

OFFICIAL REPORT OF PROCEEDINGS**Meeting of 24th August 1966****PRESENT**HIS EXCELLENCY THE OFFICER ADMINISTERING THE GOVERNMENT (*PRESIDENT*)

MR MICHAEL DAVID IRVING GASS, CMG

THE HONOURABLE THE COLONIAL SECRETARY

MR GEOFFREY CADZOW HAMILTON, (*Acting*)

THE HONOURABLE THE ATTORNEY GENERAL

MR MAURICE HEENAN, CMG, QC

THE HONOURABLE THE SECRETARY FOR CHINESE AFFAIRS

MR JOHN CRICHTON McDOUALL, CMG

THE HONOURABLE THE FINANCIAL SECRETARY

MR JOHN JAMES COWPERTHWAITHE, CMG, OBE

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 JAMES TINKER WAKEFIELD

COMMISSIONER OF LABOUR

THE HONOURABLE ALASTAIR TODD

DIRECTOR OF SOCIAL WELFARE

THE HONOURABLE IAN MACDONALD LIGHTBODY

DISTRICT COMMISSIONER, NEW TERRITORIES

THE HONOURABLE KENNETH JOHN ATTWELL

ACTING DIRECTOR OF EDUCATION

THE HONOURABLE JAMES JEAVONS ROBSON

ACTING DIRECTOR OF PUBLIC WORKS

THE HONOURABLE DHUN JEHANGIR RUTTONJEE, CBE

THE HONOURABLE KAN YUET-KEUNG, 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 WILFRED WONG SIEN-BING

THE HONOURABLE JAMES DICKSON LEACH, OBE

DR THE HONOURABLE CHUNG SZE-YUEN

MR DONALD BARTON (*Deputy Clerk of Councils*)**ABSENT**

THE HONOURABLE GEOFFREY MARSH TINGLE

DIRECTOR OF URBAN SERVICES

THE HONOURABLE ELLEN LI SHU-PUI, OBE

MINUTES

The minutes of the meeting of the Council held on 10th August 1966, were confirmed.

PAPERS

THE COLONIAL SECRETARY, by Command of His Excellency the Officer administering the Government, laid upon the table the following paper: —

Subject

Report in accordance with regulation 10(3) of the Hawker Control Force (Welfare Fund) Regulations 1962.

SUPPLEMENTARY PROVISIONS FOR THE QUARTER ENDED 31ST MARCH 1966

THE FINANCIAL SECRETARY moved the following resolution: —

Resolved that the Supplementary Provisions for the Quarter ended 31st March 1966, as set out in Schedule No 5 (Final) of 1965-66, be approved.

He said: —Your Excellency, the Schedule before Council is the final list of supplementary provisions on the 1965-66 account and amounts to just over \$5.4 million. Of this, Public Works Recurrent items represent \$2.9 million.

All the items in this Schedule have been approved by Finance Committee, and the covering approval of this Council is now sought.

THE COLONIAL SECRETARY seconded.

The question was put and agreed to.

SCHEDULE OF WRITE-OFFS FOR THE FINANCIAL YEAR, 1965-66

THE FINANCIAL SECRETARY moved the following resolution: —

Resolved that the Write-offs for the Financial Year 1965-66, as set out in the Schedule, be approved.

He said: —Your Excellency, the Schedule to the resolution comprises those write-offs approved by Finance Committee during the last financial year which require the covering approval of this Council.

There are no items of special significance in the Schedule.

THE COLONIAL SECRETARY seconded.

The question was put and agreed to.

**IMPORTATION AND EXPORTATION (AMENDMENT)
BILL 1966**

MR D. R. HOLMES moved the First reading of a Bill intituled "An Ordinance further to amend the Importation and Exportation Ordinance."

He said: —This Bill, Sir, is an enabling measure. Section 13 of the principal Ordinance already authorizes the Governor in Council to make regulations requiring merchants and others to furnish trade returns to the Government. The main purpose of this Bill is to empower the Governor in Council to make regulations imposing charges upon persons furnishing such returns. The Bill provides that any regulations introducing such charges, or increasing them, or extending their scope, will require the approval of this Council, signified by Resolution, before they may come into force.

Honourable Members will be aware that a small levy of this nature already exists in the form of the stamp duty at present payable in connexion with the declaration of imports and exports. This stamp duty is levied at the flat rate of \$2 for each declaration and at present it brings in rather under \$2 million a year in revenue. Formerly the charge was \$1 for each declaration, but in November, 1962, this was doubled in connexion with the decision to grant a subvention to the Chamber of Commerce and the Federation of Industries for the promotion of commercial public relations work.

If today's Bill is passed the Government intends that there should be introduced an *ad valorem* levy to take the place of the present flat rate of \$2 a declaration to which I have just referred. The *ad valorem* rate of levy proposed is 50 cents for each thousand dollars of declared value, with a minimum charge of \$2. Foodstuffs would be given special treatment in that they would be exempt from the *ad valorem* levy and would continue to pay the flat rate of \$2 a declaration as at present: in other words, there is no change at all proposed so far as food is concerned; but apart from this exemption all imports and exports would attract the levy. The intention is that regulations introducing this should be submitted to the Governor in Council, and thereafter to this Council for the necessary covering approval, at an early date. The appropriate time for considering the detailed effect of such regulations will be the time when the relevant Resolution is submitted for this Council's consideration, and I intend to go into no such detail today. But I do propose to explain in general terms why such regulations are thought to be desirable.

These proposals, Sir, arise from recommendations made by the Working Committee on Export Promotion, which was appointed in March 1965, and reported at the end of 1965. Members will be aware

that this Committee's report, which was tabled in this Council in February this year, has received the approval in principle of the Executive Council; and I take this opportunity of informing honourable Members that, in addition to the Bill before us today, I hope shortly to introduce another Bill which will seek to give effect to the Committee's main recommendations, particularly to that concerning the setting up of a Trade Development Council.

Meanwhile today's Bill relates to the source of the funds which will be needed if the Colony's expenditure upon trade promotion work is to be substantially expanded in the way the Committee advised. When the committee considered this matter, expenditure from general revenue in this field amounted to about \$5 million a year, to which was added about \$1 million from the product of the additional stamp duty on declarations. The Committee was officially informed that it was not possible for Government, except at the expense of other commitments, to provide further funds from existing sources of revenue and the Committee accordingly decided to consider what new sources might properly be suggested, although as their report indicates there was some difference of opinion on the question whether this fell strictly within the terms of reference or not.

There were differing views also about the extent to which the additional revenue needed should be sought from the commercial and industrial sector of the economy rather than from the community as a whole. The representatives of the commercial and industrial agencies urged the view that international trade is the life-blood of Hong Kong and that when trade increases the resultant benefits are enjoyed throughout the community; for these reasons, they argued, at least half the cost of officially sponsored trade promotion work ought to be met from general revenue. The official view was, however, and still remains, that any immediate expansion of trade promotion work on the scale envisaged by the Committee ought to be financed by that sector of the economy which might expect to enjoy direct benefit from the results, and that some source of additional funds should therefore be found which would not normally be tapped for the increase of general revenue at large, and which would derive new revenue mainly from the commercial sector of the economy.

I will not take up much of Council's time, Sir, in describing the various possible sources of revenue that have been examined. The Committee debated the question whether there could be some kind of a levy on exports only rather than on all external trade; they considered possible measures related to means of payment for goods, or certification of origin, or to shipping documents; they discussed the possibility of various exemptions; and they considered carefully the question whether an increase in the present flat rate charge for statistical declarations

might equitably achieve the objective. But finally they agreed unanimously to recommend that a direct cess on the value of all imports, exports and re-exports should be introduced, and that this should take the form of an *ad valorem* levy of 50 cents per \$1,000 or part thereof on the trade declarations that are filed for statistical purposes. Subject to the reservation which I mentioned a moment ago, these recommendations received the support of the commercial and industrial associations represented on the Committee.

These recommendations have in the main been accepted by the Government also, and it is with a view to giving effect to them that the present Bill is introduced. We shall, however, propose one significant departure from the Committee's recommendations, namely (as I have already mentioned) that foodstuffs should be exempt from the *ad valorem* levy, and should simply continue to pay the present flat rate of \$2 a declaration only. Although the Committee, having considered this possibility, preferred to recommend that there should be no exemptions or exceptions whatever, the Government nevertheless considers that foodstuffs can safely and reasonably be given special treatment; foodstuffs for the most part do not form raw material for the export trade, and whilst the percentage levy proposed is far too small to have a perceptible effect upon domestic prices (the charge will be, for example, \$5 on a \$10,000 consignment) it is nevertheless thought that the exemption of foodstuffs will remove any possible pretext for the raising of food prices without in any way vitiating the effectiveness of the rest of the proposals. The latest estimates indicate that the proposed levy, with foodstuffs treated in the special way suggested, would bring in gross revenue of about \$7.36 million a year, which falls not far short of the figure that the Committee sought means to raise.

I might add that it is Government's intention to provide in the region of \$5 million from general revenue for the use of the Trade Development Council, thus giving it a total initial revenue of about \$11½ million, and proposals to this end will in due course be placed before Council.

Someone may say that the imposition of an *ad valorem* levy on the lines proposed would be at variance with Hong Kong's established free trade policy, and would adversely affect the Colony's traditional status as a free port. We carefully considered this argument in the Working Committee but did not think that it should prevail. Every trading country has a variety of minor charges connected with the mechanics of international commerce and with associated official functions and services. Such charges in Hong Kong are comparatively low and they will still be comparatively low by any standards if and when the proposed *ad valorem* levy has been imposed. If there is a principle at stake here at all, which I think is open to doubt, it seems

to me that that principle was breached four years ago when the flat rate of stamp duty was doubled. It has, however, been argued also that an *ad valorem* charge is different in kind from a small charge levied at a flat rate, in that the *ad valorem* rate can be raised, and raised again, as happens with so many forms of taxation, so that even if the present proposals do not threaten to tarnish our free trade image, or to constitute a significant burden upon our commerce, it is only a matter of time before increasing percentage charges will begin to pose such threats. I would readily concede that this is a serious criticism if indeed it is valid at all. But the whole point of the present proposals is that the *ad valorem* charge is to be a very small one, and will for that reason not constitute a burden upon trade. It can be increased only with the authority of this Council, and I am confident that this Council will scrutinize most carefully and critically, either now or in the future, any proposal which, on the pretext of seeking the means to promote trade, seems likely to impose a damaging burden upon it. As I have already stressed, the Bill specifically provides that this Council's approval must be obtained on each and every occasion when it is proposed to levy a new charge or to increase an existing charge.

Sir, I have already spoken at some length, and I have dwelt largely upon the purposes underlying the Bill and the action which the Government proposes to take if it is passed, rather than upon the specific provisions of the Bill itself. These provisions are fully described in the Objects and Reasons attached to the Bill, and I think I need add no further remarks or explanation.

Sir, I beg to move.

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 object of this Bill is to enable regulations to be made levying a charge, of such amount or calculated in such manner as may be prescribed in the regulations, on persons who furnish particulars pursuant to regulations made under section 13 of the Importation and Exportation Ordinance. Under that section regulations may be made imposing upon importers, exporters, ship-owners and others the duty of furnishing particulars for the compilation of trade returns and statistics. Regulations imposing this duty, namely, the Registration (Imports and Exports) Regulations (Laws of Hong Kong, Vol. VIII,

p. 304), have in fact been in force for many years and require the lodging with the Director of Commerce and Industry of import and export declarations.

2. At present a stamp duty of \$2 is payable under the Stamp Ordinance (Cap. 117) in respect of each such declaration, regardless of the size or value of the import or export so declared. This duty is not, however, sufficient to finance any large scale expansion of the Colony's export trade promotion or the trade promotion activities envisaged by the Working Committee on Export Promotion Organization, appointed by the Governor, in their Report published in March, 1966, and the reason for this Bill is to enable the additional revenue to be raised by regulation. If this Bill is enacted, it is intended to levy a charge on all declarations, except import declarations relating to food. This new charge will be calculated on a sliding scale according to the value of the goods declared in the declaration, and will be in lieu of the present \$2 stamp duty. However in the case of import declarations relating to articles classified under section 0 (Food and Live Animals) of the Hong Kong Imports and Exports Classification List there will be no change in the amount currently charged, namely \$2 in respect of each such declaration. Any regulation imposing such charges (including any later increases or extension of the scope of such charges) will, however, require the affirmative approval of the Legislative Council before coming into force.

3. This Bill, if enacted, will, in addition, enable a monetary penalty, recoverable civilly, to be imposed by regulation for evasion of the charge or any part of the charge payable on any declaration; but any such regulation will also be subject to the approval of the Legislative Council before it comes into force.

4. Regulations may also be made under the amendments proposed by this Bill for the protection from disclosure of information and documents obtained under regulations made pursuant to section 13 of the Ordinance.

RESETTLEMENT (AMENDMENT) BILL 1966

THE COLONIAL SECRETARY moved the Second reading of a Bill intituled "An Ordinance further to amend the Resettlement Ordinance 1958."

THE ATTORNEY GENERAL seconded.

The question was put and agreed to.

The Bill was read a Second Time.

Council then went into Committee to consider the Bill clause by clause.

Clause 1 was agreed to.

Clause 2.

THE COLONIAL SECRETARY: — Sir, in the course of the last week, my honourable Friend Dr S. Y. CHUNG advised me that the expression "moulded circuit breaker", which appears in Clause 2 of the Bill, is too restrictive, in that there are types of circuit breaker, other than *moulded* circuit breakers, which would serve the same purpose. My honourable Friend the Director of Public Works confirms that this is so, and I am grateful to Dr CHUNG for his advice.

It is desirable therefore that the word "moulded" should be left out of the new Clause 35C in Clause 2 of the Bill where it appears in conjunction with the words "circuit breaker".

I therefore move, Sir, that Clause 2 be amended as set forth in the paper before honourable Members.

Proposed Amendment.

Clause.

2. In the new section 35C—

leave out the word "moulded" wherever it occurs.

Clause 2, as amended, was agreed to.

Clauses 3 to 5 were agreed to.

Council then resumed.

THE COLONIAL SECRETARY reported that the Resettlement (Amendment) Bill 1966 had passed through Committee with certain amendments and moved the Third reading.

THE ATTORNEY GENERAL seconded.

The question was put and agreed to.

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

TELECOMMUNICATION (AMENDMENT) BILL 1966

THE COLONIAL SECRETARY moved the Second reading of a Bill intituled "An Ordinance to amend the Telecommunication Ordinance 1962."

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 to 3 were agreed to.

Council then resumed.

THE COLONIAL SECRETARY reported that the Telecommunication (Amendment) Bill 1966 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.

HIS EXCELLENCY THE OFFICER ADMINISTERING THE GOVERNMENT: — That concludes the business on the order paper but this is the last occasion on which the honourable the Attorney General, Mr Maurice HEENAN, will be with us in this Council. He will be leaving Hong Kong on 3rd September on leave prior to retirement from the Government Service. Later this year he will take up the post of Deputy Director of the General Legal Division in the Office of a Legal Affairs within the United Nations Secretary General's offices in New York.

Mr HEENAN is the seventeenth person to hold the office of Attorney General in Hong Kong, to which he was appointed on 4th December 1961. He has, therefore, been an *ex officio* member of this Council for almost five years, although he first entered it as long ago as 1951 in a provisional capacity. It is eighteen years today since Mr HEENAN transferred to the service of Hong Kong as a Crown Counsel and in the course of his distinguished career he was appointed to be a Queen's Counsel in 1962 and a Companion of the Most Distinguished Order of St. Michael and St. George in the New Year's Honours this year.

On behalf of honourable Members I should like to record our gratitude to Mr HEENAN for the valuable advice and the helpful contributions to the work of this Council which he has always so readily given; and to wish him and his family every happiness in the future.

THE ATTORNEY GENERAL replied: — I am very much obliged to Your Excellency for your generous remarks and for this opportunity

of expressing my appreciation for the courtesy and patience with which honourable Members have listened to me, or have listened to the contributions which it has fallen to me to make from time to time during debates in this Council. I again thank you, Your Excellency.

NEXT MEETING

HIS EXCELLENCY THE OFFICER ADMINISTERING THE GOVERNMENT: —The Council will now adjourn. The next meeting will be on 7th September.