

22ND APRIL, 1915.

**PRESENT:—**

HIS EXCELLENCY THE GOVERNOR, SIR F. H. MAY, K.C.M.G.

HIS EXCELLENCY MAJOR-GENERAL F. H. KELLY, C.B. (General Officer Commanding Troops).

HON. MR. CLAUD SEVERN (Colonial Secretary).

HON. MR. J. H. KEMP (Attorney-General).

HON. MR. A. M. THOMSON (Colonial Treasurer).

HON. MR. W. CHATHAM, C.M.G. (Director of Public Works).

HON. MR. S. B. C. ROSS (Secretary for Chinese Affairs).

HON. MR. C. MCI. MESSER (Captain Superintendent of Police).

HON. MR. WEI YUK, C.M.G.

HON. MR. E. A. HEWETT, C.M.G.

HON. MR. D. LANDALE.

HON. MR. E. SHELLIM.

HON. MR. LAU CHU PAK.

MR. A. G. M. FLETCHER (Clerk of Councils).

**Minutes**

The minutes of the previous meeting were confirmed.

**Financial Minutes**

THE COLONIAL SECRETARY, by command of H.E. the Governor, laid on the table Financial Minutes Nos. 6 to 9, and moved that they be referred to the Finance Committee.

THE COLONIAL TREASURER seconded, and the motion was agreed to.

**Papers**

THE COLONIAL SECRETARY, by command of H.E. the Governor, laid on the table the report of the Finance Committee held on the 18th March, and moved that it be

adopted.

THE COLONIAL TREASURER seconded, and the motion was agreed to.

THE COLONIAL SECRETARY, by command of H.E. the Governor, laid on the table the Report of the Police Magistrates' Court for 1914, Report of the Finances for 1914, the Financial Return for 1914, and also a despatch from the Secretary of State for the Colonies on the subject of the contribution in Hongkong to the Prince of Wales' Fund.

**Altered Rate Percentages**

THE COLONIAL SECRETARY—Sir, I beg to move the following resolution:—  
"Resolved by the Legislative Council that the percentage on the valuation of tenements payable as rates in the under-mentioned places be altered from the 1st July, 1905, as follows:—  
Sai Wan Ho from  $10\frac{3}{4}$  to  $12\frac{1}{4}$ ; Shaukiwan East from  $10\frac{3}{4}$  to  $12\frac{1}{4}$ ; Shaukiwan West from  $10\frac{3}{4}$  to  $12\frac{1}{4}$ ; Tsing Shui Ma Tau from  $10\frac{3}{4}$  to  $12\frac{1}{4}$ ; Po Kau Wat from  $10\frac{3}{4}$  to  $12\frac{1}{4}$ .

THE COLONIAL TREASURER seconded, and this was agreed to.

**The French Convent**

THE HON. MR. POLLOCK moved the first reading of a Bill intituled "An Ordinance to provide for the incorporation of the Mother Superior in this Colony of the Society of the 'Sœurs de Saint Paul de Chartres' by which the institution known as the Asile de la Sainte Enfance and as the French Convent is carried on."

THE HON. MR. SHELLIM seconded, and the motion was agreed to.

The Objects and Reasons attached to the Bill are as follow:—

The Sœurs de Saint Paul de Chartres (best known as the French Convent) have acquired land in the Colony for the purposes of carrying on their charitable work. Difficulties

have arisen, and may hereafter arise, in holding and dealing with such land it has at present, to be vested in the name of some individual in trust for the Convent. In order to get over such difficulties it is desired that the Convent should be incorporated by Ordinance. Similar incorporation has taken place in the past in the case of other Missions for similar reasons.

The present Bill affects such incorporation and contains the necessary provisions for evidencing the authority of the Mother Superior for the time being to act for the corporation in relation to such land.

### **Estate Duty Ordinance**

THE ATTORNEY-GENERAL moved the first reading of a Bill intituled "An Ordinance to provide for the levy of Estate Duty payable in respect of the estates of deceased persons."

THE COLONIAL SECRETARY seconded, and the motion was agreed to.

The Objects and Reasons appended to the Bill are as follows:—

The object of this Bill is to endeavour to place upon a more regular and satisfactory footing than at present obtains the law and the administrative arrangements relative to the payment and collection of the duty leviable upon the estates of deceased persons.

The existing law, contained in Ordinance No. 2 of 1897 and Ordinance No. 16 of 1901, sections 22 of 27, is not altogether satisfactory. The definitions of "property" are not exhaustive, and there exists no effective machinery for enforcing a full disclosure of the property of a deceased person. The Bill therefore defines "property" in detail and provides the Commissioner with suitable means for obtaining all the necessary information.

The Bill also contains rigorous provisions imposing upon various classes of persons against whom under the present law it would be impossible to proceed the obligation of seeing, so far as they are concerned, that the law shall be carried out; the principle involved being that it is the duty of persons cognisant of property, a portion of which belongs to the revenue of the Colony, to assist Government in ensuring that its revenue shall not be defrauded. In this connection the Bill also provides that a schedule

of property shall be attached to every Probate or Letters of Administration and throws an obligation on any person who deals with the property of a deceased person after the grant of Probate or Letters of Administration, of making certain that all the property with which such person in fact deals is actually included in the schedule attached to the grant.

Section 1 is formal.

Section 2 makes certain minor amendments.

Section 3 defines the meaning of certain terms used in the Bill.

Section 4 provides for the levy of estate duty substituting this term for the existing "Probate Duty."

Section 5 sets out the property which is deemed to pass on death.

Section 6 exempts from the payment of estate duty transactions for money consideration, property outside the Colony, and shares on local registers.

Section 7 provides for the aggregation of the value of all a deceased person's property in respect of which duty is payable for the purpose of determining the rate at which estate duty shall be charged.

Section 8 sets out the manner in which estate duty is to be paid and contains the new provision that interest shall be payable upon estate duty from the date of death to the date of payment. A similar provision exists in England.

Section 9 introduces the new allowance of an exemption for funeral expenses, which have not up to the present time been allowed to be deducted.

Section 10 provides for the fling of accounts, and gives the Commissioner special powers to summon persons before him, under penalty, in case of default, in order to enable him to obtain a full disclosure of the property of a deceased person. It also gives him power to inspect properties and obtain valuations thereof.

Section 11 provides that no grant shall issue until after estate duty has been paid. Similar provision to that in the existing law is made for cases in which the value of an estate cannot be ascertained immediately; and a new clause is inserted giving power to the Commissioner to allow the postponement of payment of estate duty in cases where the exaction of immediate payment would be a hardship.

Section 12 and 13 re-enact in slightly altered form similar provisions in the existing law with the addition of clauses providing for the calculation of estate duty on the value of interests in expectancy and interests ceasing on death.

Section 14 introduces the new principle that estate duty shall be a charge on the property in respect of which it is leviable. It also gives power to raise, by means of sale, mortgage or terminable charge, the amount payable for estate duty.

Section 15 provides for the apportionment of the estate duty between the parties liable, with liberty to apply to the Court in case of dispute.

Section 16 gives power to the Governor-in-Council to remit the payment of estate duty on equitable grounds.

Section 17 contains new provisions giving any person aggrieved by the decision of the Commissioner a right of appeal to the Supreme Court.

Section 18 introduces an important innovation calculated to prevent the non-disclosure of property. A schedule of the property of a deceased person must be annexed to the grant and it is the duty of any person before dealing with the property of a deceased person to satisfy himself that the property with which he proposes to deal is included in this schedule: A penalty of \$500 is prescribed for non-compliance with the provisions of this section.

Section 19 sub-section (1) re-enacts the existing law. Sub-section (2) is new and is inserted with a view to prevent the concealment of the property of a deceased person by making it obligatory for persons concerned to inform the Commissioner of the existence of such property at the earliest possible moment after such deceased person's death.

Section 20 throws the onus of disclosing the property of a deceased person, in certain cases, on the person having knowledge of such property. The cases are those in which deceased persons have had an interest in a shop, bank or other business undertaking. The Commissioner has little opportunity of discovering such an interest unless it is disclosed; evasion has been, it is thought, very prevalent in the past. It is hoped to minimise this evasion by imposing upon the manager of such shop, bank or business the duty of making a disclosure.

Section 21 is an innovation and provides for the filing of adequate accounts by an

Executor should he be called upon so to do by the Commissioner. In the past the only manner in which an executor could be compelled to file any accounts was by means of an application made to the Court by a party interested. This procedure was cumbrous and very rarely used.

Section 22 gives the Commissioner power to reduce any penalty incurred under the Bill.

The First Schedule amends certain portions of the existing law which, with one exception, are dealt with by this Bill. This exception is the amendment of section 19 of the Probate Ordinance, 1897. At present the Official Administrator can only deal summarily with estates not exceeding \$50 in value. This limit has been found in practice to be too low and by this amendment it is raised to \$250.

The Second Schedule sets out the rates at which Estate Duty shall be charged. These rates are the same as those in force at present.

The Third Schedule contains tables of the values of annuities for use in the calculation of estate duty on life interests. The tables are taken from the law in force in Fiji.

#### **Alien Enemies' (Winding-Up) Amendment Ordinance**

THE ATTORNEY-GENERAL moved the first reading of a Bill intituled "An Ordinance to amend the Alien Enemies (Winding up) Ordinance, 1914, and to give power to stay action against alien enemies."

THE COLONIAL SECRETARY seconded, and the motion was agreed to.

The Objects and Reasons appended to the Bill are as follow:—

One object of this Bill is to prevent actions being brought against liquidators appointed under the Principal Ordinance in respect of claims which are not disputed. It is obviously undesirable that the estate should be saddled with the costs of such unnecessary actions, and it would be unfair to the other creditors, and against the spirit of the Principal Ordinance, if not against its express provisions, if the plaintiff in any such action were to obtain any priority thereby.

A somewhat similar provision exists in bankruptcy law, where no action can be commenced or continued except with the leave of the Court and on such terms as the Court may impose. The authority proposed in the Bill is the Governor and not the Court because the general scheme of the Principal Ordinance is a winding up under the control of the Governor, while in bankruptcy the winding up is under the supervision of the Court.

It should be remembered that the winding up under the Principal Ordinance differs from the winding up in bankruptcy in one very important point, for the winding up in bankruptcy results eventually in the discharge of the debtor from all claims provable in the bankruptcy, while the winding up under the Principal Ordinance will not result in any such discharge. Accordingly, refusal under the proposed Ordinance to allow an action to be brought would not determine the remedies of the creditor against the alien enemy.

It is also provided that the requirement of the Governor's permission shall apply to actions brought directly against alien enemies whose affairs are being wound up, or whose affairs it is expedient should be wound up, as well as to actions brought against their liquidators.

On the other hand it is proposed that liquidators must obtain the permission of the Governor before beginning any legal proceeding in respect of the winding up, so that the permission of the Governor will be required for actions by liquidators as well as for actions against liquidators.

Another object of the Bill is to provide expressly that actions against liquidators shall bind the alien enemies whose affairs are being wound up.

The Bill also gives the Court power to stay actions against liquidators or against alien enemies where the interests of justice seem to require that such should be done on account of the impossibility of obtaining proper instructions owing to the existence of a state of war.

It also confers on liquidators the right, with the permission of the Governor, to apply to the Court for directions on any matter arising out of the winding up.

It also gives power to the Governor to allow liquidators to discharge liabilities incurred outside the Colony. It is not intended that this power if given should be exercised to the prejudice of the discharge of liabilities incurred in the Colony.

The Bill also provides that the assets realised or brought to credit by the liquidators shall include credit balances at banks or in the hands of compradores, but it gives the Governor discretion to determine whether any remuneration shall be drawn on any such balances.

It also provides that liquidators must not sell any goodwill or trade marks without permission.

#### **Withdrawn**

THE ATTORNEY-GENERAL—I beg to move, Sir, that the next item on the orders of the day (second reading of Bill intituled, "An Ordinance to provide for the levy of Estate Duty payable in respect of the estates of deceased persons") be discharged, as the Estate Bill, which has just been read a first time, is in substitution for the Bill referred to in this item.

THE COLONIAL SECRETARY seconded, and this was agreed to.

HIS EXCELLENCY — Council stands adjourned till this day week.

#### **FINANCE COMMITTEE.**

A meeting of the Finance Committee was then held, the COLONIAL SECRETARY presiding.

#### **Miscellaneous War Services**

The Governor recommended the Council to vote a sum of \$30,000, in aid of the vote Miscellaneous Services, War Department Expenditure.

THE CHAIRMAN—This is calculated to be sufficient to the end of June.

This was agreed to.

#### **Public Works Extraordinary**

The Governor recommended the Council to vote a sum of \$1,500, in aid of the vote Public Works, Extraordinary, Hongkong, Communications, Roads, General Work.

THE CHAIRMAN—This vote is due to certain work which it was rather difficult to foresee. It is in connection with Taiwan Lane. A portion of the road between the new houses is unformed and uneven ground, which, it is expected, when the wet weather comes, will become a quagmire, and it will not be possible to drain

it properly. It is therefore necessary to raise the road and form it so as to correspond with the portion of the road as already formed. It has been considered advisable to proceed with the work, and it is estimated to cost \$1,500. Have you anything to say, Mr. Director of Public Works?

THE DIRECTOR OF PUBLIC WORKS—It is just making up the street, that is all.

This was agreed to.

#### **Miscellaneous Services**

The Governor recommended the Council to vote a sum of \$16,000, in aid of the vote Miscellaneous Services, Telegraph Services, telegrams sent and received by Government.

THE CHAIRMAN—This is in connection with telegrams. Expenditure in telegrams is still very heavy, and it is quite impossible to calculate what will be required for the year, but this amount of \$16,000 will be sufficient, it is thought, to the end of June at any rate. As the expenses are going on, it has been necessary to come to Council for the vote.

This was agreed to.

#### **Judicial and Legal Expenditure**

The Governor recommended the Council to vote a sum of \$1,500 in aid of the vote Judicial and Legal Departments, *E.*—Office of Crown Solicitor and Land Registry, Other Charges, Crown Solicitor, Employment of outside legal assistance to prosecute in Criminal Sessions.

THE CHAIRMAN—The Crown Solicitor has been so fully occupied that on certain occasions he has been unable to take prosecutions, and therefore it has been necessary to call in outside aid.

THE ATTORNEY-GENERAL — The two Departments together are shorthanded, and there is a great deal of extra work.

THE CHAIRMAN—Although the whole of this amount is not required at present, it was thought better to come to the Council now and get a sufficient sum to carry us over the whole year in the event of further expenditure arising. The present liabilities are only about \$300.

This was agreed to.