

OFFICIAL REPORT OF PROCEEDINGS**Meeting of 17th August, 1955.**

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 CECIL STANWAY SUGDEN, K.C.B., C.B.E.

THE HONOURABLE THE COLONIAL SECRETARY

MR. EDGEWORTH BERESFORD DAVID, C.M.G.

THE HONOURABLE THE ATTORNEY GENERAL

MR. ARTHUR HOOTON, Q.C. (*Acting*)

THE HONOURABLE THE SECRETARY FOR CHINESE AFFAIRS

MR. BRIAN CHARLES KEITH HAWKINS, C.M.G., O.B.E.

THE HONOURABLE THE FINANCIAL SECRETARY

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

THE HONOURABLE THEODORE LOUIS BOWRING C.M.G., 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 LO MAN WAI, C.B.E.

THE HONOURABLE CHARLES EDWARD MICHAEL TERRY, O.B.E.

THE HONOURABLE NGAN SHING-KWAN, O.B.E.

THE HONOURABLE DHUN JEHANGIR RUTTONJEE.

THE HONOURABLE KWOK CHAN, O.B.E.

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

THE HONOURABLE JOHN ARTHUR BLACKWOOD.

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

MINUTES.

The Minutes of the meeting of Council held on 20th July, 1955, were confirmed.

PAPERS.

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

Subject. *G. N. No.*

Sessional Papers, 1955: —

No. 11—Annual Report by the Commissioner of Registration
for the year 1954-55.

No. 12—Annual Report by the Director of Marine for the year
1954-55.

No. 13—Annual Report by the Director, Royal Observatory for
the year 1954-55.

No. 14—Annual Report by the Postmaster General for the year
1954-55.

No. 15—Annual Report by the Custodian of Property and the
Custodian of Enemy Property for the year 1954-55.

Emergency Regulations Ordinance (Chapter 241).

Emergency (Principal) (Amendment) Regulations, 1955 A. 74

Stamp Ordinance (Chapter 117).

Stamp (Bank Authorization) (No. 4) Order, 1955 A. 75

Stamp Ordinance (Chapter 117)

Stamp (Bank Authorization) (No. 5) Order, 1955 A. 77

Emergency Regulations Ordinance (Chapter 241).

Emergency (Importation and Exportation Ordinance)
(Amendment) Regulations, 1955 A. 78

INLAND REVENUE (AMENDMENT) BILL, 1955.

THE FINANCIAL SECRETARY moved the First reading of a Bill intituled "An Ordinance further to amend the Inland Revenue Ordinance, Chapter 112".

He said: Sir, it was in December last year that there was laid on the table of this Council the Report of the Inland Revenue Ordinance Committee. Honourable Members will no doubt recollect this somewhat technical and lengthy document and will remember that at the time of its publication a general invitation was issued for comment and criticism. The response to this invitation was not very good, but long and careful consideration has been given both to the recommendations, and to such comments as were received. As a result of this consideration Government decided that three of the specific recommendations made by the Committee should be rejected.

One was the recommendation that the rate of property tax should be the full standard rate instead of the existing half rate. Very considerable opposition was expressed to this recommendation and Government came to the conclusion that the proposal was premature.

A further recommendation that has been rejected is that contained in para. 15 of the Report. This was to the effect that all benefits, other than medical or health benefits, received by an employee from his employer, should be considered as income, whether they are convertible into money or not, and should be liable to tax. Government feels that in the vast majority of cases adoption of this proposal would produce much irritation and little if any revenue.

The third recommendation that has been rejected is that contained in para. 26 of the Report. It was that the cost of a leave passage for the proprietor of a business, who is debarred from incorporation by the rules of his profession, should be allowed as a charge against profits. Government has decided that it is unable to depart from the principle that allowable deductions from profits are restricted to expenses wholly and exclusively incurred in production of those profits.

This Bill then seeks to amend the law to put into effect all the other recommendations of the Committee so far as they affect the provisions of the Ordinance up to and including Part VII.

I have to make one reservation relating to the recommendation of the Committee made in para. 11 of their Report. The immediately preceding recommendation was that non-residents shall no longer be exempt from tax on their income derived from the Colony, but the Committee made one exception to this for the case of a non-resident in receipt of a pension. This exception was, I understand, recommended because in most countries of the world the pensioner has to pay tax in his country of residence; if he had also to pay tax in Hong Kong he would be subjected to considerable trouble, and a certain amount of financial loss, in obtaining tax refunds under double taxation arrangements. Government appreciates the purpose of this recommendation, and has accepted it, but it has accepted it with the reservation that it will be subject to review at the next amendment of the Ordinance.

I should like to draw attention to another point in the Bill. In para. 10 of its Report the Committee recommended that where any doubt existed as to the place where income or profits arose, or whence they were derived, it should be laid down that they should be deemed to arise in Hong Kong unless proof could be adduced that they had borne a corresponding tax elsewhere. This recommendation was, I understand, prompted by some rather serious cases of avoidance of tax. These cases, reduced to their essentials, involved profits which must have arisen either in Hong Kong or in one other overseas country. Knowing the efficiency of the other tax authorities concerned, there can be very little doubt that if the profits had arisen in that overseas country they would have been taxed there. They were not in fact taxed there, and there was therefore, to say the least, a very strong presumption that they arose in Hong Kong. But the taxpayers concerned then claimed that the profits did not arise in, and were not derived from, Hong Kong, and I regret to say that in a number of cases they were successful. The profits seemingly did not arise anywhere. The Committee took a most unfavourable view of this avoidance of tax, and recommended tightening up the law in the hope that such taxpayers would not escape in future. But lengthy consideration made it clear that the Committee's suggested remedy might perhaps give rise to evils greater than the disease, and accordingly the recommendation as now put in legal form in Clause 18, and also in Clause 36, has been very considerably modified. It is now proposed to lay down that, in the event of a dispute, the onus of proving that any

particular item of income or profit does not arise in Hong Kong lies on the taxpayer. This in itself merely puts into black and white what is the present practice. But it is proposed to go a little further, and to lay down that, where there is any dispute as to the place where any particular item of income or profit has arisen, then account must be taken of the fact whether that particular item has borne a corresponding tax in any other country. Further, in order to arrive at the true facts when a dispute arises, it is proposed that the taxpayer must declare the place where, in his view, the income arose, and he must also declare whether it has borne tax in that place.

When the recommendation was originally published, some people said that the Committee was recommending taxation of profits arising outside the Colony. However the original recommendation of the Committee may have been interpreted, or misinterpreted, it is now clear, I hope, that there is no such intention on the part of Government. There is, on the other hand, every intention to tax all profits which do arise in the Colony.

I should, perhaps, emphasize that the problem of deciding where any particular item of income or profit has arisen, may be a very difficult one. The fact whether tax has been paid on that particular item in some other country will be but one of very many factors which have to be taken into consideration in deciding the issue; indeed it may be a very potent factor in deciding that the income in question has not in fact arisen in Hong Kong. In other words it can operate equally in favour of the taxpayer as against him.

A great deal of this Bill is very technical and will be of little concern to the ordinary payer of salaries tax, but such taxpayers will I trust be pleased by Government's acceptance of the recommendation for an increase in the allowance for a wife. It is proposed that the allowance shall be increased from \$5,000 to \$7,000, so that a married man without children henceforth will not pay any tax unless his salary exceeds \$1,167 a month. Further, although the maximum allowance for children remains unaltered, the conditions attaching to the granting of children's allowances have been greatly eased, and in future an allowance will be granted for any unmarried child below the age of 18 years, and for any unmarried child between the ages of 18 and

25 years, who is receiving full-time instruction at an educational institution. The only other condition attaching to the grant of the allowance is that the person who claims the allowance must maintain the child.

I take this opportunity to mention that a further facility for payers of salaries tax will, I hope, shortly be introduced. Legislation to enable the Commissioner of Inland Revenue to issue tax reserve certificates is now under consideration. These certificates may be purchased at any time, and it is proposed that they shall, if tendered in payment of a salaries tax demand, bear interest at the rate of 2½%. Clause 37 of the Bill provides that this interest shall be free of tax. Many firms in this Colony operate a form of P.A.Y.E. on behalf of their employees, and there have been representations that Government should provide some such facilities. But any P.A.Y.E. system on the lines of that in the United Kingdom would involve setting up a considerable organization with its attendant staffing and accommodation problems, and it has therefore been decided rather to introduce the certificate system, so that any salaries taxpayer with a certain amount of foresight may buy some of these certificates each month according to his means. It is not proposed to allow any interest on these certificates unless they are tendered in payment of salaries tax, but they can be cashed at any time for their face value. (*Applause*).

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 seeks to implement those recommendations in the Report of the Inland Revenue Ordinance Committee published in 1954, which affect Parts I-VII only of the Ordinance. Those recommendations of the Committee which affect the remaining parts of the Ordinance will be dealt with by a second amending Bill to be introduced early in 1956 when opportunity will be taken to make provision for a reprint of the Ordinance.

2. The present Bill in the main deals with those parts of the Ordinance which charge and provide for the calculation of the 5 separate taxes imposed. As it is intended that tax for the 1955/56 year of assessment be assessed under the Ordinance as amended by this Bill provision has been made in Clause 2 giving the Bill retrospective effect to 1st April, 1955. However, to preclude the possibility of hardship resulting from the retrospective nature of this legislation, provision has also been made in clause 52 whereby any person who has been assessed to tax for the 1955/56 year of assessment prior to the enactment of this Bill, may apply to the Commissioner for re-assessment under the Ordinance as amended by this Bill.

3. Owing to the complicated nature of this proposed legislation and the numerous consequential amendments involved it is considered that the provision of a Comparative Table may be of more assistance to a ready understanding of the effect of the Bill than would comprehensive Objects and Reasons. Accordingly, a particularly detailed table has been prepared and is attached hereto. The table is designed to indicate exactly those provisions of the Ordinance which are affected by the Bill and to summarize the precise effect of the Bill on those provisions. Opportunity has also been taken in the table to relate each of the amendments effected by the Bill to the relevant paragraph and recommendation of the Committee's Report.

LANDLORD AND TENANT (AMENDMENT) BILL, 1955.

THE ATTORNEY GENERAL moved the Second reading of a Bill intituled "An Ordinance to amend the Landlord and Tenant Ordinance, Chapter 255".

He said: Sir, since the first reading of the Bill on the 8th July last, many representations and suggestions have been put forward by the honourable Unofficial Members of this Council and by various bodies and associations in the Colony. The terms of the Bill have also evoked considerable press comment. All suggestions, representations and comments have been most carefully considered and the Bill further examined in the light thereof and as a result I shall, at the Committee stage, move a number of amendments, tables of which are in the hands of honourable Members.

Before however I seek to explain the amendments proposed I would wish to attempt to remove certain widespread misconceptions as to the scope of this amending Bill and to quell certain fears which have arisen from these misapprehensions. The main purposes of the Bill are, firstly to clarify the law as to the power of a Tenancy Tribunal to recommend the imposition of a condition for payment of compensation by the landlord to his dispossessed tenants, and secondly, to provide further and better sanctions for the enforcement of conditions incorporated in an exemption order made by the Governor in Council. I must emphasize that the Bill makes no changes in and does not enlarge the substantive powers of a tribunal. Its powers remain what they always have been, namely, merely to make a recommendation to the Governor in Council. No tenant will be obliged to quit his premises unless and until an exemption order has been made by the Governor in Council in respect of those premises. Furthermore — and I emphasize this — the Government has no intention whatsoever of changing its existing policy that the sole criterion for exemption from control is the public interest. I would therefore reassure members of the public who have expressed their fears that the amending Bill will lead to a large increase in the number of exemption orders with a consequent displacement of tenants, that their apprehensions are exaggerated. Fears have also been expressed that this Bill will result in the closing down of a large number of schools by reason of the decontrol of many school premises following upon the enactment of the Bill. This will not be so. As I have already said, orders for exemption will only be made, as in the past, when it is manifestly in the public interest to make them and with the amendment to which I am about to refer, there is nothing in this Bill which will of itself lead to an increase in the number of orders to be made.

Sir, I think that I should now give some explanation of the major amendments which will be moved in Committee.

One of these concerns the provision in the Bill which authorizes a Tenancy Tribunal, when making a recommendation for exemption, to recommend the imposition of conditions for the payment of compensation to dispossessed tenants. As the Bill now stands, the amount of compensation which may be recommended by the Tribunal is limited to 60 times the standard rent

of the premises and there is a further provision for compensation in respect of improvements made by a tenant during the five years preceding the date of application for exemption.

The provisions in the Bill regarding the ceiling for compensation have evoked considerable comment as being too low. In addition there is a fairly general dislike of the proviso for additional compensation in respect of improvements effected by tenants during the five years prior to the application for exemption. It seems clear that if a ceiling were fixed, it would not command universal satisfaction since it will always appear too low to tenant interests on the one side and too high to landlord interests on the other, and in practice unless it were fixed so high as to be largely ineffectual the result would be likely to be that the maximum would become the normal. The circumstances of each case may have infinite variations one from another and a tribunal appointed by the Chief Justice and composed of a legally qualified chairman and two other members from a panel drawn up by the Chief Justice whose sole power is to make a recommendation which may be rejected, accepted or altered by the Governor in Council, should provide adequate safeguards for the landlords without a statutory limit. Moreover, if a ceiling were maintained it would seem necessary to distinguish between domestic and business premises and even within those two divisions to provide for special or exceptional cases. Each such provision could be a matter for endless dissatisfaction and argument and on reconsideration it is proposed that the provision for a ceiling should be dropped and that the present practice should not be complicated by this additional ground for dispute.

Sir, a further amendment which will be moved will empower landlords and tenants who are parties to proceedings before a Tenancy Tribunal to negotiate written agreements embodying the conditions under which the tenants would vacate the premises. The Tenancy Tribunal will not, of course, be bound to make a recommendation merely because such agreement has been entered into but if it does decide to make a recommendation for exemption it is proposed that the recommendation shall be made subject to the agreed conditions together with any other conditions it may see fit to impose. The Governor in Council will, of course, be no more bound to accept the Tribunal's recommendation in such a case than he is in any other case nor will his power to vary the conditions recommended by the Tenancy Tribunal be in any way

fettered thereby. The proposed amendment should be of value in considerably shortening litigation in those cases where landlords and tenants are agreed upon the terms. It will be noted that the proposal does not allow landlords and tenants to contract out of the provisions of the Ordinance; orders for decontrol will continue to be made only where the public interest so dictates irrespective of any agreement between landlord and tenant.

Sir, the other amendments which will be proposed are, I think, of a minor character and adequately explained in the remarks column of the Tables of Amendments before honourable Members.

THE COLONIAL SECRETARY seconded.

DR. CHAU SIK NIN: —Sir: My Unofficial Colleagues and I strongly support the views so ably expressed by my honourable Friend the Attorney General.

More than a month has elapsed since the Ordinance to amend the Landlord and Tenant Ordinance Chapter 255 Was introduced. The Bill as then presented caused the Unofficial Members of Council immediate concern, our first reaction being that it would not be in the public interest. Our request that the Second Reading of the Bill should be postponed to enable us to examine it further was doubly justified in the face of subsequent public petitions that were received both by Government and Unofficial Members.

The clause which gave the Unofficials greatest concern was the proposed Clause 5(c) subsection (6A) which imposed a ceiling on the amount of compensation a landlord would be liable to pay to a dispossessed tenant. It is our view that no hard and fast rule can be made regarding the maximum amount of compensation payable—every case must be viewed in its own light. The stipulation of a ceiling could lead to abuse and as my honourable Friend says "unless it were fixed so high as to be largely ineffectual the result would be likely to be that the maximum would become the normal". There would be times when the maximum would cause hardship to the tenants and others when it would be unfair to the landlords. The payment of compensation to dispossessed tenants is now common, and in the public interest it is desirable that legislation should be enacted to give lawful recognition to such a practice. It is not

desirable, however, that any maximum should be imposed.

It is evident from the petitions received and from public comment that the Bill as originally presented was somewhat misunderstood and gave rise to considerable misgivings. The Honourable Attorney General's reassurance that the Bill will in no way enlarge the exemption tribunal's power to exempt and that Government's policy to exempt only in the public interest remains as hitherto, together with the deletion from the Bill of any reference to a compensation ceiling, should relieve public uneasiness.

With the amendments proposed, the Bill is acceptable to the Unofficial Members and it gives me great pleasure therefore on their behalf to support the motion before Council.

MR. LO MAN WAI: —Your Excellency: I rise to say a few words not because I oppose this Bill or its proposed amendments. But when the Bill was introduced before this Council, I was on leave. On my return, I was surprised to note this innocent looking Bill should have caused so much mis-apprehension and misconception. The misconception seemed to be centred chiefly on two points. Firstly, there was the erroneous assumption that as a result of this Bill, the number of exemption orders would be automatically increased. The second point concerns the question and the amount of compensation to be paid to outgoing tenants. I trust that after the full explanation which has just been given by my honourable Friend, the Acting Attorney General, there will be no further misunderstanding. It has now been made quite clear that this Bill does not change the existing policy which is to exempt only in the public interest and that there can be no hard and fast rule as to the amount of compensation payable and that this question can only be dealt with by a Tenancy Tribunal on the merits of each case.

Sir, the great majority of protected tenants is riot affected by this Bill as amended. In my opinion it is quite innocuous, but it seems to me that it does not really face the problems created by the Landlord and Tenant Ordinance and that it provides no remedies called for in the light of the existing conditions.

Sir, the justification for the Landlord and Tenant Ordinance, which constitutes a statutory interference with the Landlord and Tenant relationship,

was the housing shortage. And it was the need to keep rents within proper limits which was the justification for the restraints on evictions. But despite the lapse of more than 9 years since the passing of this Ordinance, the housing shortage still remains acute. This is not surprising when one bears in mind the huge influx in the population since 1949 and that the number of births per year in the Colony is estimated at 60,000. Because of this present huge increase and the potential increase, land value since the war has appreciated in some cases by 50 times. To meet the demand for housing accommodation and because of the high price of land, erection of flats is now the fashion. There are old buildings now subject to the Landlord and Tenant Ordinance, which cry for redevelopment. Unless exemption in a proper case is granted to enable buildings to be rebuilt giving 3 or 4 times than the present accommodation the housing shortage will never be solved.

In connexion with exemption proceedings, I would like to say a few words on the payment of compensation. It seems to be assumed that this payment is borne by the owner of the property. This is a fallacy in many cases. As a result of the operation of the Landlord and Tenant Ordinance with the controlled rent so much below the rent of new premises according similar accommodation, an owner of controlled premises without sufficient financial resources for redevelopment is tempted to sell his property. He sells it to a purchaser who has such financial resources. In making an offer to the owner, such purchaser would take into account the cost of exemption proceedings including the payment of compensation to the tenants. All this cost would be added to his capital expenditure on the proposed new building and the rent would be calculated accordingly. In other words, ultimately the compensation money would be paid for by the tenants of the new building. Is it fair that the tenants of the new building should bear this extra burden? And this brings me to what I can conceive to be the real crux of the problem. Unless there are persons who are willing and ready to become tenants of the new building and to pay the rents which such building can command, there cannot be the present urge to apply for exemption orders. According to information, which I believe to be reliable, the rent of new buildings is about 4 times the controlled rent of similar buildings which are subject to the Landlord and Tenant Ordinance. It is because of the

great discrepancy between these two categories that there is the present pressure to apply for an exemption order. That the controlled rent is so unrealistic is vividly shown in a recent exemption

proceeding in which a tenant resisting the application for exemption offered to pay an 100% increase in his controlled rent. I suggest therefore that Government should review the question of increase in the permitted rent of the controlled premises in the light of the prevailing conditions.

THE ATTORNEY GENERAL: —Sir, I am happy to learn from the speeches of my honourable Friends Dr. S. N. Chau and Mr. M. W. Lo, that this Bill with the amendments proposed has the full support of all Unofficial Members of this Council. My honourable Friend Mr. Lo has in his address referred to certain matters which are outside the immediate scope intended by the present measure. May I assure him, however, that Government is alive to these other issues and is giving them its careful attention.

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: —Sir, I rise to move that Clause 2 be amended as in the paper before honourable Members.

Clause 2, as amended was agreed to.

Proposed Amendment:

2 After the word "surrender," insert the following—

"termination, "

Clauses 3 and 4 were agreed to.

Clause 5.

THE ATTORNEY GENERAL: —Sir, I rise to move that Clause 5 be amended as in the tables of amendments and of additional amendments.

Clause 5, as amended, was agreed to.

Proposed Amendments:

5(*aa*) By the insertion of the following new sub-clause after clause 5(*a*)

"(*aa*) by the deletion in the second line of subsection (3) of the word "the" and the substitution therefor of the following—

"his immediate".

5(*b*) By the deletion of the words "(including a condition requiring the payment by the landlord to any tenant of compensation for disturbance)," and the substitution therefor of the following—

“(including a condition requiring the payment of compensation by the landlord to any tenant),”.

5(*c*) (i) By the deletion of the proposed new subsection (6A).

(2) By the insertion of the following new subsection—

“(6A) (*a*) Notwithstanding the provisions of section 8 it shall be lawful for a landlord who has made an application under this section to enter into an agreement with any tenant who in accordance with the provisions of subsection (4) opposes the landlord's application whereby the tenant agrees to withdraw his opposition to such application subject to such terms as may be agreed between the landlord and the tenant:

Provided that no such agreement shall contain any term whereby the tenant agrees to quit his

premises before an order excluding the said premises from the further application of this Ordinance has been published in the *Gazette*;

Provided further that if no order excluding the said premises from the further application of this Ordinance is made, the agreement shall be null and void:

Provided further that if an order excluding the said premises from the further application of this Ordinance is made, the agreement shall be enforceable only in so far as it is consistent with such order.

- (b) The terms of any agreement made in accordance with the provisions of paragraph (a) shall be set out in writing and signed by the parties thereto and such agreement shall be delivered to the clerk of the tribunal.
- (c) In the event of the tribunal deciding to make a recommendation that the premises to which the application relates shall be excluded from the further application of this Ordinance, the tribunal shall make such recommendation subject to the terms agreed between the parties together with such other conditions, if any, as it may think fit to impose in accordance with subsection (6).”

5(e) (1) By renumbering sub-paragraphs (ii) and (iii) of paragraph (a) as sub-paragraphs (iv) and (v), respectively.

(2) By the insertion of the following new sub-paragraphs—

"(ii) remit the recommendation to the tribunal which made such recommendation or the president thereof together with such directions as he may think fit;

(iii) direct that the application be heard *de novo* by the tribunal which made such recommendation or by any tribunal appointed under this section;"

(3) By the deletion from the renumbered sub-paragraph (v) of "for the payment of compensation for disturbance by the landlord to any tenant:" and the substitution therefor of the following—

“requiring the payment of compensation by the landlord to the tenant;”.

Clauses 6 and 7 were 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 of a Bill intituled "The Landlord and Tenant (Amendment) Bill, 1955."

THE COLONIAL SECRETARY seconded.

The question was put and agreed to.

The Bill was read a Third time and passed.

PENSIONS (AMENDMENT) BILL, 1955.

THE ATTORNEY GENERAL moved the Second reading of a Bill intituled "An Ordinance to amend the Pensions Ordinance, Chapter 89".

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 5 were agreed to.

Council then resumed.

THE ATTORNEY GENERAL reported that the Pensions (Amendment) Bill 1955 has 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.

PROBATE AND ADMINISTRATION (AMENDMENT)

BILL, 1955.

THE ATTORNEY GENERAL moved the Second reading of a Bill intituled "An Ordinance to amend the Probate and Administration Ordinance, Chapter 10".

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 3 were agreed to.

Council then resumed.

THE ATTORNEY GENERAL reported that the Probate and Administration (Amendment) Bill, 1955 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.

JURY (AMENDMENT) (No. 2) BILL, 1955.

THE ATTORNEY GENERAL moved the Second reading of a Bill intituled "An Ordinance to amend the Jury Ordinance, Chapter 3."

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 3 were agreed to.

Council then resumed.

THE ATTORNEY GENERAL reported that the Jury (Amendment) (No. 2) Bill, 1955 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.

FACTORIES AND INDUSTRIAL UNDERTAKINGS BILL, 1955.

THE ATTORNEY GENERAL moved the Second reading of a Bill intituled "An Ordinance to amend the law relating to factories and industrial undertakings and to the employment of women, young persons and children therein."

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: —Sir, I rise to move that Clause 2 be amended as in the paper before honourable Members.

Clause 2, as amended, was agreed to.

Proposed amendment:

- 2 (a) In the definition of "factory" leave out the words "by way of trade or for purposes of gain" in paragraph (b).
- (b) In the definition of "industrial undertaking" leave out the last three lines.
- (c) Re-number clause 2 as subsection (1) of clause 2 and add the following new subsection—

“(2) None of the provisions of this Ordinance shall apply to—

- (a) any undertaking which is not carried on by way of trade or for purposes of gain; or
- (b) any agricultural operation; or
- (c) the preparation of food for consumption and sale on the premises whereon it is prepared.”.

Clauses 3 to 16 were agreed to.

The First Schedule was agreed to.

Second Schedule.

THE ATTORNEY GENERAL: —I rise to move that the Second Schedule be amended as in the paper before honourable Members.

The Second Schedule, as amended, was agreed to.

Proposed Amendment:

Second Schedule. Leave out item (c) and substitute the following therefor—

“(c) any industrial undertaking involving the use of electricity as motive power or for heating or in any electrolytic process, other than electricity used solely for the ventilation, heating or lighting of a building.”.

The Third Schedule was agreed to.

Council then resumed.

THE ATTORNEY GENERAL reported that the Factories and Industrial Undertakings Bill, 1955 had passed through Committee with amendments 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.

FRANCISCAN MISSIONAIRES OF MARY INCORPORATION BILL, 1955.

DR. A. M. RODRIGUES moved the First reading of a Bill intituled "An Ordinance to provide for the incorporation of the local representative in Hong Kong of the Franciscan Missionaries of Mary".

He said: Sir, this Bill is similar to other Bills enacted in this Colony incorporating the Head of a Religious Society to ensure continuity of succession, and I have nothing useful to add to what is already clearly outlined in the Objects and Reasons.

MR. C. E. M. TERRY 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: —

1. The Sisters of the Franciscan Missionaries of Mary have for many years carried on missionary and educational work in China and Hong Kong and it is desired to incorporate the Mother Superior in Hong Kong of the Society as a corporation sole to ensure continuity of succession and the object of the Bill is therefore to provide for the incorporation of the Mother Superior by Ordinance.

2. Clause 2 of the Bill is intended to effect such incorporation and to provide the name by which the corporation will be known.

3. Clause 3 of the Bill defines the powers of the corporation.

4. Clause 4 of the Bill provides for the vesting in the corporation of certain leasehold properties held in trust for the present organization, and clause 5 provides, upon the death of any Mother Superior for the vesting of the corporation's property in her successor.

5. Clause 6 of the Bill provides for the execution of documents by or on behalf of the corporation.

6. Clause 7 of the Bill provides for the appointment of the Mother Superior and for the notification thereof to the Registrar of Companies from whom evidence thereof can be obtained by the public.

7. Clause 8 of the Bill contains provisions saving the rights of the Crown as required, in the case of private Bills, by clause XXVII of Royal Instructions.

H. E. THE GOVERNOR'S EXTENSION OF OFFICE.

DR. CHAU SIK NIN: —Your Excellency: On behalf of the Unofficial Members of this Council, I am privileged to express the great satisfaction and happiness we feel upon learning that Her Majesty the Queen has approved a further extension to your term of office for another two years. Indeed, I am sure I am voicing the sentiments of the whole community.

If it is appropriate to congratulate you, Sir, at the prospect of what must be

to you another two years of onerous responsibility and burdensome toil, then we do so most whole-heartedly and

sincerely. But we rather feel it is we, the citizens of Hong Kong who must be congratulated upon our good fortune at being able to look forward to another period of your gifted leadership and to a continuance of that spirit of confidence and prosperity which your presence as Governor inspires.

You came to us, Sir, at a time when the Colony was weak and debilitated, when the wounds caused by the War had not yet healed. Like a good physician you helped us to our feet, chided us if we showed signs of discouragement and stimulated us to further effort. In the ensuing years the Colony has had to face many difficulties—refugees and the shortages and stresses they have caused; the trade embargo with its accompanying economic depression—these and other problems have been faced, and with patience and wisdom you have successfully organized the Colony's survival.

Hong Kong has been blessed in the past with good and often great Governors, but you, Sir, are destined to be remembered not merely as another good and great Governor but as the "people's Governor". Hong Kong is unique in many ways but nothing could be more unique than the fact that although we are a Colony, we have a Governor who is the people's choice. No other Governor has endeared himself so universally and so closely to the people; no other Governor can claim at the expressed will of the people to have had his term of office extended again and yet again. The love and respect which the people of Hong Kong cherish for you was manifested in no uncertain manner when the community, in unison, demanded that you be left with us a little longer. To remain in one Colony as Governor for ten years is a record in Colonial Government history and we are proud and happy that you, Sir, should be the Governor to establish such a precedent. We are gratified that the Secretary of State for the Colonies, in recognizing your special talents and personality, has deferred to the wishes of the people and we would express the opinion that this unparalleled acquiescence on the part of the Colonial Office is a fitting tribute to your extraordinary gift for governing wisely and well.

In our satisfaction at the turn of events, we are perhaps greedy and selfish in overlooking the fact that these repeated extensions rob you and Lady Grantham

of years of well earned rest and retirement. I would, however, ask you to believe Sir, that we are truly grateful for your selflessness and we hope the knowledge of the affection and esteem which will always be in our hearts for you and your gracious Lady, will in some measure compensate you for your sacrifices on our behalf. —(*Applause*).

H. E. THE GOVERNOR: —Honourable Members: I am more touched than I can say at the remarks of Dr. Chau and the response that you gave to those remarks. Indeed, my wife and I have felt almost overwhelmed in our hearts by the expressions of friendship and kindness that have been displayed regarding ourselves recently over the past few months. It has made us extremely happy and we count ourselves fortunate in having our home where we have so many friends—2½ million of them. At the same time, it does increase one's sense of responsibility. It is, of course, my duty as Governor to work for the people of Hong Kong, but when I feel, as I do feel, that these people are my friends it fills me with awe. It makes me feel very humble, and I only hope that I will prove worthy of their trust and their confidence. I shall need help in my task, but I know from past experience that I can obtain that help, and I know how good that help is; the Members of this Council, the Members of Executive Council, the Government service and a not inconsiderable number of individuals and bodies, all of whom have the one aim, the good of the people of Hong Kong.

Now you and I, gentlemen, have had some difficult tasks to face over the past eight years, but together we have tackled them with some modicum of success. We shall do so in the future. It has in fact been a co-operative effort and it will continue to be so. Therefore from my point of view the task that at first glance looks or looked so formidable is perhaps not quite so formidable, because I do not stand alone. I am not alone; I have you with me.

Dr. Chau, will you please accept for yourself, for your colleagues, and for all for whom you spoke, the heartfelt thanks of my wife and myself. I should like to end with a quotation. "God has not brought us hither where we are, but to consider the work we may do in the world as well as at home". —(*Applause*).

ADJOURNMENT.

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