

OFFICIAL REPORT OF PROCEEDINGS**Meeting of 18th April 1962**

PRESENT:HIS EXCELLENCY THE GOVERNOR (*PRESIDENT*)

SIR ROBERT BROWN BLACK, GCMG, OBE

HIS EXCELLENCY LIEUTENANT-GENERAL REGINALD HACKETT HEWETSON, CB,
CBE, DSO

COMMANDER BRITISH FORCES

THE HONOURABLE CLAUDE BRAMALL BURGESS, CMG, OBE

COLONIAL SECRETARY

THE HONOURABLE MAURICE HEENAN

ATTORNEY GENERAL

THE HONOURABLE JOHN CRICHTON McDOUALL

SECRETARY FOR CHINESE AFFAIRS

THE HONOURABLE JOHN JAMES COWPERTHWAITHE, OBE

FINANCIAL SECRETARY

THE HONOURABLE KENNETH STRATHMORE KINGHORN

DIRECTOR OF URBAN SERVICES

THE HONOURABLE PETER DONOHUE

DIRECTOR OF EDUCATION

THE HONOURABLE KWOK CHAN, OBE

THE HONOURABLE HUGH DAVID MacEWEN BARTON, MBE

THE HONOURABLE DHUN JEHANGIR RUTTONJEE, OBE

THE HONOURABLE FUNG PING-FAN, OBE

THE HONOURABLE RICHARD CHARLES LEE, OBE

THE HONOURABLE KWAN CHO-YIU, OBE

THE HONOURABLE KAN YUET-KEUNG, OBE

THE HONOURABLE WILLIAM CHARLES GODDARD KNOWLES

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

THE HONOURABLE ALLAN INGLIS

DIRECTOR OF PUBLIC WORKS

DR THE HONOURABLE DAVID JAMES MASTERTON MacKENZIE, CMG, OBE

DIRECTOR OF MEDICAL AND HEALTH SERVICES MINUTES

MINUTES

The minutes of the meeting of the Council held on 30th March 1962 were confirmed.

PAPERS

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

<i>Subject</i>	<i>GN No</i>
Sessional Paper, 1962: —	
No 14—Annual Report by the Government Printer for the year 1960-61.	
Ferries Ordinance.	
Excluded Ferries (Hong Kong and Lamma Island) Regulations, 1962	A 24
Tax Reserve Certificates Ordinance, 1955.	
Tax Reserve Certificates (Fourth Series) Rules, 1962	A 25
Government Lotteries Ordinance, 1962.	
Government Lotteries Rules, 1962	A 27
Registration of Persons Ordinance, 1960.	
Registration of Persons (Re-registration) (No. 6) Order, 1962	A 28
Registration of Persons Ordinance, 1960.	
Registration of Persons (Cancellation of Registration and Identity Cards) Order, 1962	A 29
Post Office Ordinance.	
Post Office (Amendment) Regulations, 1962	A 30
Registration of Persons Ordinance, 1960.	
Registration of Persons (Cancellation of Registration and Identity Cards) Order, 1962	A 32

QUESTIONS

MR KWOK CHAN, pursuant to notice, asked the following question: —

In view of the public concern displayed over the circumstances in which six young people, apprehended while entering the Colony, were recently returned to China, will Government make a statement on its Immigration policy generally?

THE COLONIAL SECRETARY replied as follows: —

Sir, I welcome the opportunity presented by this question of attempting to correct at least a few of the many misunderstandings of Government policy which have been expressed in both the correspondence and editorial columns of the newspapers during the past fortnight.

These letters and articles have suggested that Government is operating an inconsistent and inhumane policy; or alternatively that it is allowing junior officers to exercise arbitrary powers, beyond the provisions of the law and the scope of their proper authority, and that this has resulted in wrong and inhumane decisions at a low level.

There is no truth whatsoever in any of these suggestions. For many years now it has been Government's deliberate and manifest policy to prevent illegal immigration into the Colony by every possible means. Powers to this end are contained in the Immigration (Control and Offences) Ordinance of 1958. This Ordinance establishes the procedures under which those who seek to enter by lawful means may apply to do so. It also contains provisions under which persons who enter without lawful permission may be detained and returned whence they came. There is nothing unusual in these powers. Every country reserves to itself the right to control entry into its own territory. And some countries are forced by circumstances, circumstances sometimes beyond their control, into a position where they have to enforce these controls strictly. Hong Kong is precisely in this position.

These provisions of the law are enforced by duly authorized officers of the Immigration Service acting in accordance with Government's established policy, and it is not true, as has been suggested, that the correct procedure was not carried out in the case of the six young people.

I might perhaps mention here that the majority of Government's critics appear to be confused as to what these procedures are. There has been much talk of deportation,—a process which does not arise in this or similar cases. The Immigration (Control and Offences) Ordinance, in essence, gives to the Government the power, without recourse to the Courts, to turn back or to return to his country of origin any person apprehended whilst trying to enter the Colony at an unauthorized landing place or without the necessary permits.

These were precisely the circumstances in which the six young people, and others before them, were apprehended and returned. And I might at this point mention that one leading article, after commenting on the subject of *deportation* and alleging that the proper procedure had not been used in this case, continued in these words: —

"Having said this much, however, we must restate our belief that all illegal immigrants should be stopped from entering Hong Kong and turned back".

That there should be public sympathy and concern for these particular people is entirely understandable; —their youth, the fact that there were two females in the party, and that their boat was leaking when they came ashore, all naturally stir the emotions of any decent person. Not least the officers of this Government. But this is not an emotional problem. It is a problem of hard and inescapable fact. However much Government may share the public concern for the plight of individuals, the hard and inescapable fact is that any Government's primary duty is to the particular community for which it is responsible. Nor is this conflict between compassion for the individual and concern for the general good at all unusual in the circumstances of Hong Kong. It is a conflict which is never very far from our minds; and it can be resolved only by the most resolute application of over-riding principles.

Government is concerned with the well-being and maintenance of the 3,200,000 people already living in Hong Kong; —a population now dangerously swollen, some people maintain, up to or beyond the capacity of the Colony's economic resources. The Colony's natural growth is an increasingly heavy burden which we can neither ignore nor avoid; and, with the best will in the world, we cannot afford to let the population expand far beyond the limits imposed upon us by natural increase. A restrictive immigration policy *must* be followed, if the community's standards of living are to be maintained at the present level, —to say nothing of that higher level towards which our best hopes and efforts are directed.

Later this afternoon I shall be introducing a Bill the necessity for which arises entirely out of the fact that this Colony has not denied shelter to hundreds of thousands of people who desperately wanted to come here. Domestic rents could not rise unless there were too many people wanting too few dwellings. And it would be a strange irony if

Government were to respond to complaints of increasing rents by encouraging the very conditions in which alone rents can rise.

The recent Colony Census showed that in the twelve years between 1949 and 1961, over 800,000 persons settled in Hang Kong for the first time and possibly as many as 200,000 children have since been born to these immigrants. The absorption, virtually without external aid, of such a large influx by such a small community is without parallel. Hong Kong's record in this respect is surely above all reproach and it has won for us world-wide approbation and sympathy. Unfortunately, however, world reaction stops there; and no government overseas is prepared to give entry facilities to our immigrants or prospective immigrants in numbers that have any significance in reducing our population problem. I am afraid that, by an accident of contiguity, this is Hong Kong's problem; —a problem which no country in the world is, in practice, willing to absolve us of or to share with us; —a problem which we have to meet today and every day from our own limited resources and in accordance with standards which must take account of both practical and expedient issues as well as moral issues.

No one knows better than the Members of this Council how onerous are the tasks presently facing this Government. In this Chamber very large sums have been voted for resettlement and housing schemes, for water supplies, for education and for the provision of medical and other social services. Nearly one-sixth of our population now lives in houses built from public funds, and in the next five years that figure may rise to one-third. At the end of 1961 nearly 200 domestic multi-storey resettlement blocks had been built in eleven estates, housing nearly 360,000 people, at a cost of \$196 million. Funds allocated to the Housing Authority, the Housing Society and the Government officers co-operative societies total \$370 million. Since the end of the war capital expenditure on water supplies, including major projects like the Tai Lam and Shek Pik reservoirs, has been something in the region of \$368 million. In the year 1951-52 our school population was 187,000 and we spent \$24 million on education. The corresponding figures ten years later were 658,000 and \$145 million. For medical services the story is much the same. There is now a total of just under 10,000 hospital beds in institutions of all kinds compared with 4,000 in 1949. Medical expenditure has risen in ten years

from \$32 million to the 1961-62 total of \$150 million. These brief figures give some indication of the heavy burden we have borne, and must continue to bear, in the field of social services. In this task we have a duty primarily towards those already resident in the Colony. It will be very hard indeed to sustain our economy and our standards of living in such a way as to maintain and improve these services, in the face of the natural rate of increase of our swollen population; and I may say that the task is now being made all the harder by the tendency of Governments overseas to restrict access to their markets in order to protect their own domestic producers.

Even in these stringent circumstances Government has been mindful of the very natural desire of Hong Kong residents that the door to legal entry should not be entirely barred. Entry facilities granted by means of a daily quota at Lowu, (which now stands at 50 a day), and by means of entry permits issued by the Immigration Office or by the British Consulate at Macau, and the offices of the British Charge d'Affaires in Peking and Shanghai, still enable tolerable and regulated numbers to come here by legal means. But over and above this, the Government's first duty is to protect the health and livelihood and welfare of the community as a whole from being eroded by illegal immigration, —which is encouraged and exploited by highly organized "racket" agencies, operated for profit, which have been set up in Macau and elsewhere to facilitate this pathetic traffic in human beings.

In all the circumstances I am sure that Honourable Members will agree that Government has no alternative but to do everything in its power to stop illegal immigration, and to discourage the belief that the laws of this Colony can be ignored or frustrated with minor penalty. It must therefore continue to pursue the policy implicit in the Immigration (Control and Offences) Ordinance of returning illegal immigrants by executive action whenever the circumstances make it possible to do so. But circumstances are not always the same in every case and sometimes alternative deterrents provided under the Ordinance are more appropriate such as prosecution before a magistrate and the confiscation of the boats in which illegal immigrants are brought to the Colony. I can assure Honourable Members that the whole procedure is under the most careful and conscientious control, and that, in formulating policy and giving effect to it, full account is

taken of the many different factors which can arise in a matter of this nature.

It must be accepted that the enforcement of this policy is beset with great physical difficulty and moral complexity; and it involves the discharge of duties which in individual cases can be highly distasteful. Nevertheless, in the circumstances of this Colony the policy is essential in the general interest.

**URBAN COUNCIL (COMMISSIONER FOR RESETTLEMENT)
ORDINANCE, 1954**

THE COLONIAL SECRETARY moved the following resolution: —

Resolved, pursuant to section 3 of the Urban Council (Commissioner for Resettlement) Ordinance, 1954, that the duration of the said Ordinance be extended for the term of one year with effect from the 30th day of April, 1962.

He said: Sir, the Urban Council (Commissioner for Resettlement) Ordinance, which was enacted in 1954, provides for the Commissioner for Resettlement to be temporarily an ex-officio member of the Urban Council. Section 3 provides that the Ordinance should continue in force for one year from the commencement but gives power to this Council to extend its duration for periods not exceeding one year at a time. It has been so extended seven times.

Sir, the need for the Commissioner to be a member of the Urban Council still remains—as does a very substantial amount of work in squatter clearance and resettlement.

I therefore beg to move that, under Section 3 of the Urban Council (Commissioner for Resettlement) Ordinance, 1954, the duration of the Ordinance be extended for a period of one year, that is to say, until 29th April, 1963.

THE ATTORNEY GENERAL seconded.

The question was put and agreed to.

PENSIONS (AMENDMENT) REGULATIONS, 1962

THE COLONIAL SECRETARY moved the following resolution: —

Resolved, pursuant to section 3(3) of the Pensions Ordinance, that the Pensions (Amendment) Regulations, 1962, made by the Governor in Council on the 27th day of March, 1962, under section 3(1) of the Pensions Ordinance, be approved.

He said: Sir, I think it would be convenient if at this stage I mentioned item 4(7) on the order paper as well, and with your permission, Sir, and the indulgence of the Council, I will do so. Sir, the set of Regulations for which approval is sought by this resolution and the amending Bill at item 4(2), are necessary in consequence of a proposal to permit Government officers to commute less than the twenty-five per cent of their pension at present allowed by law. This provision is common in the pensions legislation of other territories, and has the support of the Secretary of State for the Colonies.

Although the chief purpose of both the main and subsidiary legislation is to give effect to this change, the opportunity has also been taken to make a number of other amendments which have been suggested by the Secretary of State for the Colonies or the Secretary for Technical Co-operation during the past eighteen months, as a result of amendments to the Model Pensions Ordinance. For instance, the definitions of "public service" and "Scheduled Government" need completely revising in view of changes in the Commonwealth over the past few years.

THE ATTORNEY GENERAL seconded.

The question was put and agreed to.

SUPPLEMENTARY PROVISIONS FOR THE QUARTER ENDED 31ST DECEMBER 1961

THE FINANCIAL SECRETARY moved the following resolution: —

Resolved that the Supplementary Provisions for the Quarter ended 31st December, 1961, as set out in Schedule No. 3 of 1961-62, be approved.

He said: Sir, the Schedule before Council is the third list of supplementary provisions on the 1961-62 account. The total supplementary vote required is \$11,700,000 against which savings of some \$950,000 are recorded in the Schedule.

Of the total, \$9,300,000 or 80% arises either in consequence of changes in priorities in the Public Works Programme or because work on certain projects has proceeded faster than expected; the changes will not cause overall expenditure on Public Works to exceed that shown in the Estimates.

This Schedule brings the total supplementary vote for the first three quarters of the year to \$32,700,000, against recorded savings of just over \$ 1,000,000.

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

THE COLONIAL SECRETARY seconded.

The question was put and agreed to.

DELEGATION OF FINANCIAL POWERS

THE FINANCIAL SECRETARY moved the following resolution: —

Be it resolved

- (1) that expenditure additional to annual estimates as finally approved by this Council relating to services which could not have been foreseen and cannot be postponed without detriment to the public service and which is not of such a nature as to raise some question of principle or involve a breach of some regulation may be authorized by the Governor up to the limits set out in the Schedule hereto pending covering approval by the Finance Committee of this Council;
- (2) that expenditure as aforesaid in excess of the limits set out in the Schedule hereto may be authorized by the Governor and covering approval of Finance Committee obtained at the earliest opportunity thereafter, if it is essential in the public interest that such additional provision should be authorized at once, but in other cases the prior approval of the Finance Committee of this Council shall be obtained;
- (3) that the powers referred to in paragraphs (1) and (2) of this Resolution may be delegated by the Governor to the Financial Secretary and the Deputy Financial Secretary subject to such conditions, exceptions and qualifications as the Governor may prescribe.

SCHEDULE.

CATEGORY	LIMITS OF SUPPLEMENTARY PROVISION
<i>I. Personal Emoluments</i>	
1. Supernumerary appointments	<p>in respect of a supernumerary appointment:</p> <p>(a) for a period not exceeding two weeks to facilitate handover, or where as a result of leave arrangements an officer would otherwise revert to substantive rank and within such period would be required to act again;</p> <p>(b) for a replacement, where considered necessary, for a woman officer on maternity leave for the approved period of such leave;</p> <p>(c) for a replacement, where considered necessary, for an officer on prolonged sick leave for the period of such leave;</p> <p>(d) for a replacement, in the same or lower grade, for an officer on no-pay leave;</p>

CATEGORY	LIMITS OF SUPPLEMENTARY PROVISION
	(e) to cover a substantive appointment to a post the previous holder of which is on leave prior to retirement: such appointment may date from the commencement of the previous holder's pre-retirement leave in the case of a post with a salary of 34,700 or higher, but there shall be an interval of at least 6 months in all other cases.
2. Vacancies	relating to the creation of: <ul style="list-style-type: none"> (a) a supernumerary post in a lower class against a vacancy in a higher class of the same grade; (b) a supernumerary post in one grade against a vacancy in another grade, both such grades having common promotion prospects to a third and higher grade; (c) a post in one grade offset by a post in another grade which has a similar or higher salary scale.
3. Promotion or transfer	on the promotion or transfer of an officer in a grade common to several departments (<i>e.g.</i> Administrative Officer, Executive Officer, Stores Officer, Clerk, etc.), subject to the overall establishment not being exceeded.
4. Arrears and adjustments	for payment of arrears or adjustment of salary where no change in policy is involved.
5. Salaries based on rates applied by other Governments	to cover a change in salary scale for: <ul style="list-style-type: none"> (a) Hong Kong Royal Naval Reserve Shipkeeping Crew as and when the Admiralty rate alters; (b) a post in the Hong Kong Government London Offices which is equated with an appropriate comparable class of the United Kingdom Civil Service as and when the appropriate United Kingdom rate alters. (c) a post in the Hong Kong Government Sydney Office which is equated with an appropriate comparable class of the New South Wales Public Service as and when the appropriate Australian rate alters.
6. Honoraria	for payment of honoraria not exceeding \$500 in any particular case and not involving new policy in the following types of cases: <ul style="list-style-type: none"> (a) interpreters and clerical assistance for Boards involving overtime; (b) the accompanying of sick personnel being sent to the United Kingdom; (c) design or other work in connexion with official publications and flags.
II. <i>Other Charges:</i> <i>Annually Recurrent</i> (including Public Works Recurrent, Miscellaneous Services, etc.)	not exceeding 10% of the approved provision in a subhead, with a maximum of \$25,000 in any one case, where no point of principle or change of policy is involved.

CATEGORY	LIMITS OF SUPPLEMENTARY PROVISION
III. Other Charges: Special (a) Expenditure (including Public Works Non-Recurrent, Miscellaneous Services, etc.)	not exceeding 10% of the approved provision in a subhead, with a maximum of \$25,000 in any one case, where no point of principle or change of policy is involved;
	(b) in-respect of revotes not involving any increase in the approved overall estimate and not exceeding \$500,000 in any one case.

He said: Sir, in 1958, certain financial responsibilities were devolved by the Secretary of State for the Colonies on to this Council. This had the effect of making Council the fountain head of financial authority in the Colony, subject only to the Secretary of State's ultimate responsibility. It is therefore necessary to revise the chain of delegation of financial authority to take account of this change. The opportunity has also been taken to review and to extend these delegations in order to expedite Government business so far as is consistent with this Council's overall control. The purpose of this Resolution is to seek formal authority for these arrangements.

The financial powers concerned relate principally to the approving of supplementary provisions to cover expenditure additional to the annual estimates as finally approved by this Council. The resolution makes it clear that the authority to approve supplementary provisions without limit is delegated to Finance Committee and also sets out in the Schedule the limits of the further delegation to yourself, Sir. If the resolution is approved, it is proposed, with the concurrence, already given, of Finance Committee, to ask you to sub-delegate your powers to the Financial Secretary and, to a limited extent, to the Deputy Financial Secretary. This latter sub-delegation represents a new departure designed to relieve the Financial Secretary of decisions on matters which could well be decided at a lower level. The Financial Secretary's powers will be substantially the same as at present except that his limit for Other Charges is raised from \$10,000 to \$25,000 and a new item is included covering revotes up to \$500,000. This latter item will have its main application in respect of continuing projects under Public Works Non-Recurrent.

Additional expenditure authorized by yourself, Sir, by the Financial Secretary, and the Deputy Financial Secretary will require the subsequent covering approval of Finance Committee, and it is proposed to continue the present practice of submitting to this Council for confirmation quarterly schedules of such additional expenditure, together with expenditure approved by Finance Committee in the first instance.

THE COLONIAL SECRETARY seconded.

The question was put and agreed to.

TELEPHONE ORDINANCE, 1951

THE FINANCIAL SECRETARY moved the following resolution: —

Resolved, pursuant to subsection (2) of section 29 of the Telephone Ordinance, 1951, that, with effect from the 19th day of April, 1962, the Schedule to the said Ordinance be amended by the deletion of items 1, 2, 3 and 4 of Part V of the said Schedule and the substitution therefor of the following—

- "1. For every three minutes or part thereof of a junction call between any two of the following, namely—
 - (a) the area served by the Clear Water Bay Exchange;
 - (b) the area served by the Sha Tin Exchange;
 - (c) the area served by the Tai Po Exchange;
 - (d) the area served by the Tsuen Wan Exchange;
 - (e) Hong Kong or Kowloon. 30 cents.
2. For every three minutes or part thereof of a junction call between any two of the following, namely—
 - (a) the area served by the Castle Peak Exchange;
 - (b) the area served by the Fanling Exchange;
 - (c) the area served by the Ting Kau Exchange;
 - (d) the area served by the Yuen Long Exchange;
 - (e) Hong Kong or Kowloon. 40 cents.
3. For every three minutes or part thereof of a junction call between any two of the following, namely—
 - (a) the area served by the Castle Peak Exchange;
 - (b) the area served by the Fanling Exchange;
 - (c) the area served by the Ting Kau Exchange or
 - (d) the area served by the Yuen Long Exchange, and
 - (e) the area served by the Clear Water Bay Exchange;
 - (f) the area served by the Sha Tin Exchange;
 - (g) the area served by the Tai Po Exchange or
 - (h) the area served by the Tsuen Wan Exchange. 40 cents.
4. For every three minutes or part thereof of a junction call between Cheung Chau Island and the Shek Pik/Cheung Sha Government Exchange,

- Lantau Island or between any two of the following, namely—
- (a) Cheung Chau Island or
 - (b) the Shek Pik/Cheung Sha Government Exchange, Lantau Island, and
 - (c) the area served by the Castle Peak Exchange;
 - (d) the area served by the Clear Water Bay Exchange;
 - (e) the area served by the Fanling Exchange;
 - (f) the area served by the Sha Tin Exchange;
 - (g) the area served by the Tai Po Exchange;
 - (h) the area served by the Ting Kau Exchange;
 - (i) the area served by the Tsuen Wan Exchange;
 - (j) the area served by the Yuen Long Exchange
- or
- (k) Hong Kong or Kowloon. 1 dollar.
5. For every local call from a Pay Station in Hong Kong or Kowloon or in the area served by any of the following Exchanges, namely—
- (a) Clear Water Bay;
 - (b) Sha Tin;
 - (c) Tai Po;
 - (d) Tsuen Wan. 30 cents.
6. For every local call from a Pay Station in the area served by any of the following Exchanges, namely—
- (a) Castle Peak;
 - (b) Fanling;
 - (c) Ting Kau;
 - (d) Yuen Long. 40 cents."

He said: Sir, the charge for telephone calls between exchange areas in the New Territories and between the New Territories and urban exchanges are governed by Part V of the Schedule to the Telephone Ordinance. Until recently there has been no exchange in the Clearwater Bay area and the 30 subscribers there have been connected with the Kowloon City exchange. They have therefore not been charged on the New Territories per call basis for calls to the city area; but on the other hand, because of their distance from the exchange, they have had to pay substantial additional annual charges. These have ranged from \$80 to \$610, with an average \$331.

From 1st March these subscribers have been connected to an exchange in their own area. They will therefore no longer have to pay these additional annual charges, and this Resolution seeks to permit the Telephone Company to levy charges at the standard New Territories

rate for each call outside the area served by the new exchange. It will be noted that these telephones will cost more only when such calls exceed 1103 in a year.

The charge will come into effect on 19th April. In respect of additional annual charges already paid, the company will credit the subscriber with a *pro rata* rebate for any period paid for but not expired by that date.

The proposed amendments to Part V of the Schedule also include a fee of \$1 for every three minute call from the Shek Pik/Cheung Sha Government Exchange on Lantau Island and provides for a fee of 40c. for calls made from pay-boxes which the Company proposes to instal in the Castle Peak, Fanling, Ting Kau and Yuen Long areas.

Lastly, the somewhat lengthy form of the new Part V is designed to remove a possible ambiguity in the existing schedule which could be interpreted as permitting the Company to charge the sum of the individual rates for each area in communication and not the higher of the individual rates appropriate to the two areas, as is the intention and the present practice.

THE COLONIAL SECRETARY seconded.

The question was put and agreed to.

MILK (AMENDMENT) BY-LAWS, 1962

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

Resolved that the Milk (Amendment) By-laws, 1962, made by the Urban Council on the 6th day of March, 1962, under section 56 of the Public Health and Urban Services Ordinance, 1960, be approved.

He said: Sir, the purpose of the Milk (Amendment) By-laws, 1962, which were made by the Urban Council on 6th March, is to improve the control of milk hygiene. At present the smaller dairies, which have no pasteurizing plants of their own, deliver raw milk to certain plants for pasteurization. From the time the milk is received at the plant until it leaves, it may be claimed that it is not for sale, and this could be used as a defence to any action which might be brought if samples of milk taken at the plant were found to be below standard. The amendment to by-law 6 and the addition of the new by-law 17A are designed to cover this point.

By-law 13 requires milk to be kept at a temperature of 50° Fahrenheit, or below, pending sale. When the by-law was made, the special case of sterilized milk seems to have been overlooked. This

type of milk contains no bacteria and keeps in good condition at normal temperatures. An amendment is therefore desirable to exclude sterilized milk, in sealed containers, from the provisions of this by-law.

THE COLONIAL SECRETARY seconded.

The question was put and agreed to.

PENSIONS (AMENDMENT) BILL, 1962

THE COLONIAL SECRETARY moved the First reading of a Bill intituled "An Ordinance to amend the Pensions Ordinance, Chapter 89."

He said: Sir, the remarks I made on the Pensions (Amendment) Regulations included my comments on this Bill, and I think there is nothing that I can usefully add to them at this stage.

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 principal purpose of this Bill is to replace, by clause 5, section 16 of the Pensions Ordinance, Chapter 89 (the principal Ordinance) by a new section taken from the Model Pension Bill to remove doubts and anomalies which have arisen in relation to the grant of gratuities to the dependants of deceased officers.

The opportunity has been taken to propose certain other minor amendments—

- (a) by clause 2, the substitution of a new definition in section 2 of the principal Ordinance of "public service" to take into account changes in the Commonwealth;
- (b) by clause 3, the amendment of section 7 to make it clear that this section does not apply to officers on probation; and
- (c) by clause 4, the amendment of section 9 to remove anomalies in the application of this section to transferred officers who, in their previous service, were able to commute a fraction, other than a fixed quarter, of the pensions.

TENANCY (NOTICE OF TERMINATION) BILL, 1962

THE COLONIAL SECRETARY moved the First reading of a Bill intituled "An Ordinance to provide for a minimum of six months notice of termination of tenancies, and for purposes connected therewith."

He said: Your Excellency, since the beginning of this year there have been widespread complaints of sudden and sharp increases in the rents of premises not subject to control under the Landlord and Tenant Ordinance—that is to say, premises, which, generally speaking, have been built since the end of the war. The question was raised in the Budget Debate, and at the end of last month I gave an assurance to this Council that Government had the matter under active and urgent examination.

I will say at once that this is not a subject on which reliable facts can be assembled easily and quickly. It is, moreover, certainly not a subject on which any Government would wish to legislate without a very careful and unhurried assessment of the various economic factors which may have contributed to the prevailing situation, and of factors which may in time contribute to its amelioration. I need hardly say that these considerations apply with particular force in Hong Kong. We have a free economy and we as a Government are very chary of incursions into that area of freedom—more particularly in a sphere such as domestic building in which Government cannot hope to advance at a satisfactory pace without the assistance and co-operation of private enterprise—private enterprise which works mainly, of course, from the profit motive. Indeed, this is a sphere in which Government's direct participation already stands at a level which is possibly unique in the Free World. Government is frankly reluctant to impose upon the freedom of contract between landlord and tenant more controls than already exist.

If, therefore, circumstances should exist or arise where an *extension* of controls was unavoidable, we must be quite clear as to the principles by which that action would be determined. Government would not consider intervention which went beyond the principle of alleviating immediate and demonstrable hardship. To define the precise area of hardship within the field of uncertainties to which I referred a moment ago is no easy task, —and this accounts for the time that Government has already spent with this problem, and for the indeterminate nature of the measures now proposed.

That there have been increases—and in some cases very steep increases—in the rents of uncontrolled premises is clear enough from instances which have recently been brought to Government's attention. What is not so clear is the general pattern of these increases; whether, for example, they are restricted to certain more prosperous districts or whether they are widespread throughout the Colony; whether the rate of increase is uniformly high or whether it is the exceptional cases only that come to notice. A great deal of careful investigation and analysis over a period of time is necessary before we can reach conclusions on these and other more theoretical aspects of the problem; and it is only on a basis of firm conclusions that Government would be justified in

imposing an artificial level of rents—however limited the field of intervention.

The Bill now before Council represents, if I may put it that way, only a preliminary stage in this examination. I emphasize "a preliminary stage in the examination" because I must warn Honourable Members against supposing that it is necessarily preliminary in the sense of pre-supposing further action on Government's part. The effect of the Bill is to introduce a pause, of at least six months, during which a much wider range of information will be collected and studied, information which will enable Government to determine more clearly the extent of the present rent increases and to decide what measures, if any, are necessary and best suited to deal with the situation. The Bill is, therefore, in the nature of a holding operation; it does not seek to control rents; what it does do is to provide, in the meantime, a period of respite during which tenants, faced at short notice with the alternatives of vacating their premises or of paying increased rents, have an opportunity either of finding alternative accommodation more suited to their means or of coming to terms with their landlord.

I said in the Budget Debate, Sir, that Government was still firmly of the opinion that the most radical and practical approach to this whole question is the constructive one of building, and assisting others to build, in the low-cost range. I would like to re-emphasize that view on this occasion; and it is now possible for me to announce that Government will seek the agreement of Finance Committee to a further \$24 million being made available for the Housing Authority. This is the maximum amount that we feel could be justified at the present having regard for our other commitments, existent, and envisaged under the Five Year financial forecast.

I will now turn, Sir, if I may, to the details of the Bill before Council. The main purpose, set out in Clause 3(1), I have already explained. The provision that every tenancy, with certain stated exceptions, requires a six months' notice of termination by the landlord will apply to both business and domestic premises. I should, perhaps, explain here that Government's prime concern in this matter is to give interim protection to the domestic, and not to the business, tenant; there is, in any event, something unrealistic in seeking to protect one business against another. However that may be, it is the essence of this Bill that it should be simple, clear and easily workable, and the fact remains that in the circumstances of Hong Kong it is not always possible to distinguish with ease and clarity between domestic and business premises, and to say where the one ends and the other begins. With this object of clarity and simplicity in view, therefore, the Bill applies to both domestic and business premises.

Clause 1 makes the Bill retrospective in effect to last Saturday, the 14th April. The reason for this is to preclude the possibility of

any circumvention of the legislation by persons taking action to avoid its effect between the Bill's introduction and its enactment.

Clause 2(2) excludes from the Ordinance tenancies for a fixed term of three years or more; tenancies governed by the Landlord and Tenant Ordinance and the Tenancy (Prolonged Duration) Ordinance; tenancies of land; tenancies provided by an employer for his employees; and tenancies from the Crown. I think the reasons for these exclusions are obvious enough; but Clause 2(3) provides for a more general type of exclusion. The purpose of this sub-clause is to exclude certain special kinds of short term tenancy which are entered into with a particular end in view, such as, to take two examples at random, the tenancy of furnished premises during the temporary absence of the owner occupier, and short term tenancies for storage purposes. New tenancies of this kind are also covered to some extent in Clause 4 which provides that a landlord and tenant may, in effect, "contract out" of the Bill provided that the Secretary for Chinese Affairs, whose function it will be to ratify such agreements, is satisfied as to certain conditions. The Secretary for Chinese Affairs is also designated as the arbiter of any dispute that may arise under Section 2(3) to which I referred a moment ago.

It is difficult to know in advance of the operation of the Bill whether there may not be other specific classes of tenancy which should be excluded on the grounds that they are clearly outside the intention which underlies the measure. It is for this reason that Clause 4(2) has been inserted giving Your Excellency-in-Council power to exclude any class of tenancies or premises, or any particular tenancy or premises.

It is perhaps necessary to explain, Sir, that this Bill does not seek to interfere in any way with the normal rights or remedies of landlord or tenant in respect of any breach of a tenancy agreement. Put in its simplest form the effect of the Bill is, subject to certain exclusions, to make it mandatory for a landlord who, but for the Bill, could have given shorter notice of termination, to give six months' notice in writing. The right of the tenant to quit on one month's notice is not affected.

Finally, Sir, there remains one question which will probably be stimulating the hopes and the despairs of landlord and tenant alike. "Six months, they will say, is all very well—but the \$64,000 question is, what happens after that?" Well, the possibilities are these:

First, Government could simply leave the Bill, if it becomes law, on the Statute Book. That would mean, of course, that a six months' notice of termination would continue as a legal requirement until the Bill were repealed or amended. Second, Government could repeal the Ordinance, and that would mean essentially that we returned to the position we were in prior to the 14th April. Or, third, Government could replace or reinforce this Bill by some more radical measure of

control. Just which of these alternatives will, in fact, be adopted, is clearly impossible for me to say. I can say, however, that the decision that is taken in six months' time will be determined not only by the facts that come to light in the meantime and our assessment of them, but also by the good sense, confidence, and, above all, restraint shown by those most closely concerned with this problem in the months to come. I use the words "those most closely concerned" deliberately. It is not only existing landlords that are concerned—and in so far as they are concerned I gave a warning in my Budget speech, the words of which were very carefully weighed. But prospective landlords are also very much concerned—if only in the sense that we—the Government—must be cautious to do nothing that would deter them, or impair their confidence that the fair product of their enterprise will not be denied them. Here there is a common ground of moderation on which we, for our part, will do our best to meet them, —if they in turn will meet us.

Lastly, there is the tenant. I grant that in present circumstances there is generally little scope for initiative on the part of the tenant. It may not always be so, however; and even in the present context there is some limited application of the truism that those who would avail themselves of a free economy must be prepared to pay the price of a free economy.

The proposition is not difficult to state. If Government intervenes too far in this particular field, there is nothing more certain than that private enterprise will withdraw from it. This would mean that Government itself, in one form or another, would have to fill the gap;—(indeed it is already landlord to upwards of one-sixth of the community). This, in turn, would mean that many people would have to pay in taxes what they now pay in (what they regard as) excessive rent. It would probably mean also that most people would have to accept lower standards than they willingly accept today. The answer to this complex situation lies in confidence, restraint and reasonable dealing on the part of landlords. But it also lies in the appreciation by some tenants that standards, situation and convenience all have a special scarcity value in Hong Kong; that pre-war levels of rent are, for all practical purposes, an anachronism; and that inevitably most people have to pay, in one form or another, for the economy on which they depend. I repeat, Sir, that it is in considerations of this kind that a large part of the solution to this complex problem lies. Unfortunately, none of them are really matters that are amenable to legislation.

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 object of this Bill is to afford some protection to tenants by requiring landlords to give six months' notice of intention to end a tenancy.

2. To be effective, it is considered essential that this measure be as simple as possible. For this reason it is to be applied generally to tenancies of all classes of property. However clause 2 lists certain classes of tenancies to which the Ordinance will not apply. In addition landlords and tenants may jointly seek the Secretary for Chinese Affairs' ratification of any agreement whereby a tenancy is to end without the necessity for a six months' notice: this is intended primarily for the class of tenancies which would be excluded in any way under clause 2(3) (tenancies which by their very nature are intended to be of short duration), but it enables the parties to provide against a dispute arising (clause 4(1)). In an effort to guard against unforeseen and undesirable consequences, the Governor in Council is empowered to make orders excluding any class of tenancy or premises, or any particular tenancy or premises, from the further operation of the Ordinance (clause 4(2)).

3. The Bill does not seek to interfere in any way with the normal rights and remedies of either party in respect of any breach of a tenancy agreement.

SEPARATION AND MAINTENANCE ORDERS (AMENDMENT)**BILL, 1962**

THE ATTORNEY GENERAL moved the First reading of a Bill intituled "An Ordinance to amend the Separation and Maintenance Orders Ordinance, Chapter 16."

He said: Sir, the purpose of this Bill is set out clearly in the statement of Objects and Reasons to which there is nothing that I can usefully add.

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 seeks to delete a provision from the Separation and Maintenance Orders Ordinance which referred to section 38 of the Offences against the Person Ordinance, 1865. The provision should have been

deleted in 1950 when section 38 as it then stood was deleted from the Offences against the Person Ordinance, 1865, because it had been rendered unnecessary by increased powers afforded to magistrates.

CRIMINAL PROCEDURE (AMENDMENT) BILL, 1962

THE ATTORNEY GENERAL moved the Second reading of a Bill intituled "An Ordinance to amend the Criminal Procedure Ordinance, Chapter 221."

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 and 2 were agreed to.

Council then resumed.

THE ATTORNEY GENERAL reported that the Criminal Procedure (Amendment) Bill, 1962 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.

MEDICAL REGISTRATION (AMENDMENT) BILL, 1962

THE ATTORNEY GENERAL moved the Second reading of a Bill intituled "An Ordinance to amend the Medical Registration 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 4 were agreed to.

Council then resumed.

THE ATTORNEY GENERAL reported that the Medical Registration (Amendment) Bill, 1962 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.

ST PAUL'S COLLEGE COUNCIL INCORPORATION BILL, 1962

MR R. C. LEE moved the First reading of a Bill intituled "An Ordinance to provide for the incorporation of St Paul's College Council."

He said: Sir, this Bill follows the usual Bill of Incorporation and its purpose is clearly set out in the statement of Objects and Reasons to which there is nothing I can usefully add.

MR FUNG PING-FAN seconded.

The question was put and agreed to.

Objects and Reasons

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

The object of this Bill is to incorporate St. Paul's College Council.

2. St. Paul's College was founded by the Rev. Vincent Stanton, the first Colonial Chaplain, and was originally opened in the year 1849. The object of the College is to offer to Chinese youths a modern liberal education in the English language (but including the subject of Chinese language in the curriculum) upon Christian principles, Protestant and Evangelical, as professed by the Church of England, and now continued by the Chung Hua Sheng Kung Hui.

3. It is intended to hold property in the name of the College Council. Since the Council is not a corporate body and cannot, therefore, hold any property in its own name, it is thought desirable that it should become a corporate body, in order to enable it to own property in its own name and otherwise to carry out its aims and objects more effectively.

ADJOURNMENT

HIS EXCELLENCY THE GOVERNOR: —Well, gentlemen, that concludes to-day's business. When is it your pleasure that we should meet again?

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

HIS EXCELLENCY THE GOVERNOR: —Council stands adjourned until this day two weeks.