

OFFICIAL REPORT OF PROCEEDINGS**Meeting of 12th October, 1955.****PRESENT:**

HIS EXCELLENCY THE COMMANDER BRITISH FORCES
LIEUTENANT-GENERAL SIR CECIL STANWAY SUGDEN, K.C.B., C.B.E.
THE HONOURABLE THE COLONIAL SECRETARY (*PRESIDENT*)
MR. EDGEWORTH BERESFORD DAVID, C.M.G.
THE HONOURABLE THE ATTORNEY GENERAL
MR. ARTHUR HOOTON, Q.C. (*Acting*).
THE HONOURABLE THE SECRETARY FOR CHINESE AFFAIRS
MR. BRIAN CHARLES KEITH HAWKINS, C.M.G., O.B.E.
THE HONOURABLE THE FINANCIAL SECRETARY
MR. JOHN JAMES COWPERTHWAITTE (*Acting*).
THE HONOURABLE THEODORE LOUIS BOWRING C.M.G., O.B.E.
(*Director of Public Works*).
THE HONOURABLE DOUGLAS JAMES SMYTH CROZIER
(*Director of Education*).
DR. THE HONOURABLE YEO KOK CHEANG
(*Director of Medical and Health Services*).
THE HONOURABLE HAROLD GILES RICHARDS, O.B.E.
(*Director of Urban Services*).
DR. THE HONOURABLE CHAU SIK NIN, C.B.E.
THE HONOURABLE LO MAN WAI, C.B.E.
THE HONOURABLE CHARLES EDWARD MICHAEL TERRY, O.B.E.
THE HONOURABLE NGAN SHING-KWAN, O.B.E.
THE HONOURABLE DHUN JEHANGIR RUTTONJEE.
THE HONOURABLE CEDRIC BLAKER, M.C., E.D.
THE HONOURABLE KWOK CHAN, O.B.E.
DR. THE HONOURABLE ALBERTO MARIA RODRIGUES, M.B.E., E.D.
MR. ROBERT WILLIAM PRIMROSE (*Deputy Clerk of Councils*).

ABSENT:

HIS EXCELLENCY THE GOVERNOR
SIR ALEXANDER WILLIAM GEORGE HERDER GRANTHAM, G.C.MG.

ANNOUNCEMENT.

THE COLONIAL SECRETARY: —Gentlemen: His Excellency the Governor returned to the Colony a short while ago, but he will not be able to attend our meeting this afternoon, so we shall have to proceed in his absence.

MINUTES.

The Minutes of the meeting of the Council held on 28th September, 1955, were confirmed.

WELCOME TO MEMBER.

THE COLONIAL SECRETARY: —Before we proceed to the business of the day, I think we should extend a welcome to Mr. Blaker on his return to our Council.

Honourable Members: Hear, hear.

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>
Sessional Papers, 1955: —	
No. 24—Annual Report by the Director of Civil Aviation for the year 1954-55.	
No. 25—Annual Report by the Controller of Broadcasting for the year 1954-55.	
No. 26—Annual Report by the Registrar General for the year 1954-55.	
No. 27—Annual Report by the Chairman, Urban Council and Director of Urban Services for the year 1954-55.	
Dangerous Drugs Ordinance (Chapter 134).	
Dangerous Drugs (Amendment of Schedule) Order, 1955	A.104
Emergency Regulations Ordinance (Chapter 241).	
Emergency (Agricultural Poisons) (Amendment) Regulations, 1955	A.105

**RESOLUTION REGARDING AN ADDITIONAL
GRATUITY AND SUPPLEMENTARY ANNUAL
ALLOWANCE FOR MOHAMMED KHAN.**

THE COLONIAL SECRETARY moved the following resolution: —

Resolved that Mohammed Khan, who retired from the public service on the 16th day of February, 1954, be granted an additional gratuity of \$31.50 and a supplementary annual allowance of \$9.45, in addition to the gratuity and annual pension granted to him under the Pensions Ordinance, the said additional annual allowance to be paid from the date of his retirement.

He said: —The purpose of this Resolution is to rectify an anomaly arising from the retrospective application of the 1953 salaries revision. This officer retired between the date when the salaries revision was adopted and the date from which it was given retrospective effect. When his pension came to be calculated on his revised emoluments it was found that this was less than the pension already awarded to him on his unrevised emoluments. This anomaly is due to the fact that the increase in his basic salary was not sufficient to offset the reduction in the pensionable value of his expatriation pay of which only half ranks as pensionable under the revised scheme. It is an accepted principle that an officer's superannuation benefits should not be adversely affected by the retrospective application of the salaries revision and the purpose of this motion is therefore to make an *ex gratia* award to the officer concerned to bring his gratuity and pension up to the same figure as that which was awarded to him at the time of his retirement on his unrevised emoluments.

THE SECRETARY FOR CHINESE AFFAIRS seconded.

The question was put and agreed to.

**COMPANIES (FEES AND PERCENTAGES)
(AMENDMENT) ORDER, 1955.**

THE FINANCIAL SECRETARY moved the following resolution: —

Resolved that the Companies (Fees and Percentages) (Amendment) Order, 1955, made by the Acting Chief Justice on the 9th day of September, 1955, under section 281 of the Companies Ordinance (Chapter 32), be approved.

He said: —This Order is part of the general revision of fees which is being carried out in consequence of the post-war fall in the value of money. The current fees were fixed in 1937. The revised fees represent an increase of about 50% and approximate to those charged in the United Kingdom.

The opportunity has been taken to provide for payment by franking as an alternative to adhesive stamps.

THE SECRETARY FOR CHINESE AFFAIRS seconded.

The question was put and agreed to.

**SUPPLEMENTARY PROVISIONS FOR THE QUARTER
ENDED 31ST MARCH, 1955 (FINAL).**

THE FINANCIAL SECRETARY moved the following resolution: —

Resolved that the Supplementary Provisions for the quarter ended 31st March, 1955, as set out in Schedule No. 5 of 1954/55, be approved.

He said: —This schedule is the final one for the financial year 1954/55 the accounts for which have now been finalised. The majority of the items are minor ones which represent the tidying up process normal at the end of a financial year, but some of the major items perhaps deserve special mention.

The biggest item of all, something over \$6½ million for clearance of suspense accounts, is a purely book-keeping transaction. It represents the transfer to a Defence vote of the remaining reserve stocks of essential commodities carried by the Department of Commerce and Industry and is the final step in the closing down of that Department's trading activities.

There is, as there was last year, a considerable extra sum, over \$3½ million, for conveyance of mails. This is due partly to further increases in freight charges and partly to heavily increased traffic, particularly parcel traffic both by air and sea, and transit airmails. The increase is fully covered by additional revenue from postal charges.

The sum of \$1.3 million for Kowloon Tong Fire Relief and Rehabilitation in addition to the original vote of \$8 million reflects an acceleration of the rate of resettlement building.

All items in the Schedule have already been approved by Finance Committee and I beg to move that this Council now give its formal approval.

THE SECRETARY FOR CHINESE AFFAIRS seconded.

The question was put and agreed to.

PENSIONS (AMENDMENT) (No. 3) REGULATIONS, 1955.

THE ATTORNEY GENERAL moved the following resolution: —

Resolved that the Pensions (Amendment) (No. 3) Regulations, 1955, made by the Governor in Council on the 4th day of October, 1955, under section 3 of the Pensions Ordinance (Chapter 89), be approved.

He said: —The regulations for which approval is sought by this resolution are explained in the note appended to them and there is nothing that I can usefully add.

THE SECRETARY FOR CHINESE AFFAIRS seconded.

The question was put and agreed to.

PUBLIC BATH-HOUSE (AMENDMENT) BY-LAWS, 1955.

MR. H. G. RICHARDS moved the following resolution: —

Resolved that the Public Bath-House (Amendment) By-laws, 1955, made by the Urban Council on the 27th day of September, 1955, under section 4 of the Public Health (Sanitation) Ordinance, 1935, be approved.

He said: —The purpose of these by-laws is explained in the explanatory note. I have nothing to add.

THE SECRETARY FOR CHINESE AFFAIRS seconded.

The question was put and agreed to.

HAWKERS (AMENDMENT) (No. 2) BY-LAWS, 1955.

MR. H. G. RICHARDS moved the following resolution: —

Resolved that the Hawkers (Amendment) (No. 2) By-laws, 1955, made by the Urban Council on the 27th day of September, 1955, under section 2 of the Hawkers Ordinance (Chapter 151), be approved.

He said: —The purpose of these by-laws also is explained in the explanatory note.

THE SECRETARY FOR CHINESE AFFAIRS seconded.

The question was put and agreed to.

PENICILLIN (AMENDMENT) BILL, 1955.

DR. YEO KOK CHEANG moved the First reading of a Bill intituled "An Ordinance to amend the Penicillin Ordinance, Chapter 137."

He said: —The purpose of this Bill is set forth in the "Objects and Reasons", to which I feel there is nothing that can usefully be added.

THE SECRETARY FOR CHINESE AFFAIRS seconded.

The Bill was read a First time.

Objects and Reasons.

The "Objects and Reasons" for the Bill were stated as follows: —

The Nursing Board (established under the Nurses Registration Ordinance, Cap. 164) has recommended that it be made lawful for nurses, acting under the written directions of a registered medical practitioner, to administer by way of treatment substances which are controlled under the Penicillin Ordinance. Clause 3 of the Bill amends section 4 of the Ordinance to give effect to this recommendation.

2. It is desired to exclude from the operation of the Ordinance the antibiotic substance contained in, or specially manufactured for the purpose of supplementing foods for livestock. Clause 2 effects this by an amendment to section 3 of the Ordinance.

3. The opportunity has been taken to incorporate into the Ordinance the five sections which were inserted as an emergency measure by the Emergency (Penicillin Ordinance, 1948) (Amendment) Regulations, 1951. These sections prohibit the possession of substances controlled by the Ordinance (4A), provide for the issue of permits to deal in such substances (4B), require records to be kept by persons entitled to have possession thereof (4C) and provide for the enforcement of the Ordinance by means of inspections and forfeiture (4D and 5A).

BUSINESS REGULATION (AMENDMENT) BILL, 1955.

THE ATTORNEY GENERAL moved the First reading of a Bill intituled "An Ordinance to amend the Business Regulation Ordinance, 1952."

He said: —Sir: This short amending Bill seeks to make admissible as *prima facie* evidence in a Court of law certified copies and extracts of information contained in the register of businesses maintained under the Business Regulation Ordinance, 1952. A detailed explanation is contained in the statement of objects and reasons appended to the Bill and I do not think I can usefully add anything in elaboration of that statement.

THE SECRETARY FOR CHINESE AFFAIRS 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 18 of the Business Regulation Ordinance, No. 14 of 1952, (the principal Ordinance), contains provisions enabling members of the public to Obtain certified copies and extracts of information contained in the register of businesses, *e.g.* the name

in which a particular business is carried on and particulars of the partners of a firm. No provision however is made in the Ordinance, similar to that contained in section 16 of the Registration of Business Names Act, 1916, enabling such copies or extracts to be used in evidence in a court of law. This deficiency has led to much inconvenience and expense for litigants desirous of proving particulars contained in the register of businesses.

2. Clause 3 of this Bill accordingly seeks to amend section 18 of the principal Ordinance by rendering admissible, as *prima facie* evidence, certified copies and extracts already issuable under that section. Clause 2 seeks to repeal section 14 of the principal Ordinance, the provisions of which pertain to the burden of proving the truth of information contained in the register of businesses and which are inconsistent with the amendment proposed by clause 3.

ADMINISTRATION OF JUSTICE (SUMMARY OFFENCES)

BILL, 1955.

THE ATTORNEY GENERAL moved the First reading of a Bill intituled "An Ordinance to make provision for alternative procedure for entering pleas of guilty and for the payment of fines in respect of certain summary offences."

He said: —Honourable Members have, I know, viewed with concern delays which have occurred in recent months in the administration of justice in the Magistrates Courts of this Colony. I am also aware that this concern is shared by responsible members of the public.

The delays have been primarily attributable to the overwhelming burden imposed upon Magistrates and Justices of the Peace by the large number of minor offences brought up for trial, which has led to a congestion in these courts.

At the same time the magistracy has, for a considerable period, been operating under minimum strength by reason of vacancies upon the authorized establishment. Sir, I am happy to say that two of these vacancies have recently been filled and that the remaining two will be filled within the next 3 months. An extra court is shortly to be established at Central Magistracy.

It is accordingly hoped that the position will be considerably improved in the near future but it will be in any event reviewed in a few months' time.

The congestion in the courts could of course be cured by a major reduction of the number of prosecutions brought in the case of minor offences. It is well established that a prosecution does not have to be instituted solely because there has been a breach of the law; the sole criterion for institution of a prosecution is that prosecution is necessary in the public interest. Sir, the Commissioner of Police and myself therefore considered whether it would be justifiable substantially to reduce the number of prosecutions instituted, even where there is, *prima facie*, evidence of the commission of an offence. However, we are of opinion that there would be grave objections to such a course. The fact that an offence itself may appear to be a trivial one does not mean that it is not in the public interest to enforce the law; many such offences, if not checked, would rapidly become nuisances of a major type detrimental to the interests and well being of the Colony as a whole. Moreover, if one selects only certain cases for prosecution there is a grave danger of inconsistency in the enforcement of the law which itself may give rise to a sense of injustice in the persons proceeded against. There is indeed in force a system in the case of minor traffic offences whereby the Superintendent considers reports and sends out a warning notice instead of applying for a summons, in cases where it is considered that such a warning is sufficient. There would however be difficulties in generally extending such system to the majority of other types of offence as in order to avoid inconsistency in different parts of the Colony, all reports would have to be considered by a responsible central authority. This is not considered practical and would itself lead to delay. Moreover, experience has shown that whilst the system of warnings is justifiable in a limited category of cases, any wider extension encourages rather than discourages the commission of offences. We are, of course, determined to continue to do all we can to prevent any prosecution being instituted against anyone unless there is evidence justifying the placing of that person on trial, and to prevent any avoidable delays in the presentation of the prosecution case.

Sir, there are certain offences, the frequent commission of which arises from economic circumstances of the individuals who commit them. These offences of course present the greatest of

difficulties though efforts have been made to reduce their incidence; for example, in April last year a new policy was introduced whereby anyone who chooses to pay the annual fee of \$20 may be granted a Pedlar Hawkers' Licence. This licence entitles the holder to carry on his trade in wide areas other than on the main thoroughfares.

Other types of offence however, particularly breaches of the traffic laws, are often committed as a result of thoughtlessness and selfishness on the part of certain members of the motoring public. A change of attitude in this respect would bring great relief to the police force and to the magistrates.

Sir, other methods of reducing the congestion in the Magistrates Courts have been considered and the Bill before Council today is a product of this consideration. It does not of course purport to provide the complete answer but it is an experimental measure which it is hoped may afford some relief. This Bill provides that in the cases of offences listed in the Schedule a person upon whom a summons in the specified form is served may plead guilty and pay the fine stipulated by the Ordinance, without appearing before a magistrate. The offences to which this procedure applies at present are confined to certain minor traffic offences which are considered to be one of the chief causes of congestion in the courts. After a trial period consideration will be given to extending the procedure to include other offences and clause 7 accordingly gives the Governor in Council power to amend the Schedule.

Care has been taken not to deprive an accused person of his right to a trial before the courts, and if he wishes to do so it will be open to him to appear before the magistrate and plead not guilty, or to put forward facts in mitigation of penalty.

Care has also been taken to retain in the prosecuting authority a discretion to proceed before the magistrate in the normal way. This will be done in cases where it is considered that the circumstances are such that the penalty should be assessed by the fault.

Sir, although this measure is open to objection that it makes a fundamental change in the present system of administering justice in this Colony, in that it renders possible convictions by

consent without any adjudication by a court of law and the imposition of fines without consideration of the facts of the particular cases by the courts, it is considered that exceptional remedies should be provided in the exceptional circumstances, prevailing at present. It is however proposed that this legislation should be introduced on a temporary basis to expire at the end of 12 months, if not renewed at the end of that time by resolution of the Legislative Council. It will therefore, if enacted, be reviewed at the end of one year.

THE SECRETARY FOR CHINESE AFFAIRS 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: —

During recent years the increase in the number of minor offences committed in the Colony, and in particular traffic offences, has resulted in a congestion of these cases in the Magistrates' Courts. Delay between the commission and trial of an offence has thereby been caused. The object of this Bill is to enable a person summonsed in respect of an offence of this nature to plead guilty and to pay a fine without the necessity for a hearing before a magistrate.

2. The offences to which this procedure would be applicable are specified in the First Schedule, and a fixed fine is prescribed for each offence. Clause 7 enables the Governor in Council to amend the First Schedule but provides that no indictable offence shall be included, and limits the amount of the fine for any particular offence. At present, the offences so specified are traffic offences only.

3. Nothing in this Bill detracts from the right of any person who may receive a summons in the prescribed form to appear before and have his case dealt with by a magistrate in the ordinary way. Moreover in certain circumstances it may be desirable that the procedure prescribed by this Bill should not

be applicable, and for this reason power is in effect given (clause 9) to the Attorney General, the Commissioner of Police or any authorized officer to require that any such offence be heard and determined before a magistrate in the normal manner.

4. Clause 11 provides for the continuance in force of the Ordinance for a period of one year, and thereafter by resolution of the Legislative Council for further periods of one year.

DEPORTATION OF ALIENS (AMENDMENT) (No. 2)

BILL, 1955.

THE ATTORNEY GENERAL moved the Second reading of a Bill intituled "An Ordinance further to amend the Deportation of Aliens Ordinance, Chapter 240."

THE SECRETARY FOR CHINESE AFFAIRS 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 3 were agreed to.

Council then resumed.

THE ATTORNEY GENERAL reported that the Deportation of Aliens (Amendment) (No. 2) Bill, 1955 had passed through Committee without amendment and moved the Third reading.

THE SECRETARY FOR CHINESE AFFAIRS seconded.

The question was put and agreed to.

The Bill was read a Third time and passed.

CORPORAL PUNISHMENT (AMENDMENT) BILL, 1955.

THE ATTORNEY GENERAL moved the Second reading of a Bill intituled "An Ordinance to amend the Corporal Punishment Ordinance, 1954."

THE SECRETARY FOR CHINESE AFFAIRS 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 Corporal Punishment (Amendment) Bill, 1955 had passed through Committee without amendment and moved the Third reading.

THE SECRETARY FOR CHINESE AFFAIRS seconded.

The question was put and agreed to.

The Bill was read a Third time and passed.

MAGISTRATES (AMENDMENT) (No. 2) BILL, 1955.

THE ATTORNEY GENERAL moved the Second reading of a Bill intituled "An Ordinance to amend the Magistrates Ordinance, Chapter 227."

THE SECRETARY FOR CHINESE AFFAIRS 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 Magistrates (Amendment) (No. 2) Bill, 1955 had passed through Committee without amendment and moved the Third reading.

THE SECRETARY FOR CHINESE AFFAIRS seconded.

The question was put and agreed to.

The Bill was read a Third time and passed.

**ZETLAND HALL TRUSTEES INCORPORATION
(AMENDMENT) BILL, 1955.**

MR. D. J. S. CROZIER moved the Second reading of a Bill intituled "An Ordinance to amend the Zetland Hall Trustees Incorporation Ordinance, Chapter 321."

DR. YEO KOK CHEANG 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.

MR. D. J. S. CROZIER reported that the Zetland Hall Trustees Incorporation (Amendment) Bill, 1955 had passed through Committee without amendment and moved the Third reading.

DR. YEO KOK CHEANG seconded.

The question was put and agreed to.

The Bill was read a Third time and passed.

**MASONIC BENEVOLENCE FUND INCORPORATION
(AMENDMENT) BILL, 1955.**

MR. D. J. S. CROZIER moved the Second reading of a Bill intituled "An Ordinance to amend the Masonic Benevolence Fund Incorporation Ordinance, Chapter 297."

DR. YEO KOK CHEANG 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.

MR. D. J. S. CROZIER reported that the Masonic Benevolence Fund Incorporation (Amendment) Bill, 1955 had passed through Committee without amendment and moved the Third reading.

DR. YEO KOK CHEANG seconded.

The question was put and agreed to.

The Bill was read a Third time and passed.

**CONGREGATION OF OUR LADY OF CHARITY OF THE
GOOD SHEPHERD OF ANGERS AT HONG KONG
INCORPORATION BILL, 1955.**

DR. A. M. RODRIGUES moved the Second reading of a Bill intituled "An Ordinance for the incorporation of the Mother Superior of the Congregation of Our Lady of Charity of the Good Shepherd of Angers at Hong Kong."

MR. C. E. M. TERRY 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 7 were agreed to.

Council then resumed.

DR. A. M. RODRIGUES reported that the Congregation of Our Lady of Charity of the Good Shepherd of Angers at Hong Kong Incorporation Bill, 1955 had passed through Committee without amendment and moved the Third reading.

MR. C. E. M. TERRY seconded.

The question was put and agreed to.

The Bill was read a Third time and passed.

ADJOURNMENT.

THE COLONIAL SECRETARY: —Gentlemen, that concludes our business for to-day. Council will adjourn to this day fortnight.