

OFFICIAL REPORT OF PROCEEDINGS**Meeting of 12th January, 1955****PRESENT:**HIS EXCELLENCY THE GOVERNOR (*PRESIDENT*)

SIR ALEXANDER WILLIAM GEORGE HERDER GRANTHAM, G.C.M.G.

THE HONOURABLE THE COLONIAL SECRETARY

MR. ROBERT BROWN BLACK, C.M.G., O.B.E.

THE HONOURABLE THE ATTORNEY GENERAL

MR. ARTHUR RIDEHALGH, Q.C.

THE HONOURABLE THE SECRETARY FOR CHINESE AFFAIRS

MR. RONALD RUSKIN TODD.

THE HONOURABLE THE FINANCIAL SECRETARY

MR. ARTHUR GRENFELL CLARKE, C.M.G.

THE HONOURABLE THEODORE LOUIS BOWRING, C.M.G., O.B.E.

(Director of Public Works).

THE HONOURABLE DOUGLAS JAMES SMYTH CROZIER

(Director of Education).

DR. THE HONOURABLE YEO KOK CHEANG

(Director of Medical and Health Services).

THE HONOURABLE HAROLD GILES RICHARDS, O.B.E.

(Director of Urban Services).

THE HONOURABLE CHARLES EDWARD MICHAEL TERRY.

THE HONOURABLE LO MAN WAI, O.B.E.

THE HONOURABLE NGAN SHING-KWAN.

THE HONOURABLE CEDRIC BLAKER, M.C., E.D.

DR. THE HONOURABLE ALBERTO MARIA RODRIGUES, M.B.E., E.D.

MR. ROBERT WILLIAM PRIMROSE *(Deputy Clerk of Councils).***ABSENT:**

HIS EXCELLENCY THE COMMANDER BRITISH FORCES

LIEUTENANT-GENERAL CECIL STANWAY SUGDEN, C.B., C.B.E.

DR. THE HONOURABLE CHAU SIK NIN, C.B.E.

THE HONOURABLE DHUN JEHANGIR RUTTONJEE.

THE HONOURABLE KWOK CHAN, O.B.E.

MINUTES.

The Minutes of the meeting of the Council held on 29th December, 1954, were confirmed.

ANNOUNCEMENT

THE COLONIAL SECRETARY: —By Your Excellency's direction I rise to announce the appointment of the Standing Law Committee for 1955. The following members have been appointed and have agreed to serve: —

The Honourable the Attorney General (*Chairman*)

The Honourable Lo Man Wai., O.B.E.

The Honourable Dhun Jehangir Ruttonjee

The Honourable Cedric Blaker, M. C., E. D.

Dr. the Honourable Alberto Maria Rodrigues, M.B.E., E.D.

PAPERS.

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

<i>Subject.</i>	<i>G.N. No.</i>
Police Welfare Fund Accounts for the year ending 31st March, 1954 (laid on the table in accordance with regulation 12 of the Police (Welfare Fund) Regulations, 1953).	
Pharmacy and Poisons Ordinance, Chapter 138.	
Poisons (Amendment) (NO. 4) Regulations, 1954	A. 171
Importation and Exportation Ordinance, Chapter 50.	
Importation and Exportation (Reserved Commodities) Regulations, 1954	A. 172
Dangerous Drugs Ordinance, Chapter 134.	
Dangerous Drugs (Amendment) Regulations, 1955	A. 1

<i>Subject.</i>	<i>G.N. No.</i>
Deportation of Aliens Ordinance, Chapter 240.	
Deportation of Aliens (Amendment) Regulations, 1955	A. 2
Training Centres Ordinance, 1953.	
Training Centres (Amendment) Regulations, 1955.....	A. 3
Tallyclerks (Licensing) Ordinance, Chapter 85.	
Tallyclerks (Licensing) Regulations, 1955	A. 4
Defence Regulations, 1940.	
Reserved Commodities (Re-export) (Rescission) Order, 1955	A. 5
Defence Regulations, 1940.	
Prohibited Exports (Amendment) Order, 1955	A. 6

VEHICLE AND ROAD TRAFFIC (AMENDMENT) BILL, 1955.

THE ATTORNEY GENERAL moved the First reading of a Bill intituled "An Ordinance to amend the Vehicle and Road Traffic Ordinance, Chapter 220".

He said: Sir, there is nothing I can usefully add to the explanation attached to the Bill and I therefore 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 offences of driving a motor vehicle under the influence of drink or drugs and taking and driving away a motor vehicle without the owner's consent are not indictable offences.

Neither of these offences can therefore be made the subject of an alternative count on indictment to a more serious charge, *e.g.* manslaughter or robbery. Clauses 2 and 4 bring the law into line with the United Kingdom Road Traffic Act, 1930, under which both these offences are indictable.

2. Section 7 of the principal Ordinance places certain restrictions relating to the warning of the accused etc. on prosecutions for certain offences, which include the offence of driving under the influence of drink or drugs. The equivalent section in the Road Traffic Act, 1930, does not include this offence, and it is considered that its inclusion in our section 7 is unnecessary and an undue hindrance to the police. Clause 3 seeks to amend section 7 accordingly.

3. Paragraph (b) of the proviso to section 7(1) of the principal Ordinance provides that the requirements of "this section" shall be deemed to have been complied with unless and until the contrary is proved. Doubt has arisen as to whether the words "this section" includes subsection (2) which relates to "speed limit" cases, although it is felt that such inclusion was intended and is desirable. Clause 3 removes this doubt and, again, brings the principal Ordinance into line with the Road Traffic Act, 1930.

MAGISTRATES (AMENDMENT) BILL, 1955.

THE ATTORNEY GENERAL moved the First reading of a Bill intituled "An Ordinance further to amend the Magistrates Ordinance, Chapter 227".

He said: Sir, I would merely add in amplification of the first paragraph of the statement of objects and reasons that the amendments proposed in clauses 2 and 3 will avoid the necessity of drawing up formal convictions and orders in all cases. They will, if this Bill becomes law, only be drawn up where there is an appeal, or where, for example, they are required as proof in other proceedings.

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: —

Sections 19, 28 and 34 of the Magistrates Ordinance (Cap. 227) are amended by clauses 2, 3 and 4 in order to simplify the clerical work imposed by the Ordinance on magistrates and their clerks.

2. Section 98 is amended by clause 5 in order to remove doubts as to the power of magistrates to imprison in all cases in default of the payment of any fine imposed by them.

3. Section 110 is amended by clause 6 to put beyond doubt that the power of a judge of the Supreme Court to require a case stated to be amended is to be exercised by order of *mandamus*. This is consequent upon the provisions of section 3 of the Administration of Justice (Miscellaneous Provisions) Ordinance No. 34 of 1953.

4. Sections 116 and 120 are amended by clauses 7 and 8 to effect a change of nomenclature consequent upon the changes made by the Prisons Ordinance No. 17 of 1954.

5. Section 124 gives a right of action to a person injured by any act done by a magistrate without or in excess of his jurisdiction. The new subsection (2) added by clause 9 gives to the magistrate a defence if he can prove that the act complained of was not done maliciously and without reasonable and probable cause. This defence is given in most colonies, but the onus of proof is not laid on the magistrate. The new subsection (3) provides that no actions shall lie in any civil court against a magistrate on these grounds save under and in accordance with section 124.

DEPORTATION OF ALIENS (AMENDMENT) BILL, 1955.

THE COLONIAL SECRETARY moved the First reading of a Bill intituled "An Ordinance to amend the Deportation of Aliens Ordinance, Chapter 240".

He said: Sir, under the law as it stands at present there are two categories of alien prisoners whose deportation is automatic, namely prisoners who have been guilty of certain scheduled

offences and those who have been sentenced to a term or terms of imprisonment of more than 12 months. Experience in recent years has shown that automatic deportation of this kind often operates unduly harshly in view of the grave economic difficulties with which certain sections of the Colony's population have been faced.

It is therefore desired to reduce the categories which call for automatic deportation; but powers to deport in special cases, *e.g.* of habitual criminals, will be retained under sub-section 3(1)*b* of the Deportation of Aliens Ordinance, whereby recommendation for deportation in individual cases can be made for consideration by the Governor in Council. In pursuance of this policy the Governor in Council has recently made the Deportation of Aliens (Amendment) Regulations, 1955, the effect of which has been to reduce the number of offences which carry automatic deportation. The main purpose of the Bill now before Council is to remove from the law the provision whereby an alien prisoner who has been sentenced to a term, or terms, of imprisonment of more than 12 months will be automatically deported. As in the case of the scheduled offences to which I have just referred, however, it will still be possible for a recommendation for deportation to be made to the Governor in Council in individual cases.

A further provision will enable a system to be introduced whereby an order of deportation may be rescinded conditionally upon the prisoner entering into a bond to be of good behaviour for a period not exceeding three years.

Opportunity has also been taken in this Bill to make a minor correction to section 13 of the principal ordinance.

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: —

It is felt that the operation of the Deportation of Aliens Ordinance should be made more flexible by giving more discretion in respect of the issue and rescission of deportation orders.

2. Clause 2 of the Bill provides for the repeal of the provisions relating to automatic deportation where an alien has been sentenced to more than twelve months' imprisonment for an offence or where the aggregate of sentences, at whatever time imposed, exceeds twelve months.

3. Clause 4 provides that as a condition for the rescission of the deportation order, a deportee may be required to enter into a recognizance before a magistrate.

4. The opportunity is taken to make a minor correction to section 13 of the Ordinance (clause 3).

**SECRETARY FOR CHINESE AFFAIRS INCORPORATION
(AMENDMENT) BILL, 1955.**

THE SECRETARY FOR CHINESE AFFAIRS moved the First reading of a Bill intituled "An Ordinance to amend the Secretary for Chinese Affairs Incorporation Ordinance, Chapter 310."

He said: Sir, the purposes of this Bill are amply set out in the printed Objects and Reasons and there is nothing I can usefully add 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: —

The principal purpose of this Bill is to remove a doubt about the power of the Secretary for Chinese Affairs to accept trusts other than those mentioned in section 7 of the Secretary for Chinese Affairs Incorporation Ordinance (Cap. 310), and to make the acceptance of any such trust subject to the prior approval of the Governor. The opportunity has been taken to amend section 3 of the Ordinance to remove the necessity for a deed under seal in cases where the transaction, had it been entered into by a natural person, would not require such deed.

PUBLIC RECLAMATION (KOWLOON BAY) BILL, 1955.

MR. T. L. BOWRING moved the First reading of a Bill intituled "An Ordinance to authorize an undertaking for the reclamation of an area of sea bed."

He said: Sir, Honourable Members will recall that this Council recently approved of a scheme for the development of the Airport at Kai Tak. The Bill now before Council proposes enactment of legislation to give me authority provisionally, and subject to the definitive approval of the Governor in Council, to construct the undertakings which are described in the Schedule to the Bill.

An examination of the Schedule will show that the project is for the reclamation of some 240 acres of Crown foreshore and sea bed extending from the south west corner of Kai Tak Airport a distance of approximately 8,350 feet in a south-east direction towards Channel Rock, the limits and extent of this reclamation being shown and delineated in red on a plan which has been signed by me and deposited in the Land Office.

This reclamation, on which will be built the new airport, has been planned so as to cause as little interference as possible with the facilities and functions of the harbour. A careful study has been made of the effect which the new reclaimed area might have on the currents and conditions in the harbour and the opinions of leading authorities have been obtained on this point. I am glad to report, Sir, that these authorities unanimously state that in their opinion the harbour will not be affected in any adverse way. The Marine and Shipping authorities have been kept informed of this development and are satisfied with the present proposals.

The work is of considerable magnitude requiring some 13¼ million cubic yards of filling to form the reclamation. About 3¼ miles of seawall will be built to protect this reclamation and ¼ million square yards of bituminous surface pavement will be laid to form the new runway and taxi track. It is hoped to complete all these works in three years from the commencement of the contract.

As I have already indicated, Sir, performance of the works necessary to carry out the reclamation and the construction of the runway and taxi track is contingent on the final approval of the

Governor in Council, and this approval has to wait consideration of any objections that may be lodged against the reclamation. With regard to these objections, if any, the provisions of Part II of the Public Reclamation Validation and Clauses Ordinance, 1936 will apply.

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: —

1. The construction of the new runway for Kai Tak Aerodrome necessitates the reclamation of a considerable area of Kowloon Bay.
2. This Bill seeks to give the Director of Public Works provisional authority to perform the works necessary to construct this runway.
3. Final authority is contingent upon definitive approval by the Governor in Council which, in accordance with the Public Reclamations Validation and Clauses Ordinance, 1936, can only be given after consideration of objections to the plan. The provisions of Part II of the Public Reclamations Validation and Clauses Ordinance, 1936, which relate to objections, claims and compensation apply to this project.

ADJOURNMENT.

H.E. 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 fortnight, Sir?

H.E. THE GOVERNOR: —Council will adjourn to this day fortnight.