

# SECOND LEGISLATIVE COUNCIL

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

Thursday, 14th May, 1959

The Council met at 2 p.m.

## PRESENT :

**Speaker**, His Honour Sir Donald Jackson

**Chief Secretary**, Hon. M. S. Porcher, acting

**Attorney-General**, Hon. G. M. Farnum, acting.

**Financial Secretary**, Hon. F. W. Esscx.

} *ex officio*

The Honourable **Dr. C. B. Jagan**

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

„ „ **B. H. Benn**

— *Member for Essequibo River*  
(Minister of Community Development and Education)

„ „ **Janet Jagan**

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

„ „ **Ram Karran**

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

**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**

*Member for Georgetown Central*

„ **S. Campbell**

*Member for North Western District*

„ **A. L. Jackson**

*Member for Georgetown North*

„ **B. S. Rai**

*Member for Central Demerara*

„ **S. M. Saffee**

*Member for Western Berbice*

„ **Ajodha Singh**

*Member for Berbice River*

„ **J. N. Singh**

*Member for Georgetown South*

„ **A. M. Fredericks**

*Nominated Member*

„ **H. J. M. Hubbard**

*Nominated Member*

**A. G. Tasker, O.B.E.**

*Nominated Member.*

**Mr. I. Crum Ewing** — Clerk of the Legislature

**Mr. E. V. Viapree** — Assistant Clerk of the Legislature.

## ABSENT:

**Mr. E. B. Beharry**

**Mr. R. E. Davin**

*Handwritten signature*

## MINUTES

The Minutes of the meeting of the Council held on Friday, 8th May, 1959, as printed and circulated, were taken as read and confirmed.

## ANNOUNCEMENTS

## GOVERNOR'S MESSAGE

## RESIGNATION OF MR. BEHARRY

**Mr. Speaker:** Hon. Members, I am about to read a Message from His Excellency the Governor. The text is as follows:

"Dr. Jagan, as leader of the Majority Party, has informed the Governor that he and his other elected colleagues in Executive Council are no longer able to work with Mr. Beharry as a Member of the Executive Council and Minister. His Excellency in consequence, to preserve the essential unity of the Executive, has asked Mr. Beharry to tender his resignation as a Member of the Executive Council, and Mr. Beharry has done so."

## PUBLICATION OF NOTICE OF MOTION

I wish to direct the attention of Members of the Council to what appears in "The Daily Chronicle" of today's date, Thursday, 14th May — a paragraph headed "G.I.M. Protest New P.M.G." which reads as follows:

"Acting on a decision of the Executive of the G.I.M., Mr. Jai Narine Singh, Leader of the Movement, has dispatched to the Clerk of the Legislative Council a protest motion regarding the appointment of a non-Guianese to be Postmaster-General of this Country."

It is indeed true that such a Motion was received by the Clerk of the Legislative Council. I do not know how that communication reached the newspaper, but I wish to say that when a publication like this appears in the Press members of the public may be inclined to think that Members of this honourable Council are derogating from the scruples which are attendant on the best parliamentary

conduct. I wish to ask, therefore, that hon. Members will take some care in dispatching or putting aside their papers, so that unauthorized persons may not see them. I can assure you that members of the office staff do their best to see that no unauthorised or irresponsible persons see such papers before they are ready for publication.

This announcement appeared in the newspaper before we even had an opportunity to let the hon. Member know whether his Motion was acceptable or not. I do think that we should all try to ensure that no wrong impressions are given to the public and, at least, that nothing should be known until the preliminaries have been properly gone through.

## ORAL ASKING AND ANSWERING OF QUESTIONS

## CRIMINAL APPEALS TO FEDERAL SUPREME COURT

**Mr. Rai:** I wish to ask the hon. the Attorney-General Question No. 4 standing in my name on the Order Paper.

*Question 1:* In view of the decision of the Full Court of the Supreme Court (sitting in its appellate jurisdiction) in the matter of *Antonio Bolton Bernarai v Patrick McDougall*, will the Honourable the Attorney-General undertake to recommend to Government the initiation of legislation to amend the Summary Jurisdiction (Appeals) Ordinance, Chapter 16 of the Laws of British Guiana, whereby any person aggrieved by the decision of a Magistrate would be entitled to appeal to the said Court?

*Question 2:* Will the hon. the Attorney-General say when does Government propose to bring into operation Part III of the Federal Supreme Court (Appeals) Ordinance, 1958, viz., that Part which deals with Criminal Appeals from the Supreme Court and the Magistrate's Courts?

**The Attorney-General:** (Mr. Farnum, acting): The replies to the hon. Member's questions are:

*Answer 1:* If the hon. Member will submit in writing his reasons for considering the enactment of such legislation to be necessary, his representations will be considered.

*Answer 2:* Government proposes to bring into operation Part III of the Federal Supreme Court (Appeals) Ordinance, 1958, when a full complement of judges has been appointed to the Federal Supreme Court, and the Court intimates that it is ready to deal with appeals from decisions of the Supreme Court and the Full Court sitting as an appellate court to hear appeals from Magistrate's Courts.

#### ARREST OF PERSONS FOR QUESTIONING

**Mr. Rai:** I wish to ask the hon. the Attorney-General Question No. 5 standing in my name on the Order Paper.

*Question 1:* Will the hon. the Attorney-General undertake to issue instructions to the Police to discontinue forthwith the practice of arresting persons for questioning and detaining such persons pending investigations?

*Question 2:* Will the hon. the Attorney-General undertake to issue instructions to the Police to furnish to counsel for defendants or accused persons, upon request, copies of statements made to the Police by such persons before the trial or the preliminary investigation of their cases in the Magistrate's Court?

*Question 3:* Will the hon. the Chief Secretary undertake to issue instructions to the Police to make available for inspection by counsel for defendants or accused persons, upon their request, statements made to the Police by such persons before the trial or the preliminary investigation of their cases in the Magistrate's Court?

**The Attorney-General:** The replies to the hon. Member's Questions are:

*Answer 1:* No, Sir. Sections 17 (1) (c), 17 (1) (e) of the Police Ordinance empower the Police to arrest without warrant persons suspected of having committed felonies, misdemeanours or breaches of the peace.

Section 19 empowers the Police to stop, search and detain any person reasonably suspected of having or conveying anything stolen or unlawfully obtained. Where any person has been arrested in the above circumstances it is the duty of the Police to make all necessary investigations which in most cases include questioning the suspect.

Police Orders lay down that a person arrested without warrant must be charged formally within twenty-four hours, or be placed on bail under section 21(b) of the Ordinance.

Before arresting any person without a warrant, a constable must have reason to believe that such person has committed an offence.

*Answer 2:* No, Sir. By section 73 of the Criminal Law (Procedure) Ordinance, Chapter 11, an accused person committed for trial is entitled to have a copy of the depositions taken at the preliminary enquiry before the magistrate. These depositions would contain any statements made by the accused and tendered in evidence.

The Police make available to the defence copies of statements made by accused persons after such statements have been tendered in evidence.

*Answer 3:* No, Sir.

**Mr. Burnham:** Part 1 of Question 5: Mr. Speaker, does the hon. the Attorney-General know that the police have on several occasions kept people at

[MR. BURNHAM]

the station without charging them or putting them on bail, for as long as 48 hours? I have known that [*Pause*]. I ask the question, Mr. Speaker: is he aware?

**The Attorney General:** Such reports have been made and have been duly investigated.

**Mr. Burnham:** I would like to know what are the results of those investigations. It is not for us to hear that when people are robbed of their liberties. [*Pause*]. Mr. Speaker, I am entitled to an answer as long as it is a proper Supplementary Question.

**The Attorney-General:** It is not a Supplementary Question, and if my Friend desires further information he should submit his Questions in writing.

**Mr. Speaker:** It is entirely a matter for the Attorney-General if he will answer the question or not. It is not a matter for the Speaker. I have said so in this Council before, and I am not original in that. My authority is the "bible" — "May's Parliamentary Practice".

**Mr. Burnham:** I am grateful for your ruling.

**Mr. Speaker:** It is not my ruling. There is no means by which I can compel him to answer.

**Mr. Burnham:** That is why I expressed gratitude. Because the Government always seeks to hide behind that. But may I ask a Supplementary Question to Question 2 of Question 5? What are the reasons for Government being unwilling to make available statements of persons before preliminary investigations? [*Pause*]. Silence which Pilate would have envied.

As a Supplementary, Sir, to Question 2, or Part 2 of Question 4 — it has been so badly put up by the Attorney-General—

**Mr. Speaker:** Only a Question, no comments.

**Mr. Burnham:** My apology. Has the profession been consulted with respect to bringing into operation Part III of the Federal Supreme Court Ordinance, 1958? [*Pause*]. It is like Edgar Allan Poe's "Raven" — "... and answer came there none."

**Mr. Rai:** Is the Attorney-General aware of the fact that often the Police arrest persons without ever charging them?

**The Attorney-General:** That happens of necessity. As already pointed out, the Police Ordinance empowers a constable to arrest persons suspected of having committed felonies, misdemeanours, or breaches of the peace. It is set out in the reply.

**Mr. Rai:** May I ask the hon. the Attorney-General if he read a decision of the Full Court in the matter of *Bernarai vs. McDougall* and if he would give his opinion whether the Government should introduce legislation; and whether—

**Mr. Speaker:** I do not think it is a proper question to ask, if the Attorney-General has read a decision. It might be put a little more politely.

There is another Question standing in your name.

**Mr. Rai:** Yes, Sir. I beg to ask the hon. the Financial Secretary Question No. 6, standing in my name on the Order Paper.

#### B.G. CREDIT CORPORATION

**Question 1:** Is the hon. the Financial Secretary aware that Mr. William George Carmichael, Manager of the British Guiana Credit Corporation, charges and receives fees in his capacity as a Barrister-at-law, in respect of, *inter alia*, instructions which he signs and

issues to the Registrar of Deeds to advertise mortgages in favour of the Corporation?

**The Financial Secretary** (Mr. Essex): The answer to that is, yes, Sir.

*Question 2:* If the answer is in the affirmative, will the hon. the Financial Secretary say—

- (a) how much money has been received by the said William George Carmichael over the past three years?
- (b) whether those sums have been paid into the revenue of the Colony; and if not, why not?
- (c) whether instructions will be issued to him to discontinue the practice of collecting fees?

**The Financial Secretary:** Sir, the answer to this part of the Question is as follows:

(a) \$3,094 for the years 1957 and 1958.

(b) No, Sir. He is not a Government servant and fees are not for services provided by the Government. The Board of the Credit Corporation approved retention by Mr. Carmichael of fees for such legal work in 1957.

(c) No, Sir. It is a matter for the Board by Law. The Board by Section 6 (1) of its Ordinance is enjoined to appoint a General Manager and other officers at such remuneration and on such terms and conditions as it thinks fit subject only to the proviso that no salary above \$4,800 a year shall be paid without the prior approval of the Governor-in-Council.

#### ORDER OF THE DAY

#### SUMMARY JURISDICTION (PROCEDURE) (AMENDMENT) BILL

**Mr. Speaker:** We are to resume consideration of the Bill intituled

"An Ordinance to amend the Summary Jurisdiction (Procedure) Ordinance"

in Committee.

#### COUNCIL IN COMMITTEE

Council resolved itself into Committee to consider the Bill Clause by Clause.

Subsection (12) of Clause 2 passed as printed.

**Mr. Jackson:** With respect to subsection (13), I beg to move that we delete the words "twenty-one" in the first line and insert the words "forty" instead. I do this in the firm belief that Members of the Legislative Council must have adequate time to study the Regulations or proposals put before them by the Government in this matter, and a period of 21 days is too short for this purpose. I have made a request like this before, but it was not accepted. I think this is an appropriate time to grant such a request, for 40 days instead of 21.

**The Attorney-General:** It must be borne in mind that the procedure outlined in this Bill relates only to very minor offences, chiefly traffic offences; and surely it should not take 40 days to decide whether or not this procedure should apply to minor offences. Twenty-one days seem to be quite adequate.

**Mr. Jackson:** That is as the Attorney-General sees the circumstances, but we are not concerned here with what the offences are. We are more concerned with the principle involved. While a period of 21 days may be considered adequate, it may be that during those 21 days there is no meeting of this Council; it may well be that we are in recess. It has happened time and again that no meetings of this Council have been held for three or four weeks. If these points are borne in mind, there should be no objection to my request.

**The Attorney-General:** The hon. Member has apparently omitted to read the latter part of the preceding subsection, (12) which states—

"... if the Legislative Council is not then sitting, within fourteen days after the commencement of the next ensuing sitting."

## [THE ATTORNEY-GENERAL]

I would have no objection to an Amendment if it includes wording along the lines of the last part of subsection (12), as quoted.

**Mr. Burnham:** That will not, I say with respect, make much sense. I wish that Government would be a little more pliable and accept an amendment for 40 days. I can see no objection to 40 days because not only legislators but other persons who are interested may wish to make representations through legislators. I cannot see how you can extend the time if the Council is not sitting. Clause 2 (13) states—

"If, within twenty-one days after such order is laid before the Legislative Council, a resolution is passed by the said Council that the order or any part of it be annulled, it shall thereby be annulled to the extent set forth in the resolution, and the order, or part thereof, so annulled shall thenceforth become void and of no effect."

The point is that you cannot make a decision if the Council is not sitting. Let us make it 40 days, the normal period for laying Orders.

**The Minister of Trade and Industry (Dr. Jagan):** What would happen if the Council were in recess for two months? I think the suggestion put forward by the hon. the Attorney-General will meet the wishes of hon. Members.

**Mr. Burnham:** I wonder whether the hon. Minister who has interposed in this argument, which I think is beyond his depth, will explain how he would embody the particular Amendment to which he refers?

**Dr. Jagan:** This is a principle, but what you are introducing will defeat the object of the Bill.

**Mr. Burnham:** I should be grateful if this "learned" gentleman would tell us how this particular Amendment could be embodied in subsection (13).

**Mr. Jackson:** If the proposal of the hon. the Attorney-General is to be accepted, he should move the Amendment himself and tell us how he proposes to insert the words he has in mind.

**The Attorney-General:** I beg to move the following Amendment to Clause 2 (13):

Insert the words "and if the Legislative Council is not then sitting on the last day thereof within 14 days after the commencement of the next ensuing sitting" between the words "Council" and "a" in the second line.

**Mr. Burnham:** That, again, makes no sense, because the Legislative Council may not be officially sitting today, but if it sits tomorrow you will only get 14 days.

**The Attorney-General:** I should be most grateful to know what the hon. Member wants.

**Mr. Burnham:** We are convinced that, in practice, 40 days outright must give us a meeting or two. Government does not want to accept the suggestion because it comes from this side of the Table. I am sure I have the support, though it may not be expressed, of the hon. Member for Central Demerara.

**The Chairman:** Have we got specialists in thought-reading here? I was not aware of that.

**Mr. Burnham:** We can make guesses, Sir.

**The Chairman:** There are two Amendments before us. The first Amendment is moved by the hon. Member for Georgetown North that the word "forty" be substituted for the words "twenty-one" in the first line. Then there is the Amendment by the hon. the Attorney-General that the following words be inserted after the word "Council" in the second line: "and if the Legislative Council is not then sitting on

the last day thereof within 14 days after the commencement of the next ensuing sitting." Is this all?

**Mr. Burnham:** You cannot lay an Order unless the Council is in session. This certainly does not make sense.

**The Chairman:** You will observe that I asked the hon. the Attorney-General if that is all.

**Mr. Burnham:** How can you lay an Order when the Council is not sitting?

**The Chairman:** The hon. the Attorney-General, who is the legal adviser to the Government, says that this Amendment stands. If this is his considered view—I take it that the hon. the Attorney-General gives no other than a considered opinion—I shall put the Amendment to the Council. The Amendment reads as follows:

"If, within twenty-one days after such order is laid before the Legislative Council and if the Legislative Council is not then sitting on the last day thereof within fourteen days after the commencement of the next ensuing sitting, a resolution is passed by the said Council that the order or any part of it be annulled, it shall thereby be annulled to the extent set forth in the resolution, and the order, or part thereof, so annulled shall thenceforth become void and of no effect."

**The Attorney-General:** The words "is not then sitting on the last day thereof" should be inserted.

**Mr. Burnham:** What an Amendment!

**The Chairman:** I have already mentioned those words. Perhaps I should read the Amendment again. I am always very careful about these things so that Members would not properly be heard to say they did not understand—I do not presume or assume that there is knowledge. The Amendment reads:

"If, within twenty-one days after such order is laid before the Legislative Council and if the Legislative Council is not then sitting on the last day thereof within fourteen days after the

commencement of the next ensuing sitting, a resolution is passed by the said Council that the order or any part of it be annulled, it shall thereby be annulled to the extent set forth in the resolution, and the order, or part thereof, so annulled shall thenceforth become void and of no effect".

Question put, and agreed to.

**Mr. Burnham:** I am against the Amendment.

**The Chairman:** The question is, that subsection (13), as amended, stand part of the Bill.

**Mr. Burnham:** I submit that Mr. Jackson's Amendment should be put to the Committee. The Amendment is not inconsistent with what is before the Committee.

**The Chairman:** I am sorry; I had forgotten his Amendment. The other Amendment is that the word "forty" be substituted for the words "twenty-one".

The Committee divided and voted as follows:

<i>For</i>	<i>Against</i>
Mr. Tello	Mr. Tasker
Mr. Jackson	Mr. Hubbard
Mr. Campbell	Mr. Fredericks
Mr. Burnham	Mr. Gajraj
Mr. Kendall.—5	Mr. Jai Narine Singh
	Mr. Ajodha Singh
	Mr. Saffee
	Mr. Rai
	Mr. Ram Karran
	Mrs. Jagan
	Mr. Benn
	Dr. Jagan
	The Financial Secretary
	The Attorney-General
	The Chief Secretary.—15

**The Chairman:** The Amendment is lost.

**Mr. Burnham:** Certainly the hon. the Attorney-General and his colleagues must realize that there must be a consequential Amendment to Clause 14.

**The Chairman:** The question is, that subsection (13) as amended, stand part of the Bill.

Agreed to.

**The Attorney-General:** I may assure the hon. Member that the necessity for a consequential amendment to subsection (14) was apparent even before he spoke. I would like to substitute for the words "within the period of twenty-one days after it is laid before the Legislative Council, been annulled" the words "been annulled in the manner prescribed by subsection (13) of this section."

Amendment put, and agreed to.

Clause 2, as amended, passed.

New Clause 3. — *Amendment of section 12 of the Principal Ordinance.*

**The Attorney-General:** I desire to move a further Amendment by inserting a new Clause 3 which has been circulated. Subsection (2) of Section 12 of the *Summary Jurisdiction (Procedure) Ordinance* provides that a Magistrate may permit a defendant to appear by counsel, but may at any time withdraw such permission. This Amendment is based upon the provisions of the *Magistrate's Court Act of 1952*, and it speaks for itself. It reads:

"3. Subsection (2) of section 12 of the *Principal Ordinance* is hereby repealed and the following substituted therefor—

"(2) a defendant in any proceedings before the court may be represented by counsel and any defendant so represented shall be deemed not to be absent:

Provided that the appearance of a defendant by counsel shall not satisfy any provision in any enactment or any condition of any recognizance expressly requiring his presence."

**Mr. Tello:** Do I understand that Clause 3 of the Bill is deleted and this new Clause 3 is inserted?

**The Attorney-General:** At the proper time the printed Clause 3 will be re-numbered as Clause 4. As part of the Amendment I now move that the printed Clause 3 be re-numbered Clause 4.

New Clause 3 agreed to and the printed Clause 3 re-numbered Clause 4.

**Mr. Hubbard:** I beg to move the insertion of a new Clause 5 to read:

"This Ordinance shall have effect for one year from date of its coming into force and may be renewed annually by resolution of the Legislative Council."

When we discussed here the question of road safety I was one of those who expressed the opinion that we should find some means of letting users of the road keep forever on their shoulders a reminder that there was every necessity for careful use of the road. I am satisfied that this piece of legislation is an attempt to provide such a reminder, and that being the case I have given my support to the measure. I feel, however, that we must bear in mind the occasional exuberance shown by young officers of the Police Force. I have in mind an occasion, not so long ago, when the Police assembled lorries at major roads and bundled people and their bicycles into them.

I move this Amendment with the object of ensuring that in the hands of those who have to administer this legislation it will not become a burden on the public. It is one thing to have legislation kept under review, and another thing to ensure that those who are charged with administering that legislation are at all times aware that the weight of public opinion is constantly brought to bear upon their action under that legislation, and that if they abuse it the law could very easily be brought to an end.

I feel that we have to do something in order to make our roads safer, and I agree that it is necessary to have some means of letting the ordinary road user carry around with him a reminder that he is engaged in a dangerous undertaking, and that he should use the roads carefully for his own safety and the safety of others. But it seems to me that we should let the administrators of this legislation realize that they cannot take the public for a ride, and that they have to exercise discretion and temperance. I therefore feel that if a limit is put on this

legislation members of the public would be much more tolerant when strictures are placed upon them.

**Mr. Tello :** I want to be sure that our procedure is correct. I understand that we approved of the re-numbering of Clause 3, but I have no recollection that the re-numbering of Clause 4 was ever put.

**The Chairman:** I put the Question and I even remarked that Members were talking and not paying attention. Then I heard "Yes" and I said that I heard "Yes" on this side of the Table but no reply from the other side. Then I put the Question again and Members said "Yes"

**Mr. Tello:** Very well, Sir. As long as you are satisfied that it was put and that the record is straight, I am satisfied.

**The Chairman:** I repeat myself often so as to make sure that Members pay attention. I would like to do it once, but this is not an army where an order is given once and everybody pays attention. It is a bad habit to repeat orders. I believe in doing it once, but here I have to do it over and over again.

**Mr. Tello:** I have listened with some interest to the Amendment put forward by the hon. Nominated Member, Mr. Hubbard. He seemed to be belatedly arguing that the Administration in his view does not have the experience, nor is it temperamentally suited to carry out this experiment.

We all agree that we must do something to make the flow of traffic less dangerous and the roads safer and more comfortable to use. What the hon. Member is now saying is that in the hasty processing of this Bill, consideration was not given to how the application of it would turn out. Is our Police Force ready to administer this new provision? I am not myself questioning it. The hon. the Attorney-General referred to Surinam, but in his rather eloquent speech he omitted

to say that out of experience the Surinamers found it necessary to build cycle lanes so as to make traffic a little easier for the general public. I do not think the hon. Member would overlook the experience of a neighbouring country when American or Canadian practice is too advanced to follow in every way.

I believe that the Road Safety Association has some good ideas and I think it has plans to suggest to Government; I do hope that all these matters will be taken into consideration. Government is shirking its responsibility by introducing this piece of legislation, and the hon. Nominated Member is saying, "Let us create"——

**Mr. Hubbard:** To a point of order! I have no objection to the hon. Member quoting me, but when he wishes to refer to things that I said and uses words which are completely different from those which the record contains, I must object.

**Mr. Tello:** I am simply saying that the hon. Member said that it is better to have a sort of awareness on the part of the public that there is a possibility of revision and that they are under supervision from day to day, than to introduce something which we all are not quite happy about. He said this in better words. I quite agree with him .

Still I say this, that possibly this legislation may be necessary, but later. At the moment I think we should introduce cycle lanes as a try-out, and build more side-walks. Many of the streets of Georgetown have no side-walks, and therefore the people have not altogether been encouraged to walk at the side of the roads. Now you are going to introduce unfair legislation in order to make the public better users of the road.

What also strikes me is that you are going to ask the wealthy fellow who can afford it and who is guilty to pay \$5 on the spot, while the poor cyclist who is charged will have to go to court to pay the same amount which he will have to

[MR. TELLO]

save up in two weeks, if he is guilty. The hon. the Attorney-General told us that by means of this summary procedure people will no longer have to wait indefinitely to appear in Court, because the Ordinance will provide for their appearance at least 14 days after the notice, and there is no compulsion that it should be at least 14 days.

The Amendment seems to safeguard all those points. It says that this Ordinance should have effect for one year from the date of its coming into force and may be renewed annually by resolution of the Legislative Council. At least that gives the opportunity for experiment and revision. There is need for such a new Clause 5, and the wording speaks loudly for itself. It also shouts loudly from the house tops that we are not quite satisfied that without it we are doing the fair and just thing, although the intentions are good.

Having lost all my amendments I am forced to support this one, as a last resort. If after 12 months the Legislative Council will have a chance to review the Ordinance, I will accept it.

**Mr. Tasker:** I would like to say that the hon. Nominated Member (Mr. Hubbard) in moving the Amendment made it quite clear that he supported whole-heartedly the principle of the Bill. I hope the Government will tell us whether, in fact, the Amendment proposed is good law, having regard to Mr. Hubbard's reservation.

I feel that any efforts we are making now for the improvement of road safety regulations must be inevitably in the nature of experiments, since we have so very little experience to go on and, of course, the growth of our traffic is so recent. I support the hon. Member, Mr. Hubbard's intention, if it makes sense in law, that we should have this power of review at the end of the year. I personally would support it in practice and in principle.

**The Attorney-General:** I think we are making heavy weather of a reasonably simple measure. It is not designed to impinge upon the liberty or the rights of the subject. When moving the Second Reading, I pointed out that the offences to which it is sought to apply this procedure are offences of a minor nature, such as failing to comply with the terms of provisional licences, speeding, neglect of traffic directions, towing, riding more than two abreast, driving without licence — all minor offences which in the present state of our roads increase the hazards we see around us at all hours of the day. I also pointed out that the fines to be paid by any person who admits he is guilty were very small — \$2, \$5 and such amounts. I also said that the Governor in Council could not prescribe a high scale of fees, because if that were done, no one would take advantage of the provision in this Bill, and the whole terms of the legislation would be defeated by Government itself.

This Bill seeks to insert in a permanent piece of legislation certain other provisions, and while I appreciate the fact that hon. Members would like to point out that the provisions of this Bill do not give the Police special power to be nuisances, I must say that if the Police want to be nuisances they can be nuisances. This Bill seeks to enable the Police to be solicitous and enthusiastic where they now are apathetic because of the complete waste of time brought about by a cumbersome procedure in bringing people to court for a \$2 fine.

I am perfectly sure that if, after a reasonable time and after investigation, this Bill proves to be creating unnecessary hardship, steps would be taken to remove such a provision. I do not think Government would continue in force something which is causing oppression to the cyclist in the street.

**Dr. Jagan:** I was glad to hear the hon. the Attorney-General give the assurance that if the police were found

to be abusing their power, then the Government would take the necessary steps to remedy whatever needs to be remedied, if necessary, by legislation. I can assure hon. Members that there is no intention on the part of Members of this side of the Council to take away the liberty of the people in this country.

I am, therefore, very much pleased that the hon. the Attorney-General has given that undertaking. I can also assure hon. Members that everything will be done in a manner that will satisfy the wishes of the people and allay the fears of Members on the other side who have spoken on the matter.

**Mr. Hubbard:** In view of the assurance given by the hon. the Attorney-General and the hon. Minister of Trade and Industry, I beg to withdraw my Amendment.

Question put, and agreed to.

Amendment, by leave, withdrawn.

**The Attorney-General:** I beg to move that the Council resume and—

**Mr. Gajraj:** What about the Schedule?

**The Chairman:** The question is, that the Schedule, Form 3A, stand part of the Bill.

Agreed to.

Schedule passed as printed.

Council resumed.

**The Attorney-General:** I beg to report that the Bill has been considered in Committee, and to move that it be now read the Third time and passed.

Question put, and agreed to.

Bill read the Third time and passed.

## FULL COURT (FINAL DECISIONS) BILL

**The Attorney-General:** I beg to move the Second Reading of a Bill intituled

“An Ordinance to preserve the finality of certain decisions of the Full Court of the Supreme Court.”

I trust that hon. Members will find nothing controversial in this piece of legislation. As stated in the Objects and Reasons, Part II of the Federal Supreme Court (Appeals) Ordinance, 1958, which came into force on the 5th June, 1958, prior to the coming into force of this bit of legislation there was no right of appeal to the West Indian Court of Appeal from decisions of the Full Court of the Supreme Court.

Part II of the Federal Supreme Court (Appeals) Ordinance, 1958, confers, however, a restricted right of appeal to the Federal Supreme Court from decisions of the Full Court in cases where it is not provided by law that such decisions should be final. Having regard to this provision this Bill seeks to declare that decisions of the Full Court given in exercise of special jurisdiction conferred on the Court by certain Ordinances shall be final, and these cases are set out in the Schedule to the Bill.

Item 1 of the Schedule refers to Section 25 of the Immigration Ordinance, Chapter 98. Under this Section the Full Court sits as a Court of Appeal from the decision of a magistrate on appeal from a decision of the Immigration Officer if the person is a prohibited immigrant. Surely it does not seem necessary to go all the way to the Federal Court to decide whether someone seeking to enter this Colony is a prohibited immigrant or not. In such cases it is considered that the decision of the Full Court should be final.

Item 2 refers to Section 16 (13) of the District Lands Partition and Re-allot-

## [THE ATTORNEY-GENERAL]

ment Ordinance, Chapter 173. In this case it is sought to make final and conclusive any decisions by the Full Court on appeal from a judge in chambers sitting on appeal on any order by a District Lands Partition Officer under the District Lands Partition and Re-allotment Ordinance.

Reference has also been made to Section 74 of the Mining Ordinance, Chapter 196. In this case it is sought to make final decisions of the Full Court sitting on appeal from decisions in the Supreme Court on appeal from the decision of a warden or District Commissioner in a mining dispute.

In the next case it is sought to make final the decision of the Full Court on the hearing of an appeal against the refusal of the Prescribed Authority to grant a licence to operate a hire car.

In the next case it is sought to make final the decisions of the Full Court on the hearing of appeals from the Customs Tariff Tribunal.

Finally, to make final the decisions of the Full Court on the hearing of appeals from the decisions of the Intoxicating Liquor Licensing Board.

**Dr. Jagan:** I beg to second the Motion.

**Mr. Burnham:** Have I heard the hon. the Attorney-General correctly?

**Mr. Speaker:** I did not see you in the Chamber when the hon. the Attorney-General was addressing the Council.

**Mr. Burnham:** I have the capacity to hear without being seen, Sir. If I heard the hon. the Attorney-General correctly when he was introducing this Bill, he said that he saw nothing controversial in it and was expecting it to have an easy passage. I am afraid that, although I am in agreement with the

matter so far as certain items in the Schedule are concerned, I do not find the Bill absolutely non-controversial. It seems to me that it is most undesirable to include Section 25 of Chapter 98 in this Schedule, because it is bound up with freedom of travel, the right of an individual to come to British Guiana and the right of the executive authority to decide who is or who is not a prohibited immigrant. I feel that the right of appeal, so far as the immigrant is concerned, should be preserved right on to the Federal Supreme Court. This Section also deals with appeals from the decision of the Immigration Officer, and it should not stop at the Full Court of Appeal.

What is more, one finds that the Immigration Ordinance in British Guiana is somewhat similar to the Immigration Ordinance which one finds in places like Trinidad. I think it would be well for all of these territories to have the Federal Supreme Court as their Appellate Tribunal and let their appeals go before that Tribunal, so that they would have a uniform system of law. I would not credit the Government with cynicism by attempting to prevent one who is deemed a prohibited immigrant from going to the Federal Supreme Court. I would credit that to an oversight, or the fact that Members of the Government do not appreciate what is meant by the term prohibited immigrant.

I take exception to Section 16 (13) of the District Lands Partition and Re-allotment Ordinance, Chapter 173, being included in this legislation because this Ordinance in its application deals with what may be important rights to property, and I cannot understand what desire there is on the part of the Government to prevent persons who are interested from going to the Federal Supreme Court if they are dissatisfied with one judgment or another.

So far as I am concerned I would permit practically any subject or matter to be appealable as far as the Federal

Supreme Court. I cannot understand this *penchant*, this great desire for finality so far as the Full Court of Appeal decisions are concerned. In fact, with all due respect to those who occupy judicial office, I would say that in normal circumstances one is likely to get a much more reasoned judgment if the Court giving a judgment is aware of the fact that its decision is appealable.

I am not saying that all such persons who have to give decisions are necessarily affected one way or another. I know that you will find several judges who, whether their decisions are appealable or not, will apply their acumen, learning and care in delivering judgments and the formulation of decisions.

However, unhappily, that is not the universal rule, and to give finality in important matters such as the two I have referred to seems to me not merely to be courting trouble, but to be robbing citizens and Guianese of the right to have a case decided on by a series of tribunals. During the course of each decision from the lower court to the higher court more minds will be applied to the subject and greater wisdom is likely to be found in the end.

So far as the Motor Vehicles and Road Traffic Ordinance is concerned I have no quarrel with this Schedule, but I have my misgivings with respect to the Mining Ordinance, Chapter 196, Section 74. Not only can intricate matters or points of law arise when the Commissioner or the Deputy Commissioner gives a decision under the Regulations, but the rights of individuals can be rights attaching to most valuable pieces of property, and it would seem a pity that whereas, if a dispenser for one reason or another is robbed of the right to practise as a dispenser he can go to the Federal Supreme Court, litigants who are interested in valuable mining leases are stopped at the Full Court.

May I repeat that I am not casting any aspersions on the ability of those

who sit in the Full Court, but I am saying that the system of appeals from one tribunal to another has been found necessary because, during the course of these appeals there are more legal brains and minds applied to the subject, and there is the presumption that by the time an appeal reaches the highest tribunal the correct view of the law will have been got, and that wisdom will have triumphed. In the circumstances I must express my unequivocal opposition to the inclusion of items 1, 2 and 3 of the Schedule.

**The Attorney-General:** I wish merely to observe that this Bill does not seek to take away from any person the right he had before the coming into force of the Federal Supreme Court (Appeals) Ordinance, because there was no right of appeal from a decision of the Full Court to the West Indian Court of Appeal. So really there is no question of robbing a citizen of his rights, and to some extent the Bill merely preserves in one sense the *status quo*.

Question put, and agreed to.

Bill read a Second time.

#### COUNCIL IN COMMITTEE

Council resolved itself into Committee to consider the Bill Clause by Clause.

Clauses 1 and 2 passed as printed.

Clause 3. — *Amendment of Schedule.*

**Mr. Burnham:** I wish to move an Amendment to subsection (3) of Clause 3 by substituting the word "forty" for the word "twenty-one" in the first line. This question of delegated legislation is a very important one, and legislative powers are very sparingly delegated in many parts of the democratic world. When the necessity does arise to delegate those powers a period of 40 days is allowed for such legislation to be laid

[MR. BURNHAM]

before the House of Commons, so that 21 days seems too short a period in this case.

**The Attorney-General:** I propose another Amendment to subsection (3) for clarity. I move the insertion of the words "or if the Council is not then sitting on the last day aforesaid, within twenty-one days after the next ensuing sitting of the Council", between the words "Council", and "a" in the second line. ,

**Mr. Burnham:** Mr. Chairman, I cannot understand what is "the last day as aforesaid", after reading subsection (3), as there is no day referred to. I would suggest that the words "the last day of the period aforesaid" be used.

**The Chairman:** Is that agreed?

*Members indicated assent.*

**The Chairman:** Then the Amendment will read:

"or if the Council is not then sitting on the last day of the period aforesaid, within twenty-one days after the next ensuing sitting of the Council";

and subsection (3) as amended will read:

"If, within twenty-one days after the order is laid before the Legislative Council, or if the council is not then sitting on the last day of the period aforesaid, within twenty-one days after the next ensuing sitting of the Council, a resolution is passed by the Council that the order or any part of it be annulled, it shall thereby be annulled to the extent set forth in the resolution, and the order, or part thereof, so annulled shall thenceforth become void and of no effect."

Subsection (3), as amended, put and agreed to.

*Mr. Burnham withdrew his amendment.*

**The Chairman:** That is as far as subsection (3) is concerned. The question is, that Clause 3, as amended, stand part of the Bill.

Agreed to.

Clause 3, as amended, passed.

*Schedule.*

**Mr. Burnham:** I beg to move an amendment of the Schedule by the deletion of item 1 —

"Immigration Ordinance, (Cap. 98). s. 25".

In moving this deletion there are just a few observations I would like to make. I agree with the Attorney-General that this piece of legislation is in a way related to the passage of the Federal Supreme Court (Appeals) Ordinance, 1958, but I am astounded when he says that no rights are being taken away. From the moment——

**The Attorney-General:** On a point of correction, I said no rights existed before the coming into operation of that Ordinance.

**Mr. Burnham:** I stand corrected, but you are taking away rights vested in people for some months now; and I would say it is important. It is a question of prohibited and non-prohibited immigrants. I am sure the hon. the Attorney-General recalls the Musson case, where the decision of a very strong Full Court was upset by the Privy Council on the question of prohibition and non-prohibition. Not everyone can be a Musson to reach the Privy Council, and so at least there should be a tribunal to which one can otherwise appeal.

The hon. the Attorney-General has not given one reason that can stand the light of day why Chapter 98 should be included in the Schedule. Why does he not want the Federal Court to pronounce whether or not an immigration officer is justified in assuming a person to be a prohibited immigrant? I ask why, and I expect an answer. [*Pause.*] "And answer came there none."

**The Attorney-General:** I think the hon. Member is fully aware that the Federal Court of Appeal would not be

competent to go into the reasons which caused the Governor in Council to be satisfied that on account of the grounds set forth in the Ordinance it is expedient to declare a person a prohibited immigrant.

**Mr. Burnham:** Were there a lesser threat posed to the rights of the citizen I would have been amused. It was the same point at issue in the Musson case, whether or not one can inquire into the reasons; but there are certain formalities that have to be observed, and the Court will look and see whether they have been completed. Are we now going to degenerate into a rule by the Governor in Council? If the Court cannot question the Governor in Council's reason, why not leave it right there? Why send it to the Full Court at all? The fact that you send it to the Court or make it possible for it to be taken to Court says that you appreciate that the Court will have to find that certain principles were applied and see that the rule is complied with in practice. Do not tell me about judicial discretion. Tell me why the Musson appeal was allowed. Tell me why these Orders cannot stand review by the Court. Are you afraid that the Governor-in-Council will act illegally and you do not want the best judicial opinion to be pronounced? If the Attorney-General cannot answer, let him tell me here who was the person that originally conceived this idea. Let him tell me that.

**The Chairman:** The office.

**Mr. Burnham:** The office conceived it, but the office must have a person.

**The Chairman:** I shall put the Amendment, if there is nothing else to be said. Will hon. Members please attend? The question is, that item 1 in the Schedule,

"Immigration Ordinance, (Cap. 98), s. 25"  
be deleted.

The Committee divided and voted as follows:

<i>For</i>	<i>Against</i>
Mr. Tello	Mr. Tasker
Mr. Jackson	Mr. Gajraj
Mr. Campbell	Mr. Jai Naraine Singh
Mr. Burnham	Mr. Ajodha Singh
Mr. Kendall.—5	Mr. Saffee
	Mr. Rai
	Mr. Ram Karan
	Mrs. Jagan
	Mr. Benn
	Dr. Jagan
	The Financial Secretary
	The Attorney-General
	The Chief Secretary.
	—13
	<i>Did Not Vote</i>
	Mr. Fredericks.
	Mr. Bowman.—2

**The Chairman:** The Amendment is lost.

**Mr. Burnham:** I beg to move the deletion of item 2 in the Schedule:

"District Lands Partition and re-allotment Ordinance (Cap. 173). s. 16 (13)"

I said in my contribution to the debate on the Second Reading that appeals with respect to the District Lands Partition and re-allotment Ordinance sometimes involve claims to valuable pieces of land, and also, as the hon. the Attorney-General must know — because he has argued these appeals, some successfully, some unsuccessfully — they involve intricate questions of law with respect to devolution on or of intestacy, of property, and I would ask that this item be deleted so that those questions can be decided on by the Federal Supreme Court.

It may well be that aggrieved persons and parties may not take advantage of the right to appeal to the Federal Supreme Court, but it should be there in cases where they so desire to exercise such a right.

I consider this a breach on the part of Government, because when the Federal Supreme Court Bill was introduced I was consulted by the Attorney-General and I allowed easy passage of the Bill without debate because we had con-

[Mr. Burnham]

sidered it carefully. Now that that Bill has been passed he feels that the right of appeal is too wide and seeks to cut it down. That I consider ungentlemanly. The hon. Member for Central Demerara was one of the persons consulted, and the fact that we agreed on certain things made that Bill pass very easily. There was no oversight if the Attorney-General knew what was going to be changed.

**The Attorney-General:** The procedure with respect to the partitioning of lands begins with a petition for persons who have undivided interest in the land. Those with undivided interest and who desire that the land should be partitioned petition. As a result of their recommendations, a Partitioning Officer is appointed. The Partitioning Officer follows the procedure set out in the Ordinance, and after due inquiry he makes his awards. His awards are considered and published in the Official Gazette. There is ample opportunity for anyone dissatisfied with awards of the Partitioning Officer to appeal to a Judge of the Supreme Court. The Judge in the Supreme Court gives his decision, but if the appellant is still dissatisfied he can go on to the Full Court of the Supreme Court. The Full Court of the Supreme Court will give its decision in the case and it may even hear further evidence in the matter.

**Mr. Burnham:** Look at subsection 14 of Clause 6.

**The Attorney-General:** I thank you. It says "or direct the officers to take further evidence." Surely that is going far enough.

**Mr. Burnham:** When the Police investigate a case and decide that a *prima facie* case has been made out against an accused, they charge him inductibly so long as the period is over six months. The accused is taken before a magistrate who carries out the preliminary inquiry and commits him for trial at the next Assizes.

**The Attorney-General:** If he goes before a judge and jury and is convicted, he can then go to the Court of Criminal Appeal but today it would be the Federal Supreme Court. Can the hon. Member state what is worrying him? This is going far enough.

**Mr. Burnham:** Make it \$240 where the magistrate has no jurisdiction. I am surprised to hear a trained lawyer in this Council say "this is going far enough". Why shouldn't people have the right to appeal to a higher court? It is most unfortunate that Her Majesty's Attorney-General should give as an answer for doing away with the right of appeal: "certainly that is going far enough." So far as he is concerned, it is going too far to go to the Court of Appeal or to the Federal Court. I suppose in these Income Tax appeals which can be taken to the Privy Council, the hon. the Attorney-General can say that that is going too far.

**The Chairman:** The question is, that item 2 of the Schedule be deleted.

The Committee divided and voted as follows:

<i>For</i>	<i>Against</i>
Mr. Fredericks	Mr. Tasker
Mr. Jackson	Mr. Gajraj
Mr. Campbell	Mr. Jai Narine Singh
Mr. Burnham	Mr. Ajodha Singh
Mr. Kendall.—5	Mr. Saffee
	Mr. Rai
	Mr. Ram Karran
	Mrs. Jagan
	Mr. Benn
	Dr. Jagan
	The Financial Secretary
	The Attorney-General
	The Chief Secretary.

—13

*Did Not Vote*

Mr. Bowman. — 1.

**The Chairman:** The Amendment is lost.

**Mr. Burnham:** I beg to move an Amendment to the Schedule by the deletion of item 3, Mining Ordinance, Chapter 196, section 74. I do not have to look

into the future to know what will be the fate of the Motion for this Amendment, but I should like it to be recorded how this Council, in my opinion and in the opinion of any person who thinks carefully, is prepared to take away from the citizen his right to have his matters thrashed out by the highest tribunal possible.

I should like to point out, as I have done before, that appeals from the Commissioner or Deputy Commissioner of Lands and Mines which eventually go to the Full Court usually involve rights to mining leases which can be most valuable leases containing most valuable minerals.

**The Chairman:** The question is, that item 3 be deleted from the Schedule.

The Committee divided and voted as follows:

<i>For</i>	<i>Against</i>
Mr. Fredericks	Mr. Tasker
Mr. Jackson	Mr. Gajraj
Mr. Campbell	Mr. Jai Narine Singh
Mr. Burnham	Mr. Aiodha Singh
Mr. Kendall.—5	Mr. Saffee
	Mr. Rai
	Mr. Ram Karran
	Mrs. Jagan
	Mr. Benn
	Dr. Jagan
	The Financial Secretary
	The Attorney-General
	The Chief Secretary.
	—13
	<i>Did Not Vote</i>
	Mr. Bowman.—1

**The Chairman:** The Amendment is lost. The question is, that the Schedule stand part of the Bill.

Agreed to.

Council resumed.

**The Attorney-General:** I beg to report that the Bill has passed through Committee stage with a few Amendments, and I beg to move that the Bill be now read the Third time and passed.

**The Financial Secretary:** I beg to second the Motion.

Question put, and agreed to.

Bill read the Third time and passed.

### BRITISH GUIANA RICE PRODUCERS' ASSOCIATION (SPECIAL PROVISIONS) BILL

**Dr. Jagan:** I beg to move the Second Reading of a Bill intituled

"An Ordinance to provide that Members of a Committee of a District Association and of the Council of the British Guiana Rice Producers' Association shall continue in office as such for certain specified periods, and for matters connected therewith."

The purpose of this Bill, as stated in the Objects and Reasons, is simply to postpone the elections of the Rice Producers' Association for a period of one year. Executive Council has already considered certain proposals put forward by the Association relating to the election of members to the Rice Producers' Association Council. The new proposals are now with the Legal Department and will be ready very shortly for introduction in this Council.

I should like to point out that, although permission is sought in this Bill to defer the elections for one year, it is hoped that the Bill will be ready by August for introduction and debate in this Council so that the elections can take place before a year has gone by.

The proposals are quite clear, and I need not deal with them at great length. Provision has been made for the election of 24 rice producers to the Council, two to be chosen from each district. At the present time there is provision in the Ordinance to permit the holding of elections for District Associations every year, whereas members of the Council are only elected every two years. That appears to be an anomaly because it is possible for a man who may be defeated at the elections at the local

[DR. JAGAN]

level to hold a seat on the Rice Producers' Council, by virtue of the election the previous year.

In view of a number of anomalies in the Ordinance, the Rice Producers' Association feel that Amendments should be introduced to correct them. That is why the Government has agreed to the proposals put forward by the Association and to postpone the elections for a maximum period of one year. It is possible that the period may be shorter than one year.

**The Financial Secretary :** I beg to second the Motion.

Question put, and agreed to.

Bill read a Second time.

#### COUNCIL IN COMMITTEE

Council resolved itself into Committee to consider the Bill Clause by Clause.

Clauses 1 to 5 passed as printed.

New Clause 6.—*Commencement.*

**Dr. Jagan :** I move the insertion of a new Clause 6 which reads :

"6. This Ordinance shall be deemed to have come into force on the 15th of February, 1959".

**Mr. Tasker :** I am sure there is a perfectly sound reason for this Amendment, but it does seem strange that the Bill was not published until the 14th of February when it was so urgent to have this legislation in force on the 15th of February. I would oppose retroactive legislation unless there were an urgent necessity for it.

**The Attorney-General :** These elections should have been held before the 15th of February, 1959, and the persons and Committees involved have been in office since that time. By giving the Bill retroactive effect we are validating or

putting in order everything that has happened between the 15th of February and the date of the actual passing of this legislation. That is the sole purpose of the Amendment.

**Mr. Tasker :** I accept the Attorney-General's explanation; it is what I expected: but I still want to register a protest that this should have been foreseen. It seems strange that the Bill was not published before the 14th of February, and now, three months later, we require retroactive authority — something which could have been avoided, had the Bill been brought forward in good time.

Question put, and agreed to.

New Clause 6 agreed to.

Council resumed.

**Dr. Jagan :** I beg to report that the Bill has been considered in Committee and amended by the insertion of a new Clause 6. I now move that it be read the Third time and passed.

Question put, and agreed to.

Bill read the Third time and passed.

#### PRISON (AMENDMENT) BILL

**The Minister of Community Development and Education (Mr. Benn) :** I beg to move the Second Reading of the Bill intituled:

"An Ordinance to amend the Prison Ordinance."

This Bill seeks to give the Governor power to make orders for the removal of prisoners who are of unsound mind or suffering from communicable diseases, to institutions for treatment and cure. The Governor may make orders requiring the release of those prisoners. For the expeditious carrying out of those orders it is very desirable that the powers of the Governor should be delegated to a senior public officer. Clauses 2, 3, 4, 5 and 7 of the Bill seek to amend the Prison Ordinance accordingly.

Other parts of the Bill seek to amend that portion of the Principal Ordinance to insert a provision whereby the Governor, if he thinks fit, can release a prisoner on licence in the case of one who is unable to earn a remission of one-third of his sentence. That is the only way in which a prisoner can be released, unless of course the Governor gives a complete unconditional release. But long-term prisoners who have committed certain crimes, such as manslaughter, do not come under this provision. The Bill seeks further to give the Governor power to release on licence any prisoner who by his good conduct or industry causes the authorities to believe that he would come out and lead a useful life.

The Bill also empowers the Governor to recall a prisoner to prison if he feels that his remaining on licence is inimical to the best interests of the community.

Another aspect of the Bill deals specifically with young offenders — persons of the age of 21 years at the commencement of their sentence. The Bill also gives the Governor power to release on licence a young person who has shown by his good behaviour that he is able to lead a full and useful life in the community, and has earned a remission of one-third of his sentence. This Section of the Ordinance will not come into operation immediately, but under it provision will be made for his supervision by Welfare Officers or by an After-care Association which may be formed in the future.

The question of young offenders in prison is a very important one, and all over the world today efforts are being made towards the rehabilitation and training of young offenders. It is essential that they should be kept apart from hardened criminals, and that everything should be done to enable them to earn their early release and to live good and useful lives in the community. In order to give an indication of Government's intention and policy in this respect I wish

to quote from a book, "Prison and Borstals" a statement by a prominent penologist, Sir Alexander Patterson —

"The task is not to break or knead him into shape, but to stimulate some power within to regulate conduct aright . . . to make him want to use his life well, so that he himself, and not others, will save him from waste . . . Further, it requires that each lad shall be dealt with as an individual, and shall not be regarded as the same as any other lad, requiring the same universal prescription."

Under this Ordinance, therefore, more attention will be given to young prisoners and, provided they show that they are willing to lead good and useful lives, they will be released on licence. I therefore wish to commend this Bill to the Council for its full support, and I beg to move that it be read a Second time.

**Mr. Tasker:** I am fully in agreement with the principles and intentions of this Bill, but I had hoped that the hon. Minister might have told us something about the provisions of Clause 6 which introduces a new section and states at subsection 36A. (1):

"The Governor may at any time if he thinks fit release on licence a person serving a term of imprisonment for life subject to compliance with such conditions, if any, as the Governor may from time to time determine."

This is the only provision on which I personally have reservations. I do not know whether this provision is in keeping with United Kingdom and other practice, but a small number of persons committed to prison are convicted and sentenced to life imprisonment for, as I understand it, only very serious crimes against society. If so, it seems to me that the wording of the Clause is very broad, and I am asking for clarification of it. Apart from this, I support the Bill, and particularly the release of young offenders on licence.

**Mr. Benn:** Under the principal Ordinance the Governor may release — that is, by exercise of his prerogative power — persons sentenced to life im-

[Mr. BENN]

prisonment, on licence. I will agree with the hon. Member that there are not very large numbers of persons who are serving life sentences in prison; but they should be released on licence, though not indefinitely, and every care should be taken to keep them under supervision, so that if at any time they become a threat to the community the Governor may recall them to the prison and have the time they had gained forfeited.

I feel there are many persons whom the authorities do not feel should be unconditionally released from prison; while that is so, it is felt that something should be done whereby these prisoners can attempt to lead good and useful lives. This Amending Bill will assist the authorities to do so and to have a prisoner recalled as they think fit.

Question put, and agreed to.

Bill read a Second time.

#### COUNCIL IN COMMITTEE

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

Clauses 1 to 8 passed as printed.

**The Attorney-General:** I beg to move an Amendment to insert in the Bill a new Clause 9, with respect to convicts' licences.

**The Chairman:** Well, you will have to move it when we are dealing with the Schedule, because Clause 8 says:

"The Schedule to this Ordinance is hereby inserted as the schedule to the Principal Ordinance."

*Schedule.*

**The Attorney-General:** I beg to

move that a new Clause 9 be inserted in the Bill, as follows:

"Repeal. 9. The Convicts' Licences and No. 20 of Removal of Prisoners Ordinance, 1954, is hereby repealed."

Question put, and agreed to.

Amendment carried.

Schedule passed as printed. Council resumed.

**Mr. Benn:** I beg to report that the Bill has been considered in Committee and amended, and I beg to move that it be now read the Third time and passed.

**Mrs. Jagan:** I beg to second the Motion.

Question put, and agreed to.

Bill read the Third time and passed.

#### DEFAMATION BILL

**The Attorney-General:** Sir, I shall be grateful if the Council will allow me to postpone the Second Reading of the Defamation Bill, 1959.

Agreed to.

Defamation Bill, 1959 deferred.

#### SUPPLEMENTARY APPROPRIATION (1957) BILL

**The Financial Secretary:** I beg to move the Second Reading of the Bill intituled,

"An Ordinance to allow and confirm certain additional expenditure incurred in the year ended on the 31st December, 1957."

This is a very formal act. After the Appropriation Bill is passed, this Council agrees to provide supplementary provisions from time to time. But providing for supplementary provision by

way of a Motion is not a legislative act for appropriating money. This Bill seeks to supplement amounts approved in the Appropriation Ordinance to give full legislative authority for the supplementary provision which the Council has approved already by way of Motion in the year 1957.

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

#### COUNCIL IN COMMITTEE

Clause 1.—*Short title* — agreed to.

Clause 2 agreed to.

*Schedule* — agreed to.

**The Chairman:** Do you wish to retain the Preamble?

**The Financial Secretary:** It would appear to be tautologous, though it explains the Bill. If hon. Members are of the opinion that it should be deleted I would have no objection. I beg, therefore, to move the deletion of the words—

“Whereas expenditure was necessarily incurred during the year ended on the thirty-first day of December, one thousand nine hundred and fifty-seven, on certain services set forth in the schedule to this Ordinance but not provided for by the Appropriation (No. 2) Ordinance, 1956, or other law.

Be it therefore . . .”

Question put, and agreed to.

Preamble deleted.

Council resumed.

**The Financial Secretary:** I beg to report that the Bill has been considered in Committee with a minor Amendment, and I beg to move that the Bill be now read the Third time and passed.

**The Attorney-General:** I beg to second the Motion.

Question put, and agreed to.

Bill read the Third time and passed.

**Mr. Speaker:** The next item is a Motion by the hon. Member for Georgetown North.

#### SUPERANNUATION BENEFITS TO MR. VINCENT PARRIS

**Mr. Jackson:** I beg to move the following Motion:

“Be it resolved: That this Council recommends to Government the payment of full superannuation benefits to Mr. Vincent Parris whose services as a porter attached to the Medical Department were improperly terminated.”

In moving this Motion I am conscious of the fact that the hon. Members on the other side of the Table will outvote the Members on this side, but I am attempting to do justice to someone who, because of an error on the part of the Administration, has been treated badly. I am also conscious that on this side of the Table there are Members who do not belong to any particular Party. In the light of the observations I have made, I will now have to depend on my ability to put up a good case and the broadness of the minds of hon. Members to support this Motion. I am sure every Member of this Council recognizes that this is the place where justice should be done and can be done to any person who is aggrieved.

I shall ask my colleagues to have patience while I present my case. In order to do so I shall have to refer to Regulations and Orders to prove that Mr. Parris has had his services terminated rather improperly by the Administration.

**Mr. Speaker:** We will have to stop at five o'clock.

**Mr. Jackson:** I will take quite a long time on this Motion, and I am prepared to continue with it tomorrow. I

[MR. JACKSON]

will have to deal with Regulations, Orders, Petitions to the Governor, Petitions to the Secretary of State for the Colonies to show that justice has not been done. I would prefer to deal with the Motion tomorrow, and I should be grateful if Council will agree to an adjournment at this stage.

**The Chief Secretary:** I do not think it is worthwhile coming back here tomorrow merely to debate one Motion,

but if the hon. Member agrees I can give an undertaking to take this matter first on our next Order Paper. I think we should adjourn without fixing a date, and take his Motion at our next meeting.

**Mr. Jackson:** I have no objection to that.

ADJOURNMENT

**Mr. Speaker:** This Council is now adjourned to a date to be fixed.