

LEGISLATIVE COUNCIL

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

THURSDAY, 31ST JANUARY, 1957

The Council met at 2 p.m.

PRESENT:

His Honour the Speaker

Sir Eustace Gordon Woolford,
O.B.E., Q.C.

Ex-Officio Members:

The Hon. the Chief Secretary,
Mr. F. D. Jakeway, C.M.G., O.B.E.

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

*Nominated Members of Executive
Council:*

The Hon. W. O. R. Kendall (Mem-
ber for Communications and Works).

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

The Hon. R. C. Tello

Nominated Official:

Mr. J. I. Ramphal

Nominated Unofficials:

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

Mr. C. A. Carter

Mr. E. F. Correia

Rev. D. C. J. Bobb

Mr. H. Rahaman

Miss Gertie H. Collins

Mrs. Esther E. Dey

Dr. H. A. Fraser

Mr. R. B. Jailal

Clerk of the Legislature

Mr. I. Crum Ewing.

Assistant Clerk of the Legislature

Mr. B. M. Viapree (Ag.)

Absent:

The Hon. the Financial Secretary,
Mr. F. W. Essex—on leave.

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

The Hon. P. A. Cummings (Mem-
ber for Labour, Health and Housing)—
on leave.

The Hon. R. B. Gajraj—on leave.

Mr. T. Lee

Mr. W. A. Phang — on leave.

Mr. Sugrim Singh—on leave.

Mr. W. T. Lord, I.S.O.—on leave.

Petition

The Minutes of the meeting of the Council held on Friday, 25th January, 1957, as printed and circulated were taken as read and confirmed.

Mr. Speaker: I have before me a petition that has been forwarded to the Petitions Committee, but I have not been able to deal with it as yet.

ANNOUNCEMENTS**Leave to Members**

Mr. Speaker: I have to announce that leave has been granted to the Financial Secretary (Mr. F. W. Essex) from the 28th January to the 5th February. As hon. Members are probably aware, he is attending a conference of the Regional Economic Committee in Jamaica.

Leave has also been granted to the Member for Agriculture, Forests, Lands and Mines (Sir Frank McDavid, C.M.G., C.B.E.) from 28th January to the 11th February (in order to permit him to attend the same conference in Jamaica).

Mr. Lord and Mr. Sugrim Singh have asked to be excused from attendance at today's meeting.

PAPERS LAID

The Chief Secretary: I beg to lay on the table:

Sessional Paper No. 1 of 1957 — Proposals of the Salaries Revision Committee for Nursing, Allied and Subordinate Staff of Medical Institutions and The Palms.

Salaries Revision for Nurses

The Chief Secretary: I beg to give notice of the following motion:

“Be it resolved:

“That, with reference to Legislative Council Sessional Paper No. 1/1957 on the proposals of the Salaries Revision Committee for Nursing, Allied and Subordinate Staff of Medical Institutions and The Palms, this Council approves of the recommendations contained therein.”

ORDER OF THE DAY**REPRESENTATION OF THE PEOPLE BILL**

Council resolved itself into Committee to resume consideration of the Bill intituled:

“An Ordinance to make provision for the election of Members of the Legislative Council and for purposes connected therewith.”

The Chief Secretary: I think hon. Members have received copies of certain further amendments to the Bill which were prepared since the time when it was last examined by the Council in Committee. The amendments read:

17. (1) A candidate shall be nominated in writing by a proposer and a seconder, and no candidate shall be nominated in respect of more than one electoral district.

18. (1) Every candidate nominated at an election shall, before the hour of eleven in the forenoon of the day on which the nominations are received, deliver or cause to be delivered to the returning officer either personally or to his clerk at his office a statutory declaration made and subscribed by such candidate of his qualification made before a Commissioner of Oaths, a Justice of the Peace or the returning officer in the form set out as Form No 10 in the first schedule.

(2) If any candidate is absent from the Colony on the day on which nominations are received, a statutory declaration of the qualification of such candidate made and subscribed by his duly authorised agent in the form set out as Form No. 10A shall be delivered to the

returning officer or his clerk by the agent in the manner prescribed in subsection (1) of this section.

(3) If such statutory declaration is not delivered as aforesaid, the nomination of the candidate shall be null and void.

(4) Where such statutory declaration has been delivered as aforesaid, no further statutory declaration shall be delivered by or on behalf of the same candidate to the returning officer of any other electoral district.

(5) After an election the returning officer shall forward to the Clerk of the Legislature the statutory declaration or declarations of the candidate or candidates.

(6) If any statutory declaration is delivered in contravention of the provisions of subsection (3) of this section, the candidate shall be deemed to have withdrawn as a candidate at that election, and any deposits made by or on behalf of such candidate shall be forfeited.

(7) Any person who is convicted of making a false declaration under this section shall not, for a period of seven years after the date of the conviction, be eligible to be elected as a member of the Legislative Council.

(8) Stamp duty shall not be chargeable on any statutory declaration made for the purposes of this section.

28 (1) (i) add or group of polling divisions" between "division" and "specified" in the second line.

(2) delete "polling division in an" in the second line.

47. (2) If the candidate is absent from the Colony, the notice prescribed in subsection (1) of this section may be delivered by his election agent to the returning officer.

Renumber subsections (2), (3), (4), (5), (6) and (7), as (3), (4), (5), (6), (7), and (8).

The Chief Secretary: I move that this Council recommits clause 17 (one of the clauses deferred) as I would like to amend it slightly.

Question put, and agreed to.

Clause 17—*Nomination of candidates.*

The Chief Secretary: I move that clause 17 be recommitted.

Question put, and agreed to.

Clause recommitted.

The Chief Secretary: I move that subclause (1) as printed be substituted by the following:

"17. (1) A candidate shall be nominated in writing by a proposer and a seconder, and no candidate shall be nominated in respect of more than one electoral district."

Mr. Luckhoo: May I inquire, Sir—I have seen this for the first time—what would be the position in this case: someone might nominate—propose and second—a candidate in writing, but might be doing so without his consent; what would be the position?

The Chairman: That is not usual.

The Chief Secretary: I think the position would be that no candidate will be regarded as being a candidate until he has fulfilled all the requirements of the following clause—clause 18. Those requirements will involve the delivery of a statutory declaration and the making of his deposit with the Returning Officer.

Mr. Luckhoo: In other words a candidate, although nominated, does not become a candidate until he fulfils the requirements.

The Chairman: It is specified that the candidate must deliver (to the Returning Officer) a statutory declaration to the effect that he is qualified to be a member of the Council.

Mr. Ramphal: I do not want to make heavy weather of this. As I understand it, the whole purpose and intention of the clause is that a candidate has to fulfil the conditions referred to before he can be considered a candidate. In other words, a

[**Mr. Ramphal**]

statutory declaration must be subscribed by a candidate and delivered to the returning officer on the day of nomination.

The Chief Secretary: I would ask the Attorney General to correct me if I am wrong. I think this clause carries no penalty. If somebody who is mischievous chooses to nominate a candidate against his will with the object of sabotaging any situation, it would be found on the day of nomination that he could not achieve his object. It will be seen from this clause that every candidate nominated at an election has to fulfil certain obligations including the making of a statutory declaration to be delivered to the returning officer either by the candidate himself or by his duly authorized agent.

Mr. Luckhoo: I am satisfied with that, although I say that it could have been more happily worded.

The Chairman: With that explanation the question is "That the clause, as amended, stand part of the Bill."

Question put, and agreed to.

Clause 17, as amended, passed.

The Chief Secretary: I now move the recommittal of clause 18.

Question put, and agreed to.

Clause recommitted.

Clause 18—*Delivery by candidate of declaration of his qualification.*

The Chief Secretary: May I just point out the changes proposed; they are not very substantial but it may be simpler to substitute a new clause. There is a change in the first subclause which covers a point which came up when we were last examining this Bill in Committee. This clause specifically provides that the presiding

officer may take the statutory declaration of the candidate. If a candidate is absent from the Colony and cannot go himself to make the statutory declaration, it could be made by his duly authorized agent and delivered to the returning officer. That is the only change that has been made in subclause (1) as printed.

Question put, and agreed to.

Clause 18 (1) as amended, passed.

Clause 18 (2) —.

The Chief Secretary: Subclause (2) is a part of what was originally subclause (1). It was turned down and has now been divided into two parts. There is no change in the subclause as passed in Committee at the last meeting of the Council.

Question put, and agreed to.

Clause 18 (2) as amended passed.

Clause 18 (3)—

The Chief Secretary: The proposed amendment is subclause (2) in the printed Bill and I ask that it be adopted.

Question put, and agreed to.

Clause 18 (3) as amended passed.

Clause 18 (4) —.

The Chief Secretary: The proposed amendment in this subclause is new and it is consequential on the amendment to clause 17.

Question put, and agreed to.

Clause 18 (4) as amended passed.

Clause 18 (5) —.

The Chief Secretary: The proposed amendment contains the same wording as subclause (3) in the printed Bill.

Question put, and agreed to.

Clause 18 (5) as amended passed.

Clause 18 (6)—

The Chief Secretary: The proposed amendment is a penalty for making a statutory declaration in respect of more than one nomination. There is one correction that should be made in the cyclostyled copy (of the proposed amendments). In the second line "sub section (3)" should be made to read "sub section (4)."

Mr. Ramphal: May I just ask this question of the hon. mover (the Chief Secretary)? This amendment says:

"If any statutory declaration is delivered in contravention of the provisions of sub-section (4) of this section, the candidate shall be deemed to have withdrawn as a candidate at the election, and any deposits made by or on behalf of such candidate shall be forfeited."

What I would like to know is this: If a candidate has been nominated on two occasions, would the forfeiture occur with respect to the second nomination, or with respect to both?

The Chief Secretary: It says "any deposits made by or on behalf of such candidate shall be forfeited." Therefore, if there have been two deposits both would be forfeited.

Mr. Ramphal: The word "election" then, means the entire election.

The Chief Secretary: The point is that there must be some definite act by the candidate connecting him with the nomination, such as the making of a statutory declaration and, particularly, there must be a deposit.

Mr. Ramphal: My point is whether the candidate would be disqualified as regards one nomination, or as regards the election altogether.

The Chief Secretary: He would be disqualified as regards the entire election, and not merely as regards one constituency.

Question put, and agreed to.
Clause as amended passed.
Clause 18 (7) —

The Chief Secretary: I ask that the proposed amendment to this sub-clause be adopted.

Question put, and agreed to.

The Attorney General: There is another point. There is provision that if a man is sentenced to prison and has not served it he is disqualified.

The Chairman: There is a seven years' disability apart from the conviction. There are two penalties — disqualification from membership of the Legislature then and for seven years.

Mr. Luckhoo: The provision says "Any person, who is convicted of making a false declaration under this section . . ." I do not see any penal provision in the criminal law for making a false declaration.

The Chief Secretary: We merely follow the law of 1953. I think the hon. Member is making rather heavy weather about it. This clause is a repetition of the provision of 1953.

The Chairman: The Legislature may not have had its attention called to this.

The Attorney General: I am afraid I cannot follow the hon. Member's point. If a man makes a false declaration he has committed a criminal offence. In addition to penalty under the Criminal Law he is subject to disqualification for election to the Legislature.

The Chairman: For seven years. The ordinary period of the life of the Legislature is five years. I would say five years.

The Chief Secretary: That depends on what is mentioned in the Order in Council.

The Chairman: In the United Kingdom it is five years.

The Chief Secretary: I think it is laid down in the Constitutional Instruments.

The Chairman: I know that. Why not make it five years unless there is some reason for it? What is your parallel? Seven years is a longer period than the ordinary life of the Legislature. You are making it two years longer than the life of the Legislature.

Mr. Ramphal: I think it is because of the gravity of the offence. It is a very important matter. If a candidate puts himself in that difficulty of conscientiously making a statutory declaration that is false, he is really unfit to serve in the Legislature ever. I yield that a man should not be punished for one fault throughout his life, but even if the penalty is more than the life of one Legislature I do not think it is too much.

The Chairman: We are often told that we sit down here and allow anything to go through. Can you find a parallel of seven years?

Mr. Luckhoo: Under the Statutory Declaration Ordinance anyone who makes a false declaration is guilty of a misdemeanour and is liable on conviction to a term of imprisonment not exceeding one year.

The Chairman: But you make this seven years.

Mr. Luckhoo: There is another point. I still maintain my observation is correct. The other point I am making is, that it is the person who makes the declaration who is liable to be convicted. Suppose he makes it without having been authorized by the candidate he is the person who will suffer the conviction and the candidate will not be affected. It does not affect the candidate even if he authorizes him.

The Chief Secretary: I think the hon. Member is asking a rhetorical question.

Mr. Luckhoo: The purpose behind this clause is to penalise the candidate but the person who makes the declaration is not necessarily the one who is going up as a candidate.

The Attorney General: I think it is fair that if a candidate authorises a person to make a false declaration he should be guilty of the offence together with the person who has committed it.

Mr. Luckhoo: Under what Rule?

The Attorney General: If the declaration is made with his consent the candidate is liable; if it is without his consent then the position is different.

Mr. Luckhoo: I still maintain that there is no penalty for any person convicted of making a false declaration under this section.

The Chairman: There being no proposed amendment I put the subclause as it is.

Question put, and agreed to.

Subclause passed as printed.

The Chairman: Any objection to subclause 8 ?

Question put, and agreed to.

Clause 18 as amended passed.

Clauses 19 to 27 passed as printed.

Clause 28 *Place and manner of voting as elector.*

The Chief Secretary: I move that clause 28 be recommitted.

Question put, and agreed to.

Clause recommitted.

The Chief Secretary: There are only two small alterations I desire to make, but they do not affect the sense of the clause. It is a tidying operation. The intention is to allow a person who is on the official list to vote other than at one specific polling station—to have three categories of official list, one for the whole electoral district, one for a polling division and the third for a group of polling divisions. To achieve that I have already moved the insertion of the words “group of polling divisions” in subclause (2) on the last occasion when we considered this clause, and also in paragraph 1 of subclause (1) of the clause to include the words “group of polling divisions”. I move the insertion of those words after the words “polling division” in the second line.

Mr. Correia: I would like again a clarification of this clause. Can a voter in one polling division vote outside of the polling division in the same constituency?

The Chief Secretary: He must vote in the polling division allotted to him.

Mr. Correia: I am referring to the Bartica-Interior Electoral District where people move from one place to another. They just keep shifting around. They may be placed on the voters' list of a particular polling station, but at election time they may be 100 miles away though in the same constituency. How can they get back to their polling division to vote?

The Chief Secretary: That is precisely the object of the clause. There will be an official list and on that list they will be authorized to vote at other polling stations.

Mr. Correia: Then provision is made for that.

The Chief Secretary: That is the object of the clause.

Mr. Correia: That is what I wanted to have clarified.

Mr. Carter: There are areas where there are polling stations within 200 or 400 yards of each other, as in the Wismar-Christianburg area. What is to prevent a voter voting in the two places?

The Chief Secretary: The official list is a restricted list and a person must have good reasons for being on it, such as, travelling on business, or being occupied possibly as an Officer in regard to the election in one place and so cannot be in another place to vote. As regards to voting in two places there would be a check. Apparently, it would be a small list.

Question put, and agreed to.

Subclause as amended passed.

The Chief Secretary: In subclause (2) of this clause, in the second line,

[The Chief Secretary]

some words have crept in that should not be there, namely: "polling division in an", and I beg to move the deletion of those words. The first two lines of subclause (2) will then read:

"Any person whose name appears in the official list of electors for any electoral district specified by the Governor".

The words "polling division", etc. come later in the subclause.

Question put, and agreed to.

Clause 28 passed as amended.

Clause 47.—*Election agent of candidate.*

The Chief Secretary: This clause was deferred, so there is no need to re-commit it. There was discussion on the point that there was no provision for the requirements of this clause to be carried out in the absence from the Colony of a candidate. This is now covered by a new subclause (2), which I beg to be inserted, as follows:

"If the candidate is absent from the Colony, the notice prescribed in subsection (1) of this section may be delivered by his election agent to the returning officer."

If this is agreed upon, then the other subclauses will have to be renumbered.

Question put, and agreed to.

Clause 47 passed as amended.

Subclauses 2 to 7 renumbered 3 to 8.

Title and enacting clause passed as printed.

Council resumed.

Mr. Speaker: This is an important Bill. We have spent a fair amount of time on the second reading, but I wonder if any Member would still like more time—not too long a time — to

consider it before we proceed with the third reading.

The Chief Secretary: I beg to report from Committee with amendments a Bill intituled an Ordinance to make provision for the election of Members of the Legislative Council and for purposes connected therewith, and to move that it be read a third time and passed as amended.

The Attorney General: I beg to second the motion.

Question put, and agreed to.

Bill read a third time and passed.

LOCAL GOVERNMENT (AMENDMENT) BILL

Mr. Farnum (Member for Local Government, Social Welfare and Co-operative Development): I beg to move the second reading of a Bill intituled: "An Ordinance further to amend the Local Government Ordinance."

In the constitution of the Local Government Board, set out in section 3 subsection 2 (b) of Chapter 150, it is provided that the officer for the time being performing the duties of the Director of Medical Services or the duties of the Deputy Director of Medical Services may take the place of the Director of Medical Services in his absence. The object of this Bill is to enable the Director of Medical Services to authorize in writing an officer of his Department to take his place as a member of the Board at any meeting of the Board or of any Committee of the Board when he is himself unable to attend.

Mr. Kendall (Member for Communications and Works): I beg to second the motion.

Mr. Correia: I do not like this kind of amendment. After all, when a head of department is appointed to

serve on a committee, he is appointed as such and not as an individual. This provision looks like an attempt to pass the buck, to use a local term, to any officer when there is something unpleasant to be discussed on a committee. In this light this provision can be abused and a junior officer would have to take the responsibility for some default by the head of department. I do not intend to oppose the Bill, but I want to point this out.

Rev. Mr. Bobb: Perhaps I should remind the hon. Member that the same practice is followed in regard to the Director of Medical Services' representation on the sanitary authorities. Since this provision was made in the Local Government Board Ordinance the duties of the Director of Medical Services have increased considerably and now health officers are performing duties in connection with the Central Board of Health as they are the most suitable persons to sit on the Board as a member, in place of the Director. I think the sub-head of the department can well take charge of the functions as a member of the Local Government Board. I do not see why the D.M.S. should be there at all. I think that explanation should help the hon. Member.

Mr. Speaker: I am putting the second reading. Does anyone else wish to speak?

Question put, and agreed to.

Bill read a second time.

COUNCIL IN COMMITTEE

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

Clause 1 passed as printed.

Clause 2. — *Amendment of section 3 of Cap. 150.*

Mr. Correia: The amendment proposed and set out in this clause is per-

haps intended as a jigsaw puzzle. It is full of legal jargon, and it means that the Director or the Deputy Director can send anyone—any clerk from the Department.

The Chief Secretary: The hon. Member certainly looks at this provision from an extraordinarily debased point of view. I do hope all civil servants are not the shysters and buck-passers they are sometimes made out to be.

It is not out of line with practice to do as this Bill seeks; there are in other legislation instances where an officer is by name a member of a body but he may be represented by a duly authorized officer. In this case it would make things easier, because the Director of Medical Services may or may not wish to send his deputy. He may wish to send an assistant who deals either with health matters or administrative matters. This person would sit in the name of the Director, who would be delegating his authority but not his responsibility.

I do not agree with the hon. Member, Sir, that because it is the present practice we should not change it when it existed since our forefathers' time. I think we should certainly adopt modern methods.

Mr. Tello: I should like to remind the hon. Member (Mr. Correia) that he supported an amendment which was moved along similar lines in this Council recently with respect to the appointment of a Committee under the Housing Ordinance. The effect of the amendment was that the Mayor should send his deputy to act for him on the Committee since he (the Mayor) was not in a position to attend.

Mr. Correia: If hon. Members around this table intend to oppose me I will withdraw my remarks.

Council resumed.

Mr. Farnum: I beg to move that this Bill be now read a third time and passed.

The Attorney General: I beg to second the motion.

Question put, and agreed to.

Bill read a third time and passed.

BRITISH COMMONWEALTH PARLIAMENT-
ARY ASSOCIATION BUSINESS

Mr. Speaker: Hon. Members, I shall be glad if you make it convenient to meet me when Council

adjourns today. I propose to deal with a matter concerning the British Commonwealth Parliamentary Association.

ADJOURNMENT

The Chief Secretary: I should like to move that this Council adjourns for a fortnight, unless something urgent intervenes. I should like to move at our next meeting the motion of which I have given notice today, with regard to the salaries revision for Nursing, Allied and Subordinate Staff of Medical Institutions and The Palms. That will be one of the items on the Order Paper.

Mr. Speaker: I will adjourn then.

Council adjourned to 2 p.m. on Thursday, 14th February.