

OFFICIAL REPORT OF PROCEEDINGS.**Meeting of 5th August, 1959.****PRESENT:**HIS EXCELLENCY THE OFFICER ADMINISTERING THE GOVERNMENT (*PRESIDENT*)

MR. CLAUDE BRAMALL BURGESS, C.M.G., O.B.E.

THE HONOURABLE THE COLONIAL SECRETARY

MR. EDMUND BRINSLEY TEESDALE, M.C. (*Acting*).

THE HONOURABLE THE ATTORNEY GENERAL

MR. ARTHUR HOOTON, Q.C. (*Acting*).

THE HONOURABLE THE SECRETARY FOR CHINESE AFFAIRS

MR. PATRICK CARDINALL MASON SEDGWICK (*Acting*).

THE HONOURABLE THE FINANCIAL SECRETARY

MR. ARTHUR GRENFELL CLARKE, C.M.G.

THE HONOURABLE ALLAN INGLIS

(Director of Public Works).

DR. THE HONOURABLE DAVID JAMES MASTERTON MACKENZIE, C.M.G., O.B.E.

(Director of Medical and Health Services).

THE HONOURABLE COLIN GEORGE MERVYN MORRISON

(Director of Urban Services).

THE HONOURABLE KENNETH STRATHMORE KINGHORN

(Commissioner of Labour).

THE HONOURABLE NGAN SHING-KWAN, O.B.E.

THE HONOURABLE HUGH DAVID MAC EWEN BARTON, M.B.E.

THE HONOURABLE KWOK CHAN, O.B.E.

THE HONOURABLE JOHN DOUGLAS CLAGUE, C.B.E., M.C., T.D.

THE HONOURABLE DHUN JEHANGIR RUTTONJEE, O.B.E.

THE HONOURABLE RICHARD CHARLES LEE, O.D.E.

THE HONOURABLE KWAN CHO YIU, O.B.E.

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

HIS EXCELLENCY THE COMMANDER BRITISH FORCES

LIEUTENANT-GENERAL SIR EDRIC MONTAGUE BASTYAN, K.B.E., C.B.

THE HONOURABLE FUNG PING FAN, O.B.E.

MINUTES.

The Minutes of the meeting of the Council held on 22nd July, 1959, were confirmed.

PAPERS.

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

<i>Subject.</i>	<i>G.N. No.</i>
Hong Kong Salaries Commission Report, 1959.	
Summary Offences Ordinance.	
Summary Offences (Licences and Fees) Regulations, 1959	A. 45
Protected Places (Safety) Ordinance.	
Protected Places Declaration (Amendment) (No. 2) Order, 1959	A. 46.
Public Order Ordinance.	
Military Installations Closed Areas (Amendment and Consolidation) (Amendment) (No. 2) Order, 1959	A. 47.
Defence Regulations, 1940.	
Export Control (Amendment) Order, 1959	A. 48.
Road Traffic Ordinance, 1957.	
Road Traffic (Road Crossing) (Amendment) Regulations, 1959	A. 49
Road Traffic Ordinance, 1957.	
Vehicle and Road Traffic (Amendment) Regulations, 1959	A. 50

He said: Sir, included among these papers is the Report of the 1959 Salaries Commission, which was appointed to consider and submit recommendations for the revision of the salaries and other emoluments of all public officers in Hong Kong. This Report is still under consideration by Government and I am unable at this stage to make any announcement regarding its implementation. The Report will be carefully studied and after Heads of Departments and other interested parties have had the opportunity of commenting on it, Government's recommendations on the various proposals included in the Report will be submitted for the consideration of this Council.

I would, however, like to take this opportunity of placing on record this Government's indebtedness to the Chairman and Members of the Commission for providing such a concise yet comprehensive report on so difficult and complex a subject. It is clear that they tackled the

problems referred to them in an imaginative and determined manner; indeed, they went somewhat beyond their formal Terms of Reference in order to cover thoroughly the ground of their studies.

I think there can be little doubt that this is a valuable report, and I would like, Sir, formally to thank the Chairman and Members of the Commission for the careful and hard work that has so evidently gone into its production.

SCHEDULE OF WRITE-OFFS FOR THE FINANCIAL YEAR 1958/59.

THE FINANCIAL SECRETARY moved the following resolution: —

Resolved that the Write-offs for the financial year 1958/59, as set out in the Schedule, be approved.

He said: Sir, the annual schedule of write-offs on this occasion is somewhat more lengthy than usual, and some of the amounts are larger than usual. I have to apologize for a typographical error in the remarks column relating to the sale of Kowloon Inland Lot 7356. At the second auction the lot realized \$770,000, not \$700,000 as stated. This price was much closer to the Public Works Department valuation than the figure realized at the original auction, where one buyer appears to have been carried away by the excitement of the occasion.

I trust that the items are adequately explained in the remarks column, but I might perhaps mention that the write off of more than \$850,000 described as "Air service fees, etc." relates to certain aircraft which were detained at Kai Tak for very many months pending the result of litigation to decide on their ownership.

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

THE COLONIAL SECRETARY seconded.

The question was put and agreed to.

HONG KONG TOURIST ASSOCIATION (AMENDMENT) BILL, 1959.

THE ATTORNEY GENERAL moved the First reading of a Bill intituled "An Ordinance to amend the Hong Kong Tourist Association Ordinance, 1957".

He said: Sir, this amending Bill proposes the addition of a new section to the Hong Kong Tourist Association Ordinance, 1957, which will make it an offence on anyone to possess or use the badge and

emblem of the Hong Kong Tourist Association unless he has the authority of that Association so to do. This provision follows the pattern of similar provisions contained in the law pertaining to other bodies governed by Ordinance, such as St. John's Ambulance, the Boy Scouts and the Girl Guides.

It is considered that this is likely to be the most effective method of preventing pirating of the Association's badge and emblem.

THE COLONIAL SECRETARY seconded.

The question was put and agreed to.

The Bill was read a First time.

Objects and Reasons.

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

It is desired to prohibit the unauthorized use of the Association's badge or of any device resembling the badge. The amendment makes the unauthorized possession of a badge and the unauthorized use of any device resembling the badge an offence.

HOUSING (AMENDMENT) BILL, 1959.

THE ATTORNEY GENERAL moved the First reading of a Bill intituled "An Ordinance to amend the Housing Ordinance, 1954".

He said: Sir, the Housing Ordinance contains a provision by virtue of which the Chairman of the Housing Authority is constituted a corporation sole. Experience has shown that it would be preferable that the corporation should consist not merely of the Chairman but also of the members. This Bill accordingly proposes the incorporation of the Authority as a whole, and the new corporation so created, will take over the property, rights and liabilities of the corporation sole, which it is replacing.

THE COLONIAL SECRETARY seconded.

The question was put and agreed to.

The Bill was read a First time.

Objects and Reasons.

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

The Hong Kong Housing Authority established under section 3 of the Housing Ordinance, 1954 is an unincorporated body. As such, legal liabilities incurred by it could in certain circumstances become the

personal liabilities of the individual members of the Authority. Under section 11 of that Ordinance the Chairman of the Authority was created a corporation sole. The object of this Bill is to incorporate the Authority as a whole. Clause 3 vests in this corporation all the property, rights and liabilities acquired by the corporation sole which it replaces or by the Authority prior to incorporation; and clause 4 effects the consequential amendments to references in various sections to property vested in the Chairman. Once all property becomes vested in the newly created corporation section 13 becomes redundant and is deleted by clause 6.

2. The opportunity has also been taken to replace section 12 which deals with the execution of documents. This provision has been expanded to cover both deeds which require to be sealed and other documents which require to be signed, and also permits the Chairman to delegate this function.

INDECENT EXHIBITIONS (AMENDMENT) BILL, 1959.

THE ATTORNEY GENERAL moved the First reading of a Bill intituled "An Ordinance to amend the Indecent Exhibitions Ordinance, Chapter 150".

He said: Sir, the Indecent Exhibitions Ordinance has over the years provided a firm and solid foundation for action against indecent, obscene, revolting and offensive exhibitions, publications and advertisements. Couched in wider terms than has been the corresponding law in the United Kingdom, it has proved a most valuable weapon in the war against vice of this type.

The purpose of this amending Bill is to add a further weapon to its armoury. It provided for the seizure and confiscation of the apparatus used for showing indecent films. In future therefore anyone who goes in for this line of business can look forward both to penalties extending up to six months' imprisonment and a fine of \$5,000 and also to the loss of the equipment used in the offence.

THE COLONIAL SECRETARY seconded.

The question was put and agreed to.

The Bill was read a First time.

Objects and Reasons.

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

The object of this Bill is to amend certain sections of the Indecent Exhibitions Ordinance, Chapter 150, to give increased powers of seizure in the case of indecent cinema shows and similar exhibitions.

The Bill provides that in the case of the seizure of any indecent picture or films, any apparatus used for projecting or showing such picture or films can also be seized.

2. Clause 3 of the Bill deletes the words "in or near any public place" from section 2 of the Ordinance. This deletion has been made to control indecent exhibitions exposed to public view which are not so exposed in or near any public place.

3. Clause 5 of the Bill *inter alia* clarifies subsection (2) of section 7 of the Ordinance whereby a Magistrate has power to order to be forfeited anything which appears to him to be indecent etc., irrespective of how it came into possession of the Police.

CROWN LANDS RESUMPTION (CHAI WAN) BILL, 1959.

THE ATTORNEY GENERAL moved the First reading of a Bill intituled "An Ordinance to provide for the reversion to the Crown of certain land situated at Chai Wan in the Colony, for the payment of compensation in respect of rights or interests extinguished thereby and of loss or damage suffered in consequence thereof, for the determination of questions as to who is the person entitled to recover such compensation and for matters connected with the purposes aforesaid."

He said: Sir, the principle that, whenever the Government resumes land for public purposes, fair compensation shall be paid to the persons from whom the land is taken, is already enshrined in the law of the Colony and is given general effect to by the Crown Lands Resumption Ordinance.

The present Bill, the subject of which relates to certain particular resumptions of land, namely at Chai Wan, urgently needed for resettlement, likewise gives effect to that accepted principle and embodies provisions for assessment of compensation calculated on the same basis as is provided by the Crown Lands Resumption Ordinance.

Inquiries reveal, however, a somewhat confused and complicated picture of land transactions at Chai Wan rendering desirable special legislation designed to ensure that the right persons are paid the compensation due and further to ensure that any persons who may have acquired ownership of land by fraud and swindle, do not also cheat the rightful owners out of the appropriate monetary compensation paid on resumption.

Compensation Boards constituted under the Crown Lands Resumption Ordinance do not normally inquire into questions of title to land, but refer rival claimants to the Courts to establish their respective rights. If this procedure were followed in the present case it might prove inadequate as evidence of any fraudulent dealings in the land resumed

will be in the hands of the Crown rather than in those of persons who, were they themselves in possession of that evidence, would be in a position to put forward claims. Further, many of the persons concerned may well be unable to afford the cost of normal litigation to establish their rights and may even be ignorant of them. Thus, if the normal procedure for determining entitlement to compensation were adopted in this particular case, there would be a danger that the most unsatisfactory position might be reached where persons guilty of fraud would be paid compensation without inquiry into their entitlement and persons helpless to assert their rights would get nothing.

The main feature of this Bill, therefore, is to set up special and cheap machinery for investigating title to land and determining entitlement to compensation. This is sought to be achieved by the creation of a Land Tribunal to which any doubtful claims will be referred with jurisdiction to determine entitlement to compensation. This Tribunal will consist of a Judge appointed by the Chief Justice and it will have power to elucidate all relevant matter as to land transactions at Chai Wan, and to hear evidence in the possession of the Crown as well as that of the claimants. The creation and operation of this Tribunal is thus designed to safeguard and give effect to the rights of persons entitled to receive compensation as against those who put forward claims without true legal or moral foundation.

A further novel feature of the Bill is the division of claimants into two categories, termed in the Bill, "Class A" and "Class B" claimants respectively. Class A claimants comprise persons who have good titles to the land in accordance with the law. There may well, however, be other persons who have not such titles because they or their predecessors may have acquired their land in accordance with customary methods or because they may have not gone through the legal formalities necessary for completion of title. It is considered that such persons, provided they have acted in good faith, should, notwithstanding lack of legal formality, be eligible for compensation and they are referred to in the Bill as "Class B" claimants. The creation of this further class and the attempt made in the Bill to provide in advance for a great variety of possible situations, have unfortunately made certain of the provisions of the proposed legislation, somewhat complex, but in the special circumstances this has been inevitable.

The main outline of the Bill and its proposed operation are, however, relatively straightforward.

First: Claims are to be forwarded to the Director of Public Works within six weeks of the Ordinance coming into operation.

Second: Where the claimant is a Class A claimant and there is no reason for doubting the validity of his title to the land and there is no other person entitled, the Director will proceed forthwith to assess

his compensation in accordance with the usual rules. Having assessed the compensation, he will offer it to the claimant. If the claimant accepts it, it will be paid together with the usual interest, and thus speedy pay out of compensation will be achieved in cases where there is no doubt or dispute as to entitlement. If, however, the claimant considers that he is entitled to a greater amount of compensation than has been assessed by the Director and therefore refuses the offer, compensation will be assessed by a Compensation Board of three persons presided over by a Judge, whose assessment will supersede that of the Director.

Third: Where a claim is received from a Class A claimant but there is reason to doubt the validity of his title or where there may be some other person entitled and where the claimant is a Class B claimant, the Director will, prior to assessing compensation, refer the question of entitlement to the Land Tribunal for determination. There the whole of this aspect will be thrashed out and if, during the course of proceedings, it comes to light that some person other than one who has made a claim may be the person properly entitled, his position will also be considered and the Tribunal will finally determine who are the persons entitled to compensation in respect of the lots in question.

Fourth: When the Land Tribunal has determined who is entitled to compensation, the Director will assess it and the person to whom it is awarded will be free either to accept the Director's assessment or require assessment by the Compensation Board, as he pleases.

I mentioned earlier that certain of the provisions are somewhat complicated and endeavoured to explain the reason for this, namely, that the Bill attempts in unusual circumstances to try to ensure payment of compensation to the persons to whom it is just that it should be paid whatever the niceties of their strict legal position. I am confident, however, that notwithstanding the legal language of the Bill, it will not be beyond the capacity of the indefatigable officers of the Secretariat for Chinese Affairs to explain clearly the position to the inhabitants of Chai Wan; I am also confident that they will also, when the occasion arises, be available to give assistance to the Land Tribunal by way of expert evidence on the customs of the people concerned.

THE COLONIAL SECRETARY seconded.

The question was put and agreed to.

The Bill was read a First time.

Objects and Reasons.

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

This Bill seeks to provide for the reversion to the Crown of certain land at Chai Wan, for the payment of compensation in respect of the extinguishment thereby of rights or interests in that land and in

respect of loss or damage suffered in consequence thereof and for the determination of questions as to the person who is entitled to recover such compensation.

2. The circumstances in which this Bill has become necessary are these. The land in question is required for the purposes of resettlement. It was originally proposed, in accordance with the normal procedure in similar cases, that the land should be resumed under the Crown Lands Resumption Ordinance (Cap. 124) and, to that end, the Governor in Council ordered, on three occasions, resumption of different parts of the land. Since those orders were made, it has come to light that, in a number of cases, there will or may be disputes as to who was the lawful owner of the land immediately prior to its reversion or as to who had a lawful right or interest in the land which may be the subject of compensation. It is probable that there will or may be such disputes in other cases. It has also come to light, *inter alia*, that some, if not all, of the land in question may have been assigned or otherwise dealt with in a customary manner and not necessarily, therefore, in accordance with the law. In these circumstances, it is considered that the Crown Lands Resumption Ordinance is neither suitable nor adequate. The reasons for this are as follows. Firstly, it has never been the practice of a Compensation Board appointed under that Ordinance to consider questions of title, nor are the provisions of that Ordinance adequate if it were to do so. The effect of this is that, in the event of a dispute, questions as to who is entitled to recover compensation must be determined in the courts and, thereafter, the Compensation Board deals with the quantum of compensation which any person whom the courts have held to be entitled to recover is, in fact, entitled to recover. Quite apart from the fact that most of the persons concerned do not possess the means to institute proceedings in the courts, it is considered that it is desirable in this case to establish a special tribunal to hear and determine these questions. Secondly, the Crown Lands Resumption Ordinance does not make any provisions enabling any person other than a person who had a legal right or interest in the resumed land to recover compensation. Provisions in that regard are necessary otherwise considerable hardship will result in some cases.

3. This Bill, therefore, makes special provisions for and in respect of the reversion of the land in question to the Crown and specifically excludes the application of the Crown Lands Resumption Ordinance in respect of that land (clause 27).

4. The Bill creates two classes of claimants, namely, those whose claim is in respect of the extinguishment of or loss or damage suffered in relation to a legal right or interest (referred to in the Bill as Class A claimants) and those whose claim arises otherwise than in respect of a legal right or interest (referred to in the Bill as Class B

claimants). The Class A claimants are specified in sub-clause (1) of clause 5 and the Class B claimants in sub-clause (2) thereof. The Bill vests in the Class A claimants a right to recover compensation, a right, however, which, as will be seen hereafter, may be reduced or extinguished by order of the Land Tribunal. The position of the Class B claimant is rightly rather different. The Bill provides that, in the first instance, he is only eligible to recover compensation; his right to recover the same arises only when the Land Tribunal orders that he is entitled to recover compensation. This distinction has been maintained throughout the Bill.

5. *Claims for compensation.* The primary provision of the Bill is that claims for compensation must be made to the Director of Public Works within six weeks of its coming into operation (clause 6(1)). The secondary provisions as to claims are as follows.

Firstly, where a claim made under the provisions of clause 6(1) is referred to the Land Tribunal (as to which more detailed comments are to be found in paragraph 6 hereof), notices are to be published declaring that the claim has been so referred and calling on any other person who considers that he is entitled or eligible to recover compensation in respect of the same part of the land to lodge a claim with the clerk to the Land Tribunal within a specified period which is to be not less than thirty days after the publication of the notice in the *Gazette* (clause 7(1)(b)).

Secondly, it is thought that, as the Land Tribunal is making its inquiries, it may, in some cases, become apparent that a person who has not made a claim under either of the foregoing provisions is or may be entitled to recover compensation. Clause 8(2) empowers the Land Tribunal to direct the publication of notices calling on any such person to lodge a claim with the clerk to the Tribunal.

Thirdly, despite these full provisions for the making of claims, it is thought likely, having regard to the circumstances and to the class of most of the people concerned, that there will be instances where claims will not be made by persons who are entitled to recover compensation. The Bill provides, therefore, that the Land Tribunal may make an order in favour of a person who has not made a claim and provides that the Director of Public Works must notify any such person, if he can be found, of the order of the tribunal. A person who is so notified may then make a claim for compensation within thirty days of the service of the notice. Any such person who is not so notified may make a claim within one year from the date of the order.

6. *Procedure on receipt of claim under clause 6(1).* When the Director of Public Works receives a claim under this sub-clause, he must, depending on the circumstances, follow one of two courses. If he considers that the claimant is a Class A claimant and that no other

person is or may be entitled to recover compensation in respect of a right or interest in the same part of the land of the same or substantially the same nature as that to which such claim relates, he must assess the amount of compensation which, in his opinion, is recoverable by the claimant and notify him of the amount so assessed, or make such other offer, other than an offer of the payment of money, as he considers proper (clause 10(1)(a) and 10(1)(i) and (ii)). If, on the other hand, he considers that there is a doubt or dispute as to whether the claimant is a person who is entitled to recover compensation or that there are or may be other persons who are entitled to recover compensation in respect of the same part of the land, he must refer the claim to the Land Tribunal (clause 6(2)). The procedure which is to be followed where a claim is so referred to the Land Tribunal has already been mentioned in paragraph 5 above.

7. *Determination of questions as to entitlement by Land Tribunal.* Clause 8 is the relevant clause. The Land Tribunal is required to determine, first of all, whether the claimant is a person who is entitled as a Class A claimant or eligible as a Class B claimant to recover compensation and whether or not any other person is so entitled or eligible in respect of the same part of the reversion land (sub-clause (3)). Having determined that a person is so entitled or eligible, the Tribunal is then required to consider whether he is to recover the whole or part only of his compensation. Sub-clause (5) provides for the simple case, namely, where there is only one person entitled or eligible to recover compensation in respect of the particular right or interest, and provides that, in such a case, the Tribunal shall order that he is entitled to recover the whole of the compensation. Sub-clause (6) provides for the difficult case, namely, where there is more than one person entitled to recover compensation in respect of the same or substantially the same right or interest in the same part of the reversion land. This sub-clause provides that the Tribunal shall determine, having regard to the conduct of each of such persons, whether one only of them should be entitled to recover the whole of his compensation and the others, therefore, not entitled to recover any compensation or whether some or all of such persons should each be entitled to recover part of their compensation (sub-clause (6)(a)), and shall make orders accordingly. Having ordered that more than one person shall be entitled to recover part of his compensation, the Tribunal is then required to determine what part thereof he shall, in fact, be entitled to recover with the restriction that the aggregate of the fractions of their compensation which each person is so determined to be entitled to recover shall not be more than unity.

Direct and simple provisions for the case where a person has obtained a right or interest, in respect of which he would or might otherwise be entitled to recover compensation, by fraud, deceit, common law cheating or other like wrongful act are contained in sub-clause (4)

of clause 8. In such a case, the Land Tribunal must order that such person shall not be entitled to recover any compensation in respect of that right or interest.

8. *Assessment of compensation after proceedings before Land Tribunal.* Where the Land Tribunal has ordered that a person is entitled to recover the whole or part of the compensation, the Director of Public Works is required to assess the amount of compensation which, in his opinion, is recoverable by that person and to notify him of the actual amount which he is entitled to recover, taking into account, where appropriate, the order of the Tribunal that the person is entitled to recover part only of the full amount of compensation, or to make such other offer by way of compensation, other than an offer of the payment of money, as he considers proper (clause 10(1)(b) and 10(1)(i) and (ii)).

9. *Disputes as to quantum of compensation.* When the Director of Public Works has notified a person of the amount of compensation which, in his opinion, is recoverable by such person and that person agrees to accept that amount in full settlement of his claim, the necessary payment may be made (clause 11(1)).

Provisions for the determination of disputes as to the quantum of compensation or as to whether any right or interest which has been extinguished or any loss or damage which has been suffered is a right or interest or is loss or damage in respect of which compensation is payable are contained in sub-clauses (2), (3) and (4) of clause 11. Any party to any such dispute has the right to refer the same to the Compensation Board.

10. Rules for the assessment of compensation are contained in clause 24. The rules are exactly the same as those contained in sections 11 and 12 of the Crown Lands Resumption Ordinance. Provisions for the payment of interest on the amount of any compensation which is recoverable are contained in sub-clause (2) of clause 12.

11. *Part III of the Bill.* This Part provides for the establishment and constitution of the Land Tribunal and the Compensation Board, for the powers of the Tribunal and the Board and for matters of procedure in and in connexion with the proceedings thereof. The provisions of clauses 17 and 22 are, perhaps, of particular interest.

Clause 17. As the Bill provides, the proceedings of the Land Tribunal will be in the form of an inquiry, and, that being so, it is considered that the conduct of the proceedings of the Tribunal should, at all times, be in the hands of the Tribunal, and it is further considered that control over the calling of witnesses and the examination and cross-examination thereof should also be vested in the Tribunal. This clause provides accordingly.

Clause 22. It is considered that the fact that any proceedings which may be instituted in any court after the day on which this Bill receives its first reading in the Legislative Council have been instituted or are being heard should not be taken into account by the Land Tribunal in making any determination or order, nor should any account be taken of any judgment, order or finding of the court in any such proceedings. It is unlikely that the Tribunal would, in any event, have been, or would have considered itself to be, bound in law by the decision of a court, but might well have been influenced by those matters or might have regarded any such judgment, order or finding of strong persuasive authority. Whilst in many cases, there would be not the slightest objection to the Tribunal's being so influenced or so regarding any such judgment, order or finding, it is considered that, in the present case, it is desirable to provide specifically that the Land Tribunal should take no account of these matters. This contention is, it is thought, re-enforced when it is remembered that the Crown would not normally be a party to the proceedings before the court and, since it is anticipated that much of the evidence adduced before the Tribunal will be adduced by the Crown in the interests of all those rightfully concerned, this factor becomes of the greatest consequence. This clause makes the necessary provisions.

12. Clause 26 empowers the Governor to entertain moral claims for compensation and to order payment thereon, by way of compensation, of such amount as he thinks fit.

DENTISTS REGISTRATION BILL, 1959.

DR. D. J. M. MACKENZIE moved the First reading of a Bill intituled "An Ordinance to repeal and to re-enact with amendment the Dentists Registration Ordinance, Chapter 156."

He said: Sir, in this Bill the substantive provisions of the existing Ordinance have been largely retained but there are certain changes about which comment is required.

The extraction of teeth by pharmacists in cases of urgency is a practice that has fallen into disuse and therefore the omission of section 3(2)(b) of the existing Ordinance will in no way deprive the public of an emergency service. Government has established a free service for this purpose at certain public clinics on both sides of the harbour and in the New Territories. In addition there are now sixteen other centres where emergency extractions are carried out by registered dentists either free or at low cost.

The constitution of the Dental Council to be established under clause 4 remains the same as that of the Dental Board but provision is made for the additional appointments of a Legal Adviser and a

Secretary. The Council replaces the Board as the examining body which determines the fitness to be registered of dentists who are in possession of qualifications from dental schools which follow a curriculum of training approved by the Council but who are not eligible for registration under clause 8 paragraphs (a) and (b).

Under clause 7 sub-clause (2) of the Bill the present register of dentists will remain in existence and the new paragraph (d) of clause 8 provides for the restoration to the register of the names of dentists, at one time registered under the existing Ordinance but who have ceased to be registered. This latter provision is subject to the safeguards contained in paragraph (c) of clause 9 sub-clause (3) which deals with erasure or removal under an existing order resulting from a disciplinary inquiry.

It is important to note that the omission of section 11 of the existing Ordinance means that in future the obligation is laid, under section 25 of the Stamp Ordinance, Chapter 117, on registered dentists to obtain their annual practising certificates direct from the Collector of Stamp Duty. This brings the procedure for dentists into line with that for other professions for which an annual practising certificate is required.

The full detail of the other amendments is given in the Objects and Reasons and in the Comparative Table attached to the Bill.

THE COLONIAL SECRETARY seconded.

The question was put and agreed to.

The Bill was read a First time.

Objects and Reasons.

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

The object of this Bill is to replace the Dentists Registration Ordinance (Cap. 156) with a comprehensive Ordinance re-enacting in amended form the substantive provisions of the existing Ordinance. The Bill will come into operation on a date to be appointed by the Governor.

2. Under section 3(2)(b) of the existing Ordinance a registered pharmacist is permitted to extract teeth in an urgent case where no registered medical practitioner or registered dentist is available; this provision has been omitted from clause 3 of the Bill.

3. The Bill also establishes the Dental Council of Hong Kong in substitution for the Dental Board and it provides for the procedure to be followed at meetings of the Council. Provision has also been made for publication in the *Gazette* of any order made by the Council as the result of a disciplinary inquiry.

4. The provisions in the existing Ordinance relating to annual practising certificates have been omitted from the Bill as section 25 of the Stamp Ordinance (Cap. 117) lays down, *inter alia*, that no registered dentist shall practise in the Colony unless he is in possession of a certificate to practise under that Ordinance.

5. Clause 30 of the Bill now clarifies the position with regard to dentists in the public service of the Colony, and all dentists of Her Majesty's Navy, Army and Air Force residing in the Colony. Sub-clause (1) of this clause now provides in effect that dentists in the public service of the Colony will be required to register under clause 9 but that they will be exempt from payment of the fees laid down in this clause and will further be exempt from the provisions of clauses 10 and 14. Sub-clause (2) of this clause exempts all dentists of Her Majesty's Navy, Army and Air Force residing in the Colony while in the discharge of their duties from the provisions of clauses 9, 10 and 14 of the Bill but provides that they shall be deemed to be registered under the Ordinance.

6. The attached Comparative Table gives in detail the amendments made by this Bill and where necessary appropriate observations are inserted in the remarks column.

ADJOURNMENT.

H. E. THE OFFICER ADMINISTERING THE GOVERNMENT: —That concludes the business for today, gentlemen. When is it your pleasure that we meet again?

THE ATTORNEY GENERAL: —Sir, may I suggest this day fortnight?

H. E. THE OFFICER ADMINISTERING THE GOVERNMENT: — Council stands adjourned to this day fortnight.