

OFFICIAL REPORT OF PROCEEDINGS**Meeting of 14th October 1964****PRESENT:**

HIS EXCELLENCY THE GOVERNOR (*PRESIDENT*)
SIR DAVID CLIVE CROSBIE TRENCH, KCMG, MC
HIS EXCELLENCY LIEUTENANT-GENERAL SIR DENIS STUART SCOTT O'CONNOR,
KBE, CB
COMMANDER BRITISH FORCES
THE HONOURABLE ED.MUND BRINSLEY TEESDALE, CMG, MC
COLONIAL SECRETARY
THE HONOURABLE MAURICE HEENAN, QC
ATTORNEY GENERAL
THE HONOURABLE JOHN CRICHTON McDOUALL
SECRETARY FOR CHINESE AFFAIRS
THE HONOURABLE MICHAEL DENYS ARTHUR CLINTON,
ACTING FINANCIAL SECRETARY
THE HONOURABLE KENNETH STRATHMORE KINGHORN
DIRECTOR OF URBAN SERVICES
THE HONOURABLE ALEC MICHAEL JOHN WRIGHT
DIRECTOR OF PUBLIC WORKS
DR THE HONOURABLE TENG PIN-HUI, OBE
DIRECTOR OF MEDICAL AND HEALTH SERVICES
THE HONOURABLE WILLIAM DAVID GREGG
DIRECTOR OF EDUCATION
THE HONOURABLE DAVID RONALD HOLMES, CBE, MC, ED
DIRECTOR OF COMMERCE AND INDUSTRY
THE HONOURABLE JAMES TINKER WAKEFIELD
DISTRICT COMMISSIONER, NEW TERRITORIES
THE HONOURABLE KENNETH WALLIS JOSEPH TOPLEY
COMMISSIONER OF LABOUR
THE HONOURABLE DHUN JEHANGIR RUTTONJEE, CBE
THE HONOURABLE FUNG PING-FAN, OBE
THE HONOURABLE RICHARD CHARLES LEE, CBE
THE HONOURABLE KWAN CHO-YIU, OBE
THE HONOURABLE SIDNEY SAMUEL GORDON
THE HONOURABLE LI FOOK-SHU, OBE
THE HONOURABLE FUNG HON-CHU
THE HONOURABLE TANG PING-YUAN
THE HONOURABLE TSE YU-CHUEN, OBE
THE HONOURABLE KENNETH ALBERT WATSON, OBE
THE HONOURABLE WOO PAK-CHUEN, OBE
THE HONOURABLE GEORGE RONALD ROSS
THE HONOURABLE SZETO WAI
MR ANDREW McDONALD CHAPMAN (*Deputy Clerk of Councils*)

MINUTES

The minutes of the meeting of the Council held on 30th September 1964, were confirmed.

PAPERS

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

<i>Subject</i>	<i>LN No</i>
Sessional Paper, 1964: —	
No 37—Annual Report by the Director, Royal Observatory for the year 1963-64.	
Buildings Ordinance, 1955.	
Buildings (Ventilating Systems) Regulations, 1964	144
Registration of Persons Ordinance, 1960.	
Registration of Persons (Re-registration) (No 34) Order, 1964	149
Pharmacy and Poisons Ordinance.	
Poisons (Amendment) (No 2) Regulations, 1964	150
Pharmacy and Poisons Ordinance.	
Poisons List (Amendment) (No 2) Regulations, 1964	151
Registration of Persons Ordinance, 1960.	
Registration of Persons (Re-registration) (No 35) Order, 1964	154

FOOD BUSINESS (AMENDMENT) (NO 2) BY-LAWS, 1964

MR K. S. KINGHORN moved the following resolution: —

Resolved, pursuant to section 144 of the Public Health and Urban Services Ordinance, 1960, that the Food Business (Amendment) (No 2) By-laws, 1964, made by the Urban Council on the 1st day of September, 1964, under section 56 of that Ordinance be approved.

He said: Your Excellency, at present an employee of a food business is not required to produce proof that he has been vaccinated against smallpox or inoculated against the enteric group of fevers or immunized against such other diseases as may be specified, for example, cholera. The proprietors of food businesses are not responsible for ensuring that their employees have been so immunized.

The purpose of the Food Business (Amendment) (No 2) By-laws, 1964, which were made by the Urban Council on 1st September, is to amend the Food Business By-laws, 1960, so as to shift the burden of proof of vaccination, inoculation or immunization onto the persons engaged in any food business, and to make it an offence for proprietors of food businesses to employ persons who have not been so immunized.

THE COLONIAL SECRETARY seconded.

The question was put and agreed to.

TELEVISION BILL, 1964

THE COLONIAL SECRETARY moved the Second reading of a Bill intituled "An Ordinance to make provision for licensing companies to broadcast wireless television, for controlling the standards of programmes broadcast by such companies and for purposes connected therewith."

He said: Sir, when I moved the First reading of this Bill on 22nd April this year I mentioned the possibility of minor amendments at the Committee stage. Shortly afterwards, however, other provisions in the Bill of much greater substance were called in question. The points raised were controversial and of considerable importance and it has been necessary to give them careful consideration which has inevitably taken time. As a result of the conclusions now reached, I shall have a number of material amendments to move at the Committee stage. In view of the extent of the changes proposed by these amendments, it will not be the intention to move the Third Reading of the Bill today, since under Standing Order 28(1) a third reading may not take place on the same day if, in Your Excellency's opinion, amendments made at the Committee stage are material ones. If, however, these amendments are agreed in Committee, the Bill, as amended, will then be published in the *Gazette* on Friday with a view to reading it a third time at the next meeting of this Council.

I will not detain honourable Members with a recital of all the reasons for the amendments to be moved in Committee, but will refer briefly to those which are of major interest and importance. The first concerns part of the system of control provided under Clause 10 and designed to ensure that the licensee is a British-owned Hong Kong Company. Further examination has raised doubts about both the effectiveness and the practicability of paragraphs 1(a) and (b) of Clause 10, which at present require that not less than 60% of the voting shares of the licensee company shall be held at all times by persons of British nationality resident in Hong Kong and that not more than 15% shall be owned by any single alien person or concern. It is now thought that,

even with further amendments (which would certainly be necessary to secure the more effective enforcement of these provisions), there would still be no guarantee against their evasion by persons determined to do so. Further, it is considered that the proposed shareholding controls, together with elaborate provisions necessary to achieve the maximum possible extent of enforcement, may deter *bona fide* tenderers and frustrate a fundamental aim of the legislation which is the maintenance of a high standard of broadcasting. A very full consideration of all the relevant factors has therefore led Government to the final conclusion that the public interest will be best served by deleting these two sub-clauses and relying on the provisions relating to management and direction by Hong Kong residents of British nationality to achieve the basic purpose of these entrenched clauses. In addition there are, of course, elsewhere in this legislation effective powers vested both in Your Excellency in Council and in the Television Authority designed to secure satisfactory management and operation by the licensee. In proposing this amendment, our concern has been to avoid putting a licensee in a position where his ability to maintain a good standard of broadcasting might be impaired. There might be such a risk if unduly onerous restrictions on shareholding and share transfers made investment in the undertaking unattractive. In such a situation the public would not receive the standard of television which the Bill seeks to provide.

The second main amendment relates to the calculation of royalty. Clause 11 of the Bill requires that the royalty shall be not less than 10% of the gross takings of the licensee. It has been argued that this provision imposes too heavy a burden on a new company in the initial stages of its development and that there is need for flexibility to take account of heavy initial outgoings while the enterprise is building up. Again, in the interest of securing good programmes at the outset, I suggest that greater flexibility in the tendering of royalty is desirable so as not to bear too heavily on satisfactory development in the early years. An amendment will therefore be moved to delete reference to a specific percentage of gross takings as the basis for the royalty. This does not, I may say, reflect any change of view by Government either as to the concept of charging on gross takings or as to the order of yield that should be expected. We expect to receive the equivalent of at least 10% over a period but, by virtue of the amendment proposed, it will become possible for tenderers to compete by varying the percentages that they offer to accord with the planned development of their undertaking. I might perhaps add that, notwithstanding the heavy outlay in early years, we would expect to receive some royalty in every year.

The third important amendment is a rewording of the definition of gross takings in Clause 41 of the Bill for the purpose of calculating the royalty payable by the licensee. As this stands at present, gross takings are related solely to the sale of advertising time. It is now considered

that there may be other sources of income arising out of a television undertaking which should attract royalty, and that at the same time there should be provision for the exclusion of certain items on which it would not be proper to charge royalty, such as dividend income, rent of surplus premises and sales of capital assets. Clause 41(1) has therefore been substantially revised with these objects in mind.

Sir, with these general remarks I beg to move the second reading.

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.

THE COLONIAL SECRETARY: —Your Excellency, I beg to move that Clause 2 be amended as set forth in the paper before honourable Members.

Proposed Amendment

2. (1) Leave out the full stop and substitute therefor a semicolon.

(2) Add the following new definition—

“(46 of 1962). “Telecommunications Authority” means the Telecommunications Authority for the purposes of the Telecommunication Ordinance, 1962;”.

(3) Add the following new definition—

“(“voting shares” means shares in the company which entitle the registered owner thereof to vote at meetings of shareholders of the company.”.

Clause 2, as amended, was agreed to.

Clauses 3 to 6 were agreed to.

THE COLONIAL SECRETARY: —Sir, I beg to move that Clause 7 amended as set forth in the paper before honourable Members.

Proposed Amendment

7. Leave out the words “and not being a company in which a disqualified person (as defined in subsection (3) of section 11) exercises control”.

Clause 7, as amended, was agreed to.

Clauses 8 and 9 were agreed to.

THE COLONIAL SECRETARY: —Sir, I beg to move that Clause 10 be amended as set forth in the paper before honourable Members.

Proposed Amendment

10. In subclause (1) —

- (a) leave out paragraphs (a), (b) and (f);
- (b) re-letter paragraphs (c), (d) and (e) as paragraphs (a), (b) and (c) respectively;
- (c) leave out paragraph (g) and substitute therefor the following—
 - "(d) in these entrenched clauses—

“ordinarily resident” means residence of not less than one hundred and eighty days in any calendar year or not less than three hundred days in any two consecutive calendar years.”.

Clause 10, as amended, was agreed to.

THE COLONIAL SECRETARY: —Sir, I beg to move that Clause 11 be amended as set forth in the paper before honourable Members.

Proposed Amendment

11. In paragraph (b) of subclause (1), leave out the words and comma "not being less than ten per cent of the gross takings of the licensee,".

Clause 11, as amended, was agreed to.

Clauses 12 to 21 were agreed to.

Clauses 22 to 31 were agreed to.

Clauses 32 to 39 were agreed to.

THE COLONIAL SECRETARY: —Sir, I beg to move that Clause 40 be amended as set forth in the paper before honourable Members.

Proposed Amendment

40. In subclause (1), leave out paragraph (b) and substitute therefor the following—

"(b) the names of the beneficial owners of the voting shares in the licensee company.".

Clause 40, as amended, was agreed to.

THE COLONIAL SECRETARY: —Sir, I beg to move that Clause 41 be amended as set forth in the paper before honourable Members.

Proposed Amendment

41. Leave out paragraph (1) and substitute therefor the following—

“(1) for the purpose of this section, gross takings” means—

(i) the gross sums payable to the licensee in respect of services or facilities provided, or operations carried on, by the licensee for the purposes of or in connexion with its business as a broadcaster of wireless television, other than bank interest or dividends on investments, the proceeds of the sale or redemption of investments or other capital assets and rent received in respect of any letting of premises that are surplus to the licensee's requirements for the purposes of its business as a broadcaster of wireless television; and

(ii) the gross value as determined by the Television Authority of any assets or services received by the licensee in lieu of any such sum as aforesaid.”.

Clause 41, as amended, was agreed to.

Clauses 42 to 45 were agreed to.

Council then resumed.

THE COLONIAL SECRETARY reported that the Bill before Council had passed through Committee with certain amendments.

HIS EXCELLENCY THE GOVERNOR: —In view of the material changes which have been made the procedure in Standing Order 28 will be followed and the Third Reading will be postponed to a subsequent meeting of this Council.

BANKING BILL, 1964

THE FINANCIAL SECRETARY moved the Second reading of a Bill intituled "An Ordinance to repeal and replace the Banking Ordinance, and to make better provision for the licensing and control of banks, banking business and matters connected therewith."

He said: Sir, I am happy to report that only two clauses require alteration and I shall be moving appropriate amendments at the Committee stage; in one case it is merely to remove doubt and in the other to conform with the original intention which had become blurred in the drafting.

Sir, I should like to add that I am indebted to my honourable Friend Mr C. Y. KWAN for certain advice and suggestions in regard to these and other points.

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 to.

THE FINANCIAL SECRETARY: —Sir, I rise to move that Clause 2 be amended as set forth in the paper before honourable Members.

Proposed Amendment

2. In subclause (1) leave out paragraph (a) of the definition "banking business" and substitute therefor the following—

- (a) (i) receiving money on current, deposit or other similar account from the general public, and
- (ii) paying and collecting cheques drawn by or paid in by customers, and
- (iii) making advances to customers; or"

Clause 2, as amended, was agreed to.

Clauses 3 to, 12 were agreed to.

Clauses 13 to 22 were agreed to.

Clause 23 was agreed to.

THE FINANCIAL SECRETARY: —Sir, I rise to move that Clause 24 be amended as set forth in the papers before honourable Members.

Proposed Amendment

24. In subclause (2) —leave out the words "one or more of such persons so specified" and substitute therefor the following—

"that person or any of his relatives".

Clause 24, as amended, was agreed to.

Clauses 25 to 34 were agreed to.

Clauses 35 to 44 were agreed to.

Clauses 45 to 54 were agreed to.

Clauses 55 to 64 were agreed to.

Clauses 65 to 74 were agreed to.

Clauses 75 to 78 were agreed to.

Council then resumed.

THE FINANCIAL SECRETARY reported that the Bill before Council 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.

ADJOURNMENT

HIS EXCELLENCY THE GOVERNOR: —That concludes the business for today, gentlemen. When is it your pleasure that we should meet again?

THE ATTORNEY GENERAL: —May I suggest this day three weeks, Sir.

HIS EXCELLENCY THE GOVERNOR: —Council stands adjourned until this day three weeks.