

**OFFICIAL REPORT OF PROCEEDINGS****Meeting of 8th June 1966****PRESENT**

HIS EXCELLENCY THE GOVERNOR (*PRESIDENT*)  
SIR DAVID CLIVE CROSBIE TRENCH, KCMG, MC  
THE HONOURABLE MICHAEL DAVID IRVING GASS, CMG  
COLONIAL SECRETARY  
THE HONOURABLE MAURICE HEENAN, CMG, QC  
ATTORNEY GENERAL  
THE HONOURABLE JOHN CRICHTON McDOUALL, CMG  
SECRETARY FOR CHINESE AFFAIRS  
THE HONOURABLE MICHAEL DENYS ARTHUR CLINTON, GM  
ACTING FINANCIAL SECRETARY  
THE HONOURABLE DAVID RONALD HOLMES, CBE, MC, ED  
DIRECTOR OF COMMERCE AND INDUSTRY  
THE HONOURABLE ALEC MICHAEL JOHN WRIGHT  
DIRECTOR OF PUBLIC WORKS  
THE HONOURABLE WILLIAM DAVID GREGG  
DIRECTOR OF EDUCATION  
THE HONOURABLE JOHN PHILIP ASERAPPA  
DISTRICT COMMISSIONER, NEW TERRITORIES  
THE HONOURABLE JAMES TINKER WAKEFIELD  
COMMISSIONER OF LABOUR  
THE HONOURABLE GEOFFREY MARSH TINGL  
DIRECTOR OF URBAN SERVICES  
THE HONOURABLE ALASTAIR TODD  
DIRECTOR OF SOCIAL WELFARE  
DR THE HONOURABLE ANTHONY HENRY REGINALD COOMBES, MBE  
ACTING DIRECTOR OF MEDICAL AND HEALTH SERVICES  
THE HONOURABLE DHUN JEHANGIR RUTTONJEE, CBE  
THE HONOURABLE KWAN CHO-YIU, CBE  
THE HONOURABLE KAN YUET-KEUNG, OBE  
THE HONOURABLE SIDNEY SAMUEL GORDON, OBE  
THE HONOURABLE LI FOOK-SHU, OBE  
THE HONOURABLE TANG PING-YUAN  
THE HONOURABLE TSE YU-CHUEN, OBE  
THE HONOURABLE KENNETH ALBERT WATSON, OBE  
THE HONOURABLE WOO PAK-CHUEN, OBE  
THE HONOURABLE GEORGE RONALD ROSS  
THE HONOURABLE SZETO WAI  
THE HONOURABLE WILFRED WONG SIEN-BING  
THE HONOURABLE ELLEN LI SHU-PUI, OBE  
MR ANDREW McDONALD CHAPMAN (*Deputy Clerk of Councils*)

## MINUTES

The Minutes of the meeting of the Council held on 18th May 1966, were confirmed.

## OATHS

DR A. H. R. COOMBES took the Oath of Allegiance and assumed his seat as a Member of the Council.

## PAPERS

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

<i>Subject</i>	<i>LN No</i>
Triennial Survey of the Education Department for the years 1961-64.	
Importation and Exportation Ordinance.	
Importation and Exportation (Southern Rhodesia) Regulations 1966 .....	49
Supreme Court Ordinance.	
Code of Civil procedure (Amendment) (No. 4) Rules 1966 .....	51

## QUESTIONS

MR P. C. WOO, pursuant to notice, asked the following question: —

At the last meeting of this Council on the 18th May 1966 the Honourable Attorney General in answer to my first supplementary question agreed to give particulars as to how many officers of the Police Force since the issuance of the specific orders have disobeyed the same. May I now limit the time to a period of the preceding 6 months instead of from the date of the issuance of the said specific orders and may I have these particulars?

THE ATTORNEY GENERAL replied as follows: —

The supplementary question of my honourable Friend asks about the number of cases over the last six months in which the orders concerning arrest have been disobeyed, and presumably, disciplinary action taken. I should perhaps point out that we are concerned herewith a

statutory power where the discretion is vested in the Police officer actually making the arrest. I believe my honourable Friend will agree that it would not be appropriate for the Commissioner of Police to employ his disciplinary powers as a means of limiting the discretion which this legislature has seen fit to vest in the individual Police officer. The orders which the Commissioner of Police has issued are concerned, as I said in my earlier answer, to draw the attention of the officers concerned to the very wide powers which they have been given and to the consequential duty upon them to exercise these powers with the utmost discretion. Should an officer act maliciously, or for any other improper motive, when arresting, this would be ground for disciplinary action. I am informed that no such disciplinary charges have been preferred during the last six months. In the case of an arrest made through an excess of diligence or because of a failure to interpret correctly the guidance given in the orders, the subdivisional Inspector is expected to deal with the matter by way of explanation, instruction and perhaps the administering of a warning to the officer concerned. Again I must emphasize that when I speak of an excess of diligence or a failure to interpret correctly the guidance afforded by these orders I am referring to a failure to carry out a duty, which can only be expressed in general terms, namely, to exercise this statutory power in good faith and sparingly.

MR P. C. WOO, pursuant to notice, then asked the following question: —

With regard to my second supplementary question will the Honourable Attorney General inform this Council as to whether the requirement to have the finger-print of the Director in question taken was at the request of the Registrar General, and if not, were there special circumstances in doing so?

THE ATTORNEY GENERAL replied as follows: —

Your Excellency, in answering my honourable Friend's second supplementary question I am assuming that the Director to whom he refers is one of those in the two cases which he mentioned in a letter to me. The Registrar General did not make any request for fingerprints to be taken in these particular two cases. I am not aware of any special circumstances surrounding these cases.

**IMMIGRATION SERVICE (AMENDMENT) BILL 1966**

THE COLONIAL SECRETARY moved the First reading of a Bill intituled "An Ordinance to amend the Immigration Service Ordinance 1961".

He said: —Sir, the main purpose of this Bill is to set up a welfare fund for the Immigration Service. Welfare funds have already been established for the Police Force, the Fire, Prisons and Preventive Services and for the Hawker Control Force. The Immigration Service is the only disciplined service in Hong Kong without such a welfare fund and the Bill now before Council seeks to remedy this by inserting provision in the Immigration Service Ordinance 1961 for the creation and control of such a welfare fund. The provision follows closely, with minor improvements, the parallel provision in the Preventive Service Ordinance 1963.

Secondly, the Bill amends section 20 of the principal Ordinance to permit the making of regulations for the control, administration and investment of the fund. When the Bill becomes law the necessary regulations, based also on the Preventive Service (Welfare Fund) Regulations 1963, will be submitted to the Governor in Council.

Finally, Sir, clauses 2, 5 and 6 of the Bill seek to make better and more satisfactory provision for specifying membership of the Immigration Service. It is proposed that the various posts in the Service should now be set out in a Schedule to the Ordinance, which can be amended from time to time, as necessary, by the Governor.

THE ATTORNEY GENERAL seconded.

MR K. A. WATSON: —Your Excellency, I am well aware that under section 25(2) of the Standing Orders no discussion on a Bill is allowed at the first reading. May I ask your indulgence under section 20 to give my reason why I shall abstain from voting on this Bill?

HIS EXCELLENCY THE GOVERNOR: —I think you are quite out of order, Mr WATSON, but you are perfectly entitled to abstain if you wish, on the Bill, without any further explanation.

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 principal Ordinance by providing for the creation and control of an Immigration Service Welfare Fund similar to the Preventive Service Welfare Fund in Part IV of the Preventive

Service Ordinance 1963. It also seeks to make more specific provision for the membership of the Immigration Service, by setting out a list of the various posts in a Schedule, which can be amended by the Governor.

### **EVIDENCE (AMENDMENT) BILL 1966**

THE ATTORNEY GENERAL moved the First reading of a Bill intituled "An Ordinance to amend the Evidence Ordinance".

He said: —Sir, this Bill seeks to achieve two separate and distinct purposes. In the first place clause 2 introduces into the principal Ordinance a new section 23A which prescribes the circumstances in which certain trade or business records may be received in evidence in the course of criminal proceedings.

Sir, the need for this new section arises from the decision of the House of Lords in the case of *Myers v. Director of Public Prosecutions* reported at p. 881, Volume II of the 1964 All England Law Reports. In that case it was held that the manufacturers' records of cylinder block numbers were inadmissible to confirm the identification of stolen motor vehicles, on the grounds that such evidence was hearsay and could not be brought within any established exception to the rule against the admission of hearsay evidence.

Following on this decision the Criminal Evidence Act 1965 was enacted to make such records admissible in criminal proceedings in the United Kingdom where direct oral evidence would be admissible and the other conditions set out in the Act were satisfied. The new section 23A introduced by clause 2 of the Bill before Council follows the corresponding provisions of the 1965 Act in Seeking to make certain trade or business records admissible in criminal proceedings in Hong Kong.

Sir, the second purpose of this Bill concerns arrangements for bringing a prisoner before the Courts to give evidence. Under the existing provisions of section 57 of the principal Ordinance it is necessary to obtain an order from a Supreme Court judge to bring up a prisoner to give evidence before either a District Court or a magistrate's court.

It is considered that a District Court judge or a magistrate should have power to make such orders in respect of prisoners required to give evidence in his court and clause 3 seeks to amend the principal Ordinance so as to afford such powers to District Court judges and to magistrates. Sir, this proposal is in accordance with the views of the Judiciary.

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: —

Clause 2 of the Bill seeks to make admissible certain trade or business records for the purposes of criminal proceedings. This provision follows section 1 of the Criminal Evidence Act 1965.

2. Clause 3 seeks to extend to District Judges and magistrates the power which Supreme Court judges have at present, to order the bringing up of any person in lawful custody before their courts for the purpose of giving evidence.

## **TELECOMMUNICATION REGULATIONS 1962 (AMENDMENT)**

### **BILL 1966**

THE ACTING FINANCIAL SECRETARY moved the First reading of a Bill intituled "An Ordinance to amend the First Schedule to the Telecommunication Regulations 1962 so as to prescribe lower fees in respect of certain licences than those prescribed in the said Schedule and to provide for the making of refunds in consequence of the foregoing".

He said: —Sir, the long title of the Bill together with the objects and reasons provide a short summary describing the purpose of the Bill. A fuller explanation is however desirable as the Bill not only proposes to reduce certain fees with retrospective effect, which to say the least is rather unusual, but also involves the making of refunds.

The fees with which we are concerned here are designed to cover the full costs of a licensing system on the operators of various telegraph circuits. This licensing is necessary to ensure compliance with the requirements of the Ordinance; to provide the Postmaster General with full information on all the Colony's telegraph circuits; and to ensure that such circuits do not cause interference to other telecommunication circuits.

Since 1963 when the existing fees were introduced there has been considerable expansion in the use of leased telex and telephone circuits, the telex service particularly being extended to a large number of new centres and overseas destinations. Many commercial concerns, particularly airlines and news agencies, now utilize large numbers of channels and representations have been received from them that the fees charged are excessive.

This expansion together with the continual and complex rearrangement of equipment in large stations, the manner of operation of the fees and the realization that, in consequence of the expansion, the existing fees are bringing in more revenue than is required to cover the costs, makes a revision of the method of fee assessment necessary.

It is, therefore, proposed that the fees should be altered and charged on the basis laid down in clause 2 of the Bill now before Council. It is estimated that the revised fees will produce just over 40,000 dollars per annum, which compares with upwards of ¼ million dollars potentially from the existing fees but is nevertheless sufficient to cover the costs of licensing by a reasonable margin. I should perhaps add that the revised basis should encourage a wider use of telegraph circuits from which the Colony's trade and international status will benefit.

As the existing fees were, in the event, incorrectly conceived from the date of their introduction it is considered proper to back date the revised fees to 1st January 1963 which was the date of commencement of the existing fees and clause 3 of the Bill makes provision for refunds where this is appropriate.

The Telecommunication Ordinance does not authorize the making of regulations with retrospective effect and the Bill before Council is accordingly required.

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: —

The First Schedule to the Telecommunication Regulations 1962 (hereinafter referred to as the regulations) prescribes in items 1, 2 and 3 the fees which are to be paid in respect of the grant or renewal of the licences mentioned in these items. After the coming into operation of the regulations it became apparent that the basis upon which the fees for these licences had been assessed was inappropriate, and that they were excessive having regard to the costs involved in their collection. Accordingly, the purpose of this Bill is—

- (a) with effect from the 1st January, 1963 (which was the date of commencement of the regulations), to prescribe lower fees in respect of the licences mentioned in the said items than those which were originally prescribed;
- (b) to authorize the refunding of the differences between the fees originally prescribed and those prescribed in clause 2(1) of this Bill.

**GRANTHAM SCHOLARSHIPS FUND (AMENDMENT) BILL 1966**

THE ACTING FINANCIAL SECRETARY moved the First reading of a Bill intituled "An Ordinance to amend the Grantham Scholarships Fund Ordinance 1955".

He said: —The Grantham Scholarships Fund Ordinance regulates the activities of the Grantham Scholarships Fund, which exists for the promotion and encouragement of local education in the Colony. The principal purpose of the Amending Bill is to bring payment in respect of the administration of the Fund into line with the procedure provided for in legislation applying to other Statutory Funds, whereby all administrative expenses are met by Government which then charges the Fund in question a fee for its services not exceeding 2½% of annual income. The actual fee is dependent on the amount of work done and in practice for other funds is usually about 1½%.

The opportunity has been taken also to bring section 10 of the Ordinance, which deals with the keeping and auditing of accounts, into line with more recent legislation concerning Statutory Funds.

THE COLONIAL SECRETARY seconded.

HIS EXCELLENCY THE GOVERNOR: —Perhaps at this point, I might explain to honourable Members that in a voice vote an abstention is not a vote and all that is necessary in a voice vote is for a member who wishes to abstain to abstain. When a roll call is called, the situation is somewhat different; then a member who wishes to abstain answers his name by indicating that he wishes to abstain. In a voice vote all that is necessary, Mr WATSON, if you wish to abstain, is to remain silent.

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 principal object of this Bill is to provide that the administrative expenses of the Grantham Scholarships Fund will be met by the Government (clause 3). There will be a charge on the fund for an annual supervision fee payable as from 1st September, 1966. This is in accordance with other similar funds, but the fee is limited to a maximum of two and a half *per cent* of the annual income of the fund. Further the opportunity is taken to make more detailed provision as to the accounts of the fund, and section 10 is replaced by a provision used in more recent legislation concerning statutory funds (clause 2).

**BREWIN TRUST FUND (AMENDMENT) BILL 1966**

THE ACTING FINANCIAL SECRETARY moved the First reading of a Bill intituled "An Ordinance further to amend the Brewin Trust Fund Ordinance 1955".

He said: —The Brewin Trust Fund Ordinance regulates the activities of the Brewin Trust Fund, which exists to provide for the benefit of destitute widows and orphans and of incapacitated workmen resident in the Colony. The purpose of this Bill, as in the case of the Grantham Scholarships Fund (Amendment) Bill, is to provide that administrative expenses of the Fund will be met by Government which will then charge a fee on the Fund not exceeding 2½% of annual income.

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: —

The object of this Bill is to provide that the administrative expenses of the Brewin Trust Fund will be met by the Government. There will be a charge on the fund for an annual supervision fee payable as from 1st July 1966. This is in accordance with other similar funds, but the fee is limited to a maximum of two and a half *per cent* of the annual income of the fund.

**BUILDINGS (AMENDMENT) BILL 1966**

MR A. M. J. WRIGHT moved the Second reading of a Bill intituled "An Ordinance further to amend the Buildings Ordinance 1955".

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 12 were agreed to.

Council then resumed.

MR A. M. J. WRIGHT reported that the Buildings (Amendment) Bill 1966 had passed through Committee without 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 into law.

### **NURSING AND MATERNITY HOMES REGISTRATION (AMENDMENT) BILL 1966**

DR A. H. R. COOMBES moved the Second reading of a Bill intituled "An Ordinance further to amend the Nursing and Maternity Homes Registration Ordinance".

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 12 were agreed to.

Council then resumed.

DR A. H. R. COOMBES reported that the Nursing and Maternity Homes Registration (Amendment) Bill 1966 had passed through Committee without 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 into law.

### **MEDICAL CLINICS (AMENDMENT) BILL 1966**

DR A. H. R. COOMBES moved the Second reading of a Bill intituled "An Ordinance further to amend the Medical Clinics Ordinance 1963".

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 4 were agreed to.

Council then resumed.

DR A. H. R. COOMBES reported that the Medical Clinics (Amendment) Bill 1966 had passed through Committee without 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 into law.

### **MASONIC BENEVOLENCE FUND INCORPORATION (AMENDMENT) BILL 1966**

MR P. C. WOO moved the Second reading of a Bill Intituled "An Ordinance further to amend the Masonic Benevolence Fund Incorporation Ordinance and to make provision for the transfer of the property presently vested in the trustees of The Hong Kong and South China Masonic Benevolence Fund to a custodian trustee".

MR Y. K. KAN 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 5 and the preamble were agreed to.

Council then resumed.

MR P. C. WOO reported that the Masonic Benevolence Fund Incorporation (Amendment) Bill 1966 had passed through Committee without amendment and moved the Third reading.

MR Y. K. KAN seconded.

The question was put and agreed to.

The Bill was read a Third time and passed into law.

**NEXT MEETING**

HIS EXCELLENCY THE GOVERNOR: —That concludes the business for today.  
The next meeting of Council will be held on 22nd June.