

LEGISLATIVE COUNCIL.

Tuesday, 19th 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. Smellic (Nominated Unofficial Member).

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

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

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

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

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

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

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

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

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

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

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

MINUTES.

The minutes of the meeting of the Council held on the 15th April, as printed and circulated, were confirmed.

GOVERNMENT NOTICES.

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

A Bill to make provision for the regulation and use of motor vehicles. (*The Colonial Secretary*).

A Bill to amend the law with respect to the administration of Criminal Justice and otherwise to amend the Criminal Law. (*The Attorney-General*).

PETITION.

Mr. WEBBER laid on the table a petition from Rufus A. Alleyne praying for an increased gratuity or a compassionate allowance in respect of his service in the Transport and Harbours Department.

ORDER OF THE DAY.

SAFFON TRUST BILL.

THE ATTORNEY-GENERAL (Mr. Hector Josephs): I move that "A Bill to amend the De Saffon Trust Ordinance with respect to the accounting by the Trustees" be read the third time.

Dr. KELLY seconded.

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

Bill read the third time.

SISNETT PENSION BILL. ²

Mr. MILLARD (Colonial Treasurer): I move that "A Bill to apply the provisions of section twenty of the Pensions Ordinance, Cap. 204, to Sir H. K. M. Sissett" be read the third time.

Professor DASH seconded.

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

Bill read the third time.

THE LEGITIMACY BILL.

The Council resolved itself into Committee and resumed consideration of "A Bill to amend the law relating to children born out of wedlock."

THE ATTORNEY-GENERAL: When this Bill was last in Committee we were dealing with clause 5 and further consideration was deferred in order to consider the effect of the clause with respect to the existing law on the subject. I have gone into the matter very carefully, sir, and have come to the conclusion that the provision is restrictive of the rights which are conferred by the British Guiana Civil Law Ordinance on illegitimate children, particularly with regard to the descent of property in intestacy. Section 6 (1) (h) of that law provides that "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." It will be observed that so far as legitimised children are concerned their rights go back to the date of their birth. The clause appears to be restrictive of those rights. I have therefore come to the conclusion that it would be best to strike out the whole clause and substitute a new clause, which will run thus:—

5. Subject to the provisions of this Ordinance, a legitimated person and his spouse, children or more remote issue shall be entitled to take any interest in the estate of an intestate or under any disposition in like manner as if the legitimated person had been born legitimate.

I think that removes the objections in

sub-clause (1) and most certainly the objections which were raised with regard to sub-clause (2). In the circumstances I do not think that sub-clause (3) will be necessary. I therefore move that clause 5 be struck out and the new clause 5 be substituted.

Question put, and agreed to.

Clause 6—Succession on intestacy of legitimated persons and their issue.

Mr. CRANE: We are making provision now enabling a legitimated person to take the same interest as if he had been born legitimate. The moment you set out to say specifically that the legitimated child shall take the same interest there is a suggestion that the illegitimate child, so far as the mother is concerned, does not take those interests, and I do not like to give rise to any doubt at all.

THE ATTORNEY-GENERAL: I quite appreciate the apprehension of the hon. Member, but I think the case he refers to is covered by clause 11 (1), which makes specific provision for an illegitimate child and the mother of an illegitimate child to succeed each on the intestacy of the other.

Clause 11—Right of illegitimate child and mother of illegitimate child to succeed on intestacy of the other.

Mr. ELEAZAR: The Roman-Dutch law permitted a man to legitimise his child. I see no provision here making that possible. Is there anything giving a father power to legitimise a child other than by marrying the mother? I should like to know if such a case can be met.

THE ATTORNEY-GENERAL: It is a matter entirely for this Legislature to say whether it will pass an Ordinance for that purpose. There are occasions where enactments have been passed specifically for that purpose, therefore it is very properly not provided for in this Bill.

Mr. ELEAZAR: There is another point. Under the Roman-Dutch law all children of a mother are legitimate and would inherit. In this Bill if an illegitimate child dies and the mother is alive the mother will take. What would be the position of the brothers and sisters of an illegitimate child all children of the same mother who is not alive?

Mr. CRANE: Sub-clause (2) is very necessary because we find in practice cases arising in which although an illegitimate child may succeed its mother where the child dies the mother cannot. We had a recent case where we had to apply to Your Excellency to waive the escheat and the Attorney-General then advised that escheat could not be made only in favour of the mother but in favour of the sister. There was one case where a man died abroad leaving his mother and the escheat went to the Official Receiver. Other cases have occurred of illegitimate children dying and the mother could not get the estate. What would be the position of the brothers and sisters? We all desire that it should apply to brothers and sisters if there is no mother.

Mr. WEBBER: I wish to congratulate Government on introducing this clause. My experience in another case was that the mother of an illegitimate child was disinherited under the law but his two sisters inherited the estate. The sisters got the money and, worse of all, they gave the mother nothing.

THE ATTORNEY-GENERAL: As I understand it the point is that the uterine children of the mother should stand in the same position as if they were legitimate brothers and sisters. At present it is not the law and this Bill does not carry it there. First of all, the principle should be approved, and then sub-clause (2) would require recasting. I do not know whether prior to the passing of the Civil Law Ordinance, 1917, these children succeeded.

Mr. CRANE: They did succeed prior to that law, and there was a great stir when it was found that the law had been changed.

THE ATTORNEY-GENERAL: I ask that this particular sub-clause be deferred and I will prepare a draft. I think it will be on these lines: that the whole of the estate will first go to the mother and failing the mother then to the uterine brothers and sisters. I think that would cover it.

Mr. CRANE: That would meet my point.

Clause deferred accordingly.

Mr. CRANE: When clause 7 was

reached it slipped me to point out something. Clause 7 was rightly provided in view of sub-clause (2) of clause 3. That has now been altered and it seems necessary that a consequential amendment should be made in clause 7. This provision seems to have been contemplating the existence of clause 3 (2).

THE ATTORNEY-GENERAL: The question of status is in all legislation I am aware of affected by domicile, and clause 3 (1) makes it clear that the father of the illegitimate person was or is at the date of the marriage domiciled in British Guiana. It has no bearing on sub-clause (2), which is gone, but it would have some bearing on sub-clause (1). That being so it is necessary to preserve that position.

Mr. CRANE: We are only providing in this clause for persons domiciled in the Colony. I submit that the case referred to could not fall within this clause, viz., a person domiciled elsewhere than in British Guiana.

THE ATTORNEY-GENERAL: Perhaps the instance I gave does not apply. Let us take the case of a man resident in this Colony for many years but not domiciled here. Supposing he was domiciled in England or some other place in which legitimation by marriage does not hold good. If he had a child by a woman before marriage this law would not legitimise that child because we are only dealing with people domiciled here. Clause 7 is dealing with the interest in property and the object of it is that it should not clash with the law of a country where the person is domiciled. That is a safeguard which I think it is desirable to retain.

Mr. CRANE: If it is a matter of safeguard I have no objection to its being retained, but I ask the learned Attorney-General to consider earnestly, while the Bill is held up, whether clause 10 is not *ultra vires*. Clause 10 raises an important question of international law in saying that the child of a person domiciled elsewhere shall be recognised. The power of this House is to deal with persons domiciled in British Guiana and we cannot legislate for persons domiciled elsewhere.

THE ATTORNEY-GENERAL: The object of clause 10 is to get over the deci

sions of English Courts, which do not recognise the legitimacy in England of people who are legitimate elsewhere, as in Scotland or France. The object is to give their children who are legitimate by the law of the country of their parents domicile the same status, otherwise they would not be entitled to escheat in this country. In other words, the object is to recognise the law of their own country which legitimates them.

The Council resumed, clause 11 (2) being deferred for further consideration.

DECEASED PERSONS ESTATES' BILL.

THE ATTORNEY-GENERAL: I move the second reading 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." The amendments deal with two matters with regard to the Guardians Fund. The first amendment deals with section 26 and it brings into line what the law really ought to be and generally is elsewhere. Probate shall not be granted where a caveat is entered until that caveat shall be cleared off. The other provision deals with the substitution, in the administration of the Guardians Fund, of the Public Trustee for the Registrar. The object is to remove the Registrar from the ministerial functions he performs and to cast the duty on the Public Trustee, and that is done by a new clause 54. The next amendment applies to section 45, which provides that "every executor and administrator shall administer and distribute the estate which he is appointed to administer according to law and the provisions of any valid will relating to that estate and file with the Registrar a full and true account, verified by affidavit and supported by vouchers, of the administration and distribution of the estate." There is no provision requiring any notice of the filing of accounts by an executor. All who have experience in these matters will realise that in the protection of beneficiaries under the wills of testators it is right that they should have some proper means of knowing what the accounts are. There are a large number of cases where no accounts are filed by executors and it is difficult for the beneficiaries to know what happens to the estate. The beneficiaries might bring an

action for the rendering of accounts of the administration of the estate, but lawyers know that is a very costly and lengthy proceeding. Many of the people interested are without the means to bring such actions and have the accounts investigated, and many of them are deprived of their interest in property which they ought to have simply because they have not the means of checking it. This change is in line with what exists in several other places. It casts a duty on the executor as well as the administrator of an estate to file the accounts with the Registrar and to give notice that he has filed an account to every creditor, beneficiary and other person interested in the estate. The difficulty in our present law is that this obligation is cast upon the administrator but for some reason it has never been put on the executor. It is not going to cost an executor or administrator anything because the charges will very properly come out of the estate. The Bill is in the interest of the administration of estates and in the interest of beneficiaries.

Mr. CRANE: I agree that certain clauses of this Bill are necessary for the proper working of the Deceased Persons Estates' Administration Ordinance, but I shall restrict my remarks to the attempt to go back on what has been done by the Legislature some years ago. I am dealing only with the question which was stressed by the mover of the Bill, *viz.*, that executors should be placed in exactly the same position as administrators in regard to the filing of accounts. The suggestion that an executor cannot be called upon to account is absolutely untenable. Unless a testator pretty clearly relieves him of that duty the Court would not allow an executor to enjoy that immunity. There is a substantial legal difference between the methods of treating an executor and treating an administrator. An administrator is an officer of the Court and is appointed by the Court. As an officer of the Court he must account to the Court every year and show what he has done with the estate. The Court has nothing to do with the appointment of an executor, and while it is true that he must not be allowed to run rampant with the estate, he is not in the same position as a man who is appointed by the Court. That is the distinction. But lest it should appear to lay Members of the House that execu-

tors are given a roving commission to dissipate the estate and have no liability to account, let me say that there are opportunities for beneficiaries to obtain knowledge of how the accounts are going. Apart from the question of equity, there are elaborate, stringent and well defined rules of Court dealing with the question of accounts, and executors are brought under them every day. It is said that solicitude for the poor justifies a measure of this kind. The mover of the motion has been longer acquainted with those rules than I am. He could not have forgotten the Poor Persons Rules under which matters affecting the poor are dealt with *in forma pauperis*. Mere inability to pay a lawyer would not preclude people from getting the benefit of those principles and those rules. The first Ordinance had a provision for executors to file accounts but it was found to throw a good deal of extra work on the Deeds Registry and this House repealed it.

The Bill does not seem to have in view any object for the filing of accounts as by the repeal of section 47 of the Ordinance the examination of accounts by the Accountant of Court would no longer exist. You will be requiring executors to file accounts of every petty estate and there will be no examination of those accounts, but just the formality of putting them in and for no purpose. There is no public demand for any amendment such as this. The balance of convenience is on the side of this amendment not being made, and Government has given no sufficient reason why it is going back and interfering with a matter of this kind. The hon. Member said these provisions appear in other countries. There may be very good reasons for that. If those countries have no principles of equity prevailing they must of necessity require statutory provisions for the rendering and taking of these accounts. But I oppose this Bill not only because it is unnecessary but because it is going to create a situation in a Department in which more labour than is necessary would be thrown on the staff and perhaps necessitate a staff which would not be required but for this provision. Not only have these accounts to be filed but every creditor, beneficiary or other person interested in an estate must be sent a notice through the post setting forth the names and postal

addresses of the persons to whom he intends to forward a notice. We are creating a State Department for administering estates. As long as the law relating to executors is what it is we do not need this hybrid provision which is opposed to the interest of the public. It is not protecting the public but creating a burden on the public. All the other clauses have my approval.

Mr. ELEAZAR: Sometimes I am puzzled to find out who is responsible when certain laws are before this House. People are not going to accept the burden imposed by this Bill because it entails trouble. You are imposing a burden on executors with the possibility of their refusing to act because of this unnecessary provision. Who will want an appointment as executor when he is under this obligation? That was the reason why it was repealed. And why re-enact it when there is no necessity for it? This Colony is teeming with bad laws, some oppressive, some annoying and some worse than that. Government would be well advised to leave this clause out of the Bill.

Mr. DIAS: Before Government yields to the appeal to withdraw the clause dealing with the duties of an executor I should like to express my own opinion on what I consider would be better advice if Government retain what is contemplated to be provided for in this Bill. Two or three years ago this provision was repealed, not because it was an objectionable feature of the Ordinance but more on the ground of economy, because the filing of accounts in those days involved certain duties on the Registrar and his Department which necessitated the employment of persons qualified to perform those duties. The duty of executors of filing accounts having been removed it lessened the work, because the only duty that remained was to examine the accounts of administrators. Anyone in practice must know that the duties of investigating these accounts and listening to objections very often involved time that the Department could ill afford. It was for that reason the provision was repealed. The intention, as I see it from the Bill, is not to re-institute that procedure but rather to place the obligation on the executor merely to file his accounts, give notice to the parties interested, and thereby give those parties an opportunity

to examine the accounts and take any action if they are not satisfied. A strong point in favour of carrying this measure is that one seldom hears of an action against an administrator to account for his dealings with an estate whereas he hears frequently of actions against executors. The reason for that is that an administrator has to file his accounts and they are investigated and dealt with by the Registrar and very often settled by him. The hon. Member for Demerara River said the filing of accounts would not protect the public. In a sense he is right, but it would certainly assist the public if it does not protect them. It would give assistance which might very often save the expense of litigation. The intention of this Bill is to place the obligation on an executor to file his accounts in the Registrar's Office. I maintain that it is a very wise provision to be introduced as without it there would be nothing to compel an executor to furnish them to beneficiaries who would have to take proceedings by way of an action. These proceedings are not cheap by any means but pretty expensive, and if the executor renders accounts there may be no necessity to go to law. If there is no obligation on the executor to file his accounts and he chooses to keep the beneficiary as far away as possible, the beneficiary is driven into a Court of law to compel the executor to place at his disposal all the information which it is his duty to disclose and to close the estate as soon as possible. There is no distinction between an executor and an administrator. The acts of administration are exactly the same, and there is no reason why this provision should not be re-enacted when all that is required is the filing of the accounts. An executor is remunerated for the services he renders to the estate and it is his duty to account for his administration. It is asking him to do no more than his obvious duty and would save litigation.

Mr. SEERAM: I am very much in sympathy with the provision for the filing of accounts by executors, as accounts are filed by administrators at the present time, chiefly because there cannot be too many safeguards of the interests of beneficiaries under wills. My own experience is that a number of cases in the Supreme Court might not have been brought if there had been an obligation on executors to file

accounts. A man appoints his best friend as his executor but after his death that best friend does not always remain the friend he was during the lifetime of the testator. I would be failing in my duty if I do not join in asking Government to consider the estates of East Indians. It is in the cases of East Indians chiefly that we find maladministration of estates by executors, and I urge in their interest that accounts should be filed by executors with certain modifications. An exception can be made in the case of a man leaving his wife legatee and executrix, and estates of a value below £50 may also be exempted from filing accounts. Recently there has been an increase in the fees for filing accounts, and if there is to be this legislation there should be a scale of fees according to the value of an estate.

The Council adjourned for the luncheon interval.

THE ATTORNEY-GENERAL: Much that has been said in opposition to the Bill has been said in favour of the executor. The position is that the executor is a person with a strong arm and the person we wish to protect is the beneficiary or the creditor. The executor has possession of the estate and it is our duty to secure, so far as one can possibly do so, that the persons who are to benefit should be able to enjoy the property. The system I am told is not new to this Colony, and we have heard reasons why the change was made. There has come under my notice a great many instances where people have suffered from wrongs done because there were no means of bringing an executor to book except by litigation. It would be surprising to know the number of people who write to the Attorney-General asking him to help to set right various wrongs, real or fancied, and I do know from investigation and real knowledge that many of those cases have arisen from the misdeeds of executors. I venture to reiterate the arguments of the hon. Nominated Member. In some countries an executor has to give a bond for the due and proper administration of the estate. The difficulty is not met by the provision for litigation by poor persons. It is quite true that if on complaint made and on investigation a *prima facie* case appears to be made out a poor person may get free of cost the services of a barrister and solicitor, but that

in itself is not enough. Sometimes these matters need investigation by accountants or skilled persons and money is required to employ the necessary assistance to make the necessary investigation, and what we are endeavouring to do is to conserve the property for the people who ought to benefit by it. Litigation as a rule costs a lot of money and involves the dissipation or disappearance of either the whole or a good deal of the property. Even if one has the means or the opportunity of filing an administration action it does not follow that he would be able to recover the proceeds of the estate, and we are endeavouring to find means to prevent that happening. In Australia and some West Indian Colonies it is not confined to executors and administrators but is extended to trustees, and from my experience it does not involve any very great labour and the fear of the hon. Member for Berbice River that people would not accept the office of executor is groundless. When one accepts office he undertakes to carry out legal obligations incidental thereto, and if the filing of accounts is also made a legal obligation it follows that an executor would be legally bound to file his accounts. It is not sufficient that the testator himself may have had confidence in his truly beloved friend when his truly beloved friend may not be really the truly beloved friend he is supposed to be. Nor is it enough to cite an extreme case and say that because there might be a possibility of hardship in that instance a measure which is calculated to benefit the community or a substantial portion of the community should not be put into action.

Reference has been made to small estates of poor people. No important accounts are involved in those instances. In very big estates a much more complicated system of accounting would be necessary, but I should imagine that the executor himself would welcome such a change because one never knows as executor or trustee what views certain beneficiaries may take. A man may have done his very best in the administration of an estate and devoted his time and attention to it beyond any remuneration which he is likely to obtain, and in the end some beneficiary imagining that he has a grievance can by process of law be very vexatious. The filing of accounts of this kind would go a long way to avoid

ties of that sort. The hon. Member for Eastern Demerara has suggested in regard to small estates there need be no account when the executrix is the sole legatee. At first blush I thought he was correct there, but it must be remembered that there might be creditors of the estate, and the creditors are entitled to the same degree of protection as legatees. In cases such as that an account is necessary so as to protect creditors. If there are no creditors the executrix would be entitled to the estate after paying the appropriate amount of duty, but there may be large outstanding creditors who ought to know what is being done with the estate. It has also been suggested that in the case of estates of a value below £50 there need be no account. In the case of an administrator he would have to file an account to show his intrusions or dealings. It is the small people really, as the hon. Member himself pointed out, who need protection most, and they are entitled to the information readily without having to demand it or to wait indefinitely for it and perhaps not get it at all. There will therefore be a distinct advantage in either case of filing an account. So far as the fees are concerned that is a matter that might be considered as to whether it would not be more advantageous to grade them.

Question put and agreed to.

Bill read the second time.

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

Mr. SEERAM: I propose that we make provision for the exception I suggested by inserting as a paragraph to clause 5: "Provided that in the case where the executor or executrix is the sole legatee and the estate is not indebted no account shall be filed."

Mr. CRANE: Who is going to determine whether or not an estate is indebted? There may be a disputed debt. It is an impracticable amendment. Whether an estate is not indebted is a matter to be ascertained from the accounts and you cannot allow that to be in the possession of the executrix herself.

THE ATTORNEY-GENERAL: I agree with the hon. Member entirely about the

difficulty of finding out whether an estate is indebted or not. One applies for probate or letters of administration at the earliest possible opportunity and it is very unlikely that an executor or administrator will then have full knowledge of the debts of the deceased. Those are matters which come to him afterwards. I agree that it would not be practicable.

Amendment negatived without a division.

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*).

EDUCATION BILL.

Major BAIN GRAY (Director of Education): I move the second reading of "A Bill to amend the law relating to the employment of children of school age." This Bill does not introduce any new principle into the law of the Colony. It applies the existing principles and extends them slightly in one direction. The present law prohibits the employment of any child under nine years of age at any time and prohibits the employment of children upwards of nine years if they are liable to attend school during school hours. The second clause of the Bill as printed seeks to remedy a defect in the present law. The law requires children in Georgetown and New Amsterdam to attend school until they are fourteen years of age, but there is no prohibition of employment of a child over twelve years of age, so that a child's parent may be prosecuted for the child not going to school but the employer, who is the cause of the child's absence, no steps can be taken against. This clause seeks to make the age of employment the same age for school attendance by raising twelve years of age to fourteen years of age so that the two parts of the law shall be consistent. The third clause proposes to put Buxton on the same footing as Georgetown and New Amsterdam as regards school attendance. That has been a matter of discussion and consideration for some time, and it is considered that the position of Buxton in regard to general conditions in the Colony justifies it being put on the same level as Georgetown and

New Amsterdam in this respect. An additional clause seeks to put right a defect which has crept into the new edition of the laws. An amendment was made to the law in 1927 by which a subsection was repealed, but it appears in the new edition and it is necessary again to repeal it.

Mr. DIAS seconded.

Mr. SEERAM: How many prosecutions there were in country districts of persons who employed children below the age of nine years last year?

Major BAIN GRAY: There were no prosecutions. Cases were dealt with by warning of an employer who was reported to the Department.

Mr. SEERAM: I appeal to Government to see that the provisions of this Bill are put into effect. The Indian community do their best to educate their children but an impediment in the way is the employment of children largely on sugar estates and some of the adjoining villages. I appeal to Government that the Education Department and its officers be given specific instructions to see that children under nine years of age in the country districts are not employed. That would have the effect of getting East Indian children at school. I am told that the Indian community will do all in their power to assist attendance of East Indian children at school and endeavour to influence them to become more literary.

Dr. SINGH: I am very pleased to see such a Bill introduced. This legislation, in my opinion, is long overdue. Instead of children going to school and taking advantage of active school life they are encouraged to work. Not only do they lose the pleasures of school and child life but many of them lose their natural development, and I hope that this Bill when passed will be rigorously enforced.

Mr. WEBBER: I support with certain reservations the principle of the Bill. What I want to hear from Government is a pronouncement of its intention to enforce school attendance of East Indian female children. East Indians as a general rule are very anxious to have these privileges, but the moment you attempt to force literacy on that section of the community they lift up their hands in horror, and

Government weak-kneed is afraid to enforce education of the girls. No people can be literate or progressive where the women are ignorant and illiterate. East Indians form the greatest blot on the literary statistics of the Colony. I am sorry that my efforts to induce Government to give those figures in detail in the Census statistics have not borne fruit. A large percentage of illiteracy is due to the number of illiterate East Indian women even in very good families.

Mr. SEERAM : When I spoke I did not mean to convey that Government should enforce the law mainly in respect of boys. Both boys and girls should be given the best advantage of education and pressure should be brought on parents to educate the girls just as much as the boys. There is greater need for the education of girls than of boys.

Dr. SINGH : So long as the Indian community remain orthodox it would be very difficult to get children attending the schools.

Mr. SEAFORD : Nobody is going to object to education but, as so often happens in this Colony, there is no proper distinction drawn between tuition and education. When education is spoken of it refers to learning English, French and such like things. We are only too willing and glad to see education taught if proper education is taught. What is wanted in a country where agriculture is predominant is to inculcate an agricultural sense, and there is no reason why it should not be combined with general education. The hon. Member for Eastern Demerara referred to sugar estates employing children. I say "Physician, heal thyself," because if the hon. Member would look around he would find very many more East Indian children working in the rice fields than on any sugar estate.

Major BAIN GRAY : I gather from the speeches made that there is no opposition to the principle of the Bill but rather that the Bill might have gone a bit further. We have endeavoured from time to time to deal as far as we can with the question of child labour on the estates, and I think I can say that its objectionable and undesirable aspects are better than they used to be. The question of the education of

East Indian girls obviously bristles with difficulties, and Government relies on steady progress of East Indians themselves rather than on a complete change of policy and endeavouring to force it on the East Indian community without regard to their views on the subject. We are making some definite progress there because many schools show a substantial proportion of girls in the upper standards, and I think that is due to the fact that we are now getting a second generation of East Indian girls. Girls are going to school now whose mothers were in the schools years ago and we must rely for real progress on the change taking place amongst the East Indians themselves. We all share the view that the education of girls is a matter of prime importance to this Colony. Anything the Education Department can do to encourage it without attempting premature progress will be done, but it is like a good deal of social legislation and must have the support of the people affected before we can put it into force. A large proportion of the people at Buxton already send their children to school over the age of twelve, so here at least we have evidence of definite support of public opinion in regard to this aspect of the Bill.

Question put, and agreed to.

Bill read the second time.

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

Clause 1—Short title.

THE ATTORNEY-GENERAL : I move that this clause be amended by the insertion of the words "hereinafter referred to as the Principal Ordinance" after the word "Ordinance" in the second line.

Question put, and agreed to.

Clause 2—Age of children who may be employed.

Mr. WEBBER : In Georgetown, New Amsterdam or Buxton no child between the age of nine and fourteen years may be employed on school days during school hours. In any other place the age is between nine and twelve years, but it does not say anything about school hours. Apparently in Georgetown, New Amsterdam and Buxton you can employ them out of

school hours but in any other place you cannot employ them even out of school hours.

Major BAIN GRAY: The words "or employ on school days, during school hours" are meant to apply to everything that comes after.

THE CHAIRMAN: Is the Director of Education satisfied with the grammar and punctuation of the clause? (Laughter).

Major BAIN GRAY: I have always been told, sir, that punctuation is of no importance. The question is whether the Attorney-General is satisfied that those words govern what follows.

THE ATTORNEY-GENERAL: The best thing is not to have any punctuation at all. I suggest that the words "on school days, during school hours" in the third line be deleted and that after the word "Buxton" in the fourth line and "place" in the sixth line the words "on school days during school hours" be inserted.

Question put, and agreed to.

Major BAIN GRAY: I move the insertion as clause 2 of the following:—

Section fourteen of the Principal Ordinance is hereby amended by the deletion of subsections (4) and (5).

Question put, and agreed to.

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 (*Major Bain Gray*).

AGRICULTURAL SUPERINTENDENT.

Professor DASH (Director of Agriculture): I beg to move:—

That, with reference to Governor's Message No. 10 of the 29th of March, 1932, this Council approves of the post of Assistant Agricultural Superintendent, Demerara, which carries a salary of \$1,680—\$120—\$2,160 being placed on the Fixed Establishment.

The facts are clearly set out in the Message, which has been circulated. Mr. Huggins desires to enter Cornell University, in the United States of America, to

take a post-graduate course in Agricultural Economics and Marketing with a view to applying for a Commonwealth Scholarship. This course will be taken entirely at his own expense. Mr. Huggins is a graduate of the Imperial College of Tropical Agriculture, Trinidad, has served for more than four years in the Agricultural Department, and his services have been satisfactory and useful. He is deserving of being placed on the Fixed Establishment. If Mr. Huggins' post is placed on the Fixed Establishment he would be eligible for a term of leave sufficiently long to enable him to enter the University and take the course.

Mr. MILLARD seconded.

Mr. DE AGUIAR: I regret that I cannot support the motion. The Director of Agriculture has endeavoured to make out a case in favour of this officer being placed on the Fixed Establishment, but I think it will be admitted that he has failed in its essentials. The only point he brought out was that if the officer is placed on the Fixed Establishment he would be entitled to longer leave. I do not think that is sufficient reason for placing the officer on the Fixed Establishment. There is no doubt that even in the Director's own Department there are other officers who can justly claim to be put on the Fixed Establishment. Why should we place an officer on the Fixed Establishment to enable him to pass an examination? What advantage is this Colony going to gain when this officer possesses the necessary qualification? Have we no officer who possesses a similar qualification? If we have why the Department does not take advantage of that officer's services? Let us take the other view. Supposing this officer is successful in his examination what guarantee has this Colony got that he will return and give us the benefit of his experience?

Professor DASH: One of the advantages of the Scholarship is that the officer would return to the service of the Empire.

Mr. DE AGUIAR: That is no guarantee that the officer will be sent back to this Colony. In fact, there is nothing to prevent him being promoted elsewhere seeing that he is so ably sponsored at the present time. The main point is that this Colony should not increase its pension

commitments which at the present time are exceedingly heavy. Apart from any other reason we cannot afford to increase pension commitments, and I submit this is not the time for the introduction of a motion of this nature.

MR. CRANE: I regret that on this occasion I cannot see with my colleague in this matter. I suppose that there must be times when we must differ on questions of policy. I am supporting this case because a similar case came before the House when we were considering the Annual Estimates. It was the case of the Agricultural Superintendent for Berbice. In reply to a question by the hon. Mr. Seaford in respect of that officer, who was employed in exactly the same way as this one, the Colonial Secretary assured the House that it would have been a breach of faith if Government did not put that officer on the Fixed Establishment. I then took up precisely the same position as the hon. Member for Central Demerara has taken up to-day. I am not going to make fish of one and fowl of another. The hon. Member is not more jealous of the position of the Pension List than I am. If this officer is going to be of use to the Colony—and the intention is to enable him to get the necessary leave to go through the prescribed course—this House ought to have the grace to concede him that position. This will not be the last straw which will break the camel's back, and I ask my colleagues not to oppose this motion. I think it is a fitting case for our support. This officer is a West Indian who has been to the Imperial College of Tropical Agriculture and attained a standard equal to the standard reached by officers who have been brought from further afield and he ought to be encouraged. We ought to encourage men from this and other Colonies to attain the standard of education in agriculture which he has attained. I probably would not have supported him on that ground alone, but that is an additional reason which should touch the pride of Elected Members at least.

MR. WEBBER: If I were guided by my heart in this instance I would be supporting the last speaker and Government in this matter. I confess that I have had to search my mind considerably to decide what line of action to take. My heart pleads with

me for this officer because of clannishness and of every instinct that teaches me to help those who are underneath, but when I come to analyse the proposal with reason and ask my head to take charge of the case I am bound to confess that Government has not made out a case in this instance. What is worse, Government does not play fair in these cases. And that is why I range myself in opposition to this case. If an officer has served in a Department whose chief is enthusiastic and is high in the counsels of Government that officer gets all the loaves and fishes, but if another officer has the misfortune to serve under a Head of Department who is not so enthusiastic or not so influential he can have plain—

THE PRESIDENT: The hon. Member is not supporting his remarks in any way. He is merely making a statement, and I do not think a statement can be made in this manner.

MR. WEBBER: I was hoping to avoid naming instances, but if the Chair desire I will mention them. There are instances far more deserving than this one that have been brought up either by Elected Members or Heads of Departments. The Electives are aware of cases of highly placed and deserving officers whose service has been four or five times the length of this officer, but Government has always raised the plea that the Pension List is overburdened and no more could be added to it although the justice of the claim of the officers was recognised. We have had to accept Government's ruling. No Department has been favoured as the Department of Agriculture. The Department of Agriculture is cheating all the other Services of all the benefits by railroading its officers on the Fixed Establishment on the ground of moral claim.

THE PRESIDENT: I interrupt the hon. Member on a point of explanation. It is quite true that one of the previous speakers pointed out that there was another case in which it was stated that the officer in question had a moral claim. That moral claim was not established by the Department of Agriculture but was established for the officer by the fact that he was appointed by the Secretary of State on an agreement which entitled him after a certain period to be put on the Fixed Establishment. This is a case where a man appointed here has been recommended for

a concession on similar lines, but there is no moral claim or any prior agreement in his case. That is the difference.

Mr. WEBBER: I am pointing out to you, sir, that there are other cases. One does not want to be unjust to this officer and because other officers have not been done justice to deny him of benefit. On the other hand, has a case been made out why this officer should be put on the Fixed Establishment? What is the argument put forward: in order to enable him to do something better put him on the Fixed Establishment, and saddle the taxpayer with a pension in order that he should take the chance of winning a scholarship. It would be cheaper to give him the extra months' leave than to put him on the Fixed Establishment. We are taking a chance. When the officer has taken the post-graduate course he has to apply for a scholarship, which he might or might not get. Suppose he gets the scholarship and the Director of Agriculture of Ceylon telegraphs him to go to Ceylon. Have we any guarantee that he is going to serve this Colony for a month or a single day?

Professor DASH: There is one point I should like to explain. If Mr. Huggins is appointed to the Fixed Establishment it enables him to qualify for the scholarship if he does not get on the Fixed Establishment he cannot qualify for the scholarship. The Message clearly states that the officer has given good and useful service, and I did not want to burden hon. Members by reading the Message and merely outlined the position.

Mr. WEBBER: If he goes on the Fixed Establishment how much leave would he get?

Professor DASH: The point is that he cannot take this course unless he gets on the Fixed Establishment. The term of leave is dependent on officers on the Fixed Establishment, and in the case of officers taking a special course the Secretary of State has advised that technical officers in any branch of the Service should be given every opportunity for taking a post-graduate course. The Commonwealth Fund enables that to be done and every encouragement should be given.

The PRESIDENT: The question is, what is the position in regard to leave now.

Can he get three, four or five months? If he is on the Fixed Establishment would he get more than that at the present time?

Professor DASH: As far as I know now he cannot get longer than six months.

THE PRESIDENT: And how much leave has he applied for?

Professor DASH: He has not decided how much leave he is applying for because it depends on his getting on the Fixed Establishment before he can decide whether he will take the course or not.

Mr. WEBBER: What I am going to suggest is that the officer should be given his leave and the extra time. Have we any guarantee that he will get a scholarship, and will this alone make him eligible? I have never hesitated to give justice to an officer or denied him justice simply because it will burden the taxpayer, but the officer is not qualified by four years' service to be put on the Fixed Establishment. I do not think a case has been made out, and I feel that Government is not just to other officers. Let us be just to other officers before we are generous. I think Mr. Huggins is a very praiseworthy officer and I wish nothing I say to take away from his reputation as a good and deserving officer. All these things I concede and it is a matter of regret that I should stand in his way of promotion, but at the same time I would not be doing my duty to other officers.

Mr. SEERAM: I am going to support the motion for many reasons, but would point out that there are many other officers with better claims who are overlooked. One reason for supporting the motion is that many months ago we were asked to put an officer of this Department on the Fixed Establishment with less claim than this officer. That precedent having been created is a reason why this motion should be carried. There are officers in this Department with better claims to be put on the Fixed Establishment. I am going to ask the Director for a list of officers with ten years' service who have been overlooked. I am going to give this officer an opportunity to achieve success, and when he has done so I hope his services will be retained in this Colony. We have had men trained in Trinidad at the expense of this Colony and when they

return they have not been able to get employment here. They have had to go back to Trinidad to seek employment although they were willing to accept 50 or 60 per cent. less salary than is paid in Trinidad. I support the motion in the hope that Government will look into other cases with more just claims.

Mr. CANNON: I do not follow the logic of this application. The Director of Agriculture led me to think that it is impossible for this officer to sit for the examination unless he is put on the Fixed Establishment. If that is the position I suggest that he seek employment somewhere else where he would be put on the Fixed Establishment and be able to sit for the examination. I am not going to increase pension rights by one halfpenny more than I am driven to, nor am I prepared to increase taxation by one penny that I can avoid.

Mr. SEAFORD: The hon. Member for Demerara River referred to my having asked a question when the case of the Agricultural Superintendent in Berbice came up. From Government's reply I understood that that officer came out under a contract, therefore I voted in favour of it, because I could not see Government repudiate an obligation. Had that not been the case I would certainly have voted against it. This case is quite different. There is no obligation on the part of Government to put this officer on the Fixed Establishment, and in view of the financial position of the Colony and realising what it means to be adding to pensions I regret that I am unable to vote for the motion. If any hardship is being done the officer and the Director of Agriculture thinks he has got a chance of getting the scholarship, I would be more in favour of agreeing to the suggestion that two months extra leave be given to allow him to take up the course.

THE PRESIDENT: Perhaps before the Director of Agriculture replies I should say that Government is responsible for having the Message sent to the Council, but I think it ought to be perfectly clear in our minds what the position is. We don't want to add to the Pension List. That is obvious. The case of this young man, as I understand it, is that he cannot

get this scholarship unless he happens to be on the Fixed Establishment, and he has been promised a scholarship if he is on the Fixed Establishment. I will ask the Director to explain whether that is so or not, but that is how it is understood by me. The second question is: Will this officer be placed on the Fixed Establishment in the future or not? And is he a senior officer that would be placed on the Fixed Establishment? I myself would like to know if this is a senior officer below the line who would be recommended to be put on the Fixed Establishment. I ask the Director of Agriculture to explain the position somewhat further.

Professor DASH: In the first place I should like to point out that we seldom get the opportunity to assist an officer who wants to help himself and in so doing also to help the Colony, because this course which Mr. Huggins proposes to take I have some knowledge of. I consider it a very excellent course, and if the officer is prepared at his own expense to take it let us assist him to get a scholarship to enable him to take it. There is no question that this officer is deserving of being put on the Fixed Establishment, and this is a favourable opportunity to do it. In doing so you help him to achieve another object: to qualify for more important work in this Colony. He has only to apply for this scholarship. There is no guarantee that he will get it, but there is every possibility that he will get it, and he is not eligible for it unless he is on the Fixed Establishment.

Mr. DE AGUIAR: Is this scholarship a competitive one?

Professor DASH: I have the particulars of this Fellowship in my hands. The Fellowship is awarded from the Commonwealth Fund of New York provided by the late Mrs. Stephen V. Harkness, which awards Fellowships that are tenable only at American Universities, the object being to promote international opportunities for education and travel. In the selection of candidates who must be of British descent, the Committee of Award, of which the Prince of Wales is honorary Chairman, gives primary consideration to the ability and experience of the worker, and to the scheme of advanced study to be carried out in the U.S.A. This Fellowship will, therefore, permit the officer to study some

of the most highly organised types of agricultural marketing in the world, without any additional cost to the Colony. Mr. Huggins cannot be regarded as being on the permanent staff unless he is on the Fixed Establishment. The point has been raised about Mr. Huggins' position in the Department. By putting him on the Fixed Establishment the Council would not be giving him an advantage over any other officers below the line. He has been on the staff for four years and there are no other officers below him who have done the same service on a whole-time basis. There is one officer who has no diploma and has done work for the Department before Mr. Huggins, but he is not qualified in the same sense as Mr. Huggins and his employment has always been of a part-time nature. There is nobody senior to him below the line.

The Council divided on the motion and voted :—

Ayes—Messrs. Seeram, Crane, Major Craig, D'Andrade, Bayley, Wood, Brasington, Professor Dash, Major Bain Gray, Millard, Dias, Dr. Kelly, Smellie, the Attorney-General and the Colonial Secretary—15.

Noes—Messrs. Seaford, Austin, Dr. Singh, De Aguiar, Gonsalves, Webber and Cannon—7.

DANGEROUS DRUGS BILL.

THE ATTORNEY-GENERAL: I move the second reading of "A Bill to amend the Dangerous Drugs Ordinance, 1929, with respect to powers of entry and inspection and to the punishment of offences against the Ordinance." The powers of inspection are dealt with in clause 2. They come from the Dangerous Drugs Act, and I think they are necessary here having regard to the care that has to be taken, especially with drugs. It gives any constable or authorised person power to enter the premises of any person carrying on the business of a producer, manufacturer, seller or distributor of any drugs to which this Ordinance applies, and to demand the production of and to inspect any books or documents relating to dealings in any such drugs and to inspect any stocks of any such drugs. Regulations made under the Ordinance require the keeping of books

and give the same power, which is usual in these cases, which exists with regard to the sale of poisons. Sub-clause (2) gives the Magistrate power, if there is reasonable ground for suspecting that any drugs to which this Ordinance applies are, in contravention of the Ordinance or any regulations made thereunder, in the possession or under the control of any person in any premises, or that any document directly or indirectly relating to or connected with any transaction or dealing which would, if carried out, be an offence against this Ordinance, or in the case of a transaction or dealing carried out or intended to be carried out in any place outside this Colony, an offence against the provisions of any corresponding law in force in that place, is in the possession or under the control of any person in any premises, to grant a search warrant authorising any constable named in the warrant, at any time or times within one month from the date of the warrant to enter, if need be by force, the premises named in the warrant and to search the premises and any persons found therein, and if there is reasonable ground for suspecting that an offence against the Ordinance has been committed in relation to any such drugs which may be found in the premises or in the possession of any such persons, or that any document which may be so found is such a document as aforesaid, to seize and detain those drugs or that document, as the case may be.

Sub-clause (3) provides that if any person wilfully delays or obstructs any person in the exercise of his powers or fails to produce or conceals or attempts to conceal any such books, stocks, drugs or documents, he shall be guilty of an offence against the Ordinance. Clause 3 provides the punishment for offences. Under the existing Ordinance (No. 31 of 1929, sec. 21) the punishment for a first offence is a penalty not exceeding one thousand dollars or imprisonment for a term not exceeding six months, and for a second and any subsequent offence a penalty not exceeding two thousand dollars or imprisonment for a term not exceeding twelve months. There are two reasons for the amendment to be introduced by clause 3. One of these reasons is that the punishments which are provided by the Principal Ordinance are to be imposed by the Magistrate only and they go much beyond the ordinary

jurisdiction of a Magistrate. The object of the amendment is to provide for the punishment on indictment of more serious offences, offences so serious that they are beyond the Magistrate's jurisdiction, and to impose a heavier penalty in accordance with that which is imposed elsewhere, and, secondly, to reduce the punishment which may be inflicted by a Magistrate. The reason is that the maximum punishment which we now have is too light in many cases. There ought to be the power to give heavier punishment when the occasion arises. The position now is that the traffic in dangerous drugs is looked upon by all countries parties to the Convention as being a menace to the welfare of the peoples of the world, so the new punishment will be on conviction on indictment a fine not exceeding five thousand dollars or penal servitude for a period not exceeding ten years, or both fine and penal servitude. In the case of a summary conviction the punishment will be a fine not exceeding twelve hundred dollars or imprisonment with or without hard labour for a term not exceeding twelve months, or both fine and imprisonment. And in every case the Court before which the offender is convicted shall forfeit to the Crown all articles in respect of which the offence was committed and may order any forfeited articles to be destroyed or otherwise disposed of.

There is also a provision which is an adaptation of the amending Act of 1923. It is that no person shall, on conviction for any offence of contravening or failing to comply with any regulation under this Ordinance relating to the keeping of books or the issuing or dispensing of prescriptions containing drugs to which this Ordinance applies, be sentenced to imprisonment without the option of a fine or to pay a fine exceeding two hundred and fifty dollars, if the Court dealing with the case is satisfied that the offence was committed through inadvertence and was not preparatory to, or committed in the course of or in connection with, the commission or intended commission of any other offence against the Ordinance.

Dr. Kelly seconded.

Mr. CRANE: Although I do not consider that any apology is due from the position I am going to take up in this matter whether I stand alone or not, I am going to

take the opportunity to make a few remarks germane to the Bill on what I consider the time expended by Government and its Medical Department upon this type of legislation, time which might usefully have been applied with more beneficial results to the Colony. I have no desire to afford protection to drug addicts or people contravening the law on the subject, but I think a mountain is being made out of a molehill. In this Colony there is no considerable body of men who take drugs and there is no need for all this flourish of trumpets about increasing the penalty for a contravention of the Ordinance. Any stranger reading this legislation would say that British Guiana is a country of drug addicts, that there are persons who purvey drugs, and that a large section of the community is suffering from the drug habit. This legislation carries on the face of it a libel upon the Colony. Every now and again, within the last five or seven years, power of the Legislature has been sought to provide penalties which are useless and unwittingly perhaps cast a slur on the community. Clause 2 proposes to make it possible for any constable or other person to enter premises. We are asked to authorise any police constable to walk into a manufacturer's place of business or a drug store and exercise powers of inspection. You have to suit legislation to the circumstances of the Colony and not legislation which is taken word for word from some other Colony and enacted here. It is not sufficient that the offender is to be fined one thousand dollars or be imprisoned for six months and for a second and subsequent offence two thousand dollars or imprisonment for a year.

This Legislature is to act as a torture house and make it possible for a fine of five thousand dollars to be imposed and penal servitude applied as punishment, or both fine and penal servitude, and it is to make it possible at the whim or caprice of any police officer to bring the charge either summarily or indictably. Why is it not sought to apply transportation as an alternative punishment for torture? I challenge the Surgeon-General to make a statement which would show that a considerable body of the community is affected by the drug habit. I challenge him to give statistics showing convictions that have taken place. The only thing that would justify a reactionary provision of

this kind is if there was in existence a large number of people who take drugs, who become less serviceable to the Colony and are outcasts, and the idea was to save others in the Colony from the depravity of such a situation. This legislation has been described to me as a piece of business that the doctors are doing for their own protection. Where before one could get a little bit of laudanum to assuage his pain to-day

you get it after paying a doctor's fee and getting a doctor's prescription. Such is the policy of this Bill and I am not prepared to lend my support to it. No sufficient reason has been shown why a Bill containing such terrible punishment is to be passed in this House.

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