

**OFFICIAL REPORT OF PROCEEDINGS****Meeting of 26th October, 1955.**

---

**PRESENT:**HIS EXCELLENCY THE GOVERNOR (*PRESIDENT*)

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

HIS EXCELLENCY THE COMMANDER BRITISH FORCES

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

THE HONOURABLE THE COLONIAL SECRETARY

MR. EDGEWORTH BERESFORD DAVID, C.M.G.

THE HONOURABLE THE ATTORNEY GENERAL

MR. ARTHUR HOOTON, Q.C. (*Acting*)

THE HONOURABLE THE SECRETARY FOR CHINESE AFFAIRS

MR. BRIAN CHARLES KEITH HAWKINS, C.M.G., O.B.E.

THE HONOURABLE THE FINANCIAL SECRETARY

MR. JOHN JAMES COWPERTHWAITTE (*Acting*).

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).*

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

THE HONOURABLE CHARLES EDWARD MICHAEL TERRY, O.B.E.

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

THE HONOURABLE NGAN SHING-KWAN, O.B.E.

THE HONOURABLE DHUN JEHANGIR RUTTONJEE.

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

THE HONOURABLE KWOK CHAN, O.B.E.

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

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

**MINUTES.**

The Minutes of the meeting of the Council held on 12th October, 1955, were confirmed.

**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>
Ferries Ordinance (Chapter 140).	
Ferries (Amendment) Regulations, 1955 .....	A. 110
New Territories Ordinance (Chapter 97).	
Markets and Market Areas (N.T.) (Amendment) Rules, 1955	A. 111

**SUPPLEMENTARY PROVISIONS FOR THE QUARTER  
ENDED 30TH JUNE, 1955.**

THE FINANCIAL SECRETARY moved the following resolution: —

Resolved that the Supplementary Provisions for the quarter ended 30th June, 1955, as set out in Schedule No. 1 of 1955/56, be approved.

He said: Sir, this Schedule is in respect of the first quarter of the present financial year and, as usual, coming so soon after the annual estimates, contains little of note. The major items are mainly re-votes or small excesses in connexion with existing commitments. All items have already been approved by Finance Committee and I beg to move that this Council now give its formal approval.

THE COLONIAL SECRETARY seconded.

The question was put and agreed to.

**PUBLIC RECLAMATION AND WORKS  
(GIN DRINKERS BAY) BILL, 1955.**

MR. T. L. BOWRING moved the First reading of a Bill intituled "An Ordinance to validate an undertaking for reclamation and other works over and upon unleased Crown foreshore and seabed situate at Gin Drinkers Bay, and to authorize, subject to the definitive approval of the Governor in Council, a further undertaking for reclamation and other works in the same situation."

He said: Sir, the purpose of this Bill is clearly set out in the Preamble and in the Objects and Reasons but it may interest honourable Members to know that with the need to remove the city refuse dump from Kun Tong to Gin Drinkers Bay, history is repeating itself.

Before the end of the last century refuse was disposed of by contractors who took it in junks and dumped it at sea. There could not have been much, probably some 20 to 30 tons per day, but it is recorded that when weather conditions were not favourable it was to be taken to Gin Drinkers Bay which soon became known as "Lap Sap Wan"—the bay for rubbish—and this name appears on charts which were made at that time. There is on file, Sir, a letter dated 30th June, 1900 addressed to the President of the Sanitary Board complaining that the watchman of the rubbish dump at Lap Sap Wan was not properly carrying out his duties as he was allowing the rubbish to be tipped into the sea.

How the Colony disposed of its refuse during the first quarter of this century is not clear, but in 1925 the remote corner of Kun Tong Bay was selected as the most suitable site and a seawall was built to retain the growing quantity of refuse. When this area was sold to the Asiatic Petroleum Company in 1947 the dump was shifted across the bay to its present site.

With the ever increasing demand for land the Kun Tong area is no longer available as a refuse dump, and the accumulation of years is now being covered with earth from the foot-hills to form a part of a scheme to reclaim land for factory sites.

By, this Bill, Sir, Government proposes to put back the clock more than fifty years and return to Gin Drinkers Bay—Lap Sap Wan—for the disposal of the city rubbish.

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 validate the construction of a rubble mound joining Tsing Chau Island to the mainland near Tsun Wan and to authorize the reclamation of part of Gin Drinkers Bay which it is proposed to effect by the dumping of refuse by the Urban Council.

2. Final authority for the reclamation is contingent upon the 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 that Ordinance relating to objections apply to this remainder of the undertaking, while those relating to claims and compensation apply both to the reclamation now in progress and to the remainder of the undertaking.

**PUBLIC HEALTH (SANITATION) (AMENDMENT)**

**BILL, 1955.**

MR. H. G. RICHARDS moved the First reading of a Bill intituled "An Ordinance to amend the Public Health (Sanitation) Ordinance, 1935."

He said: Sir, this Bill is one of a number of measures which are necessary to enable the new refuse dump at Gin Drinkers Bay, about which my honourable Friend the Director of Public Works has just spoken, to be protected from the

depredation of squatter salvagers, which have caused so much damage to the old dump at Kun Tong. There they have made the dump a danger to public health, and have also undone much of the work of reclamation which had been carried out through proper dumping of refuse. It is important that that situation should not recur at Gin Drinkers Bay.

The new dump will be protected by a fence on the mainland side; the Urban Council has adopted a new by-law which will make it an offence to interfere with the dump; a permanent 24-hour watch will be maintained by a special force of watchmen; and this Bill, if enacted, will give those watchmen limited powers of arrest.

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: —

This amendment serves to give to watchmen on duty on refuse dumps under the control of the Urban Council, the same power of arrest as is given to health officers under section 16 of the Ordinance, *i.e.* the power to detain any person trespassing or committing an offence in the nature of a sanitary nuisance on the refuse dump and to detain him until he can be handed over to the police.

**DENTISTS REGISTRATION (AMENDMENT) BILL, 1955.**

DR. YEO KOK CHEANG moved the First reading of a Bill intituled "An Ordinance to amend the Dentists Registration Ordinance, Chapter 156."

He said: Sir, the purpose of this Bill is fully set forth in the Objects and Reasons to which I think there is nothing that can usefully be added.

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 main purpose of this Bill is to make better provision in relation to disciplinary proceedings under the Dentists Registration Ordinance (Cap. 156). Section 17 is therefore to be repealed and replaced by a section which restates in amended form the grounds upon which proceedings may be taken, and it provides for—

- (a) removal from the register of the practitioner's name for a stated period as well as erasure;
- (b) a reprimand; and
- (c) postponement of judgment for a period or periods not exceeding two years in all.

The expression "infamous or disgraceful conduct in a professional sense" in paragraph (c) of existing section 17(1) is thought to be inappropriate save where grave misconduct is concerned, and it is to be replaced by the expression "unprofessional conduct" as being more appropriate to cover all forms of misconduct. And the term "unprofessional conduct" is itself defined in the new section 17(2) (clause 8) by an adaptation of a judicial interpretation of the phrase "infamous conduct in a professional respect".

2. The Dental Board in exercise of its disciplinary functions is empowered to summon witnesses and to take evidence on oath. Failure to give evidence is made an offence but witnesses are entitled to the privileges to which they would be entitled in a court of justice. Provision is made for the appearance of counsel and solicitors, and there is a right of appeal to the Full Court against any order of the Board for erasure of a practitioner's name or its temporary removal: this is in lieu of the previous option of appeal either to the Governor in Council or the Supreme Court: (clauses 9 and 10). Similar procedure is provided for

where the Board conducts an inquiry to ascertain whether a person seeking registration under section 8 of the principal Ordinance has been convicted of a criminal offence punishable with imprisonment or has been guilty of unprofessional conduct: (clause 5).

3. The opportunity has been taken to make a number of other amendments. Attention is invited to the following (references to sections are to sections in the principal Ordinance): —

- (a) Paragraph (c) of section 3(2) which relates to the practice of Chinese dentistry is deleted (clause 2).
- (b) Section 12(1) makes no provision for the publication annually in the *Gazette* of the names of practitioners exempted under section 26: this is now provided for: (clause 6).
- (c) Section 13 requires a dentist to exhibit his certificate of registration issued under section 9, but this only entitles the holder to practise until 31 December of the year of issue. It is clearly desirable that a practitioner should exhibit his current authority to practise, and this is provided for in an amendment to section 13(1): (clause 7).
- (d) Section 21 (which prescribes penalties for wilful mis-description) is amended to enable the Board to authorize a person registered under paragraph (e) of section 7 to use a title or titles approved by the Board: (clause 11).
- (e) A new section 24A (clause 12) will enable a magistrate to order the forfeiture of dental materials and equipment in the possession of a person who, not being registered, is convicted of practising dentistry.
- (f) The Governor in Council is enabled to make regulations for the procedure when complaints against dentists are investigated: (clause 13).
- (g) Section 26 is amended so as to provide that Service dentists engaging in private practice will be required to take out a practising certificate: (clause 14).
- (h) Section 27 is amended to allow of the training of dental nurses and to permit those employed in the public service to perform such minor dental work as the Government Dental Specialist may authorize: (clause 15).

**MENTAL HOSPITALS (AMENDMENT) BILL, 1955.**

DR. YEO KOK CHEANG moved the First reading of a Bill intituled "An Ordinance to amend the Mental Hospitals Ordinance, Chapter 136."

He said: Sir, although the purpose of this Bill is clearly set forth in the "Objects and Reasons", I consider that it would be opportune for me to mention that plans are now being prepared for the construction of a new Mental Hospital of 500 beds at Castle Peak.

Site preparation will be commenced in the near future and the first stage in the building of the hospital will be the construction of custodial wards for the accommodation of 120 chronic mental cases with the requisite number of quarters for resident staff. Tender notifications will be gazetted on Friday, 28th October, 1955, and it is hoped that this accommodation will be ready for occupation about August, 1956. The opportunity which will then be afforded for the removal of chronic cases from the existing Mental Hospital will to a large extent relieve the highly undesirable congestion at present existing in that institution.

Although as previously stated plans are being prepared for a 500 bedded hospital, planning is however being carried out bearing in mind a probable necessity for expansion up to 1,000 beds.

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 problem of overcrowding in a mental hospital has, for some time, exercised the minds of the local medical authorities because such a condition may prove prejudicial to patients receiving treatment therein. In consequence, clause 2 adds to the Mental Hospitals Ordinance, Chapter 136 (hereinafter referred to as the principal Ordinance) two new sections designed for the safety and well-being of patients already in a hospital.

2. Doubt has arisen as to the power of a medical practitioner in charge of a mental hospital to deliver any person detained therein under the provisions of the principal Ordinance to the care of any party whom the medical practitioner considers expedient. For the avoidance of doubt, clause 3 repeals and replaces section 13. Attention is invited, however, to the fact that persons detained under the provisions of section 16 of the Ordinance (which deal with prisoners of unsound mind) are expressly excluded.

3. Clause 4 repeals section 15 and replaces it with a new section modelled on section 330 of the United Kingdom Lunacy Act, 1890, as amended by section 16 of the Mental Treatment Act, 1930. Section 15 affords protection for anything done under the Ordinance to a person acting in good faith and with reasonable cause, the onus of proof lying upon such person. The new section 15 affords similar protection unless the person has acted in bad faith or without reasonable care, the onus of proof being on the party alleging bad faith or want of reasonable care. It also provides that no proceedings shall be brought without leave of the Supreme Court and that leave shall not be given unless the Court is satisfied that there is substantial ground for the contention that the person has acted in bad faith or without reasonable care.

4. Under the provisions of section 13 of the Prisons Ordinance, 1954, the Commissioner of Prisons may order the removal of a prisoner to a mental hospital for the purpose of detention and observation. If the prisoner is found to be of unsound mind and has to be further detained, the procedure contained in section 16(2) of the principal Ordinance has to be followed. This procedure is considered cumbersome as it requires the prisoner to be returned to prison. Clause 5, therefore, amends section 16 to allow an order to be made whilst a prisoner is still in a mental hospital.

**CONTROL OF PUBLICATIONS CONSOLIDATION  
(AMENDMENT) BILL, 1955.**

THE ATTORNEY GENERAL moved the First reading of a Bill intituled "An Ordinance to amend the Control of Publications Consolidation Ordinance, 1951."

He said: Sir, honourable Members will doubtless recollect that the primary purpose of the Control of Publications Consolidation Ordinance, enacted in 1951, was to re-arrange the Colony's existing substantive law governing the topics of newspapers, printers, publishers and printing presses. Whilst recognizing the liberty of legitimate expression in the press it aimed at providing safeguards against abuse of freedom.

Sir, since the enactment of that Ordinance its provisions have been carefully reconsidered and it is felt that the time is ripe for making certain modifications to it. In particular, the provisions of section 16 of that Ordinance, which grant the Governor in Council power to make regulations for various matters, have been reviewed. It is felt that that section as worded may afford too general and too sweeping a power to control publications by means of regulations; in particular, the wording of subsection (2) is open to this criticism. This Bill therefore seeks to repeal subsections (1) and (2) of that section and to replace them with a new subsection limiting and making more precise the power to make regulations. This is contained in clause 4.

Sir, as a result of the changes effected by clause 4 it is desirable to revoke certain existing regulations. This is done by clause 7 of the Bill and the regulations revoked are set out in the Schedule to the Bill.

Amongst the revoked regulations are those which grant power to refuse registration or to cancel registration of a newspaper or news agency by reason of connexion of the proprietor, printer, publisher or editor with a newspaper which has been suppressed by order of a Court as a result of the commission of a criminal offence and those which empower the Registrar to cancel the registration of newspapers and news agencies which have, in his opinion, ceased publication. These provisions, hitherto contained in regulations, are now to be re-enacted with considerable modification as part of the Ordinance itself. Clause 2 therefore adds new sections which limit the power to refuse or to cancel registration of newspapers or news agencies to those which are substantially under the same management, direction or control as that of a newspaper which has been suppressed by order of the Court. Clause 5 adds a further new section which provides that registration of any periodical publication will only lapse if no publication has been made for a consecutive period of six months.

The amendments sought to be made by this Bill are explained in considerable detail, clause by clause, in the statement of Objects and Reasons appended to the Bill and I do not therefore think it is necessary for me to go further into any detailed explanation of them.

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: —

This Bill seeks to make certain modifications to the Control of Publications Consolidation Ordinance, No. 15 of 1951, (the principal Ordinance).

2. Clause 2 adds two new sections to the principal Ordinance. These replace in modified terms the provisions of regulation 17 of the Newspapers Registration and Distribution Regulations, 1951, and regulations 15 and 16 of the News Agencies Registration Regulations, 1951, which are revoked by clause 7. It is considered that the power under those regulations to refuse registration or to cancel registration of a newspaper or news agency by reason of connexion of the proprietor, printer, publisher or editor with a newspaper the suppression of which has been ordered by a Court under section 4, is too wide. It is also thought that any power to refuse or cancel registration in such circumstances would better be granted by the Ordinance itself and not by regulations made under the Ordinance. Clause 2 accordingly limits the power to refuse or to cancel registration of newspapers or news agencies to those which are substantially under the same management, direction or control as that of a newspaper which has been suppressed by order of the Court. Appeal may be made to the Governor in Council from the Registrar's decision.

3. Clause 3 repeals and replaces section 13 of the principal Ordinance. At common law the proprietor etc. of a newspaper were vicariously liable for the publication of illegal matter in the

newspaper and it was no defence for them to prove that the publication was made without their knowledge and without negligence on their part. Such defence has been provided by statute, *e.g.* in section 8 of the Defamation and Libel Ordinance, Chapter 21. Section 13 of the principal Ordinance also provides this defence, but places a higher burden of proof on the accused than is customary, namely proof beyond reasonable doubt. In clause 3, recasting section 13, the defence is retained but it will no longer be necessary for the accused to establish it beyond reasonable doubt. The normal rule applicable in the case of defences granted to accused persons will accordingly apply, namely, that they must establish their defence on the balance of probabilities, which is a lighter burden.

4. Clause 4 repeals and replaces subsections (1) and (2) of section 16 of the principal Ordinance, which as worded are open to the criticism that the power afforded therein to control publications by means of regulations is too general and too sweeping. The new subsection introduced by this clause limits and makes more precise the power to make regulations.

5. Clause 5 adds a further new section to the Ordinance. This new section replaces with modifications regulation 13 of the Newspapers Registration and Distribution Regulations, 1951, and regulation 14 of the News Agencies Registration Regulations, 1951, which are revoked by clause 7. These regulations empower the Registrar to cancel newspapers and news agencies which have in his opinion ceased publication. The new section introduced by clause 5 provides instead that registration of any periodical publication or news agency will only lapse if no publication has been made for a consecutive period of six months.

6. Clause 6 makes a small amendment to regulation 18 of the Newspapers Registration and Distribution Regulations, 1951, consequential upon the revocation by clause 7 of regulations 13 and 17 of these regulations.

7. Clause 7 revokes certain regulations contained in the Second Schedule to the principal Ordinance. The revocation of regulation 17 of the Newspapers Registration and Distribution Regulations, 1951, and of regulations 15 and 16 of the News Agencies Registration Regulations, 1951, has been explained in paragraph 2 and the revocation of regulation 13 of the Newspapers

Registration and Distribution Regulations, 1951, and of regulation 14 of the News Agencies Registration Regulations, 1951, in paragraph 5. In addition regulation 13 of the Printed Documents (Control) Regulations, 1951, is revoked as it is not now considered necessary to place the onus of proving the date of printing on the printer.

### **PENICILLIN (AMENDMENT) BILL, 1955.**

DR. YEO KOK CHEANG moved the Second reading of a Bill intituled "An Ordinance to amend the Penicillin Ordinance, Chapter 137."

He said: Sir, In so doing I would mention that in the Committee stage I shall propose an amendment to Clause 4 by the deletion of paragraphs (*g*) and (*h*) from subsection (2). The desirability for removal at this juncture of the exemption from the provisions of subsection (1) which is afforded to the institutions specified under the aforementioned paragraphs has become apparent since the First reading of this Bill, and arises from agreement which has been reached in consultation with my honourable Medical Colleagues on the Council that legislation should be introduced as soon as possible to effect some measure of control over certain clinics and other medical institutions which do not come under the terms of the Nursing and Maternity Homes Registration Ordinance, Chapter 165. Also it is considered that the provisions of the remaining paragraphs of subsection (2) for legitimate traders and other suitable persons to possess and control penicillin substances are adequate to serve the interests of the public. I would point out that the deletion of these two paragraphs will not adversely affect the rights of nurses to be in possession and control of penicillin substances as they are covered under the terms of paragraph (*j*) when acting under the direction of a registered medical practitioner, registered dentist or veterinary surgeon.

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 3 were agreed to.

Clause 4.

DR. YEO KOK CHEANG: —I rise to move the amendment to Clause 4 as set out in the paper before honourable Members.

*Proposed Amendment.*

By the deletion from subsection (2) of paragraphs (g) and (h); and the re-lettering of paragraphs (i) and (j) as paragraphs (g) and (h).

Clause 4, as amended, was agreed to.

Clauses 5 and 6 were agreed to.

Council then resumed.

DR. YEO KOK CHEANG reported that the Penicillin (Amendment) Bill, 1955, had passed through Committee with one 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.

### **BUSINESS REGULATION (AMENDMENT) BILL, 1955.**

THE ATTORNEY GENERAL moved the Second reading of a Bill intituled "An Ordinance to amend the Business Regulation Ordinance, 1952."

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 3 were agreed to.

Council then resumed.

THE ATTORNEY GENERAL reported that the Business Regulation (Amendment) Bill, 1955 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.

#### **ADMINISTRATION OF JUSTICE (SUMMARY OFFENCES)**

##### **BILL, 1955.**

THE ATTORNEY GENERAL moved the Second reading of a Bill intituled "An Ordinance to make provision for alternative procedure for entering pleas of guilty and for the payment of fines in respect of certain summary offences."

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 3 were agreed to.

Clause 4.

THE ATTORNEY GENERAL: —Sir, I rise to move that clause 4 be amended as in the paper before honourable Members: —

*Proposed Amendment.*

- (a) In paragraph (b) of subsection (1) leave out the words "clerk of the magistrate by whom" and substitute the following therefor—

“magistrates' clerk of the magistracy where”.

(b) In subsection (2) leave out the word "magistrate's" and substitute the following therefor—

“magistrates’ ”.

Clause 4, as amended, was agreed to.

Clauses 5 to 11 were agreed to.

The First Schedule was agreed to.

Second Schedule.

THE ATTORNEY GENERAL: —Sir, I rise to move that the Second Schedule be amended as in the paper before honourable Members.

*Proposed Amendment.*

Leave out the words "clerk of the magistrate by whom this summons was issued" and substitute the following therefor—

“magistrates' clerk of the magistracy where this summons was issued, not later than 24 hours before the date of hearing specified above”.

The Second Schedule, as amended, was agreed to.

Council then resumed.

THE ATTORNEY GENERAL reported that the Administration of Justice (Summary Offences) Bill, 1955 had passed through Committee with 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.

### **ADJOURNMENT.**

H. E. THE GOVERNOR: —That concludes the business, Gentlemen. When is it your pleasure that we should meet again?

THE ATTORNEY GENERAL: —Sir, I suggest this day fortnight.

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