

*20th January, 1949.*

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**PRESENT:—**

HIS EXCELLENCY THE GOVERNOR (SIR ALEXANDEE WILLIAM GEORGE HERDER GRANTHAM, K.C.M.G.)

THE COLONIAL SECRETARY (HON. D. M. MACDOUGALL, C.M.G.)

THE ATTORNEY GENERAL (HON. J. B. GRIFFIN, K.C.)

THE SECRETARY FOR CHINESE AFFAIRS (HON. R. R. TODD).

THE FINANCIAL SECRETARY (HON. C. G. S. FOLLOWS, C.M.G.)

HON. V. KENNIFF, C.B.E. (Director of Public Works).

DR. HON. I. NEWTON (Director of Medical Services).

DR. HON. J. P. FEHILY, O.B.E. (Chairman, Urban Council).

HON. D. F. LANDALE.

HON. CHAU TSUN-NIN, C.B.E.

HON. SIR MAN-KAM LO, KT., C.B.B.

DR. HON. CHAU SIK-NIN.

HON. M. M. WATSON. HON. P. S. CASSIDY.

MR. J. L. HAYWARD (Deputy Clerk of Councils).

**ABSENT:—**

HIS EXCELLENCY THE GENERAL OFFICER COMMANDING THE TROOPS  
(MAJOR-GENERAL F. R. G. MATTHEWS, C.B., D.S.O.)

HON. LEO D'ALMADA, K.C.

**MINUTES.**

The Minutes of the meeting of the Council held on 12th January, 1949, were confirmed.

**PAPERS.**

THE COLONIAL SECRETARY, by command of H.E. the Governor, laid upon the table the following papers:—

Annual Report of the Director of Medical Services for the year 1947.

Annual Report of the Chief Officer, Fire Brigade, for the year 1947-48.

Annual Report of the Estate Duty Department for the year 1947-48.

**MOTIONS.**

DR. HON. J. P. FEHILY moved:—

That the amendments made by the 'Urban Council on the 23rd day of November, 1948, under section 4 of the Public Health (Sanitation) Ordinance, 1935, Ordinance No. 15 of 1935, to the by-laws under the heading "Mosquito Prevention" in Schedule A to the said Ordinance, be approved. He said: Sir, under Proclamation No. 18 of 9th January, 1946, the cultivation of sai yeung choi, ung choi and rice and all other forms of wet cultivation are prohibited on the island of Hong Kong and in Kowloon and New Kowloon.

However, it has been shown that it is possible to grow some of these crops by "dry" cultivation and the Urban Council, being anxious to avoid the infliction of any unnecessary hardship, has made amendments to the Mosquito Prevention By-laws, which would permit the repeal of the proclamation and allow cultivators to grow such crops in the urban area subject to certain conditions.

Much additional work will fall to the lot of the inspectorate staff, which will have to see that the by-laws and the special conditions of the permits are observed and it is hoped that the growers of crops covered by these by-laws will co-operate with the officers of the Medical and Sanitary Departments.

If the new by-laws are approved by this Council, they will be strictly enforced as from 1st June, 1949.

THE COLONIAL SECRETARY seconded, and the Motion was carried.

**COMPANIES AMENDMENT BILL, 1949.**

THE ATTORNEY GENERAL moved the Second reading of a Bill intituled "An Ordinance to amend the Companies Ordinance, 1932."

THE COLONIAL ISECRETARY seconded, and the Bill was read a Second time.

Council then went into Committee to consider the Bill clause by clause.

Council then resumed.

THE ATTORNEY GENERAL reported that the Companies Amendment Bill, 1949, had passed through Committee without amendment and moved the Third reading.

THE COLONIAL SECRETARY seconded, and the Bill was read a Third time and passed into law.

**MERCHANT SHIPPING (AMENDMENT) BILL, 1949.**

THE ATTORNEY GENERAL moved the Second reading of a Bill intituled "An Ordinance to amend the Merchant Shipping Ordinance, 1899."

THE COLONIAL SECRETARY seconded, and the Bill was read a Second time.

Council then went into Committee to consider the Bill clause by clause.

Council then resumed.

THE ATTORNEY GENERAL reported that the Merchant Shipping (Amendment) Bill, 1949, had passed through Committee without amendment and moved the Third reading.

THE COLONIAL SECRETARY seconded, and the Bill was read a Third time and passed into law.

**INLAND REVENUE (AMENDMENT) BILL, 1949.**

THE ATTORNEY GENERAL moved the Second reading of a Bill intituled "An Ordinance to amend the Inland Revenue Ordinance, 1947." He said: Sir, since the reading of this Bill for the first time at the last meeting of this Council, discussions have been held in regard to the Bill, notably with the Association of Chartered Accountants. As a result, Sir, I propose, at Committee stage, to move amendments to the Bill which have the effect of removing its retrospective operation from all clauses except clauses 11 and 18.

THE COLONIAL SECRETARY seconded, and the Bill was read a Second time.

Council then went into Committee to consider the Bill clause by clause.

Clause 16.

THE ATTORNEY GENERAL:—Sir, I rise to move that the clause be read as follows:—

“16. Section 49 of the principal Ordinance is hereby amended by the deletion of sub-section (1) and the substitution therefor of the following sub-section as sub-section (1):—

“(1) Where a person carries on a business of shipowner or aircraft owner or charterer and any ship or aircraft owned or chartered by such person calls at a port in the Colony the full amount of the profits arising from the carriage of passengers, mails, livestock and goods shipped in the Colony shall be deemed to arise in the Colony: Provided that—

(i) this section shall not apply to goods which are brought to the Colony solely for transshipment unless the outward freight is payable in the Colony; and

(ii) profits received by a person other than those described in this sub-section shall be assessable under Chapter IV of this Ordinance.”

Sir, the purpose of the amendment is to delete provision that was made for defining a non-resident in respect of this section 49. It is felt that such a definition might cause misapprehension, namely, that the location of a registered office should be a guiding factor in deciding whether Profits Tax is payable by Companies by reason of the location of their registered offices. In addition, Sir, the clause as now presented before Council makes clear, a point as to which some doubt was expressed, as to whether a liability exists to be taxed elsewhere, as under Chapter IV of the Ordinance, in respect of profits arising otherwise than on activities of shipowner or aircraft owner where such companies engaged in this business have other businesses.

This was agreed to.

Clause 18.

THE ATTORNEY GENERAL:—Sir, I move, as to clause 18,

(1) That the figure and brackets “(1)” in the proposed new section 89A be deleted, and

(2) That sub-section (2) in the proposed new section 89A be deleted.

The reason for these suggested amendments is that it is proposed to deal with the retrospectivity of section 89A by an amendment to clause 19.

This was agreed to.

Clause 19.

THE ATTORNEY GENERAL:—I move that as to clause 19, the clause as it reads in the Bill at present be deleted and the following substituted therefor: —

“Commencement.                         19(1) This Ordinance, other than sections 11 and 18 hereof, shall come into operation on the first day of April, 1949.

(2) Sections 11 and 18 shall come into operation on the date of publication of this Ordinance and shall thereupon be deemed to have been in force from the commencement of the principal Ordinance.”

Sir, I indicated, upon moving the Second reading, that the effect of the new section 19 will be to give retrospective operation to this Bill only in respect of two clauses, namely, clauses 11 and 18.

This was agreed to.

Council then resumed.

THE ATTORNEY GENERAL reported that the Inland Revenue (Amendment) Bill, 1949, had passed through Committee with three amendments and moved the Third reading.

THE COLONIAL SECRETARY seconded, and the Bill was read a Third time and passed into law.

### **IMMIGRANTS CONTROL BILL, 1949.**

THE ATTORNEY GENERAL moved the Second reading of a Bill intituled “An Ordinance to control the entry into, exit from and movement within the Colony of persons not born therein.” He said: Sir, I would say that at Committee stage, I will move certain amendments which have been shown to be necessary upon further examination of the Bill in the interval since the First reading.

THE COLONIAL SECRETARY seconded, and the Bill was read a Second time.

Council then went into Committee to consider the Bill clause by clause.

Clause 2.

THE ATTORNEY GENERAL:—I move as to clause 2(1) that paragraph (c) be amended by deletion of the words “and includes landing from a vessel or aircraft” and by substitution therefor of the words “other than entry made for the purpose of complying with this Ordinance or an entry expressly or impliedly sanctioned by the Immigration Officer for the purpose of Inquiry or detention.”

Sir, amendment to the definition of “enter” is necessary to make it clear that where there is physical entry by a person into the Colony for the purposes of complying with the Ordinance or for the purposes of inquiry by the Immigration Officer, such entry shall not be deemed to be an entry within the ordinary meaning of the word.

This was agreed to.

Clause 11.

THE ATTORNEY GENERAL:—Sir, I rise to move that sub-clause (5) be deleted and replaced as follows:—

“(5) If any person enters without permission of the Immigration Officer—

(a) such person may be arrested without a warrant by any police officer and shall be liable on summary conviction to a fine not exceeding five thousand dollars; and

(b) the master, owner or agent of the vessel or aircraft by which such person was brought to the Colony shall, unless he can satisfy a magistrate that such entry was not due to any act or default on the part of any of them or of any person employed by any of them, be liable on summary conviction to a fine not exceeding five thousand dollars; and

(c) the magistrate may, whether or not any such lastly mentioned fine is imposed, make an order directing that such person shall be returned as soon as possible at the expense of the agent for the vessel or aircraft to the place of embarkation or country of birth or country of citizenship of such person.”

Sir, the existing sub-clause (5) does not make it sufficiently clear that the master, owner or agent of a vessel or aircraft from which a person has illegally entered must be convicted before he can be liable to penalty. Secondly, the existing sub-clause (5) does not allow of an owner or agent or master escaping liability where he can show that a person has entered through no act or default on his part. The new clause will allow a master, owner or agent to satisfy a Magistrate that it was no fault of his that a person entered.

This was agreed to.

Clause 13.

THE ATTORNEY GENERAL:—Sir, I rise to move that as to clause 13(1) (d), the word “police” shall be deleted as it occurs in the seventh line of paragraph (d) and again in clause 13(1)(e) that the word “police” shall be deleted where it occurs in the fifth line of paragraph (e).

These are printing errors and the word should be “officer” so as to cover both the Immigration Officer or any police officer.

This was agreed to. Council then resumed.

THE ATTORNEY GENERAL reported that the Immigrants Control Bill, 1949, had passed through Committee with four amendments and moved the Third reading.

THE COLONIAL SECRETARY seconded, and the Bill was read a Third time and passed into law.

### **ADJOURNMENT.**

H. E. THE GOVERNOR:—That concludes the business, Gentlemen. When is it your pleasure that we should meet again?

I understand that it is hoped to take the First reading of the Hotel Rates Bill next week, so I suggest that we meet on Wednesday, 26th January.

Council will adjourn until Wednesday, 26th January, at 2.30 p.m.