OFFICIAL REPORT OF PROCEEDINGS

Meeting of 9th February 1966

PRESENT

HIS EXCELLENCY 'THE GOVERNOR (*PRESIDENT*)
SIR DAVID CLIVE CROSBIE TRENCH, KCMG, MC
THE HONOURABLE MICHAEL DAVID IRVING GASS, CMG
COLONIAL SECRETARY
THE HONOURABLE MAURICE HEENAN, CMG, QC
ATTORNEY GENERAL
THE HONOURABLE JOHN CRICHTON McDOUALL, CMG
SECRETARY FOR CHINESE AFFAIRS
THE HONOURABLE JOHN JAMES COWPERTHWAITE, CMG, OBE
FINANCIAL SECRETARY
THE HONOURABLE DAVID RONALD HOLMES, CBE, MC, ED
DIRECTOR OF COMMERCE AND INDUSTRY
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 JOHN PHILIP ASERAPPA
DISTRICT COMMISSIONER, NEW TERRITORIES
THE HONOURABLE DAVID WHINFIELD BARCLAY BARON
DIRECTOR OF SOCIAL WELFARE
THE HONOURABLE JAMES TINKER WAKEFIELD
COMMISSIONER OF LABOUR
THE HONOURABLE DHUN JEHANGIR RUTTONJEE, CBE
THE HONOURABLE KWAN CHO-YIU, CBE
THE HONOURABLE KAN YUET-KEUNG, OBE
THE HONOURABLE SIDNEY SAMUEL GORDON, OBE
THE HONOURABLE LI FOOK-SHU, OBE
THE HONOURABLE FUNG HON-CHU, OBE
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
THE HONOURABLE WILFRED WONG SIEN-BING
MR ANDREW McDONALD CHAPMAN (*Deputy Clerk of Councils*)

ABSENT

THE HONOURABLE WILLIAM DAVID GREGG
DIRECTOR OF EDUCATION

MINUTES

The Minutes of the meeting of the Council held on 19th January 1966, were confirmed.

PAPERS

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

Subject	*LN No*
Public Revenue Protection Ordinance.	
Public Revenue Protection (Restriction of Delivery of Tobacco) Order 1966	10
Consular Conventions Ordinance 1951.	
Consular Conventions (Japan) Order 1966	11

QUESTIONS

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

(i) Will the Director of Medical and Health Services amplify his recent public statement concerning the casualty departments of Government hospitals by giving to this Council full details of the staffing of these departments; in particular, the number of doctors serving in the departments, their professional qualifications and experience, the length of each duty period and the number of doctors on duty in each such period?

(ii) Will the Director also inform this Council the average length of service in the casualty departments of doctors serving in them during 1965?

(iii) Can the Director indicate how often the specialist units referred to by him in the said public statement were consulted by the casualty departments during the same period?

DR P. H. TENG replied as follows: —

Your Excellency, for ease of answering may I have your permission to give the answer to all the three questions?

I am grateful to my honourable Friend for raising this matter as it is of considerable public interest. As Queen Mary Hospital and Queen Elizabeth Hospital has each a casualty unit I shall start with an account of the casualty unit at the Queen Mary Hospital. The Queen Mary Hospital Casualty is manned by a Medical Officer-in-Charge and

six Medical Officers, all of whom are fully qualified medical graduates with registrable qualifications. The Medical Officer-in-Charge also holds a post-graduate surgical qualification, that is, Fellowship of the Royal College of Surgeons. The present incumbent qualified with MB, BS(HK) in 1960, and subsequently he received intensive training in various branches of surgery before he obtained his higher qualification in February 1965. The other medical staff, all had at least 12 months' residential hospital service and training in medicine and surgery prior to their posting to the casualty unit. This is the same system as obtains in the casualty units of hospitals in the United Kingdom. House Officers who have not yet completed their statutory period of internship in the Medical and Surgical Units are not employed in a casualty unit. During 1965, out of 17 medical officers who worked in the casualty unit at various times, 6 had two years' postgraduate experience, 7 had already had one year's postgraduate experience and 4 had experience ranging from 5 to 7 years. Length of each duty period: the duty roster is arranged in 3 shifts, round the clock, and this applies to every day of the year. These shifts are: —

1. 9 a.m. to 5 p.m.
2. 5 p.m. to midnight
3. midnight to 9 a.m. and

within this system there are extra staff during the busiest hours, i.e. from 10.30 a.m. to 8 p.m.

There are two doctors on duty from 9 a.m. to 10.30 a.m. and then during the busiest hours there are three doctors on duty from 10.30 a.m. to 8 p.m. From 8 p.m. to 9 a.m. the following morning there is one doctor on duty. The casualty unit sees about 100 accidents and emergency cases each day and about 25% of these cases are admitted as in-patients to Queen Mary Hospital. It is sometimes possible to arrange for one of the other hospitals to admit 2-3 cases a day.

In answer to question (ii), I would state that the normal period of service for doctors working in the casualty unit is 6 months and this is the same arrangement practised in hospitals with casualty departments elsewhere. It must be pointed out that work in the casualty unit is regarded as an unpopular posting for any doctor because of the exacting nature of the work and the medico-legal implications of many of the cases seen, and the possibility of adverse publicity which, as in the recent case, is not justified.

The answer to question (iii) is that it would not be possible to produce exact statistics of the occasions on which Specialist Units were consulted during 1965, for two main reasons. Firstly, since approximately 140,000 casualty cases were seen in 1965 in the Queen Elizabeth Hospital and the Queen Mary Hospital, it would entail scrutinizing the case records of all these cases. Such an exercise would be time consuming. Secondly, I have been told that verbal consultations are not always recorded. In support of my statement that officers on duty in 1965 have always made full use of the specialists available within the hospital, I am sure that my honourable Friend will be interested to hear the following facts for 1965: —

The Obstetrical and Gynaecological Unit was called on the average two to three times daily. The Paediatrics (children's) unit was called on the average about 8 times daily. The Medical Units were called so frequently to see cases in the Casualty Department that it is not possible to give a figure. This statement was made by Professor MACFADZEAN. The Surgical Unit was called less frequently than others because from 9 a.m. to 5 p.m. there is a fully qualified surgeon with a postgraduate qualification on duty at the Casualty Department. At other times specialist advice is readily available from the Government and the University Surgical Units. In any case, it is the standing rule that surgical emergencies should be admitted direct to the wards where specialist attention is again available. I feel that I must point out that although the official bed capacity of the Queen Mary Hospital is 632 there have been occasions when over 100 camp beds were used and the average total daily bed occupancy is still about 700. An obvious question which could be posed is whether or not the provision of more beds in acute hospitals has been lost sight of by Government and I can give the assurance that the need to increase the different categories of beds has been receiving the close attention of the Medical Development Plan Standing Committee on which two of the honourable Members of this Council also serve. Hospitals take time to build but the more important factor is the availability of an adequate number of qualified medical, nursing and ancillary staff. Whilst still on the subject of the Queen Mary Hospital, I would like to extend a personal invitation to any honourable Member of this Council to visit this hospital and see for himself the overcrowded conditions which prevail there, for camp beds

are placed in the corridors and verandahs of the public wards at the Queen Mary Hospital.

I now turn to the position at Queen Elizabeth Hospital. In 1965 the Casualty staff consisted of 1 Medical Officer-in-Charge and 10 fully registrable Medical Officers. The Medical Officer-in-Charge of the Queen Elizabeth Hospital Casualty also holds the postgraduate qualification of FRCS. He qualified in 1956 with MB, BS (HK), and subsequently obtained his FRCS in 1963. He has also held several clinical appointments in hospitals in the United Kingdom and Canada. The other Medical Officers also hold registrable qualifications. During 1965 out of the total of 24 doctors who had served in this unit at various times, 4 had over 5 years' postgraduate experience, 9 had 2 years' experience and the remainder one year. The shift duties in 1965 were: —

8.00 a.m. to 9.00 a.m.	—	2 medical officers
9.00 a.m. to 12.30 p.m.	—	3 ” ”
12.30 p.m. to 5.00 p.m.	—	4 ” ”
5.00 p.m. to 6.00 p.m.	—	3 ” ”
6.00 p.m. to 8.30 p.m.	—	4 ” ”
8.30 p.m. to midnight	—	3 ” ”
Midnight to 2.00 a.m.	—	2 ” ”
2.00 a.m. to 8.00 a.m.	—	1 ” ”

It will be seen that extra medical officers were posted between 12.30 p.m. and 8.30 p.m. which covers the busiest periods.

The shift duties at Queen Elizabeth Hospital are more complicated and are different from those at Queen Mary Hospital because it has been found that the heaviest loads of accidents and emergencies occur during the afternoons, evenings and up to about midnight.

As more beds are available in this hospital, coupled with the fact that more cases could be referred for admission into the Kwong Wah Hospital and the Lai Chi Kok Hospital in Kowloon, it was possible to admit 26,500 cases into the Queen Elizabeth Hospital and 7,000 cases into other hospitals in Kowloon out of a total of 108,000 seen at the Queen Elizabeth Hospital Casualty Unit in 1965. The answer to question (ii) raised by my honourable Friend with regard to the length of service for each doctor at the Queen Elizabeth Hospital Casualty Unit is the same as for Queen Mary Hospital.

Turning to the question of specialist consultations in connexion with Queen Elizabeth Casualty, I can also assure my

honourable Friend that specialist consultations are also available at the Queen Elizabeth Hospital Casualty Unit. Due to the reasons which I have just given regarding the greater availability of beds in Kowloon, decisions as to the needs of admission are made easier and so the specialists screen the cases more frequently in the wards than in the Casualty.

Although my honourable Friend does not touch on the Casualty Unit instituted by Government and staffed by Government Medical Officers at the Kwong Wah Hospital in July last year, I would like to mention that the same system prevails there.

MR Y. K. KAN: —Sir, one supplementary question, please. Since, according to my honourable Friend, there is one Medical Officer-in-Charge in each hospital and his duty hours are between 9 a.m. and 5 p.m., will my honourable Friend consider posting one Medical Officer-in-Charge after 8.30 p.m. because, according to his reply, 12.30 p.m. and 8.30 p.m. covers the busiest period and it has been found—and I am quoting his words—that the heaviest load of accidents and emergencies occur during the afternoons and evenings and up to about midnight?

DR P. H. TENG: —Sir, I agree with my honourable Friend that it is desirable to strengthen the specialist cover at the casualty units of the two hospitals but I am very much limited in the number of specialists who are available. If I were to change the hours of duty of the present establishment of specialists, it can only be done at the expense of the other units in the hospitals which also includes the Kwong Wah Hospital in Kowloon. I would also like to point out that the Medical Officer-in-Charge of Queen Elizabeth Hospital, who holds a postgraduate registrable qualification, has just resigned, actually on the day after the doctor was arrested, so I have to find a doctor with a postgraduate qualification to replace him but I can assure my honourable Friend that the question of staffing of the casualty unit will be kept under constant review.

MR Y. K. KAN: —Thank you.

MR K. A. WATSON: —Your Excellency, I rise to ask the following question, of which I have given notice, and I read it out because of the nature of the answer which I am about to be given.

(*a*) Is it true that if a car has been towed away by the Police for an alleged infringement of certain parking and waiting regulations the owner can only get it back if he is prepared to pay a fee of $50, which is not returnable, or if its release is ordered by a court or magistrate, which, under present

conditions, is likely to mean a detention of the vehicle for about six weeks?

(*b*) In view of the hardship that this would impose on a person whose car may have been wrongly towed away, would Government be willing to consider changing the regulations to enable such a man to get back his car before the court proceedings, either with or without paying the fee of $50, such fee being returnable to him should his innocence be proved?

THE COLONIAL SECRETARY replied as follows: —

Sir, the first part of the question relies on certain incorrect assumptions and does not, therefore, accurately reflect the true position. The second part of the question accordingly, does not arise.

In view, however, of the misconceptions implicit in the form of the question, it may be helpful if I add that a person whose car has been towed away by the police can always recover possession immediately by paying the prescribed fee. In practice this fee will be refunded in any case in which, on complaint laid by the owner, the circumstances are reviewed by the Commissioner of Police and he is satisfied that the car was not properly towed away or in any case in which the owner is charged before the courts with a parking offence and is acquitted. In addition, it is open to an aggrieved owner to institute civil proceedings against the Commissioner of Police for recovery of damages for the improper towing away of his car.

MR K. A. WATSON: —Sir, I have one or two supplementary questions. Can my honourable Friend the Colonial Secretary point to any part of the Roads (Parking and Waiting) Regulations which show that incorrect assumptions have been made by me?

THE COLONIAL SECRETARY: —Sir, I did not say that the incorrect assumptions were in the regulations, I said they were in the question.

MR K. A. WATSON: —Could my honourable Friend explain where in the question they are?

THE COLONIAL SECRETARY: —Sir, in the first place, the question states that the fee is not returnable. I have indicated in my answer two instances in which the fee is returnable. It is suggested that the only way in which an owner can get his car back without paying the fee is to wait six weeks or more until he gets the court order. That also is not necessarily the case.

It is also suggested, Sir, in the question, that the payment of the fee is in some way an admission of guilt or a fine. That, Sir, is not

the case. It is a fee in respect of the towing away and is completely without prejudice to the issue of guilt or innocence in any parking offence.

Finally, Sir, it is suggested in the question that it is a hardship to an innocent person to pay a recovery fee pending final determination of the case. I do not think that honourable Members will necessarily agree with that assumption.

MR K. A. WATSON: —Sir, in the Roads (Parking and Waiting) Regulations I see nothing that says that a man can get back his car without paying the $50 fee unless he waits until court proceedings have taken place. I am informed that at the present time those proceedings take about six weeks. I therefore fail to understand my honourable Friend's suggestion that that particular assumption is wrong.

HIS EXCELLENCY THE GOVERNOR: —What is your question, Mr WATSON?

MR K. A. WATSON: —I would like him to explain it, Sir.

HIS EXCELLENCY THE GOVERNOR: —I must rule that out of order. I see no question there.

MR K. A. WATSON: —May I put it another way?

HIS EXCELLENCY THE GOVERNOR: —Yes, put it another way if you would.

MR K. A. WATSON: —My honourable Friend has said that the assumption that a person cannot get his car back until after court proceedings have taken place, which may take up to six weeks, is wrong. Could he please explain how a man can get back his car without waiting for those court proceedings? Or is he suggesting that the six weeks' period is wrong?

THE COLONIAL SECRETARY: —Sir, he can get his car back immediately by paying the prescribed fee.

MR K. A. WATSON: —Sir, I think my honourable Friend has misunderstood me again. My question was how could he get it back without paying the fee? Perhaps he could explain that?

THE COLONIAL SECRETARY: —I admit, Sir, that the Regulations are not specific in providing for the refund of fees but they are in fact refundable in certain circumstances which I have indicated. The car can, as I have said, be recovered by paying the fee, it can be recovered by court order if the owner wishes to wait the length of time that that may involve. It is not necessarily six weeks—it may be more, I regret to say. But I understand that there is no reason why, if court proceedings

are instituted and if the owner wishes to dispute the case, he cannot still go to the court and ask for an order to release his car pending the actual hearing of the case.

MR K. A. WATSON: —Sir, must such a person, whose car may have been wrongly towed away, rely purely on the personal decision of the Commissioner of Police whether he gets his car back or not?

THE COLONIAL SECRETARY: —Sir, if the owner doesn't wish to pay the towing away fee and he does not wish to wait six weeks or so before his case can be heard and he does not wish to rely upon laying a complaint, which will be investigated, as there have been in several cases and a refund made at once, and a correction made if an error has obviously occurred, then I do not really know, Sir, what the honourable Member can do.

MR K. A. WATSON: —In which case, Sir, may I ask my honourable Friend if he would look into the matter and see if the position could be regularized?

THE COLONIAL SECRETARY: —Sir, I do not see that there is anything to regularize. The position is perfectly clear and I do not admit that there is any hardship in it. If the honourable Member wants every case to be taken to court and trouble given to the police, the courts and the owners, I cannot agree with him.

MR K. A. WATSON, pursuant to notice, asked the following questions: —

(*a*) How much did Government pay, per square foot, to the Army for Murray Barracks?

(*b*) How many square feet does the Garden Road multi-storey car park occupy?

(*c*) What was the cost of building the first stage of the Central Reclamation, per square foot?

(*d*) How many square feet of this area do the Star Ferry and City Hall multi-storey car parks occupy?

(*e*) Does Government agree that, using these figures for the cost of land, these three multi-storey car parks are showing a substantial profit?

THE FINANCIAL SECRETARY replied as follows: —

Sir, the strict answer to the first question is $208 per square foot of developable land. But this is not the whole truth. The land surrendered was not all of equal value. It is

obvious, for example, that the land on the west of Garden Road is more valuable than the land on the east. The total cost must therefore be properly apportioned between individual sites; otherwise too much of the cost is allocated to the less valuable land and too little to the more valuable land. In 1957, when the surrender of the land took place, the site occupied by the car park was valued at about 70% above the average value of all land surrendered. If the cost is allocated in this proportion, the cost per square foot of the actual car park site is $350. This is the true figure.

Question (*b*): 31,000 square feet.

Question (*c*): $17 per square foot.

Question (*d*): 68,000 square feet.

Question (*e*): My honourable Friend's implication that it is correct to use these figures for cost of land when assessing the profit or loss from car parks is, if not argumentative, at least erroneous; but, if one uses them as he seeks—that is, the figures $350 and $17—the answer is in the negative.

MR K. A. WATSON: —Sir, one or two supplementary questions. I would like to thank the Financial Secretary for these illuminating figures although I do not think everyone will agree with his method of calculating developable land. However, if I may turn to the last part of his answer in which he says—"if one uses them as he asks, the answer is in the negative.". I have hastily worked out the cost according to the Financial Secretary's calculations at $17 per square foot for the Star Ferry and City Hall figures and the answer is a profit of 10%. Now may I ask if I am wrong in that or perhaps whether my honourable Friend has other figures?

THE FINANCIAL SECRETARY: —I regret I cannot say whether my honourable Friend is correct in his actual figures. He is incorrect again, I think, on his assumptions. I think we must take all three multi-storey car parks together and if his figures are correct it is because the loss on the other car parks has been enlarged by the profit he thinks we make on the Star Ferry car park.

MR K. A. WATSON: —In Britain, Sir, the present law contains provisions whereby revenue from parking meters, after deduction of expenses, is to be used for the provision of off-street parking. May I ask if this principle is accepted in Hong Kong and, if so, the final line of my honourable Friend's answer—the answer being in the negative, that is—has the revenue from the parking meters amounting, I understand, to about $2,100,000 a year, been included?

THE FINANCIAL SECRETARY: The answer is No, Sir. I answered Mr. WATSON's question, not the question he is now asking.

MR P. C. WOO, pursuant to notice, asked the following questions: —

(i) In view of the appearance during the Chinese New Year of certain dangerous types of firecrackers such as double explosion rockets and the number of cases of personal injury caused by the discharge of such firecrackers, will Government consider prohibiting the sale of such firecrackers to ensure the safety of the public?

(ii) Will Government consider further restricting the time for the discharge of firecrackers during the Chinese New Year and on other Chinese festivals?

(iii) Will Government also consider other methods of controlling the sale of firecrackers such as prohibiting the manufacture and import of all dangerous firecrackers?

THE SECRETARY FOR CHINESE AFFAIRS replied as follows: —

Sir, the answers to my honourable Friend's three questions are Yes, Doubtful, and Yes. But to leave it at that would be as discourteous as it might be misleading.

There are no reliable figures for the real numbers of personal injuries caused by fireworks, and all estimates must be treated with caution. Yet property is undoubtedly damaged, people are hurt, and children do lose their eyes every year because of fireworks, and Government is only too anxious to consider every possible way of preventing these tragedies.

It seems clear that the ceremonial discharge of traditional strings of firecrackers is rarely if ever to blame, whether during Chinese New Year or at any other time, and it is only those kinds of firecrackers which it is normally lawful for anyone to discharge, the principal exception being when a responsible organization is given a specifically endorsed permit to put on a mass fireworks display under expert control. Indeed without such a permit it is illegal at Chinese New Year, on Guy Fawkes Night, or on any other occasion to discharge any rocket however small; and the discharge of fireworks that go off on impact is always illegal. Therefore although Government will certainly review the hours granted for letting off firecrackers permit-free during Chinese New Year, I myself am doubtful at present whether still further curtailment of those hours

would reduce casualties which are caused by illegally discharged fireworks.

The local manufacture of fireworks is already very strictly controlled by Regulations re-enacted in 1964 under the Dangerous Goods Ordinance No 28 of 1956. At present there is no firm in Hong Kong manufacturing fireworks under licence: any other manufacture is illegal and the offenders may be liable to a maximum penalty of eight thousand dollars and six months' imprisonment.

The real perils to life and property come therefore from certain kinds of imported fireworks, and from the people who buy and discharge both them and any similar ones unlawfully made in Hong Kong. For the last five years Government has conducted increasingly intensive campaigns to educate and warn people about the dangers of fireworks; and in this connection I would like to acknowledge most gratefully the outstanding help given during December last year and January this year, by many Chinese-language newspapers, by the Kaifong Associations, by stage and screen celebrities and the Chinese Artistes Association, by Radio Hong Kong, Commercial Radio and Rediffusion, and not least by a number of public-spirited hawkers, in their responses to our direct approaches for their help in putting over the 1965/66 campaign in Chinese. There is already ample evidence that that campaign was a success, despite the fact that the effects were to some extent masked by the appearance of small, cheap and, under our crowded conditions, dangerous imported fireworks of all sorts of new and intriguing kinds. It is this new factor which has now forced the conclusion that consideration must also be given to imposing further controls on the import and on the local retailing of all fireworks, since existing controls are aimed mainly at ensuring safety in transport and storage. There may be considerable legal as well as practical difficulties in formulating and then implementing controls that will be effective, and that will not at the same time interfere with legitimate and harmless pleasures or businesses, but every effort will have to be made to try to surmount those difficulties.

If I may therefore amplify a little my earlier very brief answers to the three questions asked by the Honourable P. C. Woo—to the first:

> Government will consider the practicability of controlling the sale of all kinds of fireworks, whilst continuing

to make illegal the discharge of any dangerous firework except under special permit, to the second;

Government will again review the hours during which traditional firecrackers may be discharged during Chinese New Year without the need for an individual permit in each case, to see whether any changes are desirable, and in answer to the third question;

Government will consider the desirability of introducing further controls on the import as well as on the local sale of all types of fireworks.

MR WOO PAK-CHUEN: —May I ask a supplementary question, please? Can my honourable Friend give a list of the dangerous types of firecrackers which are not permitted to be discharged?

SECRETARY FOR CHINESE AFFAIRS: —Can I answer that slightly in reverse, Sir, because the list of things defined as fireworks take up nearly 11 printed pages in the Dangerous Goods Classification Regulations and therefore Regulation 59 of the Dangerous Goods General Regulations merely prohibits the discharge of any firework except under, and in accordance with, a permit issued by the appropriate authority. For all practical purposes the appropriate authority for discharge of normal fireworks and firecrackers is the Secretary for Chinese Affairs except for the New Territories, where it is my friend the Honourable District Commissioner, and for the waters of the Colony, where the authority rests with the Director of Marine. The standard form of permit issued by any of these three authorities for the discharge of fireworks specifically prohibits the discharge of rockets, and of bombs, floor-crackers, electric-crackers, and also prohibits the throwing of any firework into the air or from any building. In other words, Sir, the answer to my honourable Friend is that, it is done not by listing the list of dangerous firecrackers but by refusing to issue a permit normally for anything but the usual kind of firecracker, rather than excluding a list of dangerous fireworks.

MERCHANT SHIPPING (RECRUITING OF SEAMEN) BILL 1966

THE COLONIAL SECRETARY moved the First reading of a Bill intituled "An Ordinance to regulate the recruitment of seamen for service in foreign-going ships, to make provision in respect of allotments and remittances made by seamen supplied for service in foreign-going ships by companies licensed thereunder and in respect of the payment of advances of wages to seamen supplied for such service by any such company, and to provide for matters ancillary to or connected with the purposes aforesaid."

He said: —Your Excellency, the purpose of this Bill is to ensure that seamen recruited in Hong Kong for service aboard foreign-going ships obtain the type of employment they prefer and for which they are

best suited, without payment of any consideration, other than a small official fee.

Legislation on these lines is considered necessary in order to eradicate the exploitation of seamen by intermediaries. Hong Kong at present lags behind certain other countries which have taken steps already to protect seamen against the practices, some of them vicious and immoral, which arise from exploitation of this type.

The Bill, Sir, is modelled closely on the recommendations contained in the final report of the Seamen's Recruitment Committee, which was appointed in 1963 to look into these problems. Government's general acceptance of the final report was announced in November 1964.

The main recommendations in this report were that a Seamen's Recruiting Office should be set up as part of the Marine Department; that a four-part register of seamen should be maintained; that part of the cost of running this Office should be recovered by imposing an $8 fee for each engagement, shared equally between the seamen and the employer; and that individual companies should, subject to stringent conditions and control, be licensed to recruit seamen direct.

In essentials the Bill before this Council follows these recommendations. The Director of Marine will be the Seamen's Recruiting Authority and in that capacity will have certain statutory functions, some of which he will discharge on the advice of an Advisory Board containing an equal number of official and unofficial members. The Superintendent, who will be responsible to the Authority for the day to day running of the Seamen's Recruiting Office, will also have certain statutory functions.

All seamen engaged in Hong Kong for service aboard foreign-going ships will have to be recruited either through the Seamen's Recruiting Office or through a licensed crew department. In general, active seamen will be enrolled in Part I of the register which will be maintained by the Seamen's Recruiting Office; those who have not been to sea for more than two years will be enrolled in Part II; those who have no previous sea service experience in Part III; and those supplied through licensed crew departments in Part IV. Recruitment for service at sea will be from either Part I or Part IV. If there should be insufficient seamen in Parts I and IV to meet the demand, the shortage will be met by transferring seamen from Part II and Part III to Part I, preference being given to those in Part II, that is those with earlier service. The Bill includes detailed provisions for the licensing and control of crew departments.

In order to ensure that the register is not cluttered up with men of bad character or men who show no real inclination to seek employment at sea, a procedure has been devised to cover the suspension and cancellation

of seamen's registration. The Superintendent will be empowered to suspend or cancel registration for a number of serious offences and also for failure to find employment at sea within a reasonable time. Each decision of the Superintendent to suspend or cancel registration will automatically be reviewed by a Board of Reference, except in the case of suspensions of less than six months—although even in these cases a seaman has a right of appeal to a Board of Reference. The members of Boards of Reference will be appointed from a large panel and each Board will include a legal practitioner. The appeals procedure is designed to be swift, flexible and fair.

Various penalties are imposed to assist in the enforcement of this legislation. For recruiting seamen in contravention of the legislation companies will be liable to fines of $50,000 and individuals to fines of $25,000 and up to five years' imprisonment. These penalties are stiff because, regrettably, under present conditions the placing of seamen in employment is a lucrative business which cannot be expected to cease unless the penalties outweigh the profits that intermediaries might make by breaking the law.

Sir, a very great deal of thought and consultation has gone into the preparation of this Bill and also into the planning of the Seamen's Recruiting Office which is now practically ready to open for business. The Bill has been prepared with the interests of seamen primarily in mind, to give them the protection of the law in finding employment.

The Hong Kong Seamen's Union was given every opportunity to express its views while the Seamen's Recruiting Committee was formulating its proposals, and several of the Union's views have been taken into account in the drafting of the Bill. It is a matter for regret, therefore, that more recently the Seamen's Union has adopted a general attitude of opposition to the Seamen's Recruiting Office scheme, while declining offers made by the Commissioner of Labour over the past few months to discuss their detailed objections. I am confident, however, that this legislation when brought into force will be seen to be very much in the interests of the individual seaman, as it has elsewhere, and that it will quickly be accepted as such.

The requirements of employers have also been given the most careful consideration and I believe that the scheme which it is proposed to implement through this Bill is realistic and will work to the mutual advantage of seamen and employers alike.

The general provisions of the Bill are described in considerable detail in the Objects and Reasons appended to it and do not appear to call for further elaboration from me at this stage.

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: —

This Bill seeks to make such statutory provision as is necessary to give effect to the Final Report of the Seamen's Recruitment Committee, which has been accepted by the Government subject to certain modifications.

2. The Bill establishes a Seamen's Recruiting Authority (referred to as the Authority) and provides that the functions of this office shall be discharged by the Director of Marine (clause 3). Clause 4 of the Bill provides for the establishment of a Seamen's Recruiting Office, which will be in the immediate charge of the Superintendent. The office of Superintendent will be filled by appointment by the Authority, who will be empowered to give directions to the Superintendent with respect to the administration of the Seamen's Recruiting Office, though he may not give directions with respect to the exercise of the Superintendent's statutory powers, duties and discretions.

3. The Bill also establishes a Seamen's Recruiting Advisory Board (clause 5). The function of this Board will be to advise the Authority in any matter with respect to which the Authority may consult it, whether pursuant to a requirement of the Bill or otherwise. The Authority will be the chairman of the Board, and the Commissioner of Labour or the Deputy Commissioner of Labour, and the Superintendent of the Seamen's Recruiting Office will be members. The remaining three members, who must not be in the Government service, will be appointed by the Governor.

4. The main object of the Bill is to regulate the recruitment of seamen by the introduction of the system which the Seamen's Recruitment Committee considered would offer the best chance of eliminating the payment by seamen of any consideration, other than an official fee, in order to secure employment in foreign-going ships. When the Bill becomes laws, only two normal methods of recruiting or supplying seamen for service in foreign-going ships, whatever their nationality, will be permitted (clause 34). Firstly, seamen may be recruited at or through the Seamen's Recruiting Office. Secondly, in accordance with the Committee's view that there are distinct advantages in a system of direct engagement through company crew departments, the Bill provides for the licensing of suitable companies for this purpose and permits companies so licensed (hereinafter referred to as licensed companies) to supply seamen for service in certain foreign-going ships.

5. All seamen seeking to serve in foreign-going ships will have to register with the Seamen's Recruiting Office. The register maintained for this purpose by the Superintendent of the Seamen's Recruiting Office will be divided into four parts. Part I of the register will contain the names of active seamen, that is to say, seamen who satisfy the Superintendent that they have served at sea in a foreign-going ship during the two years preceding their application for registration, and will also contain the names of other persons over seventeen years of age who have completed a training course at an approved sea training school or other approved school or institution or who possesses satisfactory experience in the operation of machinery or of the catering industry or such other experience as the Superintendent considers sufficient (clause 7(1) and (2)). Part II of the register will contain the names of seamen who have served at sea in a foreign-going ship more than two years prior to their application for registration, and Part III will contain the name of any other person who is over eighteen and under forty years of age (clauses 8 and 9). Notwithstanding that they are not otherwise qualified to have their names in Part I of the register, the Superintendent of the Seamen's Recruiting Office will be empowered, if he considers that there is a shortage of registered seamen in Part I who are suitable and available for service in any particular post in a foreign-going ship, to transfer to that Part, from Part II or Part III of the register, the names of any persons who are suitably qualified for service in that post (clause 7(3)). In addition, the Authority will be able to order the Superintendent to enter in Part I of the register the names of such seamen as the Authority thinks fit (clause 7(6)).

6. Part IV of the register will contain the names of seamen who are supplied for service in foreign-going ships by a licensed company (clause 10(1)). The Bill contains two restrictions on the entry of a seaman’s name in Part IV of the register—firstly, a seaman may not have his name entered therein in respect of more than two licensed companies at the same time and, secondly, the name of a seaman may not be entered therein in respect of any particular licensed company if the Superintendent of the Seamen's Recruiting Office is satisfied that the licensed company's crew department list already contains the names of sufficient seamen of the rating held by that seaman to fill the posts of that rating for which the licensed company supplies seamen (clause 10(1)(iii) and (iv)). A seaman whose name is in Part IV of the register will be entitled, if he wishes, to have his name in Part I of the register also.

7. In accordance with the view of the Seamen's Recruitment Committee that it is important that unsuitable seamen and persons who have ceased to be active seamen should be removed from the register, the Bill seeks to establish a procedure for the purpose and to prescribe grounds on which the name of a seaman may be removed from the register or a seaman's registration may be suspended. The initial action

in this respect will lie with the Superintendent of the Seamen's Recruiting Office. He may remove the name of a seaman from the register on any of the grounds specified in clause 17(1), and is required to remove a seaman's name from the register in the event of the seaman's death or at the request of the seaman (clause 17(2)). Whenever the Superintendent removes a seaman's name from the register under clause 17(1), he will have to refer the case to the Authority (clause 17(3)). On any of the grounds specified in clause 18(1), the Superintendent may suspend the registration of a seaman for any period not exceeding six months (clause 18(1)(i)) or, if he considers that suspension for a period of six months will not be adequate in all the circumstances, he may suspend the registration of the seaman and refer the case to the Authority (clause 18(1)(ii)). Before the Superintendent exercises the powers conferred on him by clause 17(1) or 18(1), he must give the seaman an opportunity of making representations in the matter.

8. Where the Superintendent refers a case to the Authority under clause 17(3) or clause 18(1)(ii), the Authority is required to refer the case to a Board of Reference (clause 21). A Board of Reference will consist of the Authority (or a senior officer of the Marine Department appointed by the Authority), the Commissioner of Labour (or a public officer appointed by the Commissioner of Labour) and three members of the panel appointed by the Governor under clause 15, one of whom must be a lawyer (clause 16). The practice and procedure on the hearing of an appeal by a Board of Reference is provided for by clause 24— in particular, specific provision is made for the admissibility of certain depositions (clause 24(4)) and entries in log books (clause 24(5)), and clause 24(9) provides that the ordinary law of evidence shall not apply.

9. If, on the hearing of the case of a seaman whose name has been removed from the register by the Superintendent under clause 17(1), the Board of Reference to which the case was referred by the Authority under clause 21 is unanimously satisfied that the ground on which the seaman's name was so removed from the register is established, the Board may confirm the removal or, if it thinks fit notwithstanding that it is satisfied that such ground is established, may direct the Superintendent to restore the seaman's name to the register (clause 28(1) and (3)). If, on the hearing of any such case, the Board of Reference is not unanimously satisfied that such ground is established, the Board must direct the Superintendent to restore the seaman's name to the register (clause 28(2)).

10. If, on the hearing of the case of a seaman whose registration has been suspended by the Superintendent under clause 18(1)(ii), the Board of Reference to which the case was referred by the Authority under clause 21 is unanimously satisfied that the ground on which the seaman's registration was so suspended is established, the Board may direct the Superintendent to remove the seaman's name from the register

or may suspend his registration for a further period not exceeding twelve months or, if it thinks fit notwithstanding that it is satisfied that such ground is established, may direct the Superintendent to withdraw the suspension (clause 29(1) and (3)). If, on the hearing of any such case, the Board of Reference is not unanimously satisfied that such ground is established, the Board must direct the Superintendent to withdraw the suspension (clause 29(2)).

11. A seaman will have a right of appeal on a point of law to a judge of the Supreme Court against the decision of the Board of Reference on a case referred to the Board by the Authority under clause 21.

12. A seaman will have a right of appeal to a Board of Reference against a decision of the Superintendent under clause 18(1)(i) to suspend the seaman's registration for six months or less (clause 20). If, on the hearing of any such appeal, the Board of Reference is unanimously satisfied that the ground on which the seaman's registration was suspended is established, the Board must dismiss the appeal (clause 26(1)). If the Board of Reference is not unanimously satisfied that such ground is established, the Board must direct the Superintendent to withdraw the suspension (clause 26(2)). On an appeal under clause 20 by a seaman on the ground that the period for which his registration was so suspended by the Superintendent is excessive, the Board of Reference may confirm the Superintendent's decision or direct that the seaman's registration shall be suspended for such shorter period as it thinks fit.

13. Clauses 36 to 46 of the Bill seek to regulate the recruitment of seamen for service in foreign-going ships through the Seamen's Recruiting Office and to provide for the re-engagement of seamen for such service in the same ship and the recruitment of seamen for such service at a time when the Seamen's Recruiting Office is closed. The most important provision is that a seaman may not be supplied by the Seamen's Recruiting Office for selection for such service or permitted to offer himself for selection for such service or for such service or reengaged or otherwise recruited unless his name is in Part I of the register.

14. Part VI of the Bill will provide for the licensing and control of companies which operate crew departments for the supply of seamen for service in foreign-going ships. Licences may be granted only to companies which own or manage ships or act as agent for a shipowner and have been carrying on that business for at least three years prior to their application for a licence. The grounds on which the grant or renewal of licences may be refused are prescribed in clause 50 and these, together with the grounds on which licences may be cancelled (clause 53), provide in large measure the stringent control of company crew departments which the Seamen's Recruitment Committee considered to be essential.

15. A licensed company will have the right to supply seamen for service in foreign-going ships that the company owns, charters or

manages, but may supply seamen for service in other foreign-going ships only if the person by whom such other ships are owned, chartered or managed has been approved by the Authority (clause 55). Normally, a licensed company may not supply a seaman for service in any such ship unless his name is entered in the crew department list kept in the company's crew department (clause 56) and may not in any circumstances supply a seaman whose registration is for the time being suspended. The entry of a seaman's name in a crew department list is subject to the important restriction that his name must first be entered by the Superintendent of the Seamen's Recruiting Office in Part IV of the register (clause 57(2)) and as indicated heretofore the Superintendent will exercise a measure of control over the entry of seamen's names in Part IV of the register in respect of any particular licensed company. A licensed company will be entitled to remove a seaman's name from its crew department list at any time, but the Superintendent may require the company to restore his name to the register if he considers that it was removed without sufficient cause (clause 58). In the circumstances specified in clause 56(3), a licensed company will be able to supply for service in a foreign-going ship for which the company is permitted to supply seamen any seaman whatsoever whose name is in Part I of the register, if a suitable seaman in the company's crew department is not available and the Seamen's Recruiting Office is closed.

16. The method or methods used in a licensed crew department to select seamen whose names are in the crew department list to be supplied for service in foreign-going ships will be subject to the approval of the Authority (clause 61), and if a method which has not been approved is used for that purpose the company's licence may be cancelled or renewal thereof refused.

17. Clauses 63 to 66 of the Bill prescribe the procedure to be followed by a licensed company in the supply of seamen, in the re-engagement of seamen for service in the same ship and in the supply of a seaman pursuant to clause 56(3). Clauses 59 and 60 deal with the keeping by a licensed company of records of seamen waiting to be supplied by the company for service in foreign-going ships and the posting of notices.

18. The method or methods used by a licensed company to pay allotments and remittances made by seamen supplied by the company will also be subject to the approval of the Authority (clause 71), and clause 72 seeks to impose on the person in charge of a crew department (or his nominee) a duty to pay any advance of wages which may be made to a seaman, if the advance is not required to be paid in the presence of an official who supervises the engagement of seamen or a consular officer. Clause 73 will extend the crime of corruption in office to persons employed by a licensed company.

19. Clause 34 of the Bill, in addition to providing for the recruitment of seamen for service in foreign-going ships through the Seamen's

Recruiting Office and the supply of seamen for such service by licensed companies, also permits the Deputy Naval Store Officer (a civilian employed by the Ministry of Defence (Navy) who is on the staff of the Commodore-in-charge, Hong Kong) to supply seamen for service in Royal Fleet Auxiliary ships. Part VII of the Bill seeks to make provisions in relation to the supply of seamen by the Deputy Naval Store Officer similar to those made by Part VI thereof in relation to the supply of seamen by licensed companies. Such other provision as is necessary in relation to the supply of seamen by the Deputy Naval Store Officer has been made in the appropriate clauses of the Bill—in particular clause 10 provides for the entry in Part IV of the register of the names of seamen who are to be entered in the Deputy Naval Store Officer's crew department list, and for the purpose of the restriction on the number of persons in respect of whom a seaman's name may be entered in Part IV of the register the Deputy Naval Store Officer is placed in the same position as a licensed company.

20. Clause 87 empowers the Authority and other specified public officers to enter certain premises pursuant to the warrant of a magistrate and to enter without warrant those premises of a licensed company that are used for the purposes of its crew department. It also empowers the Authority and such public officers to search premises which they may enter, to board and search foreign-going ships in specified circumstances, to detain persons while such premises or ships are searched, to seize evidence and to inspect books, records and other documents kept or used for the purposes of a crew department.

MINING (AMENDMENT) BILL 1966

MR J. T. WAKERELD moved the First reading of a Bill intituled "An Ordinance further to amend the Mining Ordinance 1954."

He said: —Your Excellency, under the Mining Regulations 1954, the holder of a prospecting or raining licence or mining lease is required to pay a royalty to the Government equal to five per cent of the value of the minerals he has extracted.

The Regulations also lay down that the value of the minerals for this purpose shall be their value in the condition in which they were when sold or otherwise disposed of by the licensee or lessee. Minerals may sometimes be used by the licensee or lessee for manufacturing purposes and where this is the case there is often no means of assessing their value for the purpose of determining the amount of royalty payable. It is considered that the only practicable method of providing for the payment of royalty in those cases is to empower the Commissioner of Mines or his Deputy to specify a rate per ton of the minerals won at which royalty shall be paid. However, Section 68 of the Mining Ordinance 1954, as it stands provides that the rate of royalty shall be

prescribed by the Governor in Council; it does not empower the Governor in Council to make regulations empowering some other authority to fix the rate of royalty. Sir, the enactment of this Bill will enable the Governor in Council to make regulations empowering the Commissioner or his Deputy to specify a rate per ton at which royalty shall be paid.

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: —

Under the Mining Regulations 1954, a royalty of five per cent of the value of minerals won by the holder of a prospecting or mining licence or a mining lease is payable to the Government. The value of minerals for this purpose is their value in the condition in which they are when sold or otherwise disposed of by the person by whom they were won. Minerals may sometimes be used by the person by whom they were won for manufacturing purposes and where this is the case there is often no means of assessing their value in accordance with the regulations for the purpose of determining the amount of royalty payable in respect thereof. It is considered that the only practicable method of providing for the payment of royalty in those cases is to empower the Commissioner of Mines to specify a rate per ton of the minerals won at which royalty shall be paid. However, section 68 of the Mining Ordinance 1954 as it stands requires that the rate of royalty shall be prescribed by the Governor in Council and does not empower the Governor in Council to make regulations empowering some other authority to fix the rate of royalty. Clause 2 of the Bill amends section 68 so as to enable the Governor in Council to make such regulations.

NEXT MEETING

HIS EXCELLENCY THE GOVERNOR: —That concludes the business for today. The next meeting of Council will be held on 24th February.

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