

OFFICIAL REPORT OF PROCEEDINGS.**Meeting of 11th November, 1959.**

PRESENT:HIS EXCELLENCY THE OFFICER ADMINISTERING THE GOVERNMENT (*PRESIDENT*)

MR. CLAUDE BRAMALL BURGESS, 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. EDMUND BRINSLEY TEESDALE, M.C. (*Acting*).

THE HONOURABLE THE ATTORNEY GENERAL

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

THE HONOURABLE THE SECRETARY FOR CHINESE AFFAIRS

MR. PATRICK CARDINALL MASON SEDGWICK (*Acting*).

THE HONOURABLE THE FINANCIAL SECRETARY

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

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).

THE HONOURABLE KENNETH STRATHMORE KINGHORN

(Commissioner of Labour).

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

THE HONOURABLE KWOK CHAN, O.B.E.

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

THE HONOURABLE HUGH DAVID MACWEN BARTON, M.B.E.

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

THE HONOURABLE FUNG PING FAN, O.B.E.

THE HONOURABLE RICHARD CHARLES LEE, O.B.E.

THE HONOURABLE KWAN CHO YIU, O.B.E.

MR. ANDREW McDONALD CHAPMAN (*Deputy Clerk of Councils*).

MINUTES.

The Minutes of the meeting of the Council held on 21st October, 1959, were confirmed.

PAPERS.

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

Subject *G.N. No.*

Sessional Papers, 1959: —

No. 26—Annual Report by the Director of Marine for the year 1958/59.

No. 27—Annual Report by the General Manager, Railway, for the year 1958/59.

No. 28—Annual Report by the Director of Social Welfare for the year 1958/59.

White Paper on the Problem of Narcotic Drugs in Hong Kong.

Road Traffic Ordinance, 1957.

Road Traffic (Lighting and Guarding of Road Works)
(Amendment) Regulations, 1959 A. 67.

Dutiable Commodities Ordinance.

Dutiable Commodities (Amendment) (No. 3.) Regulations, 1959 A. 68.

He said: Among these papers, Sir, is one to which I would like to draw special attention. It is a White Paper entitled "The Problem of Narcotic Drugs in Hong Kong". I do not intend to speak at length on this. The paper speaks for itself and, moreover, it has been prepared in close consultation with the Secretary for Chinese Affairs' Narcotics Advisory Committee on which several honourable Members of this Council are represented.

The paper sets out, perhaps for the first time, the full extent and gravity of the problem. It describes what has been done and what is being done. It is therefore essentially, as a White Paper should be, a presentation of facts, of the facts surrounding this dreadful social and economic evil, and of the measures by which we intend to intensify our drive against it. I therefore commend its study to everyone, but particularly to those persons and organizations who are in a position to influence public opinion. For the White Paper is designed, among other things, as the prelude to a vigorous and sustained campaign, using every suitable means of publicity, to mobilize public opinion against this evil. For it is not solely upon the efforts of the Preventive Service

or of the Police, nor upon the work of the special hospitals and prisons—important though these are—that we can rely for any great degree of success. To attain this success there must be throughout the community a new awareness of the degradation and misery of drug addiction and a universal condemnation of those who live by exploiting it. To achieve this whole-hearted public support is one of the principal tasks ahead, and the White Paper is the basis from which it will start.

**SUPPLEMENTARY PROVISIONS FOR THE QUARTER
ENDED 30TH SEPTEMBER, 1959.**

THE FINANCIAL SECRETARY moved the following resolution: —

Resolved that the Supplementary Provisions for the quarter ended 30th September, 1959, as set out in Schedule No. 2 of 1959/60, be approved.

He said: Sir, the total of the supplementary provisions set forth in the Schedule exceeds \$14¼ millions. There are no less than 37 items of Public Works Non-recurrent, most of which are described as New Projects; many of the others are explained by the note that "progress on the scheme has been accelerated". Indeed, good progress on the Public Works Programme seems to be a feature of the current financial year.

Also in the schedule is provision for the re-organization and expansion of what used to be the Public Relations Office, but which has now become the Information Services Department. 42 new posts have been created, and 18 existing posts have been regraded; the additional cost in the present year exceeds half a million dollars.

Also in the schedule appears the authority to spend £ 10,000 which has been so generously contributed by Her Majesty's Government to the cost of flood relief.

All the items have already been approved by Finance Committee and the covering approval of Council is now sought.

THE COLONIAL SECRETARY seconded.

The question was put and agreed to.

COLONY ARMORIAL BEARINGS (PROTECTIONS) BILL, 1959.

THE COLONIAL SECRETARY moved the First reading of a Bill intituled "An Ordinance to prohibit the unauthorized making, displaying in public, sale or exposing for sale or possession for sale, or use of copies of the Colony Armorial Bearings."

He said: Sir, the purpose of this Bill is to protect the Colony Armorial Bearings which Her Majesty the Queen graciously granted to Hong Kong on the occasion of the recent visit of His Royal Highness The Duke of Edinburgh. We are proud of the distinction which has been conferred on Hong Kong and no one, I am sure, would wish to see the Colony's emblem debased by misuse. Accordingly the Bill before Council makes it necessary to obtain permission before copies of the Arms are reproduced or displayed, or used in any commercial or professional connexion.

I would like to make it clear, however, that there is no intention to restrict the use of the emblem unduly; and the necessary permissions under the Ordinance will be given freely in suitable cases. No great difficulty is foreseen in deciding in specific cases whether permission to use the Armorial Bearings should be granted or not: but it is more difficult to formulate in general terms the principles which will guide a decision. The Armorial Bearings are the symbol of us all collectively, and this is the key to the matter. If the Arms are to be used in such a way as clearly to symbolize the Colony as a whole, then there should be no objection to their use: but if it were the intention to associate the Arms with some private individual or group, or if they were to be used in some inappropriate or distasteful way, then permission would have to be refused. I am confident that in most cases people will appreciate for themselves what constitutes proper and improper use.

There is one final point I would like to make. The ban on display without permission is for public display only. I know that a number of people wish to frame reproductions of the Arms, and display them in their homes. There is no objection whatever to this, and no permission is required.

THE ATTORNEY GENERAL 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 purpose of this Bill, which is achieved by clause 3, is to prohibit the unauthorized making, displaying in public, sale or exposing for sale or possession for sale, or use, of copies or other replicas of the Armorial Bearings which Her Majesty the Queen, under Royal Warrant dated the 21st January, 1959, has graciously granted and assigned for the Colony.

**HONG KONG ROYAL NAVAL RESERVE (CHANGE OF STYLE)
BILL, 1959.**

THE ATTORNEY GENERAL moved the First reading of a Bill intituled "An Ordinance to amend the title of the Hong Kong Royal Naval Volunteer Reserve".

He said: Sir, this Bill proposes a new title for this Force, namely, "The Hong Kong Royal Naval Reserve". This change is in accordance with the recent unification of the Royal Naval Reserves under the title of "The Royal Naval Reserve".

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: —

As explained in the preamble the Naval Reserves in the United Kingdom have been combined under the title of Royal Naval Reserve and it is desired that the Hong Kong Royal Naval Reserve should have a similar title.

POLICE SUPERVISION (AMENDMENT) BILL, 1959.

THE ATTORNEY GENERAL moved the First reading of a Bill intituled "An Ordinance to amend the Police Supervision Ordinance, 1956".

He said: Sir, early in 1956 the law as to police supervision was completely revised with the object of strengthening its force as an instrument in the maintenance of law and order in the Colony. In its revised form it has undoubtedly had enhanced value as such an instrument, and this Bill does not propose any fundamental changes to the system now in being.

The operation of the law of police supervision has, however, been kept under constant review and suggestions for its improvement in certain respects have led to the proposals incorporated in this amending Bill. A detailed explanation of the amendments is set out in the statement of Objects and Reasons appended to the Bill and I think therefore that I need only make reference at this stage to two of them, both of which, with proper safeguards, mitigate the severity of police supervision in individual cases.

The first is that police officers will not in future be empowered by the law to order a person who is the subject of a supervision order to report more frequently than once a week, unless permitted to do so by the court or other authority making the order. The second is that the absolute presumption of change of address on absence for two consecutive nights is modified to enable persons subject to supervision orders to enter into regular and lawful night employment.

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 law as to police supervision was completely revised early in 1956 to extend the class of persons over whom a close eye should be kept and to make the operation of the existing system more flexible.

2. The working of the revised law has been reviewed and suggestions made for its improvement in certain respects. This Bill therefore proposes a number of amendments to the principal Ordinance, designed to effect such improvements. The principal amendments are summarized below.

3. On the wording of the present law there is no limit to the frequency at which a person, the subject of a supervision order, may be required by the police to report. In practice no person is required to report more than once a week but it is considered desirable by turning this rule of practice into a rule of law to limit the possibility of abuse of authority in this respect. This is achieved by the addition of the proviso to section 6(1) of the principal Ordinance proposed by clause 4(a)(iii) of this Bill. It will be observed that this proviso still leaves it open for an order to be made in exceptional cases for a person to report more frequently than once a week, but in future sanction for this will be required from the authority making the original order (i.e. the court, the Governor in Council or the Governor). At the same time the authority for varying the dates on which the person under supervision must report will be limited. Under section 8 of the principal Ordinance any police officer may make such changes; clause 5 proposes that in future the police officer shall be of a rank not below sub-inspector.

4. A further safeguard against abuse of authority is suggested by clause 4(c) amending section 6(3). At present a person against whom a police supervision order is made may be detained in police custody for a period not exceeding seventy-two hours for the purpose of recording

the necessary particulars and issuing him with an identification book. It has been found that it is not generally necessary to detain persons as long as seventy-two hours for these purposes and therefore it is proposed that the period of detention shall in future only be as long as is necessary but in no case over seventy-two hours.

5. Experience has shown that a defect in the principal Ordinance exists in the omission to make provision in respect of the loss of his identification book by the person under supervision. This Bill rectifies this omission by—

- (a) placing a duty on the person concerned to report such loss (clause 6 adding a new section 8A), failure to report without reasonable excuse being made an offence (clause 7(a) amending section 12(1));
- (b) adding provisions for the issue of a duplicate identification book on loss or other eventuality rendering necessary the issue of a new book. It will be noted that the time during which a person may be kept in custody for this purpose is limited to a maximum of forty-eight hours as compared with a maximum of seventy-two hours in the case of an original issue, as certain of the necessary particulars may not have to be recorded a second time. (Clause 6 adding a new section 8B).

6. It is proposed that offences against section 12(1) of the Ordinance shall be in future indictable offences so that the Supreme and District Courts will have jurisdiction to determine them as well as the Magistrates' Courts which have at present sole jurisdiction. (Clause 7(a)(i) amending section 12(1)). This will preclude the necessity which sometimes arises of trying in different courts a person subject to supervision who is alleged to have committed distinct offences both against that subsection and some other law. This amendment also has the effect of removing the limitation of six months placed by the Magistrates Ordinance upon the institution of prosecutions for offences which are cognizable only by a magistrate.

7. Clause 7(b) adds a new subsection to section 12 of the principal Ordinance to enable a court or magistrate to impose on a person subject to police supervision, who is convicted of failure to report to the police, a further period of supervision not exceeding that of the period between the date of his first failure to report and the date of conviction.

8. Section 12(1)(b) of the principal Ordinance makes it an offence for a person subject to police supervision, without reasonable excuse, not to report a change of residence within forty-eight hours. Section 13 creates a conclusive presumption of change of residence where such person is absent for two consecutive nights. This presumption has not

been found to operate entirely satisfactorily. No definition of "night" is included and it is difficult in practice to obtain satisfactory evidence of absence for the entirety of two whole nights unless a police officer is stationed at the premises in question for the whole of that time. Further the presumption as at present framed operates to prevent a person under supervision entering into regular night employment. Clause 8 therefore repeals and replaces section 13 with a new section which creates a presumption of change of residence if the person concerned is absent at any time between the hours of midnight and 5 a.m. on two consecutive nights, but this presumption will only arise if he has not obtained the permission of the police to be so absent and it will in any event be rebuttable by proof that he has not in fact changed his residence.

DEFENCES (FIRING AREAS) (AMENDMENT) BILL, 1959.

THE ATTORNEY GENERAL moved the First reading of a Bill intituled "An Ordinance to amend the Defences (Firing Areas) Ordinance, Chapter 196".

He said: Sir, the Defences (Firing Areas) Ordinance regulates practice firing by Her Majesty's Forces and makes provision for the safety of shipping and of all persons who may be affected by such firing. This Bill seeks to amend that Ordinance by including in it provision for the establishment of areas for the practice of explosive minesweeps by Her Majesty's ships.

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 purpose of this Bill is to amend the Defences (Firing Areas) Ordinance (Chapter 196) so as to permit the establishment of areas for the practice firing of explosive minesweeps by Her Majesty's ships. The reason for the introduction of this measure is that at present there is no provision for such areas within the waters of the Colony, and Her Majesty's ships are in need of the facility.

ROAD TRAFFIC (AMENDMENT) BILL, 1959.

THE ATTORNEY GENERAL moved the First reading of a Bill intituled "An Ordinance to amend the Road Traffic Ordinance, 1957".

He said: Sir, this Bill proposes some reclassification of motor vehicles in the traffic legislation of the Colony.

Firstly, the distinction between private goods vehicles and public goods vehicles is abolished. The only distinction made in law at present is in respect of the goods which may be carried and it is now considered that no useful purpose is served by maintaining this distinction.

Secondly, vehicles which are now named "public cars" will in future be termed "hire cars". It is thought that this is a more appropriate name for vehicles which are not taxis but which carry passengers for reward under a contract for the use of the vehicles as a whole at a fixed or agreed sum. New regulations are being drafted to cover the use of taxis and hire cars.

Thirdly, a new class of vehicle, to be known as a "public car", is to be introduced. A public car will be in effect a small omnibus carrying not more than nine passengers, paying being made on the per seat basis and operating on recognized or predetermined routes, or for recognized or for predetermined purposes. The purposes for which this type of vehicle might be licensed include the operation of school bus services on feeder routes unsuitable for public omnibuses.

Sir, the Bill also proposes an amendment to the definition of public omnibus to cover the future use of such vehicles in connexion with school bus services which may not necessarily be on a predetermined route.

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 object of this Bill is to make a number of minor amendments to the Road Traffic Ordinance, 1957.

2. Clause 2 amends section 2 of the principal Ordinance to replace the classification "public car" by "hire car" as this reflects more accurately the proposed use of such vehicles; to create for licensing purposes, a new classification of vehicle to be known in future as "public car", that is to say a vehicle carrying not more than nine passengers, payment for whom is made on the per-seat basis as distinct from the hiring of the vehicle; and to extend the use of public omnibuses. The opportunity has been taken to abolish the unnecessary distinction between public goods vehicles and private goods vehicles.

3. Clause 3 extends the power to make regulations, conferred on the Governor in Council by section 3.

4. Clause 4 provides that any regulations made under section 5A of the principal Ordinance, which shift the burden of proof shall be subject to the approval of the Legislative Council and clause 5 provides that any regulations already made under the principal Ordinance shall be deemed to have been made in accordance with the provisions of section 5A of the principal Ordinance and to have been approved by the Legislative Council. In addition clause 5 provides for vehicles presently registered as private goods vehicles or as public goods vehicles.

**DISTRICT LAND OFFICE, TSUEN WAN (AUTHORIZATION
AND VALIDATION) BILL, 1959.**

THE ATTORNEY GENERAL moved the First reading of a Bill intituled "An Ordinance to authorize and validate the use of the District Office, Tsuen Wan, in the New Territories as a New Territories Land Office."

He said: Sir, on the 1st September this year the District Office, Tsuen Wan, moved to the new accommodation in Tsuen Wan. The purpose of this Bill is to establish the newly opened office as a District Land Office as from that date.

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: —

With effect from the 1st September, 1959, the District Office, Tsuen Wan, which had until then shared accommodation with the District Office, South, in Kowloon, moved to new accommodation in Tsuen Wan which included a new District Land Office. When the offices were opened the new District Land Office was used prematurely. This Bill seeks to authorize the use of the new District Land Office, Tsuen Wan, with retrospective effect to the 1st September, 1959, and to validate acts done thereat prematurely.

BUILDINGS (AMENDMENT) BILL, 1959.

MR. A. INGLIS moved the First reading of a Bill intituled "An Ordinance to amend the Buildings Ordinance, 1955".

He said: Sir, in September 1955 my predecessor moved the First reading of the Buildings Bill, 1955. He referred then to the intention that the regulations which dealt with Administration, Planning and Construction would be brought into effect simultaneously with the Bill, while other necessary regulations would be brought into operation later.

The outstanding legislation has now been virtually completed by the preparation of new regulations covering Private Streets, Drainage Works, Refuse Chutes, Lifts and Escalators. Each has its own detailed provision in the regulations, but it has been necessary to extend the scope of the various sections of the Buildings Ordinance to cover these matters. The opportunity has been taken at the same time to incorporate a few revisions found to be desirable after three years administration of the Buildings Ordinance, 1955.

In December 1958 these regulations, together with the Bill to amend the Buildings Ordinance, 1955, were published. Comments were invited and all the comments received were fully considered by the Building Regulations Committee. On the advice of that Committee certain amendments to the draft legislation have been incorporated in the Regulations and the Bill now before Council.

The statement of Objects and Reasons summarizes and explains very fully the new provisions and the amendments and the reasons for them.

Objects and Reasons.

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

This Bill together with the six new sets of Regulations virtually completes the revision of the Buildings Legislation, of which the first part was effected by the Buildings Ordinance, 1955 and the three sets of Regulations then enacted. Not included here are—

- (a) provisions concerning the maintenance and testing of lifts and escalators which form the subject matter of a separate Bill; and
- (b) further detailed provisions concerning fire escapes which are still under consideration.

2. The principal new matters dealt with in this second stage of revision are—

- (i) private streets and access roads;
- (ii) lifts and escalators;
- (iii) drainage works.

Each has its own detailed provisions in the new regulations, and 11 out of the 29 clauses in the Bill are concerned with extending the scope of various sections of the Ordinance to cover these new matters. The new provisions that are intended to be inserted into the Ordinance and the substantial amendments intended to be made to various sections are referred to in the following paragraphs.

3. *New provisions.*

Clause 13 adds a new section 20A which prohibits the making of any opening onto a street without the permission of the Building Authority. This enables him to control the siting of entrances and exits to and from buildings and sites abutting on roads. This is considered necessary as a road safety measure. In giving permission to make an opening onto a street the Building Authority may impose conditions to ensure the safety of traffic and pedestrians using that street.

Clause 16 adds a new section 23A. The Ordinance provides that the Building Authority may carry out work where an owner has failed to comply with an order made by the Building Authority requiring that work be done: such Orders may issue in the case of buildings erected in contravention of the provisions of the Ordinance, and also in the case of buildings which have become dangerous. The new clause permits the Building Authority to dispose of any building materials which result from such works. Where however, an emergency has caused the Building Authority to do the work without giving the owner an opportunity of doing it himself, then the Building Authority has to notify the owner and afford him the chance of removing the materials.

Clause 17 adds a new section 24A. To avoid the attendance at Court of an officer from the Buildings Ordinance Office when a document in the Building Authority's custody is to be produced in Court, such documents are now made receivable in evidence when accompanied by the Building Authority's certificate as to their genuineness.

Clause 20 adds a new subsection (6) to section 27. The offences created by this section, being summary offences, are required to be prosecuted within six months of their commission (section 26 of the Magistrates Ordinance). This subsection provides that the prosecution may commence within six months of the offence being discovered by the Building Authority.

4. *Substantial Amendments.*

Clause 4 repeals and replaces section 9 which established the system for giving consent to the carrying out of building works. This system has been found to be inadequate and the following changes are being introduced—

- (1) Instead of a single consent to the carrying out of building works, it is now necessary to obtain approval of the plans first and then consent to the commencement of the actual work (new section 9(1)).
- (2) In giving consent to commencement of the work the Building Authority may at present impose conditions in two cases; namely buildings involving the structural use of steel, concrete or timber (section 9(3)), and where building works on an existing building would result in a "new building" (section 9(4)). Three new cases in which he may impose conditions are proposed; namely—
 - (a) building works on premises served by a private street or access road;
 - (b) private street works where the expected volume of traffic is considered to be too heavy for the carriageway or its foundations; and
 - (c) building works or street works involving the making of any opening onto a street.
- (3) The Building Authority is no longer to be required to refuse his approval of plans which run counter to a town plan approved under the Town Planning Ordinance, since this has been found to tie Government's hands unduly once such a town plan has been approved. Instead the Building Authority's power of refusing his approval is to become discretionary, and includes any case where the plans submitted show a contravention of either a draft or an approved plan under the Town Planning Ordinance.

Clause 13 repeals and replaces section 20 dealing with the construction and maintenance of private streets. The principal change effected is that the expenses in connexion with private streets are to be borne by the persons whose premises front such streets instead of by the persons who own the land. This is in accordance with legislation in the United Kingdom.

Clause 19 replaces subsection (6) of section 26 by a new section 26A. Section 26(6) provided that where regulations were amended the Building Authority could, for the period specified, approve plans prepared in accordance with the old regulations. This provision has proved unsatisfactory and the new section applies the time limit to the period within which plans may be submitted by architects. It also makes it clear that the building works to which such plans relate come within the scope of the Ordinance as a whole, and in particular those provisions dealing with the powers of the Building Authority and penalties for contravention of its provisions.

ADJOURNMENT.

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

ATTORNEY GENERAL: —Sir, I suggest this day fortnight.

H. E. THE OFFICER ADMINISTERING THE GOVERNMENT: —Council will adjourn to this day fortnight.