

28TH APRIL, 1921.

PRESENT :—

HIS EXCELLENCY THE OFFICER ADMINISTERING THE GOVERNMENT (HON. MR. CLAUD SEVERN, C.M.G.).

H.E. MAJOR-GENERAL SIR GEORGE MACAULAY KIRKPATRICK, K.C.B., K.C.S.I. (General Officer Commanding the Troops in China).

HON. MR. E. D. C. WOLFE (Colonial Secretary).

HON. MR. J. H. KEMP, C.B.E., K.C. (Attorney-General).

HON. MR. C. McI. MESSER, O.B.E. (Colonial Treasurer).

HON. MR. E. A. IRVING (Director of Education).

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

HON. MR. T. L. PERKINS (Director of Public Works).

HON. MR. H. E. POLLOCK, K.C.

HON. MR. LAU CHU PAK.

HON. MR. A. O. LANG.

HON. MR. CHAU SIU-KI.

MR. S. B. B. McELDERRY (Clerk of Councils).

ABSENT :—

HON. MR. H. W. BIRD.

HON. MR. A. G. STEPHEN.

New Member

MR. CHAU SIU-KI took the oath and his seat as a member of the Council during the temporary absence of the Hon. Mr. Ho Fook.

Minutes

The minutes of the meeting held on April 25th were approved and signed by the President.

Papers

THE COLONIAL SECRETARY by command of H.E. the Officer Administering the Government, laid on the table the Report

of the Superintendent of Imports and Exports for the year 1920.

Finance

THE COLONIAL SECRETARY by command of H.E. the Officer Administering the Government, laid on the table the report of the Finance Committee, No. 5, and moved that it be adopted.

THE COLONIAL TREASURER seconded, and it was agreed to.

The Stamp Ordinance

THE ATTORNEY-GENERAL moved that the Council go into Committee to consider the clauses of the Stamp Bill which were left over from the last meeting.

THE COLONIAL TREASURER seconded, and the motion was approved.

In Committee many verbal amendments were made on clauses postponed for that purpose from the last meeting; clauses were re-numbered, and consequential alterations made in the Schedule.

On clause 3, paragraph 18, an amendment was approved to make the definition of a "marketable security" the same as in the present Ordinance. In paragraph 19, an amendment suggested by the Stockbrokers' Association was adopted. In paragraph 22, an amendment was approved making it clear that "person" includes a firm.

Sub-clause (5) of clause 5, which had been left over for re-drafting, was now adopted in two sub-clauses dealing with civil liability and criminal liability separately.

THE ATTORNEY-GENERAL explained that the stamp duty is a civil debt to the collector, but, as clause 6 was originally drafted the collector could never have established his claim because he could not produce the unstamped document which was the only proof of failure to pay the duty.

Clause 6 was approved as it had been amended by the Attorney-General.

Clause 16, sub-clause (3), was amended to extend the right of appeal to the Governor-in-Council on *any* point decided by the Collector.

On Clause 17, relating to instruments executed out of the Colony, the ATTORNEY-GENERAL said it had been pointed out in more than one quarter that the clause might have too wide an application, and it had been re-drafted to make it practically the same as in the present Ordinance, which had been the law for the past 20 years.

Clause 23 as re-drafted was now approved.

THE ATTORNEY GENERAL moved that clause 25, relating to proxies, be re-committed. This was agreed to and it was then amended by inserting the word "single" before the word "meeting."

THE ATTORNEY-GENERAL explained that the clause is intended to provide that any proxy to vote at a single meeting must contain the date of the meeting. It was feared that from the wording of the clause it might possibly be held that there was no power, any longer, to give a general power of attorney to vote at meetings, and in order to clear up that question this word was proposed to be inserted.

The clause as amended was approved.

With reference to Clause 41, which had been held over for re-drafting, the ATTORNEY-GENERAL proposed that it should read as follows:—

41.—(1) Where any obligation or liability is under the provisions of this Ordinance imposed upon a corporate body, and such obligation or liability is not discharged, every director, manager, secretary, and other officer, of the corporate body, who is wilfully a party to the default, and the said corporate body, shall be deemed to commit an offence against this Ordinance.

(2) Where any obligation or liability is under the provisions of this Ordinance imposed upon a firm, and such obligation or liability is not discharged every partner in the said firm, and every servant of the said firm, who is wilfully a party to the default, and the person appearing to have the management of the said firm within the Colony, shall be deemed to commit an offence against this Ordinance.

The general idea of the two clauses (he said) was to make the company in the one case, and the manager in the other, liable to see that the documents are duly stamped, but neither a director, officer or servant shall be liable unless he is knowingly and wilfully a party to the evasion of the law.

The clause, as re-drafted, was approved.

Clause 43 was verbally amended and approved.

THE ATTORNEY-GENERAL introduced a new clause, No. 45, to provide that the Ordinance shall come into operation on the 1st of May, 1921. He said he understood the intention was to take the third reading of the Bill on Saturday, at a formal meeting of the Council, and the Bill would be gazetted in a *Gazette Extraordinary*.

HON. MR. POLLOCK—I suppose, Mr. Attorney, there is no objection to the Bill coming into force on a Sunday?

THE ATTORNEY-GENERAL said he did not think so.

HIS EXCELLENCY—Make it Monday the 2nd day of May.

This was agreed to.

THE SCHEDULE

Heading No. 1. Adjudication fee (to be paid on the requisition or other application for adjudication).

THE ATTORNEY-GENERAL said that a representation had been made by the Chinese Chamber of Commerce that the fee of \$10 was too high and he moved that it be reduced to \$5.

HIS EXCELLENCY (to Mr. LAU CHU PAK)—Will you second that?

HON. MR. LAU CHU-PAK—I think it is still too high. Every time a Chinese goes to the Stamp Office and asks for a document to be stamped he has to pay \$5.

HIS EXCELLENCY—I understand the collector is always ready to help in a case of that kind. Where any formal adjudication is applied for then he has to pay. Where no formal adjudication is applied for there is no charge whatever.

THE SECRETARY FOR CHINESE AFFAIRS said it was only in a case of a dispute that adjudication was applied for. Chinese who asked for an opinion were

always given it. On adjudication one paid, but not for merely asking advice.

HON. MR. LAU CHU-PAK—In that case, I withdraw my objection.

The heading, as amended, was approved.

Heading No. 5, relating to "agreement for the sale of property" was omitted and subsequent headings were re-numbered accordingly.

Heading No. 12, re-numbered 10, relating to Bills of Exchange,

THE ATTORNEY-GENERAL moved an amendment to sub-clause 4 exempting letters of credit granted in the Colony, authorising drafts to be drawn out of the Colony payable in the Colony. He said—It has been suggested to me that this does not act quite fairly. I would point out that if it is found not to cover what it is intended to cover, exemption can be made by regulation at any time.

HON. MR. LAU CHU-PAK—The Chinese want to know if letters of credit include private letters authorising people on the mainland to pay sums of money; people in the country—private individuals or firms—suppose I write to Canton asking a firm or private individual to pay a certain sum of money to a friend or a member of my family, do you call that a letter of credit?

THE ATTORNEY-GENERAL—I should imagine that is not a letter of credit but a mere request. I am afraid I cannot give a definition off-hand.

HIS EXCELLENCY—Payment is made here.

HON. MR. LAU CHU-PAK—It is rather confusing.

HON. MR. POLLOCK—A letter of credit is usually issued through a bank.

HIS EXCELLENCY (to Hon. Mr. LAU CHU-PAK)—Is it done by a bank?

HON. MR. LAU CHU-PAK—No, not by a bank—by a shop or a merchant. It is often done by the Chinese. Suppose I want to send \$50 to a friend on the mainland, I write to a shopman I know, or to private individual trading there to pay that money. I do not know whether that is a letter of credit or not.

THE COLONIAL TREASURER—If a shop sends a list of people to pay various sums of money.

HON. MR. LAU CHU-PAK—These sums are actually on behalf of merchants trading abroad, but I meant on behalf of individuals living in the Colony. I often do it myself; say if I want to send money to be paid in Shumchun a place very near here.

THE ATTORNEY-GENERAL—The difficult point is the case of a shop, which actually does this kind of banking business.

HON. MR. POLLOCK—That is a business thing. The case put by Hon. Mr. LAU is a private family matter.

HIS EXCELLENCY—A number of people deposit money locally and usually that money is paid out in other places. It is usual to send one letter with the names and amounts. Where name and amount are entered, I think it should come under letter of credit.

THE ATTORNEY-GENERAL suggested that the sub-head as drafted be approved and that the Collector should ascertain the Chinese practice, and that any appropriate exemption could be made by regulation.

This was agreed to.

Heading 13, relating to Bills of Lading. On the motion of the ATTORNEY-GENERAL, the duty was amended by substituting \$5 for \$3 in the two places in which it occurred.

Heading 16, re-numbered 14—relating to Charter Party. The duty was amended to 15 cents for every \$100, instead of 25 cents.

Heading 17, re-numbered 15—relating to conveyance on sale. The duty was amended by substituting \$20,000 for \$50,000, in both places in which it occurred in the schedule.

Heading 22, re-numbered 20, relating to exchange contracts, was amended to agree with the new clause relating to exchange contract cancellation notes.

Heading 23, renumbered 21, relating to duty on foreclosure order was amended so that the stamp duty of 50 cents for every \$100 will apply to property not exceeding \$20,000 in value instead of \$5,000, and making the duty \$1 for every \$100 where the value of the property exceeds \$20,000, instead of \$5,000.

On Head 26, re-numbered 24—the ATTORNEY-GENERAL moved a new sub-heading (2), providing that where the lease, if granted in consideration of a

rent, is for any term not exceeding one year, a stamp duty of 50 cents will be payable in respect of every \$100 or part thereof, of the rent for one year; and where the lease is for any term exceeding one year, \$1 for every \$100 or part thereof, of the rent for one year.

HON. MR. POLLOCK—I think it would be more equitable to double the present duty of 10 cents for every \$100 and on 30 years or more 50 cents for every \$100. It is a big increase on a one year's lease, from 10 to 50 cents, and on 3 years', from 25 cents to \$1.

HON. MR. LAU CHU-PAK—I agree with Mr. POLLOCK. I think it is too much.

THE ATTORNEY-GENERAL pointed out that 50 cents on a lease valued at \$125 a month would mean only \$7.50 a year.

HIS EXCELLENCY—At present, it is only \$1.50.

HON. MR. LAU CHU-PAK—It would be a burden on the lessee.

THE COLONIAL TREASURER—It is a small burden compared with the rent.

THE COLONIAL SECRETARY—The duty in the past has been very light.

HIS EXCELLENCY—Who pays—the landlord or the tenant?

THE COLONIAL SECRETARY—The tenant.

HON. MR. LANG—The less we increase rents the better: keep them down, rather.

THE COLONIAL SECRETARY—In some cases, I understand, the tenant pays half, and the landlord pays half. In some cases the tenant pays the lot: I don't think there is any case where the landlord pays the lot.

HIS EXCELLENCY—You might make it 25 cents up to one year, 50 cents up to three years, and then the dollar. Would that meet the objection?

The amendment suggested by His Excellency was agreed to.

Amendments were made in the wording of Heading 30, re-numbered 29. The effect was to make collateral securities subject to a duty of 10 cents instead of 20 cents and extensions of time of original mortgage, and transfers of mortgage, also, 10 cents on every \$100.

Heading 34, re-numbered 33—(Policy of Insurance) was revised, one of the alterations being to make the duty on re-insurance the same as on a direct policy.

Heading 41, re-numbered 40—relating to shares. The duty was altered from 50 cents for every \$100 to 20 cents, payable before execution.

In Heading 42, re-numbered 41, (shippers' books), the line between the two rates of duty was changed from \$3 to \$5.

On Heading 43, re-numbered 42—(telegraphic transfer advice).

HON. MR. LAU CHU-PAK moved that the duty be reduced from 10 cents to 5 cents for every \$100. He considered 5 cents would be more reasonable.

HON. MR. CHAU SIU-KI seconded.

HIS EXCELLENCY—The Government have considered the point brought forward for exemption up to \$10,000, but, acting on advice which they felt was sound, they consider that the tax is not one that will cause any hardship nor, one would suppose, cause any such business to be transacted out of the Colony to any great extent. Therefore, I am unable to accept the amendment. (To the Hon. Mr. LAU CHU-PAK)—Do you wish for a division?

HON. MR. LAU CHU-PAK—I do not think it will be any good.

HIS EXCELLENCY—Heading 43, re-numbered 42, stands part of the Schedule.

Heading 46, re-numbered 44—relating to voluntary disposition *inter vivos* of property, was amended by substituting \$20,000 for \$5,000.

On the motion of the Hon. Mr. POLLOCK, the Attorney-General was authorised to make any amendments consequential on the re-numbering.

The Council then resumed.

HIS EXCELLENCY—In view of the large number of amendments the Government feel it will be convenient to have the Bill re-printed as quickly as possible and it is hoped that hon. members may have the Bill, with all amendments printed, by to-morrow evening,—or, at any rate, first thing on Saturday. I propose to adjourn the Council till Saturday, noon, when the third reading of the Bill will be taken.