LEGISLATIVE COUNCIL.

Friday, 15th 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 Essequebo).

The Hon. E. F. Fredericks, LL.B. (Essequebo 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. N. Cannon (Georgetown North).

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

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. A. E. Seeram (Eastern Demerara.)

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

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

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

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

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

MINUTES.

The minutes of the meeting of the Council held on the 14th April, as printed and circulated, were confirmed.

GOVERNMENT NOTICE.

Major BAIN GRAY (Director of Education) gave notice that when in Committee on the Education Bill he would move the amendment of section 14 of the Principal Ordinance by the deletion of sub-sections (4) and (5), and that clauses 2, 3 and 4 be renumbered 3, 4 and 5 respectively.

ORDER OF THE DAY.

PETROLEUM BILL.

Mr. D'ANDRADE (Comptroller of Customs) asked permission of the Council, which was granted, to defer further consideration of "A Bill to amend the Petroleum Ordinance, 1930, as to storage of petroleum and other matters."

ELECTRIC LIGHTING BILL.

THE COLONIAL SECRETARY (Mr. C. Douglas-Jones): I move that "A Bill to amend the Electric Lighting Ordinance by extending the new Amsterdam Lighting Order, 1900, for a period of twenty years

from the 23rd day of August, 1930," be read the third time.

Mr. SMELLIE seconded.

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

Bill read the third time.

DRAINAGE AND IRRIGATION BILL.

The Council resumed the debate on the second reading of "A Bill to amend the Drainage and Irrigation Ordinance by validating the proceedings with respect to the declaration of certain areas: by vesting the works area indefeasibly in the Director of Public Works; and by providing for the deposit with the Registrar of Deeds of copies of Orders in Council declaring areas to be declared areas."

THE ATTORNEY-GENERAL (Mr. Hector Josephs): When the Council adjourned yesterday I was dealing with some points which had been raised in connection with this Bill and pointing out that there were two methods of procedure. Section 38 of the Ordinance dealt with works which had been begun before the commencement of the Ordinance, and so far as those works were concerned they were authorised by resolutions of the Combined Court or Legislative Council in each particular instance. Then in order to get the correct documents it became the duty of the Director of Public Works to lay before the Governor-in-Council the plans, specifications and estimates to meet those requirements, and thereupon the Governor-in-Council would declare the area and the provisions of the Ordinance would apply to that area. In that case the approval of the Legislative Council was subsequent. What happened was that the plans, instead of being made from surveys made for the purpose of the Ordinance and as a consequence of an order made under the provisions of section 38, were taken from various existing plans and those were filed with the Registrar. It seems to me that it would be well to go further than to validate merely the order and the point be not left open to argument as to how far clause 2 of the Bill goes in setting the matter right and that specific validation should be given. I think it will be found that in the case of new works definite plans and specifications were laid before the Governor-in-Council and subsequently before the Legislative Council when the work was authorised. That is what I gather. On further consideration of the Bill in Committee it might be deferred pending some revision which will make quite clear what ought to be done under clause 2. Not only the order should be lodged with the Registrar but also the plans. The general idea of vesting these lands in the Director of Public Works, a corporation sole, will be clearly set out. The point is that if anyone at any time is dealing with land which is in a drainage district, and therefore likely to be affected by the works area, he can from the records of the Deeds Registry find out what the position is and see what he is negotiating for and what servitudes or liabilities affect the land.

Question that the Bill be read the second time put, and agreed to.

Bill read the second time.

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

Clause 2—Validation of orders hitherto made by which areas are declared.

Mr. CRANE: The learned Attorney-General points out that it would be insufficient merely to validate the order for the simple reason that it does not contain the definition of the words here. That definition can only be on a plan made after a survey. In a large majority of the cases that was not done, therefore Government had no real definition. In the Public Works Department there has been compiled a plan in which the works area has been prepared in all cases and after examination by the Registrar of Deeds it may be possible to validate those plans. It is suggested that would meet the case if the accuracy of those plans could be ascertained and be assured. It would be a dangerous thing for Government to authorise plans got up in that way to be the plans by which the boundaries of people's property should be determined. If the survey had been made as provided for by the Ordinance and not only the declared area but the works area shown on the plan, people in each district would

have had an opportunity of seeing that plan under section 4 of the Ordinance. Plans not having been made, or seen or discussed by the people, they had no opportunity of consulting them. Notwithstanding that we want to say those plans must be deemed to be regular. Are we going to bind people by plans prepared in that way, when they have not been given a regular opportunity which the law says they should have of inspecting them, to agree that the works area does not encroach on their land? Let the people have an opportunity of seeing how their property will be affected, and after that this Council can say the people are satisfied and we will deem these compiled plans under the Ordinance. To decide the matter otherwise would be a gross injustice and one which this House cannot possibly perpetrate. Our moral sense prevents us from taking away private rights without giving people a full opportunity of ascertaining whether the encroachments are more than they should be. If it is necessary to go to the proprietors after making a survey plan, how much more is it not necessary with a compiled plan? My suggestion therefore is that the compiled plans must be submitted to the Local Authorities, and a certificate under the hand of the Director of Public Works that there has been no objection should be sufficient to satisfy Government that the compiled plans are in order.

Mr. ELEAZAR: I should like to direct attention to section 5 (4) of the Ordinance, which says, "The Director shall lay before the meeting the plans, specifications and estimates and shall explain them fully to the meeting." A meeting has never been called. Then the Ordinance says the Director shall deposit the plans, specifications and estimates for a certain period, and if there are no objections and nobody claims compensation Government should act upon them. The foundation has been entirely taken away and now it is sought to build a superstructure upon no foundation at all. No remedy as a makeshift would meet the case.

Mr. WEBBER: I tried to listen with considerable attention to the explanation given by the learned Attorney-General this morning, but I failed to follow any of the reasons given and under the circumstances I must reiterate what I said yesterday and endeavour to strengthen what has fallen from my colleagues. Both here and elsewhere we know the traps and pitfalls of compiled plans. I am more and more convinced that the remedy is not to leave the Bill in Committee. I do not think any chamber conference is going to remedy what is inherently wrong. I regard the Bill as patching a hole in a sinking ship. I feel convinced that the remedy is to withdraw this Bill. Let us go over the whole question and see how it can best be done.

THE ATTORNEY-GENERAL: The original Ordinance was carefully drafted with reference to questions of title. The requirements of the Ordinance relating to the survey had to be followed and notice given to the people who would attend the surveys. That was one of the initial difficulties that arose. It is quite true that was not done, but the procedure in section 4 did take place. The Director did call meetings of the proprietors and Local Authorities within the area.

Mr. CRANE: And submit plans to them in every case?

THE ATTORNEY-GENERAL: Not the plans of surveys but the plans prepared. The difficulty was that the plans used by the Director were not the plans required by the Ordinance, but, otherwise, the things required to be done were done.

Mr. CRANE: I think we had better get facts.

Major CRAIG (Director of Public Works): In so far as districts drained under my jurisdiction are concerned—25 Corentyne, Limlair and Kildonan—plans were prepared in accordance with the Ordinance and meetings called of those interested. I attended those meetings and explained to the people the work that was to be done. I also showed them the plans compiled from plans in the Department of Lands and Mines and plans in my own office. These were all explained and any objections listened to, and ultimately the work was approved by the Governor-in-Council and the Legislative Council. Of the works that were started and completed before I assumed office, compiled plans have been made and submitted to the Governor-in-Council and the areas have been declared

in the *Gazette*. I think I am right in stating that my predecessor called meetings in the various districts and showed the people interested plans or tracings. In the case of the works started and completed by me the procedure called for under the Ordinance was followed except that surveys for the Registrar were not made.

THE ATTORNEY-GENERAL: One of my reasons for making the statement I did was that the reports of the meetings had come before the Governor-in-Council at the time the question arose of making orders. The point is that the people in the districts have had a full opportunity under section 4 of the Ordinance of knowing what has been done and of seeing the plans of the areas and the works to be done. To go back to them again, as has been suggested, would be doing the same thing twice over. What useful object would be served? The works have been constructed and are in actual use. I do not know that anything would be gained by that process. What we do wish to do is to preserve their titles. That is the great object of the law, and if that had been done the present difficulties would not have arisen. I think we can dispose of that. The reason why clause 4 stands as it does is that it was thought that the order would show the declared area, but it has been pointed out that that would not be sufficient, and there would be nothing to indicate the works area. I do not know that it would be possible to give accurate plans of the works area. The thing we are really concerned with is the plan of the works area to make perfectly clear what land the Director has title to so that the people joining will know to what extent their land is affected. If that could be done it would probably be a solution of the difficulties without undue expense. If the Bill remains in Committee it might be possible to come back to the House and ask for authority. I move that the Council resume.

The Council resumed.

DE SAFFON TRUST BILL.

THE ATTORNEY-GENERAL: I move the second reading of "A Bill to amend the De Saffon Trust Ordinance with respect to the accounting by the trustees."

In the Ordinance creating the De Saffon Trust there was set out as a preamble a translation of the will. Unfortunately, that preamble and translation have disappeared and what we now have before us is an Ordinance which carries into effect the administration of the will. The Ordinance does not take the place of the will but only provides for administration, and it would have been well that the preamble should have remained for the better understanding of the will. The effect of this Bill is to put into the Ordinance the provisions which are taken from the will and which have been in the process of revision somewhat modified in the existing Ordinance. Clause 2, which provides for accounting by the trustees, is substituted for the existing section 3. Power to appoint beneficiaries under the will was first conferred on the Judges but in 1904 that was changed to the Governor-in-Council. That is why sub-clause (2) is now made and I think it is a wise provision instead of merely accounting to the Supreme Court. Clause 3 is an addition of a sub-section (3) to section 4, which deals with the filling of vacancies amongst the heirs and legatees. The condition of the people who are eligible for nomination is set out in the will. As the will no longer forms the preamble of the Ordinance the object of this clause is to make clear the people whom the testator intended to be beneficiaries. Clause 4 is an addition to section 10 dealing with the appointment of new trustees.

Mr. SMELLIE seconded.

Question put, and agreed to.

Bill read the second time.

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

The Council resumed.

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

THE LEGITIMACY BILL.

THE ATTORNEY-GENERAL: I move the second reading of "A Bill to amend the law relating to children born out of

wedlock." This Bill follows very closely on the lines of the English Illegitimacy Act, 1926. The principal difference is to be found in clause 3, which provides for legitimation by subsequent marriage of parents. By the English Act the date is not retrospective but dates from the commencement of the Act. In this Colony the Roman-Dutch law was retained in the Civil law of British Guiana. I think the Bill will be of great advantage in working out properly what is now the law of the land, and it provides the procedure for a declaration of legitimacy in the case of a legitimated person. At present there is no procedure for recording the legitimising of a person born out of wedlock, and the procedure now being provided for making a declaration on the subject puts the matter beyond any doubt. It also provides for the rights of legitimated persons to take interests in property, Legitimation also applies to children born out of wedlock dying before the marriage of the parents. At present it would be very difficult to recover a gift to children born out of wedlock where a child died before the marriage, but in future that person would be legitimated and his children would be able to claim such a gift. In addition there is a schedule which provides for the registration of the legitimated birth, and it enables the Registrar-General to make special registration of such a person.

Dr. KELLY seconded.

Mr. CRANE: This Bill is of general application to the Colony and affects the status of a large number of its inhabitants. I think Government ought to be congratulated for bringing it into operation, although the necessity for it here is not as great as it was in England. There is one point which I should like to submit for consideration. It is in respect of clause 2 (3): "The legitimation of a person under this Ordinance does not enable him or his spouse, children or remoter issue to take any interest in property save as is hereinafter in this Ordinance expressly provided." There is a dispute among Roman-Dutch Jurists as to whether what is known as bastards should be legitmated by subsequent marriage of their parents. I am proud that the English law adopted as part of its own law what has obtained in this Colony. I appeal to the Attorney-General to consider whether this Bill should not take in adultering bastards. Adultery is not a state of things to be encouraged. What we are doing is relieving the child who had no responsibility for its status by enacting that whether born from adulterous intercourse or otherwise that child should be made legitimate by marriage. Should we not make that child legitimate if it turns out that one of the parties subsequently marries, one parent dying in the meantime? Modern sentiment is in the direction of not throwing any blame on the child, and that is in the interest of the child. However that child may be born it should come within the provisions of the Ordinance. The reason for the provision is relief of the child and not relief of the parents. I have no objection to clause 5, although I think it is more suitable to England or the West Indian Colonies where the English law of succession applies. Here you are going to have a distinction between children, some of whom were born before the marriage, as those who were born in wedlock would take precedence of those who were not.

Mr. ELEAZAR: I wish to endorse what has been said by the hon. Member. Up to 1914 children born of parents one of whom might have been previously married were the only ones called bastards; others were called natural children. Natural children could be legitimised afterwards but the others always remained bastards. The English law at that time did not give anybody the right to legitimacy after marriage, but in 1926 the English Act came into being and made natural children legitimate. They then fell in with us. We are now going a step further. It is only fair that we should now relax and legitimise these children. Under the Roman-Dutch law all children of a mother were of equal status and now that we are bringing humanitarian views to bear we should extend it to the children of the father.

Mr. SEERAM: I think Government is to be congratulated on bringing forward the Bill and thus legitimise children born out of wedlock. The points raised by my hon. friends deserve consideration and I join in asking Government to consider them. We are endeavouring to put right something that is defective at the present time and there should be no differentiation

between the two classes of children. This Bill will do great good amongst the East Indians.

THE ATTORNEY-GENERAL: I appreciate the commendations of Roman-Dutch law and acknowledge the virtues ascribed to the Dutch lawyers. I am not quite sure what is the particular advantage the hon. Member for Eastern Demerara sees is likely to accrue from this Bill. With regard to illegitimate children I appreciate the views stated by the hon. Member for Demerara River. Many reasons may be given why in England and in Colonies I know of, and as the law now is in this Colony, an adulterine bastard is not legitimated by subsequent marriage. It may be that it proceeds on the principle that because one of the parents was married the child should not get the benefit of it. It may also be based on the presumption that a child who is born in wedlock is deemed to be legitimate until the contrary is shown. It is a curious fact that a Legislature composed of lawyers well versed in Roman-Dutch law restricted the rights conferred by Roman-Dutch law. They went on and restricted the offspring of an adulterous union and, curious enough, also the children of an incestuous union.

Mr. CRANE. That shows how well the draftsman considered the matter; he was not thinking.

THE ATTORNEY-GENERAL: The important point about which there may be some difficulty is the offspring of an adulterous union. By sub-clause (2) of clause 5 in (1) and (3) the legitimation is from the date of the marriage. If the child only becomes legitimate on the date of the marriage of the parents so far as legitimacy is concerned his birth takes place at the time when he became legitimate. That is the intention. It is only a provision in the event of the disposition in dealing with such a case. I do not think any injustice arises.

Question put, and agreed to.

Bill read the second time.

The Council resolved itself into Committee and considered the Bill clause by clause.

Clause 3—Legitimation by subsequent marriage of parents.

Mr. CRANE: I formally move the deletion of sub-clause (2). It may be said that the Civil law of British Guiana did exclude children of adulterous intercourse from the benefits of common law. It will be found that that section (11) was not thought out at all but is a jumble. The person who drafted it seems not to know the law. What is the use of excluding what was not possible in law? A child born of incestuous parents is outside the recognised unions. We ought to consider the situation to day apart from section 11. In South Africa they allow children of an adulterous marriage also to be legitimated by subsequent marriage of the parents. That is not a matter of Government policy but it affects the moral sense of the community and what is due and fair to the children, and I ask Your Excellency to leave the question to the open vote of the House.

The Committee adjourned for the luncheon interval.

Mr. CRANE (resuming): I was addressing the Council on clause (2) at the adjournment. It seems that there is some objection to this matter because it is thought that a child of an adulterous union may ultimately find itself in a position to inherit property from a lady, let us say, whose husband got that child during her lifetime. I submit there is nothing in that argument. The child of an adulterous father the moment he becomes legitimate would be bound to support the mother under a maintenance order and this Council would not be giving him advantages without his incurring corresponding disadvantages. Government is seeking to enable a child born out of wedlock to become legitimate if the parents marry after his birth. It excludes what is called the adulterine child, that is to say, the child born from an individual who is married and not by his wife. That would be a hardship on the child. Modern legislation tends to relieve the child, because the child is responsible in no way, and we would be punishing the child when we have no means of getting at the parent. Section 11 of the Civil law of British Guiana is no law at all because the draftsman appears

not to know the law, and as it is a matter of different opinions I see no reason for excluding by sub-clause (2) an adulterine child. By excluding that child you are having two sets of bastards, one legitimated and the other not. We do not administer any moral code here and I claim for these children the right to be legitimated and so become decent in the new family that the father found with the lady with whom he lived.

Mr. ELEAZAR: I am going to read the Roman-Dutch law on the point:—

Illegitimate children are legitimated in two ways only, and not by any other, to wit: by marriage, when, after the birth, the parents lawfully intermarry, whence they are considered in every respect as legitimate; or by the writ of the sovereign, that is, of the States or the heads of the community. This privilege is not readily granted to children *ex prohibito concubitu*; but more readily to natural children, especially at the father's request.

I am submitting that we are going better than the Roman-Dutch law. Under that law a child that was legitimated as a result of the subsequent marriage by the parent is in every respect legitimate from the date of his birth. It has been said that the person who drafted the Ordinance did not know Roman-Dutch law. I happen to know that the draftsman had no knowledge of Roman-Dutch law. He was beaten by everybody, even third-rate lawyers, and always lost his case, so when he had the opportunity he promptly changed the law. That is why the Ordinance is faulty as it is.

Mr. WEBBER: I am on the side of the children and the women always. I cannot understand where Government has drawn its inspiration from. I have had the misfortune to be born legitimate and therefore cannot speak with bitterness on the Bill, but if I had the fortune to be illegitimate I would have spoken with extreme bitterness on this attempt to subject children who commit no crime to answer to an Ordinance of this sort. Years ago when this Colony in a moment forfeited its privileges under Roman-Dutch law, I was rigorously opposed to that iniquitous measure because if there was one thing that protected unfortunate children it was the Roman-Dutch law. That closed the chapter, but why perpetuate worse things when you have an opportunity to remedy them. This is a subject that is not very pleasant for discussion in a Legislature or any public assembly. I cannot understand what is the philosophy of Government in this matter. Does it want to set up a standard of morality? If it is I am with you. If you want to pursue parents for their crimes and misdemeanors pursue them all you can, but certainly do not pursue as it were a vendetta for the crimes of the parents against the unfortunate children who were neither concerned in the guilt nor the pleasures which brought them into the world. Government should throw the question open to the open vote of the Council. It is a question of morality rather than of executive policy and I ask Government not to make it a question of Government policy but to leave it to the individual vote of Nominated or Official or Unofficial Members. Many of us have our own views on the subject. Sixty per cent. of the East Indians are bastardised when they are no more illegitimate than I am.

THE ATTORNEY-GENERAL: This Council unlike the House of Lords made it impossible for anyone who is or might become a Bishop to be a Member of it. The question is one of status, which is a matter of the utmost importance to every citizen in every country whether he is a native or is domiciled there or not. Whatever complaints may be made against laws, because they might happen at a particular time not to accord with the views of members of the community, it must be borne in mind that statutes can be fixed only by law. It is ascertained and definite law. That is the question we are dealing with. It seems to me that before we arrive at a decision we have to consider with great care the arguments pro and con. The subject is one on which people may very well hold different opinions with equal enthusiasm and conviction. As I indicated before, there are several considerations which might be borne in mind in thinking about this matter. What we want to do is the right thing so far as we see it, and to do that we have to hear all sides of the question. It is a fact that by law a child born of a married woman, her husband being alive, is presumed to be a lawful child. And may I point out that only recently it was decided in the House of Lords in the case of Russell *versus* Russell that that presumption is so strong

that evidence of the husband or wife was not admissible to bastardise the issue. That is to say, a man is not permitted to give evidence in a Court to show that a child born of his wife is a bastard and not his, nor can a woman give evidence to show that while her husband is alive her child is not his but someone else's. Certain conclusions follow on a principle of that kind. One is, having regard to that presumption, that the child is the child of her husband and is entitled to share in the husband's property, and in order to exclude that child proceedings must be taken in Court and the Court must pronounce that child not to be the child of the husband. In that way, and in that way only, can that child be excluded. The child, therefore, is in law the child of the husband, as it ought to be. Let us take the case of the wife, the wife marrying the man who is the natural father of her child. That child would not by presumption become the legitimate child of the second husband by reason of the other presumption. What I venture to submit is that if the husband dies and the man who is the father of the child marries the mother, the child having been born during the husband's lifetime would not become thereby legitimated as the child of somebody else.

MR. WEBBER: Whose child would he be?

THE ATTORNEY-GENERAL: I am taking the child in law, not the child in fact. The child in law has rights. The arguments have proceeded on the assumption that this unfortunate child will have no rights to anybody's estate or property, but that is not so. He will have rights in the estate of the first husband's mother. The difficulty you will be up against if we modify the clause in the manner suggested is that you will have to go to the Court and get a legitimacy declaration in the case of such a child. The child or his father will have to go and prove to the satisfaction of the Court that although that child was born when the mother was married to somebody else in truth and in fact it was the child of the second husband. The effect would be that there would be an advertisement not very much in the child's favour of the misconduct of its parents. At any rate in a case like that, even though we pass this law, legitimacy of that child cannot be presumed but will have to be established in a Court by a declaration of legitimacy. There is another case. The mother of a child is not married and the father is a married man. It would seem that there are different considerations applying to different cases. In this case if the mother has any property the child under our law is very properly entitled to it. It will be to the advantage of the community generally to have a provision like that. What effect is it likely to have on the conduct or the morals of the community? If it is thought that it might cause a relaxation of morals that is a matter to be taken into consideration in deciding what you are going to do. The argument, of course, will be that you are penalising the children. On the other hand, if people realise that children of adulterous intercourse are not likely to be legitimated they would probably refrain from such intercourse. I am not sure that what the hon. Member for Berbice River read had a bearing on the particular point. In South Africa, where the Roman-Dutch law still prevails, the position appears to have been for a considerable time that adulterine children have not been legitimised by subsequent marriage. Adulterine children until recently were placed on the same footing as incestuous children. Illegitimate children can only be legitimised in one way: by marriage after birth. The principle is not a new one. Elsewhere the law makes a similar provision to that contained in sub-clause 2. It is in the English Act and in the laws of some other Colonies. I do not know whether there is a provision in favour of adulterine children. If Your Excellency is determined that this issue should go to the vote I appeal to you that the division be put to the open vote.

THE CHAIRMAN: I think this is a matter that can well be put to the open vote. The amendment is that sub-clause (2) be deleted.

THE ATTORNEY-GENERAL: The point which I endeavoured to put clearly to the Council, but apparently unfortunately I did not, was the difference between the position of the father and the mother of the child. It has been suggested that an amendment might meet that by restricting the operation to where the mother was

married to a third person. If the words "father or" were struck out it will accomplish what is required.

Mr. CRANE: I would accept that amendment but the other Members prefer that the clause be deleted.

THE ATTORNEY-GENERAL: I move that the words "father or" be deleted.

The Committee divided on this amendment and voted:—

Ayes—Mr. Millard, Dr. Kelly and the Attorney-General—3.

Noes—Messrs. Seaford, Austin, Dr. Singh, De Aguiar, Pires, Seeram, Webber, Eleazar, Crane, Cannon, Major Craig, D'Andrade, Bayley, Wood, Fredericks, Br ssington, Professor Dash, Major Bain Gray, Dias, Smellie and the Colonial Secretary—21.

The Committee also divided on the amendment to delete the sub-clause and voted 21 for and 3 against, reversing the order of the previous amendment.

Clause 5—Rights of legitimated persons, etc., to take interests in property.

Mr. CRANE: It is only necessary for me to remind the Council that as regards the woman, according to the present law of the Colony, she has no bastard, therefore her children are all as if she were a married woman. It was only as regards the father that this distinction arose. Sub-clause (2) of this clause says:—

(2.) Where the right to any property depends on the relative seniority of the children of any person, and those children include one or more legitimated persons, the legitimated person or persons, shall rank as if he or they had been born on the day when he or they became legitimated by virtue of this Ordinance, and if more than one such legitimated person became legitimated at the same time, they shall rank as between themselves in order of seniority.

The circumstances contemplated can only arise where a man or woman has two sets of illegitimate children. This Bill provides that when children are going to take property according to seniority they take according to the date of the marriage, or, in other words, that the younger children should take precedence of the older children. That is alright if it applies to a man because the children were never entitled to anything, but not so in the case of a woman who has children for two men. The woman marries one man and he legitimises these children, and she afterwards marries another and these children are also legitimised. The question only arises as regards the male because under our law no distinction exists between legitimate and illegitimate children so far as inheritance is concerned because a woman makes no bastard. This sub-clause will have to be amended as regards the father only, as we would be disturbing the law of the Colony if the sub-clause is passed as it stands, and I am therefore moving the insertion of the words "then as regards the father only" after "persons" in the third line.

THE ATTORNEY-GENERAL: Perhaps the point goes a little further than is mentioned by the hon. Member. He points out that it is contrary to what is the law of the Colony. In clause 13 provision is made for the repeal of paragraph (h) of section 6 (1), which reads:—

(h) illegitimate children shall be entitled to succeed in intestacy as heirs of their mother as if they were legitimate children of their mother, and children legitimised by the marriage of their parents shall be entitled to succeed in intestacy as heirs of both parents as if they had been legitimate children at the date of their birth.

I am afraid that the effect of this provision is going to reduce the rights of children, and I do not think this Bill should contain anything which is going to lesson the rights, in the first place, of illegitimate children. In addition to that it is going to reduce the rights of legitimised children. In the circumstances this clause should stand over.

Mr. CRANE: I ask that the other clauses be also deferred for further consideration.

The Council resumed.

DECEASED PERSONS ESTATES' BILL.

THE ATTORNEY-GENERAL asked that the second reading be deferred of "A Bill to amend the Deceased Persons Estates' Administration Ordinance, Chapter 149, with respect to the Guardians Fund and the filing and examination of accounts."

Agreed to.

SUPPLEMENTARY EXPENDITURE.

Mr. MILLARD (Colonial Treasurer)—I move the motion standing in my name :—

THAT, with reference to Governor's Message No. 8 of the 29th of January, 1932, this Council approves of the additional items of supplementary expenditure for the year 1930 shown on the attached Schedule which have not been included in the final statement of supplementary expenditure for that year approved by Resolution No. XXVII. of the 28th day of May, 1931.

SCHEDULE OF ADDITIONAL ITEMS OF SUPPLEMENTARY EXPENDITURE FOR THE YEAR 1930, OMITTED FROM FINAL SCHEDULE APPROVED BY RESOLUTION No. XXVII. OF 28TH MAY, 1931.

		Excess.
Head	II. Legislature, Sub-head 8	...57 cents.
	VII. Commissaries, ,, 20	...93 ,,
	XIV. Registration Births, etc., Sub-head 11	...54
	XXV. Medical Sub-head 40	...50 ,,
	XXX. Education, ,, 60	... 1 ,,
,,	XXXVIII. Analyst, ,, 17	... 4 ,,
	XLI. Subventions—Municipal, Sub-head 7 ...	...10 ,,
	LII. The Great War, Sub-head 5	...12 ,,
	X. Colonial Transport Department, Net Deficiency	*$11,265.42
	XL. Pensions and Gratuities, Sub-head V. ... (The total excess is $22,741.20 but $21,000 was provided for in 2nd Supplementary Estimate).	1,741.20
	XLIV. Public Debt Charges, Sub-head 1, Interest on Bonds, Loan Ordinance No. 6 of 1916 ...	9, 209.30

*The net deficiency on the Colonial Transport Department is less than the amount of capital charges provided by law.

Attention has been drawn by the Director of Colonial Audit to the items not exceeding one dollar as lacking authority of this Council. The last three items are expenditure which, at the time the resolution was prepared, it was assumed was covered by law. The Director of Colonial Audit not agreeing with that view, authority is now asked for these items in addition to those included in the resolution of the 28th May, 1931.

Professor DASH seconded.

Motion put, and agreed to.

SISNETT PENSION BILL.

Mr. MILLARD : I move the second reading of " A Bill to apply the provisions of section twenty of the Pensions Ordinance, Cap. 204, to Sir H. K. M. Sisnett." The preamble explains the circumstances of the case. The Bill authorises payment to Sir H. K. M. Sisnett of his pension in the form of what is known as a lump sum and a reduced pension. He left the service of the Colony in May, 1921. The Ordinance required officers desiring to exercise the option to do so by the 4th June. When he left he was under the impression that he had recorded his exercise of that option, but no such record exists. The matter has been referred to the Secretary of State and it was suggested that he should be given this chance to exercise the option.

Professor DASH seconded.

Mr. WEBBER : I do not like to challenge benefits of Public Officers, but I do not like this method of exercising them. This officer seems to be hunting with the hounds and running with the hares. I prefer the legal Members to deal with the question, as they know the officer better than I do and I do not wish to be unkind.

Mr. CRANE : I ask the Treasurer for some information, which I think the House is entitled to. What is the duration of service of this officer and the lump sum payable to him, and what would be the reduced sum, also whether he is entitled to pension at all?

Mr. MILLARD : The duration of service is 8 years from March, 1913, to May, 1931 ; the lump sum will be $2,016 and the reduced pension $403.68 per annum ; and if granted the whole pension it would be $505.77 with the lump sum.

Mr. CRANE : Was he entitled to pension apart from this Bill?

Mr. MILLARD : He was entitled to pension apart from the Ordinance granting the lump sum.

Mr. CRANE : The only thing I can agree to and am prepared to vote for is $505.77 if Government is prepared to accept that.

Mr. MILLARD : To a point of explanation. Sir Herbert Sisnett contended that he was in the service of British Guiana at the time it was decided to give officers the option of taking a reduced pension

and the lump sum instead of the pension then provided by law, and that he elected to take the lump sum and reduced pension and so informed Government. There was no record of any option to take the lump sum. There was a precedent in dealing with his case, and he was entitled to the option as one of the original officers to whom the law applied. He was asked in the absence of that record whether he did exercise the right and he said he did. The question was gone into and the Secretary of State said he thought this was a case where in the whole circumstances Sir Herbert should be given the option in view of the absence of any record.

Mr. CRANE: If there is no record that the option was exercised we must hold it as not having been exercised. We must presume that it was never received and therefore we must deal with the matter from that standpoint. I have opposed the lump sum in the cases of those who have exercised the option, and I cannot do otherwise in this case. No Colony which this officer served is paying him a lump sum. I am sure British Honduras has no option of a lump sum.

THE COLONIAL SECRETARY: There is an option in British Honduras and I exercised it before coming to this Colony.

THE PRESIDENT: I ask the hon. Member not to press his objection. I pressed the objection myself to the Secretary of State, but I am satisfied that he has a strong moral claim. It is true that he is going to get a lump sum, but he is going to get a reduced pension. There have been other cases where this concession has been granted, and I believe I am correct in saying he is the last survivor who has an option of this kind.

Mr. CRANE: It would take nearly twenty years before we would get level with this gentleman, taking the difference of the pension he would receive at the two amounts. The pension he is entitled to is $505 and if he gets the lump sum with the reduced pension of $403 the difference in the pension would only be $102, which would bring to twenty years the lump sum of $2,016.

Mr. ELEAZAR: It is a bad bargain but I am going to vote for it, sir, because you have asked me.

THE PRESIDENT: I think it is a bad bargain and said so to the Secretary of State, but I think we are morally bound to pay.

Question put, and agreed to.

Bill read the second time.

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

The Council resumed.

Notice was given that at the next meeting of the Council it would be moved that the Bill be read the third time (*Mr. Millard*).

The Council adjourned until Tuesday, 19th April, at 11 o'clock.