

OFFICIAL REPORT OF PROCEEDINGS**Meeting of 23rd May, 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 HOOTON, Q.C. (*Acting*).
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*).
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. CHARLES RAYMOND LAWRENCE (*Deputy Clerk of Councils*)

ABSENT:

HIS EXCELLENCY THE COMMANDER BRITISH FORCES
LIEUTENANT-GENERAL WILLIAM HENRY STRATTON, C.B., C.V.O., C.B.E., D.S.O.

MINUTES.

The Minutes of the meeting of the Council held on 9th 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>
Sessional Papers, 1956: —	
No. 16—Annual Report by the Government Printer for the year 1954/55.	
No. 17—Annual Report by the Social Welfare Officer for the year 1954/55.	
Ferries Ordinance.	
Excluded Ferries (Ma On Shan and Ho Tung Lau) (Amendment) Regulations, 1956	A.40.
Air Armament Practice Ordinance.	
Air Armament Practice (Schedule Amendment) Order, 1956	A.41.
Defences (Firing Areas) Ordinance.	
Defences (Firing Areas) (Schedule Amendment) Order, 1956	A.42.
Stamp Ordinance.	
Stamp (Bank Authorization) (No. 2) Order, 1956	A.43.
Companies Ordinance.	
Authorized Auditors (Appeals) Rules, 1956	A.44.

**HONG KONG YAUMATI FERRY COMPANY
(SERVICES) ORDINANCE, 1951.**

THE FINANCIAL SECRETARY moved the following resolution: —

WHEREAS —

- (a) Section 4 of the Hong Kong and Yaumati Ferry Company (Services) Ordinance, 1951 (hereinafter referred to as the Ordinance) provides that the ferry

services authorized by the Ordinance shall be maintained and operated upon the terms and conditions specified in the Schedule thereto:

- (b) Section 5 of the Ordinance provides that the Schedule thereto may be varied at any time, with the consent of the Company, by Resolution of the Legislative Council:
- (c) It is now desired to vary the Schedule to provide for a service between Tonnochy Road, Wanchai, and Kowloon City:
- (d) For the purpose of such service, a new pier is being built by Government at Kowloon City which will be known as the Kowloon City Ferry Pier and such pier when completed and the Tonnochy Road Ferry Pier will be used by the Company paying—
 - (i) in respect of the first-named pier a monthly rental of \$5,000 inclusive of rates as from the day the Director of Public Works certifies that the said pier is ready for occupation and use by the Company for such service provided that as long as it is used solely for the Tonnochy Road, Wanchai/Kowloon City service the monthly rental therefor will be \$2,500 inclusive of rates; and
 - (ii) in respect of the second-named pier a monthly rental of \$2,000, as heretofore:
- (e) Because of the new service between Tonnochy Road, Wanchai, and Kowloon City, it has become necessary to alter the ferry run Tonnochy Road Pier—Jordan Road Pier to Stewart Road Pier, Wanchai—Jordan Road Pier:
- (f) For the purpose of such altered run, the Government has built a new pier at Stewart Road, Wanchai, which will be known as the Stewart Road Ferry Pier and such pier and the Jordan Road Ferry Pier will be used by the Company paying—
 - (i) in respect of the first-named pier a monthly rental of \$1,500 inclusive of rates; and

(ii) in respect of the second-named pier a monthly rental of \$13,500, as heretofore:

(g) The Company has consented to the variation of the Schedule by the amendment of paragraph 3 and Appendix I thereof to provide for the matters aforesaid.

NOW, THEREFORE, BE IT RESOLVED, with the consent of the Company, that, as from the thirty-first day of May, 1956—

(1) Paragraph 3 of the Schedule to the Ordinance (hereinafter referred to as the Schedule) be varied by the deletion of subparagraph (1) and the substitution thereof of the following—

“(1) The Company shall pay as pier rent to the Government for the use of the piers specified in this paragraph the total sum of \$52,400 a month inclusive of rates. The said rent shall be payable in advance on the first day of each month and shall be apportioned among the piers, as follows—

(a) Jubilee Street Ferry Pier	\$22,000
(b) Jordan Road Ferry Pier	13,500
(c) Mongkok Ferry Pier	2,500
(d) Shamshuipo Ferry Pier	2,500
(e) Tonnochy Road Ferry Pier	2,000
(f) Wilmer Street Ferry Pier	3,000
(g) Cheung Chau Ferry Pier	400
(h) Stewart Road Ferry Pier	1,500
(i) Kowloon City Ferry Pier	<u>5,000</u>
	<u>\$52,400</u>

Provided that—

(i) the monthly rental for the Kowloon City Ferry Pier mentioned in item (i) shall only become due and payable as from the day the Director of Public Works certifies that the said pier is ready for occupation and use by the Company for the service before-mentioned; and

- (ii) as long as the said pier is used solely for the Tonnochy Road, Wanchai/Kowloon City service the total monthly sum of \$52,400 shall be reduced by the sum of \$2,500."

(2) Appendix 1 to the Schedule be varied—

(a) under the heading "FERRY RUNS" by—

- (i) the deletion of the words "Tonnochy Road Pier" in item (d) and the substitution therefor of the following—

"Stewart Road Pier";

- (ii) the addition after item (l) of the following new item—

"(m) Tonnochy Road Pier—Kowloon City Pier";

(b) under the heading "FERRY PIERS AND FRONTAGES" by the addition at the end thereof after the item "Cheung Chau Pier" and the frontage thereof of the following new piers and frontages—

"Kowloon City Pier	Eastern side of Gillies Avenue to South-western boundary of Kai Tak Airport.
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Stewart Road Pier	Western entrance Causeway Bay Typhoon Shelter to the Eastern boundary of the Royal Naval Dockyard."
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He said: —This resolution appears somewhat complex, but in essence all it seeks to do is to give effect to a recommendation of the Harbour Ferry Services Advisory Committee in 1951, that first priority should be given to a new passenger ferry service between Kowloon City and Wanchai.

Since that date two piers have been built. One at Kowloon City is sufficiently big to accommodate two ferry terminals; another one at Stewart Road, Wanchai, will accommodate one. The Kowloon City pier is to be the terminus of the new Kowloon City—Wanchai service as was recommended, and will ultimately

also be the terminus of a new service between Kowloon City and the Central district of Hong Kong, a service which was accorded third priority by the Advisory committee. The Wanchai terminus of the new ferry service will, somewhat paradoxically, not be the new pier at Stewart Road, but will be the pier now existing at Tonnochy Road. This Tonnochy Road pier is at present used for the service from Jordan Road to Wanchai. If that service were to continue on its present route, and if the new service were to operate to Stewart Road, the ferry lines would cross, with the attendant risk of collisions; accordingly the termini of the two services are being switched to avoid confusion and congestion in the harbour.

The Stewart Road pier is now ready and will, it is hoped, be brought into use for the Jordan Road service as from the 1st June. The Kowloon City pier will not be ready for a short while afterwards, probably the 3rd of July. Accordingly provision is made in the resolution for rent for Stewart Road pier to commence from the end of this month and that for Kowloon City pier from the date on which it is to be ready for use, a date to be decided by the Director of Public Works.

THE COLONIAL SECRETARY seconded.

The question was put and agreed to.

DIVORCE (AMENDMENT) BILL, 1956.

THE ATTORNEY GENERAL moved the First reading of a Bill intituled "An Ordinance to amend the Divorce Ordinance, Chapter 179."

He said: —Sir: During the course of the Budget Debate in 1955, my honourable Friend, Mr. Lo, touched upon the desirability of keeping our laws in line with those of England, so far as local circumstances permitted.

As instance of our laws lagging behind those of England is our law of divorce as contained in the Divorce Ordinance. That Ordinance, enacted in the Colony prior to changes made in England by Parliament in 1937, still reflects the law on this subject as it was in England before that date. In particular the grounds upon which decrees for dissolution of marriage and for nullity of marriage may be granted are very restricted when compared with the grounds which are available in England.

This Bill therefore proposes to extend the grounds upon which relief under the Divorce Ordinance may be given to include all those grounds upon which relief may now be given in England. Sir, I do not feel that it is necessary for me at this stage to describe these additional grounds or to deal with them or any of them in detail as they are fully described in the comprehensive statement of Objects and Reasons appended to the Bill.

Sir, as well as extending the grounds for divorce, this Bill also introduces the restriction contained in the English law to the effect that, save in exceptional circumstances, no petition for dissolution may be presented within three years of marriage.

Decrees of dissolution of marriage under the Divorce Ordinance can only be sought by persons domiciled in the Colony. The only modification of this rule contained in the amending Bill, is one in favour of wives who have been deserted by their husbands and whose husbands have thereafter changed their domicile. British subjects domiciled in England or Scotland have, however, ever since 1926 when the Indian and Colonial Divorce Jurisdiction Act was passed, been able to obtain divorces in this Colony on the same grounds as they can in England. If this Bill is enacted one result will therefore be that persons domiciled in the Colony and British subjects domiciled in England, will be able to obtain divorces in the Courts of this Colony on identical grounds and that the Courts here will in future grant relief upon the same basis to both categories of person.

Sir, this Bill does not seek to make any alteration to the existing provision of the Divorce Ordinance that a decree of dissolution of marriage may only be granted under the Ordinance where the marriage sought to be dissolved is a Christian marriage or its civil equivalent. It does not therefore in any way affect the present law relating to the dissolution, in accordance with Chinese Law and Custom, of marriages contracted in accordance with that law and custom.

Clause 1 provides that the Bill, if enacted, shall come into operation upon a day to be appointed by Your Excellency. The principal reason for this provision is to allow time for the making of consequential amendments to the present rules of practice and procedure in divorce matters.

Finally, Sir, I think I should mention at this stage that if this Bill is passed by this Council, it will be necessary to refer it to the Secretary of State, for Her Majesty's instructions in accordance with Article XXVI of the Royal Instructions.

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 bring the provisions of the Divorce Ordinance (Chapter 179) more into line with the Matrimonial Causes Act, 1950, particularly with regard to the grounds on which decrees may be made. Since the passing of the Matrimonial Causes Act, 1937, these grounds have fallen far short of those permitted in England, especially in cases of dissolution and nullity of marriage; and it is anomalous that under the Indian and Colonial Divorce Jurisdiction Act, 1926, a petition may, in certain circumstances, be presented in Hong Kong by a British subject domiciled in England on such grounds as would be permitted in England. The opportunity is taken to bring the Divorce Ordinance more up to date in certain other respects and to reword certain provisions to coincide with the wording of similar provisions of the Matrimonial Causes Act, 1950. The effect of each clause is set out below, and the comparative table attached hereto shows the equivalent section of the Matrimonial Causes Act, 1950, and also of the Divorce (Amendment No. 2) Ordinance, 1941, of the Straits Settlements which contained provisions similar to those in this Bill.

2. A decree for dissolution of marriage may at present be granted on the ground of adultery, and, in the case of a wife, also on the ground of rape, sodomy or bestiality. Clause 4 in replacing section 5 of the principal Ordinance adds the grounds of desertion for three years, cruelty and being of unsound mind under care and treatment for five years.

3. Provisions relating to decrees for nullity of marriage and the grounds on which such decrees may be made are contained in sections 12 and 13 of the principal Ordinance. All these grounds are permitted under the English law but are not specifically mentioned in the Matrimonial Causes Act, 1950. Clause 10 in replacing those sections specifically refers to the distinction between void and voidable marriages and adds the following grounds—non-consummation of marriage; at the time of the marriage, being of unsound mind or subject to recurrent fits of insanity or epilepsy or suffering from venereal disease or being pregnant by some person other than the petitioner.

4. A decree for judicial separation may at present be granted on the ground of adultery, cruelty or desertion for two years. Clause 13 extends these grounds to any grounds on which a petition for dissolution of marriage might be presented. The necessary period of desertion thus becomes three years.

5. In view of the proposed extensions to the grounds on which a decree for dissolution of marriage may be made, it is considered that, as in England, such a decree should not be obtainable during the first three years of marriage except in cases of exceptional hardship or depravity. Clause 3 introduces a new section 4A having this effect.

6. Clause 9 introduces a new section 11A dealing with petitions for dissolution of a marriage after judicial separation has been granted.

7. Clause 9 also introduces a new section 11B permitting a decree for presumption of death and dissolution of marriage to be made. It is provided in subsection (2) of the new section that continual absence of a party to a marriage for seven years or more shall be evidence that he or she is dead until the contrary is proved.

8. Section 15 of the principal Ordinance contains provisions relating to the devolution of property in certain cases where a marriage is annulled. Similar provisions are not contained in the Matrimonial Causes Act, 1950, and it is considered that this section should be repealed. Clause 11 accordingly repeals this section and substitutes new provisions relating to the legitimacy of children of a voidable marriage which has been annulled.

9. The period after which a decree *nisi* may be made absolute is at present three months. Clause 12 provides that this period may be shortened by the court by general or special order. The equivalent period in England is six weeks. Clause 12 also gives wider powers than at present to the court in the event of a petitioner failing to apply for a decree to be made absolute.

10. Under section 4(1) of the principal Ordinance jurisdiction for dissolution of marriage is based on the domicile in the Colony of the parties at the time when the petition was presented. Clause 21 introduces a new section 46 permitting a decree of dissolution of marriage to be made in favour of a wife whose husband, domiciled in the Colony, has deserted her or has been deported or expelled from the Colony and has since that time changed his domicile.

11. Certain other changes in the provisions of the principal Ordinance are effected by this Bill, as follows—

- (a) the definition of "desertion" is considered to be unnecessary and is deleted (clause 2);
- (b) section 6 is reworded to coincide with the wording of section 3 of the Matrimonial Causes Act, 1950, (clause 5);
- (c) section 7 is replaced by a new section containing substantially the provisions of sections, 7, 8 and 9 which are accordingly repealed (clauses 6 and 7);
- (d) section 10 is considered to be unnecessary and is repealed (clause 7);
- (e) section 11 is reworded to coincide with section 6 of the Matrimonial Causes Act, 1950 (clause 8);
- (f) section 20 is reworded to coincide with section 15(1) of the Matrimonial Causes Act, 1950 (clause 14);
- (g) section 25 is considered to be unnecessary and is repealed (clause 15);
- (h) section 28 is replaced by a new section giving the court unrestricted power to order alimony pending suit for a wife (clause 16);
- (i) the power of the court under section 31 to order a settlement of a wife's property on dissolution of a marriage or judicial separation on the ground of adultery is extended to cases of cruelty and desertion (clause 17);

- (j) in section 34 the words "final decree" are substituted for the words "decree absolute" which are not appropriate in the case of judicial separation, and the reference to a decree for restitution of conjugal rights is deleted since such a decree does not involve questions of custody of children (clause 18);
- (k) the provisions of section 35 which is repealed are incorporated in section 48(6) for the sake of clarity (clauses 19 and 22) ;
- (l) section 39 is reworded to coincide with section 32(1), (2) and (3) of the Matrimonial Causes Act, 1950. No change in substance is effected except that it is provided that a husband or wife may but shall not be compellable to give evidence of marital intercourse (clause 20).

12. Clause 23 contains a substantive provision regarding the effect of the new section 15 (clause 11) on the devolution and disposition of property before this Bill comes into operation. Devolution of property on the intestacy of a person dying before that date, and previous dispositions will not be affected.

13. Clause 24 provides for an authentic reprint of the principal Ordinance as from time to time amended. The Government Printer is enabled to produce an up-to-date copy including all amendments, if the Governor requires him to do so.

MARINE FISH (MARKETING) BILL, 1956.

THE COLONIAL SECRETARY moved the Second reading of a Bill intituled "An Ordinance to provide for the control of the landing and wholesale marketing of marine fish, for the control of the importation and exportation thereof, for establishing a Fish Marketing Organization for encouraging co-operative markets and for matters incidental thereto."

THE ATTORNEY GENERAL 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 13 were agreed to.

Clause 14.

THE COLONIAL SECRETARY: —Sir: I beg to move that clause 14 be amended in accordance with the paper which has been circulated to honourable Members.

Proposed amendment.

Leave out subsection (2) and substitute the following therefor—

"(2) The Organization shall keep proper accounts and shall prepare a statement thereof for every period of twelve months ending on the 31st day of March. The accounts and the statement thereof shall be audited by an auditor appointed by the Governor and such auditor shall certify the statement subject to any report which he may think fit to make. The audited statement together with the auditor's report, if any, shall be laid on the Table of the Legislative Council not later than the 30th day of September next following the end of the period to which such statement relates or so soon thereafter as the Governor may in his discretion allow. "

Clause 14 as amended was agreed to.

Clause 15 was agreed to.

Clause 16.

THE COLONIAL SECRETARY: —Sir: I beg to move that subsection (6) of this clause be amended by omitting the word "fish" from the first line.

Clause 16 as amended was agreed to.

Clause 17 was agreed to.

Council then resumed.

THE COLONIAL SECRETARY reported that the Marine Fish (Marketing) Bill, 1956 had passed through Committee with amendments and moved the Third reading.

THE ATTORNEY GENERAL seconded.

The question was put and agreed to.

The Bill was read a Third time and passed.

HONG KONG AIRPORT (REGULATIONS) BILL, 1956.

THE ATTORNEY GENERAL moved the Second reading of a Bill intituled "An Ordinance to control the user of the Hong Kong Airport."

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 5 were agreed to.

Council then resumed.

THE ATTORNEY GENERAL reported that the Hong Kong Airport (Regulations) Bill, 1956 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.

DUTIABLE COMMODITIES (AMENDMENT) BILL, 1956.

THE SECRETARY FOR CHINESE AFFAIRS moved the Second reading of a Bill intituled "An Ordinance to amend the Dutiable Commodities Ordinance, Chapter 109."

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 7 were agreed to.

Clause 8.

THE SECRETARY FOR CHINESE AFFAIRS: —Sir: I rise to move that clause 8 of the Bill be amended in accordance with the paper already in the hands of honourable Members.

Proposed amendment.

In the new section 53A, insert after the word "licence" the following—

"which is not a club liquor licence under section 66A".

Clause 8 as amended was agreed to.

Clause 9.

THE SECRETARY FOR CHINESE AFFAIRS: —Sir: I rise to move that clause 9 of the Bill be amended in accordance with the paper already in the hands of honourable Members.

Proposed amendments.

In the new section 55—

(i) in subsection (1) insert after the word "fee" the following—

"or such proportion thereof as is provided in subsection (4)";

(ii) in subsection (2) insert after the word "fee" the following—

“or such proportion thereof as is provided in subsection (4)”;

(iii) in subsection (3) insert after the word "year" the following—

“, nine months, six months or three months as the board shall determine”;

(vi) after subsection (3) add the following new subsection—

"(4) Where any liquor licence is granted for any period other than one year, the fee payable for such licence shall be such proportion of the prescribed fee as the period of validity of such licence bears to a period of twelve months. For the purpose of calculating the fee payable under this subsection, any remaining fraction of one dollar shall count as a whole dollar. "

Clause 9 as amended was agreed to.

Clauses 10 to 17 were agreed to.

Council then resumed.

THE SECRETARY FOR CHINESE AFFAIRS reported that the Dutiable Commodities (Amendment) Bill, 1956 had passed through Committee with amendments 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.

PEAK TRAMWAY (AMENDMENT) BILL, 1956.

THE FINANCIAL SECRETARY moved the Second reading of a Bill intituled "An Ordinance to amend the Peak Tramway Ordinance, Chapter 304."

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 and 2 were agreed to.

Council then resumed.

THE FINANCIAL SECRETARY reported that the Peak Tramway (Amendment) Bill, 1956 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.

**TSUNG TSIN MISSION OF HONG KONG
INCORPORATION BILL, 1956.**

MR. NGAN SHING-KWAN moved the First 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."

He said: —Sir: This Bill follows the usual and customary form of incorporation bills. The "Objects and Reasons" are clearly set forth and I have nothing further to add.

MR. KWOK CHAN 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. For the purpose of promoting in common the undertakings and aims of the Tsung Tsin Churches' members in the Colony of Hong Kong it is proposed to form an Association to be named the Tsung Tsin Mission of Hong Kong and it is desired to give to the President of such Association a corporated entity.

2. The object of this Bill is therefore to provide for the incorporation of the President by Ordinance.

3. The Bill follows the model of legislation of similar character already enacted in the Colony for the incorporation of religious and charitable organizations.

4. The Bill (Clause 7) contains provisions saving the right of the Crown as required in the case of private Bills by Clause XXVII of the Royal Instructions.

ADJOURNMENT.

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

THE ATTORNEY GENERAL: —Sir, I suggest this day fortnight.

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