

PROCEEDINGS OF THE COLONIAL COUNCIL FOR ST. CROIX.

(Continued from yesterday's Avis.)

2nd Member for Christiansted Town (Canegata) remarked: Mr. Chairman. Section 29 of the Rules of Business will not allow you to amend the section. What could be done is to vote down the section and bring in a new section.

5th Appointed Member (Lunney) remarked: Mr. Chairman. Another question to be settled is which of the Commissions is to meet with the Public Works Officer in deciding the type of road we are to have. There are two Commissions, the Road Commission and the Highway Commission, the two should not come in conflict.

1st Member for Frederiksted Country District (Andersen) remarked: Mr. Chairman. In reply to the last Speaker I wish to say that it is the Road Commission that we have had for many years we are referring to and not the Highway Committee appointed last year by the Governor.

1st Member for Christiansted Country District (Stakemann) remarked: Mr. Chairman. The Government has the right to bring in amendments at 3rd Discussion and I believe the Government would be willing to bring in an amendment to have the question straightened out.

4th Appointed Member (Blackwood) remarked: Mr. Chairman. This is a vital question and it ought to be settled. As 1st Member for Frederiksted Town (Coulter) remarked, a good many persons are interested in this matter and would like to know what kind of road we are going to have.

Government Secretary (Timmons) remarked: Mr. Chairman. The Government is not prepared for 3rd Discussion on this measure today. It would appear that this is a bill of considerable importance; it might be well if the Council would let 2nd Discussion remain open until the next meeting of the Council.

2nd Member for Christiansted Town (Canegata) remarked: Mr. Chairman. As this is the last meeting of the Council if the bill is not passed at this meeting it will have to be reintroduced.

1st Member for Frederiksted Town (Coulter): There is a precedence that all bills pending at the end of the elective period will not have to be reintroduced.

2nd Member for Christiansted Town (Canegata): The present Council cannot kind the incoming Council.

It was then proposed and carried that 2nd Discussion on the bill remain open.

Item 2.

Colonial Council Bill No. 57.

Continuation of and 1st. Discussion on Colonial Council Bill No. 57, draft of an Ordinance, introduced by Government, providing for the appointment of a judge for the District Courts of the Virgin Islands of the United States. With Committee Report.

This matter was withdrawn.

1st Member for Christiansted Country District (Stakemann) remarked: Mr. Chairman. According to Paragraph 16 of the Rules of Business I will take up and bring forward the bill withdrawn by Government.

The Chairman would like to know if the Honorable Member is ready to proceed with the bill.

Member Stakemann answered yes.

1st Member for Christiansted Country District (Stakemann) remarked: Mr. Chairman. The reason for taking up this proposal which has created a great surprise is, that I consider it best to have the President appoint the two judges as proposed by the Committee. It certainly is astonishing to learn that the President has set aside a Section of a law which was passed by the Council, and approved by the Governor according to authority vested in him, promulgated and has been in force for over eight months. If such a proceeding is tenable, there would thereby be created a most uncertain and insecure state of affairs for the Public, for what guarantee would we then have that any of the many laws which during the last four years, have emanated from the Council and approved by the Governor may not at any time, either in part or in their entirety, be set aside by the President? I admit that according to the Organic Act the President is empowered to appoint the officers to administer the islands, but when he approves a law appointing such officials he has made use of his prerogative and has consented to the appointment by legislative measures, which may only be repealed by other legislative measures. The question now is, did the President approve the code or did he not? When the Governor approved the act, he acted on behalf of the President and by authority vested in him by the President, and his approval is therefore legally as binding as if the President personally had approved the act. The reservation in the Executive Order referred to by which the President reserves his right to veto either in part or on the whole any measure passed by the Council, can logically only be understood to relate to such measures which have not been approved and promulgated, but not to measures which have been approved either by the President personally or by the Governor acting for him; because of the fact when so a proved and promulgated they have become laws which may only be repealed or amended by the legislative machinery. I do not for one moment believe that the

President, whose time was fully occupied with far more important business than that of this little island, and besides was at the time in ill health, would have taken the initiative as stated, to examine into the question as to whether one judge or two judges were necessary for these islands, or if a saving of \$4,800.00 might be effected. Such an idea no one could for a moment entertain.

It is a very opportune moment for the question as to the appointment of judges to have come up. The retiring Governor cannot have any reason to suppose that the proposal aims at him personally as he is on the eve of departure, nor can the new Governor take it as personal against him, as we do not know him yet, and therefore could have no personal feelings against him. While I do not doubt for a moment that a judge will always give judgments according to his conscience and best judgment, still there are those who, especially where Government is concerned, may feel that the fact that the Governor being the one to appoint a judge this may influence him. It is therefore considered best to avoid any such misapprehension by having the judges appointed by the President.

I may in this connection express my regrets that the printed code distributed was not in conformity with the one passed and approved, and I consider it a very unfortunate and inexcusable error on the part of those entrusted with the matter.

As known the Government's original proposal was for one judge, but after vigorous protests by Council Members and a mass meeting, the proposal was amended, so as to provide for two judges, also in consideration of the fact that the Congressional Committee in its Report had suggested a local appeal court based on there being two judges in these islands, and the code was passed and approved as thus amended. There are many reasons why it would not be practical to have but one judge. For instance, supposing we have one judge and he is in St. Croix and an immediate libel of a vessel visiting the port of St. Thomas be required, who is to effect the attachment, or would it be necessary to wait until perhaps the "Creole" may bring over the judge, while the ship in the meanwhile leaves. Let us also suppose that the judge were in St. Thomas and a writ of Habeas Corpus were required in St. Croix, is the party to remain committed until the judge can get over? This fact of there being but one judge would also impede relief from writs of attachments, injunctions and mandamus.

We are using money here freely; look at our budget; look at our expenses, about \$30.00 per capita for every man, woman and child. Last year everything was rosey but we discovered quickly that it was a falacy. We eat and drink today and tomorrow we die. This is money that will be well used—the salary to the judge. That's an office we need,