

LEGISLATIVE COUNCIL.

Tuesday, 26th April, 1932.

The Council met pursuant to adjournment, His Excellency the Governor, SIR EDWARD DENHAM, K.C.M.G., K.B.E., President, in the Chair.

PRESENT.

The Hon. the Colonial Secretary, Mr. C. Douglas-Jones, C.M.G.

The Hon. the Attorney-General, Mr. Hector Josephs, K.C., B.A., LL.M. (Cantab.), LL.B. (Lond.).

The Hon. T. T. Smellie (Nominated Unofficial Member).

The Hon. P. James Kelly, M.B., Ch. B., Surgeon-General.

The Hon. F. Dias (Nominated Unofficial Member).

The Hon. T. Millard, C.M.G., Colonial Treasurer.

Major the Hon. W. Bain Gray, M.A., Ph.D. (Edin.), B. Litt. (Oxon), Director of Education.

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

The Hon. R. E. Brassington (Western Essequibo).

The Hon. E. F. Fredericks, LL.B. (Essequibo River).

The Hon. B. R. Wood, M.A., Dip. For. (Cantab.), Conservator of Forests.

The Hon. S. H. Bayley, General Manager, Transport and Harbours Department.

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

Major the Hon. J. C. Craig, M.E.I.C. D.S.O., Director of Public Works.

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

The Hon. N. Cannon (Georgetown North).

The Hon. A. V. Crane, LL.B. (Lond.) (Demerara River).

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

The Hon. J. Eleazar (Berbice River).

The Hon. A. R. F. Webber, F.R.G.S., (Western Berbice).

The Hon. J. Gonsalves (Georgetown South).

The Hon. V. A. Pires (North Western District).

The Hon. Jung Bahadur Singh (Demerara-Essequibo).

The Hon. G. E. Anderson (Nominated Unofficial Member).

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

The Hon. F. J. Seaford (Nominated Unofficial Member).

MINUTES.

The minutes of the meeting of the Council held on the 22nd April, as printed and circulated, were confirmed.

PAPER LAID.

The following document was laid on the table :—

Annual Report of the Medical Superintendent of the Mental Hospital, Berbice, for the year 1931 (*Dr. Kelly*).

GOVERNMENT NOTICES.

Notice was given that at the next meeting of the Council leave would be asked to introduce and have read the first time :—

A Bill to amend the Miscellaneous Licences Ordinance, Chapter 108, by providing for the grant to a holder of an Omnibus Licence of Licences for separate trades in respect of other shops in the same Mining District.

A Bill to amend the Intoxicating Liquor Licensing Ordinance, Chapter 107, with respect to the procedure in connection with the grant renewal or transfer of licences in certain areas and to validate certain licences which have been granted prior to the commencement of this Ordinance, and otherwise to amend the Ordinance (*Colonial Secretary*).

A Bill to amend the Crown Lands Regulation Ordinance, Chapter 171, by providing for the payment of tolls for the use of canals and dams on Crown lands. (*Major Craig*).

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

Bill read the third time.

OFFICIAL NOTICE.

Mr. CRANE gave notice of the following motion :

Whereas the press and the general public of the Colony have become alarmed at the conditions at Queen's College, which conditions are calculated to impair discipline at the institution and to prejudice the education system of the College ;

And whereas a number of urgent questions (including the standard of the Guiana Scholarship, the control of Queen's College, the establishment of a preparatory school thereat, and the reorganisation of the system of education to fit the needs of the Colony) have been long outstanding :

Be it Resolved,—That this Council respectfully requests His Excellency the Governor to appoint a small Committee to enquire into and investigate the entire system of education at Queen's College, to consider specifically the advisability of establishing a Board of Governors for the College and the standard of the Guiana Scholarship and such other matters as His Excellency may consider necessary for the general improvement of the institution :

And be it further Resolved,—That in the meantime the control of Queen's College be vested in the Principal under the Colonial Secretary.

ORDER OF THE DAY.

PETROLEUM BILL.

Mr. D'ANDRADE (Comptroller of Customs) : I move that "A Bill to amend the Petroleum Ordinance, 1930, as to storage of petroleum and other matters" be read the third time,

Mr. BAYLEY seconded.

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

Bill read the third time.

STAMP DUTIES BILL.

THE ATTORNEY-GENERAL (Mr. Hector Josephs) : I move that "A Bill to amend the Stamp Duties Ordinance, Chapter 42," be read the third time.

Dr. KELLY seconded.

GEORGETOWN IMPROVEMENT WORKS (AUTHORISATION) BILL.

THE ATTORNEY-GENERAL : I move that "A Bill to remove doubts as to the authority of the Georgetown Town Council to receive advances of money from the Government of the Colony for the construction of certain improvement works in Georgetown, to repay the moneys so advanced and to pay interest thereon until such repayment" be read the second time. The object of this Bill is set out in the title, which is perhaps a long one, but it makes clear what the purpose to be served is. There is prefaced to the Bill an explanatory memorandum, which sets out the circumstances and history of matters leading up to the condition which has rendered it necessary and expedient to enact this measure. It may be well if I refer shortly to some of the history and circumstances generally. Matters have arisen as a consequence of the construction of certain improvement works in Georgetown. These works were the outcome of a decision made years ago by the Town Council, which realised how essentially necessary it was for the health and advancement of the City that these improvement works should be carried out. The matter was talked about for some time and finally in the years 1923-24 the decisions were crystallised in the form of contracts setting out the nature of the works to be done. Those contracts related to four matters. The first of them, dated 10th July, 1923, was for the construction of main drainage sewers in Georgetown. The next, dated 17th July, 1923, was for the construction of what was compendiously called house connections in Georgetown. In March, 1924, two other contracts were entered into, one for the construction of a new water works and the laying of new water mains and the other for the reconstruction of certain roads in Georgetown. It was then realised what benefits would accrue to the City by the carrying out of these works—benefits which were material, economic and sanitary. It was essential for the well-being of the corporation that these

several matters should be dealt with. That being the case it will be found in the preamble of those contracts that the Council made its decisions on those matters along with the Government, and with the approval of the Secretary of State it was decided that the necessary money for carrying out of the works be raised.

In 1923 there was enacted an Ordinance, No. 20, which dealt with only two matters—the main drainage sewers and the house connections. That Ordinance made provision for the works to be done and as to how the money was to be found. It was then thought that two means of doing it were by bonds issued by the Town Council and guaranteed by Government to the extent of 2½ million dollars, and that there should be paid interest and sinking fund so as to wipe off the debt. It was soon realised that it was necessary that the water system should be thoroughly reconstructed, and also that the streets of Georgetown should be made much better than they were at that time. Consequently two other contracts were made in March, 1924, and work started on the main drainage, house connections and the water works at about the same time. The point is that the carrying out of these undertakings went beyond the scope of the Ordinance of 1923, and, apparently by common consent between the Town Council and the Government, the provisions of that Ordinance were never observed because in the circumstances they were impracticable. What took place was that the Government advanced the money to the contractors for the construction of those works. It was a term in each of the contracts that the Government should keep the contractors in advance of funds for the construction of the works, and it was also a condition or part of the contract that although the contract is between the essential parties, the Governor and the Contractors, it is the Governor acting for and on behalf of the Colony and the City of Georgetown and the Contractors. In addition each contract was signed by the Town Council itself, so there is no question that the matter was one of general agreement. That being the case the scope was considerably widened and more money was required with respect to those various matters. The Ordinance of 1923 therefore became not only impracticable but inapplicable.

In 1924 when the works began the question of how payments were to be made with respect to the first liability, namely, the question of interest, was raised in a letter to the Town Council dated 7th June, 1924. In that letter Government informed the Council that pending the raising of a loan Government approved of interest at the rate of 5 per cent. per annum being charged to the Town Council on four-fifths of all advances made by Government in connection with the main drainage and house connections contract. The reason for this was that the other one-fifth was Government's contribution to the cost. The Council on the 13th June acknowledged receipt of the letter as to the mode of payment of interest. Since that time the terms laid down in those letters have been acted on upon presentation of accounts by the Colonial Treasurer to the Town Council in respect of interest due and interest had been paid at that rate. That continued down to the year 1928 when the Council in April in a letter to Government stated that it was originally agreed that on the moneys advanced by Government to the Council interest should be paid at Bank rates varying. In the reply, dated 3rd June, the position was explained by Government to the Town Council, showing that if that proposal had been acted upon it would in reality cost the Council more under certain conditions. The result was that on the 27th June, 1928, the Town Clerk wrote to Government stating that in view of its letter the Council did not propose to pursue the matter any further.

With regard to the water works the advances were made in the same way, the water works were constructed, and we now have in Georgetown a complete sewerage system and a new and modern system of water works. The question that has arisen is: What is the legal position with regard to the understanding between the community as represented by the Town Council on the one hand and Government on the other? I have ventured to make it clear that this was a matter which had been threshed out and discussed by the parties and that everybody embarked on these transactions in good faith with the intention of carrying out what was undoubtedly planned for the benefit of the town. Acting on that moneys were advanced, the works constructed and

interest paid. In 1928 the Town Council desired to make some special arrangement for the payment of interest that year and a statute was passed for that year only. In 1929 another statute was similarly passed. Those were temporary statutes and were in pursuance of the general agreement and understanding. In 1929 there was also enacted the Georgetown Sewerage and Water Ordinance, which is now Chapter 96 in the revised edition. That Ordinance, among other things, authorised the Government to carry out the construction of the works after the contracts for the main drainage and house connections with Messrs. Wild & Co. had been determined. It gave the necessary powers for breaking up the streets and so on, and it created a Board of Commissioners who were to look after the main drainage part of the sewerage works and the main system of the water works: the principal works and the water main so far as the streets were concerned. In connection with them also, under section 22, power was given to the Town Council to levy rates for the purpose of the Ordinance, and among other things the Council had to find the necessary amount of money to finance the Commissioners to carry out their duties.

In 1930 it was decided that it was just as well to have a permanent Ordinance carrying out the understanding and stating the law with regard to it. Under those circumstances Ordinance 10 of 1930 was enacted. That Ordinance provides in section 2 that "during such time as the Council may be responsible for providing on the annual estimates the interest on money advanced by the Government for the use of the Council in respect of the execution of improvement works, it shall be lawful for the Council to include in the sum to be levied by the rate under section twenty-two of the Principal Ordinance the amount of any such interest." That Ordinance put matters on a permanent basis in 1930 with regard to the collection of interest and there was no necessity to pass any further annual statute. It happens, however, that doubts have arisen as to the legal effect of the legislation, and whether it traverses all the matters which were dealt with by the Government and the Town Council in good faith in connection with these transactions. The object, therefore, of the present Bill

is to set at rest any of these doubts and to declare what the law is in carrying out the principles on which the Government and the Town Council agreed and carrying out the law as it was understood to be when the Ordinance of 1930 was enacted. The points I am stressing are the nature of the transactions between Government and the Town Council, the circumstances in which they were entered into, the good faith and honest belief of the parties to those transactions, the years during which they acted on that belief, and the fact that in 1930 a general Ordinance was passed to give effect to them. This Bill carries out and sets beyond any doubt whatever the legal effect and value of those transactions. The effect of the Bill is in clause 3, where the matters declared are set out, and it is to be observed that the matters there declared are matters of fact with respect to which there has never been any doubt. They refer to the transactions which have been entered into and acted upon, and the effect of this is to protect the Council in carrying out all the measures incidental to its undertaking and to the transactions, to see that the Council has full and unquestioned powers to do all these matters, and similarly to protect Government with respect to advances which it has made for the benefit of the Council and of Georgetown, as the result of which Georgetown to-day is from a sanitary point of view as well equipped as any modern City should be.

Dr. KELLY seconded.

Mr. CRANE: I do not propose to go over any of the ground covered by the hon. Attorney-General because they have been well set out in the long explanatory memorandum to the Bill. There are just one or two matters connected with the subject, however, which I should like to say something about. Before I refer specifically to those matters I desire to take this opportunity to pay a tribute to the public spirit of the hon. Member for North Georgetown—(hear, hear)—because although nothing in this Bill seems to be connected with his name or with his action out of this Assembly, yet undoubtedly we all know that the Bill is being passed to meet proceedings which he has taken in the Supreme Court. There is nothing immoral in such a course, and I think all parties concerned with this matter may

well congratulate themselves that from their own point of view they have been doing the best they consider in the public interest. The hon. Member performed his duty to the ratepayers as a public man in his own light and from his own standpoint. Government on the other hand performed its duty not only to the ratepayers of Georgetown but to the general body of the inhabitants of the Colony. I want to give full credit to the hon. Member for the part which he has played out of this Council in the matter because I am convinced—I say it honestly and I am bound to say it—that the moral effect of the proceedings he has taken has lent some measure of relief being given the ratepayers of Georgetown. The question therefore is, Government having yielded—whether by reason of the proceedings taken by the hon. Member or otherwise does not really matter—and granted temporary concessions for a period of two years whether in the public interest those proceedings should continue and this Bill should not be passed. That is the question before Members to-day for discussion. That brings me to perhaps the most important specific matter connected with this subject, namely, the settlement proposed to the dispute connected with the re-allocation of the sewerage cost. It is a most material question, this Council being called upon to regularise matters, whether Government should not at the same time declare a permanent settlement of the entire matters in dispute. In your speech at the beginning of this session, sir, a settlement has been declared with a duration of two years.

If we were to pass this measure to settle doubts to kill proceedings, to make everybody pay their honest debt and still give them a measure of relief, then we ought to do so permanently and not leave it open after two years for any person to say “You had relief for two years but we are going to re-open the matter and do not consider the basis of 50-50 justified in circumstances then present.” That is the fear of a large number of ratepayers in Georgetown. That is the fear under which I as a Member of this House labour. If I support Government in this measure I may be told afterwards by the ratepayers “You supported Government in the matter, you acted honestly, but you did not act wisely and did not point out to Government that

while they were settling doubts for all time they were not settling the question of allocation.” I suggest that it is not politic or statesmanlike to deal permanently with one-half of the matter and leave the other standing. While I know that you, sir, are determined to settle this sewerage matter as favourably to the ratepayers as you can possibly do, I do not think it is wise to put an end to all proceedings in which all these questions would come up and be discussed and leave outstanding the question of settlement for two years. If an assurance can be given by Government that any permanent settlement would not involve a lesser contribution by Government than 50 per cent. of the cost of the scheme a great deal of the anxiety on the part of the ratepayers and property owners will be allayed. It is all very well for some persons who own no property and have no obligation to pay taxes and rates to say “pay on due dates.” I have already condemned that attitude in this House. It is the man who owns property and has the experience to be called upon to pay dues with empty houses, in the face of people fleeing the City in order to avoid the heavy taxation consequent upon these taxes and rates, who can give an accurate account of the situation. Tenants are able to-day to name their own rent and you are glad to get it or otherwise keep your premises empty. We do not provide for an abatement of taxes, as in Trinidad, in respect of premises unoccupied for a certain period. You must therefore sympathise with people whose obligations have been thrown on their incomes to meet outgoings on properties which ought to pay for themselves. It is with respect to a situation of the kind that relief must be a matter of very urgent and grave importance to citizens. We want relief as far as possible in fairness to them and in fairness to the rest of the population, and that relief should be permanent and not merely temporary.

Now to the merits of the Bill. After decision was taken to construct these works the Georgetown Town Council Ordinance was passed in 1923 authorising the Council to raise 2½ million dollars by means of bonds. It was pointed out to the Town Council that it was unbusiness-like for the Council to raise 2½ million dollars by bonds, put the money in the

Bank at 3 per cent. interest, when probably the Council would have been paying 6 per cent. interest for the loan. Government therefore suggested that instead of financing the scheme by that method it would secure the advances through the Crown Agents of the moneys required for construction of these works as and when required at Bank rates varying, which was obviously a better and more businesslike arrangement. It is true that no law was passed changing the position as it stood in 1923 to the position which was created by the offer of Government to advance the money at Bank rates varying. It is true there was actually no legal authority for the Town Council taking money in that form, except probably a resolution of the Council. It may be doubtful whether the Council under its Ordinance had power to vary the arrangement in this way, but after all the Sewerage Scheme was determined upon, and it was recognised by the 1923 Ordinance where the contracts were set out and the means of financing it stated. If it were a more beneficial and appropriate means applied for financing the scheme, is it not a just and honourable debt which the ratepayers of the City should acknowledge? I cannot claim otherwise than that it was. If at the time Government had passed an Ordinance would the debt not have existed to-day? Would anyone be able to plead that this and that were not regular? Clearly they could not, but I am not denying to anyone the liberty or the right of playing with the loophole for the purpose of obtaining better terms. That is good advocacy, but, nevertheless, it leaves the justness of the burden on the ratepayers in the same position.

From my seat here I could not as an honest public man, as I endeavour to be, even although I want to see relief and as much relief as possible given to the ratepayers, say they are not to honour the debt contracted on their behalf by their representatives, the Town Council. The construction of the Sewerage Scheme and the means of financing it were an ordinary business transaction. Money has to be found for executing such a scheme. The man who advances the money naturally wants interest on it. If the Crown Agents from balances belonging to different Colonies advance the money for the Town Council must these advances not bear interest? Surely they must. Even the

heathen would agree that it would be unjust that money which would have borne interest to the owners should be lent to the ratepayers of Georgetown free of interest. If after those current advances were funded members of the British public subscribed to the loan to repay those current advances, are those investors to go without their interest? Someone told me some days ago "You will never say Government is wrong in this matter. We should not have paid a cent interest until these works were finished." (Mr. Cannon: Hear, hear). My reply was "With whose money you executed the scheme?" He had to admit that we borrowed the money, but he said Government were the contractors and until the contractors gave over the job they had no right to receive interest. I told him I did not know that method of financing a scheme. Whether you had it done by a contractor or it was done by direct work under a Resident Engineer, you must pay interest on the money employed in constructing the scheme. That is an ordinary business factor which you must provide for. I think that from 1923 until the completion of the scheme both parties acted in good faith. That is my honest opinion. The Town Council agreed that money should be advanced in the way it was advanced and no honest ratepayer is going to say that interest must not be paid on that money, but the most he would do is to use the position as it stands to get the best allocation. I am at one with the hon. Member for Georgetown North in endeavouring to get the fullest relief possible. It it were possible to get 100 per cent. I would take it and say "Thanks." That does not get rid of my own views as to what is a reasonable contribution as a general taxpayer of the Colony.

I hope that Your Excellency will be able to reassure the public that this settlement for two years will not in the end result in their getting a lesser contribution than 50 per cent. Were you able to assure the public that that was so I doubt whether you will find a considerable minority against this measure. The public realise what the position is. We have to pay our debts and want a little time to do it. I am not accusing Government of indulging in a trick, but it is a method which might eventually lead the public to

suppose that somebody in 1933 and/or 1934 would say it was a trick. I could not sit here without pointing out the grave danger of Government being misunderstood. It is said that this Bill is going to kill the action (Mr. Cannon: No). In my view, as it stands, it might subject the action to a death sentence with a stay of execution, but whether the action would be dead is another question. The Attorney-General knows that there is some point in respect of which it is possible for some question still to be raised. It is a small matter but it still remains outstanding. I would like also to point out to the Attorney-General the use of the term "Government" throughout this Bill. In the explanatory memorandum the term "Government" is well understood, but in the operative part of the Bill I do not think it is sufficiently clearly defined to be used in an Ordinance which has to be construed exceedingly strictly. Government is not an incorporated entity and all the money was not actually advanced by Government. There were advances also by the Crown Agents, and those matters ought to be carefully attended to. My one point is that Government should give an assurance to the public that with the removal of any right of action which any member of the public had in relation to payment of moneys for interest on advances for the execution of these improvement works, Government will not merely kill the action but give an assurance, which will be on the minutes of the Council, that any settlement in 1933 will not involve a lesser contribution than 50 per cent. If that assurance can be given I am sure Georgetown will be satisfied with the measure which is being passed to-day.

Mr. CANNON: I had hoped not to be called upon to say anything in connection with this matter but as there seems to be reluctance on the part of the Electives to say something I might be permitted to say as briefly as possible what I have to say. First of all, I wish to thank the hon. Member for his complimentary remarks. I wish him and all those who think along the same lines as he does to know that my action has been brought through a desire to serve the people of this City. I have no hesitation in saying that this Bill has been brought to endeavour to baulk my action in the Law Courts, but it will not

in any way daunt my ardour. I have been told on more than one occasion by the highest Members of Government that nothing can be achieved by my action and there is nothing in it; but it seems that as the months roll on Government have changed their idea in that respect because we now have a Bill presented to remove doubts. Personally, I think it is a very doubtful Bill as it stands and is not likely to achieve its object. It is my intention with the aid of the people of the City to take this matter as far as ever it can go, because I have found it very difficult to get Government to realise the seriousness that will reflect from this sewerage *impasse*. It has been said that Your Excellency has done everything in your power to bring about a settlement. That I do not deny, but I may be permitted to say it is misapplied energy. This matter could have been settled long ago and can be yet settled to-day if Government would only take a reasonable view of the situation that would enable a settlement to be arrived at. A Bill of this sort is not the right spirit in which Government should attempt, to use the words of my hon. friend, "to kill my action." If there is nothing in my action or in the views I express, why should Government have any fear and come forward with a Bill to put something that is not wrong right. I do not think the interpretation contained in this Bill is honest. I say it is un-British. Those matters will engage the attention of the highest tribunal. This House make the laws but others have to interpret them. It may result in the public at any rate realising and satisfying themselves that the course adopted by Government is one that should never have been attempted.

It has been suggested that the rate payers of Georgetown should not in any way attempt to repudiate their debt. I am saying on behalf of the ratepayers of Georgetown that there is not a single ratepayer who is opposed to or is not desirous of paying for what they have got. What they do object to is to pay for it in the form Government is suggesting. A resolution passed by all classes of ratepayers of Georgetown has been presented asking Your Excellency to submit to the higher authorities in London the fact that they are prepared to undertake to pay for the entire scheme, but that they should be

allowed to do so by the best means possible to afford them all the relief they can get. Therefore the suggestion, or any insinuation, that the people are in any way trying to evade their responsibility is a libel which should not be allowed to go forth to the world at large. As to the method they have suggested, I defy any Member to say it is an unreasonable one. Why they should be refused that right beats me. I have had interviews with the parties across the water and I am satisfied that Your Excellency has the power to say to the Colonial Office that the people of the City desire to pay the entire cost of the scheme but only ask to be allowed to do so under such reasonable terms as this Government may determine. If Your Excellency would only make those representations the Colonial Office would at once say "Have the matter settled on those lines" and there would be no necessity for legislation of this sort. If this matter is settled to the satisfaction of the people there will be no necessity for us to wash our dirty linen in the Law Courts and the action would be withdrawn. Your Excellency will, I am sure, give me credit, if for nothing else, that I have done everything in my power to have this matter settled to the satisfaction of all concerned. I do not think I can usefully add anything more. My hon. friend has suggested certain amendments. Personally, I hope in the interest of the people of Georgetown that he would leave the Bill to go through as it stands and suggest no amendment because I am satisfied that when we meet the Attorney-General and this doubtful Bill in another quarter we will get on all-fours with him. I ask the Attorney-General not to accept any amendment and let us have a manly fight when we meet somewhere else.

Dr. SINGH: It is not fair to call upon the ratepayers of Georgetown to pay for a scheme when they did not bargain for such an enormous expenditure. The Town Council accepted the scheme on a reasonable estimate which they thought was within their means to undertake. What do we find? We find the expenditure exceeding the estimate by a large margin. I daresay emergencies might have had to be met for which there were no calculations, but however adverse conditions might have been I cannot conceive how a recognised firm of contractors

could have allowed expenditure to soar so high. If the expenditure had been 25 or 30 per cent. above the margin I believe nothing would have been said here to-day; but the expenditure is double the original estimate and yet the ratepayers are called upon to pay. Even if they were inclined to pay at the time when conditions were better, it is obvious that it is impossible for them to do so to-day under prevailing conditions of depression. In the course of my duties about the City I am astounded to see the number of cottages and rooms untenanted. Two or three families are to be seen huddled in one small room in order to make two ends meet. That is one of the reasons why there are so many cottages and rooms untenanted.

THE PRESIDENT: I do not want to interrupt the hon. Member unduly. We are not discussing the actual payment of the rates at the present time but a Bill with regard to the position of advances made to the Municipality and the recovery of the amount by the Municipality.

Dr. SINGH: I admit that the scheme is an invaluable asset to the Colony and enhances the prestige of the Colony where health is concerned, but when we are thinking of the health of citizens we must also think of their ability to pay for this scheme. If the scheme is made a Colonial Question rentals would drop and people huddled in small rooms will be able to live under better conditions, pay for their nourishment and maintain their average strength.

Mr. ELEAZAR: I stand just where I always stood with respect to this question since it became a matter of public concern as distinct from that between the ratepayers of Georgetown and the Government. We in Berbice decline to pay the piper when we did not call the tune. If the Bill is intended, as has been stated, to balk the hon. Member's action before the Supreme Court, I congratulate Government on having made a noble retreat. On the same score I congratulate the hon. Member on his titanic challenge to Government to settle the matter once and for all and let all parties know where they stand. Government has attempted to do that and made a concession which to my mind is ample. A 50-50 concession is more than

ample in the circumstances, because it is admitted on all hands that equitable taxation must take cognisance of the special benefit derived and the taxable capacity of those for whose benefit the expenditure was incurred. There can be no doubt that the scheme was inaugurated for the special benefit of the people of Georgetown, therefore they must be primarily the persons to pay. If it is found that the burden is beyond their means to pay they are right to ask the rest of the community to come to their assistance, but I cannot understand their persistence and insistence that the whole Colony must be made to bear the burden equally with them. The suggestion is so unreasonable that I cannot understand how people can make it. I congratulate Government on bringing forward the Bill and I hope it will achieve the aim of stopping the litigation. The hon. Member for Demerara River has suggested that the matter should be settled permanently at once. If Government is inclined to make the 50-50 permanent I would not stand in the way, but I think the 50-50 basis is liberal in the circumstances. To make the question a Colonial Question would be an outrage on the community and against all the canons of political economy. I hope that at the end of the Bill a clause will be inserted to make it water-tight. I have made a suggestion to the Attorney-General and I hope there will be no loophole. At a meeting of the Chamber of Commerce in Berbice some urged a 50-50 basis, but it was unanimously agreed that 60-40 would be a reasonable basis. We are satisfied that the burden to Georgetown taxpayers is almost unbearable and are willing to give them as much help as possible, and that help is amply met by a 50-50 basis.

Mr. SEAFORD: I must admit that this Bill leaves me somewhat in a quandary. I had hoped that we would have heard what is at the back of Government's mind. By that I mean that we would have known what Governments hope to do at the end of two years or it would try to do. At present we do not seem to have got very much further. If the Bill is passed it means that next year we would get a certain amount of relief for two years. (Mr. Cannon: Question). There may be nothing in the Bill about that, but at the same time we know that one hangs

on the other. If the Bill is thrown out we can appreciate that Government may reconsider the whole matter and the taxpayer might get no relief for even two years. I cannot see that this relief for two years is going to assist stagnation in the property market one bit. Nobody is going to buy property when he thinks that two years ahead he will be saddled with 50 per cent. greater tax than to-day. We all like to choose our own methods of paying taxation, especially if we can get others to pay a portion for us. If Government is unable to give the Council an assurance that it will assist to the same extent at the end of two years—I realise that we are not our own masters—perhaps Government will give an assurance that it will do its utmost to get those on the other side to maintain the 50 per cent. rate of payment. That would go a long way to ease the minds of taxpayers. We know that Government can be persuaded, and a word of Government will go a long way to get the relief that is sought. Those who have interests outside the City appreciate the fact that the City cannot pay the whole and would support any relief which Government can give, but at the same time we feel that that relief must be tempered with a certain amount of judgment.

THE PRESIDENT: Perhaps at this stage I ought to explain the matter further, though not from the point of view of Government. The hon. Member for Georgetown North has imputed to me power which I do not possess. I do not possess power to settle this question, but I certainly would like to have power to settle it without reference to, and the approval of, the authorities at Home. The second question that has arisen in this debate is in regard to the two years duration of the 50-50 agreement, and it has been pointed out by hon. Members that this Bill would perhaps be more acceptable if it were coupled with a statement from Government that the terms of the agreement would be for the whole period of the loan and not for the years 1931-32. I think the hon. Member for Berbice River has brought out the point in regard to that, and that is that we have to look upon this payment not only from the point of view of the Georgetown ratepayer but also from the point of view of the colonial taxpayer. It is a question of which pocket it should come out of: whether it should come out

of the right hand or the left hand pocket. The position to-day is that we are being assisted by the Imperial Government to balance our Budget. The Imperial Government is satisfied that taxation is imposed here to the limit at which taxation should be placed and has made up the balance. The Imperial Government is faced with the position that if further taxation is imposed and accepted it must be for a specific purpose. It is clear that such taxation must be taxation which is above the amount that could be reasonably borne by the Colony. I think it can be borne, and is being borne cheerfully, for the object for which it is intended, and that is the object to relieve the rate-payers of Georgetown in respect of a portion of their contribution to the sewerage rate. The question as to whether the allocation would be settled in 1933 is one simply connected with the financial position as it may be in 1933. You can scarcely expect your banker in any circumstances to agree to some proposal which is going to cover a period of 35 years when you are considerably indebted and prepared to get rid of further assets in order to raise a sum for a specific object. Your banker will naturally say "I agree that the object is a good one and therefore you should get this additional money out of the country and hand it over to the Town Council for this purpose. But how long is this going to last? What is the position going to be? Are they going to have development in the interior which will make the interior much richer, or are they going to improve Georgetown and make Georgetown richer?" As regards the value of property in the town, it will either decrease or increase. If it is going to decrease you cannot bear a heavier burden. No change can be made before the matter is brought before the Legislative Council with the Budget for 1934. It will be provided for in the Estimates for 1933 to be considered with the various charges. It is a matter for this Council. Is this Council going to say for all time it is prepared to make this contribution 50 per cent.? I think it is very probable that it will. There must be some re-examination of the financial position, but why it should be to the detriment of the Municipal ratepayer I cannot understand. It might be equally to the detriment of the colonial taxpayer. I am quite willing to put forward the

representations that have been made in this Council and elsewhere to the Secretary of State when at Home on leave and explain the point of view that it would be no doubt more satisfying to the people if they felt there was some assurance on the point. I do not think anyone of us around this table can say what the position would be in 1934—whether anybody would be able to pay or what they could pay under the circumstances. It is reasonable to ask that the matter be reconsidered in the light of the financial position at the end of 1933, while in the meantime specific relief is being granted in respect of the two years. We have a basis to work on now which is further strengthened by the fact that it has opened up to the Municipality the opportunity to try and find a solution of one part of the scheme. That is putting the matter in a much simpler way for the Municipality than it was before.

As regards this Bill I think it must be clear that all Government is doing—and Government is representing the country—is to put the Council in the position it was in when Ordinance 10 of 1930 came before the Council and merely asking the Council to remove any doubts on the question of recovering payment. I should like to congratulate hon. Members on the general trend of the debate. There is no attempt to do anything un-British in the matter. It is merely a duty Government owes to the taxpayers of the Colony to legalise the position which is accepted as the position in respect of the collection of the tax. I cannot see how it is bound up in any way with the question of deferred settlement, except in the respect that if you do not settle any doubts there will be deferred settlement and deferred settlement would mean deferred payment of taxes, which does not help the position.

Mr. CRANE: I understand you to say, sir, that the reason for making a temporary arrangement is that no one knows what will be the financial position of the Colony later on, and whether a smaller or larger proportion would not be the proper measure of relief. While that is a correct principle, may I suggest that two years seems to be hopelessly inadequate for the purpose?

THE PRESIDENT: I am prepared to admit there would be argument for a further period.

Mr. CRANE: If there is to be a temporary settlement 15 years would be a reasonable time. You are not going to restore the equilibrium of the property market in two years.

Mr. WIGHT: This is rather a distasteful job for me, but after your explanation, sir, I do not think there is very much I can add to the debate. I should certainly like to see the time extended, but it is not a matter for us or for you. Our bankers on the other side have more voice in it than you can tell us at the moment. I desire to congratulate the hon. Member for Georgetown North. I feel that the Bill is a necessity for the protection of Councillors who voted for the payment of interest to Government. I had nothing to do with the introduction of the Bill, although I was accused of having full knowledge of it for some months. I am not going to let the hon. Member for Georgetown North have all the credit for what has been achieved. I know personally that Your Excellency deserves most of the credit for pressing the matter as far as it has gone. I took the matter in my own hands when I first sat in the Chair of the Municipality in 1927 and supported a deputation of Town Councillors going to England in order to try and settle it. That deputation came back with the idea imbued in their minds that the Governor was the proper person to settle the whole scheme. That idea was conveyed to us throughout the negotiations. When the hon. Member moved at the Town Council in November or December that the scheme should be on a 50-50 basis a telegram was sent to the Secretary of State and a reply came distinctly stating that there would be no alteration of the 80-20 basis. I am aware of the fact that Your Excellency took the matter up again and insisted upon and persuaded the Imperial Government to give us the 50-50 basis. I was placed in an awkward position a couple days ago in having to give my casting vote against an amendment in order that it should be lost and a motion carried by the Town Council that the scheme should be adopted on the 50-50 basis. Your Excellency explained that it was not in your power to settle the matter at all, and I am glad you said so this morning in order that it should go out to the public. One Member has referred to the washing of dirty linen in the Law

Courts, but the Town Council can boast that there is no dirty linen to wash. There were certain remarks at the inauguration of the scheme which were unwholesome in the sense that it was done on a percentage basis. I thought it was an iniquitous scheme to enter into a contract to pay a percentage of the cost. I heard certain remarks about hands being "greased." I happened not to be on the Council then, and I make no reflections because I do not believe it. I know that the ratepayers cannot pay more than 50 per cent., and I know also, sir, that you will use your good offices to persuade those on the other side to give us further relief if it is necessary. We have been pegging at it for five years, but you have managed to solve it in the most satisfactory manner. Credit is certainly due to you for the way in which you have handled it. I do not feel that there is any bogey about the transaction for the two years and am satisfied that we shall get a square deal from the Imperial Government. 50-50 to-day means that the general taxpayer is bearing half the cost of the two schemes. We want to emphasise that the two schemes must be added together and half the cost borne by the Municipality. I am going to support the Bill mainly in the interest of Councillors who voted for payment of an honest debt. Rumour is that the matter is irregular and should not be brought forward at this stage. Interest has been paid during my regime and I have no fear that anybody would sue me for the payment of that interest, but in fairness to both sides it is the proper thing to be done and I am going to support the Bill for the reasons I have mentioned.

Mr. CANNON: It seems that what I have said is misunderstood. I did not say that Your Excellency had power to do impossible things. I tried to emphasise that you had power to recommend and that if you recommended what the people of the country want done it will be carried out. I have not the slightest doubt about that.

THE PRESIDENT: I thank the hon. Member for the explanation. I am not suggesting for a moment that the Governor here is overburdened in any way by the Secretary of State, but the matter has to be referred to the Secretary of State and

looked at from every point of view. The Governor can make recommendations, but the Governor carries out the directions of the Secretary of State on the recommendations he has made.

Mr. WEBBER: Reference has been made to Berbice. I wish to say that Western Berbice, as represented by me, supports the Bill. I cannot see that any person can object to the passing of this Bill. It merely recognises an obligation which is recognised by everybody. The Law Officers advise that there is the necessity for this Bill and I accept their advice and am prepared to support the Bill. It is quite competent for this Council to pledge itself to do anything within its duration. On the other hand, I appreciate the difficulty the Imperial Government finds itself in to send out a charter binding the Mother Country to find money for the next 10, 15 or 33 years, and the position in which the Cabinet may be placed. If in 1933 the position grows worse the ratepayers would be in a better position than the taxpayers of the whole Colony, as if the industrial position improves the general taxpayer would be no better off than the Georgetown taxpayer. The tide of fortune is going to affect them alike. Georgetown has no intrinsic wealth; it draws its wealth from the general taxpayers. We have no assurance that the 50-50 allocation refers to the house connections as well as the main drainage. The ratepayers are of the view that the allocation should be applicable to both. I think it is within the province of the Council to pledge itself to pay the 50-50 contribution and trust Your Excellency will see your way to ask the National Government to allow us to honour that obligation.

THE ATTORNEY-GENERAL: There is a rule of equity which I think epitomises the position in regard to this Bill. It is that equity regards as done that which ought to be done. That is really what we are carrying out. The situation has been very well expressed by the hon. Member for Demerara River in clear businesslike language. Government has lent money to the Town Council. It is immaterial from what source Government obtained that money, but it is a known fact that Government borrowed that money and lent it to the Town Council. That money has to

be repaid and the interest on that money, and all we are doing is to ensure the existence of what we have recognised hitherto as a legal obligation and raise it out of the sphere of doubt. It is not a question of its having to do with any particular litigation. I venture to compliment the hon. Member for Georgetown North on his legal perspicacity, and I feel that the Bill should go through in its present form. It is intended to accomplish the objects and purposes which I have mentioned. It is not directed at special litigation; it is merely to ensure the existence of the obligation. The scope of the Bill is limited to the language used in it and to the extent only to which it goes.

The Council divided on the question of the second reading and voted:—

Ayes—Messrs. Seaford, Austin, Anderson, Webber, Eleazar, Wight, Crane, Woolford, Major Craig, D'Andrade, Bayley, Wood, Fredericks, Brassington, Professor Dash, Major Bain Gray, Millard, Dias, Dr. Kelly, Smellie, the Attorney-General and the Colonial Secretary—22.

Noes—Dr. Singh and Messrs. Gonsalves and Cannon—3.

Bill read the second time.

The Council adjourned for the luncheon interval.

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

Clause 2—Interpretation.

THE ATTORNEY-GENERAL: I find it advisable to move an amendment in "Improvement works." As it stands in the clause the term is defined to mean "the house connections, the main drainage works and the water works." It appears that there has been some expenditure in connection with road works, which was one of the four contracts executed, and it is therefore advisable that they should be included so that no question should arise and render it necessary to come back to the Council with another Bill to amend or set anything right. I move that the word "and" be struck out and the addition of "and road works" after "water works."

Question put, and agreed to.

Mr. CRANE: I submit that the term "Government" is not the correct expression, but I am not pressing it. "Government" is an indefinite term. In the Ordinance of 1929 the Governor is the person authorised to make the construction works and to employ engineers, superintendents and others for that purpose. I think the proper term is, as in the contracts, the "Governor acting for and on behalf of the Colony."

THE ATTORNEY-GENERAL: In the Ordinance to which the hon. Member has referred the expression "Government" is used in respect of the construction of the sewerage works after the contract has been determined. In the four contracts the term used throughout is "Government" and it is specially defined as meaning the Governor acting on behalf of the Colony and the Mayor and Town Council. There are Ordinances in which the expression "Government" is used in financial matters, and I do not think any doubt or misunderstanding will arise.

The Council resumed.

Notice was given that at the next meeting it would be moved that the Bill be read the third time (*Attorney-General*).

CRIMINAL JUSTICE BILL.

THE ATTORNEY-GENERAL: I move that "A Bill to amend the law with respect to the administration of Criminal Justice, and otherwise to amend the Criminal Law" be read the second time. The object of this Bill in certain respects is to bring into line with modern legislation some portions of the Criminal Law of the Colony and in some respects adapting the provisions to local circumstances, and also to remedy some mistakes in relation to the Criminal Law which have crept into the revised edition of the laws. The first change is one which increases the jurisdiction of Magistrates in criminal cases to \$100. At the present time a Magistrate's jurisdiction is limited to a maximum of \$25 and the majority of cases which exceeds \$25 has to be committed by him to the Supreme Court to be dealt with on indictment. When the Ordinance of 1893 was passed Magistrates were for

the most part laymen. At the present time Magistrates are lawyers and there is no reason why a trained lawyer should not deal finally with cases where the amount goes up to \$100. There are cases where he has to deal with matters of greater value than \$25. This extension of jurisdiction will not entail any additional labour on the Magistrate, but instead of holding a preliminary investigation and committing the accused for trial in the Supreme Court he would be able to dispose of the case himself. Clause 4 deals with an amendment of section 106 of Cap. 13. What happened in relation to that is this. In 1927 two Ordinances were passed dealing with the prevention of corruption in respect to agents, one of summary jurisdiction and the other in respect of indictable cases. The summary jurisdiction was inserted as a separate title. It appears that the Commissioner in compiling the consolidation changed "title" into "section." The question has arisen whether the consent of the Attorney-General is not necessary to the various offences dealt with in that title, and it is desirable that the matter should be set right. The next amendment is in relation to section 195 of the same Ordinance and deals with a question of procedure. That section deals with certain offences relating to Sunday trading. It was not reproduced in the revised edition but another was substituted, and clause 5 puts section 195 to what it was originally.

Part II. deals with the Summary Jurisdiction (Procedure) Ordinance and makes certain amendments. In section 7 of the Principal Ordinance the time for taking summary proceedings is limited to six months and it is now proposed to extend the time to six months. Clause 8 simplifies the form of complaint, summons, warrant or other document. The provision relating to these documents is open to some difficulty of construction and is not as wide as it may be. Clause 9 repeals and re-enacts section 29 of Chapter 14. Cases among different parties are taken together by consent and the Court has not disturbed the decision, but there should be power to parties to consent to these matters being heard together. If the Magistrate can hear them all together it would be very much easier for him to adjudicate more in keeping with the circumstances that have occurred than if

he had to hear them separately. Clause 10 is an amendment with regard to larceny or receiving stolen property and it brings into line cases of larceny and embezzlement. Clause 11 deals with the summary trials of adults. At present that is regulated by sections 60 and 61, but the Magistrate's power is very limited and the object of the amendment is to give the Magistrate greater scope for dealing with indictable cases, for which purpose the schedule includes a large number of offences. This clause considerably extends the power of dealing with these cases, and it is a matter for the accused's election whether he prefers to be tried summarily or indictably. Clause 12 is an enforcement of recognisance to keep the peace or to be of good behaviour. Clause 13 is merely a verbal amendment; while clause 14 introduces a new section 96 simplifying the mode of proof of previous convictions.

Part IV. deals with the Criminal Law (Procedure) Ordinance. This is an amendment which has recently been made in England and it no doubt will be useful where in the course of a trial any juror dies or is discharged. A consequential amendment has to be made in section 154 (c), Chapter 18, to fit in with the possible reduction of the number of the jury from 12 to 10 where any juror dies or is discharged. It is also proposed to insert in Committee two new clauses before clause 18. The object of the new clause 18 is that very often an indictable offence is committed in some remote part of the country and it occurs that many of the witnesses may be in Georgetown or quite nearby. As the law now stands the preliminary investigation has to be held within the Judicial District where the matter occurred, and it has been a matter of great inconvenience and expense in doing so and very often the accused or his professional advisers have sought my assistance to know whether there were any means by which the venue could be changed to some other district. The new clause 19 is a change of form of questions put to an accused person when the case is concluded for an indictable offence. That has been adopted in the Criminal Evidence Act, and it is proposed that we should change the statutory caution here similarly. Clause 18 (now 20) is a new one. Under the present law every person who has

given evidence in the Court below for the prosecution or for the defence is bound over by the Magistrate to attend at the trial, and it is the duty of the prosecution to have at the trial all the persons bound over whether they are necessary witnesses or not. That was also the law in England until this change was made. It is found that in many instances the evidence of these witnesses is not of the slightest use and that the witnesses can be dispensed with and need not be brought to the trial. A case occurred quite recently where a number of witnesses were not called at all. The jury disagreed and before the second trial the prosecution submitted to the defence a list of the witnesses it was not proposed to call unless they were required by the defence, and the defence did not require any of them. The new section 76A gives the Attorney-General power not to call witnesses at the trial; it is something new, but it is something which will be useful. Clause 19 deals with the proof of previous convictions. Clause 20 incorporates the Act which was recently passed in England with regard to pregnant women convicted of an offence punishable with death.

Part V. introduces a new doctrine into our law. In fact it changes the presumption of the Common Law of England, which also exists in this country, and it further adds to the freedom of married women as a separate person. At present if an offence is committed by a wife in the presence of her husband it is presumed that the offence was committed not of her own free will but by the coercion of her husband. This Bill abolishes that, but on a charge against a wife for any offence other than treason or murder it shall be a good defence to prove that the offence was committed in the presence of, and under the coercion of, her husband. Part VI. follows the English Act with respect to giving depositions in evidence at trial.

Mr. CRANE: This Bill attempts to affect legislation dealing with a variety of subjects from offences punishable on summary conviction to offences punishable on indictment and the procedure in each case. It also amends the common law as well as the statute law on several subjects. It is the first attempt to adopt that form of legislation which has been in vogue in England for some time. I consider some of the provisions of the Bill pretty

revolutionary and ought not to be given legislative sanction. Clause 3 is a very useful provision. Many cases could with advantage to both sides be determined by a Magistrate. Clause 5 I have no objection to either, and that also applies to clause 8. Generally speaking, what is good law for England is good enough for this Colony, and I believe in uniformity of legislation between this country and England because you can get cases facilitating interpretation of the law. Clause 9 is a useful provision and might be carried a little further by consent of one party. Clause 11 is a wholesome provision, but the right of appeal in the English Act is not given here. I do not see the wisdom of giving a Magistrate power to try indictable offences on the consent of the accused person and to deprive the accused of the right of appeal specifically given to him in respect of the offence if it were a summary offence. There are a few clauses in respect of which I am bound to offer criticism. The first is clause 7, which suggests that the period of limitation of complaint should be extended from six to twelve months. The period of twelve months in England is limited to cases where a person makes a false statement and thereby obtains a marriage certificate. This clause makes all offences triable under the summary offences. The law is not there to assist people to squat on their rights but enjoins on them to proceed swiftly. Clause 10 is legislation running riot. There is no distinction between embezzlement and larceny, therefore if one is charged you

can reasonably convict of the other because the accused is put to no disadvantage, nor is he prejudiced. This proposal is revolutionary. Larceny is an entirely different offence from receiving and there must be knowledge in a case of receiving that the article was stolen. The penalty in England in respect of clause 11 is imprisonment not exceeding six months or a fine not exceeding £100. The proposal in this clause is imprisonment not exceeding twelve months or a fine not exceeding \$500. We are not making law to terrorise people, and I object to copying a section like this and doubling the penalty. While the provision of clause 18 is good, I call attention to the fact that the Attorney-General said that in a particular case he submitted a list of the witnesses to the defence. In a case of that sort this provision will work admirably. But what about the case where a man is not represented and cannot determine for himself? I ask Government to give consideration to the points I have made.

Mr. ELEAZAR: I cannot be a party to proposals that encroach on the liberty of the subject. I appreciate the extension of Magistrates' jurisdiction because I know that the Police have valued an article at \$26 merely to get the case tried on indictment. Six months would be quite long enough for bringing prosecutions and I hope twelve months would not be pressed.

The Council adjourned until the following day at 11 o'clock.

