

OFFICIAL REPORT OF PROCEEDINGS**Meeting of 7th July 1965****PRESENT**

HIS EXCELLENCY THE GOVERNOR (*PRESIDENT*)
SIR DAVID CLIVE CROSBIE TRENCH, KCMG, MC
THE HONOURABLE GEOFFREY CADZOW HAMILTON
ACTING COLONIAL SECRETARY
THE HONOURABLE MAURICE HEENAN, QC
ATTORNEY GENERAL
THE HONOURABLE JOHN CRICHTON McDOUALL
SECRETARY FOR CHINESE AFFAIRS
THE HONOURABLE JOHN JAMES COWPERTHWAIT, CMG, OBE
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 DAVID RONALD HOLMES, CBE, MC, ED
DIRECTOR OF COMMERCE AND INDUSTRY
THE HONOURABLE JOHN PHILIP ASERAPPA
DISTRICT COMMISSIONER NEW TERRITORIES
THE HONOURABLE ROBERT MARSHAL HETHERINGTON, DFC
DEPUTY ECONOMIC SECRETARY
THE HONOURABLE DHUN JEHANGIR RUTTONJEE, CBE
THE HONOURABLE KWAN CHO-YIU, CBE
THE HONOURABLE KAN YUET-KEUNG, OBE
THE HONOURABLE LI FOOK-SHU, OBE
THE HONOURABLE FUNG HON-CHU
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
THE HONOURABLE WILFRED WONG SIEN-BING
THE HONOURABLE MRS ELLEN LI SHU-PUI, OBE
MR ANDREW McDONALD CHAPMAN (*Deputy Clerk of Councils*)

ABSENT

HIS EXCELLENCY LIEUTENANT-GENERAL SIR DENIS STUART SCOTT
O'CONNOR, KBE, CB
COMMANDER BRITISH FORCES
THE HONOURABLE WILLIAM DAVID GREGG
DIRECTOR OF EDUCATION
THE HONOURABLE SIDNEY SAMUEL GORDON, OBE

MINUTES

The minutes of the meeting of the Council held on 30th June 1965, were confirmed.

HIS EXCELLENCY THE GOVERNOR:—May I welcome Mr HETHERINGTON back to this Council.

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>
Merchant Shipping Ordinance 1953.		
Merchant Shipping (Fees)		
Regulations 1965.....		86
Merchant Shipping Ordinance 1953.		
Merchant Shipping (Control of Ports) (Amendment)		
Regulations 1965.....		87
Merchant Shipping Ordinance 1953.		
Merchant Shipping (Launches and Ferry Vessels)		
Regulations 1965.....		88
Merchant Shipping Ordinance 1953.		
Merchant Shipping (Examinations) Rules 1965.....		89
Merchant Shipping Ordinance 1953.		
Merchant Shipping (Life Saving Appliances) (Amendment)		
Regulations 1965.....		90
Stamp Ordinance.		
Stamp (Bank Authorization) (No 2) Order 1965		92
Resettlement Ordinance 1958.		
Resettlement (Amendment) (No 3) Regulations 1965		93

BANK NOTES ISSUE ORDINANCE

THE FINANCIAL SECRETARY moved the following resolution:—

Resolved, pursuant to the proviso to section 5 of the Bank Notes Issue Ordinance, Chapter 65, that this Council hereby extends the powers of all the note-issuing banks to make, issue or re-issue and circulate notes until and including the 12th day of July 1966.

He said:—Your Excellency, the Bank Notes Issue Ordinance, Chapter 65, lays down that the powers of the note-issuing banks lapse automatically unless renewed by this Council from time to time. The present powers of these banks expire on 12th July 1965. It is proposed in this Resolution that they should be renewed for the maximum permissible period of twelve months.

THE COLONIAL SECRETARY seconded.

The question was put and agreed to.

TELEVISION (AMENDMENT) BILL 1965

THE COLONIAL SECRETARY moved the Second reading of a Bill intituled “An Ordinance to amend the Television Ordinance 1964”

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.

Clauses 1, 2 and 3 were agreed to.

Council then resumed.

THE COLONIAL SECRETARY reported that the Television (Amendment) Bill 1965, had passed through Committee without 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.

TELEPHONE (AMENDMENT) (NO 2) BILL 1965

THE FINANCIAL SECRETARY moved the Second reading of a Bill intituled “An Ordinance further to amend the Telephone Ordinance 1951.”

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, 2 and 3 were agreed to.

Council then resumed.

THE FINANCIAL SECRETARY reported that the Telephone (Amendment) (No 2) Bill 1965, 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.

INLAND REVENUE (AMENDMENT) BILL 1965

THE FINANCIAL SECRETARY moved the Second reading of a Bill intituled "An Ordinance further to amend the Inland Revenue Ordinance."

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 24 were agreed to.

THE FINANCIAL SECRETARY: —Sir, I rise to move that clause 25 be amended as set forth in the paper before honourable Members.

Proposed Amendment

25. In paragraph (a)—

In Proviso (ii) to the new paragraph (b) of subsection (1) of section 42B, leave out "and 25B and subsection (4) of section 41" and substitute therefor the following—

“, 15B and 42A and subsection (4) of section 41”.

THE FINANCIAL SECRETARY: —This amendment merely sets right an omission in drafting. It extends to Personal Assessment a provision regarding married allowances applied by the Bill to Salaries Tax.

Clause 25, as amended, was agreed to.

Clauses 26 to 28 were agreed to.

FINANCIAL SECRETARY:—Sir, I rise to move that clause 29 be amended as set forth in the paper before honourable Members.

Proposed Amendments

29. (1) In subsection (2) of the new section 64—

(a) after the words “shall consider the same and”, insert the following—

“within a reasonable time”; and

(b) after the words and full stop “on oath or otherwise.”, insert the following—

“Where the Commissioner proposes to examine any person on oath under this subsection, he shall, by prior notice in writing, afford a reasonable opportunity to the person giving the notice of objection or his authorized representative to be present at such examination.”.

(2) In the new section 64, after subsection (5), insert the following new subsection—

“(6) Any person, other than the person giving the notice of objection or his authorized representative, may be allowed by the Commissioner any reasonable expenses necessarily incurred by him in attending before the Commissioner under subsection (2).”

THE FINANCIAL SECRETARY:—Sir, this proposed amendment falls into two parts. Part 1(a) of the amendment paper—when the Bill was being drafted a suggestion was made by the General Chamber of Commerce that the Commissioner, when considering an objection to an assessment, should be required to give his determination within a specified period. This was not accepted because in certain circumstances, for example, when a test case is pending on appeal, a premature decision by the Commissioner could work to the disadvantage of the taxpayer or the revenue as the case might be. The Chamber has more recently made the alternative suggestion that the Commissioner should be required to determine an objection within a reasonable time. This amendment gives effect to that suggestion.

Second, Part 1(b) of the amendment paper. When the Bill was in draft, the General Chamber of Commerce and the Association of Chartered Accountants represented that, if the Commissioner, when considering an objection, summoned any person for examination, the taxpayer or his representative should have the right to be present at the

examination. They have recently made further representations on the point. I think these arise partly from a misunderstanding of the changed nature of the Commissioner's function in relation to an objection. The purpose of the present Bill is to abandon the previous quasi-judicial appeal provisions and substitute a purely administrative review, where the Commissioner acts as a kind of superior assessor. That being so, there seems no reason why he should not exercise the same powers as the original assessor and in the same way; and there is no right of the taxpayer to be present when the original assessor examines other persons.

There is one particular, however, in which the Commissioner is given greater power than the original assessor; he may take evidence under oath. This power, which is rarely used in practice, may perhaps give the proceedings a quasi-judicial tinge and certainly tends to crystallize the evidence of the person being examined. The present amendment proposes therefore to give the taxpayer the right to be present when an examination is being conducted under oath but not otherwise. I understand that this is acceptable to the Chamber of Commerce.

Thirdly, Part 2 of the amendment paper. As the Ordinance stands at present there is no provision for the payment of expenses to those summoned for examination. No expenses have in fact ever been claimed and we had proposed to drop the provision. The General Chamber of Commerce has however represented that it should be retained and the amendment is designed to do this.

Clause 29, as amended was agreed to.

Clauses 30 to 42 were agreed to.

Council then resumed.

THE FINANCIAL SECRETARY reported that the Inland Revenue (Amendment) Bill 1965, 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 today's business. The next meeting of Council will be held on 28th July.