

OFFICIAL REPORT OF PROCEEDINGS.**Meeting of 6th August, 1958.**

PRESENT:HIS EXCELLENCY THE GOVERNOR (*PRESIDENT*)

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

HIS EXCELLENCY THE COMMANDER BRITISH FORCES

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

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 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).

THE HONOURABLE COLIN GEORGE MERVYN MORRISON

(Director of Urban 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 KWOK CHAN, O.B.E.

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

THE HONOURABLE JOHN DOUGLAS CLAGUE, C.B.E., M.C., T.D.

THE HONOURABLE DHUN JEHANGIR RUTTONJEE, O.B.E.

MR. MAURICE DEREK SARGANT *(Deputy Clerk of Councils).*

MINUTES.

The Minutes of the meeting of the Council held on 9th July, 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 Paper, 1958: —	
No. 10—Annual Report by the Administrator of Japanese Property for the year 1957/58.	
Annual Report by the Hong Kong War Memorial Fund Committee for the year 1957.	
Audited accounts of the Hong Kong Tourist Association for the period 26.8.57 to 31.3.58	
Emergency Regulations Ordinance.	
Emergency (Principal) (Amendment) (No. 2) Regulations, 1958.	A. 41.
Emergency (Principal) Regulations, 1949.	
Emergency Regulations (Commencement) (No. 2) Order, 1958.	A. 42.
Hong Kong Airport (Control of Obstructions) Ordinance, 1957.	
Airport Obstructions Compensation Tribunal Rules, 1958	A. 43
Training Centres Ordinance, 1953.	
Cape Collinson Training Centre Declaration, 1958	A. 45.
District Court Ordinance, 1953.	
District Court Civil Procedure (Fees) (Amendment) Rules, 1958.	A. 47.

**SUPPLEMENTARY PROVISIONS FOR THE QUARTER
ENDED 31ST MARCH, 1958.**

THE FINANCIAL SECRETARY moved the following resolution: —

Resolved that the Supplementary Provisions for the quarter ended 31st March, 1958, as set out in Schedule No. 5 of 1957/58, be approved.

He said: Sir, this is the fifth and last Schedule of Supplementary Expenditure for the Financial Year 1957/58. The total supplementary expenditure exceeds \$36 millions.

More than half of this amount is in respect of unallocated stores. This very considerable excess on the original provision, about which I spoke in this Council when presenting the Estimates last March, was due to the Suez crisis. It was feared that if the crisis were to be prolonged, deliveries of much needed building materials would be long delayed, and accordingly orders were placed for all foreseeable commitments. In the event, the crisis did not last so very long, and the stores commenced to arrive much sooner than expected, so that many of them are still in stock, awaiting requisition from the Public Works Department, which was behind on its programme last year.

The next largest item in the Schedule is in respect of typhoon and rain-storm damage and emergency repairs. The supplementary provision required for this is in excess of \$6½ millions. Honourable Members will not need to be reminded of the damage caused in the storms of last year, which occasioned this heavy bill. Another large item is in respect of charges for conveyance of air mails. The volume of mail sent by air still continues to grow and the additional amount required is almost \$2¼ millions.

There is also an item of almost \$1½ millions which represents the total of *ex-gratia* payments made to persons who suffered loss during the riots of October, 1956. These payments were made in accordance with the recommendations of the Advisory Committee which was set up by Government for the purpose.

All the items in the schedule have already received the approval of Finance Committee and the covering approval of this Council is now sought.

THE COLONIAL SECRETARY seconded.

The question was put and agreed to.

PEARL CULTURE (CONTROL) BILL, 1958.

THE ATTORNEY GENERAL moved the First reading of a Bill intituled "An Ordinance to conserve the resources of pearl oysters in the Colony and to regulate the culture of pearls."

He said: Sir, in 1956 a successful pilot experiment of pearl-oyster culture was undertaken by a local group operating in Tolo Harbour. The "Penguin" or "Wing" oyster which occurs in these waters was successfully embedded and fair quality pearls were obtained.

These operations were closely studied by the Fisheries Division of the Department of Agriculture, Fisheries and Forestry and it was decided to advise Government that conditions existed in favourable locations in the inshore waters of the Colony for the development of a new and important industry.

However, in order to prevent the possible virtual extermination in the Colony of the natural pearl oyster, as has happened elsewhere, it was further advised that legislation should be introduced to conserve the Colony's resources of "Penguin" oysters and to encourage the development of an industry based upon the average annual supplies of mature natural oysters supplemented by stocks of oysters cultivated by the licensees themselves.

This then is the back-ground of the Bill which is now before Council. The statement of objects and reasons explains the various clauses in some detail, and I will therefore only add a remark or two of a general nature. The purpose of the Bill is to promote a new and valuable industry whilst at the same time conserving the raw material. We do not wish to interfere unduly with the taking of pearl oysters by fishermen, and the Bill therefore aims at conserving resources by prohibiting the taking of immature oysters. This will allow anyone to collect the raw material of this new industry; how he disposes of it will be his own business. He must however observe the law—that is clause 9—which lays down the test of immaturity. Sir, at this point perhaps I might mention the question of penalties; these have been made heavy and that is a view to deterring activities which might sabotage the new industry.

This measure further provides for the licensing of individual persons or companies who will be enabled thereby to engage in the culture of pearls. At the outset the licensees will be very much under the control of the Director of Agriculture, Fisheries and Forestry, who has very wide powers. But it is considered essential to have these powers in relation to what is in effect an experiment.

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 culture of pearls is an industry recently commenced in the Colony and for the purpose of ensuring its protection and orderly development, the legislation introduced by this Bill is considered necessary.

2. Clause 2 contains, *inter alia*, the definition of a pearl oyster. Oysters of this kind are not commonly used for food owing to the size and toughness of the adductor muscle, but apart from the value of any pearls found in them the by-products such as the shell and flesh of the oyster are used for various purposes.

3. Clause 3 empowers the Director of Agriculture, Fisheries and Forestry to keep type specimens of pearl oysters and provides that these specimens may be produced in evidence without further proof for the purposes of any proceedings under the Ordinance.

4. Clause 4 empowers the Governor to appoint inspectors and assistant inspectors for the purposes of the Ordinance.

5. Clause 5 empowers the Director to declare certain areas within the waters of the Colony to be areas in which pearl oysters may be cultivated.

6. Clause 6 provides for the licensing of persons carrying on the business of cultivating of pearl oysters or the culture of pearls, and clause 7 enables the Director from time to time to issue instructions to such persons and provides that any instructions so

issued shall become conditions of the licence. This provision is required because this industry in Hong Kong is still very much in the experimental stage.

7. Clause 8 provides for the protection of the pearl culture industry by prohibiting the cultivation of the oysters or the culture of pearls in them anywhere in the waters of the Colony except under licence.

8. Clause 9 provides for conservation of the stocks of wild pearl oysters in the waters of the Colony by prohibiting the collection or sale of immature oysters, except those which have been lawfully cultivated under licence. The exclusion of cultivated pearl oysters from this provision is necessary to enable cultivators to dispose profitably of surplus young oysters to other cultivators who may be short of stock.

9. Clause 10 provides protection for the cultivation beds and oyster rafts.

10. Clause 11 provides that the property in pearl oysters found within any area allocated for the cultivation of pearl oysters are the property of the person licensed to operate that area.

11. Clauses 12 and 13 provide for powers of search, seizure and arrest without warrant by fisheries inspectors and assistant fisheries inspectors. These powers are considered necessary owing to the nature of the industry to be protected and creature to be preserved.

12. Clause 14 provides for the forfeiture of pearl oysters and pearls in respect of which offences are committed.

13. Clause 15 deals with the particular case where two areas licensed for the cultivation of oysters are contiguous one to another and oysters are stolen from one or other of them. It is designed to simplify proof of the offence.

14. Clause 16 provides for the making of regulations generally for better control of the industry and conservation of the Colony's resources in pearl oysters.

15. Clauses 17 and 18 save the powers of the Director of Marine under the Merchant Shipping Ordinance, 1953, and amend regulation 7 of the Merchant Shipping (Minor Fisheries) Regulations, 1953, to exclude the control of pearl oyster fisheries which is now covered by this Bill.

**REGISTRATION OF UNITED KINGDOM PATENTS
(AMENDMENT) BILL, 1958.**

THE ATTORNEY GENERAL moved the First reading of a Bill intituled "An Ordinance to amend the Registration of United Kingdom Patents Ordinance, Chapter 42."

He said: Sir, we have no legislation providing for the grant of patents in Hong Kong but we have an Ordinance which makes provision for the registration here of United Kingdom patents, and it is necessary to keep this Ordinance in line with changes in the patent law of the United Kingdom. As explained in the statement of objects and reasons, that is the purpose of this Bill, clause 5 whereof is based upon a model supplied by the Secretary of State for the Colonies. The other amendments contained in this Bill are of a minor character.

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: —

Under the United Kingdom Patents Acts 1907-1946 all patents based on non-convention applications were dated as at the date of the application in the United Kingdom. The date of the patent, being therefore in the United Kingdom the date of the application, was accordingly specified as the operative date in subsection (2) of section 8 of the Registration of United Kingdom Patents Ordinance (Chapter 42).

2. By virtue of the provisions of the United Kingdom Patents Act, 1949, however, patents are no longer dated as at the date of the application, but are dated as at the date of filing the complete specification, and some considerable time may elapse between the provisional application and the date of filing the complete specification.

3. Provision was also made in the Patents Act, 1949, for a system of priority dates based on the date of filing the provisional specification in the case of non-convention applications. The

priority date becomes important if the patent is alleged to be anticipated by, for example, use of the invention after the priority date and before the date of the patent.

4. As subsection (2) of section 8 of the Ordinance now stands, if an invention were manufactured or sold in Hong Kong between the date of the filing of the provisional specification and the date of the filing of the complete specification in the United Kingdom, the validity of a certificate of registration issued under section 5 of the Ordinance might, as a result of the above changes in the law in the United Kingdom, be assailable and the registration might be invalidated.

5. The object of this Bill is to bring the Ordinance into line with the United Kingdom Patents Act, 1949. Clause 5 seeks to effect this by deleting subsection (2) of section 8 of the Ordinance and substituting therefor a new subsection in which the priority date applicable to a patent in the United Kingdom replaces the date of the patent as the operative date.

6. The opportunity has been taken to make certain other amendments of a minor nature.

PHARMACOPOEIA BILL, 1958.

DR. D. J. M. MACKENZIE moved the First reading of a Bill intituled "An Ordinance to make provision for the approval of the adoption in the Colony of a pharmacopoeia and for the admission in evidence of copies thereof."

He said: Sir, the principal object of this Bill is set out in the Objects and Reasons and the Bill names the Medical Council of Hong Kong as the body which will have the duty of approving the adoption of a pharmacopoeia.

At the present time there is no statutory provision for the publication or adoption of a pharmacopoeia which shall be received in evidence in the courts. Therefore a publication which contains descriptions of and standards for medicines, preparations, materials and articles used in the practice of medicine, surgery or midwifery is necessary to safeguard their proper potency and safety. Once the Medical Council has approved the

adoption of a pharmacopoeia by notice in the *Gazette* it will be possible to admit in evidence in any court proceedings a copy of this authorized pharmacopoeia.

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 principal object of this Bill is to enable the Medical Council to approve the adoption in the Colony of a pharmacopoeia and thus, by giving official recognition to the standards therein specified, to remove uncertainty as to what are the proper ingredients and proportions of drugs bought and sold.

2. The Bill further provides for the publication in the *Gazette* of notification of approval of such pharmacopoeia and for the admission in evidence of copies thereof.

ADJOURNMENT.

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

THE ATTORNEY GENERAL: —Sir, may I suggest this day two weeks?

H. E. THE GOVERNOR: —Council stands adjourned until this day two weeks.