

3rd December, 1952.

PRESENT:

HIS HONOUR THE GOVERNOR'S DEPUTY

MR. ROBERT BROWN BLACK, O.B.E.

HIS EXCELLENCY THE COMMANDER BRITISH FORCES

LIEUTENANT-GENERAL SIR TERENCE AIREY, K.C.M.G., C.B., C.B.E.

THE HONOURABLE THE ATTORNEY GENERAL

MR. ARTHUR RIDEHALGH, Q.C.

THE HONOURABLE THE SECRETARY FOR CHINESE AFFAIRS

MR. RONALD RUSKIN TODD.

THE HONOURABLE THE FINANCIAL SECRETARY

MR. ARTHUR GBENFELL CLARKE.

THE HONOURABLE THEODORE LOUIS BOWRING, O.B.E.

(Director of Public Works).

THE HONOURABLE DOUGLAS JAMES SMYTH CROZIER

(Director of Education).

DR. THE HONOURABLE YEO KOK CHEANG

(Director of Medical and Health Services).

THE HONOURABLE KENNETH MYER ARTHUR BARNETT, E.D.

(Chairman, Urban Council).

THE HONOURABLE CHAU TSUN-NIN, C.B.E.

DR. THE HONOURABLE CHAU SIK-NIN, C.B.E.

THE HONOURABLE LEO D'ALMADA E CASTRO, Q.C.

THE HONOURABLE MAURICE MURRAY WATSON.

THE HONOURABLE LO MAN WAI, O.B.E.

THE HONOURABLE NGAN SHING-KWAN.

THE HONOURABLE HUBERT JOHN COLLAR, C.B.E.

MR. RONALD THOMPSON *(Deputy Clerk of Councils).*

ABSENT:—

THE HONOURABLE CHARLES EDWARD MICHAEL TERRY.

MINUTES.

The Minutes of the Meeting of the Council held on 19th November, 1952, were confirmed.

PAPERS.

THE FINANCIAL SECRETARY, by Command of His Honour the Governor's Deputy, laid upon the table the following papers:—

	<i>Subject.</i>	<i>G.N. No.</i>
The New Territories Ordinance, Chapter 97.		
	The Markets and Market Areas (N.T.) (Amendment) Rules, 1952	A. 194
The New Territories Ordinance, Chapter 97.		
	The New Territories (Amendment) (No. 2) Rules, 1952	A. 195
The Royal Hong Kong Defence Force Ordinance, 1951.		
	The Hong Kong Women's Auxiliary Army Corps (Amendment) Regulations, 1952	A. 196
Removal of quarantine restrictions imposed against Rangoon on account of smallpox		
		A. 197
The Supreme Court of Hong Kong (Jurisdiction) Order in Council, 1950.		
	Declaration made under the Supreme Court of Hong Kong (Jurisdiction) Order in Council, 1950	A. 198
The Supreme Court of Hong Kong (Jurisdiction) Order in Council, 1950.		
	The China National Aviation Corporation Aircraft (Delivery) Directions, 1952	A. 199
The Defence Regulations, 1940.		
	The Price Control Order, 1946—Amendments to the Schedule	A. 200
The Importation and Exportation Ordinance, Chapter 50.		
	The Exportation (Prohibition) (Coronation Souvenirs) Regulations, 1952	A. 201
The Importation and Exportation Ordinance, Chapter 50.		
	The Exportation (Prohibition) (Coronation Souvenirs) Regulations, 1952	A. 202

*Subject.**G. N. No.*

The Defence Regulations, 1940.

The Price Control Order, 1946—Amendments to the

Schedule A. 203

THE SOCIETIES ORDINANCE, CHAPTER 151.

THE ATTORNEY GENERAL moved the following resolution:—

“Resolved, pursuant to section 26 of the Societies Ordinance, Chapter 151, that the duration of the said Ordinance be extended for the term of one year with effect from the 1st January, 1953.”

He said: Your Honour, the Societies Ordinance will expire on 31st of this month unless this Council passes a resolution extending its life and the purpose of the Resolution now before Council is to extend such life until 31st December, 1953. The Government considers that it is necessary, having regard to the circumstances of this Colony, to continue the Ordinance in-force for another year thereby retaining adequate powers to curb the activities of undesirable organizations.

THE FINANCIAL SECRETARY seconded, and the Motion was carried.

RULES OF COURT MADE UNDER THE COMPANIES ORDINANCE, CHAPTER 32.

THE ATTORNEY GENERAL moved the following resolution:—

Resolved that the Rules made by His Honour the Chief Justice on the 17th day of November, 1952, under section 281 of the Companies Ordinance, Chapter 32, be concurred with and approved.

He said: Your Honour, the purpose of this Resolution is, I think, adequately explained in the explanatory note to the Rules which this Resolution is designed to approve.

THE FINANCIAL SECRETARY seconded, and the Motion was carried.

SUPPLEMENTARY PROVISIONS, 1952/53.

THE FINANCIAL SECRETARY moved the following resolution:—

Resolved that the Supplementary Provisions for the quarter ended 30th September, 1952, as set out in Schedule No. 2 of 1952/53, be approved.

He said: Sir, all the items in the Schedule have been approved by Finance Committee and now require the covering approval of this Council. Most of them are adequately explained in the Remarks column but there are perhaps one or two which are deserving of mention.

The largest item in the schedule is on page 7. It is for a sum in excess of \$4¼ million. This sum appears among the assets in the Colony's balance sheet as at the 31st March, 1952, being the amount outstanding as an advance from the Colony's surplus funds pending reimbursement from loan. In accordance with the policy which has been adopted during the past year or so is now proposed to charge off this advance against ordinary expenditure. In the early part of this year revenue came in very slowly, but since then matters have much improved, and the position now is such that it appears safe to follow the normal procedure, and to charge off this advance during the current year.

On page 11 it will be observed that a sum of \$285,000 is provided for alteration to the Kowloon Magistracy and for temporary offices for the District Commissioner, New Territories. It has been decided to establish a District Court in Kowloon and to do this it is necessary to evict the District Commissioner from his present office in the Kowloon Magistracy building. No suitable premises are available for him and he must be provided with temporary accommodation.

On page 12 it will be found that a vote of \$384,000 has been necessary for relief work following on the Kowloon Tsai fire, and it is probable that a further considerable vote will be necessary meet the bills incurred as a result of this disaster. In the same connexion—squatters—it will be observed that the sum of \$400,000 is provided as an additional loan to the Hong Kong Settlers Housing Corporation, which provides cottages at very reasonable cost for squatters who are cleared from the present unauthorized

Among the lesser votes there is one of more than usual interest on page 2, where it will be noticed that a sum of \$170,000 is provided for the construction of radio and weather stations on islands of Waglan and Cheung Chau. The cost of these buildings is being met from a Colonial Development and Welfare grant, and even apart from the large-scale developments hoped for at Kai Tak, these stations, which I understand are now on a fair way towards completion, will greatly contribute to the safety of aircraft landing and taking off.

THE ATTORNEY GENERAL seconded, and the Motion was carried.

**RESOLUTION REGARDING ABANDONMENT OF CLAIMS
AND WRITE-OFFS OF LOSSES AND DEFICIENCIES
FOR THE FINANCIAL YEAR 1952-53.**

THE FINANCIAL SECRETARY moved the following resolution:—

Resolved that the abandonment of claims and write-offs of losses and deficiencies as specified and explained in Schedule No. 2 of 1952-53, be approved.

He said: Sir, the Schedule of write-offs and abandonments of claims is as usual in four parts. The items set out in Parts A and C have already been authorized by Finance Committee and those under Parts B and D have been authorized by the Financial Secretary in exercise of his delegated authority. The covering approval of this Council is now required.

THE ATTORNEY GENERAL seconded, and the Motion was carried.

DUTIABLE COMMODITIES ORDINANCE, CHAPTER 109.

THE FINANCIAL SECRETARY moved the following resolution:—

Resolved pursuant to section 4 of the Dutiable Commodities Ordinance (Chapter 109) as follows—

That the DUTIES ON HYDROCARBON OILS set forth in the Resolution of the Legislative Council published as Government Notification No. 191 of 1941 and reproduced in Volume IX at p. 276 of the Revised Edition, 1950, be revoked with effect from 8 a. m. on 4th December, 1952, and that thereafter duty shall be payable on hydrocarbon oils at the following rates—

(a) <i>light oils</i> :	80 cents per gallon
(b) heavy oils:	
(i) diesel oil for road vehicles	\$104 per ton
(ii) other diesel oil	\$ 26 per ton
(iii) furnace oil	\$ 24 per ton
(iv) other heavy oils not specified above	10 cents per gallon-

He said: Sir, this resolution does not mean any change in the rate of duty on hydrocarbon oils. The existing resolution as set forth on page 276 of Volume IX of the Laws of Hong Kong provides that duty on oils is payable by reference to volume, that is so much per gallon. Now the Oil Companies work not by gallonage but by tonnage. The assessment of duty therefore has been for some time past a matter of some little difficulty, in that the figures of tonnage have to be converted to gallonage by reference to specific gravity, which is variable. It is obviously desirable in the interests of efficiency to relate the rate of duty to weight rather than volume, and this is what this resolution seeks to do. So far as we can foresee the effect in duty should remain unchanged.

The differentiation between the different types of oil as compared with existing practice is simply due to the fact that the specific gravities of the oils concerned are different. A gallon of oil may weigh something very different, according to the type of oil, and hence the rate of duty per ton must in the new resolution be varied accordingly.

I should add that the proposed new system has been discussed and agreed with the major oil companies.

THE ATTORNEY GENERAL seconded, and the Motion was carried.

JURY (AMENDMENT) BILL, 1952.

THE ATTORNEY GENERAL moved the First reading of a Bill intituled "An Ordinance to amend the Jury Ordinance". He said: Your Honour, this is a very simple amendment Bill the purpose of which sufficiently appears, I think, from the statement of Objects and Reasons. I should mention, however, that the amendment to be made by clause 5, which is designed to make it clear that the penalty in section 31 of the Jury Ordinance is a maximum and not a fixed penalty, has been necessitated by a recent case of misconduct by a juror. This juror failed to appear when his name was called and the Judge felt himself obliged to inflict a fine of \$500. The fine was prescribed by section 31. I think I should tell this Council that on the recommendation of the Judge all but \$50 of that fine has now been remitted by His Excellency the Governor.

THE FINANCIAL 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 principal object of this Bill is to remove doubt whether the penalty prescribed in section 31 of the Jury Ordinance (Chapter 3 of the Revised Edition, 1950) is a fixed or a maximum penalty. That section enables a judge of the Supreme Court to fine jurors for misconduct, and as misconduct may be of varying degrees of gravity, it is obviously desirable to have power to let the punishment fit the crime. The amendment to be effected by clause 5 of the Bill will make it plain that the prescribed fine of five hundred dollars is a maximum punishment.

The opportunity has been taken (clauses 2 to 4) to correct certain errors in cross-references resulting from the renumbering of sections in the process of the recent revision.

EDUCATION BILL, 1952.

HON. D. J. S. CROZIER moved the First reading of a Bill intituled “An Ordinance to promote education in the Colony, and to consolidate and amend the law relating to the supervision and control of schools and the teaching therein, and for purposes connected therewith”.

He said: Sir, the Objects and Reasons set out in some detail the purpose and scope of this Bill but with the permission of Honourable Members I shall add a few words of my own.

The present Education Ordinance had its First reading in this Council in July, 1913, almost forty years ago. At that time there were less than 20,000 school children in this Colony. Today there are almost 200,000, and that is due in large part to the increase in the Colony’s population; but it is due also to the fact that many children now in school would not in 1913 have had any schooling at all. There is another difference Sir, between the circumstances in which this Bill and its predecessor were introduced. Today Government is more aware of its direct responsibility for education in general, for insuring that all schools— not only those which Government assists financially— are efficiently administered and staffed, and that a type of instruction is given by them that is suited to the best interests of the students themselves and of the community in which they live.

Amendments to the present Ordinance were approved by this Council as recently as 1947, 1948 and 1949. Further changes, however, are considered necessary and it is the opinion of Government that they can best be effected by an entirely new Bill.

The Bill now before Council has been drawn up with advice and support of the Board of Education and it contains some features to which I would like to direct the attention of Honourable Members.

Clause 5 sets up the Board of Education as a statutory body with power to advise the Government upon educational affairs. It is Government's intention that the Board thus set up shall consist, as it does now, of a predominant number of non-Government members who may be regarded as representing the community as a whole on educational matters.

Clauses 8 to 12 deal with the registration of schools and set out in more detail the grounds for refusing to register a school and for cancelling the registration of a school already registered. Of these, clause 11 specifies the grounds for refusal to register a school, one of which relates to the salaries its management proposes to pay its teachers. It is proposed in clause 13 to extend compulsory registration to all school managers, at the same time limiting the number of such managers of any one school to not more than five, except with the approval of the Director. The registered management committee will thereupon be responsible for ensuring that the provisions of this Bill are adhered to in respect of their particular school.

Clause 14 provides for the appointment of a supervisor for each registered school who would act as a responsible and administration link between the Education Department and the school.

Clauses 21 to 23 deal with the registration of teachers. Teachers so registered must possess one or other of the qualifications set out in Part IX of the Regulations in the Second Schedule to the Bill and when registered they may, without further reference to the Director, teach in any registered school. Subject to compliance with clause 26 other than registered teachers may be permitted to teach but only in respect of a specified school. The rights of appeal against decisions of the Director concerning the registration of schools, managers or teachers are safeguarded in two ways. Under clause 33 authority is given to the Governor

to appoint an Appeals Board which shall consist of not less than eight members and include at least three registered teachers. An appellant may seek relief through this Board in the first instance. If he or the Director is dissatisfied with the decision of the Board, either may appeal further to the Governor in Council. The Appeals Board will be a new feature of our educational system and it would have the two-fold value of providing an easy avenue of redress as well as one to which the appellant's professional colleagues would be associated.

I regret, Sir, that it should still be necessary to make provision in this Bill for preventing misuse of education for subversive political purposes. There remain, however, some schools which, under the guise of education, attempt to instil in the minds of their children political ideas that are entirely alien to those of the free world and gravely prejudicial to the best interests of the children themselves, as well as to the peace and security of this Colony. Government continues to regard this as a most serious matter and many of the provisions of the Bill and of the Regulations in the Second schedule reflect its determination to eradicate this danger where it is known to exist either by forcing the schools or teachers concerned to confine themselves to their proper functions, or in the last resort by cancelling their registrations.

Clauses 37 and 38 deal in more detail with the provisions contained in section 19A of the present Ordinance and provide for the cancellation of registration of teachers and managers connected with prescribed schools. I need hardly assure Honourable Members that action will be taken under these clauses only after the most careful and exhaustive inquiries have been made.

Regulations may also be made under clause 43 to deal with political or subversive propoganda, and Regulation 88 of the second Schedule in fact would prohibit such propoganda and enable the Director to prescribe the use of symbols or indulgence in activities which are politically undesirable.

The third Schedule to the Bill which has been prepared with the knowledge and approval of the Grant Schools Council gives the Rules for the administration of the Grant Schools' Provident Fund. Teachers in Grant Schools do not receive pensions but under the terms of the Grant Code they may contribute 5% of their salaries to a Provident Fund to which Government contributes a similar sum. These contributions are invested and accumulate at compound interest and contributors draw the amount

standing to their credit in the Fund on retirement from Grant-in-Aid Schools service, providing they have served for not less than 10 years. Previously the Fund was administered under Regulations issued by the Director of Education, but it is considered desirable that the administration and conduct of the Scheme should be established on a legal basis.

Under the terms of the Grant Code there is also provision for the payment by Government of annual grants into a Grant Schools Building Depreciation Fund. These grants are only made to Grant Schools owning their school premises and are intended to accumulate so that when the premises are worn out the school will have funds in hand to effect replacement. Here again, as Government moneys are concerned, it is considered desirable that the conduct of the Scheme, and payments into and out of the Fund, should be established on legal basis.

The fourth Schedule, therefore, provides the necessary rules for the Grant Schools Building Depreciation Fund.

THE FINANCIAL 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 main purpose of this Bill is to repeal and replace the Education Ordinance, 1913, which was omitted from the 1950 Revised Edition because of the need for the early introduction of legislation designed to reflect the increased importance of education in the Colony, and to make improvements experience has shewn to be desirable. The present Ordinance does little but provide that schools and their managers shall be registered (which, though subject to appeal, is a matter left to the unfettered discretion of the Director of Education), that they shall be subject, to inspection, and that regulations may be made on certain restricted matters. In 1947 this power to make regulations was widened, and in 1948 registration was extended to teachers.

2. The objects of this Bill include the provision of official status for a representative Board of Education, the specification of the particular grounds upon which registration of schools, teachers and managers may be refused or may be cancelled, the provision of an appeals board in respect of disputed decisions regarding such registration, the specification of a supervisor

amongst the managers of each school, which person shall thereafter be the responsible administrative link between the school and the education department, and the incorporation of a number of improvements based on experience in the Colony or on precedents from other colonies. Such radical changes have involved the re-casting of the Ordinance, which now falls conveniently into Parts which may be summarized in the manner following.

3. Part I is introductory. In clause 2 are provided definitions common to the whole Ordinance, and in particular definitions of kindergarten schools, primary schools, secondary schools and post secondary schools. Clauses 3 and 4 charge the Director of Education with the duty of promoting the education of the people of the Colony and give him powers of delegation, while clause 5 establishes the Board of Education for the purpose of advising the Governor upon educational matters. By clause 6, schools entirely maintained and controlled by the education department or by Her Majesty's forces, schools dealing wholly with religious education, and schools exempted from the present Ordinance, are exempted from the provisions of the Bill. Power is also given to the Governor in Council to exempt any other school wholly or partially, and to the Director to exempt wholly or partially any school which only provides part-time or specialized education.

4. Clause 7 in Part I provides for the registers to be kept by the Director for the purposes of the Ordinance, and they are—

- (a) a register of schools;
- (b) a register of managers of schools;
- (c) a register of teachers.

5. Part II deals with registration of schools. It specifies in clause 11 fourteen grounds which will justify non-registration, and in clause 12 five grounds upon which such registration may be cancelled.

6. Part III provides that a school shall be administered by a committee of managers, if there be more than one manager, and that one of such managers shall be appointed with the approval of the Director as supervisor to conduct correspondence and to carry out certain duties regarding such administration.

7. If a school is not satisfactorily administered, the Director may under clause 16 appoint additional managers. Clauses 17 and 18 provide that managers shall be registered, clause 19 specifies eight reasons which will justify non-registration, and clause 20 specifies four grounds upon which such registration may or shall be cancelled.

8. Part IV provides that teachers shall be registered, and specifies the grounds upon which such registration may be refused or cancelled.

9. Part V enables the Director to authorize the employment of an unregistered teacher where no suitable registered teacher is available.

10. Part VI deals with the procedure generally upon registration, and provides that any adverse decision of the Director shall be notified to persons affected, who may within ten days appeal to an appeals board. Clause 32 provides that the suspension of a school, manager or teacher shall take effect from the time of notification thereof, unless the Director withholds such suspension pending the determination of any appeal.

11. Part VII provides for a registration appeals board which shall include three registered teachers. The board has power under clause 35 to modify or set aside the Director's decision, and from their decision either the Director or the appellant may make further appeal within fourteen days to the Governor in Council.

12. Clauses 37 and 38 in Part VII contain important provisions whereby the Governor in Council may cancel the registration of a school, manager or teacher, or order registration to be refused, if such registration would be prejudicial to the security of the Colony or of the Commonwealth, or to public safety, order or morals, upon notice to the person or to the supervisor of the school affected, and give persons affected opportunity to shew cause against such cancellation or refusal. The powers of cancellation or refusal given to the Director in Part VI are designed to be exercised upon the educational or other grounds specifically provided, but recent years have shewn the dangers which may result from political exploitation of education, and it is considered essential to have power to counteract such activities. Such powers are in the Bill given to the Governor in Council. The provisions of clauses 37 and 38 re-enact the provisions of sections 19 and 19A of the present Ordinance with such amendments as appear from

experience to be desirable. Thus clause 38 provides that upon the cancellation of registration of a school under these provisions, no manager or teacher employed therein shall thereafter be permitted to act as manager or teacher of any school unless the Governor waives this provision, but lest automatic suspension should work injustice, a right of appeal to the Governor in Council is given.

13. Part VIII provides for inspection of schools. Under clause 42 notice may be given requiring remedial measures, and to provide for a case where it is considered that the fault requiring remedy may not be known to all the managers a copy of such notice may in appropriate cases be sent to each manager.

14. Part IX gives extensive power to make regulations, with power in the Director to waive the requirements of any of such regulations where in the case of any particular school that course may be desirable.

15. Clause 44 gives power to make rules for the continued administration of a provident fund which has existed since 1945 for the benefit of teachers in schools to which Government gives grants in aid. Such schools are non-profit making, and their expenses are governed by the detailed provisions of a Grant Code approved by the Governor in Council. The maintenance of the standard of such teachers and consequently their welfare is an important concern of the Colony, and a contribution has accordingly been made by Government to such fund, which since its inauguration has taken the form of payments equal to those made by contributors. The fund is substantial and will become more so and it is desirable that its status and detail be regulated by rules made under these powers. Similarly, it is not practicable for the Grant Code to provide for cash payments in respect of the annual deterioration of grant school buildings which nevertheless occurs each year, and accordingly a fund has been established which by the accumulation of annual contributions by Government enables the reconstruction of premises which because of such deterioration become no longer fit for use. Clause 45 provides for rules to be made to govern this fund.

16. Clause 47 in this Part prescribes matters which under the Ordinance shall be offences and for maximum penalties of \$5,000 and imprisonment for two years in respect thereof.

17. Ancillary provisions follow in the remainder of Part IX relating to the service of notices and exempting Government and its officers from any liability that might otherwise be said to arise from approval of plans and similar actions.

18. Clause 50 repeals the Education Ordinance, 1913, and the regulations made thereunder, but there are saving provisions for the continued registration of schools, managers and teachers registered thereunder, and transitional requirements for the appointment of a supervisor and the furnishing of such particulars as will enable the Bill, if enacted, to be applicable to the registration of such schools, managers or teachers.

19. Forms of application for registration and for similar purposes are set out in the First Schedule, and regulations in the Second Schedule. The Third and Fourth Schedules contain respectively the Grant Schools Provident Fund Rules and the Grant Schools Building Depreciation Fund Rules to which reference has already been made.

JAPANESE TREATY OF PEACE ORDER, 1952

(APPLICATION TO HONG KONG) BILL, 1952.

THE ATTORNEY GENERAL moved the Second reading of a Bill intituled "An Ordinance to make provision for adapting the Japanese Treaty of Peace Order, 1952, to the circumstances of the Colony".

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

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

Council then resumed.

THE ATTORNEY GENERAL reported that the Japanese Treaty of Peace Order, 1952 (Application to Hong Kong) Bill, 1952 had passed through Committee without amendment, and moved the Third reading.

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

BY-LAWS UNDER THE PUBLIC HEALTH (FOOD)**ORDINANCE, CHAPTER 140.**

HON. K. M. A. BARNETT, E.D., moved:—

That the By-laws made by the Urban Council on the 18th day of November, 1952, under section 5 of the Public Health (Food) Ordinance, Chapter 140, be approved.

He said: Sir, their purpose is simply to add the name of the temporary market at Aplichau to the list of public markets.

Aplichau is the large island on the south of Aberdeen harbour. It has a population of over 6,000. Hitherto there has been no market, the inhabitants buying their food from licensed stalls in the main street. The establishment of the temporary market, into which it has been arranged for all the street stallholders to be transferred, will effect a great improvement in the amenities and cleanliness of this island community.

THE FINANCIAL SECRETARY seconded, and the Motion was carried.

ADJOURNMENT.

HIS HONOUR THE GOVERNOR'S DEPUTY:— That concludes the business for today, Gentlemen. When is it your pleasure that we should meet again?

THE ATTORNEY GENERAL:— I would suggest, Sir, this day fortnight.

HIS HONOUR THE GOVERNOR'S DEPUTY:— Council will adjourn to this day fortnight.