

# SECOND LEGISLATIVE COUNCIL

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

Thursday, 7th May, 1959

The Council met at 2 p.m.

## PRESENT :

**Speaker, His Honour Sir Donald Jackson**

**Chief Secretary, Hon. M. S. Porcher, acting**

**Attorney-General, Hon. G. M. Farnum, acting**

**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. Bean**

—Member for Essequibo River  
(Minister of Community Development and Education)

**E. B. Beharry**

—Member for Eastern Demerara  
(Minister of Natural Resources)

**Mr. R. B. Gajraj**

—Nominated Member

„ **W. O. R. Kendall**

—Member for New Amsterdam

„ **R. C. Tello**

—Nominated Member

**F. Bowman**

—Member for Demerara River

„ **L. F. S. Burnham**

—Member for Georgetown Central

„ **S. Campbell**

—Member for North Western District

„ **A. L. Jackson**

—Member for Georgetown North

„ **B. S. Rai**

—Member for Central Demerara

„ **S. M. Saffee**

—Member for Western Berbice

„ **Ajedha Singh**

—Member for Berbice River

„ **J. N. Singh**

—Member for Georgetown South

„ **R. E. Davis**

—Nominated Member

„ **H. J. M. Hubbard**

—Nominated Member.

**Mr. I. Crum Ewing** — Clerk of the Legislature

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

## ABSENT :

The Hon. Janet Jagan, Minister of Labour, Health and Housing — on leave.

The Hon. Ram Karran, Minister of Communications and Works.

Mr. A. M. Fredericks — on leave.

Mr. A. G. Tasker, O.B.E. — on leave.

The Clerk read prayers.

*Handwritten signature or initials*

## OATH OF ALLEGIANCE

Mr. Gilbert Mc Rae Farnum, Attorney-General, acting, took and subscribed the Oath of Allegiance *vice* Mr. A. M. I. Austin, Q.C., on leave, and was welcomed by the speaker.

## MINUTES

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

## ANNOUNCEMENTS

**Mr. Speaker:** Hon. Members, I have here a letter from the House of Commons, Canada, dated 26th March, 1959, to the Clerk of the Legislature, which reads as follows:

"I thank you for your letter of the 18th instant, enclosing two copies of a Resolution expressing the regret of your Legislative Council at the sudden passing of the Honourable Sidney Smith, Secretary of State for External Affairs of Canada.

The Resolution of your Council has been communicated to the Members of the House of Commons, and I enclose copy of our Votes and Proceedings and of our Hansard of the 25th instant.

A copy of your Resolution will also be sent to Mrs. Smith."

## DISTURBANCES IN NYASALAND

**Mr. Speaker:** Information has also been received from the Chief Secretary to the effect that the Secretary of State for the Colonies has received and noted Resolution No. VII passed by the Council on 13th March, 1959 (relating to disturbances in Nyasaland).

## LEAVE TO MEMBERS

**Mr. Speaker:** I have to announce that the hon. Minister of Labour, Health and Housing and the hon. Nominated Member, Mr. Tasker and the Hon. Nominated Member, Mr. Fredericks are unavoidably absent today. Two are out of town and one is out of the Colony.

## PAPERS LAID

**The Chief Secretary** (Mr. Porcher, acting): I beg to lay on the Table the

Sixth Report on the work of the Public Service Commission for the year ended 31st December, 1958

and also the

Report of the Civil Service Enquiry Advisory Committee together with a Statement thereon by the Chief Secretary.

**The Attorney-General** (Mr. Farnum, acting): I beg to lay on the Table the

Report of the Administrators of the Patoir Trust Fund for the year 1958, together with the Director of Audit's Certificate and Report thereon.

**The Financial Secretary** (Mr. Essex): I beg to lay on the Table the

Report of the meeting of Finance Committee held on 22nd December, 1958, covering the Supplementary Schedules of Expenditure for November/December, 1958 (Recurrent and Development).

**Mr. Speaker:** Hon. members, the question is that the Report of the Finance Committee be adopted.

Agreed to.

Report adopted.

**The Financial Secretary:** I beg to lay on the Table, secondly, the

Annual Report of the Comptroller of Customs and Excise for the year 1958,

and thirdly, the

Report on the operations of the British Guiana Credit Corporation for the year ended 30th June, 1958.

**The Minister of Trade and Industry** (Dr. Jagan): I beg to lay on the Table the

Report of the British Guiana Rice Marketing Board for the period 1st October, 1957 to 30th September, 1958.

## PETITIONS

RAMA KRISHNA DHARMIC SABHA  
(INCORPORATION) BILL, 1959

**Mr. Rai:** I beg to lay on the Table a Petition by Ram Kissoon Bharatt and

Pandit Paltooram, President and Secretary respectively of the Kitty Hindu Temple Society praying for the introduction by myself of a Bill intituled, 'An Ordinance to incorporate certain persons as Trustees of the body known as the Rama Krishna Dharmic Sabha; to vest in such persons certain property; and for purposes connected with the matters aforesaid.'

**The Clerk** read the Petition, as follows:

"To His Honour, the Speaker, and to Honourable Members of the Legislative Council.

**The humble Petition of Ramkissoon Bharratt and Pandit Paltooram. Respectfully Sheweth.**

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

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

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

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

and has recently erected a Temple at W½ lot 105, Barr Street, Kitty, aforesaid, at a cost of about \$35,000. This Temple was declared open by His Excellency the Governor, Sir Patrick Muir Renison, K.C.M.G.

4. The Society wishes to vest all its property in an organisation to be known as the Rama Krishna Dharmic Sabha which will continue to propagate Hindu religion, philosophy and culture, and to incorporate certain persons *viz.*

- (i) Pirtam Singh of lot 161, Alexander Street, Kitty, East Coast, Demerara.
- (ii) Pandit Paltooram of lot 110, Barr Street, Kitty, East Coast, Demerara.
- (iii) Balkaran Singh of lot 15, Owen Street, Kitty, East Coast, Demerara.

- (iv) Umrowh Bharratt, of lot 8, Railway Street, Kitty, East Coast, Demerara.
- (v) Bholanauth of lot 6, Station Street, Kitty, East Coast, Demerara.
- (vi) Bhagwandai Baboolall of lot 1, Lamaha Street, Kitty, East Coast, Demerara.
- (vii) Ramkissoon Bharratt of lot 8, Railway Street, Kitty, East Coast, Demerara.
- (viii) Phagu of lot 159, Alexander Street, Kitty, East Coast, Demerara.

as Trustees of the Rama Krishna Dharmic Sabha with power to acquire and dispose of property, with the right to sue and subject to the liability to be sued.

Your Petitioners respectfully request permission to have introduced by Balam Singh Rai, Esq., elected Member of the Legislative Council for Central Demerara, a 'Bill intituled an Ordinance to incorporate certain persons as Trustees of the Body known as the Rama Krishna Dharmic Sabha; to vest in such persons certain property; and for purposes connected with the matters aforesaid.'

And your Petitioners as in duty bound will ever pray.

PANDIT PALTOORAM,  
RAMKISSOON BHARRATT,  
Petitioners.  
2/5/59.

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

**Mr. Speaker:** Hon. Members, the question is, that the promoters be allowed to proceed.

Agreed to.

**Mr. Speaker:** The question is affirmed.

#### STATEMENTS BY MEMBERS OF EXECUTIVE COUNCIL

#### MARSHALL REPORT: VARIATION OF PROPOSALS IN SESSIONAL PAPER

**The Minister of Community Development and Education (Mr. Benn):** On 28th August, 1958, I laid on the Table Sessional Paper No. 5 of 1958, set-

[MR. BENN]

ting out Government's proposals on the recommendations contained in the Report on Local Government in British Guiana by Dr. A. H. Marshall.

Representations have since been made by interested parties and it is now proposed to vary certain of the proposals in the Sessional Paper as follows: (i) Instead of two Councillors for each ward being elected for four years with one Councillor retiring every two years, as proposed in paragraph 10 of the Sessional Paper, all Councillors should be elected every three years. (ii) Instead of the boundaries of New Amsterdam district being extended to include Sheet Anchor, No. 2 Palmyra and Cumberland with Ordinance Fort Lands, Smythfield, Mount Sinai, Caracas, Vryheid and parts of Overwinning, Providence and Glasgow, as proposed in paragraph 104 of the Sessional Paper, the original recommendation in Dr. Marshall's Report should be adopted, that is, the boundary of the town would be extended only to the Canje River embracing Smythfield and the Ordinance Fort Lands on the left bank of the River. (iii) The disqualification of a ratepayer from election as a Councillor for non-payment of rates, should not be restored, as proposed in paragraphs 13 and 14 of the Sessional Paper.

Copies of this announcement will be furnished to Members of the Council and to other interested parties.

#### INTRODUCTION OF BILLS

**The Attorney-General:** Sir, I beg to give notice of the introduction and First Reading of the

Defamation Bill, 1959.

**The Financial Secretary:** Sir, I beg to give notice of the introduction of the Supplementary Appropriation (1957) Bill, 1959.

#### ORDER OF THE DAY

The following Bills were read the First time:

A Bill intituled, "An Ordinance to consolidate and amend the law of slander and libel."

A Bill intituled "An Ordinance to allow and confirm certain additional expenditure incurred in the year ended 31st December, 1957."

#### SUMMARY JURISDICTION (PROCEDURE) (AMENDMENT) BILL

**The Attorney-General:** Sir, I beg to move the Second Reading of a Bill intituled

"An Ordinance to amend the Summary Jurisdiction (Procedure) Ordinance".

Hon. Members will agree that in view of the appalling number of accidents occurring on the roads today it is essential that the Traffic laws of this Colony should be administered expeditiously and zealously. The reckless use of cycles and motor-cycles has become the general rule, and indeed a new species of cyclist — the "poodle boy" — has come into existence. The poodle boy, I understand, is an individual who weaves in and out of traffic with a complete disregard for the laws of the road, and with a complete disregard for life or safety or for the nerves of other unfortunate users of the road. I am not blaming cyclists and motor-cyclists only, but it would appear that in Georgetown they are the chief offenders. Hon. Members will also agree that traffic offences which at first blush appear to be of a minor nature in the light of the congested state of our roads at certain times of the day, particularly in Georgetown, do constitute a very real traffic hazard. This situation will worsen with even graver consequences than we see today unless something is done immediately, and this Bill, I submit, is a step in the right direction.

At the present time the number of minor traffic offences brought before the Courts is less than half the number which ought to be brought before the Courts. This is the result of a procedure which worked well in the past, but is proving cumbersome today in the light of changed conditions and increased traffic. When dealing with the simplest case, where the policeman charges a man for riding with-

out a light or for an infringement of one of the Traffic Regulations like failing to stop at a major road — I take these as simple examples — a most cumbersome and tiresome procedure has to be gone through before the offender reaches the Court.

The constable makes a note of the facts in his note-book. That is the first step. On his return to the Police Station he has to make an entry in the Station's occurrence book. Then he has to make a process report for statistical purposes. Then case jackets have to be prepared including the complaint. These go over to the Magistrate's Court, where a summons has to be prepared; these are returned to the Police Station and a constable then has to serve the summons on the offender. He may find him easily, on the other hand he may not. The offender may live outside of that Police District. The net result is that a period varying from six weeks to two months elapse before the offender is brought before the Court.

Having been brought before the Court the constable, in view of the congestion in the Court, may have to spend a full day before his case is called; the offender pleads guilty, he is punished by the infliction of a small fine, and there this story ends.

Not unnaturally, as a result of this the members of the Police Force often feel that where a minor traffic offence is committed it just is not worth while pursuing the matter. The net result is that motorists and cyclists form the impression that they can commit offences of this type with impunity because the Police are not going to worry.

Well, gentlemen, I think you will agree that this is a most undesirable state of affairs. It may be of interest to hon. Members to have it pointed out to them that in 1956 the Napier Commission which sat in Trinidad recognized the need for expediting the process of law to get offenders of this nature before the Courts. They recognized and they pointed out that Police Constables should be author-

ized to serve a notice on the spot to the offender requiring him to attend at the Magistrate's Court for a summons, and they specifically referred to the need for expediting the process of getting the offender to Court.

A further problem, to which I referred briefly just now, is the very grave congestion of the Courts at the present time. It is hoped that the enactment of this legislation will help to relieve such congestion.

Now, gentlemen, this Bill does not seek to take away any right of the public to have cases heard before a Magistrate. The Bill seeks to apply a new procedure to offences of a minor nature. If hon. Members will look at the Bill — I refer to subsection (10) of Clause 2 — it will be seen that the new procedure would apply to subsection (10) of Clause 2. The new procedure applies to offences against, for example, Section 153 of the Summary Jurisdiction (Offences) Ordinance. This Section occurs under the heading of 'Minor offences chiefly in town' and in so far as traffic is concerned it includes such offences as leaving your vehicle standing so as to cause an obstruction, the careless use of vehicles, furious riding or driving, and offences of a similar nature. I see that it also makes it an offence to discharge a cannon within a hundred yards of the public road, and having regard to that provision it may perhaps be as well that the attention of the Commissioner of Police be drawn to that provision in the event of his deciding to stage any tattoo or military pageant.

The new procedure would apply to offences against Sections 24, 26, 35, 40, 51, 55 and 56 of the Motor Vehicles and Road Traffic Ordinance. Section 24 makes it an offence to drive without a light. Section 26 — that makes it an offence to fail to comply with the conditions of a provisional licence. Section 35 — exceeding the speed limits. Section 40 — carrying a person on the outside of the vehicle. Section 51 — neglecting traffic directions. Section 55 — towing. Section 56—riding more than two abreast.

## [THE ATTORNEY-GENERAL]

I feel sure that hon. Members who drive cars will be particularly anxious that some provision will be made whereby the practice of riding more than two abreast at certain times of the day is stopped.

It is quite clear that the offences to which the procedure outlined in the Bill will apply are of a minor nature.

The procedure under the Bill is quite simple. Where an offence is committed, the constable serves upon the offender a notice. That notice informs him that a complaint will be made against him and requires him to appear at the Court at the day and hour stated after the complaint. If the offender doesn't wish to waste his time by attending Court and perhaps having to spend the whole day there, he may waive his right to a trial. He endorses on the form, in the appropriate place, that he waives his right to a trial, and that he is guilty. He then goes to the Magistrate's clerk and he pays the fine, which will be prescribed, for such an offence. Nothing is taken away from him; he can still have his right to have a full-scale trial before the Magistrate, if he so desires.

It is, I submit, desirable that this Bill, which is a necessary piece of legislation, be passed promptly, and accordingly I invite hon. Members to see that this Bill is passed without any undue delay.

**The Financial Secretary:** I beg to second the motion.

**Mr. Tello:** Mr. Speaker, I desire to record my opposition to this Bill, in spite of the lengthy speech by the hon. the Attorney-General. I recognize that this Bill is directed or intended to be directed to such minor offences as are committed primarily by the cyclist and by people who are pressed by urgent need possibly to drive a little faster within a certain time. Sir, I think the procedure we have now is a fair and just one. This

present arrangement allows the constable to weigh the matter and arrive at a decision as to whether the offender should be prosecuted. In this case I did not hear the Attorney-General well, as to whether he said that already there is such a provision in Trinidad, but I know that it is one of the practices in the United States of America, and if the American public were to cast a vote specially on this "ticket" system, the best candidate will lose his seat.

The people in the States have become ticket-pestered, and this system would defeat justice; people would go in and pay a fine because they want to avoid a waste of time, not that they admit that they are guilty of the offence, but they have preference to use their time much better to their own credit, and in the meantime, it would have been recorded that you have committed so many minor offences. I say this is a defeat of justice; this is an unfair thing, we should not adopt it, the whole practice is improper and I see no need for it.

If the Police, especially the traffic constable, should possibly not speed themselves so much as they do, they would find time to bring the cases worthy of notice before the Court, but today this Bill, Sir ———

**Mr. Speaker:** Just a moment, please. (*Pause*). Yes, you may proceed.

**Mr. Tello:** Yes, Sir. The object of this Bill, as I see it, is to permit a police constable who has not yet properly made up his mind as to whether he has a case or not, to summon and give a busy man the option of waiving the charge by going to pay a fine. Already many members of the public think that many of the police constables in their zeal to serve the public are already abusing their privileges, this thing will make it much easier for them, as I see it. I weep for that day when the poor cyclist who must brush past some pair of riders, be-

cause of urgency and must travel along another ten yards together with two cyclists who are already riding two abreast, will have a ticket, a notice informing him that he will be prosecuted, and possibly before he completes the day his pocket will be filled with such notices.

I have respect for the Police Force, I have great regard for the men who fill this noble Force of ours, but I think, Sir, there is a limit to the privileges and powers we grant to any officer, however important or however less important he is in this country. I think this is almost curtailing the rights and privileges of the public, and I am sorry, Sir, that though the hon. the Attorney-General says that it is a simple Bill with the object of making traffic much safer, and making it simpler for Police to prosecute in minor offences, and giving you an option of keeping away from the Courts, it also has the disadvantage of always offering a temptation to busy people to side-step the normal procedure of the law and pay a small fine, only to have it recorded against him, while in truth and in fact he is not guilty.

I am afraid that this is one of the pieces of legislation that offers too much inducement for abuse, and I oppose it.

**Mr. Jai Narine Singh:** Mr. Speaker, I wish, Sir, to say that I am against this Bill, and I think it is a Bill which is directed against removing the respect that exists in our present institutions and it is a Bill that will make a serious inroad into justice as it is administered in this country.

It is already alleged in various quarters that there is corruption in the Government Administration in the Civil Service, in the Police Force; are we going to add greater temptation to what exists already? His Excellency the Governor himself in a speech in the Legislative Council made the allegation of corruption in the Administration of this Government.

This, Sir, is a matter of great concern to the citizens of British Guiana. It is one, Sir, which I feel should not be viewed lightly. Those of us who are associated with the administration of justice in some way or the other see the gravity of this, of this Bill which is put forward today. This is only the beginning of what the Government may wish to do later; this is seeking to make persons who are innocent to become pawns in the hands of those who will be issuing tickets. This is a question, Sir, which I feel should be one where we should not confuse the issue, as is attempted here.

Our administration of justice in British Guiana has been one which has been satisfactory to all sections of the community, thus far, and when the hon. the Attorney-General makes reference to the fact that we have congestion in the Courts, let me refer this Council to the remarks I have made on several occasions that this Council and the Government are not bearing up to their responsibility in making proper provision for the administration of justice, not only in the Magistrate's Court but in the Supreme Courts as well.

Those of us who have, by reason of our profession, to frequent these places see, Sir, how insulting it is to the established practice where the Magistrates and the Judges in the present circumstances have to administer justice. Not so long ago three Magistrates came off from the Bench in protest because of the accommodation that is offered to them to administer justice.

But let me point out to the hon. the Attorney-General; those three Magistrates are engaged in largely civil matters and partly general matters, that is, in matters affecting possession, in matters of houses, in matters of assessment, in matters of petty debts, in matters of matrimonial offences in the Summary Jurisdiction Courts, and I feel, Sir, that the Government has deliberately closed its eyes to the responsibility in spite of our repeated requests here for more ac-

[MR. JAI NARINE SINGH]

commodation, better accommodation for the administration of justice.

From what I read here it is hoped to see that the traffic offences be dealt with in a summary manner by a mere issuing of a ticket. It means, Sir, that the person who is going to be charged with the offence will have to be given a ticket by the constable who will then become an expert summons writer because it is issuing a summons without the signature of a Magistrate: that is what it is amounting to here, Sir, by this subsection (8) of Clause 2; it says :

"If a complaint has been duly made under subsection (6) of this section and the alleged offender does not appear at the court at the time mentioned in the notice, the court may proceed in accordance with the provisions of sections 12 and 24 of this Ordinance and for this purpose the said sections shall be read as if the word 'notice' were substituted for the word 'summons' wherever it appears therein"

In other words, Sir, the mere issuing of a ticket takes the place of a summons which by our practice is only issued under the signature of a magistrate.

Now a constable, a constable on beat not even of an officer's standard will be issuing summons to the public for various offences according to the hon. the Attorney-General—

**The Attorney-General :** To a point of correction. I never said at any time that the constable issuing the notice is issuing the summons. I think the hon. Member misunderstood me.

**Mr. Jai Narine Singh :** I am inclined to the view, with respect, that the mere ticket becomes a summons, because it gives the power of a summons if they do not appear, and for them to proceed as it were. Let me read it again;

"If a complaint has been duly made under subsection (6) of this section and the alleged offender does not appear at the court at the time mentioned in the notice, the court may proceed in accord-

ance with the provisions of sections 12 and 24 of this Ordinance and for this purpose the said sections shall be read as if the word 'notice' were substituted for the word 'summons' wherever it appears therein".

**The Attorney-General :** Sir, have I your permission to refer the hon. Member to subsection (6) ?

**Mr. Jai Narine Singh :** "If the alleged" — subsection (6), Sir; I'll read it for the benefit of hon. Members who have it with them :

"If the alleged offender does not exercise the option of paying a penalty as provided for in subsection (2) of this section, the member of the Police Force, shall, on the date stated in the notice as the day on which the alleged offender is required to appear in court, make in the court specified in the notice a complaint against the alleged offender for the offence mentioned in the notice".

Mr. Speaker, does it not in itself mean that this is a summons? The notice takes the place of a summons, and the person is thereby required to appear. As I see it anyway, the general purpose nevertheless of this Ordinance is really to make an inroad into the liberty that is now enjoyed by the citizens of this country. I feel that this is a Bill that the Government should view with very great care, and if Government is worried about the congestion in the Courts, it is their responsibility to remedy it by taking direct means because, as far as I know, the Traffic Court is not congested as I know it and as I see it from day to day.

And I feel that this Ordinance is really seeking to create greater confusion about the responsibility of the Police Force than maybe it exists today—as there may be some existing confusion as to the responsibilities that are theirs. And I feel, Sir, that this is a matter that certainly would not receive my support.

**Mr. Gajraj :** Sir, I believe that this is a measure which can be argued on both sides very forcibly; and it is up to us to indicate the weight that we might give to each side of the argument, and on



balance decide whether the views which have been expressed by the hon. Members on this side of the Council outweigh the advantages which are proposed in the Government's measure.

Speaking for myself, I would like to say that any measure proposed which would shorten the extent of the time that is spent by people who fortunately or unfortunately have to deal with matters which come within the purview of this Bill should be welcomed by all Members of the Council. Any measure also which aims, and I hope will succeed, in reducing the number of minor traffic offences which are committed with such impunity on our streets should also be supported.

The hon. the Attorney-General has suggested that the proposals here do not take the place of the existing procedure, and I think therein lies the strength of his case, because as long as persons who are charged with traffic offences have the opportunity still of going before the Court and defending themselves, then, as I see it, there could be no travesty of justice.

What will happen, undoubtedly, is that at the first blush the police constables who are on traffic duty would give tickets to a large number of people — a larger number than now receive summonses. But the position is more or less the same because, as I understand it, if someone is involved in an accident of some kind which resulted from a traffic offence, that person is given a note stating that the Police may institute a charge against him. In this case, he will receive at once a notification that he must appear at Court and proceed to defend himself, otherwise, if he feels himself guilty, then, of course, he may use a shorter method and pay his fine.

I was not very happy when the hon. the Attorney-General did introduce the thought that someone who receives this traffic ticket or ticket for other offences of traffic might decide to pay a fine in order to save his time — save the waste of

his time. I think that is a suggestion which is unworthy, because one should not have to compromise with his own conscience whether he is innocent or guilty and merely adopt a method of saving time and paying more to save that time. Because some people whose time is most valuable——

**The Attorney-General:** To a point of correction; it was not suggested by me that a person should compromise with his own conscience and pay a fine; I think the possibility of that occurring is present in every minor case.

**Mr. Gajraj:** No, Sir; the hon. the Attorney-General did not say so in so many words, but the inference could be drawn when the saving of time was joined to the question of guilt. Because one can quite appreciate that if the person who receives such a ticket, if his time is so valuable, and then he finds that the fine fixed, let us say is a small one— five dollars for the particular offence — he might just weigh it in terms of dollars and not in terms of innocence or guilt, and decide to send the five dollars in order to get rid of the inconvenience and waste of time. However, as the hon. the Attorney-General has said that he did not infer that, I will accept his assurance. But Sir, the thing that worries me here is, whether the police constable will continue to exercise a certain amount of discretion, because one does know that many a citizen is apt to find himself foul of the law, maybe for a minor offence, without actually being conscious of it. We do know that from time to time constables on duty would stop a cyclist — maybe even a motorist for that matter—warn him or her and say, "Look here, what you have done is wrong, and see to it that it doesn't happen again."

That sort of discretion I can say, was exercised in my favour when I was in the United Kingdom last Autumn and Winter, for I was driving a car and on quite a few occasions I either parked in the wrong places or I didn't stop where I should have stopped and the constables on duty certainly came along, stopped

[MR. GAJRAJ]

me, spoke with me, discovered of course that I was to some extent ignorant of the position there, and I was let off with a warning. But how can we be assured that our own constables are going to exercise discretion along those lines? Because if they do not, then they could misuse the power which this Bill seeks to confer upon them, and it might result, in the initial stages at least, in a great number of citizens being charged in a manner that Members on this side of the Council fear.

I do know, too, that if this would help in preventing cyclists from riding their bicycles after lighting-up time without lights, as is done with impunity these days, it will be a great help in saving accidents and saving bad tempers that are generated on the roads of the City when such a thing happens.

I remember when I was a lad going to school; in the afternoons I used to go to cricket practice or go to see a football match, and if any of us, either myself or any of my friends happened not to have his lamp on his bicycle — in those days the electric generating set was not in widespread use — we had our “Silver King” oil lamps — if by some mischance we did not take our lamps along with us, we walked home because we feared riding a cycle without a light after lighting-up time, feared meeting a policeman. But today, I see cyclists without any lighting fixture on their bicycles in the dark riding merrily along the road, and when one just barely misses hitting them down, they turn around and abuse the poor motorist.

Only a week ago, after dinner I was taking a walk with my wife in Kingston, and I was horrified to see a cyclist riding merrily along Young Street and into the Constabulary Depot without a light; he stopped there, spoke with the guard on duty, and within a matter of minutes he was off on that bicycle again travelling through Parade Street and into Barrack

Street scaring the life out of people who were using the road.

Well, if that happens where the constables themselves are on duty — and this thing does — well one wonders what will happen in other parts of the City. I hope, as I said, that the constables will pay more attention to that; and as regards the stopping at major roads — that's a very important one, and that is where so many cyclists just pass over the line with impunity, and, of course, if an accident occurs with a motorist, as one knows only too well, the weight of sympathy is always with the cyclist or the pedestrian irrespective of who is wrong. When I say the weight of sympathy I am not referring to legal sympathy, but the sympathy that one finds at the scene of the accident. That has a tremendous effect upon the evidence that is collected at that particular time.

So, I make these points hoping that they would be given the consideration that they deserve. In so far as indicating my view on the measure is concerned, I believe that it has its good points, I believe that it ought to be given a trial, and I feel that it is only by the method of trial and error that we will learn whether new ideas can be brought into force in this country and prove successful or otherwise.

And in those circumstances I am quite prepared to throw in my lot — I don't think it is really necessary—from the point of view of the number of votes, nevertheless I am prepared to indicate my acceptance of the measure.

**The Attorney-General:** Sir, I do not propose to reply to all of the objections to this Bill, because undoubtedly as a result of my own limitations I have been quite unable to understand some of the arguments put forward. As I say, the fault is no doubt mine. I shall try to reply to those arguments which I have been able to understand.

For the benefit of the hon. Member who feared that convictions might be re-

corded against people merely because they prefer to pay a small fine rather than have their case fairly tried, I would point out that where a fine is paid under the new system no conviction will be recorded.

The hon. Member, Mr. Gajraj expressed the hope that the Police will exercise some discretion before they resort to their new rights; I would point out that no fresh powers are being given to the Police by this Bill. The object of this Bill is to enable the Police to bring before the Courts those offenders who ought to be brought before the Courts, but whom the police are unable to bring expeditiously before the court because of the congestion in the court, because of the procedure they have to go through. This Bill seeks to enable the police to administer the law expeditiously.

This Bill seeks to encourage the police to be energetic where they are now apathetic because they feel that it isn't worthwhile taking the trouble to bring someone before the court if he is only going to be fined two, three or four dollars. The result is that the situation worsens. Of course, we want more people to be brought before the court in cases that merit punishment. That is the whole object of the Bill.

The suggestion is made on the opposite side of the Table that this Bill is an imposition — is making inroads into the privileges which we now enjoy. I cannot understand this argument. My friend the hon. Member who made this statement contents himself by merely making statements but has not advanced any arguments to support them. Accordingly I do not intend to say anything more about this. There is nothing more I propose to say on the Bill.

**Mr. Speaker:** Honourable Members, the question is that a Bill intituled an Ordinance to amend the Summary Jurisdiction (Procedure) Ordinance be read a Second Time. As many as are of that

opinion please say "aye", as many as are of a contrary opinion please say "no". The "ayes" have it.

**A Member :** Division, please.

The Council divided and voted as follows :

<i>For</i>	<i>Against</i>
Mr. Hubbard	Mr. Davis
Mr. Gajraj	Mr. Tello
Mr. Campbell	Mr. Jai Narine Singh
Mr. Ajodha Singh	Mr. Jackson—4.
Mr. Saffee	
Mr. Rai	<i>Did not vote</i>
Mr. Beharry	Mr. Bowman—1.
Mr. Benn	
Dr. Jagan	
The Financial Secretary	
The Attorney-General	
The Chief Secretary	
—12.	

**Mr. Speaker :** The Motion is carried, and the Bill will now be read a Second time.

Bill read a Second time.

#### COUNCIL IN COMMITTEE

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

Clauses 1 to 3 were passed and printed.

**The Attorney-General:** I beg to move an Amendment—copies of which have been circulated to —

**The Chairman :** Will you speak a little more loudly, please?

**The Attorney-General :** I beg to move an Amendment—copies of which have already been circulated to hon. Members. I wish to insert—to add—a new Clause 4 to the Bill.

**Mr. Jai Narine Singh:** Is Section 3 already passed?

**The Chairman :** Yes, that has already been put and passed.

**Mr. Jai Narine Singh :** I am sorry; I just wanted to ask the hon. the Attorney-General—

**The Chairman :** No, I think that has been passed already.

**Mr. Tello :** You have a right to ask.

**The Chairman :** Is somebody ruling there for me?

**Mr. Jai Narine Singh :** This will become law, but it does not make any sense, Sir. I just want to say and maybe he could clarify—

**The Chairman :** Well, I wish hon. Members would pay attention, because I speak very distinctly and I wait and wait, and then when nobody says anything I put the Clauses. But Members seem to get into the habit of engaging in conversation while the business of this Council is going on, and pay little or no attention sometimes to matters and then afterwards they are not aware that these matters have gone through.

**Mr. Jai Narine Singh :** I must crave the indulgence of the Chair, Sir, because we were consulting each other.

**The Chairman :** I know that.

**Mr. Jai Narine Singh :** I did consult my colleagues on a little point which I felt would make some difference.

**The Chairman :** Well you can move that it be re-committed—there is nothing to prevent that.

**Mr. Jai Narine Singh :** That is subsection (8) of Section 2. I would like to have—

**The Chairman :** You can move that it be re-committed, and if the Members are in agreement it will be re-committed.

**Mr. Jai Narine Singh :** I do hope, Sir that subsection (8) of Section 2 will be re-committed.

Question put, and agreed to.

Clause 2 re-committed.

**Mr. Jai Narine Singh :** I would like the hon. the Attorney-General to explain what is really meant when he says "the Court may proceed in accordance with the provisions of Sections 12 and 24 of this Ordinance". This is Ordinance No. 9 of 1959. I do not see any Section 24.

**The Chairman :** No, of the principal Ordinance.

**Mr. Jai Narine Singh :** It should so say, Sir.

**The Chairman :** Just a moment; the Short Title is:

"This Ordinance may be cited as the Summary Jurisdiction (Procedure) (Amendment) Ordinance, 1959, and shall be construed and read with the Summary Jurisdiction (Procedure) Ordinance hereinafter referred to as the Principal Ordinance, and any Ordinance amending the same".

Now, if I may explain, when this is amended this Amendment falls in its proper place and when it falls in its proper place, then there is only one Ordinance and that is referred to as Sections 12 and 24 of this Ordinance, meaning the principal Ordinance. I think it is all right.

**Mr. Tello :** I thought my hon. Friend was making another point—a point he previously made, and I thought he wanted to re-emphasize it this time.

**The Chairman :** He has explained himself fully.

**Mr. Tello :** I am taking this opportunity to use this re-committal. Please permit me to do so.

**The Chairman :** Yes, if you are dealing with that subsection. He has explained himself fully, and I do not think he needs an advocate. But if you wish to raise something on that question, you may.

**Mr. Tello:** The hon. Attorney-General in his reply said that there is no change in the procedure and that the normal procedure is followed, that is, the police constable shall seek the signature of a magistrate who, in his discretion I suppose, would sign this complaint being satisfied that there is enough evidence in this case and the prosecution would not be able to simply waste the court's time. But if I interpret this subsection (8) correctly that responsibility is now in the hands of the police constable, because the notice that he has first served on the offender becomes the summons. That is exactly what I am taking objection to. That is a principle, a very, very important principle of law that is being violated. Certain officers of certain status throughout the Commonwealth are given the right of discretion to make a decision whether or not a case should be proceeded with. This un-British law, this un-British Bill here now offers the police constable a discretion that is only granted to people far above him in superiority.

I say, Sir, again though the hon. Nominated Member, Mr. Gajraj, spoke of his experiences and said that there is special need for this Bill to curb the misdemeanours of the cyclist and other bad users of the road, I do not think—whatever the objectives are—we should violate time-honoured practices. I feel, Sir—I still strongly feel—I do not know what I must do in this case. I cannot delete this Clause, because if I delete it the objective will not be served. I was wondering if I should not move an Amendment deleting the whole of Clause 2 and see the response I would have in this Council.

**The Chairman:** Only the subsection (8) has been re-committed.

**Mr. Tello:** If a subsection—if you are of that opinion. If a subsection—

**The Chairman:** No, it is not that. A specific Motion was moved; you must not say that. A specific Motion was moved "That subsection (8) be re-committed." That is the Motion we are

dealing with. It is not a question of my discretion; that is the decision of this Committee.

**Mr. Tello:** Thank you very much for your advice and ruling in the matter. I am beginning to think now that we have looked into this important Clause. You would further use your discretion and allow the whole Clause to be re-committed in order to give us an opportunity of, possibly, hearing the Attorney-General on it because I am not satisfied that there is no change in the procedure, and I am not satisfied that we are doing the correct thing. I am almost certain that we are playing with a dangerous game.

All along prosecution was held within certain bounds to ensure the interest of the public. Now the hon. Attorney-General would like to impress upon us that there is no change. There is a fundamental change and I am afraid of it. I am a cycle-user myself and, as I see it, on many occasions there are advantages to users of the road—both to cyclists and motorists.

But even the hon. Nominated Member, Mr. Gajraj, wonders as to the discretion. I see that time is the important matter. Give the police constable time to consider whether or not he should prosecute the offender; give him a chance to seek the signature of a superior officer, and we are sufficiently protected. The hon. Attorney-General is not quite clear as to whether or not one pleads guilty and pays a fine whether or not it will be recorded against him. From the little I know of English practices of justice I believe that it would be recorded against him. The hon. Nominated Member, Mr. Gajraj, said that one might allow his conscience—allow himself to betray his conscience on a matter of being guilty or not guilty. In order to save the precious thing known as time, one may go ahead and pay a fine.

The hon. Nominated Member mentioned his experiences in London. I am almost certain that this system is not in practice in London. Why are we

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steering away? Do we have more traffic and minor offences problems in British Guiana than in the City of London? Why can't we—sometimes when it pleases Government we hear that we should be guided by the principles and practices as they obtain in the British leading City of London and in the United Kingdom, but in this case we want to go ahead of London.

I am going to ask permission that we re-commit the entire Section and vote on it. I am not satisfied, and many of us are not satisfied with it. The hon. Nominated Member, Mr. Gajraj, said that we should try and learn from it. It might be a costly thing.

I remember at one time that this Colony experimented with a new Traffic Ordinance and in one day we had so many accidents and I think a few deaths, too, we never could repair that. I am asking that we go cautiously into this matter. Let us wait until more advanced parts of the British Commonwealth adopt this; let us wait for the leading example to us from the United Kingdom rather than be hasty — I quite agree with the hon. Member for South Georgetown that if we want a special traffic court let us have one, but do not make it easier — or we can have several of them, several traffic courts, but we must be certain that the police have gone through the normal procedure when he took us before the court and we would be tried by practices that have been tried and found correct. I am pleading for permission to re-commit this entire subsection.

**The Chairman :** Well we are now on subsection (8).

**Mr. Tello :** Yes, Sir. I am asking now that we have finished — I see! Very well, Sir, at a later stage I will move the re-committal of the Clause.

**The Chairman :** Because the reason for which the Member for South Georgetown asked that subsection (8) be

re-committed has disappeared. In effect he does not prosecute that reason any further. You have not touched upon it either; you have not said anything, so that is finished. I do not know whether anyone else wishes to say anything on this Clause. It has been re-committed. I hope Members —

**Mr. Jackson rose** —

**The Chairman :** Yes, if you are speaking on this Clause which has been re-committed.

**Mr. Jackson :** Have you dealt with subsection (8) yet? I intended to move that it be re-committed.

**The Chairman :** As far as subsection (8) ?

**Mr. Jackson :** No, I mean subsection (2).

**The Chairman :** Hold on then : I am on subsection (8) now. I am just waiting lest anyone says that he intended to speak and he did not have the opportunity to speak on the re-committal of subsection (8). I take it that all who wished to speak on subsection (8) have already spoken.

**Mr. Tello :** I beg to move that Clause 2 be re-committed.

**The Chairman :** I shall put the question. The question is that Clause 2, which has already been passed, be re-committed.

The Committee divided and voted as follows :

<i>For</i>	<i>Against</i>
Mr. Davis	Mr. Hubbard
Mr. Tello	Mr. Beharry
Mr. Gajraj	Mr. Benn
Mr. Jackson	Dr. Jagan
Mr. Burnham	The Financial Secretary
Mr. Kendall	The Attorney-General
Mr. Ajodha Singh	The Chief Secretary — 7.
Mr. Saffee	<i>Did not vote</i>
Mr. Bowman — 9.	Mr. Campbell
	Mr. Rai — 2.

**The Chairman :** The Motion is carried, and Clause 2 is therefore re-committed.

**Clause 2.—** *Insertion of section 7A in Chapter 15.*

**Mr. Jackson :** With respect to subsection (2)—

**The Chairman :** Just wait a moment; you had better let us begin with subsection (1) so that we can go down in order. If anybody wants to say anything on the first subsection he must say it first. We would not go back and forth. We shall proceed with subsection (2) if nobody wants to say anything on subsection (1).

**Mr. Jackson :** I thank you, Sir, With respect to subsection (2), of Clause 2, I am in complete disagreement with the position which seeks to give the Governor in Council the authority and power to fix penalties under the Ordinance.

**The Chairman :** What is your Motion?

**Mr. Jackson :** My Motion is that the Clause should be amended by the addition of the words :

“Provided that such Order be first laid before the Legislative Council for a period of forty days.”

We have on another occasion in this Council taken very strong objection to Regulations and Orders in Council being made by the Governor in Council to have the effect of law as if passed by this Council, and one would have thought that as the result of our previous attitude to this type of request coming from the Government, the Government would have taken a different line of approach in dealing with matters of this kind.

This Council is responsible for the making of laws, and it also should be responsible for determining what penalties ought to be imposed upon offenders

who break the law which this Council makes. It is felt that, unless the penalties which are proposed by this Amendment are laid before this Council, one does not know to what extent these penalties would impose greater hardship upon the people than are at present provided under the law.

Apart from that this Council should not hand over its powers to the Governor in Council on matters of this kind. Therefore I move the Amendment with the hope that the hon. the Attorney-General will see that this is a very reasonable request and he ought to accept it as it is.

**Mr. Bowman :** I wish to record my distaste of subsection (2) of Section 2. It is customary, as far as I know, that all questions of fines where the law is concerned are confined to magistrates and judges. This Section seeks to give the Governor in Council the right, in lieu of one being carried before the court to be prosecuted, to fix the fine. I think that that is taking away the right which is already conferred in the Section in front of this one—Section (1) of Section 2. Subsection (1) of Section 2 — and for that reason I cannot support such a Bill. This Amendment is rotten; I do not see the need for such a thing. I am wondering whether there is any precedent in this country. All matters of fines are confined to magistrates and judges, and I want to know why this—why are they taking away the right of magistrates and judges to impose fines and handing it over to the Governor in Council? I cannot support this Bill.

**Mr. Burnham :** I would say that the hon. Member for Georgetown North, who consulted with me before he moved this Amendment has not even gone far enough. While he and the hon. Member for Demerara River were speaking, it struck me that this particular subclause as it is empowers the Governor in Council to create a punishment or prescribe a fine greater than the punishment and/or fine prescribed in the Ordinance itself,

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which is something we have to be very, very careful about.

I wonder whether the hon. Member for Georgetown North could even go further and, instead of merely suggesting that such Order should lie on the Table for forty days, he should see to it, if this Ordinance is going to be adopted at all, that the Council fixes the penalty once and for all, or prescribes that the penalty shall in no case be greater than the penalty prescribed in the Ordinance elsewhere.

**Mr. Tello:** Following on what the hon. Member for Georgetown Central has said—he speaks with the experience and knowledge of a practising barrister — I would say that we should press for the deletion of the entire Section. The position is that he feels, as a lawyer and a legislator, happy only when the Legislative Council gives consent to a measure as being expressed as the will of the people. What have we here? We have this Bill coming before us asking us to pass on certain powers to a policeman, secondly to the Governor in Council, and possibly, thirdly, I do not know where we are going to end. Next we will find that we are gradually moving into a Police State controlled solely by the Governor in Council. That depends on what Government is elected at the time.

I feel like the hon. Member for Demerara River, that already we have ample provision in the courts of law — let us keep it there.

If we want to amend the principal Ordinance so as to make a prosecution easier and simpler, as I see it, there is only one thing to do — provide more courts so that the cases would be brought much faster and dealt with much smoother than attempting to experiment with something that we are not sufficiently familiar with, and experimenting with something that is almost dangerous. The more we look into this Bill the less I like it. The hon. the Attorney-General

seems to think it is a simple one. These are the little, simple things I was taught to be very careful with.

I feel that from what the hon. Member for Central Georgetown has said it is better that they support me in seeking the deletion of the entire Clause 2. Later I will put that.

**The Attorney-General:** Most of the criticisms of this Clause spring, I think, from a lack of complete understanding. This system is in force throughout Canada. It operated in Surinam — in fact the ideas behind this legislation were obtained as a result of this system operating in Canada which is, I believe, a part of the British Commonwealth.

**Mr. Jai Narine Singh:** Copied from America.

**The Attorney-General:** So far as it has been suggested — it has been urged rather — that the Legislature itself should fix penalties and that it should not hand over this power to the Governor in Council. But surely hon. Members are aware of the fact that there are innumerable instances in which the Legislature, for the purposes of particular Ordinances, has empowered the Governor in Council to make Regulations for such and such purposes and have empowered the Governor in Council to prescribe penalties for breaches of those Regulations.

**Mr. Burnham:** Which ones?

**The Attorney-General:** Those instances are too numerous to recall.

**Mr. Burnham:** Let us have one.

**The Attorney-General:** The Cinematograph Ordinance as the hon. Member well knows.

**Mr. Burnham:** Chapter.

**The Attorney-General:** Your acquaintance with the —



**Mr. Burnham :** I am only a member of the Board, that is all.

**The Attorney-General :** The hon. Member is fully aware of the particular Chapter. In the Motor Vehicles and Road Traffic Ordinance and numerous Ordinances you get this Section :

"The Governor-in-Council may make Regulations for the better carrying out of this Ordinance."

Then the following subsection :

"Without prejudice to the generality of the foregoing the Governor-in-Council may make Regulations for the following purposes — (a), (b), (c) and (d) right down."

You will also have a third subsection :

"Anyone who commits a breach of these Regulations shall be liable on summary conviction to a penalty not exceeding fifty dollars", or whatever other penalty is imposed.

So surely, Gentlemen, the argument that this Council should not hand over the power to fix penalties to the Governor in Council is coming at a rather late stage.

If it is desired that it should be made clear that any penalty prescribed by the Governor in Council shall not be greater than any penalty which could have been imposed by a magistrate for such offences, an Amendment along those lines is quite acceptable. The suggestion is reasonable.

It is also argued that fines should be imposed by magistrates and judges and not by the Governor in Council. Fines should be imposed by magistrates and judges. I agree that, where fines have been prescribed it is for the persons concerned to take advantage of this new procedure. They are not bound to submit to it. If they like they can go to court and spend three or four days waiting for their cases to be called.

**Mr. Burnham :** That is the point; it is blackmail.

**The Attorney-General :** That situation exists today where a man charged with a traffic offence of which he feels he is innocent, rather than pay repeated visits to the courts, goes to court and pleads guilty——

**Mr. Burnham :** Have bigger courts and more magistrates.

**The Chairman :** Order, order, please.

**The Attorney-General :** No rights will be taken away. It is up to the offender to take advantage of the procedure if he wants to, and he is aware of the penalty he would have to pay. He is only required to take advantage of the procedure if he is guilty. I would point out that for a breach of some of the Road Traffic Regulations now the law prescribes a penalty of one hundred dollars. I do not think the Governor in Council——

**The Chairman :** With some exceptions.

**The Attorney-General :** With some exceptions. That is understood; I am talking of subsidiary Road Traffic Legislation. There are other instances where the penalty is much less, but for comparatively or relatively minor infringements of the Traffic Regulations, in theory I do not know that magistrates — there is no doubt that magistrates are reasonable people, and I do not think any magistrate would impose the full penalty provided in these Regulations. Those are all of the objections that I have been able to follow, and I trust that I have been able to settle the qualms of hon. Members who have spoken against this Clause.

In the first place the Amendment proposed is acceptable, and in the second place this Council has, on innumerable occasions, enabled the Governor in Council to make Regulations and prescribe them. I think even the Town Council has that power.

**Mr. Burnham :** That we delegated.

**Mr. Jackson :** Do I understand the reply to this Amendment is that it is acceptable to the Government? I am not quite sure if that is what was said.

**The Attorney-General :** The Amendment proposed by the hon. Member for Georgetown Central—

**Mr. Jackson :** There is no Amendment in that respect, Mr. Chairman. There is only one Amendment before this Council.

**The Chairman :** Your Amendment is that these words be added to the Clause: "Provided that such order be first laid before the Legislative Council for a period of forty days." There have been other observations which have not yet been crystallized into Amendments.

**Mr. Jackson :** Therefore Mr. Chairman, I am replying to the views of the hon. the Attorney-General in reply to my Amendment. I am not concerned with the fact that other Members in this Council have given power to the Governor in Council to fix and to prescribe penalties on any matter whatsoever.

**The Chairman :** Perhaps it might be a shorter line if you were *ad idem* with the hon. Member for Georgetown Central and the converging lines — your side and the Attorney-General's lines meet at a point — it might be quicker.

**Mr. Jackson :** Thank you, Mr. Chairman. What I was trying to say is that even though I am in agreement with the views of the hon. Member for Georgetown Central, I am inclined to think that most of the views which have been expressed by those Members who are opposed to this subsection are views which are worthy of very serious consideration. It may be that the hon. the Attorney-General has not seen the temper of the Council today, for it has been possible to move that this matter be brought up again with some Members on

the Government side voting with this side of the Table. People are concerned with the extent to which the police would have to carry on this business, even though it is a question of choice by the person who has been accused of having committed the offence. I want to feel that this whole matter is one which ought to have been given a greater degree of consideration, for in the Bill itself we are told this is a policy which can be adopted in view of the existing procedure. I am not quite clear in my own mind as to what is going to be the proof that notice has been served upon the person who is accused of having committed an offence. I admit I came in late and perhaps, the Mover of the Bill had already dealt with this aspect of it. If I can be given the assurance that that has been taken into consideration, I shall be prepared to accept what has been said by the hon. Member for Georgetown Central.

**Mr. Rai :** I would just like to point out that so far as subsection (2) of Clause 2 is concerned, the Governor in Council could not properly prescribe that a fine should be higher than that which is imposed under the Ordinance. If they were to do that such provision would be *ultra vires* the Ordinance. That is the point I would like to make. Therefore it appears to me that no Amendment is necessary, or no provision is necessary whereby an Order from the Governor in Council prescribing the fines should be laid before the Legislative Council.

**Mr. Bowman :** I am opposed to the fixing of penalties by the Governor in Council. I feel that the police should be made to do their duty; to serve summonses, notices, etc., and find the people. Since I am that way opposed, I am moving the deletion of subsection (2) of Clause 2.

**The Chairman :** You are moving the deletion of Clause 2.

**Mr. Bowman :** Subsection (2) of Clause 2, Sir.

**The Chairman:** I am sure hon. Members will come in later and ask me what was going on and say they did not understand. I await their complaints with interest. Does anyone wish to speak on this motion for an Amendment which was tabled and just propounded by the hon. Member for Demerara River? If no one else wishes to speak, then I shall put them to the vote. The question is — I shall put the last one first — that is the Motion by the hon. Member for Demerara River for the deletion of subsection (2) of Clause 2. We shall take the vote now.

The Committee divided and voted as follows :

<i>For</i>	<i>Against</i>
Mr. Tello	Mr. Hubbard
Mr. Jackson	Mr. Ajodha Singh
Mr. Burnham	Mr. Saffee
Mr. Kendall	Mr. Rai
Mr. Bowman — 5.	Mr. Beharry
	Mr. Benn
	Dr. Jagan
	The Attorney-General
	The Chief Secretary — 9.
	<i>Did Not Vote</i>
	Mr. Campbell — 1.

**The Chairman:** The Motion is lost. I shall put the Amendment for the hon. Member for Georgetown North.

**Mr. Burnham:** I desire with the——

**The Chairman:** Not now — I am putting it now.

**Mr. Burnham:** Well, Sir, I could move another Amendment then.

**The Chairman:** Well, after I have started to take the votes and if Members walk out of this Council when the business is going on and by their actions indicate that they are not interested, I do not think I shall have to wait until every Member comes in and then have a multiplicity of Amendments. Members must show sufficient interest and remain in their seats if they want to take part in the discussion.

**A Member:** Take your seat.

**Mr. Burnham:** We have another Speaker at the end, Sir.

**The Chairman:** I have not heard. I shall put the next Amendment, and after that you can move other Amendments. The Amendment is that the words "Provided that such Order be first laid before the Legislative Council for a period of forty days."

The Committee divided and voted as follows :

<i>For</i>	<i>Against</i>
Mr. Hubbard	Mr. Ajodha Singh
Mr. Tello	Mr. Saffee
Mr. Jackson	Mr. Rai
Mr. Campbell	Mr. Beharry
Mr. Burnham	Mr. Benn
Mr. Kendall	Dr. Jagan
Mr. Bowman — 7.	The Attorney-General
	The Chief Secretary — 8.

**The Chairman:** This Amendment is also lost.

**Mr. Tello:** I beg to move the deletion of Clause 2. My reason for doing so is that I found that the hon. the Attorney-General in trying to impress upon us the great need for accepting this new Bill could not cite one place in the great Commonwealth that found the need for this——

**The Attorney-General:** To a point of correction. I said Canada.

**Mr. Tello:** Other than Canada, which Dominion I know has borrowed this Ordinance from the United States of America and has copied it word for word. The hon. the Attorney-General knows just as well as I do that Canada is a very good neighbour of the United States of America and has followed very much in their footsteps. I want to say that the fact that Northern America has made use of an Ordinance similar to this is no reason why we should follow slavishly, because if we take the census of

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traffic and other public life of both Canada and America there is no comparison here at all.

It is quite true that the hon. the Attorney-General also cited our good neighbours over here, Surinam, who have just obtained some degree of self-government and are still experimenting with it. But I do not think that that is a safe place to turn for guidance, because they are too much in an experimental stage.

The debates here have revealed that, other than the pressure of the majority votes of Members who are committed to support Government measures, it is made quite clear that there is tremendous doubt in the minds of Members of this Council with regard to the acceptance of this Motion.

I want to suggest to the hon. the Attorney-General that there is no urgency in this matter, and there is no need for it. Government are seeking an unfortunate means of correcting something. They realize that there is need for several more courts and, rather than face this fact and embark on a gradual progressive programme of providing the necessary courts, they prefer to deprive the citizen of a certain amount of his rights.

The hon. the Attorney-General himself said that there are many innocent people who are forced to await trial and much of their time is taxed. Now he is offering them a way of perjuring their consciences; do not worry to wait; go and pay a small fine and have it recorded that you were guilty of an offence though you know in your conscience that you are an innocent man. That is the alternative this Bill seeks to offer. I am not a lawyer, but I feel that it is an unfair thing. I know who is going to be charged — ninety percent. of the cases will be small fellows like myself who must ride a bicycle because we are not yet elevated to the status of owning cars. That is going to be the type of justice we will be having in the near future.

I ask the hon. the Attorney-General who is in charge of this Bill to recognize that, other than the pressure of the votes on the other side, one can see that there is a division even on the other side. I want to ask him to take notice of the temper of the Council and recognize that this is the voice of the people sounding against this Bill. It is only unfortunate that because of the Standing Orders and because of Constitutional provisions certain people are committed to support certain things, and the weight of the majority is in favour of this Bill, but most of the consciences are against it.

I am pleading — some people say that I am too soft and I like to plead too much — but that is another way of fighting. I am pleading with the hon. Members on the other side to allow themselves the freedom of their consciences rather than be saddled with carrying a vote because of a commitment. Let it be a free vote on the other side as well as on this side of the Table and throw out the Bill entirely. We cannot do that because it is passed in principle already, but we can accept the Motion to delete the entire Clause.

**The Attorney-General:** I would like to remove the hon. Member's forebodings by informing him that those charged with the responsibility — those entrusted with the responsibility I should say — of controlling traffic and who are directly concerned with the number of accidents on the road are satisfied that there is need for a measure such as this Bill proposes to introduce in order to reduce the dreadful number, the frightening number of accidents now taking place. The alternative is to wait and let the situation grow graver; encourage carelessness; let disregard of Road Safety Regulations become equally engrained in the consciences of cyclists, motor cyclists and motorists. That, I think, is the basis of the argument of the hon. Member.

**Mr. Burnham:** I am a little surprised at the absence of logic in the last contribution by the hon. the Attorney-

General. I did not understand that the purpose of this legislation was to cut down the number of accidents or breaches of the Traffic Regulations. I understood that this is a means whereby we would expedite trials and give people an opportunity to pay their fines quickly. Now we understand that there is another *raison d'être* which makes absolutely no sense.

**The Attorney-General:** To a point of correction. The hon. Member was absent during my address to the Council on the term in which reference was made to the number of accidents. A reference was made to the fact that the Bill was a step in the right direction. The hon. Member being absent could not possibly hear what I said.

**Mr. Burnham:** The hon. Member having been absent was not here to listen to that illogicality, because I cannot see how this Ordinance is going to cut down the number of accidents. It merely makes it easier for fines to be collected without people having to waste or spend a great deal of time. This has nothing at all to do with accidents, and I cannot see what process of reasoning will help us to arrive at a conclusion that by adopting this Ordinance we will cut down the number of accidents. Perhaps there are many people who would not mind certain provisions of this Ordinance. I cannot see that if a man is guilty why he cannot appear in the magistrate's court on the morning and say that he is guilty. If you want — do what is done in the United Kingdom. Permit a man to be able to plead guilty through Counsel or by letter to certain minor offences, but this ticket business with the policemen! Some of you have been to America and you have heard about the \$15 ticket that you can settle for \$5 with the policeman. What are you bringing this piece of paper here for, except to say that you want to copy from Canada, Surinam and so on? A man who knows that he has committed an offence when he receives his summons will go to court and plead guilty. The man who thinks he is not guilty will go to court and plead not guilty. Why this

waste of legislative time? I am in full agreement with the hon. the Nominated Member, Mr. Tello, that this thing should be deleted. I cannot see what purpose it will serve.

**The Attorney-General:** May I remark that the hon. Member for North Georgetown——

**Mr. Burnham:** Central Georgetown.

**The Attorney-General:** The hon. Member for Central Georgetown earns his living in the courts and I believe the hon. Member is sometimes retained by persons accused of various traffic offences. It may be that the real objection to this Bill is that——

**The Chairman:** In this Council we have to be impersonal.

**The Attorney-General:** I am not referring specifically—I beg your pardon. The apparent objection may be that the Bill may react adversely on the legal profession. That objection is only apparent, not real, because the Bill seeks to apply these provisions to those offences where, in almost every case, the party charged tells the Court that he is guilty. Hon. Members have stated that there is no connection between the reduction of accidents and the introduction of this procedure.

The point which I am trying to impress upon Members is that unless we get busy — unless we administer the traffic laws zealously these so-called minor traffic offences which constitute real hazards in the congested condition of our streets today will increase with grave results. It is suggested that the Bill is a step in the right direction, and with the inculcation of respect for the traffic laws one hopes that the rate of accidents will be reduced.

**Mr. Tello:** I admit that there is need for more Courts. I admit that that there is need for zealous protection

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of the public as regards the traffic laws, but what I am saying is that two wrongs have never made a right. We know, the Government knows and the Attorney-General knows fully well that what we need is curtailing some of the time expended on these minor offences.

What other countries have done — and the hon. Member for Georgetown Central has pointed out that you have a procedure whereby you could have your attorney to plead for you and you can write a letter and admit your guilt, and also what I know has been adopted — Government could provide more Courts, as it has done in other matters. But, also, and the Attorney-General will agree with me that this procedure of having a senior officer vet an intended charge and having the Magistrate initial it, has arisen out of a considerable amount of experience and abundance of caution.

Why must we now hastily change this procedure which has been tried and proved, because Canada has done it and the United States has been doing it, and over there in Surinam, still experimenting with their new Constitution, are now doing it? I am saying that the solution is more Courts, and I feel that whatever is the intention of Government it can only pervert justice. It is not going to help us at all. It is not going to reduce traffic offences; not going to reduce minor offences. The only thing it can do is that people who cannot afford the time will have convictions recorded against them, though in truth and in fact they are innocent people. I cannot get the hon. the Attorney-General to answer that. Is it not true that the only thing you are trying to do is to save time, and those whose pockets can afford it will pay the \$5 and save time, and those who cannot afford it will try their best to follow on and pawn their property and pay the \$5, also to save time, but justice will not have been done. That is all we are going to do.

**Mr. Fredericks:** I understood the Attorney-General to say that convictions will not be recorded against persons who elect to pay their fines by this method.

**The Chairman:** He did say that but I do not know whether it appears in the Bill itself.

**Mr. Burnham:** I was just going to ask on what authority does the Attorney-General say that a man who pays a fine does not have a conviction recorded against him? This Chapter 280 does not deal with the recording of convictions. It is the Police who are going to keep the conviction sheet.

**The Attorney-General:** Certain convictions for minor offences are not recorded by the Police, or certain minor traffic offences. That is my information.

**The Chairman:** In law are those not convictions?

**The Attorney-General:** They are not recorded.

**The Chairman:** No, I want to know what it is in law. If a man goes there and pays a fine is it a conviction or is it not? Whether it is recorded or not is another matter. I think the main point is whether it is a conviction or not.

**The Attorney-General:** I understood my Friend to be referring to recorded conviction.

**The Chairman:** Under this system, let us assume that a conviction is not recorded; if it is raised is it capable of proof?

**The Attorney-General:** Well, yes.

**Mr. Burnham:** I am not persuaded by the Attorney-General's saying that it is not recorded. He says it is his information, therefore my strictures are not against him personally. He says he can only base that statement on information, but the person who gave him the informa-

tion ought to know better than that, because I have been in Court and seen these offences which will now be dealt with under this Ordinance being reeled off as part of a man's past record. And even if they are not recorded by the Police, which I doubt, every time the Police get a conviction it is recorded.

**The Attorney-General:** For the last two years a system has been introduced under which minor offences are not recorded.

**Mr. Burnham:** Now that I have had the correction, do we now understand that all the offences which will be capable of being dealt with under this Ordinance will be considered minor and will not be recorded? Then I have another question — even if they are not recorded, are they less convictions? *(Pause)* Mr. Chairman, I beg to move that we report progress to allow further consideration.

**The Chairman:** I shall put the question. The Question is "That this Committee reports progress." Those who are in favour please say "Aye", and those against will say "No." I think the Noes have it.

**Mr. Burnham:** Division.

The Committee divided and voted as follows:

<i>For</i>	<i>Against</i>
Mr. Davis	Mr. Hubbard
Mr. Tello	Mr. Ajodha Singh
Mr. Jackson	Mr. Saffee
Mr. Burnham	Mr. Rai
Mr. Kendall	Mr. Beharry
Mr. Bowman. — 6.	Mr. Benn
	Dr. Jagan
	The Financial Secretary
	The Attorney-General
	The Chief Secretary. — 10.
	<i>Did Not Vote</i>
	Mr. Campbell. — 1.

**The Chairman:** The Motion is lost. I think the time is ripe for me to put the

substantive Motion if no one wishes to say anything more. That Motion is for the deletion of Clause 2.

The Committee divided and voted:

<i>For</i>	<i>Against</i>
Mr. Davis	Mr. Hubbard
Mr. Tello	Mr. Campbell
Mr. Jackson	Mr. Ajodha Singh
Mr. Burnham	Mr. Saffee
Mr. Kendall	Mr. Beharry
Mr. Bowman. — 6.	Mr. Benn
	Dr. Jagan
	The Financial Secretary
	The Attorney-General
	The Chief Secretary. — 10.

**The Chairman:** The Motion is lost. I shall put the Clause now.

**Mr. Burnham:** I beg to move the deletion of subsection (7) of Clause 2.

**The Chairman:** Anyone wishes to move anything between subsections (1) and (7), because I will not go back to subsections (3), (4), (5) and (6). From subsection (7) I shall go forward. Members must make up their minds. What is your Motion?

**Mr. Burnham:** The deletion of subsection (7). As I understand it the purpose of this subsection is that if one receives a notice and does not pay, or does not attend Court, he will be deemed to have forfeited the sum of \$50, because it says here —

"the alleged offender shall be subject to the same duties and liabilities as if he had entered, under section 70 of this Ordinance, into a recognisance in the sum of fifty dollars to appear before the Court . . . ."

Well, that is making it a little hard because even now, if one receives a summons and does not attend Court one does not forfeit \$50 but one makes oneself liable to be picked up or arrested on a Bench warrant or, as very frequently happens, the Court asks the prosecution to get in touch with one. But under this Bill, if you do not turn up for one reason or another, or you do not pay you will have forfeited \$50. That is how I understand sub-

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section (7), but of course the hon. the Attorney-General may explain my fears away. If he does I may withdraw my Motion.

**The Attorney-General:** I regret that I have to confirm the hon. Member's fears. Surely the whole system would be farcical if there were no means of getting the offender to attend Court and have his case tried if he desires a trial. Either he signs the endorsement saying he is guilty and waiving his right to a trial, or he has to turn up to be tried by a Magistrate, and in effect he is on \$50 bail in his own recognizance. I see no hardship in that.

**Mr. Burnham:** I see.

**The Attorney-General:** When we refer back to subsection (1) the policeman serves a notice charging the offender with the commission of an offence and notifies him that a complaint will be made against him in respect of the said offence, and requires him to appear at the Court specified in the notice to answer the said complaint. Now the receipt of the notice operates as if he had been put on bail to appear and answer the complaint.

**Mr. Burnham:** Now, let me give an example of the enormity of the situation which has now arisen. Let us turn to Section 153 of Chapter 14, the Summary Jurisdiction (Offences) Ordinance, and we will find there that any offence under that Section carries a maximum penalty of \$25. As the position stands now, if a man fails to appear, either a Bench warrant is issued, or there is an *ex parte* trial, in which case he would not have to pay more than \$25. But under this new rag, this new piece of paper, it would mean that though the man will have committed an offence, the penalty for which is \$25, he will have forfeited \$50 to the Government because he does not appear. What bullying and blackmail is this? If the hon. the Attorney-General had said that this had been an oversight I would have accepted it; I

would have commiserated with him because it was not he who drafted this Bill originally. I know it is not his brain child. The mother of this Bill is not here with us—*de absentibus nihil nisi bonum*. But certainly the Attorney-General as a lawyer can appreciate the point I am making.

**The Attorney-General:** I would have no objection to an Amendment. I would have no objection to reducing the amount if the hon. Member so desires.

**The Chairman:** What Amendment?

**The Attorney-General:** If an Amendment were moved to that effect I would have no objection to reducing the amount. Such an Amendment would not be unreasonable.

**Mr. Burnham:** In the circumstances I ask leave to withdraw my previous Amendment and to substitute therefor the following: "That the word 'fifty' in line 5 of subsection (7) of Clause 2 be deleted and there be substituted therefor the word 'fifteen'". They are minor offences we have been assured, and we do not imagine that the Governor in Council will prescribe the maximum penalty, and if the Governor in Council will not prescribe the maximum penalty let us put in a figure which would bear some relation to what will be prescribed by the Governor in Council.

**The Chairman:** I do not know if I have got the exact wording of the Amendment which will be accepted.

**Mr. Burnham:** That the word "fifty" in the fifth line of subsection (7) be deleted, and that there be substituted therefor the word "fifteen."

**The Chairman:** That is accepted. Is that all?

**The Attorney-General:** As at present advised.

**The Chairman:** The Question is —



**Mr. Tello:** I beg to move an Amendment to subsection (13) —

**The Chairman:** Nothing between (7) and (13)? We are moving forward, not going backward.

**Mr. Tello:** I wish to move an Amendment to paragraph (b) of subsection 10, for the deletion of the figures "55" and "56". I said before that I recognize that this Bill, whatever is written here, is intended primarily against cycle riders, and I feel that cycle riders are not people who can find a ready \$5 to go and short circuit a prosecution. I am certain they would rather go to Court and defend themselves, or if they are guilty they would go to Court and plead guilty. I feel, Sir, that in spite of the fact that the Ordinance offers them the option of paying a fine there is no assistance to them, because if they are guilty they will go to Court and plead guilty and ask for time to pay. But in this case, as far as I can see, if the fine is \$10 you will have to pay \$10. Already they are accustomed to pleading guilty and being allowed time to pay their fines. I agree with the hon. Member for Georgetown Central that this is not going to reduce the number of offences, and not assist justice, and I feel that only unnecessary hardship will be put upon cyclists. I know they will not regard it as British justice, and I am asking that these two Sections, 55 and 56, be deleted from paragraph (b) of subsection (10).

**The Attorney-General:** One of the offences which creates a very great traffic hazard today is the offence of people riding three or four abreast in certain streets — not only riding three or four abreast but wobbling along the road while riding three or four abreast. The hon. Member seems to feel that a cyclist in the act of overtaking other cyclists in front of him may be charged with an offence under Section 56. A person about to overtake, or actually overtaking two cyclists in front of him, cannot be said to be engaging in the pastime of riding three abreast. It may also be of interest to point out that under the

present system of collecting fines for minor offences with regard to these minor traffic offences to which the procedure outlined in this Bill would apply, there are literally thousands of warrants out for the collection of small fines imposed for these offences — literally thousands. People cannot be found and the fines cannot be collected. I did not quite follow the hon. Member's argument at a certain stage when he said that the impetuous cyclist, as I understood it, would have to go to Court and ask for time to pay.

**The Chairman:** Or might have to sell his house.

**The Attorney-General:** Or might have to sell his house in order to pay a \$5 fine. I have heard of a \$5 a month house, but I have never heard of a house the capital value of which is only \$5. Such a house would not be big enough to accommodate a bicycle. The whole point is that the fine intended to be prescribed will not be a large fine, but the object of this quick and speedy procedure is to endeavour to inculcate in those users of the road who constitute a menace, a real hazard every day, some sense of responsibility and respect for those rules of road traffic which have been designed to secure the safety of persons using the roads.

**Mr. Tello:** Mr. Speaker, I did not correct you because of my respect, but I did not say that a cyclist might sell his house. I said that a poor cyclist may have to pawn his property to raise the necessary \$5. What I want to say is this: that the average motorist would invest \$5 in a fine whether he is guilty or not, to save his time rather than wait to go to Court, but this will not help in the case of a cyclist who will go to Court anyway, because he has not got the money to pay to avoid appearing in Court.

The position is that those who desire to save the time of awaiting trial and the loss of time they can use otherwise by going to Court, can pay a fine, and I seem

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to think that the very opposite of the object of this Bill will accrue. Those people who can afford to go in and pay a small fine, who can afford to lose that \$5 or \$10 and save time will more flout the law than anything else.

It is happening now in the United States of America. People are parking their cars knowing fully well that they are allowed an hour, and they know fully well they are going to stay four or five hours there, but they come out and find a ticket and say "This is another \$10", and they go and pay that \$10, but the business they have done in the four hours is valued hundreds of dollars. So this is not going to assist this traffic business, and why I am asking you to exclude the cyclist is that under any circumstances he is going to Court; he has not any \$5 to invest in order to save time. I am saying that you are choosing the wrong means. No matter how you try to twist it, it ends in the same thing.

You are trying to avoid providing more Courts which are desperately necessary, and in order to avoid Government expenditure in this matter you are bringing hardship on the humble user of the roads, and your objective is to penalize the humble user, the impecunious cyclist. That is the fellow you are after, and I say that already you have provision in the Principal Ordinance. If he commits an offence you are going to prosecute him. If you pass this Bill now he is not going to make use of this alternative, and the problem of collecting fines will remain. You are not solving that problem, if it is true, and I believe there is a great deal of trouble in collecting the fines now.

I say the position will not change. The cyclist will go to Court and plead guilty and get himself fined, and the problem of having to search for him to pay his fine will continue, because he cannot make use of the alternative that this Bill seeks to offer him. On the other hand the wealthy merchant, the wealthy

professional man and others whose time values much more than the fine, would dash through a major road and go and pay \$10, because dashing through that major road would bring them business that would value \$1,000, and \$10 is a good investment to make for \$1,000.

This thing has been tried in the United States and is a complete failure. During my short stay there I have been associated with people who deliberately park their cars for an hour's stay and spend a whole afternoon opposite a New York hotel. I know one lawyer who parked his car at 9 o'clock in the morning, to attend a meeting and he never came out until 6 o'clock in the evening, and he had his ticket waiting there for him, which he collected with pleasure, as the business he did in New York was valued thousands of dollars.

So you are not solving anything; you are defeating your very intention. The very time that you wasted in drafting this Bill could have been better expended, and I know that the intention is to penalize the poor cyclist. I am pleading on his behalf. I know I am wasting time but at least I will have it on record. This is an injustice against him and I am asking to remove these two Sections from this Bill, but still you will be running up against the problem of people flouting the law and paying a fine.

**The Attorney-General:** This is the last occasion on which I will reply to the hon. Member. I can only assume that the hon. Member has not studied the Bill as a whole, because this Bill provides that the cyclist can go to Court within 14 days if he wants to. Under the present system you get him to Court in about three months. I see no justification for suggesting that this is an effort to penalize the poor cyclist. If the suggestion is that all cyclists are poor I can point out to the hon. Member many cyclists who can by no means be described as impecunious. Again, this procedure does not require the cyclist to accept this procedure; he can go to Court as at present, if he wishes. If he takes advantage of

the proposed new procedure, he gets to Court within 14 days. This is to speed up the procedure. Under the present system he waits for two or three months.

**The Chairman:** I shall put the Question. The Amendment is that in Clause 2, subsection (10) (b) the figures 55 and 56 be deleted. As many as are of that opinion please say "Aye", those of the contrary opinion will please say "No." I think the Noes have it.

**Mr. Tello:** Division.

The Committee divided and voted as follows :

<i>For</i>	<i>Against</i>
Mr. Tello	Mr. Hubbard
Mr. Jackson	Mr. Davis
Mr. Kendall	Mr. Ajodha Singh
Mr. Bowman. — 4.	Mr. Saffce
	Mr. Rai
	Mr. Benn
	Dr. Jagan
	The Financial Secretary
	The Attorney-General. — 9

**The Chairman:** The Amendment is lost.

**Mr. Jackson:** I beg to move an Amendment to subsection (12) by the deletion of the words and figures "subsection (11) of" in the first line, so that the subsection will read: "Every order made under this section shall be laid before the Legislative Council . . ." etc., etc. I am still trying to preserve the right of this Council to determine not only what penalties ought to be imposed upon offenders but what ought to be inserted as offences. Subsection (11) seeks to give the Governor in Council the right to add to the list of offences, and subsection (12) is a follow-up on that subsection. I feel that the two things should not be tied together at all. Every Order which is to be made must be made under this Section, and that all of us ought to be inclined to take it entirely away from subsection (11). I feel that the Amendment will find no opposition from the Attorney-General.

**The Chairman:** If nobody wishes to speak —

**The Attorney-General:** I may point out for the benefit of the hon. Member that it is no new principle for the Legislature to delegate certain powers where the benefit to the community is so manifest that such a course seems desirable. What does this Bill seek to do? It is seeking to delegate to the Governor in Council the power to prescribe small penalties for the offence set out here, but if the Governor in Council tries to bring other offences within the new procedure, that Order then has to come before this Council for its approval.

The Bill is not seeking to by-pass this Council's authority. Surely the hon. Member would not suggest that the authority of the Council is being by-passed, because this Council is not being asked to prescribe fines of \$2.50 or \$5 for very minor offences.

Let me make myself clear. The Council is asked to delegate to the Governor in Council certain powers with respect to those offences. Nothing is hidden. There are offences in respect of which this Council is asked to delegate power to the Governor in Council to prescribe penalties. If the Council agrees, well and good, but if the Governor in Council wants to extend the list of offences that Order has to come back to this Council. No one is trying to by-pass the authority of this Council, and I think that is really the hon. Member's fear.

**Mr. Burnham:** I am grateful for the assurances and instructions that have come forth from the Attorney-General, but would he not be calming all fears and removing all doubts if the principle originally embodied in subsection (12) with respect to Orders made under subsection (11) were to be extended to all Orders made by the Governor in Council under this Ordinance? It seems so happy. It is not, as the hon. the Attorney-General knows, in cases of delegated

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legislation where the Orders have to lie on the Table, very often that there is a change in that Order. But still give us the right.

Suppose the Governor in Council decided that for one of these minor offences the maximum fine will be fixed, we should not like to see that. We should not like to see that the first time a person is prosecuted by way of notice under one of these subsections or Sections that he be made to pay the maximum fine. Indeed it would be blackmail, because if he does not go to Court he pays the maximum. If he goes to Court he will find a Magistrate who is human, and who is appreciative of the varying circumstances, and who may not award the maximum fine.

May I adopt the role of the hon. Nominated Member, Mr. Tello, and plead with the hon. the Attorney-General to extend the principle which was originally only applicable to Orders under subsection (11), to all Orders made by the Governor under this Section. That is all the hon. Member for Georgetown North is asking for. Already our Motion to delete subsection (2) has been defeated. We accept it like democrats, but we still feel that we should attempt some perpetuation of the spirit of democracy by making all of the Governor in Council's Orders under this Section subject to review, automatic review, by this Council. We are not asking too much.

I appreciate that the hon. the Attorney-General has explained his point of view. I appreciate that, like a lawyer, normally his first reaction will be to defend the cause for which he has been briefed, and the Attorney-General is briefed in the cause of the Bill as it stands, but I am sure that, like a good lawyer, he will concede when his opponent has a good point, and not proceed to argue unnecessarily.

**The Attorney-General:** I would readily concede a good point, but surely

it must be apparent to the hon. Member that unless the fines prescribed were small the Governor in Council would be defeating the whole object of the Bill. If the idea is to bring about this quick process by which you can pay your fine if you endorse it you are guilty you waive your trial, if the Governor in Council prescribes high fines (the hon. Member is laughing) surely the Ordinance would not work. People would refuse to avail themselves of the advantage, and in every case they would go to Court.

**Mr. Burnham:** All I am seeking to do, like Macbeth, is to make assurance double sure, that is to see that this Council has an oversight, and that the Governor in Council does not fix fines that are inordinately high. I have no doubt that the Governor in Council, as is now, may well be a reasonable Governor in Council, but who is to anticipate the changes of tomorrow or the day after tomorrow, the amount of unreason and unreasonableness that may creep into that institution called the Governor in Council? Therefore let us be sure that we, as legislators, keep control of the legislative process. That is what I am for, and I cannot see why the Government should object to this Amendment. They have accepted the principle with respect to changing the offences. Well, accept the principle with respect to the fines, and I can assure the hon. the Attorney-General that so far as I am concerned, when the Governor in Council's Order with respect to the quantum of fines comes here, if the fines are reasonable no debate will be had on the Order, and that Order will pass.

**The Chairman:** I shall have to put the Question. The Amendment is "That the words "subsection (11) of" in the first line of subsection (12) of Clause 2, be deleted." So that the first line will read: "Every order made under this section . . ." As many as are of the opinion that those words should be deleted please say "Aye". Against please say "No". I think the Noes have it.

**Mr. Burnham:** Division, Unreasonable. Police state now.

**The Chairman:** Order!

The Committee divided and voted as follows:

*For*

Mr. Davis  
Mr. Tello  
Mr. Jackson  
Mr. Burnham  
Mr Kendall  
Mr. Bowman. — 6.

*Against*

Mr. Hubbard  
Mr. Ajodha Singh  
Mr. Saffee  
Mr. Rai  
Mr. Benn  
Dr. Jagan  
The Financial  
Secretary  
The Attorney-  
General  
The Chief  
Secretary. — 9.

**The Chairman:** The Amendment is lost. We will have to go back into Council now.

**The Attorney-General:** I move that Council resume.

Council resumed.

**Mr. Speaker:** It is five o'clock. Do we meet tomorrow?

**The Chief Secretary:** Well, Sir, I do not know. I have not had a chance to consult you. Council having gone on so long I do not know whether Members

wish to go on tomorrow or——

**Mr. Speaker:** Well, we have Council tomorrow, haven't we?

**The Chief Secretary:** Yes.

**Mr. Speaker:** Hon. Members have notices that there will be presentations in Council tomorrow. If tomorrow does not suit — we have to come in any case for the presentations tomorrow.

**Dr. Jagan:** We could adjourn after the presentations.

**Mr. Speaker:** Just as Members wish.

**The Chief Secretary:** Personally I would sooner adjourn after the presentations, too, as I have got another engagement.

**Mr. Speaker:** Then we will adjourn now without date.

**The Chief Secretary:** Well, we adjourn until tomorrow.

**Mr. Speaker:** Yes, we have to adjourn until tomorrow. There is no business tomorrow. Council is now adjourned until tomorrow afternoon at two o'clock.