

LEGISLATIVE COUNCIL

THURSDAY, 14TH NOVEMBER, 1946.

The Council met at 2.30 p.m., His Excellency the Officer Administering the Government, Mr. W. L. Heape, C.M.G., President, in the Chair.

PRESENT.

The President, His Excellency the Officer Administering the Government, Mr. W. L. Heape, C.M.G.

The Hon. the Colonial Secretary, Mr. D. J. Parkinson (acting).

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

The Hon. the Colonial Treasurer, Mr. W. O. Fraser (acting).

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

The Hon. C. V. Wight (Western Essequibo).

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

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

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

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

The Hon. T. Lee (Essequibo River).

The Hon. V. Roth (Nominated).

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

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

The Hon. H. Rahaman (Nominated).

The Hon. J. A. Veerasawmy (Nominated).

The Clerk read prayers.

The minutes of the meeting of the Council held on Thursday, 7th November,

1946, as printed and circulated, were taken as read and confirmed.

ANNOUNCEMENT.**SURTAX ON TONNAGE AND LIGHT DUES**

The COLONIAL TREASURER (Mr. Fraser, Acting) communicated the following Message :—

MESSAGE No. 12.

Honourable Members of the Legislative Council,

I have the honour to invite the Council to approve of the continuance during 1947 of the surtax of fifteen per centum levied during the year 1946 on the amount of tonnage and light dues collected under section eighteen of the Transport and Harbours Ordinance, 1931. This surtax is not levied in respect of any vessel which lands and takes away cargo not exceeding in the aggregate 500 tons, or in respect of any sailing vessel of not more than 300 tons net register.

2. The enactment of the Transport and Harbours (Temporary Surtax) Ordinance, 1932 (No. 1 of 1932), provided for the collection of the surtax for the first time in the year 1932, and subsequent to that year resolutions have been passed, under the provisions of section 18 of the Transport and Harbours Ordinance (No. 30 of 1931), authorising the continuance of the levy of this temporary surtax.

3. Government does not see its way to discontinue the surtax levied during 1946, and I accordingly invite the Council to approve of the collection of this surtax being continued during 1947.

W. L. HEAPE,
Officer Administering
the Government.

GOVERNMENT HOUSE,
British Guiana,
9th November, 1946.

PAPER LAID.

The COLONIAL SECRETARY (Mr. Parkinson, Acting) laid on the table the following document :—

The Report of the Trustees of the Mitchell Fund for the year 1945.

GOVERNMENT NOTICE.

SURTAX ON TONNAGE AND LIGHT DUES

The COLONIAL TREASURER gave notice of the following motion :—

"That, with reference to the Officer Administering the Government's Message No. 12 dated 9th November, 1946, this Council approves of a surtax of fifteen per centum being levied on the amount of tonnage and light dues which shall be collected during the year 1947 under section 18 of the Transport and Harbours Ordinance, 1931."

ORDER OF THE DAY.

ADMINISTRATIVE AND DEPARTMENTAL REPORTS.

Mr. JACOB asked and the COLONIAL SECRETARY replied to the following questions :—

Q. 1 — How many Administrative and Departmental Reports for the year 1944 have not yet been laid on the table of the Legislative Council for the information of members of the Council and the public ?

A. Two: The Registrar General's and the Auditor's.

The former was sent to Barbados for printing on the 15th of November, 1945, but has not been received as yet. Non-submission of the latter is due to pressure of work.

Q. 2 — How many Administrative and Departmental Reports for the year 1945 have not yet been submitted to the Colonial Secretariat for printing so that they may be laid at an early date on the table of the Legislative Council for the information of members of the Council and the public ?

Q. 3 — In view of the fact that certain heads of Departments do not begin to write their annual reports until fourteen months after the year is closed, will steps be taken to issue written directions to all Heads of Departments to begin to write their reports in January of each year for submission to the Colonial Secretary not later than 31st March

of each year so that the reports may be printed for submission to Legislative Council before June of each year ?

A. — It will be convenient to reply to questions 2 and 3 together. The fact is that during the war departmental reports were mainly discontinued in order to save paper, on account of pressure of work and for other reasons, including security. As is well known the question of printing is still acute and Government is considering most carefully what reports should be printed in future. As soon as a decision is reached written directions will be issued to all heads of departments concerned to ensure the early submission of their reports.

TRANSPORT AND HARBOURS
(AMENDMENT) BILL, 1946.

The PRESIDENT: Before we proceed with the next item which is the Bill to amend the Transport and Harbours Ordinance, I think it might assist any Member who was not here at the last meeting if I recapitulate the position. As I understand it, this Council in passing the second reading approving in principle that the General Manager of the Transport and Harbours Department should be given powers on the lines of an ordinary Head of Department and that the present Board of Commissioners which is an executive body be changed into a body which would be in an advisory capacity to the General Manager. The hon. Member for North Western District (Mr. Jacob) suggested that there should be a Legislative Council Advisory Committee, and I said at the time, as President, that this matter was one in which Government had an open mind and that we should think it over and decide on the relative clause in the Bill. The Attorney-General has an amendment which, I hope, will be acceptable to Members of this Council.

I may say straight away that the amendment includes provision for an Unofficial Chairman and for the General Manager to be a member of the Board in the capacity of Vice-Chairman which, I think, is the same as exists in other Legislative Council Advisory Committees. This

amendment is not for quite a Legislative Council Advisory Committee because it is felt that there should be powers to appoint other members who may have special qualifications and who are not Members of this Council. But you will see when you come to the Attorney-General's proposal that there will be a substantial majority of Members of this Council on the Committee, and I hope it is a compromise which will meet all your wishes. Some hon. Members want a Committee entirely of Members of the Legislative Council; some others feel that there should be some scope to make provision for persons outside the Council with special qualifications. The hon. the Attorney-General will explain the position in detail when the time comes, and I hope Members will meet Government in this. It is a fair compromise, and I believe it is the best for the efficient working of the Department.

The ATTORNEY-GENERAL : I beg to move that the Council resolve itself into Committee to consider the following Bill clause by clause :—

A Bill intituled "An Ordinance to amend the Transport and Harbours Ordinance, 1931, with respect to the management of the Transport and Harbours Department."

Mr. CRITCHLOW seconded.
Question put, and agreed to.

COUNCIL IN COMMITTEE.

Clause 4—Appointment powers and duties of General Manager.

The ATTORNEY-GENERAL : As regards this clause, hon. Members will see that in the proposed new section, 3A (2), it says :

"The General Manager shall act subject to any general or special directions which may from time to time be given to him by the Governor, and, without prejudice to the generality of the foregoing provision, where the General Manager proposes to do, or does any act or thing in relation to his powers, functions and duties, the Governor may, if he considers that such act or thing should not be done or should not have been done, direct the General Manager not to do such act or thing or disallow the act or thing, as the case may be, and the

General Manager shall comply with such direction or disallowance."

That clause clearly states that from a statutory point of view, apart from any other consideration, the Head of the Department has the over-riding power subject to the direction of the Governor. It is here provided in the Statute specifically, just as the old Board was subject to the direction of the Governor.

Mr. ROTH : As it is the intention to put the General Manager in the same position as an ordinary Head of Department, I take it that he will come under the Governor's jurisdiction in the same degree as the other Heads of Departments do. The proviso in sub-clause (2) seems to be rather derogatory to this officer. I suggest the deletion of the latter part of the paragraph beginning from the word "and" towards the end of the third line. The paragraph should end at the word "Governor" and the remainder deleted. I consider it derogatory to the officer in question. It is as much to say "We cannot trust him". He is under the control of the Governor to the same extent as other Heads of Departments.

The CHAIRMAN : Actually, I think the clause is rather heavy. The hon. Member should know that the General Manager has seen it, and I do not think he has objected to it. I do not know why the Attorney-General should make such a heavy clause.

The ATTORNEY-GENERAL : The position is this : Arising out of the point made by the hon. the Seventh Nominated Member, if you look at the Schedule where provision is made for additional powers and duties and functions of the General Manager, you will see there "subject to such Departmental Order as may from time to time be made by the Governor," and then you have this because you are having an Advisory Council. The same point was raised by hon. Members and it was suggested that where the Advisory Council on certain questions of policy may come to one conclusion and may wish a certain line of policy to be carried on the General Manager may snap his fingers and say "I am not doing that." You have here specific power so far as all these matters

are concerned. Apart from his duties and responsibilities as Head of the Department, you have here, as proposed, a Board acting in an advisory capacity. You are switching over from a Board which had executive power to one functioning in an advisory capacity only. As provided in 3B, the Board has certain powers. Hon. Members have raised the point that in case the General Manager does not see eye to eye with the majority decision of the Advisory Council on matters of policy, then it would be a matter which, as I explained in the course of the debate on the second reading, would go to the Governor and this section would come into play.

Mr. ROTH: I thank the hon. the Attorney-General for his explanation but I regret to say I am not convinced. I had no discussion with the Officer in question, but I still maintain that the phrase "subject to any general or special directions which may from time to time be given to him by the Governor" covers the situation. If I were the General Manager I would feel hurt. It seems that we are afraid of him and we cannot trust him to use his discretion. We are tying more strings around him than in the case of other Heads of Departments. I do not think it is fair. I still move the deletion of the remaining portion of the section.

Mr. C. V. WIGHT: I am inclined to agree with the hon. Member. It does seem that the General Manager would be like any other Head of Department in acting under the direction of the Governor. The other part of the section is redundant, but I do not think that redundancy is anything strange or unusual in the law.

Mr. LEE: What I would like to be satisfied about is this: We are going to have this Department spending public money. According to this clause here the General Manager will be only subject to the directions of the Governor, but as far as my knowledge in respect of the working of Government Departments goes, any policy is always directed or advised by the Governor in Council. Is this clause intended to mean that the Governor need not be advised or directed by the Executive Council, and that he will only act on the advice of the General Manager? If that is so, I certainly object to it, because if this

Department is going to spend so much money now all directions should come from the Governor with the advice of the Executive Council. If I get a reply from you, sir, as to whether the Governor will be subject to the advice of the Governor in Council in giving directions, I would not ask for an amendment. If the powers of the Governor are such that he need not ask the advice of the Executive Council, certainly I would ask that this clause be amended to read "acting under the advice of the Council."

Let us assume for the sake of argument that this Colony at some time in the future gets a Governor who does not take as much interest, as most Governors do, in the affairs of the Colony, and all the papers which go before him are signed by him on the advice of the Head of the Department. Should certain things be done which are contrary to the policy of the Governor in Council, what are we going to do? If the Governor in Council does not accept responsibility for those acts, then the responsibility would be, naturally, that of the Governor and the General Manager. What would we find next? We are going to be told that this Legislative Council cannot, at the annual meeting or a special meeting, question the expenditure of money by the Department. We will have to sit and allow the Governor and the General Manager to spend the money without the Elected Members of this Council having any voice in it. I would like to be directed on that point.

The ATTORNEY-GENERAL: I think the hon. Member must appreciate the fact that if you are making the General Manager the executive head of his department, then he would stand in the same position as any Head of Department and, therefore, the matters which come under his notice in connection with the running of the Department would be subject to the approval of the Governor who might himself seek the advice of the Executive Council. But you cannot, I suggest, put it in the Ordinance because you are putting the General Manager in the same position as any other executive head,—the same as the Director of Public Works, the Director of Education or the Director of Agriculture. You do not say that the conduct of their Departments is subject to the approval

of the Governor and the advice of the Executive Council. That is in answer to the hon. Member's point.

In addition to that, it has to be borne in mind that the Governor in Council is the Governor acting with the advice of the Executive Council but not necessarily does he accept the advice of that Council. That is an aspect you still have to bear in mind so far as the constitutional point goes. So the hon. Member's comments are not germane to the point which was raised by the hon. Nominated Member, whose point is that the clause as it appears here in the Bill is somewhat heavy and is really going beyond what is required. He proposes to move an amendment to omit the latter part of the clause after the word "Governor" in the third line, because as the Head of a Department you are making him an executive head subject to all directions of the Governor and, therefore, it is not necessary to go further afield and add the latter part of the clause. Against that there is no strong feeling so far as Government is concerned, and Government is quite willing to accept the hon. Member's suggestion.

Mr. LEE : I was not thinking of the hon. Nominated Member's amendment. I was reading the section and from what I have gathered I am not satisfied—

The CHAIRMAN : What it really comes to is this : If you put in the words "Governor in Council" you thereby slow up the work of Government; if it is in the law everything would have to go before the Governor in Council. The Attorney-General has explained that it is not really needed as the Governor need not act on the advice of the Executive Council. I hope that Members would accept that Governors are usually reasonable men and that most Governors do follow very good advice. Sir Edward Stubbs, who was a member of the Royal Commission, said : "This is my experience after many years as Governor and acting Governor,—no matters of public importance are decided by the Governor without the advice of the Executive Council." If you accept that a Governor is a reasonable man, I take it that any important matter relating to the railway would go before the Executive Council without its being prescribed in the law. My opinion

is that if you make it a definite provision in the law you would only hold up the business of Government. It is not necessary; it is not customary and I do not think it will do any good.

Mr. LEE : What harm would it do if that is the attitude of Government and it is put into the Ordinance, when the Governor can act with or without the advice of the Council? If it is in the Ordinance the Elected Members or Nominated Members of this Council who are Members of the Executive Council would at some time or other be accountable to the public for any action of the Governor. They would be in a position to say "We have raised this or that issue on the Executive Council and the Governor acted contrary to the advice of the Executive Council."

The CHAIRMAN : They cannot say it.

Mr. LEE : If it is not put to the Executive Council they can say "We were not consulted in this matter and we gave no advice." I am convinced that it is necessary and I will move the amendment for the substitution of the words "Governor in Council" for the word "Governor" in the first line. I now formally move it.

The ATTORNEY-GENERAL : I may advise the hon. Member that he has a right to move his amendment, but at the same time, in a matter of this sort it should not appear in the Ordinance. In other words, you are proceeding on the assumption that the Governor does not know his business. That is it in a nutshell. The whole position is this : You have to deal with principles, and if you are dealing with principles that must apply to every Head of Department, do not forget that matters come up frequently in regard to Departments and the Governor consults his Executive Council on them, but it is not put in an Ordinance that in all matters pertaining to those Departments the Governor shall consult his Executive Council because, as has been observed by the Chairman, it would mean that all petty details and things of that sort which should be dealt with by the Departmental Head and submitted to the Governor, would then have to go to the Governor in Council. I

suggest to the hon. Member that that is not desirable.

Mr. JACOB : I am left with a most unfortunate impression, Your Excellency. Here is a Bill drafted and placed before this Council involving a principle that we have been fighting for in this Council, by some of us at least, that there should be more responsibility—at least up to the present it is only advisory—placed on Members of this Council so that we would be ripe for self-government soon. Day after day I come here and find that those principles are being withheld by Government in a manner that surprises me. Only a few days ago when the British Parliament opened, His Majesty's Government made it clear that in all these territories the people should be given a chance to govern themselves, but this Government, although it has specific recommendations from the West India Royal Commission and instructions from the Secretary of State for the Colonies, continues to withhold these things and to bring in outsiders as employees to do as they please. When we ask that Members of this Council who are chosen by the people be given an opportunity to advise Government, we are refused and all kinds of specious arguments and reasoning are put up.

The CHAIRMAN : I am not quite clear on which clause the hon. Member is speaking.

Mr. JACOB : It is the one relating to the Advisory Committee.

The CHAIRMAN : The hon. Member must keep his remarks until we come to the proposal.

Mr. JACOB : It is perfectly clear that in Jamaica, with an amended Constitution, the Governor cannot act without the advice of the Executive Council, but he has one over-riding power. If in a matter of paramount importance his Councillors advise him that it is against the welfare of the public, he has the right to hold it up. He has not got the power to do as he likes. In this Colony it is true that the Members of the Executive Council agree to everything the Government wants, and that is why I sometimes deplore the fact that we cannot have a general election. It is your duty, sir, as Officer Administering the Government,

to follow the directions of the West India Royal Commission.

The CHAIRMAN : The hon. Member has not previously shown such faith in Advisory Councils.

Mr. JACOB : Because of the methods adopted. You hold the Members of the Executive Council by some oath not to consult their brother Elected Members. They are there to represent us, but we dare not ask them anything. How long are you going to continue this sort of thing ?

The CHAIRMAN : Why support that "Governor in Council" be inserted in the clause ? It is for the reason that it slows up business that no Governor consults the Executive Council on everything. If you put it in the law the Governor would have to consult the Executive Council on everything, but I do not think that is practical.

Mr. JACOB : I daresay you will not consult your Executive Council on everything.

The CHAIRMAN : No reasonable man would.

Mr. JACOB : I am not quite sure about that. Your Executive Council meets every week, and you can call a meeting at any time for any important matter. One of the Clerks in the Colonial Secretariat can always get the majority opinion of the Council on any matter of vital importance. The business of a firm is not slowed down when it has a Board of Directors. I cannot, with all due respect to you, accept that explanation—that it would slow down business. As the hon. Member for Essequibo River (Mr. Lee) rightly pointed out, if it is not in the Ordinance the Executive Councillors have no responsibility to anyone. If it is there I can ask a brother Elected Member on the Executive Council why he agreed to such a proposition. But you have tied him down by some oath which should be abolished. I speak strongly on it, and I shall continue to speak strongly on it until it is abolished. All Executive Councillors should have the right to consult the other Elected Members in this Council. The hon. Member for Western Essequibo, (Mr. C. V. Wight) says he will not con-

sult me. That is the kind of arrogance we get here!

The CHAIRMAN: The question of secrecy on the Executive Council is not in this Bill at all. Please stick to the clause!

Mr. JACOB: I am saying, sir, that I am going to fight to the bitter end this principle that there must be confidence in the representatives of the people in this Council and in every appointee of this Government. I am not agreeing to give dictatorial powers to the General Manager, or to the Governor for that matter. I understand that in Jamaica some of these things exist, and the next step would be that the Jamaica laws would be transported here. I am asking that the General Manager be given executive power, because I want to charge the Government later on with failure in this Department too. I hold that the whole thing is a bankrupt concern, since we have lost nearly one million dollars on it this year and about three quarter million dollars last year. Are we going to perpetuate this state of affairs? We had it from one hon. Member last week that when a certain Colonial Secretary was Chairman of the Transport Board he was afraid of his own shadow. We all know who he was.

I am not making the same mistake twice, even if I have to stand alone. I insist that the General Manager must run the Department with an Advisory Committee comprised of Members of this Council and nobody else. That must be put to the vote and if it is lost let it be lost. I am told that I do not co-operate, completely in this matter and have ignored the representatives of the people but I say that Government have failed by playing up to one man—the General Manager.

The CHAIRMAN: We were asked to bring out a General Manager.

Mr. JACOB: Perhaps others people are implicated. I am not referring to him alone, but also to other Officials who come out here for a few years and then walk out.

The CHAIRMAN: What is your suggestion as regards this clause?

Mr. JACOB: My suggestion is that the words "Governor in Council" should be substituted for the word "Governor" in this sub-clause, and I am going on to suggest that the whole thing would collapse with the method you are adopting.

The CHAIRMAN: What constructive amendment are you making?

Mr. JACOB: I was going on to speak about sub-clause 3B (b).

The ATTORNEY-GENERAL: We have not reached that yet.

The CHAIRMAN: I think the hon. Member is covering too much ground in this clause. I was dealing with sub-clause 3A.

Mr. JACOB: I am supporting the suggestion that the words "Governor in Council" should be substituted for the word "Governor" in 3A (1). Sometimes you have Officials going away and not returning. Once we had a Governor going away and telling the people he was returning, but we did not hear from him until we were told he was promoted to Jamaica.

Mr. PERCY C. WIGHT: What I would like the Attorney-General to clarify for my benefit are the words "The Governor shall appoint a General Manager of the Department....." I take it that he would have the power to appoint a man at \$10,000 a year. I know that the Civil List has not yet been printed because of printing difficulties, but there is no question about it that this Officer—the General Manager—is drawing more than what is on the Civil List. I think it would be better if it is announced what his salary is. This Officer, I understand, is drawing more pay than any other Officer, barring the Attorney-General and the Chief Justice. His appointment is for a period of three years, and now a Bill is being introduced which states that the Governor shall appoint such an Officer. I have no objection to the engagement of the Officer, but let us know the position we are occupying. Are we improving on the salary that

the Governor appointed him at—without any explanation ?

The CHAIRMAN : The actual position is that the salary of this Officer—the General Manager who was appointed under contract for a specified period—was agreed upon by the Executive Council and, as I have already said, Government was requested to appoint him. In this particular case there was a temporary agreement and the salary was told to Executive Council. The appointment was made by the Secretary of State and I will ask the Attorney-General to reply as to whether it is necessary to provide in law that the Governor shall make the appointment in future

Mr. VEERASAWMY : I rise to support sub-clause 3A as it stands. I think if it is passed Members of this Council would be well safeguarded. If the Governor needs any advice he would go to the Executive Council and no conscientious Governor would put an Official on the spot by doing something that is wrong. I have been trained as a lawyer to read every section when law comes before me and then interpret it. This is an amending Bill and we cannot read it alone. Whatever power the Governor had in the old days, he had to go to the Court of Policy. If the General Manager had to go to the Board and the Board is now being substituted by the Governor, then the General Manager has to go to the Governor. I think that is also provided for in section 9 of the Principal Ordinance. My impression is that if the Board wanted to do anything without the General Manager, the Governor in Council had to be brought in.

The ATTORNEY-GENERAL : In answer to the point raised in connection with the appointment of a General Manager, I would say that we are only following in this amending Bill, section 5 (1) of the Principal Ordinance. As stated by His Excellency, this gentleman has been appointed under contract and hon. Members will see that we are following the existing Ordinance which gives the Governor power to appoint him. In all matters of such importance the Governor is the person who appoints.

With regard to the point in 3A (2), this paragraph reads :—

“(2) The General Manager shall act subject to any general or special directions which may from time to time be given to him by the Governor, and, without prejudice to the generality of the foregoing provision, where the General Manager proposes to do, or does any act or thing in relation to his powers, functions and duties, the Governor may, if he considers that such act or thing should not be done or should not have been done, direct the General Manager not to do such act or thing or disallow the act or thing, as the case may be, and the General Manager shall comply with such direction or disallowance”.

These “special directions” are special directions in regard to any particular matter, and they would be given by the Governor. The hon. Members who were suggesting the substitution of the words “Governor in Council” for “Governor” do not realize that we have special directions as well as general directions. One has to bear in mind that we are dealing with principles and if we are seeking—as we have done in the second reading of the Bill—to give the General Manager the functions formerly exercised by the Board, then he falls in the same category as any other Departmental head. Therefore, we are saying in effect that in so far as the General Manager of this concern goes, the Governor may give him general or special directions without even consulting the Executive Council.

We are making a complete departure in so far as he is concerned, not forgetting that we are seeking at the same time to put the General Manager in the same position as a Departmental head. Therefore, the position being urged by certain hon. Members would be wholly inconsistent and, I suggest, illogical. The point which the hon. Member for North Western District is raising comes under 3A, and I suggest that this clause—3A—with the possible amendment proposed by Mr. Roth would meet the case.

Mr. LEE : I am not satisfied with Government's reply, but I do not think I should go on arguing when there is the difficult principle under which Electives

are trying to guide Government in a proper manner and Government does not want to accept it. If we allow this Bill to pass in this manner, we will be giving the Electives no power as regards the Transport Department. If we are going to invest all this power in the General Manager, I cannot accept any responsibility for anything. I am moving, therefore, that sub-clause 3A (1) be deleted, and would ask that a vote be taken. I do not want any more argument.

The CHAIRMAN : I think the hon. Member is wrong in suggesting that there should be no further argument. If any hon. Member wants to speak he can do so.

Mr. LEE : I beg your pardon, sir. Sometimes words carry me beyond my feelings. I move, however, that in sub-clause 3A (1) the words "Governor in Council" be substituted for the word "Governor", and also that a similar amendment be made in sub-clause 3A (2). It will be noticed that the General Manager can write a cheque for \$1,000,000 and if he gets somebody to sign it, it would be passed. I feel that the Auditor of the Transport Department who is a Government Officer should be the person to perform such duties. The Auditor there audits accounts and has a certain amount of responsibility. He should be the person to countersign all cheques, but it is left to Government if they care to take the advice.

Mr. PERCY C. WIGHT : I do not think I have had an answer to what I have put to Government. I have asked whether Government is authorised to fix any particular salary for the post of General Manager. The salary has to come before this Legislative Council, but if it is fixed before that is done and it is not passed here, there would be a breach of contract. I said I would like to know from my seat here what is the salary of the General Manager at the moment. I know it is in excess of what the previous General Manager used to get, because the Transport Board of which I am Commissioner recommended an increase on the previous salary and the suggestion was accepted.

Mr. JACOB : I just want to say something on that point. Here we have a

Member of this Legislative Council who is one of the Commissioners of the Transport Board and yet he does not know the salary of the General Manager. There is another Member in a similar position—Mr. Lee, on my left. Government—or the Secretary of State—has appointed this Officer, yet the public does not know and the Members of this Council do not know his salary—and Your Excellency smiles about it.

The CHAIRMAN : I have told the hon. Member I would get the answer.

Mr. JACOB : What is the secrecy? Perhaps I should regard it as a friendly affair. Is this contract sacred? Is that the reason why Government does not want to disclose?

The CHAIRMAN : I am getting the question answered. What is the hon. Member's point exactly?

Mr. JACOB : My point is that the members of the Transport Board should know the salary and the terms of appointment of this Officer. What kind of a Board is it if they do not know?

The CHAIRMAN : I do not know.

Mr. JACOB : That is why we ought to check up on it.

The CHAIRMAN : We are going to do that.

Mr. JACOB : There are two members on that Board who should have a responsibility to this Council.

Mr. PERCY C. WIGHT : The hon. Member does not know what he is talking about. There was a conflict over the appointment. I do not want to come here and disclose the business of the Board, but the Officer claims that he is entitled to £100 per annum as Travelling Allowance. We do not know if it is so.

The CHAIRMAN : I will try to get the information.

Mr. JACOB : I am surprised at my friend on my left—Mr. Lee—for sitting on a Board like that.

The CHAIRMAN : I suggest that we get

on with the discussion. I should like to know whether the hon. Nominated Member, Mr. Roth, desires to proceed with his amendment.

Mr. ROTH : Yes, sir.

The ATTORNEY-GENERAL : I suggest to the hon. Member, very definitely, that it should not be proceeded with. The hon. Member is now putting on the Governor in Council something that is part and parcel of the duty of the Governor. I have to point that out.

The CHAIRMAN : That is quite right.

Mr. LEE : I thank the Attorney-General for his advice, but if certain Members of this Council would let us strive for that form of self-Government which would throw responsibility on the Electives, there would be no harm whether the Governor or the Governor in Council appoints the General Manager. We do not want to be under the cloak of the Secretary of State all the time. I want to take away that cloak as soon as possible. We want opportunities to look after the affairs of this Colony; if not—and I say it straight away—I shall go and not waste any time by coming back at the next elections.

The CHAIRMAN : Will the hon. Mr. Roth state exactly what is his amendment ?

Mr. ROTH : That sub-clause 3A (2) be amended to read as follows :—

“(2) The General Manager shall act subject to any general or special directions which may from time to time be given to him by the Governor.”

The CHAIRMAN : The effect of the amendment is that the remainder of the sub-clause—following the word “Governor” in the third line—should be deleted.

Amendment put, the Committee dividing and voting as follows :—

For : Messrs. Roth and Woolford—2.

Against : Messrs. Veerasawmy, Raha-man, Farnum, Raatgever, Lee, Jacob, Percy C. Wight and Dr. Singh—8.

Did not Vote : The Colonial Treasurer, the Attorney-General and the Colonial Secretary—3.

Amendment lost.

Mr. LEE : I will ask that my amendments be taken one by one.

The CHAIRMAN : Yes; I shall do that. I will now take the amendment relating to sub-clause 3A (1)—that the words “Governor in Council” be substituted for the word “Governor” in the first line.

Mr. PERCY C. WIGHT : Before that is done, I would like to ask whether my question will be answered.

The CHAIRMAN : I have not got the file in front of me.

Mr. WIGHT : Can't you tell me the salary of the General Manager ?

The CHAIRMAN : The notice was published in the *Official Gazette*. That is all I have in front of me now. I will, of course, give you the fullest possible information later.

Mr. WOOLFORD : I would ask the hon. Member for Essequibo River whether he himself considers an amendment of this nature would have any effect on the appointment that has been made. My submission is this : As the appointment has been already made by the Governor and the appointee is now performing the duties of his office, what value is there in the proposed amendment which cannot be given effect to and which is quite contrary to the existing facts ? If the hon. Member means that all future appointments should be made by the Governor in Council he must say so, but the amendment does not give that idea at all. If it is the object of the hon. Member—

Mr. LEE : It is for the future.

Mr. WOOLFORD : But you have not said so.

The CHAIRMAN : I suggest that we take the amendment,—that in clause 3A

(1) the words "Governor in Council" be substituted for the word "Governor".

Question put, the Committee dividing and voting as follows—

For :—Messrs. Rahaman, Lee and Jacob—3.

Against :—Messrs. Veerasawmy, Farnum, Raatgever, Roth, Percy C. Wight, Dr. Singh, Mr. Woolford, the Colonial Treasurer, the Attorney-General and the Colonial Secretary—10.

Amendment lost.

The CHAIRMAN : I now put the amendment that in clause 3A (2) the words following the word "Governor" in the third line to the end of the sub-clause be deleted.

Question put, the Committee dividing and voting as follows :—

For : Messrs. Roth and Woolford—2.

Against : Messrs. Veerasawmy, Rahaman, Farnum, Raatgever, Lee, Jacob, Percy C. Wight, Dr. Singh—8.

Did not vote : The Colonial Treasurer, the Attorney-General and the Colonial Secretary—3.

Amendment lost.

The CHAIRMAN : I now put the amendment that in clause 3A (2) the words "Governor in Council" be substituted for the word "Governor" in the third line.

Question put, and the Committee dividing and voting as follows :—

For : Messrs. Rahaman, Lee and Jacob—3.

Against—Messrs. Veerasawmy, Farnum, Raatgever, Roth, Percy C. Wight, Dr. Singh, Woolford, the Colonial Treasurer, the Attorney-General and the Colonial Secretary—10.

Amendment lost.

The CHAIRMAN : As regards the proposed amendment to clause 3A (4) (b), I would ask the Colonial Treasurer to speak

on it. It seems that there is good reason why the General Manager should be able to authorize a person to sign for him.

The COLONIAL TREASURER : The power rests with the Head of the Department with the approval of the Colonial Secretary to delegate authority to sign cheques. The hon. Member suggests that a member of the Audit Department should countersign all Government cheques. That is quite unusual so far as the Service is concerned. No officer of one Department has any right to interfere with the financial matters of another Department, especially the signing of cheques.

The CHAIRMAN : Does the hon. Member for Essequibo River still want to move his amendment that the words "appointed by the Governor in Council" be substituted for the words "authorised by the General Manager" ?

Mr. LEE : Yes, sir.

Motion moved and question put, the Committee dividing and voting as follows :—

For — Messrs. Lee and Jacob — 2.

Against — Messrs. Veerasawmy, Rahaman, Farnum, Raatgever, Roth, Percy C. Wight, Dr. Singh, Woolford, the Colonial Treasurer, the Attorney-General and the Colonial Secretary — 11.

Amendment lost.

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

The CHAIRMAN : I would ask the Attorney-General to move his amendment to the clause.

APPOINTMENT AND CONSTITUTION OF THE ADVISORY COUNCIL

The ATTORNEY-GENERAL : The amendment which I propose to move is as follows — The insertion of the following new sub-clause 3 C after 3 B which deals with the establishment and powers of the Advisory Council —

3C. (1) The Advisory Council (hereinafter referred to as the Council

cil") shall consist of seven members.

(2) The members of the Council shall be —

(a) six persons appointed by the Governor as follows :

(i) five persons who are unofficial members of the Legislative Council;

(ii) one other person; and

(b) the General Manager who shall be Vice-Chairman of the Council.

(3) Subject to the provisions of this section, every appointed member of the Council shall hold office for two years from the date of his appointment, and shall be eligible for re-appointment.

(4) The Governor shall appoint an appointed member of the Council to be the Chairman thereof, and may at any time revoke any such appointment.

(5) The Chairman of the Council shall preside at all meetings of the Council which he attends and, in his absence the Vice-Chairman of the Council shall preside. In the absence of both the Chairman and the Vice-Chairman from a meeting, the members present shall elect one of their number to preside at the meeting.

(6) The Chairman, the Vice-Chairman or other member presiding at any meeting of the Council, shall have an original and a casting vote.

(7) At any meeting of the Council three members, including the presiding member, shall form a quorum.

(8) The Governor may grant leave of absence to any appointed member of the Council, and in such case he may, subject to the provisions of sub-paragraph (i) of paragraph (a) of subsection (2) of this section, appoint another person to be a member of the

Council during the period of such absence on leave.

(9) The Governor may at any time revoke the appointment of any appointed member of the Council.

(10) Any appointed member who (a) being appointed a member under sub-paragraph (i) of paragraph (a) of subsection (2) of this section, ceases to be an unofficial member of the Legislative Council;

(b) by writing addressed to the Colonial Secretary resigns from the Council; or

(c) departs from the Colony without leave of the Governor; or

d) remains out of the Colony after the expiration of his leave; or

(e) fails without reasonable excuse (the sufficiency of which shall be determined by the Governor) to attend four consecutive meetings of the Council,—

shall cease to be a member of the Council.

(11) If the appointment of a member of the Council is revoked under subsection (9) of this section, or if a member of the Council under subsection (10) of this section, the Governor may, subject to the provisions of sub-paragraph (i) of paragraph (a) of sub-section (2) of this section, appoint another person to fill the vacancy for the unexpired period of the former member's term of office;

Provided that where the Legislative Council has been dissolved the Governor may appoint, in place of those persons who were members of the Advisory Council by reason of being unofficial members of the Legislative Council, such persons as he may think fit to be members of the Advisory Council, until the first meeting of the Legislative Council, after such appointment.

- (12) Notice of every appointment, of every revocation of appointment, and of every cesser of membership, shall be published in the *Gazette*.
- (13) The Council may act notwithstanding any vacancy in the Council.
- (14) The Council shall cause minutes to be kept of its proceedings."

There are other matters consequential on that and really follow along the lines of the original so far as voting, quorum and duration of office as appear in the present Transport and Harbours Ordinance, No. 30 of 1931, are concerned. I feel sure that this proposal would meet with the approval of this Council. It provides for the largest number of Members of the Legislative Council to be on the Council and gives opportunity to the Governor to appoint one outside member. As is proper, the General Manager will be Vice-Chairman. They will form the statutory Advisory Council and I think this meets the points made by the hon. Member for North-Western District (Mr. Jacob) and with the general approval of this Council. So far as Advisory Committees go, hon. Members know that the Public Works Advisory Committee of which the hon. Member for Western Essequibo (Mr. C. V. Wight) is Chairman and the Director of Public Works is Vice-Chairman, has seven members. There are other Advisory Committees—Publicity and Information, Education, Agriculture—functioning and this proposal follows along the lines of those Committees with the exception of the opportunity to appoint a member from outside.

The CHAIRMAN: As no Member desires to speak on sub-clause 3B, as printed, with your permission I would like to put that first, and then we could have the debate on the Attorney-General's amendment or on other motions Members may wish to move. In order to do so methodically, if no Member has any objection to the printed words in (a), (b), (c) and (d) I would put it that they stand part of the Bill.

Question put, and agreed to.

The CHAIRMAN: Now we have an amendment in the form of an additional

sub-clause 3C, as explained by the Attorney-General.

Mr. JACOB: Government goes on nibbling at this thing. I have repeated this question so often here that I find it difficult to speak now. You have Advisory Committees established for the Public Works Department where you have a lot of executive work and millions of dollars being spent and all the members of that Committee are Members of this Council. The same thing applies to the Advisory Committees to the Agriculture and Education Departments.

The CHAIRMAN: Except on the particular point which exercises my mind! Each of those Advisory Committees has the Head of the Department as Vice-Chairman. I do not want the General Manager as Chairman, but he must be on the Committee and must be able to present his case.

Mr. JACOB: I see you have six persons—five Members of this Council and one other person—to be members of the Council. I do not object to the General Manager being on it as Vice-Chairman, but I am objecting to the outsider being there, because it breaks the sequence of what we are striving so assiduously after. If you have Members on a Committee who do not attend the meetings replace them, give other Members an opportunity to learn, and so make ourselves fit for self-government. If you continue to have outsiders on committees then there will be no progress towards that end. Why change the composition of this Committee when you already have three such Committees working somewhat satisfactorily? I will not say wholly so. I am asking you to take off the "one other person". If you want a technical man to advise the Committee, he can come in and give that advice. Your Excellency made the statement that the General Manager is a good businessman—an expert in railway management. We have good businessmen also in this Council. What else do you want? Why do you want to bring in an outsider? It is merely a question of principle I am asking about.

The CHAIRMAN: I think it is fair to get it right. We can imagine a position of

great importance arising in harbour policy, in which case it is quite possible that no Member of this Council will be so well qualified to advise as other men in the Colony, not only a Member of the Council but a Government Official. It is not unlikely that questions of harbour policy would become increasingly important. That is the reason, but I am not absolutely wedded to it. You have asked me why Government does these things and I think it is well to tell you these things. That is the answer.

Mr. JACOB: If the gentleman has the interest of the public and the harbour of the Colony at heart he can come and tell the Committee what he thinks about it. He can be asked to give a report. We have an excellent Harbour Engineer now who knows everything about our harbour. Mr. Case is there and surely there must be some understudy in the Government who can be asked to come in. This Council may probably support Government's view to have an outsider, but I think some of us will not. I have nothing more to say but to deplore the idea of not giving the Council the opportunity to advise Government on matters of this kind.

Mr. PERCY WIGHT: I entirely agree with what you have said, sir. There is the possibility of something arising on which no member of this Council can advise. There are certain members of the community who are very valuable as Commissioners. I think myself that if the last speaker would only view the matter from a commercial standpoint he would see that it is necessary to have an outsider on the Committee.

The CHAIRMAN: Mr. Attorney-General, do you think it is better to have this clause? We can circulate the actual wording of the amendment.

The ATTORNEY - GENERAL: I would be glad if the hon. Member approves of the principle. If he accepts the principle of five Unofficial Members of this Council and one other person as members of the Advisory Council, the rest is consequential. When once these are settled the consequential amendments will be given. I beg to move the amendment 3C

(1), and the hon. Member who is at arms length with us in connection with the appointment of one outsider may contest sub-clause (2).

The CHAIRMAN: I will give the hon. Member full opportunity to test his point by vote. I will now put to the Council the question "That this Council approves in principle of the amendment".

Mr. FARNUM: Just a question for information! Who will be the Chairman?

The CHAIRMAN: An Unofficial Member of this Council.

Mr. WOOLFORD: I would like to mention the name of a gentleman in this community who has never been a Member of this Council but who has given invaluable advice to the Board of Commissioners and the staff in general of the Transport and Harbours Department for years. I need only to mention his name; I am speaking of Mr. Walker of Sprotons. It would not be right to expect him with his special qualification and as a whole-time officer of his firm ever to become a Member of this Council. I cannot conceive that any hon. Member will deny the new Advisory Council the benefit of outside advice in any particular direction. Although I am upholding the elected principle I suggest that, bearing in mind the possibility of excluding men of Mr. Walker's peculiar qualification, the hon. Member may consider whether his amendment is as valuable as he thinks.

Question "That a new sub-clause 3C (1) be added" put, and agreed to.

Mr. JACOB: I find that the majority of Members of the Council are in favour of the idea that we should have this other gentleman. It would appear that he is a very special individual with a very peculiar ability. If that gentleman dies tomorrow, I do not know what would happen.

The CHAIRMAN: I have not got anybody in mind.

Mr. JACOB: I am not pressing my amendment to 3C (2). I am not taking it so far.

The CHAIRMAN: I put this sub-clause on the understanding that it will come back to the Council for final ratification with all the consequential amendments.

Clause 4 passed as amended.

Clause 5—Repeal of sections 5 and 6 of the Principal Ordinance.

The ATTORNEY-GENERAL: In consequence of what has been just decided, we will have to add section 4. I therefore move the insertion of the word "four" between the words "Sections" and "five" in the clause and marginal note.

Question put, and agreed to.

Clause 5 passed as amended.

Clause 8 — First Advisory Council.

The ATTORNEY-GENERAL: As a consequence of the acceptance of the principle which we have put in sub-clause 3C, this clause will have to be deleted. We will defer it until when we come back with the new clause.

First Schedule — Section 4.

Mr. RAHAMAN: This schedule deals with additional powers and functions of the General Manager. I think the employees want more protection. If any charge is made against them they should be properly tried before dismissal. The procedure of dismissing and retrenching employees in the Department should be the same as in the case of officers in other Departments. Some sort of machinery should be set up to ensure that.

The ATTORNEY-GENERAL: The point the hon. Nominated Member is making is a point to which I had referred in the course of the second reading. He is referring to Schedule 1 (a). I had then informed hon. Members that there were departmental orders at present existing which were approved on the 8th March, 1945, by the Governor, and they provided the procedure for disciplinary cases. I went through those in detail on the last occasion. In regard to the point which the hon. Member is raising now, it has been represented to me that there should be

some sort of appeal, but it has to be borne in mind that departmental orders deal with any matter of that sort and it is a matter for the Governor to make departmental orders so that disciplinary matters can be dealt with. The procedure cannot be properly put in the Bill. If the hon. Member reads the First Schedule he would see it begins by saying:—

"1. Subject to such Departmental Orders as may from time to time be made by the Governor, . . ."

It is not that this gives the General Manager power to dismiss straight away. He is subject to Departmental Orders. I dealt with the point in the course of the second reading.

The CHAIRMAN: I would like to tell hon. Members out of my experience in British Guiana that this is what actually happens: In any Department where discipline is required, the head of the Department is instructed by the Colonial Secretary that no person should be dismissed without his knowing what the charges are and without his having a full opportunity to answer those charges. Every person in the Service has a right of appeal to the Governor whether it is prescribed in the law or not; for after all, as citizens they have such a right of appeal and I do not think hon. Members need have any fear that this interferes with the routine method of dealing with complaints.

Mr. JACOB: What is exercising the minds of the employees of this Department is that they are not considered Civil Servants. I think that is a question which should be given further attention.

The CHAIRMAN: In the case of a pensionable Officer the question of dismissal might go as far as the Executive Council, but in the case of any other employee, as long as Government is satisfied that he is properly charged then it would be for Government to say whether the matter should be dealt with by the head of the Department, or whether the Government would deal with it.

Mr. JACOB: At the present time the General Manager is in power to dismiss

employees who are not holding pensionable posts, and these people would like to know that they have the same rights as ordinary Civil Servants in such matters. In other Departments it is not done by the heads alone.

The CHAIRMAN: In my own Department the head has a right to dismiss, but the employee has a right of appeal. Other heads who have a similar right include the Commissioner of Local Government, the head of the Yellow Fever Service and the head of the Medical Service, but I do not think the employees have anything to fear.

Mr. JACOB: What I think we should put in the Schedule is that those powers should be exercised with the advice of the Advisory Council.

The CHAIRMAN: I do not think we can put that. I think you can be perfectly satisfied that these people would not lose any of the rights they have now.

First Schedule passed.

Second Schedule—Amendments of the Transport and Harbours Ordinance, 1931.

The ATTORNEY-GENERAL: Now that we have established in principle how the Advisory Council should be formed, the amendments (1) to (17) relating to the Second Schedule would have to be deleted.

The CHAIRMAN: I suggest that we leave the Bill as it is now—up to the First Schedule—in the Committee stage, until

we get the proposed amendment to sub-clause 3B.

Bill deferred.

Council resumed.

SURTAX ON TONNAGE AND LIGHT DUES

The Standing Rules and Orders having been suspended, the COLONIAL TREASURER moved the following motion standing in his name :—

“That, with reference to the Officer Administering the Government’s Message No. 12 dated 9th November, 1946, this Council approves of a surtax of fifteen per centum being levied on the amount of tonnage and light dues which shall be collected during the year 1947 under section 18 of the Transport and Harbours Ordinance, 1931.”

The COLONIAL TREASURER: I would explain that the amount of revenue yielded by this tax annually is around \$35,000 and the authority under which the tax is collected annually expires at the end of this year. Government, at the present juncture, cannot afford to lose this revenue and I invite hon. Members of this Council to approve of the surtax being collected for 1947.

Mr. PERCY WIGHT seconded.

Motion put and agreed to.

The PRESIDENT: There being no other item on the Order Paper, the Council stands adjourned until Thursday next, November 21, at 2 p.m.