

OFFICIAL REPORT OF PROCEEDINGS**Meeting of 2nd August 1961**

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

MR CLAUDE BRAMALL BURGESS, CMG, OBE

HIS EXCELLENCY THE COMMANDER BRITISH FORCES

LIEUTENANT-GENERAL SIR RODERICK WILLIAM McLEOD, KCB, CBE

THE HONOURABLE THE COLONIAL SECRETARY

MR EDMUND BRINSLEY TEESDALE, MC (*Acting*)

THE HONOURABLE THE ATTORNEY GENERAL

MR ARTHUR RIDEHALGH, QC

THE HONOURABLE THE FINANCIAL SECRETARY

MR JOHN JAMES COWPERTHWAITTE, OBE

THE HONOURABLE ALLAN INGLIS

(Director of Public Works)

DR THE HONOURABLE DAVID JAMES MASTERTON MacKENZIE, CMG, OBE

(Director of Medical and Health Services)

THE HONOURABLE KENNETH STRATHMORE KINGHORN

(Director of Urban Services)

THE HONOURABLE PETER DONOHUE

(Director of Education)

THE HONOURABLE FUNG PING-FAN, OBE

THE HONOURABLE KWAN CHO-YIU, OBE

THE HONOURABLE KAN YUET-KEUNG, OBE

THE HONOURABLE LI FOOK-SHU

THE HONOURABLE WILLIAM CHARLES GODDARD KNOWLES

MR ANDREW McDONALD CHAPMAN (*Deputy Clerk of Councils*)**ABSENT:**

THE HONOURABLE THE SECRETARY FOR CHINESE AFFAIRS

MR JOHN CRICHTON McDOUALL

THE HONOURABLE KWOK CHAN, OBE

THE HONOURABLE HUGH DAVID MacEWEN BARTON, MBE

THE HONOURABLE DHUN JEHANGIR RUTTONJEE, OBE

MINUTES

The minutes of the meeting of the Council held on 19th July 1961 were confirmed.

PAPERS

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

<i>Subject</i>	<i>GN No</i>
Statement of Accounts by the Chinese Recreation Ground and Public Square Yau Ma Tei Management Committee for the period from 11th November 1960 to 31st March 1961.	
Merchant Shipping Ordinance, 1953.	
Merchant Shipping (Crew Accommodation) Regulations, 1961.	A 84
Societies Ordinance.	
Societies Rules, 1961	A 85
Telecommunication Ordinance.	
Radiocommunication (Amendment) Regulations, 1961	A 86
Registration of Persons Ordinance, 1960.	
Registration of Persons (Re-registration) (No. 8) Order, 1961.	A 87

TELECOMMUNICATION (AMENDMENT) BILL, 1961

THE ATTORNEY GENERAL moved the First reading of a Bill intituled "An Ordinance to amend the Telecommunication Ordinance, Chapter 106."

He said: Sir, this Bill contains a very simple amendment and there is nothing that I can usefully add to the explanation given in the statement of Objects and Reasons.

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 36 of the Telecommunication Ordinance Chapter 106, refers specifically to the International Telecommunication Convention, Atlantic City, 1947. With effect from the 1st May, 1961, the Colony

has adhered to the International Telecommunication Convention, Geneva, 1959. The purpose of this Bill is to apply, with effect from that date, the adherence of the Colony to that Convention and to obviate the necessity for further amendments to the principal Ordinance arising from the adherence to new Conventions.

EDUCATION (AMENDMENT) BILL, 1961

MR P. DONOHUE moved the First reading of a Bill intituled "An Ordinance to amend the Education Ordinance, 1952."

He said: Sir, the main purpose of this Bill is to extend the power contained in subsection (1) of section 44 of the Education Ordinance, 1952, to include the making of rules for the maintenance of a Subsidized Schools Provident Fund. The establishment of such a fund has already been approved and the necessary financial provision to enable the fund to start in September 1961 has been included in this year's estimates. The opportunity provided by this Bill has been taken to make two further changes which are necessary and which are fully explained in the Objects and Reasons.

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: —

Clause 2 of the Bill seeks amendment of section 44 of the principal Ordinance—

- (a) in subsection (1) to extend the power contained in the section to make rules for the maintenance of the Grant Schools Provident Fund to include the making of rules for the maintenance of other similar funds; and
- (b) in subsection (4) to enable the Accountant General to dispense with the production of probate or administration in the case of the first five thousand dollars of any sum standing in a fund to the credit of a deceased contributor notwithstanding that the total amount of the credit balance due to his estate may exceed that figure. The purpose of this provision is to alleviate hardship to dependants on the death of a contributor pending grant of probate or administration.

2. Doubt has arisen in the interpretation of the Grant Schools Provident Fund Rules, 1952, as to whether the closure of an account in accordance with the provisions of rule 13 prevents the addition to

such account of dividends declared after the closure of such account to be payable in respect of the period before the closure of the account. Clause 3 of this Bill seeks to amend the rules, retrospectively to the date of their coming into operation on 19th December, 1952, to put this matter beyond doubt.

IMMIGRATION SERVICE BILL, 1961

THE COLONIAL SECRETARY moved the Second reading of a Bill intituled "An Ordinance to provide for the establishment and maintenance of a service to be known as the Immigration Service, to vest certain powers in its members and to provide for matters connected with the purposes aforesaid."

THE ATTORNEY GENERAL 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 23 were agreed to.

Council then resumed.

THE COLONIAL SECRETARY reported that the Immigration Service Bill, 1961, had passed through Committee without amendment and moved the Third reading.

THE ATTORNEY GENERAL seconded.

The question was put and agreed to.

The Bill was read a Third time and passed into law.

IMMIGRATION (CONTROL AND OFFENCES) (AMENDMENT) BILL, 1961

THE COLONIAL SECRETARY moved the Second reading of a Bill intituled "An Ordinance to amend the Immigration (Control and Offences) Ordinance, 1958."

THE ATTORNEY GENERAL 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 28 were agreed to.

Council then resumed.

THE COLONIAL SECRETARY reported that the Immigration (Control and Offences) (Amendment) Bill, 1961, had passed through Committee without amendment and moved the Third reading.

THE ATTORNEY GENERAL seconded.

The question was put and agreed to.

The Bill was read a Third time and passed into law.

PUBLIC SERVICES COMMISSION (AMENDMENT) BILL, 1961

THE COLONIAL SECRETARY moved the Second reading of a Bill intituled "An Ordinance to amend the Public Services Commission Ordinance, Chapter 93."

THE ATTORNEY GENERAL 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.

THE COLONIAL SECRETARY reported that the Public Services Commission (Amendment) Bill, 1961, had passed through Committee without amendment and moved the Third reading.

THE ATTORNEY GENERAL seconded.

The question was put and agreed to.

The Bill was read a Third time and passed into law.

DEFAMATION AND LIBEL (AMENDMENT) BILL, 1961

THE ATTORNEY GENERAL moved the Second reading of a Bill intituled "An Ordinance to amend the Defamation and Libel Ordinance, Chapter 21."

He said: Sir, on the First reading of this Bill I gave some explanation of what I thought were the more important alterations in the law and in particular of the new section 25 which deals with the defence of unintentional libel. Sir, apparently I did not make myself plain. At all events, one Chinese newspaper got one point concerning the new section 25 quite wrong.

In its report of the First reading it said:

"The most important point in this Bill is the provision that a person who commits unintentional defamation may escape liability for damages if certain conditions are satisfied.

This is very important since it is quite easy for a person or newspaper to commit libel through negligence. Offences of this nature, however, are excusable because they are unintentional."

In order to make the position quite plain I will not paraphrase but will read the actual text of subsection (5) of the new section 25. It reads as follows: —

"For the purposes of this section words shall be treated as published by one person (in this subsection referred to as the publisher) innocently in relation to another person if and only if the following conditions are satisfied, that is to say—

- (a) that the publisher did not intend to publish them of and concerning that other person, and did not know of circumstances by virtue of which they might be understood to refer to him; or
- (b) that the words were not defamatory on the face of them, and the publisher did not know of circumstances by virtue of which they might be understood to be defamatory of that other person,

and in either case that the publisher exercised all reasonable care in relation to the publication."

Sir, it is quite clear that carelessness in relation to a publication affords no defence under this new section and I thought it right to make that plain.

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 12 were agreed to.

Council then resumed.

THE ATTORNEY GENERAL reported that the Defamation and Libel (Amendment) Bill, 1961, 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

HE THE OFFICER ADMINISTERING THE GOVERNMENT: — That concludes the business for to-day, gentlemen. When is it your pleasure that we should meet again?

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

HE THE OFFICER ADMINISTERING THE GOVERNMENT: — Council will adjourn until this day fortnight.