

OFFICIAL REPORT OF PROCEEDINGS**Meeting of 13th December 1961**

PRESENT:HIS EXCELLENCY THE GOVERNOR (*PRESIDENT*)

SIR ROBERT BROWN BLACK, KCMG, OBE

HIS EXCELLENCY LIEUTENANT-GENERAL REGINALD HACKETT HEWETSON, CB,
CBE, DSO

COMMANDER BRITISH FORCES

THE HONOURABLE CLAUDE BRAMALL BURGESS, CMG, OBE

COLONIAL SECRETARY

THE HONOURABLE MAURICE HEENAN

ACTING ATTORNEY GENERAL

THE HONOURABLE PATRICK CARDINALL MASON SEDGWICK

ACTING SECRETARY FOR CHINESE AFFAIRS

THE HONOURABLE JOHN JAMES COWPERTHWAITTE, OBE

FINANCIAL SECRETARY

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*)

MINUTES

The Minutes of the meeting of the Council held on 29th November 1961 were confirmed.

HE THE GOVERNOR: —I think it is appropriate at this stage on behalf of honourable Members of this Council and on my own behalf as President to extend a welcome to General HEWETSON. We are delighted to have you with us and we are looking forward very much to your participation in our work in this Council.

PAPERS

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

<i>Subject</i>	<i>GN No</i>
Report on the Outbreak of Cholera in Hong Kong covering the period 11th August to 12th October 1961.	
Registration of Persons Ordinance, 1960.	
Registration of Persons (Cancellation of Registration and Identity Cards) Order, 1961	A 137
Registration of Persons Ordinance, 1960.	
Registration of Persons (Re-registration) (No. 19) Order, 1961	A 138
Registration of Persons Ordinance, 1960.	
Registration of Persons (Re-registration) (No. 20) Order, 1961	A 139
Stamp Ordinance.	
Stamp (Bank Authorization) (No. 2) Order, 1961	A 140

He said: Sir, I should perhaps invite the attention of honourable Members to the inclusion among these papers of a detailed report on the Cholera outbreak earlier in the year. This report contains several recommendations and these are now under close examination. I think Your Excellency would agree that it would be appropriate for me to say, for the records of this Council, how greatly indebted the whole community must be for the determined and effective manner in which this outbreak was handled by the Director and staff of the Medical and Health Services Department, by the staff of the Urban Services Department, by the Medical Auxiliaries and by all the organizations and individuals who came to our assistance at that potentially critical time. But to say this does not really go quite far enough. A key element in the situation was the patience, calmness and co-operation of the people

themselves; and I think that this whole episode is an excellent example of how an emergency can be faced, and of how our people can and will co-operate, if the organization is sound and the leadership resolute and unequivocal.

QUESTIONS

MR KAN YUET-KEUNG, pursuant to notice, asked the following question: —

- (a) Since in many large blocks of flats in Hong Kong and Kowloon only one meter is supplied by the Water Authority for the whole building, which has led to disputes among the occupiers over the sharing and payment of water charges, will Government state whether the Water Authority has any compelling and justifiable reason for not installing separate meters?
- (b) Will Government consider charging a lower rate for bulk supply where only one meter is installed for more than one consumer in a building if the Water Authority is unable or unwilling to supply separate meters?

MR A. INGLIS replied: —

In answer to the first question posed by the honourable Member, I agree that there are many large blocks of flats where only one meter is provided for certain sections of the block. There are other blocks of flats where individual meters have been installed. Some owners ask for a single meter, some for individual meters.

One compelling and justifiable reason for not installing separate meters is that, unless certain formalities are complied with, it would not be possible for us to serve statutory notice under Regulation 13 of the Waterworks Regulations for the remedy by the consumer of defects in inside services. I might cite an example of one of the earliest occasions when this difficulty arose. A multi-storey block of flats was erected containing approximately 72 flats owned by more than 600 different owners—some of whom were not even resident in the Colony. Now if there is a breakdown in the common supply within the building we would require to serve approximately 600 notices to the owners to have the repairs put in hand. If the repairs are not put in hand we have no option but to cut off the supply to the block.

There are two methods whereby these difficulties can be overcome, the first is for all the owners to get together and form an association which will undertake to comply with

the Waterworks Ordinance. This would cover payment, maintenance, repairs and flushing water. The other method is for the individual owners to install their own meters whereby they can check their own consumption. This method has the same requirement that agreement amongst owners and tenants must be reached.

Basically, we are not prepared to install separate meters on an internal supply that is not subject to a guarantor, or guarantors, for the whole. If we have a guarantor we would be quite willing to give individual meters.

Water supply is but one of the problems in dealing with 600 owners of one block of flats. The fabric of the building, the lifts, staircases, corridors, drains and maintenance in general are others and the absentee landlord does not make the matter easier.

A Government Working Party has been considering these difficulties for some time.

Concerning the second part of the question on water, that of charging a lower rate for bulk supply where only one meter is installed for more than one consumer, the implications of such a policy are enormous. But in any event, it could not result in anything but an increase in charges all round.

MR KAN YUET-KEUNG, pursuant to notice, asked the following question: —

AS Government must be aware that on the 5th September 1961 the Urban Council adopted a motion urging Government to provide playgrounds and sitting-out areas in the heavily crowded Western District when redevelopment takes place, since there are in fact no such amenities at sea-level from the Central District to Kennedy Town, will the honourable Director of Public Works please state the provision which he will make for such open space in the layout of the reclamation he now proposes at Kennedy Town?

MR A. INGLIS replied: —

Concerning the honourable Member's second subject, I would like to say that Government fully appreciates the need for additional playgrounds and sitting-out areas in or near the Western District and this matter is being examined by the departments concerned.

The reclamation at Kennedy Town to which the honourable Member refers is required to provide land for the proposed

refuse incinerator, a new public mortuary, a sewerage outfall works, and storage yards for coal and sand. Whilst it might be possible to use a portion of this land for open space on a temporary basis should the reclamation be completed in advance of the need for the land, I cannot recommend that priority be given to it on a long term basis. It is to be remembered that this is an offensive trades area and my personal view is that a sitting-out area next to a sewerage works, abattoir or refuse disposal centre is far from ideal. However, I am not without hope that some open space may be provided at sea level by means of further reclamation to the West but I warn that the financial implications of such a possibility have not yet been investigated. From an engineering view point it is feasible.

Further, it is hoped to set aside at least a part of the land at present occupied by the slaughter house at Smithfield for public recreational purposes once this land is released by the construction of the new abattoir on reclaimed land.

Other more comprehensive schemes are being considered.

ILLEGAL STRIKES AND LOCK-OUTS ORDINANCE, CHAPTER 61

THE ATTORNEY GENERAL moved the following resolution: —

Resolved, pursuant to section 8 of the Illegal Strikes and Lock-Outs Ordinance, Chapter 61, that the duration of the said Ordinance be extended for the term of one year with effect from 1st January 1962.

He said: Sir, the purpose of this Resolution is to extend the life of the Illegal Strikes and Lock-outs Ordinance for a further year, that is to say, until the 31st December 1962. This Ordinance makes illegal those strikes and lock-outs which are not in furtherance of a genuine trade dispute and which are designed or calculated to coerce the Government. It has no effect in relation to any strike or lock-out resulting from a genuine trade dispute.

Sir, it is considered essential that the powers conferred by this Ordinance should continue in being for another year.

THE COLONIAL SECRETARY seconded.

The question was put and agreed to.

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 1st January 1962.

He said: Sir, the purpose of this Resolution is to extend the life of the Societies Ordinance until 31st December 1962. This Ordinance gives the Commissioner of Police a measure of help in curbing the activities of undesirable organizations, and it is Government's view that the continuance in force of this Ordinance will aid in the maintenance of law and order.

THE COLONIAL SECRETARY seconded.

The question was put and agreed to.

**DEFENCE REGULATIONS (CONTINUATION)
ORDINANCE, 1958**

THE ATTORNEY GENERAL moved the following resolution: —

Resolved, pursuant to section 6 of the Defence Regulations (Continuation) Ordinance 1958, that the duration of the said Ordinance be extended for the term of one year with effect from 1st January 1962.

He said: Sir, the purpose of this Resolution is to extend the life of the Defence Regulations (Continuation) Ordinance, 1958 for a further year. This Ordinance keeps in force certain Defence Regulations and the Defence (Finance) Regulations and it is considered necessary to retain such regulations for the time being.

THE COLONIAL SECRETARY seconded.

The question was put and agreed to.

**COMPANIES (PREVENTION OF EVASION OF THE SOCIETIES
ORDINANCE) ORDINANCE, 1959**

THE ATTORNEY GENERAL moved the following resolution: —

Resolved, pursuant to section 16 of the Companies (Prevention of Evasion of the Societies Ordinance) Ordinance, 1959, that the duration of the said Ordinance be extended for the term of one year with effect from 1st January 1962.

He said: Sir, the purpose of this Resolution is to extend the life of the Companies (Prevention of Evasion of the Societies Ordinance) Ordinance, 1959, for a further year. This Ordinance was enacted in July 1959, its purpose being to prevent persons who associate together for undesirable purposes from evading the incidence of the Societies Ordinance by registering under the Companies Ordinance. Government considers that the maintenance of law and order requires that this Ordinance continue in force.

THE COLONIAL SECRETARY seconded.

The question was put and agreed to.

NEW TERRITORIES (AMENDMENT AND VALIDATION)

BILL, 1961

THE COLONIAL SECRETARY moved the First reading of a Bill intituled "An Ordinance to amend the New Territories Ordinance, Chapter 97, and to validate certain acts purported to have been done thereunder."

He said: Sir, the principal purpose of this Bill is to make the use of the specific forms of conveyance at present laid down by law in the case of New Territories land, permissive, instead of obligatory. Honourable Members will recollect that my honourable Friend, Mr. KWAN, suggested in the Budget debate last March that those sections of the New Territories Ordinance should be amended which require the use of set forms for conveyances in the New Territories. The present forms are not adequate for use in the case of complex transactions such as building mortgages or debentures, or mortgages to secure general banking facilities. This last method of financing industrial projects is in common use in Hong Kong and, now that certain parts of the New Territories are being developed so rapidly, frequently involves transactions affecting New Territories land.

The proposed amendment of Section 27 of the Ordinance therefore seeks to make the use of the present statutory forms permissive only, so that the parties concerned may decide for themselves whether they wish to use them or to use deeds drawn in accordance with normal conveyancing practice. The proposed Section 27(4) validates any past conveyance of land in the New Territories, which may for any reason have been executed in a form different from one of the set forms at present laid down: always provided of course that in every other respect the conveyance was properly executed.

Clause 2 amends the Ordinance so that the Governor may delegate his duty personally to sign any memorandum exempting land from the

provisions of Part II of the Ordinance. Clause 7 validates certain exemptions made in the past in the Governor's name.

The Government believes, Sir, that this Bill will meet the wishes and requirements both of the legal profession and of many people in Hong Kong who are involved in land transactions in the New Territories.

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 amendment of the New Territories Ordinance, Chapter 97, in order to make the use of the forms of conveyance contained in the Schedule to the Ordinance permissive instead of obligatory in the case of conveyances of land to which Part II of the New Territories Ordinance applies.

2. The effect of the proposed new section 27(4) will be to prevent any conveyance of land in the New Territories which may have been made since the 28th day of October, 1910, in a form other than one of the obligatory forms specified in the Schedule from being invalid solely by reason that such form was not used. The proposed amendments to sections 23, 28 and 29 of the Ordinance are consequential upon the proposed repeal and replacement of section 27.

3. The reason for the introduction of this measure is that owing to the development of the New Territories in recent years the simplified forms of conveyance required by the Ordinance to be used for the conveyance of land situated therein are no longer appropriate to certain kinds of transactions now entered into involving such land.

4. Opportunity has been taken by clause 2 of the Bill to delete from section 7 of the principal Ordinance the requirement that exemptions made by the Governor in accordance with the provisions of that section exempting land from the provisions of Part II of the principal Ordinance need necessarily be made under his hand. The effect of this amendment will be to enable the Governor in future to delegate that function. At the same time, by clause 7, in order to remove doubt as to the validity of certain purported exemptions made by public officers acting on behalf of the Governor, provision has been made to validate any such exemptions.

MAGISTRATES (AMENDMENT) BILL, 1961

THE ATTORNEY GENERAL moved the First reading of a Bill intituled "An Ordinance to amend the Magistrates Ordinance, Chapter 227, and to repeal the Administration of Justice (Summary Offences) Ordinance, 1955."

He said: Sir, the Administration of Justice (Summary Offences) Ordinance, was enacted in 1955 as a temporary measure in order to reduce the heavy backlog of minor cases pending in the Magistrates Courts at that time, and therefore its continuance in force was made dependent on its extension each year by resolution of this Council and it has been so extended up to the present time. The effect of the Ordinance was to permit persons, charged with certain categories of minor offences scheduled in the Ordinance, to plead guilty in absentia upon payment of a fine prescribed in the Schedule.

Since 1949 the Magistrates Ordinance has also contained provision in subsections (5) and (6) of section 18 under which persons charged with certain minor offences, prescribed from time to time by resolution of Legislative Council, are permitted to plead guilty in absentia, and where an accused does so plead, the magistrate is empowered to deal with the case *mutatis mutandis* as if the accused had appeared before him and pleaded guilty. This procedure under the Magistrates Ordinance has the advantage over the procedure prescribed in the Administration of Justice (Summary Offences) Ordinance, 1955, in that the accused may together with his plea of guilty, submit a written statement in mitigation of the offence, which enables the magistrate better to assess the true nature and gravity of the offence and thus to pass an appropriate sentence. For these reasons it is considered that the public interest and the ends of justice may be served best, by the repeal of the Administration of Justice (Summary Offences) Ordinance, 1955 and that reliance be placed on the relevant provisions of the Magistrates Ordinance suitably amended.

Accordingly, clause 3 of the Bill amends section 18 of the Magistrates Ordinance by the substitution of fresh subsections for the present subsections (5) and (6), and the introduction of a new subsection (7) which latter subsection empowers this Council to exercise control over the type of offence which may be dealt with under this procedure. The proviso to the new subsection (5) affords an additional safeguard by limiting the maximum fine which may be imposed by a magistrate under this procedure to \$500 and specifically excludes the imposition of any term of imprisonment.

Clause 4 of the Bill adds to the Magistrates Ordinance a new Third Schedule prescribing the offences in respect of which pleas in absentia may be taken which include those offences at present listed in the First Schedule to the Administration of Justice (Summary Offences)

Ordinance together with a few additions. These scheduled offences are confined to certain traffic offences and other minor offences under the Summary Offences Ordinance and the Dogs and Cats Ordinance.

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 eliminate the anomalies which exist between the procedure prescribed by subsections (5) and (6) of section 18 of the Magistrates Ordinance and that prescribed by the Administration of Justice (Summary Offences) Ordinance, 1955, whereby persons are in certain cases permitted to plead guilty *in absentia* to offences with which they are charged in the magistrates' courts.

2. To this end it is proposed to seek the repeal of the Administration of Justice (Summary Offences) Ordinance, 1955, and to retain only the procedure prescribed by the Magistrates Ordinance which has the advantage both of preserving to the magistrates a discretion whether to deal with the matter in the absence of the defendant and enabling the defendant to submit to the magistrate a statement in mitigation of the offence charged, thus helping the magistrate better to assess the true significance and gravity of the offence to which the defendant pleads guilty. However, as a safeguard, it is sought to amend section 18 of the Magistrates Ordinance to limit the maximum penalty which may be imposed under this procedure to a fine not exceeding five hundred dollars.

3. At present the offences to which the procedure in question, as prescribed by the Magistrates Ordinance, applies are specified by resolution of the Legislative Council and opportunity has been taken to list these offences together with those in respect of which the Administration of Justice (Summary Offences) Ordinance, 1955, applies in a Third Schedule to the Ordinance and to amend section 18 to enable that Schedule to be amended from time to time by resolution of the Legislative Council. It is thought that a single schedule of offences contained in the Ordinance itself will be more convenient in practice than isolated resolutions published as Gazette Notifications.

4. Opportunity has been taken by clause 2 of the Bill to seek the amendment of section 6 of the Ordinance in order to make reference to every assistant director of marine instead of only to one as there are now two such posts the holders of both of which perform the duties of marine magistrate.

LANDLORD AND TENANT (AMENDMENT) BILL, 1961

THE ATTORNEY GENERAL moved the First reading of a Bill intituled "An Ordinance to amend the Landlord and Tenant Ordinance, Chapter 255."

He said: Sir, the purpose of this Bill is to amend the Ordinance so as to increase the fee payable by a landlord under subsection (3) of section 31 upon his making application for an order to exclude his premises from the operation of the Ordinance. The prevailing fee of \$20.00 was prescribed in 1947 when the Ordinance was first enacted. Since then the cost of operating tenancy tribunals has risen and it is considered that the fee provided for in this Bill, namely, \$100.00, will be within the means of any landlord having regard to the increase in land values since 1947.

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 seek amendment of the Landlord and Tenant Ordinance in order to increase the fee payable by a landlord under subsection (3) of section 31, upon application for an order to exclude his premises from the operation of the Ordinance, from a fee of twenty dollars to a fee of one hundred dollars.

**WILD BIRDS AND WILD MAMMALS PROTECTION
(AMENDMENT) BILL, 1961**

THE ATTORNEY GENERAL moved the First reading of a Bill intituled "An Ordinance to amend the Wild Birds and Wild Mammals Protection Ordinance, 1954."

He said: Sir, the purpose of this Bill is to repeal and replace the First Schedule and to amend the Second and Fourth Schedules to the Wild Birds and Wild Mammals Protection Ordinance, 1954. Clause 2 provides for a fresh First Schedule which elaborates the close seasons of migratory and resident game birds, so as to align more accurately, the dates of the close season with the migratory period. Clause 3 amends the Second Schedule by adding deer and wild pig to the list of mammals the hunting of which is prohibited under the Ordinance. Clause 4 of the Bill provides for a new protected area in the Shek Pik Direct Catchment Area of Lantau by an appropriate amendment to the Fourth Schedule.

Sir, I should mention that the foregoing amendments of this Ordinance stem from the recommendations of the Wild Life Conservation Advisory Committee which advises the Director of Agriculture and Forestry on all matters pertaining to the conservation of wild birds and wild mammals in the Colony. During this year there has been a general revision of Government fees and opportunity has been taken in this Bill to increase the fee for a game licence from \$50.00 to \$75.00 which amendment is effected by the prescription of the new fee in the new form of game licence introduced by clause 5.

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 repeal and replace the First Schedule and to amend the Second and Fourth Schedules to the Wild Birds and Wild Mammals Protection Ordinance, 1954, so as to implement the recommendations of the Wild Life Preservation Advisory Committee which are directed towards affording greater protection for wild life than hitherto. The amendments to Form 2 (Game Licence) in the Sixth Schedule are consequential, save as regards the increase in the fee therefor from fifty dollars to seventy-five dollars.

FACTORIES AND INDUSTRIAL UNDERTAKINGS (AMENDMENT) BILL, 1961

THE ATTORNEY GENERAL moved the Second reading of a Bill intituled "An Ordinance further to amend the Factories and Industrial Undertakings Ordinance, 1955."

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.

Council then resumed.

THE ATTORNEY GENERAL reported that the Factories and Industrial Undertakings (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 GOVERNOR: —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 GOVERNOR: —Council stands adjourned until this day two weeks.