

LEGISLATIVE COUNCIL

THURSDAY, 4th SEPTEMBER, 1947

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. W. L. Heape, C.M.G.

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

The Hon. the Colonial Treasurer, Mr. E. F. McDavid, C.B.E.

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

The Hon. C. V. Wight, O.B.E. (Western Essequibo).

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

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

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

The Hon. J. Gonsalves, O.B.E. (Georgetown South).

The Hon. Peer Bacchus (Western Berbice).

The Hon. C. R. Jacob (North Western District).

The Hon. A. M. Edun (Nominated).

The Hon. V. Roth (Nominated).

The Hon. C. P. Ferreira (Berbice River).

The Hon. T. T. Thompson (Nominated).

The Hon. W. J. Raatgever (Nominated).

The Hon. G. A. C. Farnum (Nominated).

The Clerk read prayers.

MINUTES.

The minutes of the meeting of the Council held on the 29th August, 1947, as printed and circulated, were taken as read.

Mr. RAATGEVER : There is a slight amendment I would like to make to the Minutes on page 2. Paragraph 2 reads :

"Mr. Raatgever endorsed Mr. Edun's remarks, and said that in his opinion the sending of the delegation would serve no useful purpose, and that he was opposed to Federation as he felt it to be detrimental to the best interests of the Colony."

That does not properly convey what I said. I suggest that paragraph be amended to read as follows :

"Mr. Raatgever endorsed Mr. Edun's remarks and said that unless the delegation were made fully aware of the predominating opinion in this Colony before proceeding to Jamaica their attendance at the Conference would be but a waste of the taxpayers' money."

That, I think, would better explain what I said.

The COLONIAL SECRETARY (Mr. Heape) : I would like to point out that the Minutes, which I studied very carefully, are correct and exactly what the hon. Member actually did say.

Mr. RAATGEVER : There is the *Hansard* which can be referred to. I know what I said.

The PRESIDENT : The record in *Hansard* is what has been said by the hon. Member. I have not seen the record in *Hansard*. The whole point is not what he did say but what he intended to say. I cannot say offhand that the record in the Minutes is correct, but if the Council desires what he actually said should be recorded in the Minutes I suggest that the matter be deferred until the *Hansard* is consulted as to the actual record. There is no need to confirm the Minutes at this meeting.

Mr. RAATGEVER : I agree to that !

The COLONIAL SECRETARY : I think it is a departure to record in the Minutes what individual Members say. I do not know if other Members share that opinion. It is a departure to record individual views in the Minutes. Hon. Members may ask that their dissent be recorded, but their remarks are seldom recorded in the Minutes.

Mr. RAATGEVER : There is a record in the Minutes which, I say, is wrong, and I say so emphatically because it is wrong.

The COLONIAL SECRETARY : I suggest that the whole of the remarks be deleted.

The PRESIDENT : The record of *Hansard* is the official record of the proceedings of Council. Has the hon. Member seen the record in the *Hansard* ?

Mr. RAATGEVER : I know what remarks I made, and they were published in the newspapers.

The COLONIAL TREASURER (Mr. McDavid) : I suggest that the three paragraphs on page 2 be deleted from the records of the Minutes. As the hon. the Colonial Secretary said, it is quite unusual to have any reference in the Minutes as to opinions expressed. I should have thought all that was necessary was reference in this form :

"Before Council proceeded to the Order of the Day Mr. Edun, Mr. Raatgever and Mr. Seaford referred to the Closer Union Conference to be held in Jamaica. The President replied."

The PRESIDENT : The Minutes are a record of decisions. *Hansard* is a record of what is said, not the Minutes.

The ATTORNEY-GENERAL (Mr. Holder) : That is correct ! Really the Minutes record the decisions of the Council. So far as the words used in a debate which takes place are concerned, those appear in the *Hansard* and those are an accurate record of the statements of Members in regard to any question before the Council.

The COLONIAL SECRETARY : I would like to point out why I make an issue of this. It is because the hon. Member was not present as a Member of this Council when this Council unanimously agreed to send delegates to the Conference, and it seems to me that Member and, perhaps, other Members of this Council have overlooked their own resolution in 1945 which expressed gratitude to the Secretary of State for the far-seeing policy he had exercised in calling this Conference and expressed unanimous agreement that British Guiana should be represented at the Conference. They did not go further than that. The hon. Member, who was not present at that time, has on several

occasions in this Council said he does not agree that any representation is worthwhile. If the hon. Member's remarks are to be recorded in the Minutes, then I would like the true facts to be recorded subsequently also. As the hon. the Colonial Treasurer has suggested. I think, these individual views may be more properly deleted.

Mr. JACOB : I am not entering into this controversy, but I agree with what the hon. the Attorney-General and the hon. the Colonial Secretary have stated. What I am concerned about is the two words "Closer Union". Is it Closer Union or Federation ? I think we are confusing the issue. My recollection is, when that resolution was passed in 1945 it was a question of federation or closer association. I do not like the word "Union" being brought into it. I think we should put Federation Conference.

The PRESIDENT : "Closer Union" are the words used by the Secretary of State himself.

Mr. EDUN : This matter seems to be getting complicated. I think it is very simple indeed. I can remember very well the matter was debated here and it was agreed that delegates should go to the Montego Bay Conference. We did not go further than that. What we did was to make the position clear that the delegates had no mandate to commit this Council. It was in accordance with the wish of the Council —

The PRESIDENT : I cannot allow a debate on the hon. Member's remarks as to whether it is Closer Union or Federation arising out of these Minutes. The hon. Mr. Raatgever asked that his remarks be modified. The hon. the Colonial Treasurer moved that the three paragraphs in question be deleted and a simple record be made.—The hon. Mr. Edun, Mr. Raatgever, Mr. Seaford and the President referred to this question of representation—which I think would be quite sufficient in the Minutes, the actual record being in the *Hansard*. The hon. Member would see the copy of *Hansard* and it would be up to him to correct what he actually said and not what he intended to say. It is a matter for him. What is the actual wording of the amendment ?

The COLONIAL TREASURER : Delete the three paragraphs altogether and replace them with the following :

"Before the Council proceeded to the Order of the Day Mr. Edun, Mr. Raatgever and Mr. Seaford referred to the Closer Union Conference to be held in Jamaica. The President replied."

The PRESIDENT : I put that to the Council—that the Minutes be amended accordingly.

Question put, and agreed to.

The minutes were amended accordingly and confirmed.

PAPERS LAID.

The COLONIAL SECRETARY laid on the table the following document :—

The Meteorological Report for the year 1946.

The COLONIAL TREASURER laid on the table the following document :—

The Minutes of the meeting of the Finance Committee held on the 28th of August, 1947.

NOTICE OF QUESTIONS.

FARMERS' GUARANTEED PRICES.

Mr. FARNUM : I give notice that at the next or subsequent meeting of the Council I shall ask the following questions :

1. Whether Government is aware that a large number of farmers are dissatisfied with the one-year guaranteed prices fixed by the Government ?
2. Is Government aware that as a result of the present level of the guaranteed prices and high wages demanded by labour, farmers have reduced their acreage under cultivation ?
3. In view of the world shortage of food, the restriction on imports of essential foodstuffs from "dollar countries", and the need for maximum production of local foodstuffs, will the Government —
 - (a) cause an investigation to be made into the grievance of farmers outlined in 1;
 - (b) revive the "Grow More Food" Committees and give them ample funds to assist the farmers in such directions as the Committees might think fit, with the object of getting

farmers to undertake maximum cultivation;

- (c) appoint a Committee to investigate and report as to what steps could be taken to assist farmers to acquire mechanical plough, etc., on a co-operative basis with the object of enabling the farmers to extend their cultivation at a low cost.

ORDER OF THE DAY.

LANDLORD AND TENANT BILL, 1947.

The ATTORNEY-GENERAL : I beg to move that the Council resolves itself into Committee to resume consideration of the following Bill clause by clause :—

A Bill intituled "An Ordinance to regulate the relationship between landlord and tenant and to amend the existing law with respect thereto."

Mr. C. V. WIGHT seconded.

Question put, and agreed to.

COUNCIL IN COMMITTEE.

The ATTORNEY-GENERAL : When we adjourned we had reached Clause 46.

Clause 47—Warrant obtained without right to possession.

The ATTORNEY-GENERAL : I move that the word "magistrate" be substituted for the word "magistrates" in the second line of sub-clause (2).

Question put, and agreed to.

Clause passed as amended.

Clause 50—Regulation of costs of distress and ejectment.

Mr. ROTH : Under "Miscellaneous Provisions" I desire to suggest the addition of a clause. It will be recalled that during the second reading of the Bill I suggested that the Crown, as a landlord, should be omitted from this Bill and the hon. the Attorney-General stated at the time that the matter would be taken care of. Looking through the Report of the Committee I do not see any reference to it. I do not know whether it was discussed by the Committee. I maintain it is not advisable to include the Crown as a landlord in this Bill because it will affect all the leases—and there are many of them—between the Crown and private individuals. The

Crown's interests are still looked after under the Crown Lands Ordinances. I move that after clause 49 the words "Nothing in this Ordinance shall apply to land or property of the Crown" be inserted.

The ATTORNEY - GENERAL : The Crown is never bound unless it is specifically named. That is the answer to the hon. Member. There may be other Ordinances dealing with lands where the Crown is specifically named.

Mr. ROTH : I bow to the hon. the Attorney-General's legal wisdom.

The ATTORNEY-GENERAL : I move that the word "actually" be substituted for the word "really" in the last line of clause 50.

Question put, and agreed to.

Clause passed as amended.

Clause 51—Remedy for taking unauthorized costs and charges.

The ATTORNEY-GENERAL : There is a slight amendment to this clause, the word "actually" to be substituted for the word "really" in the fourth line of sub-clause (3).

Question put, and agreed to.

Clause passed as amended.

Clause 53—Power to order costs if complaint not well founded.

The ATTORNEY-GENERAL : There is a slight amendment desired—the comma appearing after the word "magistrate" to be placed after the word "may" in the first line.

Question put, and agreed to.

Clause passed as amended.

Clause 61—Offences and penalties.

The ATTORNEY-GENERAL : I move that sub-clause (2) be deleted in accordance with the recommendation of the Select Committee and the following substituted therefor :

- "(2) (a) Every tenant who wilfully damages or fouls any tenement, and
- (b) every person who after the determination of his tenancy and with respect to any building formerly in his possession as tenant wilfully

damages any land or building or maliciously carries away or disposes of any door key or other part of such building,

shall be guilty of an offence under this Ordinance."

If the tenant has left he is no longer a tenant, and so the provision has to be reworded that way.

Question put, and agreed to.

Clause passed as amended.

Clause 62—Use of forms; First Schedule.

The ATTORNEY-GENERAL : I move that instead of the words "does not suit" in line 3 the words "is not appropriate to" be substituted.

Question put, and agreed to.

Clause passed as amended.

First Schedule.—Form 1.

The ATTORNEY-GENERAL : In consequence of the amendment in clause 14 with regard to the increase from \$10 to \$20 in respect of things privileged from distress, I move that the word "ten" in the ninth line be deleted and the word "twenty" substituted therefor.

Question put, and agreed to.

Form passed as amended.

First Schedule—Form 3.

The ATTORNEY-GENERAL : With regard to Form 3, at the bottom on the right hand side "Magistrate, Judicial district" should be on the left hand side under "Sworn before me, etc." and not as printed.

Question put, and agreed to.

Form passed as amended.

First Schedule—Form 4.

The ATTORNEY-GENERAL : There is no numbering of Form 4 and I move its insertion.

Question put, and agreed to.

Form 4 passed as amended.

First Schedule—Form 5.

The ATTORNEY-GENERAL : Certain words have been dropped in printing

this Form. After the word "respective" in the second line the word "valuation" has been dropped and then at the end the following words were dropped "Appraised by us this day of 19.....".

I move the insertion of those words.

Question put, and agreed to.

Form passed as amended.

First Schedule—Form 6.

The ATTORNEY-GENERAL : The words "of the judicial district" appearing in the first line should really appear after the word "magistrate" in the second line.

Question put, and agreed to.

Form passed as amended.

Second Schedule.—

Item 3 was amended by the insertion of the word "preparing" after the word "For."

Item 5 was amended by the deletion of the words appearing therein and the substitution of the following :—

"For filing action for the recovery of possession of tenement."

Item 7 was amended by the substitution for the word "or" of the word "of."

Schedule passed as amended.

The CHAIRMAN : There are two clauses of the Bill which were deferred for further consideration.

The ATTORNEY-GENERAL : They are clauses 15 and 44. With regard to clause 15, the hon. Member for Georgetown South (Mr. Gonsalves) suggested that sub-clauses (1) (b) and (c) be amended by the substitution for the word "other" appearing between the words "other building or" and the words "part of the tenement", of the words "to any." I think that meets the hon. Member's point. I explained to the hon. Member that we are not changing the law in regard to fixtures, as they have always been removable by the law of the Colony, but we are only providing procedure to be followed in the future. We are regulating the manner in which fixtures may be removed in the future. Having made that change I move that sub-clause (2) be deleted and the following substituted therefor :—

"(2) The proviso to sub-section (1) of this section, shall not apply to fixtures and buildings removed before the commencement of this Ordinance, but subject thereto the provisions of this section shall have effect and be deemed always to have had effect as from the first day of January nineteen hundred and seventeen."

Mr. C. V. WIGHT : I take it that the hon. Member for Georgetown South (Mr. Gonsalves) who was a member of the Select Committee, and the hon. Member for Eastern Demerara (Mr. Humphrys), who is a King's Counsel, expect to get a good deal of work as a result of this clause, and that the hon. the Attorney-General is fully satisfied with the remarks I made on the last occasion, that this clause particularly will provide a lawyers' paradise. That being so, we can go right ahead. Had I been a member of the Select Committee I would have opposed the insertion of this clause in view of the present state of the law, which itself has caused a considerable amount of argument. I have made my remarks and I take it that the hon. Member for Georgetown South is perfectly satisfied but, notwithstanding that I am still of the opinion that there will be considerable litigation as a result of this clause.

The ATTORNEY-GENERAL : I hope the hon. Member's fears will not materialize. The object of this clause is not to change the law; the principle remains. It is the law we have now, but it is only the procedure that is being regulated. I think these provisos are very plain and straightforward, and anyone who has to deal with property of any kind would appreciate the desirability of having them. So far as this Colony is concerned, the ordinary English Common Law, whereby something which has been attached to the freehold becomes part of the freehold and is not removable, does not apply.

Mr. C. V. WIGHT : That is just my point. Under the Civil Law of British Guiana Ordinance, Chapter 7, the Common Law of England as regards landlord and tenant applies to this Colony. Now we are attempting to exclude it by clause 15 of this Bill. I do not propose to debate the question much longer; I am only calling attention to it so that it cannot be said that I sat here and tried to gain increased income as a lawyer later on. As the hon.

Member for Georgetown South appears to be satisfied so shall I be.

The ATTORNEY-GENERAL: We have been moving away from the Common Law of England. What is affixed to the soil belongs to the soil. In principle that has been the law followed in this Colony.

The CHAIRMAN: Does the hon. Member wish to move an amendment to this clause?

Mr. C. V. WIGHT: The only amendment I could move would be the deletion of the whole clause, which would give the draftsman a good deal of trouble. I am not prepared to go to that extreme. Lawyers do not like Chapter 7 of our Laws, and we hope that as we are moving away so far from it, that will be the next Ordinance which will receive attention from Government.

The ATTORNEY-GENERAL: I can assure the hon. Member that it is receiving attention.

Mr. GONSALVES: So far as I am concerned I think the clause as amended now will work, but as we have had experience in the past, there is no reason why we should not continue to have it. If by any chance it is found that it is not happily worded, the law can be amended to put it right, but as far as I can see it appears to be all right.

Clause 15 as amended agreed to.

Clause 44—Conditions implied in the letting of houses.

The ATTORNEY-GENERAL: It will be recollect that in the course of the debate there was a suggestion that some provision might be made in regard to the provision of kitchens and sanitary conveniences. I have been examining the relevant legislation and I find that in the Building By-laws of 1946, By-law 37 relating to kitchens says:

"37.—Every new building to be used as a dwelling-house shall be provided with a kitchen which may be under—

(a) A separate roof from that of the main building; or

such part of the building not under the roof of the main building as may be approved by the city engineer, but so that no kitchen shall be constructed

under or over any dwelling-house."

The point I wish to make is that the By-law refers to new buildings.

Mr. C. V. WIGHT: There is a definition of "new building" which probably makes any building to which something is done a new building.

The ATTORNEY-GENERAL: That is if something is done to the building, but where there is a building to which nothing is done this would not apply.

With regard to the other point about sanitary conveniences section 70 of the Public Health Ordinance, 15 of 1934, says:

"70.—Every house shall be provided with sufficient water-closet or latrine accommodation which shall be constructed in accordance with the regulations."

Some provision exists, but not to the extent we are endeavouring to make.

Mr. C. V. WIGHT: As I said on the last occasion, there is provision in Georgetown in By-laws, and in the Public Health Ordinance, as regards rural areas. In Georgetown we have gone further. There have been closing orders within the last four or five years with respect to between 8,000 and 9,000 houses, and I suppose the number is now between 1,200 and 1,500, but we had to relax our policy because of the lack of building material. If those closing orders had been enforced I think the hon. the Attorney-General would appreciate that, however well-worded the definition of "new building" was, there would be practically no exemption at all. In asking that these Building By-laws be enacted as soon as possible I think we have covered the whole subject.

The CHAIRMAN: The only reason why I raised it is because I understand that in Georgetown there are dwellings without either kitchens or sanitary conveniences, and that the landlords are not concerned about putting them in, and will not put them in unless they are compelled to. It cannot be said that a house is reasonably fit for human habitation if it is not provided with either kitchen or sanitary convenience, but if the present law provides for those things then there is no reason to amend the clause.

Clause 44 put, and agreed to, subject to subclause (3) being renumbered as sub-clause (4) and sub-clause (4) being renumbered as sub-clause (3).

The Council resumed.

The ATTORNEY-GENERAL: With the consent of Council I move that the Bill be now read a third time and passed.

Mr. C. V. WIGHT seconded.

Question put, and agreed to.

Bill read a third time and passed.

The PRESIDENT: There being no other business before the Council, I think the Council will now adjourn. Before it does so I would like to say a word about two very important pieces of social legislation which this Council has passed in the course of the last three weeks. Hon. Members are quite aware of the legislation to which I refer, namely, the Factories Bill and the Landlord and Tenant Bill which, when they were introduced, seemed to arouse considerable interest both by the Press and the public, but as far as I am aware, they have not apparently sustained that same interest which, it seems to me, their importance deserves. The Factories Bill not only provides for the registration

and regulation of factories, and the inspection of factories, but there are clauses relating to safety measures and the prevention of accidents to employees. The Bill also provides or acknowledges in the law of the land the principle of an eight-hour day, and the right to payment of overtime for work in excess of eight hours, and on public holidays.

Then we had the Landlord and Tenant Bill which regulates the relationship and contracts made between landlords and tenants. It protects the landlord to some extent, and ensures to him what is his due, but its main provisions deal with the protection of the tenant. In fact the Bill gives a square deal to both landlord and tenant. The provisions of both pieces of legislation seemed complicated, and have led to some controversy, but I think it is to the credit of individual Members of this Council in supporting these Bills, and to the Council as a whole in passing them. They are both very important pieces of social legislation, and I am sure Members will hope with me that in practice they will be as beneficial to the community as we who have passed them intend them to be.

The Council will now adjourn *sine die*.