

HOPE VALLEY-WATTLEUP REDEVELOPMENT BILL 2000

Committee

The Deputy Chairman of Committees (Hon Derrick Tomlinson) in the Chair; Hon Peter Foss (Attorney General) in charge of the Bill.

Clause 1: Short title -

Hon J.A. COWDELL: In accordance with Standing Order No 270(b), I move -

That the Legislative Assembly be informed that the Legislative Council has considered the compensation provisions contained in the Hope Valley-Wattleup Redevelopment Bill 2000 and is dissatisfied with both the quantum of the compensation and the system by which compensation would become payable.

Accordingly the Legislative Council requests the Legislative Assembly to reconsider the compensation provisions with a view to providing for a solatium of 10 per cent over and above market value for properties in the redevelopment area and to make provision for the prompt payment of compensation to owners who wish to re-locate as a result of changes effected by the passage of this Bill.

We are in the committee stage and amendments that pertain to compensation cannot be moved in this Chamber. Members would be aware of section 46 of the Constitution Acts Amendment Act 1899 pertaining to the powers of the two Chambers in respect of legislation. Subsection (1) states -

Bills appropriating revenue or moneys, or imposing taxation, shall not originate in the Legislative Council; but a Bill shall not be taken to appropriate revenue or moneys, or to impose taxation, by reason only of its containing provisions for the imposition or appropriation of fines or other pecuniary penalties, or for the demand of payment or appropriation of fees for licences, or fees for registration or other services under the Bill.

Point of Order

Hon PETER FOSS: I am not sure that what is being said by the member complies with the standing order raised by him, which standing order deals with request amendments. This motion does not request an amendment but, rather, to send a message of a totally different nature to the other Chamber. This motion is supposedly based on that standing order; it is not and is out of order. I do not know what other authority there may be for the motion. If there is no other authority, the motion is out of order because there is no justification for it.

The DEPUTY CHAIRMAN (Hon Derrick Tomlinson): The Attorney General has raised a matter that has been running through my mind. I do not pretend at this stage to be able to rule on the matter. I intend to hear the member's argument, after which it may be necessary to hear further argument or, alternatively, to leave the Chair while I take advice on the matter.

Committee Resumed

Hon J.A. COWDELL: I had intended to address the argument at hand. Clearly, with respect to the Constitution Acts Amendment Act 1899, restrictions are placed on what the Council can do. Subsection (2) states -

The Legislative Council may not amend Loan Bills, or Bills imposing taxation, or Bills appropriating revenue or moneys for the ordinary annual services of the Government.

Subsection (3) states -

The Legislative Council may not amend any Bill so as to increase any proposed charge or burden on the people.

However, subsection (4) states -

The Legislative Council may at any stage return to the Legislative Assembly any Bill which the Legislative Council may not amend, requesting by message the omission or amendment of any item or provision therein: provided that any such request does not increase any proposed charge or burden on the people. The Legislative Assembly, may if it thinks fit, make such omissions or amendments, with or without modifications.

There is, therefore, an opportunity for requests to be made. I would argue that the motion is a request in those terms to the Legislative Assembly where we cannot amend the Bill. I would argue that it does not request an increase in appropriation because it is a compensation provision. There is a distinction between an alteration to a compensation provision and an alteration to an appropriation per se; they are two distinct areas.

I would argue that this motion does not seek an increase in the charge or burden on the people. Members will note that the first part of the message is an expression of concern on the part of this Chamber, which clearly does not impose an increase in the charge or burden. The second sentence, in part, reads -

Accordingly the Legislative Council requests the Legislative Assembly to reconsider the compensation provisions with a view to . . .

I would argue that it is in the nature of a narrative motion, not a request in statutory form. It seeks the Legislative Assembly to reconsider compensation provisions. It does not specifically put in a statutory form a set of amendments that would be required to go into the Bill at a certain stage. It outlines the direction in which we believe the Assembly's consideration should go. However, Mr Deputy Chairman, if you were to consider the motion to be too prescriptive in that it imposes a burden, I would be happy to leave the second sentence with a full stop after "provisions".

Point of Order

Hon PETER FOSS: Having heard a bit more of the speech, I wish to add another objection to the member's suggestion. He appears to be asking for a provision to be added to the Bill that is not within the purview of the current nature of this Bill. I fail to see how this Chamber can, by a request to the other Chamber, breach its own rules by allowing something that is totally unrelated to this Bill. There is nothing in this Bill about compensation for the types of things about which the member is speaking. Even if we did not have the constitutional limitation, we would not be allowed to do this under our standing orders, so that is another objection to this suggestion.

The DEPUTY CHAIRMAN (Hon Derrick Tomlinson): Rather than taking incremental objections as points of order as the member's argument is developed, it would be much more useful to hear the complete argument and to then consider the points of order. I will suggest an appropriate course of action at the appropriate time.

Committee Resumed

Hon PETER FOSS: I am happy to follow that process. I do not want it argued against me that I should have taken a point of order earlier. As long as the Deputy Chairman is happy that at the end of the speech I should take any other remaining points of order, I will be happy to do so.

[Continued on page 3376.]