hotch-pot legislation.

The Chairman: What is your final Amendment? I am not hurrying you in any way but I would like to know what to put.

The Attorney-General: Government wishes to amend Clause 15 (3) to read as follows :

“Every such committee shall consist of the chairman of the local valuation panel and two members thereof to be selected by the panel.”

My hon. and learned Friend opposite says that the panel can meet without my amending the Clause. However, I think we should pass this Clause. I will go into

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the matter further and, if necessary, I will bring another Amendment later on.

Mr. Burnham: I accept the hon. and learned Attorney-General's promise to go back to Clause 15 (3), if necessary.

The Chairman: The question is, that Clause 15 (3) be amended to read —

"Every such committee shall consist of the chairman of the local valuation panel and two members thereof to be selected by the panel."

Agreed to.

Clause 15 passed as amended.

Clause 16.—*Sittings, procedure and powers of local valuation committees.*

Mr. Burnham: I have an amendment to move with respect to subsection (7). What concerns me is that there is no provision for the procedure and the forms to be adopted. I hope that I am wrong, but I think that I am right. When you are going to have important bodies like this hearing and lodging appeals the necessary forms should be prescribed. If you do not prescribe proper forms, what is to prevent a man submitting his appeal in the most informal manner? If you are going to have objections and appeals to the Supreme Court you should also have Rules and forms. I do not know whether this is an oversight on the part of the draftsman. While I am leaving the Government to consider this particular point, I would like to move my Amendment to subsection (7).

The Chairman: Are you going from subsection (1) to subsection (7)? You must give the other side a chance to say something on the matter.

The Attorney-General: With regard to forms and procedure, the idea is to keep the procedure and the business of the Committee as simple as possible so as not to befog persons who wish to come before it and who do not have enough money to retain a lawyer to represent them. There is a Clause which

provides for the making of Regulations to set out anything that is necessary for putting the Ordinance into effect, and any forms or documents which are necessary will be taken care of. I think it would be unfair to prescribe legalistic forms which may preclude people from prosecuting their own appeals.

The hon. Member also raised the question of procedure. I think there is provision which states that the panel can fix its own procedure. I will look into that point, and if it is necessary to include that in the Bill I will do so at a later stage.

Mr. Burnham: I do not believe that it will be necessary to have legalistic forms. So long as a form is attached to the Bill as a schedule, a large number of such forms can be made available to the local authorities. I am very doubtful as to whether any attempt by the Governor in Council under Clause 39 to prescribe forms would not be *ultra vires*. This is a point to be taken into consideration by Government, but I am not prepared to argue the point here. At least I have the satisfaction of having attracted to the Attorney-General's attention what I consider to be a difficulty, and I hope that his colleagues and himself will be forthcoming with some solution to the problem.

I desire to move an Amendment to Clause 16 (7), line 1, by the insertion of the words "or owner of the property to which the appeal relates" between the words "authority" and "shall". I do not see why the owner of a property who is defending his rights should be penalized by having to deposit twenty-five dollars. There are imaginable circumstances in some parts of the country where the owner of a property may not be able to raise twenty-five dollars. Those of us who live in rural areas know that some persons who are almost on the threshold of "The Palms" own property but will not be able to find twenty-five dollars. I think that they should be given an opportunity, without any hindrance, at least of appealing to the valuation committee.

The objector, who is not the owner of the property and may be considered as officious, may be able to lodge the money if he is going to pursue an appeal. He may be doing it in his own interest and not in the general interest of citizens. If he is a good citizen I have no objection to his being able to pay this sum, but the owner of the property should not be compelled to lodge twenty-five dollars in order to pursue an appeal.

Mr. Benn: The Amendment by the hon. Member for Georgetown Central is accepted.

Mr. Burnham: I thank you very much.

The Attorney-General: I think it would read better to state —

“That the appellant not being the local authority or the owner of the property to which the objection relates . . .”

The Chairman: I take it that the following Amendment is accepted:

“That the appellant not being the local authority or the owner of the property to which the appeal relates shall at the time of lodging the appeal deposit the sum of twenty-five dollars with the clerk of the local valuation committee as security for the costs of the appeal.”

Members: Yes.

Mr. Burnham: I beg to move the substitution of the word “fifteen” for the word “twenty-five” in the second line of subsection (7).

Mr. Benn: That Amendment is accepted by me.

The Attorney-General: I would like to move two small Amendments: at subsection (3), to substitute the word “by” for the word “to” in the first line. It would then read:

“At the hearing of an appeal by a local valuation committee —”.

The Chairman: Is that agreed?

Members: Yes.

Amendment agreed to.

The Attorney-General: My next one deals with subsection (6). After the word “determines” in this subsection, the addition of the following:

“and shall be recoverable in the manner provided by section 35 of the Summary Jurisdiction (Petty Debt) Ordinance.”

Agreed to.

The Chairman: The question is, that Clause 16, as amended, shall stand part of the Bill.

Agreed to.

Clause 16 passed as amended.

Clauses 17 and 18 passed as printed.

Clause 19.—*Appeal to the Supreme Court and to the Federal Supreme Court.*

Mr. Burnham: I will move two Amendments. First, the insertion of the words “not being the local authority or owner of the property to which the appeal relates” between the words “appellant” and “shall” in the first line of subsection (2). I think the tenor of Clause 16 should be maintained.

As I am on my legs, I move that the word “fifteen” be substituted for the word “twenty-five” in the second line of subsection (7). I will confess that costs in the Supreme Court are likely to be higher, but costs awarded in Chambers are not usually as high as \$50. I will say this, that the appellant in the case of the Local Authority can easily pay what costs may eventually be awarded, and the owner of a property will have property against which costs may be recoverable, so that the costs of the successful party will not be in jeopardy if this Amendment were accepted.

The Chairman: I shall have to put—

The Attorney-General: I am sorry: I am just trying—

The Chairman: It is all right; take your time.

The Attorney-General: I want to see whether in the Rice Farmers (Security of Tenure) Ordinance costs are adjudged in the same way. [*After a pause.*] If we can bring in this Amendment without making a formula, when another law provides the right of appeal, then I think we can accept it. I am not sure whether the same considerations exactly apply, and I would like to check up to see whether the other laws go in line.

Mr. Burnham: Two. I can name them: the Rent Restriction Ordinance and the Rice Farmers (Security of Tenure) Ordinance. And in both cases all that is necessary to be lodged is \$2.

The Attorney-General: What I said was, whereas in the laws my Friend quoted it is the first stage of the appeal, this is the second stage, and disqualifying considerations might apply; so that the laws which he has quoted are not actually in point.

Mr. Burnham: Very well.

The Attorney-General: Well, if we can leave that, there is a small Amendment to correct a clerical error, which I would move to subsection (8). That is, that the figure "(7)" be substituted for the figure "(8)" in the third line.

The Chairman: Is that agreed?

Members: Yes.

The Chairman: Do you (the Attorney-General) desire to leave this Clause over with the others in order that you may look into it?

The Attorney-General: Yes.

Mr. Burnham: While the Attorney-General is looking at Clause 19, may I ask whether there is a possibility of stipu-

lating that a person who goes to the second stage shall set out his grounds of appeal? There seems to be no provision for it. The Attorney-General may be able to introduce an Amendment afterwards. I feel this is a weakness in the Rice Farmers Ordinance and the Rent Restriction Ordinance; when the appeal is coming before a Judge in Chambers neither he nor the respondent knows what on earth the appellant is coming with.

The Attorney-General: Could we leave this back?

Agreed to.

Clause 19 deferred.

Mr. Burnham: I move the recommittal of Clause 19 in order to bring to the attention of the Committee something which has just come to my notice. Paragraph (b) of subsection (3) reads;

"(b) a copy of the decision of the committee and the reasons therefor signed by the chairman or presiding member who delivered the decision;"

I move the recommittal of the Clause in order to point out that there is no provision elsewhere for a presiding member.

The Attorney-General: I am grateful to the hon. Member and I move the deletion of the words "or presiding member."

The Chairman: There is no need for a recommittal. We had not concluded consideration of the Clause.

Clause 19, as amended, agreed to.

Clause 20. — *Settling of the valuation list.*

Mr. Burnham: I move an adjournment. Most of us have appointments at 5 o'clock.

The Chairman: It is a matter entirely for Members. We decided to go to 5 o'clock.

Mr. Burnham: Even if we sit up to 5 o'clock we will have to come back, because there are many points which Government has to consider, and I promise to make some further suggestions in writing tomorrow.

The Attorney-General: The legislative time-table is so packed that every step forward leads to another step forward. There is the Land Registry Bill which is four times as long as this one but, I hope, less controversial. I suggest that unless there is very good reason to the contrary, we should go on and try to break the back of this Bill.

Mr. Burnham: Will Members on the Government side agree to work up to a quarter to five?

Mrs. Jagan: Five o'clock.

Mr. Burnham: Then go ahead with your Bill. In every Clause we will have to show you something. I think it has to be admitted that the "Opposition" has been most useful.

Dr. Jagan: Your Honour has said that Members must submit Amendments beforehand in accordance with the Standing Orders, but we find a constant flouting of the Standing Orders. It seems to me irrelevant to make the point that Members of the "Opposition" are here to make useful suggestions. We certainly welcome suggestions, but Amendments should be put in at the proper time so that Government would have an opportunity to consider them. To come here and spring Amendments to Clauses is certainly a waste of time.

The Chairman: It cuts both ways. The Amendments which were presented this afternoon I only saw at about two minutes to two o'clock.

Mr. Burnham: Not only that. During the afternoon a number of Amendments were moved by the Government, of which there had been no notice. The hon. Member must remember that he is part of the Government, and if any other

Member of the Government is responsible for the same default he should not make those rude remarks.

The Chairman: Members will be talking on this question until five o'clock.

Mr. Burnham: There is nothing wrong with that; that is the legislative procedure. What I am saying is this—

The Chairman: There is no Motion at the present time for an adjournment.

Mr. Burnham: Well, I will move it.

The Chairman: What is your Motion?

Mr. Burnham: That we report progress and ask for leave to sit again.

Mr. Campbell: I beg to second the Motion.

The Attorney-General: We did agree to sit until five o'clock days ago, but what I said was that if Members have an appointment at five o'clock we could go on until ten minutes to five. We have already lost about seven minutes. I suggest that we try to do another Clause or two and just before five o'clock we can adjourn to meet the wishes of Members.

Mr. Tello: In view of the insistence on written Amendments we will not have time to do so.

The Chairman: I think the suggestion of the Attorney-General is a reasonable one. If you will withdraw your Motion—

Mr. Burnham: Yes, Sir.

Clause 20 passed as printed.

Clause 21.—*Duty of local authority as respects the valuation list.*

Mr. Gajraj: I do not propose to offer an Amendment but I should like the Government to explain what directions

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are proposed in sub-section (2) of Clause 21, which says:

"(2) The local authority shall give effect to any directions which the valuation officer may from time to time give to them in pursuance of the provisions of this Ordinance."

It seems to me that this is conferring rather wide powers on the valuation officer. I do not know what will be the nature of such directions as the valuation officer may give to local authorities, but we have to be careful about the functions of our local authorities as against those of the valuation officer. We do not want them to come into conflict.

The Attorney-General: The directions of the valuation officer will be limited to making alterations in the new valuation list.

Mr. Burnham: In that case say so, but do not leave the Clause so wide.

The Attorney-General: If hon. Members who are intimately connected with local authorities feel that this is a dangerous Clause which would cause them to be imposed upon unduly, we may insert something in subsection (2) in order to put the matter beyond doubt. We could substitute the words "in connection with the alterations to be made in valuation lists" for the words "in pursuance of the provisions of this Ordinance".

Mr. Gajraj: I think the hon. Attorney-General should leave this matter until tomorrow and bring a proper Amendment before this Council. He has the right idea, but the Amendment is improperly worded.

The Attorney-General: Sir, I would like this Clause deferred.

Mr. Benn: I beg to move that this Council do now resume.

Question put, and agreed to.

Council resumed.

The Attorney-General: I would like to ask hon. Members to express their views on what is likely to happen tomorrow. We are about half-way through this Bill, but I imagine that there will be a lot of discussion on the Second Schedule. We have the Land Registry Bill to deal with. This is a very long Bill and we will take a lot of time going through it. If we take the Second Reading of the Bill and then adjourn, hon. Members might not remember what was said and the debate will continue with some Members repeating what was said by others. On the other hand if we get through this Bill by four o'clock, we can make a start with the Land Registry Bill. If Members feel that there will be a lot of discussion on this Bill I would like to know whether they will be prepared to go on until seven o'clock.

I shall be very busy tomorrow morning drafting Amendments in keeping with the various points that have been raised. Although I have got in my mind what I propose to say on the Land Registry Bill, I would have liked a day or two longer to get the points in order. I am however, prepared to proceed with the Land Registry Bill tomorrow. If we cannot take the Bill tomorrow, I would like to take it before I go on leave in a month's time.

Members: You will have enough time.

Dr. Jagan: I conferred with several Members of the "Opposition" yesterday on the question of meeting next week. As you are no doubt aware we have not yet finished the debate on the Budget, and a great deal of work still remains to be done on the Budget proposals in the Estimates. I wish to suggest that we meet next week, continue until seven o'clock and return after dinner. This delay is holding up the entire Development Programme, because new works cannot be started until the Estimates have been approved by this Council.

I am therefore suggesting that from

Tuesday next we shall meet at two o'clock, continue our meeting until seven o'clock and return after dinner so that the work of this Council may be expedited. I also suggest that we spend the whole of next week on the Budget. That would give the Attorney-General enough time to peruse the Land Registry Bill and bring it up for discussion the following week. I am sure one week would be enough for that.

Mr. Burnham : I am not physically so strong as to work such long hours, and most of the Members on this side of the Table will find it most difficult if not impossible to sit every day next week

from 2 p.m. to 7 p.m. and then after dinner.

Dr. Jagan : I spoke to hon. Members yesterday and they agreed with my suggestion.

Mr. Jackson : I was not happy about it.

Mr. Speaker : Hon. Members should have discussed this matter in a proper manner. Members must not forget that, at least, the Speaker is entitled to the courtesy of an intimation or consultation regarding such matters. The Council is adjourned until tomorrow at two o'clock.