

# LEGISLATIVE COUNCIL.

*Wednesday, 27th April, 1932.*

The Council met pursuant to adjournment, His Excellency the Governor, SIR EDWARD DENHAM, K.C.M.G., K.B.E., President, in the Chair.

## PRESENT.

The Hon. the Colonial Secretary, Mr. C. Douglas-Jones, C.M.G.

The Hon. the Attorney-General, Mr. Hector Josephs, K.C., B.A., LL.M. (Cantab.), LL.B. (Lond.).

The Hon. T. T. Smellie (Nominated Unofficial Member).

The Hon. P. James Kelly, M.B., Ch. B., Surgeon-General.

The Hon. F. Dias (Nominated Unofficial Member).

The Hon. T. Millard, C.M.G., Colonial Treasurer.

Major the Hon. W. Bain Gray, M.A., Ph.D. (Edin.), B. Litt. (Oxon), Director of Education.

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

The Hon. R. E. Brassington (Western Essequibo).

The Hon. B. R. Wood, M.A., Dip. For. (Cantab.), Conservator of Forests.

The Hon. S. H. Bayley, General Manager, Transport and Harbours Department.

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

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

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

The Hon. N. Cannon (Georgetown North).

The Hon. A. V. Crane, LL.B. (Lond.) (Demerara River).

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

The Hon. J. Eleazar (Berbice River).

The Hon. A. R. F. Webber, F.R.G.S., (Western Berbice).

The Hon. J. Gonsalves (Georgetown South).

The Hon. Jung Bahadur Singh (Demerara-Essequibo).

The Hon. G. E. Anderson (Nominated Unofficial Member).

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

The Hon. F. J. Seaford (Nominated Unofficial Member).

## MINUTES.

The minutes of the meeting of the Council held on the 26th April, as printed and circulated, were confirmed.

## GOVERNMENT NOTICES.

THE COLONIAL SECRETARY (Mr. C. Douglas-Jones) gave notice that at the next meeting of the Council he would move that the Council resolve itself into Committee to consider the Schedule of additional provision required to meet expenditure in excess of the Estimate for the year 1932, for the period 1st January, 1932, to 31st March, 1932.

THE COLONIAL SECRETARY gave notice that at a later stage he would move the suspension of the Standing Rules and Orders to enable the following Bills to be taken through their remaining stages:—

A Bill to amend the Miscellaneous Licences Ordinance, Chapter 108, by providing for the grant to a holder of an Omnibus Licence of Licences for separate trades in respect of other shops in the same Mining District.

A Bill to amend the Intoxicating Liquor Licensing Ordinance, Chapter 107, with respect to the procedure in connection with the grant, renewal or transfer of licences in certain areas and to validate certain licences which have been granted prior to the commencement of this Ordinance, and otherwise to amend the Ordinance.

Mr. MILLARD (Colonial Treasurer) gave notice that at the next meeting of

the Council he would ask leave to introduce and have read the first time:—

A Bill to amend the Transport and Harbours Ordinance, 1931, so as to make provision with respect to certain financial and other matters in connection with the establishment of the Department.

### ORDER OF THE DAY.

#### CARNEGIE DONATION.

Mr. WOOLFORD: I beg to move the motion which stands in my name:—

Whereas as the result of the efforts of His Excellency the Governor this Colony has been granted a sum of £10,000 by the Trustees of the Carnegie Corporation for the promotion of educational opportunities among the young women and girls of the Colony;

And whereas this financial assistance has been forthcoming as the direct result of the enterprise and initiative of His Excellency the Governor:

*Be it Resolved*,—That this Council hereby places on record its grateful appreciation of the munificent offer of the Trustees of the Carnegie Corporation to provide this Colony with a sum of £10,000 for educational purposes and of the valuable services rendered to the community by His Excellency the Governor in securing the said grant:

*And be it further Resolved*,—That this Council respectfully requests that a copy of this resolution and the decision of the Council thereon be forwarded by the Government to the said Trustees of the Carnegie Corporation.

Sir, at the conclusion of your address to this Council I intimated that I thought it was the general wish of the Elected Members that something more tangible than the mere formal acknowledgment of that address and the usual request that it be printed and circulated among the Members should appear on the minutes of the Council, and I still hope that some opportunity may be found of doing so. But I do not wish it to be understood, sir, and I hope that I am usurping no Member's privilege in isolating from what I consider a very able and encouraging address not the least of the interesting announcements with which that speech abounds, in selecting the offer which you announced as having been received from the Carnegie Corporation as the basis for the occasion to say a few words. I think it will be generally agreed that this offer to provide the Colony with a sum of £10,000, made as it is for the promotion of what is an educational need in this Colony, to provide means to help and encourage the efforts

that are being made by this Government to provide a system of vocational training for the young women and girls of this Colony, is a very timely and handsome contribution.

It has occurred to me that we ought to place on record our appreciation of the offer made by the Trustees of the Carnegie Corporation and of Your Excellency's effort in securing it. We may all not be agreed about the advantages to be gained by the present system of education in this Colony, but we are all agreed, I am sure, that any effort which is made to find avenues by means of which the women-folk of our Colony may be able in the near future to earn their own livelihood and be useful members of the community is a very great need, and any assistance in that direction is sure to be appreciated. I can only hope, sir, that the women and girls of this Colony will prove to be grateful for this assistance and will derive the advantages that it is intended they should gain. It is more than that. The way I view this effort, which has been due entirely, I understand, to your instrumentality as the Governor of this Colony, is that it is an endorsement of the Colony's aim and effort and it is also a tribute and a compliment to your administration.

I would like to associate with that if I may—I think it is an opportune time to do so—the efforts of Lady Denham in endeavouring to promote the social welfare of the women of this Colony. I have no doubt that there is some association between this offer and her efforts, and I shall be glad, sir, if you will convey the Council's intimation of that expression of opinion to Lady Denham.

In the interval and before, perhaps, the opportunity which I have referred to occurs, I desire, sir, to move this motion which I hope will receive the generous and unanimous approval of Members. I hope, sir, that you will find an opportunity on the occasion of your visit to the United States of America to convey personally to the President and Trustees of the Carnegie Corporation this Colony's appreciation of this effort, and that you will be able as the result of your efforts to renew and awaken, if it is necessary to do so, the continued interest of that Corporation in this Colony and be able to secure from that Foundation a further contribution either before

your return or that you may be able to bring it with you. We all hope, sir, that you will be able to find the leisure to do so and that you will be able to tell us what the results of your efforts were. I take this opportunity of wishing you a pleasant and beneficial holiday and a rest which I am sure all Members will agree you have duly earned.

Mr. CRANE: I have very great pleasure in seconding the motion. I have little to add to the statement which the hon. Member has made because very little is needed, if anything is needed, to convince the people of this country generally and all classes in the community of Your Excellency's interest in the welfare of the community, and of the very strenuous efforts which you have been making since your advent to this Colony to benefit the Colony in whatever directions it appeared possible to do so. You came to this Colony, sir, at a very difficult time in its administration, a time when its Exchequer was, if not empty, embarrassed and when depression made it exceedingly difficult for a small country whose production does not really influence world price and world conditions to carry on. The work of a Governor or Administrator was commensurately difficult in view of those conditions. In so far as this particular gift to the Colony is concerned it is generally known, sir, that the Colony is indebted to you for the gift being an accomplished fact, and the Colony hope to be ever indebted to you in respect of the further instalment of \$48,000 which has been promised on our being able to submit a satisfactory plan for the expenditure of this first sum.

Although the hon. Member and I discussed this motion somewhat before he presented it, sir, he did not include your efforts as regards other sums of money which this Colony has obtained from other sources. I think he could well have included a measure of thanks to you for having obtained help not only from the Colonial Development Fund but from the Unemployment Relief Fund from which this Colony has derived a considerable sum of money. Your Excellency came to the Colony at a time when it was most hard up within the memory of most of us, but, nevertheless, you have been able to get more for this Colony, I claim, than any other Administrator has been able to obtain

in £ s. d. Whatever may be said about conditions in England favouring your endeavour, it is nevertheless an outstanding fact that you have been able to obtain those various grants, gifts and other payments beneficial to the Colony. For this one particularly, sir, and those generally, I desire to add my personal thanks, the thanks of those whom I represent, and the thanks of the community at large.

I desire also to associate myself, and I am sure all the Elected and Nominated Members in this House join me, with the thanks to Lady Denham for her graciousness in associating and identifying herself with those various movements of work for the public weal. Most of those movements, if not all, are calculated to help the submerged tenth of the population. None of them, as far as I am aware, is intended to cater for the people of the classes. It is the masses that are involved in those endeavours, and therefore it comes with all the more satisfaction to us who represent the masses that the endeavours of the Administrator and his gracious consort are made and directed towards the relief of the masses and the improvement more so than otherwise of their condition.

You have promised, sir, while on leave to do what you can for the Colony. We know that you will, and if it is not out of place I want to refer to a rumour, but in a very slender manner. I hope there is no truth, nor the slightest possibility of truth, in the rumour that you are not returning to the Colony. No one in this Colony has any power to control a matter of that kind, but we have time and again complained bitterly that when we get an Administrator who has evinced an interest and a deep interest, in the Colony, in its people and in its institutions, and is sincere as to development which he considers can come to the Colony, he is suddenly sent somewhere else. At the same time none of us will stand in the way of that promotion which everyone looks forward to and is entitled to, and which not even your good self is above recognising. When an Administrator has proved not only his capacity but his goodwill for the community over which he presides for some time, I think an opportunity ought to be given to that community of retaining the services of that Administrator. However poverty stricken this Colony is, if it is a question of promotion which

means £ s. d., it ought to be given an opportunity at least to consider whether it would not further tighten its belt in order to retain a type of Administrator which it considers will work for its benefit. I have very great pleasure in seconding this motion, which I know will not only be carried unanimously in this House but will be acclaimed by the inhabitants at large.

Mr. ELEAZAR : I rise to support the motion. Whatever may be added to what has been already said I ask you, sir, to accept it not as mere fulsome adulation but as our sincere and grateful thanks and appreciation of your efforts, influenced as they must have been by the all-pervading influence of Lady Denham, and I wish to associate myself sincerely with that portion of the remarks to convey the thanks of this House to Lady Denham. Your Excellency will pardon me when I say that your efforts in the interest of this community are well known and have always brought to my mind a remark which I made some little time ago. It was said of King Henry IV. of France that he hoped he would live long enough to see a fowl in the pot of every peasant in his kingdom. That sentiment of homely benevolence is worth, to my mind, more than all the great sayings that have been recorded of Kings. He wished no doubt for more than could be attained, but the goodness of the man exceeded the power of the King. I have always in observing Your Excellency's efforts on behalf of the community imagined the solicitude that must sustain you in your movements in those directions. That those efforts have met with the measure of success they have nobody is more grateful for than myself on behalf of the community. We long felt in need of something for the female section of the community. We have had nothing to offer our young women and every year we have been adding to the number of idle and wayward girls, and naturally Satan finds work for idle hands and idle brains to do. Even if we are not seeing the mischief we are sure that it is being done. This effort on Your Excellency's part will assist materially to ameliorate that condition, and the thanks that we offer you are very much less than is deserved by the circumstances. I wish when you go on furlough, sir, you will have a pleasant time.

I also wish that you will return to help us as in the past. As my hon. friend said, none of us is above promotion, and we cannot deprive you of promotion if it comes your way. I have always had a fear that we are not going to retain you here very long, but I have refused to utter it because I have been looking at myself somewhat as a prophet. Most things I say come to pass, therefore I would not say it hoping it would not happen. We are now beginning to see light in Your Excellency's efforts and certainly would like to retain you here as long as we can. If I had the power I would say to the powers that be "Double his salary if needs be and let him come back to us rather than send him somewhere else." We are grateful for the efforts you have made on our behalf and for your solicitude for the welfare of the community. Again I wish you a pleasant holiday, with which I couple the names of Lady Denham and the children.

Mr. WEBBER : I expected after what I said some days ago that some steps would have been taken to regularise this debate, because the whole Council desire to record their views of Your Excellency's address and early departure from the Colony. Our senior has felt it necessary to deal with only one phase of the address, and I think he was up against some physical difficulties in framing a motion which will convey our thanks to the Trustees of the Carnegie Corporation as well as to Your Excellency. From the debate I gather, sir, that you are prepared to give us some latitude. We all appreciate your wonderful efforts both with respect to the motion under discussion and generally with respect to the Colony as a whole. I do not think any other Administrator can point to the large influx of money—and money is capital no matter in what manner it is provided—of which Your Excellency's Administration can boast. It can be said that the Colony is in a poverty-stricken state and that accounts for it. That is not entirely true because the Colony has passed through episodes quite as disastrous as the present one. Those who have delved into history know that the position to-day cannot equal the situation that arose in 1850 or 1851. We are all extremely grateful to Your Excellency for the work you have done. I want to take this opportunity to say something with regard to taxation in general.

**THE PRESIDENT** : It is rather difficult for the Chair to rule matters out of order, for obvious reasons which will perhaps appeal to hon. Members and certainly appeal to the Chair, but I will appeal to the hon. Member to speak on what is relevant to the motion.

**Mr. WEBBER** : Very well, sir ; I think I can slip it in. (Laughter). The motion, of course, refers to the fact that Your Excellency had to accept and even solicit £10,000 from the Trustees of the Carnegie Corporation for the promotion of educational opportunities in British Guiana. Our taxes have become so inelastic and our finances so decrepit that we have been unable to finance these things ourselves. Some criticism has been addressed to your Administration, because it is suggested that taxation has reduced the Colony to a state of bankruptcy.

**THE PRESIDENT** : I am afraid I must ask the hon. Member to adhere to the motion.

**Mr. WEBBER** : I wanted to point out, sir, that after all the growth of taxation may only mean the growth of effort and not a growth of extravagance. If this money had not been donated by the Carnegie Corporation this Colony would have had to find it elsewhere. My suggestion is that there is nothing inherently wrong with the growth of taxation in the community. With respect to Your Excellency's return or otherwise I hope, sir, that you will return in due course as your administration has appealed to all of us. We all realise that there are problems confronting the Colony, physical, financial and administrative, that cannot be solved in a few hours of anybody's administration, even Your Excellency's. No superman can come here and solve all our difficulties within the first brief term you are now bringing to a completion. The only successful Governor we ever had in this Colony ruled for thirty years, and I fear that until we have one to rule not for thirty years but something near it to guarantee us some continuity of administration there will be no real progress.

**Mr. DIAS** : Lest silence of some Members of the Council at this end of the table might be misunderstood, I beg leave to associate myself absolutely and entirely with the remarks made by those who have

spoken in appreciation of Your Excellency's efforts as Governor to advance every institution and the interest of every individual. I had hoped that the promise which was made to the hon. Member for New Amsterdam when you made your speech at the opening of this session would have fructified, and as nothing has been done in that direction yet I suggest that you permit discussion to branch away somewhat from the four corners of the motion. Hon. Members, sir, have expressed their own individual views and impressions of you as Governor, and I crave the liberty to express my own. Having had the opportunity of working under you, sir, in another Chamber, I feel myself equally competent as those Members to express the high appreciation of the services you have rendered to this Colony and to every class of its inhabitants. The more closely one gets in touch with you in the discharge of your duties he is bound to realise your sterling qualities as Governor, and those I think are fully appreciated by the entire community. I will tell hon. Members what I have already expressed elsewhere when discussing the many deeds you have performed for this Colony and in particular in being able to influence the authorities in England to provide us with money we are in so great need of. Your Excellency was described as the champion beggar of British Guiana, and that you have succeeded is something that must be recorded to your credit as long as this Colony remains British. Governors have come and gone, but I think it is a long time, sir, since we have had the good fortune of being ruled by a Governor of your ability. The rumours of the possibility of your leaving us permanently have not been received very happily, and especially by those who hold the view that this Colony should provide a salary sufficiently encouraging to retain the services of a Governor who has proved himself, as you have done, to be a Governor of merit. I am among those who hold that view and would be willing at any time to associate myself with any movement which has as its object the retention of Your Excellency's services rather than that the Colony should suffer your loss by promotion. I also associate myself with the expression of great satisfaction with the wonderful work Lady Denham has done for this Colony. She has certainly left a mark and

an example to be copied, and I hope that as long as she is here she will continue the good work she has undertaken.

Mr. SEAFORD: I desire on behalf of the Nominated Members at this end of the table to endorse every sentiment expressed by the hon. Members who have spoken. We fully realise the gratitude which the Colony owes to Your Excellency and Lady Denham and hope it will not be very long before we will be able to welcome you back in our midst again.

Motion put, and agreed to.

THE PRESIDENT: I desire to express my very strong feeling of gratitude of what has been said in the course of the debate on this motion. I perhaps ought to have ruled some of the remarks out of order but it would have seemed ungracious to do so and perhaps given less satisfaction. There are two parts of the motion with which I can closely associate myself and with which I can entirely agree. One is the thanks of the Colony to the Carnegie Corporation. I think the assistance that has been so readily given us by the Corporation, coupled as it has been with an offer to give us a further like sum,—an offer which I know they are only too anxious to give effect to if they are satisfied with our spending of the first sum—is an indication and guarantee of a long association of the Colony with the Corporation in the good work which they are doing. I feel sure that the Colony, as has been expressed by the mover of the motion, is most grateful to the Carnegie Corporation, and I am very glad that I shall have an opportunity of conveying this resolution to them and to Dr. Keppel personally.

The second point with which I may perhaps be allowed to express agreement, and for which I thank hon. Members, is the tribute paid to my wife. I greatly appreciate it and I know that she will. I can speak of the work she has done, and I know that she has it very much at heart. As regards what the Council has been kind enough to say about my own efforts, I might have been successful in begging. I hope I have been because I certainly begged with the object of trying to get for the Colony money in the best interest of British Guiana. The only judgment that can be pronounced upon a Governor is on the result of his spending and of his

administration. The money has been obtained and we now have to see that it is spent to the best advantage of the people generally in the Colony. I hope in years to come the people may be able to endorse the kind remarks which have been made to-day, because it is the future that can alone determine the justice of the tribute paid me and show what has been the result of those two years.

I like the remarks made by my friend the hon. Member for Berbice River with regard to the fowl in the pot. We all want to see a fowl in every pot, and anything I have been able to do to increase the number of fowls for consumption in that way I am only too glad to have been able to do. Of course, a great many would have preferred to see me devote my attention not to the rearing of poultry for consumption but to the production of geese that lay golden eggs (Laughter). What we have to do to secure prosperity for British Guiana is to get money and men into the country, and I hope in the years to come I may be able to do something to bring not only fowls for the pots but also golden eggs to the Colony. We have gold and only want to see it brought out, and brought out as expeditiously, effectively and efficiently as possible. These are all things for the future and I hope to be able to say that something has been done for British Guiana.

With regard to my own movements as far as I know, and according to my plans, I shall be returning here in the Autumn of this year. I and my wife both look forward to doing further work for the Colony, for which we feel a real affection. The only terms I would ever think of making with the people of this Colony in regard to my staying here would be based on the confidence of the people. It would not be a question of what salary is attached to the post. That is a matter which, of course, concerns everybody and I could not pretend to ignore; but that could never be a determining factor in the position of a Governor and of his feelings towards the Colony which he is privileged to govern. The only agreement I can make with the people of the Colony for my continued interest and continued stay in the Colony must be their continued confidence in my administration (Hear, hear). That is the one thing I do care about and I am anxious to secure. I

think that deals with the kind and generous remarks with respect to my administration.

I would like to add one word more with regard to the £10,000, the opportunity being afforded me to do so. Again we come back to the position that determines the success of administration. How are we going to spend the money to the best advantage? I was in some difficulty to know what was the best way of consulting the wishes of the Colony in the matter, and I decided to refer the offer to the Education Committee as they are naturally the body with the Director of Education in the best position to advise. The Carnegie Corporation, through Dr. Keppel, expressed very strongly their desire that some portion of the money should be spent on vocational work for girls. It was realised that something was being done for boys and that something should be done for girls. It was thought very advisable that occupation should be found for the girls, and there are certain industries such as hat making, jam making, millinery, needlework and other industries of that kind which would offer work for the women of the Colony, and which should be encouraged by practical training and education. They felt strongly on that subject and I know that Dr. Keppel would desire that a considerable portion of the grant should be devoted to that work. I met the Education Committee last week and found the opinion there was strongly in favour of agricultural education for boys as well being undertaken. I think the Committee fully appreciate the value of the work for girls, but it was brought to my attention that it was advisable that more should be done in agricultural education of boys. I think there is room for both.

Through the assistance we have got from the Imperial Government we have a sum of £7,000 for buildings for unemployment relief. I will suggest to the Committee, which is presided over by the Colonial Secretary and is now considering the expenditure of the Unemployment Relief Fund, that that £7,000 or some portion of it might be devoted to the assistance of the building for women's work and also hostels or whatever they require in connection with the accommodation for the training of boys in an Agri-

cultural School. Some assistance could be given there. The advantage of dealing with two heads instead of one only is that if you are dealing with vocational training of women you want to keep the women at headquarters, and a hostel must necessarily be in the immediate neighbourhood of Georgetown. When you come to agricultural training for boys I think it is equally necessary that this work should be outside of Georgetown, so that the two proposals afford educational assistance both in the town and in the country. I am not sure that all the details have been worked out, but when we settle on what lines agricultural education should be and what form a vocational school in Georgetown should take, we would then have to go into the two statements of expenditure and work out the different heads, because there are heads in regard to buildings, staff, maintenance and upkeep. Our own funds are limited and we have to rely on the grant for the whole expenditure, but it is possible of our undertaking both things. I am going to the United States on my way to England and I have already arranged to meet there the Phelp-Stokes Committee—one of the biggest Associations or Trusts in America—which will enable me to see the agricultural and educational work in North and South Carolina, and Hampton and some of the best known centres for such work in America. I will also have the opportunity of meeting the Carnegie Corporation and other bodies. I will be able to see the work for myself with the people responsible, and I propose to spend a fortnight as "a busman's holiday."

It will be a holiday but it will be strenuous from the point of view of consideration with the education authorities. I hope to do that and obtain information with regard to the type of agricultural schools in America, which are certainly very far advanced with regard to practical work which would be useful here. It will enable us to start on lines which will be beneficial from the fact that we will have the advantage of the experience of other people who have made a success of it elsewhere. The Council will have an opportunity of discussing the whole question when the full plans are laid before you, but I should like to feel that I have a mandate from this Colony to discuss the question with the Carnegie Corporation, and to ask them that the assistance should

be for vocational work for girls and agricultural education for boys and for such other assistance as we may be able to get for the erection of a building. In that case I shall be able to get the matter through very much quicker. If we have to ask everybody how the money should be spent we would never get on with the project, and the sooner the money is spent the better. I hope to get such assistance as I can from the agricultural and educational authorities in America, and the Officer Administering the Government with that information and the acquiescence of the Corporation would be able to make a start in that direction. It will be a very great pleasure to me to convey to the Carnegie Corporation the resolution moved by the hon. Member for New Amsterdam and well supported in this House in regard to the great thanks which I think they have well earned.

Mr. WOOLFORD: Following on your remarks, sir, I may say that I had no opportunity of consulting the Elected Members, but I think the matter might be left entirely to your discretion, and in that way Your Excellency might consider that you have a free mandate and be guided by your own judgment in the matter.

THE PRESIDENT: I take that as an expression of opinion and as being the wish of this House, unless any Member, of course, wishes to bring forward proposals in any other form.

GEORGETOWN IMPROVEMENT WORKS  
(AUTHORISATION) BILL.

THE ATTORNEY-GENERAL (Mr. Hector Josephs): I move that "A Bill to remove doubts as to the authority of the Georgetown Town Council to receive advances of money from the Government of the Colony for the construction of certain improvement works in Georgetown, to repay the moneys so advanced and to pay interest thereon until such repayment" be read the third time.

Dr. KELLY seconded.

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

Bill read the third time.

CRIMINAL JUSTICE BILL.

The Council resumed discussion on the second reading of "A Bill to amend the law with respect to the administration of Criminal Justice and otherwise to amend the Criminal Law."

Mr. ELEAZAR: When the House adjourned yesterday afternoon I was endeavouring to convey the effect of clause 7. This clause seeks to permit of the bringing of a charge for some imaginary offence twelve months after it was alleged to have been committed. No reason has been shown why it should not remain at six months. As to the form of a complaint it should be sufficient to use the term "contrary to law" instead of having to quote the section of the statute creating the offence. There is nothing wrong in hearing complaints together. The hon. Member for Demerara River has suggested that the consent of one of the parties should be sufficient, but I think it should be with the consent of both parties. I have not been able to find anything in the English law corresponding to our law of unlawful possession. The amendment proposed by clause 10 is making confusion more confounded. There is also no need for the provision for abolition of presumption of coercion of a wife by her husband. I have no knowledge myself of a single case and a practitioner of long standing has told me that he knows of only one where coercion was allowed to prevail.

Mr. WOOLFORD: The hon. Attorney-General in supporting the innovation in clause 3 has referred to the early days when Magistrates were untrained in the law as a reason why the jurisdiction of the Court was limited to the value of \$25. The fact that there were untrained Magistrates in those days and there are trained Magistrates now does not furnish a valid reason for this very serious alteration. Cases involving an article of the value of more than \$25 must under the present law reach the Supreme Court where the trial is by a jury. The effect of this provision will be that you are depriving the subject of the right of an investigation of the issues which for a long number of years it has been considered prudent should be left to a jury of twelve aided and assisted in the determination of those issues by a trained man in the person of the presiding Judge. It seems to me that that right



and the investigation of the issues are not to be determined by the value of the article but by the nature of the offence. I agree that some cases which now ordinarily go before the Supreme Court should be decided by a Magistrate, but that is quite a different thing to letting the procedure be determined by the value of the article. It is desirable that the investigation of major offences should be determined by a jury from the point of view of the effect of publicity on the criminal portion of the community. I can see that the object of this provision is to reduce expenditure on criminal trials in the Supreme Court. However necessary it is to reduce public expenditure on trials of this kind, you have gravely to consider how far you are going to deprive the public of the right to have important issues determined by a jury. I have known of cases where those responsible for the prosecution, fearing that trial by a jury might end in an acquittal, have reduced the value of an article which is ostensibly more than \$25 so as to allow a Magistrate to determine the issue. It may well be that if you alter the position and extend the class of cases coming under it there would be serious miscarriages of justice.

There is another matter which as a member of the legal profession I feel it my duty to call attention to. Under the present law a solicitor or barrister may appear in cases where the jurisdiction of the Magistrate is under \$25 but a solicitor cannot appear if that amount is exceeded. With every respect to my brother members of the profession who are solicitors, and allowing for their being equal in advocacy to members of the Bar, I do earnestly point out to the Attorney-General that if you pass this provision you are conferring on solicitors a right of audience which they do not at present enjoy and allowing them to enter a realm which they had an opportunity to enter before they elected to become solicitors. We recently passed an Ordinance—No. 15 of 1931—to declare and define the respective functions of barristers and solicitors. Now you are putting in this Bill a section conferring on solicitors the right to appear in matters above \$25. I submit that such a privilege they are not entitled to, and this privilege was neither claimed nor expected. It is a serious invasion of the right of barristers. The clause, innocent as it appears

on the surface, strikes very deeply in the reserve line of professional men in this country. I urge the serious consideration of this privilege, and if it is persisted in the branch to which I belong will have to make serious representation on that ground apart from any other ground.

**THE COLONIAL SECRETARY:** On the point of advocates appearing in Courts there was a debate in Council on a similar matter to this. I do not remember whether it was in relation to civil or criminal matters, but the point then was that no barrister should wish to appear in the Magistrate's Court.

**Mr. DIAS:** I think the hon. Member for New Amsterdam missed the point. It is not a question of the amount but the Court in which you appear. That is the distinction. It is proposed in this Bill to extend the jurisdiction of the Magistrate, who will therefore hear cases to which it would apply. A solicitor always had the right to appear before a Magistrate and there would be no infringement at all. A solicitor has that right to appear in criminal matters regardless of the amount involved, and he may even be successful in getting off the accused in cases which find their way to the Supreme Court.

**Mr. WOOLFORD:** I never urged that solicitors did not have the right to appear in the Magistrate's Court. What I stated was that their appearance there is limited to matters of \$25 and no more.

The Council adjourned for the luncheon interval.

**THE ATTORNEY-GENERAL:** The Council has had the advantage of a very interesting and learned discussion on this Bill dealing with the various points of law, and a sort of field day for the lawyers because with one exception no layman has been able enough to enter into the fray. It is well said that in matters of this kind we should have the advantage of the criticism of hon. Members and the care which they have directed in considering the various clauses of the Bill as well as their application and effect. Clause 3 has been the subject of a vigorous attack. In dealing with a matter of this kind where one is engaged on law reform the guiding principle

is whether that law reform is in the interest of the community, and if it is right that we should get away from some restrictions and stringencies of the old rule and make the law simpler to fit changed conditions of society the effect it may have on members of the legal profession cannot outweigh the advantages to the general public. I do not think there is real ground for apprehension as the hon. Member for New Amsterdam thinks, because, assuming that clause 3 will cause cases which were formerly tried in the Supreme Court to be tried in the Magistrate's Court, it must be borne in mind that both branches of the profession have a right of audience in the Magistrate's Court. It is not confined to solicitors only, and we know as a fact that in many cases which are disposed of only in the Magistrate's Court barristers appear. The effect probably will be that there will be more competition of solicitors and less of the exclusive right of barristers, but when we look at it from the point of view of the object to be achieved we cannot refuse to make the change because it may possibly have some of the results indicated by the hon. Member for New Amsterdam. At all times changes will occur which will affect consequentially what might appear to be vested interests of one or the other branch of the profession. In the civil jurisdiction of English County Courts and in Jamaica claims have been increased to £100. The question is: Is the proposed change one that ought to be made? When a case is before a Magistrate in which the value of the article is involved the question of jurisdiction could be raised by showing the value. The mere fact that it is stated that the article is valued at a sum which brings it within the Magistrate's jurisdiction does not conclude the matter, because it is open to the defendant to prove that the article is worth \$40 and therefore has to be tried indictably. Exactly the same argument would apply if the jurisdiction is increased to \$100. All the provision is doing is enlarging the value. The limitation of \$25 was an artificial one and was so fixed because the Magistrates were laymen. But there is no greater legal question involved in dealing with a bicycle worth \$25 and one worth \$75, when the circumstances are exactly the same. That is all that clause 3 is going to do: it is simply varying the value and not the conditions of the offence.

Clause 7, which purports to raise the time limit of a complaint from six to twelve months, has come in for a good deal of criticism. I agree that it is too wide to make a sweeping alteration from six to twelve months, having regard to the cases to be dealt with. A selection might be made of the more serious offences, and in the circumstances it would be better that the six months limit should remain. The trend of legal procedure is to simplify it as much as possible. Down to 1915 the form of indictments was highly technical, and by clause 8 we are doing exactly the same thing in simplifying the procedure in regard to complaints, summons and warrants in accordance with modern practice. Clause 10 has been assailed also. The hon. Member for Demerara River told us about the difficulties of convicting people for one offence when they are charged with another. A good deal of those difficulties has been simplified in recent years, particularly in the Supreme Court where larceny and embezzlement are interchangeable, and in England and elsewhere false pretences and larceny are also interchangeable. In this Colony on an indictment for false pretences a jury may acquit an accused person of that offence and find him guilty of larceny. In the Magistrate's Court the distinction does not go quite so far as that. The modern tendency is that where a fraudulent transaction is charged as one offence and it turns out to be another a conviction is permitted in respect of that other offence, and that is all that is done by clause 10. There are three classes of fraudulent appropriation and if the evidence establishes one or the other the accused may be convicted of that. Clause 11 is the summary trial of indictable offences. The hon. Member for Demerara River has pointed out that the punishment has been increased from what it is in England and it might be amended exactly as the corresponding English section. The hon. Member also raised the point as to the question of appeal. That point was carefully gone into and the position is that that right is given. There is no doubt that a general right of appeal is given in any case under the summary jurisdiction Ordinances. To meet another point by the hon. Member, I propose to strengthen clause 18 (2) by the addition of the words "and the witnesses shall be bound to attend accordingly."

Question "That the Bill be read the second time" put, and agreed to.

Bill read the second time.

The Council resolved itself into Committee and considered the Bill clause by clause.

Clause 3—Magistrate's jurisdiction in criminal cases extended to \$100.

Mr. WOOLFORD: I should like to direct attention to this clause without going over the old ground. I will at once direct attention to the absolute impossibility of Magistrates being able to respect this provision if, of course, we expect the same number of cases to be tried. At the present moment it is quite apparent to practitioners that the Magistrates cannot perform their duties satisfactorily. I hope that in making that statement I am supported by the members of the profession who attend these Courts. It is becoming not more noticeable but more irritating that the volume of work is increasing, and I am going to be no party to an automatic increase of work from which there is no possibility of escape. You are imposing on these officials more onerous duties and asking them to discharge those duties faithfully and expeditiously, but it is impossible and you are going to find congestion. Is it fair to any officer or to the public that the investigation people are accustomed to is going to be lessened by the Magistrate not being able to devote the same time to these cases? You are endeavouring to reduce public expenditure, but you are going to increase the number of cases going to appeal.

Mr. CRANE: I think the hon. Member will admit that he is mistaken. The Magistrate will be called upon to take the cases as he does now and the only additional thing he will be called upon to do is himself to adjudicate. He will take identically the same evidence when the law is changed, and, in fact, I think he will take it less carefully.

Mr. WOOLFORD: When a Magistrate takes evidence at the preliminary enquiry he is merely an automaton. Under the present practice Magistrates are not called upon to make a decision, whereas it is

obligatory on them to make a decision in cases under \$25.

Mr. CRANE: Objections are constantly taken before a Magistrate and he is not an automaton. The statute requires a Magistrate to bring his mind specifically to bear on the whole of the evidence and decide whether the case is made out. A Magistrate puts himself in the place of a jury and is not a mere automaton.

Mr. DIAS: I am with the hon. Member for New Amsterdam that there will be more work on the Magistrate. Preliminary investigations are never fully enquired into, and very seldom are witnesses for the defence called in cases committed for trial.

THE ATTORNEY-GENERAL: I claim to have within the last ten or eleven years a wider experience in indictable cases than anyone else, because they have to pass through the Chambers of the Attorney-General, who is the Grand Jury in a certain sense and decides whether or not an indictment should be presented and what that indictment should be. I do know that Magistrates are not a mere automaton and merely take evidence and leave it to the Attorney-General to decide. I fancy there is some truth that that did occur at some time. Magistrates now know and realise that they have to perform judicial functions. Magistrates perform those functions so much so that in the exercise of them they discharge the defendant. Further than that, I do not think it is fair to Magistrates to say that when they are hearing preliminary examinations they make up their minds long before the conclusion of the enquiry as to whether they are going to commit the accused or not. I want to say further that there is a large and increasing number of cases in which witnesses are called for the defence at the hearing. It is a mistake to imagine that preliminary examinations are not fully enquired into. This clause is not going to impose additional work on the Magistrates and it might mean less work for them.

Clause put, and agreed to.

Clause 7—Limitation of complaint extended to twelve months.

THE ATTORNEY-GENERAL: I move that this clause be deleted.

Question put, and agreed to.

Clause 10—Larceny or receiving charged and offence under section 97 of Cap. 13 proved.

Mr. CRANE: I did not hear anything fall from the learned Attorney-General to lead me to change the view I represented that this very revolutionary clause should not be retained in the Bill. I think it is due to the West Indian Court of Appeal that some argument should be addressed to the fact that in interpreting section 41 of the Summary Jurisdiction (Procedure) Ordinance, the Court of Appeal went round the enactment of this provision because it could not conceive that such an outrage was intended to be perpetrated against the liberty of the subject. The authority of the West Indian Court of Appeal demands an explanation of what was practically condemned in that case being perpetrated now. The judgment clearly sets out that the Legislature never intended that a man charged for unlawful possession should be convicted of larceny or receiving, and that he should be charged on a fresh information according to what the evidence disclose. I consider this provision a great outrage against the liberty of the subject.

Mr. ELEAZAR: I hope the hon. Attorney-General would see the reasonableness of the argument. A man is charged with larceny and he gives evidence to meet that charge. It turns out that the real thief sold the article to him and he never discovered that the article was stolen until he was charged. If he is subsequently charged with receiving he would be able to lead evidence that when he received the article he was not aware of its being stolen, and it would not be a case of larceny or receiving knowing it to be stolen because he had no knowledge that it was stolen when he received it. Give a man a fair chance to answer a new charge for receiving and not convict him of receiving on a charge for larceny. It is not even good sportsmanship. A good sportsman would give a bird a chance to fly before he shoots it.

THE ATTORNEY-GENERAL: In complaints which are the basis of criminal proceedings in the Magistrate's Court the rule is that only one charge can be inserted. On an indictment a person may

be charged with larceny and receiving and it is competent for the jury to convict him of receiving. It is on account of the fundamental difference between an information and an indictment which makes a provision of this kind necessary. I submit that the hardship which has been urged will not occur in fact, and it is advisable and necessary that this clause should be enacted.

Mr. CRANE: I propose to move an amendment which will not deprive Government of the advantage it is endeavouring to get and will prevent a defendant from escaping punishment. The amendment is that in the seventh line of sub-clause (5) the word "he" be deleted and the following words inserted "the Magistrate shall cause a charge for the offence established by the evidence to be instituted against the defendant who." The effect of that amendment would be that the Crown would have the right to get the defendant convicted. At the same time it preserves a fair trial for the accused and he may be convicted of the offence the evidence establishes against him. I propose if Government's amendment is persisted in to put it to the test with the authorities in England.

Mr. ELEAZAR: I do not think the hon. Member should be compelled to go to the extent he has indicated and I hope the Attorney-General will accept the amendment.

THE ATTORNEY-GENERAL: I suggest that this clause be allowed to stand over until to-morrow to consider in what respect it might be amended.

Clause deferred accordingly.

Clause 11 (re-numbered 10)—Summary trial of indictable offences.

THE ATTORNEY-GENERAL: I move an amendment to sub-clause (1) substituting the word "six" for the word "twelve" in the eighteenth line and adding the words "or to both such imprisonment and fine" at the end of the sub-clause.

Amendment agreed to.

THE ATTORNEY-GENERAL: I move the insertion of a new clause 17 for a change of venue in the case of a preliminary

enquiry. It is a power frequently exercised and would be a great convenience. The clause reads:—

17. The following section shall be inserted in the Principal Ordinance next after section fifty-six:—

56A.—(1) Where in the opinion of the Attorney-General by reason of the difficulty of communication it is expedient that a preliminary inquiry should be held by a magistrate of a district other than the magistrate of the district having jurisdiction in the matter he may by order under his hand transfer the holding of the preliminary inquiry to the magistrate of such other district.

(2) The Attorney-General on the making of an order as aforesaid shall cause to be sent the order to the magistrate of the district to whom the preliminary inquiry is transferred and a copy to the magistrate from whom it is transferred. On receipt of the order the first-mentioned magistrate shall have full power and jurisdiction to proceed and hold the inquiry, and shall have and may exercise the same powers, authorities and jurisdiction as if the case were one within the limits of his jurisdiction.

(3) The last-mentioned magistrate on receipt of the copy of the order shall order the accused person to be taken by a police or other constable before the magistrate to whom the holding of the inquiry is transferred and shall give a warrant for that purpose to a police or other constable, and shall deliver to the constable the information, depositions, and recognizances, if any, taken in the cause, to be delivered to the magistrate before whom the accused person is to be taken, and the information, depositions, and recognizances shall be treated to all intents as if they had been taken by such magistrate.

(4) The magistrate, if in pursuance of section sixty-eight he commits the accused person for trial, shall commit him to the Court to which he would have been liable to be committed by the magistrate from whom the holding of the preliminary inquiry has been transferred.

Question put, and agreed to.

THE ATTORNEY-GENERAL: I move the insertion as clause 18 of:—

18. Sub-section (1) of section sixty-two of the Principal Ordinance is amended by substituting for the words to be addressed to the accused person the following words:—

“Do you wish to say anything in answer to the charge? You are not obliged to say anything unless you desire to do so, but whatever you say will be taken down in writing and may be given in evidence upon your trial.”

Question put, and agreed to.

Clause 18 (renumbered 19): Conditions under which witnesses at a preliminary inquiry need not be called at the trial.

THE ATTORNEY-GENERAL: I move that at the end of sub-clause (2) the words

“and the witness shall be bound to attend accordingly” be inserted.

Question put, and agreed to.

Clause 21 (renumbered 22): Abolition of presumption of coercion of wife by husband.

Mr. ELEAZAR: One can easily conceive why this presumption has been abolished in England. A professional man with a large practice, and who has had a considerable number of criminal cases to handle, had only one solitary instance where presumption was availed of. There is no necessity to change it.

THE ATTORNEY-GENERAL: I venture to think that the clause is a very useful one. It is not to be a waiver of the crime and it is a principle of law reform.

The Council resumed, leaving the Bill in Committee for further consideration of clause 10.

#### MISCELLANEOUS LICENCES BILL.

THE COLONIAL SECRETARY: I move that “A Bill to amend the Miscellaneous Licences Ordinance, Chapter 108, by providing for the grant to a holder of an Omnibus Licence of Licences for separate trades in respect of other shops in the same Mining District” be read the first time.

Mr. SMELLIE seconded.

Question put, and agreed to.

Bill read the first time.

Notice was given that at the next meeting of the Council it would be moved that the Bill be read the second time (*Colonial Secretary*).

#### INTOXICATING LIQUOR LICENSING BILL.

THE COLONIAL SECRETARY: I move that “A Bill to amend the Intoxicating Liquor Licensing Ordinance, Chapter 107, with respect to the procedure in connection with the grant, renewal or transfer of licences in certain areas and to validate certain licences which have been granted prior to the commencement of

this Ordinance and otherwise to amend the Ordinance" be read the first time.

Mr. SMELLIE seconded.

Question put, and agreed to.

Bill read the first time.

Notice was given that at the next meeting of the Council it would be moved that the Bill be read the second time (*Colonial Secretary*).

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CROWN LANDS BILL.

MAJOR CRAIG (Director of Public

Works): I move that "A Bill to amend the Crown Lands Regulation Ordinance, Chapter 171, by providing for the payment of tolls for the use of canals and dams on Crown lands" be read the first time.

Mr. WOOD seconded.

Question put, and agreed to.

Bill read the first time.

Notice was given that at the next meeting of the Council it would be moved that the Bill be read the second time (*Major Craig*).

The Council adjourned until the following day at 11 o'clock.