

25th June, 1952.

**PRESENT:**

HIS EXCELLENCY THE GOVERNOR  
SIR ALEXANDER WILLIAM GEORGE HERDER GRANTHAM,  
G.C.M.G.  
THE HONOURABLE THE COLONIAL SECRETARY  
MR. ROBERT BROWN BLACK, O.B.E.  
THE HONOURABLE THE ATTORNEY GENERAL  
MR. GEORGE EDWARD STRICKLAND, Q.C., *Acting*.  
THE HONOURABLE THE SECRETARY FOR CHINESE AFFAIRS  
MR. BRIAN CHARLES KEITH HAWKINS, C.M.G., O.B.E., *Acting*.  
THE HONOURABLE THE FINANCIAL SECRETARY  
MR. ARTHUR GRENFELL CLARKE.  
THE HONOURABLE DOUGLAS JAMES SMYTH CROZIER.  
*(Director of Education)*.  
THE HONOURABLE KENNETH MYER ARTHUR BARNETT  
*(Chairman, Urban Council)*.  
DR. THE HONOURABLE CHAU SIK-NIN, C.B.E.  
THE HONOURABLE LEO D'ALMADA E CASTRO, Q.C.  
THE HONOURABLE MAURICE MURRAY WATSON.  
THE HONOURABLE CHARLES EDWARD MICHAEL TERRY.  
THE HONOURABLE NGAN SHING-KWAN.  
THE HONOURABLE HUBERT JOHN COLLAR, C.B.E.  
THE HONOURABLE KWOK CHAN.  
MR. RONALD THOMPSON *(Deputy Clerk of Councils)*.

**ABSENT:—**

HIS EXCELLENCY THE COMMANDER BRITISH FORCES  
MAJOR-GENERAL RALPH CYRIL CRUDDAS, D.S.O., *Acting*.  
THE HONOURABLE THEODORE LOUIS BOWRING, O.B.E.  
*(Director of Public Works)*.  
DR. THE HONOURABLE YEO KOK CHEANG  
*(Director of Medical and Health Services)*.  
THE HONOURABLE CHAU TSUN-NIN, C.B.E.

**MINUTES.**

The Minutes of the Meeting of the Council held on nth June, 1952, were confirmed.

**PAPERS.**

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

	<i>Subject</i>	<i>G.N. No.</i>
The Emergency Regulations Ordinance, Chapter 241.		
	The Emergency (Principal) (Amendment) Regulations, 1952 .....	A. 103
The Pensions Ordinance, Chapter 89.		
	The Pensions (Amendment) Regulations, 1952.....	A. 104
The Defence (Finance) Regulations, 1940.		
	The Possession of Gold (Goldsmiths) (Amendment)	
	(No. 3) Order, 1952 .....	A. 107
The Interpretation Ordinance, Chapter I.		
	Notification under section 26 ..	A. 108
The Dangerous Drugs Ordinance, Chapter 134.		
	The Dangerous Drugs (Amendment of Schedule)	
	Order, 1952 .....	A. 109
The Supreme Court Ordinance, Chapter 4.		
	The Supreme Court Fees (Amendment) Order Rules,	
	1952.....	A. 110
The Official report of an accident which occurred to		
	Dakota Aircraft HS-SAE of the Siamese Airways	
	Ltd. on 9th April, 1951.	

**BANK NOTES ISSUE ORDINANCE, CHAPTER 65.**

THE FINANCIAL SECRETARY moved the following resolution :—

Resolved pursuant to the proviso to section 5 of the Bank Notes Issue Ordinance, Chapter 65, that this Legislative Council hereby extends the powers of all the note-issuing banks to make, issue, re-issue and circulate notes until and including the 1st day of July, 1953.

He said: Sir, in so doing I would ask permission to amend it by substituting 12th July, 1953 for 1st July, 1953. Powers of the Note Issuing Banks to make and issue notes expire on 12th July next and it is proposed to renew these powers for the maximum period of twelve months to the 12th day of July, 1953. I regret that there was a typographical error which replaced the 12th by the 1st and it slipped through before it was picked up.

THE COLONIAL SECRETARY seconded, and the Motion was carried as amended.

### **GENERAL LOAN AND STOCK BILL, 1952.**

THE ATTORNEY GENERAL moved the Second reading of a Bill intituled "An Ordinance to declare the terms and conditions applicable to loans authorized to be raised by the Government of Hong Kong and to provide for the creation of Hong Kong stock."

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

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

H.E. THE GOVERNOR:—As this is rather a long Bill, Gentlemen, I suggest that we take the clauses in blocks of five.

This was agreed to.

Council then resumed.

THE ATTORNEY GENERAL reported that the General Loan and Stock Bill, 1952 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.

### **IMPORTATION AND EXPORTATION (AMENDMENT)**

#### **BILL, 1952.**

THE ATTORNEY GENERAL moved the Second reading of a Bill intituled "An Ordinance to amend and consolidate the law relating to the importation and exportation of goods into the Colony."

THE COLONIAL SECRETARY seconded.

HON. H. J. COLLAR, C.B.E.:—Sir, This Ordinance envisages the need to issue regulations which contravene a cardinal principle of British law, that an accused person is deemed innocent until proved guilty. The Hon. Attorney General has quite properly drawn our attention to this fact and as a safeguard it is provided that no regulation issued under the Ordinance which contravenes this principle may be put into force without the prior approval of this Council.

There are not a few people who feel so strongly on this matter that in their view nothing can justify a departure from this principle. Even those of us who take the more realistic view cannot avoid a strong feeling of reluctance and regret and perhaps some apprehension and we wish that some other means than this could be found for enforcing the law.

It will be appreciated that the danger lies in the misuse of, such powers which might be made by a less honest and efficient administration than we have here in Hong Kong today, in the placing of a much wider interpretation on the regulation than was intended by their framers.

In supporting the motion I do so with a recommendation that regulations coming under the terms of sub-paragraphs (a) (b) and (c) of section 16 be issued as sparingly as possible, that they should be very specific in their objective and that the wording should very clearly define the limitation of the powers granted thereunder.

THE ATTORNEY GENERAL:—Sir, Council, I feel sure, is obliged to the Honourable Member for emphasizing the danger of enacting regulations of this kind. That danger, I think, is very much in the mind of Government and as I said when I moved the First reading that that was the reason why express provision was made in the Bill that any such regulation should not come into force until in fact it had been approved by Legislative Council. That will mean that any set of regulations which contains a provision of this sort will have to be laid upon the table and not only will it have to be laid on the table but the resolution will have to be passed on each such occasion before the regulation can come into force.

I would like, however, to say something about the effect of shifting the onus of proof which perhaps is not fully realized. We are of course familiar with the rule that the prosecution must prove its case beyond reasonable doubt. It has, however, been held by the Court of Criminal Appeal that where the onus, that

is the burden, of proof is shifted in any particular respect to the defence, the defence are not called upon to prove that particular matter beyond reasonable doubt. They are only called upon to prove it as a probability and that is quite an important distinction and it is a distinction which I hope Honourable Members will bear in mind when any regulations in fact shifting the onus of proof come before this Council for the approval of this Council.

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

Clause 6.

THE ATTORNEY GENERAL:—Sir, I have an amendment. The amendment has in fact been tabled and it is to the effect that the word “and” be substituted for the word “or” in the penultimate line of this clause. The reason for the amendment is also tabled.

Clause 12.

THE ATTORNEY GENERAL:—Sir, I have an amendment to clause 12 which has been tabled and formally move the amendment.

Clause 13.

THE ATTORNEY GENERAL:—Sir, I have an amendment to move after clause 13 before proceeding to the approval of the title of the Ordinance. That has been tabled and it provides for the addition of an additional clause as clause 14. This is a transitional provision which is required in order to cover penalties before the new regulations are made.

The amendments were agreed to.

Council then resumed.

THE ATTORNEY GENERAL reported that the Importation and Exportation (Amendment) Bill, 1952 had passed through Committee with material 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.

THE ATTORNEY GENERAL:—Four weeks' time, Sir?

H.E. THE GOVERNOR:—Four weeks' time has been suggested. Council will adjourn to this day four weeks.