

OFFICIAL REPORT OF PROCEEDINGS.**Meeting of 24th April, 1957.**

PRESENT:THE HONOURABLE THE COLONIAL SECRETARY (*PRESIDENT*)

MR. EDGEWORTH BERESFORD DAVID, C.M.G.

THE HONOURABLE THE ATTORNEY GENERAL

MR. ARTHUR RIDEHALGI, 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. JOHN JAMES COWPERTHWAITTE (*Acting*).

DR. THE HONOURABLE YEO KOK CHEANG, C.M.G.

(Director of Medical and Health Services).

THE HONOURABLE JOHN FORBES, O.B.E.

(Acting Director of Public Works).

THE HONOURABLE DAVID CLIVE CROSBIE TRENCH, M.C.

(Commissioner of Labour).

THE HONOURABLE EDMUND BRINSLEY TEESDALE, M.C.

(Director of Urban Services).

DR. THE HONOURABLE CHAU SIK NIN, C.B.E.

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. RONALD THOMPSON (*Deputy Clerk of Councils*).**ABSENT:**

HIS EXCELLENCY THE GOVERNOR

SIR ALEXANDER WILLIAM GEORGE HERDER GRANTHAM, G.C.M.G.

HIS EXCELLENCY THE COMMANDER BRITISH FORCES

LIEUTENANT-GENERAL SIR WILLIAM HENRY STRATTON, K.C.B., C.V.O., C.B.E., D.S.O.

MINUTES.

The Minutes of the Meeting of the Council held on 10th April, 1957, were confirmed.

PAPERS.

THE ATTORNEY GENERAL, by Command of His Excellency the Governor, laid upon the table the following papers: —

<i>Subject.</i>	<i>G.N. No.</i>
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Sessional Papers, 1957: —

No. 13—Annual Report by the District Commissioner,
New Territories for the year 1955/56.

No. 14—Annual Report of the Grantham Scholarships
Fund Committee for the period 1.9.55 to
31.8.56.

Pleasure Grounds and Bathing Places Ordinance.

Bathing Places (Amendment) Regulations, 1957	A. 38.
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Stamp Ordinance.

Stamp (Bank Authorization) (No. 2) Order, 1957	A. 40.
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**URBAN COUNCIL (COMMISSIONER FOR
RESETTLEMENT) ORDINANCE, 1954.**

THE ATTORNEY GENERAL moved the following resolution: —

Resolved, pursuant to section 3 of the Urban Council (Commissioner for Resettlement) Ordinance, 1954, that the duration of the said Ordinance be extended for the term of one year with effect from the 30th April, 1957.

He said: Mr. President, the Urban Council (Commissioner for Resettlement) Ordinance which was enacted in 1954, provides for the Commissioner for Resettlement to be temporarily an *ex-officio* member of the Urban Council. Section 3 of the Ordinance provided that the Ordinance should continue in force for one year

from the commencement, that is for one year from 30th April, 1954, but the section gives power to this Council to extend its duration for periods not exceeding one year at a time. It has been so extended twice.

Despite, Sir, the substantial progress made by the Resettlement Department under the general direction of the Urban Council, it is quite clear that the work of resettling squatters is still far from complete, and that the time has not yet come for the Commissioner to be withdrawn from the Urban Council.

I beg therefore to move that under section 3 of the Urban Council (Commissioner for Resettlement) Ordinance, 1954, the duration of the Ordinance be extended for a further period of one year, that is to say, until 29th April, 1958.

THE SECRETARY FOR CHINESE AFFAIRS seconded.

The question was put and agreed to.

SUPPLEMENTARY PROVISIONS FOR THE QUARTER ENDED 31ST DECEMBER, 1956.

THE FINANCIAL SECRETARY moved the following resolution: —

Resolved that the Supplementary Provisions for the quarter ended 31st December, 1956, as set out in Schedule No. 3 of 1956/57, be approved.

He said: Mr. President, Supplementary provisions for the third quarter of the financial year 1956-57 amounted to just over \$6½ million. All have already been approved by the Finance Committee of this Council.

Of the total amount \$562,300 represents revotes of sums provided in the previous year's estimates but not spent.

There were some substantial additions to the Public Works estimates including almost \$2,000,000 for a three-storey car park and concourse on the Central Reclamation of which \$435,000 was due to be spent in 1956-57; and \$750,000 for the first stage of a scheme to improve the water supply in the Western area of the New Territories.

Supplementary expenditure of \$450,000 and \$667,000 was approved for Rainstorm Damage and Works Contingent on Development respectively, both votes in the Estimates being of a token nature because of the difficulty of forecasting requirements.

THE SECRETARY FOR CHINESE AFFAIRS seconded.

The question was put and agreed to.

MERCHANT SHIPPING (AMENDMENT) BILL, 1957.

THE ATTORNEY GENERAL moved the First reading of a Bill intituled "An Ordinance to amend the Merchant Shipping Ordinance, 1953".

He said: Sir, this is a very simple measure and I think it is adequately explained in the statement of Objects and Reasons to which I have nothing to add.

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 115(1) of the Merchant Shipping Ordinance, No. 14 of 1953, empowers the Governor in Council to exempt any vessel from specified requirements of that Ordinance and of its subsidiary legislation. The Governor in Council is also empowered under section 5(1) of that Ordinance to exempt certain ships from the requirements of that subsection as to the scale of certificated officers to be provided.

2. This Bill proposes that in future the Governor shall be the exempting authority rather than the Governor in Council, though its provisions will not of course preclude the Governor taking the advice of Council in any case which he considers warrants such advice. The reasons for this proposal are—

- (a) it will enable applications to be dealt with more expeditiously than at present, thereby avoiding financial loss in those cases where it is proper to allow a ship to proceed to sea without a properly certificated master, mate or engineer;
- (b) the decision to exempt is normally taken upon technical advice;
- (c) the Governor already has power under section 28 of the Merchant Shipping (Safety Convention) Act, 1949, contained in the First Schedule to the Merchant Shipping Safety Convention (Hong Kong) No. 1 Order, 1953 (G.N.A. 82/53) to exempt ships from any requirements of the rules for life-saving appliances made under the Merchant Shipping Acts.

**CUSTODIAN OF PROPERTY (TERMINATION OF
FUNCTIONS) BILL, 1957.**

THE FINANCIAL SECRETARY moved the First reading of a Bill intituled "An Ordinance to vest in the Crown certain unclaimed property held under the custody, supervision or control of the Custodian of Property".

He said: Sir, the background and purpose of this Bill are fully explained in the Objects and Reasons attached to it.

I should perhaps mention that the value of the assets to be vested in the Crown is a little less than \$12 million. This sum does not include goods of untraced ownership to the value of \$5½ million requisitioned for the use of Government departments and the Services during the Military Administration and still standing in the Custodian's books. It is proposed to write them off as soon as they have been formally vested in Government.

The Custodian will continue to exist for the time being in his other capacity of Custodian of Enemy Property but good progress is also being made in liquidating matters for which he is responsible in that capacity.

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: —

The purpose of this Bill is to vest in the Crown absolutely all of the property now remaining in the hands of the Custodian of Property and thereby to terminate the functions of that post.

2. The post of Custodian of Property was brought into being by the Custodian Proclamation, 1945, and it was the Custodian's function to take into his custody, supervision or control, property, not being enemy property, which, as a result of the Japanese occupation, had been abandoned or in respect of which the rightful owners were absent from the Colony or could not be traced. The position of the Custodian was that of trustee for the absentee owners. Acting under the powers conferred by the Proclamation, the Custodian took under his control certain property and from time to time as the true owners could be traced such property was released to them. However there still remains a residue in respect of which the true owners still cannot be traced and there seems little prospect that they ever will be traced. In order therefore to bring the functions of the Custodian to an end this measure is designed to vest in the Crown all of the property of whatever kind still under his control.

3. Only two matters require special mention—

- (a) The proviso to subclause (1) of clause 3 provides that in the case of immovable property where the head lease becomes merged in the Crown and the sublessee finds himself holding directly from the Crown he shall continue to enjoy the property subject to the same terms and conditions as he enjoyed when holding from his original lessor. Subclause (2) of clause 3 provides that where such property was subject to the Landlord and Tenant Ordinance it shall not cease to be subject to that Ordinance by reason of the merger of the Crown lease in the Crown, so that the sublessee where he was protected by the Landlord and Tenant Ordinance as against his lessor will remain protected as against the Crown.
- (b) Clause 4 provides that for a further period of five years the Governor in Council may entertain moral claims in respect of any property vested in the Crown by this measure. This is intended to operate as a safeguard in case any owner so far untraced may yet re-appear.

**COMMONWEALTH PREFERENCE
(MOTOR VEHICLES) BILL, 1957.**

THE FINANCIAL SECRETARY moved the First reading of a Bill intituled "An Ordinance to make amended provision for increased trade between the Colony and other parts of the Commonwealth".

He said: Sir, the Commonwealth Preference Ordinance, which this Bill seeks to amend, was passed in 1932 as part of the Imperial Preference system instituted in consequence of the Ottawa Agreements. The purpose of the Bill is to remedy certain defects in the Ordinance which have come to light in recent years and to improve its administration.

At present a vehicle is regarded as being of Commonwealth origin, and therefore exempt from the special tax on first registration if 50% of its value is the result of labour within the Commonwealth; while the tax is levied at 15% of the value of the vehicle, c.i.f. Hong Kong. The basis of valuation is however different in either case, tyres and spare wheels being included for the first purpose but omitted for the second purpose. This causes certain anomalies. Clause 2(2) of the Bill will put valuation for determination of origin on the same basis as is at present used for valuation for assessment of tax; the percentages of course remain unchanged.

Clause 4 is designed to make clearer the present basis of valuation and to make specific provision for assessment in certain unusual circumstances which are at present dealt with administratively (for example, the importation of second-hand cars). The basis of valuation proposed in clause 4(1) is derived from United Kingdom law dealing with duty on imported vehicles.

At present there is no provision whereby cars, normally liable to tax but specially exempted (such as cars owned by a consular official), can be charged with tax on transfer to an owner who would not otherwise be exempt. The proviso to clause 3 and clause 4(1)(d) remedy this.

Again there is no proper provision in the present law for the exemption of motor vehicles imported in connexion with a temporary stay, although there is provision for a refund by the Governor in Council in certain cases (this provision remains as

clause 7 of the Bill). It is true that this does not often arise at present but it may do so more frequently in the future with the increase in tourism. And in any case, there will be an obligation to make some such provision when the International Convention on Road Traffic is ratified by the United Kingdom. Clause 5 of the Bill will have this effect.

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: —

The object of this Bill is to make amended provision for Commonwealth Preference Tax in respect of motor vehicles, in more detail than is provided by the Commonwealth Preference Ordinance, Chapter 47, including a clearer definition of the value of a vehicle for the purpose of assessment of duty. By clause 5, in the case of a motor vehicle brought into the Colony for less than three months, in lieu of payment of tax a bond by an approved bank or insurance company may be given or the tax may be deposited, to be refunded on re-exportation of the vehicle. By clause 6, the Colonial Secretary may waive payment of tax in respect of certain foreign navy vehicles.

LANDLORD AND TENANT (AMENDMENT) BILL, 1957.

THE ATTORNEY GENERAL moved the Second reading of a Bill intituled "An Ordinance to amend the Landlord and Tenant Ordinance, Chapter 255".

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 4 were agreed to.

Council then resumed.

THE ATTORNEY GENERAL reported that the Landlord and Tenant (Amendment) Bill, 1957 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.

**PROBATE AND ADMINISTRATION
(AMENDMENT) BILL, 1957.**

THE ATTORNEY GENERAL moved the Second reading of a Bill intituled "An Ordinance to amend the Probate and Administration Ordinance, Chapter 10".

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 Probate and Administration (Amendment) Bill, 1957 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.

KOWLOON CITY BAPTIST CHURCH BILL, 1957.

MR. KWOK CHAN moved the Second reading of a Bill intituled "An Ordinance to provide for the incorporation of the Trustees of the Kowloon City Baptist Church."

MR. NGAN SHING-KWAN 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 15 were agreed to.

Council then resumed.

MR. KWOK CHAN reported that the Kowloon City Baptist Church Bill, 1957 had passed through Committee without amendment and moved the Third reading.

MR. NGAN SHING-KWAN seconded.

The question was put and agreed to.

The Bill was read a Third time and passed.

ADJOURNMENT.

THE PRESIDENT: —That concludes our business for today. When is it your pleasure that we should meet again?

THE ATTORNEY GENERAL: —May I suggest this day two weeks?

THE PRESIDENT: —Council will adjourn to this day two weeks.