

OFFICIAL REPORT OF PROCEEDINGS**Meeting of 9th January 1963****PRESENT:**HIS EXCELLENCY THE GOVERNOR (*PRESIDENT*)

SIR ROBERT BROWN BLACK, GCMG, OBE

THE HONOURABLE CLAUDE BRAMALL BURGESS, CMG, OBE

COLONIAL SECRETARY

THE HONOURABLE MAURICE HEENAN, QC

ATTORNEY GENERAL

THE HONOURABLE JOHN CRICHTON McDOUALL

SECRETARY FOR CHINESE AFFAIRS

THE HONOURABLE JOHN JAMES COWPERTHWAITHE, OBE

FINANCIAL SECRETARY

THE HONOURABLE ALLAN INGLIS, CMG

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 DHUN JEHANGIR RUTTONJEE, OBE

THE HONOURABLE FUNG PING-FAN, OBE

THE HONOURABLE KWAN CHO-YIU, OBE

THE HONOURABLE KAN YUET-KEUNG, OBE

THE HONOURABLE SIDNEY SAMUEL GORDON

THE HONOURABLE LI FOOK-SHU, OBE

MR ANDREW McDONALD CHAPMAN (*Deputy Clerk of Councils*)**ABSENT:**HIS EXCELLENCY LIEUTENANT-GENERAL SIR REGINALD HACKETT HEWETSON,
KCB, CBE, DSO

COMMANDER BRITISH FORCES

THE HONOURABLE RICHARD CHARLES LEE, OBE

THE HONOURABLE WILLIAM CHARLES GODDARD KNOWLES

MINUTES

The minutes of the meeting of the Council held on 19th December 1962, were confirmed.

ANNOUNCEMENT

COLONIAL SECRETARY: — Sir, by Your Excellency's direction I rise to announce the appointment of the Standing Law Committee for 1963. The following members have been appointed and have agreed to serve: —

The Honourable, the Attorney General (*Chairman*)

The Honourable Dhun RUTTONJEE

The Honourable C. Y. KWAN

The Honourable W. G. C. KNOWLES, and

The Honourable S. S. GORDON

PAPERS

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

<i>Subject</i>	<i>GN No</i>
Sessional Papers, 1963: —	
No 1—Annual Report by the Director of Civil Aviation for the year 1961-62.	
No 2—Annual Report by the Commissioner of Registration of Persons for the year 1961-62.	
No 3—Report of the Director of Audit on the Accounts of the Colony for the year 1961-62.	
His Excellency the Governor's despatch to the Secretary of State on the Report of the Director of Audit.	
Dangerous Goods Ordinance, 1956.	
Dangerous Goods (General) (Amendment) Regulations, 1962	A 127
Dangerous Goods Ordinance, 1956.	
Dangerous Goods (Amendment) Regulations, 1962	A 128
Defence Regulations (Continuation) Ordinance, 1958.	
Defence Regulations (Continuation) Ordinance (Revocation of Scheduled Enactments) Order, 1962	A 129
Emergency Regulations Ordinance.	
Emergency Regulations Ordinance (Revocation of Regulations) Order, 1962	A 130

<i>Subject</i>	<i>GN No</i>
Telecommunication Ordinance, 1962.	
Telecommunication Regulations, 1962	A 131
Legal Practitioners Ordinance.	
Legal Practitioners (Qualification Procedure) Rules, 1962	A 138
Registration of Persons Ordinance, 1960.	
Registration of Persons (Cancellation of Registration and Identity Cards) (No 8) Order, 1962	A 139
Emergency (Requisition) Regulations, 1949.	
Emergency (Requisition) (Use of Land by Her Majesty's Military Forces) (Cancellation) Order, 1962	A 140
Registration of Persons Ordinance, 1960.	
Registration of Persons (Re-registration) (No 23) Order, 1962	A 141
	<i>LN No</i>
Registration of Persons Ordinance, 1960.	
Registration of Persons (Re-registration) Order, 1963	1

INTERPRETATION (AMENDMENT) BILL, 1963

THE ATTORNEY GENERAL moved the First reading of a Bill intituled "An Ordinance to amend the Interpretation Ordinance, Chapter 1."

He said: Sir, a number of Ordinances provide that various offences shall be "misdemeanours triable summarily". Under the District Court Ordinance the jurisdiction of the District Court is restricted to the trial of indictable offences. In a recent case, when a person was indicted before the District Court for an offence expressed to be a "misdemeanour triable summarily", the Court upheld a submission by defence counsel that the District Court had no jurisdiction to try the case since the phrase meant that such misdemeanours could *only* be tried before the magistrate's court. The Full Court confirmed this ruling on appeal. This decision precludes the prosecution of certain offences, particularly those involving frauds, which fail to come to the notice of the Police within 6 months, as their prosecution would be "statute barred" by virtue of section 26 of the Magistrates Ordinance, Chapter 227. It also means, Sir, that many comparatively serious offences, which ought properly to be tried by a District Court, could only be dealt with by the magistrate's court.

The purpose therefore of this Bill is to amend the law to permit such cases to be tried either summarily or on indictment which is in line with the practice in England and restores what has always been

understood to be the position here. In the interests of speed, the course of including an appropriate provision in the Interpretation Ordinance has been followed but consideration will be given to making an appropriate amendment in each Ordinance where the phrase "a misdemeanour triable summarily" appears during the Revision of the Laws which is presently taking place.

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 effect of a recent Full Court ruling (Attorney General v, Li Keung-pong, No. 279/62) is that the words "misdemeanor triable summarily" wherever they appear in legislation mean that the offence concerned can only be tried summarily and not by way of indictment.

The purpose of clause 2 is to restore the interpretation which was formerly put upon the phrase thereby enabling the prosecution to proceed either summarily or on indictment.

2. Clause 3 seeks to amend the Third Schedule to the principal Ordinance so as to provide for an extension of the limits of Hong Kong harbour.

PAWNBROKERS (AMENDMENT) BILL, 1962

THE ATTORNEY GENERAL moved the Second reading of a Bill intituled "An Ordinance to amend the Pawnbrokers Ordinance, Chapter 166."

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 Pawnbrokers (Amendment) Bill, 1962, 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.

DEMOLISHED BUILDINGS (RE-DEVELOPMENT OF SITES)

BILL, 1962

MR A. INGLIS moved the Second reading of a Bill intituled "An Ordinance to make provision concerning the re-development of sites of certain demolished buildings, and the compensation of certain tenants for loss of possession, and for purposes connected with the matters 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.

Clauses 1 to 6 were agreed to.

Clause 7.

MR A. INGLIS: —Your Excellency, I rise to move that clause 7 be amended as set forth in the paper before honourable Members. Sir, in this Bill an owner is defined in Clause 2 as not including a mortgagee. A Compensation Award, if not paid by the owner, is to be registered as a charge on the property concerned. Since this affects a mortgagee's security, it is thought proper to allow him to appear before the tribunal which is determining the amount of compensation under Clause 7, to require the tribunal subsequently to reduce awards under Clause 8, and finally to deposit the sums awarded with the Treasury under Clause 9 in order to limit the amount of interest accruing.

Proposed Amendment

Clause

7 After subsection (10), add the following new subclause—

"(11) For the purposes of this section and of sections 8 and 9, "owner" shall be deemed to include a mortgagee. "

Clause 7, as amended, was agreed to.

Clauses 8 to 17 were agreed to.

Council then resumed.

MR A. INGLIS reported that the Demolished Buildings (Re-development of Sites) Bill, 1962 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 into law.

ADJOURNMENT

HIS EXCELLENCY THE GOVERNOR: — Well, gentlemen, that concludes the business for today. When is it your pleasure that we should meet again?

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

HIS EXCELLENCY THE GOVERNOR: — Council stands adjourned until this day two weeks.