

## LEGISLATIVE COUNCIL.

*Wednesday, 13th March, 1940.*

The Council met at 11 a.m., His Excellency the Governor, SIR WILFRID JACKSON, K.C.M.G., President, in the Chair.

## PRESENT.

The Hon. the Colonial Secretary Mr. G. D. Owen, C.M.G.

The Hon. the Attorney-General Mr. E. O. Pretheroe, M.C.

The Hon. F. Dias, O.B.E., (Nominated Unofficial Member).

The Hon. J. S. Dash, Director of Agriculture.

The Hon. E. F. McDavid, M.B.E., Colonial Treasurer.

The Hon. F. J. Seaford, O.B.E., (Georgetown North).

The Hon. M. B. G. Austin, O.B.E. (Nominated Unofficial Member).

The Hon. W. A. D'Andrade, Comptroller of Customs.

The Hon. N. M. MacLennan, Director of Medical Services.

The Hon. M. B. Laing, O.B.E., Commissioner of Labour and Local Government.

The Hon. G. O. Case, Director of Public Works and Sea Defences.

The Hon. L. G. Crease, Director of Education.

The Hon. B. R. Wood, Conservator of Forests.

The Hon. Percy C. Wight, O.B.E. (Georgetown Central).

The Hon. J. Gonsalves (Georgetown South).

The Hon. J. I. De Aguiar (Central Demerara).

The Hon. Peer Bacchus (Western Berbice).

The Hon. E. M. Walcott (Nominated Unofficial Member).

The Hon. H. C. Humphrys, K.C. (Eastern Demerara).

The Hon. C. V. Wight (Western Essequibo).

The Hon. J. W. Jackson (Nominated Unofficial Member).

The Hon. F. A. Mackey (Nominated Unofficial Member).

## OMISSION OF MEMBER'S NAME.

Mr. PERCY C. WIGHT: Sir, before the minutes are confirmed I would like to raise a question which I think was decided once before. At the last meeting of the Council I entered the Chamber shortly after the confirmation of the minutes, but my name does not appear on the minutes as having been present. I know that when a Member attends after lunch his name does not appear on the front page of the minutes, but if he comes in before lunch his name should appear there.

THE PRESIDENT: I am not quite clear what the hon. Member's point is.

Mr. WIGHT: On page 2 of the minutes it is recorded: "Mr. Percy C. Wight entered the Chamber and took his seat," but on the face of the document my name does not appear among those present.

THE PRESIDENT: It is recorded that the hon. Member took his seat at that point.

Mr. WIGHT: My point is that my name has been left out on the front page of the document.

THE PRESIDENT: But you were not present when the Council assembled at 10.30 a.m.

Mr. WIGHT: Yes, I was present. It is herein stated "Mr. Percy C. Wight entered the Chamber and took his seat."

THE PRESIDENT: The hon. Member came later.

Mr. WIGHT: I attended during the morning session, and I am of the opinion that my name should be included on the face of the document.

THE PRESIDENT: I think this is the usual practice.

Mr. WIGHT: If that is your ruling, sir, I bow.

THE PRESIDENT: I must admit that I have not gone into it very carefully, but I notice that the names of hon. Members are put down when they come in.

Mr. WIGHT: The point was raised in Council some years ago and I am under the impression that it was then held that if a Member attended the morning session his name would appear on the front page of the minutes, but if he attended in the afternoon it would be mentioned at the stage at which he arrived.

THE COLONIAL SECRETARY (Mr. G. D. OWEN): That is the usual practice. On the front page the names of those present at 10.30 a.m. for prayers are recorded. A Member who is not present at the opening does not have his name included on the front page, but a note is made at the time he enters. What has been done in this case is the usual practice.

Mr. WIGHT: It is no good prolonging the argument, but I must say without fear of contradiction that I have attended here repeatedly after prayers had been read and my name has been included on the front page of the minutes.

THE PRESIDENT: We are following the practice that obtains now.

#### MINUTES CONFIRMED.

The minutes of the meeting of the Council held on the 8th March, 1940, as printed and circulated, were confirmed.

#### ANNOUNCEMENTS.

##### DEVELOPMENT OF TOBACCO CULTIVATION.

Professor DASH (Director of Agriculture) communicated the following Message:

##### MESSAGE. No. 14.

Honourable Members of the Legislative Council:

In pursuance of section 11 of the Colonisation Fund Ordinance, 1937, I have the honour to invite Council to approve of a scheme for the development of tobacco cultivation and training of local tobacco growers, which is laid

before the Council in Session Paper No. 2 of 1940.

2. It is proposed that the scheme should be carried out under the supervision of the Tobacco Adviser, Mr. T. W. Bradshaw, whose salary and expenses are being met from a free grant from the Colonial Development Fund, which Council accepted on the 2nd of August, 1939, by Resolution No. XXIX.

3. In accordance with section 10 of the Ordinance, the scheme has been considered by the Governor in Council and the Advisory Committee for the Development Trust Fund, and the Governor in Council has sanctioned the scheme as set out in the Committee's report. It will be seen that a grant of \$7,800 from the Development Trust Fund is recommended to meet expenditure on the scheme over a period of three years. The capital expenditure is estimated at \$960 and the annual expenditure at \$2,280.

W. E. JACKSON,  
Governor.

9th March, 1940.

##### EXPENDITURE ON URGENT WORKS.

THE COLONIAL SECRETARY communicated the following Message:—

##### MESSAGE NO. 15.

Honourable Members of the Legislative Council,

The Council will recollect that in publishing the West India Royal Commission's recommendations His Majesty's Government in the United Kingdom announced that it was proposed at once to provide a special sum of £350,000 for such schemes as can be begun immediately in certain of the Colonies concerned, and that on the 5th of March I informed Honourable Members that certain proposals for expenditure on urgent works in this Colony had been submitted for consideration. The Secretary of State has now expressed his willingness to approve of the expenditure on the following lines:—

- (a) \$142,800 on reconditioning drainage;
- (b) \$37,000 on reconditioning roads;
- (c) \$70,200 on reconditioning buildings.

He explains, however, that this expenditure should be met in the first instance from surplus Colonial funds on the understanding that sums not exceeding the amounts specified will be made good to British Guiana from special provision in the Colonial and Middle Eastern services votes of the United Kingdom Government for 1940-41. The Council is accordingly invited to approve of the expenditure proposed, subject to the above conditions.

2. The Secretary of State has further explained that the grant for the reconditioning of drainage works is subject to acceptance in principle of the proposals for the establishment of a central drainage authority as recommended by the Committee which recently reported on the financial position of the declared drainage areas (Legislative Council Paper No. 539). Printed copies of that report were laid on the table on the 4th of February, 1939, and it is now suggested that the Council should express its willingness to adopt the general

principle of the Committee's recommendations. This suggestion does not cover the Kitty Drainage Area in respect of which separate proposals are under consideration. The position of the Canals Polder Authority may also require special consideration.

3. If these proposals are adopted the drainage works which it is suggested should be carried out first are the following which, with one exception, are taken from the programme laid down by the Drainage Committee:—

East Coast, Demerara	\$ 55,200
East Bank, Demerara	\$ 12,867
WEST COAST, DEMERARA.	
Eastern Section	\$ 15,636
Western Section	\$ 3,440
BERBICE.	
East Coast	\$ 1,817
Corentyne	\$ 4,738
Lancaster-Limlair	\$ 21,735
Kilmarnock Sluice	\$ 7,800
Anna Regina, Essequibo	\$ 19,435
Contingencies	\$ 132
	\$ 142,800

Fifteen per cent. has been added to the estimated cost of reconditioning as drawn up by the Committee, to provide for the increase in costs due to the War.

4. It is proposed to allocate the expenditure on reconditioning of roads as follows:—

Sea Wall Road	\$ 6,500
East Bank Road	17,750
Not yet allocated	12,750
	\$ 37,000

5. As regards reconditioning works, it is suggested that the following sums should be spent on the undermentioned buildings:—

Public Hospital, Georgetown	\$ 20,000
Alms House	13,000
Eastern Barracks, Eve Leary	22,500
Improved sanitary arrangements in both Barracks at Eve Leary	2,800
Not yet allocated	11,900
	\$ 72,000

6. The appropriations proposed under paragraphs 4 and 5 cannot perhaps be strictly regarded as forming part of a development programme, but they cover works of an urgent character which must be undertaken as soon as possible and will extend the field of employment in an area where this is much needed. Moreover it must be recognised that as a preliminary to any long range development programme it is most desirable that existing institutions and means of transport should be placed as far as possible in a satisfactory condition.

W. E. JACKSON,  
Governor.

13th March, 1940.

#### PAPERS LAID.

THE COLONIAL SECRETARY laid on the table the following documents:—

Report to the Governor in Council by the Advisory Committee for the Development Trust Fund on a Scheme for the Development of Tobacco cultivation and training of local tobacco growers.

Parcel Post (Amendment) Regulations, 1940.

Petition to the Governor by certain persons praying for the incorporation of the New Building Society Limited, and for the introduction of the New Building Society Bill in the Legislative Council.

#### GOVERNMENT NOTICES.

##### DEVELOPMENT OF TOBACCO CULTIVATION.

Professor DASH (Director of Agriculture) gave notice of the following motion:—

THAT, with reference to the Governor's Message No. 14 dated 9th March, 1940, and in pursuance of section 11 of the Colonisation Fund Ordinance, 1937, this Council approves of the Scheme for the Development of Tobacco cultivation and the training of local tobacco growers set out in the Legislative Council Paper No. 2 of 1940, involving a grant of \$7,800 from the Development Trust Fund.

##### EXPENDITURE ON URGENT WORKS.

THE COLONIAL SECRETARY gave notice of the following motion:

THAT, with reference to the Governor's Message No. 15 of the 13th March, 1940, this Council gratefully accepts the financial assistance offered by His Majesty's Government in the United Kingdom amounting to \$250,000 to be expended on the following works:—

- (a) \$142,800 on reconditioning drainage;
- (b) \$37,000 on reconditioning roads;
- (c) \$70,200 on reconditioning buildings;

and approves of this expenditure being met in the first instance from the surplus Colonial funds.

Further, that this Council adopts in principle the recommendations of the Committee which reported on the financial position of the declared drainage areas (Legislative Council Paper No. 5 of 1939) with the exception of the proposals relating to the Kitty Drainage area, and approves of the establishment of a Central Drainage Authority as recommended by the Committee.

#### UNOFFICIAL NOTICES.

##### CONDITION OF THE FIRE FLOATS.

Mr. DE AGUIAR gave notice of the following questions:—

1. Has any action been taken to convert the Fire Float "Vesta" from steam to motor power, as recommended in the report of a Committee dated 18th May, 1939?

2. Will Government state how soon it is expected to bring this vessel into service with its equipment?

3. Can this vessel give satisfaction if put into service in its present condition?

4. Is it true that the Fire Float "Alert" is out of commission? If so, why?

5. Is Government aware of the necessity of keeping at least one of these vessels in proper working order?

#### RADIO OPERATORS.

Mr. DE AGUIAR on behalf of Mr. C. V. Wight, gave notice of the following questions:—

1. How many radio operators are there on the radio staff of the Post Office Telecommunications Branch? Is the present staff adequate to meet the demands of the service?

2. What are the grades of salaries of such operators?

3. Are there any officers drawing their maximum salary?

If the answer is in the affirmative, how long have such operators been in receipt of their maximum salaries?

4. What prospects of promotion have radio operators?

5. Was there a post of senior operator? If the answer is in the affirmative, what were the personal emoluments of such officer?

6. Why was the post of senior operator abolished?

7. How long was the post of senior radio operator in existence previous to its abolition?

8. Since the abolition of the post of senior operator, by whom have the duties attached to that post been carried out?

9. Does Government intend to augment the staff of the branch of the Post Office Telecommunications service?

If the answer to No 9 is in the affirmative, does Government propose to make such appointment from the present staff? If not, why not?

#### CROWN COUNSEL'S ASSUMPTION OF DUTIES.

1. When is Mr. A. C. Brazao to assume duties as Crown Counsel?

If not immediately, why not?

#### ADDITIONAL JUNIOR MAGISTRATE.

2. Does Government intend to appoint an additional Junior Magistrate?

If the answer is in the affirmative, when is it proposed to make such appointment?

#### ORDER OF THE DAY.

#### CINEMATOGRAPH (AMENDMENT) BILL, 1940.

THE COLONIAL SECRETARY: I move that "A Bill intituled an ordinance further to amend the Cinematograph Ordinance, Chapter 105" be read a second time. At present public exhibition of films

can be given only in halls duly licensed under Chapter 105. The object of this amendment of section 9 of the Principal Ordinance is to enable public departments to give exhibitions of non-inflammable films of an educational nature in buildings which are not licensed under the Principal Ordinance. Sub-clause (b) of the Bill is the new sub-clause to be inserted in the Ordinance. I move that the Bill be read a second time.

Mr. DIAS seconded.

Question put, and agreed to.

Bill read a second time.

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

Clause 2—Performances exempted from provisions of Ordinance.

Mr. GONSALVES: I would like to know whether films shown in the Town Hall in connection with Health Week can be regarded as coming within the definition of films of an educational nature. The Medical Official of Health and the Chief Sanitary Inspector usually show films dealing with public health during the Health Week Campaigns, and if sub-clause (b) is not sufficiently wide to cover such exhibitions I would ask that some amendment be made to that end.

THE ATTORNEY-GENERAL: The answer to the hon. Member's question is that it is covered by the Bill.

The Council resumed.

Notice was given that at the next or subsequent meeting of the Council it would be moved that the Bill be read a third time and passed. (*The Colonial Secretary*).

#### LOCAL GOVERNMENT (VILLAGE COUNCILS) AMENDMENT BILL, 1940.

Mr. LAING (Commissioner of Labour and Local Government): I move that "A Bill intituled an Ordinance to amend the Local Government (Village Councils) Ordinance, 1935" be read a second time. Clause 2 of this Bill seeks to amend section 4 of the Principal Ordinance which deals with the disqualification of village councillors. One of those disqualifications is

direct or indirect pecuniary interest in any contract with a village council. If by reason of the contract a village councillor has to obtain money from the village council then he has a pecuniary interest in that contract. If, on the other hand, he is not to obtain but he has to pay money to the council the position is different. The renting or lease of property by a village council is one of its chief sources of revenue, and it is felt that such a contract should not disqualify a village councillor. In fact whether it does or does not disqualify a village councillor is a point of some doubt, and clause 2 of the Bill will render the meaning clear. Clause 3 merely corrects a printing error which has recently come to light. I move that the Bill be read a second time.

Mr. CREASE (Director of Education) seconded.

Mr. HUMPHRYS: It seems to me, if I may say so, that the hon. mover has not dealt fully with this matter, and I would like a great deal more explanation about the Bill. The proposed new section 4 is a most important amendment, and one which, I respectfully submit, Government should not introduce at this stage. An amendment of this nature should have been published. It is of the greatest importance to village councils, but nobody has seen it until this morning, and the people concerned do not know that it was even contemplated. Recently two councillors were declared to be wrongly elected by a Magistrate as a result of an election petition, but before their election was declared void those two councillors nominated and seconded the election of the Chairman of a certain village. As a result of their election being void the nomination of the Chairman was also void, and it has been contended—and I think rightly—in that village that the other candidate lawfully nominated and seconded should be the Chairman of the council. The effect of this amendment would be to make the other nomination perfectly good, although the two councillors were wrongly elected. The amendment is to be retrospective, so that all acts done by those two councillors are to be deemed lawful. I submit with every confidence that it would be wrong for this Council to pass an amendment of this nature and make it retrospective. If it is intended to amend the Ordinance by all

means do so for a future occasion. I would like to hear whether it is not deliberately intended by clause 4 to make the election of the Chairman good, although the Magistrate has declared that his nomination was bad.

THE ATTORNEY-GENERAL: The hon. Member spoke to me yesterday afternoon and brought to my knowledge something I had not previously known—the case to which he has just referred. I then looked at the Ordinance expecting to find the usual clause found in all Municipal Ordinances and Local Government Ordinances, which states that where a member is unseated any acts previously done by him shall be valid. I found that that particular section is not included in the Local Government Ordinance. Sub-clause (1) has been copied word for word from the Municipal Corporation Act of 1882. It is not an unusual clause in any shape or form, and I think I am correct in saying that it appears in all Local Government Acts and Ordinances. I suppose that it is an accidental omission—the fact that it is not in our Ordinance. Hon. Members will realize that in the case referred to, in which the finding of the Magistrate was that the election was void, it meant that two or three persons had never in fact been members of the Council, but before the election petition was heard they had sat and voted as members of the Council, not only for the election of a Chairman. It is quite obvious that a very difficult position arises in a case like that. The Magistrate quite rightly declared the election void. The question now is: as those men were never members of the Council, what is to happen? The hon. Member suggested that the other candidate should be declared Chairman, but I am not prepared to go as far as that. What about the other acts they have done? Is it really almost impossible to unravel at this stage, and I suggested to Mr. Laing that if this clause could be put into the Bill to-day and made retrospective it would save a lot of bother and a lot of litigation. There was no time to give notice of the amendment. There is nothing subtle about it. It merely brings to this country the law that exists in England and other countries.

Mr. DE AGUIAR: It seems to me, after all, that there is a lot in this innocent Bill which has been put before the

Council, and I would like to assure the hon. Attorney General that while I agree with most of the views he has expressed I do not think he will be able to obtain my support as regards this particular amendment. My reason is perhaps due to the fact that I have more knowledge of local village affairs than the hon. Attorney General, and I know what it will mean if this amendment is adopted.

THE PRESIDENT: We are not dealing with the amendment now; we are dealing with the second reading.

Mr. DE AGUIAR: With all due respect to your ruling, sir, in speaking on the second reading it is competent for a Member to speak on an amendment with which it is proposed to deal later on in Committee.

THE PRESIDENT: Providing it deals with the principle of the Bill.

Mr. DE AGUIAR: It does. In fact if these amendments are knocked out there will be no Bill at all. In so far as the published portion of the Bill is concerned there might not be any serious objection because it is merely correcting what was obviously wrong before.

THE PRESIDENT: There is no desire to rush the Bill through. If the hon. Member is prepared to raise the question in Committee the Committee stage could be adjourned.

Mr. DE AGUIAR: I am not suggesting any intention on the part of Government to rush the Bill, but at this stage it is desirable that Government should know Members' views in order that full consideration might be given to them, and perhaps when the Bill reaches the Committee stage Government might consider it advisable to withdraw the amendment. I think the hon. Member was at pains to point out that the main objection is to the retrospective effect which it is desired to give the amendment. I agree with the hon. Attorney-General that an amendment of section 31A of the Ordinance is desirable, and I also agree with him that this provision can be found in several Ordinances, but what Members are opposing is sub-clause (2) which gives retrospective effect to clause 31A, and the hon. Member for Eastern Demerara (Mr. Humphrys) pointed out

what would be the effect of it if it became law. I do not think any Member would disagree with that view, because we know what happened in the particular instance referred to. The matter engaged the attention of the Magistrate's Court, and a decision was given. That shows the interest of the parties concerned. If, therefore, this Council seeks to day to over-ride that decision it would be against the wishes of the people. Personally I do not think this Council should do that. I am quite prepared to support the amendment of section 31A, but not sub-clause (2) of the Bill.

THE PRESIDENT: I still cannot see why the hon. Member cannot deal with the matter in Committee. The Bill as it stands has been printed, and these amendments can be made in Committee. It is quite easy to adjourn the Committee stage or to move an amendment. If the hon. Member accepts that view we will take the second reading of the Bill as it stands now.

Question put, and agreed to.

Bill read a second time.

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

Clause 3.

THE ATTORNEY-GENERAL: I move that clause 3 be amended by (a) numbering the clause as sub-clause (1), and (b) by inserting the following as sub-clause (2):—

"(2) This section shall be deemed to have come into operation on the first day of January nineteen hundred and thirty-nine."

The reason for this is that when I drafted the Bill I had no idea that some districts had been sub-divided, and that the voters' list was prepared on that subdivision. In order that this may not have to be done again it is proposed that this section be retrospective so as to legalise the existing voters' list.

Mr. HUMPHRYS: I am always very suspicious about these retrospective enactments. What exactly is it intend to cover? Has some illegal act been done, or was it something referred to in the election petition? I would like the hon. Attorney-General's assurance that this has nothing to do with that petition. If it affects the next section in any way I shall have to oppose it.

THE ATTORNEY-GENERAL: It is quite true that the section was mentioned by the Magistrate who heard the petition, but he found on two grounds. I think this amendment makes not the slightest change in the law, but in order to save litigation it is essential that it should be made perfectly clear. This amendment would have been moved even if that petition had not been heard.

Mr. HUMPHRYS: I take it that it is not sought by this amendment to validate the election of those councillors whose election was declared void.

THE ATTORNEY-GENERAL: No.

THE CHAIRMAN: Does that satisfy the hon. Member?

Mr. HUMPHRYS: Yes, I accept the assurance of the hon. Attorney-General.

Amendment agreed to.

THE ATTORNEY GENERAL: I move the addition of the following clause, †:

4. The Principal Ordinance is hereby amended by the insertion therein after section thirty-one of the following section—

31A. (1) The acts and proceedings of a person elected as a councillor shall, notwithstanding his subsequent disqualification or want of qualification, be as valid and effectual as if he had been qualified.

(2) This section shall be deemed to have come into operation on the first day of January nineteen hundred and thirty-nine."

This clause does in a way aim directly at the election petition, but I must say first of all that it will not in any way validate the election. The election of those Councillors will remain void as declared by the Magistrate. There is no question of this amendment re-establishing them on the Council, but hon. Members will understand that those men acted in good faith and had in fact taken part in the deliberations of the Council for a certain period. As such they took part in the election of the Chairman and in the various financial resolutions to which effect has already been given. It is not insuperable, I suppose, but extremely difficult to go through the minutes of the meetings and validate every act in which those particular councillors have taken part. Money has already been voted on the financial resolutions, or some of it has been spent, and that being the case I wondered what happened in other

countries in similar cases, and I found that this particular clause is contained in all Local Government Ordinances I could trace. I looked at seven such Acts in England, and in every case this provision was there. The actual wording, with the exception of the word "subsequent," is taken from section 12 of the Municipal Corporations Act, 1882. All that is sought to do is to avoid the chaos which will arise in this Council if we have to validate every single act in which those councillors have taken part, some of which may be difficult to validate. It is a very old provision, well known in Local Government Laws, and will not in any way alter the fact that those two or three councillors' election has been declared void.

Mr. HUMPHRYS: I entirely agree with the Attorney General that this is a usual provision in Ordinances of this kind and might have been put in previously, but what I am objecting to is the proposal to make it retrospective. The position is as follows: There were two nominations for the election of a Chairman, and one nomination having been declared void the other candidate has a vested right to be declared duly elected Chairman. The effect of this amendment will be to take away that candidate's vested right. I submit that it is well recognized that it is unconstitutional for this Council to do that. I submit that a governing body does not take away a vested right from a person which he has under an existing law. I am urging Members to oppose this amendment in view of its retrospective effect. I think the Attorney-General should agree that sub clause (2) be deleted, otherwise I shall have to move a further amendment.

This is really playing with a situation which is dangerous. This election has caused a lot of discussion in the village. The matter has been engaging the attention of Mr. Laing, and as we understood the position, it was a matter on which the advice of the Law Officers of the Crown was sought. The very first intimation we got about it was a copy of this amendment which we found on our tables this morning. Government is laying itself open to an accusation of not playing the game. I am urging Government to be fair and square with those people. I submit that as the law stands now there is a duly elected Chairman of the village, but by passing

this Bill and making the acts of those persons who were wrongly elected legal, Government is electing as Chairman a person whose election has been declared void by the Magistrate. Government is going beyond all reasonable limits in attempting an amendment of this kind. I hope that hon. Members who realise the position will support the deletion of the clause.

Mr. DE AGUIAR: The hon. Member has dealt with the legal aspect of the matter and I do not propose to make any further observations on that score, but I want to warn Government that the importance of the election of a village chairman is something that must not be overlooked at any time. I have a very distinct recollection of what happened in the past. In the past village chairmen were nominated by the Local Government Board, but as a result of representations made from time to time this Council thought it fit to allow the village councils to elect their own chairmen. I refer to that merely to point out how important to the village communities is the election of a village chairman. My own view of the matter is that if, as my friend says, this sub-clause will have the effect of interfering with what has been done in the particular village, I think it is my duty to warn Government that it is a very wrong step to take. It may be true that those councillors have performed other acts, financial and otherwise, and perhaps there is some anxiety on the part of Government to remedy those illegal acts, but I think other means might be found of remedying those acts. It seems to me quite clear that those wrong acts might be remedied by the council when it is properly constituted. Whether that is possible or not I do not know. Perhaps the Commissioner of Labour may be able to say whether that is possible, but this much I will say, that if we have to come here every time to remedy wrong acts of village councils this Council would be constantly engaged in passing legislation to that effect. I do not think that is sufficient reason for this Council to make this amendment retrospective.

Mr. LAING: The whole intention of Government is to try to remedy the conditions existing in the village to-day. The village is unsettled as a result of this election petition, and what Government desires to do is to get the administration running

smoothly again, and to do that as early as possible. The hon. Member for Eastern Demerara (Mr. Humphrys) has said that as a result of the election petition somebody else is Chairman of the village. Whether that is so or not I am not in a position to say, but as the Attorney-General has pointed out, there is nothing subtle about this amendment. All that Government desires is to have it put through so that the Local Government Board can order a new election and have the village council properly constituted. That is the whole idea and intention of Government.

Mr. SEAFORD: I would like to ask the legal luminaries how it is proposed to validate the acts of this council if it was not properly constituted when it performed those acts?

Mr. HUMPHRYS: I would like to remind the hon. Member that on many occasions an elected village councillor has sat and performed duties for quite a long time before his election was upset. There has been no attempt to validate those acts because they amounted to nothing. The only object of this amendment is to deprive the councillor who has a vested right to be Chairman. If there are other acts to be validated the amendment could be so worded as not to interfere with the election. To deprive that councillor of his right to approach the Court to be declared Chairman is not proper. In spite of the subtle honeyed words of the Hon. Mr. Laing I do not accept the statement that in introducing this amendment Government wishes to get the village council running smoothly. For some reason the Local Government Board does not wish as Chairman the councillor who, I submit, is legally Chairman, and is endeavouring by this means to get rid of him. It is not British to act in this way.

Mr. DE AGUIAR: I am not a legal man but it seems to me that if at the time those acts were performed the council had a quorum exclusive of those two councillors, those acts, in my opinion, would be legal.

THE CHAIRMAN: Even if they were carried by a majority which included those who were not legally members?

Mr. DE AGUIAR: Yes, sir, the Council cannot function without a quorum

That, in my opinion, is a fundamental argument in favour of the points raised by us here. There is one other point. I would like to obtain information from the Hon. Mr. Laing with reference to the new election. There is anxiety on the part of somebody to properly constitute the council so as to bring about a new election. I do not know whether he means a new election of a Chairman or the election of two councillors in the places of those who have been unseated. If the anxiety is to order a new election of two councillors by all means go ahead, but the trouble will begin when a new election of a Chairman is ordered. I would like to tell the hon. Member for Western Essequibo (Mr. C. V. Wight) that I am sorry he brought in the Local Government Board which has nothing to do with the matter. Speaking as a member of the Board I know nothing about it. I cannot allow the hon. Member to say that the Board has engineered this amendment because, as a member of the Board, I know nothing about it.

Mr. JACKSON: I have given careful attention to the remarks made by the hon. Member for Eastern Demerara (Mr. Humphrys) and the hon. Member for Central Demerara (Mr. De Aguiar), and I am strongly of the opinion that whether this clause is passed or not a new election must be ordered. Section 31 of the Principal Ordinance states:—

31. At the conclusion of the hearing of the petition or the appeal the magistrate or the court, as the case may be, shall determine whether the councillor whose election is questioned or any other and what person, was duly elected, or whether the election was void, and shall certify such determination to the Board; and the election shall be confirmed or altered or a new election shall be held, as the case may require, in accordance with the certificate.

This amendment is necessary in order to validate the acts done by the two councillors who have been disqualified, otherwise the financial and other matters in which they took part would be null and void, a state of things which cannot be allowed to exist.

I am not prepared to enter into the question whether or not the other councillor who was nominated for election as Chairman should be declared Chairman. I do not think the amendment concerns that at all. My own idea is that the validation of the acts previously done by the two

councillors is a necessity, and when an attempt is made to jockey the other candidate into the office of Chairman any objection which might be taken could be taken then. I think the amendment proposed ought to be made, and I shall support it.

Mr. WALCOTT: I am not a lawyer and therefore I cannot take any legal view of the matter, but morally it seems to me very wrong to introduce retrospective legislation now. I remember that it was done here several years ago, and within three or four weeks the Council had to be summoned to cancel it. The object of that legislation was to admit motor cars from England duty free, although there was the Canadian Reciprocity Agreement, and two or three gentlemen in this Colony got away with it by getting their cars in duty free. It did not take long for the Secretary of State to cable the Government to cancel that legislation. I protested most vigorously at the time, and I protest most vigorously again to-day. I shall vote against Government if the amendment is put.

THE ATTORNEY-GENERAL: The hon. Member for Eastern Demerara (Mr. Humphrys) said, or I understood him to say, that assuming that the present Chairman was wrongly elected then automatically the other candidate would be the Chairman, or is Chairman now. Is the hon. Member quite sure that is the case? Is it not the case that the whole election is void? Surely the whole election would be void.

Mr. HUMPHRYS: I think it is a recognized principle of law that if there are two nominations and one is declared void and the other valid the candidate whose nomination is valid is *ipso facto* elected. That was decided in 1926 in an election petition in which I was concerned. That was the decision of a single Judge and there was no appeal to the Full Court. If the Attorney-General would like to read that decision I would give it to him. The same principle would apply to the election of a chairman.

THE ATTORNEY-GENERAL: I will consider what the hon. Member has said, but I have my doubts as to whether the meeting of the council was properly con-

stituted. I would like some time to look into it.

THE CHAIRMAN: The best thing would be for the discussion in Committee to be adjourned.

THE ATTORNEY-GENERAL: I move that further consideration of the Bill in Committee be adjourned.

Motion carried.

The Council resumed.

#### NEW BUILDING SOCIETY BILL, 1940.

THE ATTORNEY-GENERAL: I move that "A Bill intituled an Ordinance to incorporate The New Building Society, Limited, and to transfer to that Society the assets of the British Guiana Building Society, Limited" be read a third time and passed.

Professor DASH seconded.

Question "That this Bill be read a third time and passed" put, and agreed to.

Bill read a third time and passed.

#### FIREARMS BILL, 1940.

THE ATTORNEY-GENERAL: I move that "A Bill intituled an Ordinance to make provision for the importation, sale,

possession and use of firearms and ammunition and for the registration, and licensing of firearms, and for matters connected with the matters aforesaid" be read a third time and passed.

Professor DASH seconded.

Question "That this Bill be read a third time and passed" put, and agreed to.

Bill read a third time and passed.

THE PRESIDENT: There is an important motion, of which the Colonial Secretary gave notice this morning, about the programme of works to be undertaken. I take it that the Council would prefer to have two hours to consider that motion, and is not anxious to go on with the motion of the hon. Member for Western Essequibo (Mr. C. V. Wight) to-day. In any case it will be necessary for the Council to sit to-morrow. If the hon. Member is agreeable I would suggest that the Council sit to-morrow to deal with the rest of the business.

Mr. C. V. WIGHT: As Your Excellency pleases. I am quite agreeable to the suggestion that we meet to-morrow, and if Your Excellency so desires, that the motion by the Colonial Secretary be placed first on the Order Paper.

The Council was adjourned until the following day at 10.30 a.m.