

SECOND LEGISLATIVE COUNCIL

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

Friday, 27th 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. Bcharry —

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

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

B. S. Rai

Member for Central Demerara

S. M. Saffee

Member for Western Berbice

Ajodha Singh

Member for Berbice River

J. N. Singh

Member for Georgetown South

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. W. O. R. Kendall — on leave.

Mr. A. M. Fredericks—on leave.

The Clerk read prayers.

MINUTES

The Minutes of the meeting of the Council held on Thursday, 26th February, 1959, as printed and circulated, were taken as read and confirmed.

ANNOUNCEMENTS

Mr. Speaker: The hon. Member for New Amsterdam, Mr. Kendall, has asked to be excused from today's meeting.

ORDER OF THE DAY

LOCAL GOVERNMENT
(VALUATION OF PROPERTY) BILL

Council resolved 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."

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

The Attorney-General (Mr. Austin): A number of points were raised yesterday which I undertook to look into, and I have gone into most of them. The first point was that raised by Mr. Tasker who said that the three grounds of objection stated in Clause 11 were not clear enough. That Clause has been taken word for word from the Georgetown (Valuation and Rating) Ordinance which has been in force for the last 15 years, and I have not heard that it has given any trouble at all.

In my view anybody with a moderate degree of competence, like myself, would be able to interpret this Clause as if the reasons for the grievance, as opposed to the grounds of objection, are open to anybody. They are not limited in any way, so that if Mr. Tasker felt that the assessment of his property was unfair because the valuation officer was biased or had an interest in the property, he would, in my

view, under this Clause as at present drafted, be perfectly in order to give bias as a ground of objection.

But I feel that it might be more clearly expressed, and therefore I move the deletion of the words "grounds of" and the addition of the letter "s" to the words "objection" and "other" in the first line of subsection (2), so that it will read: "The following objections and no others". The reason for that is that it leaves the next Clause to deal with grounds as the reasons for the objection. It is one of those things that has no substance at all, but as it was pointed out I think it would be a little clearer if it is done this way.

Amendment put, and agreed to.

Clause 11, as amended, put and agreed to.

Clause 13. — *Appeals.*

The Attorney-General: The next Clause was Clause 13 which the hon. Member for Georgetown Central (Mr. Burnham) said was too restrictive in subsection (3), in that if an appellant suddenly thought of another good ground of appeal after he had put in his grounds, he would be prevented from working on that new ground.

This particular provision is very similar to that in the Summary Jurisdiction (Appeals) Ordinance in which, as my Friend says, it is common for grounds of appeal to be amended with leave of the Court. There is no provision regarding an amendment with leave of the Court, and I therefore think it is probably all right. Nevertheless, I am prepared, in order to put the matter beyond all doubt, to add the words "except with the leave of the local valuation committee."

So that the only grounds that can be argued are the grounds which have been lodged, but if a further ground is required to be added that could be argued if the leave of the local valuation committee is first obtained. I do not know if that

meets my learned Friend's point. I therefore move that after the word "and" in the second line of subsection (3) the words "except with the leave of the local valuation committee" be inserted, and the substitution of the word "or" for the word "and" in the third line.

Mr. Burnham: I am inclined to agree with the learned Attorney-General that the wording in the Clause may cover both, but I am not sure if it will be so interpreted. I do not know how the courts will interpret it.

The Attorney-General: I think that the word "or" makes the second line all right. We could say "except with the leave of the local valuation committee, it shall not be competent for the appellant to rely on any ground of appeal not set out therein or where he was the objector any ground other than those included in the objection. . . ."

The Chairman: What is the definition in the Interpretation Ordinance? I would like to know whether the definition says it will make the terms mutually exclusive.

Mr. Burnham: I wonder whether the Attorney-General will accept this Amendment —

"(3) Every such notice of appeal shall contain a statement of the grounds of appeal relied upon and, except with the leave of the local valuation committee, it shall not be competent for the appellant to rely on any ground of appeal not set out therein or where he was the objector any ground other than those included in the objection."

I would suggest the deletion of subsection (3) and the substitution of the Amendment I have just read.

Question put, and agreed to.

Clause 13 passed as amended.

The Chairman: I notice that the hon. Nominated Member, Mr. Tasker, has just come in. I thought I might let him know that Clause 11, subsection (2),

to which he made reference yesterday, and which was held over, was amended in the following way: by the deletion of the words "grounds of" and the addition of the letter "s" to the words "objection" and "other" in the first line. So that the subsection reads at the beginning:

"The following objections and no others may be taken, namely, that —".

Mr. Tasker: Thank you, Mr. Chairman.

The Attorney-General: I would like the hon. Member to know that in the view of the Government there was nothing that was not clear in the subsection, but nevertheless it was possible to make it a bit clearer by putting it that way. I would be prepared to argue before any court that there was no real substance in the objection, but for the purposes of drafting, it is a bit better this way, although it does not alter the substance at all.

Mr. Tasker: I am grateful to the hon. Member for his assurance.

The Attorney-General: The next one was Clause 16. My hon. Friend, the Member for Georgetown Central, felt no provision was made for the procedure of the local valuation committees. Now I have been into this very carefully. We went to considerable lengths to set out the procedure of these Committees, and the Clause is much fuller than, for instance, the corresponding Section of the Rice Farmers (Security of Tenure) Ordinance, which provides that anything not provided for as far as the proceedings were concerned, might be provided for under the Rice Assessment Committees rules in that case. But we have gone further and sought to provide specifically for what we consider the essentials to cover the proceedings of these valuation appeals committees.

If there is any point which is of real substance, and which we have omitted, then I am prepared to consider it. But

[THE ATTORNEY-GENERAL]

we have laid down as clearly as possible how they shall give their judgments, the fact that counsel can appear for the appellants, the law of evidence that is applicable, the way to summon witnesses, the way to adjourn, and so on.

These are not courts of law. They are clearly judicial tribunals and they should have rules to regulate their proceedings, and though I appreciate the suggestions brought forward by the hon. Member for Georgetown Central — which are in many cases stimulating but not in all cases valuable — I do not feel inclined to offer an Amendment unless it contributes something to this point.

Mr. Burnham: My real objection to the Clause as it stands is, and was, that no attempt was made to strike a form for notice of appeal. I think since you may have so many laymen appealing without the assistance of lawyers, that it may well be the best thing to prescribe a form in, say, a Third Schedule, and in the stereotyped manner, and then have several hundred of those forms available at the offices of the local authorities. This will particularly assist laymen. No difficulty may arise with the person who engages a lawyer, as he will be able to get out a decent and acceptable form of appeal, but I was thinking of prescribing a stereotyped form for the layman without a lawyer.

The Attorney-General: The view of the Government is that whereas there is possibly considerable merit in the argument just put forward, nevertheless it is intended that if any forms are to be prescribed they will be prescribed by the regulations. That is what regulations are for. There is provision in Clause 39 to make regulations formally, and the point will be adequately covered by Clause 39.

Mr. Burnham: I am in no doubt that Government may contemplate the form of regulations, but as I said yesterday, I am in some doubt as to whether

the Government will not be acting *ultra vires* if they prescribed them as Clause 39 now stands. I think that if the Attorney-General knew the attitude of the Court in interpreting delegated legislation, he would with me doubt whether the Clause as it stands will be interpreted to enable the Governor in Council to prescribe these forms.

Now the average person may not take that point, but it is a point that may be well taken. A court of law carrying out this Ordinance may not—and I can see it being urged quite confidently — entertain a notice of appeal of a person who has not got his status by virtue of the Ordinance.

The land owner does not get his legal being or entity as a result of this Ordinance, so it is doubtful whether this form will be for the purpose of carrying out the Ordinance. I think the Attorney-General will see what I am talking about.

It is not a point that will probably arise but it is a point that may possibly arise. After you prescribe a form to assist people some bright lawyer some day, after the form has been used and he is dissatisfied with the decision, may not worry to challenge the decision of the Supreme Court but challenge the competence of the Committee to have rejected another form which he has put up.

That is what I expressed yesterday, and I am still of the same opinion that there is the possibility of the prescription of a form by the Governor in Council under Clause 39 being *ultra vires* instead of *intra vires*.

Clause 13 was passed as amended.

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

Mr. Burnham: With respect to subsection (2), when I suggested—

The Attorney-General: I have got the two points, but in view of everything

else I was not able to clear my mind on Clause 19.

Clause 19 further deferred.

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

The Attorney-General: It is proposed to add at the end of subsection (2) the words "which authorize or require the valuation officer to cause alterations in a valuation list." I formally move that Amendment.

Mr. Burnham: Perhaps it would be better if the word "such" were substituted for the word "the" in the third line.

The Attorney-General: I think it is perfectly clear as it is.

Amendment put, and agreed to.

Clause 21, as amended, put and agreed to.

Clause 22. — *Proposals or alteration of valuation list.*

Mr. Jackson: For the sake of clarity I beg to move that a comma be placed after the word "list" in the second line. In fact I think there ought to be two commas, one after the word "who" in the first line.

The Attorney-General: I do not think that is a point of substance. It is perfectly clear as it is.

Mr. Jackson: I made the suggestion for the sake of clarity, but if the hon. the Attorney-General does not accept it I will now move an Amendment to paragraph (b) for the insertion of the word "to" after the word "addition" in the first line and the insertion of the words "the structure" after the word "reduction" in the second line. If my Amendments are accepted the paragraph would read:

"(b) at any time if by reason of the addition to or the reduction of the structure of any house, building or other

erection constituting such property or material changes if such property consists of land."

The Attorney-General: I am grateful to the hon. Member for bringing out that point. I have never heard of the reduction of a house. I would suggest the substitution of the word "alteration" for the word "reduction."

Mr. Rai: It seems to me that alteration will include both construction and reduction.

The Attorney-General: I move that Clause 22 (1) (b) be amended by the deletion of the words "addition or the reduction of" and the substitution therefor of the words "alteration to".

Mr. Jackson: I think it should be left over for re-wording.

Amendment put, and agreed to.

Clause 22, as amended, put and agreed to.

Clause 23. — *Proceedings of proposals.*

Mr. Burnham: I wish to move a slight Amendment to subsection (2) by the deletion of the words "one or" in the third line. I feel that it should be obligatory upon the valuation officer to inform both the owner of the property in respect of which the proposal relates and also the local authority, both being very vitally interested parties. I do not think the discretion should be left with the valuation officer as to which one of them he will serve with a notice of his proposals.

The Attorney-General: I will accept the Amendment if the word "each" is substituted for the words "one or both".

Mr. Burnham: I have no objection to that. There can be a further economy in words, but I suppose the cost of printing is no object.

The Attorney-General: It has the

[THE ATTORNEY-GENERAL]

merit of following in identical terms the corresponding law in the United Kingdom.

The Chairman: The question is that Clause 23 (2), lines 3 and 4, be amended by the deletion of the words "one or both" and the substitution of the word "each" therefor.

Agreed to.

Mr. Burnham: I would like the hon. Attorney-General to explain Clause 23 (3). As I see it the "maker of the proposal" will be the owner of the property. If the maker of the proposal is not the valuation officer it will have to be the owner of the property. I cannot see why he will have to transmit a copy to the maker of the proposal. Only the owner of property and the valuation officer should make proposals. I do not think this is clear.

The Attorney-General: I would like to draw the hon. Member's attention to Clause 22 (1) which states —

"Any person who, being the owner of any property included in the list, is aggrieved by any value ascribed in such list to such property may make a proposal."

Mr. Burnham: Note the words "to such property". Anyway, I will withdraw my objection.

Mr. Jackson: In Clause 23 (4), line 2, I beg to move the deletion of the word "may" and the substitution of the word "shall" after the word "officer". It seems to me that the word "may" gives a discretionary and not an obligatory power to the valuation officer.

The Attorney-General: He may agree with the proposal.

Mr. Burnham: We can further amend subsection (4) by the insertion of the words "or acceptance of" after the word "to" in the fourth line. In other

words we should make it obligatory upon him to serve notice in writing within twenty-one days.

The Attorney-General: If he does not do so within twenty-one days it means that he has accepted it. A man is given time to lodge his objection and if he does not wish to do so he can take his own action. It will be taken that he acquiesces.

Mr. Jackson: I will accept the hon. Attorney-General's explanation and withdraw my Amendment.

In subsection (7), line 4, I beg to move the deletion of the word "panel" and the substitution of the word "committee" therefor. Since yesterday hon. Members on this side of the Table have been endeavouring to point out that the panel, as envisaged in this Bill, has no status whatsoever apart from it being a list of names of persons from whom a committee will be drawn. The Committee is the important body in this Bill, and I see no reason why there should be provision for a panel.

The Attorney-General: I agree with the hon. Member, but I would ask his indulgence to wait until we get to the end of the Bill. It has been found on further examination that there are a number of inconsistencies between panels and committees throughout the Bill. The Government intends to move one Amendment at the end of the Bill to clear up the matter once and for all.

Mr. Jackson: I agree with you, because Clause 20 will also have to be amended.

The Chairman: The question is, that Clause 23, as amended, shall stand part of the Bill.

Agreed to.

Clause passed as amended.

Clauses 24 and 25 passed as printed.

Clause 26.—*Expenses of the valuation officer.*

Mr. Jackson: I wonder whether the hon. the Attorney-General would take a suggestion with regard to line 3. It is perhaps nothing of substance, but it would make for better reading. It seems to me that it would be more appropriate if we substitute the word "him" for the words "the valuation officer" after the word "by".

The Attorney-General: If we accept all these things we shall be here all night.

Mr. Jackson: I admit I am not a barrister-at-law, but I know what will make for better reading. I would have thought the Attorney-General would have sensed that the whole structure would be clearer if my suggestion is accepted, and then it would read:

"(1) Any expenses incurred by the valuation officer in the performance of his functions under this Ordinance, including the costs of any appeal awarded against or incurred by him, shall be deemed expenses incurred by the Financial Secretary and be payable out of moneys provided for the purpose by the Legislature."

The Attorney-General: Slight.

Mr. Jackson: Thank you, Sir. I thought the law was made for clarity in all respects, and that there was the intention to use proper English.

Mr. Burnham: What do we have pronouns for, Mr. Chairman, but to be used when they can be used?

The Committee divided on Mr. Jackson's Amendment and voted as follows:

<i>For</i>	<i>Against</i>
Mr. Tello	Mr. Hubbard
Mr. Jackson	Mr. Ajodha Singh
Mr. Burnham. — 3.	Mr. Saffee

Mr. Rai
Mr. Bowman
Mr. Beharry
Mr. Benn
Dr. Jagan
The Financial Secretary
The Attorney-General.
— 10.

Did not vote

Mr. Davis
Mr. Campbell. — 2.

The Amendment was negatived.

Clause 26 was passed as printed.

Clause 27.—*Contributions by local authorities.*

Mr. Tello: I beg to move that Clause 27 be amended by the insertion of the words "after consultation with the local authority" between the words "Council" and "shall" in the first line. If this is accepted, the Clause would then read:

"The Governor in Council after consultation with the local authority shall fix charges according to a scale which shall be paid by a local authority as a contribution to the Government towards expenses incurred within the area of a local authority under the provisions of this Ordinance."

Mr. Burnham: Not only do I support that Amendment but I would like to go further and later on move an Amendment that there be added a proviso that no such charges shall be taxed until an agreement has been reached between the Governor in Council and the Local Authority.

I had thought, because of a peculiar experience in the first place, that I might direct the Council's attention to the fact that in the Fire Brigade Ordinance there is provision for consultation with local authorities so as to fix charges for the upkeep of the Brigade. Furthermore, I would say that this very consultation is only to be a courtesy, though I feel that the Local Authority must have some right to agree or disagree. The Fire Brigade

[MR. BURNHAM]

Ordinance is not being debated here, and consequently I do not think it necessary to deal with it further, but the Government should not feel it was reasonable if the Georgetown Town Council were told it had to pay a charge without having had a say in the matter although, admittedly, under the law it would have to pay. I think the autonomy of the Local Authority should be preserved.

Mr. Benn: A local authority can only have so much power as the Central Government gives to it. It is proposed under the new system to give local authorities much more responsibilities and rights than they now have. But under this Bill Government seeks to avoid the Central Government taking considerable time going around consulting with all the various Local Authorities on the scale of fees and the amount that each Authority is to pay.

I would like it to be clearly understood that Government feels it is its bounden duty to improve Local Government in this country. Government does not want to stultify Local Government while steps are being taken now in accordance with the Sessional Paper which shows the intention of Government to give more power and rights to Local Authorities. The Government cannot accept the Amendment moved by the hon. Member.

Mr. Tello: I am disappointed with this reply because I cannot think of anywhere in this free world where one might expect to find people just going and delving into other people's treasury. Where in this free world can you find people agreeing to pay a cost in a mutual set-up without the two parties going into the matter beforehand? In the humblest manner I say that even if an agreement is not reached there should at least be the courtesy of consultation.

I quite agree with the hon. Member for Central Georgetown that there is need for even further amendment, but it is through the lack of that proviso that I intended to test Government. It is no

use Government giving more responsibility if it is denying an inherent right.

With the means to be employed by the Government through this Bill, it is going to frame its expenditure in relation to the revenue of the Local Authorities. Government would be deciding their expenditure for them. I had really thought that this provision was an oversight, and I must ask the hon. Minister to give further consideration to this matter.

Mr. Jackson: May I appeal to the hon. Minister to reconsider his attitude in this matter. In these modern days there is always the right of consultation in all fields. One admits that the Government or the Governor in Council is a body which is superior to a local authority, and that the latter will have its existence at the will of the Governor in Council, but that is no reason why there should be that degree of dictatorship which this Clause seeks to introduce. In all parts of the world where there are democratic institutions one finds that there is consultation with local authorities on matters that affect them, rather than the imposition of this form of dictatorship.

The Financial Secretary (Mr. Essex): The crux of the matter is this: First of all the expenses of the valuation throughout the country should be paid from a vote of this Legislature. In other words, this Council will vote the cost of the valuation, but as the intention is that as the service is provided for local authorities they should meet the cost of it. If the Government decides that some particular local authority cannot meet its fair share of the total cost then obviously the Government would give some sort of financial assistance to that particular authority. I cannot see that there is any point in consulting with every one of the local authorities and deciding what its share of the total cost will be. One must assume that the Government will have enough commonsense to have an equitable basis which would be fair to all local authorities.

Mr. Burnham: I would like to make two distinct observations on this matter. The Interim Government, a nominated Government which was not responsible to the people, decided in March, 1957, that on a similar question local authorities would be consulted before certain charges were fixed. The Financial Secretary has treated us to argument which smacks of sophistry rather than reason, because he was a Member of the Government in 1957. Why did he not use the same argument in respect of the Fire Brigade?

On the question of greater responsibility being granted to the local government agencies, of which we hear so much. I think that for undertaking of greater responsibility the local authorities must get grants from the Central Government instead of having this complicated system of accounting and the valuation officer having certain of his expenses met by the local authority and then later on the Central Government making a grant to the local authority. Let us cut out entirely the contribution by the local authority to the expenses of the valuation officer, and take account of these expenses when the allocation of grants comes to be considered. Let us have a clean sheet instead of a lot of book entries, and the Council being reminded *ad nauseam* of the superiority of the Central Government.

In the circumstances I would like to move the deletion of Clause 27 altogether, and I do not see that there is any flaw in my argument, because we have been assured by the Minister that we want to give local authorities greater responsibility, and that Government is going to give them grants-in-aid. Therefore, do not let them pay, but debit the expenses to the contributions to be made by Government. It is perfectly logical and reasonable.

Mr. Benn: However reasonable and logical to the hon. Member, Government does not accept the suggestion.

Mr. Burnham: Even when the Attorney-General gives an unconvincing

reason for rejecting a suggestion he attempts to give a reason. He does not adopt the attitude of the Minister in charge of this Bill who merely says "I say so, therefore it is so".

Mr Benn: Because what the hon. Member is suggesting is contrary to the basic principle of Local Government.

The Financial Secretary: The argument is that it is the principle that local authorities should pay their just dues towards the cost of the administration of this valuation system. If in practice it is found that is not financially possible for any particular local authority to meet its just dues then the Central Government makes a grant to it, so that its revenue equals its expenditure, but the first essential is to make sure that it pays what it is supposed to pay.

Mr. Burnham: If you are going to give local authorities responsibility for social and educational services, as proposed in the Marshall Report, where in the world can a local authority find the money to carry out such services? In at least one part of the modern world I know of, the basic principle, as I understand it, is that Government decentralizes its services and gives responsibility to local authorities, and as a consequence pays part of the expenses.

Mr. Benn: I would like to direct the hon. Member's attention to a very useful editorial in today's "Daily Chronicle" on the same subject of grants for social and educational services of which he speaks so glibly.

Mr. Burnham: Were the occasion more frivolous I would have been glad to hear the Minister refer me to the "Chronicle", as I would have referred him to the cartoon in that newspaper. I am not interested in being taught local government by "The Daily Chronicle". I understand the "Chronicle" to be a newspaper not an authority on local government.

Mr. Rai: This does not seek to

[MR. RAI]

take anything away from a local authority but to assist a local authority by way of contribution. The Central Government may have to make contributions in the operation of this legislation, and I really cannot see the reason why certain hon. Members are opposing the provisions of this Bill, by which the Central Government is trying to assist local authorities in general to bring about a uniform system.

If the Amendment moved by the hon. Member for Georgetown North (Mr. Jackson) were carried it would mean that the Central Government would have to consult over 94 local authorities, which would be impracticable. As has been pointed out by the hon. the Financial Secretary, under this Clause local authorities may very well qualify for contributions from the Central Government.

Mr. Burnham : I do not understand how 94 local authorities will have to be consulted, because in the Marshall Report 94 local authorities are not proposed. Perhaps the hon. Member is giving us an insight as to what his Government has decided on, or he has not read the Marshall Report.

The other point is that Government is trying to assist local authorities with respect to certain expenses. I cannot see that. It is the height of sophistry, because the expenses of valuation are the expenses of the Central Government as set out here. What the Minister says is that the Central Government, in carrying out the valuation, is placing at the disposal of the local authorities certain services for which they should pay, and it is not understood here that Government is assisting them by paying some of the expenses. They are asked to pay their share of the expenses. It is somewhat unusual that they should pay the expenses of an agent whom they do not appoint. It is a little strange, and contrary to what we lawyers understand to be the law of agency, and the hon. Member for Central Demerara (Mr. Rai) is a lawyer. I still cannot see why Government cannot undertake the full expenses and debit whatever grants are

to be made to local authorities. Can the Financial Secretary tell us which local authority in the United Kingdom does not get a grant from the Central Government?

The Financial Secretary : I did not say that a local authority will not get a grant. I said that a local authority is expected to pay, as far as possible, its share of the cost of administration of the valuation system, but if a local authority is unable to meet its share it will get a grant-in-aid.

Mr. Burnham : If there is no local authority anywhere in the world, even in the highly developed countries where the avenues and possibilities of income are more numerous, which can carry the responsibility for social and other services, why does this Government continue to enunciate the pay principle in this country?

The Financial Secretary : In a developed country the major services are supported on a uniform basis. Take Fire Brigades in the United Kingdom for example. A local authority pays a quarter of the expenses. What I am enunciating is the principle which is adopted in countries where there is a remarkable disparity between the financial resources of different local authorities, and where some local authorities need more assistance from the Central Government than others. That is why we want a uniform basis of valuation, to make sure that nobody is getting away with anything. This is simply a part of a uniform system of payment.

Mr. Burnham : What is the reason for a uniform system of payments when they have to pay back the money? Apparently the system of cross accounting is not at a premium. Probably we want a Government adviser here on efficiency.

The Chairman : The question is, that Clause 27 be deleted.

The Motion was negatived.

The Chairman : The question is,

that the words "after consultation with the local authority" be inserted between the words "Council" and "shall" in the first line of Clause 27.

The Council divided and voted as follows :

<i>For</i>	<i>Against</i>
Mr. Davis	Mr. Tasker
Mr. Tello	Mr. Hubbard
Mr. Jackson	Mr. Ajodha Singh
Mr. Campbell	Mr. Saffee
Mr. Burnham—5.	Mr. Rai
	Mr. Bowman
	Mr. Beharry
	Mr. Benn
	Dr. Jagan
	The Financial Secretary
	The Attorney-General —
	11.

The Motion was negatived.

Clause 27 passed as printed.

Clause 28.—*Use of local authority premises.*

Mr. Tello : I beg to move the deletion of Clause 28 (3), because it gives the Commissioner of Local Government power to decide whether a request has been unreasonably refused. This is a gross insult to responsible people who are running such organizations as local authorities. Clause 28 states —

- "(1) The valuation officer may request the use by him of premises belonging to the local authority and the authority shall not unreasonably refuse the request.
- (2) The chairman of any local valuation panel may request the use of premises belonging to the local authority for a meeting of the local valuation panel or of any local valuation committee constituted from members of such panel or for the use by himself or the clerk of the panel and the authority shall not unreasonably refuse the request."

Why should the Commissioner of Local Government be asked to determine whether the request has been unreason-

ably refused? I thought the proper authority to decide whether the request was unreasonably refused would be the local authority itself. Why should a third party, who is not sufficiently closely associated with the day to day working of the local authority, be asked to give an arbitrary decision as to what is an unreasonable refusal? To add insult to injury provision is made in the law to prevent the local authority from charging for the use of the premises.

I think the provisions in this Clause will be doing an injustice to local authorities, and that Government is going out of its way to take away certain ordinary, human and traditional rights from people who have been doing a good job. Why should these refusals be referred to an arbitrator who has no intimate knowledge of the working of local authorities?

The Attorney-General : The Clause which seems to be objected to by the "Opposition" is similar to corresponding legislation in the United Kingdom where it has been found from past experience that a request for the use of the premises should not be unreasonably refused. An arbitrator is also provided for in the English law.

Mr. Burnham : Who is the arbitrator?

The Attorney-General : A Minister. It seems to me to be following democratic practice to have an arbitrator.

Mr. Burnham : Some Members on the other side of the Table are thinking in terms of Chapter 150 and not in terms of the Marshall Report. The Commissioner of Local Government is a big post, but I am thinking of established local authorities with autonomous status. Why should the Commissioner of Local Government, a Civil Servant, be made an arbitrator in matters relating to local authorities? I would prefer to see a Minister substituted for the Commissioner of Local Government in this instance.

Mr. Rai : I am in agreement with

[MR. RAI]

my hon. and learned Friend. I think the arbitrator should be either the Minister of Local Government, or the Member of the Executive Council who, for the time being, is the holder of the portfolio of Local Government.

The Financial Secretary: Why is the hon. Nominated Member (Mr. Tello) objecting to the entire Clause?

Mr. Tello: I do not know whether the relations between the Commissioner of Local Government and the local authorities are sufficiently good to make him a proper person as an arbitrator in such matters. I think it would be lowering the status of the local authority to have this officer as an arbitrator. Possibly I would accept an Amendment by the substitution of the "Minister" for the "Commissioner of Local Government".

Mr. Jackson: We have been told all along that this Bill was based on corresponding legislation in the United Kingdom. I am a layman and I do not know what is the legislation in the United Kingdom. I shall be grateful if the hon. Attorney-General would explain what takes place in the United Kingdom. This matter should be explained to us so that we would know exactly what is taking place in the United Kingdom.

This Clause refers to the local authority refusing to make available its premises for certain purposes. You have two negatives in a subsection which seem to infer that the local authorities are not compelled to do certain things.

The Attorney-General: It seems to me that the objection to the Clause is not on the point of the right of appeal, but to the person who has the power of deciding whether the local authority has unreasonably refused a request to loan the premises. That is the issue for the arbitrator to decide. I beg to move the deletion of the words "Commissioner of Local Government" in the third and fourth lines of subsection (3) and the substitution of the words "Member of the Executive Council for the time being

charged with the responsibility for Local Government" therefor.

We have had the argument before in so far as the Minister of Local Government is concerned, because the time may come when he will have other duties to perform. Indeed the present designation of the Minister of Community Development and Education does not refer to Local Government. I think it would be more appropriate to include that form in the whole.

Mr. Tello: In practice I do not think it will work. If you had a disagreement in Essequibo and the hon. Minister in charge has not visited there in the last four months, it means that matters will have to be looked after by letter correspondence and telegram or solely by letter, and perhaps by the time a decision is reached the use of the source will not be necessary any more. That was my only objection.

Firstly, the Minister in Georgetown is always all over the place and sometimes cannot be found, and so it would be better if we make it specific. Secondly, I feel we are too anxious to anticipate an unreasonable request. Thirdly, I do not think we need this piece of legislation at all.

If this is going to succeed as an Ordinance it will need the goodwill of the Local Government as well as the Central Government, and if you are going to get the backs of the local authorities up against you by making arrangements for compulsory arbitration — although we are declining requests for compulsory arbitration in other fields — it will not be the best thing, and you should give it second thoughts.

While I agree with the principle, still I think that by allowing the Minister in his right to see things run smoothly, he will have the opportunity to conciliate rather than arbitrate.

Mr. Burnham: Merely delete the words "Minister of Local Government", substitute the word "Minister"

and then define "Minister" in your definition Clause. Why not use the word "Minister" here? And use a little bit more energy and define "Minister." I see the Financial Secretary shaking his head. Instead you want to put in this long phrase — "Member of the Executive Council for the time being charged with the responsibility for Local Government. Look in any English Act and you will see the word "Minister" in similar circumstances, and "Minister" defined in the definition clause. Do the same thing here.

The Attorney-General: The constitution of England is not on all fours with the constitution here

Mr. Burnham: What a pity.

The Attorney-General: I do not wish to enter into a long argument on a constitutional point. But there is a constitutional reference to a Minister in so far as it says, a "Member of the Executive Council for the time being charged with the responsibility for Local Government." There is a difference between that reference and the legal status of a Minister, and this particular point was raised some time ago in another debate and Members accepted the position.

I know that my hon. Friend realizes my position and therefore he has to argue against his better judgment. He also, I hope, agrees that having regard to the nature of my responsibilities I am going as far as possible to meet his wishes and the wishes of other Members of this Council. There is a constitutional issue that will bedevil this legislation, if it is pursued. The present Amendment does meet, as far as possible, the situation.

Mr. Burnham: The hon. the Attorney-General and I are *ad idem*. All I am saying is, instead of defining it here, in Clause 28 (3), define it elsewhere, so that when we see the word "Minister" we would know it means "Member of the Executive Council for the time being charged with the responsibility for Local

Government. It offends my aesthetic sense to see it defined in this subsection.

It may well be that in another year or two they may not be called "Ministers"; they may be called "Commisars" or "Friends", but all it means when we say it here is the Member of the Executive Council who is for the time being charged with the Portfolio. We are using a word and we are telling you what it means by defining it in Clause 2. I believe the hon. Member sees my point and does not really disagree with me.

The Attorney-General: If I may say this, my Learned Friend appears to be Dr. Jekyll and Mr. Hyde, for, as usual, he is punctilious and scrupulous to observe the law in its nicest form. I think he will appreciate the point I am trying to make, that for other non-legal reasons, this is to step over the bounds of Constitutional provisions, and since "Minister" is, as it were, a term of art, instead of a legal office, I would suggest that he does not press the Amendment.

Mr. Burnham: It is taking too long.

Mr. Tello: I withdraw my Amendment.

Mr. Burnham: I have not heard my hon. and Learned Friend, the Member for Central Demerara, on this particular point.

The Chairman: The subsection, according to the Amendment proposed by the Attorney-General, would then read:

"(3) Where a request is made under subsection (1) or subsection (2) of this section, any dispute as to whether the request has been unreasonably refused shall be determined by the Member of the Executive Council for the time being charged with the responsibility for Local Government."

Question put, and agreed to.

Subsection (4) passed as amended.

Mr. Burnham: May I make an

[MR. BURNHAM]

inquiry with respect to subsection (4) of clause 28? It says —

“Where the premises are made available under subsections (1) and (2) of this section, the local authority shall not make any charge for the use of such premises.”

Why has it to be there—no charge shall be made? If you make provision for the Local Authorities to be charged under Clause 27, why should no charges be made under subsection (4) of Clause 28. It was the same thing I was saying about this piecemeal thing — hither and thither. Let us have one sole means, and then making the decisions would be a matter of internal arrangement.

The Financial Secretary: I think it is only commonsense to provide that where it will not come from their own resources, they should be charged for it, but if they can provide surety from their own resources they should, and to avoid having to pay.

Mr. Burnham: Is that the authoritative answer of the Government? If you are going to make them contribute, let them have a notion of the charge, otherwise you will never be in a position to say what the valuation will cost. That is why the Government continues to be incompetent. You ask them about anything and they cannot tell you.

The Financial Secretary: Is the hon. Member suggesting that we should now go into depreciation charges on the building and work out a fair rent? I am sure this House does not want to go into these details.

Mr. Burnham: I am not so sure about the hon. Member's words, “this House.” He means that part of the House. This House means everybody in this House, and I am part of this House, I am still part of this House, I will have the Financial Secretary understand.

The Financial Secretary: I would suggest Sir, that the wishes of the House be ascertained.

The Chairman: I made three attempts to put the question.

The Financial Secretary: I am sorry, Sir.

The Chairman: But I did not deprive Members of their right to speak, otherwise I shall not be exercising the proper functions of my office.

Question put, and agreed to.

Clause 28 passed as amended.

Clause 29.—*Notification of new buildings, alterations, etc.*

Mr. Burnham: I move the deletion of this Clause as being worthless and meaningless. It is trite law that you cannot impose a duty without providing some sanction. There is no sanction in this Clause; it is a waste of paper and printing.

The Attorney-General: I am surprised that the hon. Member has raised that point as he is so intimately concerned with local government and should realize that it is in the interest of a local authority to bring to the notice of the valuation officer any information on which the valuation list should be amended, particularly if it will enable a higher rate of revenue to be earned.

I think that the fact that no sanction is incorporated in this Clause does not make it useless. It draws the local authority's attention to the position, and if it failed in its duty no one would dream of penalizing a local authority for its failure. It is not the same as dealing with an individual; it is between one arm of the Government and the other.

It sometimes seems to me that it is thought that a local authority is a chartered company which can carry on as it will without interference, but in point of fact a local authority is merely an arm of the Central Government, and between members of the same family it is quite adequate for the senior member to say to the junior member “It will be

your duty to do so and so in such and such circumstances."

Mr. Burnham: The hon. the Attorney-General has observed, quite rightly, that it is in the interests of any local authority to take notice of any alteration with respect to any property within its limits. I agree with him, but what is the sense of a pious expression that "it shall be the duty"? Posterity reading this Clause will say that the Legislature of British Guiana used to make pious expressions in legislation, such as used to be done in times of Henry I.

If it provided some power of surcharge or some penalty I could understand, and I would have said that a local authority was being treated as a responsible body. I wonder whether the Attorney-General will tell us if there is any English Act, but even if there is I will not say that it is a good precedent.

The Chairman: I shall put the Question. The Question is, that Clause 29 be deleted.

Motion negatived.

Clause 29, put, and passed as printed.

Clause 30.—*Service of notices.*

Mr. Burnham: There is one minor objection to Clause 30—that service by post is sufficient service. I feel that it should be service by registered post. In other words, there must be proof of service, because very frequently in the Courts some subordinate policeman says "This is a copy of the letter that was posted", but the addressee, who has no reason to lie, says he never received that letter. I move that the word "registered" be inserted before the word "post".

Mr. Benn: I consider it a most useful Amendment.

Clause 30 was amended by the insertion of the word "registered" before the word "post" in paragraphs (c) and

(e) of subsection (1) and in the last line of subsection (3).

Clause 30, as amended, put and agreed to.

Clause 31 passed as printed.

TEA INTERVAL

Council resumed, and the sitting was suspended at 4.30 p.m. for a tea interval.

LOCAL GOVERNMENT (VALUATION OF PROPERTY) BILL

RESUMPTION

Council resumed consideration of the Bill intituled:

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

COUNCIL IN COMMITTEE

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

Clause 32.—*Evidence of lists to be proved by copy thereof or extract therefrom certified by valuation officer.*

Mr. Burnham: I have not yet formulated my proposed Amendment to this Clause. As I see it, it is not clear whether the certified copy or extract of the list is going to be final proof or *prima facie* proof. I am sorry that the hon. the Attorney-General is not in his seat at the moment. I, personally, feel that it should be *prima facie* proof rather than irrefutable proof. This is purely a technical matter, and I would ask the permission of this Council to reserve this Clause until the Attorney-General returns and I have discussed it with him.

Question put, and agreed to.

Clause 32 deferred.

Clauses 33 and 34 passed as printed.

Clause 35.—*Performance of duties not to be a disqualification.*

Mr. Burnham: I agree with this Clause, but there are two points to be considered seriously. What happens if any of these persons is interested? While I see that there is specific provision for precluding such a person from taking part if he is strictly interested in the particular property, it is the subject matter of a petition and/or appeal. I do not know whether we are going to rely on the legal maxim: "No one ought to be judge in his own cause." There seems to be a hiatus in the Ordinance, because it does not state specifically that they shall not take part.

In the Georgetown (Valuation and Rating) Ordinance, Cap. 154, there is specific provision making it incompetent for anyone who is personally interested, or a company in which that person is interested to take part in any assessment. I think we can do nothing better than to insert a substantive Clause to that effect and make provision for cases where the valuation officer or any particular member suffers from incapacity.

The Attorney-General: The answer to the point raised by my hon. and learned Friend, is that it is contrary to natural justice to allow anybody to preside, or to take part in proceedings in which he is interested. If such a case went to the Supreme Court, it would be proper for the Supreme Court to rule that it was contrary to the principles of natural justice and a writ of *certiorari* would probably be ordered to quash the proceedings. Indeed the wording is rather on the same lines as that of the Local Government Act in 1948 which says that "certain persons shall not be disqualified." It does not say that people who are interested "shall be disqualified". I think we could leave it to the law of the land. I am not sure whether my hon. Friend actually moved an Amendment to the Clause.

Mr. Burnham: I did not move an Amendment, I merely pointed out that

no provision was made for the valuation officer.

I ask to be excused, Mr. Chairman, for a moment.

The Attorney-General: I beg to move the deletion of the words "The Valuation Officer, or" at the commencement of Clause 35. The reason for that is that the valuation officer may own property. He will be the key figure, and it would be impossible and not right to include him. He is an official, and to say that he cannot have anything to do with property which happens to be his, prevents the law from being fulfilled. I think that the valuation officer would, probably, take good care not to under-value his property for rating purposes. That is the Amendment. So the Clause would begin with —

"A member of the local valuation panel . . ."

Mr. Burnham: I will say this, that having regard to what the Attorney-General said before, with which I agree, with respect to the law of the principles of natural justice, taking out "Valuation Officer" here does not help.

But it does seem to me that the Attorney-General does not anticipate incapacitating, so to speak, the Valuation Officer where dealings with his own property are concerned. That is why earlier in this Bill I was moving an Amendment to substitute the word "an" for "the" in the definition of Valuation Officer, because I anticipated possibilities like this. In which case, if you had more than one Valuation Officer, all you have to do if the Officer 'A' is interested in a property in this area and this property is subjected to valuation dispute is to send Valuation Officer 'B' to carry out the duties of Valuation Officer there. We heard from the Minister that a competent person will be appointed as Valuation Officer.

That part of the discussion is past. We expect he will be a competent person,

but what we are asking the Minister to do is to make provision for circumstances likely to arise under Clause 35. At least there should be two Valuation Officers and the Valuation Officers should be competent. That is why I feel it is necessary to have more than one Valuation Officer from the beginning. I hope I have made myself clear.

The Attorney-General : The hon. Member has made himself clear, and no doubt it is an argument to do with such circumstances. But the Government has thought fit to deal with the problem in another way, namely, to have one Valuation Officer, because only one Valuation Officer is required for 90% of the time and it will probably be a waste of money to have more than one.

He is an administrative officer and the normal rule will apply to him, that is, if he is not able to act, someone else will be appointed to act for him, and I imagine no harm will result. So that the question of having more than one Valuation Officer cannot be accepted.

Now the point in connection with the Amendment which I moved is that he is an official: he is not a member of the public who is a member of the panel. He is an official and in this particular case he must be able to deal with all properties including one which he may happen to own himself. It is extremely unlikely that he will use the peculiar position in which he finds himself to his own advantage, and I suggest that the Valuation Officer should be in the position as stated.

Mr. Burnham : That does not take care of this, because Clause 35 deals with removing any possible incapacity so far as a property on the same list is concerned. Whether you take out the words "Valuation Officer" or not, the principles of natural justice are going to operate. If, however, the Attorney-General believes that by taking out "Valuation Officer" he can then deal with property in which he is interested, then I will say he is mistaken on his earlier submission that the principle of

natural justice will operate against such things.

So it seems to me that the Attorney-General's Amendment is pointless. It does not achieve anything. It may be well to leave it in, otherwise the rules of natural justice will spread so far to a person who owns property in the same list. I cannot see the point of the Amendment.

The Attorney-General : Probably the best thing to do is to carry on with this Amendment and delete "Valuation Officer", or add a new subsection to the effect that the Valuation Officer shall not be incapacitated on acting in any proceedings, appeal or otherwise, in relation to any property, even his own; because he is in an almost unique position. He must obviously carry out his duties of jurisdiction over all property including any that may be his own, because it is ridiculous to say we must have another Valuation Officer to deal with his property. It would not be practicable; so I think if we can deal with that on that basis, then I will move another Amendment, a subsection dealing with the Valuation Officer.

The Chairman : To the same effect?

The Attorney-General : Roughly to the same effect.

Mr. Burnham : I am little concerned about that. If the Legislature said that the man is competent to deal with his own property, no rules of natural justice can apply, but if the Legislature has thought fit to make it a ground of appeal under Chapter 27 where a Magistrate is personally interested in a matter, I do not see why we should treat the Valuation Officer differently from the Magistrate; because there is the presumption that the Magistrate, being legally trained would benefit from his knowledge if he is personally interested. If our Legislature way back in 1929 thought it fit to make a Magistrate incompetent to try a matter in which he is personally interested, I shall be a little loth to allow a Valuation Officer to deal administra-

[MR. BURNHAM]

tively with property in which he is personally interested.

As I see it, it would be better to appoint another Valuation Officer *pro tem*.

The Attorney-General: Well, the position is this: the Valuation Officer really only performs administrative acts, and not judicial ones. His valuations are always subject to appeal, and when an appeal goes before the Local Valuation Committee in order that it may be determined whether his valuation is fair and just, it is at this stage that a judicial function is performed.

Indeed, since his valuation is subject to appeal, one can almost say that the original valuation is a matter of administration. Therefore we can say that even though he does own property, his interest is such as would be covered by the rule of natural justice, that a person who is interested should not be taking part in judicial or quasi-judicial proceedings.

Mr. Tasker: I cannot follow the Attorney-General on this one. Yesterday I referred to this Clause and I pointed out that in Clause 25 it is implied to be the Valuation Officer, though not in fact said, even if he were personally interested. I questioned whether that went far enough, and the Attorney-General moved an Amendment today removing the words "grounds of" and leaving the word "objection", so that an interest on the part of the Valuation Officer may be brought forward as a ground of objection, although not a disqualifying objection itself. Now he is going further to imply a sanction. To the layman, this is to weaken the theory we tried earlier to strengthen.

The Attorney-General: What I said was, the fact that his valuation was subject to appeal in a way weakened it as a judicial act and made it almost an administrative one. I did not say categorically, an administrative act. We do not want to create a position which, on reflection, is clearly contrary to esta-

blished rules, and I would therefore ask leave to consider the matter further because this is one of the occasions where one can act at haste and repent at leisure.

Agreed to.

Clause 35 deferred.

Clause 36. — *Assessment of Crown and Colony property.*

Mr. Burnham: The proviso to Clause 36 reads:

"Provided that, in exercise of any duties under this section, the said Director shall not be liable to incur any penalty imposed under this Ordinance."

I desire to move an Amendment to insert the word "personally" before the word "liable", because I feel that the result of this proviso may well be that the owners of Government property will not be subject to penalties, but the tendency in these days is to make the Crown liable. Although I appreciate that the Director shall not be personally liable I think it should be made perfectly clear that all owners of land are liable to penalties. Of course the prosecution of the penalties will be a matter of discretion.

The Attorney-General: It will be taking from one Government pocket and putting it into another.

Mr. Burnham: When I drew Government's attention to the fact that it was taking from one Government pocket and putting it into another under another Clause I was told something else.

Amendment put and negatived.

Clause 36 put, and agreed to.

Clauses 37 and 38 passed as printed.

Clause 39. — *Power to make regulations.*

The Attorney-General: I beg to move that Clause 39 be amended by the

deletion of the words "and such regulations shall have effect as if enacted in this Ordinance" at the end of the Clause. As hon. Members will understand, this Amendment is related to another Amendment that will be moved to provide that any regulations made shall be laid before the Legislative Council.

Amendment put, and agreed to.

Clause 39, as amended, put and agreed to.

New Clause 40. — *Regulations to be laid before Legislative Council.*

The Attorney-General: I beg to move that a new Clause be inserted as Clause 40 in terms of the schedule of Amendments which has been circulated. The new Clause reads:

"40. (1) All regulations made by the Governor in Council under this Ordinance shall be laid before the Legislative Council within fourteen days next after they are made if the Council is sitting on the last day as aforesaid, and if the Council is not then sitting or constituted within fourteen days after the commencement of the next ensuing sitting.

(2) If, within twenty-one days after the regulations are laid before the Legislative Council, a resolution is passed by the Legislative Council that the regulations or any part of them be annulled, they shall thereby be annulled to the extent set forth in the resolution, and the regulations, or part thereof, so annulled shall thenceforth become void and of no effect but without prejudice to the validity of any action in the meantime taken under the regulations, or part thereof, as the case may be.

(3) Any regulations, or any part thereof, which have not, within the period of twenty-one days after they are laid before the Legislative Council, been annulled by resolution of the Legislative Council, shall have effect as if enacted in this Ordinance."

I am grateful to the hon. Member for Georgetown North for having raised this point. There is precedent for the provision in Clause 39 as originally drafted, but in these days I do not think it is necessarily wise to take it as a model, as the general procedure is that

regulations should be laid before the Legislative Council in order to give Members an opportunity to comment on them and suggest any alterations that may be desirable. The new Clause is modelled on the corresponding Section of the Representation of the People Ordinance passed in 1957, and it is standard form.

New Clause 40 put, and agreed to.

Clause 40, as printed, renumbered as Clause 41 and passed.

Clause 41, renumbered 42. — *Prosecutions.*

Mr. Burnham: I move the deletion of the words "two hundred and" in the fifth line of subsection (2) and the substitution of the word "two" for the word "three" in the last line.

The Attorney-General: Under the existing system the general penalty for such offences committed in Georgetown is two hundred and forty dollars or three months' imprisonment. I do not think that any very good reason has been given to show why it should not be increased by ten dollars to two hundred and fifty dollars or three months.

Mr. Burnham: The last remark of the hon. Attorney-General is rather interesting. One reason is that the present system in Georgetown is satisfactory, and we do not see why the unsatisfactory system that the Government is trying to impose on people should carry a heavier penalty. The more important reason is that, when we were dealing with Clause 9 (2) which provides the penalty for persons wilfully delaying or obstructing the valuation officer in the exercise of his duty, the hon. Attorney-General made me seem reactionary by proposing an Amendment of "fifty dollars" in place of "five hundred dollars". I would have suggested \$200. Now that Clause 42 provides a penalty of "two hundred and fifty dollars" the hon. Attorney-General is suggesting something else.

I would say that if it were necessary

[MR. BURNHAM]

in 1942 when the Georgetown (Valuation and Rating) Ordinance was passed to fix a high maximum penalty, experience has found that such offences are not frequent and it is not necessary to impose such a high fine as a deterrent. I would like to know why the hon. Attorney-General accepts fifty dollars for the offence of obstructing the valuation officer, and for other offences which are minor and frivolous he wants to have two hundred and fifty dollars? He need not tell me that £50 is prescribed in the English Act because I am not interested in that Act at the moment. According to Arithmetic, if \$500 is reduced to \$50, then \$250 should be reduced to \$25.

The Attorney-General: I am not ashamed to say that we are trying to follow the U. K. legislation as closely as possible. This system has been working satisfactorily in the U.K. and we do not want to get out of line more than is necessary for the purpose of adopting the law to meet the conditions of this country. I move the reduction of the penalty for obstructing entry by the valuation officer because in the English Law it is £5 or very much less than what I understood was the general penalty. That does not mean to say that because there is a lower penalty in one section of the Bill the general penalty must be lower still.

I am sure the hon. Member is aware that there are various offences which can be included which may very well merit a penalty in excess of \$50. I would say that imprisonment was a far greater penalty than a fine. I cannot accept this Amendment, although I have no doubt that it was made with the best intention.

Mr. Burnham: I am afraid that I cannot accept the hon. Attorney-General's explanation. We are all rational beings, and the mere fact that in the United Kingdom the penalty is £50—

The Attorney-General: I am sorry to interrupt the hon. Member, but he seems to have forgotten that the Georgetown (Valuation and Rating) Ordinance says two hundred and forty dollars.

Mr. Burnham: It is true that our money has been devalued. We now have a new valuation table. In British Guiana \$5.00 is equal to £1. Merely because in the United Kingdom the penalty is £50 you should increase it here? When it was £5 in the United Kingdom why did you say in Clause 9 (2) that it should be \$50 here? It is known to everyone of us that a charwoman in London can work for £15 a week, but very few women in British Guiana work for £15 a week. When the penalty is lower in the United Kingdom you make it higher here, and that sort of thing seems to be ridiculous.

I am of the opinion that it is high time this Government shows more originality and not act slavishly copying English legislation so far as penalties are concerned. I ask the Elected Members of this Council to support me in this matter. Why not pass a general Ordinance stating that only Bills based on the United Kingdom legislation should be passed here.

The Attorney-General: I did not say that. I merely said that this Bill is similar to legislation in England which has been tried and found to work satisfactorily. The cost of living here is not very different from the cost of living in England. It is only reasonable that we should have some basis to work on.

Mr. Burnham: Let us work on the basis of corresponding penalties. There is a lot of difference between the cost of living in British Guiana and the cost of living in England. Tell me which worker in British Guiana can go on strike because he is getting only £15 a week! If he is getting £15 a week he will be an employer, but in the United Kingdom workers can go on strike because they are getting only £15 a week. It is nonsense to say that if the penalty in England is £15 it should also be £15 in British Guiana.

The Attorney-General: Why did you not raise the matter earlier?

Mr. Burnham: I should have raised

it earlier but I think we are still in Committee stage.

The Attorney-General: You say that the earning capacity in the United Kingdom is different from that of British Guiana but you were willing to add another ten dollars on the penalty in another Clause.

Mr. Jackson: While it is true that most of these things obtain in the United Kingdom, I think Members of this Council are here to deal with matters appertaining to British Guiana. We feel that the penalty in this Bill is too high, having regard to our financial circumstances.

The Attorney-General: What about your conscience?

Mr. Jackson: The people who have to worry about their consciences are sitting at your side. I am here to take care of the people who may be involved in this matter.

Mr. Burnham: It should be noted that failure to comply with the provisions of the Ordinance is an offence, and the penalty here is one hundred dollars more than it is in England. Is there any reason for this?

The Chairman: The question is, that the words "two hundred and" be deleted in line 5 of Clause 42 (2).

The Committee divided and voted as follows:

<i>For</i>	<i>Against</i>
Mr. Tello	Mr. Tasker
Mr. Gajraj	Mr. Hubbard
Mr. Jai Narine Singh	Mr. Ajodha Singh
Mr. Jackson	Mr. Saffee
Mr. Campbell	Mr. Rai
Mr. Burnham — 6.	Mr. Ram Karran
	Mrs. Jagan
	Mr. Beharry
	Mr. Benn
	Dr. Jagan
	The Financial Secretary
	The Attorney-General

— 12.

Did not vote

Mr. Davis — 1.

Motion negatived.

The Chairman: The Motion is therefore lost. I shall put the other part of it.

Mr. Burnham: I beg to withdraw the other part that was consequential.

The Chairman: The question is, that Clause 42 stand part of the Bill.

Agreed to.

Clause 42 passed as printed.

First Schedule.

The Attorney-General: Sir, I wish to move an Amendment to the First Schedule by substituting a new Schedule. I am sorry I have not had an opportunity to have it typed. It was worked out during the afternoon when the typists were gone.

I do not know if we can go on to the Second Schedule and then back to Clause 32; then when we are ready to come back to Clauses 19 and 35 we can take the First Schedule at that time.

The Chairman: If we are ready can we not go ahead?

The Attorney-General: My position is, we intend to move the insertion of a new First Schedule, and although it will contain two clauses that now exist, we think it is only fair to Members that they should know the two new ones and that they are not contentious.

The Chairman: You made reference to Clause 32 and Clause 35, and I get the impression you are ready to deal with those. If you are, then we will take them; if not, you can go on to the Second Schedule.

The Attorney-General: I am not ready with Clause 35, but we can go on with Clause 32, because it was referred to when I was out. Can we deal with Clause 32 now?

The Chairman: Yes.

Agreed to.

Clause 32. — *Evidence of lists to be proved by copy thereof or extract therefrom certified by valuation officer.*

Mr. Burnham : I do not know if anyone indicated to the Attorney-General what my remarks were on Clause 32. If no one has done so, they were that I would prefer to see such a certificate in a court of law *prima facie* rather than irrefutable evidence.

The Attorney-General : In order to save time: I do not know what the usual form is, but if it is not usual in this case, I think we should stick to the existing ones. It is a short point, but it is worth looking up.

Clause 32 further deferred.

Second Schedule.

Mr. Tasker : I beg to move an Amendment to Clause 4 of the Second Schedule by the deletion of the words appearing after the word "flooding" in sub-paragraph (v). I spoke on this during the debate on the Second Reading and I am raising it again now, because I received no answer then on the points I made.

Very briefly, they are, again, that while I recognize the factor of the availability of irrigation water can prove to be a perfectly sound principle in rating, the special problems in British Guiana are liable to make this a tax on the initiative of the farmer who by his own endeavours has increased the value of his land — by his own prudence, foresight and use of his own capital. This is likely to put him in a less favourable position *vis-à-vis* the man who has the benefit of Government works.

On soil fertility I have already argued that the Bill makes no provision for the principle of uniformity of which we have heard so much. How are we going to have uniformity in soil fertility? I did say that if it is necessary to include

soil fertility, can we not have a clearer basis laid down, such as the percentage of clay admixture which is used in the Rice Farmers Bill?

I was not given a reply on these points, and I beg to move the deletion of sub-paragraphs (vi) and (vii).

Mr. Benn : I heard the points of the hon. Member. It is true I did not reply to them in my reply to the debate on the Second Reading, but the availability of irrigation water is certainly a factor on which the value of land can be taken. I know that, but I think I read somewhere in Mr. Hutchinson's Report on Drainage and Irrigation of the availability of water to the different types of crops and the different charges that would be made for the supply of water. I feel that in view of that, it is a very important factor with regard to the valuation of land. In the same way that a piece of land, because of its position, because of its nearness to the centre of the City would be more in market value than a piece of land in Albouystown, in the same way land which has the benefit of irrigation water — as suggested in this Second Schedule — would be more valuable than land not thus facilitated.

On the question of soil fertility and uniformity in this respect, it is not very difficult to arrive at a conclusion as to soil fertility in various areas of the Colony where the soil is more fertile.

In 1952 a census was taken by the Agriculture Department and the information was very useful to the Government. I believe that in the same way a schedule can be worked out and used in order to carry out valuation of different types of land taking into consideration the soil fertility. So I very much doubt whether the Government at this stage can accede to the Amendment by the hon. Member.

Mr. Tasker : Did I understand the Minister to say that there would be a clearer definition under the Rules and Regulations to be made under this Ordinance as to the assumption of soil fertility? If that is the intention, then I will withdraw that part of my amendment.

The Minister of Trade and Industry

(Dr. Jagan): It seems to me that even if it is not specified here, the valuation officer will be guided by what the hon. Member referred to as the "census report" specifying the types of soil in the various areas. We know that in the case of the Rice Farmers (Security of Tenure) Ordinance the basic rental has been fixed according to the fertility of the soil in different parts of the country, and depending on the soil types in one particular area of the country. I am sure that any person who is competent and versed in valuation methods will take those factors into consideration, especially since a formula has been laid down in a previous Ordinance, such as the Rice Farmers (Security of Tenure) Ordinance.

Mr. Davis: When the Minister spoke I got the impression that where irrigation water is made available only as the result of the industry, perseverance and endeavour, to say nothing of the expense of the individual, an argument seems to present itself in support of what has been said by Mr. Tasker.

With regard to soil fertility the hon. Minister for Trade and Industry will readily recognize that that is one of the primary weaknesses of the Rice Farmers (Security of Tenure) Ordinance, because fertility sometimes greatly depends on the amount of fertilizer that is put into the soil. We know that there are certain areas where large quantities of fertilizers have been put into the land, and where there are large numbers of cattle which help to increase the fertility of the soil. Those are phases which must be carefully considered because this legislation will in due course affect the already harassed rice producers, and we have to be particularly cautious in seeing that justice is done.

Mr. Hubbard: I find it a little difficult to see the precise application of the concept of availability of irrigation water and the concept of soil fertility in a Bill which is designed to provide a system of rating of property by local authorities. We are not dealing with agricultural development, but the ques-

tion of rating of property by local authorities, and it would seem to me that those two questions do not fit into the picture. In any case I think it would be better to refer to the natural availability of irrigation water.

Dr. Jagan: I think the real point of these two subsections is being missed. Regardless of how much improvement can be brought about in lands by artificial manures or natural manures, there are inherently different soil types which are constantly experienced in this country. We have clay types and sandy types, and there are pegasse lands. Obviously, the question of fertility has something to do with the value of land.

I do not see how one can compare the back lands on the Essequibo Coast, which contain a great percentage of sand, with the fertile clay soils on the islands of the Essequibo River. Certainly there is a difference in the inherent fertility of those two types of soil. I concede the point made by the hon. Member when he said that soil fertility can be improved, but there is inherent in soil types a certain amount of fertility which must be taken into consideration as such.

With regard to the second point about irrigation water, the position is that Government is carrying out expensive drainage and irrigation schemes, and local authorities may also be expending large sums of money on drainage and irrigation. Certainly it is fair that a person who gets the benefit of such works either from the Government or from a local authority, as against one whose lands are not within that area, should pay a little more for his irrigation water. I do not see that there is anything inherently wrong in that. He is certainly at an advantage as against another man in an area where there is no source of irrigation water; for example the people from Palmyra to Fyriah who are completely cut off from water supplies and have to depend upon the sugar estates. Certainly we cannot compare the value of those lands with that of lands in the Block III area which are served with a full supply.

[DR. JAGAN]

The values of the lands in those two cases are certainly different. We are dealing with the general application of these two things.

Mr. Gajraj: I think the remarks of the Minister of Trade and Industry, and indeed some of the remarks of the hon. the Attorney-General earlier this afternoon, indicate only too clearly the view I have been holding during the debate on this Bill—that a measure of this sort which brings in a lot of new thoughts would have been better referred to a Select Committee so that both sides could have worked on it. However, that opportunity has passed. Listening to the hon. Minister of Trade and Industry it seems to me that his views are not very much different from those held by Members on this side of the Table, but those views are not expressed in the Clauses of the Bill before us, because the Minister speaks of the inherent fertility of soil.

We agree that in rating land we must not take into consideration the extra amount people will have to add to the soil by means of fertilizer, whether natural or artificial, in order to bring the fertility of the land up to the required standard. Those are the things we have to be guarding against, and if the Minister has in mind that the rating must be based in relation to the natural or inherent fertility in different types of soil, let us have it in words here, so that after we have done our job and it becomes the responsibility of others to translate it, they will do their job properly.

In regard to irrigation water I am fully with the Minister that if Government provides irrigation water by means of large schemes, that in itself will, for rating purposes, add to the value of the land. But we must not forget the fact that it is not only Government schemes that will be bringing irrigation water to the lands, because private owners have spent considerable sums of money to bring water from the back lands to irrigate their front lands and make them more productive.

Therefore, allowance must be made for that, but we do not see it in the Bill, and without some mention of it in the Ordinance when it is passed one can easily see that the translation of these words into executive action may result in a considerable number of appeals to the Court. We want to avoid these things if we can.

The Financial Secretary: I think we are mixing up two things. This Bill deals with valuation and not rating. If a man replaces at his own expense a wooden house by a concrete house he pays more in rates. It does not matter that he himself has paid for the improvement of his property. If a house or a piece of land becomes more valuable because someone has done something to it, the fact remains that it has more value, and that is what this Bill is dealing with. What a local authority does about the rating is another matter. We must not confuse the two issues. What we are talking about here is the method of determining what is the value of a house, agricultural land or industrial land, and whether it is based on capital development value or a rental value we still want a method which will determine the value.

Mr. Gajraj : That may be quite true, but let us not fail to realize that when we jack the value up so high are we going to suggest that when the Local Government Bill comes before us we shall so provide for a differential system of rating? In any case are we going to find that local authorities will rate a concrete house on a different basis from a wooden house? It is this fear that people have as to what will happen under the capital system of rating that is going to affect this country.

The Financial Secretary: How does that differ from the rental system? If you improve your land you can rent it at a higher rate. Whether it is a rental basis or a capital value, what difference does it make?

Mr. Gajraj : We do not seem to have the same point of view on this matter. It must be realized that whilst this

is a Valuation Bill it is valuation for the purpose of rating. I do not think we should forget that part of it. It is not just making out figures to show that the capital value of this Colony is so many dollars. If we are going to arrive at the capital value for rating purposes we have to take everything into consideration including the things the hon. Financial Secretary has been talking about. All we can do is to bring these points to the notice of Members of this Council and let them see what can happen.

The Financial Secretary : I would be very glad if the hon. Nominated Member would be good enough to explain exactly how these difficulties could be overcome, whether we are dealing with a rental basis or a capital basis.

Mr. Gajraj : This Bill has been presented to us by the Government, and we are here to criticize any proposal in it which we believe is not right.

Mr. Jai Narine Singh : I speak as one who is interested in land. The hon. Financial Secretary speaks as an official who sits in an office. Many estates on the Essequibo Coast have been sold because of what is called "irrigation water rights". Many of the proprietors are now considering the question of taking legal action against the Government because it has not made irrigation water available to them.

The people on the West Coast of Demerara are also complaining that Government has undertaken to give them irrigation water and up to now they have not been provided with it. Now you are introducing a new system for taxing people you are talking about the availability of irrigation water. I should like to point out that the mere availability of irrigation water in an area does not bring the water right on to the land. Even when Government makes irrigation water available, some farmers still have to spend thousands of dollars in order to take the water to their lands.

I had decided against taking part in the debate on this Bill, because the Members of the Majority Party may very well

hang themselves when this Bill is foisted on the people. I have taken special care to keep out of any debate on this Bill, because I know that it is not in the interest of the people in British Guiana. Let us be careful that we do not kill the goose that lays the golden egg.

The Chairman : It seems as though the hon. Member has now repented himself on that decision.

Mr. Jai Narine Singh : I feel that the wording of this Schedule is certainly not in keeping with what should be done to people who have lands and people who propose to take over lands. The question of mere availability of irrigation water means nothing unless the water can be taken to the land. I would like to know what Government proposes to do with its own lands. Is it going to lease lands to the people? Is it going to make irrigation water available as it has done in the big irrigation projects at Boerasirie? Is Government going to increase the tax on people? I think Government should make the lands available to the people in the same way as the project at Boerasirie has been carried out.

I am aware that irrigation water has been made available at Boerasirie, but the farmers are not in a position to bring the water to their lands. Government knows that it will cost thousands of dollars to take the water to all of the farmers. Irrigation water is not always used; it is only used once in every two or three years. Within the last two years we have had rather unusual weather, but by and large the people in British Guiana do not have to use irrigation water regularly. At some times we have as much as 90 inches of rain in British Guiana.

I do not think it is fair for Government to allow the words "availability of irrigation water" to remain in the Schedule. These words really mean nothing as far as the farmer is concerned. Because irrigation water is available it does not necessarily mean that the farmer will be able to improve his land.

[MR. J. N. SINGH]

I am sure hon. Members are aware that irrigation is normally available to the villagers who have made their own provision, and they get water without Government's assistance. However, there is no water in the East Coast today because something is wrong with the reservoir. Government must stand up to its responsibility. Will Government return the money to the people, or pay compensation to them for what has been done to their crops?

Mr. Davis : I am very unimpressed with the arguments made by the hon. Member for Georgetown South, particularly when he referred to Members on the other side hanging themselves by bringing this Bill here.

However, I want to join issue with the hon. the Financial Secretary in one small detail. He says that there must be a differential in value between the cost of a house built of concrete and that of a house built of wood. I think that is fair enough, but if there is any doubt about it we could always get a quantity Surveyor to go into the matter.

My point is that it is dangerous to arrive at a basis with regard to fertility of land when the land may have had an artificial complement in order to reach that particular state. I think it is dangerous to arrive at a basis when working out valuation which will naturally be followed by rating.

Mr. Benn : After hearing the hon. Member for Georgetown South I am quite certain that most Members who have also heard him are convinced that the availability of irrigation water was one very important factor that goes towards the valuation of land. The hon. Member spoke at length and asked if the people are going to be made to pay.

Land has greater value because of this factor stated in the Bill and the Local Authorities charge rates on it, but of course the Local Authorities or Government make available irrigation water for those lands, and the land is more valuable because of that.

Then one hon. Member spoke of the industries and of the endeavour of a person to improve his estate, and so on. Let us take as an example the sugar industry, which provides its own drainage. A Local Authority cannot charge the proprietors for drainage when the industry provides its own drainage. There will be a general rate and a drainage rate.

I think we are getting into the difficulty of mixing up what we are trying to do in this Bill. The hon. Member spoke of valuation for rating purposes and the rating which is the responsibility of the Local Authority. You have in Local Government a general rate which is charged on all property, and then you have a rate for irrigation, and in the whole system of Government you have a differential rate for different types of soil, and different provisions so that if a person by his industry and endeavour—like the sugar industry and the bauxite industry—provides his own drainage, that will be taken into account when the question of rating comes up. The questions of value of land because of the availability of irrigation is an entirely different thing.

I think that the Bill has honestly gone a far way in trying to give persons whom it will affect a clear idea of how the Valuation Officer and how the Local Authority will be able to value land.

Mr. Tello : It would appear first of all that the Government is not of one mind in this matter. The hon. Minister of Trade and Industry went out of his way to say there is such a thing as inherent fertility of land and also the presence of water and Government-provided water; but the hon. Minister of Community Development and Education seems to have confused the whole thing.

The point is, you are going to be rated on the market value—and it is freely admitted that if you embark on expenditure for a thorough irrigation scheme, it carries up the market value of your land—but there is nothing in the

Bill to say how it will be regulated or that there would be a differential in the rating applying to Government-provided facilities as against facilities provided by the investment of private capital.

The Financial Secretary argued what difference would it make where rental value as a term is used, or market value. Well, I am no expert on that, but the position is that I agree with the hon. Nominated Member, Mr. Gajraj, that this Bill is being passed solely for the purpose of rating, and the rating is to be related to market value.

I repeat that the average land owner or the average proprietor would await Government's programme for providing water for the land, because who will voluntarily invest large sums of money only to provide an opportunity for higher taxation on his land?

I am certain, having listened to those two Elected Ministers, that Government is rushing through this revolutionary matter without having given it enough thought. I am certain I understand the two Ministers quite clearly. One makes it quite clear that when we talk about water and fertility of land, allowances will be made for facilities provided by the land owner by his own expenditure. But the Bill does not say so, and I wonder if the Minister of Trade and Industry would move an Amendment to cover these omissions relating to natural water and Government-provided water and the question of inherent fertility and other fertility of the land. In that way, one would know what to expect.

Mr. Benn: Whether the water comes from natural sources or from another source it does not matter in relation to the value of the land. We are talking about valuation. The value of land in the Essequibo Islands and Wakenaam must be higher in valuation than other places.

How are you going to value land for rating purposes in Georgetown? What is the alternative basis, or better basis Members are suggesting? If it was not

stated in the Bill and the Bill just said that land would be rated, how would they arrive at those rates? If a man had a house, a wooden house, and he replaces it with a concrete house, you will agree that the value of those two houses would be different.

Mr. Tello: It is a pity the hon. Minister did not accept my humble suggestion that the system that has been found workable in Georgetown be allowed to continue, and that this new system which you are not certain about be tried out on other parts of the coastlands, and review the matter after a period of time. It is the function of the Opposition to point out weaknesses and it is Government's duty to do something about them.

Mr. Benn: The hon. Member suggested that we should allow the system which has been tried and found successful to continue. May I ask what system has been tried and found successful in regard to the valuation of land?

Mr. Jai Narine Singh: I am glad the hon. Minister of Community Development has referred to the valuable islands of Leguan and Wakenaam. Those islands have natural irrigation. Kokers are opened and water from the river flows on to the land heavily laden with silt brought from the upper reaches of the Essequibo River. But there are large areas of land in Leguan and Wakenaam which are still undeveloped although irrigation water is available. In Leguan there are areas of land capable of being used for various purposes, but there are some areas where the land is sterile and not capable of being used at all. Is the valuation officer going to say that such land is capable of producing something? Is he going to transform himself into an expert in the agricultural field?

I read in the newspapers that in the North West District it is proposed to plant 30,000 acres with coconuts. After land is cleared and becomes exposed to sun and rain its fertility begins to go. That is accepted theory. The sugar estate authorities know that and have done everything possible to maintain that fer-

[MR. J. N. SINGH]

tility. How will the valuation officer differentiate in the valuation of land when about three-fourths of it is still under bush, and only one-fourth capable of producing crops? It is known that land with bush is much more fertile than land without bush. How is the valuation officer going to value, for the purpose of rating, developed land and undeveloped land on the basis laid down in this Bill?

The hon. the Financial Secretary said that we can proceed on a rental value basis or a capital value, but there is no rental of bush. Land with bush produces nothing, but it is fertile land, and much more fertile than developed land. The cry of the country today is not for fertility or availability of irrigation water, but for the development of the land. I have tabled a Motion for the establishment of a Land Development Corporation. It is time the Government should wake up and show some imagination.

The Chairman : Do not anticipate your argument on that Motion.

Mr. Jai Narain Singh : I am suggesting to Members of the Government that they should do some deep thinking. Their horizon is limited. I think the hon. Minister would be well advised to consider the question of valuation of developed land as distinct from undeveloped land, and not merely the valuation of land.

The Chairman : I think we have reached the time for the adjournment.

Council resumed.

Mr. Speaker : Before we decide on the date of our next sitting I think

Members should be given some indication as to what will be the business—whether the debate on this Bill will be resumed or not.

Dr. Jagan : It is proposed on the resumption on Tuesday next to resume consideration of the Estimates in Committee. I may also mention that after consulting Your Honour and hon. Members, agreement has been reached on the following hours of sitting during next week:

Tuesday, 3rd March—From 2 to 7 p.m.

Wednesday, 4th March—From 2 to 5 p.m.

Thursday, 5th March—From 2 to 7 p.m.
and from 8.30 to 11 p.m.

Friday, 6th March—From 2 to 7 p.m. and
from 8.30 to 11 p.m.

I must say that some hon. Members have indicated that night sessions are not suitable to them, but they will make it possible to attend. We are very grateful for this co-operation.

Mr. Gajraj : I said I would try to attend.

The Attorney-General : I move that the Council adjourn to Tuesday, 3rd March, at 2 p.m. I may say that Government would wish to resume the consideration of Bills in the following week.

Mr. Speaker : Even if consideration of the Estimates is not concluded?

The Attorney-General : Yes, Sir, There is important legislation which cannot be left over for weeks.

Mr. Speaker : Council is adjourned to Tuesday, 3rd March, at two o'clock.