

LEGISLATIVE COUNCIL

TUESDAY, 23RD DECEMBER, 1952.

The Council met at 2 p.m.

PRESENT:

The Deputy President, the Hon. C. V. Wight, C.B.E., Western Essequibo.

The Hon. the Colonial Secretary, Mr. J. L. Fletcher, O.B.E., T.D. (Acting)

The Hon. the Attorney General Mr. F. W. Holder, Q.C.

The Hon. the Financial Secretary and Treasurer, Mr. E. F. McDavid, C.M.G., C.B.E.

The Hon. V. Roth, O.B.E. (Nominated).

The Hon. T. T. Thompson (Nominated).

The Hon. G. A. C. Farnum, O.B.E. (Nominated).

The Hon. J. Fernandes (Georgetown Central).

The Hon. Dr. C. Jagan, (Central Demerara).

The Hon. W. O. R. Kendall, (New Amsterdam).

The Hon. A. T. Peters, (Western Berbice.)

The Hon. G. H. Smellie, (Nominated).

The Hon. J. Carter, (Georgetown South),

The Hon. L. A. Luckhoo, (Nominated).

The Hon. W. A. Macnie, C.M.G., O.B.E. (Nominated).

The Clerk read prayers.

The Minutes of the meeting of the Council held on Monday, the 22nd of December, 1952, as printed and circulated, were taken as read and confirmed.

ORDER OF THE DAY

MONEY-LENDERS (AMENDMENT) BILL.

The Attorney General: I beg to move that a Bill intituled—

“An Ordinance further to amend the Money-Lenders Ordinance by exempting the lending of money by way of mortgages from the provisions of the Ordinance.”

be now read a first time.

The Colonial Secretary: I beg to second the motion.

Question put, and agreed to.

Bill read the first time.

TAX (AMENDMENT NO. 4) BILL.

Council resolved itself into Committee to consider clause by clause the Bill intituled—

“An Ordinance further to amend the Tax Ordinance, 1939”.

Clause 1 passed as printed.

Clause 2—*Repeal of section 3 of the Principal Ordinance.*

The Attorney General: I beg to move that a new Clause 2—

“Section three of the Principal Ordinance is hereby repealed”

be inserted,

Question put, and agreed to.

New Clause 2 inserted.

The Attorney General: I beg to move that Clauses 2 to 5 be renumbered as Clauses 3 to 6 and be passed as printed.

Question put, and agreed to.

Clauses 2 to 5 renumbered 3 to 6 and passed as printed.

Clause 6—*Repeal of section 44A of the Principal Ordinance, No. 23 of 1952.*

The Attorney General: I beg to move that Clause 6 be renumbered as Clause 7 and amended as follows:

(i) paragraphs (b) and (c) be relettered as paragraphs (c) and (d), respectively and

(ii) the following new paragraph (b) be inserted—

"(b) by the insertion between the word 'commissioner' and the word 'may' in subsection (2) of the words 'or the Comptroller of Customs and Excise as the case may be';"

Mr. Macnie: Section 9 of the Tax (Amendment No. 3) Ordinance of 1952, which it is proposed to repeal, provides for the payment of certain annual dues payable in two moieties. Would the hon. the Attorney General say why it is necessary to repeal that?

The Attorney General: That is necessary in view of the date of commencement of the operation of this Bill. These matters have to go before the Licensing Board and accordingly this provision has to be repealed.

Mr. Macnie: All I wanted was an assurance that no one would be denied the facility of paying in two moieties.

The Attorney General: The new paragraph (b) is necessary on account of the Comptroller of Customs and Ex-

cise taking over certain functions which hitherto were exercisable by the District Commissioners. This is consequential on the Bill which hon. Members approved of yesterday.

Question put, and agreed to.

Clause 6 renumbered 7 and passed as amended.

The Attorney General: I beg to move that Clauses 7 and 8 be renumbered as Clauses 9 and 10 and passed as printed.

Question put, and agreed to.

Clauses 7 and 8 renumbered 9 and 10 and passed as printed.

New Clause 3.

The Attorney General: I beg to move that the following new Clause 8 be inserted—

"Repeal and re-enactment of Section 69 of the Principal Ordinance.

8. Section sixty-nine of the Principal Ordinance is hereby repealed and the following substituted therefor—

"Issue of licences.

69. (1) Save as is hereinafter provided by subsections (2) and (3) of this section, all licences under this Ordinance shall be issued by a district commissioner.

(2) Licences under sections fifty-one and fifty-two of this Ordinance shall be issued by the Commissioner of Lands and Mines or by any officer of his department assigned by him to perform those duties.

(3) Licences under sections thirty-eight, thirty-nine, forty, forty-one, forty-two, forty-two A, forty-three, forty-three A, forty-four, forty-five, forty-six and fifty-five of this Ordinance shall be issued by the Comptroller of Customs and Excise."

This is necessary on account of the transfer of certain functions of the District Commissioners to the Comptroller of Customs and Excise—specific powers

which subclause (3) gives the Comptroller of Customs and Excise—which he can properly exercise, but in some cases the District Commissioners would continue to issue licences in regard to other matters. The amendment had to be effected in this form.

Question put, and agreed to.

New Clause 8 inserted.

Title and Enacting Clause passed as printed.

Council resumed.

The Attorney General: With the consent of Council I beg to move that this Bill be now read a third time and passed.

The Colonial Secretary: I beg to second the motion.

Question put and agreed to.

Bill read a third time and passed.

CUSTOMS (CONSOLIDATION) BILL

Council resumed consideration in Committee of a Bill intituled—

“An Ordinance to consolidate and amend the law relating to Customs.”

The Attorney General: When the Council adjourned yesterday afternoon we had reached clause 70 and there was one clause remaining for consideration by the Council; I was pointing out to hon. Members that this clause is substantially similar in terms to section 68 of the Customs Ordinance of Trinidad and also it appears in the model Bill which was submitted in the Report of the Commission on the Establishment of the Caribbean Customs Union. I think, sir, that in Trinidad and, I believe, in Jamaica they have followed the model Bill which was presented to the Colonies by Mr. A. E. V. Barton, who is known in this Colony as a

former Comptroller of Customs here and as Collector of Customs in Jamaica. Some time in 1937 or 1938 apparently, that model which he prepared was adopted and enacted in Trinidad and, as I say, in Jamaica also. So far as we are concerned, we are now following the model Bill which was presented with the Commission's Report.

Hon. Members have raised a point with regard to this clause and, as I say, it is substantially in terms the same as what was passed in the Trinidad law as section 68 of the Trinidad Customs Ordinance. The point that some hon. Members are emphasizing is the liability which the provisions of this clause seek to attach to an agent. It must be appreciated that a ship or aircraft arriving in the Colony must have its papers and must present them to the Comptroller of Customs. The cargo is shown on what is called and known as “the manifest”. If there are goods which the manifest calls for, are missing, then it is a matter as to who should satisfy the Comptroller of Customs as to what has happened to those goods. As it stands, the Comptroller of Customs can hold up a ship or aircraft until such time as he is satisfied with regard to missing goods. It will also be appreciated that the missing goods may be landed somewhere else or put into a small boat at sea or things of that nature, and so it is very desirable that there should be provisions such as these clauses which we seek to have on the Statute Book.

The question of the agent which is, I believe, the point that some hon. Members are querying is, to a large extent, to facilitate the quick turn round of ships and aircraft, because it will be realized that if a ship or aircraft is kept or is detained until the Comptroller of Customs is satisfied with regard to the various matters which appear on the manifest and which are on the ship or

the aircraft, then it means not only loss of time to the ship or the aircraft, but substantial expense occasioned as a result of that delay. It has to be borne in mind, in addition, that the agent enters into the position of an agent and, therefore, becomes by so doing responsible for the ship or the aircraft, as the case may be. In cases where there is no agent the Comptroller of Customs will look to the Master for the explanation or satisfactory answer to his investigations as regards anything the manifest calls for. I think hon. Members will agree that this is a very necessary provision. It is on the lines of Customs laws which obtain almost everywhere. Otherwise, there is this large loophole which, of course, it is desirable should not remain.

I recommend to hon. Members that these provisions should be adopted. This Colony could not be said to be standing alone if and when we accept these provisions. As I have already indicated, the provisions are similar in terms to those obtaining in Trinidad and Jamaica. In Trinidad they go back to some time previous to the first world war. There is nothing further I can add at the moment, except to say that I have been informed by the Comptroller of Customs that since May 7, 1952, some 5,826 packages manifested to this Colony have not been accounted for, and that is very substantial. Hon. Members will therefore see the reasonableness and the desirability of including in this Bill the provisions referred to and of enacting all these provisions into law.

Mr. Macnie: The figure given by the hon. the Attorney General has proved the difficulties which exist in this port with regard to cargo which is short-landed—to use an expression—but for which no one can account. The reasons for short-landing, in the majority of cases, are, first of all, that the cargo may never have been loaded and, secondly, that the cargo may have been

landed at another port before the ship got here. It must be remembered that very few ships come to British Guiana direct. Most of them call at either Trinidad or Jamaica before coming here. I feel sure that the Attorney General is not suggesting that the 5,000 odd packages he referred to have been illegally landed in this Colony.

The Attorney General: I am only stating a fact.

Mr. Macnie: If there is any suggestion that they were illegally landed—that is to say, smuggled ashore—I would have said that I am absolutely unaware of any such situation.

The Attorney General: I only stated a fact that the packages have been accounted for, but as to their fate I am not in a position to say.

Mr. Macnie: That strengthens the case against this clause in the Bill. The fact of the matter is that in the majority of instances the packages that are short-landed subsequently turn up somewhere else and come on by another ship. Those are the facts, as I have been informed. They come on later either because they were not originally loaded on the ship at its port of departure, or because they were landed somewhere else in error while *in transit* to this Colony. Any Member who has seen the unloading of ships in the islands, especially the smaller ones, would not find it difficult to realize how packages can be taken off a ship in error. It is not so much a question of the agent being made responsible and leaving it there. It has not been suggested that agents should be penalized because they do not want to accept responsibility. It is a question of the agents being made responsible for short-landing or something else which it is unreasonable for him to be made responsible for, because history shows that the cargo subsequently comes

along. I really do not think there should be a great deal of concern because 5,000 odd packages should have been off-loaded since last May from ships—steamers, schooners or otherwise. The coast in this Colony does not lend itself to much smuggling as does the coast in Trinidad and other West Indian islands. Our coast does not permit of that except on the Corentyne, perhaps.

This clause was first adopted in Committee some two weeks or 10 days ago and that was the point I endeavoured to make. I think the hon. Member for Georgetown Central also made the same point. To my mind, the amendment suggested is a reasonable one. If cargo on board a ship or an aircraft is not properly landed, I think the Master or the Captain, as the case may be, should be held liable. I find it difficult to understand the words in the sixth line of this clause, 70, commencing with the word "Comptroller". They are:

"and is not duly entered and cleared therefore in accordance with the customs laws, or is not produced to the proper officer for deposit or to be deposited in the Queen's warehouse in accordance with the provisions of section eighty-eight..."

It is because of the wording of clause 108 which deals with the production of goods by occupiers of warehouses that I find it difficult to understand the words to which I have referred in the sixth, seventh and eighth lines of this clause. I suggest that, having regard to clause 108, they appear to be redundant and unnecessary and, therefore, they should be deleted also. I have a copy of how the clause would read with the insertion of the words I have mentioned and the deletion suggested.

Mr. Smellie: I would like to support what the hon. the Seventh Nominated Member has stated. I think that the amendment for the insertion of cer-

tain words between the words "parcel" and "as aforesaid" would do something to alleviate the hardship and unfairness otherwise contained in the provisions of this clause. Surely the criterion ought to be whether the goods could be consumed or not, and if they were whether they were to be consumed illegally and therefore prevented from going into consumption. What I am not certain about is whether if they were to be consumed illegally an act of evasion of duty takes place. This clause seeks to make the Master or the agent not only pay the duty but also pay a fine if the goods appear on the manifest and do not eventually find their way on shore. It is not only possible that these goods may not have been put on board at the port of departure of the vessel, but they may have been landed at another port. They may have been delivered *en route*—delivered on the high seas or at one of the intermediate ports at which the ship called. I maintain that this clause as it stands is harsh and unfair, and I wish to support the amendment moved by the hon. the Seventh Nominated Member (Mr. Macnie).

Mr. Fernandes: This clause has very little to do with smuggling as such; it is only to ensure that packages which the Master reports are landed. If the Master intends to smuggle it, surely he is not going to put it on his manifest. That is commonsense and I am sure the hon. the Attorney General will agree with it. This provision concerns cases where "stuff" is on the manifest and for some reason or other it is not landed.

I quite accept the Attorney General's statement as regards the agent; I can see his point of view. After all, the agents should be able to recover from the Master any package that he had anything to do with. I am going to suggest the deletion of the words from "therefrom" in the sixth line to

"parcel" at the end of the eleventh line. I do so because I feel that if a Master puts something on his manifest it should be accepted that he has no desire to smuggle it. Let us assume for the sake of argument that it is smuggled by somebody else—a member of the crew or somebody who visits the ship. In that case the Master would be liable to the Comptroller of Customs for the full duty—not part of it. Then again, in spite of the fact that he reported the loss and had no intention of smuggling it, he would have to pay \$25 for each package or parcel missing. I think that fine represents an unjust penalty because, suppose the article missing is a barrel of beef on which the normal duty is only about \$2; or a barrel of diesel oil which carries a duty of only 35 cents, he would still have to pay \$25 for each barrel.

There is one saving grace in the clause, however, and that is, the Master would not be liable to pay duty on the missing articles if he "explains the failure to unload, remove and deposit or produce such packet or parcel... to the satisfaction of the Comptroller." If one can be assured that this provision will be administered in the proper way, then half of the worry contemplated would not exist. If the Comptroller is satisfied that even though the Master declared the article he wilfully took part in the short-landing, then the Master would be held liable. Anyone who knows about ships knows that they only load at the very last minute of sailing. We have an actual case of where the "Arakaka" was due to sail yesterday afternoon but on account of weather conditions the sailing was postponed until this morning and, subsequently, until tomorrow. When she leaves here her first stop will be at Liverpool, but there would not be much difficulty because those responsible would have time to prepare the manifest and it would be sent by airmail

and would get to Liverpool before the ship arrives there.

In the case of the Canadian ships, however, they have to go to Trinidad. It is expected that they would carry a complete cargo and the manifest is made out accordingly. Because of rain and several other causes a ship is sometimes unable to carry all her cargo but the whole lot of papers have to go with her and there is no means of getting through them before she arrives in port. A manifest might be made out for say 5,000 bags of rice but because of one thing or another it turns out that there are only 3,550 bags on board and before they actually get the correct figures the ship is in Trinidad. There would be very little chance of forwarding the correct figures to the Master of the ship before she arrives there and in trying to deliver the quantity of cargo supposed to have been given to him in British Guiana he would be short and would be liable to a penalty of \$25 for each missing bag. As I have already said, the most reasonable part of this clause is the saving grace at the end. In every case of short-landing the Master would be liable for the duty plus \$25 for each missing package and I do not see the necessity for this provision.

This is not a penalty for smuggling. Anyone who has anything to do with Customs laws would know that none of the clauses questioned by Members of this Council has anything to do with smuggling as such. The clauses which have anything to do with smuggling have had the approval of this Council already. This is just a question of putting on a penalty because somebody has to pay and, perhaps, in order to make the Captain or Master a little more careful. But it does not make them careful. I know that it is the custom in British Guiana to follow what is done in other places, but if a

Captain is careless he would have to pay the duty on the missing articles.

I have had in my line of shipping business a very amusing situation relating to marl and lime-stone brought in ballast from Barbados for the purpose of making up roads. It is not worth much and we bring it down and sell it cheaply to people like the Central Housing and Planning Authority and the Kitty Village Council. They take the stuff and weigh it—since it is sold by weight—and we accept their weight and pay duty accordingly. If the Captain of a schooner thought he had 50 tons on board and it is sold to these people and they find that he only had 45 tons, the manifest is amended accordingly. Now we are being told that one would have to pay duty on whatever is on the manifest.

In our case the duty on an article like the one mentioned is very small. As a matter of fact, there is no duty if it is brought for Government; only a Bill of entry tax is paid. But we might assume that we pay a duty on whatever we bring and that whoever buys it would have to pay that amount. I would like to know what is going to happen if the marl is a ton or so short? How many packages would that represent? A ton of marl should have 500 barrels or thereabout, and I would like to know whether one would have to pay \$25 for each barrel? If I were a lawyer I would have liked to know under what category that would come.

I accept that the agent should be liable for any such goods as marl, but not in a case where he has nothing to do with the cargo short-landed. I am going to move the deletion of this provision regardless of whatever country in the world does anything different from what obtains here. Yesterday we were told of what happens in Trinidad

To begin with, a person who does my job in Trinidad gets two and a half times what I am paid. Government has not referred to that, however. They only refer to Trinidad when it suits them to do so. Therefore, I am moving the deletion of all the words from "and" in the 10th line to "parcel" in the 11th line.

The Colonial Secretary : I was very pleased to hear the hon. Member for Georgetown Central accept the principle that the shipping agent should be made liable along with the master of the ship. I think really, that it must be obvious to us all that in the interest of the Colony's revenue someone must be responsible. Obviously we have passed the days of the old sailing ships and their masters, and today the responsibility falls on the agent. That does not mean that because, as has been mentioned by the hon. the Attorney General, no less than 7,000 packages have been reported short-landed at Georgetown in the last few months, shipping agents are going to be called upon to pay the duty on those 7,000 packages, and a penalty as well.

That is not the way it works at all. The hon. Member for Georgetown Central knows quite well there is very close co-operation and friendliness between the shipping agents and the Comptroller of Customs. What in fact happens is this: let us assume that cargo going from Georgetown to Trinidad is suddenly shut out at the last moment and the ship arrives at Trinidad with 50 packages short. The Comptroller of Customs in Trinidad does not immediately jump on the shipping agent and say to him "You have to pay the duty on those 50 packages that are missing." The shipping agent in Trinidad, having been told by the master of the ship that 50 packages were shut out at Georgetown, goes to the Comptroller of Customs and says "There are 50 packages short and they will be

coming on the next boat." The Comptroller knowing the agent and his honesty accepts that explanation. If needed the agent can produce a telegram from a corresponding agent in Georgetown to that effect or if the Comptroller wants further evidence, he would address an enquiry to the Comptroller of Customs here.

The whole purpose is this: if no responsibility is put on to anyone, then the Colony's revenue is bound to suffer. It would be nobody's trouble to find out what has happened to cargo which is missing and the Comptroller of Customs would not know whether it was landed in the Colony and the revenue thereby defrauded. That is the sole purpose of having legal responsibility put on the agent. In fact it works very much to the advantage of commercial interests, because the Comptroller of Customs, knowing that he is dealing with a reliable agent, does not detain the ship which he would be entitled to do in the absence of a reasonable explanation. It is the same thing with an aircraft. If an aircraft arrives with a number of packages missing and there is no agent whom the Comptroller can rely upon to produce a reasonable explanation as to why the number is short, he would be fully entitled to hold up the aircraft until a satisfactory explanation is produced. So it really works out equally in the interest of the commercial community and in the interest of the Colony's revenue, and for that reason I do not agree with the hon. Member for Georgetown Central that the penalty should be removed. I was trying to think while he was speaking of any cases in my experience where a penalty of this kind had been imposed and retained by the Comptroller of Customs, but I can only think of one case where a particular agent was notoriously and persistently careless and contemptuous. In fact he bluntly refused to give any information, and

the particular Comptroller of Customs decided that that agent should be taught a lesson and imposed some portion of the penalty, which he was entitled to do. In my experience, and it is a long one, the system works well by reason of perfectly friendly co-operation between the commercial interests and the Comptroller of Customs.

Mr. Fernandes : I thank the hon. the Colonial Secretary for giving us a very clear explanation, but he has in so doing supported the reason for deleting this clause. If it is going to be used once in 100 years we do not have to make a law like that. The hon. the Colonial Secretary must remember there are such things in small countries as getting at the other fellow, and I do not like these penalties to be there which are not intended for use but only intended as a big stick to burst some particular fellow's head if and when he does not agree with the then Comptroller of Customs who happens to be in power that day. As I said before when I dealt with this Bill in the first case if I was sure we would have Mr. Gregory here for so long as this law lasts, I would say "All right" and accept everything because he knows Customs laws and is reasonable. But I have known a Comptroller of Customs to be unreasonable. I can say so without fear of valid contradiction. I have proved in the Chamber of Commerce some time ago that the Customs Authorities were unreasonable in their outlook in some cases, and even the particular Comptroller himself had to admit and go back on his line of action.

We must not as legislators allow things to be put in an Ordinance that are not necessary. The penalty of paying the duty, I maintain, would bring any agent to his senses. He is in the happy position that whatever penalty is imposed can be passed on to the owners of the ship, particularly if the pack-

age was not landed. Why put an unnecessary penalty when it has nothing to do with the protection of the revenue? The fact is that the agent is included so as to have someone locally to hold on to. If the master or the agent on his behalf is liable for the duty why should we put on a negligible extra penalty? As I pointed out yesterday, in one case it is 10, 12 or 20 times the duty of the package and in the other case it is one-tenth, one-twelfth or one-twentieth of the duty on the particular package which is being dealt with. It is not a penalty of double the duty which goes up and down according to the value of the stuff. It is a specific duty and it does not matter how much duty has to be paid. I still maintain and I hope hon. Members would support me that this extra penalty should be removed. The Government of British Guiana has no right to lose five cents in revenue. I agree that the master of a ship should be liable and the agent on his behalf should be liable for the duty so that Government should lose nothing, but I do not see the use of the extra penalty and I am asking hon. Members to support me.

The Attorney General: Perhaps the hon. Member would agree that there might be cases where goods which are on the manifest and are short-landed might have gone into consumption. There is also the possibility that the goods might have gone into consumption illegally. In that case would the hon. Member contend that a penalty should not be imposed in addition to the payment of the duty?

Mr. Fernandes : I can help the hon. the Attorney General. I said no such thing. I said there is a penalty. If the items are brought in, the duty should be double, and if it is allowed to be brought in illegally, the master or his agent has got to pay the duty. He can cheat the Government of nothing. I

agree with that, but I do not see the necessity for any additional penalty.

The Attorney General : The master or his agent would be only paying the duty which normally he should pay for goods coming into the Colony and going into consumption properly, but there would be nothing imposed on him for the goods coming into the Colony illegally. The moment there is that possibility of the goods coming into the Colony illegally, the question of penalty arises, because the duty is payable if the goods come into the Colony in the proper way but if they do not, then the master of the ship not only pays the duty that should be paid, but in addition to that the provisions here allow for the payment of a penalty. But the whole thing must be governed to a very considerable extent by the discretion which is given at the end of the clause.

The hon. Member has conceded this fact, that he has sufficient confidence in the present holder of the office of Comptroller of Customs to pass the whole of these provisions without question, and he has also said that another Comptroller might come along and refuse to follow him. That is the impression I gained from the hon. Member's remarks. The hon. the Colonial Secretary has explained in detail how these provisions work, and I am sure hon. Members agree that the hon. the Colonial Secretary has had considerable experience in matters of this sort.

This is not put there to be exercised every time there is a package missing or short landed. Obviously if a master can give a reason for goods which appear on the manifest not being on the ship, there is an end of the matter. The illustration given by the hon. Member for Georgetown Central, as to where a ship leaves at short notice or is being loaded right up to

shortly before it leaves and has to leave some cargo behind, is easily explainable. There is no question about that. The point is, this clause is providing for a satisfactory reply to the inquiries being made by the Comptroller in the matter. If the goods were left at Liverpool when the ship left that port that admits of a reply and a proper answer, and obviously that will be the end of the matter.

But there may be cases, and undoubtedly there are such cases, where things have happened and there can be no reply at all. If the cargo has been breached, the master would say so. Hon. Members are aware of the fact that the cargo may be breached while the ship is in dock in the United Kingdom or at Trinidad or Barbados, but those are satisfactory answers. It does not mean that the master of a ship can prevent it. He may exercise the greatest amount of care but those matters are not altogether avoided. But this clause is requiring him to give a satisfactory account and is empowering the Comptroller to ask the master of his agent what has happened to goods which appear on the manifest and are short-landed. If a reasonable and satisfactory answer is given as the hon. the Colonial Secretary has said, that is the end of the matter. I suggest that these provisions must be there in order to stop any possible loopholes in regard to undesirable practices in matters of this sort. I am not saying that the hon. Member for Georgetown Central is not right in his argument. He says this may not be involved for 100 years. I may not myself think so far ahead as all that, but I do counsel hon. Members to realize the necessity and the desirability of retaining the provisions of these clauses as they stand.

The hon. Member for Georgetown Central has said that he is not concerned with other Colonies when it

comes to Customs Laws and provisions. It is desirable that they should have some sort of relationship and this is an attempt to have the Customs Laws of the Caribbean area practically similar. I have told hon. Members already that this particular provision in clause 70 appears in clause 68 of the Trinidad Customs Laws, but that carries no weight with the hon. Member. He has a responsibility and I agree with him that as an Elected Member he should scrutinize every Bill and express his views on it, but I also suggest that in the light of the fact that this is a clause in the model Bill presented to us in a report of the Commission on the establishment of a Customs Union which enquired into these matters in the Caribbean territories, it should be accepted as it stands.

Mr. Fernandes : I am not going to take up more time, but I just want to remark that the hon. the Attorney General and the hon. the Colonial Secretary know that if the Captain of a vessel attempts to land goods before the duty is paid he would be very heavily penalized under this Bill. I am not going to take up any more time. Members can vote as they see fit.

Clause 70, as amended by the hon the Seventh Nominated Member put.

Mr. Fernandes : Before it is put to the vote may I ask a question as regards the procedure? If this amendment goes through would the second one fall? I would like to be clear on that.

The Chairman : They are two different amendments entirely. The rule is very clear and we ought to understand it by now.

Mr. Macnie's amendment put, the Committee divided and voted as follows:-

For — Messrs. Macnie, Carter, Smellie, Peters, Kendall, Fernandes, Farnum, Thompson—8.

Amendment put, and agreed to.

Clause 89, as amended, passed.

Against— Mr. Luckhoo, Dr. Jagan, Mr. Roth, the Financial Secretary and Treasurer, the Attorney General and the Colonial Secretary—6.

Clause 122—*Disposal of goods not re-warehoused.*

Amendment adopted.

The Attorney General: I ask leave to recommit clause 122 for the same purpose. It will be seen that in the sixth and seventh lines of this clause there are the words —

“after one month's notice by advertisement in the *Gazette*. . . .”

I ask leave to delete these words and to substitute therefor the following words:—

“be advertised in the *Gazette* and one month after such advertisement shall.”

For — Messrs. Macnie, Luckhoo, Carter, Peters, Kendall, Fernandes, Farnum, Thompson—8.

Against — Mr. Smellie, Dr. Jagan, Mr. Roth, the Financial Secretary and Treasurer, the Attorney-General and the Colonial Secretary—6.

Amendment put and agreed to.

Amendment adopted.

Clause 70 as amended put, and agreed to.

Clause 122, as amended, passed.

Clause 89 — *Goods deposited in Queen's warehouse may be sold.*

Clause 156—*Penalty for not clearing*

The Attorney General: I ask leave to recommit clause 89 with a view to making a verbal amendment, as suggested by the Comptroller of Customs. In clause 89 (2) there are the words —

The Attorney General: The next clause which was deferred is clause 156. I think the hon. Member for Georgetown Central raised a point as to why should the agent be made liable.

Mr. Fernandes: I am withdrawing that.

“such goods may be sold at public auction after one month's notice being given by publication in the *Gazette*.”

Clause 156 passed as printed.

Clause 162 — *Clearance to be produced to officer on demand.*

They may be taken to mean that you will have to give the public notice for one month, and I would ask leave to have these words substituted by the following —

“shall be advertised in the *Gazette* and one month after such advertisement shall with all convenient speed be sold by public competition.”

The Attorney General: Clause 162 was deferred because of the language used. It reads:

“162. Any officer may go on board any aircraft or ship within the Colony . . .”

I think the important words are “ship within the Colony”. As will be seen in clause 2, “Colony” means the Colony of British Guiana and includes—

I propose to make the same amendment in Clause 122. It would probably reduce the number of amendments required to be made.

(a) the islands adjacent to the said Colony and forming part thereof;

(b) the dependencies of the said Colony;

(c) all inland waters of the said Colony, islands and dependencies, and

(d) all territorial waters adjacent to the said Colony, islands or dependencies;

Consequently, it will be seen that although a ship may have left its moorings in the river the Comptroller or any of his officers may wish to board that ship and have a further examination of its papers. The hon. Member says that his objection is not being pressed and, consequently, I ask that the clause be now put.

Clause 162 passed as printed.

Clause 176 — *Forfeiture of goods prohibited or restricted to be carried coastwise.*

The Attorney General: With regard to the penalty provided in clause 176, I should like to point out to the hon. Member that this is legal language and does not mean that the penalty is fixed. The words "a penalty of one thousand dollars" have the same meaning as "a penalty not exceeding one thousand dollars". I desire that these words be maintained because they are the same in use in the Trinidad Bill on which this Bill was modelled. I think the hon. the Sixth Nominated Member, (Mr. Luckhoo) when he came into the Council, immediately though nothing had been done before and said that the penalty might go up to \$1,000. The meaning I have given is the proper one and I ask that the clause be now put.

Clause 176 passed as printed.

Clause 214 — *Penalty in cases of forfeiture.*

The Attorney General: The next is clause 214. The hon. the Sixth Nominated Member raised a point asking for the deletion of the words

"or two Justices of the Peace", in brackets, and I ask that that amendment be put.

Amendment put and agreed to.

Clause 214, as amended, passed.

Clause 215 — *Penalty for false declaration, etc.*

The Attorney General: Clause 215 was also deferred. The hon. Member for Georgetown Central raised a point as regards the word "evasively", and I ask leave to delete the words "evasively or" from sub-clause (d) of this clause. I ask that that amendment be put.

Amendment put and agreed to.

Clause 215, as amended, passed.

SCHEDULES

The Attorney General: We have passed the Schedules but I should like to ask leave to insert in the First Schedule what I suggest to hon. Members may be regarded as a token item. I have had it circulated, and it is only for the purpose of providing something under Part I of the First Schedule, and some items in Part III of the First Schedule. As I have said before, I hope shortly to be able to present hon. Members with Parts I and III of the First Schedule, and for that purpose a Bill will be presented to this Council. It will be appreciated that owing to the fact that these relate to possible changes to some items in the tariff and certain adjustments, it is not possible at this juncture to include the full items in these two Parts.

Consequently, I am just asking leave to insert in Part I and Part III those three token items in the tariff which has been circulated to hon. Members. When the time comes, the Bill which will be presented to hon. Members for their

consideration will have been provided and the First Schedule to that Bill would be deemed to be Part I of the Schedule to this Customs Ordinance, and the Second Schedule would be deemed to be Part III. In that way the two Parts will be linked with this Customs Bill. Hon Members will realize that that is the way I had to adopt in order to have this Customs (Consolidation) Bill dealt with and, at the same time, avoid the difficulty of having to present to hon.

Members a tariff which they will have to go through and accept in its entirety, or postpone the coming into operation of the Ordinance for some time. The moment the Bill is read the first time the duty becomes collectable under the Collection Ordinance.

I explained yesterday why the amendment was desirable. I ask leave to insert in the Schedule those items as appear in Parts I and III of the First Schedule, as follows:

TRADE CLASSIFICATION LIST AND TARIFF (1952)

FIRST SCHEDULE

PART I

Item Number of Com- modity		Units of Quantity			Rate of Import Duty		
		First Unit	Unit Code Number	Second Unit	Unit Code Number	Prefer- ential Tariff	General Tariff
	Section O — Food Division 00 Live Animals						
	Group 001 — Live animals. chiefly for food (a)						
001-01	Bovine cattle, including buffaloes						
001-01.1	Bulls and bull calves for rearing and breeding ..	No.	01	—	—	Free	Free
001-01.2	Cows and heifers and heifer calves for rearing and breeding ..	No.	01	—	—	Free	Free

FIRST SCHEDULE

PART III

EXEMPTIONS FROM IMPORT DUTIES OF CUSTOMS

Hearing aids, crutches, invalid chairs, trusses and similar appliances and identi-

fiable spare parts for the relief of permanent bodily disablement, including reading matter for the blind.

Mosquito nets, mosquito netting and mosquito proof gauze, admitted as such by the Comptroller.

Amendments to Parts I and III of First Schedule put and agreed to.

Parts I and III of First Schedule, as amended, passed.

Council resumed.

The Attorney General: With the consent of Council I beg to move that this Bill be now read a third time and passed.

The Colonial Secretary: I beg to second the motion.

Question put, and agreed to.

Bill read a third time and passed.

BILLS DEFERRED

The Attorney General: I do not propose to proceed with any further legislation now. In so far as the next Bill is concerned, I propose to take it in the new year. It is the Wild Life Protection Bill, 1952, and, as one hon. Member pointed out today, it is desirable that there should be a consolidation, generally, with regard to this matter. Then there is the Fire Prevention Bill, 1952, for second reading also on the Order Paper. I ask that these two Bills be deferred.

Agreed to.

CONTINUATION OF CO-OPERATIVE CREDIT BANKS (SPECIAL PROVISION) ORDINANCE

The Colonial Secretary: I should like to take the motion standing in my name as item 6 on the Order Paper. I therefore beg to move—

"That, in accordance with the provisions of section 9 (a) of the Co-operative Credit Banks (Special Provisions) Ordinance 1948, (No. 22), this Council approves of that Ordinance being continued in force throughout the year 1953."

Hon. Members will remember that this Special Provisions Ordinance was introduced as an emergency measure in 1948 and has been continued by Resolution year by year since then. Hon. Members will also recall that a Bill intituled "An Ordinance further to amend the Co-operative Credit Banks Ordinance 1944, with respect to powers of Credit Banks for the purpose of the increase of food production and the development of the fishing industry", was read in Council for the first time in November this year. That Bill provides for the repeal of the Co-operative Credit Banks (Special Provisions) Ordinance but, unfortunately, owing to the very large amount of legislation which Council has had to deal with, it has not been possible to continue with that Bill during this year. It is therefore necessary that the Co-operative Credit Banks (Special Provisions) Ordinance, 1948, should continue in force, and I ask that Council approve of that.

The Financial Secretary and Treasurer: I beg to second the motion.

Motion put and agreed to.

CHRISTMAS GREETINGS

Mr. Roth: Before the Council adjourns, Sir, in the absence of the senior Elected Member I desire to extend to the President and to you, Mr. Deputy President, and your families, the Council's best wishes for a happy Christmas and a prosperous New Year.

The Deputy President: On behalf of the President and myself I beg to thank hon. Members for their felicitations, and I hope they will also enjoy a happy Christmas in every way and a prosperous New Year as well.

TRIBUTE TO RETIRING CUSTODIAN

Mr. Kendall : Before you adjourn sir, I should like to state that as this is the last meeting of the year—

The Deputy President : We are meeting on the 31st December.

Mr. Kendall : I do not know if I shall be here then, and I should like to record that this is the last occasion on which we will have our Custodian Mr. C. H. Willings, here, since he is due to retire in another few days. For the five

years that I have been a Member of this Council I have always found him willing towards me in every possible way and I should like to have it recorded that he has given satisfactory service to this Council for a number of years. I sincerely trust that he will enjoy his retirement to the fullest.

The Deputy President : The hon. Member's tribute will be recorded. There being no other business, Council will now adjourn until Wednesday 31st December, at 2 p.m.