

9th April, 1952.

PRESENT:

HIS EXCELLENCY THE GOVERNOR

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

THE HONOURABLE THE COLONIAL SECRETARY

MR. ROBERT BROWN BLACK, O.B.E.

THE HONOURABLE THE ATTORNEY GENERAL

MR. G. E. STRICKLAND, Q.C., *Acting*.

THE HONOURABLE THE SECRETARY FOR CHINESE AFFAIRS

MR. RONALD RUSKIN TODD.

THE HONOURABLE THE FINANCIAL SECRETARY

MR. ARTHUR GRENFELL CLARKE.

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

(Director of Public Works).

THE HONOURABLE DOUGLAS JAMES SMYTH CROZIER.

(Director of Education).

DR. THE HONOURABLE YEO KOK CHEANG

(Director of Medical and Health Services).

THE HONOURABLE KENNETH MYER ARTHUR BARNETT

(Chairman, Urban Council).

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

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

THE HONOURABLE PHILIP STANLEY CASSIDY.

THE HONOURABLE MAURICE MURRAY WATSON.

THE HONOURABLE CHARLES EDWARD MICHAEL TERRY.

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

THE HONOURABLE NGAN SHING-KWAN

MR. RONALD THOMPSON *(Deputy Clerk of Councils).*

ABSENT:—

HIS EXCELLENCY THE COMMANDER BRITISH FORCES

LIEUTENANT-GENERAL SIR TERENCE AIREY, K.C.M.G., C.B., C.B.E.

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

MINUTES.

The Minutes of the meeting of the Council held on 27th March, 1952, were confirmed.

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>
The Ferries Ordinance, Chapter 104.	
The Excluded Ferries (No. 2) (Rescission) Regulations, 1952	A. 55
The Defences (Firing Areas) Ordinance, Chapter 196.	
The Defences (Firing Areas) (Schedule Amendment)	
(No. 2) Order, 1952	A. 56
The New Territories Ordinance, Chapter 97.	
The Land Office (N.T.) Fees (Amendment) Rules,	
1952	A. 57
The Rating Ordinance, Chapter 116.	
Powers conferred by Section 8(b)	A. 58
The Royal Hong Kong Defence Force Ordinance, 1951.	
The Hong Kong Auxiliary Air Force (Amendment)	
Regulations, 1952	A. 60
The Stamp Ordinance, Chapter 117.	
The Stamp (Bank Authorization) Order, 1952	A. 61
The Defence Regulations, 1940.	
The Reserved Commodities (Re-export) Amendment	
Order, 1952	A. 62
The Quarantine and Prevention of Disease Ordinance,	
Chapter 141. Declaration under section 18	A. 63
The Public Health (Food) Ordinance, Chapter 140.	
Suspension of Slaughter-houses By-law 29	A. 64
The Ferries Ordinance, Chapter 104.	
The Excluded Ferries Regulations, 1952	A. 66

<i>Subject.</i>	<i>G. N. No.</i>
The Industrial and Reformatory Schools Ordinance, Chapter 225.	
The Reformatory Schools (Amendment) Regulations, 1952	A.67
The Defence Regulations, 1940.	
The Price Control Order, 1946—Amendments to the Schedule	A.69

QUESTION.

HON. CHAU TSUN-NIN, C.B.E. , asked the following questions:—

“In view of the delay in reconstituting Legislative Council as advocated by Unofficial Members at the sitting of Legislative Council on the 8th of June, 1949, and the consequential postponement of any modification in the constitution of the Urban Council, will Government consider in the interim the holding of elections in accordance with the provisions of section 3 of the Urban Council Ordinance and of the Urban Council Election Rules made under section 4 of the same Ordinance”.

THE COLONIAL SECRETARY replied as follows:—

“Government agrees and arrangement will be made under the existing Ordinance and Rules to provide for the election of two additional members to the Urban Council.”

SUPPLEMENTARY APPROPRIATION FOR 1950-51

BILL, 1952.

THE FINANCIAL SECRETARY moved the First reading of a Bill intituled “An Ordinance to authorize the appropriation of a supplementary sum of seventy-six million one hundred and forty-two thousand nine hundred and forty-five dollars to defray the charges of the financial year ending 31st March 1951.” He said: Sir, for the financial year 1950/51 the estimate of total expenditure was \$200,839,083, but the actual expenditure was \$251,684,524 showing an excess of \$50,845,441. The schedule to the Bill provides for \$76,142,945 which represents the gross increase of expenditure before allowing for savings that have been made.

It has already been indicated how this increase has been caused, but I might perhaps again emphasize that almost \$50,000,000 of it was due to the necessity of clearing the advance

account opened to meet rehabilitation expenditure on loan account. The contribution to the cost of reinforcing the garrison accounted for a further \$16,000,000. The Bill in effect formalizes all the decisions of Finance Committee and the resolutions of this Council regarding supplementary expenditure in 1950/51, and represents the final stage in disposing of the Colony's accounts for the financial year 1950/51.

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

AGRICULTURAL PRODUCTS (MARKETING) BILL, 1952.

THE COLONIAL SECRETARY moved the First reading of a Bill intituled: "An Ordinance to provide for the marketing of agricultural products, to encourage co-operative markets and for purposes connected therewith." He said: Sir, Honourable Members will see from the Objects and Reasons of this Bill that they are very comprehensive and there is really very little I can add about the principles on which the proposed legislation is based. Briefly, Government decided after the liberation in the face of a marked shortage of agricultural products produced locally to stimulate production by the farmers in the New Territories and by assisting the farmers at the same time to increase supplies available to consumers. One scheme which was brought into operation was that for the marketing of vegetables and provision for this scheme was controlled under the Defence Regulations Part VI, Regulation No. 50. This scheme has been a success, both for the farmers and on account of the increased production of vegetables which has followed, so much so that Government is satisfied that the scheme in its present or in an expanded form should be continued and that provision therefore should be made in the Colony's permanent legislation, in the form of the Bill which is now before Council.

As Honourable Members will be aware there are already three registered Co-operative Societies in the New Territories which are taking over some of the duties of collecting vegetables and if present developments continue we should be able to look forward to the whole vegetable marketing scheme being taken over by a co-operative marketing organization.

Incidentally, one desirable result of the control of the vegetable marketing which has been reported to Government is the removal of wastage of vegetables as a result of growers being encouraged to produce not only for festivals but supplies for what might be called off-season periods.

Under the Ordinance before Honourable Members the Director of Marketing becomes a corporation sole and will have power to hold and dispose of property and he will also enjoy the advice of an Advisory Board, membership of which will be by appointment by His Excellency, and it is hoped that the persons appointed will be those with practical experience of farming in the New Territories. Under Section 7(2) of the Bill the Director of Marketing will be able to borrow money for purposes connected with the marketing scheme, subject of course to the approval of the Governor in Council, and of course the Governor will have an overall control of the Director's expenditure.

In the schedule to the Bill will be found Regulations designed to cover the many activities of the vegetable marketing organization, particularly relating to the wholesale markets and restriction on the movement of vegetables in the New Territories and Kowloon. I should add that these Regulations are not intended to affect direct retail of vegetables by the producer to the consumer, and provision has been made for this in Regulation 10.

I commend this Bill to Honourable Members for their favourable consideration. The vegetable marketing organization has proved a success and provision for the supervision of this and for other agricultural products under the statutory requirements which are now recommended is, I suggest, well merited.

THE ATTORNEY GENERAL seconded, and the Bill was read a First time.

Objects and Reasons.

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

At the time of the liberation of the Colony from the Japanese occupation, there was an acute shortage of locally produced agricultural products. In order to stimulate supply of such products it was necessary to improve the lot of farmers in the New Territories by ensuring that they receive as large a share of the market value of their produce as possible. Material help was therefore afforded to the farmers and to prevent the dissipation of their profits amongst middlemen and to ensure that at the same time the public receive supplies at a fair price, a marketing scheme for vegetables was instituted under regulation 50 of the Defence Regulations, 1940.

2. This scheme has proved beneficial and to the community and a marked increase in the production of vegetables has occurred. It is thought desirable that permanent and extended provision for assistance and service should now be made by Ordinance. Certain co-operative societies in the New Territories for the production and collection of vegetables have already been registered. It is hoped that others will be formed and similarly registered and that eventually they will become a co-operative organization responsible for the whole of the vegetable marketing scheme.

3. The Bill provides for the appointment of a Director of Marketing (Clause 3) who is made a corporation sole (Clause 4) with power to acquire hold and dispose of property (Clause 5). A feature of the Bill is the appointment (Clause 6) of a Marketing Advisory Board consisting of the Director as Chairman and four other persons whom it is intended should include persons with wide and practical experience of the difficulties and needs of the farmers. Financial control is established by clause 7 which envisages the creation of a fund to be administered by the Director of Marketing, and enables him with the approval of the Governor in Council to obtain loans for the purposes of the Bill.

4. The activities which it may be found desirable to empower the Director of Marketing to undertake are numerous. To this end therefore clause 8 gives the Governor in Council a wide power to make regulations. The Schedule to this Ordinance contains regulations which reflect the operation of the marketing organization as it is at present established. They provide for the establishment of wholesale vegetable markets in Kowloon and the New Territories and prohibit the sale wholesale of vegetables in those areas except at such markets. Restrictions are placed upon the movement of vegetables in the New Territories and Kowloon. Sales at wholesale vegetable markets are to be made through the agency of a market salesman appointed by the Director of Marketing.

5. Clause 8 enables the regulations to provide that contraventions shall be criminal offences and allows the burden of proof of certain issues to be placed upon the person accused. This has been limited to cases where the matter to be proved is peculiarly within the knowledge of the accused.

6. Clause 9 provides for the appointment by the Director of Marketing of persons authorized to enter buildings and other places in order to enforce the regulations. This power is considered

essential for the prevention of the sale wholesale of vegetables in places other than properly constituted markets. Moreover experience has shown that vegetables have been brought across the harbour for sale wholesale and stored in buildings and other places.

7. Provision is made in clause 10 for the forfeiture by a Magistrate of products which have been seized as the subject of contravention of the regulations and owing to the perishable nature of certain of such products a special provision is proposed to enable products to be sold and the proceeds held pending a decision of the Magistrate.

PLACES OF PUBLIC ENTERTAINMENT (AMENDMENT) BILL, 1952.

THE ATTORNEY GENERAL moved the First reading of a Bill intituled: "An Ordinance to amend the Places of Public Entertainment Ordinance, Chapter 172." He said: Sir, this is a short amending Bill the object of which is to remove the conflict in the penalty provisions and I have nothing to add to the Objects and Reasons.

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:—

Attention has been drawn to the conflict in the penalty provisions between sections 4 and 5 of the principal Ordinance, dealing with the advertisement, presentation and carrying on of cinematograph displays without a permit from the Commissioner of Police. Both sections impose different maximum penalties.

2. The object of this Bill is to remove such conflict by raising the penalty under section 4 to a fine of two thousand dollars in conformity with section 8 and by repealing section 5 which is considered superfluous.

PASSPORT BILL, 1952.

THE ATTORNEY GENERAL moved the First reading of a Bill intituled: "An Ordinance to repeal and replace the Passport (Miscellaneous Offences) Ordinance, Chapter 213." He said: Sir, the object of this Bill is to repeal and replace the existing

Passport Ordinance. That Ordinance is a very short enactment and makes it an offence to forge a passport or make a statement known to be untrue for the purposes of obtaining a passport.

A number of cases have recently come to light where, although it has been clear that the holder of a British passport was not a British subject and therefore not entitled to use such passport, it has not been possible to prosecute any one in connexion with the procuring of that passport. The principal reason has been that steps to obtain the passport whether taken in Hong Kong or elsewhere have been taken by persons who have since disappeared. Such persons have traded on the fact that British passports are in demand to traffic therein, a traffic which has frequently involved also a traffic in birth certificates. The reason for this is explained in greater detail in para. 2 of the Objects and Reasons.

Now it is clearly undesirable that there should be this traffic. It is even more undesirable that persons should be thereby enabled to obtain and use British passports. Apart from the fact that a British passport gives the holder certain immunities and privileges in Hong Kong, it also entitles the holder to claim Her Majesty's protection while travelling in those countries for which the passport is valid. That protection may be claimed in circumstances which give rise to a serious international incident, and it is clearly dangerous to run the risk of such incidents being created by persons who are not even entitled to have a passport.

The present Bill therefore makes it an offence to be the holder of a passport which is false in any material particular, that is to say with regard to the name, place and date of birth, photograph or signature of the holder. Although such falsity is often difficult to prove circumstances do occur in which a strong suspicion that a material particular is false arises.

The object of sub-clauses (2), (3) and (4) of Clause 4 is to shift the onus of proof in such cases to the holder, that is to say to make him prove either the material particular was correct or that he was unaware that it was incorrect. Sub-clause 4 of that clause contains a special provision with regard to the proof of Hong Kong birth.

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. There have recently been quite a number of cases in which passports have been issued to persons not entitled thereto. In some cases the passports were obtained fraudulently in foreign countries and then brought or delivered to Hong Kong. In other cases the passports were obtained in Hong Kong by false declarations made here, such declarations being backed by birth certificates improperly obtained.

2. Where as is frequently the case a perfectly genuine birth certificate belonging to another person is used and the particulars in the application tally with such certificate the trickery is very difficult to check and such cases only come to light through the receipt of unexpected information or some circumstance which puts an official on inquiry such as a discrepancy in the description of the applicant or holder in another document or to another official. Moreover such discrepancy does not necessary prove that the declarations in application for a passport were false to the applicants knowledge, which is a condition precedent for prosecuting the applicant under section 3 of the Passports (Miscellaneous Offences) Ordinance, Cap. 213.

3. Moreover prosecution is seldom possible if the passport has been obtained and applied for outside Hong Kong.

4. In order to combat the devices resorted to in obtaining passports it is proposed so far as Hong Kong is concerned to improve the checks before the passport is issued but it is also considered desirable to punish persons wrongly in possession in Hong Kong of passports issued by the authorities mentioned in the definition of passport and to facilitate proof that this offence has in fact been committed.

5. In order to achieve the above object this Bill repeals and replaces the existing Ordinance. Clause 3 reproduces the existing section 3 but clauses 2 and 4 are new. Clause 2 is an interpretation clause necessary to the construction of clause 4. Briefly these clauses—

- (a) make it an offence to be the holder of a passport false in a material particular to the knowledge of the holder;
- (b) if a material particular is proved to be incorrect make it incumbent upon the holder to prove he was unaware of that fact;

- (c) make it incumbent on the holder to prove the correctness of material particulars which do not tally with those contained in other documents purporting to have been issued to him or with information supplied to public officers;
- (d) make it incumbent upon the holder of a passport alleging Hong Kong birth to prove such birth if he has supplied information which does not tally with particulars in the register of births.

In connexion with (d) it should not be overlooked that the applicant is supplied with information as to the relatives he is supposed to have but that additions to the register made after he has been provided with this information or a discrepancy between his "briefing" and the entries in the register are sometimes the only evidence that he is not entitled to the birth certificate corresponding to the particulars of birth entered up on his passport.

ADJOURNMENT.

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

THE ATTORNEY GENERAL:—Three weeks' time, Sir.

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