

OFFICIAL REPORT OF PROCEEDINGS.**Meeting of 12th February, 1958.**

PRESENT:HIS EXCELLENCY THE GOVERNOR (*PRESIDENT*)

SIR ROBERT BROWN BLACK, K.C.M.G., O.B.E.

THE HONOURABLE THE COLONIAL SECRETARY

MR. CLAUDE BRAMALL BURGESS, C.M.G., O.B.E.

THE HONOURABLE THE ATTORNEY GENERAL

MR. ARTHUR RIDEHALGH, Q.C.

THE HONOURABLE THE SECRETARY FOR CHINESE AFFAIRS

MR. JOHN CRICHTON McDOUALL.

THE HONOURABLE THE FINANCIAL SECRETARY

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

THE HONOURABLE PATRICK CARDINALL MASON SEDGWICK

(Commissioner of Labour).

THE HONOURABLE DAVID RONALD HOLMES, M.B.E., M.C., E.D.

(Director of Urban Services).

THE HONOURABLE ALLAN INGLIS

(Director of Public Works).

DR. THE HONOURABLE DAVID JAMES MASTERTON MACKENZIE, C.M.G., O.B.E.

(Director of Medical and Health Services).

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

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

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

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

THE HONOURABLE DHUN JEHANGIR RUTTONJEE, 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. MAURICE DEREK SARGANT *(Deputy Clerk of Councils).***ABSENT:**

HIS EXCELLENCY THE COMMANDER BRITISH FORCES

LIEUTENANT-GENERAL SIR EDRIC MONTAGUE BASTYAN, K.B.E., C.B.

MINUTES.

The Minutes of the meeting of the Council held on 22nd January, 1958, 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>
Sessional Papers, 1958: —	
No. 6—Annual Report by the Director of Civil Aviation for the year 1956/57.	
No. 7—Annual Report by the Commissioner of Labour and Commissioner of Mines for the year 1956/57.	
No. 8—Annual Report by the Chairman, Urban Council and Director of Urban Services for the year 1956/57.	
Merchant Shipping Ordinance, 1953.	
Special Report in accordance with proviso to section 115(1).	
Report of the Brewin Trust Fund Committee for the year ending 30th June, 1957.	
Education Ordinance, 1952.	
Education (Amendment) Regulations, 1958	A. 6.
Education Ordinance, 1952.	
Education (Amendment of Forms) Regulations, 1958	A. 7.
Importation and Exportation Ordinance.	
Scale of Fees	A. 8.
Stamp Ordinance.	
Stamp (Bank Authorization) (No. 1) Order, 1958	A. 9.

HAWKERS (AMENDMENT) BY-LAWS, 1958.

MR. D. R. HOLMES the following resolution: —

Resolved that the Hawkers (Amendment) By-laws, 1958, made by the Urban Council on the 4th day of February, 1958, under section 2 of the Hawkers Ordinance, Chapter 157, be approved.

He said: These Urban Council by-laws seek to add certain streets to the list of streets prohibited to hawkers. They also contain, in relation to some of these streets, a new provision whereby the Urban Council can set aside, within streets on the prohibited list, strips or enclaves where pedlars may trade. These strips are physically set apart from the rest of the street by rope barriers or lines painted on the ground. Several successful experiments have been carried out in this new form of control, and legislative backing for these arrangements is now sought.

I should add, Sir, that an attempt was made in an earlier set of by-laws, enacted by the Urban Council in November, 1957, and approved by this Council on 20th November, 1957, to simplify the procedure for amending these lists of streets. The intention was, as I stated when moving that those by-laws should be approved, to empower the Urban Council to amend the lists by a simple notification in the *Gazette*. We are, however, now advised that the powers which those by-laws purported to confer were *ultra vires* the principal Ordinance. The object in view could have been achieved only by an amendment of that Ordinance, and the question whether to introduce such an amendment is now under consideration. Meanwhile the present changes are required as a matter of some urgency and I therefore commend this motion to Members' favourable consideration.

THE AFFORNEY GENERAL seconded.

The question was put and agreed to.

INLAND REVENUE (AMENDMENT) BILL, 1958.

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

He said: Sir, this is a very short amending Bill which seeks to set right a few minor defects in the Ordinance. There are no points of principle involved, and I hardly think it is necessary for me to add anything to the very full statement set forth in the Objects and Reasons annexed to the Bill.

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: —

1. At present the expression "the Commonwealth" is construed by reference to the definition of "Commonwealth" in the Interpretation Ordinance. It is considered advisable to make specific provision in this Ordinance and clause 2 introduces a definition which, by reference to a new Schedule added by clause 5, prescribes territories of the Commonwealth by name. The new Third Schedule may be amended by the Governor in Council should constitutional changes in such territories so require.

2. Section 54 *inter alia* imposes the duty to make returns on the executor of a deceased taxpayer (the expression "executor" being defined to mean any executor, administrator, or other person administering the estate of a deceased person, and to include a trustee acting under a trust created by the last will of the author of the trust) but section 4(1) precludes the disclosure to the executor of any matter relating to the affairs of the deceased such as the contents of a communication or return made by the deceased prior to his death. It is considered that as an executor inherits the obligations of the deceased to make returns so also all executor should be in no worse position than was the deceased in relation to disclosure of matters affecting the affairs of the deceased. Accordingly clause 3(a) is designed so to amend section 4(1) as to permit disclosure to an executor or his authorized representative of matters affecting the affairs of the deceased.

3. The Commissioner of Inland Revenue has no authority to write off tax in default which for any reason has become irrecoverable such authority being vested in Legislative Council. Thus before any tax may be written off the Commissioner must obtain the sanction of that body, but in view of the restrictive provisions of section 4 he is unable to disclose sufficient information to enable the Finance Committee of the Council to come to a proper decision as to whether or not it should recommend the write off. Clause (3)(d) by adding a new subsection (6) to section 4 seeks to empower the Commissioner to furnish sufficient information to the Financial Secretary to enable Finance Committee to reach proper decisions in this matter.

4. Opportunity has been taken in clause 3(c) to repeal paragraph (c) of section 4(4) (which permitted certain disclosures to the Director of Commerce and Industry to alleviate hardship under the Business Regulation Ordinance, 1952), since this is no longer applicable now that responsibility for administering the Business Regulation Ordinance, 1952 has been transferred to the Commissioner of Inland Revenue.

5. Under paragraph (a) of the proviso to section 28 certain interest which accrues at a rate not exceeding 2½% per annum is exempt from tax. It is considered that it would be advantageous to make this provision more flexible by empowering Legislative Council to alter the rate by resolution should conditions warrant a change. Clause 4 seeks to effect this purpose.

SUPPLEMENTARY APPROPRIATION (1956-57) BILL, 1958.

THE FINANCIAL SECRETARY moved the First reading of a Bill intituled "An Ordinance to authorize a supplementary appropriation to defray the charges of the financial year ended the 31st day of March, 1957."

He said: As members are already aware, the total sum provided for all Heads of expenditure in the approved estimates for 1956/57 was underspent by a total of \$23.7 millions. Nevertheless, fifteen heads which are set forth in the schedule to the Bill showed excesses over the approved provisions, and it is therefore necessary for the formal sanction of this Council to be

granted by legislation for the approval that has already been granted by its Finance Committee, and by resolutions already passed. This Bill, in other words, represents the final step in disposing of the accounts for the financial year 1956/57.

THE COLONIAL SECRETARY seconded.

The question was put and agreed to.

The Bill was read a First time.

ADJOURNMENT.

H. E. THE GOVERNOR: —That concludes the business for today, Gentlemen. Council stands adjourned until 6th March.