

16th May, 1951.

PRESENT:

HIS EXCELLENCY THE GOVERNOR

SIR ALEXANDER WILLIAM GEORGE HERDER GRANTHAM, K.C.M.G.

HIS EXCELLENCY THE COMMANDER BRITISH FORCES

LIEUTENANT GENERAL SIR ERIC CARDEN ROBERT

MANSERGH, K.B.E., C.B., M.C.

THE HONOURABLE THE COLONIAL SECRETARY

MR. JOHN FEARNIS NICOLL, C.M.G.

THE HONOURABLE THE ATTORNEY GENERAL

MR. JOHN BOWES GRIFFIN, K.C.

THE HONOURABLE THE SECRETARY FOR CHINESE AFFAIRS

MR. RONALD RUSKIN TODD.

THE HONOURABLE THE FINANCIAL SECRETARY

MR. ARTHUR GRENFELL CLARKE, *Acting.*

DR. THE HONOURABLE ISAAC NEWTON

(Director of Medical and Health Services).

THE HONOURABLE PATRICK CARDINALL MASON SEDGWICK

(Acting Chairman, Urban Council).

THE HONOURABLE THEODORE LOUIS BOWRING, O.B.E.

(Director of Public Works).

THE HONOURABLE CHAU TSUN-NIN, C.B.E.

DR. THE HONOURABLE CHAU SIK-NIN, C.B.E.

THE HONOURABLE LEO D'ALMADA E CASTRO, K.C.

THE HONOURABLE PHILIP STANLEY CASSIDY.

THE HONOURABLE CHARLES EDWARD MICHAEL TERRY.

THE HONOURABLE LO MAN WAI, O.B.E.

THE HONOURABLE LAWRENCE KADOORIE.

MR. ROBERT WILLIAM PRIMROSE *(Deputy Clerk of Councils).*

MINUTES.

The Minutes of the meeting of the Council held on 2nd May, 1951, were confirmed.

ANNOUNCEMENTS.

THE COLONIAL SECRETARY: —By Your Excellency's direction I rise to announce the appointment of a Member of the Standing Law Committee for 1951.

The Honourable Lawrence Kadoorie has been appointed in place of the Honourable Maurice Murray Watson, whilst Mr. Watson is on leave in the United Kingdom.

PAPERS.

THE COLONIAL SECRETARY, by Command of His Excellency the Governor, laid upon the table the following papers: —

<i>Subject.</i>	<i>G.N. No.</i>
Quarantine and Prevention of Disease Ordinance, 1936.	
Declaration under section 18	A. 78
Revised Edition of the Laws Ordinance, 1948.	
Amendments to regulations	A. 79
Registration of Persons Ordinance, 1949.	
Registration of Persons (Amendment) Rules, 1951	A. 80
Defence (Finance) Regulations, 1940.	
Possession of Gold (Goldsmiths) (Amendment) (No. 5) Order, 1951	A. 81
Nursing and Maternity Homes Registration Ordinance, 1936.	
Notification under section 8	A. 82
Stamp Ordinance, 1921.	
Stamp (Bank Authorization) No. 2 Order, 1951	A. 83

TELEPHONE BILL, 1951.

THE ATTORNEY GENERAL moved the First reading of a Bill intituled "An Ordinance to consolidate and amend the law relating to the telephone service in the Colony". He said: Your Excellency, the Telephone Ordinance, 1925 which is at present in force granted to the Hong Kong Telephone Co., Ltd. the sole right to supply and operate public telephonic communication within the Colony, including trunk line communication, and gives that right for a period of fifty years commencing on 1st July, 1925. Thus it is the case that the Telephone Company have a further period of 24 years in which they are entitled to exercise the right I have described.

But, Sir, in the course of this period the interval of the war and the enemy occupation of the Colony has intervened. This serious interruption not only affected the Telephone Company in that for some years they could not function, but at the end of the war the Company were faced with the heavy and responsible task of restoring telephone communications, while also being called upon to meet greatly increased demands for telephone service in the extensive rehabilitation and development of the Colony which has taken place during the years since 1945.

Sir, all these factors have combined to make a revision of the existing telephone legislation imperative. It has in particular been necessary to rationalize and to set out more clearly the charges which the Telephone Company may properly impose at this date, having regard to the greatly increased costs both of materials and of services. The Bill before Council therefore, while providing for the repeal of the Telephone Ordinance, 1925, is designed to replace that Ordinance by an Ordinance consolidating and amending the law as it has stood, and stands today, under the Telephone Ordinance, 1925, while preserving to the Telephone Company its right to operate public telephonic communication within the Colony and to do so for the balance of the original period, that is to say, for a further 24 years,

Sir, the Bill as in the hands of Honourable Members is accompanied by Objects and Reasons and a comparative table. These documents describe in considerable detail the nature of the changes which will be effected upon the enactment of this Bill.

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. By section 3 of the Telephone Ordinance, 1925, (the principal Ordinance), Government granted to the Hong Kong Telephone Company Ltd., the sole right to supply and operate public telephonic communication within the Colony including trunk line telephonic communication therein for communicating with places outside the Colony, for a period of fifty years commencing on 1st July, 1925.

2. Various amendments to the principal Ordinance were effected by the Telephone Amendment Ordinance, 1940, (No. 9 of 1940). Since then the only further amendment was an amendment to the Schedule of the principal Ordinance which was effected in 1946 during the British Military Administration of the Colony, under powers conferred by the Defence Regulations, 1940. That amendment (which was published in the B.M.A. *Gazette* of 9th February, 1946) authorized the company to increase its Exchange Line Charge of \$117 per annum to \$180 per annum and also to increase all other charges in the Schedule to the principal Ordinance by 50% over those ruling on 8th December, 1941.

3. In 1946 it was recognized by the company and by Government that post war conditions in the Colony would necessitate further revision of the principal Ordinance. Since then the rapid expansion of the company's services has increased the need for such revision. Furthermore in 1948 the company being dissatisfied with the rates of subscription and other charges set forth in the Schedule to the principal Ordinance required Government to revise them. But as agreement between Government and the company regarding the amount thereof could not be reached, the company referred the matter to arbitration under the provisions of section 40 of the principal Ordinance. The arbitration proceedings were however discontinued by the company with the consent of Government prior to their conclusion because it became apparent during the course of such proceedings that a more comprehensive revision of the principal Ordinance would be necessary than at first had been anticipated. In the result lengthy discussion between the company and Government occurred regarding the company's proposals for revision of the principal Ordinance and it is now considered that the convenient course would be to repeal and replace the principal Ordinance by an

Ordinance which will consolidate and amend the law under which the company will continue to operate the concession for the remaining 24 years thereof.

4. Accordingly this Bill seeks to repeal and replace the principal Ordinance with legislation the main objects of which are—

- A. To confirm the existing right of the company to continue to operate the concession for the unexpired period thereof (Clause 3);
- B. To include necessary provisions relating to an authorized increase of the company's capital (Clause 6);
- C. To revise the method of computing the net annual profits of the company (Clause 33);
- D. To revise the Schedule of charges to the company's subscribers.

5. *Reference A.* Clause 3 of the Bill will confirm the right of the company to operate the concession granted by section 3 of the principal Ordinance but will omit confirmation of the company's limited right to establish and maintain intercommunication with any commercial radio telephony station outside the Colony, because that limited right became obsolete consequent upon the operation by Cable and Wireless, Ltd. of its radio telephone service, to which service the company's telephone system is connected.

6. *Reference B.* Clause 6 of the Bill reflects the relevant provisions of a resolution of the Legislative Council authorizing an increase in the capital of the company. Such resolution was gazetted as G.N.A. 112 in Supplement No. 2 dated 26th May, 1950.

7. *Reference C.* Clause 33 of the Bill is a revised version of section 38 of the principal Ordinance adapted to omit any right of the company when computing its net annual profits in future to make deductions in respect of appropriations to capital reserve because such deductions for that purpose are considered unnecessary in view of the provisions contained in Clause 33(2) relating to allowance for depreciation of the company's assets.

8. *Reference D.* (1) The Schedule to the Bill which contains the proposed new charges to the company's subscribers is divided into six parts for the sake of clarity, namely—

- Part I : Exchange Line Charges.
- Part II : Extension Charges.
- Part III : Removal Charges.
- Part IV : Miscellaneous Charges.
- Part V : Junction Call Charges.
- Part VI : Radio Telephone Call Charges.

(2) Each Part contains serially numbered particulars of the various charges for services which may be rendered by the company to its subscribers. Such particulars are set out in greater detail than in the Schedule to the principal Ordinance so that subscribers can ascertain more conveniently the charges which the company will be authorized to impose.

(3) Generally it may be stated that the revised Schedule will remove a number of anomalies and will also permit the company to impose charges for certain services the existing charges for which are agreed by Government to be inadequate.

(4) An example of an anomalous charge is the present charge of \$75 per mile or part of a mile, levied for additional mileage (Item (iii) in Part A of the Schedule to the principal Ordinance as amended during the B.M.A. in February, 1946) whereby charges against subscribers in the same locality may vary by as much as \$75 per annum. This anomaly will be removed by substituting the proposed charge of \$10 per annum per furlong (Item 3 in Part I of the Schedule to the Bill) in place of the present charge of \$75 per annum per mile or part of a mile.

(5) An example of an inadequate charge is the present charge of \$7.50 for the removal of a telephone from one place to another in the same building (Item (i) in Part B of the Schedule to the principal Ordinance as amended during the B.M.A. in February, 1946). The proposed new charge will be \$20 for the same service (Item 2 in Part III of the Schedule to the Bill).

(6) As the general body of subscribers will doubtless wish to know how the proposed new charges for an exchange line will affect them it should be explained that they will be affected only to the extent of an increase of \$2 per year per exchange line.

(7) It will be observed that Clause 29(1) of the Bill which will authorize the company to impose the proposed charges, will do so with retrospective effect as from 1st January, 1951. The reason for selecting that date is that Government has for some time past been satisfied as to the fairness of the proposed charges but for various reasons, not the fault of the company, unavoidable delay has occurred in introducing this Bill.

9. The following sections of the principal Ordinance having become obsolete are omitted from the Bill, namely—

sections 12, 17, 18, 19, 25, 36 and 54.

10. The remaining sections of the principal Ordinance have been revised or replaced by new provisions appropriate to present conditions and in that form are included in the Bill. Particulars thereof appear in the annexed Comparative Table.

11. The Bill is being introduced as a Government measure but its terms have been agreed to by the directors of the company.

**REGULATIONS UNDER FACTORIES AND WORKSHOPS
ORDINANCE No. 18 OF 1937.**

THE COLONIAL SECRETARY moved—

That the regulations made by the Commissioner of Labour on the 9th day of May, 1951, be approved under section 5 of the Factories and Workshops Ordinance, No. 18 of 1937.

He said: Your Excellency, the purpose of the amendment is to add to the regulations contained in the Schedule to the Factories and Workshops Ordinance, 1937, a penalty clause specifying the regulations, breaches of which constitute an offence, and prescribing penalties in respect of such breaches.

The opportunity is being taken to include this new provision in the revised edition of the laws now in the course of preparation. Effect will thus be given to the practice now being followed whereby general provisions included in the Colony's legislation

for the imposition of penalties are superseded as opportunity occurs by particular provisions detailing the offences and specifying the nature and extent of the relevant penalties.

THE ATTORNEY GENERAL seconded, and the Motion was carried.

**ABANDONMENTS OF CLAIMS AND WRITE-OFFS
OF LOSSES FOR 1950-51.**

THE FINANCIAL SECRETARY moved the following Resolution: —

Resolved that the abandonments of claims and the write-offs of losses and deficiencies as specified and explained in Schedule No. 4 of 1950-51, be approved.

He said: Your Excellency, the Schedule of write-offs and abandonments of claims now before Council is in four parts. The items set out in Parts A and C have already received the approval of Finance Committee, but those included in Parts B and D, which are less than \$200, have been approved by the Financial Secretary under the authority delegated to him by Finance Committee. It is now necessary for this Honourable Council formally to approve the action taken.

THE COLONIAL SECRETARY seconded, and the Motion was carried.

**BY-LAWS UNDER PUBLIC HEALTH (FOOD)
ORDINANCE No. 13 OF 1935.**

HON. P. C. M. SEDGWICK moved—

That the By-laws made by the Urban Council on the 8th day of May, 1951, be approved under section 7 of the Public Health (Food) Ordinance No. 13 of 1935.

He said: Your Excellency, two additional markets at Kowloon City and at Homuntin have recently been built and the street market at Nga Tsin Wai Road used temporarily for the Kowloon City area until a proper market could be provided has been closed. It is necessary to incorporate these changes in the list of public markets contained in Market By-law 1. Since there have been previous amendments to the list it has been considered

desirable for the sake of clarity to rescind the previous by-law and substitute for it a new By-law containing an up to date list of public markets.

THE COLONIAL SECRETARY seconded, and the Motion was carried.

BY-LAWS MADE BY THE URBAN COUNCIL.

HON. P. C. M. SEDGWICK moved—

That the By-laws made by the Urban Council on the 8th day of May, 1951, be approved under the Ordinances hereinafter mentioned, namely—

Public Health (Animals and Birds) Ordinance No. 16 of 1935, section 4.

Public Health (Food) Ordinance No. 13 of 1935, section 7.

Hawkers Ordinance No. 22 of 1935, section 3.

Advertisements Regulation Ordinance No. 19 of 1912, section 3.

He said: Your Excellency, the amendments contained in the by-laws made by the Urban Council on 8th May, 1951, under various Ordinances, for the administration of which the Urban Council is largely responsible, consist mainly of the addition of penalty clauses, wherein the by-laws, breaches of which constitute an offence, are specified and the relevant penalties for such offences are detailed. Subject to the approval of this Council these new by-laws will be included in the revised edition of the laws now in course of preparation. Two other minor amendments have also been made. In the by-laws contained in the Schedule to the Public Health (Animals and Birds) Ordinance No. 16 of 1935 the word "European" has been deleted wherever it occurs. By-law 18 of the by-laws contained in the Schedule to the Public Health (Food) Ordinance No. 13 of 1935 under the heading "Slaughterhouses" has also been amended by the substitution of the words "Chairman of the Urban Council" for "Director of Medical and Sanitary Services". These two minor amendments are designed to bring the by-laws into conformity with prevailing practice and it is also the intention to include them in the revised edition of the laws.

THE COLONIAL SECRETARY seconded, and the Motion was carried.

**CONTROL OF PUBLICATIONS CONSOLIDATION
BILL, 1951.**

THE ATTORNEY GENERAL moved the Second reading of a Bill intituled "An Ordinance to amend and consolidate the law relating to the printing, publication, sale, distribution, importation, control, registration and licensing of newspapers and other printed matter and to the control of printing presses and news agencies."

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 16.

THE ATTORNEY GENERAL: —I rise to move that paragraph (c) of clause 16(1) of the Bill be deleted and replaced by the following paragraph—

"(c) the identification of press representatives on their request by the issue of passes or otherwise by such authority as may be prescribed;"

Sir, upon moving the First reading of the Bill I forecast the amendment which I now propose. The amendment deletes provisions empowering the making of regulations for the accreditation of press representatives and substitutes provision for the making of regulations governing the identification of press representatives by the issue of passes or otherwise if press representatives request them.

This was agreed to.

Council then resumed.

THE ATTORNEY GENERAL reported that the Control of Publications Consolidation Bill, 1951, 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.

INLAND REVENUE (AMENDMENT) BILL, 1951.

THE ATTORNEY GENERAL moved the Second reading of a Bill intituled "An Ordinance further to amend the Inland Revenue Ordinance, 1947."

THE COLONIAL SECRETARY seconded.

HON. P. S. CASSIDY: —Your Excellency, my excuse for intervening in this debate is not based on grounds of opposition to the ordinance but to remind my honourable friend that there are still defects in the principal ordinance requiring amendment. For some months past correspondence, supplemented by oral discussion, has been exchanged between the Hong Kong General Chamber of Commerce and the Commissioner of Inland Revenue in regard to various points which, in the opinion of the Chamber's technical advisers, require amendment. The Commissioner has accepted one or two of the submissions but there are still differences of opinion on other matters.

My accountant friends tell me that the principal Ordinance has been in constant use for reference purposes ever since it was enacted. It is all the more desirable, therefore, that as experience shows the need for the closing of a loophole here and the adjustment of a phrase there, the necessary revision should be undertaken with as little delay as possible. The present bill incorporates changes recommended by the Inland Revenue Department itself. The next bill will, I hope, cover the various amendments which the accountants, and possibly the members of the public, feel necessary. It might be found useful to set up a small committee to collate the views of the taxpayers. But in any case I should like an assurance from the Hon. Attorney General that however burdened with work the Legal Draftsmen may be, priority will be given to revision of the Inland Revenue Ordinance of 1947 whenever a case for such amendment has been made out.

THE ATTORNEY GENERAL: —Sir, it is the case, as the Honourable Member has just mentioned, that the Bill before Council today is a Bill which is largely, perhaps entirely, a Bill founded on the proposals and suggestions of the Inland Revenue Department, those proposals and suggestions being founded on experience of the working of this legislation over the past few years. But it is important to remember that whilst that is the case, it is also the case that almost—certainly as to 75 per cent of the provisions of the Bill—all the clauses proposing amendment do so in favour of the taxpayer.

The Honourable Member has referred to the fact that there have been other suggestions for amendment of this legislation and that they have, as he has said, emanated from professional men concerned with accounts and other matters affected by the

Inland Revenue Ordinance, and also that there have been suggestions, he has mentioned them, I think, from the General Chamber of Commerce. Now, I would like to say in, as it were, defence—if a defence is necessary—that those further suggestions have by no means been ignored or side-tracked indefinitely. But those suggestions were not matters upon which the views of the Inland Revenue Department could be conclusive because the suggestions dealt with matters of financial policy.

For instance, the proposal was made to allow Management Expenses to Investment Companies, to allow annual allowances for the cost of land leases, to permit of immediate relief for losses rather than to have them carried forward against subsequent profits, while also there were suggestions made for the making of rules regarding contributions to Staff Pension and Provident Funds.

Now, those matters, Sir, were as I have said matters which raised a question of financial policy as to which a good deal of thought and inquiry and research has to be given because there is the aspect that possibly by adoption of one or more of these suggestions Revenue may suffer a loss which perhaps it cannot afford to suffer. Further, there has been a feeling in the few months or so that have intervened since these proposals have come in—they did not come in at once, they came in separately—that certain of the matters dealt with questions of principle which are at the present time exercising concern and are being given attention in the United Kingdom by some well-qualified committees and commissions. There is also the aspect that as to one or two of these matters involving principle, we would be well advised in Hong Kong to await the outcome of the recommendations of these bodies and thereby obtain guidance as to the most modern outlook regarding these problems and the way they should be handled in Inland Revenue and Income Tax legislation.

The Honourable Member has, I think, mentioned that he would welcome the appointment of a committee to consider these more difficult proposals for legislation by way of amendment of the Inland Revenue Ordinance. Well, that is a proposal which I am sure will be considered by Government, but naturally the Honourable Member will not expect me on the spur of the moment to take upon myself the obligation to accept the suggestion as a commitment which Government will necessarily pursue. But I think I have said enough to point out that such proposals are

being, have been and will be given attention by whatever means, whether by committee alone or by other means, may seem most suitable to the task.

The Bill was read a Second time.

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

Clause 12.

THE ATTORNEY GENERAL:—Sir, I move that in this clause paragraph (ii) of the proviso to clause 12(1) be amended by the deletion of the figure "12" appearing therein and by the substitution therefor of the figure "10."

Sir, the reason for my proposal is that two clauses were deleted from this Bill as originally drafted. The remaining clauses of the Bill were consequentially renumbered, but in so doing the necessity to substitute a reference to section 10 instead of section 12 was overlooked.

This was agreed to.

Council then resumed.

THE ATTORNEY GENERAL reported that the Inland Revenue (Amendment) Bill, 1951, 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.

CHINESE RHENISH CHURCH, HONG KONG SYNOD

BILL, 1951.

HON. P. S. CASSIDY moved the First reading of a Bill intituled "An Ordinance to provide for the incorporation of the Chinese Rhenish Church, Hong Kong Synod." He said: Your Excellency, this Bill is modelled on Ordinance No. 22 of 1948 and contains the provisions usual in Bills of incorporation. I think the Objects and Reasons clearly set forth the reasons for the Bill and I do not think there is anything I can usefully add. I therefore beg to move the First reading of the Bill.

HON. CHAU TSUN-NIN, C.B.E., seconded, and the Bill was read a First time.

Objects and Reasons.

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

1. For the purpose of promoting in common the undertakings and aims of all Chinese Rhenish Mission Churches in the Colony it is proposed to form an association to be named the "Chinese Rhenish Church, Hong Kong Synod" and it is desired to give such association a corporate entity.
2. The object of this Bill is therefore to provide for the incorporation of the association by Ordinance.
3. The Bill follows the model of legislation of similar character already enacted in the Colony for the incorporation of religious and charitable organizations, in particular Ordinance No. 22 of 1948.
4. The Bill (Clause 8) contains provision saving the rights of the Crown as required, in the case of private Bills, by Article XXVII of the Royal Instructions.

HONG KONG HOUSING SOCIETY INCORPORATION**BILL, 1951.**

HON. P. S. CASSIDY moved the Second reading of a Bill intituled "An Ordinance to provide for the incorporation of the Hong Kong Housing Society."

HON. CHAU TSUN-NIN, C.B.E., seconded, and the Bill was read a Second time.

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

Clause 9.

HON. P. S. CASSIDY: —Sir, I beg to move the deletion of the words "for the time being" and the substitution of "and of any amendment thereto."

This was agreed to.

Council then resumed.

HON. P. S. CASSIDY reported that the Hong Kong Housing Society Incorporation Bill, 1951, has passed through Committee with one amendment and moved the Third reading.

HON. CHAU TSUN-NIN, C.B.E., seconded, and the Bill was read a Third time and passed into law.

ADJOURNMENT.

H.E. THE GOVERNOR: —That concludes the business today, Gentlemen. When is it your pleasure we should meet again?

THE ATTORNEY GENERAL: —I propose adjournment to this day fortnight.

H.E. THE GOVERNOR: —Council will adjourn to this day fortnight.
