

OFFICIAL REPORT OF PROCEEDINGS.**Meeting of 17th July, 1957.**

PRESENT:HIS EXCELLENCY THE GOVERNOR (*PRESIDENT*)

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

HIS EXCELLENCY THE COMMANDER BRITISH FORCES

LIEUTENANT-GENERAL EDRIC MONTAGUE BASTYAN, K.B.E., C.B.

THE HONOURABLE THE COLONIAL SECRETARY

MR. CLAUDE BRAMALL BURGESS, O.B.E. (*Acting*).

THE HONOURABLE THE ATTORNEY GENERAL

MR. ARTHUR RIDEHALGH, Q.C.

THE HONOURABLE THE SECRETARY FOR CHINESE AFFAIRS

MR. JOHN CRICHTON McDOUALL.

THE HONOURABLE THE FINANCIAL SECRETARY

MR. JOHN JAMES COWPERTHWAITTE (*Acting*).

THE HONOURABLE DAVID CLIVE CROSBIE TRENCH, M.C.

(*Commissioner of Labour*).

THE HONOURABLE EDMUND BRINSLEY TEESDALE, M.C.

(*Director of Urban Services*).

THE HONOURABLE ALLAN INGLIS

(*Director of Public Works*).

DR. THE HONOURABLE GEORGE GRAHAM-CUMMING

(*Acting Director of Medical and Health 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, O.B.E.

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. MAURICE DEREK SARGANT (*Deputy Clerk of Councils*).

MINUTES.

The Minutes of the Meeting of the Council held on 3rd July, 1957, were confirmed.

OATHS.

DR. GEORGE GRAHAH-CUMMING 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>G.N. No.</i> |
|-----------------------------------------------------------------------------------------|-----------------|
| Colonial Air Navigation Order, 1955. | |
| Hong Kong Air Navigation (Registration Fees) (Amendment) Regulations, 1957 | A. 55. |
| Colonial Air Navigation Order, 1955. | |
| Hong Kong Air Navigation (Landing and Housing Fees) (Amendment) Regulations, 1957 | A. 56. |

STAMP DUTIES MANAGEMENT (AMENDMENT)**BILL, 1957.**

THE FINANCIAL SECRETARY moved the First reading of a Bill intituled "An Ordinance to amend the Stamp Duties Management Ordinance, Chapter 121."

He said: This Bill is part of a rather complicated process required to achieve a fairly simple objective—the use of franking machines for certain categories of Stamp Duty.

The Stamp Duties Management Ordinance which this Bill seeks to amend regulates the use of stamps and dies for the stamping of instruments liable to Stamp Duty. In addition the Governor in Council has power under Section 4 of the Stamp Ordinance itself to make regulations prescribing methods of stamping and denoting documents. The regulations made under this latter power are known as the Stamping and Denoting of Documents Regulations.

Provision is made in the present legislation for stamping either by the Collector at the Stamp Office or, in certain limited categories like receipts, by the payer himself by means of adhesive stamps. In certain cases where the documents to be stamped are numerous and the rate of duty is fixed, it is clear that it would be convenient to all parties if authority could be given for the use of franking machines by the payer of duty as is the case with postal franking machines.

The object of this Bill is to make provision for the licensing and use of such machines in appropriate cases.

Section 7B of the Bill provides that the Governor in Council may make regulations controlling the use of such machines and if the Bill is passed regulations to this effect will be made. It will also be necessary to make certain consequential amendments in the Stamping and Denoting of Documents Regulations.

Unfortunately it was only recently that it was realized that there was no authority for the use of franking machines, and from 1950 onwards a number of licences were issued to banks purporting to authorize the stamping of certain banking documents by franking machines. These licences were invalid and it will be necessary to validate stampings made by virtue of them, but it is proposed to delay introducing a Bill to this effect until the present Bill has been enacted and has come into operation.

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 make provisions with respect to the use of franking machines for stamping instruments chargeable with stamp duty. Clause 3 seeks to add two new sections, 7A and 7B, to the Stamp Duties Management Ordinance (Chapter 121). Subsection (1) of the new section 7A prohibits the use of a franking machine for stamping instruments chargeable with stamp duty except under and in accordance with a licence. Subsection (3) thereof provides for the shifting of the burden of

proof in any prosecution for an offence against subsection (1) upon proof of certain facts. The difficulties in the way of proving that a franking machine has been used are readily apparent, and it is considered necessary for the proper enforcement of the provisions of subsection (1) that the burden of proof should be shifted in the manner provided. The provisions for forfeiture contained in subsection (4) are in line with similar provisions in other enactments.

2. It is intended that the issue of licences to use franking machines for the above purposes, and the control of the use of such machines and matters connected therewith, shall be provided for by regulation. The new section 7B enables the Governor in Council to make the necessary provisions.

3. Clause 4 of the Bill suspends the coming into operation of the provisions of the new section 7A. The reason for this is that, in a limited number of cases, the use of franking machines for the purpose of stamping instruments chargeable with stamp duty has, since 1950, been permitted by the issue of documents purporting to be licences under section 4 of the Stamp Duties Management Ordinance. That section does not empower the issue of licences for the use of franking machines, nor is there any other statutory authority in that behalf. As has been seen the object of this Bill is, *inter alia*, to secure the provision of the necessary authority, but it is considered reasonable that those persons who have been using franking machines under the purported licences, should be permitted to continue to use them until such time as licences can be issued pursuant to regulations under the new section 7B. The coming into operation of the new section 7A is, therefore, suspended in order that those persons may, until such time as licences can be issued, continue to use a franking machine without committing an offence.

MIDWIVES (AMENDMENT) BILL, 1957.

THE COLONIAL SECRETARY moved the Second reading of a Bill intituled "An Ordinance to amend the Midwives Ordinance, Chapter 162".

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 and 2 were agreed to.

Council then resumed.

THE COLONIAL SECRETARY reported that the Midwives (Amendment) Bill, 1957 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.

SOCIETIES (AMENDMENT) BILL, 1957.

THE ATTORNEY GENERAL moved the Second reading of a Bill intituled "An Ordinance to amend the Societies Ordinance, Chapter 151."

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 6 were agreed to.

Council then resumed.

THE ATTORNEY GENERAL reported that the Societies (Amendment) Bill, 1957 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.

**LAW OF PROPERTY (ENFORCEMENT OF COVENANTS)
(AMENDMENT) BILL, 1957.**

THE ATTORNEY GENERAL moved the Second reading of a Bill intituled "An Ordinance to amend the Law of Property (Enforcement of Covenants) Ordinance, 1956."

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 ATTORNEY GENERAL reported that the Law of Property (Enforcement of Covenants) (Amendment) Bill, 1957 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.