

LEGISLATIVE COUNCIL.

Friday, 31st March, 1933.

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, O.B.E. (Nominated Unofficial Member).

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

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

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

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

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

The Hon. Q. B. De Freitas, M.R.C.S. (Eng.), L.R.C.P. (Lond.), Surgeon-General (Acting).

The Hon. J. Mullin, M.I.M.M., F.S.I., Commissioner of Lands and Mines.

The Hon. F. Birkitt, Postmaster General.

The Hon. L. G. Crease, M.A., (Oxon), Director of Education (Acting).

The Hon. E. F. McDavid (Deputy Colonial Treasurer).

The Hon. N. Cannon (Georgetown North).

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

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

The Hon. A. E. Seeram (Eastern Demerara).

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

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

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

The Hon. W. S. Jones (Nominated Unofficial Member).

MINUTES.

The minutes of the meeting of the Council held on the 30th March, as printed and circulated, were confirmed.

ORDER OF THE DAY.

SEA DEFENCE BILL.

The Council resolved itself into Committee and resumed consideration of "A Bill to make better provision for the maintenance and construction of sea defences."

Clause 26—Enforcement of rates not exceeding \$100.

THE ATTORNEY-GENERAL (Mr. Hector Josephs): I move that sub-clause (4) be amended by the deletion of the words "and the fees payable for such last mentioned warrants of distress shall be payable for warrants of distress under this section."

Amendment agreed to.

Clause 29—Rates on Crown or Colony land not occupied by the Crown or Colony.

Mr. CRANE: If a man owes rates in respect of Crown or Colony lands held under a lease or licence his rights in those lands ought to be exercisable as in the case of absolute ownership. There is no reason why those rights should not be seized and sold.

THE ATTORNEY-GENERAL: A person who holds Crown or Colony lands by a licence, lease, grant or permission cannot transfer them without the consent of the Crown. The object of that provision is that the Crown may be able to choose for itself the person who is to succeed to

the lands. The object of this clause is to make the rates which a proprietor is liable to pay in respect of Crown or Colony lands a charge on his other property. If the Board is left merely to charge the rate against the Crown land it may get nothing as the title might not be worth very much to another person or may cease and determine.

Mr. CRANE: Crown lands may be sold by any creditor with the consent of the Commissioner of Lands and Mines. Apart from what is the custom, this is not a beneficial provision even to the Board. Let me give an illustration. A property is held and worked with certain second depths belonging to the Crown. The occupier of that land does not pay his rates, which are chargeable to the whole, and you put up for sale his first depth. Do you think you are likely to get a purchaser for the first depth who is not also buying the interest in the second depth so as to be able to work the land? A purchaser would want to know that he could work the land conveniently and with the same facilities that the execution debtor had. The balance of convenience and reason is against any provision that Crown lands should not be sold.

Mr. MULLIN (Commissioner of Lands and Mines): The hon. Member is not quite correct when he says that there is nothing to prevent a transfer of title. A condition of every title is that the holder shall not transfer it without the permission of the Governor, and when a transfer is filed in the Department of Lands and Mines it has to be submitted to the Governor for approval. It is correct that direct title and interest are attached in legal proceedings. As long as it is done by transport there is no objection, and it is a frequent occurrence, but in this case permission is also necessary. The objection to parate execution is, as I understand it, that cases might slip through. Cases have occurred of which the Department was not aware of the proceedings, and there is a danger of the Crown's rights being lost in the case of parate execution.

THE ATTORNEY-GENERAL: The rights of the Crown should not be jeopardised, and that is covered by section 14 of the Crown Lands Ordinance. Those rights might be affected by the Crown Lands

Regulations, however, and I suggest that the clause be reserved for consideration.

Clause deferred accordingly.

THE COLONIAL SECRETARY: I move the insertion of a new clause 33:—

33. There shall be raised levied and collected rates for the year nineteen hundred and thirty-three as provided in the Third Schedule to this Ordinance.

The object of this amendment is to make provision in respect of the assessment for 1933. The estimate has to be presented in the month of November in respect of the ensuing year. That is not possible in 1933 and this special provision is to enable the estimate to be provided for.

Question put, and agreed to.

Clause 33 (renumbered 34)—Making drain into the sea or construction on sea defence.

Mr. CRANE: This clause is a prohibition of conduct that is perfectly legitimate. All that seems to be necessary is to prevent any person from making a cut or drain in the sea defence without the permission of the Board, and not to tell him he must not make "any drain, trench or cutting in the earth leading into or in the direction of the sea and intended or calculated to drain or conduct water directly or indirectly from or to any land into or from the sea." This clause will prevent lawful acts of persons away from the sea defence. I move that in sub-clause 1 (a) the words from "leading" to the end of the paragraph be deleted and the words "in any sea defence" substituted.

THE ATTORNEY-GENERAL: The object of the clause is to prevent a person digging a drain or a trench which might injuriously affect the sea defence. The position might be met by the deletion of the words from "leading" and substituting for them the words "so as to affect any sea defence." It is material that there should be some protection in that respect.

Amendment agreed to.

Clause 44 (renumbered 45)—Power to make regulations.

THE ATTORNEY-GENERAL: I move that sub-clause (1) be amended by the in-

sersion at the beginning of it of the words "The Board with the approval of".

Amendment agreed to.

Mr. CRANE: I move the insertion as sub-clause (2) of the usual provision where the regulations are of some importance:

(2) All regulations made by the Board shall before coming into force be approved by the Governor-in-Council and all such regulations shall be laid on the table of the Legislative Council at the session thereof held next after the making of the same and if the Legislative Council shall by resolution direct that the regulations or any of them shall cease to operate the same shall immediately cease to have any effect.

THE ATTORNEY-GENERAL: I suggest to the hon. Member another form, which follows the form we have already adopted and is more far-reaching than the form proposed:

(2) Regulations made under this section shall be laid before the Legislative Council within fourteen days next after they are made if the Council is then sitting, or, if not, within fourteen days after the commencement of the next ensuing session, and if within the next subsequent twenty-one days a resolution is passed by the Legislative Council that the regulations or any of them be annulled, they shall be thereby annulled; and the regulation so annulled shall thenceforth become void and of no effect but without prejudice to the validity of any action in the meantime taken under them.

Mr. CRANE: I accept that amendment.

Amendment agreed to.

First Schedule—Boundaries of Sea Defence Districts.

Mr. BRASSINGTON: I ask Government not to extend the boundary to Plu. Somerset. The northern boundary was Walton Hall; it is now extended to Somerset. Neither under the Drainage and Irrigation Ordinance nor the Sea Defence Ordinance is the district between Walton Hall and Somerset assessed. There is a lot of room for development in that area and if rates are imposed I believe it will retard the taking up of land there. It is the only part of the Colony in which the sea defence area has been extended.

Mr. SEERAM: There are some estates in this area that might be excluded. The area suggested is such a large one that I

am afraid we shall have to tax other people higher than they will be taxed.

THE COLONIAL SECRETARY: When considering the definition of sea defence areas it was suggested that it might be as well to extend the boundaries of No. 1 District so as to include lands in the estuary of the Essequibo River. The question is whether that area will ever require sea defence. At present there is no sea defence there, but if in future erosion creeps up the Coast and the lands have to be defended a sea defence area might be created in itself. The question is whether it would not be wiser to include these lands, which may or may not require sea defence. Government's view was that it would be better to include them now than later have to declare a new sea defence area. The balance of convenience and what might happen in the future make it desirable to do so at the present time, otherwise we might find these lands in the same position as Wakenaam and Leguan.

Mr. BRASSINGTON: I have known the district since 1894 and the problem that existed then is the same to-day. It is neither worse nor better.

THE ATTORNEY-GENERAL: If these districts are not now included in this Bill and the time arises when they have to be included, a new Ordinance will then have to be passed to deal with them. The Ordinance applies to the districts set out in the First Schedule and there is no power to create a new district.

Mr. CRANE: What we might do is to give power to the Governor-in-Council to include a new district in case of emergency.

THE COLONIAL SECRETARY: I sympathise with the hon. Member's view of the estates he refers to having to pay an assessment for which they are not now liable. He referred to the district being developed. If the estates at any time require sea defence they will have to bear the whole cost themselves and get no assistance from Government under this Bill. To omit them would be to trench on Mr. Austin's objection to adding one district to another. The district is capable of development and it would

hinder development if the people knew that they will have to bear the whole cost of sea defence themselves. I understand that this area was originally included in what was known as the Pomeroun sea defence area. If it is not included in the Schedule difficulties will arise in including it later on or as a separate area, and if it is not included now the proprietors will be responsible for their own sea defence. I think that for a present benefit the hon. Member is sacrificing the future interest of the people.

Mr. BRASSINGTON: I suggest that the Bill may be so amended as to include the district if at any time it becomes necessary. I formally move that the area be not included in No. 1 District.

Mr. CANNON: May I ask if this case is any different to the case of George town?

THE CHAIRMAN: An opportunity will be given to consider whether these villages should be made to pay or not to pay. I agree that these areas are favourable for and open to considerable development, and they may be very good in the future for colonisation. It is very much better that the sea defence should be looked after and there be no risk of their getting into disrepair. At present it is quite possible that those people will not be able to pay, but that argument may also apply to villages in Berbice and on the Corntyne Coast. I assure the hon. Member that the villages will only be taxed by resolution of the Legislative Council, and the hon. Member will then have his opportunity to make representations in respect of the ability of these villages to pay.

Mr. BRASSINGTON: I appreciate Your Excellency's remarks but ask that my protest be recorded against the inclusion of the area.

THE COLONIAL SECRETARY: I move the insertion as the Third Schedule of the following:—

THIRD SCHEDULE.

RATES FOR 1933.

1.—(1) The Board shall on or before a day to be appointed by the Governor-in-Council (hereinafter referred to as "the appointed day") publish in the *Gazette* and a newspaper and submit to the Governor-in-Council an estimate

of the expenditure and the proposed rates and the estimated revenue for each district for the year nineteen hundred and thirty-three.

(2) On or before the expiration of one month from the appointed day the Governor-in-Council shall after consideration of the proposed rates finally fix and sanction the rates for each district for the year nineteen hundred and thirty-three and for that purpose may alter or amend the proposed rates.

(3) Sub-sections (3), (4), (5), (6) and (7) of section nineteen of this Ordinance shall apply with regard to rates for nineteen hundred and thirty-three.

2. Rates for nineteen hundred and thirty-three sanctioned by the Governor-in-Council shall be published by the Board in the *Gazette* and a newspaper on or before the fifteenth day of June, nineteen hundred and thirty-three and on publication in the *Gazette* shall be binding as from the first day of January nineteen hundred and thirty-three.

3. Rates for the year nineteen hundred and thirty-three shall be payable in two instalments, the first of which shall be paid on or before the thirty-first day of July and the second on or before the thirty-first day of October nineteen hundred and thirty-three.

4. All moieties of rates for nineteen hundred and thirty-three shall bear interest at the rate of six per centum per annum from the last date for payment up to the date of payment or enforcement.

5. The provisions of Part IV. of this Ordinance as to the mode of collection and payment of rates and the powers and duties of the Board and the Auditor shall apply to rates levied under this Part of this Ordinance.

Question put, and agreed to.

The Committee reverted to the clauses which had been deferred for further consideration and amendment.

Clause 7—Application of Ordinance to sea defence district.

THE ATTORNEY GENERAL: An amendment of a proviso to sub-clause (2) was moved by the Nominated Member, Hon. Mr. Austin. I move that it be amended in this way:

Provided that a district or part thereof shall not be added to any other district or part thereof if such inclusion would have the effect of increasing the liabilities and rates of either of them.

Mr. AUSTIN: I accept the amendment. It will be necessary to amend clause 19 (5) to bring it into line with this clause.

THE COLONIAL SECRETARY: I ask the hon. Member whether he will press this point. It is going to cause the Board some difficulty. I am quite certain that Government would always seek the advice

and recommendation of the Board in the first instance. I cannot at present see any difficulty over safeguards.

Mr. AUSTIN: To my mind it is one of the vital points in this Bill and I can conceive at some future day money contributed by one particular area being used in other areas. I understood that was never intended. If it were never intended, why not make it absolutely clear? No money raised in one district should be spent on another.

THE COLONIAL SECRETARY: That point is met. Under clause 19 no money raised in one district can be spent in another. That point was not pressed before but the possibility that Government would tack on Leguan to the Essequibo District or Wakenaam to the West Coast District. That is not going to be the case. Those islands are a separate and distinct district and will be treated as such.

THE CHAIRMAN: I can assure the hon. Member that people are not likely to let their districts be subject to further liability. On the Board as constituted the estates and districts concerned are well represented.

Clause as amended agreed to.

Clause 17—How costs and expenses of construction and maintenance of sea defences to be defrayed.

THE ATTORNEY-GENERAL: The hon. Member for Central Demerara put forward an amendment adding a proviso to sub-clause (3), which reads:—

(3) Provided that all moneys advanced on loan to the Board for work of a permanent character in a particular district such loan and expenses shall be a first charge on the property and assets of the Board in that district and shall be paid from the rates collected in that district.

The amendment will not do in that form, but an amendment might be made to carry out the hon. Member's intention, and I suggest that it should take this form:—

(3) All moneys which may at any time be advanced on loan to the Board under sub-section (2) shall be a first charge on the property and assets of the Board in each district in which the money has been expended and in proportion to the amount so expended.

That amendment would be a sort of corollary to sub-clause (5) of clause 19.

Mr. CRANE: To my mind Government should not give way on this point. The hon. Member thought his constituents would be affected, but they would not be affected at all.

THE ATTORNEY-GENERAL: I agree with the view of the hon. Member but only drafted the amendment for the benefit of the mover.

Amendment negatived without a division.

Clause 18 (2)—Sea defence rates and contribution from general revenue.

THE ATTORNEY-GENERAL: This clause was deferred in order that I may prepare another draft. I propose that the sub-clause (2) should now read:—

(2) There shall be paid to the use of the Board each year—

(a) such amount as the Legislative Council shall vote in the first place not exceeding fifty thousand dollars and not more than one-half of the estimated expenditure of the Board, and

(b) in special circumstances such further amount as the Council shall vote in pursuance of a Resolution approving of the payment thereof.

Mr. CRANE: I thought yesterday we were agreed not to limit the powers of the Legislative Council. My point is that the clause should be so worded as to allow the estimate of the Board to be placed before the Legislative Council.

THE COLONIAL SECRETARY: I appreciate the hon. Member's point in defending the rights of the Legislative Council, but I ask him to waive it in this instance. In the discussion which took place I, personally, and others took the side of the taxpayer. I also want the Council to take the side of the taxpayer. What the Legislative Council is asked to do is to implement an agreement that has been arrived at that the limit of rates to be paid by the estates shall be 50 cents and that the rates of the taxpayer shall also be limited to 50 cents per acre or a contribution not exceeding \$50,000.

Mr. CRANE: I am with the Colonial Secretary. Our only difference is in the manner of expression. I suggest it should run "such amount as the Legislative

Council shall vote on the estimate submitted to the Legislative Council, the amount of which estimate shall not exceed the sum of fifty thousand dollars or one-half of the estimated expenditure of the Board as shown in the Board's estimate." The statute must operate on the Executive and not on the Legislative Council.

THE ATTORNEY-GENERAL: I quite appreciate the hon. Member's point, but if it is limited to \$100,000 no greater sum can be voted. The Executive has to see that the estimate presented to the Council is not more than \$100,000, but if it is limited to \$100,000 how can one ask for a further amount if a further amount is necessary? The estimate would then not represent the true position of affairs. The whole estimate will come before the Council and the Council will be able to consider that estimate.

The Committee adjourned for the luncheon recess.

Mr. CRANE: I think it would be possible to put a limitation as to the amount of half the estimate itself which has to be submitted to the Legislative Council. The whole trouble is that we want to put on record in this Bill the agreement that was come to.

THE ATTORNEY-GENERAL: To meet the objection I propose that the clause be further amended to read:—

(2) There shall be paid to the use of the Board each year—

(a) such amount as the Legislative Council shall vote in the first place not exceeding fifty thousand dollars and not more than one-half of the estimated expenditure of the Board as shown in the Board's estimate presented to the Council, and

(b) in special circumstances such further amount as the Council shall vote in pursuance of a resolution approving of the payment thereof.

Mr. CRANE: I accept that.

Amendment agreed to.

Clause 19 (5)—Board to publish and submit to Governor-in-Council estimated expenditure and revenue and proposed rates. Rates to be finally sanctioned by Governor-in-Council.

THE ATTORNEY-GENERAL: An amendment to this sub-clause was moved

by the hon. Member for Demerara River. I suggest that that amendment should read:—

(5) Rates shall not be paid in respect of any village in a district until the Legislative Council shall by resolution declare that rates shall be paid, and thereafter the local authorities in the district shall pay rates as required by this Ordinance.

Provided that if after the passing of a resolution as aforesaid it shall appear to the Council that it is expedient by reason of their financial condition that rates should not be paid in respect of villages in a district, the Council may by resolution so declare, and thereafter no rates shall be paid unless and until the Council shall by resolution declare that payment be made.

Mr. CRANE: I accept that.

Mr. AUSTIN: Would it not follow on the proviso to clause 7 (2) to say "in the case of each district."

THE ATTORNEY-GENERAL: They are not necessary because the words "in each district" cover all districts.

Clause as amended agreed to.

Clause 29—Rates on Crown or Colony land not occupied by the Crown or Colony.

THE ATTORNEY-GENERAL: I have discussed this matter and propose that there should be a new clause, which will read:—

29. Crown or Colony lands which are not in the occupation of the Crown or the Colony are rateable, but only the right, title and interest of the holder or the land may be taken in execution.

Amendment agreed to.

THE CHAIRMAN: Before the Council is asked to resume I should like to say that this Bill has occupied a considerable amount of the time of the Council, and quite properly so, and to express to the hon. Member for Demerara River the thanks of the Attorney-General and Government for the assistance he has given in arriving at the best interpretation of the law.

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 (*The Colonial Secretary*).

GOVERNMENT CURRENCY NOTES BILL.

Mr. McDAVID (Deputy Colonial Treasurer): I move that "A Bill to amend the Government Currency Notes Ordinance, Chapter 50, by amalgamating the Depreciation Fund with the Note Guarantee Fund, and to authorise the sale of certain securities and the payment of the proceeds into general revenue" be read the second time. Before dealing with the Bill itself it may be well if I state briefly the present position of the British Guiana Currency Note issue. The note issue is at present limited to \$500,000. Under the Ordinance the coin received in exchange for the notes forms the Note Guarantee Fund and it is provided that a proportion of the fund equal to one-half shall in the first instance be maintained in coin. But the Ordinance also gives power to the Governor, with the approval of the Secretary of State, to fix another proportion. The proportion at present fixed is one-third. The Commissioners of Currency consequently hold in coin a sum of \$167,000, the remainder having been used to purchase investments. Subject to the establishment of a Depreciation Fund and to certain other provision, the income of this fund forms part of the general revenue of the Colony. The Ordinance also provides for the establishment of a Depreciation Fund for the purpose of meeting any losses by reason of the depreciation of the investments of the Note Guarantee Fund. The Depreciation Fund is to be established by annual contributions of one per cent. of the cost price of the securities purchased and is to continue until the Depreciation Fund reaches a figure equal to 10 per cent. of the proportion of the notes not held in coin. The Depreciation Fund so authorised is now fully established.

The circumstance which led to the introduction of this Bill was a recommendation which was made by the Currency Commissioners in 1930 for the removal of the appreciation in the value of certain of the investments held and its transfer to general revenue. The Secretary of State thereupon invited attention to the fact that under the existing Ordinance there is no authority to dispose of investments and remove the appreciation in this value. As a matter of fact, during the years 1922 to 1930 profits realised on the sale of securities to the extent of \$20,000 approximately had actually been transferred to general revenue

by the Commissioners, who had acted under the belief that profit realised on sales formed part of the income which might be so transferred. The subject was considered by the Secretary of State and by this Government, and it was decided to take the following action subject to the approval of this Council: To amalgamate the two Funds—the Note Guarantee Fund and the Depreciation Fund—into one Fund and to pay into general revenue the proceeds realised from the sale of any portion of the securities exceeding in disposal value 110 per cent. of the note circulation which is not covered by actual coin. This arrangement will, it is considered, provide a sufficiently safe margin. I have already stated in respect of the note issue of \$500,000, the Commissioners hold coin to the value of \$167,000. They also hold investments in the Note Guarantee Fund and the Note Depreciation Fund, which have a total market value based on prices ruling on 31st December, 1932, of \$458,000. Now, the proportion of the note issue not held in coin is \$333,000 and 110 per cent. of this sum is \$366,000, so that the sum which may be realised at transfer to the revenue of the Colony under the authority of the Bill when it becomes law is approximately \$92,000.

Mr. D'ANDRADE 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 (*Mr. McDavid*).

NEW AMSTERDAM TOWN COUNCIL BILL.

THE ATTORNEY-GENERAL: I move the second reading of "A Bill to authorise the New Amsterdam Town Council to borrow money in order to redeem a loan and to amend the borrowing powers of the Council." Some time ago the Town Council of New Amsterdam borrowed a loan for certain works. Of that loan there is now

outstanding a sum of \$91,500 on which the Council is paying interest of 6½ per cent. and also contributing to sinking fund for the redemption of the loan. Conversion is now the order of the day, and, having regard to the high amount of interest that is being paid, power is being sought to empower the Town Council either to raise a loan at a lower rate of interest to pay off the liability or to convert the existing bonds, if the holders of them so desire, into bonds bearing interest at a rate not exceeding 5 per cent. The powers of the Town Council as to borrowing are limited and it is proposed to repeal and re-enact section 146 of the Principal Ordinance to put the Council in the same position as the Georgetown Town Council with regard to money borrowed from their bankers, the sums that may be borrowed not to exceed \$20,000 in any one year.

Professor DASH 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 amendment.

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 (*The Attorney-General*).

POST AND TELEGRAPH BILL.

Mr. BIRKITT (Postmaster-General) : I beg to move that "A Bill to amend the Post and Telegraph Ordinance, Chapter 185, with respect to the use on private premises of approved types of franking or postage meter machines" be read the first time.

Dr. DEFREITAS seconded.

Question put, and agreed to.

Bill read the first time.

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

PENALTIES (REVENUE APPROPRIATION) BILL.

Mr. McDAVID : I move that "A Bill to provide for the payment to general revenue of fines and penalties and the proceeds of forfeitures and seizures" be read the first time.

Mr. CREASE seconded.

Question put, and agreed to.

Bill read the first time.

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

The Council adjourned until Tuesday, 4th April, at 11 o'clock.