

**OFFICIAL REPORT OF PROCEEDINGS****Meeting of 6th September 1961**

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**PRESENT:**HIS EXCELLENCY THE OFFICER ADMINISTERING THE GOVERNMENT (*PRESIDENT*)

MR CLAUDE BRAMALL BURGESS, CMG, OBE

THE HONOURABLE THE COLONIAL SECRETARY

MR EDMUND BRINSLEY TEESDALE, MC (*Acting*)

THE HONOURABLE THE ATTORNEY GENERAL

MR ARTHUR RIDEHALGH, QC

THE HONOURABLE THE FINANCIAL SECRETARY

MR JOHN JAMES COWPERTHWAITTE, OBE

THE HONOURABLE ALLAN INGLIS

*(Director of Public Works)*

DR THE HONOURABLE DAVID JAMES MASTERTON MacKENZIE, CMG, OBE

*(Director of Medical and Health Services)*

THE HONOURABLE KENNETH STRATHMORE KINGHORN

*(Director of Urban Services)*

THE HONOURABLE PETER DONOHUE

*(Director of Education)*

THE HONOURABLE KWOK CHAN, OBE

THE HONOURABLE HUGH DAVID MacEWEN BARTON, MBE

THE HONOURABLE DHUN JEHANGIR RUTTONJEE, OBE

THE HONOURABLE FUNG PING-FAN, OBE

THE HONOURABLE RICHARD CHARLES LEE, OBE

THE HONOURABLE KWAN CHO-YIU, OBE

THE HONOURABLE KAN YUET-KEUNG, OBE

THE HONOURABLE WILLIAM CHARLES GODDARD KNOWLES

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

HIS EXCELLENCY THE COMMANDER BRITISH FORCES

LIEUTENANT-GENERAL SIR RODERICK WILLIAM McLEOD, KCB, CBE

THE HONOURABLE THE SECRETARY FOR CHINESE AFFAIRS

MR JOHN CRICHTON McDOUALL

**MINUTES**

The minutes of the meeting of the Council held on 16th August 1961 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>GN No</i>
Sessional Papers, 1961: —	
No. 12—Annual Report of the Accountant General with the Accounts of the Colony for the year 1960-61.	
Report of the Kadoorie Agricultural Aid Loan Fund Committee for the year 1960-61.	
Buildings Ordinance, 1955.	
Building (Administration) (Amendment) Regulations, 1961 .....	A 97
Commonwealth Countries and Republic of Ireland (Immunities and Privileges) Ordinance, 1956.	
Commonwealth Countries and Republic of Ireland (Immunities and Privileges) (Amendment of Schedules) Order, 1961 .....	A 99
Railways Ordinance.	
Railways (Amendment) Rules, 1961 .....	A 100
Quarantine and Prevention of Disease Ordinance.	
Quarantine and Prevention of Disease (Scale of Charges) (Amendment) Regulations, 1961 .....	A 101
Resettlement Ordinance, 1958.	
Resettlement (Amendment) (No. 2) Regulations, 1961 .....	A 102
Registration of Persons Ordinance, 1960.	
Registration of Persons (Re-registration) (No. 10) Order, 1961 .....	A 103
Stamp Ordinance.	
Stamp (Bank Authorization) Order, 1961 .....	A 104

**EMPLOYERS AND SERVANTS BILL, 1961**

THE COLONIAL SECRETARY moved the First reading of a Bill intituled "An Ordinance to repeal and re-enact, subject to amendment, the Employers and Servants Ordinance, Chapter 57."

He said: Sir, as the title indicates, this Bill is designed to re-enact in a form more appropriate to modern conditions and practices an Ordinance which has been in force since 1902.

Many types of workers, manual, domestic and industrial, shop and office assistants, messengers, watchmen and so forth, are commonly engaged by their employers as a result of verbal agreements, and their contracts of service are seldom in writing. The main purpose of the 1902 Employers and Servants Ordinance was to stipulate that in such cases every contract of service should, until the contrary was proved, be deemed to be a contract of one month renewable from month to month. Except where the employer exercised his right to dismiss a servant summarily for cause, such a contract could only be determined by either party giving the other one month's notice or by the employer paying the servant the wages due together with one month's wages in lieu of notice. Provision was made for disputes in regard to such contracts to be determined summarily by a magistrate.

The new Bill re-enacts these basic provisions, but instead of restricting them to a lengthy but arbitrary list of common occupations, some of which no longer exist, it applies them to all contracts involving cash remuneration of \$700 per month or less. Doubt can arise at present as to whether a dispute falls to be determined in a Magistrate's Court or in a District Court, and so the opportunity has been taken to grant jurisdiction in such cases solely to the District Courts. When a case is heard summarily by a magistrate under the present Ordinance, no fees are payable and a similar exemption is granted in respect of proceedings under the Bill in the District Court, costs being restricted to a maximum of \$50. Procedure will thus be simplified and doubts as to the application of the Bill will be removed.

The present Ordinance requires contracts of service for periods longer than one month to be in writing, to be executed in a special way, and places certain restrictions on the duration of such contracts. These provisions are no longer considered necessary or appropriate, and the new Bill replaced them with a simple provision that, unless a contract for more than one month is evidenced in writing signed by both parties, it will be construed as a month to month contract.

The present Bill is essentially a measure to tidy up and simplify the existing law, and I should like to point out that despite its title it is not in any way connected with other draft legislation of a more comprehensive kind regarding general terms and conditions of employment on which, as honourable Members are probably aware, preparatory work has been proceeding for some time.

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 Bill is to seek the repeal and replacement of the existing Employers and Servants Ordinance, which the development of the Colony and the great increase in the population over recent years has rendered obsolete in a number of respects.

2. The principal changes which this Bill seeks to introduce are as follows—

- (a) The contracts of service to which the Ordinance will apply will no longer be determined by the application of an arbitrary list of types of service but will be determined by the amount of wages calculated per month involved under the contract. A maximum figure of seven hundred dollars has been selected which is the figure adopted for the purposes of the Workmen's Compensation Ordinance, 1953. The effect of this measure will be to extend the scope of the Ordinance to all contracts of service under which the wages, calculated per month, do not exceed seven hundred dollars.
- (b) The elaborate provisions relating to the execution of contracts of service of duration exceeding one month will be dropped and there will be substituted a simple provision providing that unless such contracts are evidenced in writing signed by the parties thereto they will be construed as contracts from month to month.
- (c) The existing restrictions upon the enforcement of contracts of service entered into for periods exceeding five years if made outside the Colony and three years if made within the Colony will be repealed, as these restrictions are no longer considered necessary.
- (d) The jurisdiction in respect of contracts of service to which the Ordinance applies which is at present concurrently vested in the magistrates courts and the District Court will be consolidated in the District Court and the freedom from payment of court fees and the limitation in respect of awards of costs to fifty dollars which is enjoyed by litigants in the magistrates courts will be transferred to the District Court in the case of such contracts so that those members of the public who are affected by the Ordinance will continue to enjoy the amenity.

**REGISTRATION OF PERSONS (AMENDMENT) (NO. 2)  
BILL, 1961**

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

THE ATTORNEY GENERAL 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.

Clause 1 was agreed to.

Clause 2.

THE COLONIAL SECRETARY: —I rise to move that Clause 2 be amended as set forth in the papers before Honourable Members.

*Proposed Amendment.*

*Clause*

2 In subsection (2) of the new section 7, leave out the fullstop and substitute the following—

“, and, upon any such arrest, the provisions of subsection (2) of section 12 of the Immigration Service  
(30 of Ordinance, 1961, shall apply.”  
1961).

Clause 2, as amended, was agreed to.

Council then resumed.

THE COLONIAL SECRETARY reported that the Registration of Persons (Amendment) (No. 2) Bill, 1961, had passed through Committee with amendment and moved the Third reading.

THE ATTORNEY GENERAL seconded.

The question was put and agreed to.

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

**TELECOMMUNICATION (AMENDMENT) BILL, 1961**

THE ATTORNEY GENERAL moved the Second reading of a Bill intituled "An Ordinance to amend the Telecommunication Ordinance, Chapter 106."

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.

Council then resumed.

THE ATTORNEY GENERAL reported that the Telecommunication (Amendment) Bill, 1961, had 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.

### **FIRE BRIGADE (AMENDMENT) (NO. 2) BILL, 1961**

THE ATTORNEY GENERAL moved the Second reading of a Bill intituled "An Ordinance to amend the Fire Brigade Ordinance, 1954."

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.

Clause 1 was agreed.

Clause 2.

THE ATTORNEY GENERAL: —I rise to move that the Bill be amended in the manner shown on the paper which is before Honourable Members. This is a purely technical matter.

*Proposed Amendment.*

*Clause*

2 Add the following new subclause—

"(33 of 1952, 1958 Reprint). (2) The Education Ordinance, 1952 is amended—  
(a) by the deletion from section 2 thereof of the definition "Chief Officer"; and

(b) by the deletion therefrom wherever it appears of the title "Chief Officer" and the substitution therefor of the following—

“Director of Fire Services”.”.

Clause 2, as amended, was agreed.

Clauses 3 and 4 were agreed.

Schedule.

THE ATTORNEY GENERAL: —I beg to move the amendment standing in my name which is consequential to the amendment in Clause 2.

*Proposed Amendment.*

Schedule      Omit Item 6.

The Schedule, as amended, was agreed to.

THE ATTORNEY GENERAL reported that the Fire Brigade (Amendment) (No. 2) Bill, 1961, had passed through Committee with certain amendments 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.

### **EXPULSION OF UNDESIRABLES (REPEAL) BILL, 1961**

THE ATTORNEY GENERAL moved the Second reading of a Bill intituled "An Ordinance to repeal the Expulsion of Undesirables Ordinance, Chapter 242."

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.

Council then resumed.

THE ATTORNEY GENERAL reported that the Expulsion of Undesirables (Repeal) Bill, 1961, had 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.

### **SUPPLEMENTARY APPROPRIATION (1960-61) BILL, 1961**

THE FINANCIAL SECRETARY moved the Second reading of a Bill intituled "An Ordinance to authorize a supplementary appropriation to defray the charges of the financial year ended the 31st day of March, 1961."

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, the Schedule and the Preamble were agreed to.

Council then resumed.

THE FINANCIAL SECRETARY reported that the Supplementary Appropriation (1960-61) Bill, 1961, had 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.

### **MENTAL HEALTH (AMENDMENT) BILL, 1961**

DR D. J. M. MACKENZIE moved the Second reading of a Bill intituled "An Ordinance to amend the Mental Health Ordinance, 1960."

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.

Council then resumed.

DR D. J. M. MACKENZIE reported that the Mental Health (Amendment) Bill, 1961, had 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.

### ADJOURNMENT

HE THE OFFICER ADMINISTERING THE GOVERNMENT: —Well that concludes the business for to-day, gentlemen. When is it your pleasure that we should meet again?

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

HE THE OFFICER ADMINISTERING THE GOVERNMENT: —Council stands adjourned until this day fortnight.