

## LEGISLATIVE COUNCIL.

*Wednesday, 1st June, 1938.*

The Council met at 10.30 a.m. pursuant to adjournment, His Excellency the Governor, SIR WILFRID JACKSON, K.C.M.G., President, in the Chair.

## PRESENT.

The Hon. the Colonial Secretary, (Acting), (Major W. Bain Gray, C.B.E.).

The Hon. the Attorney-General, (Mr. J. H. B. Nihill, K.C., M.C.).

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

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

The Hon. E. A. Luckhoo, O.B.E., (Eastern Berbice).

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

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

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

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

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

The Hon. B. N. V. Wase-Bailey, Surgeon-General (Acting).

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

The Hon. F. O. Richards, Comptroller of Customs (Acting).

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

The Hon. J. Eleazar (Berbice River).

The Hon. J. Gonsalves, O.B.E., (Georgetown South).

The Hon. Peer Bacchus (Western Berbice).

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

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

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

The Hon. S. H. Seymour (Western Essequibo).

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

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

The Hon. T. Lee (Essequibo River).

## MINUTES.

The minutes of the meeting of the Council held on the 31st day of May, 1938, as printed and circulated, were confirmed.

## ORDER OF THE DAY.

## COURT OF CRIMINAL APPEAL.

Mr. LEE : Sir, I beg to move the following motion standing in my name :—

WHEREAS on the 19th November, 1929, this Council accepted a motion that a Court of Criminal Appeal be established ;

AND WHEREAS it is expedient that a resolution of this Council to establish a Court of Criminal Appeal should now be implemented ;

AND WHEREAS the delay to do so has been occasioned by the reduction of the judicial strength in the Supreme Court between the years 1932—1937 :

*Be it Resolved*,—That this Council requests His Excellency the Officer Administering the Government to cause to be introduced a Bill to provide a Court of Criminal Appeal in principles analogous to those contained in the Criminal Act 1907 (7 Edw. vii. c. 25) giving a right to appeal in favour of every prisoner convicted of crime before the Supreme Court of this Colony to the Court of Criminal Appeal thereby to be established, the provisions of such bill conferring on every convicted person—

(a) An absolute right to appeal on any question involving a principle of law ;

(b) A right, in case of his obtaining leave either from the Judge who tried him or from the Court of Criminal Appeal itself, on question of fact or of mixed law and fact or on any ground which appears to the Court to be a sufficient ground of appeal ;

(c) A right of his obtaining leave from the Court of Criminal Appeal to appeal to the Court of Criminal Appeal against the sentence passed on him unless the sentence is one definitely fixed by law.

Your Excellency, in asking this Council to adopt this motion I will briefly state

the following historic facts. On November 15, 1929, a motion moved by Mr. A. V. Crane and seconded by the late Mr. A. R. F. Webber, then members of the Council, was accepted by the Council. The resolution of that motion is the same as the one I am now moving. It reads as follows:—

WHEREAS an appeal lies as of right to the Supreme Court on the conviction of a defendant of criminal offences tried under the Summary Jurisdiction Ordinances as well as in civil cases of trivial importance involving small sums of money;

AND WHEREAS in the present state of the law no appeal lies from a conviction for crime tried in the Supreme Court under the Indictable Offences Ordinances and the only review of a possibly erroneous conviction depends upon the discretion of the presiding Judge that there is a case for stating a question or questions of law for the consideration of the Court of Appeal;

AND WHEREAS the system of reserving questions of law for the consideration of the Court of Appeal does not provide a satisfactory mode of reviewing convictions upon allegations of error of law or of fact;

AND WHEREAS it would strengthen the confidence of the public of this Colony in the administration of justice if in such cases an opportunity of appeal to a Court of Criminal Appeal were provided with equal security for the exhaustive trial of convicted persons and for the speedy execution of penal justice.

*Be it Resolved.*—That in the opinion of this Council the establishment of a Court of Criminal Appeal on principles analogous to those contained in the Criminal Appeal Act 1907 (7 Edw. VII. C. 23) would materially improve the administration of criminal justice in this Colony and that this Council respectfully requests His Excellency the Officer administering the Government to cause to be introduced in this Council during this present session a Bill to provide a right of appeal in favour of every prisoner convicted of crime before the Supreme Court of the Colony to the Court of Criminal Appeal thereby to be established the provisions of such bill conferring on every convicted prisoner:

- (a) An absolute right to appeal on any question of pure law;
- (b) A right in case of his obtaining leave either from the Judge who tried him or from the Court of Criminal Appeal itself to appeal on any question of fact or of mixed fact and law or on any ground which appears to the Court to be a sufficient ground of appeal;
- (c) A right in his obtaining leave from the Court of Criminal Appeal to appeal against the sentence is one fixed definitely by law.

Following the adoption of this motion by the Council I thought that in the interest of justice and the administration of justice in this Colony the motion

should be brought again in order that a Bill might be introduced for the establishment of a Criminal Court of Appeal. The arguments put forward in 1929 can be advanced with advantage on this occasion. Many of the members of this Council were members then. Following the acceptance of the motion in 1929 a Bill was advertised in the *Official Gazette* on March 6, 1930, to establish a Court of Criminal Appeal and to make provision for appeal in criminal cases. At that time there were three Judges in the Colony, but on account of economic conditions the number was reduced to two. The work in the Supreme Court was increased and recently it was found necessary to appoint a third Judge and the Judiciary was restored to three Judges. The third Judge is here, and I am submitting that the time has come when this Colony should have a Court of Criminal Appeal. There may be arguments as to whether the two remaining Judges of the Judiciary should constitute the Court of Criminal Appeal or a third Judge either appointed by Your Excellency or obtained from the West Indian Court of Appeal. That, however is not my concern at the present moment. What I would like to see introduced now is a Bill for the establishment of a Court of Criminal Appeal. Under the Supreme Court of Judicature Ordinance, Chapter 10, at section 11 subsection 1, power is conferred on Your Excellency to appoint a third person to act as Judge if the necessity arose. Subsection 1 reads:—

In any of the following cases, that is to say, whenever—

- (a) the office of any judge is vacant; or
- (b) any judge is absent from the Colony; or
- (c) any judge is personally interested in any cause or matter; or
- (d) any judge is a necessary witness in any cause or matter; or
- (e) any judge is, from illness or any other cause, incapable of acting in his office; or
- (f) it is necessary to appoint any person to act as judge for the purpose of any appeal or re-hearing; or
- (g) it is necessary to appoint any person to act as judge for any purpose the Governor may, if he thinks fit, by an instrument under the public seal, appoint some fit and proper person, who is a barrister of not less than seven years' standing, to act as a judge or an additional judge.

Sub section 2 reads:—

Every appointment shall be for the time, or for trial or hearing of the causes or matters or

otherwise, specified in the instrument of appointment.

It is clear that Your Excellency is empowered to appoint a third judge if Government feels that it is necessary to have three persons constituting a Court of Criminal Appeal. I may say that we have among us several barristers (King's Counsel) who I feel sure can discharge that office without fear or favour and very impartially. We have had in the past Magistrates who have been subsequently promoted to other Colonies as Judges and who have done remarkably well; I therefore see no reason why a Magistrate cannot act as a third Judge on the Court of Criminal Appeal. There is also the Registrar of the Supreme Court who is, and should be always, a capable person learned in the law; his services can be utilised in acting as a Judge of the Court of Criminal Appeal. Within recent times several local cases have been taken to the Privy Council and at the present moment there is one before that Council. It is an absolute right of every British subject, and I feel sure that if a Court of Criminal Appeal is established in this Colony persons convicted of a crime by a jury would take advantage of it in having their conviction reviewed by that Court on challenged principles of law, non-direction or mis-direction of law by the trial Judge. They would thus feel satisfied that they have been given every chance of obtaining justice.

When it comes to the question of finance in respect of the establishment of a Court of Criminal Appeal, conditions have changed since we were compelled on account of economic conditions to reduce the Judiciary to two Judges, and to a certain extent to be borrowers of money from the Imperial Government. Thanks to the able administration of the Government we are now in a position to balance our budget. I therefore do not think taxpayers will grudge or feel the payment of additional taxation for the establishment of such a Court in this Colony. Apart from the expenses in the employment of a shorthand-writer or two, there will be a saving to Government in this sense: Where there are lengthy proceedings it can be agreed upon between counsel on both sides that the shorthand-writers engaged should take notes of the evidence and in that way a lot of the

Judges' time will be saved and also expenses to the Colony.

This point I would like to stress. We are progressing and in so doing we must follow the progress made in England where there are Courts of Criminal Appeal established. Such Courts also exist in several of the British Colonies. I respectfully urge that the time has come when a Bill for the establishment of such a Court in this Colony should be introduced. Juries may not have had certain important facts brought to their notice, or they may be prejudiced, or trial Judges may fail to give direction or may give misdirection, and in this way there is a miscarriage of justice. We are all fallible, and if it is desired that a Court of Criminal Appeal should exist in order that justice may be meted out. I think it should not be denied. I am asking this Council and Government to establish this Court of Criminal Appeal.

Mr. ELEAZAR: Your Excellency, I was amongst those who spoke on the motion when it was brought in 1929 before this Council, and if my hon. friend had been generous enough to hand me that part of the *Hansard* I would be inclined to say "I told you, Mr. Burke" and take my seat. I cannot remember what I said then, but it is not inconsistent with what I will say to-day. What I said then, and if I did not say it then what has been passing through my mind since then, is that if ever there is the necessity for a Court of Civil Appeal, which there is, the *moreso* is there the need for a Court of Criminal Appeal. Imagine an individual, who is dissatisfied with a judgment given against him for \$5, has the right to go to the Full Court of Appeal of this Colony, and that same individual if in a criminal matter is fined \$5 or in default 14 days' imprisonment also has the right to go to the Full Court of Appeal. As against that an individual who is tried for his life and is found guilty cannot take his conviction to appeal unless he goes back to the trial Judge, points out that he has done something wrong and asks his permission. The Judge may think the trial was quite fair and just, and can decline to grant the permission.

There are but a few instances in which a trial Judge permitted a review of his

conduct. I have in my mind's eye the case of *The King versus Hookumchand*. Mr. Justice Sheriff, the trial Judge, actually stated a case against his own summing up and the Appeal Court reversed the finding of the Jury. There was a Judge who had the courage to sit in judgment on himself and to say: "Yes I was wrong." Not only did he give leave to go to appeal but he also sat with the other two Judges in the Supreme Court and agreed with them that his summing-up was wrong. There are still some persons like him in the world. I remember also the case of *the King versus Meertins*. The trial Judge, Mr. Justice Douglass, though he differed with counsel for the defence and the man was found guilty of murder by the Jury, allowed an appeal remarking that he did not quite see with the defence but as it was a matter of life he would give the accused a chance. That man went to the Appeal Court and was acquitted. The answer to that may be, that as in the past Judges have not flinched from stating a case against their own judgment why not leave it at that? Well, sir, one swallow does not make a summer, not even two swallows. It is much preferable to give an individual, whoever he may be, the opportunity of going to the highest tribunal in the land, if he feels that justice has not been meted out to him. He is given the opportunity to do all he can to preserve his liberty, but as far as the law is concerned his property is of more value than his life. It is so obvious.

When the matter was first before the Council, the motion was accepted by Government and the Bill was actually drafted and advertised, but for some reason—my friend said the exigencies of the time—nothing further was done. It is a poor estimation of the administration of justice to say that it is absolutely necessary but we have no money and so it cannot be done. I do not think money should stand in the way when it comes to giving justice. It is not British policy. It is an attempt in this Colony to commercialise everything. It does not pay to save a man's life if it is going to cost another Judge to the Colony; let him be hanged and get somebody else to take his place, because a couple of dollars are involved in having his case go to appeal. I do not think that is a good principle. I do not think this

Council to-day is less capable than the one that accepted the motion in 1929, and therefore I am not going to labour this question of the reason for supporting this motion. If I had seen what I said in 1929 I would have read it and taken my seat. I would, however, like to emphasise the fact that in a civil appeal there is no need to go and ask the trial Judge to allow you to do it. You will see the anomaly or inconsistency in the matter, and also how law-abiding the people of this Colony are to permit this law to remain so long. One cannot perceive how it has escaped the attention of Government for so long a time. Government though accepting it allowed it to remain in abeyance. That is the way of Government. It travels like the proverbial snail. We have in this Colony an animal called the ant-eater which takes six months to cross from one side of the house to the other. You see it going along quite easy and harmless, but if you were to interfere with it you would be surprised at its viciousness. That is how Government acts. Unless you can go to them with a big stick or with a revolver you get nothing out of them. (laughter). There is no reason why—

THE ATTORNEY-GENERAL: To a point of order. Has the hon. member seconded the motion?

Mr. ELEAZAR: I think I started off by saying so. It is too elementary to omit. If I did not, I do so now.

Mr. LUCKHOO: I am in agreement with the principle involved in this motion and will support it. The question, however, arises as to whether with the present constitution of the Judiciary it will be a satisfactory procedure to allow the remaining two Judges to decide any matter which may be referred to that tribunal for hearing. If the difficulty can be overcome by the appointment of a third qualified individual I can see no reason why a Court of Criminal Appeal cannot be established in this Colony. On the previous occasion when the matter was brought before the Council, the suggestion was then made that cases of this nature should be referred to the West Indian Court of Appeal, but I think the point was prominently brought out that trial would be very much delayed if we had to wait until the arrival of the Judges from the other Colonies to deal with matters of this nature. If it is

recognised by Government that the principle is a good one, then I think steps will be taken by Government at such time as is convenient to establish such a Court of Criminal Appeal. It does seem to me an anomaly that a person has the right to appeal from a conviction under the Summary Conviction Ordinance involving a fine of \$5 or \$10 or imprisonment but no similar right in a case involving life and death or the liberty of the subject for a number of years. That principle is fully recognised by this Council so far, and the assurance has been given that the matter will be attended to with a view to going into the whole question. The constitution of the Court will be a matter for Government to decide. I do not think this Council has any right to say who should be appointed as the third Judge, whether it should be a particular King's Counsel or the Registrar of the Supreme Court or a practising Barrister. I think we have men in the legal service of this Colony who are quite capable to fill such an important position in the trial of a criminal case of this nature. That is a matter entirely for Government to decide, but I do say that it appears to me there is necessity for the establishment of such a Court following on the lines of that in Trinidad and other British Colonies, and I have no doubt that the matter will be favourably considered by Government.

I am not aware of any case in which the trial Judge was obstinate not to state a case for appeal without reasonable grounds. Wherever there were reasonable grounds for appeal the Judge always is ready and willing to state a case to have the point of law argued, but, as has been pointed out, there may be a case where there is probably misdirection or non-direction and there may be the necessity to get the view of a higher tribunal. In that respect it will be a proper ground for appeal. I hold that for the security of the subject and the confidence which we have in the Judiciary of the Colony it would be well that a convicted person, who is dissatisfied with the sentence of the Court or thinks that he has been improperly convicted, should be able to have the issue fought out before a Court of Appeal.

With respect to the establishment of a Court of Appeal of two Judges, I do not

think it is a proper procedure to adopt. If we are going to establish such a Court let there be a third person to sit on such cases. I think this Government will be disposed to accept the principle involved in the motion and will proceed to carry out the establishment of that Court as early as it is convenient for Government to do so.

THE ATTORNEY-GENERAL: Sir, in giving the Council Government's view towards the motion, I would like to congratulate both the proposer and the seconder of the motion for the very clear way in which they have stated the principles which they desire to see translated into action. I must say at once that Government cannot accept the motion in the form in which it has been put forward by the hon. member, for the reason that while Government is entirely in favour of the principle which has been enunciated so clearly by the last two speakers and the hon. proposer, Government feels that if this Council merely resolves to-day upon the immediate introduction of a Bill to establish a Court of Criminal Appeal in this Colony it will not be a useful step. We have got to take into consideration the history of this matter.

In 1929 a debate, very similar indeed to the debate which is now proceeding, was held. I had the advantage of reading the speeches which were then delivered. The hon. member for Berbice River (Mr. Eleazar) on that occasion as on this occasion clearly stated the reasons why in principle the establishment of a Court of Criminal Appeal is desired. I see also that on that occasion he told the Council the story of the sheep. Apart from that omission on this occasion his speech bears a very strong resemblance to the speech he delivered in 1929. Well, sir, the outcome of the 1929 debate was that the Council without division accepted the motion, and in the following year, the hon. member for Berbice River will agree, we saw the comparatively rapid outcome of the debate. A Bill was published to establish a Court of Criminal Appeal. That Bill was still-born and was so for the very obvious reason that the question had to be faced: "How in practice are you going to construct machinery which will enable this Court to function properly?" Everybody was up against an

almost insurmountable difficulty. The situation at the moment is really not very different from the situation in 1930. It is true, as the hon. member for Essequibo River (Mr. Lee) pointed out, that after 1929 the Judicial Bench was reduced to two and it is now back again to three, but I see that even in the 1929 debate it was pointed out on behalf of Government that even with a Bench of three Judges in the Colony the establishment of a Court of Criminal Appeal will be difficult. The hon. member for Berbice River has also indicated very briefly the undesirability of having a Court of Appeal consisting of two Judges only. That system, I believe, has been tried elsewhere in certain parts of the Colonial Empire but it is obviously open to considerable objection. It means that there may be on occasions a division of opinion, and in any division of opinion the verdict of the lower Court will stand, and therefore an element of doubt and uncertainty will be introduced which will be most undesirable in a criminal matter.

Both the hon. member for Essequibo River (Mr. Lee) and the hon. member for Eastern Berbice (Mr. Luckhoo) suggested that the difficulty can be overcome by the Governor making *ad hoc* appointments to the Judicial Bench for the purpose of dealing with a specific appeal, as he has power to do under Chapter 10. Well, sir, in my view that will not be a desirable procedure. It is very essential that in an Appeal Court the Judges forming the Bench of Appeal should be at least equal in status to the Judge from whom the appeal emanates, and although I am not saying that there are not many persons in this Colony—several practitioners and even Law Officers such as the Registrar of the Supreme Court, who will be professionally competent to sit and hear the appeal—it would not in my opinion be desirable that an Appeal Bench should be constructed in that *ad hoc* manner. I know, sir, that view is shared by His Majesty's Judges in this Colony. Hon. members may well ask if the Government agrees in principle that the establishment of the Court of Criminal Appeal is desirable what steps Government proposes to take to explore the possibility of its establishment? In that connection I am in a position to give this Council the assurance that Government is prepared to consider favourably and will

consider any other practical measure, such as the extension of the jurisdiction of the West Indian Court of Appeal to include appeals in criminal matters, and any consequent changes in the constitution and personnel of that Court.

In that connection I may say that following the debate in 1929, an effort was made to see whether it would be practicable to establish a West Indian Court of Criminal Appeal. In 1932 the Chief Justices of the various Colonies concerned, who were met together in Barbados, I think, considered the matter and submitted a memorandum to their respective governments. The effect of that memorandum was that as things then stood it did not appear to Their Honours to be a practicable proposition. But, sir, I believe, and the Government shares my view, that the present time is not inopportune for raising this matter again, but possibly in a rather different form. Of course any approach by this Government in the matter must be to the other Governments concerned, and a great deal of explanatory work and investigation must be done before we can come within sight of any practical proposal. Government is prepared to take the initiative in this matter and to see what can be done towards the end which we all have in view.

Before I conclude, sir, I should like to emphasise what I think has not yet been said by any member during this debate. Although we may agree as to the desirability of the establishment of this Court, our agreement does not indicate any anxiety in regard to the present administration of criminal justice in this Colony. The hon. member for Essequibo River has touched upon the establishment of the Criminal Court of Appeal in the United Kingdom. That Court is a great precedent which in the fulness of time we hope to be able to follow. I should like to put forward a view about the English Court of Criminal Appeal which, I think, may sometimes be overlooked. That Court was constituted in 1907. It was a Court confined in its jurisdiction and operation to the United Kingdom, but I believe, sir, and I believe every practitioner in the Criminal Courts will agree with me, that Court has an indirect but most beneficial effect upon the Courts of Criminal Admin-

istration in every part of the Colonial Empire. It must be remembered that that Court is one of supreme authority. Composed of His Majesty's Lord Justices of Appeal it from time to time has had difficult and intricate points on criminal law and procedure to deal with. Their decisions have been reported and those reports are in the hands of every practitioner who practises in the Criminal Courts throughout the Empire. Those reports are read and studied by His Majesty's Colonial Judges, and I am quite certain that in that way the Court of Criminal Appeal in England has had a very considerable effect upon the smooth and efficient working of the Colonial Criminal Courts, and I believe, sir, that at the present time with a body of standardised legal opinion behind us the chance of any serious miscarriage of justice on points of criminal law and procedure in the Colonial Courts has been very greatly minimised. There is another aspect in regard to the legal position. I do not think anyone with experience of the Criminal Courts of this Colony will maintain the view that the local jury is apt to convict lightly or wantonly.

Having indicated the view of Government towards my hon. friend's motion, and having given him the assurance, which I can give, that every possible avenue will be explored in consultation with the other Governments who may be concerned, I do suggest to my hon. friend that his wisest course will be to ask leave to withdraw the motion standing in his name, because if it is put to the vote the probability is that it will be defeated. I will regret that defeat because it may be interpreted as a set-back to the principle with which this Council is in general agreement. But if the hon. member would accept the assurance which has been given this morning I feel that it would be a better indication of the sense of this Council in thinking ahead that some form of criminal appeal could be instituted which would command general authority and respect, if this motion be not defeated but with the leave of the Council is withdrawn.

Mr. LEE: If I may be permitted I will read from the Hansard the following remarks by the hon. member for Eastern

Demerara (Mr. Humphrys) during his contribution to the 1929 debate:—

This is something essential.—

THE PRESIDENT: I hope it will be clear to the hon. member and to the Council from what has passed that the Government entirely accepts the principle for the establishment of a Court of Criminal Appeal, and the only reason why it is unable to accept his motion as it stands is because if that motion is passed and accepted by Government it would mean that Government pledges itself to introduce forthwith, or as soon as possible, a Bill establishing a Court of Criminal Appeal. The practical difficulties in the way are considerable and some way must be found to get over them. If the Bill were introduced at this moment or very shortly to establish a Court of Criminal Appeal it could only be by a procedure, as to which there is a very wide difference of opinion and a very wide difference of professional opinion. It is solely for that reason that the Government feels unable to pledge itself at this stage to introduce a Bill of that kind. I do not myself feel that Government should adopt the procedure of the little animal intimidated by the hon. member for Berbice River (Mr. Eleazar). If Government were to accept that motion I should regard it that a Bill of this nature would be introduced early, but that involves the introduction of a Bill based on a procedure on which there is wide difference of opinion and wide difference of professional opinion. It is the intention of Government to take this matter up and see what practical means can be found to get over those difficulties and establish a Court of Criminal Appeal which will be satisfactory to opinion generally including professional opinion. If the hon. member were disposed to modify his motion in the sense that the principle for the establishment of a Court of Criminal Appeal be accepted and Government be requested to take steps to put that principle into effect we shall have no difficulty in accepting it.

Mr. LEE: I would like to point out and read from the *Hansard* this part of Mr. Humphrys' speech in which all those objections were then discussed by the Council and the Council then adopted the resolution which is the same as the one I have put forward to-day. It is this:—

This is something essential. It is the foundation of our whole social system. I say there is no necessity to have a fourth Judge; because I entirely disagree with the view of the Attorney-General when he says that it would not be well to have someone of a lower standard than a Judge in the Court of Appeal. I know that from time to time we have had here Magistrates, and His Majesty's King's Counsel, who in 90 per cent. of the cases are head and shoulder above the Judges of the Supreme Court—I go so far as to say that—in so far as a sense of balance is concerned, and general capabilities as lawyers. And, I feel that if we have this Court of Appeal established, it can be easily arranged that any Magistrate who has been called to the Bar for a certain number of years can sit with the other two Judges to decide a criminal case stated for appeal. After all it may also not be such a difficulty to have one of His Majesty's King's Counsel to sit with two Judges. Is His Majesty's King's Counsel of a lower order than those forming the Court—the other two Judges? I submit not. I think it is somewhat of a slur on His Majesty's King's Counsel to suggest such a thing. Apart from that, if Government would not like any Counsel who is practising to take part or preside in an appeal, you very often have at least one Magistrate called many years who is quite as capable as 90 per cent. of the Judges.

I do welcome the suggestion by Government, but Your Excellency must realise that the time has come when it can be introduced in this Colony. The machinery can be thought out whereby we can have such a Court of Appeal. I do not think any British subject thinks that if a King's Counsel, although a practising lawyer, sits on the Criminal Court of Appeal he will not get justice, or in the case of a Magistrate who has been qualified for a number of years sitting in judgment on him in such a Court. I feel that it is a step towards progress, and especially if Government thinks Magistrates should sit on that Court. I feel certain that they will discharge their duties properly. If the Government has given an assurance of its acceptance of the principle that is all I require. The public is clamouring for such a Court of Appeal and is saying that the time is ripe for its establishment now that there are sufficient Judges on the Judiciary and a sufficient number of Magistrates and King's Counsel in whose competence there is general confidence, and the expense will not be a burden to the taxpayer. As Government will not accept the motion as it stands, I am asking to withdraw it.

THE PRESIDENT: Do I understand the hon. member to say that he accepts

the assurance that the matter will be taken up at once and asks leave of the Council to withdraw his motion?

Mr. LEE: Yes.

With the consent of the Council the motion was withdrawn.

#### ADMINISTRATION OF CIVIL JUSTICE.

Mr. LEE: I desire to move the following motion standing in my name:—

WHEREAS the system of the administration of Civil Justice in this Colony has not kept pace during the last 50 years with the system of other Colonies in similar circumstances;

AND WHEREAS it is desirable that the civil matters now despatched in the Supreme Court should be so re-arranged that the Supreme Court would find time for the hearing of Criminal Appeals and that certain cases of moderate value now cognizable only by the Supreme Court should be despatched more expeditiously and with less expense to litigants:

*Be it Resolved*,—That the Council respectfully requests His Excellency the Officer Administering the Government to appoint a small committee of qualified persons to enquire into and make recommendations upon the following matters:—

- (1) Whether certain civil cases now recognizable exclusively in the Supreme Court cannot with advantage to the public be disposed of by the Magistrate's Court or by the establishment within the framework of the machinery of the Magistrate's Court one County Court at Georgetown and one at New Amsterdam and if so, what is the nature of the causes which may be so disposed of and to what limit the new jurisdiction should extend?
  - (2) If such new jurisdiction is established what financial commitment would be necessary to give effect to it?
- Some of the matters which may be tried in the institution of such a Court—
- (1) Claims for recovery of debt or damages in contract to the value of \$250.
  - (2) Claims in tort to the value of \$250.
  - (3) Suits involving recovery of land the value of which does not exceed \$250.
  - (4) Limited equitable jurisdiction including—
    - (a) Specific performance;
    - (b) Small partnerships and other accounts in gold and diamond mining;
    - (c) Injunctions;
    - (d) Receivership.
- All the above limited to matters involving \$250.
- (5) Possession of premises by landlord up to the annual rental value of \$720 (now limited to \$240 although property values have risen since 1906 when Landlord and Tenant first passed).
  - (6) Third party insurance limited to \$500.



The Civil jurisdiction of the Magistrate's Court at the present time is set out in Chapter 15 of the Laws of British Guiana. Section 3 of the Ordinance states:—

(1) Subject as hereinafter provided, all actions—

- (a) for the recovery of any debt or demand, where the amount claimed, whether on balance of account or otherwise, is not more than one hundred dollars;
  - (b) for damages, where the amount claimed, is not more than one hundred dollars; and
  - (c) for the recovery of any chattel or thing, where the value of the chattel or thing is not more than one hundred dollars,
- may be concerned in the court, and shall be heard, and determined in a summary way according to the provisions of this Ordinance.

(2) Where in any action the debt or demand claimed consists of a balance not exceeding one hundred dollars after an admitted set-off of any debt or demand claimed or recoverable by the defendant from the plaintiff, the court shall have jurisdiction to hear and determine that action.

(3) The court shall not have cognisance of any action in which any incorporeal right, or the title to any immovable property, is or may be in question, or in which the validity of any devise, bequest or limitation under any will or settlement is or may be disputed, or of any action for malicious prosecution, libel, slander, seduction, or breach of promise of marriage.

4. The court shall have jurisdiction in the following cases, that is to say, when—

- (a) the defendant resides in the district;
- or
- (b) the cause of action has arisen wholly or in part within the district; or
- (c) the chattel or thing the subject-matter of the action is in the district.

In asking you, sir, to appoint a committee to enquire into the jurisdiction of the Magistrate's Court so that it may be increased to deal with actions of \$250, I know that many persons have had causes up to \$200 and because of the expense in filing them in the Supreme Court have found it very difficult to seek their rights. This committee will be able to find out whether that is so or not. There have been several cases in the Supreme Court for slander in which the Judges have commented that they should have been brought in the Magistrate's Court and in which the damages awarded were less than \$100. The Legal Society, I am certain, will be able to give evidence before that committee and satisfy it as to the desirability for the increase of the jurisdiction of the Magistrate's Court. Apart from slander and malicious prosecution there are, and always have been, partnerships in which small men, have

joined together in business and the capital does not exceed \$250, and when one partner is defrauded he has not the means to seek his rights in the Supreme Court on account of the heavy expenditure involved. If the jurisdiction of the Magistrate's Court is extended to \$250 he will be able to take the matter into Court. There is a great evil that exists, and I am asking this Council to adopt this motion in order that it may be wiped out. That is in respect of the recovery of rents. Section 15 of the Rent and Premises Recovery Ordinance, Chapter 92 reads:—

(1) Whenever the term or interest of any tenant of a tenement held by him at will or for a term, either without being liable to the payment of rent, or at a rent not exceeding the rate of two hundred and forty dollars a year, has ended or has been determined by a legal notice to quit, or otherwise, if the tenant (or, when he does not himself occupy the premises or occupies only a part thereof, if the person by whom they or any part thereof, are or is occupied) refuses or neglects to deliver up possession of them, the following proceedings shall be lawful, namely—

(a) the landlord of the tenement or his known agent may claim possession of the premises before a magistrate, and the magistrate shall, on the complaint being sworn before him, cause the tenant or occupier to be served with a summons in writing, signed by any magistrate, to appear before the magistrate of the district in which the premises are situate to show cause why possession of the premises should not be delivered up.

That lays it down that a landlord can recover possession in the Magistrate's Court where the tenant is paying up to \$20 per month rent. There are, however, several houses in this town that the rents are greater than \$20 per month and it is an expensive procedure to seek possession in the Supreme Court. It is therefore far better to permit the tenant to take the rents and quit the premises. That is being done, and it is a hardship on the landlords. I feel sure that every landlord will give evidence before that Committee as to the injustice done by not having the jurisdiction of the Magistrate's Court extended to include rents up to \$720 per annum. There has been recently introduced in this Colony Third Party Insurance. Supposing a person is injured not to such an extent as to exceed \$500 damages, unless he has money and can engage the services of a solicitor and counsel, or either, he will not be able to seek his rights in the Supreme Court; but if the jurisdiction of the Magistrates' Court is

extended to allow of the hearing of such cases, it thereby makes it possible for the poor man to file his suit and obtain justice.

Apart from all these things I am urging the appointment of this Committee, as the extension of the jurisdiction of the Magistrate's Court will provide the training ground for those Magistrates whose ambition is to rise higher. They will be in effect acting as County Court Judges and when promoted from this Colony will be well fitted to fill the offices of Judges of other Colonies. I may say, however, that those Magistrates who have been promoted from this Colony as Judges have given excellent service. I am urging that Government accept this motion for the appointment of a Committee of Inquiry in order to see whether the jurisdiction of the Magistrate's Court should be extended or an intermediary Court be constituted to meet the cases I have instance so that the poor man can easily go and seek redress.

Mr. KING: I beg to second this motion for the purpose of discussion, although I am not in entire agreement with it. I am in agreement with it for the appointment of a Committee to advise Government on the suggested alteration of the exercise of civil jurisdiction in the Courts of the Colony. As a practitioner in these Courts I am quite satisfied that to a certain extent litigants are prevented from bringing actions in the Supreme Court on account of the somewhat heavy expenditure. In the Magistrate's Court the fees in a case up to \$100 are 10 per cent. while in the Supreme Court the fees vary—from \$250 to \$500 one amount, and above \$500 another amount. Take the case of a debt of \$110 where one has to go to the Supreme Court to obtain judgment, if it is undefended the costs will be \$35, while in the Magistrate's Court it will be \$12.40. If that action is defended in the Supreme Court, however, the costs will amount to anything from \$75 to \$150. It has always exercised my mind as to the desirability in this Colony of increasing the jurisdiction of the Magistrates or appointing in the nature of a County Court Judge someone with authority to deal with matters concerning amounts up to \$250. I have not had an opportunity of looking up the statis-

tics of the Supreme Court, but I believe that of all actions filed in the Supreme Court at least one-third are for amounts of \$250 and less. These actions do take a considerable amount of time—sometimes as much time as a big action. I have always felt that the Judges sitting in the exercise of their supreme authority should not deal with matters where a man owes someone \$110. I believe the time has come in this Colony when litigants in actions under \$250 should be certainly helped considerably by way of reduced costs. I feel Government should consider the possibility of appointing a Committee for the purpose of advising Government on the suggestion that the jurisdiction of the Magistrates be increased, or that someone be appointed in the nature of a County Court Judge to deal with matters in Georgetown and New Amsterdam. I, however, believe that in respect of New Amsterdam the trouble is whether there will be sufficient cases to necessitate their being heard there.

I am strongly in favour of the motion that Government be requested by this Council to appoint a Committee. It would do no harm to appoint a Committee. If the Committee feels that Government is not justified in adopting the suggestion, at least one has the satisfaction of knowing and feeling that everything has been done. There is a certain amount of feeling existing when Committees are appointed by Government to consider and advise Government on matters which have been put forward. Government will be doing no great harm to itself in accepting the motion and appointing the Committee to go into the matter. I do feel that litigation in this Colony should be ameliorated in so far as expenses are concerned, especially in cases of \$250. I am in entire agreement with the hon. mover in respect of clauses (1), 2, and (3), but not as regards (4), because I personally agree that should remain in the hands of His Majesty's Judges. Such cases do at some times involve matters of a very serious and controversial nature, and I hardly believe the Magistrates will have time for the hearing of cases of that kind. They sometimes involve questions of law. However I think that the Colony and litigants will be well served by the establishment of an officer in Georgetown functioning in the nature of a County Court Judge.

Mr. HUMPIRYS: Your Excellency, I think this is a very worthy motion and it should be considered by Government, although like the hon. member for Demerara River (Mr. King) I do not agree with everything that has been suggested. I do not think there should be any appointment of a County Court Judge, but that the jurisdiction of the Magistrates should be extended to \$250 in respect of civil actions of contract and most torts, not all. I cannot imagine any Committee recommending to Government that a Magistrate should have jurisdiction in actions up to \$250 in respect of libel and slander which seems to be indicated by the hon. mover of the motion. If a Magistrate in this Colony has such jurisdiction he will do nothing else but hear slander actions because of the prosecutions brought for insulting and abusive language which will form the subject of civil actions instead of small criminal prosecutions. The hon. member said he heard Judges of the Supreme Court comment that certain cases should have been brought in the Magistrate's Court. I do not know what was in the mind of the Judges when they said that, but what I interpreted that comment to mean is that the matter should have been a criminal prosecution for insulting language and not an action for slander. I strongly deprecate any slander or libel action being brought in the Magistrate's Court of this Colony, but I entirely agree with the hon. member for Demerara River that 4 (a) should be left entirely to the Judges of the Supreme Court. As regards the recovery of premises under the Landlord and Tenants law, the jurisdiction of the Magistrate should be increased in that respect, because as it stands now it takes a month before a man can recover possession of his premises. I think all these things can be properly hammered out by a Committee and it will be a good thing to appoint that Committee, as from their judgment a very satisfactory framework can be placed before Government. I strongly recommend to Government the appointment of a Committee, as sought by the motion.

Mr. DIAS: The support which is being given to this motion seems to be based on the assumption that if the jurisdiction of the Magistrate is extended there would be a large amount saved by litigants in the way of legal expenses, but I venture to suggest

that if due consideration had been given to what happens in circumstances such as proposed by the motion, it would be found that if Government adopts the motion and gives effect to it, it will be necessary—I venture to say—to multiply the number of Magistrates you have in the Colony to-day. (Applause). You will have therefore to increase the official fees so that Government may reimburse itself, if not altogether, to a certain extent. I cannot conceive of any practitioner, who has given any thought to this matter, putting forth the suggestion that the Magistrates, engaged as they are to-day from morning until late in the afternoon in trying 40 to 50 cases in one day, can undertake more work and especially work of a more important nature than they are practically exercising to-day. It is a physical impossibility in the proper discharge of their duties. If you transfer to the Magistrate's Court cases involving large sums of money and questions of law with which the Magistrates do not deal to-day, then you must expect all the litigants to be entitled to have the same time given in the hearing of their cases as the Judges of the Supreme Court give them. It is a fallacy to imagine that because an action happens to be for a sum of \$250 it necessarily means it is an insignificant and unimportant action. That is not so. Practitioners know that very often in the course of practice in the Courts cases do frequently crop up in which the amount involved is small but in which the principles of law are very intricate and difficult, and if you happen to have one of those cases taken before a Magistrate it is no secret to say that he has no time to consider it as carefully as if that matter has been heard before a Judge of the Supreme Court.

One speaker, referred to the fees being \$35 in the Supreme Court and \$12 in the Magistrate's Court. He is basing his figures on what exists to-day. It stands to reason that if you increase the liability of Government, Government will have to increase its fees in order to compensate itself to a certain extent. We know that costs are increased according to the value of the action, and I cannot see how one can make that calculation of the fees without taking that important factor into consideration. The hon. mover of this motion spoke about the necessity of giving effect to this motion because an action

of \$500 or under necessitates the employment of counsel and solicitor in the Supreme Court. That is a mistake, because the Supreme Court Rules provide that in an action of \$500 or under either counsel or solicitor can conduct it alone. If a man is wealthy and wishes to have two or three legal assistants he is entitled to do so but he needs not. If you transfer that case to the Magistrate's Court he can have the same men as if the case is before a Judge in the Supreme Court who has more time to devote to it and in the circumstances is able to give a more satisfactory decision. We all began life in the Magistrate's Court. That is the training ground for lawyers, but I have never yet heard that any Court is a training ground for Magistrates. I would be very sorry to know that a Magistrate is put on the Bench so that he should be trained. It will be dangerous to do such a thing. A Magistrate is appointed on the assumption that he is an experienced individual and quite able to train instead of being trained, to educate those who appear before him in such a manner that they will benefit by his learning. I think the hon. member made a little slip when he advocated that. It is not a point in favour of the motion.

The motion has not received support even from the two hon. members who have spoken on the questions involving slander and libel and the various heads under clause 4. I personally do not think the motion is entitled to any support at all. There can be no objection, however, to Government being asked to increase, if it so considers it necessary after hearing the Magistrates on the subject, the right of persons who wish to recover possession of their premises the rental value of which exceeds £50 a year. All that will be required in the circumstances is an amendment of the Principal Ordinance extending the amount to any sum you like. I wish to say this, and I speak with some authority, that there are very few actions brought in the Supreme Court claiming possession of premises. I do not suppose there are two in a year, and I do not agree with the hon. member that people do not do it because they fear the expenditure. If a man has a good case and wishes to recover from some person who will not pay his rent, there is nothing to fear, because the defendant would be un-

doubtedly made to pay the costs, so that very little if anything falls on the plaintiff landlord.

I cannot see that the motion has anything that commends itself to me in such a way as to justify my supporting it. Increased expenditure must necessarily be involved in providing new Magistrates to discharge these duties, and as soon as you begin to do this you will have to consider the question of reducing the Judicial Bench. If you transfer work from the Supreme Court to the Magistrate's Court you will have to consider that. A third Judge has been recently employed because it was felt that the work was too much for two men. If you are going to take away a substantial portion of the work—one hon. member said most of the work is in respect of actions for \$250 or less, a statement I am not prepared to admit is correct—then the Judges will undoubtedly have very much less to do and Government may have to consider the question of re-arranging the composition of the Judicial Bench. I do not think I can give support to this measure, and I wish to say that—while it is true that my own personal practice in the Magistrate's Court is negligible as I go there very seldom now—I do not think any person, who has experience of the Supreme Court and know the kind of work that is done there and the number of days taken to hear actions which time cannot be devoted by the Magistrates unless they are specially appointed for that purpose, can lend his support to a motion of this kind.

Mr. GONSALVES: I rise to compliment the mover of this motion on his unexpected success in getting discussion on it when it was on the verge of being thrown out for want of a seconder. I would have thought he would have withdrawn the motion in view of the second preamble, because he stresses there the reason for asking for a Criminal Court of Appeal. The matter of a Criminal Court of Appeal is being left over for further consideration by Your Excellency, and it seems to me therefore that the necessity claimed by that preamble does not exist at the present time. Until we get that Criminal Court of Appeal established it seems to follow that the work can well go on as at present. With regard to the motion itself, I entirely

agree with those speakers who differed in regard to the major proposals put forward. So far as I am concerned there is only one proposal which seems to me should be considered, but it does not need a Committee to do that. I refer to clause 5 relating to possession of premises. I think most practitioners who are members of this Council will agree it is the only point which may be considered.

I agree entirely with the hon. Mr. Dias that if all these drastic proposals are to be carried out, Government will have to consider the necessity of increasing the number of Magistrates in this Colony. I do not know what the position would be if jurisdiction is extended as proposed. On the question of fees I think it has been overlooked by certain hon. members who have spoken that the fees of the Supreme Court have within recent times been reduced to a certain extent. Whereas before practitioners were entitled to 10 per cent. fee on a claim of \$250, at the present time they do not get that but a lump sum which is awarded as costs in a matter of that kind. All things considered, I do not think the position has been stated by certain hon. members. I agree also that the number of actions under \$250 which are defended in the Supreme Court of this Colony are very few, and if these actions are to be left to be tried in the Magistrate's Court then I agree with the view expressed that one case alone will necessitate the whole of the work of the Magistrate being suspended or a special day appointed for the trial of that particular case.

I would have thought that the hon. member who is a member of the Legal Society, which has been recently formed in this Colony, would have suggested that that society, which consists of legal practitioners of this Colony, should first consider the various proposals contained in that motion. I, however, will still make the suggestion to him now as it is not too late, and Government will not object if he asks that the motion be withdrawn or deferred. It may be put down as a subject for discussion by the Society. After that has been done and the members have expressed their views it may not be necessary for this motion, as those views will be conveyed to the Attorney-General and will receive the consideration they deserve.

Mr. ELEAZAR: I do not like to follow a multitude to do evil. I feel that practitioners, who know what the practice in the Magistrate's Court is, cannot seriously ask Government to increase the jurisdiction of that Court at all. The simplest action that goes before the Supreme Court is allotted two days for hearing. People do not go there for the mere value of the action but when there is something substantial in law to be investigated. A Magistrate has forty or fifty and sometimes ninety cases in a day to hear, where is he going to find the time to read up authorities and sometimes write a decision in these actions? It absolutely cannot be done. If some Magistrates like to try cases as if they are Judges it is all well and good for them to do so. It reminds me of a little boy's recitation:—

You little boys that would like to be men  
But would not have patience, to wait until  
then,  
To smoke a pipe and drink you know,  
Is not the way your age to show.

People who want to be Judges must wait their time. Do not go and make people think you can do all these things which cannot be done. The first thing we will have to do is to supply a library for every Magistrate. Very often a Magistrate has a case before him and he has to go to the Law Library to assist him in arriving at a decision. When I say this I say all, and I am done. Like the hon. Mr. Dias, I cannot conceive any person with the experience of the work of the Magistrate's Court coming before this Council and asking Government to seriously consider the advisability of increasing the jurisdiction of the Magistrate's Court. It is objectionable, as you know the Magistrate has not the time and he has not a library. This is somebody's idea, but it is "forced ripe." It may be in the very distant that you may increase the jurisdiction of the Magistrate's Court. A man is not going to defend a \$110 action unless there is a substantial point of law, he thinks, is in his favour. The Magistrate is not going to take a few minutes over it as it will require good deliberate consideration. It is not the amount but the principle of law involved that you have to take into account.

I always complain about these Committees taking so long in making their report.

If there is to be a Committee I would suggest that the Attorney-General be the Chairman, but it will rob him of much of his valuable time. However, anybody who knows anything about it is bound to say that it is impracticable.

Mr. PEER BACCHUS: I do not intend to take any part in the debate for I see that even the lawyers in this Council differ on the question. Some are supporting the motion and some are opposing it. I think that all the motion asks for is that a Committee be appointed to consider whether it is advisable that the jurisdiction of the Magistrate's Court should be extended. I see no difficulty in it, though I am not a lawyer. I do not see any harm in appointing a Committee to go into the matter.

Mr. LUCKHOO: To act on the suggestion made in the motion would be a useless tinkering with a system which has given absolute satisfaction and is still giving satisfaction at the present time. I am saying that with years of experience behind it. In a case involving \$120 a litigant rather than going to the Supreme Court has the right to abandon \$20 so as to obtain judgment in the Magistrate's Court without much delay and expense. The suggestion involves too much. It will be burdensome to the Magistrates to have to settle such matters as libel and malicious prosecution. As has been rightly pointed out, if you allowed Magistrates to take slander actions you would have to establish a slander Court. As many as twenty cases of abusive language come up in the course of a day in the Magistrate's Court, and if people feel they can gain pecuniarily they will institute civil proceedings instead of criminal proceedings. Those of us, who have practised for a number of years in the Magistrate's Court, certainly cannot support the suggestion contained in this motion.

THE ATTORNEY-GENERAL: I am very gratified to find myself in complete agreement with every word which has fallen from the lips of the hon. member for Berbice River (Mr. Eleazar). I cannot conceive that it would be useful for this Council to pass a resolution of this kind unless it is completely satisfied that some useful purpose would be served by the appointment of a committee with the

terms of reference as proposed by the motion. It seems that the proposer of the motion tried to cover far too wide a field. If there is any point in the hon. member's suggestion worthy of consideration, I am inclined myself to think, it is this point of the recovery of dwelling houses. There a good case may be made out for increasing the jurisdiction of the Magistrate. If that is so, I think that the appointment of a committee with such wide terms of reference will have the effect of shelving for all times anything of value which may be contained in the hon. member's suggestions, and for that reason alone I shall oppose the adoption of this motion by the Council. As many hon. members who have spoken have pointed out, if the committee reports in favour of the suggestions put forward it would mean a radical alteration of the whole judicial structure in this Colony. You will have to increase the number of Magistrates very considerably and at the same time reduce the number of the Judiciary, and I do not think there is any member of the Council who wishes us to return to the days of the "two-Judge" Bench.

Mr. WOOLFORD: I should like to express my entire agreement with what the learned Attorney-General has just said. In the first place the motion asks for the appointment of a committee of qualified persons. It is limited to that. As we all know, for a motion of that kind to be accepted here without amendment, not only the terms of the motion have to be referred to in the appointment of these qualified persons but the object of the resolution itself. As the learned Attorney-General said, it will mean a very close and thorough examination by experts, and I do not think they can be found in the profession. Although it has been said that it would mean the appointment of additional Magistrates, in my view that will not be the sole expense. I think it would be right and only fair to the existing Magisterial Bench, if you are going to add to their present responsible duties the exercise of jurisdiction in regard to other Ordinances such as the amendments fore-shadow, that you give these gentlemen more pay than they receive at present. It will mean an all round increase of not merely £50 but I should say at least £100 more to every sitting Magistrate in this

Colony. What we have to consider is this: Are these recommendations worth that expenditure when the bulk of the legal issues are being performed in the Supreme Court at the present time with a degree of satisfaction? With the possible exception of the recovery of tenements there is no necessity for the appointment of a committee at all. We all know that the Landlord and Tenants Ordinance requires a certain amount of amendments. It is a very unsatisfactory piece of legislation at the present time both to the landlords and tenants, and the widening of the Magistrate's jurisdiction can be accomplished without the appointment of a committee of qualified persons. The speakers did not quite indicate the increased cost to the litigant under the present system. In undefended actions of \$250 brought on specially endorsed writs the cost was previously \$25 but it is \$28 to-day. That increase to the litigant will be transferred to the Magistrate's Court. The hon. member for Georgetown South (Mr. Gonsalves) made a mistake when he said that in an action for \$250 the fee to the practitioner was formerly ten per cent. but has been reduced to a lump sum. It is an increase to the profession in matters of specially endorsed writs.

There is one point I would like to emphasise. Whatever improvements there may be in the Rules of Court in regard to costs, I would like to remind members that they were made by an experienced Judge who was previously a Taxing Master. After consultation with members of the profession and the Judges those costs were fixed by him. It must not be overlooked that owing to the arrangements at present in existence costs to the public in several matters have been entirely relieved. Speaking as a professional man our respective clients are now reimbursed in other directions which were previously not given. The change in the system of taxation has benefited the public. I wish to say here that from the public point of view the suggested change will not be to their benefit. Several lawyers rather not to have any change in the direction as indicated in the resolution for a further examination by the "qualified" persons who will constitute the personnel of the proposed committee. I personally cannot see my way to support

the motion, and I would suggest to the hon. member that unless he is certain of considerable support not to press the motion.

Mr. LEE: In reply to the several speakers, I desire to state that as regards the statement by the hon. member for Eastern Berbice (Mr. Luckhoo), I do not see the logic in it. Why should a member of the public be deprived of his just due by having to reduce his claim of over \$100 in order to bring it within the jurisdiction of the Magistrate's Court? Every man should have the right to do so within the limits of his means. I am asking that a committee be appointed to enquire into such circumstances. I am not asking that it be made law. The hon. member for New Amsterdam (Mr. Woolford) has taken exception to the word "qualified." My reason for putting in the word is that several committees have been appointed by past Governors which were not qualified to inquire into the matters they were to investigate (laughter). The committee that Your Excellency is asked to appoint should be comprised of men who have had experience of the work in the Magistrate's Court and know the needs of the people. When hon. members stand in this Council and say that there are 80 to 90 cases a day for hearing and a Magistrate has to dispose of them, is that an indication of the justice which is given to the people? The time has arrived when more Magistrates should be appointed. There is not a practitioner, not a lawyer-member of this Council who can deny the fact that there is necessity for more Magistrates in this Colony. What I would like to point out is that the motion only asks for the appointment of a committee of inquiry. It does not matter that the terms of reference are so wide, for you may limit them. If given wide powers the committee would be able to recommend to Government on all phases of the subject. I do not say that hon. members should agree with all the points covered by the motion, and the hon. member for Georgetown South (Mr. Gonsalves) had to admit that in one of the matters referred to in the motion there is a hardship created. If the committee is appointed and he gives evidence before it certainly that committee may be convinced of the fact that there is necessity for it.

Mr. GONSALVES: To a point of correction; I did not admit the necessity for a committee. I do not want a committee to consider that alone.

Mr. LEE: Apart from my bringing this motion, it was brought to the notice of Government that there is necessity for reform. It is therefore all the more urgent that a committee be appointed to advise Government in this matter. That is the reason why the committee should be given wide powers. There is absolute necessity for an inquiry into the administration of civil justice in this Colony, and the committee to be appointed by Government should be of qualified men so as to be able to advise Government as to what should be done in the matter. I do not say that the jurisdiction should be increased or not, as that would be entirely left to the functions of the committee. There is necessity for reform in the Magistrate's jurisdiction, and that is why I ask Government to accept this motion.

Motion put and lost.

The Council adjourned until 2 p.m. for the luncheon recess.

#### RAILWAY TO THE INTERIOR.

2 p.m.—

Mr. ELEAZAR: I beg to move the following motion standing in my name:—

That the construction of a railway be immediately undertaken as a means of developing the resources of the interior of the Colony, relieving unemployment.

That the services of a railway engineer be engaged forthwith to make the necessary surveys and prepare estimates of the cost of the railway from Bartica to Kupununi, and

That Government should provide the funds necessary for the execution of the project.

This motion is a corollary to the one which was accepted by Government in December last, requesting Government to raise such loans as may be found to be necessary for the development of the Colony's resources on the coastlands and in the hinterland. I should have had very little to say on it if it did not appear on the surface that Government seems to be inclined to feel that it bit off on that occasion a bigger piece than it was really willing to chew. However, I will put the

case before Government and give Government an opportunity to decide whether or not there is merit in this motion as I see it. Before doing so I am going to take the liberty to tell Your Excellency a matter which occurred not very long ago. On the occasion when your predecessor visited Berbice to say goodbye, in the course of conversation with several persons including myself, he said to me: "Mr. Eleazar, I remember that at the very first meeting of the Council over which I presided on my arrival in this Colony you moved a motion which was rejected. A similar motion will come up next Tuesday, the very last occasion when I shall preside over the Council, but it will receive a very different answer." As a matter of fact, on the following Tuesday a motion was brought up by the Director of Public Works, accepted by Government and is being slowly put into effect. The point I wish to make is that it took Sir Geoffry Northcote two years to discover that the motion I had moved was sound to the core. After two years he is not here to give any assistance. I am sure that if he had addressed his mind to the motion at the time he would have discovered that it was not a new one. The subject of the motion was before the public of the Colony 80 years before. When a member of this Council with any experience at all brings forward such motions I submit that they demand Government's serious attention, and unless there are very grave reasons for rejecting this motion it should not be cashiered in the manner one is accustomed to in this Council.

One cannot help feeling that the policy of Government to-day is exactly the same as it was in 1838—100 years behind the times. The first railway in the world was put into operation in England in September 1825, and in November, 1848, 23 years after, the first railway on the Continent of South America, the Demerara Railway, was put into operation as far as Plaisance. It is remarkable to compare the progressive nature of the people who lived in those days with the retrogressive nature of the men who have followed them, present company always excepted. We are now discussing in 1938 what our grandfathers in 1848 saw and put into execution. In 1837 the motion which brought the Demerara Railway into being was moved,



and the first sod was turned by one of your illustrious predecessors, Governor Light, on August 19, 1847. In 1848, 11½ months afterwards, the railway was opened as far as Plaisance. It took 14½ months to build six miles of railway. We can easily conceive that the people who were responsible for that railway—we are speaking of course with all due deference to them—were not settlers, *qua* settlers. They were not colonizers as we know the term to-day. They were capitalists who came here and invested capital to exploit the country to their own profit. The idea of the people who came into this country at that time was not to find new country or a new home, as was the case of the people who went from England to North America, the Pilgrim Fathers, or of the same category as the people who went from England to Canada and Australia. Those people went out to find scope for their industry and skill, and to make a home for themselves and posterity. That was not the case with the first people who came to this country, and that is why we have to-day the term "absentee proprietor." They brought capital to the country which was fertile, and confined their energies to getting from the soil the fruits of their industry and enterprise. In those days Government had no alternative but to shape its policy accordingly. No one can blame Government for doing that; it was the only thing to do. But that could not be done without the help of people. They had to get labour, and the first thing they did was to exploit slave labour. When there was a likelihood of their being relieved of that they brought in labour by contract, and the indenture system came into vogue. Those people became potential settlers and colonizers. The policy of the Government was only to develop and foster the exploitation by the capitalist for his profit, and notwithstanding the new conditions which were brought about, successive Governments have hung on to that policy like a limpet thorn. They did nothing to meet the new situation. Instead they did everything to retard any attempt in that direction. One could not get a piece of Crown land unless he paid \$10 per acre, land which one can now get at 20 cents per acre.

I cannot visualise the day when British Guiana will be able to do without the sugar industry. That is my honest

opinion, and there is nothing that Government should not do to foster that industry, but while it does that it must do something to meet the fresh conditions which have arisen since then. What are those conditions? For the development of the entire Colony for the sake of the Colony, including sugar, it becomes necessary to look into other quarters. We have 380,000 people here, three to the square mile. No three men can develop a square mile of land, so that the first thing that meets the eye right away is the need for population. The Demerara Railway was built because of the need for population. At that time there were 98,000 people all told in the Colony. To-day we have 380,000. When there were 98,000 people there was need for a railway, and why? Because the planters of that day complained that fully 1,000 labourers were engaged in the transportation of the produce of the sugar estates between Mahaica and Georgetown throughout the year, and suggested that if a railway was built those people would be relieved to go into the fields to assist in the production of the several articles that were being produced at the time, sugar being the major industry. It was just about that time that the Government of the day began to get people from Madeira, China, India and all parts of the world, resulting in our cosmopolitan community to-day. Can there be any justifiable reason to-day for Government to turn its back or shrink from facing the problem? We want labour. If this country is to be developed at all we want more people here. But here is a paradox. There is unemployment in the country now; we cannot employ the people we have, and yet we are talking about bringing people into the country! I say that we can feed half of the West Indies in British Guiana if only Government would find them something to do. It is not the business of Government to make people rich, but I maintain it is the business of Government to protect people in such a way that they can make themselves rich. It is Government's business to adopt a policy which would enable a man to work out his own industrial salvation.

I submit and stress that so far as is known there is nothing to compare with a railway in the development of a half-developed or undeveloped country such

as this. A railway is still the pioneer. It would have the effect of bringing people into the country, and it would have the effect of finding something for them to do. But Government clings to its antiquated policy, forced upon it by conditions of those times, until the present moment. This has been going on from 1847. This railway which was the second in the world and the first in South America, is the shortest known, at least on the South American continent. We have demonstrated to the world that British Guiana can produce sugar. Those days are past, and if it becomes necessary British Guiana should pay more for its sugar and sell the balance outside for whatever it can get so as to keep the price up. As long as the Colony is developed we would not feel it. There would be more people to produce not only sugar. We would have so many more people to consume our products and share our taxation, and we would have so many more people to feed and clothe. What we lose in having to pay more for our sugar we would gain in having to pay so much less on the articles we consume. The old cry was that if the country was opened up the sugar estates would be ruined because their labour supply would be taken away. That was 100 years ago, and perhaps not an ungrounded fear, but to-day it is an absolutely unfounded and needless fear. So serious was the situation when one of Your Excellency's predecessors dared to suggest a railway to Brazil and a temporary cessation of the Constitution, that it was reported while he was in England that his sight had become bad and he had to retire. He had to find some reason for retirement because he had the temerity to suggest a railway to the interior. When he arrived in England he found a recall petition there. In 1926 we had Messrs. Roy Wilson and H. Snell, and among their conclusions they wrote:—

"No less necessary is it that the opening up of the interior should be pushed on with all speed. A forest trust should be formed and the various surveys now in progress should be maintained and if possible extended, and, in view of the considerable financial burdens which this will impose on the Colony, we have suggested various sources from which assistance might be legitimately forthcoming. Finally, if it should prove that the great potential timber resources of the Colony disclosed by the recent report of the Conservator of Forests require for their economic exploitation the construction of a railway, we recommend that the Imperial Government should assume over a period of years the interest and sinking fund obligations which a

railway development loan would involve. If this is not possible, a substantial company or syndicate might be found to undertake the work on terms which would relieve the Government of all financial responsibility for a period of years."

The Commissioners further wrote:—

"Development of the interior will, in our opinion, provide its own influx of population, and especially would this be the case if it were known that the Government were opening up by railway construction an area so rich in the qualities of timber for which there is likely to be an ever increasing demand."

I would like to emphasise those words: "Development of the interior will, in our opinion, provide its own influx of population." That is not a vain and empty theory. I know of my own knowledge that it became necessary for the American Government to pass legislation to prevent people from going to Panama, and I know also that legislation had to be enacted to put the people who had gone there out of the country when they were no longer wanted. It is no new theory that railway construction will bring its own population. Yet our capitalists still cling to their antiquated ideas. The Commissioners further state:—

"Meanwhile we consider that the Colony would be well advised to devote such resources as are available to the encouragement of immigration from the West Indies in preference to the expensive and one-sided scheme of East Indian colonisation, or remote and dubious prospects of importing Asiatic labour from outside the Empire."

We know that the sister Colonies of the West Indies are many of them overpopulated, and we know also that a good many of them, besides being overpopulated, are entirely developed. In Barbados they are selling land at so much a foot; they have not enough land to sell by the rod. They have no land but they have people. We want people and we have land. Does Government conceive that if lands were made available for people to live on the coastlands by means of the plans which the Director of Public Works has in progress now for irrigation and drainage, people would go into the interior? A railway into the interior would bring its own population, but even if some of the young manhood from the towns and villages did go into the interior, would that do any harm to anybody? Isn't that really what we want? We have unemployment now, and we must ask ourselves what are these able-bodied men doing? Some of

them are unemployable, I agree, and would not work if they could, and could not if they would, but a large number of men would readily do something if they could get something to do. How would a railway affect that? I cannot conceive what employment would be provided by a railway. Government is timid to embark on the only project which would give it what it wants. One of the reasons advanced by Government against a railway is that it will not pay. It has gone past that. That "would not pay" story is 100 years old and cannot stand to-day's investigation. It is not a question of whether it will pay, but is it worth it? Is it worth developing the entire interior if we can within the next 50 or 100 years? Is it worth making men happier and finding employment for children who are leaving school? Is it worth saving boys from becoming "centipedes" and girls from going down to perdition? I think it is. I do not think the value of the railway to the planters in 1847 was whether it would pay. They saw the economic value in it. They saw something which could not be calculated in releasing a thousand men from transportation for work in the fields. They were not fools. They saw something which was beneficial to them in their day. That is the point I wish to make—to say that Government starts with a red herring across the trail by wondering whether it would pay. I can only see in that an excuse for not doing the right thing. I submit respectfully that Government will be hard put to find an answer in the negative to the question "Is it worth it?" Government shaped its policy 100 years ago to suit the conditions which then existed, but other conditions have arisen which must be dealt with, and the most feasible means, as far as I can see it, is to embark upon a railway into the interior.

From some remarks which fell from Your Excellency this morning I rather had an inkling that Government might be inclined to find shelter behind the word "immediate" in my motion. Government might be inclined to give the word its literal meaning. I know I cannot coerce Government into doing anything, but that word only indicates how urgent is the need for this development. Government might also construe the word "forthwith" literally. I like the word very much, but I know that in these days you cannot ask

Government to do anything forthwith at all. In the days when we could use the word "forthwith" we had the purse strings. All I am endeavouring to do is to impress upon Government that the opening of the country by means of a railway to the interior is of paramount importance; but I cannot help asking Government to turn its head away from its policy of commercialising everything. I have reason to believe that were Government to take a plebiscite of Government officials and people whose business it is to retard the progress of the country as much as they can because they think it conflicts with their own interests, they would tell Government a railway would not pay. I say that if the interior were opened by means of a railway there is no knowing how far our cattle industry will go; how far our people will be encouraged to go into the interior and grow crops which are not grown there now because it is too far from the market. A man told me that he grew wheat in the interior. Motor transport has not developed any country in the world, but to-day we have roadless motor vehicles which can feed a railway.

I am submitting with all confidence that Government will see its way to accept this motion. If there is any hon. member who has any real and valid objection to this mode of development let him now speak so as to give me an opportunity in my reply to try to convince him that it is a *sine qua non*. Members should not remain silent and then vote against the motion. Many of them tell me outside that they agree with me but they have to say "Against."

On the question of the development of the interior there are many conflicting opinions. I have heard the late Sir John Harrison, in the presence of the late Mr. J. S. McArthur, propound the theory that diamonds could not be found in sand but in clay soil, but an adventurous individual said he would see what was in the sand and he found 4,000 carats of diamonds. Mr. Manoel Veira is still alive to verify that. In a short space of time people began to work the sand. I have only mentioned that to show that we do not know what is in the interior. The things we have been told were not possible have been found to be quite possible and beyond the expectation of anybody. What is there

to prevent this Colony supplying Trinidad with meat instead of Venezuela doing so? We have cattle in the Rupununi, but after the long drive they are only fit to make shoe leather. The people in Trinidad will not buy our cattle because they cannot eat the meat to please us. If we had a railway to bring the cattle down quickly from the Rupununi we would be able to collar the market.

I am leaving this motion in the hands of other members with all confidence. If Government can see its way to do anything I suggest that the motion might be put in any form that would be acceptable to Government in order that immediate attention might be given to the development of the country by means of a railway to the interior, which I contend is the only proper means of giving us what we want. Your Excellency's predecessor took two years to find out that I was right. I hope you will take a fortnight to communicate with Downing Street and do the needful.

Mr. LEE: In seconding this motion I find first that it concerns my constituency, and secondly it has in its first paragraph two things with which I am in thorough agreement, and which I shall certainly ask Your Excellency to consider very seriously. Whether the construction of a railway would be beneficial or not many of the inhabitants of the Colony believe, and perhaps rightly so, that a railway to the interior would develop the Colony, and they have that belief because of the assurance which was given them on one occasion, that if the Constitution as it then existed, was taken away a railway which would develop the country and relieve unemployment would be constructed to Brazil. At that time the elected members were in the majority, and the Governor thought that in view of the large expenditure involved it would be necessary for Government to control it. The Constitution was changed, Government now governs, but we are still awaiting the able Administrator who would develop the country by means of a railway which, in our opinion, is the only way.

Apart from that I would like Government to consider the present situation seriously. There is unemployment at the

present moment, and no representative of the sugar industry can deny the fact that within the next month or two they will have to limit the wages paid to the labourers on the sugar estates. Are we going to follow the example of the United States by undertaking public works and construction works for the relief of unemployment? There are thousands of head of cattle in the Rupununi district where a cattle industry could be developed, and timber could be brought out by a railway. There are men who have invested their money in economic cultivation beyond the Kaieteur fall. Isn't that proof that the interior of the Colony can also be developed agriculturally? The Department of Agriculture has never gone further than the coastlands to see whether there are places in the interior where an agricultural industry could be developed.

Mr. JACKSON: I am quite sure that every member of this Council is in agreement with the fact that there is abundant need for the development of the resources of this country. There exist abundant opportunities in the interior of this Colony for the amelioration of the economic stress through which the Colony is passing, and any movement intended to bring about a better state of affairs should receive the very careful and sympathetic consideration of this Council. I think the hon. member for Berbice River (Mr. Eleazar) should be complimented on his attempt to focus attention on this need for development. That there are potential resources in the interior of this Colony which are awaiting development no one will deny. I am sure that the time spent in exploring those possibilities in this Council will be time well spent. There are two schools of thought with reference to the manner in which the Colony should be developed. There are some, like the hon. member for Berbice River, who pin their faith on a railway, and there are others who feel that development by road is the better plan. I think our attention might be turned to exploring those two plans and seeing which would suit. It has been said that if a railway is built with the object of developing the interior of the Colony, and it is found that it is not bringing prosperity to the country it cannot be taken up; it has to be abandoned, and the expense would be very high. It is less expensive, it is said, to build a road from

which branch roads could be built, and if there is no prosperity in one section that road could be easily abandoned and another site selected. I think, however, that development by railway and by road should go side by side. What I think this motion asks for would not prevent the building of branch roads to connect up with a railway, and I would like to stress this point because I do feel that in building a railway the idea would not be merely for transport but primarily to open up the country, because unless the lands in the interior are worth nothing, it is natural to expect that a good many of the people who would go into the interior while the railway is being constructed would also take up farming.

On the question of labour I will not disguise the fact that it is just possible that some of the men who work on the sugar estates might trek to the interior if it offers them perhaps better pay, but there are numbers of able-bodied men in the neighbouring Islands who would rush to the Colony if development works were started, and I do not think for one moment that the estates would suffer for the want of labour if a railway project was carried out. The hon. member for Berbice River stressed the point that he has not the slightest intention to hurt sugar. I think the man or woman who feels that he or she can hurt sugar or should do anything to prevent the success of the sugar industry is a fit subject for Berbice—I mean the Mental Hospital. (laughter). I do ask that Government will consider this motion and give it the attention which it undoubtedly deserves. Whatever may be our opinions, I think we ought to approach the question with a free and open mind. I admit that the motion is ambitious. Why shouldn't it be? I think much good will be derived from our discussion this afternoon, and even if the motion is not carried there must result some benefit from its consideration. Personally I think the motion deserves consideration, and I have no doubt it will receive consideration by Government to the extent it deserves.

Mr. WOOD (Conservator of Forests): Sir, this motion is not really any new thing. In 1930 the hon. member for Berbice River (Mr. Eleazar) moved a motion on very similar terms, the only

difference being that at that time he had not yet decided on what terms the railway would be. In 1932 he moved a motion again in very much the same terms, and on each of those occasions Government defined its attitude towards development of this nature, I think quite clearly. In 1937 the hon. member moved a more ambitious motion for a general development loan of £20,000,000. Again I think the attitude of Government was quite clearly defined, and I do not think it has undergone any great change in the interval. I think, sir, that every member of this Council has the greatest sympathy with the hon. member for Berbice River in these motions which he brings forward. We appreciate the spirit with which he does it—we all desire development—and we appreciate his persistence in that desire, I certainly have always felt very great sympathy with his motions, but I am bound to confess that I have always felt more sympathy with them before the hon. member spoke on them than I have done afterwards. I have no intention whatever of trying to baulk a railway into the interior because it would not pay. It certainly never would and never could be a matter of balance-sheet business. If that railway achieved its object, if it put the Rupununi savannahs under harvest, if it developed the gold industry, if it expanded the forest industry nearer the coast, and if that railway never earned the slightest bit towards its interest and sinking fund, and it never came near covering its operating expenses, but if it brought a very large influx of population into the Colony and made us reasonably prosperous at the cost of increasing our expenditure by 50 per cent. it would be well worth while. What we have to examine really is whether it would achieve those objects, and whether we could make the people who lend money in the markets of the world believe that it would achieve those objects.

On this occasion the railway is to run from Bartica to the Rupununi—not a very good line. Bartica is not a port to which ocean-going ships can go, and the Pacaraima mountain is not easy to climb, but it does not matter really what point we take. The previous motion asked for £5,000,000, which is a very fair figure, and I think, we should take that as being a rough estimate. I had a suspicion before the hon. member spoke that he was

going to quote a certain number of "ologists," but he rather let me down about it. I had hoped that I was not going to be one of them. There are quite a number of experts who have examined the Rupununi from the point of view of its fertility. The late Sir John Harrison was very lukewarm about it, but he did think there might be some portions of the savannahs which could be cultivated if deep ploughing was done, and if half a ton of slag phosphates to the acre was applied. That is not very encouraging to the influx of population from the Islands. I am really out to persuade the hon. member, but I hate the idea of quoting any other "ologist" than myself, therefore I would like to go back to the real experts in whom he believes, and who should know everything that is to be known about scientific agriculture. I refer to the Wapisiana and Macusi Indians of the savannahs who cut their fields in the forest on the skirts of the mountains and do not work unless they are hungry and have to get food. They cut fields in heavily wooded forests, but they never get more than two crops from a piece of ground. Then they have to remove and go through all the labour of cutting some other field. That is what they do with steel axes. Their ancestors used stone axes and had to burn trees down by making a fire around their roots. While the Indians were doing that—and they are still doing that—they had only to climb the mountain and look down on the savannahs where they could choose a clear spot for their cultivation. But why don't they do that? Because the crops would not grow in the savannahs; they are not fertile.

If we are going to ask anyone to lend us money we are going to be hard put to put up a case. I thought the timber industry would be mentioned but it was not. It was mentioned in 1930 when the hon. member's views were as follows:—

"I am ready to admit that a road is certainly a means of movement, and great movement at that. It covers great distances, but the covering of great distances will not solve the problem. The solution does not lie in the covering of great distances, but rather in covering large areas in the shortest possible time. The reason why greenheart cannot be sold and is left on our hands is because the cost of haulage is so great that we cannot get it out at a cost at which anybody would buy. A road in that part of the country would be extremely expen-

sive to build and almost prohibitive to maintain."

In 1932 the hon. member was still more emphatic. The then nominated member, Mr. Seaford, spoke on the motion and was in favour of roads. The hon. member for Berbice River in his reply said:—

"I was very much surprised at the nominated member, Mr. Seaford, attempting to contrast the advantages of motor traffic over a railway for the transportation of heavy timber such as is known to exist in this Colony and over tropical forests such as we have. Such an individual should be sent to Bedlam."

I understand that this is the method by which a skilled parliamentarian indicates that a fellow member is a lunatic without getting out of order. But if that member was to go to Bedlam for what he said, I can see myself locked away in the same cell before this debate is over.

In 1932 the hon. member advocated roads for the extraction of timber. At the present time our timber extraction is more modern, more up-to-date than any I know of in any tropical country, yet although last year, as far as I can trace, our exports were a record for all time I do not know of one single cubic foot that was not extracted by means of motor traction over roads. All the larger grants have abandoned their creeks because they are fixed, and they have to haul. It is quicker to make a road which goes right up to the river where the cost of transportation is almost negligible. If a trunk line railway was built from one point to another I cannot see how it would help the timber industry. I am not saying that logging lines come into the same category. If you have a pulp factory near a river and you are not working very far away a cheap logging line from one point to another is always quicker, but a trunk line railway from Bartica to Brazil would not serve the Cuyuni, Mazaruni, Demerara, Essequibo and Berbice districts. Roads can be built anywhere you like at infinitely less cost. As far as timber is concerned I can see no case whatever for a railway.

Government has to look at the matter from the point of view that it will have to put up a concrete case. There are various methods of getting money. You can go to Lord Nutfield if you are an optimist, or you can go to the Treasury. You can go to the money market and

try to borrow money, but I cannot see what our case would be. Three weeks ago the Commonwealth of Australia went to the London market to borrow £7,000,000 for rearmament against the Japanese, a very popular thing in Australia. Her case was this: We have a population of 7,000,000, our steel has been rapidly expanding lately, our coal is greatly expanding, we have borrowed no new money for more than 10 years, and during that time we have paid off more than £14,000,000 of Australian debt; we have a favourable trade balance of more than £36,000,000, and the Commonwealth Bank of London has our funds in its vault sufficient to pay the whole of the interest and sinking fund on Australia's external debt for the next 10 years. They went on the market for a 3½ per cent. loan issued at 99 for £7,000,000, and the underwriters had to take up 66 per cent. of it. Four days later the London County Council went on the market for a £10,000,000 loan at 3½ per cent. and the underwriters had to take up 95½ per cent. of it. Is it a practical proposition to try to borrow money on those terms on the case we have? However much one sympathises with the hon. member, I see no hope of our going with a case like that, but if we did go I see a chance of our stultifying ourselves later on when we have a good case. Consequently, I would suggest that what was done before be done again—that a report of this debate be sent Home. Government is quite willing to ask for loans for a number of development schemes if there is some hope of success, but the motion as it stands, much as one sympathises with it, does not seem to be very practical. (applause).

Mr. AUSTIN: We are all very much concerned in this Colony, especially those interested in the sugar industry, about the question of unemployment, and one foresees that very shortly there must be a good deal of unemployment on the sugar estates as the result of the quota for 1938-1939 which is likely to be reduced by some 7,000 tons. That is bound to have effect on local labour, and especially so on the sugar estates. I think it was the Hon. Mr. Jackson who said that probably wages would be reduced. I think he meant to say that there will be less money in circulation. It is not that wages will be reduced. Wages will be

maintained so long as the price of sugar is what it is to-day, and if it goes higher there may be increases in certain directions, but I think I can definitely say that the wages of the ordinary labourers on the estates will not be reduced.

With regard to the railway I do not think the hon. member realises the cost even over 100 miles. Even £5,000,000 is a very small sum when one considers the rivers that will have to be crossed. The hon. member will find that more than four times that sum would be necessary. We desire to see the interior of this Colony opened up as far as it can possibly be done, but we must go slowly. No member has said a word about air surveys which would be very valuable as a means of enquiring into the possibilities of the hinterland. The sugar industry has very great sympathy with the opening up of the hinterland, and will do all it possibly can to help in that direction. (Hear, hear).

Mr. ELEAZAR: I do not think I have heard anything to which I can seriously reply, because there is no need for it except to tell the Conservator of Forests that as the result of his report a railway expert examined the question of a railway to the interior. It must not be forgotten that that expert's examination was in a particular direction—the development of the diamond and gold industry—and he distinctly told Government that a railway would not pay because diamonds and gold were found in different areas, and if a railway was constructed to serve those particular industries alone and the districts were worked out in a few years the railway would be of no use. The expert's report contains an extract from a memorandum by the late Mr. J. Mullin, Secretary to the Colonisation and Development Board, dated 25th November, 1926, on the principal features regarding the construction of a railway to the Mazaruni district. Paragraph 18 of the extract states:—

“On the 29th April, 1926, the Board again met when the Conservator of Forests made a statement of his views which, briefly summarised, were as follows:—

- (a) that the timber resources of the area so far examined were much more valuable than had been supposed.
- (b) that it would be prejudicial to the development of the Colony's timber industry to give a Railway Company timber rights at all and that if a railway was to be built in that area by private enterprise it should

be a public utility railway only and be prohibited from dealing in the commodities it carried.

(c) that it was preferable to have the railway owned and operated by Government, (d) that if this was decided on it would probably be possible, by throwing the timber areas along the proposed railway open to public tender, to secure guarantees of sufficient return in rents and minimum royalties to pay the sinking fund and interest on the railway."

That was what the Conservator of Forests reported, and that report had very much to do with the report of the expert who came out here to investigate the possibilities of building a railway.

THE PRESIDENT: Is that Mr. Leggate?

Mr. ELEAZAR: Yes, sir. What did Messrs. Wilson and Snell have to say about that? This is what they said:—

"No less necessary is it that the opening up of the interior should be pushed on with all speed. Finally, if it should prove that the great potential timber resources of the Colony, disclosed by the recent report of the Conservator of Forests, require for their economic exploitation the construction of a railway, we recommend that the Imperial Government should assume over a period of years the interest and sinking fund obligations which a railway development loan would involve."

I have so high a regard for the Conservator of Forests that I cannot deal with his verbiage here as I otherwise would do. He says that if we told the money-lenders what we proposed to do with the money they would not lend us. Does British Guiana not worth it? What business is it of theirs whether the railway pays or not? Does the Conservator not recognise the economic value of a railway apart from its cost, and what we would get in freight and fares? Instead he has cited the Aboriginal Indians as examples of the non-fertility of the soil in the interior because they go from place to place. Having lived in the interior of this Colony for a few years I can say that Indians go from place to place because brushwood springs up quickly after a crop is reaped. The soil is very fertile and the Indians have not the labour to keep it clear. It certainly is not because the soil is not fertile. That is a libel on the interior of the Colony and on the Aboriginal Indians. I say that from first-hand information, having lived amongst the Indians on the Berbice river for a number

of years. I hope I have convinced the Conservator, but if he is not convinced he can make enquiries.

The Commissioners had no doubt that there is need to open the interior by means of a railway, and the need was so pressing that they suggested that the Imperial Government should shoulder a portion of the burden. If there was need to convince Government that a railway is necessary the speech of the Hon. Mr. Austin should have done so. He said that now that we are faced with a reduction of the sugar quota there would be more unemployment, and that even the planters were willing and would do anything they could to assist in the opening up of the interior. It has been said by the Conservator that it would not pay.

Mr. WOOD: I never said it would not pay to open up the interior. I said that a railway was not the best means of opening the interior.

Mr. ELEAZAR: That is a matter of opinion. The consensus of opinion is against that. Mr. Leggate and Messrs. Roy Wilson and Snell do not say that. I claim not only to have the backing of those who have gone before but over 40 years of close study the problems of the country in which I am so much interested. I go further and say that I have the backing of those who built the Demerara Railway 91 years ago. I am asking Government to let the country build a railway, and the railway will build the country. (applause).

THE PRESIDENT: I am afraid I can add nothing to what has passed in previous discussions on this question. It has been commonly argued that a railway creates its own traffic, but in many parts of the British Empire there has been painful disproof of that fact. The matter was investigated quite recently—about 10 years ago—and the decision was in favour of development by roads, but I should have approached the subject with an entirely open mind if the hon. member had been able to put forward any specific proposals beyond general statements. I would have been quite prepared to re-open the whole question, but the building of a railway merely as a means of providing employment is not a course that Government would reasonably consider. There are many other alternative methods



which promise far more practical results or quicker results. I do not wish to enter into a discussion on the whole principle, because I am afraid I can add nothing to what has been put forward in previous discussions on the subject.

Motion put, and declared lost.

AMENDMENT OF CIVIL LIST ORDINANCE.

Mr. WOOLFORD: I am afraid that I could not possibly conclude my remarks on the motion standing in my name within the time left at our disposal this afternoon.

THE PRESIDENT: Would you prefer that it be put further down on the agenda?

Mr. WOOLFORD: I would prefer to move it at a later stage.

THE PRESIDENT: There are other matters of a more or less formal character on the agenda, namely, the third reading of a number of Bills. If the Council has no objection they might be taken now.

CO-OPERATIVE CREDIT BANKS (AMENDMENT) BILL, 1938.

THE ATTORNEY-GENERAL: I beg to move that "A Bill intituled an Ordinance to amend the Co-operative Credit Banks Ordinance, 1933, in certain particulars" be read a third time and passed.

Professor DASH seconded.

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

Bill read a third time and passed.

LOCAL GOVERNMENT (AMENDMENT) BILL, 1938.

THE ATTORNEY-GENERAL: I beg to move that "A Bill intituled an Ordinance to amend the Local Government Ordinance, Chapter 84, in certain particulars" be read a third time and passed.

Professor DASH seconded.

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

Bill read a third time and passed.

DEEDS REGISTRY (SALES IN EXECUTION (AMENDMENT) BILL, 1938.

THE ATTORNEY-GENERAL: I beg to move that "A Bill intituled an Ordinance to amend the Deeds Registry (Sales in Execution) Ordinance, 1936, in certain particulars" be read a third time and passed.

Professor DASH seconded.

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

Bill read a third time and passed.

PATENTS AND DESIGNS (AMENDMENT) BILL, 1938.

THE ATTORNEY-GENERAL: I beg to move that "A Bill intituled An Ordinance to amend the Patents and Designs Ordinance, 1937, (No. 9), in certain particulars" be read a third time and passed.

Professor DASH seconded.

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

Bill read a third time and passed.

SUPPLEMENTARY APPROPRIATION (1937) BILL, 1938.

Mr. McDAVID: I beg to move that "A Bill intituled an Ordinance to allow and confirm certain additional expenditure incurred in the year ended thirty-first day of December, 1937" be read a third time and passed.

Mr. AUSTIN seconded.

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

Bill read a third time and passed.

## PENSIONS (AMENDMENT) BILL, 1938.

Mr. McDAVID: I beg to move that "A Bill intituled an Ordinance to amend the Pensions Ordinance, 1933, to allow further time in special circumstances for the exercise of an option by public officers for a gratuity with reduced pension" be read a third time and passed.

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

Bill read a third time and passed.

## FISCAL DISTRICTS (SUBSTITUTION) BILL, 1938.

Mr. LAING (Commissioner of Labour and Local Government): I beg to move that "A Bill intituled an Ordinance to provide for the substitution of Districts proclaimed under the District Government Ordinance Chapter 85, in place of Fiscal Districts" be read a third time and passed.

Mr. WOOD seconded.

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

Bill read a third time and passed.

## PUBLIC HEALTH (AMENDMENT) BILL, 1938.

Dr. WASE-BAILEY (Surgeon-General): I beg to move that "A Bill intituled an

Ordinance to amend the Public Health Ordinance, 1934, (No. 15 of 1934) in certain particulars" be read a third time and passed.

Mr. Richards (Comptroller of Customs) seconded.

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

Bill read a third time and passed.

## HAND-IN-HAND FIRE INSURANCE COMPANY BILL, 1938.

Mr. AUSTIN (on behalf of Mr. Humphrys): I beg to move that "A Bill intituled an Ordinance to provide a new constitution for the Hand-in-Hand Mutual Guarantee Fire Insurance Company, of British Guiana, Limited, and to re-incorporate the same under the name of "The Hand-in-Hand Mutual Fire Insurance Company, Limited" be read a third time and passed.

Mr. DIAS seconded.

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

Bill read a third time and passed.

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