

OFFICIAL REPORT OF PROCEEDINGS.**Meeting of 26th April, 1961.**

PRESENT:

HIS EXCELLENCY THE GOVERNOR (*PRESIDENT*),
SIR ROBERT BROWN BLACK, K.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 RIDEHALGH, Q.C.
THE HONOURABLE THE SECRETARY FOR CHINESE AFFAIRS,
MR. JOHN CRICHTON McDOUALL.
THE HONOURABLE THE FINANCIAL SECRETARY,
MR. JOHN JAMES COWPERTHWAITTE, O.B.E.
THE HONOURABLE PATRICK CARDINALL MASON SEDGWICK
(*Commissioner of Labour*)
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 KENNETH STRATHMORE KINGHORN
(*Director of Urban Services*)
THE HONOURABLE NGAN SHING-KWAN, C.B.E.
THE HONOURABLE KWOK CHAN, O.B.E.
THE HONOURABLE DHUN JEHANGIR RUTTONJEE, O.B.E.
THE HONOURABLE RICHARD CHARLES LEE, O.B.E.
THE HONOURABLE KWAN CHO-YIU, O.B.E.
THE HONOURABLE GEORGE MACDONALD GOLDSACK
MR. ANDREW McDONALD CHAPMAN (*Deputy Clerk of Councils*)

ABSENT:

HIS EXCELLENCY THE COMMANDER BRITISH FORCES,
LIEUTENANT-GENERAL SIR RODERICK WILLIAM McLEOD, K.C.B., C.B.E.
THE HONOURABLE HUGH DAVID MacEWAN BARTON, M.B.E.
THE HONOURABLE FUNG PING-FAN, O.B.E.

MINUTES.

The minutes of the meeting of the Council held on 12th April, 1961, were confirmed.

PAPERS.

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

<i>Subject.</i>	<i>G.N. No.</i>
Sessional Paper, 1961: —	
No. 10—Annual Report by the Commissioner of Labour for the year 1959/60.	
Public Health and Urban Services Ordinance, 1960.	
Food and Drugs (Composition and Labelling) (Amendment) Regulations, 1961	A. 48.
Registration of Persons Ordinance, 1960.	
Registration of Persons (Re-registration) (No. 4) Order, 1961.	A. 51.
Public Health and Urban Services Ordinance, 1960.	
Colonial Cemetery, Happy Valley Rules, 1961	A. 52.

EX GRATIA PENSION FOR AJAIB SINGH.

THE COLONIAL SECRETARY moved the following resolution: —

WHEREAS—

- (1) Ajaib SINGH (hereinafter referred to as "the Pensioner") joined the Hong Kong Police Reserve Force established under the Hong Kong Police Reserve Ordinance, 1927, on or before 7th August, 1940, and served with the Indian Company of that Force, as a constable until 25th December, 1941;
- (2) when the Pensioner was on duty with that Force, on 18th December, 1941, he was wounded by Japanese shell fire;
- (3) the permanent disability of the Pensioner resulting from such wounds has been assessed at forty per cent;
- (4) with effect from 26th December, 1941, the Pensioner has been awarded a pension under section 13 of the Hong Kong Police Reserve Ordinance, 1927;
- (5) the maximum pension which can be paid to the Pensioner by way of pension under that section is \$1,000.00 per annum;

- (6) if the Pensioner had been a member of the Hong Kong Volunteer Defence Corps, constituted under the Volunteer Ordinance, 1933, he would have received a pension under the Volunteer and Naval Volunteer Pensions Ordinance, 1950 (now Chapter 202) which, in respect of the period after 30th January, 1955, would have exceeded the limit of \$1,000.00 per annum imposed by section 13 of the Hong Kong Police Reserve Ordinance, 1927;
- (7) notwithstanding that the Pensioner, on the said 18th December, 1941, was not a member of the Hong Kong Volunteer Defence Corps, it is desired that an *ex gratia* pension be awarded to the Pensioner so that the total pension received by him should not be less than he would have received if he had been a member of the Hong Kong Volunteer Defence Corps on the said 18th December, 1941;

RESOLVED that there be granted to the Pensioner, with effect from the 31st January, 1955, an *ex gratia* pension of such amount as from time to time, added to the pension payable to the Pensioner under section 13 of the Hong Kong Police Reserve Ordinance, 1927, would make up such pension to the amount which the Pensioner would have received if he had been a member of the Hong Kong Volunteer Defence Corps on the said 18th December, 1941.

He said: Mr. Ajaib SINGH was a member of the Indian Company of the Police Reserve and was seriously wounded by shell fire on 18th December, 1941. He was detained in various hospitals for some six months before being discharged. He claims that a few months before the war ended he was sent to Singapore for forced labour, and was subsequently repatriated from Singapore to India in 1946, since when he has been supported by his family.

Although he has been disabled for many years, Mr. Ajaib SINGH applied for a disability pension only in the middle of 1959. The investigation of his claim and an accurate medical assessment of his disability has unavoidably taken some time.

If Mr. SINGH had been a member of the Hong Kong Volunteer Defence Corps his pension would have fallen to be calculated in accordance with the Royal Warrants and would be subject to automatic review from time to time. It is clearly desirable that he should be accorded the same treatment, and Your Excellency in Executive Council has awarded him a pension for the period to 30th January 1955 under section 13 of the Hong Kong Police Reserve Ordinance, 1927, in such sums as would have been his due under the Royal Warrants. As from 31st January, 1955, the pensioner's case if dealt with under the Royal

Warrants would have attracted an annual pension in excess of \$1,000, the maximum amount provided under the 1927 Ordinance. The Resolution now before Council seeks to make it possible for a total pension in excess of \$1,000 a year to be paid to Mr. Ajaib SINGH in accordance with the Royal Warrants as if he had been a member of the Hong Kong Volunteer Defence Corps on the date he was wounded.

THE ATTORNEY GENERAL seconded.

The question was put and agreed to.

**SUPPLEMENTARY PROVISIONS FOR THE QUARTER
ENDED 31ST DECEMBER, 1960.**

THE FINANCIAL SECRETARY moved the following resolution: —

Resolved that the Supplementary Provisions for the Quarter ended 31st December, 1960, as set out in Schedule No. 3 of 1960/61, be approved.

He said: Sir, the total supplementary provision required for the third quarter of the last financial year shown in the Schedule is \$16½ million against which savings foreseen are insignificant.

Of this sum, no less than \$13.6 million is accounted for by Public Works Non-Recurrent, largely reflecting accelerated progress during the year. A further \$1 million was for Works Executed on Private Account which reflects the increased pace of private development, and is reimbursable.

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

THE COLONIAL SECRETARY seconded.

The question was put and agreed to.

REGISTRATION OF PERSONS (AMENDMENT) BILL, 1961.

THE COLONIAL SECRETARY moved the First reading of a Bill intituled "An Ordinance to amend the Registration of Persons Ordinance, 1960."

He said: The purpose of the Bill is explained, Sir, in the "Objects and Reasons" and there is little I can usefully add.

Clause 2 of the Bill repeals a section of the principal Ordinance under which extensive powers of search without warrant are granted to the Commissioner of Registration and to Police and Immigration

Officers. Although these powers are not new, having been included in the original Registration of Persons Ordinance enacted in 1949, they have never in fact been used and are considered wider than can be justified at the present time.

Clause 3 of the Bill amends section 10 of the principal Ordinance so that, where re-registration is required by the issue of any order under the Ordinance, provision is made for the subsequent cancellation of old identity cards issued under a previous Ordinance. Although re-registration is proceeding smoothly and applicants have been returning their old identity cards for destruction, there is no provision for rendering such cards invalid if they are not handed in as and when requested. It is therefore considered advisable to provide that you, Sir, may make a declaration that after a certain date identity cards bearing appropriate numbers shall be invalid. The Bill will enable such declarations to be made from time to time as necessary.

THE ATTORNEY GENERAL 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 purpose of this measure is—

- (a) to repeal section 6 of the Registration of Persons Ordinance, 1960, which grants powers of search and seizure, as experience has shown these powers to be unnecessary; and
- (b) to provide for the cancellation from time to time by order of the Governor of existing registration and identity cards where persons who have been required by order issued under proviso (iv) of the Ordinance to re-register have failed to comply with the order.

GAMBLING (AMENDMENT) BILL, 1961.

THE ATTORNEY GENERAL moved the First reading of a Bill intituled "An Ordinance to amend the Gambling Ordinance, Chapter 148."

He said: Sir, this is a very simple amendment an explanation of which is contained in the statement of "Objects and Reasons" to which can add nothing.

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 purpose of this measure is to bring the provisions relating to breaches of licences issued under section 11A of the Gambling Ordinance in relation to premises in which majong, tin kau, and other games of a gambling nature, are played, into line with those relating to licences issued under section 10 of the Ordinance permitting the conduct of lotteries, by introducing into section 11A a maximum penalty of one thousand dollars fine and six months imprisonment, similar to that contained in section 10 for breaches of the conditions of licences issued under that section in addition to the power in the Commissioner of Police to revoke the licence.

NEW TERRITORIES (AMENDMENT) (NO. 2) BILL, 1961.

THE ATTORNEY GENERAL moved the First reading of a Bill intituled "An Ordinance to amend the New Territories (Amendment) Ordinance, 1961."

He said: Sir, it will be within the recollection of honourable Members that at the meeting of this Council held on the 12th April, there was read a Third time and passed, a Bill to amend the New Territories Ordinance. That Bill contained seven clauses, but by mischance (which is very much regretted), clause 7 was omitted from the copy of the Bill submitted to Your Excellency for assent. The purpose of the Bill now before Council is to remedy that defect in the previous Bill to which Your Excellency has already assented, and which is therefore now on the Statute Book, though it has not yet been brought into operation. Sir, it is well-established parliamentary practice in the United Kingdom that in the case of such a mistake, recourse must be had to fresh legislation. The principle is that the Crown does not recall its assent once given; it gives a fresh assent to a remedial measure.

Therefore, Sir, the Bill presently before Council seeks to insert in the New Territories (Amendment) Ordinance, 1961, the missing clause—a clause which was agreed to by this Council on 12th April. This, Sir, is a formal measure and in due course I shall ask leave to move the suspension of Standing Orders to the extent necessary to allow it to be taken through all its stages at this meeting.

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 purpose of this Bill is to insert into the New Territories (Amendment) Ordinance, 1961, certain transitional provisions which will become necessary when that Ordinance is brought into operation, and which were by mischance omitted from the print of that Ordinance in Bill form presented to the Governor for the Royal Assent.

THE ATTORNEY GENERAL: — Sir, under Standing Order 37 I seek Your Excellency's leave to move the suspension of Standing Orders to the extent necessary to allow this Bill to be taken through all its readings.

H. E. THE GOVERNOR: — You have this leave.

THE ATTORNEY GENERAL moved that Standing Orders be suspended.

The question was put and agreed to.

THE ATTORNEY GENERAL moved the Second reading of the Bill.

THE COLONIAL SECRETARY seconded.

The question was put and agreed to.

The Bill was read a Second time.

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

Clauses 1 and 2 were agreed to.

THE ATTORNEY GENERAL reported that the New Territories (Amendment) (No. 2) Bill, 1961, has passed through Committee without amendment and moved the Third reading.

THE COLONIAL SECRETARY seconded.

The question was put and agreed to.

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

STAMP (AMENDMENT) BILL, 1961.

THE FINANCIAL SECRETARY moved the Second reading of a Bill intituled "An Ordinance to amend the Stamp Ordinance, Chapter 117."

THE COLONIAL SECRETARY seconded.

The question was put and agreed to.

The Bill was read a Second time.

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

Clauses 1 to 5 were agreed to.

Clause 6.

THE FINANCIAL SECRETARY: —I rise to move that Clause 6 be amended as set forth in the paper before honourable Members.

Sir, Clause 6 of the Bill is designed to modify the exemption at present granted to instruments made or executed by Her Majesty, one effect being to limit exemption to cases where only Government is chargeable with duty. Paragraph (d) of subsection 4 of the amended section 41 provides for the continued exemption from stamp duty of grants of Crown Leases. The amendment I am now moving extends that exemption to surrenders of Crown Leases to the Crown. The justification for this is that the great majority of such surrenders are merely procedural steps in connexion with renewals of leases, exchanges and extensions; and most other surrenders to the Crown are made at the instance of Government.

THE COLONIAL SECRETARY seconded.

Proposed Amendment.

Clause.

6. Insert after the term "the Crown" in paragraph (d) of subsection (4) of the new section 41 the following—
"and all surrenders thereof".

Clause 6, as amended, was agreed to.

Clauses 7 and 8 were agreed to.

THE FINANCIAL SECRETARY reported that the Stamp (Amendment) Bill, 1961, had passed through Committee with one amendment and moved the Third reading.

THE COLONIAL SECRETARY seconded.

The question was put and agreed to.

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

ADJOURNMENT.

H. E. THE GOVERNOR: —Well, gentlemen, that concludes the business for today. When is it your pleasure that we should meet again?

THE ATTORNEY GENERAL: —May I suggest this day two weeks, Sir?

H. E. THE GOVERNOR: —Council stands adjourned until this day two weeks.