

OFFICIAL REPORT OF PROCEEDINGS.**Meeting of 18th January, 1961.**

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. 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 HECTOR WILLIAM FORSYTH
(*Acting Director of Public Works*)
DR. THE HONOURABLE TENG PIN-HUI,
(*Acting Director of Medical and Health Services*)
THE HONOURABLE KENNETH STRATHMORE KINGHORN
(*Director of Urban Services*)
THE HONOURABLE NGAN SHING-KWAN, C.B.E.
THE HONOURABLE KWOK CHAN, O.B.E.
THE HONOURABLE HUGH DAVID MACEWEN BARTON, M.B.E.
THE HONOURABLE DHUN JEANGIR 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*)

MINUTES.

The minutes of the meeting of the Council held on 4th January, 1961, 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> |
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| Sessional Papers, 1961: — | |
| No. 2—Annual Report by the Chairman, Urban Council and Director of Urban Services for the year 1959/60. | |
| No. 3—Annual Report by the Commissioner of Police for the year 1959/60. | |
| Report of the Brewin Trust Fund Committee for the year ending 30th June, 1960. | |
| Merchant Shipping Ordinance, 1953. Special Report in accordance with proviso to section 115(1). | |
| Importation and Exportation Ordinance. Exportation (Certificates of Origin and Commonwealth Preference Certificates) Regulations, 1961 | A. 1. |
| Registration of Persons Ordinance, 1960. Registration of Persons (Re-registration) Order, 1961 | A. 2. |

PUBLIC MARKET (AMENDMENT) BY-LAWS, 1961.

MR. K. S. KINGHORN moved the following resolution: —

Resolved that the Public Market (Amendment) By-laws, 1961, made by the Urban Council on the 3rd day of January, 1961, under section 80 of the Public Health and Urban Services Ordinance, 1960, be approved.

He said: Your Excellency, the purpose of the Public Market (Amendment) By-laws, 1961, which were made by the Urban Council on the 3rd of January, is to ensure more adequate control over electrical fittings and appliances in market stalls, where, in the past, many alterations and additional connexions have been made in an unsatisfactory and sometimes dangerous manner. Under these By-laws only the department of my honourable Friend the Director of Public Works or an electrical contractor approved by him will in future carry out electrical work in markets.

THE COLONIAL SECRETARY seconded.

The question was put and agreed to.

INTERPRETATION (AMENDMENT) BILL, 1961.

THE ATTORNEY GENERAL moved the First reading of a Bill intituled "An Ordinance to amend the Interpretation Ordinance, Chapter 1."

He said: Sir, this Bill is an example of what is commonly known as "lawyer's law". It is of a technical character and is designed to obviate the proof of subsidiary legislation made under local Ordinances by requiring the Courts to take judicial notice of such legislation. As the law stands at present, section 4 of the Interpretation Ordinance requires every Ordinance to be judicially noticed, that is to say, the Courts are required to take cognizance of Ordinances without proof which would otherwise be required and which would necessitate producing to the Court in every case either the original or an examined copy or a certified true copy. The amendment made by clause 2 extends the provisions of section 4 of the principal Ordinance to subsidiary legislation. This amendment also provides that any enactment purporting to be printed by the Government Printer shall, until the contrary is proved, be taken as being an authentic copy together with all amendments made prior to the date of the printing.

Sir, by common law, judicial notice is to be taken of Imperial Statutes applicable to the Colony, but in order to avoid any argument we have included specific provision to this effect in section 43 of the principal Ordinance and we have extended the provision to include all regulations and other instruments made under any Imperial enactment.

These amendments are, in my submission, essential for the due administration of the law—I think that it would be quite intolerable if a party to litigation could be called upon to prove strictly any piece of legislation upon which he is relying.

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 amend the Interpretation Ordinance so as to require judicial notice to be taken of the Colony's subsidiary legislation and also of any Imperial enactment or Order in Council which is applied to Hong Kong.

2. In the United Kingdom subsidiary legislation sometimes provides that it shall be judicially noticed: it is considered however more convenient to have a general provision applying to all subsidiary legislation. By common law judicial notice is taken of all the law,

which includes Acts of Parliament applying to the Colony. The amendment to section 43 of the Interpretation Ordinance is made to avoid any doubts which might arise by reason of section 4 of the Ordinance which gives statutory authority for judicial notice to be taken of Colony Ordinances.

**CORRUPT AND ILLEGAL PRACTICES
(AMENDMENT) BILL, 1961.**

THE ATTORNEY GENERAL moved the First reading of a Bill intituled "An Ordinance to amend the Corrupt and Illegal Practices Ordinance, 1955."

He said: Sir, this Bill is designed to effect a number of amendments whose purpose is described fully in the statement of objects and reasons. The Corrupt and Illegal Practices Ordinance is, necessarily I think, of a somewhat Draconian character, but experience has shown that in certain instances its provisions are unduly severe and one of the purposes of this Bill is to mitigate the severity in the instances specified in the statement of objects and reasons.

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 seek amendment of the principal Ordinance in the following respects—

- (a) to transfer from the secretary of the Urban Council to the returning officer all duties relating to the conduct of candidates at elections, because it is considered inappropriate that the permanent secretary of the Council should carry out such duties; and
- (b) to clarify the position with regard to "treating" by expressly providing that the serving of non-alcoholic beverages incidental to an election meeting shall not *prima facie* be deemed a corrupt practice but that the serving of any kind of meal shall *prima facie* be so deemed; and
- (c) to ameliorate the penalties which may be imposed for failure to deposit copies of election material within the time specified in the Ordinance by the elimination of loss for seven years of civic rights, as such a penalty is considered out of proportion to the gravity of the particular offence; and finally

(d) to modify the requirement that election material must be deposited not later than twenty four hours before its exhibition or distribution to not later than seven days after its exhibition or distribution, because this requirement is intended only to assist the returning officer in the checking of returns of election expenses which themselves need not be filed till the expiration of twenty eight days after the election.

2. Opportunity has been taken to delete from section 19 of the principal Ordinance the burdensome requirement that election material if written in the Chinese language must be deposited with the Secretary for Chinese Affairs or, in the case of the New Territories, with the District Commissioner, as well as with the returning officer; and to add to that section a requirement that printed matter must bear not only the name and address of the printer but also the date of printing and the number of copies printed. This addition to section 19 is intended for the greater assistance of the returning officer in the checking of returns of election expenses.

**ROYAL HONG KONG DEFENCE FORCE
(AMENDMENT) BILL, 1960.**

THE COLONIAL SECRETARY moved the Second reading of a Bill intituled "An Ordinance to amend the Royal Hong Kong Defence Force Ordinance, 1951."

THE ATTORNEY GENERAL 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 COLONIAL SECRETARY reported that the Royal Hong Kong Defence Force (Amendment) Bill, 1960, had passed through Committee without amendment and moved the Third reading.

THE ATTORNEY GENERAL seconded.

The question was put and agreed to.

The Bill was read a Third time and passed into law.

ESSENTIAL SERVICES CORPS (AMENDMENT) BILL, 1960.

THE COLONIAL SECRETARY moved the Second reading of a Bill intituled "An Ordinance to amend the Essential Services Corps Ordinance, Chapter 197."

THE ATTORNEY GENERAL 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 and 2 were agreed to.

Council then resumed.

THE COLONIAL SECRETARY reported that the Essential Services Corps (Amendment) Bill, 1960, had passed through Committee without amendment and moved the Third reading.

THE ATTORNEY GENERAL seconded.

The question was put and agreed to.

The Bill was read a Third time and passed into law.

**HONG KONG AUXILIARY POLICE FORCE
(AMENDMENT) BILL, 1960.**

THE COLONIAL SECRETARY moved the Second reading of a Bill intituled "An Ordinance to amend the Hong Kong Auxiliary Police Force Ordinance, 1959."

THE ATTORNEY GENERAL 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 and 2 were agreed to.

Clause 3.

COLONIAL SECRETARY: —Sir, I beg to move that Clause 3 be amended as set forth in the paper before honourable Members.

Proposed Amendment.

Clause.

3. In the replacing regulation 6, leave out paragraph (1) and substitute the following—

"(1) Every member who is under training shall be entitled—

- (a) for every period of continuous attendance for a period exceeding six hours but not exceeding twenty-four hours, whether wholly in one day or partly in one day and partly in another day, to one day's pay *and allowance*; and
- (b) for every period of continuous attendance for a period exceeding twenty-four hours, to one day's pay *and allowances* for each day during which he attends for a period exceeding six hours,

such pay and allowances to be at the rates prescribed in the Pay Code as at the 31st day of December, 1955:

Provided that a member shall be deemed to be under training from the time when he reports for duty until the time when he is dismissed from duty. "

Clause 3, as amended, was agreed to.

Council then resumed.

THE COLONIAL SECRETARY reported that the Hong Kong Auxiliary Police Force (Amendment) Bill, 1960, had passed through Committee with one amendment and moved the Third reading.

THE ATTORNEY GENERAL seconded.

The question was put and agreed to.

The Bill was read a Third time and passed into law.

**PUBLIC HEALTH AND URBAN SERVICES (MISCELLANEOUS
BY-LAWS AMENDMENT) BILL, 1960.**

THE ATTORNEY GENERAL moved the Second reading of a Bill intituled "An Ordinance to amend certain by-laws made by the Urban Council."

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 6 were agreed to.

Council then resumed.

THE ATTORNEY GENERAL reported that the Public Health and Urban Services (Miscellaneous By-laws Amendment) Bill, 1960, 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 into law.

RADIATION (AMENDMENT) BILL, 1960.

DR. TENG PIN-HUI moved the Second reading of a Bill intituled "An Ordinance to amend the Radiation Ordinance, 1957."

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.

DR. TENG PIN-HUI reported that the Radiation (Amendment) Bill, 1960, 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 into law.

ADJOURNMENT.

H. E. THE GOVERNOR: — Gentlemen, that concludes to-day's business. When is it your pleasure that we shall meet again?

THE ATTORNEY GENERAL: — May I suggest this day three weeks, Sir?

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