

# LEGISLATIVE COUNCIL.

*Friday, 4th August, 1939.*

The Council met at 10.30 a.m. pursuant to adjournment, His Excellency the Acting Governor, **SIR JOHN WADDINGTON**, K.C.M.G., O.B.E., President, in the Chair.

## PRESENT.

The Hon. the Colonial Secretary, Mr. G. D. Owen, C.M.G.

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

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

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

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

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

The Hon. J. I. De Aguiar (Central Demerara).

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

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

The Hon. L. G. Crease, Director of Education.

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

The Hon. W. A. Macnie, Commissioner of Labour and Local Government (Acting).

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

The Hon. J. Eleazar (Berbice River).

The Hon. Peer Bacchus, (Western Berbice).

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

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

The Hon. T. Lee (Essequibo River).

The Hon. C. V. Wight (Western Essequibo).

The Hon. G. H. Smellie (Nominated Unofficial Member).

The Hon. F. H. Martin-Sperry (Nominated Unofficial Member).

## OATH OF ALLEGIANCE.

The President administered the Oath of Allegiance to the Attorney-General (Mr. E. O. Pretheroe, M.C.) and to Mr. S. E. Gomes (Assistant Attorney-General) who then took their seats.

## MINUTES.

The minutes of the meeting of the Council held on the 3rd August, 1939, as printed and circulated, were confirmed.

## PETITION.

Mr. LEE laid on the table a petition from W. Harlequin and other bakery proprietors of the Colony praying that legislation should not be introduced to protect locally-made margarine.

## WELCOME TO THE NEW ATTORNEY-GENERAL.

Mr. ELEAZAR: With your permission, sir, before we proceed with the Order of the Day I am asking you to be good enough to allow the hon. member for New Amsterdam (Mr. Woolford) to address a few words of welcome to the new Attorney-General. I am really making a task for him because I have not consulted him before. I think the legal members of the Council look upon the hon. member as our senior, and I think Your Excellency will permit us to address a few words of welcome to the new Attorney-General.

The PRESIDENT: Certainly. Does the hon. member wish to say anything more?

Mr. ELEAZAR: I do wish to say something, but I wish to give preference to my senior, but as the hon. member, who is my senior in this Council and at the Bar, is not prepared to do so I am going to take

seniority in age and ask your permission to address a few words of welcome to the new Attorney-General. Sir, British Guiana has always been proud to welcome a newcomer and to offer every co-operation that it is possible for one to give him in whatever office he may be called upon to fill. Before doing so, sir, I think you will permit me to thank the late acting Attorney-General for the services which he has so ably rendered. We have got on very smoothly, and not because he is one of our own but because of the kindness with which he discharged the duties of his office. He is always ready and willing to co-operate with members of the Council even when the matter you take to him does not come strictly within the duties of his office. We thank him for the manner in which he has discharged his duties and I wish to record our appreciation of his services.

Having done that I wish to offer a hearty welcome to the new Attorney-General and assure him of the co-operation of this Council and the loyalty of the community to His Majesty's Attorney-General. I wish to assure him that his predecessors have found us loyal to the core, and rather than regretting their stay here they were all very sorry when the time came to depart. British Guiana's hospitality knows no bounds. We accept all who come to our shores not only as our neighbours but as our brothers. I do not know whether the hon. Attorney-General is among the benedicts, and I do not know if I can extend a welcome to anybody other than himself at the moment. I wish to assure him that the people of British Guiana generally are proud to welcome newcomers, and they can be as loyal to individuals as they are to His Majesty the King in person. We can wish the new Attorney-General no more than happiness and good health while he is among us, and assure him of our hearty co-operation.

**THE ATTORNEY-GENERAL:** Sir, I am grateful for the opportunity to express my gratitude to the hon. member for the very warm welcome he has just extended to me on my arrival in this Colony. As that arrival took place only a few hours ago I think, in the circumstances, all I can say is that I hope at a future date the hon. member will have no cause to recon-

sider the warm words addressed to me this morning. I think that is all I need say. (laughter).

**MR. GOMES:** I would like to thank the hon. member for Berbice River for his kind remarks.

#### ORDER OF THE DAY.

##### CIVIL SERVICE APPOINTMENTS.

Mr. LEE asked the following questions:—

1. Will Government in the future adopt the policy of appointment of members in the Civil Service in order of the date of the applications together with the respective merits in the applicant's qualifications and all surrounding circumstances in order to give every applicant an opportunity of being employed in the said Service?

##### LEONORA COMMISSION REPORT.

1. Did Government deliberately lay on the table of the Council the report of the Leonora Commission in its incomplete form? Will Government give the reason for doing so? Is Government aware that the incompleteness of any report when laid on the table of the Council is misleading and unfair to members of the Council? Will Government in the future assist members of the Council in the discharge of their duties by not laying on the table any incomplete report and/or document?

##### DISMISSAL OF MISS BRITTON.

1. Is Government aware that the dismissal of Miss Britton by the Demerara Electric Company is a clear case of victimization? If Government is satisfied that a clear case of victimization has been made out, will Government consider the advisability of acquiring the Demerara Electric Company's business as a going concern?

##### SANS SOUCI KOKER.

1. Will Government state the cost of erecting the koker at Sans Souci, Wakenaam, Essequibo, and the amount loaned to the Village Council of Sans Souci and Melville Country District by Government for the purpose?

2. Is Government aware that the said erection is a total failure and will Government cause the debt incurred in its construction by the said Village Council to be written off in the books of Government?

**THE COLONIAL SECRETARY** replied as follows:—

1. Government is unable to give any such undertaking.

1. The complete report of the Leonora Commission was laid on the table of the Legislative Council. As the Honourable Member has already been informed the evidence taken by

the Commission was not printed for reasons of economy. But a copy is available in the Colonial Secretary's Office for the Honourable Member's perusal if he so wishes.

1. The matter has been fully investigated by Government and on the facts disclosed Government has no grounds for concluding that the dismissal was a case of victimization.

1. The cost of the koker and drainage improvements was \$485.38;—\$385.38 was charged to Flood Relief Funds, and \$100 was a loan to the Village Authority.

2. The Government is advised that the koker is not a failure: that it is capable of draining the area efficiently, but that the dams on either side of the channel have been neglected and that any flooding which has occurred is attributable to this cause.

#### UNREGISTERED DENTISTS.

Mr. C. V. WIGHT, on behalf of Mr. KING, asked the Colonial Secretary the following question:—

1. Will Government state when legislation will be introduced to give effect to the decision contained in the letter dated 7th June, 1938, from the Honourable the Colonial Secretary to Mr. Reginald L. Carter and others to amend Chapter 186 so as to restore the right to practise to those unregistered persons who were practising dentistry for a specified period prior to the enactment of the Medical Ordinance, 1924, such amendment to follow on the lines of section 3 of the Dentists' Act 1921 (11 and 12 Geo. V. Chapter 21).

THE COLONIAL SECRETARY replied:—

1. A Bill to amend the Colonial Medical Service (Consolidation) Ordinance, Chapter 186, so as to restore the right to practise to those unregistered persons who were practising dentistry for a specified period prior to the fifth day of July, 1924, to make further provision for the control of midwives and in certain other particulars, will be published in the *Official Gazette* on 5th August.

#### NEW AMSTERDAM TOWN COUNCIL (MAYORAL ELECTION) BILL, 1939.

Mr. GOMES: I beg to move that "A Bill intituled an Ordinance to make provision for the election of a Mayor of New Amsterdam for the remainder of the current year and for matters in connection therewith" be read a second time. I would like to draw the attention of hon. members to the preamble of the Bill which briefly sets out the reasons for the introduction of this measure. The provisions relating to the election of a Mayor for the town of New Amsterdam are contained in section 6 of the New Amsterdam Town

Council Ordinance. Under those provisions the election of a Mayor is to be made on the second Friday in January in each year, and the Mayor remains in office for the remainder of the year in which he has been elected. There is a further provision in the Ordinance that on the 1st of July in every year the two senior elected Councillors shall vacate their offices. It so happens that on the 1st of July this year one of the two senior elected Councillors who was due to retire happened to be the Mayor of New Amsterdam, and in vacating his office as a Councillor he also vacated his office as Mayor. I say that because the only qualification for a person to be elected as Mayor is that he be a Councillor. Therefore it follows that if he ceases to hold the office of a Councillor he also automatically ceases to hold the office of Mayor on which that qualification is based. There is a provision in the Ordinance to meet such a contingency, because it is provided in section 6 (5) that—

If a vacancy is occasioned in the office of mayor during the year by reason of anyone who has been elected to that office not accepting it, or by reason of his dying or resigning or becoming incapable to hold that office, the Council shall, within ten days after the vacancy, elect out of the Councillors another fit and proper person to be mayor for the remainder of the then current year, but no one shall be eligible to fill the office of mayor for more than two consecutive years unless a period of one year at least intervenes after the expiration of his last year of service.

In this case a meeting was called within the statutory period, but for one reason or another a sufficient number of Councillors did not attend that meeting. The result was that a quorum was not formed and the meeting fell through, and with it also expired the statutory time within which a new Mayor could have been elected. It therefore became necessary to pass this enabling measure to permit the Council to summon a special meeting to elect a Mayor for the remainder of the year.

Clause 2 of the Bill provides that the Town Clerk shall summon a meeting of the Councillors to be held between certain specific dates. At that meeting there is to be an election by the Councillors of a Mayor for the remainder of the year. It is further provided that the Town Clerk shall preside but shall not be entitled to vote. There is a further provision that

in the event of a tie the Town Clerk shall immediately report that fact to the Governor in Council which has power to appoint a Mayor for the remainder of the year.

I have made reference to a meeting called for the election of a Mayor which fell through for the want of a sufficient number of Councillors to form a quorum. Since then there has been a further attempt to get the Councillors together, but that also failed. The position therefore is that after the 1st of July there was an election held to replace two senior elected Councillors who retired on that date, one of whom was the Mayor. This election has been held and the two Councillors have been re-elected. Those two Councillors have not yet taken the oath, so that it becomes necessary in this Bill to make provision to meet that contingency. This provision has been included in the last clause of the Bill. The Town Clerk is to give notice to the Magistrate of the district to administer the oath to those Councillors who have not yet taken the oath.

**Mr. ELEAZAR :** I do not know whether I should ask Government to allow this Bill to be read this day six months or whether I should just take it, as the hon. Attorney-General has said, that this Bill should be given its second reading to-day. I am inclined to think that the Bill as it stands, and in view of the circumstances which have given rise to its being tabled, does not go far enough. Under the New Amsterdam Town Council Ordinance a Mayor is elected on the first Friday of every year, and he goes out of office about the same time in the following year, but there is this provision, that "The Mayor shall continue in office until the election of his successor." If those words have any meaning at all—and they must have some meaning—they mean that the next election of his successor is next year January, but the draftsman, who was a layman, did not observe that the Mayor goes out of office at the end of the year, and here he goes out of office in the middle of the year. How is it proposed to meet that difficulty? To meet that some lawyers fall back on sub-section 5. They construe the words "incapable to hold that office" to mean his going out of office at a certain time before the election of his successor. To

get an interpretation of that one has to go back to the Municipal Corporations Act of 1882, section 38 of which says:—

The mayor and aldermen shall during their respective offices, continue to be members of the council, notwithstanding anything in this Act as to councillors going out of office at the end of three years.

Here in order to get over this difficulty resort has been made to the words "or becoming incapable to hold that office," and it is said that the Mayor is out because he is incapable to hold the office. The words "dying" and "resigning" have been put in the section in order to meet such an emergency, or some physical inability of that nature. Some maintain that the Mayor continues in office until his successor has accepted office, and you cannot say that because he went out you can get out of that. If he is not re-elected then you begin to question what should be done. But if he is in all respects capable the words "incapable to hold that office" can only refer to physical incapacity. I see lawyers disagree. When lawyers disagree as to the interpretation of any particular section of an Ordinance the only place to settle the matter is the Supreme Court; not the Legislative Council. In this case there is clearly a doubt, and in order to settle it Government has introduced this Bill, but it has left the position exactly as it was. It is clearly stated in the Ordinance that "The Mayor shall continue in office until the election of his successor." The Attorney-General and others say that when he went out of office he was certainly incapable, but that is not what is written. As a matter of fact a Mayor goes out of office on November 1 and he goes out of office as Councillor and Mayor. He is incapable for nine days but he remains in office until his successor is appointed. Government did not want to face that situation.

Under the English Act it is nine days, but under our law it is six months after the going out of office before his successor is eligible for election. When those two schools of thought come into conflict the best thing is to go to the Supreme Court, but one does not like to do that if one can help it. I have the unenviable notoriety of having taken this Council on three different occasions before the Supreme Court and mulcted it in costs on the interpretation of this very Ordinance, and it

will be understood why it was not thought desirable in some quarters to approach the Supreme Court on this occasion. Instead we have come to Government to settle the question once and for all. This Bill does not go far enough because it has left the question exactly where it was. It does not offer any solution at all. If that was all that was required one knew where to go to; the Supreme Court is there. We have quite a lot of jumbling in our legislation, and this Ordinance takes the cake for bad draftsmanship, but if it is said that a Mayor is incapable to hold office I do not think it can mean anything other than physical incapacity. We may differ in our interpretation of a section but I do not think we can differ very widely in our construction of a simple English sentence as that one. I submit that it is really the attempt to construe those words that has caused this trouble, and in attempting to get over that difficulty Government has only gone from one difficulty to another. Government has only taken the view of one party to this controversy and this Bill does not meet the case at all. The preamble states "And whereas a vacancy has been occasioned during the year by reason of the fact that the late Mayor as one of the two senior elected Councillors went out of office." The Bill says that a vacancy did arise during the year. The function of this Council is not to interpret the Statute; that is the function of the Supreme Court.

The Attorney-General made one mistake in his speech; I do not know where he got his information from. The meeting which was abortive was a meeting summoned for the express purpose of swearing in the newly elected Councillors and some Government nominees who had not taken the oath up to that time. It happens that it was a good thing there was no quorum, because if anybody thought it was for the election of a Mayor he was wrong. The Ordinance is very clumsily worded, but even in its clumsiness it has fixed the time when a Mayor shall be elected. That question has never been to the Supreme Court, therefore it is difficult to say what is correct. Going out of office is not an incapacity known to the law in the way it has been sought to make it. I have obtained the views of many of the ablest lawyers of the country on the ques-

tion. Some have agreed with me and others have not, but I am proud to say that a large majority agreed that those words do not justify the construction put on them by the other side. These private Bills are domestic affairs, and when there is doubt in domestic affairs we do not usually come to Government to interpret the law: we go to the Supreme Court for an interpretation. I am asking Government not to push the Bill through after the second reading until that question has been settled. I suggest that the Bill be deferred for further consideration.

Mr. LUCKHOO: I think Government should be congratulated on having taken such early steps to introduce this Bill. According to the terms of the New Amsterdam Town Council Ordinance the two senior members of the Council go out of office in the month of June and an election thereupon follows to fill the vacancies. Two members of the Council went out in the month of June this year and consequently the Town Clerk called for nominations, with the result that two members were elected during the month of July. It so happened, unfortunately, that the Mayor was not elected within the 10 days allowed by law, and as a consequence the business of the Council has been held up. Two meetings were summoned but there was no quorum, and as a result the business of the Council has been kept back. I therefore think Government should be congratulated on having taken this expeditious step with a view to getting the Corporation to function within the limits allowed by law.

There can be no doubt that the Mayor, having gone out of office at the end of June, was not eligible to sit again as Mayor unless he was re-elected by the Council. Having gone out of office as a Councillor his seat as Mayor became *ipso facto* vacant, therefore before he could be re-elected the matter will have to be determined by the Council. One can appreciate the reason for that. Before those members can function as Councillors they have to be sworn in as members of the Council. It cannot be contended for a moment that the Mayor remains in office although by effluxion of time his seat as a Councillor was vacant. Government has adopted the proper course in this matter. I am not aware that any direct

representations have been made by the New Amsterdam Town Council for this Bill, but there has been a great deal of apathy shown by one or two members of the Council who have allowed the matter to remain in abeyance instead of getting the decision of Government. It is only proper that this Council should see that the Mayor is elected at the proper time, and that the business of the New Amsterdam Town Council is carried on as required by the law. I do not think there can be any doubt as to what is meant by the section of the New Amsterdam Town Council Ordinance. The Council neglected to elect a Mayor within 10 days after the vacancy arose, and therefore they are powerless now to assert any authority under the Ordinance for the election of a Mayor. The only way that could be set right was by introducing this Bill and extending the period for the election of a Mayor.

I do not think the matter should be delayed in any form. The Town Clerk feels himself quite helpless. Meetings have been summoned by him and members have challenged his authority, with the result that no meetings have been held. Surely in a situation like this Government must step in and exercise some control. The Bill is a proper one and should be carried through without any delay. It is not a question of the Legislative Council determining any doubt that exists. We say that there has been an obvious mistake on the part of somebody, and as a result Government has stepped in to remedy the present state of affairs. People are asking who is administering the affairs of the town? Surely we must have a proper authority. Are we going to sit and wait until a decision of the Supreme Court is given in the matter? Government cannot show such a spirit of indifference to the welfare of the inhabitants of the town, and I submit that Government must take steps to have the Bill passed.

With regard to the contention by the hon. member for Berbice River (Mr. Eleazar) as to what is meant by the words "incapable of holding office," I would point out that his office as Mayor was dependent upon his seat as a Councillor, and those members of the Council who have not yet taken the oath will have to be sworn before they can take part in the election of a Mayor.

**Mr. ELEAZAR:** I rise to a point of explanation. It is not correct to say that meetings have not been summoned by anybody. One meeting was summoned in order to administer the oath to certain members but it fell through for the want of a quorum. Another meeting was summoned but there being only five members who had taken the oath, and one member for private business having asked to be relieved, the Town Clerk notified the other members that the meeting was off.

**Mr. LEE:** I would like to state that Government should thank the Town Clerk for having approached the Attorney-General or Government in order to put this Bill through. He has been put in a difficult position. He is a servant of the Corporation and gets his salary from the ratepayers. When the doubt arose with respect to the election of the Mayor certain ratepayers challenged his authority. His duty therefore was to approach Government to introduce a Bill to remove that doubt. Why should the ratepayers of New Amsterdam wait until a decision is given by the Supreme Court in which perhaps they will be mulcted in costs? Why should they incur that expenditure when they could approach Government to have a Bill passed to remove all doubts and clear the way for the election of a Mayor?

**Mr. ELEAZAR:** It was not the Town Clerk who approached Government at all.

**Mr. C. V. WIGHT:** Whatever may be the legal position or divergence of opinion as regards the law on the subject the fact remains that this Bill will preclude any action by injunction or otherwise against the New Amsterdam Town Council. There is no doubt about it, as the hon. member for Berbice River (Mr. Eleazar) has clearly indicated, that there is divergence of opinion and legal opinion on the question, but I am sure that as a professional man he cannot say that there can be any two opinions on this Bill.

**Mr. WOOLFORD:** I have risen for the express purpose of expressing the hope that the hon. member for Berbice River will not allow his legal opinion and those opinions which he has obtained to influence a decision which, after all, may react very unfavourably on the municipal affairs

of the Town of New Amsterdam. I believe that I know something about the disputes that are surrounding this issue, and I can perceive that whether this Bill is passed or not, unless an amendment is made in the Bill to provide for the Municipality functioning with a reduced quorum there may be no meeting at all, and the Bill rendered ineffective. The particular section of the New Amsterdam Town Council Ordinance provides for a quorum of five, and it is easily conceivable that five may not attend although the Bill is accepted by this Council. I would suggest that in order to render the election of a Mayor not improbable but possible, the quorum should be reduced to three.

There are other matters which I would rather not mention, but it is very important that the Corporation should remain *in esse*, because I happen to know that there are certain items of public expenditure which should be sanctioned and which are dependent on the Council voting the money. Unless that is done the Council will not be able to provide funds for certain public works which are under construction. Are we going to have a state of things like that in the town? Because it is not possible for meetings of the Council to be held, or some agreement to be come to as to who should be Mayor, public matters affecting sanitation should be held up? I do not think the hon. member for Berbice River will subscribe to such a thing. I do not think it would meet with public favour. I still think and hope that his position as Mayor will remain, but I think it would be helpful if he did not persist in opposing a Bill which so largely affects his position on the Council. I ask him to surrender his well known opposition to Bills which do not meet with his approval. It is not a question of very great public moment whether his view or the views of other legal men are correct. The immediate point that concerns us all is that the Municipality of New Amsterdam should function, and that public health and public works should not be allowed to suffer because of this dissatisfaction among the members of the Council as to who should be Mayor, or whether the town has a Mayor.

Mr. GOMES: I agree with the hon member on my left (Mr. Eleazar) that the Bill does not go far enough, but I do not

agree with him that the amendment he suggests would take the Bill to the full extent which he desires, for the simple reason that he knows as well as I do, and anyone who has perused the provisions of the Ordinance, that they are extremely defective not only in respect of the election of the Mayor but in other respects. The same state of affairs that has arisen this year may arise next year if the person elected next year happens to be one of the elected Councillors who goes out of office. I was quite aware of that position before the Bill was drafted, but no attempt was made to remedy that defect in the Ordinance. I think it is for the Council to get together and direct the Town Clerk to draft a Bill which would place beyond doubt what their duties are as Councillors. The whole object of the Bill is to provide for the position which has arisen in respect of this year.

The hon. member seems to have some doubt as to whether the Mayor who was appointed at the beginning of the year continues to be Mayor, and has suggested that no sufficient reason has been shown why the words "becoming incapable to hold that office" should be restricted to physical incapacity. What he is really suggesting is that the incapacity referred to in the subsection does not mean legal as well as physical incapacity. He suggests that it only refers to incapacity of a kind similar to those which are contained in the preceding words, the words before those general words. In other words he says that the specific words used are "dying" and "resigning" which he says clearly refer to physical incapacity, and that the general words which follow, *i.e.* "becoming incapable," apply also to physical incapacity. I observe though that the hon. member left out the word "resigning" although he made reference to it later in his speech. I do not know if he is suggesting that because a Mayor resigns he becomes physically incapable. He becomes legally incapacitated by virtue of his own act. I see no reason why the words should be limited to physical incapacity. Why should they not be limited to legal incapacity? Under Chapter 5, which disposes of the argument and many which have been put before the Courts, he will find that the word "or" is to be read disjunctively and not as implying similarity. I see no reason why those words

should be restricted to legal incapacity. I do not know if the hon. member is suggesting that if a Mayor becomes bankrupt or receives an office of profit from the Council, or enters into a contract with the Council he can still be Mayor. I do not think he goes as far as that. Those are all legal incapacities.

The hon. member also said that the words "The Mayor shall continue in office until the election of his successor" must be given effect to. I agree with him, but if he will look at the position of those words he will see that they follow immediately after the provision for the election of a Mayor "on the second Friday in the month of January in every year." That provision is obviously intended to ensure that the town should have a Mayor during the first few days in January. It is a proper provision and does not conflict with any of the other provisions in the Ordinance, because the person who happens to be Mayor on the 31st of December will continue to be a Councillor on the 1st of January. The position that has arisen this year is that on June 1 the Mayor ceased to be a Councillor, and if it was ever intended that the Mayor, notwithstanding that he vacates his office on the Council, should continue to be Mayor until the election of his successor such words would have been expressly inserted in the Ordinance. Surely if the only qualification of a person for the office of Mayor is that he should be a Councillor, and it was intended that notwithstanding the fact that he ceases to hold that qualification he should continue as Mayor until his successor is elected, one would certainly expect that to be expressly stated in the Ordinance as it has been expressly stated in the Municipal Corporations Act of 1882. My friend has referred to that Act but it has no application to this matter because it deals with a totally different matter.

No official communication has been received from the Town Council with respect to this matter, but it has come to the knowledge of Government from other sources, and in the circumstances it was considered only right and proper that this measure should be put before the Council. I think the hon. member for Eastern Berbice (Mr. Luckhoo) has dealt fully with the reasons why this Bill should be introduced and why it should be passed.

I regret to have to inform members of the Council that before moving the second reading I omitted to move a motion for the suspension of the Standing Rules and Orders in view of the fact that the Bill was only published on August 1. I therefore now propose to move that the Standing Rules and Orders be suspended, after which I shall move a motion for the second reading of the Bill. Having regard to the fact that the only four members of the Council who have spoken are lawyers I wish to safeguard myself. (laughter).

THE PRESIDENT: It is a matter for the Council to decide. The motion is that the Standing Rules and Orders be suspended in order to proceed with the Bill without due notice. It is stipulated in the Standing Rules and Orders that the second reading should not be taken before seven days have elapsed from the date of publication of a Bill in the *Gazette*.

MR. ELEAZAR: In view of what has been said by the hon. member for New Amsterdam (Mr. Woolford) I do not think I should stand between the people of New Amsterdam. With Your Excellency's permission, especially after securing the Assistant Attorney-General's agreement that the position is much the same, I withdraw my opposition.

MR. WOOD (Conservator of Forests) seconded.

Motion put, and agreed to.

MR. GOMES: I beg to move that "A Bill intituled an Ordinance to make provision for the election of a Mayor of New Amsterdam for the remainder of the current year and for matters in connection therewith" be read a second time.

MR. WOOD seconded.

Question put, and agreed to.

Bill read a second time.

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

Clause 2—Mayor to be elected between the 10th and 19th August, 1939.

MR. GOMES: In view of the remarks made by the hon. member for New Amsterdam (Mr. Woolford) who seemed,

from information he has received, rather apprehensive as to whether a quorum will ever be provided at any subsequent meeting that may be called, I think it would be wise to move an amendment of this Bill so as to provide that any three Councillors should be sufficient to form a quorum. The Ordinance provides that five Councillors shall form a quorum.

**Mr. ELEAZAR:** From what the hon. member has said it is quite possible that certain members of the Council may elect to stand out.

**Mr. LUCKHOO:** I think a quorum of three would be erring on the other side. There are nine members of the Council, three nominated and six elected. I do not think there should be any difficulty in getting a quorum. The difficulty arose through some misunderstanding between certain parties. That is really the great obstacle in this matter. I need not make any further statement on that point. A quorum of three would not be satisfactory.

**Mr. ELEAZAR:** If we made the quorum three that would not prevent all nine members from attending.

**Mr. LUCKHOO:** I think four would be better.

**Mr. GOMES:** In view of the remarks made by the hon. member for New Amsterdam (Mr. Woolford) I suggested that an amendment might be moved to reduce the quorum from five to three. Perhaps the hon. member might move the amendment.

**Mr. WOOLFORD:** I move that after sub-clause 2 of clause 2 there be inserted the following amendment:—

Any three Councillors shall form a sufficient quorum at such meeting.

**Mr. HUMPHRYS:** I am opposing that amendment on principle. I have listened very carefully to what has been said by hon. members, and it seems to me, if I may say so, that the Town Council of New Amsterdam are really forgetting that they are a public body with responsibilities. It seems to me they are playing a game of hide and seek, forgetting that they owe a duty to the public, and that they are a corporate body with certain duties to perform. It has been suggested that at

an important meeting for the election of a Mayor it is likely that there is going to be bias on one side and certain members will stay away so that there will not be a quorum of five. I submit that if the New Amsterdam Town Council continues to carry on in that way Government would be well advised to wipe them out. I am not speaking too strongly on the matter, and I am surprised that the hon. member for New Amsterdam (Mr. Woolford) should attempt to put forward an amendment of that kind. It is a disgrace to the Municipality to have to come here to get an amendment at all. The Ordinance is quite clear. Government is giving them an opportunity to carry on, but a motion might well have been moved in this Council to terminate their existence. The suggestion has been made to reduce the number required for a quorum. Why should there be a quorum of three? Why should there be any staying away of members? The present quorum should remain, and there should be added after the word "votes" in the second line of sub-clause (4) the words "or for any other cause" so as to give the Governor in Council the power to appoint a Mayor if Councillors stay away. That is the only way to bring members of the Council to their senses. I hope hon. members will not consider my remarks too strong. This thing is becoming a farce. If five Councillors do not turn up, let the Governor in Council appoint a Mayor.

**Mr. ELEAZAR:** I do not take the hon. member seriously. I think his strong words are due to the weakness of his judgment. Why should the members of the New Amsterdam Town Council be abused? I do not know what is happening in Georgetown, but the hon. member has no right to flog them over our heads. If the quorum was reduced to three that would not prevent all of the nine Councillors from attending. It is a safeguard that they should turn up. Is that any reason why the Governor in Council should take charge of the Council? Isn't there more reason for taking charge of the Georgetown Town Council? They were taken to the Supreme Court and lost thousands of dollars and yet we have heard no suggestion that the Governor in Council should take charge of their affairs. We saw the wisdom of approaching this Council but the hon. member has come here to chide

us. His remarks were needlessly strong and he should withdraw them.

**Mr. DE AGUILAR:** There seems to be so much disagreement among the lawyers in the Council that I think an ordinary layman like myself might be excused if he joined in the debate at this stage. As I understand the position there seems to be some difficulty about obtaining a quorum. I would invite attention to clause 3 of the Bill. It seems to me that difficulty arose as a result of the fact that there were two new members who had not been sworn, and the meeting not having been properly constituted, the two new members could not be sworn. Clause 3 now provides that those two members may be sworn, and how they should be sworn. That being so an amendment is no longer necessary, and I agree with a good deal that has fallen from the lips of the hon. member for Eastern Demerara (Mr. Humphrys) that the Town Council of New Amsterdam must seriously recognise its duty to the public, and if it does not carry out that duty it should be scrapped. I will record my vote against the amendment. It is time the Council was made to understand that it has an obligation to the ratepayers of the town.

**Mr. C. V. WIGHT:** In supporting the remarks of the hon. member for Eastern Demerara (Mr. Humphrys), though perhaps in language not as strong as he used, I would like to say that some of them were very apt. I was under the impression when he rose, however, that perhaps he might have been mistaken as to which draft Bill he was about to discuss, and I only hope that if his language is as strong in the second instance perhaps he might get my support in a modified form. One must realise that it is a public body doing public duty. I am therefore not going to support the amendment moved by the hon. member for New Amsterdam (Mr. Woolford), on the ground that I sincerely hope that if there is no quorum at the meeting to be summoned the Attorney-General will move the Supreme Court under section 152 of Chapter 87 for a writ of mandamus or for an injunction to compel the Council to perform its duty. It seems to me regrettable when one speaks of democracies and suggests the enlargement of village councils, and when the trend of modern thought is to allow as

much as possible democratic principles of government, that men who consider it their duty to try to lead others should not first of all make themselves fully conversant with the provisions of the Ordinance under which they are to administer the affairs of the town. Surely where you have a certain number of men who, by the positions they occupy, are to be considered leading citizens of the community, it is not asking too much of them to suggest that they should sit down—not as it were in a kindergarten school—and consider impartially and recognise what they have to do and what responsibility they owe to those whom they represent.

**THE COLONIAL SECRETARY:** I believe there were two very good reasons for the failure to obtain a quorum on the last occasion. One was that it was felt by some of the Councillors that the Town Clerk had no authority to summon the meeting, and the second reason was given by the hon. member for Central Demerara (Mr. De Aguiar). Two of the Councillors turned up but could not take their seats because they had not taken the oath, and they were unable to take the oath because of the lack of a quorum. In view of that Government is unable to accept the amendment suggested by the hon. member for New Amsterdam (Mr. Woolford). Government feels convinced that there will be a quorum on the occasion on which a meeting is summoned by the Town Clerk as set out in the Bill.

**MR. ELEAZAR:** All the members who have spoken so far are not aware of the true situation. There are only five members now who can form a quorum. Four members are yet to take the oath, so that if two members keep out it cannot be done. Even if four members attend it cannot be done. If the quorum was reduced to three you are likely to get that number, and with the four members who will take the oath you will have an attendance of seven members. Members have not had sufficient information on the subject. Where is the necessity for all this parade of strong language? Surely the New Amsterdam Town Council knows its business.

**MR. LEE:** I am appealing to the hon. member for New Amsterdam (Mr. Woolford), to withdraw his amendment. Knowing the elected Councillors as he does and,

as I do, I am sure there will be no difficulty in forming a quorum for the election of a Mayor. There are six elected Councillors, and I feel sure that five of them will turn up.

Mr. C. V. WIGHT: With regard to the point made by the hon. member for Berbice River (Mr. Eleazar) I think section 15 (2) of Chapter 87 provides the remedy for the situation mentioned by him.

Mr. GOMES: I do not think hon. members have paid the attention that ought to have been paid to the wording of clause 3 which provides for the contingency hon. members have mentioned. The whole object of the clause is that those members who have not been sworn should attend the meeting. The Magistrate will be given notice of the meeting, and prior to the election of the Mayor he will administer the oath to those members who have not been sworn.

Mr. LUCKHOO: But I think in that case a quorum will be required, and a quorum requires five members.

Mr. GOMES: This Bill contains a specific provision to meet the emergency that has arisen. Clause 3 states:—

3. The Town Clerk shall give notice of the date of the meeting to the Magistrate of the Berbice Judicial District and the Magistrate shall attend the meeting and shall, prior to the election of a Mayor, administer the oath to any Councillor who is at present and who has not previously taken the oath.

It is a specific provision.

Mr. ELEAZAR: As I understand it, five members must be there to form a meeting. Supposing only the four members to be sworn attend, could the Magistrate swear them in? I do not think that is what is intended.

Mr. LEE: Clause 2 says it is not a meeting of the Council but a meeting of the Councillors, and it does not say there must be a quorum.

Mr. WOOLFORD: I am unable to withdraw my amendment. The hon. member for Eastern Demerara (Mr. Humphrys) expressed some surprise at my moving it. It is because I know the situation in the town as well as any other person that I have made the suggestion.

The remarks of the hon. member for Berbice River (Mr. Eleazar) are very pertinent. There is a possibility of the Council not being properly convened, and I know what has happened on a previous occasion is likely to be repeated. That is to say that assuming there is any irregularity about this meeting we are going to have an application to the Supreme Court. It has happened before, and I feel that no encouragement should be given for that to happen again. The hon. member for East Demerara (Mr. Humphrys), who is likely to influence Government, must remember the experience he enjoys in his own constituency. The remedy he suggests for the Town Council could be suggested for the village councils from Ann's Grove to Buxton. That is not a remedy for a politician to suggest. It is because of my interest in my constituency, and because I do not want the New Amsterdam Town Council to be dissolved, that I have made the suggestion. It is a matter of considerable importance, and I ask for some adjournment of the Council at this stage in order that the position should be ascertained by telephonic enquiry from New Amsterdam. I do not know who have taken the oath and what is the present strength of the Council. Members of the Council do not know the situation, and Government is inclined to the view that my amendment is not necessary. Unless I am convinced that it is not necessary I will ask that it be submitted to the Council. If it is vetoed I shall have discharged my duty. Government is assuming a risk because it is Government's Bill. Government is acting on its own initiative, and I say that Government is not sufficiently informed of the situation.

Mr. LUCKHOO: I think I can throw some light on the subject. The hon. member for New Amsterdam (Mr. Woolford) has said that he is not aware of the present strength of the Council. There are five Councillors who can function under the Ordinance, but with respect to the swearing in of new members I should like to draw attention to section 15 of the New Amsterdam Town Council Ordinance which states that every Councillor shall, before voting or sitting at any meeting of the Council, take and subscribe to the oath. It implies that before the swearing in can take place there must be a fully constituted Council. I think a quorum of

four would be quite in order. I agree with the suggestion to reduce the quorum because I know there is likely to be some difficulty in getting a quorum of five. One of the five Councillors may be absent for very good reason, and there will not be a quorum. The swearing in must take place in the presence of the Councillors. That has been the practice observed during the last 34 years. We should reduce the quorum in the special circumstances of the case. My advice to Government is to make the quorum four. I do not wish to make it appear that members of the Council are not worthy of their civic responsibility.

Mr. LEE: It seems to me that members are overlooking the object of this Bill. It is not for the purpose of clearing any doubt but to give special power to a Magistrate to swear those members of the Council who have not yet taken the oath. I am positive that as soon as the members have been sworn a quorum will be formed.

Mr. JACKSON: It is an extremely difficult thing to understand lawyers (laughter), and I have no doubt that if this Bill had come before a Council composed solely of laymen it would have been disposed of an hour or more ago. To say that a quorum is necessary before the new Councillors could be sworn is to fight shy of the special provision made in this Bill. The Bill must be regarded as an enabling Bill to permit a Mayor to be elected. If the Bill makes special provision for the swearing in of the new Councillors, then the question of having a quorum before those Councillors are sworn is disposed of. The Bill contains a special provision for a Magistrate to appear and swear in the Councillors who have not yet taken the oath, and I think it is wasting the time of this Council to argue that a quorum is necessary for that purpose. All that is necessary is that the Town Clerk should inform the Magistrate of the meeting, and the Magistrate will attend and administer the oath to the new Councillors.

Mr. LUCKHOO: I can never be accused of wasting the time of the Council when I make my contribution to a debate. The short title of the Bill states:—

1. This Ordinance may be cited as the New Amsterdam Town Council (Mayoral Election) Ordinance, 1939, and shall be construed with the New Amsterdam Town Council Ordinance, and any amending Ordinance.

I think there may be some difficulty in getting the required quorum of five and I suggest that the hon. member for New Amsterdam (Mr. Woolford) should make it four, and he would get my support.

Mr. ELEAZAR: Laymen should not obtrude their attempts to interpret law. There must be a quorum to start a meeting.

Mr. HUMPHREYS: The hon. Mr. Jackson is not so wrong as the hon. member for Berbice River (Mr. Eleazar) thinks he is. I think the clear intention of the clause is that the Magistrate attends the meeting and administers the oath to those Councillors who have not yet been sworn. They then meet and elect a Mayor. It is perfectly clear what meaning that clause carries, but if there is any doubt I would suggest that the clause be amended to make it clear that prior to the meeting the Magistrate should attend and administer the oath.

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

2 p.m.—

Mr. GOMES: Before the adjournment, the hon. member for Eastern Demerara (Mr. Humphreys) suggested that in order to make the matter clear an amendment should be made to clause 3 of the Bill. There is some doubt among hon. members as to whether when the Councillors meet there should be a quorum of Councillors, excluding those who have not taken the oath. I think the hon. member has overlooked the fact that a Councillor becomes so the moment he is appointed or elected, and there is no necessity for him to take the oath unless he desires to sit and vote. He remains a Councillor notwithstanding the fact that he has not taken the oath. The wording of clause 2 makes it sufficiently clear that the Town Clerk must summon a meeting of the Councillors. Clause 3 provides that before the election of a Mayor, which would be the only business before the meeting, the Magistrate must administer the oath to those Councillors who had not previously taken the

oath. In order to make it abundantly clear, the words "before the Councillors sit and transact the business of the meeting" may be substituted for the words "the meeting prior to the election of a Mayor" in line 3 of clause 3 of the Bill. The clause will then read:—

The Town Clerk shall give notice of the date of the meeting to the Magistrate of the Berbice Judicial District and the magistrate shall attend the meeting and shall, before the Councillors sit and transact the business of the meeting, administer the oath to any Councillor who is present and who has not previously taken the oath.

I consider that to be the proper form of amendment, because a person may be a member of the Town Council or of the Legislative Council in name or designation, but he does not actually become a member until he actually takes his seat.

**THE CHAIRMAN:** With that explanation as to the amendment in clause 3, I shall first put the question "That clause 3 stand part of the Bill."

**Mr. HUMPHRYS:** Before you put clause 2—I may perhaps be abundantly cautious—would it not be proper as a matter of caution to put in clause 2 (4) the words "or for any other cause" after the words "on account of an equality of votes"? The reason is this: Although you say that a quorum is to be and that those gentlemen may go and be sworn before the meeting—and I am entirely in agreement with the hon. Mr. Gomes's remarks—if those men do not go at all there will never be any quorum. I do not know what is the state of affairs on the New Amsterdam Town Council, but I think the Governor in Council should have power under the section to appoint a Mayor, if it is found that on account of an equality of votes or for any other cause that is not done, so that they will not have to come back to this Council for some legislation or to get a mandamus from the Supreme Court to meet the situation. It will be the cautious thing, therefore, in order to put the matter beyond doubt to put in those words I have suggested. I do not know what causes may arise, but it all seems very unsatisfactory. I move that as an amendment.

**Mr. ELEAZAR:** I do not think that is necessary. I must protest against this

continuous insinuation as if there is something so glaringly wrong. Government on this occasion closes its eyes and turns away from its obvious duty of settling the matter once and for all. I do not see why there should be any threat on account of an equality of votes or for any other cause. On the Georgetown Town Council when there is an equality of votes the election of a Mayor is taken to the ratepayers. This Bill suggests that if there is an equality of votes the matter must go back to the Governor in Council. You can alter that to ratepayers, as is the case in Georgetown, but not talk of any other cause. I am trying to get Government to straighten this matter out, and I am not here to back anything after that.

**Mr. WALCOTT:** I am sorry I cannot agree with my hon. friend, the member for Berbice River, because I think he is distinctly suffering from victimisation amongst the hon. members who have spoken this morning. I was going to suggest as an alternative, that we turn the place into a Country District if they cannot get on without Government control.

**Mr. HUMPHRYS:** I think the hon. member for Berbice River (Mr. Eleazar) has missed my point. It is this: Assuming there is no quorum, the Ordinance only provides for an equality of votes, and since there is no quorum what is the effect? They will have to come back here for some legislation.

**Mr. WOOLFORD:** I am going to make an appeal to hon. members of this Council. In every way I have emphasized the fact that this Bill has not the approval of the existing New Amsterdam Town Council. So far they have not been consulted as a Body. Government has been forced to act on its own initiative on account of the situation which has arisen. It may be described as a surmise without any foundation. It is all based upon the supposition that something may happen. When I suggested that there should be a quorum, hon. members said there was no necessity for providing against that. One hon. member benefiting from the adjournment has come back and suggested that the words "or for any other cause" be inserted in the clause. There is likely to be other causes, and I prefer the words to be "for any other reason." That is a more

comprehensive phrase. I agree with him that some interpolation is necessary at that stage. As I read the section, it is only because there may be equality of votes that there may be no election. That is the only restriction in the clause. Why not widen it and say "for any other reason"? No one can anticipate the reason, and there is no doubt about it. It does not matter what you provide in an Ordinance it sometimes happens that you can find a flaw in it. I still think there should be a quorum fixed. It is only my opinion, but it is endorsed by someone who has far more intimate knowledge of the psychology of the people of the town than I. He supports it. The hon. member for Berbice River has surrendered his own personal views in this matter, and I suggest that we pass this Bill this afternoon even in an inverted form. I think that either my phrase or that of the hon. member for Eastern Demerara should be put in.

I agree that the necessity has arisen, and although one does not care to go into the reason, I have risen to ask that there be some provision which will secure the attendance of these gentlemen at the meeting, whether it is duly constituted or not, to elect a Mayor, otherwise the town of New Amsterdam will be subjected to the indignity of having a Mayor thrust upon it. As representative of New Amsterdam I protest against the possibility of such a thing happening. This is a matter in which certainly I am concerned and the hon. members for Berbice River (Mr. Eleazar) and Eastern Berbice (Mr. Luckhoo) are particularly interested, and I do ask hon. members of this Council to allow not my views but the wishes of those hon. members who reside there to be met.

**THE COLONIAL SECRETARY :** I was a little surprised at the amendment moved by the hon. member for Eastern Demerara, having regard to what he said at this morning's meeting. He rather surprised me when he urged a number to form a quorum because, as he said, if the Councillors do not turn up at the meeting it shows that they do not wish to continue to function as a Town Council and Government can step in. But I am rather surprised at his attitude this afternoon. What would happen after the other Councillors have taken the oath and they are still unable to get a quorum? It would

then be the duty of Government to consider what action should be taken to enable the business of the town to be carried on.

**Mr. HUMPHRYS :** I was trying to save the Councillors from themselves and the Government trouble, if the Government's views are somewhat similar to mine. I entirely agree that if they do not take the proper action and elect a Mayor, Government should do so. Therefore in the circumstances I do not press my amendment but withdraw it.

**Mr. ELEAZAR :** I do not wish to speak again on this matter, but I do wish to stand here and protest against any suggestion that for any reason whatever Government should rush in and reduce the status of the Council by forcing a Mayor on the town. To prevent the semblance of any such thing, I withdraw all possible objections to the Bill, but I will not remain quiet at any such thing. I do not think there is any need for it to come about. I wish to say in answer that if it does come about, I shall be the one to say that Government has brought it about as it closes its eyes to the right thing to be done.

Question put, and agreed to.

Clause 3—Administration of oath to new Councillors.

**Mr. GOMES :** I move that the words "before the Councillors sit to transact the business of the meeting" be inserted in lieu of the words "prior to the election of a Mayor" in the third line, and the word "at" in the fourth line be deleted. The latter is a printers' error.

**Mr. ELEAZAR :** With regard to clause 2—

**THE CHAIRMAN :** I am very sorry. The Committee has finished with clause 2 and cannot go back to it.

**Mr. ELEAZAR :** I move the insertion of a provision that in case of an equality the election should be referred to the rate-payers as in the case of the Georgetown Town Council.

**Mr. WOOLFORD :** I must ask for some explanation. Am I not right to think that

by this amendment a notice of the date of the meeting is to be given by the Town Clerk to the Magistrate of the district, who in turn will have power to administer the oath? Is not that all? I do not know whether I have heard rightly. The only security this amendment gives is that the Town Clerk gives notice to the Magistrate and the Magistrate convenes or intimates to the Councillors that they should attend to take the oath. I suppose the oath is to be given prior to the election of the Mayor. That does not secure that the meeting will be convened for the purpose of the election of a Mayor. My point is, whenever this meeting is constituted, with the present law requiring a minimum attendance of five Councillors that may not be secured. There is some doubt about four. The summoning of a meeting does not secure attendance. The administering of the oath does not secure attendance; it only conforms with a statutory provision that before a Councillor can perform duties he takes an oath. Is it not the object of meeting here to secure that the Town Council meetings are presided over by a Mayor? I am still in doubt as to how this amendment is going to secure the election of a Mayor.

**THE CHAIRMAN:** Is it not a similar case in the Legislative Council when there is a new election? The meeting is perfectly in order notwithstanding the fact that nobody has taken the oath. Everybody takes the oath at the first meeting. Is the position not exactly the same?

**Mr. WOOLFORD:** Is there any desire on the part of Elected members not to attend a meeting? You are providing for a situation that may occur in the interregnum. There had been by-elections and two vacancies were filled. You have two contending factions—one saying there must be the election of a new Mayor and the other saying that the Town Clerk has no authority to summon a meeting for the election of a Mayor. We are trying to give the Town Clerk that authority. Can you compel by legislation the doing of any personal act in the world? Can you force a man to attend a meeting and force him to take the oath? You cannot compel him to do so. You have had it here, when certain members attending a meeting of this Council found there was going to be a quorum and remained in the gallery.

**Mr. GOMES:** I would like to know what remedy the hon. member suggests. If everyone cannot be made to be in attendance at a meeting, does he suggest that the members should be subpoenaed to attend the meeting? Does he suggest that after that has been done further pressure be brought upon them to exercise the vote? I fail to understand what the hon. member is suggesting.

**Mr. WOOLFORD:** My suggestion is that there can be no quorum. If anyone fails to understand, it is not my fault. I can only give the reason, but cannot convey understanding to anyone.

**Mr. LUCKHOO:** I do not think there is any difficulty in obtaining a quorum. Two members of the Town Council are to be sworn and possibly a third is to follow. In that case there is a sufficient number of Councillors to be in attendance to carry out the election of a Mayor. I think the amendment proposed ought to be sufficient.

Amendment put, and agreed to.

#### TITLE, PREAMBLE AND ENACTING CLAUSE.

**Mr. FLEAZAR:** I do not like to interfere with this clause but it reads:—

Whereas it is provided by subsection (5) of section 6 of the New Amsterdam Town Council Ordinance, Chapter 87, that if a vacancy is occasioned in the office of Mayor during the year by reason of anyone, *inter alia*, becoming incapable to hold that office the Council shall within ten days after the vacancy elect out of the Councillors another fit and proper person to be Mayor for the remainder of the then current year;

And whereas a vacancy has been occasioned during the year by reason of the fact that the late Mayor as one of the two senior elected Councillors went out of office;

And whereas the Council within the time prescribed by the said Ordinance have failed to elect a Mayor out of the Councillors;

And whereas it is expedient to provide for the election of a Mayor at New Amsterdam:

I strongly protest against this preamble because it does not suggest a word about doubts having arisen, and I think it is due to the world that that should be put in. It is nothing more than serious doubts, which took us one and a half days to unravel and which we are still blundering over. There is no certainty that there was any vacancy for the election of a Mayor and the Councillors failed to do it. The Councillors were doubtful whether

that was so, and that is why the matter is before this Council. I want that to be made clear in the preamble. I am ready to sacrifice whatever I feel about the matter, but I am not inclined to let it go to the world that no doubt had arisen. I do not think this Council can suffer itself to conclude that no doubts had arisen. It should be stated in the preamble that serious doubts had arisen, and that is why this Bill is being brought. I think the preamble should read :

Whereas doubts have arisen as to whether a vacancy for Mayor—

**THE CHAIRMAN:** If the hon. member wishes any alteration he can no doubt move an amendment, otherwise I shall put the question.

**Mr. ELEAZAR:** Very well, sir. I move as an amendment the insertion in the second recital to the preamble of the following words "doubts have arisen as to whether" between the words "whereas" and "a vacancy." The preamble will then read :—

Whereas doubts have arisen as to whether a vacancy has been occasioned during the year by reason of the fact that the late Mayor as one of two senior elected Councillors went out of office.

Amendment put, and lost.

Question "That the title, preamble and enacting clause stand part of the Bill" put, and agreed to.

The Council resumed.

**Mr. GOMES:** I think it is well that the Standing Rules and Orders having been suspended I may proceed with the motion for the third reading of the Bill.

**THE PRESIDENT:** I am afraid the hon. member will have to move the suspension of the Standing Rules and Orders again. The motion was to take the second reading. You may proceed with the other Bills, and if it suits the convenience of hon. members you may suspend the Standing Orders to take the third reading.

**Mr. GOMES:** I give notice that at a later stage or the next or subsequent meeting of the Council I shall move that the Bill be read a third time and passed.

#### THE GEORGETOWN RATING BILL.

**Mr. GOMES:** I move the suspension of the Standing Rules and Orders of the Council in order to enable the following Bill to be taken through all its stages and passed to-day :—

A Bill intituled An Ordinance to prescribe the method to be adopted in computing the taxes and rates to be levied by the Mayor and Town Council of Georgetown in respect of the years nineteen hundred and thirty-nine and nineteen hundred and forty.

**Mr. WOOD (Conservator of Forests)** seconded.

Question put, and agreed to.

**Mr. GOMES:** I move that "A Bill intituled An Ordinance to prescribe the method to be adopted in computing the taxes and rates to be levied by the Mayor and Town Council of Georgetown in respect of the years nineteen hundred and thirty-nine and nineteen hundred and forty" be read a second time. I feel in doing so that I can with certainty say that all hon. members of this Council are fully aware of the reasons for the introduction of this measure. I may, however, qualify that statement by saying all hon. members with the exception of the hon. Attorney-General. Nevertheless I feel I am not relieved of the duty of making some observations on the history of the matter, and also specifically dealing with the clauses of the Bill.

As hon. members are aware, under section 153 of the Georgetown Town Council Ordinance, the Town Council is enabled to make the general appraisements of all city properties within a period of every ten years. We know that the last general appraisements were made in the year 1927, and that in the year 1937 there arose another occasion for the Town Council to appoint appraisers and make the general appraisements of all properties in the City of Georgetown. It was to have happened in that year, and the Town Council appointed three appraisers to re-appraise certain properties in the City. Also during that year the Town Council met and a decision was taken to have the general appraisements of all properties made during that year, so that there would be a basis upon which the rates and taxes for 1938 could be computed. Whether the appraisers were in fact appointed for this

specific purpose, the fact is that they commenced on their work in the year 1937. Before they had proceeded to any extent on the work it became obvious that the appraisements could not be concluded before the end of that year, and therefore it became necessary for the Georgetown Town Council to approach Government for enabling legislation to provide a method or basis upon which the rates and taxes for 1938 could be computed, as under the old appraisements the basis of the 1927 appraisements came to an end on the 31st December, 1937. As the result of the Council's communication to Government an Ordinance was passed in December, 1937, and that Ordinance provided that the rates and taxes for the year 1938 should be computed upon the basis on which the rates and taxes had been computed in the previous year of 1937. There were two provisos to that provision. Although the valuations which were in force in 1937 should continue in force in 1938, they would be subjected to any re-appraisal in 1938 with respect to improvements made on properties, or appeals for decrease by those who maintained that their properties had deteriorated in value. Section 4 of the Georgetown Rating Ordinance, 1937, also concluded by saying that "the general appraisements when completed shall be the general appraisements in force for the year 1939." As I have intimated, the general appraisements were commenced in 1937 but not completed until during the year 1938, and in 1939 the Town Council proceeded in accordance with section 4 of the Ordinance to assess and levy their taxes and rates upon the basis provided for under that Ordinance. The 1937 basis was continued in force by that Ordinance during the year 1938, and to-day the Town Council have collected and received rates and taxes for the year 1939 upon the basis of the general appraisements which were completed in the year 1938.

Against the general appraisements there were over 300 appeals, which in course of time came on for hearing before the Magistrate of the Georgetown Judicial District. Before proceeding to hear the appeals, the Magistrate prescribed or compiled a formula of his own and gave all interested parties notice that in the determination of the appeals he would be

guided by that formula. The result was, that several appeals were heard and determined and no further action taken in respect of them. But there was a batch of appeals in respect of which objections were taken to the Magistrate's hearing. One of the objections was that the Magistrate was the owner of property in the City and therefore was an interested party and thus precluded from hearing any appeals from appraisements. The Magistrate gave his decision on that point, and found himself unable to agree with the objection taken. The representatives of the objectors, or the objectors themselves, did not leave the matter there. They were not satisfied with the Magistrate's decision, and took the matter a step further with the result that they filed a writ in the Supreme Court in which they asked for certain declarations from the Court. One of the grounds on which a declaration was asked was that the appraisers had failed to take the oath in compliance with section 154 of the Georgetown Town Council Ordinance, and that the Mayor also had failed to administer that oath to the appraisers. On that ground one of the declarations asked for was that by reason of the non-compliance with that section of the Ordinance the whole of the general appraisements were improper and invalid. The matter came on for hearing in the Supreme Court and the learned Chief Justice decided that the objection was fatal on that ground alone without considering the other matters. The learned Chief Justice held that the general appraisements were invalid and an interim injunction was granted precluding the Georgetown Town Council from acting on the general appraisements. The effect of that injunction was that the Town Council were restrained from continuing to collect rates and taxes on the general appraisements for the year 1939.

I have mentioned one objection which had been stated in the Magistrate's Court by certain appellants, and another ground of objection which was put before the Supreme Court. The result is, there is a decision of the Supreme Court that the general appraisements for 1939 are invalid. That fact in itself made it necessary for the Town Council to approach Government to introduce a measure of some description so as to enable them to continue the collection of rates and taxes for this year.

That has been done, and careful attention has been given to the matter. It has been decided that in all the circumstances of the case it would be desirable that the basis upon which computation is to be made should be that which existed in the year 1937. That has been done in this Bill.

As everyone knows, sir, it is a question that has engaged the minds of the members of the Georgetown Town Council. I have no doubt that the time has come when an effort should be made to decide upon a proper basis upon which the appraisements should be made, but that is a matter which will take time. It is for that reason, the provisions of this Bill should be extended not only to cover 1939 but also the next year. I may mention, as there was some debate this morning in connection with the Bill dealing with the only other Town Council in the Colony, that no attempt has been made to remove the difficulties in the Town Council Ordinance, Chapter 86, and I have had the occasion to meet a Committee of members of the Georgetown Town Council and also their Legal Adviser. It was apparent that there were difficulties in the Ordinance and in some cases provisions of the Ordinance were completely ignored. It can be easily understood. One can only expect that mistakes will be made resulting in cost to the taxpayers of the City, but no attempt is made in this Bill to remove any of the difficulties existing now or even those which may arise after the passing of this Bill. It is intended as an urgent measure to meet a situation which has arisen, and its whole object is that the Town Council should be given authority to collect on a specific basis whatever rates and taxes they are attempting to collect.

Clause 2 of the Bill provides for that basis. It provides that the Town Council shall compute the town taxes and rates to be levied in respect of the years 1939 and 1940 on the same basis of the appraisements which existed in 1937 and 1938. It is necessary that there should be some limitations to that, and the limitations considered necessary are contained in the two provisos to the clause in paragraphs (a) and (b). If a taxpayer wishes to appeal against the assessment or valuation of his property on the ground that his property has deteriorated since the 31st December, 1937,

then he may do so within the provisions of the Ordinance. Should during the course of this year a building be removed from a property the taxpayer would be entitled to appeal or ask for re-appraisal of his property on the ground of deterioration by reason of the fact of the removal of the building. But I may point out these two provisions, which will become operative immediately, will not have effect during 1939. That is to say, any appraisal made this year is not taken into consideration in fixing the taxes for this year, but will be in respect of that for next year. As regards proviso (b) if the Town Council consider that a property has become considerably enhanced in value by reason of the fact of improvements made or the erection of some buildings on the land, then the Town Council in their turn will be enabled to order a re-appraisal. That new valuation will become operative in the year 1940. We are more than halfway through the year, and it is therefore necessary to put specific dates in that proviso, so that everyone concerned will become acquainted with the dates under the provisions of this Bill. There is therefore in paragraph (a) another proviso that each person asking for re-appraisal on the ground of deterioration must do so before the 1st September, 1939. The object is to give the Town Council some idea as to the reason urged on the ground of deterioration, and also to give the appraisers some idea with respect to the number of re-appraisals on account of improvement. The date fixed by which time the Town Council must make their order for re-appraisal is the 1st December, 1939. That is to say, the Town Council have no later date.

Hon. members may think that the date should be the same as the one for re-appraisal through deterioration, but the reason for fixing as late a date as possible is because persons making improvements or about to do so may delay until after the 1st September, 1939. Any improvement made after the 1st December, 1939, is subjected to re-appraisal for rates during 1940. I do not know whether it is necessary to give a practical example, but if hon. members have any difficulty in following the provisos to the clause or understanding my effort in explaining these provisos, I may state that it also

became necessary to fix a specific date as from when re-appraisements ordered by the Town Council may apply, and that is the 31st December, 1937, because following upon the decision of the Supreme Court that all the appraisements are invalid any re-appraisement since that date must also be invalid if only on account of the fact that the appraisers failed to take the oath. It is for that reason the 31st December, 1937, is chosen.

There is a fourth proviso to the clause. I do not think hon. members are much concerned about that. The whole object of it is to give opportunity during this year to the Town Council to transmit to the Governor in Council their estimate of the tax (calculated upon the appraised value of the properties within the City) intended to be levied. At the present moment, without this amendment the Town Council will have to submit it by the 15th November, 1939, and the proviso extends the time to the 15th December, 1939. The Town Council are thus given an extra month within which to submit their estimate purely in respect of this year. Also in order to save time, if any person desires to appeal against any re-appraisement instead of giving one month's notice under the old Ordinance he will give ten days according to the alteration by the proviso. The whole object is to save time.

Clause 3 of the Bill provides for a declaration of invalidity of appraisements. It is considered wise to have such a provision in the Bill, thereby putting an end to any existing claims that may affect the appraisements. It must be remembered that it is only on certain grounds that the appraisements were deemed invalid by the Court, but there are several others.

Clause 4 gives retrospective operation to the Bill. That is necessary to cover collections that have been made and the receipt of money by the Town Council. In making the Bill retrospective it became necessary to provide two saving clauses,—first, that no interest shall be charged by the Town Council in respect of any unpaid tax or rate for any period prior to the 1st of September, 1939. Hon. members will agree that after the Court has pronounced on the invalidity of the appraisements it would be inequitable with

the retrospective operation of the Bill to leave it open to the Town Council to charge interest in respect of unpaid rates and taxes. Secondly, under the Principal Ordinance those who had failed to pay their taxes and rates on the dates on which they came into force might be subjected to proceedings by the Town Clerk. It is considered that some notice should be given to those persons who have not paid, and some time be allowed them to make payment of their rates and taxes. The first of September is the date fixed. I may mention that if the Bill is not taken through all its stages to-day, the dates mentioned in the Bill may be subjected to revision.

There is also a very necessary clause inserted for the refund of taxes or rates. It may happen that in reverting to the 1937 basis of computation of appraisements those who have paid taxes for this year on the general appraisements may have paid more than is called for by this Bill. In lieu of making a refund the clause provides for an adjustment; that is to say, the Town Council will only be open to refund such portion of the amount in excess of the rates or taxes properly charged under the Bill. I may *en passant* refer to the wording of the clause. If any ratepayer comes forward with any good reason why he should be relieved of his taxes and rates altogether, that is a matter between him and the Town Council. This clause only safeguards the question of refund in so far as persons claiming that they have been taxed on the wrong basis.

One last observation I would like to make. I would like to inform hon. members that it would be a simple matter to make certain criticisms of no particular clause but in general. The criticism may be made that if you reverted back to the old assessment a hardship would be created in respect of the man whose property was valued now much less than in 1937, but that will be applicable to whatever legislation is brought in—if the basis of computation for 1937 and 1938 is the same or if there is no question of invalidity in respect of that for 1939. Certain hardships must be created, I venture to suggest, in all circumstances. This matter was carefully considered and the conclusion was arrived at that whatever hardships may be created, it is impossible to deter-

mine which basis created the greater hardship. There has been some question at some time as to whether the Legislature should not decree to be invalid what has been deemed by the Court to be invalid. If the provisions of this Bill for the old basis were accepted there would still be some argument put forward as to hardships. In these circumstances it is impossible to determine the balance of hardship. Thus I do say that assuming that certain inequalities are remedied, there are still other objections which can be taken, but they cannot apply to the basis in force in 1937.

Mr. PERCY C. WIGHT: I desire to thank Government for so promptly dealing with this matter, which is of vital importance to the property-owners of this City especially from the financial standpoint. The Town Council's money is exhausting and we have no desire to come to Government to ask for further guarantees relative to the Bank. I desire to express my personal appreciation of the assistance given by the hon. the Assistant Attorney-General (Mr. Gomes) to the members of the Committee appointed by me as Mayor of the Municipality in getting out this enabling Bill as quickly as we can. Associated with him is the hon. Mr. Martin-Sperry, who as President of the Georgetown Chamber of Commerce recently joined the Municipality and added considerably to the hastening of this Bill which is before the Council to-day.

I must say that while criticism has been levelled at the Municipality out of fun at some times, in this particular case I think such criticism has been quite deserving. I am not exonerating myself because I was not in the Mayoral Chair at the time that this situation occurred, placing the Municipality in the unfortunate dilemma of having to get legislation in order to collect its rates and taxes.

I have gone through the Bill, and Your Excellency will be pleased to hear that acting on the suggestion of the hon. Colonial Secretary, who thought it was advisable that the Municipality should meet and appoint the appraisers first, the Town Council met this morning and elected three appraisers. That eliminates any difficulty in the matter. I am very pleased to hear that we are going to get the Bill passed through all its stages to-day. At

that meeting of the Town Council it was suggested that I should put that to you, but it is not necessary for me to do so as the hon. and learned Assistant Attorney-General has hinted that he is moving that the Bill be passed through all its stages to-day. Personally I feel very grateful that the Bill has come up, as it relieves me of a great responsibility. It has been my misfortune to come into this matter and not have it settled out of Court. We have been advised, however, that even the decision of the Court is not quite in agreement with public opinion. For myself there can be no better decision on the point, though I have suffered materially by it.

It has been levelled at me that I was in favour of the 1938 valuations. That is not correct. I was in favour of the 1939 valuations, because as a body all the Councillors decided to approach Your Excellency and ask you to confirm them. The figures had shown a considerable increase—actually 10 per cent over and above the former valuations. Though a considerable number of ratepayers did not think of appealing, as the hon. Assistant Attorney-General quite rightly said, there were more than 300 appeals and of those, I do not think, more than one half went in on the basis of the formula adopted by the Magistrate which, I understand, was on the rental value. That is only by the way.

I must say that it has been stated, and I regret having to remark about it but I will not have another public opportunity to refer to it, that Your Excellency's Government has decided to uphold the old valuations. Your Excellency had accorded the Town Council the privilege of meeting you and a few of your Heads of Departments, and at that meeting it was distinctly stated by Your Excellency that you had a perfectly free and open mind in the matter. We left with the impression that Your Excellency was more in favour of assisting us on the 1939 valuations, and I was certainly surprised to hear the allegation made that Government had decided on the 1937 valuations long before that meeting. I therefore desire to take this opportunity of refuting that statement, because I know it is absolutely untrue. I can vouch that whenever Your Excellency makes a statement it is an honest one which you intend to carry out to the letter.

I do not think I can add anything to the lucid explanation of the Bill by the hon. and learned Assistant Attorney-General, but I would like particularly to ask him a question concerning the refund of the interest paid when the Bill goes into the Committee stage. I know personally of several persons who have had to pay interest and did so promptly. I observe that in this Bill no provision is made, except under clause 4, for the refund of interest. I feel that those persons who have paid interest are entitled to a refund because those persons who pay their rates and taxes after this Bill is passed will not be asked to pay interest until after a certain date, and that should be the case also in respect of persons who have paid beforehand. Apart from that I do not see anything in the Bill to heckle over at all. The Bill certainly takes us out of a very serious dilemma, for which I again thank Your Excellency's Government.

THE PRESIDENT: Before the hon. member sits down, will he formally second the motion?

Mr. PERCY C. WIGIIT: I formally second the motion, and do so with much pleasure.

Mr. C. V. WIGHT: Unlike the hon. member for Georgetown Central (Mr. P. C. Wight) who does not exonerate himself from the mess in which the Town Council finds itself, I am in a position to exonerate myself. The position is this: With Your Excellency's permission I will read certain extracts from about eight sheets of paper which I have in front of me—certified minutes and extracts of speeches which I obtained from the Georgetown Town Council in connection with the whole matter of the appraisements. I do not propose to delay the Council in any way by reading the whole of those minutes, but I shall just quote from a few. I regret as a member of the Georgetown Town Council that this Bill before this Council should have been necessary. My regret, however, does not go so far as to say it has occasioned me any surprise, because on the 30th of April in a minute on the Town Council's files I wrote as follows:—

If things go on as they are at present progressing, we may have to ask Government to pass another enabling Ordinance.

That is what we are doing to-day. That was written before any mention of injunction was made or even any threat of injunction had been made. That is why I say it has occasioned me no surprise. One only had to see what was transpiring to say what the final outcome of these matters would have been. On the 8th of July I stated openly:—

I hope the Council are satisfied for the sake of those who pay rates and taxes, but I am not. It would appear that little respect is shown the Council.

I have made several statements in regard to this matter, and according to rumour which in this case is not a lying jade this Council will find itself in difficulties unless strong measures are adopted.

Those words were written at a time when one anticipated but did not know as a certainty that this Council would have to pass a Bill of the nature as has been placed before it to-day.

I would, however, like to take this opportunity of stating that I am opposed, always opposed, to the system of nomination on the Town Council of Government Nominees, but if the Government so desires that this nomination system should persist I would ask Government in the future to consider, and seriously too, the advisability of appointing nominated members who are Government Officers. I am not referring to the hon. Nominated Member on my right (Mr. Martin-Sperry) who has just been put on the Town Council, and a few others who are not at present on the Council. I say that because I attach a considerable amount of blame to the attitude of one of the Government Nominated Members on the Town Council. From the inception the attitude taken up by that member cannot be verified or substantiated by any logical principle or by any method other than his own personal likes and dislikes. It is my opinion that the attitude of this particular member gave rise to a considerable amount of tension and supported a great deal of the opposition as the result of which the Town Council has found itself placed in a wrong position. It was to this that the injunction was due. I think every hon. member is fully aware of this unfortunate situation.

I congratulate and thank Government for having acted so expeditiously in the matter. When the injunction proceedings

were started I again referred to the suggestion that if the Town Council had adopted a rational<sup>1</sup> attitude there would have been no such proceedings and this Bill would not have been necessary. The Town Council have decided on a new Ordinance which they propose to get down to, and it is suggested in that Ordinance that a new basis of appraisement be arrived at. At a meeting of the Town Council held on the 11th of April I suggested that there was being bruited about the question of injunction proceeding. A letter was written to the Town Council, and I suggested that if they got down straightforwardly to the new Ordinance and notified the other side they would probably hear nothing more about the injunction.

I have risen not like the hon. member for Georgetown Central who has not exonerated himself; I have risen to exonerate myself and to thank Government for having acted so expeditiously in this matter.

Mr. LEE : I would like to know from Government or hon. members of this Council who are members of the Georgetown Town Council, what will happen to those appeals in respect of appraisements, which have not been heard as yet by the Magistrate but have been put aside until the decision of the Supreme Court has been obtained. That decision has now been given. In the ordinary course of procedure in the Magistrates' Court those appeals will go by the board, but they carry with them certain penalties. Costs have to be awarded in respect of them. Costs have been awarded on several such appeals, some to the ratepayers and some to the Town Council, which shows that some one has been negligent in the exercise of his duty in the fulfilment of his obligation to the Corporation. That person knew fully well that appraisers are to be sworn, but yet that was not done. No legal opinion as to whether the appraisers should be sworn was sought from the Law Officers, and so the Corporation has been mulcted in costs. Many ratepayers have not appealed against the appraisements on account of the costs involved, and if it is found that there was such negligence the officers of the Corporation responsible should be made to pay the costs incurred.

There is this to be said about the matter. The appraisers have done their

duty in appraising the properties of this City, and they are going to ask for payment for their work. But the appraisers themselves knew that they should be sworn and it was their duty to take the oath. If those appraisers did not approach the proper authority to take the oath, I am asking that a motion be moved in this Council that they be not paid their money.

There is another matter I would like to point out to this Council, and I take this opportunity to do so as the members of the Town Council are either elected by the ratepayers or nominated by Government. I would like to be informed if there is a general principle by which appraisements of City properties should be made, if that principle has been approved by Government, and if it is an equitable principle? I think the members of the Town Council before causing all this muddle should have laid down the principle on which the appraisements should be made. In that way the appraisers would have been guided by the principle laid down and also the Magistrate who exercised the final judgment in the matter.

There is one other thing I would like to draw to the attention of Government, and I sincerely hope Government will look into it at an early date. Certain property-owners of this City on account of the muddle caused by the Town Council have increased the rents on their properties. An increase of one shilling to the poor workman is as great as an increase of a sovereign to another man drawing a large salary. If Government re-introduces the Rents Restriction Ordinance, if only for a short period, it will show to the public and to the property-owners who have increased their rents Government's disapproval of the increases.

THE PRESIDENT: I have allowed the hon. member to go off the point to a certain extent, but I cannot allow him to speak on Rents Restriction.

Mr. LEE : What I am trying to tell Government is that it will be in the interest of the people if Government shows its disapproval of the increasing of rents in the City. I do so from what the newspapers have reported and from what I have heard. There has been some negligence on the part of the Town Council in

not approaching Government before on this matter. Now that they have done so, I am glad because many people will be saved of paying the increase on their rents and property-owners prevented from making profits.

Mr. PERCY C. WIGHT: To a point of explanation. I do not think the hon. member is ever serious in anything he has to say. To lay a charge of negligence against the Town Council is an instance. How can he lay a charge of negligence against the Councillors for not knowing that the appraisers were not sworn? The law has laid it down, but as a Councillor I knew nothing about it. However, I am not going to try to release myself. I am as responsible as any other of the twelve men on the Town Council, but you cannot charge any individual Councillor with carelessness in the matter. I may add that we are getting a method of assessment whereby we will not need any appraisers at all. The Ordinance wants throwing into the melting-pot, there is no doubt about that, but it is not fair to lay a charge of carelessness against the Councillors.

Mr. MARTIN-SPERRY: In finding myself entirely in support of this Bill I desire to state that I happened to be appointed a member of the Town Council and endeavoured to remedy some of the trouble. During the course of redrafting of the Bill a great many difficulties cropped up, and I should like to pay a small tribute to the hon. Assistant Attorney-General who, as acting Attorney-General, has gone to great pains along with other members of the Committee to redraft this Bill so as to meet possible difficulties that may arise. I was not concerned with the previous Town Council, and the fact that I was associated with the injunction proceedings against the Town Council I do not propose to touch upon that at all. I merely desire to state that all the difficulties have been very carefully considered by the Committee which consisted entirely of lawyers and myself. I would like to voice my support of this Bill and also to pay a small tribute to the hon. Assistant Attorney-General. I trust that it will be passed without further talk.

Mr. HUMPHRYS: Like the hon. member, who has just taken his seat, I would like to see this Bill passed without very

much talk, but there is one matter which worries me considerably. I do not quite see how Government can deal with it in this Bill, but it is going to arise very shortly and if anything can be done to elucidate it at this stage I would be very glad. I refer to the costs of the appeals. That is really a difficult matter, as a considerable number of the 300 odd appeals are still pending. Some appeals have been dismissed with costs and some allowed with costs. I do not know what the position is going to be if it comes to a question of law. There can be no doubt about it, that those whose appeals have been dismissed will not be strictly entitled to have the money returned to them because they had appealed against something which should never have been done; it was a mistake of law on their part and the appeals having been dismissed that money cannot be recovered. That is the legal aspect. I do not think the Town Council can adopt in this matter a strict legal aspect. They have got to view this matter from the standpoint of morality. Due to the Town Council's negligence there was an illegal general appraisal as the result of which many poor people were compelled to appeal from the taxes levied on that appraisal. It was not until some time after the appeals were filed that litigation to set aside the appraisal was started in the Supreme Court. It does seem essential, if the Town Council are not going to take a moral view of the matter, that a lead should be given them by this Council. It is very hard on the ratepayers to be put to the trouble of appealing and incurring costs whether the appeal is successful or not and then to lose those costs. That is the position in which the matter stands.

What is the position in respect of those appeals to be heard? Are they going to be allowed with costs? Are they to be pigeonholed? I respectfully submit that a statement at this stage should be made by the Mayor of Georgetown as to what the Town Council propose to do about the matter. I press it with every sincerity. I consider that the Town Council should refund the costs to every appellant who has paid as the result of his appeal not being successful. It was not because the appraisal was legal but because the appraisal was illegal. He should never have been put in that position. Every appellant who has paid

costs should have them refunded, and the Town Council, I know, will not be able to recover the costs of those appeals which were successful but cost not paid. Any costs they had to pay as the result of the muddle they got into was the fault of the Town Council. I do not want to stress the position, as it would be reopening old wounds, but the Town Council and the hon. member for Georgetown Central (Mr. Percy C. Wight) must agree with me that a great deal of costs could have been saved the ratepayers if the Town Council had not acted rashly and approved the proceedings which had been taken. One Town Councillor openly said that it was a bluff and no proceedings would be brought. Ratepayers have lost nearly \$2,000 roughly as the result of that.

I do submit that the question of the costs of the appeals is one which should be discussed at this Council meeting and something decided about it. It seems to me that if in these appeals, whether successful or not, the appellants are to lose their costs however small—I think it is \$12—it would be a matter of great hardship. It was no fault of theirs; the fault only lies with the Town Council, as they ought to have kept within the four walls of their Ordinance. They failed to do that. When shown that they were wrong, at that stage they should have stopped and tried to put themselves in order, but they have waited until they have been driven against the wall to now ask for peace. I put forward the suggestion as an amendment may be made now to deal with the question of the costs of appeal. I congratulate very sincerely the hon. Mr. Gomes on the trouble and interest he has taken in this matter and the speedy way in which the Bill has been placed before this Council. I think the Town Council has found a true friend in him as acting Attorney-General in his helping them as he did.

**Mr. ELEAZAR:** I do not like to meddle in other people's matters. I am truly delighted by the speeches of the hon. members for Eastern Demerara (Mr. Humphrys) and for Western Essequibo (Mr. C. V. Wight). These two gentlemen, when the New Amsterdam Town Council got into ordinary difficulty and when the individual who occupied the Mayoral Chair was mainly the individual to come to Government in the first instance for a

Bill to help the situation, got up here and said that the New Amsterdam Town Council should be treated as recalcitrant schoolboys. The Georgetown Town Council wants taking over by Government but for the fact that the hon. member for Georgetown Central (Mr. Percy C. Wight) is in the Mayoral Chair. We have to thank the hon. Assistant Attorney-General for having come to the rescue of Georgetown in the same way that he has come to the rescue of New Amsterdam in order to avoid an unpleasant situation. I think, however, that after this, hon. members should be very careful how they wag their tongues upon other people when they see them in difficulty. I had issued an unsolicited warning to that Council that they were running up against difficulties, but they would not heed me because they could not see where the difficulty was coming from. It is not like New Amsterdam where we are most likely to see the trouble, and do not come here and pray and tell the world. We do not say that the Bill should go through without any talk, that certain members should be exonerated, and that some member is giving trouble.

I have only got up to say that I endorse all that has been said of the hon. member on my right (Mr. Gomes). All thanks must be given to Government for coming in and helping us when we are in difficulties. I want to thank the hon. Mayor of Georgetown (Mr. Percy C. Wight) for refusing to exonerate himself and for accepting the full measure of responsibility with his Council in the matter. That is what most of us should do. Do not come here and make ourselves paragons of excellence and seek to put the blame on the shoulders of others. That is what I am enjoining upon hon. members who talk so glibly about New Amsterdam. There we take the blame and do not come and read extracts to show that we had said so and so. With these remarks I beg to resume my seat.

**Mr. SMELLIE:** I do not want to delay the business of the Council, and therefore my remarks will be very brief. I would like to endorse every word that the hon. member for Eastern Demerara (Mr. Humphrys) has stated, especially in view of the hardship that will be inflicted on those who have appealed against the 1939 appraisements if no relief is afforded them.

As I see it, there are three classes who were affected by the increased appraisement for the year 1939. Those who did not appeal but have obtained relief by this measure, those who did appeal but have obtained no relief at all, and those who sought other channels for relief and have had themselves reimbursed. There is, therefore, but one class without relief, and for that reason I urge that something should be done in order to give them relief in the way of costs.

Mr. WOOLFORD: I rise only to say that since I have been a member of the Executive Council no public measure has received more extended consideration than this Bill. I can say without violating any secrets that at least three meetings of the Executive Council were held before any decision was arrived at. It is unfair to Government and to that Council for anyone to suggest that there was any preconceived decision before the Bill was given consideration. I have very great pleasure in saying that the acting Attorney-General was placed in a very difficult position when dealing with this draft Bill. It was really only put into proper form within a short time of its publication.

THE COLONIAL SECRETARY: I rise only to say that Government hopes the members of the Town Council will now consider seriously the advisability of trying to obtain the services of someone in the United Kingdom well versed in the method of appraising properties. Government feels it would give greater satisfaction to ratepayers and all concerned if such action can be taken by the Town Council. I do not wish to cast any reflection on the manner in which the appraisers have performed their duties, but it does seem in view of what has happened, that there is some reason for feeling that the system of appraisements may well be very seriously examined.

Mr. PERCY C. WIGHT: I am placed in a very difficult position to express an opinion on behalf of the Municipality of Georgetown.

Mr. GOMES: One point was made by the hon. member for Eastern Demerara (Mr. Humphrys) that clause 5 of the Bill, which relates to the refund of any rates

and taxes that have been paid, does not include any provision for interest. This is the first occasion, although I have met the members of the Town Council on two or three occasions, that interest has been mentioned. That being so, when the clause reaches the Committee stage I shall move a small amendment so as to make it abundantly clear that interest will form part of any amount that is to be repaid. It is merely a matter of readjustment. If the taxes or rates due amount to \$20 under the provisions of the Bill and \$50 had been paid plus \$6 interest, then the amount to be refunded would be \$36.

With respect to the question of costs, I may mention that a Committee of the Town Council, the legal adviser to the Town Council, and myself gave it careful consideration, and after a long consideration it was decided that no attempt should be made to make any provision for that in the Bill, as it is merely a matter between the Town Council and individual ratepayers. I am inclined to agree with the observation made by the hon. member for Eastern Demerara, that the Town Council should consider as to what should be done in the case of those appellants who have suffered.

Question put, and agreed to.

Bill read the second time.

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

Clause 5—Refund of taxes or rates.

Mr. GOMES: Following upon the remarks made by the hon. member for Georgetown Central, I move that the words "including any interest that may have been paid" be inserted in brackets after the word "amount" in the seventh line of the clause.

Mr. PERCY C. WIGHT: The hon. member for Eastern Demerara must recognize that the Town Council have a Legal Adviser. He advised us that we were in perfect order and that an injunction could not be obtained against the Municipality. I think the hon. member would admit that he knew that. The lawyers are the only persons who have benefited by it. I have lost considerably by it. Although a reduc-

tion was made on the appraisement of my property, I still had to pay the lawyers for appearance. You do not get the costs.

**Mr. HUMPHRYS:** In reply to the hon. member, I deny that I knew anything about advice having been given to the Town Council by their counsel. I am not interested in what advice the Town Council received. What I am interested in, is to hear whether the hon. member for Georgetown Central will recommend to his fellow Town Councillors the consideration of this question of the costs of the appeals, because I feel it is a moral claim. I do not want to embarrass the Town Council by moving an amendment to this Bill, but I hope the hon. member will do his best to infuse in his fellow Town Councillors some feeling of morality in this matter.

**Mr. C. V. WIGHT:** In regard to the remarks of the hon. member for Eastern Demerara, while the Town Council is under no legal obligation to repay any money I thoroughly agree with him in connection with the costs of the appeals. Speaking as an individual Town Councillor, I will heartily support the return to any person, who has suffered by the action of the Town Council, the expenditure he incurred. There must be several persons who have suffered by the action which the Town Council forced upon them. The hon. member referred to the point of the fees paid by certain taxpayers, some of whom hardly are in a position to spend the sum of \$12 necessary or requisite to protect their interests in the matter, and as an individual Town Councillor I heartily support the return of any such expenditure on their behalf.

The hon. member for Berbice River (Mr. Eleazar) referred to me as his youthful colleague. He knows that youth always bow to the wisdom of their elders only in cases where those elders set a good example. I do not think they have done so in this case.

**Mr. ELEAZAR:** I regret I have to again remind the members of the Georgetown Town Council that the words of the Mayor or of the youthful member here cannot bind the Town Council at all. Some people have lost by going to appeal because they were mistaken in their law.

**Mr. PERCY C. WIGHT:** I make no rash promise, but will convey to the Town Council what the hon. member for Eastern Demerara has said and what the hon. Colonial Secretary has made public this afternoon.

Amendment put, and agreed to.

The Council resumed.

**Mr. GOMES:** I move that "A Bill intituled an Ordinance to prescribe the method to be adopted in computing the taxes and rates to be levied by the Mayor and Town Council of Georgetown in respect of the years nineteen hundred and thirty-nine and nineteen hundred and forty" be read a third time and passed.

**Mr. WOOD** seconded.

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

Bill read the third time.

#### DIOCESE OF GUIANA (AMENDMENT) BILL.

**Mr. HUMPHRYS:** I move that "A Bill intituled An Ordinance to amend the Diocese of Guiana Ordinance, Chapter 229, to make provision for increasing the number of the Trustees and for the exercise of the powers of the Trustees by three or more surviving or remaining Trustees" be now read a second time. I may say that the object of this Bill is simply to enable the Diocesan Synod to appoint another two Trustees, making the total number "five" instead of "three." The reason is that every now and then one or more of the Trustees leave the Colony on vacation, and it is found difficult to carry on sometimes with only a single Trustee remaining here. By virtue of increasing the number there will always be three or more Trustees in the Colony. The framers desire that at least three Trustees should carry on, if possibly one or two of the Trustees must be out of the Colony. I do not think I need say further on this Bill,

**Mr. AUSTIN** seconded.

Question put, and agreed to.

Bill read the second time.

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

Clause 2—Amendment of section 5 of the Principal Ordinance.

Mr. HUMPHRYS: I have been requested by the framers to ask this Council to agree to an amendment in the fourth line of subclause 2 by substituting the word "three" for the word "two."

Amendment put, and agreed to.

The Council resumed.

Mr. HUMPHRYS: I give notice that at the next or a subsequent meeting of the Council I will move that the Bill be read a third time and passed.

THE PRESIDENT: I think it would probably be for the convenience of hon. members if the third reading of the two Bills taken in the Committee stage to-day be taken now. It is improbable that there will be any business before the Council for about three weeks, and perhaps we might suspend the Standing Rules and Orders in order to take the third reading of these two Bills.

#### NEW AMSTERDAM TOWN COUNCIL (MAYORAL ELECTION) BILL.

Mr. GOMES: I move that the Standing Rules and Orders be suspended to enable the New Amsterdam Town Council (Mayoral Election) Bill to be read a third time without due notice.

Mr. WOOD seconded.

Motion put, and agreed to.

Mr. GOMES: I move that "A Bill intituled An Ordinance to make provision for the election of a Mayor of New Amsterdam for the remainder of the current year and for matters in connection

therewith" be read a third time and passed.

Mr. WOOD seconded.

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

Bill read the third time.

#### DIOSCESE OF GUIANA (AMENDMENT) BILL.

Mr. HUMPHRYS: I move that the Standing Rules and Orders be suspended in order to enable the Diocese of Guiana (Amendment) Bill to be read a third time and passed without due notice.

Mr. SMELLIE seconded.

Motion put, and agreed to.

Mr. HUMPHRYS: I move that "A Bill intituled An Ordinance to amend the Diocese of Guiana Ordinance, Chapter 229, to make provision for increasing the number of the Trustees and for the exercise of the powers of the Trustees by three or more of the surviving or remaining Trustees" be read a third time and passed.

Mr. SMELLIE seconded.

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

Bill read the third time.

THE PRESIDENT: I would like to inform hon. members that there is no further business before the Council. At the present time there are two or three Bills which Government proposes to bring forward, and notice has been given on the Order Paper of several motions. I think it is probable that it will be necessary to have a meeting of the Council in about three weeks time, but I cannot fix a specified date to-day. The Council will therefore adjourn *sine die*.

The Council adjourned accordingly.