

OFFICIAL REPORT OF PROCEEDINGS.**Meeting of 20th August, 1958.**

PRESENT:HIS EXCELLENCY THE GOVERNOR (*PRESIDENT*)

SIR ROBERT BROWN BLACK, K.C.M.G., O.B.E.

HIS EXCELLENCY THE COMMANDER BRITISH FORCES

LIEUTENANT-GENERAL SIR EDRIC MONTAGUE BASTYAN, K.B.E., C.B.

THE HONOURABLE THE COLONIAL SECRETARY

MR. CLAUDE BRAMALL BURGESS, C.M.G., O.B.E.

THE HONOURABLE THE ATTORNEY GENERAL

MR. ARTHUR RIDEHALGH, Q.C.

THE HONOURABLE THE SECRETARY FOR CHINESE AFFAIRS

MR. JOHN CRICHTON McDOUALL

THE HONOURABLE THE FINANCIAL SECRETARY

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

THE HONOURABLE PATRICK CARDINALL MASON SEDGWICK

(Commissioner of Labour).

THE HONOURABLE ALLAN INGLIS

(Director of Public Works).

DR. THE HONOURABLE DAVID JAMES MASTERTON MACKENZIE, C.M.G., O.B.E.

(Director of Medical and Health Services).

THE HONOURABLE COLIN GEORGE MERVYN MORRISON

(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 KWOK CHAN, O.B.E.

THE HONOURABLE JOHN DOUGLAS CLAGUE, C.B.E., M.C., T.D.

THE HONOURABLE DHUN JEHANGIR RUTTONJEE, O.B.E.

MR. MAURICE DEREK SARGANT (*Deputy Clerk of Councils*).**ABSENT:**

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

MINUTES.

The Minutes of the meeting of the Council held on 6th August, 1958, 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>
Sessional Papers, 1958: —	
No. 11—Annual Report by the Custodian of Property and Custodian of Enemy Property for the year 1957/58.	
No. 12—Annual Report by the Commissioner of Rating and Valuation for the year 1957/58.	
No. 13—Annual Report by the Accountant General for the year 1957/58	
Resettlement Ordinance, 1958.	
Resettlement Regulations, 1958	A. 49.
Emergency Regulations Ordinance.	
Emergency (Resettlement) (Rescission) Regulations, 1958	A. 50.
Urban Council Ordinance, 1955.	
Urban Council Elections (Registration of Electors) (Amendment) Regulations, 1958	A. 51.
Dangerous Drugs Ordinance.	
Dangerous Drugs (Amendment of Schedule) Order, 1958	A. 52.

**THE CHARTERED BANK OF INDIA, AUSTRALIA AND
CHINA (CHANGE OF NAME) ORDINANCE, 1956.**

THE FINANCIAL SECRETARY moved the following resolution: —

Resolved, pursuant to section 4 of The Chartered Bank of India,
Australia and China (Change of Name) Ordinance, 1956, that the
period of two years during

which The Chartered Bank may, subject to the provisions of the Bank Notes Issue Ordinance, issue bank notes bearing the name "The Chartered Bank of India, Australia and China" at any time, be extended by a further period of two years with effect from the 6th day of December, 1958.

He said: Sir, when the Chartered Bank changed its name in December, 1956, legislation had to be passed in order to enable the Bank to continue certain functions, among which was the issue of bank notes. It was provided by Section 4 of the Chartered Bank of India, Australia and China (Change of Name) Ordinance, 1956, that the Bank might continue to issue bank notes bearing the old name for a period of two years, or up to such later date as might be fixed by this Council by resolution, provided that there should be a five year limit.

The original two years will not expire until next December, but the Bank is already satisfied that this period is not sufficient. They still have a considerable stock of unused notes, particularly of \$5 and \$10 denominations, which bear the Bank's old name, and they wish to make use of these rather than to destroy them. It is therefore proposed by this Resolution that the Bank should be given a further two years in order to work off their stocks of notes bearing the old name.

THE COLONIAL SECRETARY seconded.

The question was put and agreed to.

MISCELLANEOUS MAP REFERENCES AND PLACE NAMES AMENDMENT BILL, 1958.

THE ATTORNEY GENERAL moved the First reading of a Bill intituled "An Ordinance to amend certain enactments in relation to map references and place names contained therein and to delete therefrom certain references to places and further to cancel certain orders and a declaration made in relation to certain places."

He said: Sir, this Bill is of a technical character and, as explained in the statement of objects and reasons, is necessitated by the introduction of new maps for official purposes in this Colony. The enactments specified in clause 2—twenty—one in

number—are to be amended in the manner specified in the Schedule so as to incorporate in them new map references. The opportunity has also been taken to cancel the enactments specified in clause 3 which have become obsolete, and to alter the spelling of certain place names. I should explain that the spelling is not to be brought into line with the system of the Royal Geographical Society as stated in the objects and reasons, but to be brought into line with the standard official system adopted by the Hong Kong Government, which I understand is not the same thing.

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: —

On the 1st day of September, 1958, maps based on the Universal Transverse Mercator Grid will be introduced by the Military Authorities for official purposes in the Colony. Maps based upon this Grid are now in general use in the United Kingdom and elsewhere.

2. The purpose of this Bill is to amend existing local legislation by deletion of map references taken from the older GSGS and HIND Editions and substitution therefor of references taken from the new maps, namely, Edition 1-GSGS, Series L.681.

3. Opportunity is taken in this Bill—

- (a) to correct the Roman spelling of certain Chinese place names used in the legislation under amendment in order to bring the spelling into line with the new phonetic system devised by the Royal Geographical Society and generally adopted elsewhere; and
- (b) to cancel a number of Orders, which have become obsolete, restricting the entry by the public to certain areas.

MAGISTRATES (AMENDMENT) BILL, 1958.

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

He said: Sir, the various amendments proposed by this Bill are explained in some detail in the statement of objects and reasons, and I will therefore content myself with inviting attention to the more important of them. Sir, clause 2 enables the appointment of a magistrate to be given retrospective effect, and this provision is necessary to ensure continuity of service in the case of persons appointed from outside the Colony. Similar amendments have been made in the case of judges of the Supreme Court and District Court quite recently. This amendment is in itself given retrospective effect by clause 14 in order to cover appointments of that character made in the past. Clause 3 will enable summonses to be served by post in the case of a contravention of any of the twelve Ordinances mentioned in clause 11. Section 9 of the principal Ordinance is to be repealed and replaced by a new clause as set forth in clause 4 and this new section contains amendments consequential upon the provision for service by post. Sir, I think that is all I need to say about this Bill and I now 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 purpose of this Bill is to amend the Magistrates Ordinance in a number of respects.

2. Clause 2 amends section 5 of the principal Ordinance in order to give retrospective effect to instruments appointing magistrates. This provision is required to ensure continuity of service for the purpose of pay and pensions in the case of magistrates appointed from outside the Colony.

3. Clause 3 amends section 8 of the principal Ordinance in order to enable summonses to be served by post in the case of persons to be summoned in respect of contraventions of any of the provisions of the Ordinances listed in the First Schedule to the principal Ordinance as provided for by clause 11.

4. Clause 4 introduces into section 9 of the principal Ordinance amendments consequential upon the amendments made to section 8.

5. Clause 5 introduces a new section 28A. The purpose of this section is to enable the court, except when sitting as a juvenile court, when convicting a person in his absence to take into account previous convictions in respect of which notice of intention to bring the fact of such convictions before the court has been served upon the offender not less than seven days before trial. Service by post will not be good service for the purpose of this new section. The reason for this measure is to avoid the need for strict proof of previous convictions in the absence of the defendant. The usual practice is for previous convictions to be put to the defendant in court, after his conviction, when he normally admits them. The introduction of this measure will bring the procedure applicable in this Colony into line with that prescribed in the United Kingdom by section 3 of the Magistrates' Courts Act, 1957 (5 & 6 Eliz. 2, c.29).

6. Clause 6 amends section 36 by reframing subsection (2) in such a manner as to exclude the first day of imprisonment from the reckoning of the number of days by which a term of imprisonment imposed in respect of the non-payment of any sum of money adjudged to be paid by a conviction or order shall be reduced by part payment of such sum. The purpose of this amendment is to bring the method of reckoning prescribed by the principal Ordinance into line with that prescribed by section 26 of the Prisons Ordinance, 1954 (No. 17 of 1954), in respect of sentences passed by the Supreme Court or the District Court when the first day of imprisonment is not counted.

7. The purpose of clause 7 is to re-number the existing Schedule of the principal Ordinance as the Second Schedule consequential upon the introduction of the new First Schedule by clause 11 for the purposes of section 8 of the principal Ordinance as amended by clause 3.

8. The purpose of clause 8 is to amend the provisions relating to recognizances entered into by appellants giving notice of appeal to the magistrate's clerk. The existing requirement is that the notice shall be given within thirty days after the conviction, order or determination in respect of which notice of appeal is given and that the appellant shall enter into a recognizance, with or without sureties, for the proper prosecution of the appeal in such reasonable sum as the magistrate may direct. The purpose of this clause is to reduce the period of thirty days to fifteen days and to fix the amount of the recognizance at two hundred and fifty dollars unless the magistrate specifically orders to the contrary.

9. Clause 9 takes the opportunity of the introduction of this Bill to bring section 126 of the principal Ordinance relating to the protection of magistrates acting upon an order of mandamus into line with the provisions contained in section 5 of the United Kingdom Justices Protection Act, 1848 (11 & 12 Vict. c.44), as amended by the Administration of Justice (Miscellaneous Provisions) Act, 1938 (1 & 2 Geo. 6, c.63)

10. Clause 10 amends section 131 so as to confer a power upon the Governor in Council to amend the new First Schedule introduced by clause 11.

11. Clause 11 provides for insertion of the new First Schedule.

12. Clause 12 amends the heading of the existing "Schedule" to the principal Ordinance to read "Second Schedule" consequential upon the introduction of the new First Schedule.

13. The purpose of clause 13 and the Schedule to this Bill is to remove from the principal Ordinance all references to hard labour in relation to imprisonment. Hard labour as distinguished from ordinary labour is no longer a feature of the prison system in this Colony.

14. Clause 14 gives clause 2 retrospective effect in order to cover past appointments of magistrates from outside the Colony.

CRIMINAL PROCEDURE (AMENDMENT) BILL, 1958.

THE ATTORNEY GENERAL moved the First reading of a Bill intituled "An Ordinance to amend the Criminal Procedure Ordinance, Chapter 221."

He said: Sir, the purpose of this Bill is to enable previous convictions to be proved before the courts by a comparison of finger-prints, and as explained in the statement of objects and reasons, this will involve production to the court of the three certificates, the forms of which appear on pages 2 and 3 of this Bill. The first is a certificate of previous conviction with finger-prints attached; the second is a certificate of the finger-prints of the person charged before the court and the third is a certificate of comparison of the two sets of finger-prints. This procedure is adapted from that contained in the English Criminal Justice Act of 1948, and it will considerably simplify the proof of previous convictions.

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: —

Section 66 of the principal Ordinance provides for a method of documentary proof of previous convictions "on proof of the identity of the person". This means that oral evidence is required to show that the person in court is, to the personal knowledge of the witness, the same person who was convicted on the former occasion. The object of the amending Bill is to introduce the procedure as set out in the Criminal Justice Act, 1948. This requires three certificates to be produced: the first sets out the previous convictions shown in the Criminal Records office against the name of the person with a particular set of finger-prints, copies of which are exhibited to the certificate; the second exhibits finger-prints taken from the man before the court; while the third certified that the finger-prints exhibited with the two other certificates belong to the same man.

**MEDICAL REGISTRATION (AMENDMENT)
(NO. 2) BILL, 1958.**

DR. D. J. M. MACKENZIE moved the First reading of a Bill intituled "An Ordinance to amend the Medical Registration Ordinance, 1957".

He said: Sir, the purpose of this Bill is explained in the Objects and Reasons. The necessity for introducing the measure arose recently as the result of an application for restoration to the Medical Register of the name of a medical practitioner who has been absent from the Colony and whose name had been erased under the terms of the previous Medical Registration Ordinance. The Medical Council therefore has recommended to Government that the existing Ordinance should be amended to include this power of restoration. There are no other implications in this amendment now before Council.

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: —

Subsection (3) of section 24 of the Medical Registration Ordinance, No. 25 of 1957, enables the Medical Council of Hong Kong to restore to the register the name of any person whose name has been removed or erased from the register under section 18 or subsection (1) of section 20, but makes no provision in relation to a person whose name has been removed or erased under the previous Medical Registration Ordinance. The object of this Bill is to make such provision.

PEARL CULTURE (CONTROL) BILL, 1958.

THE ATTORNEY GENERAL moved the Second reading of a Bill intituled "An Ordinance to conserve the resources of pearl oysters in the Colony and to regulate the culture of pearls."

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 13 were agreed to.

Clause 14.

THE ATTORNEY GENERAL: —Clause 14, Sir, I beg to move an amendment which has been put in the hands of honourable Members.

I would like just to say a word about this amendment. The clause, clause 14, provides for forfeiture to the Crown of pearl oysters or pearls in relation to which an offence against the Ordinance had been committed. But the Magistrate is required by sub-clause (2) to hear any representations by any person claiming to be the owner of the seized property. The amendment which is in the hands of honourable Members is intended to provide for a return of such property to an owner who satisfies the magistrate that he was not implicated in the offence and this seems a right and proper amendment to accept. But the amendment as drafted—it was done I must confess in rather a hurry because I only got notice of the proposal yesterday morning—the amendment as drafted makes it permissive for the magistrate to make an order, but it is thought that if an owner satisfies the magistrate of his ownership and also that he was not implicated in the offence then it should be mandatory on the magistrate to make an order. So, Sir, I would move the amendment in the form that it appears with the substitution of "shall" for "may" in the third last line of the amendment, so that the end of the sub-clause would read "the magistrate shall order that such pearl oysters or pearls be delivered to such person". Sir, I beg to move the amendment in that form.

Proposed Amendment.

In subsection (2), end thereof, leave out the full stop and add the following—

“, and if such person satisfies the magistrate that—

(a) he is the owner of the pearl oysters or pearls; and

(b) he was not implicated in the commission of such offence,

the magistrate shall order that such pearl oysters or pearls be delivered to such person.”.

Clause 14, as amended, was agreed to.

Clauses 15 to 18 were agreed to.

Council then resumed.

THE ATTORNEY GENERAL reported that the Pearl Culture (Control) Bill, 1958 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.

REGISTRATION OF UNITED KINGDOM PATENTS (AMENDMENT) BILL, 1958.

THE ATTORNEY GENERAL moved the Second reading of a Bill intituled "An Ordinance to amend the Registration of United Kingdom Patents Ordinance, Chapter 42."

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 5 were agreed to.

Council then resumed.

THE ATTORNEY GENERAL reported that the Registration of United Kingdom Patents (Amendment) Bill, 1958 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.

PHARMACOPOEIA BILL, 1958.

DR. D. J. M. MACKENZIE moved the Second reading of a Bill intituled "An Ordinance to make provision for the approval of the adoption in the Colony of a pharmacopoeia and for the admission in evidence of copies thereof."

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 4 were agreed to.

Council then resumed.

DR. D. J. M. MACKENZIE reported that the Pharmacopoeia Bill, 1958 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.

**THE HONG KONG COUNCIL OF THE CHURCH OF CHRIST
IN CHINA INCORPORATION BILL, 1958.**

DR. CHAU SIK NIN moved the First reading of a Bill intituled "An Ordinance to provide for the incorporation of The Hong Kong Council of the Church of Christ in China."

He said: Sir, this Bill follows the usual form of incorporation bill and its purpose is clearly set out in the Objects and Reasons. There is nothing I can usefully add.

MR. KWOK CHAN 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 primary object of the Bill is to provide for the incorporation by Ordinance of The Hong Kong Council of the Church of Christ in China, as a corporation to ensure perpetual succession in the holding and management of the property of the said corporation.

2. Clause 3 of the Bill is intended to effect such incorporation and to provide the name by which the corporation will be known.

3. Clause 4 of the Bill defines the powers of the corporation.

4. Clause 5 of the Bill provides for the execution of documents by or on behalf of the corporation.

5. Clause 6 of the Bill provides for the vesting in the corporation of certain leasehold properties held in trust for the present organization.

6. Clause 7 deals with proof of membership of the corporation and of the constitution.

7. Clause 8 of the Bill provides for the notification to the Registrar of Companies of the appointment of the principal officers of the corporation and for the registration of a copy of the constitution. It also provides for the notification of any changes, fresh appointments or amendments thereof, as the case may be, to such Registrar from whom evidence thereof can be obtained by the public.

8. Clause 9 of the Bill lays down the manner in which all matters affecting the corporation and its internal management are settled.

9. Clause 10 of the Bill contains provisions saving the rights of the Crown as required, in the case of private Bills, by Article XXVII of Royal Instructions.

10. In the Schedule are contained particulars of the leasehold premises which will become vested in the corporation, as provided in clause 6(1), upon the registration of a memorial of the

Ordinance at the Land Office where such land is registered. The need for this clause arises from the fact that the legal estate in the property concerned was vested in The Hong Kong New Territory Evangelization Society of Hong Kong in trust for The Hong Kong Council of the Church of Christ in China but the former body was dissolved on the 29th day of March, 1933 so that there is now no one in a position to assign that property to the corporation.

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: —Sir, may I suggest this day two weeks?

H. E. THE GOVERNOR: —Council stands adjourned until this day two weeks.