

# LEGISLATIVE COUNCIL

(Constituted under the British Guiana  
(Constitution) (Temporary Provisions)  
Order in Council, 1953)

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THURSDAY, 26TH JULY, 1956.

The Council met at 2 p.m.

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PRESENT:

His Honour the Speaker,  
Sir Eustace Gordon Woolford, O.B.E.,  
Q.C.

*Ex-Officio Members—*

The Hon. the Chief Secretary  
Mr. M. S. Porcher (Ag.)

The Hon. the Attorney General,  
Mr. C. Wylie, Q.C., E.D.

The Hon. the Financial Secretary,  
Mr. F. W. Essex.

*Nominated Members of Executive  
Council—*

The Hon. Sir Frank McDavid,  
C.M.G., C.B.E. (Member for Agriculture,  
Forests, Lands and Mines).

The Hon. W. O. R. Kendall (Member  
for Communications and Works).

The Hon. G. A. C. Farnum, O.B.E.  
(Member for Local Government, Social  
Welfare and Co-operative Development),

The Hon. R. B. Gajraj.

The Hon. R. C. Tello

*Deputy Speaker*

Mr. W. J. Raatgever, C.B.E.

*Nominated Unofficials—*

Mr. T. Lee

Mr. W. A. Phang

Mr. W. A. Macnie, C.M.G., O.B.E.

Mr. C. A. Carter

Mr. E. F. Correia

Rev. D. C. J. Bobb

Mr. H. Rahaman

Miss Gertie H. Collins

Mrs. Esther E. Dey

Dr. H. A. Fraser

Mr. R. B. Jailal

Mr. Sugrim Singh

*Clerk of the Legislature—*

Mr. I. Crum Ewing

*Assistant Clerk of the Legislature*  
—Mr. E. V. Viapree.

*Absent*

The Hon. P. A. Cummings (Member  
for Labour, Health and Housing).  
—on leave.

The Hon. L. A. Luckhoo, Q. C.

Mr. W. T. Lord, I.S.O.—on leave,

Mr. J. I. Ramphal—on leave.

The Speaker read prayers.

The Minutes of the meeting of the Council held on Thursday, the 19th of July, 1956, as printed and circulated, were taken as read and confirmed.

## ANNOUNCEMENTS

### GOVERNOR'S STATEMENT ON FEDERATION

The Chief Secretary (Mr. Porcher, acting): I beg to lay on the table a Statement by His Excellency the Governor, Sir Patrick Muir Renison, K.C.M.G., clarifying the position of British Guiana in relation to Federation:

"To Honourable Members of Legislative Council.

I have been asked to clarify the position of British Guiana in relation to Federation, and I have been in correspondence with the Secretary of State about it.

The decision whether British Guiana should or should not apply to join the British Caribbean Federation can only be made by British Guiana herself, and it will also be for British Guiana to determine how and when the decision should be made.

But the Secretary of State wishes to make it quite clear that it is not at present open to British Guiana to make such an application, and an opportunity will not arise for two or three years at the least. Pre-federal planning is now in full swing and legislation enabling the Federation to be set up with the components already decided upon is now before the United Kingdom Parliament. Federal elections will not be held before 1958. On its inauguration the Federation will inevitably be faced with the innumerable problems incidental to its establishment, and not at least until a year after the Federal elections could the Federal Legislature and Government be expected to be in a position to address themselves to the constitutional and administrative changes involved by the addition of a new member of the Federation. It must therefore be at least two or three years, and possibly longer, before the question of British Guiana joining the Federation can become a live issue.

In the intervening period the main objective for British Guiana is to get back on the main road of political advance, by furnishing proof of political stability and the determination to go forward in conformity with the democratic Commonwealth principles on which the developing constitutions of the Federation and its constituent units are based. If British Guiana wished to enter the Federation, in the absence of such proof her bargaining power and status in the new Federation would be impaired.

An undertaking is given that the question of British Guiana's participation in Federation will not be raised for decision or be brought before the next Legislature by the Governor or the official members. At the same time, the Secretary of State strongly urges all those in British Guiana who believe in the democratic principles of the Commonwealth, rather than in a communistic one-party system of state control, to get together and agree that Federation should not be made an issue at the next elections, and agree further that Federation should not become a question for decision during the life of the next Legislature. The way would then be clear for all parties which are not communist-led to join in eradicating once and for all the threat of communistic control of the Government. If they can thus defeat this danger the Secretary of State is confident that they will then be able to demonstrate that the country is ready for further constitutional advance. It cannot be ready so long as that danger still exists.

P. M. RENISON  
Governor

Government House,  
Georgetown,  
British Guiana.  
25th July, 1956."

## PAPERS LAID

### CUSTOMS ORDER IN COUNCIL

The Financial Secretary: I beg to lay on the table:

Order in Council No. 46 of 1956 made under section 8 of the Customs Ordinance, Chapter 309, on the 3rd day of July, 1956, and published in the Gazette on 21st July, 1956.

Minutes of meeting of Finance Committee held on 28th June, 1956.

## GOVERNMENT NOTICES

## INTRODUCTION OF BILLS

**The Attorney General:** I beg to give notice of the introduction and first reading of a Bill intituled:

"An Ordinance to amend the Deeds Registry Ordinance."

**The Financial Secretary:** I beg to give notice of the introduction and first reading of a Bill intituled:

"An Ordinance to amend the Auctioneers Ordinance."

## NOTICE OF MOTION

## CUSTOMS ORDER IN COUNCIL

**The Financial Secretary:** I beg to give notice of the following motion:

"Be it resolved:

That this Council, in terms of section 9 of the Customs Ordinance, Chapter 309, confirms Order in Council No. 46 of 1956 which was made on the 3rd day of July, 1956, and published in the Gazette on 21st July, 1956."

## CONSTITUTION—MOTION FOR ROYAL COMMISSION

**Mr. Speaker:** Before we proceed with the Order of the Day I wish to inform the hon. Member, Mr. Lee, and Members generally, that an early opportunity will be afforded for the discussion of his motion for the appointment of a Royal Commission with respect to the proposed changes in the Constitution. I would like to know when the hon. Member will be in a position to move his motion.

**Mr. Lee:** I will be in a position to do so on the next Members' Day.

**Mr. Speaker:** The next Members' Day will be Wednesday next week.

**Mr. Lee:** I cannot be here next week.

**The Chief Secretary:** May I suggest Wednesday week?

**Mr. Lee:** Yes, Wednesday, 8th August, will suit me.

**Mr. Speaker:** I have announced it so that Members should know exactly on what day this important motion will be discussed. For the present it will be discussed on Wednesday, 8th August.

## ORDER OF THE DAY

## DRAGLINES IN WAKENAAM AND LEGUAN

**Mr. Lee** asked, and **Sir Frank McDavid** laid over replies to the following questions:

**Q 1:** Is Government aware that the two draglines—one for Wakenaam and one for Leguan — are inadequate to cope with the needs of the people of those Islands?

**A 1:** Government is aware that there is at present a heavy demand in Wakenaam and Leguan for the use of draglines operated under the Government Agricultural Machinery Hire Pool. It is for this reason that the number of machines allocated to these two Islands was increased last year from one to two, by the withdrawal of a machine from another area. These two machines represent a reasonable proportion of the total number of draglines in the Pool, and it is considered that all the work likely to be required can be completed by them within a reasonable period of time.

**Q 2:** If the answer is in the negative, will Government cause the necessary enquiry to be carried out in those areas?

**A 2:** See answer to Question 1.

**Q 3:** If the answer is in the affirmative, will Government make an adequate supply of draglines available to the people of those Islands?

**A 3:** See answer to Question 1.

## GOVERNMENT BUSINESS

## FIRE BRIGADE BILL

**The Chief Secretary :** I beg to move the first reading of a Bill intituled :

“An Ordinance to provide for the establishment of the British Guiana Fire Brigade and for purposes connected therewith.”

**The Attorney General :** I beg to second the motion.

Question put, and agreed to.

Bill read the first time.

## FISHERIES BILL

Council resolved itself into Committee to resume consideration of the Bill intituled :

“An Ordinance to regulate fishing in the waters of the Colony.”

**Mr. Lee :** I wish to ask that clause 2 of the Bill be recommitted for the purpose of moving an amendment.

**Sir Frank McDavid** (Member for Agriculture, Forests, Lands & Mines): I had intended to start from the first clause of the Bill which was deferred, which is clause 4, and I also proposed to ask that clause 3 be recommitted in order to suggest that a certain change be made in an amendment of that clause which was accepted on the last occasion.

**The Chairman :** Have you any objection to clause 2 being recommitted?

**Sir Frank McDavid :** I would prefer the recommitment of clause 2 to be taken after the remaining clauses of the Bill have been dealt with.

**Mr. Lee :** I agree,

Clause 3 recommitted.—*Register of fishing boats and particulars thereof.*

**Sir Frank McDavid :** I ask that clause 3(1) be recommitted. If Members would look at the Minutes of the last meeting which were confirmed today they would see exactly what was done with respect to the proviso to subclause (1) which was accepted. But that proviso is not quite satisfactory, because it deals merely with the power of the Governor in Council to exempt fishing boats from the provisions of this particular clause, whereas what was intended was that the exemption should apply to all the requirements imposed on fishing boats which occur in clauses 4 to 10. Consequently I now ask that the proviso, as printed in the statement of amendments circulated today, be substituted for the proviso as printed in the Minutes. It reads as follows :

“Provided that the Governor in Council may by Order exempt any class of fishing boat, or fishing boats in any specified area or areas of the Colony, from such provisions of this Ordinance as may be specified in the Order, and such Order may from time to time be varied or revoked by a further Order.”

In other words that widens the Governor in Council's power so as to cover all obligations of fishing boats under clauses 4 to 10. I do not think this amendment will be controversial.

**Mr. Carter :** This Bill has been one of my pet subjects for study. Having passed clause 3 at the last meeting I am very much surprised to find the hon. mover working backwards by asking for the recommitment of that clause. I almost want to feel that the entire Bill has been recommitted. If that is so I would go further back by asking that the Long Title of the Bill be recommitted to allow me to move an amendment to that title.

**The Chairman :** We are dealing with the recommittal of clause 3 at the moment. Does the hon. Member wish to do the same thing with respect to the Long Title?

**Sir Frank McDavid :** The Long Title has not yet been passed; it is the last item for the Committee's consideration.

**Mr. Carter :** I do not mind the acceptance of the proposed amendment to clause 3, provided I am given an opportunity to deal with the Long Title.

**The Chairman :** Do you wish to amend the Long Title?

**Mr. Carter :** I would like the Long Title amended to read: "An Ordinance to regulate fishing in the coastal waters of the Colony", and in so doing—

**Sir Frank McDavid :** I think the hon. Member is out of order. This is not the time.

**The Chairman :** I wanted to have some indication of what he proposes. I will bear it in mind. The hon. Member must not speak on it. Does any other Member wish to speak on this clause ?

The question is that clause 3 be now amended by what has just been moved.

Agreed to.

Clause 3 passed as amended.

Clause 4.—*Application for registration of a fishing boat and particulars thereof.*

**Sir Frank McDavid :** Clause 4 was the first of the clauses which were deferred, and the reason for that being deferred was because of the ob-

jections and doubts of the Members of the Council in regard to the words "public interest" appearing in subclause (3). I may say that I, too, to some extent, did share these doubts originally when I saw the draft, and I was very glad for the suggestion by the hon. Member, Rev. Mr. Bobb, because after consideration we have decided to use the phrase which he himself suggested, that is to say, instead of "public interest" we are using the words "in the interest of the fishing industry".

There is a minor amendment which I should have referred to first. The words "subsection (4)" which appear in subclause (2) are erroneous. The words should have been "subsection (3)". So the first amendment I wish to move is that those words be deleted, and there be substituted therefor the words "subsection (3)". Next, I would like to move that the words "public interest" in subclause (3) be deleted and be replaced by the words "interest of the fishing industry". I may say, Sir, that wherever the words "public interest" appear, and they do appear in two other clauses, I shall move a similar amendment.

**The Chairman :** Members have those amendments before them.

Question put, and agreed to.

Clause 4 passed as amended.

Clause 5.—*Change of possession of fishing boat to be notified to the Director.*

**Sir Frank McDavid :** That leaves me to move that clause 5 be adopted and passed. The reason for the deferment of clauses 5, 6 and 7 was that they fell along with clause 4. There is no change in clause 5.



**The Chairman:** Members will remember that clause 5 was deferred for consideration. There is no change, and the question is, that it be passed as printed.

Agreed to.

Clause 5 passed as printed.

*Clause 6.—Cancellation of registration of fishing boats.*

**Sir Frank McDavid:** I move again that the words "public interest" appearing in this clause be deleted and replaced by the words "interest of the fishing industry".

**The Chairman:** Do the amendments meet with what the hon. Member, Rev. Mr. Bobb, had in mind?

**Rev. Mr. Bobb:** Yes, Mr. Chairman.

Question put, and agreed to.

Clause 6 passed as amended.

*Clause 7.—Using unregistered fish-  
ish boat an offence.*

**Mr. Correia:** I think I challenged the penalty attached to the offence as set out in subclause (2). I thought the hon. Member would have dealt with it.

**Sir Frank McDavid:** Does the hon. Member think it is too high?

**Mr. Correia:** I think it is too high.

**Sir Frank McDavid:** Has the hon. Member anything to suggest?

**Mr. Correia:** I suggest \$50 as in clause 20.

**The Attorney General:** One of the objects of this registration is to have the boats inspected, and to see that they are seaworthy. I think it

would be rather a serious offence to avoid registration, for it would result in persons taking others to sea in boats which are in an unseaworthy condition. Actually, the fine of \$250.00 is not too heavy for a person who risks other people's lives. I would suggest that the penalty is not too great.

**Mr. Correia:** I thought that the unseaworthiness of a craft or otherwise was controlled by the Harbours Department.

**The Attorney General:** As is stated in this clause, the boat must be inspected to see whether it is seaworthy, as may be required under any law in the Colony. They must be certain of its seaworthiness.

**Mr. Correia:** It is a case of overlapping.

**The Attorney General:** Yes, to some extent.

**Mr. Carter:** How can the Director of Agriculture or the fishery officers tell us, as the hon. Member, Mr. Correia, is pointing out, whether a boat is seaworthy or not when that depends on another department?

**Sir Frank McDavid:** I think hon. Members are misunderstanding the clause when it states:

"No person shall use, or being the owner, shall permit any other person to use a fishing boat for the purpose of fishing unless the vessel has been inspected and is registered under this Ordinance, and there is in force such certificate of seaworthiness as may be required therefor by any law or Ordinance in force in the Colony."

That is to say, it has got to be registered; fit for fishing under the aegis of the Fisheries Department, and in addition it has got to carry a certificate of fitness imposed by the Ordin-

ance under which it operates and the Harbours Department. They are two things. He is liable to be prosecuted by a fishery officer or the Fisheries Department whose duty it is to see that these obligations are complied with.

**Mr. Correia:** I would rather see the clause read, "as provided by the Harbours Department", as I do not think the Department of Agriculture is the proper authority to decide whether a boat is seaworthy or not.

**The Chairman:** This clause states that the boat must be inspected and registered with regard to its seaworthiness, and if the person concerned fails to carry out his responsibility he is open to the penalty set out in sub-clause (2). I do not think the Harbour Master will be left entirely out of this matter. I do not think the certificate will be issued by the fishery officer. Does the hon. Member know what is done at Bartica—by whom is it issued?

**Mr. Correia:** It is done by the Warden.

**The Chairman:** Doesn't the hon. Member think there should be a sufficient penalty to prevent boats being used in an unseaworthy condition?

**Mr. Correia:** Yes, Sir.

**Sir Frank McDavid:** I do not know what the penalty is under the Ordinance by which the certificate of seaworthiness is issued, but I seem to think it is higher there. But the point is, a person might incur a penalty for using a boat which is unseaworthy. Anyhow, all it is saying here is that he shall not use the boat for fishing if it is not registered as a fishing boat, and he must also have it certified by the person who has the right to issue such a certificate. It is double-barrelled; that's what it is.

**Mr. Carter:** This matter also concerns the issue of a certificate of the seaworthiness of a craft. The hon. Member is in charge of the Department concerned and yet can come to this Legislature and tell us that he does not know what the penalties are. This happens to be within his portfolio, and I warn the hon. Member that I shall be asking some very pertinent questions later on in this debate, and he will have to come here equipped to answer questions.

**The Chairman:** Why not let us defer this clause so that the Attorney General might look into it?

**Sir Frank McDavid:** I don't think the point raised by the hon. Member is really relevant. There must be some law under which boats are registrable.

**Mr. Lee:** The owner of the boat has to pay for the examination and also for the certificate.

**Sir Frank McDavid:** I am not quite clear as to what is the point we are getting at.

**The Chairman:** The hon. Member wishes to know whether the owner of the boat will have to carry his certificate in order to show that he is a competent person. Supposing the owner of a craft does not think it is seaworthy? We want to be quite sure that a person is qualified to use it.

**Mr. Carter:** The fishery officer, who is the person designated to examine the fishing boat, can make a report to the agricultural officer.

**Sir Frank McDavid:** With due respect, Mr. Speaker, all that this clause says is that the owner of a fishing boat must have, in addition to its registration, "such certificate of seaworthiness as may be required therefor by any law

or Ordinance in force in the Colony." It is not going to be for the fishery officer to make the law; that is the law that is there. It is not new work; it is work which is going to be undertaken now.

**Mr. Carter:** Let us revert to clause 4 (2); it says:

'(2) Upon receipt of an application for the registration of a fishing boat, the Director shall cause a fishery officer to inspect the fishing boat to which the application refers and if on such inspection the fishing boat is found to be fit for the purposes of fishing the Director, subject to the provisions of subsection (4) of this section, shall assign to such fishing boat a certificate of registration thereof in the prescribed form'.

**Mr. Jailal:** I think that what is confusing the minds of Members is the fact that at the present time all boats built or used have to be regarded as seaworthy and will need to have a certificate of fitness for such operation from the Harbour Department. I should think hon. Members are wondering whether the boats will have to get this certificate and then turn around and get another under this clause. I do not know whether all the Members understand that the certificate of fitness that will be issued by the Director of Agriculture will only be with respect to fishing.

**The Chairman:** It will be a certificate of registration.

**Mr. Jailal:** The boat must be regarded as seaworthy through a certificate from the Transport and Harbours Department.

**Mr. Macnie:** The hon. Member on my right (Mr. Lee) and myself have been doing a bit of research into our laws and we have found that in Chapter 270—the River Navigation Ordinance—at page 3485, the officer has power to make Regulations for the inspection,

registration and licensing of all mining boats, and for the payment of fees therefor. We know that these Regulations exist and that these boats have to be inspected.

**Mr. Carter:** That is so far as river navigation is concerned. This Bill particularly concerns fishing, and I would like to find an Ordinance which states that there must be registration of craft as regards seaworthiness.

**The Chairman:** In the old days and until the present time, I think, every boat leaving Bartica and going to the interior had to be examined as regards seaworthiness, and the Warden who was stationed at Bartica used to see about that. It is known that there is no more dangerous form of navigation in this colony than going up the Mazaruni river. Under this clause a boat would have to obtain such an examination, but that does not exclude the owner from obtaining a certificate of registration under clause 3 (1). The examination relates to its seaworthiness.

**Mr. Carter:** I cannot see that, Sir. I think we had better find the relevant Ordinance and let us see what seaworthiness means so far as these boats are concerned. I think the examination is for boats that go beyond Bartica—to ascertain their seaworthiness—and we should find the relevant Ordinance and see whether boats going in the opposite direction should be so examined and registered.

**The Chairman:** Under clause 4 (2) a fishery officer can issue a certificate of registration to the owner of a fishing boat.

**Mr. Carter:** I do not think a fishery officer is qualified enough to decide whether a boat is seaworthy as regards fishing.



**The Attorney General:** There are three provisions known that have a bearing on this subject. One relates to the navigation of boats in the mining or interior rivers, another relates to shipping in the river under the Regulations of the Transport and Harbours Department and the third has to do with putting to sea by a ship without a certificate by the owner showing that it is in a seaworthy condition. The last-named is a very serious offence, but the one being referred to is not a serious offence.

**Mr. Carter:** Couldn't it be provided that improper registration would be an offence?

**The Attorney-General:** I take it that ships might go to sea without a certificate of seaworthiness from the local authorities. There is a general provision whereby a ship should not put to sea in an un-seaworthy condition. That offence carries a penalty of two years' imprisonment, and that would apply to British ships under the Merchants Shipping Act.

**The Chairman:** What hon. Members are pointing out is that under clause 7 (1) a fishing boat cannot be used unless it has been inspected and registered, the registration being a pre-requisite under clause 4 (1) to the inspection. Two certificates are therefore necessary. I take it that the certificate of inspection will be issued by somebody at the Harbour Master's Department. In the old days it used to be the Land Officer.

**The Attorney-General:** The effect of this clause is not to require fishermen to go before a fishery officer for a certificate, but that they must go to the proper officer under

another Ordinance and get a certificate of seaworthiness before their boats can put to sea.

**Mr. Carter:** That being so I think we will have to amend clause 7 by removing the word "seaworthiness", because it does seem that seaworthiness is not involved at all; it is a question of the fitness of a boat for fishing.

**Sir Frank McDavid:** I think I can resolve the difficulty by proposing at once the deletion from subclause (1) the words:

"...and there is in force such certificate of seaworthiness as may be required therefor by any law or Ordinance in force in the Colony.

The reason for that is that if there is a law which applies to that particular class of fishing boat the owner would have to obtain that certificate before the boat could put to sea. I would be quite candid in saying that the fishery officer would ask for a certificate of seaworthiness from the proper officer. Those words in the sub-clause are really an added precaution, and are not essential to this particular legislation. I move the deletion of the words referred to.

**Mr. Carter:** I do not know if the ordinary fishing boats are inspected by the Transport and Harbours Department for the purpose of issuing certificates of seaworthiness. If that is the practice then I think such a certificate should satisfy the fishery officer that a boat is fit for fishing purposes.

Subclause (1), as amended, agreed to.

Subclause (2).—

**Mr. Correia:** I consider the penalty of a fine not exceeding \$150 or imprisonment for a term not exceeding

three months, as provided in this subclause, out of proportion to an offence of this nature. I suggest that the fine should be reduced to a maximum of \$50.

**Sir Frank McDavid:** I have no objection to that. In a way I agree with the hon. Member that if an owner of a boat was charged he would at once make good his omission to have his boat registered, because there are important advantages in having a fishing boat registered. Assuming that one of our fishing boats drifted into the Corentyne river, it would be of particular advantage if the owner could flourish a formal certificate of registration.

**Mr. Carter:** I wonder if the hon. Member believes that the Dutch Government would accept that certificate of registration and would not punish our fishermen for fishing in the Corentyne river?

**Sir Frank McDavid:** I do not suggest that for one moment.

**Mr. Carter:** Anyhow, a certificate of registration would help.

**Sir Frank McDavid:** I accept the suggestion made by the hon. Member, Mr. Correia, and move the substitution of the words "fifty dollars" for the words "two hundred and fifty dollars or to imprisonment for a term not exceeding three months".

Subclause (2), as amended, agreed to.

*Clause 15.—Licences to be shown on demand.*

**Sir Frank McDavid:** The reason for the deferment of this clause is that as it is printed it provides that all licences must be shown on demand

to a fishery officer, a Justice of the Peace or a member of the Police Force.

Quite obviously, since fishing licences are not going to be carried on the person, it would be impossible for anyone to demand them immediately. Therefore it is proposed to substitute for subclause (1) the following::

"(1) The holder of a licence under this Ordinance shall, upon being so required by any fishery officer, justice of the peace or member of the police force, produce his licence for examination within seventy-two hours of the request so made at the nearest police station."

That is the form that this sort of section of the law usually takes; it gives 72 hours for production of a document. I formally move the amendment.

**The Attorney General:** I beg to second the amendment.

**Mr. Carter:** I would like to know if, because this is a Government Bill, I must be denied the right to have the Long Title or the first clause of the Bill recommitted? The amendment I propose to suggest in the Long Title, would, if approved, do much to resolve the controversy about this Bill.

**The Chairman:** In speaking on this amendment you can at the same time say why you think the Long Title of the Bill is wrongly described.

**Mr. Carter:** Clause 1 has been passed already but I would like the Long Title of the Bill amended. I am therefore asking that clause 1 be recommitted.

**Sir Frank McDavid:** After the debate on the second reading the Council accepts the Bill in principle, including its Long Title.

**The Chairman:** I am putting the clause. The question is that clause 15, as amended, stand part of the Bill.

Agreed to.

*Clause 16.—Duration of licences to fish and to export fish.*

**Sir Frank McDavid:** Clause 16 was deferred because questions were raised regarding the words "public interest" at the end of subclause (2). I move that the words "interest of the fishing industry" be substituted for the word "public interest".

Clause 16, as amended, agreed to.

*Clause 23.—Appointment of fishery officers.*

**Sir Frank McDavid:** Objection was raised to the form of this clause inasmuch as it seemed to mean that there was some power in the Governor in Council to authorize the payment of money without the approval of the Legislative Council. That, of course, was not intended at all. Nevertheless, for greater caution, we propose to amend clause 23(1), as shown on the printed list of amendments. The clause will now read:

"23. (1) The Governor may from time to time appoint fishery officers for the purpose of carrying out the provisions of this Ordinance.

(2) Fishery officers shall be paid out of moneys provided by the Legislative Council such remuneration as is approved by the Governor."

That, I think, will meet the objection which was raised.

Clause 24, as amended, agreed to.

*Clause 24.—Power of fishery officers.*

**Sir Frank McDavid:** This clause was deferred because of objections in principle to the powers and the

nature of the powers which were being given to fishery officers under this Bill. After consideration I entirely agree that the powers which appear in paragraphs (b), (c) and (f) are unnecessary. Even if they were in the law I cannot conceive of circumstances in which they would in any case be used. Under paragraph (b) a fishery officer was to be given power to "inspect and search any baggage, package, premises or property belonging to any person whom he suspects of having committed an offence against this Ordinance or any regulations made thereunder or to any person in his employment" for the purpose of seeing whether there was any fish being stored. That sort of thing may be all right in a country where some kind of important fishing went on, and where poaching was prevalent, but I cannot conceive of any possibility of its being necessary here.

Similarly, in paragraph (c) which gives power to search every vehicle, boat or other conveyance suspected of carrying fish improperly obtained, I cannot see any possibility of that power being used here at all, and there is no reason why it should remain.

Lastly, in paragraph (f) there is power to arrest. There again, all intentions of the framers of the Bill were to help the fishing industry, and not to have formidable powers. I therefore propose that paragraphs (b), (c) and (f) be deleted, and that the remaining paragraphs be relettered (b) and (c).

**Mr. Raatgever:** I congratulate the hon. Member on having seen the reasonableness of the objection to those offensive paragraphs.

**Mr. Correia:** It was my objection, but I did not intend that the hon. Member should go to such an extreme.

**Sir Frank McDavid:** I was very glad to hear the commendation by the hon. Member, Mr. Raatgever, and Mr. Correia's support of this amendment. I may explain that sometimes it is a little difficult when officials are preparing a Bill by taking what they consider the best elements in similar legislation in other parts of the world. It is not always easy for them to decide what is good and what is bad, so they put in everything with the expectation that somehow they would have a comprehensive Bill. But after further consideration it is quite obvious that these paragraphs are not desirable.

**The Chairman:** Three sub-clauses have been deleted altogether.

Clause 21.—*Power to enter lands.*

**Sir Frank McDavid:** I am here appealing to hon. Members. I know that the words which seemed to offend them were these, in sub-clause (2):

“Any fishery officer or member of the police force may, where he has reason to suspect that an offence against this Ordinance or against any regulations made thereunder is being committed or is about to be committed, at any time of the day or night enter, remain upon and traverse any lands.”

Some Members felt that was going too far, and was giving a fishery officer too much scope, but may I point out that the clause seeks to enable the officer to pass across land without being taken up for trespass. In the course of his duties a fishery officer may wish to traverse some person's property to see what is going on at a stream, and all this clause means is that he would be able to do so without incurring a charge of trespassing. It certainly does not give any objectionable powers to anybody.

**Mr. Correia:** I rise to propose an amendment, as follows:

“Any fishery officer alone or in company with a member of the police force may, where he has reason to suspect that an offence against this Ordinance or against any regulations made thereunder is being committed or is about to be committed, at any time of the day or night enter and traverse any lands.”

The sub-clause as it stands gives them the power to enter upon people's lands and remain there.

**Mr. Raatgever:** May I ask for the deletion of this whole clause? I consider it obnoxious. It interferes with the liberty of the subject and I cannot agree to anything that would take away the privileges given to people under a democratic Government. I will never be party to that. After all, we are only dealing with fish, and not gold bullion, diamonds and things like those. We would be drifting towards Russian methods if we pass legislation such as this, and we would be giving a bad example to the masses. I feel sub-clause (2) is unnecessary and undemocratic.

**Miss Collins:** I objected to this clause on the last occasion. I have the same impression of it that I had last week, and I think we should delete the whole clause.

**Mr. Jaisal:** In supporting the deletion I would refer to the fact that in this country a proprietor seeing a person walking down his dam would hardly stop him. The only reason he would stop a fishery officer is if he were going to steal a fish. I cannot understand how or why this clause was put in. If it was done with a view to protecting the fishery officer I would suggest that the officer can protect himself by letting the proprietor know when he is going down the dam. I have never had any



trouble yet in going down a dam, and I do not think that any fishery officer will have trouble.

I agree with Mr. Correia when he says that this clause would permit a police officer to go and stay in anybody's backyard as long as he likes, providing a fishery officer is with him. It would be unfair to pass such legislation as this because, as one Member puts it, it would then be a case where they could go on people's lands for any matter under the guise that it is a fisheries matter.

**Rev. Mr. Bobb:** I think last week I was responsible for instigating this furore over this clause, and I wish to repeat my point. As I understand it, a member of the Police Force has permission to go on lands for certain purposes with a warrant. This clause seeks to give a fishery officer the right to go on lands without a warrant, and I contend that it is an infringement on rights to give an officer who is in status comparable to an Agricultural Superintendent the power to go on lands for the purposes set forth here. There is an Ordinance which gives permission for such a thing, and I do not see any circumstances arising which would make it necessary for a fishery officer to go on people's lands. The circumstances, however, may arise where the police may have to go on land, but he is authorised to go in a certain way already, and on this ground I think the hon. Member may well consider deleting this clause entirely.

**The Attorney General:** I suggest that there is some misapprehension about this Bill. As the hon. Member (Sir Frank McDavid) has pointed out, this clause is only to protect the fishery officer or a policeman from being prosecuted. It does not allow him to go on people's lands under any circumstances. It only allows him, or a member

of the Police Force, to enter the land where he has reason to suspect that an offence against this Ordinance or under any Regulations made thereunder, is being committed or is about to be committed.

This is not the only time those words have appeared in the provisions of an Ordinance. If a policeman purports to arrest any person on suspicion that he has stolen goods on him, and he has no reasonable cause for that suspicion, the policeman would be liable for malicious prosecution. It will be exactly the same with this clause. If any member of the Police Force goes on anybody's lands where he has no reason to suspect that an offence has been committed or is about to be committed he would still be liable as a trespasser. In the absence of this provision there might come a time when he sees people committing an offence but can do nothing about it before going to the police station and getting a warrant or going to the owner's house to get permission to go on the land. What would be the point? That would amount to giving the owner a chance to break the law without being discovered because, obviously, if he is going to ask the owner to give permission the owner would be safe all the time.

The circumstances are very restricted. The clause says "Any fishery officer . . . where he has reason to suspect . . ." Those words mean what they say. He can be prosecuted for trespass and he will have to produce his reason for suspicion. If he does not, he will be liable for damages. There is no question of the fishery officer being given the right to prosecute a man without a cause; he must have reason to suspect that an offence has been committed or is about to be committed. If he knows that it was committed on the previous day it



would be different. He would go to the police station, get the evidence taken and prosecute in the normal way. But if a fishery officer, miles away from any police station, and within a few yards of the river where he sees an offence being committed, cannot walk across somebody's land to deal with the matter, it would be a ridiculous state of affairs.

**Mr. Raatgever:** With all due deference to my friend, the hon. Attorney General, I say it is ridiculous to adopt that line of argument. They can always say that they have "reason to suspect" and go onto people's lands. I am asking that this clause be deleted because it is not right at all. I cannot see how the Administration can leave it in when Members "on the floor" feel something is wrong and not in the best interests of the inhabitants of this country. It seems that they must do what they want to do and not what we want them to do. That is why this country is in the mess it is, and it is going to remain in a mess until the Administration decides to consult the people and not to carry out their wishes.

**The Attorney General:** I rise to a point of order! I said the fishery officer must prove that he had reason to suspect. The boot is on the other foot, and there is no justification for what my hon. friend (Mr. Raatgever) said. The onus is on the fishery officer or the member of the Police Force to prove he had reason to suspect that an offence was being committed or was about to be committed, and if he does not satisfy the court on that he would be liable for trespass. There is no onus of that kind on the owner of the property.

**Mr. Carter:** Members will no doubt bear in mind the statement by the Attorney General that the fishery

officer has to have a reason for going on lands. The lands referred to in this clause actually are private lands, otherwise the fishery officer or anybody else would be able to enter on them without let or hindrance. Judging from what is stated in this clause, I would like to know, if I had a fish pond on my land whether a fishery officer or any member of the Police Force could enter that land without permission and inspect and do all sorts of things merely because of the presence of a fish pond and the possibility that an offence might be committed. I think the Bill allows it, and I am certain no Member of this Council will vote in favour of this clause. I am asking for the deletion of the whole clause. Let the hon. mover or the Attorney General find somewhere else for it.

**Rev. Mr. Bobb:** I would just like to ask one or two questions. Would the Attorney General say whether there is insufficient provision already to enable a member of the Police Force to enter lands? and would he mention any circumstances where a fishery officer can enter lands without a member of the Police Force? I cannot conceive the circumstances which would render it necessary for him to enter lands alone.

**Sir Frank McDavid:** I think hon. Members are not paying sufficient attention to the idea. The hon. Member (Rev. Mr. Bobb) asked for illustration how it can be used. I will only illustrate from the point of view of the fishery officer. Take the case of the very large fish nets which come into the Colony and which are being placed around our coast. It is conceivable that regulations will be made to control these nets in the interest of the people who are there now. There is a good deal of trouble going on about these fish nets on the coast, and I

think the time will come when allocations of places for nets will have to be altered. Suppose that a fishery officer is standing on the shore seeing some person locating nets where they should not be. He may have to walk across private lands to where the offence is taking place, and this clause means that he can do that without rendering himself liable to prosecution for trespass. That is all it means. I cannot conceive of a fishery officer wanting to go across private lands unless he sees an offence about to take place or taking place.

**Rev. Mr. Bobb:** Is it the case that at present our Agricultural Inspectors, Agricultural Superintendents and sanitary inspectors are permitted, without the permission of the owners, to go across private lands at any point in the execution of their duty, no provision is laid down in the Ordinance, and there is no difficulty as a result?

**Sir Frank McDavid:** In the case of agricultural officers it is a very rare operation that they have to go on private lands in connection with any offence, but in the case of sanitary inspectors, yes. But I have no doubt if I look at the laws I would find somewhere that a Sanitary Inspector has the right to enter premises if he has some reason to suspect that an offence is being committed.

**Mr. Correia:** A person might have a little pond or a drain in his yard in which he keeps fish and it would be his private property, but he might find himself committing an offence by fishing on his own land.

**The Chairman:** The clause says that an officer may inspect lands for the purpose of finding out whether any offence is being committed against the Ordinance,

**Sir Frank McDavid:** I do submit that what has been stated by the hon. Member (Mr. Correia) is not good argument. What possible offence can anyone commit by fishing in his own pond.

**Mr. Lee:** I think the hon. Member for Agriculture might appreciate the point better if I read the clause. It says:

"25. (1) Any fishery officer may for the purpose of —

(a) stocking water with fish  
or

(b) inspecting any water containing fish, at all reasonable times of the day enter, remain upon and traverse any lands.

That means that a fishery officer is being given the right to enter upon and inspect private property.

**Mr. Raatgever:** I move that the clause be deleted.

**Mr. Jailal:** I would like to explain one more point. I think that both the Attorney General and the hon. Member for Agriculture are referring to cases where the officer would need to go on the coastlands, but both of them are under a delusion. A pond, so far as I know, is anything from 100 yards to a quarter of a mile long. Wherever this officer may go, I cannot believe that he would fail to see a boat which would have a "fat" number painted on the opposite side, or that the fishermen would go on the seashore without any equipment. One cannot walk on our mud flat in order to find out whether the fisherman is doing the right thing or not. Let us assume that something happens in a boat in the river—a "bungo mary" boat, for instance. If the officer wants to get there for an inspection he would have some difficulty in doing so, whereas someone else might be able to get there by walking on a sideline dam. What is worrying Members here is not the question of a short coastline and

I should like to explain that in pin-seine fishing a fishing boat often comes in on private property or by what are known as sluice runs, and I cannot see what a fishery officer would want to go down to private property for.

**The Chairman :** Supposing a man steals or gets fish from elsewhere and the fishery officer has ground for suspecting that it can be found in a fish pond or elsewhere, he would have to satisfy the Magistrate that there is sufficient evidence to justify his going there. If he has a reasonable amount of suspicion he might find what he suspected, but we are preventing a right of inspection. We are not dealing with any particular fish, and it is an offence under the Ordinance for anybody to have what does not belong to him. If the fishery officer does not satisfy the Court that he has reasonable ground for suspicion—and the Attorney General has referred to that—then the person accused may bring an action against him. He has to have reasonable ground, but we cannot object to his taking action. A man may have lost fish and the officer may have reason to believe that he could find it by inspecting.

**Mr. Jailal:** I should like to put a very simple question on this point. A man might lose four or five large fishes and that would be quite a blow to him. He goes to the fishery officer who suspects his friend of stealing one fish or even more, but the man who has suffered the loss might still ask the officer not to take the matter to Court because it is an expensive process. I think we are rather forcing these people to take an expensive process when they have neither the time nor the money to afford it. The owner of the fish would have to take the initiative if he wants to prove that the officer had acted on reasonable grounds. If the officer comes to my property and I do nothing, he would

take the initiative against me. Are we to expect that the Agriculture Department would take up a case such as the one I have mentioned? I am making the point that it takes money to bring an action. Every time a lawyer writes a letter it costs \$10 or \$15.

**Mr. Raatgever:** Why allow the owner of the land to be put to the trouble and expense of bringing an action against a man because he enters the land for an unlawful purpose. I do not want to see that passed here.

**Mr. Sugrim Singh :** I think we are going a little too far. This would defeat the very object of the Ordinance. If a commercial person takes my boat—or that of anybody else—to any private land, what is to prevent me from taking steps against him. The law has been passed and we must provide the machinery to carry it out. I have heard some eloquent speeches about private lands and private roads, but they do not weigh against a policeman. We might as well say that we would be creating a lacuna—if I may use that term.

**Mr. Lee :** If a policeman suspects that an offence has been committed, he can swear to a warrant before a Justice of the Peace and take steps against the suspected party. Is my hon. Friend going to say that we must disturb the peace and the liberty which these people enjoy?

**Mr. Lee :** My learned friend knows very much about the difficulty in bringing an action for malicious prosecution, and I am sure you do also, Sir. One has to be very careful.

**Rev. Mr. Bobb :** There may be occasions where an inspection would be justified, but there is every possibility that there will be many actions

resulting therefrom. I think there is danger if a fishery officer is just going to be permitted to go on people's land like this. I hold that members of the Police Force already have the necessary authority, and I think that the necessary examination or inspection could be made with their assistance. I am very fearful about fishery officers being given *carte blanche* to enter private lands.

**The Chairman :** The hon. Member is only opposed to part of the clause?

**Rev. Mr. Bobb :** I said I would prefer the fishery officer to have a warrant, but I have been told that that is not possible. If he cannot have a warrant then he should not be allowed there at all, and in the circumstances we should delete the clause.

**Mr. Carter :** I would like to move an amendment to sub-clause (1) of clause 25. The Bill seeks to protect the fishing industry, and to give power to a fishery officer for the purpose of (a) stocking water with fish, and (b) inspecting any water containing fish, to enter at all reasonable times of the day, remain upon and traverse any lands. That means that every person who has a fish pond is going to get into trouble, because no fishery officer is going to be allowed to go on my private land, except with my permission, or with a warrant. I therefore move that paragraph (b) be amended to read :

“(b) inspecting any water containing fish, at all reasonable times of the day enter and traverse any lands for the compilation of fishing statistics.”

**Mr. Raatgever :** I am supporting that amendment.

The Committee divided on Mr. Carter's amendment and voted :

FOR:	AGAINST:
Mrs. Dey	Mr. Sugrim Singh
Mr. Rahaman	Mr. Jailal
Mr. Correia	Dr. Fraser
Mr. Carter	Miss Collins
Mr. Phang	Mr. Tello
Mr. Lee	Mr. Gajraj
Mr. Raatgever—7	Mr. Farnum
	The Attorney General
	Sir Frank McDavid
	The Financial Secretary
	The Chief Secretary—11.

#### DID NOT VOTE.

Rev. Mr. Bobb  
Mr. Kendall.—?

Amendment negatived.

**The Chairman :** There are two amendments proposed with regard to subclause (2), one by Mr. Raatgever for the deletion of the subclause.

**Mr. Carter :** The amendment of that subclause has already been lost.

**The Chairman :** Mr. Raatgever moved the deletion of subclause (2). What does the hon. Member want to do? If he does not wish to move his amendment then I will put Mr. Raatgever's amendment.

**Sir. Frank McDavid :** I heard the hon. Member say that he wanted subclause (2) deleted, which is exactly the amendment proposed by the Deputy Speaker.

**Mr. Carter :** We are dealing with clause 25(1) (b) which has been disposed of, but in the course of my remarks on that amendment I also brought up the question of deleting subclause (2) which the Deputy Speaker had previously suggested.

**The Chairman :** What did the hon. Member say about the words remaining over?

**Mr. Carter :** I was referring to paragraph (b).

**The Chairman :** I will put the question that subclause (2) be deleted

The Committee divided and voted:

FOR:	AGAINST:
Mr. Jallal	Mr. Sugrim Singh
Dr. Fraser	Mr. Tello
Mrs. Dey	Mr. Gajraj
Miss Collins	Mr. Farnum
Mr. Rahaman	Mr. Kendall
Rev. Mr. Bobb	Sir Frank McDavid
Mr. Correia	The Financial Secretary
Mr. Carter	The Attorney General
Mr. Phang	The Chief Secretary—9.
Mr. Lee	
Mr. Raatgever—11.	

Amendment carried. Subclause (2) deleted.

Clause 25, as amended, put, and agreed to.

Clause 26 passed as printed.

*Clause 27.—Dealings with fish taken, killed or injured contrary to this Ordinance.*

**Mr. Correia :** Clause 27 reads :

“27. Every person who knowingly buys, sells or has in his possession fish taken, killed or injured in contravention of the provisions of this Ordinance or of any regulations made thereunder shall be guilty of an offence against this Ordinance and shall, on summary conviction thereof, be liable to a fine not exceeding ten dollars for each fish in respect of which the offence is committed.”

Instead of a fine of \$10 for each fish I would suggest a fine not exceeding \$50 for the offence, whether it is one fish or a hundred. A man might have a calabash containing thousands of shrimp, or a few dozen “*Bungo Mary*”.

**Mr. Carter :** Since the definition of the term “commercial purposes” has been deleted, and since clause 12 has been amended, I claim that clause 27

is redundant. The definition of the term “commercial purposes” was said to mean “selling, exposing for sale, exchanging, bartering, or consigning fish, whether fresh or preserved in any manner.” Clause 27 provides that every person who knowingly buys, sells or has in his possession fish taken, killed or injured in contravention of the Ordinance shall be guilty of an offence. Going back to clause 12 we find that it says that no person shall fish for commercial purposes unless he is the holder of a valid licence, and subclause (2) says that no person shall erect, maintain, use, remove or have in his possession any kind of fish trap, fish pen, net, line with more than three hooks or other instrument of appliance for fishing, except under and in accordance with the terms of a licence to fish for commercial purposes. The effect of this is that, if I caught 12 fish for my domestic use and could only use six, and I exchanged six of them with my neighbour for some cassava, I would be liable to a fine not exceeding \$50. If my neighbour knew that I had no licence to fish for commercial purposes he would be liable to a fine of \$10 for each fish he received from me.

**Sir Frank McDavid :** The hon. Member is reconstructing the Bill as it was originally, and has again misrepresented what it meant even as it was. In the circumstances of the exchange he talked about no offence would have been committed. This particular clause (27) can only conceivably be used in the case of wild life protection. I can conceive of Regulations being made under the Ordinance to protect, say the *arapaima*, but I do not know whether such Regulations would be made, because there is difference of opinion about it. I know that at the present time that particular fish is being bought and sold, being brought to the City



by plane. If we made Regulations which made that irregular, then obviously, this clause would come into operation against a person who knowingly bought from the person who killed the fish. That is the sort of operation which would be likely to come under clause 27. Apart from that, I cannot see its being used at all. The fear about people being taken before a Magistrate and the number of fish in their possession being counted, is purely imaginary.

I am willing to accept the suggestion made by Mr. Correia that the numerical fine be deleted and replaced by one fine for the offence. I do not see that this particular clause will come into operation at all, but in a Bill of this sort there should be some sanction. I can assure hon. Members that this sort of provision is very unlikely to be used.

**Mr. Carter:** I would like hon. Members to realize that we are making a law and we cannot accept the hon. mover's opinions when he may not be the Member for Agriculture in the next Legislature, and I also may not be here. We cannot tell who will be the Member for Agriculture, or the Director of Agriculture for that matter, and we cannot rely on the hon. Member's interpretation of this clause. When I spoke on this question last Thursday I made this point very clear. If the hon. mover has his special interpretation for clauses in this Bill I would suggest that he supply the Police Department, the Magistrates and the Judges with the real meaning of the English words in this clause, because what he says the clause means is not what it says here. I do not feel that as an honest representative of the people I can agree to this clause, because it is one of the clauses which are going to affect the economy of thousands of people of our country.

**Sir Frank McDavid:** My first duty, as I see it, is to try to explain to hon. Members of this Council what exactly is involved. The buying or selling of fish is not an offence at all, if he conceives that people casting nets in trenches, catching fish and selling to their neighbours will be committing an offence. Therefore he is mistakably putting into the clause circumstances which do not exist. I am hoping he will try to understand what the clause means.

**The Chairman:** Did the Deputy Speaker wish to speak?

**Mr. Raatgever:** I just wanted to point out to the hon. Member, Mr. Carter, that the clause says:

"Every person who knowingly buys, sells or has in his possession fish taken, killed or injured in contravention of the provisions of this Ordinance or of any regulations made thereunder shall be guilty of an offence....."

I also want to say that I agree with the amendment to make the fine \$50.

**Mr. Carter:** I would like a division taken as regards the deletion of this clause.

Question put, that clause 27 be deleted. The Committee divided and voted as follows:

FOR:	AGAINST:
Mr. Carter	Mr. Sugrim Singh
Mr. Phang—2.	Mr. Jaial
	Dr. Fraser
	Mrs. Dey
	Miss Collins
	Mr. Rahaman
	Rev. Mr. Bobb
	Mr. Correia
	Mr. Lee
	Mr. Raatgever
	Mr. Tello
	Mr. Gajraj
	Mr. Farnum
	Mr. Kendall
	Sir Frank McDavid
	The Financial Secretary
	The Attorney General
	The Chief Secretary—13.

Motion lost.

**The Chairman :** The question is, that clause 27 be amended by the substitution of the words "fifty dollars" for the words "ten dollars for each fish in respect of which the offence is committed" following the word "exceeding" in the sixth line.

Agreed to.

Clause 27 passed as amended.

Clause 28 passed as printed.

*Clause 29—Penalty for assaulting fishery officer or member of the Police Force.*

**Mr. Raatgever :** The penalty in clause 26 is \$500 and the penalty in subclause (b) of this clause is \$250, although they are both for the same offence, that is, for obstructing, hindering, resisting or assaulting any officer who is performing his duty. I think there should be one penalty.

**Sir Frank McDavid :** There is no objection to what the hon. Member, Mr. Raatgever, said, and if the Committee would agree I would ask that clause 26 be recommitted and amended by the substitution of the words "two hundred and fifty dollars" for the words "five hundred dollars" in the sixth line.

Clause 26 recommitted.

Question put, and agreed to.

Clause 26 passed as amended.

**Mr. Raatgever :** I am satisfied with clause 29 as it stands.

Question put, and agreed to.

Clause 29 passed as printed.

*Clause 30—Duty to assist fishery officer, Justice of the Peace or member of the Police Force.*

**Mr. Correia :** I am asking that this clause be deleted. This Bill already provides for assistance to

public officers. Also, if a fishery officer or a policeman is attempting to arrest a fisherman who is armed with a knife (and we all know there is a type of fisherman who carries a knife) and is using it in a threatening manner, and I am asked to go and help in the arrest, I would refuse. I would then be liable to a charge.

**The Chairman :** Without reasonable excuse?

**Sir Frank McDavid :** At the same time, when I read this clause I realize that if an offence is being committed half a mile outside of the Sea Wall, and an officer is trying to stop it, I would refuse to help, and I would be guilty of an offence. Nevertheless, this type of provision is the usual type by which Justices of the Peace can call for assistance and can be expected to get it. I know people have been called upon and they have been convicted of an offence for not assisting; if Members feel it is going too far, I myself would have no objection, and would move the deletion of the clause.

Question put, and agreed to.

Clause 30 deleted.

*Clause 31—Forfeiture of things seized.*

**Mr. Correia :** I should have brought up this point under clause 24, but I see the opportunity here again. This clause, at subclause (1) states that :

"Any fish or any part thereof in respect of which there is a conviction for an offence against this Ordinance or any regulations made thereunder shall be forfeited."

And it is also stated in clause 24 what should be done with the fish taken from a person who has been charged. But if the person is tried and found not guilty and the fish has spoilt in the meantime, there is no

provision for the compensation of the person. What I think this clause should include is a provision that the fish taken from a person should be valued, and even if it is not sold he should receive the value if and when he is found not guilty of the offence of which he was suspected.

**The Chairman :** "Any fish . . . in respect of which there is a conviction . . ." It reads as though the fish is committing the offence, and the words "in respect of which there has been an offence" might make it clear.

**Sir Frank McDavid :** I suggest that the meaning is quite clear, when one considers what type of offence is being referred to.

**The Chairman :** What does the hon. Member, Mr. Gajraj, suggest? He is good at English.

**Mr. Gajraj :** This is law, Your Honour.

**The Chairman :** It relates to the meaning of words. Anyhow, the mover thinks it is quite clear.

**Mrs. Dey :** I am not a lawyer, Sir, but I think your suggestion is a better one.

**The Chairman :** It is not a question of being a lawyer; it is a question of the construction to be put on a simple sentence in English.

**Sir Frank McDavid :** May I suggest that we pass on and meanwhile the Attorney General can look into it.

**Mr. Correia :** If a person is apprehended by the police for an offence, charged, found not guilty by the court and discharged, what happens to the fish if it spoils before the Director directs someone to sell it?

What happens to the proceeds if it is sold in time? I think the fisherman should have some protection in some clause. I am asking that clause 24 be recommitted.

**Sir Frank McDavid :** I do not think I follow the circumstances in which the hon. Member requires protection for fishing, but having brought up this particular clause which has been passed, I will say that the intention of clause 31(1) is more or less completely covered by what is written in such elegant language in clause 34. Therefore, I would move the deletion of clause 31 (1) which reads :

"31. (1) Any fish or part thereof in respect of which there is a conviction for an offence against this Ordinance or any regulations made thereunder shall be forfeited."

**The Chairman :** What the hon. Member wants is the deletion of clause 24.

**Sir Frank McDavid :** It has been explained that circumstances might arise as a result of a forfeiture through which a fisherman might lose, but I do not think he need trouble himself with that question. Perhaps we are considering circumstances that might never arise. I do not know why we should conceive of a situation arising in which fish might be sold and cause loss to anybody.

**The Chairman :** What is the hon. Member (Mr. Correia) seeking to get compensation for?

**Mr. Correia :** For fish that has been seized and not sold, resulting in loss to the owner.

**The Chairman :** Will the hon. Member suggest what form of amendment he wants?

**Mr. Correia :** I suggest that the fish be divided at the time of the seizure.

**Sir Frank McDavid:** As I read this clause, when there is a seizure of fish it is sold at once and the money paid into Court. I do not see that any other circumstances would arise.

**The Attorney General:** What the hon. Member (Mr. Correia) is thinking is that in these circumstances instructions should be given that if fish is seized it must be sold.

**The Chairman:** When this happens the amount collected from the sale is paid into Court. The owner can make a claim and get compensation. There is a forfeiture only where no claim is made; and there is provision for a claim within one month.

**Mr. Correia:** I think the fish should be sold immediately. The offence might be committed in Berbice or Essequibo, and it might take a few days before the Director decides what to do.

**The Attorney General:** The Director of Agriculture has asked that any fish seized under this Ordinance should be sold immediately, or something like that.

**Sir Frank McDavid:** I do not see any reason for recommitting or re-discussing clause 24.

**Mr. Lee:** I appreciate the hon. Member's (Mr. Correia's) point. I think the amendment should make it clear that the fish seized should be sold immediately.

**The Chairman:** The hon. Member has asked that the clause be re-committed, as it seems important that the fish forfeited should be sold immediately. The Attorney General has explained that provision would be made for that, but it might not be possible for the fish to be sold immediately. There

might be no one to sell it to, and things like that. No amendment has been suggested and I am going back to clause 31.

**Mr. Correia:** In view of your explanation, Sir, I agree that the clause should be passed.

**Sir Frank McDavid:** I move that sub-clause 31 (1) and (2) be deleted.

**Mr. Lee:** I do not know whether hon. Members have seen that the boundaries of our territorial waters have been extended to 100 miles from the seashore. That is also the case in certain other countries.

**The Chairman:** What is the hon. Member's suggestion?

**Mr. Lee:** We are claiming jurisdiction over 100 miles as the territorial limit.

**The Chairman?** What is the objection to that?

**Mr. Lee:** We will be trespassing in other people's territory.

**Sir Frank McDavid:** The hon. Member is quite incorrect in stating that the territorial limit of our coastal waters has been extended to 100 miles from the boundary. I think that has something to do with the question of oil and the continental shelf. I cannot conceive of any dispute arising as to the exact point between our Surinam neighbours and ourselves, in order to say whether the northern boundaries cross.

**The Chairman:** It is a question whether an offence has been committed within the territorial limits, and we must provide against that. If we do not, we would have people breaking the law in different ways.

**Mr. Carter:** I tried to move an amendment to the word "waters" in the interpretation clause, in order that it should include the words "additional territorial sea" between the words "or" and "canal". I think the definition of "territorial waters" should be clear in the Bill. The hon. Member for Agriculture might not know how far a man can take his fishing boat out to sea, and I would ask him to define "territorial waters". I might start a fishing industry tomorrow, and unless "territorial waters" is defined in the Bill I would be at "sea" to know what I am doing.

**Sir Frank McDavid:** I suggest that the hon. Member ask for the definition of "harbour" and that a map of the whole Colony be included in this Bill. I think we are getting too far from the point.

**The Chairman:** We are not discussing international matters. There should be some definition here of "territorial limits". I know there are other Ordinances dealing with jurisdiction in such matters, and there must be some definition of the term.

**The Attorney General:** There has been a Proclamation with regard to the waters of the Colony.

**The Chairman:** I should like to tell the hon. Member (Mr. Carter) that there has been a Proclamation issued relating to the matter within the last 18 months, and that it would be found in the official Gazette.

Clause 31, as re-numbered and amended, passed.

*Clause 32—Offences at sea.*

**Sir Frank McDavid:** I move that this clause be renumbered 31.

Agreed to.

Clause 32, as printed and renumbered, passed.

*Clause 33—Expenses of Ordinance.*

**Sir Frank McDavid:** I move that the word "Treasurer" in subclause (2) be deleted and that the words "Accountant General" be substituted therefor.

Agreed to.

Clause 33, as amended, passed.

*Clause 34—Regulations.*

**Sir Frank McDavid:** This clause will be renumbered as clause 33, and I would point out that an amendment has been moved to the effect that the words "fishermen and of" be inserted between the words "of" and "men" in the second line of paragraph (j) of subclause (1); and that paragraph (k) of the same subclause be amended by the deletion of the words "and welfare" between the words "interest" and "of" in the second line.

Amendment put, and agreed to.

*Clause 34—Regulations.*

**Mr. Correia:** This clause gives the Governor in Council power to make Regulations limiting, in paragraph (h), the number of fish which may be taken by any one person in any one day or in any other period. It is a dangerous provision, because how would a fisherman know that he has caught in his seine more fish than such a Regulation permitted?

**Sir Frank McDavid:** This is also designed for wild life protection. The question of conserving fish by these protective measures can only be undertaken in extreme cases, where we have biological statistics and advice that it is the only method we could use to protect our fish. I have pointed out that it was most unlikely in our lifetime that we would have Regulations brought before this Council for the protection of sea or river fish. We may have to use such power to protect some special fish like the



*arapaima*, but if Regulations of this kind are framed they will have to come before the Council for approval, and I daresay the hon. Member would object, but he need not conceive of its possibility.

**Mr. Correia :** I hope that if Regulations do come they will define what type of fish is being protected.

**Sir Frank McDavid :** As long as I am holding this portfolio the hon. Member will never see Regulations brought here under these two particular clauses dealing with fish in general. If I am convinced that the the *arapaima* needs protection he may see some Regulations about that, but not within the limits of these two sub-clauses.

As regards subclauses (3) I will read the amended form which has been circulated. It reads :

“(3) All regulations made under this Ordinance shall be laid before the Legislative Council as soon as may be after they are made, and if not approved by resolution of the Legislative Council within forty days after having been so laid, such regulations shall henceforth be void but without prejudice to the validity of anything previously done thereunder, or to the making of new regulations.”

That is the normal form which clauses of this nature take, and I hope the Council will accept the amendment.

**Mr. Carter :** The proposed amendment does not alter the substance of subclause (3); it merely fixes a period within which the Regulations must be approved by the Legislative Council, or they become void. In English-

speaking countries a person is considered innocent until proved guilty, and new legislation must be debated and approved before it becomes law. This Bill seeks to throw both of those democratic principles out with one stroke. The Legislature of a country is the law-making body, and although the Bill seeks to give the Governor in Council power to make Regulations, I fail to see why such Regulations should go into operation before they are approved by the law-making body. I move that the proposed new subclause be amended to read :

“(3) All regulations made under this Ordinance shall be laid before the Legislative Council as soon as may be after they are made, and if not approved by resolution of the Legislative Council within twenty-one days after having been laid, such regulations shall henceforth be void. Such regulations however shall not be given effect until they have been approved by the Legislative Council.”

Apart from cases of emergency, in which the Governor can use his special powers, I feel that individual officers should be subject to action to recover loss experienced by those whom this Bill will affect if Regulations are put into operation before they are approved by the Legislative Council.

**Mr. Raatgever** rose—

**The Chairman :** It is past 5 p.m. We will have to meet tomorrow. Did the hon. mover hear Mr. Carter's amendment?

**Sir Frank McDavid :** Yes.

Council resumed.

Council adjourned until the following day, Friday, 27th July, at 2 p.m.