

LEGISLATIVE COUNCIL.*Thursday, 2nd May, 1946*

The Council met at 2 p.m., the Hon. E. G. Woolford, O.B.E., K.C., Deputy President, in the Chair.

PRESENT:

The Deputy President, the Hon. E. G. Woolford, O.B.E., K.C. (New Amsterdam).

The Hon. the Colonial Secretary, Mr. W. L. Heape, C.M.G.

The Hon. the Attorney-General (Acting), Mr. F. W. Holder.

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

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

The Hon. H. N. Critchlow (Nominated).

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

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

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

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

The Hon. Peer Bacchus (Western Berbice).

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

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

The Hon. J. W. Jackson, O.B.E. (Nominated).

The Hon. T. Lee (Essequibo River).

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 Clerk read prayers.

The minutes of the meeting of the Council held on Friday, 26th April, 1946, as printed and circulated, were taken as read and confirmed.

ANNOUNCEMENTS.**NEW VESSELS FOR TRANSPORT SERVICE**

The DEPUTY PRESIDENT: As hon. Members are aware, His Excellency the President is out of town. The Colonial Secretary has an announcement to make.

The COLONIAL SECRETARY: I have an announcement of public interest to make. It is that the Crown Agents have informed this Government that there are two vessels to be disposed of by the Ministry of War Transport which we know are entirely suitable for work in this Colony, and the price stated by the Crown Agents is £46,000 each. The Board of Commissioners of the Transport and Harbours Department and the Governor in Executive Council, in anticipation of this Council's approval, have telegraphed the Crown Agents to endeavour to secure these vessels, and to offer the price of £40,000

each, subject of course to a survey finding them in all respects in good order. The vessels are new; they were built in 1945, and in the opinion of the experts in this Colony, if we could get them for £40,000 each it would be a bargain. There will be certain additional expenditure in bringing the vessels to the Colony. I hope the Council will support Government in its endeavour to secure the vessels as soon as possible, subject of course to their being surveyed and found in all respects in good order.

I may add that a Message will, of course, be presented to Legislative Council, but as the matter is really urgent, and as we should lose no opportunity to secure these vessels, I am to announce that a telegram was despatched yesterday in the terms in which I have spoken.

The DEPUTY PRESIDENT I am sure Members will be glad to have heard that announcement, and I hope there will be no delay about the matter when the proposal is being given effect to.

PAPERS LAID.

The COLONIAL SECRETARY laid on the table:—

Report of the Leave Passages Committee.

The COLONIAL TREASURER laid on the table the following:—

- (a) The Schedule of Additional Provision for the month of April, 1946.
- (b) Schedule of services, etc., to be met from funds raised under Loan Ordinance No. 5 of 1945.

GOVERNMENT NOTICES

SUPPLEMENTARY ESTIMATES— APRIL, 1946.

The COLONIAL TREASURER gave notice of the following motions:—

That, this Council approves of the Schedule of Additional Provision for the month of April, 1946, which has been laid on the table.

SCHEDULE OF WORKS FROM LOAN FUNDS

That this Council approves of the Schedule of Services and works to be met from funds raised under Loan Ordinance No. 5 of 1945, which has been laid on the table on 2nd May, 1946.

UNOFFICIAL NOTICES

QUESTIONS.

Mr. ROTH gave notice of the following questions:—

1. How much royalty has Government collected on gold during the past forty years?

2. How much royalty has Government collected on diamonds during the past forty years?

3. How much export tax has Government collected on gold during the past forty years?

4. How much export tax has Government collected on diamonds during the past forty years?

5. How much fees has Government collected on gold and diamond mining titles during the past forty years?

6. How much has Government spent on the encouragement and development of the gold and diamond mining industries during the past forty years?

7. Is Government aware of the deplorable condition of the Bartica-Potaro and Issano Roads?

8. Is Government aware that it may be cheaper to concentrate on the proper maintenance of these roads than on the lorries running thereon—i.e., that it would be cheaper to spend more money on the former with a consequent cheapening of upkeep of the latter?

9. What steps, if any, is Government taking with regard to the construction of a road to the Cuyuni goldfields?

ORDER OF THE DAY.

EXCESS PROFITS TAX (AMENDMENT).
BILL, 1946.

A Bill intituled "An Ordinance to amend the Excess Profits Tax Ordinance, 1941, with respect to the standard profits of a trade or business and other matters relating to excess profits tax."

The COLONIAL TREASURER:

The introduction of this Bill has been delayed on account of a variety of circumstances, but I need not trouble the Council in explaining the reason for the continued postponement until now. The general purpose of the Bill is to afford relief from this burden of excess profits tax, and not in any way to increase the burden, and although the Bill is apparently very complex and probably difficult to understand, yet I think I can make an effort to explain it as simply as possible to Members.

The reliefs which are proposed are four in number. First of all there is the general relief to all taxpayers in the proposed reduction of the rate of tax from 80 per cent. to 60 per cent. That reduction was announced in the Budget statement, and I take it that that will be well received. It is unfortunate that I cannot announce the entire abolition of the tax today.

The second relief proposed is a special form of relief intended to give some concessions to small and medium sized businesses to which this tax applies, and that relief is to be given by increasing what is known as the minimum standard, that is the standard below which no business is taxable, and also by increasing what is known as the working proprietor's standard, or the amount which is allowed each working proprietor in a single trader's business or partnership, or director-controlled company. When the Excess Profits Tax law was first introduced these various allowances or standards were a self-balancing minimum standard of \$5,000. Each working proprietor was allowed \$3,000 to a maxi-

mum of \$12,000. That is to say four working proprietors were allowed \$3,000 each. Shortly afterwards, in 1941, an amendment was introduced in Council by which the minimum standard remained the same, but the allowance for each working proprietor was increased to \$4,800, with a maximum of \$19,200. That means that a small business which is controlled by its own partners or directors, where those partners or directors actually work in the business they are allowed the maximum standard which at the present time is \$19,200. If the business only makes that amount they are not liable to excess profits. The present Bill increases those standards. The minimum standard is to be increased to \$12,000, and the allowance for each working proprietor is to be \$10,000, with a maximum of \$40,000. So that Members will see that this means a substantial concession, because in a small business with four working proprietors, whereas now the allowance is \$19,200, if this Bill is passed it would be \$40,000.

A further concession is in the modification of the definition of "working proprietor." Under the law at present a director of a company cannot be a working proprietor unless he owns one-fifth at least of the share capital of the company. Under the present Bill the fraction is reduced to 1/20th. That means that it is easier for someone in a company to become a director and fall within the scope of a working proprietor.

These reliefs, as I have outlined, will afford substantial benefit to a number of small businesses, and even larger ones which are now liable to this tax, and I know of at least four cases in which the rebates which the firms will be entitled to will be a large sum of money. I may add that the Bill contemplates that these allowances will apply retrospectively from the 1st January, 1942. This matter has been under consideration for a very long time, and 1942 was of course a crucial point in this excess profits tax, and we think it is fair and reasonable that the

allowances and concessions should be granted as from the 1st January, 1942.

The third set of reliefs cover businesses which are being carried on wholly or mainly in the interior of the Colony and, in the words of the Attorney-General's Objects and Reasons, businesses which were of exceptional importance in the prosecution of the war, or were essential to the internal economy of the Colony during any chargeable accounting period. I will illustrate the kind of business to which that refers. First of all firewood, cattle breeding, and animal husbandry in the interior. There is also the balata business. Firstly, they were all essential to the war, particularly the firewood business, and were all carried on mainly or wholly in the interior. All the business were depleting their resources at a very rapid rate. They were all price controlled; they could not sell at their own margin of profit, but were compelled to sell at prices fixed by the Government. They were all in need of capital for replacements and for development in the post-war period, and curiously enough, all those businesses did not have an adequate standard of pre-war profits.

In the circumstances in which they were placed during the war they were being forced to expand their businesses so as to produce more and more, yet the major part of their yield was taken away or was liable to be taken away in the form of excess profits. Therefore, Government gave an undertaking to those businesses that it would put before this Council certain measures for special relief. They will, of course, get relief by the increase in the standard to which I have referred, but the special additional relief which is to be applied to them is this: In addition to the ordinary minimum standard and working proprietor standard which I have already explained, such a business, if run by a single individual in partnership—a small company—would get an additional \$12,000 as standard. Apart from that, special provision is made for a further addition based on

increased output—in the words of clause 4:

“an addition to the standard profits of such trade or business a sum calculated on the basis of the excess output in each chargeable accounting period over the average output during the years nineteen hundred and thirty-five to nineteen hundred and thirty-eight inclusive multiplied by the average profit per unit of output obtained in any of the said years.”

Those words seem very complicated but all they mean is that where a business has increased its output the increase over the average for the years 1935 to 1938 will be ascertained, and the business will be allowed to add an average profit calculated on the basis of the excess output in each chargeable accounting period over the average output during that period of years. In that way the business would increase its standard and thus pay less tax.

Those are the two special provisions which are made for those businesses carried on in the interior under difficult conditions during the war. The one exception is mining. That is specifically excepted under the Bill, the reason being that mining businesses have been given special relief under the Amending Ordinance passed in 1941, and it is unnecessary to give them further relief in this Bill.

The last class of relief to which this Bill refers is another special form of relief in the case of the application of provisions for double taxation which is necessary in the case of Trinidad and the United Kingdom. This is a bit complicated, but Members may recall that the tax in the United Kingdom was up to last year 100 per cent., with a rebate of 20 per cent. promised some time after the war. Similarly, in Trinidad the rate was 80 per cent. with a rebate of 20 per cent. promised some time after the war. It follows, therefore, that if we in this Colony adjust our taxation with that in the United Kingdom so as to give the taxpayer his relief now we must do something so that when the 20 per cent. is paid back at some future time we should also adjust that refund as between the Colony and the United Kingdom. The

complicated provision in clause 7 (1) is intended to allow of the proper adjustments being made with respect to those refunds to take place in the post-war period.

There are three other provisions in the Bill to which I should refer. I said that the Bill mainly gives relief, but at the same time opportunity has been taken in clause 6 to introduce certain stringent provisions which are designed to prevent any attempts to avoid liability to excess profits tax by transactions, not necessarily fictitious but perhaps effected mainly with the object of defeating the law. I said just now that in certain businesses, director-controlled businesses, certain allowances were made for each director. Therefore it might conceivably pay a business to go on creating directors or introducing partners so as to get larger allowances. Transactions of that nature are by this Bill to be disregarded. The provisions are extremely stringent, because even if such transaction has taken place without that object in view the law will maintain that it has been done with that as its main purpose or one of its main purposes. The whole of this particular clause has been taken word for word from the corresponding Act in the United Kingdom. They are extremely stringent but, nevertheless, I presume they are very necessary if the provisions of the law are to be properly given effect to.

One other simple provision is in clause 8 in which the Governor is authorized to appoint an agent in the United Kingdom for the purpose of carrying out these complicated adjustments, some of which I have referred to, where businesses are taxable both in the United Kingdom and in this Colony, and I can assure hon. Members that there are immense complexities in settling these adjustments as between the two Governments and as between the taxpayers. I believe that these various adjustments cannot be settled for many years hence, and the accountants will have many a headache before they are finished.

I should like also to mention the last clause of the Bill (clause 9) which defines "interior." It is defined as meaning "any part of the Colony south of any point lying twenty-five miles from the low watermark of the Atlantic Ocean on the north coast." That means really that any business say about opposite Atkinson Field would come in, and Members will appreciate that just about that point there is a business which one would like to see benefited by this Bill.

The very last sub-clause of the Bill gives power to the Commissioner to reopen all assessments and to re-adjust them in accordance with the provisions of this Bill.

I have not attempted at all in this statement to do more than just sketch in outline the provisions of the Bill. I do not think it is necessary for me to do anything more, but at the same time I think I have fairly well covered the ground in explaining what this Bill is all about. If, of course, any further explanation is necessary I should be pleased to try to do what I can to satisfy Members when the Council is in Committee. As the Bill is mainly to afford relief, I feel quite sure it will commend itself to the Council, and that its second reading will be passed at any rate.

The COLONIAL SECRETARY seconded.

Mr. HUMPHRYS: I agree that this is a very difficult Bill to understand. In fact all excess profits tax and income tax laws are difficult to understand unless they are very closely studied. While I agree that this Bill will afford some amount of relief to some companies in partnership; it is an indisputable fact that it will give no relief to others who, unfortunately, have not sufficient working proprietors. The position is this in a nutshell. A company whose standard profits are just over \$12,000 a year will get no minimum allowance at all,

because they will be taxed on every cent above those standard profits unless they have working proprietors. I will put it in this way: If during the war period a company earned \$30,000 profit in any year, what they would have to pay on is \$18,000, as they would be given a minimum allowance of \$12,000. But if that company or partnership happens to have two ordinary working proprietors they would each be allowed \$10,000 a year. Therefore that company would pay no excess profits tax at all. But if there is no working proprietor the company would have to pay excess profits tax on the whole sum of \$18,000. That is the nature of the relief offered by this Bill.

There is no doubt that there are several companies which will benefit by this Bill because they have working proprietors, but there are other companies which perhaps have only one working proprietor, who will only get an allowance of \$10,000, whereas a company with four working proprietors will be allowed \$40,000, or \$10,000 for each working proprietor, although the one working proprietor is probably carrying all the work that the four are doing in the other company. That makes this provision greatly unfair. If you are going to grant relief, then grant it fairly and equitably right through. My contention is, if you are going to give allowances to the working proprietors—if there is only one who is carrying the burden of the business he should get an allowance of \$20,000, if there are two they should together get an allowance of \$20,000 and if there are three they should together get an allowance of \$30,000—do not penalize the company that is trying to work economically with one proprietor by allowing him nothing unless he is a working proprietor. What I would like to point out is this. The real purpose is to deal with partnership and director-controlled companies. In other words, for the purpose of the Excess Profits Tax the director-controlled company is a

partnership. A partnership is a company with more than one partner and, therefore, you may have two or four working proprietors of that company.

In a director-controlled company you may have two directors who are working proprietors or you may have four, or you may have only one. The difficulty would be that in those companies with only one working proprietor, if their standard profits are \$13,000 or \$14,000 they would get no help at all from this Bill; all they would get is the standard allowance and they would only be taxed above the standard profits. They would get no working proprietor's allowance at all. That, I submit, is absolutely unfair. There should be an amendment to the Bill so that each proprietor should get an allowance of \$10,000. I know it is very difficult to frame a Bill so as to give relief to everyone, and in my discussion with the hon. the Colonial Treasurer he pointed out that there may be several companies which may say "Why should we not be allowed working proprietor's allowance too?" The point is, you may make allowance for any business you like and bring it into line with partnership and director-controlled businesses, but the object of this Bill is to deal only with working proprietors who are partners, working partners who are directors of a company. You should deal with this clause on that basis, whether the working proprietors are directors of a company or are partners in a business. I refer to clause 3 of the Bill which reads:

3. Notwithstanding anything contained in the Principal Ordinance or in any Ordinance amending the same, there shall be substituted for sub-section (2) of section five of the Principal Ordinance as amended by sub-section (1) of section three of the Excess Profits Tax (Amendment) Ordinance, 1941, in relation to an excess of profits arising in any chargeable accounting period beginning on or after the first day of January nineteen hundred and forty-two, the following sub-section—

"(2) The minimum amount referred to in sub-section (1) of this section is

twelve thousand dollars, or in the case of a trade or business carried on by a partnership or by a company the directors whereof have a controlling interest therein, such greater sum, not exceeding forty thousand dollars, as is arrived at by allowing ten thousand dollars for each working proprietor in the trade or business:

Provided that in the case of any trade or business (other than a mining trade or business) carried on wholly or mainly in the interior of the Colony, the minimum amount shall be increased by the further sum of twelve thousand dollars, if in the opinion of the Governor in Council such trade or business was during any chargeable accounting period of exceptional importance for purposes connected with the prosecution of the war or is or was essential to the maintenance of the internal economy of the Colony.

In this sub-section—

- (a) the expression "working proprietor" means a proprietor who has, during more than one-half of the chargeable accounting period in question, worked full time in the actual management or conduct of the trade or business; and
- (b) the expression "proprietor" means in the case of a trade or business carried on by a partnership, a partner therein, and, in the case of a company, any director thereof owning not less than one-twentieth of the share capital of the company."

You get \$12,000 as the minimum allowance and after that your profits are taxed. If you earn \$40,000 profits and you have three other working proprietors no tax would be applied because you are entitled to \$10,000 each, but if there is only one working proprietor you would pay on \$20,000. What is the result? These companies which exist and have three or four partners working in the firm will be allowed \$10,000 each partner, although it is highly probable that in many cases there is no necessity for three or four working proprietors in the business, but the man who does all the work alone and runs his business alone will only get \$10,000

of \$40,000 profits. It will not work equitably. My suggestion is going to be, when the proper stage is reached in Committee, an amendment in respect of that clause so as to provide where there is one working proprietor only an allowance of \$20,000, if there are two the same \$20,000, if there are three \$30,000 and if there are four \$40,000. It is only in that way relief will come to those partnership companies with only one working proprietor as a director in a company or a partner. The Directors' remunerations are all written back, and so you get no relief in that respect. So the man who is a Director or the Manager of a company will only get nominal fees. As a Director he gets \$2,000 salary and receives no allowance for that. He is not allowed to take it off the tax at all. There has been a good deal of argument about that before the Court and the decision is final that any remuneration a Director receives must be written back and not allowed as a deduction against the tax. Any Director receiving salary as Manager pays Income Tax but he cannot get it back if it is deducted for Excess Profits tax. For those reasons, I think, this Council should in order to complete justice make provision for a larger allowance for one working proprietor than \$10,000.

Those are general comments I make on that clause. I do not like the clause which is retrospective as regards transfers effected for the purpose of avoiding the tax. But the hon. the Colonial Treasurer says it has been taken from the English Act. I have not had the opportunity to look it up for myself. If it is done, they have cause for complaint. I do feel it may cause a good deal of hard feeling as many of the transactions in the past were done in perfectly good faith and not for the purpose of avoiding Excess Profits tax. It was done as an ordinary transfer of shares. The question of reducing the qualification of a working proprietor is one that I wish should receive attention. It has been reduced from one-fifth to one-twentieth but that, I think, is to the

good of the small partner or director holding a small interest in a company and who may be a working proprietor as well. With those remarks I shall await the Committee stage to move my amendment.

Mr. EDUN: I must admit that the Bill teems with complicated legal and financial technicalities. Although I endeavoured to read it through, I could not understand head or tail of the whole business. I tried to guide myself by perusing the Objects and Reasons adduced by the hon. the Attorney-General, and I saw a little bit of clarification in these words—may I quote—

“It is important that any relief obtained from the application of the provisions contained in the Bill should be utilised as a contributory means of rehabilitating industry and making it more efficient.”

I lay some emphasis on the word “industry”. I wonder whether the hon. Mover means that industry will be bringing within its orbit the business firms of Water Street, whether those firms engaged in the distribution of goods are industries. I know what the whole idea will be in this effort to relieve industries. We ought to see the reflection in the protective productivity of those industries. That is, we ought to see, if we give any relief to business, that relief expressing itself in an export economy. But I do not see, except in the case of sugar and bauxite, any reason why we should be so generous in giving relief to those parasitical firms, when that relief would be used in making their business stronger for themselves. The hon. Mover said in England the tax collected was 100 per cent. and that the business firms were given an undertaking that 20 per cent. would be repaid to them, and that so it was in Trinidad, although in Trinidad the Excess Profits tax was based on 80 per cent. like in British Guiana. I am not averse to giving these firms relief at all, but what I am concerned about is that it will in the long run reflect itself in the same import economy that

we have been used to all these years, and that import economy always went against the interest of the producing masses.

I was thinking, sir, that at the moment there is an Economic Adviser endeavouring to tell us how we stand financially, and we should have waited until his report was placed before this Council in order to see whether, if we begin to give relief to business firms without that relief being reflected in our export economy, we would be doing this Colony any financial good at all, and to see how this would affect materially our collection of revenue, whether we would see more deficits. If we begin like this, giving relief here, there and everywhere, without seeing how it is accounted for in our export economy, then I say we would end eventually in disaster. For that reason I do not think we should touch this matter at all. I wonder whether Excess Profits tax was ever collected all these years from the rum business. I would be very much interested to know that—how much Excess Profits tax was collected from the Spirit Shop dealers. Those are the things we ought to know, but we are simply giving private firms more profits in this matter. I think the whole idea is that we should have more productivity in order that we should export and have a strong economy in sugar, bauxite, rum and all those things, in order that we should balance our Budget. We ought to tax more and get in more money, but instead of that I see you are relieving everybody. I see refunds, drawbacks and all sorts of things to the private firms. I am afraid I cannot agree with this Bill.

Mr. de AGUIAR: The last hon. speaker before he sat down stated that he cannot agree with the Bill. I would like to agree with him, but unfortunately I do not find myself on the same platform with him on this occasion. The last time that he spoke on another matter he got my support, but I am afraid today I could not fully grasp his reasoning

and less still when he concluded his remarks by stating that he could not support the Bill. The same hon. Member reads a lot. On this occasion, perhaps, he has omitted to read what has taken place in other parts of the world with systems of taxation which were introduced between 1939 and 1945, particularly as war measures, and Excess Profits tax happens to be one of the systems introduced during the war. Unfortunately the reason for introducing this form of taxation in other countries of the world is not the same as obtains here. It was clearly stated both in the United Kingdom and elsewhere that those industries which were directly profiting as the result of the war conditions should be made to pay back some of their earnings to the Government and with that reason no one could have any quarrel. But it has been found that, although this system was primarily meant to obtain revenue out of those industrial enterprises that were profiting directly as the result of the war, other companies became similarly affected.

In this country, I venture the opinion, we were forced not only to introduce the measure but also to go as far as we could in following the Mother Country in so far as the rate of taxation is concerned. I know that in Great Britain the tax was 100 per cent. whereas in this Colony it was only 80 per cent., but it must not be forgotten—and it is referred to in the remarks made by the hon. the Colonial Treasurer today—that although the tax was 100 per cent. in Great Britain yet there was a promise or undertaking that 20 per cent. would be refunded to those same industries, those same companies, from whom the tax was collected during the war. What we did here was to levy a straight 80 per cent. which was the tax until the end of 1945. I have gone to the trouble of making these preliminary remarks for the benefit of those Members who have not had the time to study it or are not familiar with it. The position today is changed. We find

that in other countries there has been given a rebatement of the rate, and I know of one place where there has been a total abolition of the tax altogether. I am not going to advocate total abolition today, because it does seem to me in so far as this country is concerned we are not yet out of the woods. So long as it is possible for this Government to obtain additional revenue in this form, it seems to me, perhaps, it is a just and proper thing to do at least so far as the current year is concerned. But I do ask that serious consideration be given to the matter, because I fear that if this form of taxation is allowed to remain too long in an undeveloped country of his kind it may well be that it would interfere with the progress we are looking forward to. I do not share the view that some hon. Members share in this Council, that Government must always kill the goose that lays the golden eggs. I believe in fairplay to everybody. In Trinidad, sir, which is one of the nearest places to this country, I had the pleasure of not listening but reading the debates which took place in the Trinidad Legislature on this subject, and I want to record right here and now that I am in entire agreement with the views expressed by those Trinidad Legislators when they stated that in so far as Trinidad is concerned the time had come for the tax to be abolished altogether. Their reasoning was sound and they knew all about it too. The men who expressed those views are familiar with this form of taxation. They are not in the same position as some Members who qualify their remarks with "It is somewhat complicated. I do not understand it."

I have risen merely to express the hope—I am not opposing the Bill at all—that serious attention will be given to the remarks I have made in so far as they deal with the continuation of Excess Profits tax in this country. I believe, and I think I am right in believing, that the continuation of this tax will be for what now appears to be a somewhat indefinite period. I have

heard nothing from the lips of the hon. the Colonial Treasurer that indicated that the question of its total abolition will receive consideration and, therefore, I am correct in assuming that this system of taxation will remain on our Statute Book for a somewhat indefinite period. Therefore I have risen to urge that very serious consideration be given to it so that we can remove this form of taxation altogether. I conclude by saying that I do not think the time is ripe for us to do it now because, as I said before, I do not think we are out of the woods but in fact we are very much in the woods, and it may be a very wrong thing to do at this stage to deplete the coffers of the Treasury in respect of any sum that may accrue as the result of the continuation of this tax for the current year. I again urge that serious consideration be given it, so that when we are planning for the future—for 1947—we may be able to so arrange our financial structure as to remove this form of taxation altogether from the Statute Book of this Colony.

Mr. EDUN: To a point of information! Would the hon. Member name the country that has abolished this tax?

Mr. de AGUIAR: Trinidad.

The DEPUTY PRESIDENT: There has been some announcement that it will be abolished in the United Kingdom in April, this year.

The COLONIAL TREASURER: I do not intend to take up the time of the Council, but there are one or two points I want to reply to. In the first place the hon. Member for Central Demerara gave us a warning of the advisability of going on with the tax. Unfortunately he was not present at the Budget Session—I think he was engaged in spending a well earned holiday—as he would then have heard me read in the Budget Statement that Government intends to give consideration to the total abolition of the tax in 1947. As you have said, sir, we have heard that the United Kingdom proposes to do the same thing in respect of their next financial year.

That brings me to the point made by the hon. Mr. Edun who questioned the relief that is being given in this Bill, and seemed to think it is very desirable that we should continue taxation of this sort in order, in some way or other, to keep up our export trade and keep down our imports. I entirely agree with the hon. Member for Central Demerara that Excess Profits tax is a bad tax. Its only justification is the fact that it does remove from the pockets of the mercantile community surplus profits that accrue—I do not mean by any special fraudulent action or otherwise—owing to war-time conditions, and of course it is correct that those profits which come into their pockets in the war emergency should, or partly at least, go to the State. That really is the only justification for Excess Profits tax, and I entirely agree that as soon as possible it should go.

In the course of his remarks the hon. Member made use of the word “parasite” in relation to business firms. I am not here to defend the commercial interests, but I do dislike the use of that word even in connection with the Civil Service. Every individual or firm who serves the community in some form is entitled to some return, I think it is unfortunate, this continual use of the word “parasite.”

The hon. Member again announced his great interest in rum and wanted to know what is the yield of the Excise duty on rum. I suppose it can be worked out, but I do not think it is really relevant. If the hon. Member does ask the question we will endeavour to give him the information.

The hon. Member began his speech by saying that he had read the Bill but could not make head or tail of it. He ended by saying that he did not agree with it and did not intend to support it. It is the first time I have heard him speak so illogically. If it is true that he has not read the Bill then at least he should not vote against it.

The real criticism of the Bill came from the hon. Member for Eastern Demerara (Mr. Humphrys) who reminded me of the famous character in Dickens' novel "Oliver Twist" who came back and asked for more. I quite agree with asking for more, but when the hon. Member said that the Bill will not give any relief at all to certain of the people in whose interest he was speaking, I cannot agree with him. Where the Bill increases the minimum standard from \$5,000 to \$12,000, and increases the allowance for each working proprietor from \$4,800 to \$10,000, I do not think it is quite reasonable to say that it gives no relief at all.

Then the hon. Member ended by saying that he was making a proposal which would do complete justice. I can assure the Council that acceptance of the hon. Member's proposal would be a complete injustice. What the hon. Member proposes is this: In the case of a partnership or a small director-controlled company with two partners or two directors they get an allowance of \$10,000 each. There are a few such businesses. In a partnership there must at least be two persons, but there are few small director-controlled companies with only one director who is working. The hon. Member proposes that in such a case where an individual has placed himself within the orbit of Company Law and has put Ltd. behind his name, he should get two allowances—\$20,000,—but in the case of a single individual trading alone he must be content with an allowance of \$12,000. Why? There is no reason at all for that. In fact it would be completely unjust.

There are numbers of small businesses in the Colony carried on, not as companies but as trading establishments, by a single owner who is working for himself. At present he is allowed a minimum standard of only \$5,000. Under this Bill he will be allowed \$12,000. The hon. Member's proposal is that where such a person is trading as a company—I would not say hiding behind

the Companies' Law, because it is quite proper for anyone to take advantage of Company Law—and works as a director he should be allowed \$20,000, the same as two directors. That is a bold argument for individual cases. It might serve well in a few cases, but it would be gravely unjust to the single trader, and I would certainly ask the Council not to accept a proposal of that nature. However, if the hon. Member raises the point again in Committee I shall endeavour to answer it at further length.

The DEPUTY PRESIDENT: I would ask the hon. Member to put his proposal in writing.

Mr. HUMPHRYS: It is only a few words.

The DEPUTY PRESIDENT: We are trying to adopt the procedure of having amendments put in writing.

Question put, and agreed to.

Bill read a second time.

COUNCIL IN COMMITTEE

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

Clause 2.—*Lowering of rate of excess profits tax.*

Mr. EDUN: I take this opportunity to reply to the remarks of the hon. the Colonial Treasurer. I think he fully appreciated my point when I said I was more interested in the producing firms in this Colony, but to grant this relief to firms engaged in the distribution of goods would not benefit the taxpayers of this Colony or its export economy. I appreciate that the hon. the Colonial Treasurer does not like the word "parasitical". I have frequently used that word to impress upon the Council that we have passed the stage when we should encourage these firms. I say that those firms who will save this money ought to spend it in developing the interior.

Clause 2 agreed to.

Clause 3.—

Mr. ROTH: I observe that some extra concessions are being granted to certain trades or businesses in the interior, with the exception of the mining trade or business. I would like to know why the mining trade or business is being exempted from this privilege.

The COLONIAL TREASURER: I think the hon. Member was out of the room when I made the explanation. I said that special relief for mining businesses had been provided under an amending Ordinance, No. 4 of 1943, and it is scarcely necessary to provide further relief. The nature of that relief is that companies engaged in mining operations are given very special allowances in respect of plant, machinery and equipment in connection with prospecting, depreciation and that sort of thing. That was specially designed to meet the case of mining companies.

Mr. HUMPHRYS: I move that sub-clause (2) of clause 3 be amended by the insertion between the words "proprietor" and "in" in the seventh line, of the words "or twenty thousand dollars if there be only one working proprietor." I do not propose to repeat at length what I said on the second reading of the Bill. It seems to me clear that the hon. the Colonial Treasurer has entirely misunderstood what I said. It is true that minimum allowance is being increased from \$5,000 to \$12,000, and that companies which previously only made a profit of \$8,000, \$10,000 or \$12,000 will benefit because they are now to get an allowance of \$12,000. I am referring to those companies whose profits exceed \$12,000. This minimum allowance will give them no benefit. If they have only one working partner they will only get an allowance of \$12,000. Therefore if a company is now making \$20,000 profit where previously it made \$12,000 it must pay Excess Profits tax on \$8,000, but if

that company has two working proprietors it would pay no Excess Profits tax at all. If a small company makes \$40,000 profit in a year and it has four members of the family as working partners, it would pay no Excess Profits tax at all, but in the case of another company which had one working partner he would only be allowed \$12,000, so that in effect it would get no benefit. Therefore I suggest that if there is one working proprietor in a company he should be given an allowance of \$20,000 instead of \$12,000. In effect all he would thus get would be an additional \$8,000, which I submit would be eminently fair.

The COLONIAL TREASURER: The hon. Member is evidently trying to becloud the position by talking about the unfortunate single trader who is only allowed \$12,000. He is only allowed that amount because the law provides two divisions—a partnership and a director-controlled company. A single trader can make himself a limited liability company or create a partnership. Why should we extend any more sympathy to the small trader than to the properly organized company, or two persons carrying on business in partnership? The reason is that one is a company which is specifically dealt with by an Ordinance, and the other is not a company. If you want to give a single trader certain relief by all means give him. Why should we allow \$40,000 to three or four working proprietors of a small company making say \$40,000 profit, and allow only \$12,000 to a much larger company because it only has one working proprietor?

The CHAIRMAN: He probably contributes more than the others.

Mr. HUMPHRYS: I am not seeking in any way to increase the minimum allowance but to do justice to those companies and partnerships which only put forward one working proprietor. There are companies which put forward four working proprietors and get an allowance of \$40,000, whereas there are

companies and partnerships with one working proprietor carrying on an entire business. Unless my amendment is accepted a grave injustice would be done to those persons who try to work hard.

The COLONIAL TREASURER: The hon. Member is himself the principal of a firm of lawyers with about four working partners. Does he seriously want us to believe that if his firm were liable to Excess Profits tax it would be fair to compare it with a single professional man? You cannot compare a one-man show with a four-man show. I have to ask the same rhetorical question: why in the name of all that is just must we give a one-man company, a man who has turned himself into a company, an allowance of \$20,000, and only \$12,000 to another man who trades as an individual? It would be discrimination, and I cannot see the justice in doing that.

Mr. HUMPHRYS: I must ask why this discrimination you speak of between partnerships and companies and a single trader? The first part of the clause provides an allowance of \$12,000 for an individual, and then it provides for an allowance of \$10,000 for each working proprietor in any trade or business, showing clearly that the idea is to differentiate between a man who carries on business in his own name, and partnerships and director-controlled companies. In order to make a man a working proprietor he only has to work for half a year whole-time, sitting at a desk for the purpose of signing cheques. If the hon. the Colonial Treasurer is going to compare such a man with lawyers in partnership his imagination does not carry him very far. It happens that lawyers are not subject to excess profits tax, although they suffer severely in respect of income tax.

The CHAIRMAN: The Colonial Treasurer rather suggested that your firm was not paying any income tax at all.

Mr. HUMPHRYS: If he says so he has not looked at his books for a long time. Perhaps he is not very interested in what anybody pays, except himself. I submit that the Colonial Treasurer's reply is no reply at all.

Mr. de AGUIAR: I would not like to be drawn into the discussion. I would like to assist the hon. Member, but I am afraid I cannot do that. He is just looking at one side of the apple. He must remember that the primary object in fixing allowances for individual proprietors, whether they are working proprietors or individuals working in director-controlled companies, is to prevent this tax being avoided. Government has agreed to increase the present allowances, and I think the hon. Member should accept the suggestion put forward by Government, because there is the other side of the apple to which I will refer. If the hon. Member presses his point it seems to me that those companies which are not controlled by a single individual, or four working proprietors or one, would have a very serious complaint. I am speaking of public companies which are confined within the walls of the Ordinance. I want to suggest to the hon. Member that if he presses his point an individual proprietor who has "Limited" behind his name would, in my opinion, obtain a greater benefit under this Bill than the privately controlled company who are limited to the standard profits as prescribed under the Ordinance, or to a certain percentage of its capital. The hon. Member must be reasonable. In my opinion the increased allowance that finds itself in the Bill should satisfy the needs of the case to which the hon. Member referred. As regards the analogy the hon. Member tries to draw, I say it would be unfair to give an individual with a private controlled company an allowance of \$20,000. It cannot be done. The minute that is done, you are going to make it difficult to resist an application from the public company in regard to their standard profits, or that they should have an increased rate of interest

on their capital. Then there is the other question to which I would like to draw attention. There are some of these companies to which I refer engaged in other business since the period fixed for standard profits referred to in this Bill, yet they are unable under the Ordinance to lay claim to any profits from the new business which they embarked upon since the period as referred to. I would ask the hon. Member not to go too far. Personally I hope this is a dying system of taxation. I do ask him not to press his amendment.

Mr. HUMPHRYS: In reply to that I may say, the hon. Member has failed to appreciate this fact that in respect of any new business undertaken by a company something is placed to the partnership. They are not allowed any privilege as regards the standard profits. The only thing that is taken into account is the capital used. It makes no difference at all if a public company is a director-controlled company or a company controlled by shareholders. The clause says for the purpose of the tax you shall be in the same position as a partnership or the working proprietors in a partnership and the working proprietors in a director-controlled company. The only distinction is this: You may have two companies both having a capital of \$200,000 each and making a profit of \$40,000 each. If one has one working proprietor it would get an allowance of \$12,000 and if the other has three working proprietors two of whom are doing nothing it would get an allowance of \$30,000.

Mr. de AGUIAR: The hon. Member compels me to speak again upon the same point he has made. He tells us four men with a capital of \$200,000 would receive an allowance of \$40,000 while one man would only get \$10,000 or \$12,000. That is not the comparison I would like him to make. It is this: In the case of a private company with a capital of \$200,000 the most it could claim for an allowance would be \$16,000. 8 per cent of \$200,000 would be \$16,000.

In the circumstances does the hon. Member say that company would not be right in appealing for further relief. That is the point I would like the hon. Member to consider.

Mr. HUMPHRYS: The hon. Member is begging the question.

The CHAIRMAN: I put the amendment—the insertion of the words “or twenty thousand dollars if there be only one working proprietor” between the words “proprietor” and “in” in the seventh line of sub-clause (2) of the clause.

Amendment put, and the Committee divided and voted:

For: Messrs. Thompson, Roth, Lee, King and Humphrys—5.

Against: Messrs. Ferreira, Jackson, Peer Bacchus, Austin, Dr. Singh, Critchlow, de Aguiar, the Colonial Treasurer, the Attorney-General and the Colonial Secretary—10.

Did not vote: Mr. Edun—1.

Amendment negatived.

Question “That clause 3 as printed stand part of the Bill,” put and agreed to.

Bill passed without amendment.

The Council resumed.

The COLONIAL TREASURER: I desire to ask that the Bill be read a third time. It has been so long delayed that it is essential that it be made law early.

Question put and agreed to.

The COLONIAL SECRETARY seconded.

Bill read a third time and passed.

TRANSPORT AND HARBOURS (AMENDMENT) BILL

The DEPUTY PRESIDENT: Hon. Members will remember that the second reading of this Bill was being debated when the Council last met. I am asking that the hon. the Attorney-General be allowed to make a few observations on the present position of the Bill.

The ATTORNEY-GENERAL: Since the last meeting when this Bill came before this Council on the motion for the second reading, further consideration has been given to the provisions contained in clause 3 sub-clauses (3) and (4) which relate to the Motor Vehicles and Road Traffic Ordinance of 1940, whereby it was proposed to give permissive power to the Governor in Council to transfer from the Licensing Authority or the Prescribed Authority to the Transport and Harbours Department all or any of the functions and duties of the Licensing Authority under the Motor Vehicles and Road Traffic Ordinance, 1940. Government is now aware of certain objections which are being raised to this course. Those objections can all be met in either one or two ways—either by providing a limitation with respect to the clause, such as the insertion of the words “no action shall be taken to give effect to them until approval is given by the Legislative Council” or by the deletion of those sub-clauses. Government has decided to adopt the latter alternative. This will enable the Advisory Council to go into the question and submit any advice in that connection to the Governor.

This procedure may necessitate further legislation if it is thought desirable or if it is recommended by the Board or Advisory Council that those functions which are referred to may be transferred. Perhaps it is desirable that I emphasize that under the clause as provided power is given to the Governor in Council, but it is permissive only and depends on Government's interference if any functions of the Licensing Authority

are to be properly transferred. I hope I have made the position perfectly clear in regard to these sub-clauses of clause 3. As hon. Members recall, I pointed out at the last meeting that these sub-clauses were permissive. It is only that the Governor in Council after due enquiry may take certain functions now performed by the Prescribed Licensing Authority and transfer them to the Department of which the General Manager is head. In that connection if there is any other point arising out of that, I think it should be raised by Members in the course of comments on the Bill itself.

The DEPUTY PRESIDENT: The announcement has been made simply to allay the fears of some Members as to the proposal of Government. It does not prevent any Member from criticizing the Bill. What the hon. the Attorney-General means is that in Committee those sub-clauses will be withdrawn but that does not hinder comments on the Bill at the present stage. I was not present at the last meeting, but I gather the hon. Member for Essequibo River had finished his remarks.

Mr. LEE: I had finished, but since you have permitted the hon. the Attorney-General to make remarks—

The DEPUTY PRESIDENT: It was only to prevent further discussion on that matter.

Mr. FERREIRA: I gather that the clauses relating to Road Traffic will be withdrawn in the Committee stage of this Bill, and it is now proposed that the question of control of the railway will come before this Council for approval.

The DEPUTY PRESIDENT: Yes, that is the position. The principle of the Bill is to transfer to the General Manager, whose title will be changed, the executive functions now performed by the Board of Commissioners, and

the Board of Commissioners instead of performing executive functions will be abolished and a new Board constituted which will be in an advisory capacity only. The functions of the new Board are set out in the Bill. In addition there were those provisions to which I referred.

Mr. FERREIRA: I am glad to see that Government has realized it was making a mistake in trying to put this Bill through in the form it was before us. Thinking it over, I cannot say I am at all satisfied that even with the withdrawal of this clause such a Bill should have come before this Council. I think we all agree that it is a most undemocratic thing to do. On Government side we are told it is something essential. I do not see it. I am yet to be convinced that the present General Manager, a man whom I respect and I think is highly capable and efficient, has in any way been hindered in carrying out his ideas or any proposals of his. Until such time that he has received opposition, possible or real, I do not see why the present democratic state of affairs should be abolished and a dictatorship set up in its place. This Bill is being made for one man. I want to ask the question: Would this Bill have been suggested or even thought of a year or two ago? To be blunt, how do we know that three years from now we will not revert to an era of inefficiency? Would you then withdraw this? We are being guided by a statement in Mr. Roche's report which speaks of a Board of a higher level. I term it most insulting to the members of the Board. The members, as far as I know, are in the top flight in various capacities in Georgetown. I particularly mention Georgetown because Berbice is not represented on that Board.

The DEPUTY PRESIDENT: Where do I come in?

Mr. FERREIRA: You are Vice-Chairman. In view of your remark I

withdraw my statement. I consider the Bill most undemocratic. I would be amazed should any Member vote for such a legislation as this to go through. If we are satisfied that the General Manager is carrying out his functions properly, and I have no reason to believe that he is being hindered by anyone, then I think until such time things should continue as at present. As regards this new Advisory Board, I would like to ask what is the present Board. It is definitely not executive.

The COLONIAL SECRETARY: I would like to correct the hon. Member. The Board of Commissioners as now constituted is executive.

Mr. FERREIRA: I am very amazed to hear that statement. I have acted for a third time on that Board and anything done there had to go before the Governor in Council, and the terrible financial position of the last three years is due to the attitude adopted by Government in not facing the facts. That cannot be gainsaid. Even if the Board is considered executive, it is not, and only acts in an advisory capacity, and this new Board will be the same in reality as the one of the past. For that reason I cannot see my way to support this Bill. I would remind Members that a year ago this Bill could not come before this Council, and that state of affairs will be returned to three or four years from now. Let us give the General Manager a free hand. Appoint your Board, change the name of it, but please do not bring something like this. This thing is a disgrace to Members of this Council.

Mr. PEER BACCHUS: I am also opposed to this Bill. This Bill to my mind involves constitutional issues. The West India Royal Commission has recommended an Advisory Committee to each of the Government Departments. This Bill before the Council is a departure from even that recommendation of the Royal Commission. I make

bold to say that the recommendation of the West India Royal Commission was an interim one, because we feel sure that the British Government's policy is to allow self-government to every Colony considered fit enough to carry on its affairs. Therefore, I say, it was an interim recommendation because the Royal Commission, I presume, felt that this Colony had not reached that stage as yet to assume full responsibility for its Government and should go stage by stage. There again I make bold to say that this Colony has even passed that stage for the interim recommendation of an advisory board. We have existing in this same Department an Executive Board. We have four other Executive Boards and I challenge this Government to say that any of those executive boards had ever hampered the Heads of those Departments and had not acted wisely in the interest of the Departments concerned. They have in all instances furthered the interests of those Departments. I do not know if Government had in mind that the Transport and Harbours Board of Commissioners as presently existing would prevent—certainly I think they would have—the present General Manager from collecting freight from passengers on the train who travel with a fourpenny loaf of bread and exacting a freight of threepence on it. I say the Board of Commissioners would certainly not agree to such an attitude being taken by the General Manager.

The hon. the Attorney-General in introducing this Bill said that permission is sought to improve the management of the Department. If efficient management is required we would have expected the hon. the Attorney-General to have gone a little further and said where the Board of Commissioners had hampered the efficient management of the Department. As I have said before, I challenge this Government to quote any instance where an Executive Board had done so. There are five of them, all Executive Boards—the Education Board, the Central Drainage and Irriga-

tion Board, the Sea Defence Board, the Local Government Board, and the Board of Agriculture—and that has tempted me to say that we have passed the stage of Advisory Committees in this country. May I quote His Excellency himself when he said that the Board is one of the weakness of the Department. Now, sir, if I may say so, one of the weakness of this Department which prevents it from being run successfully and that is a weakness which still remains in this proposed Bill, is “the approval of the Governor.” That was the weakness of the Board, and I say it still remains in this Bill when the Governor's approval has to be obtained. If Government desires that this Board should operate successfully I am certain that that desire would not be fulfilled by having a dictator at the head of the Department. I think Government should fall into line with what all Colonial Governments are doing by appointing a Board of Management for this Department. I hope that this Bill will not receive the support of an unofficial Member of the Council.

Mr. de AGUIAR: In opening the debate on this Bill the hon the Attorney-General indicated two alternatives which perhaps will tend to minimize the remarks I propose to make on the Bill. Nevertheless I am so grateful for the opportunity of considering the structure on which the Transport and Harbours Department functions that I find myself unable to resist the temptation to contribute my quota to the debate. As you are aware, sir, I have been a constructive critic of the administration of this Department as a whole, and the substance of my criticisms has always been not so much against the Board but against the set-up of the Board. In my view we are not improving on the situation which we know exists, but are rather tending to depreciate it. I have read this Bill very carefully, and I see some of the old sins of commission and omission in it. I see, for example, that this Council would not have the right to criticize the estimates of the Department unless

and until the Department is being run at a deficit, which it has been doing for several years, and which I believe it will continue to do.

The Bill provides that the General Manager shall prepare estimates of revenue and expenditure and of net surplus or deficiency of the Department, and submit them to the Governor in Council for approval. I do not agree with that at all. The Department is too large and too important. What is more, it is a very important economic limb of the Colony, and Members of this Council would be justified if they looked upon a measure of this kind, not with distrust or even with jealousy, but perhaps with alarm. I thought the time had long passed when we indulged in these one-man undertakings.

I observe in the Bill that in respect of fees and matters of that kind nobody will have any power except the General Manager and, of course, the Governor. I do not think that it is a wise provision. There is a saving clause, it is true, that when such fees fall outside of the estimates they shall come within the purview of this Council. I do not agree with that. They should all come before this Council which should always have an opportunity not only of criticizing but of suggesting any alterations it may think fit in matter of that kind. I am not a prophet and I do not want to say what would have happened, but if this Council had the opportunity of doing so before it might well have been that the deficit of the Department might not have been as much as it is at the moment.

I am very worried about the Transport and Harbours Department. When I examine the position I am somewhat alarmed at the capital expenditure this Colony must face in the very near future if we hope to continue the service at all. Let me assume that it will be 3 or 4 million dollars. Am I to understand that such a large sum of money belonging to the taxpayers of

this Colony will be spent without the control or supervision of anyone except the General Manager and the Governor?

The COLONIAL SECRETARY: And the Advisory Board.

Mr. de AGUIAR: The Colonial Secretary has added "And the Advisory Board." Let us examine what the Advisory Board will be called upon to do. In clause 8 it is stated that the functions of the Board shall be—

- (a) to advise the Governor in regard to transport policy and to submit its views on any question which the Governor may refer to it;
- (b) to advise the General Manager on any administrative question or departmental policy which he may submit for the opinion of the Board;
- (c) in the absence of such reference by the Governor or by the General Manager, to draw the attention of the Governor or the General Manager to any aspect of administrative policy which in its opinion requires attention.

What a superfluity of words? I will begin by interpreting paragraphs (a) and (b) together. In my opinion they mean that unless the General Manager or the Governor submits any question to this Advisory Board it will not come up, and nobody will know anything about it. The General Manager will by himself make the decision, and that decision will be final. If the unfortunate members of the Advisory Board discover six or three months after that that decision was not in the interest of the Department. I respectfully submit that it would be too late to remedy the situation.

I do not like this Bill at all, and I am a little worried even over the Attorney-General's suggestion that we should delete certain clauses and proceed with the remainder of it. If it is Government's view that the time is not ripe for us to take action on the clauses to which the Attorney-General

referred, it seems to me that the whole Bill should go back whence it came. If it has come from the General Manager's Office send it back there. If it has come from the Attorney-General's office we should ask him to have a look at it again in the light of the remarks Members have made this afternoon. We cannot have this Bill.

There is one other provision to which I wish to refer. I observe in clause 7 (9) that there shall be at least one meeting of the Board in every month. I have been trying to think out what the members of the Board are going to do there even once a month, because during the month the General Manager will have done everything. He will have made his decision, hired and fired, run the railways on time or not; he will have altered the schedules and done everything there was to be done. What will the Board be able to do at the end of the month? The General Manager will have done all the executive acts required to carry on the undertaking. The point I wish to make is that four members of this Board of seven may request the General Manager to summon a meeting of the Board. It will be four out of six, because the General Manager cannot be reckoned as one at all. Am I to understand that the number 7 has been specially selected because four being a majority of seven it would be possible to upset his decision on any matter? Am I to understand that a member of the Board must wait until he is satisfied that he will obtain a majority of his colleagues before he can summon the General Manager to discuss a matter and give the Board the benefit of his advice?

That is another phase of the Bill I cannot accept. I think it is asking too much. Only recently, in the case of a Board of 16 members, it was provided that two members may requisition the Chairman to call a general meeting. Why four members in this case? What is the fear?

What is the reason behind four? Sometimes I am accused of having a suspicious nature. Well, if I have a suspicious nature I think on this occasion a certain amount of suspicion is justified. Supposing it happened that four members of the Board called upon the Chairman to summon a meeting to discuss a matter on which the General Manager had made a decision, what then? What would be the position in such a case? Am I to understand that the decision made by the General Manager could be reversed?

I make these remarks because I cannot see how a person can be of any use at all on a Board of this kind. It took Government a long time to admit that the administration of this Department has been bad in the past, although I have drawn its attention to it on many occasions. Government took no heed of what I said, and I am sorry to say that on the administrative side alone the position has deteriorated year after year until it has reached the position it is in today. Government seems to have discovered a Heaven-sent individual who is going to remedy all its defects. If Government feels that we should cease to accept the responsibility then do not let us have an Advisory Board at all. I will not accept responsibility in this Council for the administration of this large Department to be set up in this form. I would prefer to throw the responsibility on the Government to make the decision as to whether or not a single individual should run this Department. I believe that certain hon. Members may not share that view.

I have listened to the hon. Member for Western Berbice (Mr. Peer Bacchus) who has raised the constitutional side of the question, with which I do not propose to deal. It may well be that on the constitutional side Members may not wish to accept the suggestions I have just put forward, but I say with

great emphasis that rather than accept the responsibility as a Member of this Council for the creation of a Board of this kind I would much prefer to throw the responsibility on the Government to make the decision that the Department should be run by a single individual. If that were done I would feel rather free from any blame for what may happen in the near future. Although as a Member of this Council I would not be able to assist him, as a colonist I would express the hope that his administration would be successful, but I shall never agree to any change in the present set-up until we can produce something better than what exists at the present time. The present set-up is faulty, but in many ways this is worse, and I therefore cannot accept it. I think the best thing to do would be to send the Bill back whence it came. I very nearly said "Tear it up."

The COLONIAL SECRETARY: It came from the Governor in Council, of which you are a Member.

Mr. JACKSON: Public feeling against this Bill is very strong indeed, and anyone who has moved about among the people cannot but realize that if the Bill is passed in its present form serious repercussions will take place. I compliment Government on its proposal to withdraw certain clauses of the Bill, but I do not think Government has gone far enough. In my opinion the entire Bill should go by the board, possibly into the waste paper basket. If the clauses referred to are removed from the Bill there are certain obnoxious sub-clauses which will remain. I refer to paragraphs (e) and (f) of clause 3 (1). They read:

- (e) if specifically authorised by the Governor in Council in that behalf, establish, operate, run and maintain road transport services for the carriage of passengers or freight or both in any prescribed district; and
- (f) direct and control the movement of motor vehicles of any description whatsoever in any prescribed dis-

trict, determine and direct the kind of goods or freight which shall be transported in that district by motor lorry, the freight rates to be charged therefor, and the times at which any motor vehicle shall leave or arrive at any specified place in a prescribed district.

Those powers are exceedingly dangerous and too much to put in the hands of a single individual. I believe that to pass a Bill with such provisions would not be in the interest of the community. I will state a case in point. On the West Coast of Demerara a certain individual secured a lorry after obtaining the permission of those responsible to direct road traffic. He was questioned by the gentleman whom this Bill proposes to place in control of motor roads and vehicles as prescribed. He was called and told that very soon after the Bill is passed he would have to take his lorry off the road. Persons who have established a living with such vehicles are naturally disturbed and annoyed at the prospect of being deprived of their lawful occupation by a single individual. I think we would be doing injury not only to the public but to the individual himself if we gave him the authority which this Bill seeks to give him. The people of this Colony are very easily led. In the majority of cases they subject themselves willingly to lawful authority, and if I may say it, they have formed a very favourable impression of His Excellency the Governor and his Administration. They admire his candour and the manner in which he makes himself acquainted with everything that obtains in the Colony and for the betterment of the people of this Colony. I say it without fear of contradiction that His Excellency has the confidence of the people of this Colony, and if a matter of this kind is put through I am afraid, sir, it will detract to a very great extent from the feeling of admiration the people have of His Excellency the Governor and of his Administration.

I do seriously think, sir, that not only should certain clauses of this Bill be

withdrawn but the whole Bill should be withdrawn. I do not wish that anyone should think that I do not like to see improvement in the Transport and Harbours services in this Colony. No one will deny that those services are not in good order, and no one will deny any legitimate attempt to put them in order but, I think, sir, that the whole Colony will object most seriously and will resist most strenuously any attempt to place at the head of this affair any one man to conduct everything. I sincerely trust that Government will see the wisdom of withdrawing this Bill and, perhaps, do what may be done for the improvement of the services in some other way.

Mr. HUMPHRYS : It says much for the patience of this Council to sit here for such a long time dispassionately discussing this Bill. For my part the moment I saw the Bill I saw that it had nothing to recommend it. I cannot help thinking that Government has a very poor opinion of the mentality of this Council, constituted as it is at the present moment, to imagine that this Bill would be accepted. I do not intend to waste much time after the remarks by the hon. Members for Berbice River, Central Demerara, and Western Berbice, and the hon. Nominated Member, Mr. Jackson, as the Bill has nothing to recommend itself. As far as I know—and I have always been told—so, the members of the Transport and Harbours Board have always afforded every help to the General Manager, the present and past ones. Then why give this full power, this despotic power, this autocratic power to one individual? Why pass such a law? I have never heard of such a thing. One would imagine that we are going back to totalitarian government. It amused me when I read it. Surely Government did not seriously think this clause would be accepted. My view is that it would be a very dangerous thing to accept from Government an undertaking to withdraw certain clauses. I say the title of the Bill is bad, and I recommend to Members that this Bill be not read a second time. The whole

thing needs redrafting. Give a fair time to the General Manager to see how he works with the existing Board, and not place such powers into his hands. However constituted the Council may be, it cannot agree to the powers given to this gentleman in clause 3—to dictate what is to be on the road, what road is to be made up, what traffic is to be allowed on the road. I ask hon. Members not to waste more time but to vote against this Bill.

Mr. AUSTIN: When I first read this Bill I came to the immediate conclusion that it had been forced upon Government. I am certain His Excellency, knowing the people of the Colony, would not willingly have sanctioned this Bill. There is no doubt that the new General Manager, is a very capable man, and will undoubtedly in time improve the services of the railway. But has he been in this Colony sufficiently long to ask that a drastic Bill of this nature be forced down the throats of a willing public? He will have the loyal support of his Board which, I agree, is really rather unwieldy, but I know many members of that Board take a keen interest in the finances of the railway, and will continue to do so. Let him be a little longer in the Colony before asking that a new Bill be introduced. The Board will support him and give him every possible assistance he wants. Government is making a great mistake at this moment by introducing this Bill. I hope Government will see its way to withdraw it completely.

Mr. EDUN: I have been listening very carefully to the opponents of this Bill, and it reminds me of the incident of the Rice Marketing Board Bill. It appears to me now, that those very Members who took the opportunity then to say that we, the opponents of that Bill, did not know what is democracy, and supported the Rice Marketing Board Bill which is something similar to this Bill—

MEMBERS (in chorus): Oh, no!

The COLONIAL TREASURER: Does the hon. Member refer to me, as the late Chairman of that Board, as a Dictator?

Mr. EDUN: I am glad I have the hon. the Colonial Treasurer agreeing with Members now. In any case, sir, I too am very much disturbed about this Bill coming up at this moment in this country. If this Government were a government of the people for the people and by the people, then I would have no objection in giving any one man the absolute right to manage a utility concern like the Transport and Harbours Department, because he would have to toe the line and become a servant of the Government of this country which is the people of this country. But as I see it now, I am satisfied in my own mind that the General Manager, who will be called now in accordance with the nature of this Bill Director of Transport, will be nobody else than the servant of those people who happen to be in possession of the annuities we are paying to them in England. I have my deep suspicion about this Bill, and if I endeavour to show Members what is the nature of this Bill they would agree with me that it has the smell of South Africa. For their benefit I would like to read the report of Mr. Rooke, and I would quote him extensively in order to bring home my point. On page 9 of the recommendations of Mr. Rooke, he has a note which states:

“Legislation concerning the Kenya “set-up” which has stood the test of seventeen years amidst acute political surroundings is available in the Transport and Harbours office.”

Kenya was a Colony belonging to the German people and many of the persons who own annuities in London believe in the German method of exploiting the natives and getting millions from them. When Mr. Rooke in his report suggested that for the railways, it at once captured the imagination of the people in England that something must be done in order to save the railways. Mr. Rooke

did that in order to get those people to go to the Colonial Office with their hats in their hands and say “My property has become obsolete. If it is not put in order I would lose all that money.”

The COLONIAL TREASURER: I am not speaking on the Bill. Whether or not the Bill is passed, whether or not the railway is abandoned, the owners and holders of the annuities will get their money. It is a charge on the public revenue of the Colony.

Mr. EDUN: Whatever is the consequence the suggestion was made by the members of the Board that something should be done to relieve this country of the annuities. What, however, has been done? Mr. Rooke has not said anything about it but that we are paying the people too much. I suggest that the Colony be relieved of the annuities even if the money is to be had from Colonial Development funds. When the hon. the Colonial Treasurer says the annuities are perpetual, then my suspicion is more aroused. I agree with hon. Members that this Bill ought to be sent back to where it came from. What amuses me is this: What has stamped Members on this occasion? What has galvanised this effort on their part? Mr. Rooke in his conclusions on page 10 of his report says:

“That the Transport and Harbours Department is and has been inefficiently administered and managed over a very long period. It is suffering from and has suffered from the worst of all possible faults, that for which no one in particular is clearly responsible, and no one in particular to blame, but which has grown out of a system (or lack of system) of multiple untrained authority and lack of clear cut responsibility. A system so bad that it might have been expressly designed to evolve and perpetuate indecision, delay, evasion of responsibility and the maximum effort with minimum result.”

This is an utter condemnation of the members of the Board, and what surprises me is that the members of the Board saw this report, as it came into

their hands, and not one of them took the opportunity to reply to a comment of this kind. If I had been a member of the Board, I certainly would have replied to Mr. Rooke and told him that the blame is to be levelled at the Executive Council of this Colony. I can remember very well indeed, sir, when the hon. Member for North-Western District had all alone criticized the Board and had made the suggestion that the personnel of the Board should be changed now and again, Government stated that the members of the Board stated that although they had suggested that the freight rates on sugar be raised the Governor in Council thought it was not the best policy to raise those rates. That showed that the Board was not an Executive Board at all in the proper sense of the term, as whatever it did was subject to the scrutiny of the Governor in Council. For that reason I think the time has come when something should be done in order that this Department should function effectively. Just recently I had the privilege of reading a despatch sent by His Excellency the Governor to the Secretary of State for the Colonies. In that despatch His Excellency suggested that not less than £1,000,000 should be spent in the rehabilitation of the railways and steamers. I agree with that.

Mr. LEE: To a point of order! I think that is a confidential matter and my hon. friend should not mention it in this Council.

Mr. EDUN: We are dealing here with the report of Mr. Rooke and with a Bill of a comprehensive nature dealing with the Transport and Harbours Department. If I know that the whole idea behind it is to spend \$5,000,000. I have to satisfy myself that such a constitutional set-up will give effective control of the finances and change that ramshackle thing into a proper financial entity. Perhaps, what has escaped Members is that although it is said that the Transport and Harbours Department had an Executive Board, yet it

was subject to the policy emanating from the Executive Council. Then it proves conclusively that the personnel of the Board and the Board itself should not be blamed. But what is rather perturbing is, while we on the one hand are exploring avenues of constitutional progress I find Government on the other hand is pulling back in a degree, not a very large degree however, this progress. If it was found that the Board could not function and some necessary constitutional amendments were required, then the Board should be put on a proper footing. But what does Government intend to do, supplement this Executive Board after years of constitutional experience by an Advisory Committee, something of the nature of the same thing which Mr. Rooke complained about?

My view is, sir, that the Bill should be deferred until after the General Elections in order to give the people of this Colony the right to determine who should control this public utility concern. The personnel of the Board should be changed. The constitution of the Board should be amended in order to give it more effective executive power. It should function in collaboration with the Government of this Colony and not in subjection to it, and the Chairman of the Board should be a Member of the Legislative Council of this Colony. If it is the intention of Government to spend money—and I have listened to the hon. the Colonial Secretary telling us that it is the intention of this Government to purchase two steamers at once and as a matter of fact negotiations are proceeding to that effect—then while I agree with His Excellency the Governor who, speaking from the Chair, said that this is a business concern, I say it is the business concern of nobody else but the opposite to the people of this Colony. Unless the people of this Colony and their Legislature have the right of control of this utility concern of theirs, then I consider the whole set-up of this

Bill nothing else but a farce. I am sufficiently intelligent to see the whole import of this matter. If money is to be spent in the interest of this service, then I think the right of the people of this Colony should be guaranteed above anything else. I have had the opportunity to discuss this matter with the General Manager who will be termed Director of Transport. I am thinking of a better title—Minister of Transport—for the next five years, someone responsible from this Legislature. There is nothing wrong about it, but instead of that we are just being called upon to give up our birthright, the money we have worked for all these years.

I have taken pride in the Transport and Harbours Department. I have defended it and have said that the Department has done a good job in making the old railway stock roll and the old steamers sail. Mr. Rooke, himself, said so. He gave credit to the mechanical division of the Department for their job in taking old pieces of iron and turning them into a utility service; yet he has told us we cannot manage a railway of this kind. We are not little children. We are not in Kenya within the German sphere of influence. We are Britishers standing here and fighting all issues, when a

man comes to this Colony and tries to tell us that we cannot manage our own affairs. It is a step backwards.

The DEPUTY PRESIDENT: If the hon. Member proposes to continue his remarks for some time, perhaps, he will allow me to ask him to defer any further comments on the Bill. I am, myself, in disagreement with the principle of the Bill, but sitting here, I cannot vote against it. The hon. the Colonial Secretary has asked to be allowed to make a statement in the few minutes at our disposal, and I hope hon. Members will offer no objection. It will not prevent the hon. Member from continuing his remarks or any other Members who wish to speak on the Bill.

The COLONIAL SECRETARY: I wish to tell hon. Members that after listening to the several speakers I feel the proper course Government should adopt in the absence of His Excellency the Governor is to report the feeling of the Council to His Excellency and to suspend further discussion on the Bill. (applause).

The DEPUTY PRESIDENT: In the circumstances I propose to adjourn the Council. The Council, therefore, stands adjourned until tomorrow at 2 p.m.