

LEGISLATIVE COUNCIL.*Thursday, 24th November, 1938.*

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

PRESENT.

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

The Hon. the Attorney-General, (Acting), Mr. S. E. Gomes.

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

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

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

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

The Hon. F. J. Seaford, O.B.E., (Georgetown North).

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

The Hon. N. M. Macleman, Director of Medical Services.

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

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

The Hon. H. P. Christiani, M.B.E., Commissioner of Lands and Mines.

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

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

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

The Hon. J. Eleazar (Berbice River).

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

The Hon. Peer Bacchus, (Western Berbice).

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

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

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

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

The Hon. T. Lee (Essequebo River).

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

MINUTES.

The minutes of the meeting of the Council held on the 23rd November, which had been circulated, were confirmed.

UNOFFICIAL NOTICES.**SCHOOL TEACHERS' SALARY CUTS.**

Mr. PEER BACCHUS gave notice of the following questions :—

1. What year were Civil servants subjected to salary cuts?
2. When were salary cuts restored?
3. Were school teachers' salaries subjected to any such reductions during that period?
4. If so when were their cuts in salaries restored, if not why?

ORDER OF THE DAY.**SUMMARY JURISDICTION (OFFENCES)
(AMENDMENT) BILL, 1938.**

The Council resumed the debate on the second reading of the following Bill :—

A Bill intituled an Ordinance to amend the Summary Jurisdiction (Offences) Ordinance, Chapter 13, in respect of acts of wrongful interference with the exercise of rights.

Mr. ELEAZAR: When the Council adjourned yesterday I was suggesting that the Bill be read six months from that day. After very mature consideration since the Council rose it has become my considered opinion that the Bill is certainly unnecessary at this time and should not find a place on the Statute Book of the Colony. The section which it is now sought to repeal—Section 31 of Chapter 13 of 1893, as amended by section 3 of Ordinance 6 of

1937—has stood the test of time. What we had recently in the nature of disturbances in the country were mere apologies for the happenings of years ago, and I have especially in my mind's eye the Rose-hall riot in which no fewer than 16 persons lost their lives and several others were injured, yet section 31 stood the test of what was required to meet those circumstances. Three men were charged and I had the pleasure of defending them and the displeasure of having them convicted and sentenced to three months imprisonment each for hindering people from working.

It took my breath away to hear the Commissioner refer to what was happening as trade union disputes. This Bill has been taken piecemeal from the Statute laws in England, designed under different conditions for very different organisations. There is no organisation in this country, so far as I am aware, that approximates to a trade union. There are a number of ordinary labourers who are asked to join an association and pay a dollar a year and a penny a week. They are told that if there is a strike the association will help them. Those unfortunate people were misguided into those petty risings. There was never any serious injury to anybody, and certainly no loss of life. Therefore to transplant or to transcribe sections from the Trade Disputes and Trade Unions Act of England, where conditions are so different, cannot be of any service to this country.

As regards trespass on private property there is a section which deals with malicious trespass on property. Where then is the reason to subject the whole community to special provisions which relate to trade unions in England? It seems to me unnecessary. The moral force of this country is becoming frightened. It is proposed to impose a fine of \$100 and imprisonment in the place of a fine of \$50. It is like putting a gunboat to do the work of a fishing boat. I can understand a man watching a place in England where there are factories, but I wonder who could watch a cane-field in this Colony with any effect? For such an offence a person is liable to a fine of \$100 and/or six months imprisonment. The word "watches" presupposes some compound. How can anyone picket miles of

cane-fields? I cannot see what is to be gained by taking sections out of the English law and putting them into a local Ordinance. By deleting the words "and with force" picketing has been made an offence.

THE PRESIDENT: The hon. member realises that the words "and with force" are not removed by this Bill but by a previous one.

Mr. ELEAZAR: I appreciate that. If it were left to the use of violence one would not cavil, but one must not intimidate another person or his wife or children. One can scare a child in very many ways. You tell a child that his father is a bad man and he runs away and says he is frightened, and you get six months for that. It is absurd. I move that the Bill be read this day six months.

Mr. HUMPHRYS: I have given the matter very careful thought and I entertain grave doubts as to the advisability of passing this Bill into law. I am to a certain extent in agreement with the views expressed by the hon. member for Berbice River (Mr. Eleazar), but I view the Bill from other aspects. It seems to me that we have not reached the stage of industrial progress and the use of trade unions reached in England. The English Act serves a useful purpose because there are factories and works which abut the public roads and public highways, and when a real industrial controversy is on it is lawful for peaceful picketing to be carried on. Here I cannot see how the law will apply, except to bring about grave disputes in which I am afraid there will be police intervention. Most of the labourers are employed on sugar estates which are private property. A great many of the labourers are resident on the estates. I have no doubt that this proviso, framed as it is, will be wrongly interpreted not only by a number of labourers but by those who advise them, and I feel that the labourers will come to the conclusion that it permits trespass, and that acts which are now trespass under the law they will think they are permitted to commit. I feel that when the proviso is read by an ordinary layman of very moderate education he will not go to a lawyer in Georgetown and ask the meaning of it; he is going to take it into his own hands or go

to one of his associates, a little better educated than himself perhaps, and ask if he is allowed to trespass. His adviser is going to point out that the proviso says "it shall be lawful," and he is going to go on the estate and prevent the labourers from working. I feel that if this Bill is to become law it is necessary that there should be inserted a section making it clear to laymen that the Bill does not render lawful any act of trespass on private property. A great many cases will arise before it is brought home to them. Unless there is a clear declaration in the Ordinance that it is not lawful cases will be constantly arising. We cannot quite picture the number of labourers resident on estates, and some little disaffection among a few of them, behaving in a manner which they think lawful, they will say they are not trespassers because they are living on the estate. The law of trespass goes further than that, but the ordinary man will not know that.

In Committee I shall move an amendment. On the whole I feel that Government is making a mistake in introducing this Bill. I think it would be better to leave well alone. I can see no difficulty in interpreting the present Ordinance. I think it is perfectly clear what amounts to unlawful hindering, and the facts of the case would be sufficient to prove unlawful hindering. When the words "and with force" are added it is difficult to bring home the charge to the offender. While I have every appreciation of the laws of England we must bear in mind that they were framed to suit conditions that exist there, and I think those conditions do not exist here. It is no good trying to force laws on a community that are not suitable to local conditions at the present time. If this Bill is passed into law Government will find that far more difficulty will arise from it than we have had during the past few months. What does the ordinary labourer understand by industrial disputes? He might attribute that to any sort of disaffection he might feel, and we will have half a dozen of them going aback of an estate and resorting to what they call peaceful picketing. It will be a very dangerous thing to pass this Ordinance, and I warn Government of the danger. I am urging Government to give the matter very careful consideration. We cannot simply adopt the provisions of the English

Act and plant them into a community which has not reached the stage of the use of trade unions.

Mr. SEAFORD: When I first saw the Bill I understood it was a mere explanatory Bill intended to make clear something which was not quite clear in the Ordinance. The more I have heard about it the more terrified I have become. This is one of the occasions on which I wish I was a lawyer, but I have a certain amount of commonsense and I can see a point. The first point is that this is really a trade disputes Bill. Has there been any trade dispute in this Colony at any time? Can those little grievances and strikes for wages be called trade disputes? I do not think anyone can term them as such, and I therefore do not see why we should pass such a law when there are no trade disputes at all. Is there any such law in the United Kingdom or anywhere else which deals with agriculture as it is sought to do in this Colony? I have been trying to find out, but nobody could tell me. Are we so much more advanced here than other places? The people of this Colony have not yet reached the stage when they can entirely grasp the meaning of all this. They are not as well informed as the people in the United Kingdom and yet, apparently, we are going in advance of what they have in England to-day. Is that a wise policy for Government to adopt? It seems to me that the laws come to this Colony and we are told to adopt them, but the people who tell us to do so have not the remotest idea of conditions in this Colony. I can quite appreciate the necessity for such a law in the United Kingdom where there are factories abutting the public roads.

The law of trespass has puzzled me. I gather that it still holds good. Practically all the work on sugar estates is done aback. Is a man trespassing if he goes aback to his work-place? I gather that he would not be trespassing because his work-place is aback. It means that there can be picketing on every section of an estate. I know that there is such a thing as peaceful picketing, but it is well known that at times there are fires in cane-fields. It would not be difficult for a peaceful picketer to throw a lighted cigarette in a cane-field. It seems to me that by this Bill Government is opening a new and very dangerous ground of attack so far as

the sugar industry is concerned. I will go a little bit further than the hon. member for Berbice River (Mr. Eleazar). He has moved that the Bill be read six months hence. I propose to suggest that it be put into the waste paper basket. I feel that no good can come of it. We have not reached the stage in this Colony where we can adopt methods which have been adopted in the United Kingdom, or in fact go beyond them. I appeal to Government to consider the matter very carefully before we put our heads further into the noose.

Mr. LEE: I would like to point out that trade unionism has just commenced in this Colony and it is of interest to the labourers, whether they are seamen, porters or agricultural labourers on sugar estates, that they should in a way unite together in order that their rights may be protected. There are a few men among the public who are trying to point out to those people that in unity rests their strength to make reasonable requests. Among the unionists there are grave doubts with respect to section 31 of the Summary Jurisdiction (Offences) Ordinance in regard to peaceful picketing, and I suppose that is why representation has been made to Government that their rights with respect to peaceful picketing should be fully defined. If Government had copied the section in the Trade Unions and Trade Disputes Act of 1906 which deals with peaceful picketing and left it there I do not believe that any member of the Council would have objected to it. Section 2 of the Act states:—

“2.—(1) It shall be lawful for one or more persons, acting on their own behalf or on behalf of a trade union or of an individual employer or firm in contemplation or furtherance of a trade dispute, to attend at or near a house or place where a person resides or works or carries on business or happens to be, if they so attend merely for the purpose of peacefully obtaining or communicating information, or of peacefully persuading any person to work or abstain from working.”

Government seems to have left out certain words in the proviso of the Bill, and in trying to explain section 31 of Ordinance 6 of 1937, Government has gone further than was required by the trade unions as far as I know. The trade unions required an Ordinance whereby they would be able to approach any person peacefully when there are trade disputes about wages

and ask that person not to break the strike. That person might be on a wharf or in the postal service. They simply asked for protection so as to be able to persuade persons not to break a strike, in order that their demands might be met.

Mr. DIAS: I think the hon. member who has just spoken has missed the point altogether which has formed the subject of the opposition to this Bill. With regard to the section which deals with peaceful picketing I have always had objection to it in its present form because, reading it without reference to any decision of the Courts in England, one is inclined to believe that he would have authority to walk on to the premises of anybody in order to persuade or dissuade, as the case may be, people who are willing and are working from doing one or the other. It is true that an English case decided that you cannot do these things if you are going to trespass in the performance of the act of peaceful picketing, but I think it should be borne in mind that in order to know what the law is in circumstances of that kind you have to travel with two books, not the Ordinance alone but with the English decision alongside. When I read the Bill I pictured a sugar estate with people working five or six miles aback, and somebody who wants to discourage other persons from working travelling all that way and trespassing all the time on the property of the estate. If you asked an ordinary individual to read the section and place an interpretation on it his reply would be that it entitles him to go wherever a man is working and use his influence with him. The Attorney-General intimated that Courts in England had held that if you went on private property it would be trespass and I venture to suggest that no other member of the Council knew of that decision. With that decision on record I suggest that if it is intended to permit peaceful picketing this section should be re-framed in such a manner as to give effect to what the English Courts have decided.

My sympathies will be with the people who are charged with trespass because they might be misled by the law. If necessary there should be an independent definition of what peaceful picketing means, and it should be made perfectly

clear to the man of ordinary intelligence that he has no right to go on private property to do that which he would otherwise have the right to do in the exercise of peaceful picketing. That is the position Government should take up so as to avoid disputes and discussions and probably trouble later on. I think the opportunity presents itself to make it so clear that there could be no possible misunderstanding as to what the rights of people are. To carry out the purpose of the Ordinance one must go on private property because no estate is so near the road as to enable a person who wants to indulge in peaceful picketing to communicate anything to any person at work. The majority of the estates are not near the public road, and I cannot see how a man could go to his work-place without committing trespass.

MR. SEAFORD: Does the Attorney-General confirm the statement that if anyone went on an estate dam with the object of peaceful picketing he would be trespassing? In other words, is a person allowed to go on an estate with the object of persuading people not to work?

THE ATTORNEY-GENERAL: That is a very controversial question in this Colony, but in every instance it is a question of fact to be determined on the precise facts of each case—*who the dam belongs to and whether the person has any right to go there. If it is a private dam he has no right to go there.*

MR. PEER BACCHUS: I rise to support the amendment moved by the hon. member for Berbice River (Mr. Eleazar) that the Bill be read six months hence. In the Objects and Reasons it is stated that the Bill is to clarify the law with regard to peaceful picketing. I agree with the hon. member for Eastern Demerara (Mr. Humphrys) that instead of clarifying the state of the law it would bring about more prosecutions in the Magistrates' Courts than hitherto. From a commonsense point of view I do not think one can be allowed to go on another's private property for the purpose of peaceful picketing. A very important point was brought out by the hon. member for Georgetown North (Mr. Seaford). Conditions here are far different from those in England. If a labourer is allowed to go two or three miles aback for the purpose of peaceful picketing

the value of freehold property in this Colony would drop practically to nil. A man might enter my rice mill or my concrete drying area and say that is peaceful picketing. The Bill does not clarify the position of the law so far as the masses are concerned. They would not be in possession of the English decision on the question, and I feel convinced that there would be more trouble in the future if this Bill is passed into law. I do not think there is any need for the fear expressed by the hon. member for Essequibo River (Mr. Lee) as regards the protection of trade unions. I think the members of associations have the right to strike at any time.

MR. LEE: The unionists are requesting Government to define their rights in respect of peaceful picketing.

THE ATTORNEY-GENERAL: I should like to clear away the apprehension in the minds of certain members who have spoken to the effect that the Bill effects any substantial change in the law as it exists at present, or contains any provision that is more stringent than the existing provision. The penalty provided is higher than that provided in the present Ordinance, but that is a matter of opinion, and when the Bill is being considered in Committee due attention will be given to it, and in all probability it will be reduced to that of the present Ordinance. There has been no substantial change because, if the clause in the Bill is examined carefully it will be seen that it really sets out what the law is at present and declares what is peaceful picketing. In sub-clauses (a), (b), (c), (d) and (e) certain offences are set out. I venture to submit that all those offences are contained in the words of the present section which speaks of hindering or preventing any person from doing his work. All these sub-clauses are governed by the introductory words of the section. These sub-clauses simply clarify those acts which would be held by a Court to be acts of wrongful interference with the exercise of rights. They simplify the work of any judicial tribunal in interpreting what the word "unlawfully" in the present section means. The Courts have experienced great difficulty in deciding whether certain acts amount to wrongful interference with the exercise of rights, and I submit that the language used in

these sub clauses will make the work of those tribunals much easier.

What does the proviso do? It declares the process of peaceful picketing and legalises it to a certain extent. All that that proviso does is this: that if a person is charged it shall be a good defence if he can say that all that he did only amounted to a peaceful act, to try to illicit information or peacefully persuade another person to refrain from doing work. What is the position at the present moment? If a person is charged under section 31 and he satisfies the Magistrate that his whole object was to try to get the other person not to work, and he did so in a peaceful manner, the Magistrate would take that into consideration but he might say "nevertheless, you are not allowed to do that." I do not think any case has ever been brought in this Colony where a person has been charged under section 31 without some act of violence or some threat having been used. Under the present proviso, if a person satisfied the Magistrate that his whole object in doing so was to peacefully persuade a labourer not to work he would not be guilty of an offence. I venture to suggest that even if this Bill becomes law the position would be pretty much the same as it is to-day. We know that there have been disturbances and people have assembled at other persons' houses or places of work and endeavoured to persuade them not to work. As I said in my opening remarks on the second reading, the watching or besetting of the house of another person, if done in a certain way, cannot amount to any offence. If it is done in certain other ways it becomes a nuisance at common law. I think hon. members have forgotten that in this Colony there is a Trade Unions Ordinance, Chapter 57, and under that Ordinance members of a union are exempt from any action *in tort*. At the present time the position is this: if persons assemble on an estate and endeavour to persuade other persons not to work it might well be said in certain cases, if their assembly is accompanied by certain acts, that those acts amount to a common law nuisance, but if it is done in a peaceful manner, that it does not amount to a common law nuisance. It must not be lost sight of that all the proviso in this Bill does is to permit a person peacefully to interfere with contractual relationship.

That is all the proviso does, and in such circumstances where persons exercised their rights in a peaceful way I fail to see why there could be any objection to authority being given in the Statute to enable them to do so.

Other members have spoken on the question of trespass. I have been very much exercised in mind over that particular point and I had a discussion some days ago with the Commissioner of Labour on the point, and it was then suggested that notwithstanding the decision I have referred to, which by the way is an Irish and not an English one, it might be well to make it very clear in the clause of the Bill. We did not come to any definite conclusion on the point, but I nevertheless bore the matter in mind and I am very glad it was raised by the hon. member for Eastern Demerara (Mr. Humphrys) and supported by the hon. nominated member, (Mr. Dias). I think it would be wise to accept the suggestion that has been made. Consideration has been given to it, and in the circumstances described by the hon. member I think it would be wise to put the minds of laymen at rest by declaring what the case law is in the clause of the Bill.

One hon. member referred to trade disputes and asked what trade disputes there have been in this Colony. I am not prepared to say whether there have been any or not, but now that he has mentioned it I would like to make this observation: The proviso to the clause has been extremely carefully worded and most of the words have been subject to judicial interpretation, but it must be remembered that the proviso will have no effect whatever unless there is existing at the time an industrial dispute, or unless one is imminent. What amounts to a trade dispute is not altogether an easy question, but a definition is contained in the clause of the Bill as to what is an industrial dispute. I would remind hon. members that unless an industrial dispute is in fact existing or imminent this clause has no effect whatever. I have no doubt that many hon. members take the view that the recent disturbance could not in any sense be described as an industrial dispute. The term means something very substantial and therefore it is possible that the

proviso may take effect in very few instances.

The hon. member for Essequibo River (Mr. Lee) has referred to the fact that certain words have been left out in the proviso, and I think the hon. member for North Western District (Mr. Jacob) also referred to the omission of certain words when he was debating this question some time ago. The words referred to by the hon. member for North Western District were omitted from sub-clause (e) which reads as follows:—

“(e) follows such other person in a disorderly manner in or through any street or road;”

That sub-clause is taken from section 7 of the Conspiracy and Protection of Property Act, 1875. The words in that Act are “follows such other person with two or more persons.” Those words are omitted in this Bill, and I have very good reason for their omission. I fail to see why it should not be just as much an offence for one man to follow as for three or more to do so. I submit that the wording of the Bill is an improvement.

The other omission referred to by the hon. member for Essequibo River (Mr. Lee) is contained in the proviso. In the Act of 1875 there was a paragraph at the end of section 7 which exempted from the provisions of the section persons who attended at another person's house or work-place merely to obtain or communicate information to him. That section was repealed and re-enacted by section 6 of the Act of 1906 which legalises peaceful picketing. It amplified the previous provision and set out precisely what would amount to peaceful picketing. Under the Act of 1906 it was permissible not only to picket a person's work-place but also his residence, while in 1927 the Trade Disputes and Trade Unions Act was passed, and by section 3 of that Act it was provided that it is unlawful for any person to watch or beset the house of another. On the one hand we have the Act of 1906 stating that it shall be lawful, and on the other hand the act of 1927 stating that it shall be unlawful. There may appear to be some conflict. In the 1906 Act it is stated that you may picket only where a trade dispute exists or is imminent, while the 1927 Act leaves it general. So that the net result is that

peaceful picketing is permissible at either place when there is a trade dispute.

The reason for the omissions is two-fold. The provisions of this Bill, although I have stated that they have been taken substantially from the English Acts, follow an enactment in another dependency which has been in existence for some time, and it has been found to serve a very useful purpose. The enactment in that dependency makes those two omissions, and that procedure has been followed in this Bill. The other reason is that in this Colony, I submit, it would be a great mistake to declare that picketing may take place at a workman's residence. One can well visualise what would happen if that was stated in the law. Our criminal statistics show that there is quite enough watching and besetting of persons' homes, both in the City and in the country, to leave the matter where it is. In my opinion such a provision would not be suitable in this Colony. Why should picketing be allowed at a person's residence when there is ample opportunity at his work-place? The object of the Bill is not to allow any Tom, Dick or Harry to go on private property and do as he likes. Members of associations will no doubt be advised what action they should take. The Bill does not aim at allowing anyone to intimidate a workman. I therefore welcome the suggestion of the hon. member for Eastern Demerara (Mr. Humphrys) that there should be inserted in the Bill some provision making it quite clear that the words “attend at or near a house or place” do not permit entry in or upon a house or place. I have no doubt that the hon. member will move an amendment when the proper time arrives.

On the question of trespass, although it is proposed to insert a clause making it quite clear that the provisions of the Bill do not authorise trespass, the difficulties that may arise exist at the present moment. The position will remain unchanged, and it will be a question of fact in each case as to whether a labourer by his presence on a certain part of an estate is committing trespass. If he is allowed to go there then he is not a trespasser.

THE PRESIDENT: I think I should explain what is the position of Government in regard to this Bill. It is not

intended really to make any change in the existing law but to be declaratory, and to remove doubts. A considerable number of doubts have arisen both here and elsewhere on the various points with which the Bill deals, and particularly as regards what is known as peaceful picketing. The existence of those doubts in colonial labour legislation has been the subject of very general consideration and has aroused very wide interest, and the absence of provisions which clearly allow this process in certain colonies at any rate has been the subject of very great criticism. I think it would be regrettable that it should go on record that this Colony refuses to consider the acceptance of that procedure which has been universally accepted elsewhere, but on the other hand it is quite clear from the debate that difficult questions of interpretation may well arise, and there may be certain amendments in the wording of the law which ought to be considered. There is not the slightest desire to rush this Bill through the Council in a hurry, and not the slightest objection to further time being given for the consideration of those doubtful words. The Council will in any case have to meet again a little later for the consideration of certain measures, and I would suggest to the Council that the principle be accepted in the second reading and that the interpretation question be allowed to stand over for the Committee stage so as to allow more time to consider the wording of those various amendments which have been suggested.

Mr. SEAFORD: Do I understand you to suggest that the principle should be adopted for agricultural purposes as well?

THE PRESIDENT: I think that is inevitable in this Colony. So far as I know it would be difficult to exempt agricultural operations from the principle of this Bill.

THE PRESIDENT put the question "That the Bill be read the second time."

The Council divided and there voted:—

For—Messrs. Crease, Richards, Christiani, Case, Laing, McDavid, Dias, Dr. MacLennan, Professor Dash, the Attorney-General and the Colonial Secretary—11.

Against—Messrs. C. V. Wight, Lee, Mackey, Jackson, King, Humphrys, Peer Bacchus, De Aguiar, Eleazar, Percy C. Wight, Austin and Seaford—12.

Motion lost.

GEORGETOWN TOWN COUNCIL BILL, 1938.

THE ATTORNEY-GENERAL: I beg to move that "A Bill intituled an Ordinance to amend the Georgetown Town Council Ordinance, Chapter 86, by providing conditions under which a Mayor or an ex-Mayor may be re-elected as Mayor, and by making provision as to the enforcement of contributions from co-proprietors of a lot in the event of payment of Rates or Taxes by one of the co-proprietors," be read the second time. Hon. members are aware that under the existing law, section 81 of the Georgetown Town Council Ordinance, Chapter 85, a Mayor is elected and assumes office on the 1st of January every year and continues in office until the 31st December. There is no provision in the Ordinance as to the number of years a Mayor may continue in office, and therefore it is possible for a Mayor to retain the chair for any number of consecutive years. The object of clause 2 of the Bill is to put a limit to the number of terms during which a Mayor may occupy the chair. The clause provides that a Mayor shall not occupy the chair for more than two consecutive years. That provision has been introduced as a result of a resolution passed by the Town Council to that effect. I may observe that under the Georgetown Town Council Ordinance, 1898, there was a similar provision limiting the term of office of a Mayor to two years, and after a period of 20 years the Town Council would now like to revert to that provision.

The provision in clause 3 of the Bill is the outcome of a recommendation of a Joint Committee of members of this Council and the Georgetown Town Council, and is contained in paragraph 25 of the report that was submitted by that Joint Committee. Paragraph 25 of the Report states:—

"One difficulty is that, although the names of all the joint proprietors appear in the transport and consequently in the assessment registers, the rates and taxes are payable on the property as a whole; consequently there are many cases

where one of such joint proprietors is compelled through default of his co-proprietors, to pay the whole of the rates and taxes to save the property from sale at execution; but some doubt exists as to whether he can recover from the other joint proprietors the proportions which they should have paid."

I think that makes it quite clear what the object of the amendment is. It very frequently happens in this Colony that when the time comes for the payment of rates and taxes one joint proprietor is able to pay and the others are unwilling or unable to pay, and one proprietor is compelled to pay the whole amount in order to save the property against which process is issued. The object of inserting this clause is to make the other proprietor fully aware of his rights against the other defaulting proprietors. Some legal members of the Council may be of the opinion that the provision is not absolutely necessary because in law where a person pays money he may recover it from the other person, but I consider it would be well to have the law clear so that a joint proprietor would be fully aware of his rights.

Mr. PERCY C. WIGHT: I have not risen to object to the Bill entirely but I wish to point out that the provision which appeared in the Georgetown Town Council Ordinance up to 1918 and was altered at the request of the Municipality or some of its members, should be re-enacted in this Bill. Clause 2 of the Bill reads:—

"Provided that no person who has filled the office of Mayor for two or more terms in succession, whether the same be whole years or parts of years unless one of the terms is less than six months, shall be eligible for re-election unless a period of at least one year intervenes between the date of the expiration of his last term of office as Mayor and the date at which, if re-elected, his term of office would commence."

Does that mean that the present Mayor can be elected at the end of this year for a period of two years, after which an election takes place of someone else, or is the clause retrospective? I would like it explained here for the benefit of those who think it is not retrospective. I desire to point out that the law was altered for the purpose of allowing a Mayor to sit for a longer period than two years in order to complete any new schemes or any particular matter that was going on in the Municipality, the idea being that being

familiar with it he should have it completed. I happen to be in the fortunate position of having filled that office for 5½ years, and someone has come in and filled it for six years. I did not approve of the resolution at the Council meeting. I think what has been done for one man should be done for another, and that all of the other Councillors should have the same opportunity, but I abided by the majority decision as I always do.

With regard to clause 3 of the Bill I shall move in Committee that it should remain over. I do not see that any useful purpose will be served by passing that clause, because the report of the Joint Committee is a very valuable document and there are several other recommendations which should be considered and brought to the notice of this Council. I am not aware that it is at the request of the Municipality that this clause has been inserted. I do not know where it has come from. If it is Government's idea I do not see what useful purpose it will serve. This is a form of class legislation which I strongly object to, and I think the clause should be deleted. If Government would be in favour of it I would suggest that we scrap the Town Council Ordinance and pass a new one. The Ordinance is in a hopeless mess. The late Sir Gordon Guggisberg was in favour of that. The question arose during his regime and I think he intended to second one of the Law Officers to go into the matter. I am not aware of any discussion at the Town Council with regard to the matter dealt with in clause 3 of the Bill, and I do not know how it has come forward. I think the whole Ordinance should be put into the melting pot.

I think you will permit me, sir, to point out something in the Georgetown Town Council Ordinance. I refer to section 8 which deals with the qualifications for election as a member.

THE PRESIDENT: Is that one of the items dealt with in the report of the Joint Committee?

Mr. WIGHT: No, sir.

THE PRESIDENT: I am afraid you are going beyond the scope of the Bill,

Mr. WIGHT: I must abide by your ruling, but I repeat that the Ordinance should be put into the melting pot. In Committee I shall move the deletion of clause 3 of the Bill which will only make confusion more confounded.

Mr. DE AGUIAR: I understand from the hon. member for Georgetown Central (Mr. Percy C. Wight) that this Bill should not have come before the Council.

Mr. WIGHT: I never said anything of the sort.

Mr. DE AGUIAR: That is what I understood him to say. However, if that is not what he said it is my view at all events. First of all I am informed that the Town Council was not unanimous in its decision as to the change with regard to the Mayor's term of office, and that information coming from the lips of the hon. member who has just taken his seat confirms what I have heard, and I do not think there will be any argument about it. It seems to me that before this Council should be called upon to effect any change in the Town Council Ordinance there ought to be agreement among the Town Councillors themselves, otherwise the matter should be further investigated. I go one step further. It seems to me that it is the duty of the Council to decide who should be the Mayor. The Town Council Ordinance sets out very clearly in section 80 how a Mayor should be elected. Surely it is not the duty of the Council to say that Mr. X, who has been Mayor for three years, should not be re-elected. What would the ratepayers say? In fact there is a further provision in the Ordinance that in the event of a tie the matter should be referred to the ratepayers, which shows that the ultimate duty is on the ratepayers and not on this Council. I fail to see why this Council should be called upon to say who should be elected as Mayor for ten years. For instance, the directors of a joint stock company decide who should be chairman. I do not know whether the idea is to follow the New Amsterdam Town Council, but I have a distinct recollection that when that body found itself in difficulty it approached this Council for authority to re-elect a Mayor for another year. My point is that it is entirely the duty of the Councillors, who are elected by the ratepayers, to decide

who should be elected Mayor for the coming year.

With regard to clause 3, at first blush it appeared to me to be reasonable, but after reading it over carefully I must agree with the hon. member's arguments against it. If the rates and taxes are not paid on a particular property the Town Council has the right to proceed to execution against the property and recover the amounts due. Are we going to go further and say that if Mr. X fails to pay Mr. Y should proceed against him? I submit that that is not our duty as a Legislature. For that reason I submit that the entire Bill should be withdrawn. Let the Town Council look after its own affairs as regards the election of a Mayor, and as long as the Council has power to collect its rates and taxes we should not go any further.

Mr. PERCY C. WIGHT: I never said I was against the clause of the Bill dealing with the election of a Mayor. I distinctly said that the decision of the Town Council was not unanimous because I refrained from voting on it, having had 5½ years in the chair. The hon. member has certainly misunderstood me.

THE PRESIDENT: I think that is quite clear.

Mr. KING: I do not agree with the argument of the hon. member for Central Demerara (Mr. De Aguiar) with respect to the Bill. As I understand it, these are recommendations from the Town Council through the Government to this Council to pass the necessary legislation to enable it to put its house in order. If the Town Council feels that it requires these amendments to its Ordinance I think it is more or less the duty of this Council to assist that body which cannot itself pass any legislation. It is purely a statutory body created by this Council, and any amendment of its Ordinance must come from that body. To say that the request from the Town Council must be unanimous is to expect a state of perfection which, so far as I am aware, has not yet been reached anywhere in the world. The fact that the Council by a majority has asked for certain things is sufficient to the ordinary man that the Council as a body wants these provisions. When a request

of that nature comes through Government from a responsible body of that kind it will certainly have my support.

Whether it is the law at present that a co-proprietor can recover rates paid on behalf of a defaulting co-proprietor I am not in a position to say, because I have not looked the point up, but the Town Council must have been advised on the matter.

Mr. ELEAZAR: I rise to speak of my experience as a Councillor of the New Amsterdam Town Council, and I am very jealous of that privilege. When that Council finds that an amendment of its Ordinance is required it has the right to decide what should be done, and this Council has nothing whatever to do but to carry it through. I deprecate Government interfering, as it has been doing recently, in the domestic affairs of these Councils. Whether the proposal was carried by a majority or not it is a decision of the Council, and unless it is something wrong Government should carry out the request of the Municipality.

As regards the other point, that is a burning question which Government is bound to take notice of. I have received a complaint from a man in Georgetown that he is the renter of a house spot, and that the owner of the lot would not pay the taxes, putting his house in jeopardy. I am certain that there is a law which provides that where one co-proprietor pays the whole of the taxes he has the right to sue the others for their portion, but there is no provision safeguarding the position of the renter of a house spot whose house is in jeopardy when the other proprietors do not pay their rates. Some means should be found to prevent one man from jeopardising others. Government should take notice of the representations of the Town Council, and if Government is not fully informed on the subject it should make itself informed.

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

2 p.m.—

Hon. E. G. Woolford (New Amsterdam) attended.

Mr. C. V. Wight: In supporting this Bill the reason, I submit, is a very good one. One hon. member of this Council stated that it is a matter entirely for the Town Council itself; therefore that should be a good reason. This is a matter for the Town Council itself, and I take it this Bill could not have been before this Council had the Georgetown Town Council not requested its presentation. Secondly, it may be that another point for support of the Bill is in the fact of the weakness of the opposition. It has been adduced by the hon. member for Central Demerara (Mr. De Aguiar) that one of the reasons why this Bill should be delayed for a period is because the resolution which was passed by the members of the Georgetown Town Council was not a unanimous one. It will be very difficult, however, to find any measure, either by the Town Council or by this Council, which will receive unanimous support by the members. As has been occasioned only recently this Council was unanimous with perhaps the voice of one dissentient, if that were a ground for opposition it therefore means that measure has not received the whole-hearted support and co-operation of hon. members of this Council.

Added to that is the further question of change. One is not criticising the holders of the office. There are only two members of the Georgetown Town Council to whom this will have reference, and they are the hon. member for Georgetown Central (Mr. Wight) and the hon. member for Georgetown South (Mr. Gonsalves), who are Deputy Mayor and Mayor respectively of the Georgetown Town Council. They have both, no doubt, rendered yeoman service in the position of Mayor but I think, sir, that a change is very necessary, as it revitalizes control of the Town Council. One does not necessarily say that one stagnates because one is in a position which calls for control, but there can be no doubt that a change, perhaps even in a small measure, does brighten up and enliven interest in the proceedings. I think that there has been already said all that can be said in support of this Bill, and I support it as one of the majority members of the Georgetown Town Council who had supported it in that Body.

Mr. JACKSON: It has been stated that this Bill deprives the members of the

Georgetown Town Council of the opportunity of appointing their own Mayor. It does nothing of the kind. The Bill restricts the number of years—

Mr. DE AGUIAR: To a point of correction. Although the hon. member has not referred to whom he meant the remarks, as the leader of the opposition I would like to say that in my remarks I never suggested that the Georgetown Town Council is deprived of the right of electing a Mayor.

Mr. JACKSON: Perhaps I may put it in another way, but I think it means the same thing. The hon. member said that it is a matter for the Town Council to decide who shall be Mayor, and this Bill deprives that Council of the opportunity of doing that at all times. I take it that what he meant was, if a man had served for two or three years or more and the Town Council still desired to have him they could not according to this Bill. Even if they were deprived of the opportunity of electing him, I do not see with him that this Bill can have any effect upon the Town Council of an adverse nature. I am strongly of the opinion that it is a very good thing to have a change of administration from time to time, and it is the same system that has been adopted in respect of the highest office in this country. I have no reason to doubt that the work of the Town Council would have been carried on much better if there had been changes now and again. It must also be remembered that the necessity cannot but arise for the younger members of the Town Council to aspire to the office of Mayor, and that after two years' administration, perhaps successfully or otherwise, by one Mayor another one may be appointed who may stimulate the work and increase the usefulness of the Town Council.

The Bill has my unqualified support, and as a matter of fact, in regard to Section 3 I think it very reasonable, and for one thing I am sorry it does not include persons who have their houses on lease land, because I know as a matter of fact that many of these persons in order to save their houses have had to pay the taxes for the land on which their houses are erected. If this measure had been made to include that, I think it would have been a very good thing indeed. A

good deal has been said in connection with this matter, but I think it is a matter which should receive the support of this Council.

Mr. MACKKEY: I desire to associate myself with the remarks made by the hon. member for Central Demerara who has styled himself as the leader of the opposition. I, too, am opposed to this Bill as far as the appointment or election of a Mayor is concerned. It seems to me that the Georgetown Town Council is composed of a body of responsible men, and surely they are quite capable of saying whom they want to elect as Mayor and whom they do not want. If they have got a good man—a super man or a man of vision—it may be in the interest of the Town Council and of the City of Georgetown to keep that man as Mayor for a very long period. On the other hand, if the Mayor is not considered suitable, after a couple of years they can also elect another Mayor in his place. I fail to see why the Georgetown Town Council should call upon this Council to pass legislation of this sort. I am opposed to this Bill.

Mr. ELEAZAR: I would like to draw attention to the fact that there is a section in Chapter 84—Section 296—which provides for the payment of rates by the occupier and the recovery of the amount thereof from the owner. I do not think it is necessary to re-enact it in this Bill.

THE ATTORNEY-GENERAL: I think the hon. member for Berbice River (Mr. Eleazar) really intends to refer to section 123, Chapter 84, where the language employed is similar, if not identical, with that in clause 3 of the Bill. There are just two observations made by the hon. member for Central Demerara (Mr. DeAguiar) that I would like to reply to. He queries whether the proviso contained in clause 2 of the Bill will apply to the present holder of the office of Mayor. That depends on when this Bill becomes law. As hon. members are aware the election of Mayor takes place annually on December 24.

There is a further point the hon. member has raised—that is more a criticism—as to the procedure that has been adopted by Government in introducing piecemeal legislation covering recommendations made

by that Committee. I would like to inform the hon. member that on April 8, last year, the Georgetown Town Council were informed by letter what Government's proposals in the matter were, and under this specified head they were told that legislation would be enacted at an early date, concerning first of all the enforcement of the collection of rates and taxes from co-proprietors—the object of clause 3 of this Bill—and also provision for the sale of property held in undivided interest. With respect to the latter matter, I would direct hon. members' attention to an Ordinance entitled "Removal of Property Sale of Interest Ordinance of 1937" which was passed in December last, so that steps have been taken to put the recommendations of the Committee into force. There are other recommendations but action on them have been held up mainly to await further action on the part of the Georgetown Town Council themselves.

Motion 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 to section 81 (1) (d) of Principal Ordinance.

Mr. DE AGUIAR: I beg to move that this clause be deleted. In doing so I am prompted by two motives. The first that I can visualize is this Government being approached shortly by the respective Village Authorities to pass similar legislation for the election of Chairman in their districts. My second reason is that I feel that legislation of this kind restricts the functions of a statutory body, such as the Georgetown Town Council. I go further and say that I think it is a positive danger to the constitutional rights of this community. It is exceedingly strange—and that is the point Government should examine—that the Georgetown Town Council can by a majority vote pass a resolution to approach this Council to introduce this legislation, and that same Body is unable to pass a resolution by a majority vote to say who shall be Mayor for one year and who shall be for another year. I can hardly understand the reason that prompted it; I fail to

realize it. Having made these remarks I have no desire to further prolong the debate in this Council, although I must say that looking at it from a wide constitutional viewpoint I do not think Government should encourage the restriction of the rights of that Body which is now being sought. The ratepayers of Georgetown are entitled to say who should be Mayor for one year or another, and provision should be made in the Ordinance accordingly. I must say that nothing should prevent, as one hon. member said,—I think it was the hon. member for Western Essequibo (Mr. C. V. Wight)—any youngster from aspiring to the position of Mayor. If the Town Council can arrive at a majority vote in one case, surely they can in another case. I do not know how much interest Government has taken in this matter, but in view of what I know is the feeling of every hon. member in this matter I do not think it will be asking Government too much—provided Government has no definite interest in it—to put this question to the open vote. The request is made most earnestly, and I sincerely hope it will be granted.

Mr. MACKAY seconded.

Mr. ELEAZAR: I am so puzzled in this Council from time to time that I do not know what to say. Here is an hon. member contending that this is a domestic affair and the Town Council should be able to do certain things. The Town Council have come to this Council to have something done which they have the power to do. They say: "We have the power but you have got to make the law, and we have come to ask you to pass legislation for this purpose." If that was an invitation one could understand the hon. member, but this particular Town Council had legislation that a Mayor can serve only two years but may be re-elected after a lapse of one year. That worked well until the Town Council had some extraordinary works and approached Government with the request that the Mayor should continue without a break and that the law be changed to make that possible. The change was made in the law. Now they have come back and said: "That change that you made for that particular purpose, we find, has become what we never expected and we ask you to take us back to where we were originally." They are the persons

asking for what they want. They had asked for what they thought they wanted and having got it they have found that they have got what they did not want. Yet the hon. member has said that we want to take away their rights.

I may mention incidentally that the New Amsterdam Town Council has a similar section in their Ordinance. Your humble servant, when two years ago a Mayor was doing some important work, came and moved this Council to make the section as it is in the Georgetown Town Council Ordinance. Your Excellency's predecessor did a wise thing; he did not give us what we asked for. He advised us not to make it open like the Georgetown Town Council but to allow this particular Mayor to go on for another year as we wanted. That Mayor served that extra year, and the procedure went back to what it was originally—two successive terms for a Mayor. We had got less than we asked for, but found out later that it was a wise thing. I had thought then that the Governor was doing a wrong thing, but now I see there was nothing wrong in it.

MR. DE AGUTAR: Although the hon. member on my left has been a member of this Council much longer than I, I do not recall many changes in the Ordinance of the Town Council he referred to. The occasion when the New Amsterdam Town Council came here and asked this Government to extend the period of the Mayor's term is, however, within my personal knowledge. But my knowledge goes further than that. I remember distinctly all that was said on that occasion in order that there should be elected the then Mayor who was going out of office that year.

THE CHAIRMAN: The position of Government in regard to this matter is that a request was made to us by the Municipality of Georgetown to restore the rules governing the election of a Mayor to what they were under the Georgetown Town Council Ordinance of 1898 and repealed in 1918. There may be different views on the wisdom of or necessity for this provision, but the Town Council merely asked to have the provisions restored to them. There is no reason, Government sees, to refuse that request. Having undertaken to introduce the desired

legislation it will be an estoppel by Government if Government votes against it.

Question put, and the Committee divided and voted:—

For—Messrs. C. V. Wight, Jackson, King, Eleazar, Percy C. Wight, Crease, Richards, Christiani, Case, Laing, Dr. MacLennan, McDavid, Professor Dash, Dias, the Attorney-General and the Colonial Secretary—16.

Against—Messrs. Mackey and De Aguiar—2.

Did not Vote—Messrs. Peer Bacchus and Austin—2.

Clause passed without amendment.

Clause 3—New section inserted in Cap. 86, "Enforcement of contribution from co-proprietor of lot."

MR. PERCY C. WIGHT: As I have said before, I am opposed to this clause being included in the Bill. The hon. and learned Attorney-General has explained that it was requested by the Municipality, but I understood clearly from the Town Clerk that there was a special request that the whole matter be gone into. He attempted to make two bites at the one cherry, but if the cherry was good there would be no necessity to worry about it. I contend that this clause, which it is sought to be inserted into the Ordinance, should be deferred for further consideration or be put into cold storage for twelve months until all the recommendations of the Committee have been gone into by Government. I am in agreement with the hon. member for Berbice River that had this clause included the lessee who has a building or buildings on the land it would have served some useful purpose. This question of the joint-proprietors, I think, wants some more consideration. Three persons own a property and one of them occupies it and pays the rates and taxes, while the other two have no voice in the affairs of the property. The occupier sues the other two co-proprietors for the accumulated rates due by them and takes possession of their interest in the property by purchasing at execution. The opinion of the legal members of this Council will be very welcome on it before it is put to the vote.

Only two points have been considered, but there are far more issues raised in that report that should be given consideration. I think there is under the law the right of a person paying the taxes and rates to try and recover from the other persons in default, but I do not see how this clause helps the situation. It says: ". may recover by action from his several co-proprietors the several sums due by them respectively as a contribution and his costs." That is making it beyond doubt that the owner of an undivided one-third can proceed against the owners of the other two-thirds for their portion of the taxes and rates. Turning it the other way about, one proprietor may erect a building on that land in which he has a one-third undivided interest; assessment is made on the whole property for taxes and rates, but he does not pay any special portion on his building, the whole property being liable. He may allow the amount to accumulate to such an extent that he is in a position to purchase the place while the others can neither pay the amount due nor buy the place at execution. This matter should be gone into more carefully. The whole question has been put up by the Committee in their report which dealt with a proper survey of the land which is very material at the present moment to owners of property. I speak feelingly on this matter because I know more about it than any other hon. member of this Council. No harm will be done to anybody if consideration of it is deferred to some other date when we can deal entirely with the whole recommendations of the Committee. I formally move that this clause be deleted.

Mr. ELEAZAR: I do not think the clause needs deletion, but amendment. I think the word "lessee" should be inserted instead of the word "co-proprietor." Whatever the co-proprietor may suffer, the lessee is the greater sufferer of the lot. He leases a portion of a lot and erects his building on it. The proprietors are very strict on getting him to pay the lease, but they may receive his money and do not pay the taxes and so his property is jeopardised. I understand from the hon. member for Georgetown Central (Mr. Percy Wight) that he had bought a lot and actually gave back the lessee his house which had been sold at execution

along with the lot, as he felt that the man was not responsible for the sale. But suppose the hon. member was not kind enough to do that? There are scores of people who would not have done it. I think this clause should be amended to include the lessee, who is one of the persons to claim from those legally liable for what he paid on their behalf. He should have the right to bring an action against them and get back his money. As I mentioned a little while ago there is legislation affecting it, and the hon. and learned Attorney-General pointed out section 123 of Chapter 84 and said that meets the case. I do not think it does for the simple reason that it particularly says "Village District," and if that were the case there would be no necessity for section 296 subsection 2. It is because the first refers to "Village or Country District," and you cannot call a Municipality a Village District. I think that is the reason why that sub-section 2 is there in the Ordinance. It reads:—

Where there are several owners, the occupier or person may so recover from any one of them, and the part-owner so paying shall be entitled to recover from the other part-owners of the property the amount of their proper contribution.

It is clear that does not mean "Village" only but "Town" as well, but it has reference only to owners. The hirer is one who needs protection now. This section is to protect part-proprietors. The hirer is the galled horse in this connection. I do not know if the hon. and learned Attorney-General would find it possible to include him.

THE CHAIRMAN: Is the lessee protected in a Village District?

Mr. ELEAZAR: He is protected in the Village District, because the house and the land are assessed for rates separately. If the land only belongs to A and he fails to pay the assessment, only the land is put up at execution.

THE ATTORNEY-GENERAL: If my memory serves me correctly, this particular question in so far as it relates to the lessee was debated in this Council in 1934 or some time ago. I think the hon. member for New Amsterdam (Mr. Woolford) was the one who brought forward a motion to that effect, but he certainly made a speech on the subject.

In framing this Bill consideration was given to the recommendation of the Committee as it stood, but the question of the lessee was not entered into. I had prefaced my remarks this morning by stating what I presumed to be a general proposition of law, that where a person pays money that another person is legally liable to pay he may recover that money from the other person. In other words, if A is to pay the money and B pays for him there is an implied contract, and that is a general proposition of law which extends even to the case of the lessee, who pays the taxes in default of payment by the landlord, in order to save his property from being sold at execution. This provision in clause 3 of the Bill is only to make clear what is a general proposition of law, and it brings home to the joint owners, who perhaps may be doubtful in respect of the advice given them, exactly what their position is.

I am quite prepared to admit that this question concerning lessees deserves some consideration, but it is not divorced from other problems surrounding it. The question of a landlord failing to pay his rates thereby prejudicing the position of the lessee should be considered in conjunction with the lessee's position generally, but it seems to me that the case of the lessee would come just as much under the proposition of law I have mentioned as the case of the ratepayer. I fail to see the objection to this particular clause. Three persons happen to hold property jointly; one pays the taxes and the others fail to contribute to the taxes. I fail to see why that person is not entitled to recover the portion that is due by the other two joint-proprietors. The question has been raised by the hon. member for Berbice River. It was once debated in this Council, but I am not prepared at the moment or able to say exactly what the outcome of that debate was. I know, however, the question has been raised and no doubt will receive consideration on some future occasion. The hon. member for New Amsterdam, I observe, has just taken his seat. If the Council pardons me for a moment I will make a brief statement to him so as to give him some idea of what I am talking about on the question we are discussing as he may be able to assist the Council on the subject.

Mr. WOOLFORD (after conference with Attorney-General): I am in a position to say something about this matter, as the proposal to exempt from execution at the instance of the Town Clerk the house owned by the lessee on leased land has been the subject of debate in this Council on more than one occasion and, as a result of that, Government appointed a joint committee of the Government and Town Council to consider the matter. That Committee has met and has reported, but the trouble is to give effect in legal language to the Committee's recommendations. It is within my knowledge that the particular provision dealing with this subject has been discussed on more than one occasion by the Town Clerk with the Registrar and the Law Officers of the Crown. It is intended to make provision in the law whereby a lessee who has paid his landlord his lease will be enabled to recover. The landlord sometimes does not pay the taxes and the lessee's property is thereby liable to be taken into execution. The proposal is that it should be possible for a lessee to pay the taxes or his proportionate part of the taxes to the Town Clerk direct. Hon. members, perhaps, are not aware that the general appraisal, which is now being taken by the Mayor and Town Council, provides for separate valuation of each premises and each house on the premises so that it will be quite easy for a lessee to find out the assessment of his house, and for the Town Council to see the rateable value of the house for taxes and to take action by the Town Clerk so as to save the lessee's house from being sold at execution. I do not know if I have sufficiently answered the enquiry, but I do know it is not a very easy proposition to frame. I and several other persons have seen the draft, and until the matter is finally settled I am afraid the lessees cannot do otherwise than await the amendment of the law.

The hon. Mr. Dias, who is Legal Adviser to the Georgetown Town Council, is here and knows that I have often tried to get the Town Clerk to accept from lessees some amount as a contribution towards the taxes. As a rule these difficulties arise where the payment by one or two lessees may save the property from being levied upon, and in that event I have always contended that the Town Council is never in danger of not collect-

ing the whole of the taxes applicable to the premises and therefore can in such cases as I contemplate, despite the defect in the law, receive from the lessees some amount, keep it there and await the result of the sale. There was, however, practical difficulty in that being done, as the Town Clerk has to accept the advice of the Legal Adviser to the Council, which has been that he cannot exclude from parate execution prior to the sale any property on the premises. The execution is usually made against the premises as a whole. That has been the practice in the past and is still being observed.

I understand that some other question had arisen about the payment of taxes by the lessee. If a lessee pays the whole of the taxes due on the premises, though he may recover from the landlord, Mr. Justice Douglas sitting as a Judge of the Supreme Court expressed the view that the landlord is not liable. The Court of Appeal was invited to give an opinion as to whether an implied obligation did arise on the part of the landlord, but it has not yet been finally decided.

Mr. ELEAZAR: The Commissioner of Labour and Local Government (Mr. Laing) may be able to assist us because this difficulty does not arise in the rural areas at all. A man has his house on A's land, as I have aforesaid. He has to pay a lease but his house is assessed for rates in his own name in the Village Books, and when the land goes up for sale at execution it does not interfere with his house. If such a thing is possible in the Villages it ought to be possible in the Town. If it is necessary to put it in the law that the co-proprietor should have the right to bring an action, surely it would do no harm to put in the section that the lessee should have that right as well. The co-proprietor is protected twice—in the Local Government Ordinance and in this Bill.

Mr. DIAS: This matter is far more difficult than it strikes the eye, because it tends to introduce a mode of giving relief to certain lessees which has never been provided for previously. The clause in the present Bill that we are considering relates to the payment by joint-owners. If it were not introduced at all, the persons paying rent or lease would still have

the right to recover his contribution from the joint-owners of the property. With regard to the question raised about lessees, I have always been opposed to the recommendation of the Committee under that head, because I have been unable to work out any scheme by which you would be able to give effect to the wishes of the Committee. The Town Clerk was good enough to show me a draft Bill. I suppose it is the same one the hon. member for New Amsterdam referred to. I do not see how you are going to give effect to what he wanted because he was very careful in throwing on the Registrar the responsibility for levying on the correct house, when it is the duty of the Town Clerk to point out to the Marshal what house is to be levied on. That is one of the difficulties. The hon. member for New Amsterdam stated that he thought there was power in the Town Council Ordinance to allow exemption from execution of a lessee's building—

Mr. WOOLFORD: I said I endeavoured to get that done and it was the Legal Adviser to the Town Council who would not allow the Town Clerk to do that. I did not express an opinion.

Mr. ELEAZAR: May I enlighten the Council by referring to section 119 of Chapter 84, which deals with the liability for and mode of recovery of rates?

Mr. DIAS: I am not concerned with section 119. I only want to point out for the benefit of this Council that the only lot or building which can be taxed separately is where the land belongs to the Government and the building to somebody else, or the building belongs to Government and the land belongs to somebody else. That is provided for in section 138 (1) of Chapter 86, which says:—

Where any lot or portion of a lot belonging to the Crown or Colony has a building thereon owned by someone but is not the property of the Crown or Colony, that lot or portion of a lot and that building shall be taxed separately, and the value of the building shall not be taken into account in fixing the amount of the tax to be levied on the lot or portion of a lot.

That was to safeguard the Government's interest. If there is any default Government property will not be taken to satisfy another person's debt. That is the only section in the Ordinance which permits of

assessment being made separately; otherwise it does not matter to whom the building or land belongs the law requires that the land and building must be appraised together and in that form they are liable for the rates and taxes. If the Town Council applied that you have a Bill put through with a similar provision as this one here in order to protect lessees, that may be considered. But they are not seeking to do that; they are seeking to throw the burden on the Registrar. Whenever the Registrar is instructed to levy on a lot of land with buildings thereon for rates or taxes, as the case may be, he must go and find out whose buildings they are and whether they are on lease land; having discovered that he must exempt those on lease land. That is what is desired. If the Registrar happens to make a mistake then Government will have some application for damages because the wrong property was levied upon. It is unfair to ask Government to assume responsibility of that nature. In my own view anything that has to do with the lots and the payment of contribution to the taxes should form one entire Bill, if it is possible to make one, but not to separate them. This particular clause has some relation to what the Town Clerk is now doing, and that is to prevent one person who is willing to pay or has paid his contribution to the taxes from having his property safeguarded from execution. If that is the idea—and that is the idea the Town Clerk has in mind in approaching Government—I am sure that is in the Bill.

Mr. ELEAZAR: I cannot understand what is the difficulty when there is no difficulty at all. Here is section 119 of Chapter 84 which says:—

Every lot in a village or country district with the buildings, if any, thereon not being separately assessed, and all movable property thereon or therein shall be liable and executable for the amount of any rate on that lot and these buildings.

All that is required is to assess the house separately. The owner goes and pays for his house, and if the rates for the land has not been paid the Overseer sends up the land for sale at execution. The way in which it is done is that a form is sent to the owner of the premises and whatever is there belonging to "A" is put down and sent in for the purpose of assessment and

the house that belongs to "B," a lessee, is assessed by itself. The lessee's rent to the landlord is a matter between the two of them. It is possible to assess his house separately so that he can pay for his house. It is as plain as a flagstaff and yet it is said to be so difficult that it cannot be done.

Mr. WOOLFORD: Is it suggested by the hon. member for Berbice River that this clause provides for the recovery at law by the lessee of any contribution by way of taxes or rates that he may make?

Mr. ELEAZAR: The proposal is that these lessees should now have no protection at all. They must pay and lose their money.

THE CHAIRMAN: Has the hon. member an amendment to this clause, not the one you talked about as all say it is impossible?

Mr. ELEAZAR: I have.

THE CHAIRMAN: I would like to see it.

Mr. WOOLFORD: I would assist the hon. member in this way. There are lessees and lessees. The majority of those in Georgetown, although they are called lessees, have not a written lease at all, and if they have one it is valueless as it is either not recorded in the Deeds Registry or not properly executed being either unstamped, or not stamped, or not witnessed, or not properly attested. If such a lessee attempts to recover any amount he has paid towards taxes he will be immediately met with the fact that his lease is not good, and he cannot plead it. Though I am in sympathy with him, he will not be able to prove the fact that he is a lessee under the law. It is usual in the lease to have a provision that the landlord should pay the taxes in consideration of the payment by the lessee of an amount which includes payment for the use and occupation of the portion of the lot. In other words, the lessee will never be able to establish that as one of the obligations of the landlord under the lease without the production of the written lease, which in the circumstances is inadmissible in evidence; he will not be able to establish the right to sue the landlord because he cannot give verbal evidence

of what is a written document. That is one of the difficulties. The lessee certainly cannot sue the landlord on an implied obligation if he cannot establish their true relationship. I think myself if you put in the word "lessee" and give lessees the right to recover, it will be up to the lessees to go and have proper leases prepared and recorded. I think, sir, that is one of the recommendations of the Committee, and under the new Schedule of Fees these leases can now be recorded for \$2. It will therefore be beneficial to the lessees to have this proviso inserted in the Bill, and I suggest that my hon. friend make that amendment. As long as they are advised to put their lease in order and they do so, they will get the benefit of this clause.

Mr. ELEAZAR: I would like to suggest that we drop the word "lessee" and use the word "tenant." A person, who has a house on a lot as a tenant at will, would be in jeopardy of losing it also if the landlord does not pay the taxes. If that person pays the taxes he must be enabled to get his money back. I suggest that after the words "joint proprietor" there be inserted the words "or tenant."

Mr. WOOLFORD: There is no obligation on the tenant to pay the taxes.

Mr. C. V. WIGHT: If there is going to be any amendment of the clause, I suggest to the hon. member for Berbice River that it be embodied in a new clause. It will be exceedingly difficult to incorporate the word "tenant" in the clause and serve the purpose which this clause purports to do. I agree with the hon. Mr. Dias that this clause is merely declaratory of a quasi-contractual or implied obligation. As regards the clause as it stands, I suggest as an amendment the insertion of the word "or" between the word "and" and the word "is" in the last line of the clause. The reason for that is, one can visualize that a proprietor, who is not on the best terms with his co-proprietors, may readily go to the Court and place a writ on the other co-proprietors for their contribution and thereby impose on them the obligation to pay costs, because as the clause stands here, from my way of reading, it will mean that the Court will be compelled to give judgment for the contribution and

costs. It leaves no alternative for the Court to do otherwise than award costs. I suggest that the discretion of the Court be allowed in the granting of costs as the Court deems fit.

THE ATTORNEY-GENERAL: Perhaps I may be permitted to reply to that last point. A joint-proprietor brings an action or suit against the other joint-proprietors when the other joint-proprietors refuse or neglect to contribute their just portion, and therefore the case the hon. member has surmised will not arise. That is to say, a joint-proprietor cannot sue his other joint-proprietors in any Court unless these persons refuse or neglect to pay their joint contributions. In that case he will be entitled to his costs.

Mr. PERCY C. WIGHT: I am not obstructing the passage of this Bill at all, but what I do feel is that it serves no useful purpose as it stands. I have not heard in my forty years' experience of any dispute of this kind requiring settlement. It is always the question of the lessee arising. I think the hon. member for New Amsterdam can bear out what the hon. member for Berbice River said with regard to the lot which I acquired. It had on it four buildings belonging to lessees and those people had no knowledge of the sale at execution of the property for taxes. I bought it and returned the four buildings to the parties concerned. That is where the trouble arises. It is not a question of ownership by three proprietors. The hon. and learned Attorney-General has not seen my point. Three of us own a property left us by our father. I am in a position to erect an elaborate residence on it for myself. My building is worth \$5,000. The property as a whole is assessed for taxes at \$1,000. How are you going to arrive at a correct proportion of what I should pay? I have paid the taxes for three years; the other two are not in a position to pay their two-thirds and I proceed against them. This clause does not go far enough. It wants far more consideration than has been given it, and I suggest that we defer it for further consideration.

Mr. WOOLFORD: I beg to move the following addition to the clause:—
and provided also that any lessee having the ability to pay off such land tax or rate levied

under this Ordinance or under the Georgetown Sewerage and Water Commissioners Ordinance, or any instalment of the Ratepayers' Accumulated Debt payable under the Georgetown Accumulated Tax and Funded Debt Ordinance, 1935, may also recover by action from any proprietor the several sums so paid by him.

That will meet the situation.

Mr. PERCY C. WIGHT: I must rise to say I am against that. After the property has been disposed of and the poor lessee has lost his building, what can he recover?

THE CHAIRMAN: I gather from the discussion that the general view is not an objection to the clause here, but that it does not go far enough. A very complicated amendment has been proposed. I do not know if the Council is prepared to give consideration at such short notice to such a complicated amendment.

Mr. DIAS: I think a little more consideration should be given to that because there is a statement in it about the lessee having the ability to pay that which should be paid by someone else. That at once raises the question: "What compulsion is there on him to pay?"

Mr. ELEAZAR: The compulsion is that the property will be levied upon and sold if he does not pay.

THE ATTORNEY-GENERAL: I would like to state that if any amendment of the nature suggested is put into this Ordinance, it will only affect lessees in the City of Georgetown. I am sure that will not meet the wishes of the hon. members of the Council. As I understand it, the proposal should be one of general application and should apply to lessees in the Village and Country Districts just as much as to those in the town. I am not prepared to recommend that an amendment of that description should be included in this Bill without further consideration being given to the matter. As I understand the position, what the hon. member for Berbice River is concerned with are the rural districts.

Mr. ELEAZAR: Not at all; they are well protected under the Local Government Ordinance which I have already quoted. I am concerned with Georgetown.

THE ATTORNEY-GENERAL: As the hon. member for New Amsterdam has said, this matter has been debated over and over in this Council and, therefore, I consider it is not one which should be rushed at a moment's notice. I move that further consideration of this clause in Committee be deferred, and that the Committee rise to sit again.

THE CHAIRMAN: The question is, "That the Committee do rise to sit again." The Council will have to sit again for various measures, some of which are of an urgent character. I cannot exactly say when; probably it may be next week or the next ten days.

Mr. ELEAZAR: A week or ten days will not hurt; we can wait.

THE CHAIRMAN: I think it will take you all that time to draft that amendment. It is a difficult question.

Mr. ELEAZAR: It has taken Government years, and so for me it is complimentary.

THE CHAIRMAN: I think you will find it a complicated question.

Question put, and agreed to.

The Council resumed.

ROSEHALL VOTERS' REGISTER CONTINUANCE BILL.

THE ATTORNEY-GENERAL: I move that "A Bill intituled an Ordinance to amend temporarily the Local Government (Village Councils) Ordinance, 1935, by continuing in force for a further twelve months the Register of Voters for the Village of Rosehall, Corentyne Coast, in the County of Berbice, for the year ending the thirty-first of October, nineteen hundred and thirty-eight" be read a second time. Under the provisions of Part III. of the Local Government (Village Councils) Ordinance, 1935, the Overseer of each village is required to complete a list of voters for the village between the first of June and the fifteenth of August of each year. During this year the Overseer of Rosehall Village on the Corentyne Coast, Berbice, neglected to perform his

statutory duties under the Ordinance with the result that there was no list of voters for the village. Consequently no revision by the District Commissioner was possible for the compilation of a register of voters. There has been no register of voters for that village since the first of November of this year.

Hon. members will see from paragraph 2 of the Objects and Reasons given to the Bill, that a new register is necessary for the forthcoming by-election, but there is no longer any necessity for the register for that particular purpose. The election took place and there was no opposition to the proposed members; the election therefore fell within the prescribed time—before the 31st October. It is, however, necessary to have the list of voters of the village for next year, and that is the only object of this Bill.

Professor DASH seconded.

Motion put, and agreed to.

Bill read the second time.

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

Bill passed without amendment.

The Council resumed.

THE PRESIDENT: I see no objection to proceeding with the third reading of the Bill, as it may be required immediately.

Mr. ELEAZAR: It is customary to do that with a Bill of this nature.

THE ATTORNEY-GENERAL: I move that the Standing Rules and Orders be suspended to enable this Bill to be read a third time and passed.

Professor DASH seconded.

Motion put, and agreed to.

THE ATTORNEY-GENERAL: I move that "A Bill intituled an Ordinance to amend temporarily the Local Government (Village Councils) Ordinance, 1935, by continuing in force for a further twelve months the Register of Voters for the

Village of Rosehall, Corentyne Coast, in the County of Berbice, for the year ending the thirty-first of October, nineteen hundred and thirty-eight" be read a third time and passed.

Professor DASH seconded.

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

Bill read the third time.

THE EXPIRING LAWS CONTINUANCE BILL.

THE COLONIAL SECRETARY: I move that "A Bill intituled an Ordinance to continue certain Expiring Laws" be read a second time. The object of this Bill is to continue in force for another year the duties and taxes imposed under the Sugar (Temporary) Excise Duty Ordinance, 1932 (No. 2), and the Bill of Entry Tax Ordinance, 1932 (No. 8). The former is estimated to yield the sum of \$200,000 next year and the latter \$270,000. Having regard to the estimated deficit at the end of 1939 of \$300,000, Government cannot afford to forego the collection next year of this total sum of \$470,000.

Mr. DIAS seconded.

Motion put, and agreed to.

Bill read the second time.

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

Bill passed without amendment.

The Council resumed.

Notice was given that at the next or a subsequent meeting of the Council it would be moved that the Bill be read a third time and passed. (*The Colonial Secretary*).

POOR RELIEF (AMENDMENT) BILL.

THE ATTORNEY-GENERAL: I move that "A Bill intituled an Ordinance to amend the Poor Relief Ordinance, Chapter 90, by increasing the number of Poor Law Commissioners and by providing for

the appointment of a Deputy Chairman " be read a third time and passed.

Professor DASH seconded.

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

Bill read the third time.

CINEMATOGRAPH (AMENDMENT) BILL.

THE ATTORNEY-GENERAL: I move that " A Bill intituled an Ordinance to amend the Cinematograph Ordinance, Chapter 105, with respect to the constitution of Cinematograph Boards in parts of the Colony other than Georgetown and New Amsterdam " be read a third time and passed.

Professor DASH seconded.

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

Bill read the third time.

IMPERIAL FORESTRY INSTITUTE AT OXFORD.

THE COLONIAL SECRETARY: I beg to move :—

THAT, with reference to message No. 8 of the 21st November, 1938, this Council approves of an annual contribution of £120 being made for a period of five years from the 1st August, 1939, towards the maintenance of the Imperial Forestry Institute at Oxford.

For the last five years this Government has been contributing the sum of £125 a year towards this Institute. The five years' period will expire on 31st July, 1939, and Government has been asked whether it will guarantee a contribution of £120 a year for a further period of five years from 1st August, 1939. The Institute is of great service to the Colonial Governments, and in addition to the work done in the past it is proposed to start a Forestry Bureau at the end of this year, which will be of use to the Forestry Department of this Colony as well as to those of other Colonies. The Colonial Governments contribute a sum of £5,000 and the assessment has been recalculated with the result that instead of this Colony being asked to

contribute £125 a year it will only contribute in future £120 a year. I move that the motion be passed.

Mr. DIAS seconded.

Motion put, and agreed to.

PENSIONABLE STATUS OF UNCLASSIFIED OFFICERS.

The Council resumed the debate on the following motion :—

THAT, with reference to the Governor's Message No. 7 dated 19th November, 1938, this Council approves of all posts with a fixed or maximum salary of \$720 per annum being placed on the pensionable establishment of the Colony as from 1st January, 1939; provided that the posts are full-time posts of a permanent nature, that they are included in a staff employed directly by Government, and that the emoluments attached to them are provided entirely out of the general revenues of the Colony.

The Council further approves of all post with a lower salary level than that mentioned above which are now on the pensionable establishment being removed therefrom as they become vacant.

THE COLONIAL SECRETARY: As hon. members are aware the debate on this motion had been postponed at the request of one hon. member. I would ask hon. members to try and dispose of it this afternoon. Until it is dealt with, we cannot get ahead with the binding of the Estimates.

Mr. DE AGUIAR: As the member who asked that the matter be deferred so as to give it further consideration, I have no desire to deprive the officers named in List " A " of the Schedule of the benefits thereby, and therefore I will withdraw the objections I had to this motion. At the same time I would like to say that if at a later date it is found that there are certain other officers of the Service who are entitled to similar treatment, early action should be taken so that those persons would receive the benefits proposed under this motion.

Mr. ELEAZAR: As the leader of the Opposition, I endorse all that has been said by the last speaker. I have discovered since the adjournment that while there are some officers who will be benefited at once there are others who will not be injured at the moment, so that the matter

can be reverted to later on. If Government says there is justification for it, I would allow it to go through.

Motion put, and agreed to.

ELECTED MEMBERS' MEMORANDUM TO
ROYAL COMMISSION.

MR. ELEAZAR: I would like at this stage to crave the indulgence of the Council in order to move that the Standing Orders be suspended so as to permit of my moving a motion standing in my name.

THE PRESIDENT: Which motion is that?

MR. ELEAZAR: The motion of which I had previously given notice:

That Government be respectfully requested to allocate a sum of not less than \$480 to meet printing and other incidental expenses to be incurred in presenting a memorandum by Elected members of this Council to the West India Royal Commission.

THE PRESIDENT: I am sure there will be no difficulty in the hon. member moving that motion, but it is quite unnecessary as I am prepared to meet this bill out of the sum that will be provided for the expenses of the Royal Commission.

MR. ELEAZAR: I understood that, but when I enquired at the time you said that this has no reference to that.

THE PRESIDENT: The expenses referred to can be very well met out of the allocation. There is one in the estimates for this year and another in that of next year for the Royal Commission. If it involves an excess, then we will come back to the Council and ask for an increase. I would ask the hon. member to accept this statement because the motion as it stands is out of order.

MR. ELEAZAR: That is what I am doing.

THE PRESIDENT: And I can give the assurance that the purpose of the motion be met.

MR. ELEAZAR: That is all I want.

THE PRESIDENT: We have come to the end of our business for to-day. There are several other matters, some of an urgent nature and one of an important nature, which will come forward very shortly, but it is difficult to assign the precise date. I think, perhaps, the best thing we can do is to adjourn *sine die*. I will notify hon. members as soon as possible what is the date of re-assembly.

The Council adjourned *sine die*.