

OFFICIAL REPORT OF PROCEEDINGS

Sitting of 4th December 1968

MR PRESIDENT in the Chair

PRESENT

HIS EXCELLENCY THE ACTING GOVERNOR (*PRESIDENT*)
MR MICHAEL DAVID IRVING GASS, CMG
THE HONOURABLE THE COLONIAL SECRETARY (*Acting*)
MR GEOFFREY CADZOW HAMILTON
THE HONOURABLE THE ATTORNEY GENERAL
MR DENYS TUDOR EMIL ROBERTS, QBE, QC
THE HONOURABLE THE SECRETARY FOR CHINESE AFFAIRS
MR DAVID RONALD HOLMES, CBE, MC, ED
THE HONOURABLE THE FINANCIAL SECRETARY
SIR JOHN COWPERTHWAIT, KBE, CMG
DR THE HONOURABLE TBNG PIN-HUI, CMG, OBE
DIRECTOR OF MEDICAL AND HEALTH SERVICES
THE HONOURABLE ALEC MICHAEL JOHN WRIGHT, CMG
DIRECTOR OF PUBLIC WORKS
THE HONOURABLE WILLIAM DAVID GREGG, CBE
DIRECTOR OF EDUCATION
THE HONOURABLE ROBERT MARSHALL HETHERINGTON, DFC
COMMISSIONER OF LABOUR
THE HONOURABLE TERENCE DARE SORBY
DIRECTOR OF COMMERCE AND INDUSTRY
THE HONOURABLE KENNETH STRATHMORE KINGHORN
DISTRICT COMMISSIONER, NEW TERRITORIES
THE HONOURABLE DAVID RICHARD WATSON ALEXANDER, MBE
DIRECTOR OF URBAN SERVICES
THE HONOURABLE GEORGE TIPPETT ROWE
DIRECTOR OF SOCIAL WELFARE
THE HONOURABLE KAN YUET-KEUNG, CBE
THE HONOURABLE FUNG HON-CHU, OBE
THE HONOURABLE TSE YU-CHUEN, OBE
THE HONOURABLE KENNETH ALBERT WATSON, OBE
THE HONOURABLE WOO PAK-CHUEN, OBE
THE HONOURABLE SZETO WAI, OBE
THE HONOURABLE WILFRED WONG SIEN-BING, OBE
THE HONOURABLE ELLEN LI SHU-PUI, OBE
THE HONOURABLE WILSON WANG TZE-SAM
THE HONOURABLE HERBERT JOHN CHARLES BROWNE
THE HONOURABLE MICHAEL ALEXANDER ROBERT HERRIES, OBE, MC
THE HONOURABLE LEE QUO-WEI
THE HONOURABLE OSWALD VICTOR CHEUNG, QC

IN ATTENDANCE

THE DEPUTY CLERK OF COUNCILS
MR DONALD BARTON

PAPERS

THE ACTING COLONIAL SECRETARY:—By Command of Your Excellency I lay upon the table one paper, copies of which are already in the hands of honourable Members.

Subject

Sessional Paper 1968:—

No 39—Annual Report by the Director of Fire Services for the year 1967-68.

DR P. H. TENG:—By Command of Your Excellency I lay upon the table one paper, copies of which are already in the hands of honourable Members.

Subject

Sessional Paper 1968:—

No 40—Annual Report by the Director of Medical and Health Services for the year 1967-68.

THE ATTORNEY GENERAL:—Sir, I lay upon the table three items of subsidiary legislation which have been published in the *Gazette* since the last meeting of this Council.

Subject

LN No

Subsidiary Legislation: —

Telecommunication Ordinance.

Telecommunication (Essential Services Corps Fuel

Oil Unit) (Exemption) Order 1968 116

Importation (Coffee) Regulations.

Importation (Coffee) Regulations (Amendment of

First Schedule) (No 3) Order 1968 117

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Commissions of Inquiry Ordinance 1968

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QUESTIONS

Supervision of Boilers and Steam Receivers

1. MR WILFRED WONG asked the following question:—

As it will become a statutory requirement from 1st January 1969 for every boiler or steam receiver to be operated under the supervision of a competent person, is Government satisfied that there are sufficient competent persons available and, if not, what does it propose to do?

MR R. M. HETHERINGTON:—Sir, I am grateful to my honourable Friend, Mr WONG, for asking this question in two parts because the answer to the first part is a simple straightforward no. The second part is a little more difficult to deal with and, to give an adequate reply, I must explain in some detail the circumstances which led up to the statutory requirement that every boiler or steam receiver must be operated under the supervision of a competent person with effect from 1st January 1969.

The Boilers and Pressure Receivers Ordinance was enacted in 1962. It was such a comprehensive piece of technical legislation designed to provide for the proper control and safe operation of steam boilers, and pressure receivers that it was found necessary to bring the provisions in to force by stages. By proclamation, the Ordinance was generally brought into force on 1st March 1963 but certain sections dealing with the examination of competent persons, requirements regarding competent persons, and pressure vessels were excluded for the time being.

Following the appointment of the Commissioner of Labour as Registrar of Boilers and Pressure Receivers under the ordinance, a new section, the Pressure Equipment Section, was established in the Labour Department to administer its provisions. A senior professional officer was subsequently seconded from the Marine Department to be in charge of this new section. Considerable progress was made in bringing boilers and pressure receivers under effective control and, by 1967, it became possible to contemplate bringing some of the outstanding sections into operation. The Boilers and Pressure Receivers (Amendment) Regulations 1967, which came in to force on 3rd October 1967, prescribed fees for the examination of competent persons and for the form of a certificate of competency. Three days later, a guide and syllabus for persons requiring a certificate of competency, written in both Chinese and English, was put on sale to the public at a price of 50 cents a copy.

At that time, the number of boilers and steam receivers registered with the Labour Department was 2,133. It was estimated that, if candidates came forward fairly steadily to take the examination for certificates of competency, it would be possible to deal with them in the next twelve or so months with the result that there would be an adequate number of qualified persons by the end of 1968. Consequently, it was decided to bring in to effect on 1st January 1969 the statutory requirement in subsection 7 of section 49 of the ordinance which is the subject of Mr WONG'S question.

On 22nd of January this year, I sent a letter, in Chinese and English, to every person then registered as the owner of a boiler or steam

[MR HETHERINGTON] **Questions**

receiver announcing the intention of the Governor to bring subsection 7 of section 49 of the ordinance in to effect as from 1st January 1969. I explained that the purpose of the letter was to give adequate notice of this intention and I appealed to each owner to make arrangements as soon as possible for operators to obtain certificates of competency. Every owner who registered after 22nd January was also given a similar letter. Subsequently, a proclamation by the Governor was published on 19th July and I issued a press release again reminding owners of the necessity to have competent operators to supervise boilers and steam receivers by 1st January 1969 and again appealing to them to arrange for the necessary examinations.

I regret to say that my exhortations were not generally heeded. In December 1967 only two candidates had come forward. In the following month there were four. In the next six months 44, 87, 111, 133, 155, and 163. Since August the response has improved. On 15th November, 1,174 examinations had been held and there was a waiting list of 393 candidates which could not be dealt with by the end of December. However, there is a much more serious feature which was not expected and is disturbing. Out of the 1,174 persons examined only 672 qualified. The remaining 502 failed. The high failure rate of nearly 43% complicates the problem by adding re-examinations to the back-log of initial examinations. It is also a source of worry that the operation of this type of equipment is being supervised by large numbers of persons who are not technically competent. I am satisfied that the standard set for passing the examination is fair and reasonable and that it is the minimum required to ensure that the equipment is properly and safely operated. Furthermore, there is an additional complication that since last year the numbers of boilers and steam receivers registered with the department has risen to 3,140.

The position is consequently most unsatisfactory. I am faced with a serious dilemma next year. There is no prospect of sufficient competent persons being available by 1st January 1969. I have already taken steps to seek an increase in the number of examiners. I propose to write again to all registered owners who have not taken steps to arrange for their boiler operators to be examined to advise them of requirements of the ordinance. I intend to follow this up by initiating action which may lead to the prosecution of those owners who continue wilfully to ignore my advice and who make no effort to arrange for examinations of operators. I shall review the position in May of next year when I have studied the annual returns from owners of competent persons in charge of their equipment. These returns, which are being made in 1969 for the first time, are now required by law not later than 30th April of each year.

I am sorry that I have to give such a depressing account of the situation. I consider that many owners of equipment which can be dangerous have not in the past given their full co-operation to the Labour Department. I hope that, as a result of this timely question from Mr WONG, I can expect, in the future, a more satisfactory response to the efforts of my officers to ensure the safe operation of boilers and pressure receivers.

MR WILFRED WONG:—May I ask a supplementary question, Sir, will the Commissioner of Labour confirm that there will be a period of grace for the factory owners who have been unable to comply with this complicated statutory requirement in having competent persons by the end of this year. Will the Commissioner of Labour consider a period of grace and if so, how long?

MR R. M. HETHERINGTON:—Sir, I did in fact say in my reply to the question that I propose to write to registered owners and to advise them that it is necessary to arrange for examinations for their operators. Those people who take steps to arrange or seek examinations for their operators but whose operators cannot be examined because of the inability of the department to provide examiners, will receive consideration and sympathy but those who refuse to make any arrangements for their operators will, I am afraid, be dealt with in accordance with the law.

Signs over roads

2. MR SZETO WAI asked the following question:—

Some years ago I brought to the attention of this Council the hazards and unsightliness created by the projection of large advertisements and neon signs from buildings for considerable distances over roadways and was informed by the then Honourable Director of Urban Services that the Urban Council Advertisements By-Laws were in the course of being revised.

Will Government inform this Council what progress has since been made on the revision of these by-laws, and what are the regulations now in force governing the installation of these signs with particular reference to their permissible distance of projection over roadways?

MR D. R. W. ALEXANDER: —Sir, the latest position on this matter is that the *ad hoc* sub-committee of the Recreation and Amenities Select Committee of the Urban Council set up to produce drafting instructions

[MR ALEXANDBR] **Questions**

for a revised set of Advertisement By-laws, placed its recommendations on 15th November before its main Committee, which requested that interested Government departments be consulted on the recommendations. The necessary papers were forwarded to these departments on 27th November. If all goes well, therefore, drafting instructions for revised By-laws might be finalized shortly. Thereafter, it will still be necessary to consult the main advertising agencies and, eventually, to seek Secretariat approval for Crown Counsel to draft.

It is unfortunate that the process of revision has taken so long. But this is a complex subject and a great deal of discussion has been necessary with interested parties.

Existing legislation is to be found at Part IX of the Public Health and Urban Services Ordinance (Cap 132) which provides

firstly, for the making of regulations to control advertisements, and
secondly, for the action which may be taken by the authority concerned when the Building Authority or the Director of Fire Services certifies that an advertisement sign is dangerous or a fire hazard.

In addition, the Advertisement By-laws provide, *inter alia*, for the licensing by the Urban Council of sky-signs (i.e. a sign projecting above a building) and also for the control by the Director of Fire Services of neon light signs. By-law 11 (dealing with this latter kind of sign) prohibits persons from erecting a sign which obstructs or renders less effective any fire escape or other means of escape in, on or from any building, or which interferes with traffic.

However, the By-laws do not specify either the extent to which advertising signs may project across roads or the minimum height below which they must not be erected above roads. But these points will be covered in the revised By-laws.

MR Y. K. KAN: —Sir, may I ask a supplementary question. I believe a lot of these signs are in fact encroachments upon Crown Land; if so, I wonder whether any thought has ever been given as regards making a charge.

MR D. R. W. ALEXANDER:—This will be covered also in the By-laws, Sir. In fact, at the moment, we have various applications for the erection of sky signs or other advertisements and we refer these initially to the Director of Fire Services and the Police. If we do not get plans of these signs we ask for them and, having received them and agreed that the signs may be erected, we advise the company or the person

making the application that they still require to clear those plans with the Director of Fire Services, Building Authority, Crown Lands and I think that is all.

MR Y. K. KAN:—Sir, I am not so much referring to the sky signs. I am referring to a lot of the signs which stretch right across a public road, just overhanging a public road.

MR D. R. W. ALEXANDER:—The new By-laws will in fact lay down that projections across these roads should be not more than 12 feet above the carriageway from the external wall of the building facing the carriageway, and we will also lay down, of course, the minimum height required for the erection of these signs. In normal roads it will be 19 feet, and where trams are running, 23 feet.

MR Y. K. KAN:—Sir, I am sorry, but would it not be correct to say that they are in fact encroachments on Crown Land?

MR D. R. W. ALEXANDER:—This is so, Sir.

MR SZETO WAI:—Sir, may I ask a supplementary question. Can the Honourable Director tell us whether these signs—the large ones now that have been erected—have they been subject to checking by the Building Authority for stability?

MR D. R. W. ALEXANDER:—As far as I am aware, Sir, if the application has been made to the Urban Council for the erection of any such sign and its erection has been approved, we have left it to the company or the person concerned to clear their plans and their sign with the Building Authority.

MR SZETO WAI:—Thank you, Sir.

Higher Education

3. MR WILSON WANG asked the following question:—

In view of the recent announcement by the University Grant Committee regarding control of proposed student numbers at our two Universities, can the Government say whether there will be any increased opportunities of higher education for those many young people who now need, in the interests of Hong Kong's development, a wide range of specialized courses at post-secondary level; and if so, how soon may a public statement be expected?

Questions

MR W. D. GREGG:—Sir, as my honourable Friend is aware, the new Morrison Hill Technical Institute will be completed in early 1970. When it is completed it will absorb most of the lower level courses at the Technical College, the College will then be able to concentrate on higher level courses. At the same time, it is hoped that the number of courses at this level at the College will be increased so that there will then be increased opportunities, as my honourable Friend put it in his question, for higher education for many young people who need a wide range of specialized courses at post-secondary level.

What these courses will include is a matter which is still to be decided, and in this connection I should like to mention the valuable work which has been, and is being, done by the Industrial Training Advisory Committee and its associated Sub-Committees. Several reports by the Committee on the needs of particular Hong Kong industries have been completed and action is being or will be taken on them in the form of the establishment of new courses at the Technical College, although there are often difficulties in the recruitment of teachers for these specialist courses.

MR H. J. C. BROWNE:—Sir, may I ask a supplementary question. I would like to ask the Director of Education what plans there are for some form of polytechnic type of education—something, perhaps, above the Technical College level; and whether Government do appreciate the urgency of doing something about this sector of education.

MR W. D. GREGG:—As will have been apparent in my reply to the question this afternoon I have dealt entirely with plans which are in hand for execution in the immediate future. Nevertheless, in all sectors of education and training, Government has in mind consideration of what is to happen after this, not only at the lower levels but also at the upper levels. A number of suggestions in this direction, I know, are being considered by Government but I think it is true to say that, at this stage, Government is not in a position to publish what its intentions are in this direction.

REGISTERED TRUSTEES INCORPORATION (AMENDMENT) (NO 2) BILL 1968

Bill read the first time and ordered to be set down for second reading.

REGISTERED TRUSTEES INCORPORATION (AMENDMENT) (NO 2) BILL 1968

THE ATTORNEY GENERAL moved the second reading of:—“A bill to amend further the Registered Trustees Incorporation (Amendment) (No 2) Bill 1968.”

He said:—Sir, under section 4 of the principal Ordinance the Governor, when an application is made for the grant of a certificate of incorporation to trustees, is obliged to consider whether or not the grant would be in the public interest.

This requirement does not appear in the United Kingdom legislation on which the principal Ordinance was based, nor in equivalent legislation in a number of other Commonwealth countries.

It has been objected that this somewhat imprecise condition might result in incorporation being refused to bodies of persons formed for objects which, though perfectly lawful, were not popular with the government and thus give the Executive an undesirable form of control over them. Furthermore, experience has shown that the need to take into account the public interest slows the process of dealing with applications and has made it necessary, in a few cases, to refuse a certificate of incorporation, for example, where a body of persons has a history of internal dissension or has objects which, though not illegal, are not of a kind to which in the public interest any encouragement should be given.

It is therefore proposed to remove, by the amendment to section 4 which is set out in clause 2 of the bill, the need to have regard to the public interest. The Governor will of course retain a discretion in the issue of certificates, though a body of persons could in future expect to be incorporated unless its objects were contrary to law or morality.

Question proposed.

Question put and agreed to.

Bill read the second time.

Bill committed to a committee of the whole Council pursuant to Standing Order No 43(1).

Explanatory Memorandum

Under section 4 of the principal Ordinance the Governor is required to have regard to the public interest when considering whether to grant a certificate of incorporation to trustees of a body of person's or to trustees of a charity. This requirement has in some instances proved to be an impediment to the simple method of incorporation intended by the principal Ordinance and clause 2 therefore seeks to delete the words which impose this requirement.

EXCHANGE FUND (AMENDMENT) (NO 2) BILL 1968**Resumption of debate on second reading (20th November 1968)**

Question again proposed.

THE FINANCIAL SECRETARY:—Sir, before the question is put I should like to explain certain amendments I propose to put forward at the Committee stage, if I am permitted to do so at short notice.

Clause 2, of the bill as it stands, proposes that the borrowing limits of the Exchange Fund should be raised from \$1,500 million to \$2,000 million. More recent information now suggests that the sterling holdings of the banks have increased more rapidly in recent months than earlier estimated and I would therefore propose now that the limit be raised to \$3,000 million. This should give a margin over present requirements. The consent of the Secretary of State has been received.

Clause 2, as it stands, also proposes that future changes in borrowing limits should be made by resolution of this Council. I said when introducing the bill that legal complications had arisen in this connexion. It has not yet been possible to resolve them and, as it is desirable to proceed as soon as possible with the rest of the bill, I propose to move in Committee that this provision should be deleted.

Question put and agreed to.

Bill read the second time.

Bill committed to a committee of the whole Council pursuant to Standing Order No 43.

Committee stage

Council went into committee to consider the bill clause by clause.

Clause 1 was agreed to.

Clause 2.

THE FINANCIAL SECRETARY:—Sir. I seek your leave, Mr Chairman, in accordance with Standing Order No 45(2), to move without notice the amendment tabled this afternoon. I regret that it was not possible to give notice of this amendment, for the approval of the Secretary of State for the further increase in borrowing limits was received only this morning. I was however able to give Members of Finance Committee prior notice of our intentions at its meeting last week.

Leave given accordingly.

THE FINANCIAL SECRETARY:—I rise to move the amendments standing in my name. I have already explained its purpose.

Proposed Amendments.

Clause

- 2 (a) Delete “two” and substitute “three”;
(b) Delete “, or such other amount as the Legislative Council may by resolution from time to time determine,”.

Clause 2, as amended, was agreed to.

THE FINANCIAL SECRETARY reported that the bill before Council had passed through committee with certain amendments.

HIS EXCELLENCY THE PRESIDENT:—The bill has now been reported from committee and the Council is deemed to have ordered it to be set down for third reading.

Third reading

THE FINANCIAL SECRETARY moved the third reading of the bill.

Question put and agreed to.

Bill read the third time and passed.

TRUSTEE (AMENDMENT) BILL 1968

Committee stage

Council went into committee to consider the bill clause by clause.

Clause 1 was agreed to.

Clause 2.

MR Y. K. KAN:—Sir, I wish to comment on the second part of the second schedule of this bill and deal particularly with 18 and 19; that is deposits in a bank and shares issued by companies incorporated in Hong Kong.

I wish to point out a discrepancy in connexion with these two items. Under 18, deposits in a bank licensed under the Banking Ordinance would be a permitted investment without sanction of the

[MR KAN] Trustee (Amendment) Bill—committee stage

courts. I think that as we are aware, all banks licensed under the Banking Ordinance are required to have a minimum capital of ten million dollars; of these as yet I think I am correct in saying that there are still some banks which have not attained that limit.

Under section 19, in the case of shares issued by companies, the companies which are incorporated in Hong Kong must have a capital of not less than thirty million dollars. We have, therefore, this situation where a bank whose shares, because they do not attain the required amount of thirty million dollars, would not fulfil 19 in the sense that they would not be an investment permitted under this section; whereas in the same bank you can, literally, deposit millions of dollars and that is permitted.

I am aware that it will be argued that, in the case of deposits that the bank, in fact the bank's operations, are to some extent controlled by the provisions of the Banking Ordinance and therefore the depositor is protected. That I think is a perfectly valid argument when one compares deposits in a bank with investments in a company other than a bank but, when it is to be applied to the same bank, I respectfully submit there is undoubtedly a discrepancy.

I do not today propose any amendment to it. I wish to put my view purely on record for consideration by my honourable Friend the Attorney General whether an amendment is necessary at the moment.

THE ATTORNEY GENERAL:—I am much obliged to my honourable Friend for raising this particular problem. I think that it will be found on closer examination that the considerations are really rather different in relation to the depositor as compared with the shareholder. To a certain extent he answered his own doubts by saying that, under the Banking Ordinance, there was a special form of protection which applied to deposits. Furthermore, all the assets of a company are available to pay back depositors in advance of the ordinary shareholders of the company. Generally speaking, of course, the placing trust funds on deposit is intended to be a short term investment and the returns which are likely to be available to trustees from short term deposits in a bank would be rather less than they would be on shareholdings.

However, this is certainly a matter which we will carefully examine.

Clauses 2 to 6 were agreed to.

Clause 7.

THE ATTORNEY GENERAL:—Sir, I move that clause 7 be amended in paragraph 17 of the new second schedule by deleting the words “for an unexpired term of” and substituting “of which the unexpired term at the time of investment is”.

Paragraph 17 of the schedule authorizes investment by trustees in first legal mortgages, a property held under Crown lease.

The object of the amendment proposed is to make it clear that the lease must have at least 50 years to run at the date when the lease is made.

Proposed Amendment.

Clause

7 That Part II of the new Second Schedule be amended by deleting from paragraph 17 the words “for an unexpired term of” and substituting the following—

“of which the unexpired term at the time of investment is”.

Clause 7, as amended, was agreed to.

Clause 8 was agreed to.

THE ATTORNEY GENERAL reported that the bill before Council had passed through committee with one amendment.

HIS EXCELLENCY THE PRESIDENT:—The bill has now been reported from committee and the Council is deemed to have ordered it to be set down for third reading.

Third reading

THE ATTORNEY GENERAL moved the third reading of the bill.

Question put and agreed to.

Bill read the third time and passed.

ADJOURNMENT

Motion made, and question proposed. That this Council do now adjourn—THE ACTING COLONIAL SECRETARY.

Question put and agreed to.

NEXT MEETING

HIS EXCELLENCY THE PRESIDENT:—Council will accordingly adjourn. The next meeting will be held on 18th December.

Adjourned accordingly at Three o'clock.