

*24th August, 1950.*

**PRESENT: —**

HIS EXCELLENCY THE OFFICER ADMINISTERING THE GOVERNMENT (MR. JOHN FEARNS NICOLL, C.M.G.).

THE COLONIAL SECRETARY (HON. R. R. TODD, *Acting*).

THE ATTORNEY GENERAL (HON. J. B. GRIFFIN, K.C.).

THE SECRETARY FOR CHINESE AFFAIRS (HON. J. C. McDouALL, *Acting*).

THE FINANCIAL SECRETARY (HON. C. G. S. FOLLOWS, C.M.G.).

DR. HON. I. NEWTON (Director of Medical and Health Services).

DR. HON. J. P. FEHILY, O.B.E. (Chairman, Urban Council).

HON. A. P. WEIR (Acting Director of Public Works).

HON. CHAU TSUN NIN, C.B.E.

DR. HON. CHAU SIK NIN, C.B.E.

HON. M. M. WATSON.

HON. P. S. CASSIDY.

HON. LO MAN WAI, O.B.E.

HON. LAWRENCE KADOORIE.

MR. G. C. HAMILTON (Clerk of Councils).

**ABSENT: —**

HIS EXCELLENCY THE GENERAL OFFICER COMMANDING IN CHIEF (LIEUTENANT-GENERAL SIR E. G. R. MANSERGH, K.B.E., C.B., M.C.).

HON. LEO D'ALMADA E CASTRO, K.C.

**MINUTES.**

The Minutes of the meeting of the Council held on 16<sup>th</sup> August, 1950, were confirmed.

**PAPERS.**

THE COLONIAL SECRETARY, by command of His Excellency the Officer Administering the Government, laid upon the table the following papers: —

Sessional Papers, 1950: —

No. 9. — Report of the Committee on Cross-Harbour Ferry Services.

The Nurses Registration (Amendment) Regulations, 1950. (G.N. No. A. 179 of 1950).

The Buildings Ord., 1935, — S. 121 to apply to the New Territories. (G.N. No. A. 180 of 1950).

The Emergency Regulations (Commencement) (No. 3) Order, 1950. (G.N. No. A. 182 of 1950).

The Emergency (Principal) Regulations, 1949, — Appointment of Competent Authority. (G.N. No. A. 183 of 1950).

The Registration of Persons Order (No. 5), 1950. (G.N. No. A. 184 of 1950).

He said: Sir, included in these Papers is the Report of the Committee which considered the Gross Harbour Ferry Services, a report which merits special comment on this occasion.

The problems presented by the need for additional facilities for cross harbour transport have had Government's close attention for some time. In April, the Governor approved short term measures for reducing the congestion on the Star Ferry. This included a new service between Wilmer Street and Shamshuipo, the arrangements for which are now complete. It is expected that the service will commence on 1st September.

In the middle of June, Your Excellency appointed a small inter-departmental committee with the following terms of reference: "To draw up a long term plan for cross harbour ferry services, having regard for:

- (a) the need to disperse land passenger traffic over as wide an area as possible on both sides of the Harbour;
- (b) the short term plan for additional cross-harbour routes which has already been approved;

- (c) existing ferry services and their known plans for development;
- (d) the requirements and convenience of all sections of the community.”

It was Your Excellency's intention that this committee should examine the various problems involved and present a scheme which would provide a basis for unofficial comment and discussion. The Report of that committee is now in the hands of Honourable Members and it is Your Excellency's intention to appoint in the near future a predominantly unofficial committee, to whom members of the public will be invited to make their representations. This committee will be asked to advise on the steps which should now be taken to implement the recommendations contained in the earlier report.

As regards the Report itself, I have only one comment at this stage. Government is of the opinion that the present financial situation will not permit the implementation of the recommendation regarding the additional vehicular ferry at the present time. This recommendation, however, will be kept in mind for the future and the inter-departmental committee to which I have referred will be asked to advise upon or to vary any of the other recommendations contained in the Report now in the hands of Honourable Members.

### **MOTIONS.**

#### **JURY (AMENDMENT) BILL, 1950.**

THE ATTORNEY GENERAL moved the First reading of a Bill intituled "An Ordinance to amend the Jury Ordinance, 1887". He said: Sir, the Jury Ordinance of 1887, the principal Ordinance, was amended by proclamation during the period of the British Military Administration. It was amended by the addition of certain sections urgently necessary at that time, to assist the reconstruction of the Jury List and the formation of Jury Panels. It is desirable to repeal these somewhat transitional provisions, but at the same time it is necessary to afford machinery otherwise lacking to enable the Registrar of the Supreme Court to obtain to the greatest possible extent the names and particulars of all persons in the Colony liable and qualified to serve as jurors. The desirability is manifest, Sir, since only by having as full a list as possible can it be ensured that the duty of jury service is equitably shared.

Clause 4 of the Bill before Council by repeal and replacement of section 6 proposes amendment of the law to effect the adjustment and the objective which I have just described. The change proposed in brief is this; whereas under the existing section 6 a duty is placed upon individuals to submit their names, this duty is placed only upon demand of the Registrar, but feasibility of this procedure presupposes a knowledge by the

Registrar of the Supreme Court of the eligibility and availability of persons to whom he, the Registrar, should make demand. The new section proposed, therefore, places an onus on persons eligible and qualified for jury service to make their presence and address known to the Registrar, and supplementary to this procedure the requirement is proposed by the new section 6 that all employers or persons eligible and liable for jury service shall once in every 12 months notify the Registrar accordingly.

Sir, for the rest the Bill is concerned with tidying up and improvement of the administrative machinery in relation to juries, and does so in the manner indicated I think sufficiently by clauses 3 and 4 of the Objects and Reasons, which appear printed with the Bill in the hands of Honourable Members.

THE COLONIAL SECRETARY seconded, and the Bill was read a First time.

### OBJECTS AND REASONS.

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

The Jury Ordinance, 1887 (the principal Ordinance) was amended under Proclamation No. 4 of the British Military Administration by the addition of sections 5A, 5B and 7A. The purpose of those additions was to afford machinery to facilitate reconstruction of the jury list and the formation of jury panels in the period immediately following the Japanese occupation. It is desirable to repeal those provisions. But it has been represented that upon the repeal of sections 5A, 5B and 7A, the pre-existing and permanent provisions of the principal Ordinance afford insufficient machinery to enable the Registrar of the Supreme Court to obtain, for the purposes of the jury list, the names and particulars of all persons within the Colony liable and qualified to serve on juries, and, by so doing, to ensure that the duty of jury service is equitably shared.

2. In these circumstances, the Bill is designed to amend the principal Ordinance as follows—

*As to clauses 3 and 5:* By the repeal of sections 5A, 5B and 7A.

*As to clause 4:* Section 6 of the principal Ordinance imposed a duty upon individuals to submit their names upon demand of the Registrar. The clause is intended to repeal section 6 and replace it by provision which imposes additionally a duty upon employers to furnish to the Registrar particulars of employees possessed of qualifications for jury service. In addition subsection (3) of the proposed new section 6 empowers the Registrar to call for such particulars, or notification of change of particulars already furnished, by notice in the *Gazette* and the Press, non-compliance with which would constitute an offence.

3. Section 10 of the principal Ordinance is insufficiently elastic, eighteen jurors being stipulated to form a panel in civil cases and thirty names for a panel in criminal cases. By administrative arrangements it has been found possible to summon some members of a panel to attend at a later stage of each criminal sessions than the first day, but the number stipulated in the Ordinance is unwieldy, and there is an undesirable lack of certainty in the intention of the Ordinance. Clause 6 of the Bill therefore provides for the repeal and replacement of section 10(1) of the principal Ordinance to provide that a judge may direct the number of jurors which he considers reasonable to be empanelled having regard to the matters which have to be disposed of, and to direct the number of sets into which such panel should be divided the periods for which each such set shall be summoned to attend. These provisions are directed in particular to minimize inconvenience to the public in respect of criminal sessions, in respect of which the number contained in the list varies considerably month by month, but the provisions are applicable also to juries required in respect of civil cases. To a certain extent the proposed new subsection is founded upon section 22 of the Juries Act, 1825 (6 Geo. 4, c. 50, as subsequently amended), whereby a judge of assize directs the number of jurors to be included in a panel and can direct that the panel shall be divided into two sets. As it has been found convenient in the Colony to summon jurors for no more than one week at a time, it is proposed that there shall be power to direct that two sets or more than two sets may in appropriate cases be empanelled, in order to preserve prevailing practice which spreads and therefore minimizes the burden of these important duties.

4. Further amendments for which the Bill provides are as follows—

*As to clause 2:* To amend section 4 of the principal Ordinance to allow of the exemption from jury service of members of the Hong Kong Police Reserve and special constables while being members of those organizations.

*As to clause 7:* Section 14 of the principal Ordinance provides for the personal service of a jury summons. The clause provides for repeal of the section and its replacement in such manner as to permit of service of a jury summons also being effected by registered post. Additionally, section 14 as so replaced would provide by subsection (3) for arrest for non-compliance with a jury summons, but only in the event that non-compliance has been followed by a personal warning to attend the court.

*As to clause 8:* Rules to be made by the Chief Justice could by section 36 (1) (c) of the principal Ordinance specify that failure to deliver particulars as to liability for jury service to the Registrar should be an offence. The repeal of this paragraph, in reliance on the new section 6 as provided for by clause 4 of this Bill, is proposed by this clause.

**INTERPRETATION (LAW REVISION AMENDMENTS)  
BILL, 1950.**

THE ATTORNEY GENERAL moved the First reading of a Bill intituled "An Ordinance further to amend the Interpretation Ordinance, 1950". He said: Sir, the Interpretation Ordinance, 1950, enacted as recently as February of this year, is not yet in force pending progress and review of the position regarding the bringing of the Ordinance into force in relation to the revision of the laws now proceeding. However, as indicated by item 14 of the Schedule to this Bill, the Bill now proposes that the Ordinance shall come into operation on the 1st September, 1950. In general, the Bill is concerned merely with the making of amendments shown to be necessary or desirable as a consequence of the general examination of the laws which has been undertaken at an accelerated pace since February of this year. The Bill is also designed to give effect to changes necessary in definition by reason of constitutional changes and changes of nomenclature which have occurred within the Empire. In fact, Sir, the Bill contains only one or proposes only one amendment of novelty and substance. I refer to item 12 of the Schedule, which seeks to add a new section 39(A) to the principal Ordinance, and a new Schedule as the Fourth Schedule to the Ordinance by way of item 15 in the Schedule to the Bill.

The objective of those provisions is to provide for standardization of procedure in relation to provisions which already occur in Ordinances of the Colony, and which may occur in future Ordinances whereby a right of appeal is allowed to the Governor in Council against the decisions of administrative authorities. It will be seen that the proposed Fourth Schedule sets out what are described as Administrative Appeal Rules. Thus, in addition to standardization of procedure it will be possible to avoid the repetition of procedural detail in Ordinances which give a right of appeal to the Governor in Council.

It is of interest to note that on a precedent derived from the Interpretation Ordinance, 1948, of Kenya, provision is proposed to render it possible for the appeals to the Governor in Council in fact to be heard by a committee of that Council who would advise the Governor in Council on the decision to be taken on the appeal. This proposal, Sir, is made because experience has shown that appeals at which all members of Executive Council are required to be present make an unnecessary demand upon the time of all members since, of course, adequate hearing of an appeal may not be hurried.

THE COLONIAL SECRETARY seconded, and the Bill was read a First time.

## OBJECTS AND REASONS.

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

The Interpretation Ordinance, 1950 (the principal Ordinance) was enacted on the 9th February this year. As a result of comments received and of detailed general examination of the laws of the Colony undertaken since that date in the preparation of a revised edition of the laws, amendment of the principal Ordinance has been shown to be necessary or desirable. In addition it is now considered to be advantageous that the principal Ordinance be brought into operation at an early date instead of awaiting a proclamation of the Governor upon publication of the revised edition as was originally proposed.

2. The amendments to the principal Ordinance which are contemplated appear in the Schedule to the Bill. Detailed explanation of the amendments are set out hereunder in relation to the numbering of the items in the Schedule—

- (1) The principal Ordinance on the precedent of the Interpretation Ordinance, 1911, applies section 2 to all enactments, including Orders of His Majesty in Council applicable to the Colony. It is, however, customary in Orders of His Majesty in Council applicable exclusively to Hong Kong to specify whether or not the Interpretation Ordinance of the Colony shall apply. Amendments proposed by this item would therefore exclude the general application of the principal Ordinance to all Orders of His Majesty in Council.
- (2) Definitions appearing in section 3 of the principal Ordinance are proposed to be amended—*i.e.*
  - (a) "*Commonwealth*": By insertion of the word "collectively" and by omission of "any Dominion, the Colonies" in reliance on the definition of the expression "British possession".
  - (b) "*Dominion*": By deletion of the definition, because the expression "member of the Commonwealth" or "self governing member of the Commonwealth of Nations" is present usage.
  - (c) "*disallowance*": By deletion of the definition as not being essential or aptly phrased.
  - (d) "*enactment*": The principal Ordinance should not apply to imperial enactments and the definition consistently with amendment proposed by item (1) should be amended to refer only to enactments made by an authority in the Colony.

- (e) *"Governor in Council"*: An amendment is advisable to reflect the position that the Governor need not in his decisions necessarily follow the advice of the Executive Council.
  - (f) *"imprisonment"*: Verbal re-casting is proposed for clarity.
  - (g) *"Legislative" and "Legislative Council"*: The definition to be deleted as not being wholly accurate or necessary.
  - (h) *"time"*: The definition to be deleted in reliance on similar provision contained in section 3(8) (a) of the principal Ordinance.
  - (i) *"repeal"*: "Replace" is considered a more suitable expression than "substitute for".
- (3) Amendments to section 3(2) of the principal Ordinance proposes substitute for the expression "Dominion" in keeping with present usage.
  - (4) A re-casting of section 3 (8) (b) of the principal Ordinance is proposed to effect verbal amendments.
  - (5) Amendments are proposed to remove errors of punctuation occurring in section 7(4) of the principal Ordinance.
  - (6) The proviso to section 10 follows precedent in the Interpretation Ordinance, 1911. But as the proviso is of doubtful value, its repeal is proposed.
  - (7) Provision in section 14 of the principal Ordinance that regulations shall not be inconsistent with the enactment under which they are made is considered to be inappropriate to interpretation legislation. The opportunity has been taken to incorporate into section 14 provision to confirm that authority to provide for fees and charges includes power to provide for reduction, waiver or refund where appropriate.
  - (8) It is proposed in section 15 to replace the term "instrument" as being too wide since it might be construed to include a document having no statutory significance.
  - (9) Proposes verbal improvements in section 17.
  - (10) It is considered desirable in section 18 to revert more closely to the wording employed in the precedent for this provision in the Interpretation Ordinance, 1911.



- (11) In conformity with amendment proposed by item (2) (d) of the Schedule to the Bill, the application of sections 31 and 34 to imperial enactments is intended to be excluded by amendment.
- (12) and (15) Under the provisions of many of the Colony's Ordinances, a power of appeal to the Governor in Council is given against the decision of administrative authorities, but there is variety or lack of precision as regards the procedure applicable to such appeals. The purpose of the additional section and Schedule proposed by these items is to provide for standardization of procedure while avoiding the need for the repetition of procedural detail in Ordinances which provide for administrative appeal. The addition to the principal Ordinance proposed by item 12 embodies (on precedent derived from the Interpretation Ordinance, 1948, Kenya) provision to allow in appropriate cases of a Committee of Executive Council being appointed to hear an appeal and advise the Governor in Council as to the decision which should be taken thereon.
- (13) In pursuance of the proposal above mentioned to bring the principal Ordinance into operation before the appearance of revised edition of the laws, it is necessary, by amendment as provided for by this item, to exclude from the repeal of the Interpretation Ordinance, 1911, certain provisions of the latter which have not been reproduced in the principal Ordinance in anticipation that such provisions would be incorporated in other Ordinances as they appear in the revised edition.
- (14) The amendment proposed by this item would have the effect of bringing the principal Ordinance (as amended) into operation on the 1st September, 1950.

### **POLICE FORCE (AMENDMENT) BILL, 1950.**

THE ATTORNEY GENERAL moved the First reading of a Bill intituled "An Ordinance to amend the Police Force Ordinance, 1948." He said: Sir, Honourable Members will recall that two years ago the Police Force Ordinance was enacted in replacement of the Police Force Ordinance, 1932. It can, I think, be claimed for the 1948 Ordinance that it has operated satisfactorily but the experience gained in the last two years has nevertheless pointed to necessity for amendments in some respects. In particular has necessity been shown to amend so as to recast the provisions in the Ordinance which deal with such matters as engagement, resignation, discharge or dismissal of inspectors of Police, N.C.O's and Constables.

Therefore, Sir, the Bill before Council to-day is in the main concerned with the making of adjustments found to be necessary as I have described, although in so doing no substantial change is made. In the interval attention has been drawn to the fact that by the Police Act, 1919, of the United Kingdom, provision is made which precludes a member of the Police Force from membership of a Trade Union, and further that same Act of United Kingdom contains provision to render punishable the causing of disaffection among members of the Police Force and for penalizing the unauthorized use of police uniforms.

Accordingly, Sir, by clauses 3, 16 and 17, this Bill proposes to embody within the principal Ordinance the provisions of the Police Act of 1919 which I have described.

THE COLONIAL SECRETARY seconded, and the Bill was read a First time.

### OBJECTS AND REASONS.

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

The Police Force Ordinance was enacted in 1948. It came into force in August of that year. Practical experience gained in the operation of the Ordinance has disclosed necessity for its amendment and the desirability of including new provisions within the Ordinance.

2. In these circumstances the Bill seeks primarily to amend the principal Ordinance as follows—

(a) to restate with greater clarity the manner in which and the conditions on which the service of police officers may be terminated;

(b) to provide more comprehensively for appeals in association with the application of disciplinary procedure; and

(c) to remove doubts as to the validity of some of the provisions of the Police Regulations (Discipline) 1948.

3. The principal Ordinance provides that service in the Police Force may, in addition to retirement, be terminated by resignation, discharge or dismissal, provision being made by sections 11, 12, 13, 22, 25, 26, 31, 32, 34 and 36. Among these sections section 11 is clear except that no reference is made to the overriding provisions of section 36. Section 12, however, has been found to be ambiguous and in practice difficult to reconcile with subsection (4) of section 31 and with subsection (3) of section 32. These sections, which provide for serious disciplinary offences being tried by a magistrate, have been seldom employed. The value of the provision exists where a criminal offence as well as a disciplinary offence has been committed by

a police officer. In such event, however, section 35 of the principal Ordinance confirms that the criminal offence may be triable in the Courts. It is accordingly proposed by the Bill to revoke the provisions relating to trial of disciplinary offences by magistrates and to make more specific provision relating to the power of dismissal and right of appeal consequent on the application of disciplinary procedure. Clauses 4, 5, 10 and 11 so provide.

4. In the principal Ordinance the right of the Commissioner to terminate the engagement of an inspector by notice and of an inspector to resign is exercisable “during his first agreement” and “during his first engagement” respectively. These phrases have presented difficulty in construction in particular cases. They do not give effect to the real intention which was that the rights in question should be exercisable while an inspector was on probation in his appointment. It is considered, however, that an inspector should be permitted to resign even after the end of his probationary period provided he gives adequate notice. Clause 9 of the Bill accordingly repeals and replaces sections 25 and 26 of the principal Ordinance. The provisions of sections 25 and 26 which relate to officers below the rank of inspector have been inserted in a new section 22, for which clause 7 of the Bill provides.

5. Sections 20 and 21 of the principal Ordinance, being concerned with detail of engagement for service by inspectors, N.C.O.'s and constables, are matters which can be dealt with more appropriately by regulations. Provision for the repeal of these sections is accordingly made by clause 6.

6. The Bill further provides as follows—

*As to clause 3:*

For addition to the principal Ordinance provision corresponding to section 2 of the Police Act, 1919 (9 & 10 Geo. 5, c. 46) to preclude a member of the force from membership of a trade union.

*As to clause 8:*

For the repeal of section 24 of the principal Ordinance relating to the employment of special constables (for which other legislative provision is contemplated) and replacement by provision to empower the employment of temporary police officers.

*As to clause 14:*

For amendment of section 43 of the principal Ordinance to confirm that the power of the Governor in Council to make regulations shall extend to the making of regulations—

(a) governing the conditions of service of the force (other than as to pensions and gratuities as to which the Pensions Ordinance, 1949, applies); and

(b) authorizing the establishment of appropriate tribunals to inquire into disciplinary offences by police officers (other than gazetted police officers) and for review of and appeal from the findings and awards of such tribunals.

*As to clauses 16 and 17:*

For addition to the principal Ordinance of provision corresponding to sections 3 and 10 of the Police Act, 1919, providing respectively for the punishment of persons causing disaffection among members of the force and penalising the unauthorized use of police uniform.

*As to clause 18:*

For repeal and replacement of the Schedule to the principal Ordinance to substitute the oath or declaration of office to be taken by a police officer in a form more uniform with that provided in other legislation within the Colony and elsewhere.

**INLAND REVENUE (LAW REVISION AMENDMENTS)  
BILL, 1950.**

THE ATTORNEY GENERAL moved the First reading of a Bill intituled "An Ordinance to amend the Inland Revenue Ordinance, 1947." He said: Sir, as the short title indicates, this Bill proposes amendment to the Inland Revenue Ordinance, 1947, in the interest of law revision. It does so with the objective that the Ordinance when reproduced in the Revised Edition should be so reproduced shorn of imperfections which have disclosed themselves in experience and operation of this legislation, while also giving effect to certain change of definition rendered necessary consequent on constitutional changes and changes of nomenclature within the Empire.

Sir, the Bill also, by various of the amendments set out in the Schedule, takes the opportunity to remove provisions which were transitory in character and which have had their effect. It will also be seen, Sir, that by the process of dealing with such topics in Schedules to the Ordinance convenience of reference will be served, because the standard rate, if the Bill passes, will thereafter find itself declared in the First Schedule to the Ordinance, while the scale of chargeability will be set out in a Second Schedule. It is important, however, that I should stress, as I now do, that this transposition to Schedules of the Ordinance of items, which declare a standard rate and the scale of chargeability, will not mean that any changes to these items can be made in the future whether upward or downward otherwise than by the process of amending legislation enacted by this Council.

In opening, Sir, I indicated that the Bill is primarily concerned to serve the needs of law revision. Consequentially, it is provided by clause 2 of the Bill that upon enactment it will not come into force until such date as the Governor shall notify by proclamation in the *Gazette*. In this way necessity would be avoided to effect amendment, manuscript amendment, to the Ordinance in its present printed form, because the amendments will not take effect until it can coincide with the appearance of the revised edition which as to this Ordinance will contain within it the amendments proposed by this Bill if the Bill be enacted.

THE COLONIAL SECRETARY seconded, and the Bill was read a First time.

### OBJECTS AND REASONS.

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

Amendments to the Inland Revenue Ordinance, 1947, are somewhat extensive but in no case are they amendments of substance. Many are for the purpose of removing transitional provisions which related to the first year of assessment, or which related to rights of election for particular purposes in respect of which the period for such election has expired. It is inappropriate that such provisions remain in the Ordinance in its permanent form, but despite their repeal any accrued rights thereunder will remain effective under section 12 of the Interpretation Ordinance, 1911.

2. Furthermore the amendment Ordinance of 1950 substituted a new standard rate and new scales of incidence. The previous standard rate and previous scales of incidence remain in force for tax yet to be paid for the years prior to 1950. To preserve both rates and both scales, and to facilitate reference to these items in various places in the Ordinance, such rates and scales are set out in Schedules now provided to the Ordinance. Such methods facilitate future amendment if such should be necessary.

3. In accordance with such principles, and for the other reasons detailed hereafter amendments have been made to serve the following purposes—

- (1) (a) To accord with adoption of the expression "the Commonwealth".
  - (b) To define "standard rate" as set out in First Schedule.
  - (c) To remove transitional provisions.
- (2) To accord with modern usage.
- (3) To repeal the section specifying the standard rate.

- (4) (a) To remove an otiose word which might mislead.  
(b) To remove a tautology in the section.
- (5) (a) To supply an inadvertent omission.  
(b) To accord with modern usage.
- (6) Expunging a power to elect which has expired.
- (7) To effect removal of the scale of incidence to the Second Schedule.
- (8) Expunging reference to a power of election which has expired.
- (9) (a) and (b) To remove transitional provisions.
- (10) The same.
- (11) To correct a reference to "a banker", which should patently have been to "a bank".
- (12) (a) To remove transitional provisions.  
(b) To substitute the expression "standard rate", which is now defined, for the words "ten per centum".  
(c) To remove the addition made by the 1950 amendment, which made further reference to "twelve and one half per centum". The expression "standard rate" will now cover both.
- (13) To replace "payment" by the more accurate expression "interest".
- (14) (a) and (b) To remove transitional provisions.  
(c) To substitute the exact expression ("residue of expenditure") which has an express definition in section 37 (3).  
(d) To clarify the wording.
- (15) (a) & (b) To remove a transitional provision and to clarify the wording.
- (16) To remove transitional provisions.
- (17) To supply an inadvertent omission of a word.
- (18) To replace the scale of chargeability by a reference to that scale already in the Second Schedule (see item (7) above).
- (19) To replace the more exact expression "income or profits" for the word "income".

- (20) and (21) To accord with item (1) (a) above.
- (22) To add a provision that notices of assessment for property tax may be sent by ordinary post instead of registered post on account of the number which have to be so dealt with.
- (23) To provide greater detail for the Commissioner's present power of taking evidence upon oath on appeals.
- (24) To remove an expression based on a misconception. The contemplated assessment may not have been the "original" assessment.
- (25) The subsection as it stands is ill punctuated and difficult to follow. Amendments are accordingly affected to the punctuation.
- (26) To substitute the more exact expression "income or profits" for "income".
- (27) To substitute "sum" for "income", an expression which is too narrow for the meaning contemplated by the paragraph.
- (28) To substitute the more exact expression "income or profits" for "income".
- (29) It is proposed by this amendment that section 88 be repealed. The section was based upon section 72 of the War Revenue Ordinance, 1941, a temporary Ordinance, and provided for tax to be charged at the specified rate from the 1st April, 1947, until and unless such rate should be varied by a subsequent Ordinance. Such a provision would be unnecessary if the earlier amendments to specify the rate as set out in the proposed First Schedule are accepted, but it will remain that the rate can only be amended upward or downward by further Ordinance making further addition to such Schedule.
- (30) To substitute for "income" the more exact expression "profits".
- (31) Two Schedules are added to the Ordinance. The First Schedule sets out the standard rate for each year of assessment, and the Second Schedule sets out the scale of chargeability similarly. Should amendments take place in future years they can take the simple form of additions to these Schedules while leaving the rates for previous years untouched.

4. The amendments have been formulated in the course of preparation of the Ordinances in general for the revised edition, and since few of the items constitute other than formal amendment the necessity for manuscript amendment of the Ordinance

as at present printed is obviated by providing, by clause 2, that the amendments shall take effect on a date to be proclaimed by the Governor, which date, it is anticipated, will coincide with the appearance of the revised edition.

### **GAMBLING (AMENDMENT) BILL, 1950.**

THE ATTORNEY GENERAL moved the First reading of a Bill intituled "An Ordinance further to amend the Gambling Ordinance, 1891." He said: Sir, Honourable Members will no doubt know of a game described as tombola. It is a game which for some years both on land and at sea is popular as a pastime among groups of people gathered together in clubs or as ship's passengers. The game is popular within His Majesty's Forces and is accorded approval and recognition by appropriate authorities of those Forces subject of course to the game being played under certain conditions and control. But, Sir, the view has been held that tombola as played in Hong Kong is a lottery within the meaning of Section 2(3) (g) of the Gambling Ordinance, 1891, and that premises upon which it is played can be deemed to be a common gaming house with the consequence, of course, that offences can be committed in relation to the game. It is further also considered that the game of tombola when played under conditions ensuring proper control, as for instance to prevent abuse as a gamble, is not detrimental to the public interest.

The Bill therefore, Sir, proposes by the addition of a section as Section 9B to declare that the game of tombola, if promoted by a society registered under or exempted from the provisions of the Societies Ordinance, 1949, shall be lawful provided it is played subject to the conditions set out in the proposed section. The method proposed by this clause, by the addition of a new Section 9B, has been adopted on the precedent afforded by the inclusion of a Section 9A as recently as last year by Ordinance No. 10 of 1949, which amended the Gambling Ordinance to permit a lottery promoted as an incident of entertainment which is held not for profit but for charitable objective.

THE COLONIAL SECRETARY seconded, and the Bill was read a First time.

### **OBJECTS AND REASONS.**

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

Under the existing provisions of the Gambling Ordinance, 1891 (the principal Ordinance), the game of tombola is a lottery and the playing thereof illegal. Moreover a private club is deemed a common gaming house if used *inter alia*, for the purpose of a lottery. Permission cannot be given by the Commissioner of Police to play tombola unless the playing of it is an incident of an entertainment organized by a charitable institution to raise funds.



2. Tombola is a game which is widely played and, when played under proper supervision, is considered not to be detrimental to the public interest.

3. The object of this Bill therefore is to provide for an amendment to the principal Ordinance by legalising the playing, under prescribed conditions, of the game of tombola when promoted by societies registered or exempted from registration under the Societies Ordinance, 1949.

### **MARINE HAWKERS BILL, 1950.**

THE ATTORNEY GENERAL moved the Second reading of a Bill intituled "An Ordinance to provide for the licensing and control of marine hawkers." He said: Sir, in so doing I wish to mention my intention, when the committee stage is reached, to propose an amendment to clause 2.

THE COLONIAL SECRETARY seconded, and the Bill was read a Second time.

Council then went into Committee to consider the Bill clause by clause.

Clause 2.

THE ATTORNEY GENERAL: — Sir, I propose in this clause 2 the definition of "marine hawker", as now appearing, be deleted and replaced by the following definition: —

"Marine hawker" includes any person who in the waters of the Colony—

(a) trades in any vessel; or

(b) goes from place to place or goes on board any vessel, selling or exposing for sale any goods, wares or merchandise for immediate delivery, or exposing samples or patterns of any goods, wares or merchandise for subsequent delivery, or selling or offering for sale his skill in handicraft."

The reason for my proposal is that the definition of marine hawker in the Bill as it now stands is an adaptation of the definition of hawker as it appears in By-law 2 in the Schedule to the Hawkers Ordinance, 1935, which latter definition has been re-enacted by similar by-laws published as G.N.813/47. But further examination shows that no variation in meaning takes place if the definition of marine hawker is re-cast in the manner now proposed, and it is considered that clarity is served by such amendment.

This was agreed to.

Council then resumed.

THE ATTORNEY GENERAL reported that the Marine Hawkers Bill, 1950, had passed through Committee with one amendment and moved the Third reading.

THE COLONIAL SECRETARY seconded, and the Bill was read a Third time and passed into law.

### **PUBLIC STORES BILL, 1950.**

THE ATTORNEY GENERAL moved the Second reading of a Bill intituled "An Ordinance to make provision for the protection of Public Stores."

THE COLONIAL SECRETARY seconded, and the Bill was read a Second time.

Council then went into Committee to consider the Bill clause by clause.

Clause 4.

THE ATTORNEY GENERAL: —Sir, I rise to move the deletion of the word "First", occurring in the first line of clause 4, before the word "Schedule".

The reason being, Sir, that the incorporation of the word is a mistake and unnecessary, because in fact there is only one Schedule.

This was agreed to.

Schedule.

THE ATTORNEY GENERAL: —Sir, I move the deletion of the word "First" in the heading "First Schedule" at the head of the Schedule to the Bill.

This was agreed to.

Council then resumed.

THE ATTORNEY GENERAL reported that the Public Stores Bill, 1950, had passed through Committee with two amendments, and moved the Third reading.

THE COLONIAL SECRETARY seconded, and the Bill was read a Third time and passed into law.

### **ADJOURNMENT.**

H.E. THE OFFICER ADMINISTERING THE GOVERNMENT: — That concludes the business for to-day. When would Honourable Members wish to meet again?

THE ATTORNEY GENERAL: —Sir, I propose Tuesday, 29th August.

H.E. THE OFFICER ADMINISTERING THE GOVERNMENT: —Council will adjourn till Tuesday, 29th August.