

OFFICIAL REPORT OF PROCEEDINGS.**Meeting of 23rd September, 1959.**

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

MR. CLAUDE BRAMALL BURGESS, 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. 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 MAC EWEN 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 JE HANGIR 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*).

MINUTES.

The Minutes of the meeting of the Council held on 2nd September, 1959, were confirmed.

PAPERS.

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

Subject. *G.N. No.*

Sessional Papers, 1959: —

No. 11—Annual Report by the Director, Royal Observatory
for the year 1958/59.

No. 12—Annual Report by the Quartering Authority for the
year 1958/59.

No. 13—Annual Report by the Registrar, Supreme Court
for the year 1958/59.

No. 14—Annual Report by the Commissioner of Mines for
the year 1958/59.

No. 15—Annual Report by the Administrator of Japanese
Property for the year 1958/59.

Industrial and Reformatory Schools Ordinance.

Reformatory School Rules, 1959 A. 55.

Stamp Ordinance.

Stamp (Bank Authorization) (No. 3) Order, 1959 A. 56.

Pensions Ordinance.

Pensionable Offices (Amendment) Order, 1959 A. 57.

Pharmacy and Poisons Ordinance.

Poisons (Amendment) (No. 3) Regulations, 1959 A. 58.

Pharmacy and Poisons Ordinance.

Poisons List (Amendment) (No. 3) Regulations, 1959 A. 59.

CORPORAL PUNISHMENT (AMENDMENT) BILL, 1959.

THE ATTORNEY GENERAL moved the First reading of a Bill intituled “An Ordinance further to amend the Corporal Punishment Ordinance, 1954.”

He said: Sir, when the law of the Colony as to corporal punishment was revised five years ago, one of the modifications made was to limit the mode of its administration to a cane or light rattan. However,

in certain passages of the law there remain references to this punishment as "whipping" though this term is no longer accurate and indeed may be misleading.

This Bill therefore proposes to substitute the word "caning" for "whipping" in the relevant Ordinances, an amendment which, though purely one of terminology not affecting the recipient of the penalty, is considered desirable in the circumstances.

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 Corporal Punishment Ordinance, No. 39 of 1954 modified the then existing law as to the imposition of corporal punishment. It however refers to this punishment as "whipping" although it restricts the instrument used to a light cane or rattan. As the use of a whip is neither intended nor authorized, it is considered that the use of the word "caning" would be more correct and therefore clause 2 of this Bill proposes the appropriate amendments in terminology to the Ordinance. Clause 3 proposes consequential amendments to certain sections of the Juvenile Offenders Ordinance and the Magistrates Ordinance.

COMMISSIONERS POWERS (AMENDMENT) (NO. 2) BILL, 1959.

THE ATTORNEY GENERAL moved the First reading of a Bill intituled "An Ordinance further to amend the Commissioners Powers Ordinance, Chapter 86."

He said: Sir, the only purpose of this Bill is to make provision for the appointment of a legal adviser to Commissioners appointed under the Commissioners Powers Ordinance. It does nothing else and it does not confer upon Commissioners any new powers or wider powers than they have under the existing law. Sir, I make this point because I notice that a report in one newspaper suggests that it does and gives the misleading impression that Government has just woken up to the necessity of giving adequate powers to the Commission which was recently appointed. This is not the case—the Bill neither adds to nor detracts from the powers they already have and in the case of the particular Commission referred to, have had ever since they were appointed. Sir, under the existing law they have certain judicial

powers, like enforcing the attendance of witnesses and compelling the production of documents. The manner of exercise of these powers is something on which Commissioners who are not themselves judges or legal practitioners may desire advice, and what this Bill therefore proposes is an amendment to the Ordinance to enable the appointment of a legal adviser to the Commissioners. A legal adviser, so appointed, would not of course be a member of any commission, his role being limited to that of a person with the requisite professional qualifications to whom the Commissioners can turn for advice on law when they so desire.

Sir, the amendment proposed by this Bill is general and it is considered that it is justifiable on general grounds I have outlined above. The particular occasion prompting its introduction today is the recent appointment of Commissioners under the Ordinance and a request by the Commissioners that legal advice be made available to 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: —

Commissioners appointed under the Commissioners Powers Ordinance may, by virtue of section 3, be given all the powers which are vested in the Supreme Court in the course of any action or suit in respect of enforcing the attendance of witnesses, compelling the production of documents, punishing persons guilty of contempt, and ordering inspection of property.

2. Where none of the Commissioners appointed are themselves Judges or members of the legal profession, it is most desirable that they should have available to them legal advice as to the exercise of the powers referred to above. This Bill accordingly proposes the amendment of the Ordinance to enable the Governor in Council to appoint a legal adviser to the Commissioners.

ATTORNEY GENERAL: —Your Excellency, the Commission to which I have referred proposes to commence its inquiry next Monday, 28th September, and in the circumstances I submit that it is most desirable that Standing Orders be suspended in order to enable the Bill to pass through its remaining stages today. If Sir, you are of that opinion, I beg leave to move the suspension of Standing Orders accordingly.

H. E. THE OFFICER ADMINISTERING THE GOVERNMENT: —I am of that opinion.

ATTORNEY GENERAL: —Sir, I therefore rise to move the suspension of Standing Orders to allow of this Bill being read a Second and Third time today.

THE COLONIAL SECRETARY seconded.

The question was put and agreed to.

THE ATTORNEY GENERAL moved the Second reading of a Bill intituled "An Ordinance further to amend the Commissioners Powers Ordinance, Chapter 86."

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 were agreed to.

Council then resumed.

THE ATTORNEY GENERAL reported that the Commissioners Powers (Amendment) (No. 2) 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.

**WILD BIRDS AND WILD MAMMALS PROTECTION
(AMENDMENT) BILL, 1959.**

THE ATTORNEY GENERAL moved the Second reading of a Bill intituled "An Ordinance to amend the Wild Birds and Wild Mammals Protection 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 10 were agreed to.

Council then resumed.

THE ATTORNEY GENERAL reported that the Wild Birds and Wild Mammals Protection (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.

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?

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

H. E. THE OFFICER ADMINISTERING THE GOVERNMENT: —Council will adjourn to this day fortnight.