

OFFICIAL REPORT OF PROCEEDINGS.**Meeting of 19th August, 1959.****PRESENT:**

HIS EXCELLENCY THE OFFICER ADMINISTERING THE GOVERNMENT (*PRESIDENT*)

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

THE HONOURABLE THE COLONIAL SECRETARY

MR. EDMUND BRINSLEY TEESDALE, M.C. (*Acting*).

THE HONOURABLE THE ATTORNEY GENERAL

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

THE HONOURABLE THE SECRETARY FOR CHINESE AFFAIRS

MR. PATRICK CARDINALL MASON SEDGWICK (*Acting*).

THE HONOURABLE THE FINANCIAL SECRETARY

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

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*).

THE HONOURABLE KENNETH STRATHMORE KINGHORN

(*Commissioner of Labour*).

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

THE HONOURABLE HUGH DAVID MACEWEN BARTON, M.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.

THE HONOURABLE FUNG PING FAN, O.B.E.

THE HONOURABLE RICHARD CHARLES LEE, O.B.E.

THE HONOURABLE KWAN CHO YIU, O.B.E.

MR. ANDREW McDONALD CHAPMAN (*Deputy Clerk of Councils*).

ABSENT:

HIS EXCELLENCY THE COMMANDER BRITISH FORCES

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

MINUTES.

The Minutes of the meeting of the Council held on 5th August, 1959, were confirmed.

OATHS.

MR. FUNG PING FAN, O.B.E., took the Oath of Allegiance, and assumed his seat as a Member of the Council.

H. E. THE OFFICER ADMINISTERING THE GOVERNMENT: —I would like to take this opportunity, Mr. Fung, of congratulating you on your appointment and welcoming you to this Council. You have given several years of commendable public service to the Urban Council, and I am sure you will have a valuable contribution to make to the deliberations of this Council.

MR. FUNG PING FAN: —Thank you, Sir.

PAPERS.

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

Subject. *G.N. No.*

Nurses Registration Ordinance.

Nurses Registration (Amendment) Regulations, 1959 A. 51.

MAGISTRATES ORDINANCE, CHAPTER 227.

THE ATTORNEY GENERAL moved the following resolution: —

Resolved that—

- (i) the procedure prescribed by subsection (5) of section 18 of the Magistrates Ordinance shall apply to the Offences specified in the Schedule to this resolution; and
- (ii) the resolution made and passed by the Legislative Council on the 24th day of October, 1951, and published as Gazette Notification No. A. 190 of 1951, be revoked.

SCHEDULE.

1. All offences against the regulations headed "Vehicles and Traffic Regulation" appearing on pages 723 to 816 of Volume II of the Regulations of Hong Kong (1937 Edition) except offences against regulation 47 or 112 or paragraph (3) of regulation 40 or paragraph (5) of regulation 46.

2. All offences against the Vehicle and Road Traffic (Silent Zones) Regulations, 1954.

3. All offences against the Vehicle and Road Traffic (Driving Licences) Regulations, 1956.

4. All offences against the Vehicle and Road Traffic (Registration and Licensing of Vehicles) Regulations, 1956.

5. All offences against the Vehicle and Road Traffic (Road Crossing) Regulations, 1957.

6. Offences against paragraphs (1) and (2) of regulation 3, paragraphs (1) and (2) of regulation 6 and paragraph (1) of regulation 13 of the Vehicle and Road Traffic (Parking and Waiting) Regulations, 1958.

He said: Sir, it is a general principle of our law that persons accused of offences should not be tried in absentia but that cases should be heard in the presence of the accused.

In the case of minor offences, however, it is acceptable that where a defendant does not dispute his guilt and does not wish to attend and the magistrate does not consider his attendance necessary, then there may be some relaxation of the general rule.

Sir, the Magistrates Ordinance authorizes magistrates to accept pleas of guilty by letter to those offences to which this procedure is declared applicable by resolution of this Council. A resolution was in fact passed in 1951 declaring that the majority of offences against the then current Traffic Regulations should be dealt with in this way. Since then extensive revision to our traffic laws has been put in hand and a large number of the regulations in force in 1951 have been replaced by new ones.

This resolution, Sir, therefore proposes the revocation of the resolution passed in 1951 and the authorization of the procedure of plea of guilty by letter to the majority of offences against the traffic regulations now in force.

THE COLONIAL SECRETARY seconded.

The question was put and agreed to.

**SUPPLEMENTARY PROVISIONS FOR THE QUARTER
ENDED 30th JUNE, 1959.**

THE FINANCIAL SECRETARY moved the following resolution: —

Resolved that the Supplementary Provisions for the quarter ended 30th June, 1959, as set out in Schedule No. 1 of 1959/60, be approved.

He said: The total of supplementary provisions required for the first quarter of the financial year exceeds \$5 millions. Many of the items are re-votes of funds which lapsed on the 31st March last, but there are a number of new commitments, some of which are of interest.

\$700,000 are required for a new sub-head under the Marine Department described as Fisheries Research Vessel "*Cape St. Mary*". It will be recollected that in the course of the budget debate some unofficial members stressed the need for more assistance to our fishing industry, and my honourable Friend the Acting Colonial Secretary in reply mentioned the possibility of the acquisition of a new deep sea research vessel. This vessel is the "*Cape St. Mary*", which was built in 1950 by Her Majesty's Government out of Colonial Development and Welfare funds for fisheries research in the waters of Colonial Territories, and which has been used on such research by the West African Fishery Research Unit and latterly by the Government of British Guiana. It seems to be the case now that, with the attainment of independence by the large Colonial Territories, there is little prospect of further use for this vessel in other territories. Accordingly Her Majesty's Government offered it to us as a gift, provided we would collect it from British Guiana, where it was lying, and would bring it to Hong Kong. It was necessary as a first step to send a surveyor to British Guiana to have a survey of the vessel done. The results of this survey were satisfactory and the essential members of the crew were then flown to British Guiana to bring the vessel back here. All this has been fairly costly, but the vessel is now on its way and should arrive here early in October. This bill is merely the initial cost of acquisition; the estimate for the annually recurrent cost is \$300,000. I understand it is proposed that "*Cape St. Mary*" shall be allocated to the Fisheries Research Unit run by the University, which will then hand over the existing fisheries research vessel "*Alister Hardy*" to the Agriculture, Fisheries and Forestry Department for employment on less specialized and lighter tasks. The "*Alister Hardy*" is a very small craft and the Marine Department is very much concerned about her being employed on heavy tasks for which she was not designed, and which subject the mechanical equipment of the vessel to undue strain.

Included in the schedule also are a number of items necessitated by the reorganization of the Registration of Persons Office. These items total \$729,000. It is proposed that this office shall be reorganized and extended, the extension necessitating a net increase of 69 additional posts. The purpose of the reorganization is to carry out a complete re-registration of the population and thereafter to keep such registration up to date. Provision is also made for the new Census Department which has commenced work. The estimate of expenditure for the current year is almost \$350,000.

All the items 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.

SUPPLEMENTARY APPROPRIATION (1958-59) BILL, 1959.

THE FINANCIAL SECRETARY moved the First reading of a Bill intituled "An Ordinance to authorize a supplementary appropriation to defray the charges of the financial year ended the 31st day of March, 1959."

He said: Although the total sum provided for all Heads of expenditure in the approved estimates for 1958/59 was underspent by approximately \$58 millions, eleven individual Heads showed excesses over the approved provisions. These excesses have already in effect been approved by resolution in the quarterly schedules of supplementary expenditure, and it is now necessary for this approval to be formally confirmed by legislation.

The total of the excesses on these eleven Heads comes to approximately \$31 millions and, of this figure, \$25 millions are accounted for by a transfer from General Revenue to the Development Loan Fund which was approved by resolution of this Council on the 18th March last.

This bill represents the final step in disposing of the accounts for the financial year 1958/59.

THE COLONIAL SECRETARY seconded.

The question was put and agreed to.

The Bill was read a First time.

HONG KONG AUXILIARY POLICE FORCE (AMENDMENT) BILL, 1959.

THE ATTORNEY GENERAL moved the First reading of a Bill intituled "An Ordinance to amend the Hong Kong Auxiliary Police Force Ordinance, 1959."

He said: When the principal Ordinance was enacted it fused as one Force the Police Reserve and Special Constabulary, each of which had been previously constituted and governed under its own legislation.

That Ordinance recognized an existing state of affairs because for some time prior to its enactment, the Police Reserve and Special Constabulary had been, for all practical purposes, one Force. One of the provisions of the principal Ordinance empowers the grant of honorary rank on retirement to certain members who have served with distinction in the new Force. However, it does not make provision for the grant of honorary rank in this Force to members of the Police Reserve and Special Constabulary who having served with distinction, retired during the transitional period to which I have referred. This Bill proposes to remedy this omission.

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: —

By administrative action the Hong Kong Police Reserve and the Special Constabulary were amalgamated from 18th September, 1957 though, legally, each Force retained its separate identity. By the Hong Kong Auxiliary Police Force Ordinance, 1959, these two Forces were merged to form the Hong Kong Auxiliary Police Force. By section 6 of that Ordinance, the Governor is empowered, in certain circumstances, to grant honorary rank on retirement to officers of the rank of auxiliary superintendent and above in the Hong Kong Auxiliary Police Force. This Bill seeks to amend the principal Ordinance to enable the grant of a similar privilege under the same circumstances, to officers of equivalent rank who retired from the Hong Kong Police Reserve and the Special Constabulary between the date of the administrative amalgamation and the date of coming into operation of the principal Ordinance.

**INDUSTRIAL AND REFORMATORY SCHOOLS
(AMENDMENT) BILL, 1959.**

THE ATTORNEY GENERAL moved the First reading of a Bill intituled "An Ordinance to amend the Industrial and Reformatory Schools Ordinance, Chapter 225."

He said: Sir, this amending Bill is concerned with certain aspects of the difficult and ever present problem of the youthful offender, that is to say, the boy or girl over the age of seven and under the age of 16 who gets before the Courts.

I think it is generally accepted and has been so accepted for some years, that youthful offenders should not be sent to prison save in the last resort when it has become abundantly plain that no other treatment is of any avail. Indeed, our law does not permit a child under 14 to be sent to prison at all. In some cases it is possible to deal with the youthful offender by either cautioning him or by placing him under the supervision of a Probation Officer or by bringing home to his parents their responsibilities by ordering them to give security for the offender's good behaviour. There are cases, however, where the best treatment is that afforded by special training in a special school and it is with such schools that this Bill is concerned.

It is undesirable that the period to be spent at a reformatory school should be determined at the time of sentence because the length of time during which the offender should receive training at the school can only be determined when there has been an opportunity of judging his response to the training. This Bill, therefore, proposes that in future the Court making the order will not specify the period of the detention, but when the order is made the offender will be detained for a minimum period of two years but not longer than five years or until such time as he reaches the age of 18, whichever is the earlier. Rules have been drafted to provide for the discharge of offenders who, at any time after two years, show that they are likely to lead useful and industrious lives. This provision, which allows release in accordance with the response to the training rather than after a precisely defined period, is in keeping with legislation in the United Kingdom in similar cases and with our own Training Centres Ordinance, which deals with offenders under the age of 21.

Perhaps the most difficult and in some ways almost insoluble aspect of the problem is the youthful offender who derives no benefit from the training at the school but demonstrates that he is incorrigible even while he is at the school. This Bill proposes that, provided the offender is over the age of 14 the Director of Social Welfare may, in such a case, take the offender back before the Court, which will be empowered, after inquiry, to send him to a training centre or even to prison. One trusts that the applications to the Court under this provision will, in fact, be few, but however much one may dislike even the possibility of a youthful offender landing up in prison, there would seem at present to be no alternative to the inclusion of a provision to this effect in cases where the offender's conduct is such that it is apparent that he does not respond to training or is a bad influence preventing other youthful offenders deriving benefit from the training.

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 amending Bill is to amplify the rule making powers of the Governor in Council, to bring into line with the United Kingdom legislation the form of sentence of detention, and to make new provisions for dealing with young offenders found to be incorrigible in reformatory schools.

2. The effect of the proposed amendment to section 17 and the proposed new section 25A is that the court would make an Order for the detention of the youthful offender in a Reformatory School without specifying the period of such detention. The youthful offender would then be detained for a minimum period of two years, and in any event not longer than five years or until he reached the age of 18 whichever occurs sooner. Once he has served two years, the Governor may exercise his powers under section 20 and release the boy on licence for the remainder of his sentence. Should however a youthful offender over the age of fourteen prove to be incorrigible and the Director of Social Welfare so certify, an application may be made to the court for his removal to a Training Centre or if this is not considered suitable, to prison. An Order removing the youthful offender to a Training Centre would take effect as if it had been made under the Training Centres Ordinance, 1953, *i.e.* it would empower the Commissioner of Prisons to detain the youthful offender for a period not exceeding three years.

**HONG KONG TOURIST ASSOCIATION
(AMENDMENT) BILL, 1959.**

THE ATTORNEY GENERAL moved the Second reading of a Bill intituled "An Ordinance to amend the Hong Kong Tourist Association Ordinance, 1957".

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 and 2 and the Schedule were agreed to.

Council then resumed.

THE ATTORNEY GENERAL reported that the Hong Kong Tourist Association (Amendment) Bill, 1959, 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 into law.

HOUSING (AMENDMENT) BILL, 1959.

THE ATTORNEY GENERAL moved the Second reading of a Bill intituled "An Ordinance to amend the Housing Ordinance, 1954."

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 6 were agreed to.

Council then resumed.

THE ATTORNEY GENERAL reported that the Housing (Amendment) Bill, 1959, 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 into law.

INDECENT EXHIBITIONS (AMENDMENT) BILL, 1959.

THE ATTORNEY GENERAL moved the Second reading of a Bill intituled "An Ordinance to amend the Indecent Exhibitions Ordinance, Chapter 150."

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 Indecent Exhibitions (Amendment) Bill, 1959, 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 into law.

CROWN LANDS RESUMPTION (CHAI WAN) BILL, 1959.

THE ATTORNEY GENERAL moved the Second reading of a Bill intituled "An Ordinance to provide for the reversion to the Crown of certain land situated at Chai Wan in the Colony, for the payment of compensation in respect of rights or interests extinguished thereby and of loss or damage suffered in consequence thereof, for the determination of questions as to who is the person entitled to recover such compensation and for matters connected with the purposes aforesaid."

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.

H. E. THE OFFICER ADMINISTERING THE GOVERNMENT: —With your concurrence, gentlemen, we will take the clauses in blocks of five.

This was agreed to.

Clauses 1 to 27 and the Schedule were agreed to.

Council then resumed.

THE ATTORNEY GENERAL reported that the Crown Lands Resumption (Chai Wan) Bill, 1959, 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 into law.

DENTISTS REGISTRATION BILL, 1959.

DR. D. J. M. MACKENZIE moved the Second reading of a Bill intituled "An Ordinance to repeal and to re-enact with amendment the Dentists Registration Ordinance, Chapter 156".

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.

H. E. THE OFFICER ADMINISTERING THE GOVERNMENT: —Again with your concurrence, gentlemen, we will take the clauses in blocks of five.

This was agreed to.

Clauses 1 to 32 were agreed to.

Council then resumed.

DR. D. J. M. MACKENZIE reported that the Dentists Registration Bill, 1959, 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 into law.

ADJOURNMENT.

H. E. THE OFFICER ADMINISTERING THE GOVERNMENT: —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 OFFICER ADMINISTERING THE GOVERNMENT: —Council stands adjourned to this day fortnight.