

OFFICIAL REPORT OF PROCEEDINGS**Meeting of 5th December, 1956.**

PRESENT:HIS EXCELLENCY THE GOVERNOR (*PRESIDENT*)

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

HIS EXCELLENCY THE COMMANDER BRITISH FORCES

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

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).

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*).

MINUTES.

The Minutes of the meeting of the Council held on 21st November, 1956, were confirmed.

ANNOUNCEMENT.

THE COLONIAL SECRETARY: —With Your Excellency's permission I wish to give notice that Government has decided to postpone the Second Reading of the Landlord and Tenant (Amendment) Bill for an indefinite period. This decision has been taken following upon representations by Unofficial Members of Council.

PAPERS.

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

Subject.

G. N. No.

Sessional Papers, 1956: —

No. 20—Annual Report by the Secretary for Chinese Affairs for the year 1955/56.

No. 30—Annual Report by the Government Printer for the year 1955/56.

No. 31—Annual Report by the Controller of Broadcasting for the year 1955/56.

No. 32—Annual Report by the Chief Officer, Fire Brigade for the year 1955/56.

Divorce Ordinance.

Divorce Rules, 1956.

Emergency Regulations Ordinance.

Emergency (Squatter Clearance) (Amendment) Regulations,
1956 A. 105.

Vehicle and Road Traffic Ordinance.

Vehicle and Road Traffic (Construction and Use) Regulations,
1956 A. 106.

<i>Subject.</i>	<i>G. N. No.</i>
Pilots Ordinance.	
Pilots (Amendment) Regulations, 1956	A. 107.
Emergency (Detention Orders) Regulations, 1956.	
Emergency (Review of Detention Orders) Rules, 1956	A. 108.
Stamp Ordinance.	
Stamp (Bank Authorization) (No. 3) Order, 1956	A. 109.
Prisons Ordinance, 1954.	
Chimawan Prison Order, 1956	A. 110.
Supreme Court Ordinance.	
Code of Civil Procedure (Amendment) Rules, 1956	A. 111.

DISTRICT COURT (AMENDMENT) BILL, 1956.

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

He said: Sir, the proposed amendment relates to the jurisdiction of the District Court in actions for the recovery of possession of premises, and is designed to facilitate the bringing of proceedings in that Court where persons are occupying parts of premises where there is no separate annual rent or value for such parts. The jurisdiction of the District Court in these actions is limited to cases where the annual rent or value of the premises sought to be recovered does not exceed \$5,000. In the past, Sir, some difficulty has been experienced in the recovery of possession of premises occupied by work-people after their employment has been terminated, where there is no separate annual rent or value for the part occupied by each employee. The person wishing to take proceedings has perforce had to resort to the Supreme Court because the value of the whole premises has been the ward-stick by which jurisdiction has been determined. Proceedings in the Supreme Court are more costly and take more time than the summary proceedings which are available in the District Court

in relation to such cases, and there is every justification for enabling them to be brought in the District Court. At the same time, it has not been considered desirable to effect this purpose by extending the monetary limit on the jurisdiction of the District Court. This Bill therefore proposes that where proceedings are taken to recover premises of the character I have mentioned, the annual rent or value for the purpose of determining whether or not the District Court has jurisdiction, shall be taken to be the sum ascertained by dividing the rent or value of the whole building by the number of occupiers thereof at the date of the notice to quit. It will be observed that the word "occupier" is defined to mean a person who has arranged for the occupation with the owner, but to exclude that person's family, dependants and domestic servants. If, therefore, the owner keeps a register of occupiers, it will be a simple matter for him to ascertain whether the District Court has jurisdiction, and if it has, he may proceed summarily in that Court.

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 First Schedule to the District Court Ordinance, 1953, to provide that, for the purpose of determining the jurisdiction of the District Court in any proceedings for the recovery of possession of part of a tenement not separately valued, the annual value shall be taken not as the annual value of the whole tenement but only of that proportion of the annual value attributable to the part of the tenement, possession of which is sought.

PILOTAGE DUES (VALIDATION) BILL, 1956.

THE ATTORNEY GENERAL moved the First reading of a Bill intituled "An Ordinance to validate the payment and receipt of pilotage dues in excess of the scale in force prior to the coming into operation of the Pilots (Amendment) Regulations, 1956."

He said: Sir, the necessity for this Bill sufficiently appears from the statement of objects and reasons read in conjunction with the Preamble, and there is nothing that I can usefully add.

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 purpose of this Bill is to validate the payment and receipt, since the re-occupation of the Colony, of pilotage dues in excess of the scale prescribed by law and to grant in respect thereof indemnity against legal proceedings. As mentioned in the preamble to the Bill, this practice was established after the re-occupation of the Colony, but it has not been possible to ascertain how and when it began. The position has now been regularized by the enactment of the Pilots (Amendment) Regulations, 1956.

SUPPLEMENTARY APPROPRIATION (1955-56) BILL, 1956.

THE FINANCIAL SECRETARY moved the First reading of a Bill intituled "An Ordinance to authorize a supplementary appropriation to defray the charges of the financial year ended the 31st day of March, 1956."

He said: Sir, this Bill is necessary finally to dispose of the accounts for the fast financial year 1955/56. Its purpose is to confirm the supplementary provisions which have already been approved by resolution of this Council. Although seven departments require supplementary provision totalling almost \$20½ millions, the final result of the financial year, as Members are aware, was that the approved appropriation of \$449 millions was underspent by \$46½ millions. That is to say, the additional \$20½ millions for certain Heads of expenditure, for which formal approval is now sought, was more than offset by savings on other

Heads of expenditure. This was particularly the case under Public Works Non-Recurrent where the approved provision was underspent by \$26 millions.

THE COLONIAL SECRETARY seconded.

The question was put and agreed to.

The Bill was read a First time.

DUTIABLE COMMODITIES (AMENDMENT)

(NO. 2) BILL, 1956.

THE FINANCIAL SECRETARY moved the First reading of a Bill intituled "An Ordinance to amend the Dutiable Commodities Ordinance, Chapter 109."

He said: Sir, honourable Members will have seen in the press during the past couple of months a number of stories about adulterated liquor, and also a warning by the Commerce and Industry Department to the public generally to be careful as to the sources from which they purchase liquor.

When cases of death and blindness as a result of drinking bad liquor began to come to light, an intensive investigation was commenced by the Commerce and Industry Department. The result of that investigation has been the seizure of over 7,000 gallons of liquor, and 18 prosecutions. The gravity of the position has been emphasized by the fact that at least six people are known to have died from drinking adulterated liquor, and that a further four lost their sight, although I am glad to say that one of these has since recovered.

The facts brought out by the investigation are perhaps of some interest. Honourable Members know that the term alcohol is a generic one and that there are many different types of alcohol. So far as this case is concerned there are two types, ethyl alcohol and methyl alcohol. Ethyl alcohol is the product of fermentation and is present, or should be present, in all so-called alcoholic liquors. It is this alcohol which, according to biblical authority, "makes glad the heart of man" (*laughter*) and the strength of an alcoholic liquor depends on the proportion of ethyl alcohol

which it contains. Methyl alcohol, which is also known as wood alcohol because it is a product of the distillation of wood, is very similar; I am told it is even indistinguishable in taste from ethyl alcohol, but I have not tried the experiment. Far from making glad the heart of man it is a deadly poison.

The process of manufacture of Chinese wine involves a certain period of maturing, and during this period the strength of the wine is reduced by evaporation. It is the practice of the trade, therefore, at the end of the period of maturing, to make up the strength by the addition of alcohol, ethyl alcohol, as retailers and customers naturally object to receiving liquor below strength. Two, just two, liquor dealers, at more or less the same time, conceived the brilliant idea of making up the strength by the addition, not of ethyl alcohol, but of the poisonous methyl alcohol, which happens to be cheaper, thereby making a few extra dollars for themselves, and all the adulterated liquor so far seized has been traced back to one or other of these two "get rich quick" dealers.

The Commerce and Industry Department, to whom much credit is due have put in a great deal of work on this investigation, and they now believe that they have found and seized all the adulterated liquor which has been distributed. But it is just possible that a few consignments may have missed the net, and I would urge anybody who has any suspicion of adulterated liquor anywhere to notify that Department at once.

The purpose of this bill, which arises directly from the misdeeds of these two dealers, is set forth in the statement of Objects and Reasons. Generally its effect is to put on the liquor dealer himself the onus of showing that he has no adulterated liquor in stock. It will, in future, be for him to prove that his liquor is pure; it will not be for the prosecution to prove guilty knowledge. It also provides that a liquor dealer who is convicted of being in possession of adulterated liquor can go to prison for the first offence and not merely for the second, as at present.

This bill will not complete Government's action in carrying out its duty of protecting the public. It is proposed to bring methyl alcohol under the umbrella of the Dutiable Commodities Ordinance so that its distribution and sale will be subject to the strictest controls. It is a commodity that is used extensively in

certain industries, particularly in the paint industry, but Government feels that it is necessary that such industries should put up with a certain amount of inconvenience in the interest of public health.

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 purpose of this Bill is to amend section 66 of the Dutiable Commodities Ordinance (Chapter 109) in the following three respects—

- (a) by rendering a person liable to imprisonment on a first conviction for dealing in adulterated liquor which is proved to have been adulterated in a manner which is injurious to health; and
- (b) to remove from dealers in adulterated liquor the benefit of the defence that they "did not know and could not with reasonable diligence have known that the liquor was adulterated"; and
- (c) to provide, on conviction of a person dealing in adulterated liquor, a power in the magistrate to order forfeiture not only of the particular liquor to which the conviction relates but also of any similar liquor of which he was possessed at the time when the offence was committed but which may have escaped seizure at the time when the offence was detected; unless the defendant, or some subsequent holder, can prove affirmatively that it has not been adulterated.

It is not proposed to alter the law with regard to forfeiture of liquor which has been seized but to extend the power of forfeiture, and indeed of seizure also, to liquor in respect of which the evidence presently available may be insufficient to satisfy the requirements of section 14 or 15 of the Ordinance. In other words the object is to cast upon the defendant, and subsequent purchasers from him, the burden of establishing the purity of the

whole of a parcel of liquor once any part of it has become "tainted" by reason of a conviction, and of preventing any benefit being derived from the disposal of any part of such parcel by sale or transfer between the commission of the offence and detection, unless there is positive evidence of its purity.

2. The reason for this proposed legislation lies in the need to protect the public from the grave danger to health, and indeed to life, which results from drinking certain kinds of adulterated spiritous liquors. The defence that the seller "did not know or could not with reasonable diligence have known that the liquor was adulterated" is a defence which is easily sustained but which, if falsely set up, is most difficult to rebut. It is felt that to continue to allow dealers in adulterated liquor the possibility of sheltering behind this defence is failing to accord to the public that measure of protection to which they are entitled. There then remains the need, on conviction of a dealer in possession of some adulterated liquor, of ensuring that the net be cast as wide as may be over all other similar liquor which has passed through his hands and which may also be a source of danger to the public. An innocent third party into whose possession such liquor may come will be affected to the extent that if the liquor is in fact adulterated it will be liable to confiscation leaving him his legal remedy, if any, against the person from whom he obtained it, but if the liquor is in fact pure but the offender is unable or unwilling to satisfy the magistrate in respect of it, the innocent third party will himself be able to establish its purity before the magistrate and so protect his stock.

THE CHARTERED BANK OF INDIA,

AUSTRALIA AND CHINA (CHANGE OF NAME) BILL, 1956.

THE FINANCIAL SECRETARY moved the First reading of a Bill intituled "An Ordinance to make provision to give effect in the laws of the Colony to a change in the name of The Chartered Bank of India, Australia and China."

He said: Sir, the purpose of this Bill is set forth in the statement of Objects and Reasons. Since the drafting of the Bill Government has been notified that the change in name of the Bank will take place on the 6th December, that is tomorrow, and accordingly I propose to move an amendment at the Committee stage.

I have to add that in accordance with Article 26 of the Royal Instructions the consent of Her Majesty has been sought and obtained for this Bill.

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 charter of incorporation of The Chartered Bank of India, Australia and China is to be amended to change the name of the Bank to "The Chartered Bank". The object of the Bill is to amend the Ordinances listed in the Schedule in respect of this change and to enable the Bank to continue to issue bank notes bearing its present name for a period of two years or such further period up to five years from the date of coming into operation of the Ordinance as the Legislative Council may decide. It is proposed that the Bill should be brought into operation by the Governor on the same day as the charter of incorporation is amended.

THE FINANCIAL SECRETARY: —Sir, as I have mentioned, the Bank's name changes tomorrow, and in the circumstances it is most desirable that Standing Orders be suspended in order to enable the Bill to pass through its remaining stages today. If, Sir, you are of that opinion I beg leave to move the suspension of Standing Orders accordingly.

H. E. THE GOVERNOR: —I am of that opinion.

THE FINANCIAL SECRETARY: —Sir, I rise to move the suspension of Standing Orders to allow of this Bill being read a second and third time today.

THE COLONIAL SECRETARY seconded.

The question was put and agreed to.

THE FINANCIAL SECRETARY moved the Second reading of a Bill intituled "An Ordinance to make provision to give effect in the laws of the Colony to a change in the name of The Chartered Bank of India, Australia and China."

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.

Clause 1.

THE FINANCIAL SECRETARY: —Sir, I move the amendment set forth in the paper before honourable Members.

Proposed amendment.

Delete the words "and shall come into operation on a day to be appointed by the Governor by Proclamation in the *Gazette*" and substitute the following—

"and shall be deemed to have come into operation on the 6th day of December, 1956."

Clause 1, as amended, was agreed to.

Clauses 2 to 4 and the Schedule were agreed to.

Council then resumed.

THE FINANCIAL SECRETARY reported that The Chartered Bank of India, Australia and China (Change of Name) Bill, 1956 had passed through Committee with one 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.

**COMMONWEALTH COUNTRIES AND REPUBLIC
OF IRELAND (IMMUNITIES AND PRIVILEGES)
BILL, 1956.**

THE COLONIAL SECRETARY moved the Second reading of a Bill intituled "An Ordinance to provide for immunities and privileges to be granted in certain cases to Commonwealth officers or officers of the Republic of Ireland and matters ancillary 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 9 and the First, Second and Third Schedules were agreed to.

Council then resumed.

THE COLONIAL SECRETARY reported that the Commonwealth Countries and Republic of Ireland (Immunities and Privileges) Bill, 1956 had passed through Committee without amendment 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.

**LAW OF PROPERTY (ENFORCEMENT OF
COVENANTS) BILL, 1956.**

THE ATTORNEY GENERAL moved the Second reading of a Bill intituled "An Ordinance to provide for the enforcement of covenants and agreements relating to buildings divided into separately occupied premises."

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.

THE ATTORNEY GENERAL reported that the Law of Property (Enforcement of Covenants) 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.

PROBATION OF OFFENDERS BILL, 1956.

THE ATTORNEY GENERAL moved the Second reading of a Bill intituled "An Ordinance to provide for the probation of offenders."

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 14 were agreed to.

Council then resumed.

THE ATTORNEY GENERAL reported that the Probation of Offenders 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.

WATCHMEN BILL, 1956.

THE ATTORNEY GENERAL moved the Second reading of a Bill intituled "An Ordinance to provide for the registration and regulation of watchmen."

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 13 were agreed to.

Council then resumed.

THE ATTORNEY GENERAL reported that the Watchmen 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.

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.