

OFFICIAL REPORT OF PROCEEDINGS
Meeting of 10th February, 1954.

PRESENT:

HIS EXCELLENCY THE GOVERNOR (*PRESIDENT*)

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

HIS EXCELLENCY THE COMMANDER BRITISH FORCES

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

THE HONOURABLE THE COLONIAL SECRETARY

MR. ROBERT BROWN BLACK, C.M.G., O.B.E.

THE HONOURABLE THE ATTORNEY GENERAL

MR. ARTHUR RIDEHALGH, Q.C.

THE HONOURABLE THE SECRETARY FOR CHINESE AFFAIRS

MR. RONALD RUSKIN TODD.

THE HONOURABLE THE FINANCIAL SECRETARY

MR. ARTHUR GRENFELL CLARKE, C.M.G.

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

(*Director of Public Works*).

THE HONOURABLE DOUGLAS JAMES SMYTH CROZIER

(*Director of Education*).

THE HONOURABLE KENNETH MYER ARTHUR BARNETT, E.D.

(*Director of Urban Services*).

DR. THE HONOURABLE JAMES MALCOLM LISTON

(*Acting Director of Medical and Health Services*).

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

THE HONOURABLE CEDRIC BLAKER, MC., E.D.

THE HONOURABLE CHARLES EDWARD MICHAEL TERRY.

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

THE HONOURABLE NGAN SHING-KWAN.

THE HONOURABLE KWOK CHAN, O.B.E.

DR. THE HONOURABLE ALBERTO MARIA RODRIGUES, M.B.E., E.D.

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

ABSENT:

THE HONOURABLE DHUN JEANGIR RUTTONJEE.

MINUTES.

The Minutes of the meeting of the Council held on 20th January, 1954, 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 Unclaimed Balances Ordinance, Chapter 122. Order by the Governor.	A 8.
The Royal Hong Kong Defense Force Ordinance, 1951. Determination by the Governor.	A. 9.
The Royal Hong Kong Defence Force Ordinance, 1951. Royal Hong Kong Defence Force Reserve of Officers Regulations, 1954.	A.10.
The Royal Hong Kong Defence Force Ordinance, 1951. Royal Hong Kong Defence Force (Amendment), Regulations, 1954.	A.11.
The Public Health (Animals and Birds) Ordinance, Chapter 139. Order Prohibiting Import of Cattle from Thailand.	A. 12.

RESOLUTION REGARDING GRATUITY FOR LAM CHUN

THE ATTORNEY GENERAL moved the following Resolution: —

“RESOLVED that a gratuity of \$1,464 be paid to LAM Chun, formerly a chargehand linesman employed in the Post Office, who retired upon abolition of office from the public service on the 30th day of September, 1950.”

He said: Sir, the purpose of this Resolution is to award an *ex-gratia* gratuity to LAM CHUN who served the Government as a daily-paid chargehand from 1925 until 1950. He is not entitled under the Pensions Regulations to a gratuity because there was break in his service from the beginning of the Japanese occupation to 19th June, 1947, when he resumed duty. He did in fact

report for duty in October, 1946, but no post was found for him until 19th June, 1947. Had he resumed duty before 31st March, 1947, he would have been eligible under the Pensions legislation for a gratuity.

LAM Chun gave long and satisfactory service to the Government, and it was not his fault that no job was found for him until after 31st March, 1947. In these circumstances, it is considered right that he should be paid a gratuity equal to the amount for which he would have been eligible but for the break in his service.

THE COLONIAL SECRETARY seconded.

The question was put and agreed to.

**RESOLUTION REGARDING SUPPLEMENTARY ANNUAL
ALLOWANCE FOR LAU SHIU CHUEN.**

THE ATTORNEY GENERAL moved the following Resolution: —

RESOLVED that LAU Shin Chuen, Programme Assistant, Radio Hong Kong, be granted on his retirement from the public service, in addition to such annual allowance as may be granted to him under regulation 26 of the Pensions Regulations, a supplementary annual allowance of \$873.60 and that, if the annual allowance granted under regulation 26 of the Pension Regulations be paid in the form of a reduced annual allowance together with a gratuity, the said supplementary annual allowance be paid in like manner.

He said: Sir, Mr. LAU: who is at present employed as Programme Assistant, Radio Hong Kong is due to retire on 20th March next at the age of fifty-six after fifteen years' Government Service. But he is only eligible for the benefits due under the Pensions legislation to a non-pensionable officer. It had, however, been Government's intention for some time to declare Mr. LAU's post pensionable and to confirm him in it, but there was some delay during which unfortunately ill-health supervened, and although he has recovered sufficiently to resume duty, he is not now medically fit for appointment to a pensionable office and it would be contrary to accepted practice to confirm him.

As, however, it had been Government's intention, as Mr. LAU was aware, to give him pensionable terms, it is regarded as inequitable that he should suffer financially as a result of the aforementioned delay, and the purpose of this resolution is to give Mr. LAU *ex gratia* such additional retiring benefits as will place him in the same financial position as he would have been had he retired as a pensionable officer.

THE COLONIAL SECRETARY seconded.

The question was put and agreed to.

MAGISTRATES (AMENDMENT) BILL, 1954.

THE ATTORNEY GENERAL moved the First reading of a Bill intituled "An Ordinance further to amend the Magistrates Ordinance, Chapter 227". He said: Sir, as explained in the statement of Objects and Reasons, the purpose of this Bill is to make alterations of a procedural character in relation to criminal cases committed for trial to the Supreme Court.

One of the principal alterations is designed to allow a little more time between the latest date for committal of a case and the opening of the criminal session at which the case is to be tried, and the result in practice will be that a case committed for trial during a given month will be taken at the session opening on the 18th or 19th of the following month.

The other main alteration, Sir, is to provide that original documents relating to cases committed to the Supreme Court for trial shall be sent to that Court and not, as at present, to the Attorney General. The present procedure whereby original documents are placed in the care and custody of the prosecutor is so obviously undesirable as to call for no further comment.

THE COLONIAL SECRETARY seconded.

The question was put and agreed to.

The Bill was read a First time.

Objects and Reasons.

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

The main purposes of the Bill are two.

First, to allow more time between committal proceedings and trial. By section 85 of the Magistrates Ordinance (Cap. 227), the magistrate may commit for trial on any day up to the 9th day of the month. By section 4 (1) of the Criminal Procedure Ordinance (Cap. 221), the Criminal Session of the court commences on the 18th day of the month. Nine days has been found to be too short for prosecution and defence to prepare cases for trial. It is therefore proposed to amend the principal Ordinance so that the latest date for committal shall be the last day of the preceding month, thus allowing eighteen days for preparation for trial. This is the effect of clause 4.

2. The second object of this Bill is to amend the procedure for the transmission of the depositions and other relevant documents from the committing magistrate to the court and to the Attorney General. The existing practice, for which provision is made in section 86 of the principal Ordinance, is that the original documents are sent by the magistrate to the Attorney General, copies being supplied to the court. This practice is obviously wrong. The original documents should go to the Supreme Court. It is proposed to effect a change to conform with the practice in England and in other Colonial territories, and this is done by clauses 2, 5 and 6 of the Bill. Opportunity is taken to amplify section 86 of the principal Ordinance; a list of exhibits, and certificates as to the due observance of the requirements of sections 81 and 84 of the Ordinance, are required. Where an accused person or his solicitor makes application, he will be furnished free of charge with one copy of the depositions and other relevant documents. Additional copies will be charged for, as before. Consequential minor amendments in sections 82 and 83 are made by clauses 2 and 3 of the Bill.

CRIMINAL PROCEDURE (AMENDMENT) BILL, 1954.

THE ATTORNEY GENERAL moved the First reading of a Bill intituled "An Ordinance further to amend the Criminal Procedure Ordinance, Chapter, 221 ". He said: Sir, with the exception of

one minor amendment to section 8 of the Criminal Procedure Ordinance, all the amendments to be effected by this Bill are consequential upon those contained in the Bill which has just been read a first time, the main purposes whereof have been explained.

THE COLONIAL SECRETARY seconded.

The question was put and agreed to.

The Bill was read a First time.

Objects and Reasons.

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

This Bill is complementary to the Magistrates (Amendment) Bill, 1954, and attention is invited to the statement of objects and reasons appended to that Bill.

2. Consequential amendments are made by clauses 4, 5, 6, 7 and 8 to sections 11, 12, 13, 67 and 89 of the Criminal Procedure Ordinance (Cap. 221). Section 10 of the principal Ordinance is repeated, since these provisions duplicate those of section 86 of the Magistrates Ordinance (Cap. 227). Clauses 6 and 8 provide for the treatment of documents where a case has been referred back or is finally disposed of. The opportunity has been taken to make a minor amendment to section 8 of the principal Ordinance which is inapplicable to a special session.

URBAN COUNCIL (AMENDMENT) BILL, 1954.

MR. K. M. A. BARNETT moved the First reading of a Bill intituled "An Ordinance to amend the Urban Council Ordinance, Chapter 101 ". He said: Sir, the purpose of this Bill is fully set forth in the Objects and Reasons attached thereto, to which I have nothing to add.

THE COLONIAL SECRETARY seconded.

The question was put and agreed to.

The Bill was read a First time.

Objects and Reasons.

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

Section 3(2) of the Urban Council Ordinance (Cap.101) provides that the four additional members shall be elected by an electorate composed of persons whose names appear in one or other of the two parts of the register. Section 3(6) of the Ordinance provides that the second part of this register shall be closed to any fresh application for registration for 14 days before election day. When a third part was added to the register by Ordinance No. 44 of 1953, it was omitted to make reference to this new part in the above two subsections. The object of this Bill is to correct this omission.

MR. K. M. A. BARNETT: —Sir, with Your Excellency's consent I rise to move that the Standing Orders of this Council be suspended to the extent that is necessary to enable this Bill to be passed into law today. By virtue of Section 4A of the Ordinance the notification of the election of two Members must be made before the end of March, and that means this year that the latest convenient date on which the election can be held is Wednesday, March 24th. By rule 4 of the Urban Council Election Rules, not less than three weeks must elapse between the date on which the election is notified in the *Gazette* and the date of election, and by Rule 2 of the same Rules twelve clear days are required for the receipt of nominations. All these dates have to be worked out by the presiding officer and publicly notified, and the last date for the presiding officer to make public his time-table this year is Friday of this week, 12th February. It is therefore, I submit Sir, a matter of urgency that this Bill should pass through all its stages at today's meeting.

THE COLONIAL SECRETARY seconded.

The question was put and agreed to.

MR. K. M. A. BARNETT moved the Second reading of a Bill intituled "An Ordinance to amend the Urban Council Ordinance, Chapter 101".

THE COLONIAL SECRETARY seconded.

The question was put and agreed to.

The Bill was read a Second time.

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

Clauses 1 and 2 were agreed to.

Council then resumed.

MR. K. M. A. BARNETT reported that the Urban Council (Amendment) Bill, 1954 had passed through Committee without amendment, and moved the Third reading.

THE COLONIAL SECRETARY seconded.

The question was put and agreed to.

The Bill was read a Third time and passed into law.

J. E. JOSEPH TRUST FUND BILL, 1954.

THE COLONIAL SECRETARY moved the Second reading of a Bill intituled "An Ordinance to make provision for the establishment of a trust fund to be known as the J. E. Joseph Trust Fund, and for the due administration thereof, and for purposes connected with the matters aforesaid".

THE ATTORNEY GENERAL seconded.

The question was put and agreed to.

The Bill was read a Second time.

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

Clauses 1 to 9 and the Preamble were agreed to.

Council then resumed.

THE COLONIAL SECRETARY reported that the J. E. Joseph Trust Fund Bill, 1954 had passed through Committee without amendment, and moved the Third reading.

THE ATTORNEY GENERAL seconded.

The question was put and agreed to.

The Bill was read a Third time and passed into law.

ADJOURNMENT.

H. E. THE GOVERNOR: —Council will adjourn to this day three weeks which will then be the Budget Session.