

13th June, 1947.

PRESENT: —

HIS EXCELLENCY THE OFFICER ADMINISTERING THE GOVERNMENT (MR. D. M. MACDOUGALL, C. M. G.)

THE HON. THE OFFICER COMMANDING THE TROOPS (BRIGADIER F. H. C. ROGERS, C.B.E., D.S.O., M.C.)

THE COLONIAL SECRETARY (HON. MR. R. R. TODD, *Acting*).

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

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

HON. MR. T. MEGARRY.

HON. MR. V. KENNIFF (Director of Public Works).

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

HON. MR. D. F. LANDALE.

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

HON. MR. LO MAN-KAM, C.B.E.

HON. MR. LEO D'ALMADA E CASTRO.

HON. MR. R. D. GILLESPIE.

HON. DR. CHAU SIK-NIN.

HON. MR. M. M. WATSON.

MR. ALASTAIR TODD (Deputy Clerk of Councils).

ABSENT: —

THE SECRETARY FOR CHINESE AFFAIRS (HON. MR. B. C. K. HAWKINS, O.B.E., *Acting*).

MINUTES.

The Minutes of the meeting of the Council held on 5th June, 1947, were confirmed.

QUESTIONS.

HON. MR. LO MAN-KAM asked: —

(a) Is it the fact that many applications have been received by Government from or on behalf of persons who were born in the Colony and whose births were duly registered with the Registrar of Births and Deaths, but the registers were lost as the result of the Japanese occupation, for the issue of new birth certificates?

(b) Is it the fact that the Government's replies to such applications have been to the effect that Government has no authority to re-register such births and that the question of re-registration is still under consideration?

(c) How long has the question of re-registration been under consideration and when will a decision be announced?

(d) Will Government make a statement on the position generally?

THE COLONIAL SECRETARY replied: —

126 applications have been received for the issue of new Birth Certificates to persons the records of whose birth were lost as a result of the Japanese Occupation.

It is correct that in reply to such applications Government has said that it has no legal authority to re-register such births and that the question of re-registration is under consideration.

The question has been under consideration since last August. Since the Births and Deaths Registration Ordinance is based upon the English Act it was considered advisable to consult the Registrar General of England and Wales on the procedure adopted there in similar circumstances entailing loss of records. Draft legislation is now in preparation for the amendment of the Births and Deaths Registration Ordinance. The object of this legislation will be to authorise the Registrar General to keep a register for the re-registration of births which were recorded in the lost registers. A number of other amendments to the Ordinance are also under consideration.

DIVORCE (VALIDITY) (DALAIEL) BILL, 1947.

THE ATTORNEY GENERAL moved the First reading of a Bill intituled "An Ordinance to remove doubts as to the validity of certain Decrees granted in the Colony for the dissolution of a marriage." He said: I think that the Objects and Reasons which accompany the Bill now before Council are sufficiently explanatory. I wish, however, to invite attention in particular to paragraphs 2 and 3 of such Objects

and Reasons which explain why it is necessary in the particular case of *Dalziel v. Dalziel* that this Council should legislate. Such reason is that the alternative procedure of commencement of new proceedings is not practicable in this case, because the petitioner in such case, in reliance on the full validity of the Stanley Decrees, has remarried. As regards the text of the Bill, I propose at the appropriate stage to move amendment of Clause 2 to insert in the definition of "Court", before the word "exercise", the word "purported". I will do so for the reason that I consider that the definition in its present form does not sufficiently emphasise the fact that the exercise of divorce jurisdiction by the Supreme Court in the Stanley Internment Camp was of doubtful validity.

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

Objects and Reasons.

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

1. In the period of the Japanese occupation of the Colony, the Supreme Court held sittings at the Internment Camp at Stanley in exercise of divorce jurisdiction. Doubt has been expressed as to the validity of the exercise of such jurisdiction for the reason that, in the period and in the circumstances then prevailing, the powers of the Supreme Court should, in law, be regarded as having been in abeyance.

2. As a consequence of such doubts various persons who had been parties to divorce proceedings initiated, continued, or concluded before the Supreme Court at Stanley during the period of enemy occupation, have re-commenced proceedings before the Supreme Court in the years 1946 and 1947.

3. In the case of *Dalziel v. Dalziel* commencement of new proceedings in Divorce is not practicable for the reason that the Petitioner, in reliance on the full validity of the proceedings concluded before the Supreme Court at Stanley, has re-married.

4. The object of this Bill is, therefore, to provide by statute for the removal of any doubts regarding the validity of decrees granted in the case *Dalziel v. Dalziel* by the Supreme Court at Stanley and by such means formally to confirm and declare the validity of such Decrees.

COMPANIES (CESSATION OF EMERGENCY STATUS)

BILL, 1947.

THE ATTORNEY GENERAL moved the First reading of a Bill intituled "An Ordinance to make provision for the cessation of the emergency status attaching to certain companies registered under the Companies Ordinance, 1932, or incorporated under any other Ordinance of the Colony."

He said: This Bill deals with companies which, as a result of the war, acquired an emergency status, such status attached in the manner described in paragraphs 1, 2 and 3 of the Objects and Reasons to this Bill. The object of this Bill is to remove such emergency status.

The Bill is divided into Parts I, II and III. Part I applies to companies which were registered in the Colony prior to the 25th December, 1941, which had transferred their registered offices from the Colony to some other part of His Majesty's Dominions, pursuant to Defence Regulations having the cumbersome title "Defence (Companies Temporary Transfer of Registered or Head Office) Regulations, 1941." In such Part, that is, Part I of the Bill, by Clause 4 it is provided that by resolution of a company's Board of Directors the return may be authorised of the registered office of a company to this Colony from such other place in His Majesty's Dominions to which such registered office may have been removed. Clause 5 of the Bill provides for the issue of a certificate by the Registrar of Companies, such certificate to be given when the resolution of the Board of Directors has been filed with the Registrar and when the Registrar becomes satisfied that the re-establishment of a registered office in the Colony has taken place. Such certificate will be conclusive evidence of the fact that these acts have been done. Further, the effect of the issue of the Registrar's certificate will be to apply the Companies Ordinance once more to the company so re-established as the registered office, but such application will not invalidate any act done by the company while its registered office was situated abroad.

Now turning to Part II of the Bill, this applies to companies registered in the Colony before 25th December, 1941, the registration of which was transferred to the United Kingdom or elsewhere in His Majesty's Dominions by virtue of the United Kingdom Defence Company Regulations, and corresponding legislation in other places within His Majesty's Dominions. Within this Part Clause 9 empowers the Governor, on being satisfied that the requirements specified in that Clause have been met, to order the Registrar of Companies to re-register the company once more in the Colony. Such order by Clause 5 (5) of the Bill empowers the making of modification, adaptation or exclusion from the provisions of the Ordinance where it appears to the Governor to be necessary so to do in order to attain the purpose in view, namely, the re-registration of companies in the Colony.

Part III of the Bill finally gives power to the Governor to make rules and empowers the Governor to grant exemptions in full or in part from compliance with the provisions of the Ordinance, and empowers the Governor to grant extensions of time within which compliance may be made with the Ordinance.

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

Objects and Reasons.

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

1. As a consequence of the war certain companies registered under the Companies Ordinance, 1932, or incorporated under other Ordinances of the Colony, acquired an emergency status. Such status attached in two ways—

- A. by operation of the Defence (Companies Temporary Transfer of Registered Office) Regulations, 1941; and
- B. by operation of the Defence (Companies) Regulations, 1940, (S.R. & O. 1940, No. 1213) of the United Kingdom.

2. *As to A:* Such regulations provided that, with the prior approval of the Governor, a company registered in the Colony could pass a resolution by its Board of Directors authorising the temporary removal of the company's registered office from the Colony to some other part of the British Empire. Such a procedure was adopted by a number of companies to enable continued operation and control of a company's interests in the event, which occurred, that the Colony be occupied by the enemy.

3. *As to B:* Such regulations provided that if the Board of Trade (in England) were satisfied as to the expediency of so doing for any of the purposes specified in section 1 (*i*) of the Emergency Powers (Defence) Act, 1939, it could by order, direct that a company registered in any country or territory to which such Act applied should be registered by the Registrar of Companies in the United Kingdom. Such procedure was applied in relation to a number of companies registered in Hong Kong.

4. The object of this Bill is to provide respectively for cessation of such external registration of registered office or external registration of Hong Kong companies in the United Kingdom and consequently for the restoration of such companies to their former status.

5. The Bill

as to Part I:

deals with companies affected by the operation of the Defence (Companies Temporary Transfer of Registered Office) Regulations, 1941;

as to Part II:

deals with companies registered in the United Kingdom by reason of the Defence (Companies) Regulations, 1940.

6. Part III of the Bill empowers the making of rules regulating the manner in which the Ordinance shall be carried into effect. This Part also contains, as Clause 12, power for the Governor by order to exempt any company from compliance with all or any of the provisions or requirements of the Ordinance.

SUMMARY OFFENCES AMENDMENT BILL, 1947.

THE ATTORNEY GENERAL moved the Second reading of a Bill intituled “An Ordinance to amend the Summary Offences Ordinance, 1932.”

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

On the motion of the ATTORNEY GENERAL, seconded by the COLONIAL SECRETARY, Council then went into Committee to consider the Bill clause by clause.

Upon Council resuming,

THE ATTORNEY GENERAL reported that the Summary Offences Amendment Bill, 1947, 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.

ARMS AND AMMUNITION AMENDMENT BILL, 1947.

THE ATTORNEY GENERAL moved the Second reading of a Bill intituled “An Ordinance to amend the Arms and Ammunition Ordinance, 1933.”

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

On the motion of the ATTORNEY GENERAL, seconded by the COLONIAL SECRETARY, Council then went into Committee to consider the Bill clause by clause.

Clause 4.

THE ATTORNEY GENERAL: I move the amendment of this clause by the addition of a further paragraph as paragraph (c), such paragraph to read as follows: —

“(c) the following is substituted for the marginal note to the said section: —

‘Penalty for use and possession of firearms and imitation firearms in certain cases.’ ”

Clause 4 provides for amendment of Section 29 (a) of the principal ordinance so as to include firearms as well as imitation firearms in that section. It is consequently necessary to make a consequential change in the appropriate marginal note.

The amendment was agreed to.

Upon Council resuming

THE ATTORNEY GENERAL reported that the Arms and Ammunition Amendment Bill, 1947, had passed through Committee with one amendment 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 OFFICER ADMINISTERING THE GOVERNMENT: That concludes the business, and the Council stands adjourned until Thursday, 19th June, 1947.