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COLONY AND PROTECTORATE OF KENYA.

REPORT OF SELECT COMMITTEE OF  
LEGISLATIVE COUNCIL APPOINTED  
TO CONSIDER AND REPORT ON THE  
PROVISIONS OF A BILL TO ESTABLISH  
A CODE OF CRIMINAL LAW.

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Report of Select Committee of Legislative Council  
appointed to Consider and Report on the Provisions  
of a Bill to Establish a Code of Criminal Law.

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of the County of [illegible]

and State of Texas, this [illegible]

day of [illegible] 19[illegible]

## Report of Select Committee of Legislative Council appointed to Consider and Report on the Provisions of a Bill to Establish a Code of Criminal Law.

YOUR EXCELLENCY,

We, the members of the above Committee of Legislative Council, have held several meetings for the discussion of the Penal Code and the Criminal Procedure Code, and we also had the advantage of the notes and suggestions of the Committee appointed by Your Excellency in August last, which Committee held eight meetings and fully considered the detailed provisions of the Codes.

We recommend that the following amendments be made to the Penal Code :—

1. That Clause 5 be amended—

- (a) by substituting the word “ member ” for the word “ membrane ” in the definition of “ maim ” ;
- (b) by substituting the word “ terms ” for the word “ term ” and the word “ include ” for the word “ includes ” in two places in the definition of “ person ” and “ owner ” ;
- (c) by inserting the words “ in possession of ” after the word “ be ” in the first line of the definition of “ possession.”

2. That Clause 18 be amended by substituting the word “ shall ” for the word “ may ” in the first line of the clause.

3. That Clause 20 be amended by substituting the words “ punished twice ” for the words “ twice criminally responsible ” in the first line of the clause.

(Note.—A corresponding change in the marginal note is necessitated.)

4. That Clause 21 be amended by substituting the words “ last mentioned ” for the word “ fourth ” in the twelfth line of the clause, and by deleting the word “ himself ” in the same line of the clause and in the last line of the clause.

5. That Clause 24 be amended by inserting as (5) the following :—

“ (5) Forfeiture.”

and by renumbering (5) and (6) as (6) and (7).

6. That Clause 27 be amended by substituting the words “ grave or permanent ” for the word “ physical ” in the fourth line of sub-section (5).

7. That Clause 28 be amended by substituting the words “ addition to ” for the words “ excess of ” in the third line of sub-section (iii) (a).

8. That the following clause be inserted as Clause 29 :—

“ 29. When any person is convicted of an offence under any of the following sections, namely, sections 88, 89, 90, 104 and 105, the Court may, in addition to or in lieu of any penalty which may be imposed, order the forfeiture to His Majesty of any property which has passed in connexion with the commission of the offence or, if such property cannot be forfeited or cannot be found, of such sum as the Court shall assess as the value of the property; and any

property or sum so forfeited shall be dealt with in such manner as the Governor may direct. Payment of any sum so ordered to be forfeited may be enforced in the same manner and subject to the same incidents as in the case of the payment of a fine."

9. That Clauses 29 to 46 be renumbered 30 to 47.
10. That Clause 31 be amended by inserting the word "conditioned" after the word "fit" in the fourth line of the clause.
11. That Clause 32 be amended by substituting the word "to" for the word "and" in the fourth line of the clause.
12. That Clause 38 be amended by deleting the word "mandate" wherever it occurs in sub-clauses (b) and (c) and substituting therefor the words "in respect of which His Majesty has accepted a mandate."
13. That Clause 46 be deleted and the following substituted therefor:—

"47. Any person who—

- (a) conspires with any other person or persons to do any act in furtherance of any seditious intention common to both or all of them; or
- (b) prints or publishes any words or writing with a seditious intention; or
- (c) sells, offers for sale, distributes or has in his possession any newspaper, book or document containing any seditious words or writing, or any newspaper, book or document which has been declared by the Governor in Council by proclamation to be a seditious publication or to be prohibited to be imported into the Colony; or
- (d) imports into the Colony any newspaper, book or document containing any seditious words or writing or any newspaper, book or document which has been declared by the Governor in Council by proclamation to be a seditious publication or to be prohibited to be imported into the Colony,

is guilty of an offence and is liable to imprisonment for two years. If he has been previously convicted of any such offence he is liable to imprisonment for seven years."

14. That the following clause be inserted as Clause 48:—

"48. (1) Any person to whom any newspaper, book or document containing any seditious words or writing or any newspaper, book or document which has been declared by the Governor in Council by proclamation to be a seditious publication or to be prohibited to be imported into the Colony has been sent without his knowledge or privity shall forthwith deliver to the officer in charge of the nearest police station or to the nearest administrative officer such newspaper, book or document, and in default thereof is guilty of an offence and is liable to imprisonment for one year.

(2) A person who has complied with the provisions of sub-section (1) of this section or has been convicted of an offence under such sub-section shall not be liable to be convicted of an offence under paragraph (c) of section 47 of this Code."

15. That the following clause be inserted as Clause 49:—

"49. A person cannot be convicted of any offences against section 47 or section 48 on the uncorroborated testimony of one witness."

16. That the following clause be inserted as Clause 50 :—
- “ 50. A court on convicting any person of an offence under section 47 or section 48 shall order any seditious or prohibited newspaper, book or document to be forfeited to His Majesty.”
17. That the following clause be inserted as Clause 51 :—
- “ 51. Any of the following officers, viz.—
- any officer of the Posts and Telegraphs Department not below the rank of Junior Postmaster ;
- any officer of the Customs Department not below the rank of Examining Officer ;
- any police officer not below the rank of European Police Constable ;
- any other officer authorised in that behalf by the Governor, may detain, open and examine any package or article which he suspects to contain any newspaper, book or document which it is an offence under section 47 or section 48 to print, publish, import, sell, offer for sale, distribute or possess, and during such examination may detain any person importing, distributing, or posting such package or article, or in whose possession such package or article is found. If any such newspaper, book or document is found in such package or article, the whole package or article may be impounded and retained by the officer, and the person importing, distributing or posting it, or in whose possession it is found, may be arrested without warrant and proceeded against for the commission of an offence under section 47 or section 48.”
18. That the following clause be inserted as Clause 52 :—
- “ 52. The Governor in Council may by proclamation declare any newspaper, book or document to be a seditious publication.”
19. That the following clause be inserted as Clause 53 :—
- “ 53. The Governor in Council may by proclamation prohibit the importation into the Colony of any newspaper, book or document.”
20. That the following clause be inserted as Clause 54 :—
- “ 54. For the purposes of the seven last preceding sections—
- ‘ newspaper ’ means any periodical work containing public news or comments on public news, and includes any part of such work or extract therefrom ;
- ‘ book ’ includes every volume, part or division of a volume, pamphlet or leaflet in any language, and every sheet of music, map, chart or plan separately printed or lithographed, and any part of or extract from any such volume, pamphlet, leaflet, sheet of music, map, chart or plan ;
- ‘ document ’ includes any painting, drawing or photograph or other visible representation.”
21. That Clause 47 be renumbered 55, and be amended by substituting the words “ eight last preceding sections ” for the words “ last preceding section ” in the first line of the clause, and by substituting the words “ the inhabitants ” for the words “ His Majesty’s subjects or natives ” wherever these words occur in the clause.
22. That Clauses 48 to 51 be renumbered 56 to 59.

23. That the following clause be inserted as Clause 60 :—

“ 60. Any person who makes, publishes or circulates any statement, rumour or report—

- (a) with intent to cause, or which is likely to cause, any person employed in the public service to disregard or fail in his duty; or
- (b) with intent to cause, or which is likely to cause, fear or alarm to the public, or to any section of the public, whereby any person may be induced to commit an offence against the State, or against the public tranquility; or
- (c) with intent to incite, or which is likely to incite, any class or community of persons to commit an offence against any other class or community,

is guilty of a misdemeanour and is liable to imprisonment for two years :

Provided that it shall not amount to an offence under this section when the person making, publishing or circulating any statement, rumour or report has reasonable grounds to believe that the same is true, and makes, publishes, or circulates it without any such intent as aforesaid.”

24. That Clauses 52 to 54 be renumbered 61 to 63.

25. That Clause 53 be amended by substituting the word “ vessel ” for the word “ ship ” wherever that word occurs in the clause.

26. That the following clauses be inserted in Chapter IX as Clauses 64 to 70 :—

“ 64. (1) A society includes any combination of ten or more persons whether the society be known by any name or not.

(2) A society is an unlawful society—

(i) if formed for any of the following purposes :

- (a) levying war or encouraging or assisting any person to levy war on the Government or the inhabitants of any part of the Colony; or
- (b) killing or injuring or inciting to the killing or injuring of any person; or
- (c) destroying or injuring or inciting to the destruction or injuring of any property; or
- (d) subverting or promoting the subversion of the Government or of its officials; or
- (e) committing or inciting to acts of violence or intimidation; or
- (f) interfering with, or resisting, or inciting to interference with or resistance to the administration of the law; or
- (g) disturbing or inciting to the disturbance of peace and order in any part of the Colony; or

(ii) if declared by an order of the Governor in Council to be a society dangerous to the good government of the Colony.

“ 65. Any person who manages or assists in the management of an unlawful society is guilty of a felony and is liable to imprisonment for seven years.

“ 66. Any person who—

- (a) is a member of an unlawful society ; or
- (b) knowingly allows a meeting of an unlawful society, or of members of an unlawful society, to be held in any house, building or place belonging to or occupied by him, or over which he has control,

is guilty of a felony, and is liable to imprisonment for three years.

“ 67. (1) A prosecution for an offence under the two last preceding sections shall not be instituted except with the consent of the Governor :

Provided that a person charged with such an offence may be arrested, or a warrant for his arrest may be issued and executed, and any such person may be remanded in custody or on bail, notwithstanding that the consent of the Governor to the institution of a prosecution for the offence has not been obtained, but no further or other proceedings shall be taken until that consent has been obtained.

(2) In any prosecution for an offence under the two last preceding sections it shall not be necessary to prove that the society consisted of ten or more members ; but it shall be sufficient to prove the existence of a combination of persons, and the onus shall then rest with the accused to prove that the number of members of such combination did not amount to ten.

(3) Any person who attends a meeting of an unlawful society shall be presumed, until and unless the contrary is proved, to be a member of the society.

(4) Any person who has in his possession or custody or under his control any of the insignia, banners, arms, books, papers, documents, or other property belonging to an unlawful society, or wears any of the insignia, or is marked with any mark of the society, shall be presumed, unless and until the contrary is proved, to be a member of the society.

“ 68. Any peace officer, and any police officer authorised in writing by a peace officer, may enter with or without assistance any house or building or into any place in which he has reason to believe that a meeting of an unlawful society, or of persons who are members of an unlawful society, is being held, and to arrest or cause to be arrested all persons found therein and to search such house, building or place, and seize or cause to be seized all insignia, banners, arms, books, papers, documents and other property which he may have reasonable cause to believe to belong to any unlawful society, or to be in any way connected with the purpose of the meeting.

For the purposes of this section the expression “ peace officer ” means any magistrate or any police officer not below the rank of Assistant Superintendent.

“ 69. (1) When a society is declared to be an unlawful society by an order of the Governor in Council, the following consequences shall ensue :—

- (a) the property of the society within the Colony shall forthwith vest in an officer appointed by the Governor ;
- (b) the officer appointed by the Governor shall proceed to wind up the affairs of the society, and after satisfying and providing for all debts and liabilities of the society and the cost of the winding up, if there shall then be any surplus assets shall prepare and submit to the Governor a scheme for the application of such surplus assets ;

- (c) such scheme, when submitted for approval, may be amended by the Governor in such way as he shall think proper in the circumstances of the case;
- (d) the approval of the Governor to such scheme shall be denoted by the endorsement thereon of a memorandum of such approval signed by the Governor, and, upon this being done, the surplus assets, the subject of the scheme, shall be held by such officer upon the terms and to the purposes thereby prescribed;
- (e) for the purpose of the winding up the officer appointed by the Governor shall have all the powers vested in the Official Receiver for the purpose of the discovering of the property of a debtor and the realisation thereof.

(2) The Governor may, for the purpose of enabling a society to wind up its own affairs, suspend the operation of this section for such period as to him shall seem expedient.

(3) The provisions of sub-section (1) shall not apply to any property seized at any time under section 68.

“ 70. Subject to the provisions of the last preceding section, the insignia, banners, arms, books, papers, documents and other property belonging to an unlawful society shall be forfeited to His Majesty, and shall be dealt with in such manner as the Governor may direct.”

27. That Clauses 55 to 91 be renumbered 71 to 107.
28. That Clause 58 be amended by substituting the words “ any commissioned or non-commissioned officer of police not below the rank of European constable ” for the words “ any police officer of or above the rank of assistant superintendent ” in the first and second lines of the clause.
29. That Clause 61 be amended by substituting the figure “ 74 ” for the figure “ 58 ” in the second line of the clause.
30. That Clause 64 be deleted and the following clause substituted therefor :—
- “ 80. All persons are guilty of a misdemeanour who, being riotously assembled, unlawfully and with force prevent, hinder, or obstruct the loading or unloading of any railway, vehicle or vessel, or the starting or transit of any railway or vehicle, or the sailing or navigation of any vessel, or unlawfully and with force board any railway, vehicle or vessel with intent so to do.”
- (Note.—The marginal note should then read “ Riotously interfering with railway, vehicle or vessel.”)
31. That Clause 72 be amended by substituting the word “ felony ” for the word “ misdemeanour ” and the word “ seven ” for the word “ three ” in the last line of the clause.
32. That Clause 73 be amended by substituting the word “ reward ” for the word “ award ” in the third line of the clause.
33. That the following clause be inserted in Chapter XI after Clause 91 :—
- “ 108. (1) Any person who—
- (a) within the premises in which any judicial proceeding is being had or taken, or within the precincts of the same, shows disrespect, in speech or manner, to or with reference to such proceeding, or any person before whom such proceeding is being had or taken; or

- (b) having been called upon to give evidence in a judicial proceeding, fails to attend, or having attended, refuses to be sworn or to make an affirmation or, having been sworn or affirmed, refuses without lawful excuse to answer a question or to produce a document, or remains in the room in which such proceeding is being had or taken, after the witnesses have been ordered to leave such room; or
- (c) causes an obstruction or disturbance in the course of a judicial proceeding; or
- (d) while a judicial proceeding is pending, makes use of any speech or writing misrepresenting such proceeding or capable of prejudicing any person in favour of or against any parties to such proceeding, or calculated to lower the authority of any person before whom such proceeding is being had or taken; or
- (e) publishes a report of the evidence taken in any judicial proceeding which has been directed to be held in private; or
- (f) attempts wrongfully to interfere with or influence a witness in a judicial proceeding, either before or after he has given evidence, in connexion with such evidence; or
- (g) dismisses a servant because he has given evidence on behalf of a certain party to a judicial proceeding; or
- (h) wrongfully retakes possession of land from any person who has recently obtained possession by a writ of court; or
- (i) commits any other act of intentional disrespect to any judicial proceeding, or to any person before whom such proceeding is being had or taken,

is guilty of an offence, and is liable to imprisonment for three months.

(2) The provisions of this section shall be deemed to be in addition to and not in derogation from the power of the Supreme Court to punish for contempt of court."

- 34. That Clauses 92 to 120 be renumbered 109 to 137.
- 35. That Clause 93 be deleted and the following clause substituted therefor :—  

“ 110. Any person who, being in lawful custody, escapes from such custody, is guilty of a misdemeanour.”
- 36. That Clause 97 be amended by substituting the words “ person employed in the public service ” for the words “ public officer ” in the first line of the clause.
- 37. That Clause 98 be amended by substituting the words “ person employed in the public service ” for the words “ public officer ” in the first line of the clause, and the words “ ordinary courage might be expected to face ” for the words “ ordinary firmness and activity may be expected to encounter ” in the fourth and fifth lines of the clause.
- 38. That Clause 110 be amended by deleting the words “ or assessors ” and inserting the word “ or ” between the words “ court ” and “ jury ” in the eighth line of the clause.
- 39. That Clause 111 be amended by deleting the words “ or assessors ” and inserting the word “ or ” between the words “ court ” and “ jury ” in the eighth line of the clause.

40. That Clause 113 be amended by substituting the words " subject to the provisions of section 27 " for the words " if a male person " in the fifteenth line of the clause.
41. That Clause 119 be amended by deleting sub-section (2) and renumbering sub-section (3) as sub-section (2).
42. That Clause 120 be amended by inserting the words " knowingly lives wholly or in part on the earnings of prostitution or who " after the word " who " in the first line of the clause.
43. That the following clause be inserted after Clause 120 :—
- " 138. If it is made to appear to a magistrate by information on oath that there is reason to suspect that any house or any part of a house is used by a woman or girl for purposes of prostitution, and that any person residing in or frequenting the house is living wholly or in part on the earnings of the prostitute, or is exercising control, direction or influence over the movements of the prostitute, the magistrate may issue a warrant authorising any police officer to enter and search the house and to arrest such person."
44. That Clauses 121 to 134 be renumbered 139 to 152.
45. That Clause 124 be amended by inserting the words " being with child " after the word " who " in the first line of the clause, and by deleting the words " whether she is or is not with child " in the second line of the clause.
46. That Clause 129 be amended by adding the words " with or without corporal punishment " at the end of sub-section (3).
47. That Clause 133 be amended by substituting the figures " 148 " for the figures " 130 ", the figures " 128 " for the figures " 111 ", and the figures " 129 " for the figures " 112 " wherever these last-mentioned figures occur in the clause.
48. That Clause 134 be amended by substituting the figures " 148 " and " 149 " for the figures " 130 " and " 131 " respectively.
49. That Clause 135 be deleted.
50. That Clauses 136 to 201 be renumbered 153 to 218.
51. That Clause 137 be amended by substituting the words " goes through a ceremony of marriage which " for the words " marries in any case in which such marriage " in the first and second lines of the clause.
52. That Clause 139 be amended by substituting the word " fourteen " for the word " twelve " in the second line of the clause.
53. That Clause 144 be amended by deleting sub-clause (2) and substituting therefor the following :—
- " (2) In this section ' unlawful gaming ' means any game the chances of which are not alike favourable to all the players, including the banker or other person or persons by whom the game is managed or against whom the other players stake, play or bet."
54. That Clause 145 be amended by adding at the end of the clause the following proviso :—
- " Provided always that nothing herein contained shall make illegal the use of a totalisator by a race club, gymkhana club or sports club recognised by the Government at any public meeting,

with the approval in each case of the Commissioner of Police. In this proviso 'totalisator' means and includes the instrument, machine or contrivance commonly known as the totalisator, and any other instrument, machine or contrivance of a like nature, or any scheme for enabling any number of persons to make bets with one another on the like principles."

55. That Clause 146 be deleted, and the following clause substituted therefor :—

" 163. (1) Any person who opens, keeps, or uses any place for carrying on a lottery not authorised by the Commissioner of Police is guilty of a misdemeanour.

(2) Any person who prints or publishes or causes to be printed or published, any advertisement or other notice of or relating to any lottery not so authorised, or of or relating to the sale of any ticket or chance or of any share in any ticket or chance in any lottery not so authorised, is liable to a fine of fifty pounds.

(3) In this section the term 'lottery' includes any scheme or device for the sale, gift, disposal or distribution of any property depending upon or to be determined by lot or chance, whether by the throwing or casting of dice, or by the drawing of tickets, cards, lots, numbers or figures, or by means of a wheel or trained animal, or otherwise howsoever.

(4) When any person is convicted of an offence under this section the court may, in addition to, or in lieu of, any penalty which may be imposed, order the forfeiture to His Majesty of any instrument or thing used in connexion with the lottery concerning which the conviction has taken place."

56. That Clause 147 be amended by substituting the figures " 161 ", " 162 " and " 163 " for the figures " 144 ", " 145 " and " 146 " respectively.

57. That Clause 148 be amended by adding the following as sub-clause (6) :—

" (6) Every person committing any such misdemeanour as aforesaid forfeits to His Majesty all obscene books, pamphlets, papers, drawings, paintings, representations or figures or any other obscene objects whatsoever connected with the committing of such misdemeanour."

58. That Clause 161 be deleted and the following substituted therefor :—

" 178. Defamatory matter is matter likely to injure the reputation of any person by exposing him to hatred, contempt or ridicule, or likely to damage any person in his profession or trade by an injury to his reputation. It is immaterial whether at the time of the publication of the defamatory matter, the person concerning whom such matter is published is living or dead :

Provided that no prosecution for the publication of defamatory matter concerning a dead person shall be instituted without the consent of the Attorney General."

59. That Clause 173 be amended by substituting the words " is shown to have caused " for the word " causes " in the first line of the clause.

60. That Clause 176 be amended—

- (a) by deleting the word " not " in the second line of the clause ;  
 (b) by deleting the words " which causes " in the first line of paragraph (a) of the clause and substituting therefor the words " person in consequence of which that other person undergoes " ;

(c) by deleting the word " a " in the first line of paragraph (b) of the clause; and

(d) by deleting paragraph (c) of the clause and substituting therefor the following :—

" (c) if by actual or threatened violence he causes such other person to perform an act which causes the death of such person, such act being a means of avoiding such violence which in the circumstances would appear natural to the person whose death is so caused."

61. That Clauses 179, 180, 181, 182 and 183 be amended by substituting the words " shall be deemed " and " adversely affect " for the words " is held " and " result to " respectively, wherever those last-mentioned words occur in these clauses.

62. That the following three clauses be inserted after Clause 201 in Chapter XXII as Clauses 219, 220 and 221 :—

" 219. A person is not criminally responsible for performing in good faith and with reasonable care and skill a surgical operation upon any person for his benefit, or upon an unborn child for the preservation of the mother's life, if the performance of the operation is reasonable, having regard to the patient's state at the time, and to all the circumstances of the case.

" 220. Any person authorised by law or by the consent of the person injured by him to use force is criminally responsible for any excess, according to the nature and quality of the act which constitutes the excess.

" 221. Notwithstanding anything contained in section 220, consent by a person to the causing of his own death or his own maim does not affect the criminal responsibility of any person by whom such death or maim is caused."

63. That Clauses 202 to 249 be renumbered 222 to 269.

64. That Clause 204 be amended by substituting the figures " 213 " for the figures " 196 " in the second line of the clause.

65. That Clause 211 be amended by adding the words " and is liable to imprisonment for five years."

(Note.—Marginal note requires corresponding amendment.)

66. That Clause 232 be amended by substituting the word " three " for the word " five " in the last line of the clause.

67. That Clause 235 be amended by inserting the word " ostrich " after the word " camel " in the second line of the clause, by deleting the words " or the young of any such animal " in the third line of the clause, and by substituting the word " ten " for the word " seven " in the last line of the clause.

68. That Clause 242 be amended by substituting the figures " 252 " for the figures " 232 " in the second line of the clause.

69. That the following clause be inserted in Chapter XXVII after Clause 249 :—

" 270. Any person who unlawfully and without colour of right, but so as to be guilty of stealing, takes or converts to his own use or to the use of any other person, any draught or riding animal or any vehicle or cycle however propelled or any vessel, shall be guilty of a

misdemeanour, and shall be liable to imprisonment for six months or to a fine of fifty pounds, or to both such imprisonment and such fine."

70. That Clauses 250 to 263 be renumbered 271 to 284.
71. That Clause 256 be amended by deleting the first line of paragraph (b) and substituting therefor the words "to write any name or impress or affix any seal upon or to any paper."
72. That the following clause be inserted in Chapter XXIX after Clause 263 :—  
 " 285. When any person is convicted of an offence under this Chapter the Court may order that any instrument of house-breaking used in connexion with any such offence shall be forfeited to His Majesty."
73. That Clauses 264 to 322 be renumbered 286 to 344.
74. That Clause 266 be amended by deleting the words "write, impress or affix any name or seal" in the third and fourth lines of the clause, and substituting therefor the words "with any name or impress or affix any seal."
75. That Clause 268 be amended by inserting the word "conceals" before the word "sells" in the first line of sub-clause (3), and by substituting the word "after" for the word "since" in the second line of the same sub-clause.
76. That Clause 273 be amended by substituting the word "seven" for the word "fourteen" in the last line of sub-clause (1) of the clause.
77. That Clause 274 be amended by deleting all the words after the word "misdemeanour" in the fifth line of the clause.
78. That Clause 285 be amended by substituting the words "fourteen years" for the word "life" in the ninth line of the clause.  
 (Note.—The marginal note should read "Casting away vessels.")
79. That Clause 286 be amended by substituting the word "seven" for the word "fourteen" in the fourth line of the clause.  
 (Note.—The marginal note should read "Attempts to cast away vessels.")
80. That Clause 287 be deleted and the following substituted therefor :—  
 " 309. Any person who wilfully and unlawfully kills, maims, or wounds any animal capable of being stolen is guilty of a misdemeanour."
81. That Clause 294 be amended by deleting the words "ship or" in the fifth line of the clause and by substituting the word "seven" for the word "ten" in the last line of the clause.
82. That Clause 300 be amended by adding at the end of the clause the words "and the Court may in addition order that any such document as aforesaid shall be forfeited to His Majesty."
83. That Clause 301 be amended by substituting the word "seven" for the word "ten" in the second line of the clause.  
 (Note.—Marginal note should read "Imprisonment for seven years.")

84. That Clause 302 be amended by inserting after the word "revenue" in sub-clause (1) and sub-clause (3) the words "or accounting," and by inserting the word "Department" after the word "Government" in sub-clause (1) of the clause.

85. That Clause 309 be amended by inserting after the word "note" in the third line of the clause the words "or currency note."

(Note.—The marginal note should read "Purchasing forged notes.")

86. That Clause 314 be amended by deleting the definition of "current" and substituting the following definition :—

"the term 'coin' includes any coin coined in any of His Majesty's mints, or lawfully current by virtue of any Order-in-Council, Ordinance, Proclamation or otherwise in the Colony or in any part of His Majesty's dominions or in any country under the protection of His Majesty or in respect of which His Majesty has accepted a mandate and any coin of a foreign Sovereign or State."

87. That Clause 315 be deleted and the following clause substituted therefor :—

"337. Any person who makes or begins to make any counterfeit coin is guilty of a felony and is liable to imprisonment for life."

88. That Clause 316 be amended by deleting the last two paragraphs of sub-section (3), and by adding after the word "felony" the words "and is liable to imprisonment for life."

89. That Clause 317 be amended by deleting the word "current" where it occurs in the first and third lines of the clause.

90. That Clause 318 be amended by deleting the word "current" in the third line of the clause.

91. That Clause 319 be amended by deleting the two last paragraphs of the clause.

92. That Clause 320 be amended by deleting the word "current" wherever it occurs throughout the clause.

93. That Clause 321 be deleted and the following clause substituted therefor :—

"343. Any person who, with intent to defraud, utters as and for coin any metal or piece of metal, whether a coin or not, which is of less value than the coin as and for which it is uttered, is guilty of a misdemeanour and is liable to imprisonment for one year."

94. That the following clause be inserted in Chapter XXXVI after Clause 322 :—

"345. When any person is convicted of an offence under this Chapter, or the preceding Chapter, the Court may order the forfeiture to His Majesty of any forged bank-note or currency note or of any counterfeit coin or any stamp, mould, tool, instrument, machine, press, or any coin, bullion, or metal used or employed in the commission of any such offence."

95. That Clauses 323 to 332 be renumbered 346 to 355.

96. That Clause 323 be amended by adding at the end thereof the words  
“ and any die, plate, instrument, paper or other thing as aforesaid  
which are found in his possession shall be forfeited to His Majesty.”
97. That Clause 324 be amended by substituting the words “ shall be ” for  
the word “ are ” in the fifteenth line of the clause.
98. That Clause 326 be amended by substituting the words “ shall forfeit ”  
for the word “ forfeits ” in the twenty-fifth line of the clause.
99. That after Clause 332 there be inserted the following :—

“ CHAPTER XL.

SECRET COMMISSIONS AND CORRUPT PRACTICES.

“ 356. (1) For the purpose of this Chapter the expression ‘ consideration ’ includes valuable consideration of any kind ; the expression ‘ agent ’ includes any person employed by or acting for another ; and the expression ‘ principal ’ includes an employer.

(2) A person serving under the Crown or under any municipal council or board or under any other public body having power to impose rates or entrusted with the expenditure of any Government funds or grants, and a member of any such municipal council or board or other public body is an agent within the meaning of this Chapter.

“ 357. If any agent corruptly accepts or obtains, or agrees to accept or attempts to obtain, from any person, for himself or for any other person, any gift or consideration as an inducement or reward for doing or forbearing to do or for having done or forborne to do, any act in relation to his principal’s affairs or business or for showing or forbearing to show favour or disfavour to any person in relation to his principal’s affairs or business ; or

If any person corruptly gives or agrees to give or offers any gift or consideration to any agent as an inducement or reward for doing or forbearing to do, or for having done or forborne to do, any act in relation to his principal’s affairs or business, or for showing or forbearing to show favour or disfavour to any person in relation to his principal’s affairs or business ; or

If any person knowingly gives to any agent, or if any agent knowingly uses with intent to deceive his principal, any receipt, account or other document in respect of which the principal is interested, and which contains any statement which is false or erroneous or defective in any material particulars, and which to his knowledge is intended to mislead the principal,

he shall be guilty of a misdemeanour and shall be liable on conviction to imprisonment for a term not exceeding two years or to a fine not exceeding three hundred pounds or to both such imprisonment and such fine.

“ 358. Any person convicted of an offence under this Chapter shall, where the matter of transaction in relation to which the offence was committed was a contract or a proposal for a contract with the Government or any Government department or a municipal council or board or other public body having power to impose rates or entrusted with the expenditure of any Government funds or grants, or a sub-contract to execute any work comprised in such contract, be liable to imprisonment for seven years or to a fine of five hundred pounds or to both such fine and such imprisonment.

“ 359. Where in any proceedings against a person for an offence under this Chapter it is proved that any money, gift or other consideration has been paid or given to or received by a person in

the employment of the Crown or any Government department or a municipal council or board or other public body having power to impose rates or entrusted with the expenditure of any Government funds or grants, by or from a person or agent of a person holding or seeking to obtain a contract from the Crown or any Government department or municipal council or board or other public body having power to impose rates or entrusted with the expenditure of any Government funds or grants, the money, gift or consideration shall be deemed to have been paid or given and received corruptly as such inducement or reward as is mentioned in this Chapter unless the contrary is proved.

“ 360. A prosecution for an offence under this Chapter shall not be instituted without the consent of the Attorney General or Solicitor General.”

100. That Chapter XL be renumbered Chapter XLI.

101. That Clauses 333 to 335 be renumbered 361 to 363.

102. That the following clause be inserted after Clause 335 :—

“ 364. Any person who solicits or incites or attempts to procure another to do any act or make any omission, whether in the Colony or elsewhere, of such a nature that, if the act were done or the omission were made, an offence would thereby be committed, under the laws of the Colony, or the laws in force in the place where the act or omission is proposed to be done or made, whether by himself or by that other person, is guilty of an offence of the same kind and is liable to the same punishment as if he had himself attempted to do the same act or make the same omission in the Colony :

Provided that if the act or omission is proposed to be done or made at a place not in the Colony, the punishment shall not exceed that which he would have incurred under the laws in force where the act or omission was proposed to be done or made, if he had himself attempted to do the proposed act or make the proposed omission :

Provided also that in the last-mentioned case, a prosecution shall not be instituted except at the request of the Government of the State having jurisdiction in the place where the act or omission was proposed to be done or made.”

103. That Clauses 336 to 343 be renumbered 365 to 372.

104. That Chapter XLI be renumbered Chapter XLII.

105. That Chapter XLII be renumbered Chapter XLIII.

[Major E. S. Grogan did not attend any meetings of the Committee and has not signed this report.]

We have the honour to be,  
Your Excellency's most obedient servants,

A. D. A. MACGREGOR,  
*Chairman.*

T. D. H. BRUCE,

H. E. SCHWARTZÉ,

E. V. KENEALY

(Subject to the reservation of  
certain points to be mentioned  
in Legislative Council).

A. H. MALIK.



