

23rd March, 1939.

PRESENT:—

THE COLONIAL SECRETARY (HON. MR. N. L. SMITH, C.M.G.).

HIS EXCELLENCY THE GENERAL OFFICER COMMANDING THE TROOPS, (MAJOR GENERAL A. E. GRASETT, D.S.O., M.C.).

THE ATTORNEY GENERAL (HON. MR. C. G. ALABASTER, O.B.E., K.C.).

THE SECRETARY FOR CHINESE AFFAIRS (HON. MR. W. J. CARRIE, *Acting*).

THE FINANCIAL SECRETARY (HON. MR. S. CAINE).

HON. COMMANDER G. F. HOLE, R.N. (Retired), (Harbour Master).

HON. MR. R. M. HENDERSON, C.B.E., (Director of Public Works).

HON. DR. P. S. SELWYN-CLARKE, M.C., (Director of Medical Services).

HON. MR. C. G. PERDUE (Acting Commissioner of Police).

HON. SIR HENRY POLLOCK, KT., K.C., LL.D.

HON. MR. S. H. DODWELL.

HON. MR. CHAU TSUN-NIN, C.B.E.

HON. MR. LO MAN-KAM.

HON. MR. LEO D'ALMADA E CASTRO, JNR.

HON. MR. A. L. SHIELDS.

HON. MR. T. E. PEARCE.

HON. MR. W. N. THOMAS TAM.

MR. B. C. K. HAWKINS (Deputy Clerk of Councils).

GOVERNOR'S INDISPOSITION.

THE PRESIDENT.—Gentlemen, I have to announce that His Excellency the Governor is unfortunately indisposed to-day and has appointed me, in accordance with Article XXI of the Royal Instructions, to preside at this meeting.

NEW MEMBERS.

The Hon. Mr. C. G. Perdue (Acting Commissioner of Police), the Hon. Mr. T. E. Pearce and the Hon. Mr. W. N. Thomas Tam took the Oath of Allegiance and took their seats as members of the Council.

MINUTES.

The Minutes of the previous meeting of the Council were confirmed.

PAPERS.

THE SECRETARY FOR CHINESE AFFAIRS.—Sir, By command of His Excellency the Governor, I lay upon the table certain papers, copies of which are in the hands of Honourable members.

The papers laid on the table were as follow:—

New Kowloon Cemetery No. 8 authorized by the Governor in Council under section 73 (1) of the Public Health (Sanitation) Ordinance, 1935, Ordinance No. 15 of 1935, to be used as an urn cemetery, dated 27th January, 1939.

Order made by the Chief Justice under section 32 of the Supreme Court Ordinance, 1873, Ordinance No. 3 of 1873, dated 12th January, 1939.

Amendments made by the Governor in Council under section 3 of the Adulterated Food and Drugs Ordinance, 1935, Ordinance No. 8 of 1935, of the regulations, dated 2nd February, 1939.

Order made by the Governor in Council under section 39 (4) of the Rating Ordinance, 1901, Ordinance No. 6 of 1901, dated 6th February, 1939.

The Superintendent of Imports and Exports appointed by the Governor in Council under sections 38 and 88 of the Liquors Ordinance, 1931, Ordinance No. 36 of 1931, to exercise all the duties in connexion with Canteen Licences, dated 7th February, 1939.

Amendments made by the Governor in Council under the Post Office Ordinance, 1926, Ordinance No. 7 of 1926, to the rates of postage in Class H—Insured Boxes, dated 24th February, 1939.

Amendments made by the Governor in Council under Section 3 of the Post Office Ordinance, 1926, Ordinance No. 7 of 1926, to the regulations, dated 24th February, 1939.

Amendment made by the Governor in Council under section 17 of the Prisons Ordinance, 1932, Ordinance No. 38 of 1932, to the Rules, dated 25th February, 1939.

Amendments made by the Governor in Council under the Post Office Ordinance, 1926, Ordinance No. 7 of 1926, to the rates of postage in Class A, dated 28th February, 1939.

Order made by the Governor in Council under section 2 (a) of the Evidence Ordinance, 1889, Ordinance No. 2 of 1889, recognizing the Nederlandsche Handel-Maatschappij, N.V., dated 2nd March, 1939.

Amendments made by the Governor in Council under section 17 of the Prisons Ordinance, 1932, Ordinance No. 38 of 1932, to the Prisons Rules, dated 9th March, 1939.

Regulations made by the Governor in Council under section 3 (1) (c) of the Pharmacy and Poisons Ordinance, 1937, Ordinance No. 8 of 1937, dated 10th March, 1939.

Regulations made by the Governor in Council under sections 3 and 4 of the Importation and Exportation Ordinance, 1915, Ordinance No. 32 of 1915, and section 32 of the Telecommunication Ordinance, 1936, Ordinance No. 18 of 1936, dated 15th March, 1939.

Amendment made by the General Officer Commanding the Troops with the approval of the Governor after consultation with the Commandant of the Hong Kong Volunteer Defence Corps under section 10 of the Volunteer Ordinance, 1933, Ordinance No. 10 of 1933, to the First Schedule to that Ordinance, dated 17th March, 1939.

Proclamation No. 1—Crown Rents (Apportionment) Ordinance, 1936, Ordinance No. 4 of 1936, to come into operation as regards certain lots on 10th March, 1939.

Administration Reports, 1938:—**Part I.—General Administration:—****Financial Returns.**

Report of the Director of the Royal Observatory,
Hong Kong.

Part II.—Law and Order:—

Report of the Official Receiver and Registrar of Trade
Marks and Patents.

Copy of Secretary of State's Despatch No. 69 of 21st February,
1939, with enclosures, relative to Hong Kong Military
Contribution.

FINANCE COMMITTEE'S REPORT.

THE SECRETARY FOR CHINESE AFFAIRS, by command of
H.E. The Governor, laid upon the table the report of the Finance
Committee, No. 1 of 2nd February, 1939, and moved that it be adopted.

THE FINANCIAL SECRETARY seconded, and this was agreed to.

BETTING DUTY AMENDMENT BILL, 1939.

THE ATTORNEY GENERAL moved the first reading of a Bill
intituled "An Ordinance to amend the Betting Duty Ordinance, 1931."
He said: This Bill, when enacted, will give the Police slightly greater
control over places where betting tickets are sold.

THE SECRETARY FOR CHINESE AFFAIRS seconded, and the
Bill was read a first time.

Objects and Reasons.

The "Objects and Reasons" for the Bill were stated as follows:—

1. The hawking of chances in the streets is forbidden by part
of sub-section (2) of section 5 of the Betting Duty Ordinance, 1931.

2. The object of this Bill is to extend that prohibition so as
to forbid the sale or offering for sale of any tickets, lists, receipts
or other substitutes for tickets recording the numbers of the
chances allocated for any cash sweep, totalizator or pari-mutuel, except
at places authorized in writing by the Commissioner of Police for such
sales, and then only in accordance with the conditions (if any) contained
in such authorization, or except on the premises or at the offices of
the club conducting the cash sweep, totalizator or pari-mutuel betting,
to which the tickets, lists, receipts or other substitutes for tickets
relate.

3. Since some one or more of the clubs conducting betting under the principal Ordinance have introduced the plan of selling books of ten tickets for the price of nine, shops and commission agents have found the purchase of such books, with a view to reselling their contents singly, a profitable line of business, which has resulted in tickets being offered for sale in various stores and in the hawking of them round offices and business premises.

4. The effect of the Bill will not be to prevent the sale of books of tickets at a discount, but it will enable the Commissioner of Police to limit the number of places at which tickets may be sold and to bring the method of sale under greater control.

INCITEMENT TO DISAFFECTION BILL, 1939.

THE ATTORNEY GENERAL moved the first reading of a Bill intituled "An Ordinance to make better provision for the prevention and punishment of endeavours to seduce members of His Majesty's forces, or any member of any local Naval, Military or Police force, corps or reserve, from their duty, or from allegiance to His Majesty." He said: This Bill enacts in the Colony the provisions of the English Incitement to Disaffection Act of 1934 with certain extensions as to local forces.

THE SECRETARY FOR CHINESE AFFAIRS seconded, and the Bill was read a first time.

Objects and Reasons.

The "Objects and Reasons" for the Bill were stated as follows:—

1. The object of this Bill is to make provision similar to that which exists in the United Kingdom under the Incitement to Disaffection Act, 1934, for the prevention and punishment of endeavours to seduce members of His Majesty's forces from their duty or allegiance, and to include within its ambit the attempted seduction of members of the local Naval, Military and Police forces, corps and reserve constituted under Ordinances Nos. 24 of 1927, 37 of 1932, 10 of 1933 and 30 of 1933.

2. A Table of Correspondence is attached showing the corresponding sections of the United Kingdom Act and the variations therefrom.

SUPREME COURT AND FULL COURT ORDINANCES AMENDMENT BILL, 1939.

THE ATTORNEY GENERAL moved the first reading of a Bill intituled "An Ordinance to amend the law relating to the professional qualifications required in the case of Judges of the Supreme Court and Full Court." He said: This Bill sets out, for the sake of uniformity, the requirements the Secretary of State laid down for the appointment of future Judges not only in this Colony but throughout the Colonial Empire.

THE SECRETARY FOR CHINESE AFFAIRS seconded, and the Bill was read a first time.

Objects and Reasons.

The "Objects and Reasons" for the Bill were stated as follows:—

1. The establishment of a Colonial Legal Service, the members of which are liable to transfer from one Colony to another, makes it important that the provisions of the law relating to the qualifications of Judges should be uniform throughout the Colonial Empire.

2. To promote such uniformity the Secretary of State, by a circular despatch dated the 29th July, 1938, has requested that an early opportunity be taken to arrange for a provision in the local statute law requiring that no person shall be appointed to be a Judge of the Supreme Court unless:—

(i) he is qualified to practise as an advocate in a Court in England, Scotland, Northern Ireland or some other part of His Majesty's dominions having unlimited jurisdiction either in civil or criminal matters, and

(ii) he has been qualified for not less than five years to practise as an advocate or solicitor in such a Court.

3. The difference in wording employed in the two sub-clauses above is for the purpose of providing for the case of a solicitor who subsequently gets called to the Bar.

4. Clause 2 of the Bill provides for the insertion of a new section in the Supreme Court Ordinance, 1873, containing the provision required with its two sub-clauses.

5. Clause 3 of the Bill makes a corresponding amendment of the Full Court Ordinance, 1933, so far as it relates to judges appointed locally.

6. Under section 2 (4) of the Full Court Ordinance, No. 8 of 1933, the Judge of His Britannic Majesty's Supreme Court for China (if the Principal Secretary of State for Foreign Affairs has consented to such appointment) is eligible to serve as a judge of the Full Court. Moreover two Judges of His Britannic Majesty's Supreme Court for China are among the four Judges appointed with the approval of the Lord Chancellor under rule 2 (2) of the Hong Kong (non-domiciled parties) Divorce Rules, 1936, to exercise jurisdiction here under the Indian and Colonial Divorce Jurisdiction Act, 1926 (see Hong Kong Government Gazette Notifications No. 15 of 1936 and No. 470 and 782 of 1937).

7. It is not considered desirable in a Hong Kong Ordinance to regulate in any way the qualifications of Judges of His Britannic Majesty's Supreme Court for China. Their qualifications are regulated

by Article 7 of the China Order in Council, 1925, (Statutory Rules and Orders, 1925, No. 603) which requires them to be members of the Bar of England, Scotland or Northern Ireland of not less than seven years standing.

REGISTRATION OF PERSONS BILL, 1939.

THE ATTORNEY GENERAL moved the first reading of a Bill intituled "An Ordinance to consolidate and amend the law relating to the registration of persons." He said: There is very little new in this Bill. Part 1 deals with aliens and also the duty of masters and agents of ships coming to the Colony and proprietors of hotels to keep a list and register people there.

The second part relates to British subjects and contains practically all that was provided for in the amending Bill of last year which has not yet been brought into force. It was decided that, rather than bring the amending Bill into force, the whole should be found in one place, and also that little slips in the Bill be corrected. When the Bill comes before this Council for its second reading, and after it goes into Committee, it is proposed that I move certain additions to Clause 5. Clause 5 as it stands casts a duty on the masters, owners and agents of every ship coming to the Colony to issue a list of all passengers for the benefit of the Police, and it is intended next week to amend that Clause by adding similar provisions in connection with persons in charge of and agents for aircraft coming into this Colony. This Bill has no Suspending Clause and so, when it is passed and is consented to on Friday of next week by His Excellency the Governor, the duties cast upon British subjects will become obligatory at once, and give them about two months to comply.

THE SECRETARY FOR CHINESE AFFAIRS seconded, and the Bill was read a first time.

Objects and Reasons.

The "Objects and Reasons" for the Bill were stated as follows:—

1. The object of this Ordinance is to consolidate for convenience of reference the Registration of Persons Ordinance, 1934, with the subsequent Ordinances amending it.

2. In the course of consolidation various small changes have suggested themselves, or been suggested by others, and have been incorporated in the text. The nature of these is explained in detail in the Table of Correspondence attached.

HYDROCARBON OILS BILL, 1939.

THE ATTORNEY GENERAL moved the first reading of a Bill intituled "An Ordinance to consolidate and amend the law relating to the taxation of Hydrocarbon Oils." He said: This Bill is a consoli-

tion Bill and what is new in it is set out in the Table of Correspondence. The main new features are heavy oils with a flash point greater than 66 degrees Centigrade which will bear a duty of 30 cents per gallon when they are used in heavy road vehicles. This is provided for in Clause 6.

THE SECRETARY FOR CHINESE AFFAIRS seconded, and the Bill was read a first time.

Objects and Reasons.

The "Objects and Reasons" for the Bill were stated as follows:—

1. Light hydrocarbon oils, as defined in clause 2 (*h*) and (*k*) of this Bill including the oils specified in the fourth schedule thereto have had to pay a duty under section 6 (1) of the Motor Spirit Ordinance, No. 4 of 1930.

2. This duty was originally 15 cents per gallon, but it was raised to 25 cents in 1931 and to 30 cents in 1936 (Government Notifications Nos. 584 and 667 of 1931 and 571 of 1936).

3. It is now proposed to impose a similar duty on such heavy hydrocarbon oils as to be used as fuel in heavy oil road vehicles. For definitions see clause 2 (*f*), (*h*) and (*k*) of this Bill. Heavy oils with a flash point of under 66 degrees C (corresponding to 150 degrees F) are exempted as they are not considered suitable for use as fuel in such vehicles.

4. To give effect to this proposal by amendment of the 1930 Ordinance would involve amending its title and almost every section therein and regulation thereunder.

5. It has been decided therefore that it would be preferable to replace the 1930 Ordinance by a new Ordinance in which all its provisions and the regulations thereunder have been reviewed and revised not only in the light of the new proposal relating to heavy oils, but also in the light of importation and export by ship, air, road or train. The development of air-traffic, the building of a road to China and the linking up of railways in China having made such review and revision necessary.

6. A table of correspondence is attached, showing the variations between this Bill and the law it is intended to replace when enacted.

QUEEN VICTORIA STREET EASTWARD RECLAMATION AND PIERS BILL, 1939.

THE ATTORNEY GENERAL moved the first reading of a Bill intituled "An Ordinance to authorize an undertaking for the reclamation of an area of sea bed to abut the Jubilee Street Ferry Pier approaches and Connaught Road to the Eastward of such approaches between Queen Victoria Street and Pottinger Street and for construction of a

pier extending seawards from such reclamation and also for the construction of a temporary pier between the said reclamation and Douglas Wharf." He said: This Bill is in accordance with the rules now laid down for such reclamations, and the nature of the reclamation proposed is set out in the Schedule.

THE SECRETARY FOR CHINESE AFFAIRS seconded, and the Bill was read a first time.

Objects and Reasons.

The "Objects and Reasons" for the Bill were stated as follows:—

1. As stated in the preamble to this Bill, it was provided by the Public Reclamations Validation and Clauses Ordinance, No. 40 of 1936, that the provisions of Part II of that Ordinance (which relates to the notification of projected reclamations and public works over unleased Crown foreshore and sea bed, to the hearing of objections, to the payment of compensation where due and to the extinction of pre-existing public and private rights) shall be deemed to be incorporated, unless expressly varied or excepted, in any future Ordinance authorizing any undertaking for reclamation or other works of a public nature over and upon unleased Crown foreshore and sea bed, provisionally and subject to the definitive approval of the Governor in Council.

2. The object of this Bill is to give such provisional authorization in the case of the reclamation and piers described in the Schedule.

3. The Bill is drafted on the general lines of Ordinance No. 21 of 1937, the Stores Pier (North Point) and Additional Pipe Lines Ordinance, 1937, with an additional clause applying section 6 of Ordinance No. 40 of 1936 to one of the projected undertakings for a limited period only.

4. Section 6 of the 1936 Ordinance provided (subject to sections 7, 8 and 9 thereof) for the complete extinction of pre-existing public and private rights in, upon and over the Crown foreshore and sea bed affected by the authorized undertaking. In the case of a temporary pier it is unnecessary to extinguish such rights for longer than the pier continues to be required and maintained.

✓ PROTECTION OF WOMEN AND GIRLS AMENDMENT BILL, 1939.

THE ATTORNEY GENERAL moved the first reading of a Bill intituled "An Ordinance to amend the Protection of Women and Girls Ordinance, 1938." He said: This Bill adds to the principal Ordinance relating to the protection of women and girls. The provisions are similar to the ones added last year to the Dangerous Drugs Ordinance. When this Bill is in Committee, I propose to correct mistakes in the first lines of Clauses 1 and 2. The Ordinance there is referred to as the Women and Girls Ordinance." It should read "Protection of Women and Girls Ordinance."

THE SECRETARY FOR CHINESE AFFAIRS seconded, and the Bill was read a first time.

Objects and Reasons.

1. When a magistrate has made an order under section 14 determining the tenancy of premises, the occupant is thereafter to be treated as a trespasser. If he is requested by the landlord to vacate the premises he usually refuses and the landlord is obliged to take proceedings in court to make the order effective. It is often desirable that a more speedy and statutory remedy to enforce removal of the trespassing occupant should exist. Such a remedy already exists in the case of premises used as a heroin factory—see section 21 of the Dangerous Drugs Ordinance, 1935, as amended by section 3 of the Dangerous Drugs Amendment Ordinance, 1938.

2. The amendment now made by this Bill follows the wording of the provision in the Dangerous Drugs Ordinance and gives a speedy method for removing an occupant who uses his premises contrary to section 12 of the Ordinance.

DEFENCE CONTRIBUTION BILL, 1939.

THE ATTORNEY GENERAL moved the first reading of a Bill intituled "An Ordinance to make provision for the Colony's yearly contributions to His Majesty's Government for defence." He said: This Bill passes into legal form the scheme outlined in this Council on December 22nd. It must be understood, as is pointed out in the Memorandum of Objects and Reasons, that the scheme is experimental, and additional conditions are set forth in that Memorandum.

THE SECRETARY FOR CHINESE AFFAIRS seconded, and the Bill was read a first time.

Objects and Reasons

The "Objects and Reasons" for the Bill were stated as follows:—

1. It will be remembered that at the meeting of the Legislative Council held on the 22nd December, 1938, reported on pages 193 and 194 of the Hong Kong Hansard for that year, the Colonial Secretary bore a message from His Excellency the Governor conveying the conditional approval of His Majesty's Government in the United Kingdom of a new method of assessment for the annual contributions to that Government by the Colony for its defence, commonly called "the Military Contribution", in respect of the years 1939 to 1943 inclusive.

2. The essential terms of that approval were that the Governor's proposal for a fixed annual contribution of \$6,000,000 for the quinquennium 1939-1943 was accepted subject to the following conditions:—

(i) If in any year the sterling value of this fixed sum, calculated at the average rate of exchange for the year, should fall below £350,000, or in the event of a formal devaluation of the dollar which would reduce the value below that figure, the amount of the contribution shall be at once reviewed without waiting for the end of the quinquennial period.

(ii) The Colony shall not pay in any year more than the actual cost of the garrison in that year.

(iii) That acceptance of the system of a fixed annual contribution is regarded as an experiment subject to review at the end of the first quinquennium, with the proviso that if the experiment is found to be unsatisfactory the Army Council or the Colony may propose to revert to the present basis of calculation of the contribution at the end of the 1939-1943 quinquennium.

3. The object of this Bill is to make statutory provision for the new method of assessment.

4. A Table of Correspondence is attached showing the source of the various clauses of this Bill.

DANGEROUS DRUGS AMENDMENT BILL, 1939.

THE ATTORNEY GENERAL moved the second reading of a Bill intituled "An Ordinance to amend the Dangerous Drugs Ordinance, 1935."

THE SECRETARY FOR CHINESE AFFAIRS seconded, and the Bill was read a second time.

GOVERNMENT HOUSE AND CITY DEVELOPMENT FUND WINDING UP BILL, 1939.

THE ATTORNEY GENERAL moved the second reading of a Bill intituled "An Ordinance for the repeal of the Government House and City Development Scheme Ordinance, 1934, and for the appropriation to the general revenue of the Colony of any balance standing to the credit of the Fund at the Treasury established under section 4 of that Ordinance."

THE SECRETARY FOR CHINESE AFFAIRS seconded, and the Bill was read a second time.

PREVENTION OF EVICTION AMENDMENT BILL, 1939.

THE ATTORNEY GENERAL moved the second reading of a Bill intituled "An Ordinance to amend the Prevention of Eviction Ordinance, 1938".

THE SECRETARY FOR CHINESE AFFAIRS seconded, and the Bill was read a second time.

EVIDENCE AMENDMENT BILL, 1939.

THE ATTORNEY GENERAL moved the second reading of a Bill intituled "An Ordinance to amend the Evidence Ordinance, 1889." He said: When this Bill is in Committee I intend to move a small amendment in the last line on Page 2.

THE SECRETARY FOR CHINESE AFFAIRS seconded, and the Bill was read a second time.

**OFFENCES AGAINST THE PERSON AMENDMENT
BILL, 1939.**

THE ATTORNEY GENERAL moved the second reading of a Bill intituled "An Ordinance to amend section 45A of the Offences Against the Persons Ordinance, 1865, as enacted by the Offences Against the Person Amendment Ordinance, 1938."

THE SECRETARY FOR CHINESE AFFAIRS seconded, and the Bill was read a second time.

On the motion of the Attorney General, seconded by the Secretary for Chinese Affairs, the Council then went into committee to consider the Bills clause by clause.

EVIDENCE AMENDMENT BILL, 1939.

Clause 2.

THE ATTORNEY GENERAL.—I move that in the final line on Page 2, in the new section 28D, the date "the twenty-fourth day of March" be substituted for "the first day of March." The "first day of March" was put in by the drafter because he did not know when this Bill would become law. It is intended to put in the date on which it becomes law, which will be to-morrow.

THE SECRETARY FOR CHINESE AFFAIRS seconded, and this was agreed to.

Upon Council resuming,

THE ATTORNEY GENERAL reported that the five Bills had passed through Committee without amendment, except in the case of the Evidence Amendment Bill, which had been immaterially amended, and moved the third readings.

THE SECRETARY FOR CHINESE AFFAIRS seconded, and the Bills were read a third time and passed.

ADJOURNMENT.

THE PRESIDENT.—The Council stands adjourned until March 30.

FINANCE COMMITTEE.

Following the Council, a meeting of the Finance Committee was held, the Colonial Secretary (Hon. Mr. N. L. Smith, C.M.G.), presiding.

Votes totalling \$414,145, contained in message No. 2 from His Excellency the Governor, were considered.

All the votes were approved.
