

LEGISLATIVE COUNCIL

TUESDAY, 3RD MARCH, 1953.

The Council met at 2 p.m.

PRESENT

The President, His Excellency the Officer Administering the Government, **Mr. John Gutch, C.M.G., O.B.E.**

The Hon. the Colonial Secretary, **Mr. J. L. Fletcher, O.B.E., T.D. (Acting)**

The Hon. the Attorney General, **Mr. F. W. Holder, Q.C.**

The Hon. the Financial Secretary and Treasurer, **Mr. W. O. Fraser, O.B.E. (Acting)**.

The Hon. **Dr. J. B. Singh, O.B.E.** (Demerara-Essequibo)

The Hon. **Dr. J. A. Nicholson** (Georgetown North).

The Hon. **T. Lee** (Essequibo River).

The Hon. **V. Roth, O.B.E.** (Nominated).

The Hon. **G. A. C. Farnum, O.B.E.** (Nominated).

The Hon. **Capt. J. P. Coghlan** (Demerara River).

The Hon. **J. Fernandes** (Georgetown Central).

The Hon. **W. O. R. Kendall** (New Amsterdam).

The Hon. **A. T. Peters**, (Western Berbice.)

The Hon. **J. Carter** (Georgetown South).

The Hon. **L. A. Luckhoo**, (Nominated).

The Hon. **W. A. Macnie, C.M.G., O.B.E.** (Nominated).

The Clerk read prayers.

CONFIRMATION OF MINUTES

The President: I do not think it is correct to say that the Minutes of the meeting of the Council held on the 27th February were confirmed at yesterday's meeting, because hon. Members said they had not read them. Therefore, I think we had better confirm the Minutes of the meeting held on Friday, 27th February, first of all, and I will delete the statement in yesterday's Minutes that the Minutes of the meeting of the 27th February were confirmed.

The Minutes of the meetings of the Council held on Friday, the 27th of February, and Monday, the 2nd of March, 1953, as printed and circulated were taken as read and confirmed.

GOVERNMENT NOTICES

Introduction of Bills

The Attorney General: I beg to give notice of the introduction and first reading of the following Bills:—

A Bill intituled "An Ordinance further to amend the Old Age Pensions Ordinance, 1944, by empowering the Governor in Council to fix the monthly income which an applicant may receive without being disqualified from receiving an Old Age Pension."

A Bill intituled "An Ordinance to amend the Law Revision Ordinance, 1949."

ORDER OF THE DAY

PROMOTION OF POLICE N.C.O.'S

Mr. Kendall asked and the Colonial Secretary laid over replies to the following questions:—

Q 1: Give the date when the Legislative Council accepted the motion by the Member for Georgetown South, recommending that wherever possible Government should promote efficient N.C.O.'s of the British Guiana Police Force to the commissioned ranks of the Force.

A 1: On the 6th of October, 1949, the Legislative Council passed Resolution No. XVII recommending *inter alia* "that this Honourable Council recommend that every consideration be given to the appointment of outstanding non-commissioned officers to the rank of Warrant Officer and thence to the rank of Assistant Superintendent of Police."

Q 2: How many vacancies have occurred since then in the commissioned ranks?

A 2: Two vacancies were already in existence on the abovementioned date and nine more have occurred since.

Q 3: How many of these vacancies have been filled by officers from away?

A 3: Four vacancies have been filled by officers recruited from overseas.

Q 4: How many of these vacancies have been filled by local men from the ranks?

A 4: One vacancy has been filled by a substantive promotion from the ranks and a further three vacancies have been filled by acting appointments from the ranks with a view to confirmation on receipt of the Secretary of State's approval. In addition three other vacancies have been filled by personnel recruited locally from outside the Police Force.

Q 5: How many vacancies are there now among the commissioned ranks of the British Guiana Force?

A 5: As a result of the creation of two additional posts in the 1953 Estimates, there are now three substantive vacancies for Superintendent and two substantive vacancies for Assistant Superintendent. One vacancy for Superintendent is however at present filled by the acting appointment of an Assistant Superintendent, and there are therefore three vacancies for Assistant Superintendent, two substantive and one temporary, all of which are filled by acting appointments from the ranks. If all these acting appointments are confirmed there will remain two substantive vacancies for Superintendent.

Q 6: How many officers from abroad are expected to fill these vacancies?

A 6: The question of filling all the vacant posts by promotion within the local Police Force is receiving consideration.

Q 7: Give names of latter, their period of training and qualifications.

A 7: See Answer 5.

Q 8: Are there any local N.C.O.'s qualified to fill any of these vacancies in the commissioned ranks?

A 8: Yes. See Answers 4, 5 and 6.

Q 9: List the names of all N.C.O.'s who were sent to the United Kingdom for training in Police work.

A 9: Mr. W. E. E. King, Inspector of Police, and Mr. K. Beharrysingh, Sub-Inspector of Police.

Q 10: What were the ranks of the above men before going on training?

A 10: Both were Sub-Inspectors of Police.

Q 11: What is the rank of each now?

Q 11: Mr. King has recently been appointed Inspector of Police with retrospective effect from 29th February, 1952, and is now an acting Assistant Superintendent. Mr. Beharrysingh is still a Sub-Inspector.

**HOUSE OF ASSEMBLY
(ELECTIONS) BILL, 1953.**

The Attorney General: I beg to move the first reading of a Bill intitled:

"An Ordinance to make provision for the first election of Members of the House of Assembly and for purposes connected therewith."

The Colonial Secretary: I beg to second the motion.

The President: The object of this is merely that we should deal with this Bill directly we come back.

Question put, and agreed to.

Bill read the first time.

**HOUSE OF ASSEMBLY (SYMBOLS
AND COLOURS) (ELECTIONS) BILL**

Council resolved itself into Committee to resume consideration of the Bill intitled:

"An Ordinance to make provision for the allocation of symbols and colours to persons desirous of being nominated at the first election of Members of the House of Assembly and for other matters in connection therewith."

The Attorney-General: When the Council adjourned yesterday afternoon consideration was deferred with regard to clause 5 of the Bill relating to photographs and symbols, and particularly the provisions relating to photographs. I have prepared a draft which I hope will meet the suggestions of hon. Members. First of all, in clause 5(1) I propose the insertion between the words "candidate" and "shall" in the second

line, of the words "or any person authorised in writing by him in that behalf." I think that amendment would cover the point to which the hon. the Third Nominated Member (Mr. Raatgever) and other hon. Members referred in the course of the discussion.

Then, with regard to the date, I suggest that we insert the words "not later than the fifteenth day of March, nineteen hundred and fifty-three" between the words "application" and "for" in the second line. Bearing in mind that the date of the actual allocation, as agreed by this Council, is not later than the 18th of March, there would be three days between the last date of the application and the actual allocation. That does not prevent candidates from making application before, but not later than the 15th March. Obviously, it should not be made on the same date for which provision is made for the allocation, which is the 18th of March.

With regard to photographs it has been suggested by the Registration Officer that, having regard to the size of the ballot boxes, they should be $2\frac{1}{4}$ x 2 inches and unmounted.

Lastly, I propose the insertion of a new sub-clause 4 which reads:

"(4) Every candidate shall forthwith at the request of the Registration Officer, submit such additional copies of the photograph submitted by him in accordance with paragraph (b) of subsection (2) of this section, certified in the manner required by that paragraph."

I have added the words "certified in the manner required by that paragraph" in order to put the whole matter beyond any question at all. I think those amendments cover the points raised by hon. Members.

Mr. Fernandes: I observe that the size of the photographs has been

changed again. I do not see the necessity for the change, because $2\frac{1}{2}$ x 2 inches is the standard size. We should keep as near to standard as we can, and not court unnecessary difficulty.

The Attorney General: Yesterday I said $2\frac{1}{2}$ x 2 inches and then I was made to understand that $2\frac{1}{4}$ x 2 inches would be more convenient. But if $2\frac{1}{2}$ x 2 inches is the standard size, we will keep to the standard.

Mr. Fernandēs: Entries have been brought forward another three days. Candidates will have to do everything by the 15th of March so as to be allocated their symbols by the 18th. I spoke against extending the date beyond the 18th, but I think it would be unwise to put it back still further to the 15th. If three days are needed it is just too bad. It does not affect me or my Party, but, nevertheless, I am against it. We discussed the question of the date fully yesterday, and it was agreed that the last day upon which a candidate should enter should be the 18th of March. I anticipate that many candidates will have selected their symbols before the 18th, and if symbols have to be drawn for, I see no difficulty in doing so after the 18th of March.

The Attorney General: With regard to this Bill, it is not my wish to make any alterations so far as the principle and the date are concerned, but the point is that there must be an allocation. If that allocation has to be made on the 18th, then the selection ought to be made also on the 18th.

Mr. Macnie: Sir, I wish to point out that the 15th is a Sunday and the date proposed—March 18, is a Wednesday. I suggest that the date proposed remains i.e. March 18, if not, that Clause 3 be recommitted and the date be made March 20 or 21, as Council desires.

The President: If hon. Members agree, I will put this Clause with the amendment of the Attorney General.

Clause put to the House and passed.

The Attorney General: I beg to move that Clauses 3, 4 and 8 be recommitted for the purpose of substituting the date, March 21, for that of March 18 which occurs in Clauses 3 (1), 4 (1) and 8 (1).

The President: The question is that Clauses 3, 4 and 8 be recommitted for the purposes stated by the Attorney General.

Clauses recommitted.

The Attorney General: Sir, I beg to move that Clause 10 be recommitted in order to meet the point raised by the hon. Seventh Nominated Member and also to clarify and avoid any possible confusion, by inserting in the first line under section 3 of the Ordinance, the words "if any person to whom a symbol is to be allocated."

Clause 10 recommitted.

The Attorney General: Sir, I beg to move that Council resumes.

Mr. Macnie: Sir, before Council resumes, I do wish and hope that Government will see its way to put this Bill through without delay in view of its importance, and get it into operation immediately.

The Attorney General: I shall make every endeavour to put the Bill through as soon as possible.

The President: Council will now resume.

Council resumed.

The Attorney General: Sir, with the consent of Council, I beg to move

that the Bill be read a third time and passed.

The Colonial Secretary: I beg to second the motion.

Question put and agreed to.

Bill read a third time and passed.

NURSES AND MIDWIVES REGISTRATION
BILL

The Attorney General: I beg to move the second reading of the Bill intituled —

“An Ordinance to provide for the registration of nurses for the sick and for the registration of midwives.”

Hon. Members will appreciate the fact that this Bill seeks to make provision for the registration of nurses and midwives; and to provide for a General Nursing Council for the Colony which shall be a body corporate by that name with perpetual succession and a common seal. It also provides for the Council to keep a register of nurses for the sick and of midwives which (in this Ordinance is referred to as “The Register”) subject to and in accordance with the provisions of the Ordinance. The Council has power to make rules in respect of all matters subject to the approval of the Governor in Council. Clause 5 provides for the appointment by the Council, subject to the approval of the Governor in Council, of a person to act as Registrar of the Council and for the employment, subject also to the approval of the Governor in Council, of such officers as the Council considers necessary. It is also provided that expenses which may be incurred by the Council in carrying out the provisions of this Ordinance should be paid out of sums received by the Council by way of fees under the Ordinance.

Clause 6 deals with the question of fees relating to applications for examination and registration under the Ordinance. Such fees the Council may, from time to time, determine.

Clause 7 seeks to make provision for the registration under certain conditions, of persons who are trained as midwives outside of British Guiana. Any person who proves to the satisfaction of the Council that he or she has registered as a general nurse of the sick or as a midwife, shall be entitled to make application in the prescribed manner, paying such fees that are payable. Subject to Clause 2, any person who to the satisfaction of the Governor in Council registers as a midwife or nurse of the sick in some special class in any part of the Commonwealth or in any foreign country approved by the Governor in Council, may be admitted after passing the examination for that special class prescribed, on payment of the prescribed fees. That is a necessary provision in case of the removal of persons from the register, in order that he or she should have an opportunity to appeal.

I think this is a straightforward Bill and, so far as I am aware, there is nothing controversial about it. I think hon. Members will give it their full support. I beg to move that this Bill be now read a second time.

The Colonial Secretary: I beg to second the motion.

Question put, and agreed to.

Bill read a second time.

Council in Committee.

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

Clause 5—*Staff and expenses.*

Mr. Lee: It seems to me that there will be some financial requirements to commence this project and I would like to find out whether that has been considered.

The Attorney General: I am unable to give any answer to that if it is

required at the moment. It will be, however, a matter for consideration. The hon. Member can be assured that these matters will not be taken in hand without not only consideration, but justification for putting forward various requisitions for financial assistance.

Clause 5, as printed passed.

Clause 7—*Admission to register of persons trained outside the Colony.*

Mr. Roth: While there is no great urgency in the matter, I should like to know what is the interpretation of the word "he" used in the Ordinance when referring to the duties of midwives.

The Attorney General: Provision is made in the Interpretation Ordinance, Chapter 5, whereby the word "he" is used to include the female and it is not necessary for us to have it included as "he or she". It will be obvious, as the occasion requires, which one is meant.

Mr. Farnum: It is evident that the word "he" refers to midwives whose duties in the interior areas may be performed by a layman.

Mr. Roth: Having regard to the peculiar functions of the requirement, I think it can be very well left as it is.

Dr. Nicholson: With respect to the Interior, a Macusi can be a man or a woman. An accoucheur can be a man or a woman. When I was at Edinburgh there were students who had to perform at the accouchement and when all was finished they called in the midwife. I would like to say that in regard to insurance examinations on all the forms they never use "she" but always "he", and when we are examining

a female we generally insert the letter "s" to make it read "she". It is understood.

Clause 7, as printed, passed.

Schedule—Constitution of Council

The Attorney General: I ask leave to substitute the word "trained" for the word "registered" in the sixth line of clause 2.

Agreed to.

Schedule, as amended, passed.

Council resumed.

The Attorney General: With the consent of Council I beg to move that the Bill be now read a third time and passed.

The Colonial Secretary: I beg to second the motion.

Question put, and agreed to.

Bill read a third time and passed.

POUNDS (AMENDMENT) BILL

The Attorney General: I beg to move the second reading of the Bill intitled —

"An Ordinance to amend the Pounds Ordinance, Chapter 93, with respect to the impounding of strays on private premises and poundage money and expenses therefor."

The Bill seeks to restore the rewards and fees originally in force under section four and sub-section (1) of section five of the Pounds Ordinance, Chapter 93. It has been found that the rewards and fees at present obtaining thereunder are inadequate.

I should like to point out that sections 4 and 5(1) of the Ordinance, which are the relevant sections, read as

follows and I wish to emphasize these two sections in view of what I would suggest to this Council:

"4—The owner or person in possession of any private premises or land whereon any stray is found trespassing may take, or by someone authorised by him in writing send, the stray to the nearest pound and for so doing he shall receive from the keeper thereof the sum of forty-eight cents for every horse, mare, gelding, pony, mule, bull, cow, ox, heifer or steer; thirty-two cents for every ass, and twenty-four cents for every calf, sheep, or goat."

That section fixes the amount which is payable in regard to the impounding of strays on private places. Sub-section (1) of Section 5 reads:

"The pound-keeper shall, before delivery, demand and receive from the person claiming any stray the sum of forty-eight cents for every horse, mare, gelding, pony, mule, bull, cow, ox; heifer or steer, thirty-two cents for every ass, and twenty-four cents for every calf, sheep or goat, as poundage money in addition to the reward mentioned in the last preceding section, and in addition to the expense of feeding and advertising the stray."

Provision was also made in Section 24 of the Ordinance whereby the Governor in Council was empowered to make certain rules and regulations, and that section reads:

"(1) The Governor in Council may from time to time make general rules and regulations consistent with the provisions of this Ordinance for reducing all or any of the pound fees and other charges and expenses specified in this Ordinance and for regulating the mode of accounting therefor, and generally for the guidance and government of pound-keepers in the discharge of their duties.

"(2) The rules and regulations shall be published in the *Gazette*, and when so published, shall be binding upon all persons concerned."

It appears, therefore, that this particular section empowers the Governor in Council to reduce the pound fees. but

there was no provision for any increase or bringing them back to the same charge as before, except by the repeal of the particular regulations. It appears that the Regulations were made in 1937 and were published in the *Gazette* on the 15th January, 1938. Those have not been revoked. Unfortunately I do not think they were put in the annual volume. But this is what appeared in the *Official Gazette* of January 15, 1938:

"RULES AND REGULATIONS TO REDUCE CERTAIN POUND FEES prescribed by the Pound Ordinance, Chapter 93.

1. These Rules and Regulations may be cited as the Pound Fees Rules and Regulations, 1937.
2. The rewards and fees payable under section 4 and section 5 (1) of the Pounds Ordinance with respect to the impounding of strays on private premises or land shall be reduced by fifty per centum.
3. The preceding rule and regulation shall not apply to the impounding of strays on public premises or land and the rewards and fees payable in respect thereof shall continue to be those set out in sections 4 and 5 of the Pounds Ordinance.
4. These Rules and Regulations shall come into force on the first day of February, 1938.

Made by the Governor in Council under section 24 of the Pounds Ordinance, Chapter 93, on the fourth day of January, 1938."

I have read them because hon. Members will not find them in the copies of the consolidated Regulations for the year. Accordingly, in view of the fact that the particular section which gives power to the Governor in Council to reduce the pound fees did not give power to make any other change except reduction, I think it is desirable that an amendment should be provided whereby the Governor in Council will have power to abandon or

suspend the payment of these fees, for the simple reason that, as it has happened on occasions, owing to weather condition representation may be made for a suspension of the pound fees in a particular area, as the animals in their endeavour to find dry land or high ground may trespass and become a nuisance to private persons. It will be within the recollection of hon. Members of this Council that in the course of the floods of a few years ago the Governor issued a notice postponing the operation of these particular provisions, and eventually a validating Ordinance was passed with which all hon. Members were in the fullest agreement. I think it is desirable that in amending this Ordinance we should make provision to enable the Governor in Council to increase, reduce or vary the fees in respect of any area. In other words, wider power is being given so that the Governor in Council, having regard to the particular circumstances prevailing, may take such step without having to come back to the Council to have these things varied by Ordinance. Consequently I propose to have clause 2 deleted and to provide for the repeal and re-enactment of sections 4 and 5(1) of the Principal Ordinance.

If it is considered that the amount should be increased or should remain as it is under the Pound Fees Rules and Regulations to which I had referred, the old provision under section 4 itself would operate. I hope I have made myself clear so far as that is concerned. At the present time the pound fees paid under the Regulations came into operation in 1938. These will now be repealed and the subsequent law which fixes the fees which I read a moment ago will apply. If at any time it is found necessary to reduce, vary or postpone them the Governor in Council will have power to deal with the matter

as they think fit. I think that section 24 requires to be made up to date, giving the necessary power to the Governor in Council. That being so, I beg to move that this Bill be now read a second time.

The Colonial Secretary: I beg to second the motion.

Mr. Lee: I am moving that this Bill be read six months hence from this day for this reason: The Legislative Council in 1937 debated in detail the question of the reduction of the pound fees collected in respect of animals found trespassing on private property, and I do not see any reason has been adduced by Government to the effect that the owners of private property have complained that they do not receive sufficient reward. Let us assume for argument's sake that they did complain that they do not receive sufficient reward, they have the law behind them. They can sue the owners of the cattle trespassing on their land. Why then is this Bill necessary? Why do you want to increase the fees in respect of animals trespassing on private lands? Why is it that this Council on the previous occasion saw fit to reduce the fees and bring them within the reach of the owners of cattle? It was because they saw the necessity for it, as the owners of cattle at that time were being harrassed and to pay such high pound fees was an encumbrance on their financial position.

Where is the necessity for this Bill? I do not see it. If there is the necessity, then the owners of land can collect by means of going to the Court in respect of any damage done by cattle straying on their land. You are not talking of public property. You are talking of private property and private rights. Is the Government by Rules and Regulations now going to deprive persons of their private rights

to impound cattle which trespass on their lands? You are taking away the private rights of people here. You cannot give such power to the Governor in Council. I sincerely hope hon. Members will consider it in that light. Supposing I have 200 heads of cattle and when the rains come they are just sufficient to be accommodated on the high dam I have built. Another person's cattle must be allowed to deprive my cattle of the accommodation I have provided for them? Is the Government going to say that I have no right to impound those cattle and, if I do, I must not get any fee? I do not think Government has considered this Bill in its true light. I feel that Government should agree to this Bill being postponed for six months.

The Attorney General: The hon. Member seems to have forgotten that when we were considering this matter the hon. Member for Central Demerara had urged to have the pound fees reduced and it was pointed out that the failure by persons to keep their cattle on their premises was becoming a great nuisance.

Mr. Farnum: I have been associated for quite a number of years with the people of the rural districts—the cattle owners and the farmers—and I have this to say: I know that the people will be very grateful to Government when they see that this section 2(b) of the Amendment to the Pounds Ordinance has been introduced and made law because those of us in Georgetown, who only know as far as the ferry and only read the newspapers whenever the floods come on, cannot appreciate that the people have much trouble to get high land to put their animals on and they have to resort to the public road. It is during such times that the stray-catchers reap a harvest in fees. I think it is well known too that frequently telegrams have to be

sent to the Government asking for the suspension of stray-catching or impounding in order to give some relief to the owners of animals.

Mr. Lee: This Bill is not in respect of the public road but private property.

Mr. Farnum: I will come to that later. As regards the Bill I will not oppose the increase in pound fees, but the only thing I will ask, as the people with whom I am associated would like to know, is: There seems to be the practice that in respect of animals which stray on Government property the pound fees paid are lower than that paid for animals which stray on private property.

Mr. Lee: It is the reverse. The fee payable to the pound-keeper is greater when the animal is caught on any public property than when it is caught on private property.

Mr. Farnum: My information is this: The fees are lower and as a result of that the people allow their animals to roam on private property. In support of that, just East of the boundaries of the village of Kitty quite a large number of milch cows are kept there and the owners use Subryanville for their pasturage. I am sure if the fees were higher they would have refrained from doing that. I think that the people in the rural districts will be glad to find that these rates have been increased, because it will mean that the people who own cattle will be more careful and will take less chances in sending their cattle to pasture on farms and private property.

Mr. Macnie: I would like to support the remarks of the hon. the Fourth Nominated Member and to say what my view is. The best proposal in this Bill is the proposal which gives the Governor in Council power to suspend the

impounding of strays when the circumstances justify such action. All of us who have served in the country districts in any form of the Government Service have experienced enormous difficulty and embarrassment when there are periods of flooding. In the past there was no power by law to suspend impounding. It is true that by administrative direction in some cases action to suspend or stop impounding had been taken, but under the law there is nothing to give the pound-keeper the right to refuse to accept animals when they are brought as strays. We all know the area between Mahaica and Mahaicony is almost entirely inundated when there is flooding and the public road has to be used for the animals to find dry land on which to stand. Therefore, I think it would be a pity—I hope we are not going to have any more such pleas—to defer the passage of this Bill, in that it will delay giving this most useful power to the Governor in Council, which in itself will be a great help to the owners of animals.

Mr. Lee: To a point of explanation for the benefit of the hon. the Seventh Nominated Member! The Governor in Council has the right to suspend impounding not only on public property but on private property, which is wrong in my opinion:

Mr. Luckhoo: I am going to support this Bill, and I feel sure that consideration will be given in respect of the penalty for making animals stray. It seems to me that the penalty for that offence should be increased, because it is very difficult of detection and quite a bit of it goes on. People wilfully and maliciously take other persons' animals and make strays of them in order to collect pound fees. This practice became so bitter at one time along the Courantyne Coast that it ended with a murder in respect of which six persons were charged. The blame or reason

for that act was not justified of course, but those persons who were authorized to catch strays made it a habit of going in the early hours of the morning and collecting a large herd of animals and making them strays. It seems that some consideration may later be given to the question of increasing the penalty, as such an offence is difficult to detect.

The Attorney General: There is only one point I wish to make so far as payment of fees is concerned. The fees under the Ordinance, Chapter 93, were fixed many years ago. This Ordinance was enacted in 1866, and the value of money in 1866 and the value of money in 1953 make a considerable difference. It is perfectly true that in 1938 there was a reduction by way of the Regulations, but everybody is aware of the fact that quite a number of persons permit their cattle to stray at any time and on anybody's premises. If one owns cattle there should be some obligation to keep the cattle within one's own domain and on your own land. Consequently those provisions require a certain amount of revision, and also the pound fees should be put back to what they were so many years ago.

This is not a question of increasing the pound fees beyond what were chargeable under the provisions of the Ordinance. All that is happening is, we are seeking to put back the fees to what they were before 1938 when these Regulations were made. The suggested amendment, I think, will meet with the approval of all hon. Members. The hon. the Fourth Nominated Member Mr. Farnum, the hon. the Seventh Nominated Member (Mr. Macnie) and, I believe, the hon. the Sixth Nominated Member (Mr. Luckhoo) are in agreement with the provisions, because it is quite clear that occasions arise in some districts where owing to flooding the animals find it

very difficult to have a foothold and seek to get on high land or dry land. On such occasions the Governor in Council will have the power for good and sufficient reason to suspend the operation of the particular provision. I think that is a very desirable provision and it should meet with the approval of all hon. Members, and at the same time without coming back to the Council the Governor in Council will have the power to increase or reduce or vary the fees from time to time. I think this amendment is to provide a certain amount of elasticity to enable the Governor in Council to deal immediately with matters which may arise and which may necessitate a change in the pound fees rather than to have to come back to the Council or the House of Assembly, as the case may be. I think hon. Members may very well agree to the principle and approve of the amendment of the Ordinance.

Question put, and the Council divided and voted as follows:-

For — Messrs. Macnie, Peters, Kendall, Fernandes, Farnum, Roth; Capt. Coghlan, the Financial Secretary and Treasurer, the Attorney General, the Colonial Secretary—10.

Against — Mr. Lee, Dr. Singh—2.

Bill read a second time.

COUNCIL IN COMMITTEE

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

Clause 2—*Repeal and re-enactment of sections 4 and 5 (1) of the Principal Ordinance.*

The Attorney General: I ask leave to substitute the following new clause for clause 2 as printed

2. Section twenty-four of the Principal Ordinance is hereby amended—

- (a) by the substitution for the words "general rules and regulations," in sub-section (1) of the word "regulations."
- (b) by the substitution for the words "for reducing" in subsection (1), of the words "for increasing, reducing, varying or in respect of any area for such period as the Governor in Council shall think fit for suspending the payment or collection of;"
- (c) by the deletion of the words "rules and" in subsection (2).

As I explained on the second reading, the moment clause 3 begins to operate the provisions in clauses 4 and 5 come into play, and the fees collectable would be on the basis of the Ordinance as it stands now, and as it has stood for many years. We are only restoring the fees to be charged to the figures which existed up to 1938.

I again emphasize that there is a very desirable provision included in this clause to enable the Governor in Council to suspend the operation of pound fees, if for any reason there are difficulties in a particular district which make it necessary to do so. I think the hon. Member for Demerara-Essequibo (Dr. Singh) was about two weeks ago very worried about the condition of some of the farmers in his constituency, and represented that it was desirable that something should be done to assist those people whose cattle were being impounded as a result of the very difficult weather. I am sure the hon. Member will appreciate the desirability of having included in this Bill a provision such as is to be found in this substituted clause.

Mr. Lee: I move that paragraph (b) of the new clause 2 be amended by the addition of the words "fees from strays on public property." I cannot

sit here and give the Governor in Council any right over private property. I have always been an advocate of respect for the rights of owners of private property. By this paragraph it is sought to give the Governor in Council the right to suspend the payment or collection of pound fees in respect of strays on private property. I think that right should only apply to public property.

The Attorney General: The hon. Member was either not present when I was dealing with the matter on the second reading, or he did not fully comprehend what I was endeavouring to say. I am sorry I did not make myself sufficiently clear. The power already exists in section 24 of the Pounds Ordinance which is a general provision, and reads as follows :

- "24.—(1) The Governor in Council may from time to time make general rules and regulations, consistent with the provisions of this Ordinance, for reducing all or any of the pound fees and other charges and expenses specified in this Ordinance, and for regulating the mode of accounting therefor, and generally for the guidance and government of pound-keepers in the discharge of their duties.
- (2) The rules and regulations shall be published in the Gazette and, when so published, shall be binding upon all persons concerned."

All that this substituted clause seeks to do is to delete the words "for reducing" and insert the words "for increasing, reducing, varying or in respect of any area for such period as the Governor in Council shall think fit for suspending the payment or collection of." In other words the Governor in Council has power to reduce pound fees, and it would relate to the same private property to which the hon. Member refers. All that is being done in this clause is to give the Governor in Council

such power as would enable him in the case of any flooding to assist the farmers in any particular area where cattle are forced to seek dry ground, without having to take administrative action and to ask this Council to pass a validating Ordinance. When this matter arose I advised the Governor to issue a notice and come to this Council to validate it. It was an emergency and the Council was not then in session. This power should be provided in the law so that the Governor in Council may be able to act as quickly as possible in order to avoid undue hardship to the farmers and animals.

Mr. Lee: May I ask why the necessity for a validating Ordinance if the Governor in Council has the right to pass Rules and Regulations in an emergency?

The Attorney General: If the hon. Member reads the section he will see that the Governor in Council only has the power to reduce pound fees—not to suspend collection.

Mr. Lee: You now want the power to suspend which I do not want to give you.

The Attorney General: I hope other hon. Members will not be led by the hon. Member's example.

Mr. Macnie: I strongly support what the hon. Member for Essequibo River (Mr. Lee) has said about private property, and I would like to ask the hon. the Attorney General whether in saying that this new clause would enable the Governor in Council to assist the farmers in time of flood, he means the cattle farmers. Because I can assure this Council from personal experience, that the suspension of pound fees, so far as private lands are concerned, would only result in the destruction of the farmer other than the cattle

farmer, because the provision farms, especially in time of flood, are the places to which cattle rush. Cattle are driven to the roads in order to get on some ground, and they rush to the provision farms, especially where there are reefs, and destroy those farms. When there is a flood cattle seek dry spots and food.

Therefore I strongly support the hon. Member's proposal that the suspension of the payment of pound fees, which is tantamount to suspension of impounding, should only apply to public property. If it is applied to private lands it would lead to the destruction of farms, especially on reefs, in times of flood.

Mr. Fernandes : At present the Governor in Council has power to reduce pound fees, even to one cent per head, but it should be obvious that such a reduction would be tantamount to not imposing any fee at all, because no one would be able to take cattle to the pound at one cent per head. But I agree with the last two speakers that the question of suspending the impounding of cattle straying on private property is a very dangerous one, although I cannot imagine the Governor in Council doing so, except in times of extreme distress. I am quite sure that such action would not be taken.

As regards the suspension of the impounding of cattle straying on the public roads, Government does not need any law or Regulation in order to do that. All it has to do is to issue instructions to the Department concerned to withdraw authority given to persons to impound cattle. But I know there are times when flood conditions are so horrible that even private property has to be resorted to in order to save the lives of animals. I do not think anything in this Bill would take away the right of anyone to take civil action in respect of damage to private property by cattle. That is a right which the

owner of private property will always have, and impounding is only a very small part. I think the hon. the Seventh Nominated Member (Mr. Macnie) will agree that if a man has a farm and his neighbour cuts his fence to allow his six cows to go into the farm, the six cows would do more damage to the farm than the fees for impounding them would cover. Pound fees are hardly sufficient to cover the cost which the owner of private property would incur in paying someone to take the animals to the pound. The impounding of the animals would only serve to establish ownership.

I am supporting the Bill as it stands because I agree that we should give the Governor in Council the power not only to reduce pound fees or to suspend impounding, but in areas where cattle are a very serious nuisance to farmers, to increase the pound fees if necessary. This Bill gives the Governor in Council that power. In certain areas people would disregard the Regulations if they knew the pound fees were very low, and would wilfully graze their cattle on other people's provision farms. I am prepared to give the Governor in Council power either to reduce or increase, or to vary the pound fees, but not to leave the law as it is at present and has been for a number of years, with the power only to reduce the fees.

Mr. Farnum : I share the concern of the hon. Member for Essequibo River (Mr. Lee) and of the hon. the Seventh Nominated Member (Mr. Macnie) as regards the possibility of cattle straying on private farms in times of flooding, because I know what damage can be done by cattle. It is a rather difficult situation. We want to protect our provision farmers, and on the other hand we desire to encourage the cattle farmer. We know there is a shortage of cattle, and that

many persons are giving up cattle rearing for rice planting. The problem is becoming grave as regards the supply of cattle, and we have to be extremely careful in making Regulations which may impose hardship on cattle owners on the one hand and provision farmers on the other. Now that the difficulty of the situation has been pointed out to Government I think we can safely leave the matter in its hands to find a solution to the problem.

Mr. Lee: I move the insertion of the words "fees on strays on private property" after the word "collection" in paragraph (b) of the proposed new clause 2.

The Chairman: In order to achieve what the hon. Member desires I would suggest the insertion of the words "other than private premises or land" between the words "area" and "for" in the fourth line of paragraph (b).

Mr. Lee: Yes, sir. Thank you.

The Attorney General: The effect of that amendment would be that a very intelligent cow could go on high land owned by Government in times of flood, but must avoid going on private premises. We appreciate the point the hon. Member has made, but when an area is flooded and there is high land in the vicinity, whether it is public or private property, animals by instinct would try to find dry land. When we were considering the question of validating the notices issued by the Governor, the hon. Member for Eastern Demerara (Mr. Debidin) raised a similar point as regards the position of private premises, and I then pointed out that where persons were common sufferers from a disaster such things had to be forgotten in the light of the prevailing circumstances. Nobody causes a flood; it is beyond human control.

Mr. Macnie: I am sorry to speak again but I feel strongly about this matter. Let me remind the hon. the Attorney General and hon. Members that there are owners of cattle who have no land for their animals to graze. No one should own cattle unless he has land. I think about 99 per cent. of the cattle owners own land, but there are others who provide no resting places for their cattle. There are Local Authorities in Berbice who construct dams for the use of cattle in times of flood. Those dams are maintained above flood level with the object of providing a place where cattle can go other than on high land belonging to farmers.

Question put, and the Committee divided and voted:

For—Messrs. Macnie, Farnum and Lee—3.

Against—Messrs. Luckhoo, Carter, Peters, Kendall, Fernandes, Coghlan; Roth, Dr. Singh, the Financial Secretary and Treasurer, the Attorney General, and the Colonial Secretary — 11.

Amendment lost.

New clause 2 put, and agreed to.

The Chairman: Hon. Members will appreciate that this power will only be used in time of grave emergency.

Mr. Macnie: It is rather unusual to revoke a regulation in that manner.

The Attorney General: I am aware of the fact that it is unusual to do it in this way. But there were one or two points operating in my mind when I submitted the Bill, and one was that the particular regulation did not appear in the copy. Secondly, it was desirable to make it perfectly clear what the permission was, since by revoking the Regulation which was made in

1938, the original law under sections 4 and 5 came back into operation. In effect it was not increasing the rates but putting them back to what the Legislature decided they should be. Under section 24, Government was given the power to reduce those rates but in the light of that fact and although it was unusual, I wrote it myself for Council to see and also as reference to the particular regulation which did not appear.

Mr. Luckhoo: I beg to move an amendment with respect to Clause 3 (3):—That instead of 48 cents, 24 cents be inserted.

The Attorney General: If this clause 3 is accepted, then the law goes back to what it was before.

The President: I now put the question that clause 3 stand part of the Bill.

Question put, and agreed to.

Clause 3 passed as printed.

Council resumed.

Long title.

The Attorney General: With respect to the impounding of strays and matters of that kind, I beg leave to recommit the title and to delete the words "on private premises and poundage money and expenses therefor" and to substitute therefor the words "and for matters connected therewith."

Amendment put and agreed to.

The Attorney General: With the consent of Council I beg to move that the Bill be now read a third time and passed.

The Colonial Secretary: I beg to second the motion.

Question put, and agreed to.

Bill read a third time and passed.

The President: Council will now adjourn *sine die*.