

LEGISLATIVE COUNCIL.

Wednesday, 18th March, 1936.

The Council met, His Excellency the Governor, SIR GEOFFRY A. S. NORTHCOTE, K.C.M.G., President, in the Chair.

PRESENT.

The Hon. the Attorney-General, (Mr. Hector Josephs, K.C.).

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

Major the Hon. W. Bain Gray, C.B.E., Director of Education.

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

The Hon. E. G. Woolford, K.C. (New Amsterdam).

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

The Hon. J. Mullin, O.B.E., Commissioner of Lands and Mines.

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

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

Major the Hon. J. C. Craig, D.S.O., Director of Public Works.

The Hon. M. B. Laing, District Commissioner, East Coast Demerara District.

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. Jung Bahadur Singh (Demerara-Essequibo).

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

The Hon. A. R. Crum Ewing (Essequibo River).

The Hon. C. R. Jacob (North Western District).

The Hon. A. G. King (Demerara River).

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

MINUTES.

The minutes of the meeting of the Council held on the 2nd and 22nd January, as printed and circulated, were confirmed.

THE PRESIDENT'S SPEECH.

THE PRESIDENT addressed the Council as follows :—

Honourable Members,—This meeting of the Council has been called at short notice for the submission of a Bill which aims at ameliorating the plight in which certain individuals connected with the intoxicating liquor trade have placed themselves by reason of misapprehension and oversight on their part. The Bill is brought forward by Government because of the injury which would otherwise be inflicted on the revenue through the omission of the persons concerned: its introduction is not to be taken as a precedent should some individuals at some future time do themselves or their businesses harm by their own default.

I am given to understand, however, that the misapprehension of the relevant statutes, which has partly contributed to bring about this situation, is somewhat widely held in the Colony: I have, therefore, asked the honourable and learned gentleman, the Attorney-General, to state, when speaking to the second reading, what the requirements of the law are in this regard, and I advise those whose interests are concerned with this industry to pay close heed to his remarks.

I take this opportunity to mention three other matters of interest to Honourable Members.

During the debate on the draft Estimates for this year I stated that, while I was unable at that time to include provision for a second Puisne Judge, I should be prepared to put forward to the Secretary of State the case for such an appointment if one were to be made out by Members. Subsequently I addressed the Secretary of

State, who has now replied that he is willing to meet the wishes of the Council. There is no necessity to take a vote for the salary of a second Puisne Judge, as under section 8 of the Supreme Court of Judicature Ordinance authority exists for its payment within defined limits. On the other hand, such an appointment would entail an increase of the expenditure for the year as approved by this Council, and for that reason it is proper that Honourable Members should have an opportunity of discussing the matter. I will give that opportunity when the appointed business of the day has been done. In the meantime the honourable and learned Attorney-General will present a formal Message on the subject.

Honourable Members will remember that when the Estimates were being debated I undertook to give consideration to the approved establishment of the Department of District Administration. After consultation with the District Commissioners I have reached the conclusion, with which the Executive Council concur, that it would be advantageous if the major portion of the inhabited area of the present West Demerara District were to be joined to the present Georgetown and East Bank Demerara District under a single administration with its headquarters in Georgetown, the remainder going into the Essequibo District. The former area will include all the estates and farms along the West Coast road as far as Parika and on the West Bank of the Demerara River, the Boerasirie Conservancy and the islands of Leguan and Wakenaam. The area put into the Essequibo District would contain the banks of and the other islands in the Essequibo River and would include Bartica. The effect upon the establishment will be to replace a District Commissioner by an Assistant District Commissioner. I may add that other less important changes of district boundaries are under consideration, but if approved by the Governor in Council they will not effect any reduction in personnel.

I have only to add that the Conservator of Forests will shortly be going to the United Kingdom and to the continent of Europe on duty with the object of expanding the Colony's timber exports. The two subjects which will concern him princi-

pally are the trade in greenheart, of which timber, as Honourable Members are aware, this Colony holds the world's supply, and secondly with investigation into kiln-drying and marketing our hard woods. I hope before long to lay papers before this Council in fuller explanation of these matters. This journey will necessitate a recast of the Department's estimates, though the total already voted should not be exceeded: I trust that when the time comes this Council will endorse the Government's action in this connection.

I now commend the business of the day to the attention of Honourable Members.

ANNOUNCEMENT.

APPOINTMENT OF PUISNE JUDGE.

THE ATTORNEY-GENERAL (Mr. Hector Josephs): I am the bearer of the following Message from His Excellency the Governor to the Council:—

MESSAGE No. 13.

Honourable Members of the Legislative Council,

I have the honour to inform Honourable Members that the Secretary of State has approved of the appointment of another Puisne Judge and that it is proposed to fill the office this year.

2. Provision for this office and the salary, as in the case of the other Judges, is contained in sections 6 to 9 of the Supreme Court of Judicature Ordinance, Chapter 10.

3. It will be within the recollection of Members that the question of making this appointment was the subject of discussion in this Council during the consideration of the Estimates for the current year.

G. A. S. NORTHCOTE,
Governor.

16th March, 1936.

PAPERS LAID.

THE ATTORNEY-GENERAL laid on the table the following documents:—

Divisional Reports of the Department of Agriculture, 1934.

Report on Meteorology, 1934.

Report of the Committee of the Georgetown Public Free Library, 1935.

Report of the Registrar of Trade Unions, 1935.

Report of the Registrar of Friendly Societies, 1935.

Report of the Commandant, British Guiana Militia, 1935.

Reports under Food and Drugs Ordinance for half-year ended 30th June, 1935.

Report of the Administrators of the Patoir Fund, 1935.

Report of the Trustees of the Berbice Lutheran Fund, 1935.

Forty-fifth Annual Report of the Chamber of Commerce of the City of Georgetown for the period July, 1934, to December, 1935.

GOVERNMENT NOTICE.

INTOXICATING LIQUOR LICENSING (TEMPORARY) BILL.

THE ATTORNEY-GENERAL gave notice that at a later stage he would move that the Standing Rules and Orders be suspended to enable the following Bill to be introduced and taken through all its stages:—

A Bill to authorize the issue by the Chief Commissary of certain hotel and spirit shop licences after the time limited by the Intoxicating Liquor Licensing Ordinance, Chapter 107,

UNOFFICIAL NOTICE.

THE SEA DEFENCES.

Mr. DE AGUIAR, on behalf of Mr. ELEAZAR, gave notice of the following questions:—

1. What is the total sum of money expended on the sea defences between Plantations Triumph, East Coast Demerara, and Anuandale within the last ten years?

2. What amounts have been paid out since 1928 for:—

- (a) Engineering fees.
- (b) Materials, viz., Cement, wood, stone, sand, respectively.
- (c) Wages to workmen.
- (d) Transportation of materials.

3. Is Government satisfied with the methods adopted in the performance of the work?

4. Will Government consider the advisability of commencing negotiations with some competent Dutch Engineer to take charge of the Sea Defences of the Colony?

5. Will Government consider the advisability of terminating the services of the present Consulting (Sea Defence) Engineer?

6. What is the annual amount paid for interest on Sea Defence Loans?

PETITION.

Mr. GONSALVES laid on the table a petition by Miss Lydia Jane Pollard, retired Night Matron, Public Hospital, Suddie, praying that the whole period of her service be taken into consideration for the purpose of calculating her pension.

ORDER OF THE DAY.

INTOXICATING LIQUOR LICENSING (TEMPORARY) BILL.

THE ATTORNEY-GENERAL: I move the suspension of the Standing Rules and Orders to enable "A Bill to authorise the issue by the Chief Commissary of certain hotel and spirit shop licences after the time limited by the Intoxicating Liquor Licensing Ordinance, Chapter 107" to be taken through all its stages.

Major BAIN GRAY seconded.

Question put, and agreed to.

THE ATTORNEY-GENERAL: I move that "A Bill to authorise the issue by the Chief Commissary of certain hotel and spirit shop licences after the time limited by the Intoxicating Liquor Licensing Ordinance, Chapter 107" be read the first time.

Major BAIN GRAY seconded.

Question put, and agreed to.

Bill read the first time.

THE ATTORNEY-GENERAL: Sir, I move that "A Bill to authorise the issue by the Chief Commissary of certain hotel and spirit shop licences after the time limited by the Intoxicating Liquor Licensing Ordinance, Chapter 107," be read a second time. The reason for the Bill, sir, is set out in the preamble thereto. It has arisen in consequence of the delay of certain persons who had obtained from the District Licensing Board certificates for the issue or renewal of licenses to pay the licence duty. There are three District Licensing Boards, one for each of the Counties, and these Boards hold an annual licensing meeting before the end of November in each year. Persons who desire the grant of a licence, or the renewal of existing licences, for hotels or retail spirit shops make application within the prescribed time and in the prescribed manner to the Commissary. These applications come before the Board and, if the Board approves, a certificate is granted by the Board authorising the issue of the licence.

These certificates are granted before the end of November in each year and the new

licences or the renewals are for the succeeding financial year. It is the duty of the holder of the certificate to present it to the Commissary and to pay the duty imposed for the particular kind of licence to which he is entitled. On presentation of the certificate and payment of the duty, the Chief Commissary issues the licence authorising the person to carry on a hotel business as defined in the Ordinance or the business of a spirit shop. It is to be observed that there is no power or right or justification in any person carrying on a hotel business or a spirit shop business to have or to sell intoxicating liquor under any of these circumstances unless a licence has been issued to him.

Misapprehension, sir, has arisen from the provisions of sub-section (2) of section 19 of the Ordinance. That sub-section provides that the Commissary shall not issue a licence after the 29th February. The duty imposed for this licence is set out in certain sections of the Tax Ordinance (Chapter 37) and there is a provision in section 54 of the Tax Ordinance, as re-enacted by a later Ordinance, that the duties imposed by that Ordinance are due and payable on the 1st January in each year and shall be paid before the last day of February. Now, sir, it happens that misconceptions have arisen in the minds of people as to the effect of these provisions, and I propose to state exactly what the legal effect is so as to remove those misapprehensions and in order to prevent the recurrence of any situation like the present.

The person to whom a certificate for a licence has been issued by a Board can get his licence as soon as he chooses to pay the duty, but he may not carry on business or sell intoxicating liquor without a licence. The fact that the Commissary may not issue a licence after the last day of February means that the person to whom a certificate has been granted, if he does not choose to commence business on the 1st January or for several days thereafter, but wishes to consider it and to decide whether he should take out his licence or not, has until the last day of February to do so. If on the last day of February he decides to take out his licence, and having obtained the licence, he may carry on business as soon as he chooses to stock his place and sell. What I want to

emphasise very strongly is that until he has had that licence any carrying on of the sale of intoxicating liquor is absolutely illegal.

The time for payment provided in the Tax Ordinance has, of course, in this connection the same significance as that which I have just explained, and I might mention that the Ordinance regulating the particular kind of business is the Ordinance which states the circumstances under which the business can be legally carried on. All that the Tax Ordinance provides for is the amount of duty to be paid and the time when you may pay that duty, but the fact that you may pay the duty on a certain date does not authorise the carrying on of business before that date unless he has a licence. That fact must be borne in mind, and it applies not only to the sale of intoxicating liquor but also to the sale of dangerous drugs, explosives and other articles, the dealing with which is the subject of special statutory provisions and are strictly regulated.

What the position may be with regard to what is known as a trade licence, and is so known in the marginal note of the Tax Ordinance, I do not know and I am not concerned with. That is purely a revenue matter. If you carry on a business for the sale of provisions in the ordinary way you have to make a contribution to the revenue in proportion either to the nature of the business or the value of the premises in which you are carrying it on. But that is different from those trades or businesses which are strictly regulated by statute and the carrying on of which is illegal unless the conditions of the Ordinance are fulfilled. I think, so far, I have made it clear.

Reference to the provisions of the statute itself shows that section 74 of the Intoxicating Liquor Licensing Ordinance provides that if any person carries on the sale of malt liquor or wine for which a specific licence is issued for the sale of rum or other spirituous liquor without a licence, he is liable to arrest and the seizure of his stock in trade and the matter brought before a Magistrate to be dealt with in accordance with the law. I may mention that these provisions are not peculiar to this Colony. They exist, so far as I am aware, in other parts of the

British Empire, the Ordinances of which I have looked at in connection with this matter, and they are very strict in their provisions and the enforcement of them is a matter that is usually dealt with whenever cases arise. If a person has a stock of wine or malt liquor in any store, shop or business premises, and that place is not licensed premises, he is liable to a penalty and to the seizure, removal and confiscation of his goods unless it is proved that the goods are there only for the consumption of himself and his family. That would not cover the case of a large stock, even in the tropics.

Section 80 deals with the case of spirituous liquor and rum, and there is a similar provision that the occupier of any store, shop or business premises which is not licensed wherein is found spirituous liquor, shall be liable to a penalty of not less than \$20 and not more than \$500. There is also power to search, seize and forfeit the stock in trade or the liquor referred to.

I have emphasised these matters so as to make it perfectly clear that the statute here, as elsewhere, forbids the sale or the dealing in a retail spirit shop of liquor unless the person has a licence, and that the provisions of section 19 (2) and section 54 of the Tax Ordinance, which allows the indulgence of the last day of February to pay the duty, have no bearing whatsoever. It may be that the point might have been overlooked. In this case, if the people who have received certificates for licences had paid the amounts of the duty on or prior to the 29th February this year, the circumstances might not have been brought to notice. What I want them to realise is that until that date when the licence will have been issued to them during the months of January and February, they would have been illegally carrying on business. Those persons in respect of whom this Bill is going to be enacted, I presume, have been illegally carrying on business, and it is important that they should realise that in future they must not carry on business until they have paid the duty and obtained the licence. There is no difficulty about it because, as I have mentioned, the certificate is issued somewhere about the end of November in each year; and if a man wants to continue his business from the 1st January there is nothing, as far as I am

aware, which will prevent him paying the duty to the Commissary and receiving his licence in time to carry on his business.

That is the position, and again I wish to mention that there is nothing peculiar in it. It must be borne in mind that the traffic in alcoholic liquors is one which in every part of the British Empire is carried on not as a right but by means of a licence, which can only be obtained in a special way and which requires the observance of certain statutory provisions, the penalty for a breach of which is severe. It might be well also to mention that the same conditions apply to traffic in other matters which for the protection of the public are similarly carefully regulated by specific statutes, such as the trade in dangerous drugs, the trade in explosives and the trade in firearms. I hope that in endeavouring to make this matter clear, with the permission of the House for the benefit of those concerned, I have not occupied too much time.

So far as the Bill is concerned, the preambles set out exactly what the position was. These applicants relied on the general misconception of the effect of the law, I suppose, that they could pay their duty on the 29th February and that they were entitled to do that under the mode they were carrying on business before. Some of them went beyond that and did not pay their duty on the last day of February. The Commissary could not receive it, and hence it is necessary that these provisions should be made. In so far as they serve the public, the public will not be inconvenienced by not being able to carry on their business, and they themselves will not suffer loss and the revenue will not suffer. I hope they will take it that on this occasion they are not likely to have any penalty enforced against them for illegally carrying on business in January and February, because the misconception is general, but in future the position would be totally different.

There is only one matter of importance in the Bill. The authority given to the Chief Commissary to issue the licence on payment of the duty is subject to the fact that the limitation extends only to the 31st March. That means that he cannot issue the licence after 31st March, but the fact that he cannot issue the licence after

the 31st March does not entitle anyone to carry on business between now and the 31st March until he pays his duty.

Major BAIN GRAY seconded.

Mr. DE AGUIAR: I have listened very carefully and attentively to what has been stated by the mover of the Bill, but you will excuse me, sir, if I characterise the Bill as one to provide a law for law-breakers. There can be no doubt that there is very little misapprehension in the minds of the people concerned, for the simple reason that it is common knowledge throughout the Colony that the licence for a spirit shop must be paid to the Chief Commissary on or before the 29th February of each year.

THE ATTORNEY-GENERAL: I am afraid that the hon. Member is mistaken. The Commissary could not issue a licence after the 31st January in any year, but at that time the licence duties were payable up to the 31st March under the Tax Ordinance.

Mr. DE AGUIAR: That is in the interpretation of the Ordinance: I am relating what was the practice. The practice previous to 1930 was that the licence was paid on or before the 31st March, just as it now has to be paid on or before the 29th February. My reason for referring to that is to point out how the last day of February was substituted for the 31st January. The licence for spirit shops was increased to \$480. It was considered a hardship to find such a large sum at such an early part of the year, and as the result of representations made to Government the date was extended from the last day of January to the last day of February in each year. That was how relief was given to spirit shops proprietors; but I agree with the Attorney-General that although that concession was granted the premises were not licensed until the licence was paid. I respectfully submit that had these parties paid their licence on or before the 29th February this Bill would not have arisen, and the proprietors of spirit shops would have gone on paying on or before the last day of February in each year. I am a spirit shop proprietor myself and I took advantage of the facility to pay my licence on or before the last day of February, and I believe that the

majority of spirit shop proprietors did the same thing.

That, again, I agree, is not strictly in accordance with the Ordinance. But the view was held—and here is where I think there was some misapprehension—that unless you failed to pay on or before the last day of February in each year, the Commissary would take no action. That is corroborated by the fact that action in these matters was not taken until after the last day of February. It must be borne in mind that the Intoxicating Liquor Licensing Ordinance is a very important one indeed. Nearly every section of it carries a penalty, various provisions have to be observed, and in some cases the penalties are very heavy; and to come to the Council and say that there is some misapprehension on the part of these people in not paying their licence before the last day of February is not strictly correct. They became lax in regard to their business, and I lay the charge to Government defect in the collection of revenue. These people were allowed to pay their licence duty long after the prescribed period, and Government in that instance penalised the honest trader who in every respect endeavoured to keep within the law. If action had been taken before I am sure that we would not have been here today to consider this Bill.

The mover of this Bill endeavoured to draw a line between the granting of a certificate and the issue of a licence. I am quite prepared to agree with the view he expressed this morning. The certificate for a licence is granted in the month of November each year and a proprietor knows fully well that he will be permitted to carry on his spirit shop the following year until he pays his licence. I also agree with the view that the licence must be paid on or before the 31st January, otherwise the premises for all intents and purposes will be unlicensed, but I want to point out that the primary object was to afford a certain amount of relief. Whether that is the law or not—and we have been told by the learned mover that it is not the law—we should carry this Bill a little further. We must not kill the goose that lays the golden egg. I happen to know the individuals concerned with this Bill. There are four of them. My sympathy goes out to at least three of them and I am quite

prepared to credit these three individuals with a genuine mistake on their part in not having paid the licence duty on the last day of February. But, sir—

THE PRESIDENT: I must remind the hon. Member that there is no mention of individuals in this Bill. The Bill does not specify who is going to benefit by it and I must ask him to confine his remarks to the subject of the Bill.

Mr. DE AGUIAR: I accept your ruling, sir, but I did not propose to make any reference to individuals. I mention no name at all, but I make a definite statement, and I am absolutely certain that it is correct. Perhaps I ought to say there are four unlicensed premises at the present moment, and in this Bill we are dealing with those four unlicensed premises. I want to draw attention to what is nothing short of a penalty on the honest trader. What would be the effect if this Bill does not find favour with the Council to-day? As far as I am aware the defaulters will be able to make application at the annual licensing meeting at the end of this year for a certificate for a spirit shop licence. In the *Official Gazette* on August 25, 1934, is published an Order under section 5 of the Intoxicating Liquor Licensing Ordinance, 1930, prohibiting the District Licensing Board from entertaining applications for the grant of certificates for the issue of spirit shop licences in certain localities. In that Order there is a schedule attached in which is shown the number of licences that should be granted in respect of the various counties. Two of the four unlicensed premises are in one particular locality, both paying Georgetown licence, another concerns a hotel, and the other is also in Georgetown in another locality.

So far as the two in the same locality are concerned, I submit that no undue hardship or greater penalty will be borne by these people if this Bill is refused acceptance, because at the end of this year they will be able to make application for a licence in that particular area. In the Charlestown-Albuoystown area only four licences are permissible. In 1935 there were six licences in that area, and if the licence affected in that area is refused the number of licences would still be greater than the prescribed number. Are we not

creating a distinct hardship on those people who have been observing the law all these years? I wish to say that I am interested in this matter, and I have stated the facts in order that it may be examined as I have examined it. More particularly would I like Your Excellency to consider the Order in Council, because I feel that you will not create any hardship on what I describe as legitimate trading. There are 45 rumshops in Georgetown and I do not think Government can show one person who paid his licence on the 1st January. Government would have to go further and prosecute everyone because not one of them has complied with the law. I hope some consideration will be given to the points I have mentioned and again direct Your Excellency's attention to the Order in Council, and I ask you, sir, to enquire into the reasons why that Order was made and the number of spirit shops in Georgetown and elsewhere restricted or reduced.

Mr. DIAS: I think the hon. Member has missed the main point as to the reason for the introduction of this Bill. That point is that a mistake occurred in the honest belief of the licensees that they had up to a certain date to pay the licence. The mover of the motion has made that point quite clear and it is obvious that Government is satisfied that there was no intention to defraud, but that those concerned made use of a practice which has obtained for some considerable time past. That practice was, of course, wrong. If a reason was required to support the introduction of this Bill, I submit, the hon. Member has supplied it. The hardship on the licensee at Albuoystown is infinitely greater than the hardship to another at Kitty because the man at Kitty would be without a licence for a year while the other at Albuoystown would be deprived of his licence altogether. If there was a genuine mistake in the circumstances Government might take that into consideration. I understood the Attorney-General to say that Government does not intend to take proceedings against those persons who did not take out their licenses in January or February, and that is another indication that Government does not regard the omission to take out the licence as wilful but as a misunderstanding.

Mr. WOOLFORD: I hope the parties

who will be relieved by this measure will realise that they are being dealt with very paternally by Government. I am one of those who do not subscribe to the view that the position has arisen entirely from a misapprehension on the part of the licensees concerned, nor do I agree with Government in thinking that no revenue would have been lost by the postponement of the issue of these licences. The construction of the Intoxicating Liquor Licensing Ordinance is entirely wrong, and this incident illustrates what I say. It should never be the policy of any community which is so largely dependent upon its revenue from intoxicating liquors, wines, cigars and so on, for applicants for licences to be heard in support of applications only once a year. It is the principle underlying the Ordinance which creates this position. What hardship would have been created, provided that the law permitted it, by the delinquents making application to the Licensing Board in the usual way? It is a mistake to introduce this measure, although I am not going to oppose it. For all we know, if it were possible for the Licensing Board to meet before, we might have found members of the community willing to oppose the granting of the certificate. You are denying that right to the community and also taking away the privilege of other licensees in the district to present views which they hold.

One of the licensees has for years known that he must pay his licence before the 31st January and has always done so, and to ask me to accept something to the contrary is against my own knowledge. There is a growing feeling in the community on the part of licensees that they should postpone the payment of their licences until the last possible moment. I can tell you more. I have known a licensee pay his licence after the 28th February without the benefit of the penalty being paid. As I have enjoyed that privilege myself it would be ungenerous of me to oppose these people. I point out to the hon. the Attorney-General that the Commissary is authorised to issue licences only to those who have been granted certificates in November of the previous year, and I hope that in considering this situation Government will bear in mind the immediate necessity for amendment of the Principal Ordinance. There are applicants

in Georgetown ready and willing now to apply for licences, at any rate for hotels and taverns, and it is not possible for them to do so on account of the present state of the law. If Government urge that as an excuse for the introduction of this measure, I can see no reason why before the Council meets again the policy of Government should not be re-considered, and render it possible for anyone to apply for a licence to sell spirituous liquor for any period of the year, provided that they comply with the other provisions of the Ordinance.

Mr. KING: I certainly do not feel that this is a Bill which should pass the House. People who were vigilant have benefited considerably. Procrastination is a curse and people who suffer from it suffer through their own fault. The Bill only gives the right to grant licences where renewals have been approved. There is nothing in it in respect of an application for a new spirit shop. Presumably Government is not prepared to issue any licences in that case. Renewals must necessarily be to people who were aware of the law. It is not a case of a man for the first time obtaining a licence and not knowing what he has to do. These people for years applied for licences in the proper time; this year they thought fit not to do so. Can this House say it will absolve these people? I cannot see that they were under any misapprehension. I feel that they did it knowing perfectly well what they were doing, and judging by their action they did not intend to apply for a renewal of their licence. I, personally, cannot see why this House should put itself out to the extent of passing an enabling Ordinance to help four people and raise a very small sum of revenue. So far as revenue from the actual sale of rum is concerned, I do not think the passing of this Bill will have the least effect upon it.

I think it would be a wrong practice to adopt to help people who have sat down and allowed their rights to slip by. I do not feel it is fair to the others and they must bear the consequence of their laches. If any of these defaulters had gone to any lawyer he would have been advised of his right under the Ordinance. While I accept the statement of the law by the Attorney-General, I do not think they are entitled to absolution. Their

opportunity to obtain a renewal of their licences will occur again at the end of the year. I agree with the hon. Member for New Amsterdam that there should be more meetings of the Licensing Board to enable people to get spirit shops or hotel licences more than once a year. I do not know why the exclusive right to apply is only once a year, but Government might consider the matter from that point of view and so relieve the House of having to consider extraordinary legislation of this nature. I am sorry to oppose the Bill, but I feel that those who have taken their licence are entitled to some consideration.

THE ATTORNEY-GENERAL: I find it a little difficult to follow the speech or the reasoning of the last speaker. I appreciate the position that the law helps vigilant people. The vigilant people in this case have paid their duties and obtained their licence, but they did so long after the time they ought to have done it. Is it contended that the individuals who failed to pay on the 29th February should not be allowed to carry on their business which is going to be for the benefit of those others who broke the law to an equal extent and probably only paid on the 28th or 29th February? That is how it strikes me. Have the others such an excess of virtue over the individuals who will benefit by this Bill that they should be entitled to such benefit? There is another thing. In the sale of alcoholic liquors generally the individuals are taken into account. Anybody can carry on trade and contribute to the revenue in the ordinary way, but not everybody can trade in spirituous liquors. In order to obtain a licence you must satisfy the Board that there is necessity for it in the district, and I submit that there is no such excess of virtue.

Another point is that the Principal Ordinance was enacted in January, 1929, and it took the place of a very antiquated and old-fashioned arrangement. The old statute created a body called the Excise Board, which seemed to have power to grant licences at all sorts of times and it became obnoxious. That Board was abolished and a proper Licensing Board created, and it was the feeling of the Council at that time that only once a year should new licenses be granted. I do not

say that it should continue for all time. Times change and we change with them and other people take our places. If the view is strongly held now that licenses may be granted at quarterly sessions, that is a matter that should be thought out and dealt with. It is no fault of Government but the deliberate decision of this Council in 1929.

Reference was made to many things by the hon. Member for Central Demerara, and there is one thing I am grateful to him for. He has been kind enough to inform the House and myself that he agrees with the legal proposition I have submitted, and I am grateful because I feel now that it must be sound. (Laughter). Among other things the hon. Member said it was because Government about the year 1929 or 1930 increased the duty on retail spirit shops to \$480 that it became necessary to extend the time for the payment of the duty. He is quite wrong about that. I advise him to delve a little more carefully into the history of the question. He would then find that it was in the Combined Court in 1922 that the Elected Members increased the duty on retail spirit shops to \$480. What was done in 1929 or 1930 had no bearing on it. The hon. Member apparently has adopted the attitude that there should be considerable restriction in the sale of alcoholic liquors, and I rather gathered that his view is that for the benefit of the community the opportunity for the sale of alcoholic liquors should be reduced as much as possible and people who break the law should be prosecuted. It seems to me that everybody would have to be prosecuted, but Government does not propose to do that nor is it proposed to deal with individuals as he has indicated. As a matter of fact, I happen to be aware of five cases in each of which it was the renewal of the licence that was at stake.

The Bill is being enacted to give an opening to all these people to be dealt with. The hon. Member has referred to the Order in Council and quoted it, and I can only infer that his opposition or criticism of the Bill and his support of the Order were directed to the point of reducing the opportunity for the sale of alcoholic liquor. We can attribute to the hon. Member full credit for his idealistic views on the subject, but I think on con-

sideration he will agree with me that on this occasion it will be very difficult for this House to go into consideration of such matters, and that they are subjects that can be better dealt with at a later period. The position has been fully put before the House. These people did not pay their licences on or before the 29th February, and if the Council allows this Bill to be passed they may carry on their business in the interest of the public, in the interest of themselves and in the interest of the general revenue, and it must be borne in mind that occasions like this will not recur. On consideration of the special circumstances and the manner in which action has been taken hitherto with regard to the payment of duties, I ask the House to pass the Bill.

THE PRESIDENT: The discussion which has taken place fortifies me in the feeling which I had that misconceptions with regard to this Ordinance and others in connection with it in certain respects are very widespread. I am not arguing that misconceptions are only held by those outside Government. I have no doubt that some of the provisions of this Ordinance have not been understood by Government officers. The discussion has also been useful in bringing out certain points in respect of which the operation of the Intoxicating Liquor Licensing Ordinance requires review, and it was for that particular reason, because I hoped discussion would do so, that I allowed it to drift for some considerable distance.

It has been in my mind for some time to appoint a Committee of the Council to consider the amendment of that Ordinance, and I will do so when Members are less busy with the business they have before them already: I hope to do so during the course of this year.

I hope that what the hon. and learned Attorney General has said will reach the public, at any rate the public who are concerned with the Intoxicating Liquor Licensing Ordinance, and that they will realise that Government cannot wilfully ignore the provisions of its own laws. Unless some amendment of the law is passed which allows the sale of liquor without a licence—which I do not consider is a likely thing to happen—it will be necessary for everyone wishing to come

within the law and avoid prosecution on the 1st January next to be in possession of a licence to sell liquor. The question is that the Bill be read the second time.

The Council divided on the question, and voted:—

Ayes—Messrs. Jackson, Jacob, Crum Ewing, Dr. Singh, Gonsalves, Wight, Laing, Major Craig, D'Andrade, Austin, Mullin, McDavid, Woolford, Professor Dash, Major Bain Gray, Dias and the Attorney-General—17.

Noes—Messrs. King and DeAguiar—2.

Did not vote—Mr. Walcott—1.

Bill read the second time.

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

Clause 2 Authority of Chief Commissary to issue licences in certain cases after the 29th February, 1936.

MR. WALCOTT: What is meant by the Chief Commissary? Previously we only had a Chief Commissary in Georgetown. As I understand the position these licences will be issued in the various districts and I presume that they will be issued by the District Commissioner. There is quite a lot of misunderstanding among some people in the country when you speak of the District Commissary and the District Commissioner, and it would be just as well if you are going to have an amendment to bring it under the one head of District Commissioner.

THE ATTORNEY-GENERAL: I am very grateful to the hon. Member, but the Bill will expire before the end of the year and any amendment made in it would also die with it. I would like to point out that there will be no difficulty. Under the existing Ordinance these people get certificates, and they will know exactly what to do having regard to the fact that they have been doing it all these years.

The Council resumed.

THE ATTORNEY-GENERAL: I move that the Bill be read the third time and passed.

Major BAIN GRAY seconded.

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

Bill read the third time.

APPOINTMENT OF PUISNE JUDGE.

THE PRESIDENT: I stated at the beginning that Members of the Council would be given an opportunity of expressing their views on the appointment of a second Puisne Judge.

Mr. DIAS: Sir, I am grateful for the opportunity offered to ask that my gratitude and that of the community should be recorded over the decision to appoint a second Puisne Judge in this Colony. For a long time, sir, we have been complaining that the judicial work of the Colony has not been progressing as it should, because it is impossible for two Judges to cope with the duties they have to perform and to satisfy litigants and other people who do business in the Supreme Court. We are glad that the opportunity was taken at the last session of this Council to bring the matter forcibly to your notice, and we are glad to hear that representations which you made to the Secretary of State on the subject have borne fruit. I am certain, sir, that there will be a very material change in the work of the Supreme Court, that that change will be an improvement on what existed when only two Judges were working, and that the work of the Court will be less difficult to perform and litigants whose business takes them there will have greater satisfaction than they have for a long time enjoyed. I think I would be wanting in my duty, sir, if I did not thank you personally for the great interest you have taken in this matter in advocating the cause the Colony was praying for, and ask you also to convey to the Secretary of State for the Colonies the thanks of the Colony for his decision in the matter.

Mr. DE AGUIAR: I desire to associate myself with the remarks which have fallen from the lips of the hon. Nominated Member. There can be no doubt that ever since this Colony decided to dispense with the services of a third Judge judicial matters have been delayed considerably. I feel sure that the commercial community—on whose behalf I speak particularly this morning—and my constituents are

extremely grateful for the consideration which has been given to the representations made by you, sir, on behalf of the Colony for the appointment of a third Judge. As I said before, there can be no doubt that a third Judge is very necessary in this Colony. While it is true that there will not be sufficient work for three Judges on every occasion, I think it will be recognised that the work is far more than two Judges can conveniently handle, and it is not well that contentious matters which have to come before the Judges for decision should be delayed for such a long period as they have been within the last few years. I desire also to thank you, sir, for the interest you have taken in this matter and for the representations you have made to the Secretary of State, and also to thank the Secretary of State for the consideration he has given to it.

Mr. GONSALVES: I wish to join in what has been said with regard to this appointment, and I hope that when the office is filled the Judiciary would be so composed that there would be no further complaints in commercial circles. It is no good hiding it because it was once discussed at a meeting of the Chamber of Commerce. I should also mention one other thing which, to my mind, is a consequential necessity following on this appointment. With three Courts sitting they must involve an extra Clerk and an extra Marshal, and I am going to ask your Excellency to go in that matter. It follows of necessity that the Marshal's branch of the Deeds Registry should be increased as well as the judicial side of it. At the present time the Chief Marshal has to leave his office to take the Court, and when two Marshals are out of town serving summonses and doing other work there is no other Marshal left in the office to do work in town. The same remarks apply to the Clerks of the Court.

THE PRESIDENT: I will see that the hon. Member's remarks are conveyed to Their Honours the Judges.

Mr. WOOLFORD: For many years I urged the necessity for the appointment of another judicial officer. Only members of the practising Bar and members of the commercial community really understood why that necessity arose. The average man outside legal circles only knew of the

postponement of some individual case, which, of course, was only a temporary and not an unusual disappointment to him. But for years, sir, the necessity for this appointment has arisen for reasons which no Member has yet spoken on, and I am going to call your attention to section 35 of Chapter 10, in which it is prescribed that the sittings of the Court in its criminal jurisdiction shall take place in the three Counties at specified periods. That is the real difficulty of the situation whether you have three or two Judges.

On reference to section 35, sir, you will find that it is necessary that the Criminal Court should sit in the County of Demerara on the second Tuesday in January, the first Tuesday in April, the first Tuesday in June and the first Tuesday in October; in the County of Essequibo on the third Tuesday in February, the third Tuesday in May, and the fourth Tuesday in October; and in the County of Berbice on the first Tuesday in February, the third Tuesday in June, and the third Tuesday in October.

It has often happened that the sittings of the Criminal Court encroach on the work of the Civil Court. One can never determine how many criminal cases would have to be dealt with, and I refer especially to New Amsterdam. When the Court is sitting there in its criminal jurisdiction there is an announcement that the civil work will be dealt with at the conclusion of the Criminal Session. That is a most unsatisfactory state of affairs because residents on the Corentyne and other parts of Berbice have to arrive in New Amsterdam in anticipation to be in attendance. Co-equal with the necessity for this appointment is the necessity for the re-arrangement of the Criminal Sessions in order to allow this appointment to be a real success.

The Message calls for the appointment of a Puisne Judge. I speak after grave consideration and with a full appreciation of the necessity for the appointment when I say I think that the appointment of a Judge-Magistrate would be preferable to the appointment of a Puisne Judge. I am firmly convinced after very close study of the question that the adjustments can be made by the appointment of an officer whose Chambers will be in the Law Courts,

and who will there perform all the ordinary duties of a Judge, including Chamber work, the volume or importance of which no Member outside the Bar knows anything about. He can do that at times and also preside over the Criminal Courts. As long as the officer can be made to perform those duties and he is given these powers, all the congestion will disappear as there is no necessity for the appointment of an additional Judge at the salary prescribed by the Ordinance.

THE PRESIDENT: These salaries are not attained in any case.

Mr. WOOLFORD: An officer can be found to perform the duties of a Judge and also to perform the duties of a Magistrate; and we have had the experience in this Colony before of a Judge-Magistrate. Some people think it did not meet the expectations anticipated, but that was due to the fact that the particular officer ambulated between the Law Courts and the Magistrate's Court. The view is that you cannot hold sittings of the Magistrate's Court in the Law Courts, and I believe a special Ordinance was passed to permit of that being done. But if the Judge-Magistrate, as I advocate, has his location in the Law Courts, there would be no delay and there would be despatch of business, and the Chief Justice who assigns the work would depute him to take summonses and things of that sort in Chambers. I am urging that the proper appointment is not of a Puisne Judge but of a Judge with all the powers of a Judge so far as jurisdiction is concerned, and also to perform the duties of a Magistrate if the occasion arise.

Government has recently had passed, sir, legislation for workmen's compensation. In Trinidad and in other places, I believe I am correct in saying, a considerable amount of work is being thrown on the Magistrates. I do not know whether that is so or not, but I can conceive of additional work being thrown on the Magistrates in this Colony, and they cannot do it. I am speaking from experience. You cannot add to the present work of the Magistrates, and I believe this appointment can also meet the congestion which sometimes occur in the Magistrate's Court when the occasion arise. I am convinced that my views are

going to prove correct, and I urge that they be taken into consideration.

The hon. Attorney-General has urged over and over again that the extension of the jurisdiction of the Magistrates would tend to lessen the volume of work in the Magistrate's Court. I do not know what his experience is, but I have not observed—and I have made enquiries—that the extension of the Magistrates' jurisdiction in criminal matters has either lessened the work in the number of cases sent up to the Supreme Court or lessened the work of the Judges in dealing with criminal cases. Although the measure adopted at the time seemed to afford some relief, it has not proved in practice to be beneficial either to the disposition of the work of the Magistrate or to investigations in his Court. It has not led to the beneficial results which were anticipated, and in considering the policy of Government towards judicial appointments the Magisterial position should also be considered.

If Government can save a certain sum of money, whether in the appointment of a Judge or a Judge-Magistrate, we ought to do so; and I think that whatever is saved in that direction might well be applied to the purpose which the hon. Member for Georgetown South has pointed out. If you appoint a third Judge it means that some Clerk in the Registrar's Office and a Marshal will have to be in attendance and consequently increased expenditure, and I cannot conceive that the present staff of the Registrar's Office will be able to deal with the situation in three Judges' Courts, because they cannot do so in two now. If you can save £200 or £300, why not do it.

The complaint of the commercial community is one that must be listened to. It not only involves the despatch of judicial business but it also involves the despatch of other legal business in the office of the Deeds Registry. I think the appointment of a Judge-Magistrate would lead to efficiency and meet the require-

ments of the commercial community if the officer has to combine the duties of the two offices. I am not opposing the appointment, but I am asking that those who are qualified to express an opinion about the matter should be consulted. If the Law Officers of the Crown would allow me to say so, they are not the best judges in this matter although able and competent to advise on other matters. Their duties do not bring them into contact with the situation in matters affecting the civil jurisdiction of the Court, and after Your Excellency has taken the feeling of the Legislature I hope you will find it necessary to consult others who are in a position to proffer advice which may be beneficial.

Mr. KING: I desire to add my thanks to those which have been already expressed to Government for obtaining a third Judge. For years we had three Judges in this Colony, but when various efforts were being made to reduce expenditure, the introduction of a Judge-Magistrate was first tried and later the third Judge was abolished altogether. I am glad that Government has now realised that an economy measure of that nature is not always to the benefit of this Colony. I feel sure that this action by Government must convince the people, whatever might be said to the contrary, that this Government does have the welfare and happiness of the inhabitants of the Colony at heart. I believe that the appointment of a third Judge will relieve the irksome conditions obtaining at present both on the part of litigants and on the part of practising lawyers.

THE PRESIDENT: As I have already stated with reference to the remarks made by one hon. Member, I will call the attention of the Chief Justice to the discussion which has taken place this morning. I feel, however, that I can confidently reply to the Secretary of State that the Council is in favour of such an appointment as he is prepared to approve.

The Council adjourned *sine die*.