

OFFICIAL REPORT OF PROCEEDINGS**Meeting of 27th June 1962**

PRESENT:HIS EXCELLENCY THE GOVERNOR (*PRESIDENT*)

SIR ROBERT BROWN BLACK, GCMG, OBE

HIS EXCELLENCY LIEUTENANT-GENERAL REGINALD HACKETT HEWETSON, KCB,
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 COWPERTHWAITTE, OBE

FINANCIAL SECRETARY

THE HONOURABLE ALLAN INGLIS, CMG

DIRECTOR OF PUBLIC WORKS

DR THE HONOURABLE DAVID JAMES MASTERTON MacKENZIE, CMG, OBE

DIRECTOR OF MEDICAL AND HEALTH SERVICES

THE HONOURABLE KENNETH STRATHMORE KINGHORN

DIRECTOR OF URBAN SERVICES

THE HONOURABLE PETER DONOHUE

DIRECTOR OF EDUCATION

THE HONOURABLE KWOK CHAN, OBE

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

THE HONOURABLE SIDNEY SAMUEL GORDON

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

MINUTES

The minutes of the meeting of the Council held on 13th June 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>
Report of the Board of Management of the Hong Kong Tourist Association, 1961/62.	
Regulations governing the award of the Reserve Decoration/Volunteer Reserve Decoration to Officers of the Hong Kong Royal Naval Reserve and Hong Kong Women's Naval Reserve	A 52
Regulations respecting the Long Service and Good Conduct Medal for the Hong Kong Royal Naval Reserve and Hong Kong Women's Naval Reserve	A 53

BANK NOTES ISSUE ORDINANCE, CHAPTER 65

THE FINANCIAL SECRETARY moved the following resolution: —

Resolved, pursuant to the proviso to section 5 of the Bank Notes Issue Ordinance, Chapter 65, that this Council hereby extends the powers of all the note-issuing banks to make, issue or re-issue and circulate notes until and including the 12th day of July, 1963.

He said: Sir, the Bank Notes Issue Ordinance, Chapter 65, lays down that the powers of the note-issuing banks lapse automatically unless renewed by this Council from time to time. The present powers of these banks expire on 12th July, and it is proposed in this Resolution that they should be renewed for the maximum permissible period of one year.

THE COLONIAL SECRETARY seconded.

The question was put and agreed to.

VICTORIA PARK SWIMMING POOL (AMENDMENT)**BY-LAWS, 1962**

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

Resolved, that the Victoria Park Swimming Pool (Amendment) By-laws, 1962, made by the Urban Council on the 5th day of June, 1962, under section 42 of the Public Health and Urban Services Ordinance, 1960, be approved.

He said: Sir, the Victoria Park Swimming Pool (Amendment) By-laws, 1962, were made by the Urban Council on 5th June. As stated in the Explanatory Note, their main purpose is to adapt the Victoria Park Swimming Pool By-laws, 1957, to cover the new swimming pool which is being built at Kowloon Tsai Park, and any other public swimming pools built in the future.

Two other amendments are also being made. The first will empower the Urban Council to waive or reduce the normal fees for using the pool in certain exceptional cases. The second will permit prosecutions for offences under these by-laws to be brought in the name of the Urban Council.

THE COLONIAL SECRETARY seconded.

The question was put and agreed to.

LAUNDRIES (AMENDMENT) BY-LAWS, 1962

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

Resolved that the Laundries (Amendment) By-laws, 1962, made by the Urban Council on the 5th day of June, 1962, under section 40 of the Public Health and Urban Services Ordinance, 1960, be approved.

He said: Sir, the purpose of the Laundries (Amendment) By-laws, 1962, is, firstly, to extend control to laundry depots. Most of these establishments, which are used for receiving and despatching clothing, are independent depots having no connexion with any particular laundry. They cannot be registered as branches of a main laundry under the existing by-laws.

A second amendment relates to premises used only for ironing. These establishments have not hitherto been controlled and it is now proposed to exercise control over them for sanitary reasons.

THE COLONIAL SECRETARY seconded.

The question was put and agreed to.

OFFENSIVE TRADES (AMENDMENT) BY-LAWS, 1962

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

Resolved that the Offensive Trades (Amendment) By-laws, 1962, made by the Urban Council on the 5th day of June, 1962, under section 49 of the Public Health and Urban Services Ordinance, 1960, be approved.

He said: Sir, the Offensive Trades (Amendment) By-laws, 1962, include an amendment which seeks to remove from the category of offensive trades the storing of processed fish and sharks' fins. The main offensiveness of this trade occurs while processing is being carried out and this will continue to be classified as an offensive trade.

A second amendment relates to by-law 4(1) of the Offensive Trades By-laws. Under this by-law, certain offensive trades are permitted to operate only in approved zones. Businesses in existence at the commencement of the by-laws and outside these zones were given a period of two years in which to comply with the by-laws. The difficulty, however, is in finding suitable areas to which they can move. An area has been earmarked for this purpose, but as reclamation is involved, it will not be available for at least two years. In the circumstances, it is proposed to postpone the date by which the offensive trades in question have to move into approved zones.

THE COLONIAL SECRETARY seconded.

The question was put and agreed to.

VENTILATION (AMENDMENT) BY-LAWS, 1962

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

Resolved that the Ventilation (Amendment) By-laws, 1962, made by the Urban Council on the 5th day of June, 1962, under section 88 of the Public Health and Urban Services Ordinance, 1960, be approved.

He said: Sir, the purpose of the Ventilation (Amendment) By-laws, 1962, is to make it an offence to maintain any obstructions, fittings or structures which affect the light or ventilation of a building.

At present it is an offence to erect such an obstruction, but it is frequently difficult to discover, or to establish the identity of, the person who actually erected it. The amending by-laws will enable action to be taken in such cases against the person maintaining the obstruction.

THE COLONIAL SECRETARY seconded.

The question was put and agreed to.

DISTRICT COURT (AMENDMENT) BILL, 1962

THE ATTORNEY GENERAL moved the First reading of a Bill intituled "An Ordinance to amend the District Court Ordinance, 1953".

He said: Sir, in October 1958 the Chief Justice appointed a District Court Committee to consider and advise on the revision of the District Court Ordinance, 1953. This Committee consulted with the Bar Association and the Incorporated Law Society of Hong Kong and published the following reports: —

A First Interim Report dealing with Civil Jurisdiction of the District Court in the New Territories;

A Second Interim Report dealing with the Civil Jurisdiction generally of the District Court; and

A Third Interim Report dealing with the Criminal Jurisdiction of the District Court.

The recommendations in the Committee's First Interim Report have been implemented in the New Territories (Amendment) Ordinance, 1961, enacted on the 12th April, 1961. The recommendations in the Third Interim Report concerning the Criminal Jurisdiction of the District Court are still under consideration and it has been thought best to introduce legislation giving effect to the recommendations in the Second Interim Report as to the Civil Jurisdiction and Procedure of the District Court without waiting for agreement on amendments relating to the Court's Criminal Jurisdiction. Accordingly, two Bills are being introduced today, namely, this present Bill and a Bill described in the immediately following item of the Order of Business as "The District Court (Civil Jurisdiction and Procedure) Bill, 1962", the purpose of both Bills being to implement the recommendations contained in the Committee's Second Interim Report. This present Bill amends the District Court Ordinance, 1953 by deleting therefrom only those provisions which relate exclusively to the Court's Civil Jurisdiction and thus leaves intact in the Ordinance provisions governing matters other than the Civil Jurisdiction of the Court, such as the constitution of the Court, the Criminal Jurisdiction of the Court, the appointment of Judges and officers of the Court, and those matters which are common both to the Civil and the Criminal Jurisdiction of the Court. When agreement is reached on amendments arising out of the recommendations in the Committee's Third Interim Report as to the Court's Criminal Jurisdiction it is intended that provisions in the District Court Ordinance, 1953 relating to Criminal Jurisdiction, which remain unaffected by this present Bill, be repealed and replaced under a District Court (Criminal Jurisdiction and Procedure) Bill. Thus, when appropriate legislative action is complete, the functions of the District Court will be prescribed by—

- (a) the District Court Ordinance, 1953 amended to be solely an enabling Ordinance;
- (b) the District Court (Civil Jurisdiction and Procedure) Ordinance, 1962 and Rules made thereunder; and

- (c) a District Court (Criminal Jurisdiction and Procedure) Ordinance and Rules made thereunder.

The purposes of this present Bill are set out in detail in the statement of Objects and Reasons, but the following matters merit special mention. Clause 4 amends section 5 of the principal Ordinance to permit the substantive appointment of a solicitor to be a District Court Judge. Clause 6 repeals and replaces section 7 of the principal Ordinance and in so doing prescribes in greater detail the power of the Governor to appoint temporary judges and temporary additional judges and the powers of such judges. Clause 10 in repealing and replacing section 11 of the principal Ordinance makes more detailed provision in regard to the right of audience before a District Court. Clause 12 deletes Part III of the principal Ordinance and substitutes therefor a number of new sections which make specific provision as to the powers and procedure of the District Court in the exercise of both its Criminal and Civil Jurisdiction. These new sections are derived in the main from the English County Courts Act, 1959 and a comparative table is included in the statement of Objects and Reasons. With regard to commencement: provision is made in clause 1 for the Bill to be brought into operation on a day to be appointed by the Governor by proclamation in the *Gazette*, which will enable those concerned with the administration and application of this legislation to acquaint themselves with the changes effected thereby, during the period between its enactment and its coming into operation.

THE COLONIAL SECRETARY seconded.

The question was put and agreed to.

The Bill was read a First time.

Objects and Reasons

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

The principal object of this Bill is to repeal, by clauses 12 and 19, those parts of the District Court Ordinance, 1953 (the principal Ordinance) which it is proposed to replace by the District Court (Civil Jurisdiction and Procedure) Bill, 1962, namely sections 14 to 23 and the First Schedule, dealing with the civil jurisdiction and procedure of the District Court, with consequential amendment of section 3 by clause 3. It is proposed that by clauses 12 and 19 that part of section 23 and the Fourth Schedule of the principal Ordinance, the effect of which is spent, should also be repealed.

2. The opportunity has been taken to make a number of other amendments to the principal Ordinance. By clause 2, a number of

definitions are inserted in section 2 of the principal Ordinance and consequential amendments to other sections of the principal Ordinance are made by clauses 5, 7, 8, 9, 13, 14, 15, 16, 17 and 18. By clause 4, section 5 is additionally amended to enable a solicitor, equally with a barrister, to be appointed as a District Judge. By clause 6, section 7 of the principal Ordinance is repealed by two new sections, 7 and 7A, prescribing in greater detail the power of the Governor to appoint temporary judges and temporary additional judges and the powers of such judges. By clause 10, section 11 of the principal Ordinance is repealed and replaced by a new section making amended provision for the right of audience before the Court. By clause 11, section 13, the effect of which is spent, is repealed and a new section is added, in substitution for section 22, re-establishing the District Court Rules Committee. By clause 12, new sections 14, 15, 16, 17, 18, 19, 20, 20A, 21, 21A, 22, 22A, 23 and 23A are added, making specific provision for matters concerning the powers and procedure of the Court in the exercise of both its criminal and its civil jurisdiction. All except two of these sections are derived from sections of the English County Courts Act, 1959, namely—

<i>Proposed new section.</i>	<i>County Courts Act, 1959.</i>	<i>Purpose.</i>
14	86	Evidence of prisoners.
15	84	Penalty for neglect of witness summons.
16	137(1) & 158	Committal for contempt.
18	178	Enforcement of liability for fees.
19	179	Enforcement of fines.
20	158	Enforcement of orders and warrants for committal.
20A	180(1)	Registrar to take charge of fees, etc.
21A	188	Falsely pretending to act under authority of court.
22	189	Falsely representing documents to have been issued from the court.
22A	127	Rescuing goods.
23	30	Assaulting, etc., offences.
23A	30	Revocation of committal order.

3. The proposed new section 17 is derived from section 97(b) of the Magistrates Ordinance, Chapter 227, and the proposed new section 21 from section 21(4) of the Supreme Court Ordinance, Chapter 4.

**DISTRICT COURT (CIVIL JURISDICTION AND PROCEDURE)
BILL, 1962**

THE ATTORNEY GENERAL moved the First reading of a Bill intituled "An Ordinance to make amended provision for the Civil Jurisdiction and Procedure of the District Court".

He said: Sir, my early remarks when introducing the immediately preceding District Court (Amendment) Bill, 1962, refer to and explain the background to this present Bill, which seeks to implement further the recommendations in the District Court Committee's Second Interim Report. Accordingly, this Bill makes detailed provision for the Civil Jurisdiction and Procedure of the District Court in substitution for those provisions relating to the Court's Civil Jurisdiction which will be repealed on the enactment and commencement of the District Court (Amendment) Bill, 1962. The provisions of this Bill, derived mainly from the County Courts Act, 1959, the District Court Ordinance, 1953 and the Supreme Court (Summary Jurisdiction) Ordinance, Cap. 5, are adequately explained in the statement of Objects and Reasons which includes a comparative table designating the source of the clauses prescribed therein.

I do however draw attention to clause 1 of the Bill, the effect of which is that this Bill, if enacted, will come into operation on the same day as that appointed by the Governor for the coming into operation of the District Court (Amendment) Bill, 1962. I should also mention that District Court Civil Procedure (General) Rules, District Court Civil Procedure (Costs) Rules and District Court Civil Procedure (Fees) Rules have been prepared and approved by the District Court Rules Committee. After the enactment of this Bill and the District Court (Amendment) Bill, 1962 but prior to their coming into operation these 3 sets of Rules will be enacted under clause 48 of this Bill and by virtue of section 18 of the Interpretation Ordinance.

Finally, I am able to say that this Bill and the District Court (Amendment) Bill, 1962 which has just had its First Reading, have been approved by the Chief Justice, and that both the Bar Association and the Law Society of Hong Kong have been consulted.

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 detailed provision for the civil jurisdiction and procedure of the District Court, in substitution

for the provisions contained in the corresponding sections of the District Court Ordinance, 1953 and the Supreme Court (Summary Jurisdiction) Ordinance, Chapter 5, which it is proposed to repeal by the District Court (Amendment) Bill, 1962 and the former jurisdiction and procedure of the Supreme Court in its summary jurisdiction which was conferred on the District Court by section 14 and the First Schedule of the District Court Ordinance, 1953. The sections of the English County Courts Act, 1959, the District Court Ordinance, 1953 and the Supreme Court (Summary Jurisdiction) Ordinance, Chapter 5, from which the various clauses in this Bill are derived are shown in the Comparative Table annexed hereto.

2. The Bill is divided into six parts, namely—

PART I *Citation and Interpretation.*

PART II *Jurisdiction.* This Part seeks to establish the civil jurisdiction presently conferred on the District Court by the enactments mentioned above, without any change of substance.

PART III *Procedure.* This Part seeks to make detailed provisions for the procedure of the District Court in the exercise of its civil jurisdiction. In addition to the present procedure of the District Court amended provision is made for summary judgment under certain circumstances.

PART IV *Appeals.* This Part seeks to make detailed provision for appeals to the Full Court in substitution for the provisions of sections 32, 33 and 34 of the Supreme Court (Summary Jurisdiction) Ordinance, Chapter 5.

PART V *General.* This Part seeks to provide for various matters such as protection of judges and the powers of a court bailiff. The District Court Rules Committee established under the District Court Ordinance, 1953, is empowered, by clause 48, to make rules relating to the civil jurisdiction and procedure of the District Court.

PART VI *Repeal Transitional Provisions, etc.* This Part seeks to repeal the unrepealed parts of the Supreme Court (Summary Jurisdiction) Ordinance, Chapter 5 and to end the application to the District Court by section 14 and the First Schedule to the District Court Ordinance, 1953 of the former jurisdiction and procedure of the Supreme Court in its summary jurisdiction. By clause 50, the three year limitation created by section 6 of the Supreme Court (Summary Jurisdiction) Ordinance, Chapter 5 is specifically repealed.

PENICILLIN (AMENDMENT) BILL, 1962

DR D. J. M. MACKENZIE moved the First reading of a Bill intituled "An Ordinance to amend the Penicillin Ordinance, Chapter 137."

He said: Sir, antibiotics generally are controlled by the Penicillin Ordinance and are subject to issue on prescription only by medical practitioners, dentists and veterinary surgeons. There is an increasing use of antibiotics by farmers in the New Territories for the treatment of diseases amongst livestock and, at the present time, it is necessary for the farmers to obtain antibiotics on prescription from a veterinary surgeon as and when they are required. The shortage of qualified veterinary surgeons in the Colony has meant that many farmers have great difficulty in obtaining antibiotics legally and there have been a number of requests that consideration should be given to amending the law so that farmers can purchase stocks of antibiotics for their own use under a permit to be issued by the Director of Agriculture and Forestry. This permit would entitle *bona fide* farmers to hold and administer antibiotics to their own livestock.

After a full examination of the implications, this Bill has been drafted to meet the situation and, if it becomes law, it will entitle farmers to hold and administer antibiotics to their own livestock, subject to the advice and supervision of the staff of the Department of Agriculture and Forestry. To avoid the possible misuse or resale of antibiotics for other purposes, it will be necessary to ensure that these supplies are clearly marked "For Veterinary Purposes Only". As an additional safeguard, farmers with permits to hold and administer antibiotics will be subject to inspection of the supplies held and of their use by the staff of the Department of Agriculture and Forestry. Fresh permits will only be issued on satisfactory evidence of the presence of disease requiring treatment with antibiotics and an understanding of their correct use.

This opportunity is being taken to amend Section 4(d) of the Ordinance. At the present time the law provides only for the examination and inspection of documents which concern transactions in antibiotics. There is no power, however, for Authorized Inspectors to seize and detain such documents. The new paragraph (e) in Clause 7 of the Bill will give power to the Inspectors to seize and detain these documents and records which may be required for presentation in the Courts as evidence of an offence under the Ordinance.

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 increasing use of antibiotics for veterinary purposes coupled with the shortage of qualified veterinary surgeons has created difficulties for farmers in the Colony: the main object of this Bill is to enable farmers to obtain, possess, and administer without keeping written records, antibiotics for veterinary purposes on a permit issued by the Director of Agriculture and Forestry.

2. Opportunity is also being taken to give authorized inspectors power to seize documents providing evidence of the commission of an offence against this Ordinance, similar to the power contained in section 25 of the Pharmacy and Poisons Ordinance, Chapter 138.

DENTISTS REGISTRATION (AMENDMENT) BILL, 1962

DR D. J. M. MACKENZIE moved the First reading of a Bill intituled "An Ordinance to amend the Dentists Registration Ordinance, 1959."

He said: Sir, the Bill amends Section 29 of the Ordinance by specifying more clearly the power to make regulations for the charging of fees.

The second Schedule to the Ordinance provides only for fees in respect of applications for first admission and for re-admission or restoration to the Register of Dentists. This amendment now gives power to make regulations for the charging of fees for the examination of candidates entering for the Board's examinations, for the issue of Certificates of Registration and for fees in connexion with disciplinary proceedings. This Bill has the support of the Dental Council.

THE COLONIAL SECRETARY seconded.

The question was put and agreed to.

Objects and Reasons

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

This Bill seeks to amend the Dentists Registration Ordinance, 1959, so as to clarify the extent of the power to make regulations for the charging of fees.

**THE COUNCIL OF ST. PAUL'S CO-EDUCATIONAL COLLEGE
INCORPORATION BILL, 1962**

MR KWOK CHAN moved the Second reading of a Bill intituled "An Ordinance to provide for the incorporation of The Council of St. Paul's Co-educational College."

MR FUNG PING-FAN 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 11 were agreed to.

Council then resumed.

MR KWOK CHAN reported that The Council of St. Paul's Co-educational College Incorporation Bill, 1962, had passed through Committee without amendment and moved the Third reading.

MR FUNG PING-FAN seconded.

The question was put and agreed to.

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

HIS EXCELLENCY THE GOVERNOR: —Gentlemen, this is the last occasion on which we shall have with us the Honourable Kwok Chan. He has served on Legislative Council for more than nine years now and during this period we have drawn great benefit from his wisdom and experience and I am grateful to him for his devoted loyalty to Hong Kong's interest. We shall miss him on this Council but on behalf of you all I extend to you, Mr Kwok Chan, and to your wife and family, our very best wishes and at the same time I would like to add to these my thanks for your devoted service.

MR KWOK CHAN: —Thank you, Sir.

ADJOURNMENT

HIS EXCELLENCY THE GOVERNOR: —Well, gentlemen, that concludes the business for today. 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.