立法议会与各项条例

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直辖殖民地的政制

直辖殖民地由王室任命的总督管辖，总督由全部由官方成员组成的行政议会辅佐。立法由立法议会负责，其成员包括官方议员和由总督提名的议员，官方议员占微弱但永久的多数。[1] 立法议会于1867年4月1日成立，起初只有四名成员，在随后几十年间不断扩大。[2]

这一政制把行政控制与咨询结合在一起。总督及其官员可以颁布任何他们认为必要的措施，因为官方多数可以在表决中压倒非官方议员。但在实践中，政府认真对待非官方议员的意见，因为他们代表着商界，而殖民地的繁荣和财政收入正依赖于商界。立法议会成为商人批评拟议措施、提出修正和推动改革的场所。

非官方议员与商界的声音

非官方议员主要来自欧洲商界，但很早就有亚洲人获得任命。1869年，总督任命广府商人胡亚基（人称黄埔）为立法议会首位华人议员，也是首位亚洲人议员。[3] 胡亚基于1830年来到新加坡，从父亲手中继承了供应商行黄埔公

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司（Whampoa and Co.），为皇家海军舰船提供补给。他还自1856年起从美国进口冰块，担任俄国、日本和中国的领事，并协助创建了新加坡植物园。[4]

任命亚洲非官方议员，反映了通过各社群领袖进行治理的殖民惯例，A部分已将这一惯例追溯到早期殖民地的头人制度。这也是对华人商人经济分量的承认，他们掌控着殖民地日益增长的贸易份额。立法议会始终未成为现代意义上的代议机构。20世纪，海峡华人领袖陈祯禄呼吁实行直接选举并使非官方议员占多数，但在一个普遍对本地政治漠不关心的社会里，这些要求几乎得不到支持。[5]

立法议会也反映了殖民地内部的矛盾。随着新加坡的发展，新加坡议员逐渐主导议会，这令槟城和马六甲的代表不满，他们认为立法机构只关注新加坡的事务。[6] 这种竞争预示了新加坡与马来亚各地区后来的分道扬镳，C部分将对此加以探讨。

立法计划

在随后几十年里，立法议会颁布了大量条例，涵盖公共行政、税收、卫生、治安、移民、土地、航运和商业。其中许多改编自英国或印度的范本，也有一些是专为殖民地的特殊情况而制定的。这些条例共同取代了东印度公司治下海峡殖民地所适用的英国法、印度法令和地方规章的混杂体系，消除了其中的不确定性。

刑法领域最重要的立法来自印度。海峡殖民地《刑法典》以1871年第4号条例颁布，重新颁行了1860年《印度刑法典》，于1872年9月16日生效。[7] 继1870年《刑事诉讼条例》之后，1900年又颁布了全面的《刑事诉讼法典》。1893年《证据条例》采纳了1872年《印度证据法》。[8]

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商事立法也有所发展。1880年代后半期，多项条例修订了产权转让法、动产抵押契据法和破产法。[9] 一部以英国立法为范本的《公司条例》规定了有限公司的注册成立。A部分第III章讨论过的1878年《民法条例》（Civil Law Ordinance）确保在本地立法未涉及的所有事项上，英国商法均适用于殖民地。

法典化来自印度，普通法来自英国

由此形成的法律体系融合了两个来源。刑法、刑事诉讼法和证据法依照印度范本实行法典化，而这些范本是英国法律人为殖民地环境起草的。《印度刑法典》的主要起草人麦考莱勋爵（Lord Macaulay）解释说，他提出的体系并不是对任何现行体系的汇编，而是以简化的形式借鉴了英国法。[10] 詹姆斯·菲茨詹姆斯·斯蒂芬（James Fitzjames Stephen）谈到他的《印度证据法》时说，该法把"the whole of the English and Indian law of evidence"压缩到了"very short compass"之中。[11] 新加坡律师公会起初因偏好英国法而抵制采用《印度刑法典》，但公众舆论支持这部法典。[12]

与此相反，民商法基本上没有法典化，继续遵循英国普通法和英国商事成文法。合同、信托、财产和侵权受经由1826年《特许状》和1878年《民法条例》继受的英国法原则管辖。这一划分至今仍塑造着新加坡法律。新加坡的刑法是法典化的，具有继承自印度的独特结构；而其合同法、信托法和商法则属于普通法系，与英国及英联邦判例法保持着密切联系。

对金融中心而言，这一划分是有利的。商人和银行所面对的商法，是他们在伦敦的交易对手所熟悉的；而法典化的刑法则为殖民政府管理庞大而多元的人口提供了清晰的手段。法典化带来了麦考莱和斯蒂芬所看重的确定性，普通法则带来了商人所看重的灵活性和国际通用性。

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注释

1. Wikipedia, “Straits Settlements”（2026年10月访问）：“an Executive Council, composed wholly of official (i.e., ex-officio) members, and a legislative council, composed partly of official and partly of nominated members, of which the former had a narrow permanent majority”。 ↩
2. Wikipedia, “Legislative Council of the Straits Settlements”（2026年10月访问）：成立于1867年4月1日；起初“with just four members”，此后逐年扩大。 ↩
3. Wikipedia, “Hoo Ah Kay”（2026年10月访问）：1869年被任命为“the first Legislative Council member of Chinese ethnicity”，亦被视为首位亚洲人议员。 ↩
4. Wikipedia, “Hoo Ah Kay”（2026年10月访问）：1830年抵达新加坡；继承黄埔公司（Whampoa and Co.）；为皇家海军供货；自1856年起从美国进口冰块；担任日本（1877年）、中国（1879年）和俄国领事；在创建新加坡植物园中发挥关键作用；1880年3月27日去世。 ↩
5. Wikipedia, “Legislative Council of the Straits Settlements”（2026年10月访问）：陈祯禄“called for popular representation through direct election, and for the number of non-official members to be increased to a majority”，但未获成功，“as there was little support from a society widely apathetic to local politics”。 ↩
6. Wikipedia, “Legislative Council of the Straits Settlements”（2026年10月访问）：“Singaporean members increasingly dominating the council”令马六甲和槟城的政界人士不满。 ↩
7. Wikipedia, “Penal Code (Singapore)”（2026年10月访问）：海峡殖民地1871年第4号条例重新颁行了1860年《印度刑法典》，于1872年9月16日生效。 ↩

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8. “Some Notes on the Origins of the Major Criminal Enactments of Singapore”, *Malaya Law Review*, vol. 31, July 1989：1870年《Criminal Procedure Ordinance》；1900年《Criminal Procedure Code》（第21号条例）；以1872年《Indian Evidence Act》为基础的1893年第3号《Evidence Ordinance》。 ↩
9. “Chapter VIII: 1885–1890”, *Malaya Law Review*, vol. 11, no. 1, July 1969：1886年第6号条例和1888年第2号条例对产权转让法、动产抵押契据法和破产法的修订。 ↩
10. “Some Notes on the Origins of the Major Criminal Enactments of Singapore”, *Malaya Law Review*, vol. 31, July 1989，引用麦考莱的话：“the system of penal law which we propose is not a digest of any existing system”。 ↩
11. “Some Notes on the Origins of the Major Criminal Enactments of Singapore”, *Malaya Law Review*, vol. 31, July 1989，引用斯蒂芬的话。 ↩
12. “Some Notes on the Origins of the Major Criminal Enactments of Singapore”, *Malaya Law Review*, vol. 31, July 1989：《刑法典》遭到偏好英国法的新加坡律师公会的抵制，但公众舆论支持采用该法典。 ↩

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