

29th December, 1947.

PRESENT: —

HIS EXCELLENCY THE GOVERNOR (SIR ALEXANDER WILLIAM GEORGE HERDER GRANTHAM, K. C. M. G.)

HIS EXCELLENCY THE GENERAL OFFICER COMMANDING THE TROOPS (MAJOR-GENERAL G. W. E. J. ERSKINE, C.B., D.S.O.)

THE COLONIAL SECRETARY (HON. D. M. MACDOUGALL, C.M.G.)

THE ATTORNEY GENERAL (HON. J. B. GRIFFIN, K.C.)

THE SECRETARY FOR CHINESE AFFAIRS (HON. R. R. TODD).

THE FINANCIAL SECRETARY (HON. C. G. S. FOLLOWS, C.M.G., *Acting*).

HON. V. KENNIFF (Director of Public Works).

DR. HON. I. NEWTON (Director of Medical Services).

DR. HON. J. P. FEHILY, O.B.E. (Chairman, Urban Council).

HON. D. F. LANDALE.

HON. CHAU TSUN-NIN, C.B.E.

HON. LO MAN-KAM, C.B.E.

DR. HON. CHAU SIK-NIN.

HON. LEO D'ALMADA, K. C.

HON. R. D. GILLESPIE.

HON. M. M WATSON.

MR. ALASTAIR TODD (Deputy Clerk of Councils).

MINUTES.

The Minutes of the meeting of the Council held on 17th December, 1947, were confirmed.

**HONG KONG & SHANGHAI BANKING CORPORATION
(RE-CONSTRUCTION OF RECORDS) BILL, 1947.**

THE ATTORNEY GENERAL moved the First reading of a Bill intituled "An Ordinance to make provision for the Hong Kong and Shanghai Banking Corporation analogous to the provisions of section 14 of the Companies (Re-construction of Records) Ordinance, 1947, relating to the issue of new share certificates where original certificates have been lost."

He said: Sir, The Objects and Reasons which have been published with the Bill which is before Council are sufficient, I think, to explain the objects and reasons of this Ordinance without the necessity for me to enlarge to any extent upon such Objects and Reasons as printed. It suffices, I think, to say that the Bill is designed to provide legislation which will afford to the Hong Kong & Shanghai Banking Corporation the same facility as is now enjoyed by other Companies which are registered under the Companies' Ordinance, to permit of the Bank issuing fresh share certificates where such certificates have been lost by reason of the war and of enemy occupation.

THE COLONIAL SECRETARY seconded, and the Bill was read a First time.

Objects and Reasons.

The "Objects and Reasons" for the Bill were stated as follows: —

1. The Companies (Re-construction of Records) Ordinance, 1947, was enacted to provide *inter alia* a means whereby companies registered under the Companies Ordinance, 1932, can remedy the loss of registers, records and documents including share certificates.

2. Such Ordinance however, is inapplicable in the case of the Hong Kong and Shanghai Banking Corporation, because such Corporation is not registered under the Companies Ordinance, 1932, but is incorporated under the provisions of the Hong Kong and Shanghai Bank Ordinance, 1929. In the case of the Hong Kong and Shanghai Bank, however, difficulty has also arisen as a consequence of the war and of enemy occupation of the Colony because of loss of share certificates relating to such Corporation. It is therefore necessary to legislate to provide remedy for such difficulty.

3. The object of this Bill is to provide such legislation which, (by Clause 3) reproduces the provisions of Section 14 of the Companies (Re-construction of Records) Ordinance, 1947, so as to provide a procedure to be followed in issue of new share certificates where originals have been lost.

DEATHS REGISTRATION (SPECIAL REGISTERS) BILL, 1947.

THE ATTORNEY GENERAL moved the Second reading of a Bill intituled "An Ordinance to authorise the Registrar General of Births and Deaths to keep special registers of deaths for the purpose of registering deaths previously registered in specified lost registers of deaths formerly kept by the Registrar General of Births and Deaths."

THE COLONIAL SECRETARY seconded, and the Bill was read a Second time.

Council then went into Committee to consider the Bill clause by clause.

Council then resumed.

THE ATTORNEY GENERAL reported that the Deaths Registration (Special Registers) Bill, 1947, had passed through Committee without amendment and moved the Third reading.

THE COLONIAL SECRETARY seconded, and the Bill was read a Third time and passed into law.

**POLICE FORCE (RETIREMENT OF URTAIN OFFICERS)
BILL, 1947.**

THE ATTORNEY GENERAL moved the Second reading of a Bill intituled "An Ordinance to provide for the payment of pensions or gratuities to certain officers of the Police Force who have elected to retire in circumstances which would not otherwise entitle them to pension or gratuity."

THE COLONIAL SECRETARY seconded, and the Bill was read a Second time.

Council then went into Committee to consider the Bill clause by clause.

Clause 3.

THE ATTORNEY GENERAL. —I move the amendment of this clause by the insertion of the word "rate" after the word "the" at the commencement of the third line of paragraph (a) of the clause. The word "rate", Sir, has by printing error been omitted from the line.

The amendment was agreed to.

Council then resumed.

THE ATTORNEY GENERAL reported that the Police Force (Retirement of Certain Officers) Bill, 1947, had passed through Committee with one amendment and moved the Third reading.

THE COLONIAL SECRETARY seconded, and the Bill was read a Third time and passed into law.

BANKING BILL, 1947.

THE ATTORNEY GENERAL moved the Second reading of a Bill intituled "An Ordinance to provide for the regulation and licensing of the business of banking."

THE COLONIAL SECRETARY seconded.

HON. LO MAN-KAM: —Your Excellency: I venture to think that the fundamental object of this Bill as set out in the Objects and Reasons will find general support and approval of this Council, but there are one or two points which I feel deserve further consideration. To begin with, Sir, there is the question of the definitions of a bank and banking business. As at present worded these definitions may possibly include businesses which it is not the object of this Bill to include, whilst, on the other hand, they might possibly let out some businesses which it is the object of this Bill to include. At all events, I feel that these definitions require further consideration. Then clause 3 of this Bill raises a very important and fundamental point which seems to me a matter for serious consideration, for further consideration, as to whether the object of this Bill cannot be attained without resorting to the revolutionary expedient of declaring as a matter of statute law that banking business can be carried on only by incorporated companies. There may be one or two other points which require or deserve further consideration and I respectfully suggest for your consideration, Sir, whether in all the circumstances, you should not think it right before proceeding with the Committee stage of this Bill to refer this Bill to the consideration of such a Committee of this Council as Your Excellency may think most appropriate.

THE ATTORNEY GENERAL: — Sir: The Honourable Member has characteristically, if I may say so, put his finger on the most fundamental portions of the Bill before Council. The problems of definition of the terms bank and banking business have in fact received already most serious thought and consideration. Again the provision of clause 3 of the Bill which requires that banking business shall only be conducted by a Company has also been the subject of considerable cogitation. I feel that the definitions are probably the best that can be evolved to meet the objectives in view. Again I feel, subject to conversion by further argument, that it is also right that legislation if it passes should require the restriction of banking business in the future to Companies. But, Sir, I too see nothing but advantage in further consideration of such important aspects of the Bill and for that reason, Sir, I do not oppose, in fact I support, the proposal of the Honourable Member who has spoken that Your Excellency might see fit, I suggest to refer this Bill for the consideration of a Select Committee of this Council.

H.E. THE GOVERNOR: —After this Bill has passed its Second reading, I shall refer it to a Select Committee.

The Bill was then read a Second time.

H.E. THE GOVERNOR: —This Bill is now referred to a Select Committee with the Attorney General as Chairman, Hon. Financial Secretary, and the two following Unofficial Members, if they are willing to serve, Hon. Lo Man-kam and Hon. R. D. Gillespie.

The Hon. Members referred to agreed to serve.

PROTECTED PLACES (SAFETY) (AMENDMENT) BILL, 1947.

THE ATTORNEY GENERAL moved the Second reading of a Bill intituled "An Ordinance to amend the Protected Places (Safety) Ordinance, 1946."

THE COLONIAL SECRETARY seconded, and the Bill was read a Second time.

Council then went into Committee to consider the Bill clause by clause.

Clause 5.

THE ATTORNEY GENERAL: —Sir, I move that sub-section 1 of Section 9 to be enacted by clause 5 of the Bill before Council be amended by the deletion of the words "for the Governor thereafter and in like manner" appearing in the 5th and 6th lines thereof and by the substitution therefor of the words "for the Legislative Council by resolution."

Sir, it will be recalled that in introducing the Bill in the First reading I stated that at the proper stage I would propose the amendment which I have just mentioned for the reason that it will be more in accordance with constitutional usage that the power to bring the Ordinance back into effect should lie with this Council upon resolution rather than as provided by the Bill in its present form.

The amendment was agreed to.

Council then resumed.

THE ATTORNEY GENERAL reported that the Protected Places (Safety) (Amendment) Bill, 1947, had passed through Committee with one amendment and moved the Third reading.

THE COLONIAL SECRETARY seconded, and the Bill was read a Third time and passed into law.

ADJOURNMENT.

H.E. THE GOVERNOR: —That concludes the business, Gentlemen. When shall we meet again?

THE ATTORNEY GENERAL: —I would suggest the 14th January, 1948.

H.E. THE GOVERNOR: —Before we adjourn I would like to take this opportunity of wishing all Members a Happy New Year. Council will now adjourn until 14th January, 1948.