

# LEGISLATIVE COUNCIL

FRIDAY, 1ST AUGUST, 1952.

The Council met at 2 p.m., His Excellency the Governor, Sir Charles Woolley, K.C.M.G., O.B.E., M.C., President, in the Chair.

## PRESENT:

The President, His Excellency the Governor, Sir Charles Campbell Woolley, K.C.M.G., O.B.E., M.C.

The Hon. the Colonial Secretary, Mr. J. Gutch, C.M.G., O.B.E.

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

The Hon. the Financial Secretary and Treasurer, Mr. E. F. McDavid, C.M.G., C.B.E.

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

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

The Hon. J. Fernandes (Georgetown Central).

The Hon. Dr. C. Jagan (Central Demerara).

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

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

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

The Hon. J. Carter (Georgetown South).

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

The Hon. F. E. Morrish (Nominated).

The Clerk read prayers.

The minutes of the meeting of the Council held on Thursday, the 31st of July, 1952, as printed and circulated, were taken as read and confirmed.

## PRESENTATION OF REPORTS AND DOCUMENTS.

The Colonial Secretary (Mr. Gutch) laid on the table the following:—

The Report of the Director of Education for the year 1950-1951.

The Report of the Essequibo Boys' School for the year 1951.

The Financial Secretary and Treasurer (Mr. McDavid) laid on the table the following:—

Minutes of the meeting of Finance Committee of the Legislative Council held on the 24th of July, 1952.

## ORDER OF THE DAY.

### AUDIT OF LOCAL AUTHORITIES' BOOKS.

Mr. Roth on behalf of Mr. Lee asked and the Colonial Secretary replied to the following questions:—

Q. 1.—Will Government state whether the Local Government Board has its own Auditor to audit the Local Authorities' books?

A.—The Local Government Board has no Auditor at the present time. Some years ago an additional post of Class I Officer was assigned to the Headquarters Staff of the Department of Local Government for the purpose of auditing the books and accounts of Local Authorities, but the pressure of work in the Department has made it impossible for an Officer to remain allotted solely to those duties as intended. The current practice is for the books and accounts of the Local Authorities to be audited by the staffs of the District Commissioners in their respective districts.

Q. 2.—If the answer is in the affirmative, will Government state whether it is possible to get the accounts of

the Local Authorities audited by the Audit Department?

A.— There are ninety-one Local Authorities and the Audit Department is not in a position to take on the work of auditing their accounts without a considerable increase in staff and travelling expenses.

Q. 3.— Will Government state how many Local and Village Authorities' accounts have been audited by the Audit Department, and if any adverse reports were made to the Local Government Board?

Q. 4.— Name the Local and/or Village Authorities and lay the reports on the table, if any.

A.— In view of the reply to Question 2, these questions do not arise.

#### B.G. FILM SOCIETY (SPECIAL PROVISION) BILL

**The Attorney-General:** I ask leave to postpone the second reading of a Bill intituled—

“An Ordinance to exempt the British Guiana Film Society from the payment of entertainment duty in respect of the exhibition of cinematograph films, and to make special provision with respect to such exhibitions.”

The hon. Member for Central Demerara (Dr. Jagan) wishes some time to make representation in regard to it.

Consideration of Bill deferred.

#### WEIGHTS AND MEASURES (AMENDMENT) BILL

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

“An Ordinance to amend the Weights and Measures Ordinance.”

Under the Weights and Measures Ordinance, Chap. 263, it is no offence to possess or use unjust weights or measures except where goods are exposed or kept for sale, or are weighed for conveyance or carriage. Clause 2 of this Bill seeks to make it an offence to use or possess for use unjust weights,

measures, scales, balances, steelyards or other weighing machines for any trade or business or for any purpose incidental thereto. Clause 3 is self-explanatory. Some time ago there was a decision of the Full Court of the Supreme Court of this Colony in the matter of an appeal from the Magistrate's Court for the Essequibo Judicial District between Amin Sankar and Ahamad Sankar (appellants) and G. D. Rampat, District Commissioner. It would appear from the decision that unless the rice or padi is exposed for sale in a rice mill, an Officer cannot enter the mill to make an inspection or seize any measure or weighing machine found to be unjust. It will be appreciated that rice growers taking their padi to the mills must be protected from unscrupulous millers whose scales are unjust. The last paragraph of the decision suggests that measures for protecting such growers should receive the early attention of the Legislative Council. The Full Court was constituted by the former Chief Justice of this Colony, Sir Newnham Worley, Mr. Acting Justice D. E. Jackson, (now Chief Justice of the Leeward and Windward Islands), and Mr. Acting Justice R. J. Manning. This is what the Court says in the last paragraph of the judgment:

“As the Ordinance stands, it is no offence to possess or to use unjust weights or scales except within the conditions prescribed in sub-section (1) of section 13. Since the year 1851 when the Ordinance was enacted, the growing of rice has become one of the principal industries of the Colony, and it is a common practice for the small rice farmer to sell his padi to a miller, who is often also his landlord. If, on such a scale, the padi is weighed on the miller's scales (which is, we believe, the usual practice) and the scales or weights are found to be unjust the miller will incur no penalty under the Ordinance unless it is proved that the scales or weights were found under the circumstances prescribed. The need is obvious for protecting the grower against the opportunity for fraud thereby offered to an unscrupulous miller, and it is to be hoped that this question will receive the early attention of the Legislature. It may be useful to draw attention to sections 25 and 48 of the English Weights

and Measures Act, 1878, which impose penalties for the use or possession of unjust weights or scales 'for use for trade'."

It is considered very desirable and essential that there should be an amendment to provide against such an eventuality. Accordingly this Bill comes before this Council to provide for the amendment so as to avoid any such possibility as the Full Court referred to in the course of their judgment. I think hon. Members would agree that this measure is a very necessary one, and I am sure it will receive very full support. I beg to move that the Bill be now read a second time.

Dr. Nicholson seconded.

Mr. Luckhoo: I would just like to endorse what the hon. the Attorney-General has said. I am particularly pleased to see this legislation, because as a matter of fact I happen to have been the Magistrate from whose decision there was this appeal resulting in this legislation. It occurred quite many years ago. I am glad to see this obvious flaw in the law has been brought to the attention of Government and the necessary enactment is now being made.

Question put, and agreed to.

Bill read a second time.

The Council resolved itself into Committee and considered the Bill clause by clause without amendment.

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

Dr. Nicholson seconded.

Question put, and agreed to.

Bill read a third time and passed.

WIDOWS AND ORPHANS PENSION  
(AMENDMENT) BILL

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

"An Ordinance further to amend the Widows and Orphans Pension Ordinance."

It will be appreciated that under section 33 of the Widows and Orphans Pension Ordinance, Chapter 207, as amended by the Widows and Orphans Pension Ordinance, No. 8 of 1947, an allowance or pension to an orphan ceases in the case of a male at the age of 21 years and in the case of a female on marriage or at the age of 21 years. It was reported by the hon. the Financial Secretary and Treasurer, who is Chairman of the New Widows and Orphans Fund, that the Directors of that Fund consider that the allowance or pension to a mentally deficient orphan should be made payable for life instead of ceasing at the age of 21 years, as the law now stands. Accordingly the Directors agreed to recommend that the Secretary of State for the Colonies be invited to approve of a provision to section 33 of Chapter 207 to allow of the continuation of payment of the pension or allowance to a mentally deficient child. The Secretary of State has approved of the proposal and accordingly this Bill now seeks to carry out that recommendation of the Directors of the New Widows and Orphans Fund. The proviso reads:

"Provided however that where the orphan is mentally deficient, the allowance or pension in respect of such orphan shall be paid for life."

I beg to move that this Bill be now read a second time.

Dr. Nicholson seconded.

Mr. Roth: I am fully sympathetic with the object behind this Bill, but I am not in favour of it from this viewpoint: What would happen in the case of a mentally deficient child recovering? I think it is better to let things remain as they are. It would be safer to continue the principle of reviewing individual cases annually as we have been doing for some time past. Supposing we pass this Bill, what would happen in the case of a beneficiary recovering?

**The President :** I assume that before the pension is drawn there will have to be given a certificate to the effect that the individual is mentally deficient.

**Mr. Fernandes :** I am supporting this Bill because I feel, just as you feel, that if the orphan is no longer mentally deficient the pension would be discontinued, but if the child is mentally deficient up to the age of 21, it is hardly likely that it would be able to regain complete normalcy after that. I think it is a move in the right direction. The Widows and Orphans Fund is really one contributed to by Government and the Civil Servants, and I would not like to see any child of those who contribute to this Fund, who happens to be in the unfortunate position of being mentally deficient, having to suffer or go into the Alms House, which is likely to be the case if the law remains as at present. I think the measure is a move in the right direction and I will support it.

**The Financial Secretary and Treasurer :** I think there is misunderstanding in this matter. This pension is payable out of the Widows and Orphans Fund, which is an independent fund, and not from public revenue. It is perfectly true that, general revenue contributes to the Fund, but the bulk of the Fund is contributed by the public officers themselves. At the present time the beneficiary of the Fund is the Widow. On the death of her husband she is entitled to the pension actuarially calculated and she draws that pension for life, but if she dies, the same pension passes to her minor children. It is quite obvious, if there are minor children one of whom is mentally deficient, that child's financial future depends on the longevity of the widow, and if the widow happens to die, that child would lose everything. Let us be quite frank about this. There are two cases which the Directors of the Fund know about. They are very very sad cases indeed. One beneficiary is a widow who has an only son who is mentally deficient, and the other is the case of an officer-contributor who is not yet dead but who fears greatly that if

he dies and his widow dies shortly after, their mentally deficient child would lose everything. This child is unable to earn an income for himself or herself and will lose the whole benefit of the officer's contributions to the Fund through the premature death of the widow. The Directors carefully considered this measure and recommend it.

The hon. the Attorney-General in moving the motion for the second reading said the matter was referred to the Secretary of State for the Colonies. I go further and say it was referred to the Actuary who confirmed that this small additional burden on the Fund was negligible and can almost be discounted. It is such that it can be completely disregarded as having any effect on the financial result of the Fund, and we ought to allow this provision to be made.

**Mr. Carter :** While I agree with this Bill, after hearing the explanation given by the hon. the Financial Secretary and Treasurer, I wonder why provision has not been made also for persons who are physically incapacitated. One can be prevented from earning a livelihood owing to mental deficiency and some people are so incapacitated physically as to be in that same position. I wonder whether provision cannot be made to meet the case of total physical incapacity.

**The President :** The hon. Member means congenital physical incapacity or what may occur? It is quite possible that a child can be deformed either way. That is a question we ought to hear the hon. the Financial Secretary and Treasurer on.

**The Financial Secretary and Treasurer :** When we are considering this measure we should consider the case of the incapacitated person or child. We take it that that might be going too far because the determination of physical incapacity is a very difficult thing. It arises from different causes and at different times, and to provide for all the various aspects of physical incapa-

city might be stretching the matter too far and might create a burden on the funds which might affect the general level of relief. I think we should go as far as what we know about, and that is complete mental incapacity.

Question put and agreed to.

Bill read a second time.

Council resolved itself into Committee and considered the Bill clause by clause without amendment.

Council resumed.

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

**Dr. Nicholson** seconded.

Question put and agreed to.

Bill read a third time and passed.

#### SPIRITS (AMENDMENT) BILL, 1952.

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

“An Ordinance further to amend the Spirits Ordinance.”

As hon. Members would see, clause 2 of this Bill seeks to permit the operations of curing and bottling of spirits in bond for consumption in the Colony. As the law now *stands*, such operations cannot be conducted in bond. As duty is required to be paid on the quantity of spirits removed from bond, dealers would not have to pay duty on spirits lost in the processes of curing and bottling in bond. Clause 3 seeks to make provision for the ascertaining of the liquid quantity of spirits removed from a warehouse by such method and in such manner as the Comptroller of Customs approves. I think hon. Members are aware that a Committee was appointed some time ago—on February 21, 1951 — by His Excellency the

Officer Administering the Government—

“To consider and report on the desirability of amending the Customs and Excise Laws and Regulations so as to permit of the curing and bottling of rum in bond for home consumption, and to provide for the assessment of duty on the quantity as ascertained at the time of clearance of the cured rum from warehouse, having special regard to—

(a) the long-established practice of retail spirit dealers to pay duty on over-proof rum before clearance from bond and to reduce, cure and bottle rum at their licensed premises, thereby absorbing the duty paid on any loss of spirit in the course of such operations; and

(b) the fact that insufficient accommodation is available in Government warehouses for licensed spirit dealers, who have no spirit warehouse of their own, to perform curing and bottling operations in bond.”

The then Comptroller of Customs was the Chairman of this Committee and among the recommendations and the comments made in the report was that—

“8. During the operations of curing and bottling a quantity of rum is lost. The loss is due to various causes: shrinkage when spirits and water are mixed, absorption by the wooden containers used for curing, evaporation of the spirit and wastage in bottling. If the rum is kept for aging in casks a further loss occurs and in this respect it is observed that the allowance made for natural loss of spirit stored in wood in bond provided in the Customs Regulations, is for example, for a period of six months, 6%.

“9. Losses of this nature are reflected in the selling price of the cured and bottled rum since spirit dealers purchase and pay duty on the quantity of rum in casks before removal from the bond for curing and bottling.

“10. If spirit dealers are permitted to cure and bottle rum in bond and excise duty is assessed on the quantity at the time of delivery out of bond the payment of duty on the loss of rum which occurs in handling a highly volatile liquid will be eliminated and the cost of the finished product proportionately reduced.”

As a result of the report it is considered that the law should be amended. The Bill now seeks to permit the operations of curing and bottling of

spirits in bond for consumption in the Colony itself. I do not think there is anything I should add to that, and I beg to move that the Bill be now read a second time.

Dr. Nicholson seconded.

Mr. Fernandes: This Bill is a useful one and would tend to facilitate those who mix rum for local consumption, as it would enable them to do so for nothing. As I see it, they had to put up the money for the payment of duty on the rum before they were ready to remove it from bond. Of course, there is quite a large number of persons who have licences to sell rum in the Colony for local consumption and I take it as a fact that this Bill would not be put into operation until sufficient accommodation is arranged for all those who desire to take advantage of this facility. If not, what is going to happen is that all the small bottlers of rum for local consumption will be kept out while one, two or three of the bigger ones who happen to own spirit warehouses which are operated under Customs supervision will benefit and, of course, that will create a terrible hardship.

If these larger dealers can mix rum which cost about \$20,000 the duty saved would exceed \$1,000. If they are permitted to do their own blending in bond they would only have to find capital for the cost of the rum, while those who have not got spirit warehouses of their own because they are too small—and Government not having provided accommodation for them—would not be able to benefit from the facilities Government is offering in this Bill. They would have to pay for the rum and find money to pay for the duty also—which is by far the larger amount—and would have to take the rum out of bond and bottle it elsewhere.

In this case, a person who bottles in bonds would not be liable to pay duty except on the actual amount of spirits which is removed from the bond at the time of delivery. They would not have

to pay duty on spirits which go in. I may be wrong, but that is how I see it. I would like to get Government's assurance that this facility which Government is offering would be equally available to all bottlers at the same time and that no one group—the big stores—would get an undue advantage.

The Attorney-General: With regard to the point raised by the hon. Member, I think he is aware of the fact that all the members of the Committee agreed to the recommendations except the point which he has just raised. The Committee (in an appendix) has also said:—

"We consider that the Report should have been extended to include a recommendation that any amendment that might be made to the Customs and Excise laws to permit of the payment of duty on cured and bottled rum at the time of clearance from warehouse should not come into force until one year after it has been passed by the Legislative Council."

They further say—

"We now make this recommendation on the following grounds:

I. The period of time would allow retail spirit dealers who desire to do so to erect or otherwise arrange to obtain suitable premises for appointment as spirit warehouses and place them on equal footing, in a highly competitive market with spirit merchants who already own spirit warehouses for the bottling of export rum.

II. The immediate introduction of such a law would place the two owners of spirit warehouses (who are comparatively new to local trade) in an advantageous position over their competitors and, as a result, retail spirit dealers who have enjoyed the bulk of the Colony's wholesale trade in cured and bottled rum for more than 50 years may lose this trade."

On that particular point the Comptroller of Customs (Mr Goulding) who was the Chairman, commented as follows:—

"2. Certain retail spirit dealers are asking for this breathing space to put themselves in order (after the law has been passed) because they fear that

Bookers and Davsons, who already have spirit warehouses, would:

- (a) undersell them in trade, and
- (b) put a better (aged) rum on the market in quicker time than they could.

"3. These fears are more imaginary than real. It is unreasonable to believe that Bookers and Davsons could undersell retail spirit dealers in wholesale prices solely on account of the 3% estimated loss during the curing and bottling of rum when these firms have to pay for Customs services (up to \$175: per month each) and licence duty (\$120 per year) which the other dealers do not pay. As regards (b) retail spirit dealers could in the past and still can store rum (over-proof) for aging in the Colonial Bond. There is, however, a belief held by some of them that when water is added to old rum it becomes new again—this is, of course, contrary to reason and fact."

Therefore, the point which the hon. Member is making was considered by the Committee when they discussed the matter and formulated this report. As the Comptroller of Customs pointed out, I think the fears of these particular retail spirit dealers are more imaginary than real. I think they are getting a benefit and this is their opportunity to bottle their rum in bond. They are not required to pay for any losses while, as the law now stands, they have to pay for loss of rum bottled outside. I do not think they need have any fears.

Question put and agreed to.

Bill read a second time.

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

Clause 2—*Amendment of section 49 of the Principal Ordinance, No. 10 of 1936.*

**Mr. Fernandes :** I have listened to the explanation of the Attorney-General and it has convinced me more than ever that there is going to be discrimination—something which I would appeal to Government to try and avoid. The Attorney-General has given us the opinion of the late Comptroller of Cus-

toms. I knew him very well, but I did not know that he was an authority on rum-blending or otherwise. The statement about these stores paying very much money per annum for Customs Officers and so on does not hold water. They are paying that now that these warehouses are not keeping and blending rum for export. Therefore, for this additional facility they would not be spending an extra penny. The hon. the Attorney-General says he does not see how they would be able to undersell the other people. That is very simple. What the Attorney-General forgets is that the duty on rum for local consumption is very high.

If the larger dealers can blend their rum for 12 months right away they would save 6 per cent of their investment on the duty on the rum. Therefore, they would have 6 per cent. to undersell their competitors with. Therefore, if these small people cannot take advantage of this facility for 12 months it would be their fault. If they buy wooden hogsheads to take their rum to their spirit shops they would have to pay the duty, but if one of these hogsheads, on being discharged from the cart or lorry, gets damaged and causes a loss of the spirits, they would lose the duty they paid on it. If they were blending in bond, however, and the rum got thrown away, they would have nothing to pay by way of duty. That is another advantage which the people who own spirit warehouses would have.

I think hon. Members of this Council can see that these people would be in a favourable position and that in 12 months they would be able to do quite a lot of damage to their competitors. I do not mind their doing damage, but it must be done on a fair basis. I do not want them to do it against the smaller traders who were really the influential factor in getting this facility granted. It is an excellent facility but it would give the big dealers an advantage of 6 or 12 months over their competitors. I agree with the Bill but it is not fair that the big stores should get

an advantage and Government should not countenance that. The Committee which sat must have seen the point and instead of bringing it to Government's notice it was left out. At a later stage I would ask that an additional clause—4—be inserted in this Bill to the effect that the Ordinance should not come into force until one year after it has been passed.

**The Attorney-General :** I do not fully appreciate the argument of the hon. Member. First of all, he is in agreement with the principle of the Bill—the principle of permitting rum to be cured and bottled in bond for local consumption. The only difference is what the hon. Member calls discrimination—a favourite term of his. This legislation is to enable everybody who deals in the curing and bottling of rum to have this advantage; that is to say, they should not be required to pay duty on rum which, for one reason or another, is sold in shops.

The point as regards discrimination is based on the fact that there are certain people engaged in the trade who have warehouse facilities. I suggest to hon. Members that what we are dealing with is the principle of collecting tax on rum which might evaporate or be absorbed in casks. The other aspect is that you are giving a sort of unfair jump to those who at present have their own accommodation and facilities for curing and so on, but I suggest that that is not a case of discrimination at all. I suggest that if this Bill is passed as it is, in a short time Government would see that all the facilities are there. The Committee which made these recommendations comprised:

The Comptroller of Customs, Chairman.  
The Inspector of Distilleries and  
Principal Revenue Officer.

Mr. P. S. D'Aguiar, representing the  
Georgetown Chamber of Commerce.

Mr. E. A. Chapman, representing the  
Berbice Chamber of Commerce and  
Development Association.

Mr. C. E. Brassington, representing the  
B.G. Licensed Spirit Dealers' Association.

Mr. R. K. Steele, representing Messrs  
Bookers Rum Company on behalf of  
Warehouse-keepers; with

Mr. J. R. Hill of the Customs Department,  
as Secretary.

The members of the Committee were in agreement on all points except this particular point on which there was a minority report by Mr. D'Aguiar and Mr. Brassington. I suggest to hon. Members—especially those who are not in the trade—that the Comptroller of Customs has made his comment on the matter—and I think you will agree that that was a fair comment. The views of the gentlemen who wrote the minority report—their fears with regard to the working of the legislation if passed—were more imaginary than real. The hon. Member for Georgetown Central has stated that the Comptroller of Customs does not know much about the liquor trade, but he was in the Customs Department for a number of years and must have gained some experience about it there. I do not think any Member has any good reason for saying that the comment of the Comptroller of Customs is wrong. Government is only seeking to implement the recommendations of the majority of the Committee and to agreement with the views put forward by the then Comptroller of Customs. The Committee must have had before it all the relative matters and this particular aspect was considered with the result that the majority of members decided against it.

**Mr. Fernandes :** The names of the members of the Committee are very interesting or, rather, enlightening. The two persons who wrote the minority report are representatives of the Georgetown Chamber of Commerce and of the people who are being discriminated against. The other members—except the Government Officers—are representatives of the people who have the warehouses. The situation should be obvious to Government. In bringing this Bill forward as it stands, Government is going to be guilty of ignoring

the minority report which was written by the representatives of the Georgetown Chamber of Commerce and the small spirit dealers who are going to be hurt. It has been said that "discrimination" is a favourite word of mine, but I am proud of that and glad that it is not "reactionary" instead.

So long as I am a Member of this Council I am not going to allow any discriminatory legislation to be passed. I have not done so before. The hon. the Attorney-General remembers the last occasion when I opposed this Government in a similar manner and it gave in and removed the offending passage I was complaining about in the legislation. It is true that in this case everybody is going to be treated alike, but only certain persons are going to be in a position financially to benefit at once from the facility being offered in this Bill. No small dealer would be able to take advantage of it at all until 6 or 12 months at least after the Bill has been enacted. I leave it to hon. Members to decide what would happen to the small people when this facility can only be taken advantage of immediately by the big dealers.

I leave it to hon. Members of Council to decide what is to happen to these small people when this facility can only be taken advantage of by the bigger ones. This financial control that is spoken about does not exist because the money is being paid out now. I have already shown—I hope to the satisfaction of everybody—that the loss of spirits in the course of preparation for sale in bottles sustained by the group of small people is a loss out of their own pockets as the duty has been paid on the spirits, while in the case of the two big concerns it is going to be a loss of the spirits only to themselves and of duty to Government.

**The Chairman:** It seems to me they are the people at present who have no warehouse. Why they did not put up a warehouse long ago? It is a question of how much the loss actually is. They are losing and have gone on losing

for years and are contented to go on losing. Why they do not put a warehouse up? We can give them a little time to put the warehouses up. I should have thought they would have put them up long ago, if the losses are what hon. Members say they are. It may cost a lot of money and, presumably, they have weighed the position in the balances and do not consider it worthwhile to put up warehouses and pay the Customs dues. I do not know. It depends on the individual, and how much rum he sells. They pay so much for a licence and do not have the services of a Customs Officer for which they have to pay so much. I should have thought that to a small dealer, it is a question whether it is worthwhile to have a warehouse. I do not know.

**Mr. Fernandes:** It is quite true that these people are suffering this loss now. It does not affect their trade as their competitors suffer the same loss. If these two firms with these spirit warehouses are to bottle rum for local consumption now, they would have to stand any loss there is in the course of bottling. When a man is in business he does not mind suffering hardship as long as his competitors suffer the same hardship. The immediate enactment of this Bill is going to mean that only the small people will continue to suffer while the two big firms will no longer suffer. As regards the question as to why these people do not put up a warehouse, any man who erects a warehouse in order to benefit by this Bill before it goes through this Council would be very foolish, because if the Bill is thrown out by this Council he would be left with that warehouse for which he would have no use. These two firms did not erect their warehouses for the purpose of bottling rum for local consumption.

**The Chairman:** I see the hon. Member's point. This Committee sat a couple of years ago. I think if they can be given another six months to enable them to put things in order, let us do so. It is no use wasting the time of the Council discussing the matter further.

**Mr. Fernandes:** I was going to move an addition of twelve months. The fact that the Committee recommended two years ago does not change that the effect of this Bill is not from the day when that Committee reported and not even from the day the Bill was published but from the day the Bill is passed. One thing I would like to point out and that is, it now takes approximately six months to get permission to build and one is lucky if one gets permission to build under six months. In the building of these warehouses you are going to have all sorts of planning restrictions. I am sure that before the Planning Authority and the Municipality decide as to how and where the building is to be erected and before you are given the opportunity to put one stone on another, six months will have elapsed.

**The Attorney-General:** This Bill comes into operation on the first day of March.

**The Chairman:** Shall we put through Clause 2?

**The Attorney-General:** Yes, Sir.

Question put, and agreed to.

Clause 2 passed.

Clause 4—*Commencement.*

**Mr. Fernandes:** I desire to move a new clause 4 to read:

"This Ordinance shall come into operation on the first day of August, nineteen hundred and fifty—three."

Question put, and agreed to.

New clause 4 passed.

The Council resumed.

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

**Dr. Nicholson** seconded.

Question put, and agreed to.

Bill read a third time and passed.

#### TEACHERS' GRATUITIES

**The Financial Secretary and Treasurer:** I beg to move the following motion:—

That, this Council approves of the payment of gratuities to teachers who die whilst in the Service, on the basis and conditions set out in the Governor's Message No. 7 of the 10th of July, 1952, and undertakes to provide the necessary funds for this purpose; and further approves that this Resolution shall have effect from 1st January, 1951, in the case of the Certificated Teacher.

The object of this motion is quite clear from Your Excellency's Message, No. 7, of the 10th July. At the present time the widow or dependant of a deceased certificated teacher who had qualifying service for pension under the Teachers' Pension Ordinance is eligible for a gratuity granted by the Governor in Council. Authority for the payment of that gratuity goes back to a resolution of this Council passed in December, 1930. Then there was a later resolution of the Governor in Council which prescribed that the amount of that gratuity shall be precisely the same as in the case of a non-pensionable Government employee holding an approved appointment in the public service. That is to say, one-eighteenth of a month's pay for each month of service for a period of 18 years. The point about this is, a later resolution of the Council passed on the 6th July, 1951, changed the beneficiary from the widow or dependant of a deceased employee to the dependant or legal personal representative. That is, in the case of a Government employee the beneficiary is not confined to widow or dependant but any person claiming through a personal representative can benefit. What is intended by this motion is to put the deceased certificated teacher, so to speak, in the same position as a deceased Government employee. That is to say, the beneficiary will not be the widow or dependant but will be the dependant or legal personal representative. That is all the first part of the motion implies.

The second part of the motion has reference to the case of the uncertifi-

cated teacher. Uncertificated teachers are dealt with under a resolution passed as far back as December, 1937. Under that resolution a death gratuity equivalent to one month's salary is paid to the legal personal representative of a deceased uncertificated teacher who dies whilst in the Service after not less than one year's service. That is a very small gratuity, and at the time that resolution was passed I have a recollection that it was merely a gesture to enable the legal personal representative to meet certain incidental expenses of the deceased uncertificated teacher. It will be noticed that in this case the gratuity is paid to the legal personal representative. The second objective is to put the uncertificated teacher in exactly the same position as a certificated teacher by making the legal personal representative entitled to a death gratuity on the same basis as the certificated teacher which is the same basis as the Government employee holding a non-pensionable approved appointment.

The object of the motion, therefore, is twofold—to change the beneficiaries of the certificated teacher and to accord the uncertificated teacher the same basis of gratuity as the certificated teacher. It is also proposed to make this procedure retrospective from the

1st January, 1951. The reason for that is, I think, one or two cases arose last year in which there was either no widow or no dependant, so to speak. It is proposed if this resolution is passed that the legal personal representative, whether there is a dependant or not, should benefit. I hope it will meet with the approval of Council.

**The Colonial Secretary** seconded.

Question put, and agreed to.

Motion unanimously adopted.

#### OMISSION FROM MINUTES

**Mr. Peters:** With the permission of Council I beg leave to request that the minutes be recommitted for a moment to call attention to the fact that I was here yesterday and took part in the debate, but I notice that my name has been omitted from the minutes. It is a small but not negligible matter.

**The President:** I will amend the minutes accordingly. There being no further business the Council stands adjourned to Thursday next, 7th August, at 2 p.m.

