

Meeting of 17th November, 1954

PRESENT:

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

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*).

DR. THE HONOURABLE YEO KOK CHEANG
(*Director of Medical and Health Services*).

THE HONOURABLE LEONARD GEOFFREY MORGAN
(*Acting Director of Education*).

THE HONOURABLE HAROLD GILES RICHARDS, O.B.E.
(*Director of Urban Services*).

DR. THE HONOURABLE CHAU SIK NIN, C.B.E.
THE HONOURABLE LAWRENCE KADOORIE.
THE HONOURABLE LO MAN WAI, O.E.E.
THE HONOURABLE NGAN SHING-KWAN.
THE HONOURABLE CEDRIC BLAKER, M.C., E.D.
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:

HIS EXCELLENCY THE COMMANDER BRITISH FORCES
LIEUTENANT-GENERAL CECIL STANWAY SUGDEN, C.B., C.E.E.
THE HONOURABLE DHUN JEHANGIR RUTTONJEE.

MINUTES.

The Minutes of the meeting of the Council held on 3rd November, 1954, were confirmed.

**H. E. THE GOVERNOR'S LECTURE TOUR
IN THE UNITED STATES.**

DR. CHAU SIK NIN: —Your Excellency, on behalf of my Unofficial Colleagues and myself I should like to extend to you and Lady Grantham our warm and heartfelt welcome home. We hope, Sir, that the “change has been as good as a rest” —we can hardly venture to think, after following you in the Press on your strenuous American tour, that your leave has been the rest you so richly deserve.

The time was more than ripe for a true picture of Hong Kong and its activities to be shown to our American friends, and there could have been no more appropriate person than you, Sir, to take up the palette and brush and paint that picture. We believe that nothing but good can result from your efforts, and it is a fitting tribute to your wisdom and leadership that you should be the first of our distinguished Governors to be called upon to perform such a task. We are proud, Sir, of your distinction and humble with the knowledge that you have selflessly spent so much of your precious time in the interests of this Colony.

The Colony is grateful to you, and I know I am voicing the sentiments of every man and woman in the community when I say again, “Welcome Home, and Thank you.” (*Applause*).

H.E. THE GOVERNOR: —Honourable Members: I thank you very sincerely, Dr. Chau, for the kind remarks that you have made in welcoming me and my wife home, because indeed Hong Kong is home to us and I know my wife shares the same sentiments that I do and I thank you also for the kind remarks you made regarding my lecture tour in America.

It might interest you and other honourable Members if I were to tell you briefly something about that lecture tour of mine.

As you know, the object was to acquaint the people of America or as many as possible of the people of America with the true facts about Hong Kong, to tell them the Hong Kong story, because it is a very good story, a story of which all of us in this Colony have every reason to be proud.

In other words, it was fact and not fiction I was going to tell them. That was the title of one of my addresses, "Hong Kong in Fact and in Fiction". No doubt they will forget many of the facts that I told them but I feel sure that an impression will be left on their minds, an impression of Hong Kong, and a good impression.

Another thing I would ask you to bear in mind, that it was to the people of America that I was speaking and not to the people of Britain or of anywhere else in the world.

I visited and spoke on a number of occasions in New York, in Washington, in Baltimore, in Boston, in Detroit, in Chicago, in Denver, in Los Angeles, in San Francisco and finally in Kansas City, Missouri.

I lectured in the morning, I lectured in the afternoon. I spoke after lunch, I spoke during lunch. I spoke after dinner and I spoke during dinner. (*Laughter*).

The groups varied from anything from twenty up to finally in Kansas City where I spoke in an auditorium which was filled with 10,000 people. For purposes of comparison I would remind you that the Albert Hall holds 8,000.

I had a number of radio interviews in practically every city that I visited. You know the sort of thing-the sponsor or the moderator would ask me a question, "What did I think about so and so?" something affecting Hong Kong, and then I would start off and tell him what I thought about that.

I appeared on television on innumerable occasions, anything from three minutes to one hour. And here I would like to remark that I was very impressed with the importance of television. Just like radio, it reaches a great many people. But, in addition, this is where it differs from radio, the speaker is actually seen. In one city where I spoke, where I appeared on television, I was assured that this programme, which was a regular Sunday feature, was looked at by 500,000 people.

Again, shortly after I had finished a television interview in New York I received a telephone call from the Editor of a newspaper 1,500 miles away saying how much he had enjoyed the interview and how much he had learned about Hong Kong. Then, of course, on a more restricted plane I would meet people the next day in the streets, liftmen, taxi drivers and so on and if they recognized me they would say "I saw you on television and what you had to tell us about Hong Kong we never knew before."

Now, how is one to judge whether a tour of this nature is successful or not? I would suggest three standards. First of all the size of the audiences, and now I am not talking about radio and television audiences, but audiences in a lecture hall. In practically every place where I spoke the hall was filled to capacity and I was assured on a number of occasions that it was the greatest turn out they had had for the past twelve months or the past two years. I can say that without appearing to boast, because they didn't know whether I was a good speaker or a bad speaker. They did not come to hear Sir Alexander Grantham, they had come to hear something about Hong Kong. Admittedly the fact that it was the Governor of Hong Kong was an added attraction but there was widespread interest in all the cities that I visited in the United States, a widespread interest in Hong Kong.

Then the next criterion or standard that I would suggest is the attention that I got from my audiences. You, honourable Members, who are experienced in public speaking, know that one can judge whether one's audience is interested. If they are not they look at their watches, they yawn, they shuffle their feet. But in every single instance, whether I was speaking for 20 minutes or for an hour, the audiences paid close attention to everything that I said.

And the final standard might be the comments that were made after I had finished my addresses. That admittedly is a difficult thing to judge by because few people would be so rude as to tell the worst lecturer in the world that his lecture was no good. But I did receive confirmation from a number of indirect sources that what I had had to say had been of considerable interest and only the other day in Hong Kong, that is two days

ago, I received this letter from an American living in Hong Kong, a man who by his calling is of unimpeachable integrity, and this is what he said, if you will just bear with me for a moment

“Permit me as an American to suggest to you my grateful appreciation for the service which you have rendered my fellow countrymen by your recent addresses and contacts in the United States.

“Shortly before my return to Hong Kong late last month I was in Washington, D.C. and other places where you spoke. From your friends and mine in America, as well as from the Press, I have learned of your interpretations of Hong Kong and its international significance as well as problems elsewhere on the western side of the Pacific. I assume that there is a margin of difference between our opinions on other Asiatic matters but there seems to be no difference about Hong Kong.

“You have made an important contribution to mutual understanding between the people of your country and mine. I am very glad for what you did.”

I have received other letters in the same tenor. Also of interest to know is that I was warned beforehand that in one or two cities where I was going to speak I would meet some antagonism or opposition to the things that I was going to say, but curiously enough it was in those cities that after I had finished speaking I was received with more enthusiasm and appreciation than anywhere else. During my tour I met the most friendly reception everywhere from all, from everybody I met.

One impression I did carry away with me from talking to innumerable Americans was their great regret, almost their feeling of dismay, at the lack of harmony between America and China at this juncture. There seemed to be a deep desire, almost a yearning to be friends with the people of China. Americans dislike Communism just as all of us of the free world do, but despite that I am quite sure from my talks with Americans that they have no intention whatever of interfering with the running of that country. Still less have they any aggressive intentions against China. On the other hand they would object most strongly if any country tried to interfere with their friends.

If only it could be realized in China what a great fund of good feeling there is towards the people of China in America! If only that could be realized it is possible that tension might be eased a little bit and more harmony restored in this part of the world. But this is by the way, and also possibly none of my business.

I realize that there were some criticisms of some of the things that I said or was alleged to have said in the United States. Most of these criticisms, if not all, were based on either incomplete or out-of-context reporting outside the United States of what I said. I might mention that there were no criticisms levelled against me in the United States. Here again I would remark that it was to the people of America to whom I was speaking. But such criticisms as there were did not Put Me Off My stride for one moment. (*Laughter*).

As I remarked at the beginning, the object of my mission was to acquaint the American people with the true facts of Hong Kong, to tell them the Hong Kong story. A few millions have now heard that story and have, I believe, a good impression of Hong Kong. I think therefore it can fairly be said that my mission has been accomplished and perhaps not altogether unsuccessfully. (*Applause*).

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>
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Sessional Papers, 1954: —

No. 26—Annual Report by the Director of Agriculture, Fisheries and Forestry for the year 1953/54

No. 27—Annual Report by the Registrar, Supreme Court for the year 1953/54.

No. 28—Annual Report by the Quartering Authority for the year 1953/54.

Vehicle and Road Traffic Ordinance, Chapter 220.

Vehicles and Traffic (Amendment) Regulations, 1954. A. 136

URBAN COUNCIL (AMENDMENT) (No. 2) BILL, 1954.

MR. H. G. RICHARDS moved the First reading of a Bill intituled "An Ordinance further to amend the Urban Council Ordinance, Chapter 101."

He said: Sir, the reasons for this motion are comprehensively set out in the objects and reasons, but honourable Members may like to have an illustration of the effect of the existing legislation. Many occupants of market stalls who find that -their business is not paying-or for other reasons-leave their stalls without notice to the Urban Council and, very often, cannot be traced. The lease of the vacant stall has to be re-auctioned, but before that can be done a report has to be made and circulated to the Select Committee, which then has to terminate the lease; that takes from 10 days to a fortnight at best, during which time Government loses rent for the stall. The Committees of the Urban Council deal with too many files every month-they average about 600 items a month-for it to be possible to shorten the period, and the estimated loss of Government revenue over this delay in re-auctioning market leases alone is about \$60,000 per annum. The Select Committee in question desires to delegate to certain officers of the Urban Services Department the power to re-auction the lease of a deserted market stall, but as the law stands this cannot be done.

The market stall situation Sir is an illustration, as I have said, of a number of such small inefficiencies caused by the inability of the Urban Council to delegate its powers to deal with individual cases in accordance with directions which it would like to give. The Bill is intended to provide a solution of that difficulty.

The present Urban Council is very chary of any delegation of its responsibilities but, should some future Council, or Chairman, become lax in the matter a safeguard is provided in the Bill in that the Chairman, a Government Officer, has to authorize the delegation as well as the Council; neither can delegate the Council's powers without the other.

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: —

At present the only delegation which the Urban Council can make to a public officer is by resolution to any Health Officer. It has been found that this causes very considerable difficulty and loss of revenue in that trivial detailed actions to carry out the duties of the Urban Council can be exercised only by the Council or its select committees. Examples of this are the approval of changes in premises of licensees, re-letting of market stalls etc. This amendment proposes to give limited powers of delegation by the Chairman on the authority of the Council.

ARMY LEGAL SERVICES BILL, 1954.

THE ATTORNEY GENERAL moved the Second reading of a Bill intituled “An Ordinance to enable the Deputy Assistant Director of Army Legal Services, Hong Kong, to practise as a solicitor of the Supreme Court in certain cases and subject to certain conditions.”

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.

THE ATTORNEY GENERAL reported that the Army Legal Services 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.

MERCHANT SHIPPING (AMENDMENT) BILL, 1954.

THE ATTORNEY GENERAL moved the Second reading of a Bill intituled "An Ordinance to amend the Merchant Shipping Ordinance, 1953."

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.

Clause 1 was agreed to.

Clause 2.

THE ATTORNEY GENERAL: —I beg to move the amendment which has been circulated to members and which has been explained on the paper which has been circulated.

Proposed Amendment.

Leave out subsection (3) of the new section 49A and substitute the following--

"(3) After the conclusion of such inquiry the person holding the same shall forward a report thereof to the Governor without delay and, in any event, not later than one month after such conclusion."

Clause 2, as amended, was agreed to.

Clauses 3 and 4 were agreed to.

Council then resumed.

THE ATTORNEY GENERAL reported that the Merchant Shipping (Amendment) Bill, 1954, had passed through Committee with one 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.

DEFAMATION AND LIBEL (AMENDMENT) BILL, 1954.

THE ATTORNEY GENERAL moved the Second reading of a Bill intituled "An Ordinance to amend the Defamation and Libel Ordinance, Chapter 21."

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.

THE ATTORNEY GENERAL reported that the Defamation and Libel (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.

BUSINESS REGULATION (AMENDMENT) BILL, 1954.

THE FINANCIAL SECRETARY moved the Second reading of a Bill intituled "An Ordinance to amend the Business Regulation Ordinance, 1952."

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 to 6 were agreed to.

Council then resumed.

THE FINANCIAL SECRETARY reported that the Business Regulation (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.

TRADE MARKS BILL, 1954.

THE ATTORNEY GENERAL moved the Second reading of a Bill intituled “An Ordinance to amend and consolidate the law relating to the registration of trade marks.”

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.

H.E. THE GOVERNOR: —I would suggest, Gentlemen, that we take this Bill in blocks of five clauses. Is that agreeable?

This was agreed to.

Clauses 1-5.

THE ATTORNEY GENERAL: —Sir, Clause 2. I beg to move the amendment in the table of amendments which has been circulated. The amendment here, as explained, is consequential on amendments to be moved later.

Proposed Amendment.

Leave out the definition of “trade mark” and substitute the following—

“trade mark” means, except in relation to a defensive or a certification trade mark, a mark used or proposed to be used in relation to goods for the purpose of indicating, or so as to indicate, a connexion in the course of trade between the goods and some person

having the right either as proprietor or as registered user to use the mark, whether with or without any indication of the identity of that person, and means, in relation to *a defensive trade mark, a mark registered under section 55, and, in relation to a certification trade mark, a mark registered or deemed to have been registered under section 64;*”.

Clause 1, clause 2 as amended, and clauses to were agreed to.

Clauses 6 to 50, were agreed to.

Clauses 51-55.

THE ATTORNEY GENERAL: —Sir, Clause 55. The amendments proposed to this clause and the amendment proposed to clause 57 are of such importance that I feel I should say something about them. When I moved the first reading of this Bill I said: —

"Clauses 55 to 57, which provide for a form of registration of a trade mark, to be known as a defensive registration, are designed to apply to cases where a trade mark has become so well known in respect of the goods for which it is registered that the use of the marks by others in relation to goods of a different kind is likely to create the impression that there is some connexion between those goods and the proprietor of the mark. It is therefore considered reasonable and desirable that the proprietor should be able to obtain the requisite protection by registering the mark in classes in which he has no intention of using it. Having regard however to the exceptional nature of this privilege, the registration of such marks is restricted to invented words and does not extend to ordinary words, surnames or devices”.

I also referred to the fact that action on some suggestions made by the Law Society and the Hong Kong General Chamber of Commerce had been deferred pending legislation in the United Kingdom. I expressed the view that it was desirable to keep in step with the United Kingdom, but by this I merely intended to convey the desirability of being able to follow English precedent and case law.

After the first reading I received two letters: One from the Honourable Cedric Blaker on behalf of the Hong Kong General Chamber of Commerce, the other from Mr. Vine on behalf of the Sub-Committee of the Law Society appointed to scrutinize this Bill. Mr. Vine expressed disappointment that so few of the proposals put forward by that Sub-Committee had been adopted and pressed for an amendment whereby the clauses now under consideration would not be limited to invented words. He said

“A large section of the public place more reliance upon pictorial devices than upon a word or wordswhich may well be in a language not understood by the intending purchaser, and we wish to place on record that the Bill is defective in its present form and does not meet the requirements of the mercantile community whilst defensive registration is limited to invented words”.

Mr. Blaker, on behalf of the Chamber of Commerce, also urged an extension of defensive registration, and said:

“It is appreciated that this would take local legislation further than is the case in the United Kingdom, but it is felt that this extension is very necessary because of the all too prevalent dishonest use of well-known invented devices, make-up, etc.”

It seemed to me that these letters raised points of considerable merit, and I took up the matter with the Registrar General, and Mr. W. G. Fitz-Gibbon, Assistant Registrar in charge of the Trade Marks Registry. In the result the amendments to Clauses 55 and 57, shown underlined in the table of proposed amendments, were devised to meet the case put forward by the General Chamber of Commerce and the Law Society.

The clauses as originally drafted provided for defensive registration only in the case of invented words, but as redrafted defensive registration will be available in the case of an invented word or invented words, or a device or devices, or a combination of them. The Departmental Committee in England, whose recommendations formed the basis of the changes made by the 1938 Act, expressed the opinion that defensive registration should be restricted to invented words, as they, were apprehensive about

the results that might follow from the registration of ordinary words, surnames or devices. I think a good case has been made out for the protection of devices which have become exceptionally well known, and that is as far as the amendments go.

The criterion for defensive registration as the clauses stand is that the mark has become so well-known in respect of the goods for which it is registered, that the use of the mark by others in relation to goods of a different kind is likely to be taken as indicating a connexion in the course of trade between those other goods and the goods of the proprietor of the mark. A new criterion has been devised after study of a discussion at the Institute of Trade Marks Agents in London in January this year and this has now been adopted in the new clause 55, sub-clause (1). The new test is, has the mark for which defensive registration is sought become so exceptionally well-known that its use in relation to goods other than goods of the proprietor would be likely to detract from its distinctive character? We have also in paragraph (b) of the new sub-clause (1) of clause 55 laid down certain matters which are to be taken into account in determining whether a trade mark is exceptionally well-known and whether its use in relation to other goods would be likely to detract from its distinctive character. All these amendments have been accepted by the General Chamber of Commerce and the Law Society. I think that, they may properly and safely be adopted and I commend them to this Council.

Finally, I should like to pay a sincere tribute to Mr. W. G. Fitz-Gibbon for his work in connexion with these amendments. Mr. Fitz-Gibbon also prepared the first draft of the Bill and, from his wide knowledge and experience of this technical and intricate branch of law, has given most helpful advice.

MR. BLAKER: —Sir, I should like to congratulate my honourable and Learned Friend the Attorney General for his work in connexion with the amendment of this Ordinance. In its previous form it had presented difficulties to the commercial community and was, I understand, not completely acceptable to the legal fraternity. The amendments now proposed remove the objections previously raised and provide a most welcome improvement. I therefore support the amendment.

Proposed Amendment.

Leave out sub-clause (1) and substitute the following—

“(1) (a) Where a trade mark consisting of an invented word or invented words, *or a device or devices, or a combination of them*, has become so *exceptionally* well known as respects any goods in respect of which it is registered and in relation to which it has been used that the use thereof in relation to other goods would be likely to *detract front its distinctive character in respect of the first-mentioned goods*, then, notwithstanding that such use would not be likely to be taken as indicating a connexion in the course of trade between those other goods and a person entitled to use the trade mark in relation to the first-mentioned goods and that the proprietor registered in respect of the first-mentioned goods does not use or propose to use the trade mark in relation to those other goods, and notwithstanding anything in section 37, the trade mark may, on the application in the prescribed manner of the proprietor registered in respect of the first-mentioned goods, be registered in his name in respect of those other goods as a defensive trade mark and, while so registered, shall not be liable to be taken off the register in respect of those other goods under section 37.

(b) *In determining whether a trade mark is exceptionally well known and whether its use in relation to other goods would be likely to detract from its distinctive character in respect of the goods for which it is registered, the tribunal shall have regard to all related circumstances including the length of time the trade mark has been in use, the extent to which it has become well known in relation to the goods in respect of which it is registered, the nature of those goods, and whether the notoriety of the mark is limited because of its use on goods that are not of wide distribution.*”

Clauses 51 to 54 and clause 55 as amended were agreed to.

Clauses 56- 60.

THE ATTORNEY GENERAL: —Clause 57, Sir, I beg to move the amendment standing in my name.

Proposed Amendment.

Leave out sub-clause (1) and substitute the following—

“(1) On application by any person aggrieved to the Court, or, at the option of the applicant and subject to the provisions of section So, to the Registrar, the registration of a trade mark as a defensive trade mark may be cancelled on the ground that the requirements of subsection (1) of section 55 are no longer satisfied in respect of any goods in respect of which the trade mark is registered in the name of the same proprietor otherwise than as a defensive trade mark, or may be cancelled as respects any goods in respect of which it is registered as a defensive trade mark on the ground that there is no longer any likelihood that the use of the trade mark in relation to those goods would *detract from its distinctive character in respect of the goods first-mentioned in subsection (1) of section 55.*”

Clause 56, clause 57 as amended, and clauses 58 to 60 were agreed to.

Clauses 61 to 70 were agreed to.

Clauses 71 - 75

THE ATTORNEY GENERAL: —Clause 72, Sir, I beg to move the amendment standing in my name.

Proposed Amendment.

After the expression “Trade Marks Ordinance” in lines 3 and 4 insert the words “repealed by section 92”.

Clause 71, clause 72 as amended, and clauses 73 to 75 were agreed to.

Clauses 76 to 92 were agreed to.

Schedule.

THE ATTORNEY GENERAL: —Sir, I beg to move the three amendments to the schedule standing in my name.

Proposed Amendments.

Rule 35. Insert a new paragraph as follows—

“When a trade mark has been entered in the register, the registration shall be advertised in the *Gazette*.”

Schedule II. From the note at the head delete the words “or from the Government Printer”.

Schedule II. Leave out the form TM-No- 44 and substitute a revised form.

The Schedule, as amended, was agreed to.

Council then resumed.

THE ATTORNEY GENERAL: —Sir, I beg to report this Bill from Committee with amendments. Sir, in my submission some of the amendments are material within the meaning of Standing Order 28, paragraph 1 and if Your Excellency is of that opinion I beg leave to move the suspension of Standing Orders to allow this Bill to be read a Third time today.

H. E. THE GOVERNOR: —I am of that opinion and give my permission.

THE ATTORNEY GENERAL: —Sir, I rise to move that Standing Orders be suspended to allow of this Bill being read a third time at this meeting.

THE COLONIAL SECRETARY seconded.

The question was put and agreed to.

THE ATTORNEY GENERAL 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.

ADJOURNMENT.

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

THE ATTORNEY GENERAL: —May I suggest this day for night?

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

OFFICIAL REPORT OF PROCEEDINGS**Meeting of 1st December, 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 CECIL STANWAY SUGDEN, 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*).

DR. THE HONOURABLE YEO KOK CHEANG
(*Director of Medical and Health Services*).

THE HONOURABLE HAROLD GILES RICHARDS, O.B.E.
(*Director of Urban Services*).

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

THE HONOURABLE CHARLES EDWARD MICHAEL TERRY.

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

THE HONOURABLE CEDRIC BLAKER, M.C., E.D.

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 NGAN SHING-KWAN.

THE HONOURABLE DHUN JEHANGIR RUTTONJEE.

MINUTES.

The Minutes of the meeting of the Council held on 17th November, 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>
Business Regulation Ordinance, 1952.	
Business Regulation (Amendment) Rules, 1954.....	A. 137
Emergency Regulations Ordinance, Chapter 241.	
Emergency (Squatter Ordinance) (Amendment)	
Regulations, 1954.....	A. 138
Unclaimed Balances Ordinance, Chapter 122.	
Order by the Governor.....	A. 139
Pensions Ordinance, Chapter 89.	
Former Pensionable Offices (Amendment) (No. 2)	
Order, 1954.....	A. 140
Pensions Ordinance, Chapter 89.	
Pensionable Offices Order, 1954.....	A. 141
University Ordinance, Chapter 319.	
University (Amendment) Statutes, 1954.....	A. 142

PENSIONS ORDINANCE, CHAPTER 89.

THE COLONIAL SECRETARY moved the following resolution: —

RESOLVED that the Resolution made and passed by the Legislative Council on the 14th day of July, 1954, and published in Supplement No. 2 of the *Gazette* as Notification No. A. 90, be amended by the insertion after the word “grant” in the fourth line thereof of the following—
“whether or not such death occurred prior to the coming into force of this Resolution.”

He said: —Your Excellency: On 14th July, 1954, Council made and passed a Resolution to the effect that, wherever a gratuity is payable under Regulation 29 of the Pensions Regulations to the dependants of a non-pensionable officer whose service is terminated by his death, the Governor may grant an *ex-gratia* addition to Such gratuity; provided the total amount of the gratuity shall not exceed a total of 12 months' salary and cost of living allowance. As this Resolution became effective only from the date of its publication in the *Gazette* under section 8(2) of the Interpretation Ordinance, Cap. 1, it does not therefore cover the case of an officer whose death occurred before that date. It is considered desirable to amend this Resolution to give that effect in order to achieve the purpose of the original Resolution, namely in this case to pay an increased gratuity to the dependant of a Sanitary Coolie who was killed while on duty on 26th October, 1948. And that is the purpose of the present Resolution.

THE ATTORNEY GENERAL seconded.

The question was put and agreed to.

**MILK AND DAIRIES (AMENDMENT) (No. 2)
BY-LAWS, 1954.**

MR. H. G. RICHARDS moved the following resolution: —

Resolved that the Milk and Dairies (Amendment) (No. 2) By-laws, 1954, made by the Urban Council on the 9th day of November, 1954, under section 5 of the Public Health (Food) Ordinance, Chapter 14, be approved.

He said: —Sir: The purpose of this resolution is set out in the explanatory note.

THE COLONIAL SECRETARY seconded.

The question was put and agreed to.

**WILD BIRDS AND WILD MAMMALS PROTECTION
(AMENDMENT) BILL, 1954.**

THE ATTORNEY GENERAL moved the First reading of a Bill intituled "An Ordinance to amend the Wild Birds and Wild Mammals Protection Ordinance, 1954."

He said: —Sir: The purposes of this Bill are clearly set forth in the statement of objects and reasons. I would merely add in amplification of the first paragraph of that statement that there is quite a considerable trade with China in live game birds and dried deer skins with which it is not desired to interfere.

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 7 of the principal Ordinance prohibits the possession, save under a Governor’s Permit, of live game, and section S likewise prohibits traffic in game mammals or any part thereof. Clauses 2 and 3 of this Bill make amendments to those sections which will allow possession of imported live game except Chinese Francolin, and will also allow trade in imported dried deerskins.

2. Section 16 of the principal Ordinance which permits the Governor to issue special permits for hunting for scientific or other purposes has in practice been found to be too narrow in its scope, and clause 5 of this Bill replaces it with a new section.

3. The opportunity has been taken (clause 4) to re-cast section 13 of the principal Ordinance which deals with the burden of proof in the case of certain offences against sections 7 and 8 of the principal Ordinance. The amendment proposed in clause 6 is designed to correct a mistake in the Fourth Schedule.

WORKMEN’S COMPENSATION (AMENDMENT) BILL, 1954.

THE ATTORNEY GENERAL moved the First reading of a Bill intituled “An Ordinance to amend the Workmen’s Compensation Ordinance, 1953.”

He said: Sir: This Bill has attached to it a very comprehensive statement of “Objects and Reasons”, and I don’t think that I can usefully add anything to that statement.

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 objects of this amending Bill are to extend the benefits of the principal Ordinance to the locally engaged employees of the Armed Forces and to simplify the procedure for the payment of compensation wherever this has been agreed between the parties.

2. At the time the principal Ordinance was passed civilian employees of the Services were excluded from its operation, though it was intended that they should be brought within its scope as soon as suitable arrangements could be made with the three Services. The respective Service Departments have now agreed that the Ordinance should be made applicable to their locally engaged civilian staff, with the exception of persons employed in the Royal Naval Yard Police. Clause 3 seeks to effect this object and clause 2 contains a consequential amendment to section 3 of the principal Ordinance.

3. With regard to compensation payment procedure, all compensation payments, with the exception of periodical payments for temporary incapacity which have been agreed and approved under section 16, must at present be made through the Court. In practice this has resulted in administrative difficulties with consequent delay. In order to simplify distribution of agreed compensation, clause 5 seeks to provide that all payments other than those arising out of the death of the workman, which have been agreed between the employer and the workman and approved by the Commissioner of Labour may, if the Commissioner so directs, be paid by the employer to the workman direct, as an alternative to payment through the Court.

4. Under section 9 periodical payments in the case of temporary incapacity are assessed at a monthly payment of half the difference between the monthly earnings before the accident and

the monthly earnings after the accident, but no such payment may exceed the rate of \$250 a month. By virtue of section 2, this difference might, in the case of a totally incapacitated nonmanual workman, be as much as \$700, and, in the case of a manual workman, exceed that amount. Clause 4 increases the maximum rate of such payments to \$350 (*i.e.* half \$700), thus allowing a monthly payment of fully half the difference where the difference does not exceed \$700.

5. The definition of 'Hong Kong ship' in section 28(4) of the principal Ordinance excludes pinnaces launches etc. operated by the Armed Forces of the Crown. As locally employed civilian workmen are employed on some of these vessels, it is considered that such workmen should be brought within the scope of the Ordinance. Clause 6 amends the said definition accordingly.

6. Workmen in certain Government factories and workshops are not entitled to compensation under the principal Ordinance, because such factories and workshops are not registered, or required to be registered under the Factories and Workshops Ordinance, Chapter 59, which is not binding on the Crown. It is considered desirable that employment in these factories and workshops be covered by the principal Ordinance and clause 7 amends the First Schedule accordingly.

7. Clause 7 also seeks to extend the benefits of the principal Ordinance to certain other employments, namely, in the setting tip etc. of cables, in messes of the Armed Forces and in receiving or transmitting radio signals.

URBAN COUNCIL (AMENDMENT) (No. 2) BILL, 1954.

MR. H. G. RICHARDS moved the Second reading of a Bill intituled "An Ordinance further 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. H. G. RICHARDS reported that the Urban Council (Amendment) (No. 2) Bill, 1954, had passed through Committee without amendment and moved the Third reading.

THE COLONIAL SECRETARY seconded.

The question was put and agreed Lo.

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

ADJOURNMENT.

H. E. THE GOVERNOR: —That concludes the business for to-day, Gentlemen. When is it your pleasure that we shall meet again?

THE ATTORNEY GENERAL: —May I suggest this day fortnight?

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