

OFFICIAL REPORT OF PROCEEDINGS**Meeting of 6th June, 1956.****PRESENT:**

HIS EXCELLENCY THE GOVERNOR (*PRESIDENT*)
SIR ALEXANDER WILLIAM GEORGE HERDER GRANTHAM, G.C.M.G.
THE HONOURABLE THE COLONIAL SECRETARY
MR. EDGEWORTH BERESFORD DAVID, C.M.G.
THE HONOURABLE THE ATTORNEY GENERAL
MR. ARTHUR RIDEHALGH, Q.C.
THE HONOURABLE THE SECRETARY FOR CHINESE AFFAIRS
MR. BRIAN CHARLES KEITH HAWKINS, C.M.G., O.B.E.
THE HONOURABLE THE FINANCIAL SECRETARY
MR. ARTHUR GRENFELL CLARKE, C.M.G.
THE HONOURABLE THEODORE LOUIS BOWRING, C.M.G., O.B.E.
(*Director of Public Works*).
DR. THE HONOURABLE YEO KOK CHEANG, C.M.G.
(*Director of Medical and Health Services*).
THE HONOURABLE DAVID RONALD HOLMES, M.B.E., M.C., E.D.
(*Director of Urban Services*).
THE HONOURABLE PATRICK CARDINALL MASON SEDGWICK
(*Commissioner of Labour*).
THE HONOURABLE CHARLES EDWARD MICHAEL TERRY, O.B.E.
THE HONOURABLE LO MAN WAI, C.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. CHARLES RAYMOND LAWRENCE (*Deputy Clerk of Councils*).

ABSENT:

HIS EXCELLENCY THE COMMANDER BRITISH FORGES
LIEUTENANT-GENERAL WILLIAM HENRY STRATTON, C.B., C.V.O., C.B.E., D.S.O.
DR. THE HONOURABLE CHAU SIK NIN, C.B.E.

MINUTES.

The Minutes of the meeting of the Council held on 23rd May, 1956, 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>
Dutiable Commodities Ordinance.	
Dutiable Commodities (Amendment) Regulations, 1956	A.46.
Immigrants Control Ordinance.	
Immigrants Control (Amendment) (No. 2) Regulations, 1956	A.47.
Dogs and Cats Ordinance.	
Dogs and Cats (Amendment) Regulations, 1956	A.48.
Summary Offences Ordinance.	
Summary Offences (Licences and Fees) (Amendment) Regulations, 1956	A. 52.
Railways Ordinance.	
Railways (Amendment) Rules, 1956	A. 53.
Public Health (Animals and Birds) Ordinance.	
Public Health (Animals and Birds) (Amendment) Regulations, 1956	A. 54.
Public Health (Animals and Birds) Ordinance.	
Dairies Regulations, 1956	A. 55.
Dogs and Cats Ordinance.	
Dogs and Cats (Amendment) (No. 2) Regulations, 1956	A. 56.

**SCHEDULE OF WRITE-OFFS FOR THE
FINANCIAL YEAR 1955-56.**

THE FINANCIAL SECRETARY moved the following resolution: —

Resolved that the Write-offs for the financial year 1955-56, as set out
in the Schedule, be approved.

He said: Honourable Members will recollect that this Council has delegated to Your Excellency authority to write off losses of public funds in all cases where the total amount involved in any one case does not exceed \$5,000, provided that the loss or deficiency is not caused by fraud or negligence of a Government officer.

The schedule covers all losses exceeding \$5,000 which have come to light in the financial year 1955/56 and write off has been approved by Finance Committee. The covering approval of this Council is now required.

THE COLONIAL SECRETARY seconded.

The question was put and agreed to.

FIRE BRIGADE (AMENDMENT) BILL, 1956.

THE ATTORNEY GENERAL moved the First reading of a Bill intituled "An Ordinance to amend the Fire Brigade Ordinance, 1954"

He said: Sir, the purposes of this Bill are adequately set forth in the statement of Objects and Reasons and I have nothing to add thereto.

THE COLONIAL SECRETARY 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: —

This Bill seeks to amend the Fire Brigade Ordinance, 1954, by empowering the Governor to order the retirement in the public interest of a member of the Fire Brigade found guilty of

an offence against discipline. (See clause 3). This amendment is consequential upon an amendment to the Colonial Regulations which confers upon the Governor a similar power in the case of public officers governed by the disciplinary provisions of those regulations.

2. For the avoidance of doubt, clause 4 adds a new paragraph to section 13 of the Ordinance.

3. Opportunity has also been taken to empower the Chief Officer to furnish equipment to be used on any special occasion and to charge fees therefor. Fees so received are paid into the Fire Brigade Welfare Fund. (See clauses 5 and 6).

DISTRIBUTION OF GERMAN ENEMY PROPERTY BILL, 1956.

THE ATTORNEY GENERAL moved the First reading of a Bill intituled "An Ordinance to provide for the collection and realization of German enemy property and for the distribution of the proceeds thereof; and for purposes connected with the matters aforesaid".

He said: Sir, there is a very full statement of objects and reasons appended to this Bill but I think that in this case I should say a few words about the background of this matter. Between the outbreak of the European War and the outbreak of the Pacific War, a considerable amount of property of German nationals and German firms was seized under the Alien Enemies (Winding-up) Ordinance, 1914, and the Trading with the Enemy Ordinance, Chapter 188. A large proportion of this property was reduced to liquid assets by liquidators appointed under the former Ordinance and out of these assets, a number of the creditors having claims against particular individuals and firms were paid.

After the re-occupation of the Colony, it was found that the majority of records not only of the Custodian of Enemy Property but also of the individual liquidators had been destroyed. Since that date, so far as possible, these records have been reconstructed and, again so far as possible, the remaining creditors of German persons have been paid off to the extent of the assets in the liquidation of each such firm or person.

Sir, this Bill provides for the transfer of the former German assets to an Administrator of German Enemy Property appointed under Clause 3, with power to realize all such assets and to

distribute the proceeds thereof in accordance with the provisions of regulations to be made under Clause 4 and subject to Your Excellency's direction. This Bill, as will be seen from the Comparative Table annexed thereto, follows very closely the corresponding provisions of the United Kingdom Distribution of German Enemy Property Act, 1949.

THE COLONIAL SECRETARY 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: —

1. Section 17 of the Trading with the Enemy Ordinance (Cap. 188) enabled the Governor to appoint a Custodian of Enemy Property, to require payment to him of monies due to enemies and to vest in him enemy property. The Custodian was required by section 21(1) of the Ordinance to hold such monies or property until the termination of the war and thereafter to deal with the same in such manner as the Governor should direct. The Alien Enemies (Winding up) Ordinance, 1914, provided for the winding-up of the affairs of an enemy alien and by section 5(10) that the proceeds realized by such winding-up should be paid into a bank to await ultimate disposal in accordance with such law as might be enacted or such directions as might be given by the Governor in that behalf.

2. Between 3rd September, 1939, and the outbreak of the Pacific War, excluding appointments which were subsequently revoked, 16 liquidators were appointed in respect of German enemy property to liquidate the assets of 172 firms or individuals. During the occupation of the Colony most of the records of these liquidators were lost but since the end of the war all monies in the hands of these liquidators have been transferred to the Custodian, the accounts vouched and audited so far as has been possible within the limitation of the loss of records and the majority of these liquidators discharged.

3. The Reparations Agreement at Potsdam in July and August, 1945, provided *inter alia* that the reparation claims of the United States, the United Kingdom and other countries entitled to reparations should be met from "appropriate German external assets". It was later agreed in Paris in 1946 that "Each Signatory Government shall hold or dispose of German enemy assets within its jurisdiction and shall charge against its reparation share such assets". In the United Kingdom therefore the Distribution of German Enemy Property Act, 1949, was passed with the object of applying property which came during the war into custody through the operation of the Trading with the Enemy Act, 1939, towards meeting the pre-war claims of United Kingdom creditors against German debtors. Since the United Kingdom Act does not provide for the distribution of German enemy property in Colonial territories it is necessary for corresponding legislation to be introduced in the Colony.

4. This Bill accordingly reproduces with appropriate modifications the United Kingdom Legislation (see Comparative Table attached). It accordingly provides that for the purpose of distributing German enemy property an Administrator shall be appointed by the Governor to whom will be transferred and in whom will be vested German enemy property to be distributed in accordance with a scheme set out in regulations made by the Governor in Council. Clause 4(2)(g) (which is new) provides, in the event of German enemy assets exceeding the amount of German enemy debts, for the disposal of any surplus for the purposes of the United Kingdom Act.

5. It should be noted that—

- (a) by reason of the definition of "German enemy debt" (clause 2(1)) claims under the proposed legislation will be restricted to the Government, British subjects or British protected persons resident or carrying on business in the Colony at the relevant time and to any body of persons which at the relevant date was incorporated or constituted under the laws of the Colony; and
- (b) the Bill makes no provision for and it is not intended to apply to the distribution of Japanese enemy property in the Colony which is dealt with under the Japanese Treaty of Peace Order, 1952 (Application to Hong Kong) Ordinance, 1952.

The remaining clauses of the Bill do not require special comment.

ENEMY PROPERTY BILL, 1956.

THE ATTORNEY GENERAL moved the First reading of a Bill intituled "An Ordinance to make provision in respect of things done in relation to enemy property or property treated as enemy property in excess of the powers conferred by the law relating thereto".

He said: Sir, this is an indemnity Bill and it seeks to give protection to officials who discharged functions under legislation dealing with enemy property in respect of acts and omissions in good faith. Instances may have occurred where property was dealt with mistakenly though in good faith and in purported compliance with the legislation relating to enemy property. This Bill seeks to prevent actions in the Courts in respect of such dealings, but I would emphasize that it does not cancel or curtail the existing right of an owner to recover such property, or any proceeds thereof, from the official who for the time being has the property or proceeds under his control. Sir, I mentioned in connexion with the last Bill the loss of records during the occupation of the Colony. Reconstruction has taken place but one cannot be certain that full and accurate information has been forthcoming, and that is an additional reason for proceeding with this piece of legislation.

THE COLONIAL SECRETARY 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 the occupation of the Colony the majority of records of liquidators appointed under the Alien Enemies (Winding up) Ordinance, 1914, were lost and also a considerable part of the records of the Custodian of Enemy Property appointed under the Trading with the Enemy Ordinance, Chapter 188. In addition in the period between the outbreak of the European War and the Pacific War property was seized under such circumstances that, owing to the Sino-Japanese War, it was not always possible to

obtain detailed information. Accordingly, it is felt desirable to legislate to protect the custodian, liquidators and also the Administrator appointed under the Distribution of German Enemy Property Ordinance, 1956, from any actions taken by them in good faith and in purported compliance with the provisions of either of these Ordinances or of regulations thereunder. The Bill is modelled on the first part of the Enemy Property Act, 1953, sections 1—4. The second part of this Act has been omitted because it is considered that the Alien Enemies (Revesting of Trade Marks) Ordinance, 1954, covers its provisions in so far as they affect Hong Kong.

BREWIN TRUST FUND (AMENDMENT) BILL, 1956.

THE SECRETARY FOR CHINESE AFFAIRS moved the First reading of a Bill intituled “An Ordinance to amend the Brewin Trust Fund Ordinance, 1955”.

He said: Sir, the purposes of this short amending Bill are adequately set out in the statement of objects and reasons attached thereto and there is nothing that I can usefully add to this.

THE COLONIAL SECRETARY 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 10 of the principal Ordinance provides that the accounts of the Brewin Trust Fund shall be audited at least once in every year from the date of the commencement of the Ordinance by an auditor appointed by the Governor.

2. The Brewin Trust Fund was vested in the Trustee under the Ordinance on the first day of June, 1955. The state of the fund, as on the vesting day, was certified, in accordance with the provisions of section 3 of the Ordinance, in January 1956. The fund has therefore only recently come under the effective control of the committee established by the Ordinance.

3. In order that the accounts may show a full year's working of the fund as from the vesting day, and in order to give the committee further time within which to decide on policy and to implement their decisions before a statement of accounts is prepared, it has been found desirable to postpone the auditing of the accounts.

4. Further, section 10 of the principal Ordinance is not entirely satisfactory in its present form. It provides only for the keeping of accounts of income and expenditure—these would not necessarily be complete as other transactions, for example, purchase and sale of investments, may arise. It is also desirable that a distinction should be drawn between the accounts to be kept by the trustee and the statement of accounts which will be laid before the Legislative Council. It is also preferable that provision should be included specifying the period for which statements of accounts must be prepared and the period allowed for audit and laying the accounts on the Table of the Legislative Council.

5. This Bill therefore seeks to repeal section 10 of the principal Ordinance and to substitute for it a new section making more detailed provision as to the keeping of accounts, the preparation of a statement thereof and audit by an auditor appointed by the Governor.

DIVORCE (AMENDMENT) BILL, 1956.

THE ATTORNEY GENERAL moved the Second reading of a Bill intituled “An Ordinance to amend the Divorce Ordinance, Chapter 179”.

THE COLONIAL SECRETARY 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 20 were agreed to.

Clause 21.

THE ATTORNEY GENERAL: —I beg to move the amendment standing in my name, copy of which is before honourable Members.

Proposed Amendment.

Delete the new section 46 and substitute the following—

"Additional
jurisdiction
in
proceed-ings
by a wife.

46. (1) Without prejudice to any jurisdiction exercisable by the court apart from this section, the court shall by virtue of this section have jurisdiction to entertain proceedings by a wife in any of the following cases, notwithstanding that the domicile of the parties to the marriage at the time when the petition was presented was not in the Colony, that is to say—

- (a) in the case of any proceedings under this Ordinance other than proceedings for presumption of death and dissolution of marriage under section 11B, if the wife has been deserted by her husband, or the husband has been deported or expelled from the Colony under any law for the time being in force relating to the deportation or expulsion of aliens, and the husband was immediately before the desertion, deportation or expulsion domiciled in the Colony;
- (b) in the case of proceedings for dissolution of marriage under section 5, if the wife is resident in the Colony and has been ordinarily resident there for a period of three years immediately preceding the time when the petition was presented.

(2) Without prejudice to the jurisdiction of the court to entertain proceedings under section 11B in cases where the petitioner is domiciled in the Colony, the court shall by virtue of this section have jurisdiction to entertain any such proceedings brought by a wife, if the wife is resident in the Colony and has been ordinarily resident there for a period of three years immediately preceding the time when the petition was presented.

(3) In any proceedings in which the court has jurisdiction by virtue of this section, the issues shall be determined in accordance with the law which would be applicable thereto if both parties were domiciled in the Colony at the time of the proceedings. "

Clause 21, as amended, was agreed to.

Clauses 22 to 24 were agreed to.

Council then resumed.

THE ATTORNEY GENERAL reported that the Divorce (Amendment) Bill, 1956 had passed through Committee with an amendment and moved the Third reading.

THE COLONIAL SECRETARY seconded.

The question was put and agreed to.

The Bill was read a Third time and passed.

TSUNG TSIN MISSION OF HONG KONG INCORPORATION BILL, 1956.

MR. NGAN SHING-KWAN moved the Second reading of a Bill intituled "An Ordinance to provide for the incorporation of the President in Hong Kong of the Tsung Tsin Mission of Hong Kong".

MR. KWOK CHAN 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 6 were agreed to.

Clause 7.

MR. NGAN SHING-KWAN: —Sir, I beg to move that this clause be amended as in the paper before honourable Members.

Proposed Amendment.

7. In subsection (1) insert after the word "same" the following: —

“, and subject to such mortgages, charges, leases, tenancies and other agreements and upon such trusts and conditions as may be subsisting in respect thereof upon the commencement of this Ordinance”.

Clause 7, as amended, was agreed to.

Clause 8 was agreed to.

Schedule.

MR. NGAN SHING-KWAN: —I beg to move that the Schedule be amended as in the paper before honourable Members.

Proposed Amendment.

Schedule. In items 9, 10 and 11 delete the word "Survey" and substitute therefor the word "Demarcation".

The Schedule, as amended, was agreed to.

Council then resumed.

MR. NGAN SHING-KWAN reported that the Tsung Tsin Mission of Hong Kong Incorporation Bill, 1956 had passed through Committee with amendments and moved the Third reading.

MR. KWOK CHAN seconded.

The question was put and agreed to.

The Bill was read a Third time and passed.

ADJOURNMENT.

H. E. THE GOVERNOR: —That concludes the business, gentlemen. When is it your pleasure that we should meet again?

THE ATTORNEY GENERAL: —May I suggest this day fortnight?

H. E. THE GOVERNOR: —Council will adjourn to this day fortnight.