

**OFFICIAL REPORT OF PROCEEDINGS.****Meeting of 15th June, 1960.**

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**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 RODERICK WILLIAM MCLEOD, K.C.B., C.B.E.

THE HONOURABLE THE COLONIAL SECRETARY

MR. DAVID CLIVE CROSBIE TRENCH, M.C., (*Acting*).

THE HONOURABLE THE ATTORNEY GENERAL

MR. ARTHUR RIDEHALGH, Q.C.

THE HONOURABLE THE FINANCIAL SECRETARY

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

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 ROBERT MARSHALL HETHERINGTON, D.F.C.

*(Commissioner of Labour).*

THE HONOURABLE HECTOR WILLIAM FORSYTH

*(Acting Director of Public Works).*

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

THE HONOURABLE KWOK CHAN, O.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.

THE HONOURABLE GEORGE MACDONALD GOLDSACK.

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

THE HONOURABLE THE SECRETARY FOR CHINESE AFFAIRS

MR. JOHN CRICHTON McDouALL.

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

**MINUTES.**

The minutes of the meeting of the Council held on 1st June, 1960, were confirmed.

**OATHS.**

MR. H. W. FORSYTH took the Oath of Allegiance and assumed his seat as a Member of the Council.

H. E. THE GOVERNOR: —I take this opportunity to extend a welcome to this Council, Mr. FORSYTH.

H. E. THE GOVERNOR: —Before proceeding further I should like to extend a welcome to General McLEOD. I am sure you would all like to associate yourselves with me in welcoming him here.

**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>
The Highway Code.	
Emergency Regulations Ordinance.	
Emergency (Registration of British Subjects) (Revocation)	
Regulations, 1960 .....	A. 48.
Importation and Exportation Ordinance.	
Fees and the manner of payment for Certificates of Origin .....	A. 49.
Watchmen Ordinance, 1956.	
Watchmen Regulations, 1960 .....	A. 51.

**ROAD TRAFFIC (PARKING AND WAITING) (AMENDMENT)  
REGULATIONS, 1960.**

THE ATTORNEY GENERAL moved the following resolution: —

Resolved, pursuant to section 5A of the Road Traffic Ordinance, 1957, that the Road Traffic (Parking and Waiting) (Amendment) Regulations, 1960, made by the Governor in Council on the 31st day of May, 1960, under sections 3, 5A and 31 of the Road Traffic Ordinance, 1957, be approved.

He said: Sir, under the Road Traffic Ordinance, 1957, the Governor in Council may by regulation provide that in any proceedings for an offence against any regulations made under the Ordinance, facts

may be presumed until the contrary is proved, but any such regulation requires the approval of this Council before it becomes effective, and the object of this resolution is to seek such approval for two of the amending regulations mentioned in the resolution.

Sir, regulation 3 of the principal regulations places restrictions on the parking and waiting of vehicles in roads where there is a system of street lighting furnished by means of lamps not more than 200 yards apart. Regulation 3 of these amending regulations provides that if it is proved to the satisfaction of a court that there is any system of street lighting on a particular road, then that system shall be presumed to be furnished by means of lamps not more than 200 yards apart until the contrary is proved. Otherwise it would be necessary in every case for the prosecution to call evidence to prove the system of street lighting. I am informed, Sir, that in point of fact, all street lamps in the Colony are less than 185 yards apart.

Regulation 8 of the principal regulations provides for the erection of parking signs in accordance with diagrams contained in the First Schedule, and regulation 5 of these amending regulations provides that in any proceedings for an offence against the principal regulations any sign in accordance with any such diagram shall be presumed to be of the prescribed size, colour and type and to have been lawfully erected unless the contrary is proved. Here again it would be an onerous business for the prosecution to have to adduce evidence in each case that a road sign was of the prescribed size, colour and type and had been lawfully erected.

It is submitted, Sir, that there is justification in these two instances for presuming these facts until the contrary is proved, and that this Council may properly approve these two regulations.

THE COLONIAL SECRETARY seconded.

The question was put and agreed to.

### **SUPPLEMENTARY PROVISIONS FOR THE QUARTER ENDED 31ST MARCH, 1960.**

THE FINANCIAL SECRETARY moved the following resolution: —

Resolved that the Supplementary Provisions for the quarter ended 31st March, 1960, as set out in Schedule No. 4 of 1959/60, be approved.

He said: Sir, the total, so far available, of supplementary provisions for the fourth quarter of the last financial year, comes to \$36½ millions, against which savings are trivial. This sum is much larger

than usual because of the fact that it includes the bill for arrears of salaries consequent on acceptance of the Report of the Salaries Commission. It is to be noted that the sum of \$14,900,000 has been provided for back pay for the period July 1st to December 31st last year, and I may add, Sir, that this provision has proved to be inadequate, and that a further supplementary will be necessary. This bill does not include the cost of increased salaries payable during the three months January to March of this year which is carried on departmental votes. I understand that the additional provision required for this will be \$5 millions.

The Salaries Commission is also responsible for an increase of not far short of \$4 millions for grants to aided schools. This increase is necessary to provide for the increased salaries for teachers in these schools.

Provision exceeding \$3 millions is required for the post-secondary colleges in accordance with Government policy of raising the standards of these colleges, for which legislation has recently been passed.

Many additional provisions are required for a number of items of Public Works Non-recurrent. The programme seems to have gone very well during the last financial year and additional money had to be provided to enable certain schemes to be carried on at the increased tempo. The final figures for the year, which have just been published, show that out of \$181 millions provided for public works, \$171 millions were spent.

An additional provision of almost \$500,000 is required for the Central Government Offices, and it may be of interest if I mention that the total cost of building the whole three blocks to the 31st March last has been \$21.4 millions, with a final provision of half a million dollars in the current year's estimates.

THE COLONIAL SECRETARY seconded.

The question was put and agreed to.

### **PROTECTION OF NON-GOVERNMENT CERTIFICATES OF ORIGIN BILL, 1960.**

THE ATTORNEY GENERAL moved the First reading of a Bill intituled "An Ordinance to make provision for the better protection of certificates of origin issued by chambers of commerce and other bodies."

He said: Your Excellency, this Bill seeks to provide a greater measure of protection against forgery and other interference with or misuse of certificates of origin issued by chambers of commerce and

other organizations. Certificates of origin are an important part of the commercial documentation of goods which are exported from the Colony, and it is most important that their authenticity can be relied on with confidence.

The Bill will apply initially to certificates issued by the Hong Kong General Chamber of Commerce and the Chinese General Chamber of Commerce. The Bill can, however, be made to apply to certificates of origin issued by other chambers of commerce or organizations by the inclusion of names of such bodies in the Schedule.

The certificates of origin to which the Bill will apply are not official documents issued by or on behalf of the Government, and I should like to make it clear that this Bill does not in any way effect any change in their status.

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, which has been prepared at the request of the Hong Kong General Chamber of Commerce, seeks to make provisions for the protection of certificates of origin issued by the Chamber or by such other chambers of commerce and other bodies in the Colony as may, for the time being, be specified in the Schedule. The circumstances in which the provisions have become necessary are these.

2. During recent years, cases of forgery, and of the alteration not necessarily amounting to forgery, of certificates of origin have come to light. Under the Forgery Ordinance (Chapter 209), the forgery of a document of this class is an offence only if the forgery is committed with intent to defraud. In view of the fact that certificates of origin are normally forged with a view to circumventing import controls, or to avoiding customs duty, in the country to which goods are being exported, it has been difficult to establish the necessary intent to defraud.

3. Paragraphs (a) and (b), respectively, of clause 3 of the Bill will make it an offence to forge a certificate of origin whatever the intention in doing so may be or to make any unauthorized alteration of, or addition to or deletion from, a certificate of origin, whether or not such alteration, addition or deletion makes the certificate false. The provisions of paragraph (c) of that clause, which deal with the uttering or using of forged or altered certificates, are complementary to the provisions of paragraphs (a) and (b).

4. The opportunity occasioned by the necessity for making the foregoing provisions has been taken to make further provisions having the same object. Paragraph (*d*) of clause 3 seeks to make it an offence to utter or use a certificate of origin issued in respect of one article in respect of another article, and paragraph (*e*) thereof seeks to prevent the substitution of other articles for the articles in respect of which a certificate of origin was issued.

### **HAWKER CONTROL FORCE BILL, 1960.**

MR. C. G. M. MORRISON moved the First reading of a Bill intituled "An Ordinance to provide for the establishment, maintenance, and discipline and powers of a force to be known as the Hawker Control Force, and for matters connected with the purposes aforesaid."

He said: Your Excellency, it will be recalled that in 1958 Government accepted in principle the recommendations of the 1957 Hawker Report, which had been unanimously approved by the Urban Council. That report set out the need for effective control over hawkers and the principles on which that control should be based. One of the main recommendations contained in the Report was for the establishment of a uniformed and disciplined Force within the Urban Services Department. Over the last two years, the need for this disciplined Force to carry out the policies of the controlling authority over hawkers has become even more apparent.

Effective control will result in cleaner streets, less obstruction and the assurance of unimpeded passage for pedestrians and vehicles. The tasks of the Traffic Branch of the Police Force will be eased and property owners should welcome an improvement in the access to and the amenity of their premises. Fire hazards in congested areas should be reduced and the activities of racketeers prejudiced.

With the assistance of Police Officers seconded to the Urban Services Department, the basic plans for recruiting, training and disciplining a Hawker Control Force have been laid and the necessary Training Camp in the form of the old Army Camp at Brick Hill (beyond the Police Training School) acquired and put in order. In addition, barrack, office and storage accommodation has been planned in a number of the new Markets which the Urban Council hopes to build over the next few years.

The Bill now before this Council provides for the establishment, constitution, control and discipline of the new Force. Many of the provisions are based on similar ones in the Police Force Ordinance, but some of the most stringent provisions of that Ordinance have been omitted or modified in this Bill.

The "Objects and Reasons" give a detailed exposition of its provisions. It is closely associated with the Public Health and Urban Services Bill, which was read for the first time at the last meeting of this Council.

One of the main features of the Force will be that over the first few years, it will be necessary for the Urban Services Department to have the assistance of Officers and N.C.O.'s seconded from the Police Force and this is provided for in the Bill. It has been agreed, however, that this arrangement will not extend beyond five years during which time the Urban Services Department will recruit and train its own Officers and N.C.O.'s in order to relieve the Commissioner of Police of this commitment.

At present this Bill provides only for the appointment of inspectors on secondment from the Police Force and when the stage is reached where the Urban Services Department can recruit and train its own inspectors it will be necessary to amend the Bill to provide for their appointment.

The Members of the Urban Council are most anxious that this Bill should become law without delay.

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: —

It has been decided that the control of hawkers and the enforcement of the law relating to hawkers can best be achieved through the agency of a special force operating under the general direction of the Director of Urban Services, in whose province hawkers primarily fall.

2. The object of this Bill is to establish that force, which is to be known as the Hawker Control Force, and to make such provisions as are thought to be necessary for its regulation and efficient operation. Though the Force will be a part of the Urban Services Department and will be under the general direction of the Director of Urban Services, it is considered desirable that the immediate command of the Force should be vested in a person who is himself a member of the Force. The Force will be a disciplined force and its members will be subject to the disciplinary provisions normally associated with such a force, and it is felt that the power to deal with, and to impose penalties for, a breach of those disciplinary provisions should in the first instance be exercised

by a person who is himself subject to the like provisions. Clause 6 provides for the office of Commandant of the Force, and also provides that he is to be a gazetted police officer appointed by the Commissioner of Police.

3. It is envisaged that the inspectors of the Force will, for some time, be seconded police officers. Clause 7(1) provides, therefore, that the inspectors also shall be appointed by the Commissioner of Police. In the early stages, the non-commissioned officers of the Force will also be seconded police officers, but, since it is intended that the secondment of non-commissioned officers will be for a short time only, no special provision has been made for the appointment of non-commissioned officers by the Commissioner of Police. Those police officers whom the Commissioner of Police makes available for duty with the Force in that capacity will be formally appointed by the Commandant. Clause 34 seeks to make it clear that the provisions of the Police Force Ordinance will continue to apply to all seconded police officers, including the Commandant, subject, however, to the provisions of this Bill so far as is necessary for the due performance by such officers of their duties as members of the Force.

4. The appointment of all members of the Force, other than those on secondment from the Police Force, will be subject to Colonial Regulations, so far as they are applicable, and to the General Orders of the Government in the same way as the appointment of other Government officers. Save, therefore, for those additional provisions which are necessary by reason of the fact that the Force is a disciplined body, the Bill does not provide for the terms of service of its members.

5. Clause 11, which has been modelled on section 28 of the Police Force Ordinance, prescribes the disciplinary offences and provides for their punishment by the Commandant. Sub-clause (2) thereof provides a right of appeal to the Director of Urban Services from any finding of, or punishment imposed by, the Commandant. Clause 13 prohibits any member of the Force from being a member of a trade union without the consent of the Director. Further provisions designed to provide for the regulation of the Force as a disciplined body are to be found in clauses 23, 24 and 28, all of which have been modelled on the corresponding provisions of the Police Force Ordinance.

6. Part III of the Bill vests in the members of the Force the various powers which it is considered that they will require for the due execution of their duties and the efficient discharge of the functions of the Force. Clauses 18 and 19, which provide, respectively, a power of arrest and a procedure in lieu of taking certain arrested persons to a police station, are modelled on clauses 84 and 85 of the Public Health and Urban Services Bill, 1960. The power of arrest is restricted to "scheduled offences" and offences under clauses 23, 25 and 29. The



scheduled offences are the offences in respect of which proceedings are most likely to be taken against hawkers and those associated with them. Clause 20 authorizes members of the Force to seize and detain articles of various kinds in specified cases, and is modelled on clause 86 of the Public Health and Urban Services Bill, 1960. By virtue of the provisions of clause 30, anything seized under the provisions of clause 20 becomes the property of the Crown and may be disposed of by the Director of Urban Services unless a claim for its return is made within forty-eight hours of the seizure, in which case it must, except in the cases specified in sub-clause (1), be returned to the owner. The proviso to sub-clause (2) of that clause enables the owner of anything so seized to apply, within seven days of the seizure, to a court for an order for its return or for compensation in lieu thereof, notwithstanding that he has not applied for its return within forty-eight hours of the seizure. On any such application, the owner will be entitled to an order if he satisfies the court that no scheduled offence was committed by him or by any other person in respect of that thing.

7. The remaining provisions of the Bill provide for various ancillary matters which do not, it is thought, call for comment.

#### **ADJOURNMENT.**

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

THE ATTORNEY GENERAL: —May I suggest this day two weeks, Sir.

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