

SECOND LEGISLATIVE COUNCIL

(Constituted under the British Guiana (Constitution) (Temporary Provisions) Orders in Council, 1953 and 1956).

Wednesday, 24th May, 1961

The Council met at 2 p.m.

PRESENT :

Speaker, His Honour Sir Donald Jackson

Chief Secretary, Major I. O. Smith, O.B.E., (acting)

Attorney-General, Hon. A. M. I. Austin, Q.C.

Financial Secretary, Hon. W. P. D'Andrade.

} *ex officio*

The Honourable Dr. C. B. Jagan

—Member for Eastern Berbice
(Minister of Trade and Industry)

„ „ Janet Jagan

—Member for Western Essequibo
(Minister of Labour, Health and Housing)

„ „ Ram Karran

—Member for Demerara-Essequibo
(Minister of Communications and Works)

„ „ B. S. Rai

—Member for Central Demerara
(Minister of Community Development and Education).

Mr. R. B. Gajraj

—Nominated Member

„ W. O. R. Kendall

—Member for New Amsterdam

„ R. C. Tello

—Nominated Member

„ F. Bowman

—Member for Demerara River

„ L. F. S. Burnham, Q.C.

—Member for Georgetown Central

„ A. L. Jackson

—Member for Georgetown North

„ S. M. Saffee

—Member for Western Berbice

„ Jai Narine Singh

—Member for Georgetown South

„ R. E. Davis

—Nominated Member

„ H. J. M. Hubbard

—Nominated Member

„ A. G. Tasker, O.B.E.

—Nominated Member.

Mr. E. V. Viapree — Clerk of the Legislature (acting)

Mr. V. S. Charan — Assistant Clerk of the Legislature (acting).

ABSENT :

The hon. B. H. Benn

—Minister of Natural Resources

Mr. S. Campbell

—Member for North Western District

Mr. E. B. Beharry

—Member for Eastern Demerara — on leave

Mr. Ajodha Singh

—Member for Berbice River

Mr. A. M. Fredericks

—Nominated Member — on leave.

The Clerk read prayers.

MINUTES

The Minutes of the meeting of the Council held on Wednesday, 17th May, 1961, as printed and circulated, were taken as read and confirmed.

ANNOUNCEMENTS

LEAVE TO MEMBERS

Mr. Speaker: I wish to announce that the hon. Nominated Member, Mr. Fredericks, and the hon. Member for Eastern Demerara, Mr. Beharry, have asked to be excused from today's sitting.

PAPERS LAID

The Attorney-General (Mr. Austin): Sir, I beg to lay on the Table the

Supreme Court (Amendment) Rules, 1961 (No. 3 of 1961).

The Financial Secretary (Mr. D'Andrade): Sir, I beg to lay on the Table —

- (i) Government's Policy regarding Guianisation of the Public Service and the related training of officers — Sessional Paper No. 3/1961.
- (ii) Report of the Committee of the Trotman Trust Fund for the year ended 31st December, 1959, together with the Director of Audit's certificate and report thereon.
- (iii) Report of the Meeting of Finance Committee held on 6th April, 1961.

Mr. Speaker: Hon. Members, the Report of the Meeting of Finance Committee has been laid, and the Question is, "That the Report be adopted".

Agreed to.

Report adopted.

INTRODUCTION OF BILLS

The Attorney-General: Sir, I beg to give notice of the introduction and First Reading of the

Criminal Law (Procedure) (Amendment) Bill, 1961.

The Financial Secretary: Sir, I beg to give notice of the introduction and First Reading of the

Supplementary Appropriation (1959) Bill, 1961.

The Minister of Communications and Works (Mr. Ram Karran): Sir, I beg to give notice of the introduction and First Reading of the

Motor Vehicles And Road Traffic (Amendment) Bill.

ORDER OF THE DAY

BILLS — FIRST READING

The following Bills were read the First time:

- (a) A Bill intituled: "An Ordinance to amend the Criminal Law (Procedure) Ordinance."
- (b) A Bill intituled: "An Ordinance to allow and confirm certain additional expenditure incurred in the year ended on the thirty-first day of December, 1959."
- (c) A Bill intituled: "An Ordinance to amend the Motor Vehicle And Road Traffic Ordinance."

MOTIONS

MINISTERS TO REPORT ON VISITS ABROAD

Mr. Speaker: The Motion standing in the name of the Member for Georgetown Central reads as follows:

"Be it resolved, that Ministers of the Government be requested to report fully to this Council on their visits within the last twelve months to the United Kingdom, India, East Germany, Cuba and the United States on official business."

Mr. Burnham: Sir, on the 16th June, 1960, in an answer to a question from the hon. Member for Georgetown North (Mr. Jackson), it was disclosed to this Council by the Financial Secretary that there had been, during the period June, 1958 to April 1960, six trips by

Ministers of the Government to various countries. There was a seventh item which was described as follows:

‘15 other missions during the period.’”

I am prepared to assume, until the contrary is proved beyond reasonable doubt, that all of these visits by the Ministers, which were made at the expense of the taxpayers, were in fact on business connected with Government and that the business which they sought to carry out or pursue was intended to benefit the country of British Guiana. It seems that if, as in the case of the visit by the Minister of Natural Resources (Mr. Benn) and his Permanent Secretary to India, Japan, East Germany and Italy, these trips were taken in the interest of the country, the Legislature should have some opportunity of knowing what was achieved, or what was in the offing to the benefit and advantage of the country.

I wish to assure all Ministers, at this stage, that I have absolutely no intention of questioning their personal trips abroad, or prying into their social or personal peregrinations. But I feel that if momentous visits like those of the Minister of Natural Resources to India, Japan, East Germany and Italy are made to observe land development, light industries and related matters, then we should have the benefit, at least, of a White Paper — not necessarily giving an oral report — on what was observed, what lessons we can learn from these trips, and what lessons we can learn from these observations.

I note also that, during the period to which the question on the 16th June referred, there were visits to the U.S.A. to arrange for the International Bank for Reconstruction and Development to finance the Credit Corporation. We should be interested in finding out exactly what was the outcome of the visits and discussions. I do not think that secrets were contained in any of these cases set out in the answers given by the

Financial Secretary, therefore the Official Secrets Act cannot be applied. There is no necessity for withholding such information from us.

We sometimes glean from the newspapers some garbled report of the results of these visits abroad. Reports that are garbled means that they are very inaccurate. It is not fair that this Legislature should be kept in the dark or should depend on the Press for information on matters of such importance to this country. There is nothing else I would like to say at this moment.

I think the request embodied in the Motion is reasonable. Nothing offensive is intended. It is merely seeking information which, I think, the Legislature should have. It seeks to obtain information by way of Reports or White Papers of visits by Ministers of real interest to the country. In the circumstances, I move the Motion and await the reply from the Government.

Mr. Kendall: I beg to second the Motion.

The Minister of Trade and Industry (Dr. Jagan): Sir, the hon. Member who has moved this Motion is requesting Government to report fully to this Council on the various visits which were made by Ministers within the last twelve months to the United Kingdom, India, East Germany, Cuba, and the United States of America as official visits. I think what is being sought is that the Council should be kept informed at all times of what is taking place. But I do not think the hon. Member wants Government, at this stage, to account for visits beyond the last twelve months. To give a detailed account, it would have to take the form of a White Paper in respect of all those visits which have been made.

A White Paper is reserved for very important and epoch-making events. I think we should be abusing the privilege

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of issuing White Papers on trips that may be important but not epoch making. I agree that the Council should be kept informed, and Government will certainly agree that in future opportunity should be taken, whether orally or in the form of a report, to keep the Council informed. I know that the hon. Member wishes to be told of some of these visits. Perhaps, I can recount those that I undertook and say briefly what resulted from some of them. My first visit took place in 1958—July and August. On that occasion the hon. the Financial Secretary was also present in London when opportunity was taken to review certain matters.

Mr. Speaker: I just want to get it clear, whether each of the Ministers concerned is going to attempt to give a report. I do not know. At the present time, strictly speaking, it is a Motion that is before the Council. I am not stopping the hon. Minister from speaking on the Motion. I believe, as the hon. Minister said he was going to give a report and was proceeding to do so, if he gives a report on these visits it may take up much time. The question really is whether the Motion is to be accepted or rejected. That is the question at the moment. Every Minister, some of whom are not here, should be allowed the opportunity to report on his or her visits also, if the Motion is accepted.

Dr. Jagan: I merely want to say that the Government does not think it desirable, at this time, to present a White Paper, or several White Papers, on all of these visits which took place within the last twelve months. I know that a Motion was tabled some time ago. In fact that Motion sought a report for the period preceding the last twelve months. I say, first of all, it will not at this time be proper to give a detailed report on all of these visits, because a lot of what transpired on those visits is already generally known and has become public

knowledge. I was merely, for the benefit of certain members, giving briefly an account of my visits. However, if Your Honour feels it is going to take too long a time I would desist from doing so.

Mr. Speaker: I do not want to be misunderstood. I just want to know the hon. Minister's intention. He was proceeding to give for a period over twelve months re are also other Ministers who went on visits, and who are not present and may wish to give a report themselves. Those who are not present should be allowed an opportunity to do so if they so wish. I am merely pointing out that the question before the Council is the Motion, which should either be accepted, rejected, or withdrawn. I do not wish to stop the hon. Minister, if it is not going to be an extensive report.

Dr. Jagan: I do not intend to be too long, since I prefaced my remarks by saying that Government does not intend to issue White Papers on these visits which have been made by Ministers within the last twelve months, the results of which in many cases are already public knowledge. But I, however, thought it fit to give just a brief account of some of the visits; to say that Government sees the necessity of keeping the Council informed, and that in future Government will report to the Council.

Hon. Members will realize that there are certain discussions which take place from time to time about which it is not necessary to give premature information for the reason that some organizations do not want it to be known that discussions are being held. I may cite the World Bank. The World Bank generally demands that if informal talks are being held on loan applications, they must not be publicised until a definite decision is arrived at on the application — whether it was granting or rejecting the application.

As far as is possible, so far as visits are concerned, we will certainly give an undertaking that Government will report to the Council on these missions. But so far as the request in this Motion is concerned, I do not think we can adhere to what the hon. Member requests, and that is a report in the form of a White Paper or documentary report. That is why I am going to take this opportunity to refer to some of the most important visits I have made. I will not be long. The first visit was in 1958 to the United Kingdom.

Mr. Burnham: The Motion has nothing to do with 1958. It was tabled on December 20, 1960. Anything previous to that is irrelevant.

Dr. Jagan: I wonder how far the hon. Member wants me to go back?

Mr. Speaker: The Motion says "... their various visits within the last twelve months to the United Kingdom, India, East Germany, Cuba and the United States on official business".

Dr. Jagan: As far as I am aware, within the last twelve months some visits were made to the United Kingdom, none was made to India, and no visit to East Germany. Within the last twelve months one visit was made to Cuba. This was on the last occasion of my visit to the United Kingdom for the Electricity Talks. On returning home, I paid a visit to Cuba which resulted in the Government of Cuba agreeing to buy the surplus rice that British Guiana was producing, and to pay a higher price for it than that obtained from the West Indies.

My last visit to the United Kingdom was in July or August last for the Electricity Talks, on which occasion the hon. the Financial Secretary accompanied me. A White Paper was tabled in this Council, and all the information

relative to that conference was fully discussed. As I said, no visit was made to East Germany within the last twelve months and none to India.

Last December I visited the United States of America on some private business. At the same time I took the opportunity to discuss with United States' Government officials matters dealing with technical assistance, both in terms of small and large schemes. I had also discussed at United Nations Headquarters the question of individual experts and grants with respect to the Special Fund. We know that we have, at the moment, two Special Fund Schemes which are now under investigation. One is the siltation study of the Georgetown harbour, and the other the soil survey of the country.

At the same time, I took the opportunity of visiting Washington when talks were held with one of the bauxite companies and the World Bank. These were the more important discussions which were held during the last twelve months. I cannot think of any other at the moment. As I said, some were made previous to that, but the hon. Member said he did not want information about those.

The Minister who went to India and to East Germany, unfortunately, is not in his seat. I, however, would like to say that the hon. Minister went to India soon after the conclusion of the London Constitutional Talks; and it was decided while he was in the United Kingdom that, on his way to India—a trip which had been arranged previously with the Indian Government—he should stop over in East Germany and in Italy for two purposes. In East Germany he was to see rice mills, also integrated mills and factories which were dealing with timber—the utilization of timber in various ways — the making of wood pulp, paper and chemicals. In Italy, he was to discuss with the FAO officials the project dealing with forest survey.

[DR. JAGAN]

On the way to the United Kingdom I had talks in New York relative to this Special Fund application on a forestry survey with FAO and, since the FAO headquarters are at Rome, it was suggested to me by the FAO individual at the United Nations Headquarters in New York that discussion should be held, if possible, in Rome; and so it was that the Minister visited Rome and had important discussions there which resulted in some information being given to him as to the way Government should proceed in putting up an application for this Forestry Inventory Survey. This has since been done and I would like to say, for the information of the Council, that a special application to the Special Fund of the United Nations is to be considered at the December meeting with respect to the Forestry Inventory Survey.

As regards India, the hon. Minister was able to examine projects which were arranged by the Indian Government — some community projects and small-scale rural industries. Unfortunately, he had to cut short his visit because of ill health. As I said, these were the more important visits that were made during that period, and I can assure hon. Members that a great deal of benefits have accrued as a result of these important visits.

We already know that we had in British Guiana consultants of one type or another both from the United Nations and from the World Bank. We had, first of all, an economist, Mr. Adler, who came from the World Bank. Following that, we had two survey missions which came and carried out detailed examinations of the Credit Corporation. We had from the United Nations, Mr. Snethlage who has made a preliminary study into our hydro-electric potential; Mr. Emmerich, who came and carried out a survey as to what was required in the field of administration, both in terms of training and in terms of efficiency in

the Public Service—that is, the need for training civil servants and for instituting some scheme or methods and organizational management.

I have already referred to the two applications which have been successful, that is, the one dealing with the soil survey and the other dealing with the siltation study. Other applications have been put to the United Nations—for instance, the Forestry Inventory Survey and the Canje Project. These are also likely to be successful. There is the necessity for other specialists in the field of banking, for instance, and in the field of mining.

I would conclude by saying that a great deal of this information was already public knowledge and some of those reports have been made to the Council—the more important ones—and the public generally has been kept informed of the achievements of these trips. I, therefore, do not see the need, at this time, to make a formal report on paper either by way of a Ministerial Document or a White Paper. As I said, a Report will be prepared in future, to give, as far as practicable, a full report on the more important visits which have been made abroad.

Mr. Bowman: Sir, with your permission, I would like to remind the Minister that he has made a very important omission in that he went to the United Nations with a petition. He did not say anything about that. That was a very epoch-making trip. I am sure this Council would like to hear about that.

The Minister of Labour, Health and Housing (Mrs. Jagan): Sir, perhaps, the last speaker is unaware that the Motion refers to official business; and, if he had been present when the question was asked in this Council on a previous occasion about the petition to the United Nations, he would have appreciated, from the reply, that it was a matter concern-

ing the People's Progressive Party as a political party and, certainly, not a matter of official business of the Government.

The hon. Minister of Trade and Industry indicated that he went to the United States of America on private business; that his trip was not paid for by the Government, but he also took the opportunity to visit Washington and New York to put in a little extra work for the Government. So I hardly think that the last speaker's request was based on very considered thought. Perhaps, he may be excused as he was not present at the meeting when we went through this question of the P.P.P.'s petition to the United Nations. It was not a petition of the Government of British Guiana or of the Ministers of the Government. Political parties' business, I presume, is separate from the business of this Council.

As I said, the hon. Minister of Trade and Industry informed the Government that he went on private business and that his visit to and from the United States was not paid for by the Government of this country.

I noticed in the Motion, the Member for Georgetown Central speaks of official business by Ministers on their various trips "within the last twelve months to the United Kingdom, India, East Germany, Cuba and the United States", so I can only presume he is not interested in the business trips I took in connection with the U.C.W.I. and the Caribbean Commission. Therefore, it would not be necessary to give him a report on those two visits.

Mr. Bowman: Sir, I think it is highly irregular when questions or reminders are posed to the Minister of Trade and Industry that the Minister of Labour, Health and Housing should answer for him.

Mr. Speaker: That is the reason why —

Mr. Bowman: The point is that this petition which was presented to the United Nations concerned the people of British Guiana.

Mr. Speaker: I know you posed the question to the Minister of Trade and Industry, but let me read the Motion again. That is why I drew the hon. Minister's attention to the Motion. It is not a question of debating what the report is. I only gave the Minister permission as he said he was only going to say a few words on the report. The Motion is: "That Ministers of the Government be requested to report fully to this Council on their various visits within the last twelve months to the United Kingdom, India, East Germany, Cuba and the United States on official business". The Mover of the Motion said, quite plainly, he had no intention in this Motion of inquiring or requesting that any information should be given on any business that any Minister went on, unofficially. He said also that he was not prying into their private business, but when they went officially he thought that a report should be given to this Council. If any Minister or Member went abroad unofficially it would not come under this Motion.

Mrs. Jagan: If I can just say one word —

Mr. Speaker: I think we should stick to the question whether the Motion would be accepted, rejected, or withdrawn. I will read it again:

"Be it resolved, that Ministers of the Government be requested to report fully to this Council on their various visits within the last twelve months to the United Kingdom, India, East Germany, Cuba and the United States on official business".

The question of the report will only come in after the Motion has been accepted.

Mrs. Jagan: I only wanted to say one word.

Mr. Speaker: On what?

Mrs. Jagan: The last speaker is suggesting that I was answering for the Minister of Trade and Industry, but—

Mr. Speaker: I do not think that is necessary.

Mrs. Jagan: I just wanted to remind him that a Member can only have the floor once.

Mr. Speaker: The Minister of Trade and Industry had just sat down, and if he wanted to say something more I would have treated it as if he were still on his legs.

Mr. Tasker: Sir, since the Minister of Trade and Industry has spoken for the Government and has accepted the Motion, in principle, can we not have the Motion agreed to and let the Ministers report in future under "Statements By Members Of Executive Council", which is always on the Order Paper?

Mr. Speaker: I must know whether the Motion is accepted, rejected, or withdrawn. If it is accepted, then the question of the report will be dealt with later on. If it is not accepted it will be a different matter. If both sides agree and I am satisfied that the Mover of the Motion desires to withdraw the Motion, the matter ends.

Mr. Bowman: Sir, I move that the Motion be put.

Mr. Speaker: I shall not put it; I think there may be other Members who may wish to speak on the Motion.

Mr. Bowman : No other Member wishes to speak.

Mr. Speaker: I do not know whether the Mover wants to reply, and I do not want to shut out any Member who wishes to speak on the Motion.

Mr. Burnham (replying): Sir, the Minister of Trade and Industry (Dr. Jagan) has indicated that the Government is not prepared to accept this Motion, but I think the greater part of his contribution to the debate is an argu-

ment in favour of it. Perhaps, following the manner in which I moved the Motion—an apparently conciliatory manner—the Minister very readily agreed that the Council should be kept informed of the results of important trips or visits abroad. If that is so, Mr. Speaker, why has he waited until the 24th May before he acknowledges that?

The Minister of Trade and Industry mentioned that in his opinion—and he is entitled to his opinion since he is the Leader of the Majority Party in this Council, and no doubt his opinion will be reflected in the final decision—a White Paper is not necessary, save for important and epoch-making visits abroad. If he says so, we will all agree that there was nothing epoch-making except those which were reported in various White Papers. But I seem to recall that on every Order Paper at every meeting of this Council there is an item "Statements By Members Of Executive Council". If the Minister concedes the necessity of this Council being kept informed, from time to time, as to what the Government in its travels abroad at taxpayers' expense is doing, then Government could have made use of that particular item on the agenda which appears on every Order Paper every time we meet.

A further proof of the discourtesy which has been extended to this Council in the past is that, if the Minister says today that it is necessary to keep this Council informed, this Motion was tabled on the 20th December, 1960, and we certainly could have had oral explanations from time to time. Then he says he does not think it desirable at this stage to give any report on the past trips abroad. What is there to hide? Can't they find the data or material? If the Minister says that a White Paper is to be reserved for epoch-making events, certainly there should be some written report in view of the lapse of this Government for a period of nearly four years.

We were further told by the Minister that the public was informed as to what had taken place. That is exactly the point I was making: the public is informed through the Press. Press Reports and at public meetings, the accuracy of which we cannot vouch for, and it is no sense telling us that the public is already informed.

We hear further from the Minister of Trade and Industry whose burdens I can appreciate, whose tiredness I can sympathize with, apparently mental and physical, because in one breath he says there were no trips during the past twelve months to India, East Germany and Italy, and then he says that the Minister of Natural Resources went to Japan and East Germany. These confusions could have been avoided if the Ministers on their return to this country did the Council the courtesy of reporting to this Council either under "Statements By Members Of Executive Council", or by issuing a White Paper.

We hear, for instance, the Minister of Trade and Industry rambling through some sort of report which has no chronological order whatsoever; and he tells us about a siltation study, experts being brought here and an expert coming over to make a forest inventory. Are we, Members of this Legislature, to learn of these important things at this late stage when they are incoherently and incompletely put by the Minister of Trade and Industry?

I was particularly careful — I never committed the error which, apparently, was committed by the hon. Member for Demerara River by asking about anything personal or anything done by the P.P.P. But the Minister of Trade and Industry may have done himself and one's view of his intelligence greater service if he did not give any explanation or report today, for either he was not prepared or was suffering from *lapsus Linguae*.

Mr. Speaker: I must say that the Minister of Trade and Industry was going to make a long report, but I directed his attention to the text of the Motion and said that other Ministers were not here and if he was going to make a report the others may not be done justice. I think, ultimately, he said that he would like to give a short statement and I permitted him to do so. I, perhaps, may have contributed to this, because I was bent upon keeping him strictly to the Motion.

Mr. Burnham: May I congratulate Your Honour on your generosity for, if the Minister had a long report, it is an elementary exercise to precis or paraphrase it, and he would have been able to present it coherently and in proper order. It is no sense labouring the question any longer, except to observe that the Government has convicted itself by admitting the necessity of keeping the Council informed and by admitting that the Council has not been kept properly informed. The Government has shown a certain amount of arrogance by rejecting this Motion when it could be met by making oral reports or by presenting a White Paper. In the circumstances, I still persist in recommending my Motion to this Council, though its fate has been predetermined.

Question put, and agreed to.

Motion affirmed.

REPORT ON THE COLONY'S ACCOUNTS

Mr. Speaker: The Chairman, Public Accounts Committee, to move the following Motion:

"Be it resolved that the Report of the Public Accounts Committee of the Legislative Council on the Director of Audit's Report on the Accounts of the Colony for the year ended 31st December, 1959 be referred to the Government for its consideration."

Mr. Kendall: Sir, I beg to move that the Motion standing in my name be accepted, and I sincerely hope that Gov-

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ernment will endeavour to implement, at least, some of the recommendations of the Committee as early as possible. It is true that this Report deals with what took place during the year 1959 and we are now in 1961, but there are important features which can be implemented with a view to arresting some of the inefficiency we have discovered in considering the Director of Audit's Report on the Accounts of the Colony. I hope, therefore, that Government will do its best to implement some of these recommendations.

Mr. Jackson: Sir, I beg to second the Motion.

Mr. Hubbard: Sir, I desire to make a few comments on this Report as a Member of the Public Accounts Committee. I, particularly, wish to refer to para. 6 of the Report which says:

"With regard to the shortage of experienced technical and administrative officers, it is evident that Government will have to offer better salaries in order to secure the services of officers of the calibre needed. But we are also very concerned about the personnel management of the Public Service. From what we have been told, very few senior officers have had special training in this most important field affecting the smooth and efficient operation and development of Government Departments. We consider that in view of our present difficulties and of the facilities available in the United Kingdom, the United States of America, and, to a certain extent, the University College of the West Indies, all officers in charge of personnel matters, not excluding the Establishment Department, should be specially trained."

It seems to me that the question of personnel management is at the very core of the Government's difficulties with its several categories of employees throughout the country. It was with a great deal of alarm and shock that I learnt some weeks ago that a certain officer had been appointed to the office of Secretary to the Public Service

Commission, which office, I understand, is the senior Civil Service post in the Establishment Branch, and that officer is not specially trained in personnel management. That, Sir, is a serious matter when the Public Service Commission is merely an advisory body, but it becomes a far more serious question when the Public Service Commission becomes an executive body, as it will be in a few months' time.

It does seem to me that whoever is responsible—whichever branch of the Administration is responsible for making that decision, that branch of the Administration has put us in very serious difficulties indeed. It does appear to me that this appointment is a gross disregard of the needs of this country and an unwillingness to face up to the realities of an emerging situation. I say this without any attempt to minimize the competence of the officer concerned as a clerk. He may be the best of clerks or he may be the best of secretaries, but the Public Service Commission will be an executive body and its functions under the new Constitution will be executive—in charge of appointments, promotions and discipline in the Civil Service.

It seems to me that we are running into very deep and dangerous waters, if we are going to agree to the proposition of having an Executive Public Service Commission without having on the permanent staff an officer who is specially trained in personnel management. It may be argued that that need can be met by appointing a trained person as Chairman of the Public Service Commission, but the Chairman of the Commission will be a political appointment and, I think, it will be far more desirable that the civil servant in charge should be a trained personnel manager.

I make the point not out of a desire for contention, but out of a sincere wish to invite the Administration to correct

what I consider has been a very serious error. I would just like to give body to my argument by saying that the Administration does not pay sufficient attention to the personnel question.

I would just like to mention that in the course of the deliberations of the Public Accounts Committee an appointment was made within a week or 10 days. But we are in a very serious rut, when an important post such as that of Accountant-General, can remain unfilled for more than a month, as it did. That is all I intend to say on this very important matter, and it is said in all sincerity. I desire to urge on the Administration the necessity of correcting these flaws in its attitude towards personnel matters.

Mr. Jackson: I had seconded the Motion by the hon. Member for New Amsterdam (Mr. Kendall) in his capacity as Chairman of the Public Accounts Committee without having any desire to speak on it. But since there has been the comment by the last speaker, I think it is only fair for other hon. Members of the Council to make their own contribution in reply to what he has said.

It is my view, if the appointment to which the hon. Member (Mr. Hubbard) referred was badly made, this is not the time and place to challenge it. The proper time and place ought to be on a substantive Motion by the hon. Member questioning the procedure adopted by the Public Service Commission in making appointments either of top, middle, or bottom level in the Civil Service.

The appointment which has been made, perhaps, does not suit the hon. Member concerned and, perhaps, it would have been desirable or advantageous if another person of his choice, either political or otherwise, had been appointed. It is a bit disappointing that he has only confined himself to that one post, when there are other appointments in the several departments of Government made

by the Public Service Commission which are condemnable. Some of the people in the Public Service are like square pegs placed in round holes.

I can mention one case in which an officer seconded to a post does not fit into the position either by qualification or otherwise. Mr. Speaker, the Public Service Commission know, and it is known, I have had many quarrels with them over many things that have been done by them. I can state my own personal experience. I would have thought, however, that the hon. Member who has been so observant would have observed that time is now and not the future. Any attempt to criticize the Public Service Commission should have been done either at the time we were discussing the Estimates, or on a substantive Motion.

Mr. Speaker: The hon. Member is quite right there. Some time ago in this Council I appealed to hon. Members not to refer to individuals in their criticisms as the persons concerned are not here to answer for themselves. I think the Public Service Commission is one of those bodies which act in good faith. The hon. Member is quite right.

Mr. Jackson: Therefore I end my contribution to the Motion.

Mr. Tasker: I fully share what has been said by the hon. Member for Georgetown North (Mr. Jackson), a colleague of mine on the Public Accounts Committee, and the views of the hon. Nominated Member, Mr. Hubbard, regarding this question of personnel management. As the hon. Member for Georgetown North said, there are too many round pegs in square holes. This seems to be the major problem, not salaries or conditions of service. It is simply a question of handling men and women, which is no less important, but more so, than the handling of money, stocks, supplies or any other aspect of a senior civil servant's job.

[MR. TASKER]

I share the anxiety of the hon. Nominated Member that the Public Service Commission may not give enough importance to this question of personnel management. The Commission must be in a position at least to exercise an overriding view on Civil Service matters, as Her Majesty's Treasury in the United Kingdom is the last resort of civil servants in Civil Service matters. Presumably, similar arrangements will be made under the new Constitution. At first sight it appears that removal of responsibility from the Chief Secretary's Office to the Public Service Commission may result in no small degree of impersonal treatment. This is desirable if by that is meant absolute impartiality.

But there is another aspect of it which I think is more important, that is, the aspect of "impersonality", which means a lack of personal sympathy and understanding, and which has been noted time and again in the deliberations of the Public Accounts Committee. That is what I think the hon. Member for Georgetown North means by "square pegs in round holes". It is not merely a matter of individual officers having inadequate qualifications for specific jobs, or being passed over even when qualified. Partly, it is this question of qualification. But it is more than that. It is a feeling in the Service that ability, experience and training really count for relatively little as against simple seniority. That is one of the root problems we have been trying to draw attention to; and I think it is significant that in the White Paper which has been circulated to us today, and which we have not had an opportunity to study in detail, there is a small illustration of what I am saying.

Under Appendix II—Awards Under The West Indies Training Scheme — we see that only two awards were made for courses in Personnel Management, one in 1950 and one in 1959. I realize that this is not an exhaustive Appendix, but

it is the only one in which there is reference to this subject. This, I think, is the root of the problem that the management of men has not been regarded by the Public Service Commission as being a sufficiently important subject in its own right. Now, I believe it is increasingly becoming so.

I am, again, encouraged by seeing on page 10 of the White Paper that the whole question of in-service training in all departments has been gone into by a Training Committee, and that recommendations have been submitted. The need for better selection procedures for officers in the Public Service is also increasing, and I hope that the quality of impartiality which should inform an executive Public Service Commission will not be matched by that of impersonality, which is to be deplored.

Mr. Kendall (replying): Mr. Speaker, I do not have much to add to what I have said in my opening remarks. When I suggested to Government that it should endeavour to implement these recommendations in a faster manner, I was thinking in the same way as the hon. Nominated Member, Mr. Tasker. The work of the Public Accounts Committee can only be of value when the Government is able to implement the recommendations or, at least, some of these recommendations more expeditiously, and we were, therefore, disappointed during this year when the recommendations were not heeded. In some instances, if these recommendations were heeded, we would not have seen, coming in a subsequent report, recommendations for an efficient Service which is expected of any Government.

Mr. Speaker: The Question is, "That the Report of the Public Accounts Committee be adopted".

Question put, and agreed to.

Motion affirmed.

REPORT ON ACCOUNTS OF
T. and H. DEPARTMENT

Mr. Kendall: I beg to move:

"That the Report of the Public Accounts Committee of the Legislative Council on the Director of Audit's Report on the Accounts of the Transport and Harbours Department for the year ended 31st December, 1959, be referred to the Government for its consideration".

I may add, again, that we hope that this Report dealing with the Transport and Harbours Department—especially paragraph 8 of the Report—will be considered very early by Government so that the General Manager would not be placed in the position where he has to revise the tariffs in a manner outside of his function.

Mr. Jackson: I beg to second the Motion.

Question put, and agreed to.

Motion affirmed.

FEDERAL SUPREME COURT
(APPEALS) (AMENDMENT) BILL

Mr. Speaker: If there will be no objection, we will take item 6. The Attorney-General to move the Second Reading of the following Bill:

A Bill intituled: "An Ordinance to amend the Federal Supreme Court (Appeals) Ordinance".

The Attorney-General: Sir, the Federal Supreme Court was established in British Guiana in May, 1958, on the disappearance of the West Indian Court of Appeal which used to hear appeals from decisions from the Supreme Court in its civil jurisdiction. The Court paid its first visit to this country in June, 1958. In November, 1959, a criminal appeal jurisdiction was conferred on the Court which then replaced the Court of Criminal Appeal.

The Federal Supreme Court visits British Guiana regularly every quarter, and since its establishment, it has been here 11 times and has, to date, heard 80 civil appeals and 86 criminal appeals. I think that no one will deny that the Court has amply proved its worth and it has maintained its tradition in the administration of sound and expeditious justice and, indeed, it is a firm part of the administration of justice in British Guiana.

The Federal Supreme Court which, of course, also exercises jurisdiction in the West Indies, was established, so far as British Guiana is concerned, under an Order in Council called the British Guiana (Appeals) Order in Council, 1957. Under that Order in Council provision was made that it should, in hearing appeals, sit in British Guiana, although provision was also made that it could hear appeals elsewhere, if there was enacted a law of the Legislature of British Guiana which provided for this. I should like to read section 4 of the 1957 Order in Council. It states:

"4—(1) When exercising jurisdiction conferred on it under this Order, the Federal Supreme Court shall, subject to subsection (2) of this section, sit in such places within the Colony as the Chief Justice of the Federation may, with the approval of the Governor of the Colony, appoint."

Now, Sir, the position is that the Federal Supreme Court comes here regularly — once a quarter — and hears civil and criminal appeals; but so far as criminal matters are concerned there are applications which have to be made as early as possible, from time to time, ancillary to appeals. These applications are as follows: Applications for leave to appeal; applications to extend the time within which notice of an appeal or of an application for leave to appeal may be given; applications to assign legal aid to an appellant; applications to allow an appellant to be present at any proceedings in cases where he is not entitled to be present without leave; and applica-

[THE ATTORNEY-GENERAL]

tions to admit appellants to bail. Anyone can be more conveniently disposed of by the Federal Supreme Court as soon as the application is ready to be made.

At present, the Federal Supreme Court is only able to hear these applications when the Court visits British Guiana, and what happens in practice—and it is not a very satisfactory practice—is that when an appellant in a criminal matter wishes, for instance, to obtain leave of the Federal Supreme Court to appeal to the Court, his counsel files the application which is then sent over to Trinidad, the headquarters of the Federal Supreme Court.

In the absence of the Court having authority to grant the application there and then, it has to state on the application an indication whether the leave will or will not be granted when the application is made on the next visit of the Court to British Guiana. Similarly, when a person is convicted by the Supreme Court and wishes to apply for bail, there is no authority at present for the Court to grant bail when it is not sitting here.

These applications which arise, of course, in similar circumstances in the other territories of the West Indies, are dealt with invariably by the Supreme Court by means of a Judge sitting in Chambers, usually in Trinidad. He does not hear either Counsel or Solicitors, and if the application has merit it is granted. If the application is refused, however, the law provides that the person making the application may apply to the Federal Supreme Court sitting with three Judges. In such circumstances Counsel is, of course, heard in support of the application.

The Federal Chief Justice has requested that British Guiana confer upon the Federal Supreme Court a very limited

jurisdiction to hear these applications in the first instance by a Judge sitting in Chambers in Trinidad. There is no question that British Guiana cases will be handled by lawyers other than those of the British Guiana Bar and Law Society, and the Federal Chief Justice has given me an undertaking to this effect which I should like to read to the Council. He states:

"You told me that the Bar in British Guiana are opposed to our Court hearing applications under section 29 in Trinidad principally for the reason that such applications might be made by members of the Bar of Trinidad and not by those of British Guiana. I undertake that, if the power is given to our Court to hear applications under section 29 in Trinidad, Counsel or Solicitors will not be heard in Chambers in Trinidad in support of any such application, despite the provisions of Order III, rule 14 (4) of the Federal Supreme Court (*Appeals from British Guiana*) Rules, 1959".

Section 29 deals with these applications. The Rules referred to state that Counsel or Solicitors may be heard in Chambers, but the practice is that in the first instance in hearing applications in Chambers in these criminal cases no Counsel or Solicitor is heard.

The Chief Justice goes on to state:

"It is not the practice of our Court, nor has it been the practice in other Territories where I have served and where similar legislation is in force, for Counsel or Solicitors to appear on any of the applications mentioned in section 29, except on application to admit an appellant to bail. The reason for this is that if an application is refused, the appellant can always appeal to the Court (that is to say three Judges) and such applications to the Court are heard in Court when, of course, Counsel can appear".

This Bill seeks to confer a limited jurisdiction on the Federal Supreme Court to hear these applications by a Judge sitting in Chambers in Trinidad. The Law Society, when approached, approved of the measure. The Bar Association were anxious about it; they do not like it very much because they felt that all

matters concerning British Guiana appeals should be heard in British Guiana and there should be no chance for members of other Bars to handle the cases. The undertaking of the Federal Chief Justice meets their main anxiety. In order to facilitate the administration of justice, it is my view, which is supported by the Chief Justice of British Guiana, that it is desirable that the Federal Supreme Court should be given this extra jurisdiction and in doing so no prejudice will result to either British Guiana appeals or to the legal profession here. It is in fact a procedural power only, and I commend the Bill to the Council accordingly.

The Bill also seeks to give the Federal Supreme Court the power to consider or advise the Governor in cases where he is called upon to exercise the prerogative of mercy in cases other than where sentence of death has been imposed. It sometimes happens that a person, who is convicted and sentenced and does not appeal for one reason or another, eventually seeks redress by a Petition to the Governor who may wish to have a legal point settled.

The Criminal Appeal Ordinance which established the Court of Criminal Appeal which was taken over by the Federal Supreme Court had this same provision which stems from the Court of Criminal Appeal Act, 1907, of the United Kingdom. It is a useful provision which was omitted when the Federal Supreme Court (*Appeals*) Ordinance was drafted because it was thought that it would not be used. In fact it has been used on one occasion; in England it has been used from time to time, and the Federal Chief Justice when approached, said that as far as the Federal Supreme Court is concerned there would be no objection to adding this power to our legislation.

I now beg to move the Second Reading of the Federal Supreme Court (*Appeals*) (*Amendment*) Bill, 1961.

Question put, and agreed to.

Bill read a Second time.

Council resolved itself into Committee to consider the Bill clause by clause and passed it without amendment.

Council resumed.

The Attorney-General: Sir, I beg to report that the Bill has been considered in Committee and passed without amendment. I now move that the Bill be read the Third time.

Question put, and agreed to.

Bill read the Third time and passed.

REPRESENTATION OF THE PEOPLE (AMENDMENT) BILL

Mr. Speaker: The Chief Secretary to move the Second Reading of a Bill intitled

“An Ordinance to amend the Representation of the People Ordinance, 1957”.

The Chief Secretary: Sir, in the first place, this Bill seeks to amend the Principal Ordinance together with the Representation of the People Ordinance, 1957, in order that the provisions of that Ordinance may, with certain alterations, apply in relation to the election of members to the Legislative Assembly under the proposed new Constitution as they now apply in relation to the election of members to the Legislative Council.

Clauses 2 (2), 4 and 5 of the Bill seek to make consequential amendments to the Principal Ordinance in view of the recent enactment of the Electoral Provisions (Registration) Ordinance, 1961.

Clause 9 seeks to re-enact section 27 of the Principal Ordinance with a new subsection to provide in effect that the registration of an elector shall, so far as election officers are concerned, be conclusive of his right to vote, but without

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prejudice to any penalties he may incur by voting if he is otherwise debarred from so doing.

Clause 14 of the Bill seeks to amend section 34 (1) of the Principal Ordinance to provide that the presiding officer shall, subject to the provisions of this Ordinance, on the application of any elector, deliver to such elector a ballot paper which such officer has previously stamped with the official mark, either embossed or perforated, and on the counterfoil of which he has placed the number of the elector on the official list of electors, and shall thereupon place a mark against the number of the elector on a copy of such list but not on the official list itself.

Similarly Clause 8(a) and (c) seeks to amend section 26 of the Ordinance to provide that a copy of the Official List for a polling division should be divided into separate lists for each polling station in each polling division where there are more than one polling station. The purpose of this amendment is to ensure that the original registers of electors, which constitute the official lists, and must be revised from time to time under this Ordinance, should not be marked unnecessarily or mutilated.

Clauses 6 and 27 of the Bill seek to amend section 14 (6) of Form No. 7 in the First Schedule to the Representation of the People Ordinance, 1957, in order to transfer from the Chief Secretary to the Commissioner of Elections the duty to cause notice of the issue of a writ of election to be published. It will be appreciated that the general direction and supervision of elections are vested by the Ordinance in the Commissioner of Elections to whom all election officers are responsible for the performance of their functions.

Clauses 8(b) and 10(b) seek to amend sections 26(1) and 28(2) of the Ordinance to permit premises so desig-

nated to be used as a polling place for the polling division. Clauses 8(d) and 10(a) and (c) of the Bill seek to amend sections 26 and 28 of the Ordinance to express what appears to be the implied intention thereof, namely that either one or more than one polling station may be established in a polling division, and that only persons qualified to vote in person may vote by proxy.

The proviso to section 33(1) of the Ordinance permits electors to vote if they are waiting inside a polling station at the hour of closing the poll to do so. Clause 13(a) of the Bill seeks to re-enact that proviso to permit electors to vote if they are waiting in a queue at (not necessarily inside) the polling station at the hour of closing the poll.

Clause 13(b) of the Bill seeks to re-enact section 33(3) of the Ordinance to prohibit the numbering of ballot-papers in order that no ballot-paper should be traced to its counterfoil and thence to any particular voter whose number is on the counterfoil. Clause 13(b) thereby seeks to provide an additional safeguard to ensure the secrecy of voting.

Clauses 3(b) and 14 of the Bill by amending sections 2 and 34 of the Ordinance respectively, seek to provide that a presiding officer shall, instead of initialing a ballot-paper before delivering it to a voter, stamp the ballot-paper with an official mark prescribed by the Chief Electoral Officer, which shall be either embossed or perforated on the ballot-paper so as to be seen on both sides thereof when the ballot-paper is folded before being placed in the ballot-box by the voter and at the counting of votes.

There are consequential Amendments to the Ordinance to provide for the secrecy of the official mark by making any unauthorized disclosure thereof before the close of the poll an offence,

although in any event it is considered that the official mark would be more difficult to forge than the presiding officer's initials.

Clause 17 of the Bill seeks to provide for the staining of an elector's finger with indelible ink before he votes, so that when an elector applies for a ballot-paper on election day with the view of voting it will be apparent upon inspection of his fingers whether he has previously voted on that day. This procedure is not a novel one as similar provision exists elsewhere at elections. At the Committee stage I propose to move a slight Amendment to Clause 17 to delete subsections (2) and (3) of the new section 36A and to substitute new ones.

It is, of course, an offence to vote twice at any elections or general elections and Clause 24 by amending section 80 of the Ordinance seeks to make it an offence of personation for anyone whose finger is stained with electoral ink to apply for another ballot-paper.

At the Committee stage I propose to introduce a new Clause 30 in the place of the printed clause of the Bill. It is proposed to substitute the terms "Legislative Assembly" and "Special Constabulary" for the terms "Legislative Council" and "Special Reserve Police". I now move the Second Reading of the Representation of the People Bill, 1961.

The Attorney-General: I beg to second the Motion, and I reserve the right to speak at a later stage.

Mr. Burnham: Mr. Speaker, a Bill like this had to be introduced because the provisions of Ordinance No. 3 of 1957 had become obsolete. Though there are no strictures I would like to make, there are some points I would like to make not, for instance, to such slight changes as "Legislative Council" to "Legislative Assembly". It seems to me

this Ordinance, as far as I am concerned, is inconsistent so far as the question of proxy is concerned, and so far as the question of postal voting is concerned. For instance, in Section 95 of the Local Authorities (Constitution and Procedure) Bill, 1960, the Government proposes that there be postal voting.

In this Bill which deals with a much more important set of elections than the elections of the Local Authorities can possibly be, there is no provision for postal voting, no proposal for such a facility to persons who, for one reason or another, are not able to vote in person, or find it difficult to do so. This Bill is not an improvement on the one of 1957 that provided for proxy voting. Therefore this new Bill should have the slight Amendment to enable proxy voting

Government, it seems, is unmindful of the needs of the people. Under Clause 12 of the Local Authorities Bill, 1960, the persons who can either vote by post or proxy form a larger group than those permitted to vote by proxy in 1957 and moreover will be larger in 1961. For instance, apart from those persons whose jobs keep them engaged on Election Day — policemen, persons employed in the conduct of the elections, employees of the Transport and Harbour Services — Form 12 of the Fourth Schedule of the Local Authorities Bill provided a new category or group of persons allowed to vote by post or proxy, because of the general nature of occupation, service or employment.

There is no restriction in the Local Authorities Bill to the voting of persons connected with the elections, or members of the Police Force, or the Special Police Reserve. I find it very difficult to understand how this Government can show such an enlightened attitude so far as Local Government Elections are concerned, and still so far as the more im-

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portant elections which have to do with the choice of members of the Legislature, which body will have absolute power in a few months hence, be merely satisfied to be faithful copyist of what an unrepresentative body did in 1957.

I know, Mr. Speaker, that so far as the system of voting is concerned the Government proposes in a Bill before us to continue the system that was introduced in 1957 — permitting a voter to delete the names of the candidates he or she does not propose to vote for. That may be all very modern. It may sound very sophisticated. Some people may think that it is a sign of increased intelligence, or it is a tribute to the intelligence of the voters in British Guiana. Whatever be said, it does appear to me that it is unrealistic in the present circumstances in British Guiana to use that type of voting, if we want to have the maximum of persons at the polls.

It is true that our percentage of illiterates is more in British Guiana than it is in other countries which use other forms or modes of voting. But it is also true that there is a certain percentage of illiterates in British Guiana apart from that percentage. There are persons who may be physically incapacitated by blindness or defective sight, and I want to say this: Though provision is made in the Principal Ordinance for a person physically incapacitated to be allowed to have the presiding officer vote for him or her, there are many persons who will be unwilling to be a party to such a breach of secrecy; and there are other persons who will be embarrassed, persons who are near-sighted and cannot see to mark the ballot-paper. The latter category of persons is likely to be responsible for a number of spoilt votes. The former category will object or will be unwilling to vote if a presiding officer, a candidate, or other persons within the polling booth know for whom they are voting. They are therefore likely to stay away from the poll.

In 1953, there was quite a simple system which reduced the number of spoilt votes, I submit, to an absolute minimum, and that system was one which created no difficulty even to the near-sighted and no difficulty, either, with the illiterate. The only persons who still had to vote in public, so to speak, were those who were blind or those who were so physically incapacitated that they could not even lift the ballot-ticket and put it in the slot box, having recognized the candidate both by his picture and by his symbol. It is my opinion that all this sophistication is out of place and nonsensical. The 1953 system was perfect. Why all this marking of ballots in this circumstance and in the circumstance of knowing?

In any case, Mr. Speaker, there are persons who have been passed as literates who only know to draw their names and not necessarily know to recognize other people's names. You can imagine those persons who get away with the reputation that they are literate who, at this stage, are not literate and, therefore, cannot exercise the ballot. I see nothing to condemn a separate box. I see a great deal to recommend it.

I find that this Bill before us today has a number of repeal Clauses. It seeks to repeal a number of provisions in the old Ordinance. I, myself, can see the point of some, but these I cannot; and I am wondering why it is that the Chief Secretary has not done us the courtesy of explaining the reason for these repeals. Its Objects and Reasons, as in his speech introducing the Second Reading of the Bill, merely tell us the purposes of these sections which either amend by addition or amend by repeal and substitution. For instance, this Bill, just to quote a few examples, repeals subsection 3 of section 43 which provides for the procedure where there is a tie as a result of an election petition. What new procedure is envisaged if there is going to be a new Ordinance? Do us the courtesy to tell us that "we repeal the section,

but provision with respect to the section dealing with all these subsections would be treated in a new Ordinance or a new set of rules which we were unable, in one statutory authority or another, to pass.'

Then the proviso to subsection 1 of section 46 is repealed which makes it obligatory upon the Commissioner of Elections on an order of the Supreme Court to deliver to the proper officer of the Court the papers in relation to the election which may be the subject matter of an election petition. What is the reason for this? What is the reason for repealing the proviso to section 74 which gives the candidate a clean berth if his agent is guilty of an illegal practice to which he, the candidate, was not privy? What is the purpose of repealing subsection 2 of section 76, section 86, and the whole of Part V which deals with petitions? At least, we might have been told.

For instance, what is the object of repealing that provision which states, categorically, what some of us understand to be the law, that with an election petition, the question of the validity or otherwise of an election, if the Court is of the opinion, although there may have been some breaches, that the election itself was carried out, in the main, in compliance with the spirit of the law the election should not be voided? What is the purpose of deleting that? If that is deleted, it would follow that a few unsubstantial, unimportant deviations from the strict letter of the law can cause an election to be voided though it was carried out substantially in compliance with the *sententia* as distinct from the *litera*.

I know, Sir, that regulations are to be made with respect to certain Interior constituencies, and I hope that there will be no attempt to stave these regulations which were made in 1957 under the original Ordinance; for it seems to me that there is a much wider area or a

much greater number of constituencies where the facility of voting anywhere in a constituency should be extended to all electors. The Berbice River, for instance, has never been so treated. But if one were to travel up the Berbice River and one pays particular attention to the limits of the constituencies of the Berbice River, one would be inclined to think that the difficulties which, for instance, made Governments in the past give the facility for voting anywhere to people in some parts of the North West District, Mazaruni, Potaro and Rupununi should also persuade Government to extend the same facility to the Berbice River. But, as I understand, the regulations which are to be made should be made under section 112 and, if I am right — I might not be — I feel that the regulations which would permit the Governor or Governor in Council, as the case may be, to allow persons to vote or to exempt persons in some constituencies from the provisions of section 26, should not be laid — much as they have to be tabled in this Council — until passed in a Motion, therefore, the Council will be given the opportunity of stating, very clearly, which constituencies should enjoy exemption from section 26.

I said a moment ago it has been suggested that section 112 is the regulations section, but that is a moot point; and I really do not see that it is. It seems to me that the empowering section is paragraph 1 of subsection 1 of section 28. I am particularly making this point because, under section 112, it is the Governor in Council as distinct from the Governor; and section 113, which makes it obligatory upon the Government to lay regulations and give the Legislature the power to amend or annul, refers to section 112 and does not refer to 28(1)1. I feel that this is a question on which the Council should be given the opportunity to make a decision, either to accept what the Government is proposing—to amend it — or reject it *in toto*.

[MR. BURNHAM]

Perhaps, the hon. the Chief Secretary, as part of the Government, may be persuaded, when he comes to his Amendments, to object. He has already started to add this Amendment: that all regulations made under this Ordinance should be laid before the Legislative Council—all regulations made by the Governor in Council—but it does not give the Council an opportunity of having a say as to the constituency which should enjoy special facilities as the exemption from the provisions of section 26.

I noted that there were some Amendments which had some deletions and repeals for which no reasons were given, but there is one particular one which I think is worse than all the rest—the one which appears on Clause 9 of the Bill as published.

Clause 9, as you are aware, repeals and re-enacts section 27 and in subsection (3) of the new section 27 there is a provision that:

“Notwithstanding anything hereinbefore provided to the contrary, an elector shall not be excluded from voting on the ground that he is not a British subject or is not of the age of twenty-one years or upwards or is subject to any disqualification mentioned in subsection (1) of this section; but this provision shall not affect his liability to any penalty for voting”.

I can appreciate the difficulty of placing upon the presiding officer the onus of making an investigation on election day, but to leave this provision as it is at the moment will open the road for people who may surreptitiously and dishonestly get their names on the voters' list. Perhaps there can be an addition to subsection (3) emphasizing the right of challenge by a candidate or his agent, for I have known of some instances where certain election offences were about to be committed and a challenge from the candidate or his agent had

frightened the rascals who desisted from their intended offences. If the right of challenge were stated clearly in this section it would be of some service.

Now, there is one other point in this Bill which I see has not been covered by any regulation. One is prevented from voting if one is undergoing a sentence of imprisonment for twelve months. That is in the Constitution, but what happens if a man is undergoing imprisonment for one month? He has a right to vote, but what provision does Government propose to make so that prisoners, who might have lost their liberty but not their constitutional right, will be given an opportunity to exercise their constitutional right?

The hon. Attorney-General is doing some head-shaking, but he will have an opportunity of doing some tongue-wagging when I am finished with this Bill. We should not exclude anyone whose exclusion was not intended under the Constitution. The Constitution is clear that a person serving a term of imprisonment for one month is entitled to vote. I think that some provision should be made to preserve the right of persons, who may be in some of Her Majesty's prisons or places of confinement, to exercise their right to vote.

I hope that the observations I have made will be given careful study. I hope also, in particular that my disagreement with the mode of voting will be given the weight, which I say with the utmost modesty, it deserves because in the final analysis the purpose of this Bill, as I understand it, is to create machinery whereby people should get to the polls and exercise their votes. If you want to get a greater percentage of the electorate willing to exercise their franchise, then I submit that **everything** reasonable should be done to assist them.

Let us not bother with sophistication; let us not bother with what happens in Mars, Jamaica or the United Kingdom; let us bother with what is taking place here. The importance of any election is so great that we should put no hurdle or difficulty in the way of any voter.

Mr. Jai Narine Singh: Sir, I wish to support the proposition that the Government should work out some proper proposal whereby the 1953 system of balloting should be followed so that the inarticulate, the intelligent and everyone who desires to cast his vote will have an opportunity to register it in accordance with his conscience.

The last speaker has made it clear that the system of voting should have the support of all persons. About fifty per cent. of the population will find difficulty in marking the ballot-paper. In 1953 about eighty per cent. of the population voted. There was a photograph of the candidate and a symbol, and there was a separate box. There was, of course, a matter which went to the Supreme Court, and there was a ruling by one of the judges to the effect that the system was not fool-proof. I still think, with a few amendments, that it will be the best way in which the people of this country can vote.

In other countries where they have similar difficulties, they use a colour system by which the various candidates or parties have their own colours and are given several cards. They have to return the cards they do not wish. I do not think that the Bill before us satisfies the requirements of our community as we know it.

The Attorney-General: Sir, I would like to deal with one or two points made by the hon. and learned Member for Georgetown Central. He asked why a number of the provisions of the 1957 Ordinance are repealed: sections 11(3),

43(3), the proviso to section 46(1), the proviso to section 74, section 86, Part V and section 108. The reason is that Part V of the Ordinance deals with election petitions and other sections deal with consequential matters. The scheme of the new legislation is that the provisions dealing with the election petitions to the new Legislative Assembly will be taken out of the present Ordinance and re-enacted in a new and separate statute which will be introduced, called the Legislature (Appointment, Election and Membership Controversies) Bill. It is desirable that all provisions dealing with the challenging of elections to the Legislative Assembly under the new Constitution; the appointments to the Senate, and the appointment of the Speaker of the Legislative Assembly from outside of the House should be dealt with in one Bill.

A Bill will shortly be introduced by the Government for this purpose. The Bill will be based on the corresponding measure in the West Indies, and it is right that it should take the form of a special statute which deals with the whole range of the challenging of elections and membership to the new bicameral legislature.

Of course hon. Members will observe that this Bill, when enacted, will not be brought into force until this Council is dissolved. It will be improper to have Part V of the Ordinance dealing with election petitions in this Bill, and it will be re-enacted in separate legislation. My hon. Friend also raised the question whether a person who was sentenced to a month's imprisonment and was detained in prison at the time of the elections could vote or not. He is not disqualified under the Constitution as the sentence that disqualifies is one exceeding six months imprisonment. A person sentenced to one month is not disqualified from voting, but is he able to get to the polls? The answer is, he is

[THE ATTORNEY-GENERAL]

otherwise engaged! He is a person qualified to vote, but he will not be able to get to the polls. It will therefore not be possible for a person undergoing a short term of imprisonment to vote at the polls. It is just one of those unfortunate things which the person has brought upon himself. No provision can be made to allow prisoners to vote.

The hon. Member raised a further point and that was whether a person is entitled to vote if his name is on the electoral list for a polling division, even though it turns out that he was not qualified. The position is this: it is impracticable for the presiding officer to go into the matter and see whether or not a voter is a British citizen, and is of the age of 21, if he is on the electoral list which has been prepared after much care and scrutiny and no objections had been made to his name being on the list. If it so happens that the person has escaped these safeguards, he can vote, but if he is in fact not otherwise qualified to do so, he will be committing a criminal offence. The presiding officer is not in a proper position to enquire into such matters at the time of election.

Mr. Jackson: I am so disappointed at the explanation given by the hon. Attorney-General as to the reason why a man who has not lost his right to vote should be precluded from voting because he is, perhaps, spending a month in prison. The question is, "Why should he not be able to vote if he has not lost his right to vote?" There are several ways in making it possible for him to vote. One is—and, perhaps, this is going to be a very difficult one—having all the electoral lists for the area and the country put up in the prisons so that anyone who comes within the category of not having lost his right to vote can vote. It will be providing, within the prisons, polling stations covering the entire coun-

try where votes will be cast for all the constituencies in the country by those persons in the prisons who are entitled to vote. A man in prison who is entitled to vote with his name on the North West District voters' register can vote in prison without having to go back to the North West District. It means that in the prison he will cast his vote for the candidate of his choice for the North West constituency.

There is the remote suggestion to let all prisoners be free on Election Day, so that they can exercise their right to vote at the polls. [Laughter.] Mr. Speaker, this is a very important matter which calls for every care and every consideration. Some of us may well laugh, because they may not be so pleased to give everyone who is a voter on the list of voters the right to vote. It is clear to me that every opportunity should be given to the man who may be in prison to exercise the right to vote which right is his to exercise. If you cannot allow the prison or prisons to be polling stations to cover the entire country in all its constituencies, then we may find another way out of the difficulty.

If you think, as we do think, the system of voting by proxy ought to be, then that is another way of seeing that these persons do not lose the opportunity of voting. Going to prison for a certain offence does not make one lose one's character or lose one's right as a citizen. Let us assume that a man has been sent to prison because he failed to make the legal contribution to the maintenance of his child. That is not something which should be used as a reason why he should not be given the opportunity to cast his vote. It is obvious to me that this problem is one which can be tackled, if the Government wants to have it dealt with in the way it should be dealt with. I think this is a circumstance which should be raised as a ground for extending to those who are in prison the right to vote by proxy.

I am also sore about the fact that a person who is ill in bed may not be able to cast his or her vote for the candidate he or she would like. It is to me desirable that even in such circumstances arrangements ought to be made for such a person to vote by proxy, provided there can be produced a medical certificate to establish proof of illness. If a person is ill and cannot leave his or her bed to cast his or her vote, provision should be made for such a person to vote by proxy.

I heard the hon. Attorney-General make reference to the person who is ill and cannot go out to vote. I understand the hon. the Attorney-General has said that the man in prison is like a person who is ill and cannot go to cast his vote. I am saying that provision should be made for such a person to vote by proxy. It can be supported by a medical certificate indicating that the person is indeed ill and there is nothing of a fishy nature in the presentation of his vote by proxy.

Mr. Speaker, there are some people who have to be on duty on Election Day. They may be those who are actually working at the polling stations. They may be policemen who will be on duty and may have to leave their stations long before the hour polling begins. It seems to me, Sir, that a more careful study ought to be made of the procedure which should be adopted in these circumstances. Should a policeman be made to vote before he leaves his station on Election Day, and before the hour that voting is officially to commence, or should he be allowed to cast his vote wherever he is stationed for the constituency at which he is registered?

It is said, Sir, that some of those who did not cast their votes in 1957 were policemen. We are not quite satisfied with the system that was then in operation. I want to know, Sir, what will be the pro-

vision. I am one of those persons in this Council who had never agreed and will never even now agree to giving the Government full powers to draft and put into force Regulations for the Elections without those Regulations being first laid before this Council for examination, discussion or debate and approval.

I cannot see any justification, more-so, why, in a matter of such grave importance, this Council should not have the opportunity to say what should be done. I am supporting, therefore, the suggestion that the regulations must be laid before this Council so that all of us would know and approve of them and the purposes for which they are intended. It is our duty and our right to guarantee that every voter gets the opportunity to exercise his right to vote, and that he should not be put into any difficult position to do so either because he is a policeman or is away from his constituency on duties connected with the elections.

I do not know whether this will also form part of the regulations, but it has been brought to my notice that there are some people who live in very remote areas and who are called upon, if no change is made, to travel many, many miles to cast their votes when other polling stations are nearer than the ones to which they have been assigned. For example, there is a place in the Berbice River area named La Prudence where the people have to travel as far away as 12 miles when, in fact, they could be made to exercise their franchise at Mara or Schoepmoed. Why should these people be made to experience such inconvenience when they could go to a nearer polling station?

I have heard it said that in the Supenaam Creek area there are people who will have to go to Wakenaam to vote when they could vote at a polling place nearer their residence. I am wondering whether the people who are connected with these provisions and with this

[Mr. JACKSON]

matter are conversant with the true position. I am also wondering whether they toured the country, particularly the remote areas, to see where the people live in relation to the polling stations.

It might be said that if a man is interested in his country's future; if a man is interested in what is going on, politically, at elections time he should be prepared to make every form of sacrifice. With that I would agree, but I would say on the other hand: Why did the Government, which is responsible for preparing the regulations, not examine the need for making everything much more convenient than it is inclined to do at the moment? Not only would it be difficult because of the number of miles away from the polling stations but, in this country where the system of transportation is so very bad in many areas, it seems to me imperative that the Government should take the polling places nearer to those people's residence.

Take, for example, the Berbice River area where the steamer, operated by the Government, runs once a week, and where every other person has to move about in a boat. It will be difficult for those people to find boats to travel on election day. That is something which should be given very serious consideration. Where there are no roads or trains or steamers, extra provision and consideration should be given to those people. I wish the comments I have made about the very remote areas would be given very serious thought by the Government, and that we would not be told the idea has been rejected.

I feel that, with such a matter as the one before Council, Government might have been willing to accept the proposal that it be referred to a Select Committee which can hammer out these difficulties. Both sides would be able to apply their full knowledge to the difficulties which

are going to confront people in August 1961, and find a solution to them. Since there are many things which are going to be involved in the elections; since there are many things which may prevent people from getting to the polls on election day, I would suggest that this Bill be referred to a Select Committee as early as possible.

The Chief Secretary: Government would like ———

Mr. Bowman: Mr. Speaker, I would like to find out whether the Chief Secretary is replying?

Mr. Speaker: Yes.

Mr. Bowman: I was waiting until you had finished speaking to the Clerk. There are certain features of the Bill with which I am not in agreement, for the simple reason that this election which will be held on August 21, is the most important election Guianese will be experiencing. I have been informed, by all sections, that quite a number of young people who have not reached the age of 21 have been registered, and I feel that the provision which is made in this Bill for false information and impersonation is not severe enough to act as a deterrent. I feel that persons found impersonating or giving false information should be made to pay \$250 and not only two months' imprisonment, but six months because by one vote a candidate can lose an election; and if six candidates lose their elections by such acts, the whole of the elections can be turned in favour of certain parties.

As I said, I am going to ask that that part of the Bill be amended to include that six months and a fine of \$250 should be given to such persons found violating that law.

There are other parts of the Bill with which I do not agree. We find in section 27(4):

"Where there is contained in the official list of electors a name, address and occupation which correspond so closely with the name, address and occupation of a person by whom a ballot paper is demanded as to suggest that the entry in such official list of electors was intended to refer to him, such person shall upon taking an oath or making an affirmation in the form set out as Form No. 11 in the first schedule and complying in all other respects with the provisions of this Ordinance, be entitled to receive a ballot paper and to vote".

We find that provision is made, also, in subsection 5:—

"An elector, if required to testify as to his right to vote by the presiding officer, the poll clerk, one of the candidates, or an agent of a candidate, or by an elector present, shall, before receiving his ballot paper, take an oath or make an affirmation in the form set out as Form No. 12 in the first schedule and if he refuses to do so, an entry to that effect shall be made in the poll book and erasing lines shall be drawn through his name on the copy of the official list of electors furnished in subsection (1) of section 34. . . ."

I feel that any person, after having made such claims, is given a ballot-paper and then refuses to answer what he is called upon to answer, should be charged with

intent to mislead and impersonate some other person. These, I think, are things which are necessary, and when the Bill reaches Committee stage, I shall move an Amendment.

The Chief Secretary: Sir, the hon. Member for Georgetown Central accused me of discourtesy in not explaining why a number of Clauses in the Original Ordinance have been repealed. The hon. Attorney-General has already explained that these various sections are to be covered by a new Bill separate and distinct from this. I am not at the moment in a position to reply to a number of points made which will call for consideration, and I beg leave to report progress on the Bill so that the various matters raised can be gone into.

I move that this Council do adjourn until Wednesday, 31st May, 1961, at 2 p.m.

Mr. Speaker: Council now stands adjourned until Wednesday next at 2 p.m.

Council adjourned accordingly at 5.05 p.m.