

22nd June, 1939.

PRESENT:—

HIS EXCELLENCY THE GOVERNOR (SIR G. A. S. NORTHCOTE, K.C.M.G.).

THE HONOURABLE THE OFFICER COMMANDING THE TROOPS (BRIGADIER T. MACLEOD, C.R.A.).

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

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

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

HON. MR. A. G. W. TICKLE (Acting Director of Public Works).

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. T. E. PEARCE.

HON. MR. W. N. THOMAS TAM.

HON. MR. J. K. BOUSFIELD, M.C.

MR. C. B. BURGESS (Deputy Clerk of Councils).

ABSENT:—

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

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

MINUTES.

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

NEW MEMBERS.

The Honourable the Officer Commanding the Troops (Brigadier T. MacLeod, C.R.A.) and the Honourable Mr. J. K. Bousfield, M.C., took the Oath of Allegiance and assumed their seats as Members of the Council.

PAPERS.

THE COLONIAL SECRETARY.—By Command of Your Excellency I lay upon the table the following papers, copies of which are in the hands of Members except for the Annual Abstract Account for 1937, with a report of the Director of Colonial Audit, which are too bulky to print but they are available for Honourable Members to scrutinize if they so desire.

The papers laid on the table were:—

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 26th May, 1939.

Regulation made by the Governor in Council under section 5 of the Ferries Ordinance, 1917, Ordinance No. 28 of 1917, relating to the exclusion of the ferry of Cheng Chik Pui from the operation of that Ordinance, dated 27th May, 1939.

Notification made by the Governor in Council under section 10 of the Registration of Persons Ordinance, 1939, Ordinance No. 12 of 1939, directing the application of sub-section (2) of section 2 of the said Ordinance to British subjects, dated 2nd June, 1939.

Amendments made by the Governor in Council under section 9 (1) of the Police Force Ordinance, 1932, Ordinance No. 37 of 1932, to the Police Pensions Regulations, dated 2nd June, 1939.

Administration Reports, 1938:—

Part II.—Law and Order:—

Report of the Police Magistrates' Courts.

Part V.—Defence:—

Report on Air Raid Precautions.

Part VII.—Undertakings of Government:—

Report of the General Post Office.

Annual Abstract Account for 1937, with report of the Director of Colonial Audit.

FINANCE COMMITTEE'S REPORT.

THE COLONIAL SECRETARY.—By Your Excellency's command, I bring up the Report of the Finance Committee (No. 4), dated the 25th of May, 1939, and move that it be adopted.

THE FINANCIAL SECRETARY seconded, and this was agreed to.

MOTIONS.

THE COLONIAL SECRETARY moved the following resolution:—

Whereas application has been made by the Urban Council to the Governor under section 52 of the Public Health (Sanitation) Ordinance, 1935, for the erection of a Public Flush Latrine on a site at the eastern end of Lower Lascar Row;

And whereas such application has been duly approved by the Governor and a notification of the intention to erect a Public Latrine at such site has been duly published in three successive numbers of the Gazette;

And whereas the owner of The Central Theatre in the vicinity has objected to such erection;

And whereas such objection has been duly considered;

It is hereby resolved by this Council that the above mentioned site and the erection thereon of a Public Flush Latrine be and the same are hereby approved.

He said: The objection to which reference is made in this resolution came, as members have been informed by circulation, from the owner of the Central Theatre, and was based on three grounds:—

- (a) that obnoxious smells from the proposed latrine will penetrate the theatre windows which must be kept open in spring and summer;
- (b) that the entrance to the proposed latrine is directly opposite an exit from the theatre in U Hing Lane;
- (c) that there exists a latrine, namely, in U Yam Lane, only 100 yards distant from the site of the proposed latrine, and that this existing latrine should be enlarged.

To the first of these objections the Urban Council replies that obnoxious smells do not permeate from modern flush latrines and that it is found from observation that the windows of the theatre are, in fact, generally shut.

To the second objection the Urban Council replies that the proposed site is not in U Hing Lane, but in Lower Lascar Row, and that the entrance to the latrine will not be opposite to the side exit from the theatre.

To the third objection the Urban Council replies that the existing latrine in U Yam Lane is at least 150 yards from the proposed site and cannot be enlarged. It adds that extra latrine accommodation is urgently needed in this district.

THE ATTORNEY GENERAL seconded, and the resolution was adopted.

THE FINANCIAL SECRETARY moved:—

1. That this Council approves under section 3 (2) of the Hong Kong Dollar Loan Ordinance, No. 11 of 1934, of the following transfers in the Schedule:—

Item 2.—Shing Mun Valley Water Scheme—to be reduced from \$10,175,262.90 to \$10,139,142.92.

Item 4.—New Gaol at Stanley—to be reduced from \$3,917,087.25 to \$3,912,971.41.

Item 6.—Airport—to be reduced from \$900,940.90 to \$865,764.97.

Item 8.—Other Public Works—to be increased from \$985,225.68 to \$1,060,637.43.

2. That this Council approves of the expenditure during the financial year 1939 under Head 8A of the Loan Works authorized under Ordinance No. 11 of 1934 (Central Market) of a total sum of \$279,983.47, which sum shall be advanced from the surplus balances of the Colony pending the issue of the remainder of the loan authorized under the said Ordinance.

3. That this Council approves the carrying out of the works set out in the Schedule attached at an estimated cost of \$4,312,500 and of the expenditure in the financial years 1938 and 1939 of the sums set out in columns 3 and 4 of the Schedule, the cost to be met from a future loan and meanwhile to be charged as advances from the surplus balances of the Colony pending the raising of a loan.

He said: There are three resolutions standing in my name in connection with Loan expenditure. The first two relate to expenditure under the 1934 Loan. We have received certain credits under certain heads of that expenditure; in particular, from the sale of plant in connection with the Shing Mun Valley Water Scheme, and from the Air Ministry in connection with the Airport.

These credits go to reduce expenditure under these heads and additional Loan funds thereby become available for expenditure on other public works, particularly the new Central Market.

The first resolution, therefore, authorises the necessary transfers in the Schedule attached to the Loan Ordinance, and the second authorises the expenditure of the remaining Loan funds on the Central Market during the current year. I might add that it is not proposed

to charge any further expenditure to this Loan Account after these sums have been expended. If any further credits are received, they will go to reduce the total amount of the Loan to be raised in due course.

The third resolution deals with expenditure under the proposed new Loan. In the first place, certain expenditure under that Loan was authorised for 1938 for a number of items of waterworks. The Public Works Department have made more rapid progress with some of these than was expected and in consequence small excesses were incurred during 1938, not on the total expenditure involved, but on the expenditure approved for the year. Authority is required to cover this increased expenditure.

In addition, certain variations have been made in the estimates of the total sums required on some of these items and on the expenditure which is now expected to be incurred during the current year.

THE COLONIAL SECRETARY seconded, and the resolutions were adopted.

MERCHANT SHIPPING AMENDMENT BILL, 1939.

THE ATTORNEY GENERAL moved the first reading of a Bill intituled "An Ordinance to amend the Merchant Shipping Ordinance, 1899." He said: The object of this Bill is to revise a certain heading of the principal Ordinance which has proved inconvenient.

THE COLONIAL SECRETARY seconded, and the Bill was read a first time.

Objects and Reasons.

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

1. Part X of the Merchant Shipping Ordinance, No. 10 of 1899, as it appeared in Sir John Carrington's Revised Edition (1902) of the Ordinances of Hong Kong, was headed "Junks and small boats." It contained two sections, 39 and 40, headed respectively "Junks" and "Boats, lighters, hulks, etc."

2. After certain amendments and replacements effected by section 11 of Ordinance No. 5 of 1905 and section 4 of Ordinance No. 16 of 1906, Ordinance No. 48 of 1911 was passed substituting a new section 39 with the heading "Junks and small boats" and repealing section 40.

3. By section 53 of the General Revision Ordinance, No. 8 of 1912, the heading was altered to "Junks and other Chinese vessels."

4. This heading has proved inconvenient as it hinders the licensing of oil or water lighters under Tables T and U of the regulations under section 39 of the principal Ordinance unless they happen to be of Chinese type.

5. The object of clause 2 of this Bill is to replace the present inconvenient heading to section 39 by the words "Junks, lighters and craft not provided for under other parts of this Ordinance." It will then be practicable for the Governor in Council to alter by regulation the similarly restrictive heading to Table U on page 373 of Volume I of the Regulations of Hong Kong (1937 Edition).

6. Clause 3 of the Bill is the suspending clause usual in Ordinances relating to Merchant Shipping.

TELECOMMUNICATION AMENDMENT BILL, 1939.

THE ATTORNEY GENERAL moved the first reading of a Bill intituled "An Ordinance to amend the Telecommunication Ordinance, 1936." He said: The object of this Bill is to substitute Section 31 with a new section similar to that recently introduced in the Dangerous Drugs Ordinance.

THE COLONIAL SECRETARY 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 substitute for section 31 of the Telecommunication Ordinance, 1936, a new section, the first four sub-sections of which follow generally the lines of section 13 of the Dangerous Drugs Ordinance, No. 35 of 1935, with a fifth sub-section re-enacting sub-section (2) of section 31 of the Telecommunication Ordinance.

2. It has been found by experience that the swifter means of effecting searches, seizures and arrests which the substituted provisions will permit are as necessary for the due enforcement of the Telecommunication Ordinance as they are in the case of the Dangerous Drugs Ordinance especially where illicit apparatus is in question.

STERLING SALARIES CONVERSION AMENDMENT BILL, 1939.

THE ATTORNEY GENERAL moved the first reading of a Bill intituled "An Ordinance to continue and amend the Sterling Salaries Conversion Ordinance, 1937." He said: The object of this Bill is explained in the memorandum attached.

THE COLONIAL SECRETARY seconded, and the Bill was read a first time.

Objects and Reasons.

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

1. Section 3 of the Sterling Salaries Conversion Ordinance, No. 24 of 1937, provided for the conversion in certain events of sterling salaries paid in the Colony at the flat rate of one shilling and threepence to the dollar or sixteen dollars to the pound sterling. It contained however

a proviso allowing the Treasury rate, *i.e.*, a rate based upon a monthly average of the Bank's published rate of exchange more fully defined in section 2 of the principal Ordinance, to be paid in the case of officers absent on more than three months' leave who had arranged to draw their pay in the Colony.

2. Section 6 of the Ordinance provided that the Ordinance should continue in force until the 31st December, 1938, and no longer unless otherwise provided by Ordinance.

3. Salaries paid locally have, however, continued to be paid at the rates provided by section 3 notwithstanding the absence of an amending Ordinance extending the period of operation of that section.

4. The objects of this Bill are firstly to validate the rates paid since the first of January, 1939, and secondly to fix for an indefinite period the rates provided by section 3 of the 1937 Ordinance, but to withdraw from officers proceeding on leave in the future the special concession given by the existing proviso to that section. A new proviso is substituted continuing the concession till the end of their leave of officers at present on leave who have availed themselves of it.

NAVAL VOLUNTEER AND DEFENCE BILL, 1939.

THE ATTORNEY GENERAL moved the first reading of a Bill intituled "An Ordinance to amend the Naval Volunteer Ordinance, 1933, and provide for Naval Defence." He said: This is one of two model Ordinances drafted in 1928 by the Admiralty in consultation with the Colonial Office. The first model was adopted six years ago, and it is now desired that the second be enacted as well. One of the effects of this Bill is that members of the Hongkong Naval Volunteer Force are liable to service and training in any ship establishment or other place without the limits of the Colony or its territorial waters whether belonging to the Colony or not.

THE COLONIAL SECRETARY 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 clauses of this Bill follow the language of the clauses of the second model Ordinance prepared in 1933 by the Colonial Office in consultation with the Admiralty.

2. The first model, to which the second is supplementary, has already been enacted, with three additional sections at the end, as Ordinance No. 30 of 1933.

3. The Schedule to the Bill follows the language of the Schedule to the Second Model with certain variations (set out and explained in the Table of Variations attached to the Bill) which are considered desirable to meet local requirements.

4. With regard to the implications of clause 4 of the Bill relating to service and training outside the Colony, it may be explained that the primary function of the Hong Kong Naval Volunteer Force is the defence of the Colony and its sea approaches, and that, although in time of war emergencies might arise necessitating the temporary employment of the Force away from the waters of the Colony in the interests of the more effective prosecution of the war and so indirectly of the defence of the Colony, that primary function would always be kept in view.

5. In times of peace liability for service, other than training, outside the Colony would not be enforced, except in the case of piracies or similar emergencies which, though occurring outside the waters of the Colony, directly affected the interests of the Colony.

6. With regard to training outside the waters of the Colony, it will be appreciated that to confine the movements of the Force to the comparatively restricted limits of Hong Kong's territorial waters would be prejudicial to effective naval training. It is not contemplated that training would be carried out at such a distance from the Colony as would result in serious interference with the civilian duties of the members of the Force.

RATING AMENDMENT BILL, 1939.

THE ATTORNEY GENERAL moved the first reading of a Bill intituled "An Ordinance to amend the Rating Ordinance, 1901." He said: The object of this Bill is that where structural alterations or improvements are made in a tenement for air raid shelters they should be excluded from the rateable value of the tenement.

THE COLONIAL SECRETARY 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 is considered desirable that, where a room is built in or added to a tenement or where other structural alterations or improvements are made in a tenement solely for the purpose of affording protection in the event of hostile attack from the air or for purposes auxiliary thereto, such room and structural alterations and improvements should be excluded from the rateable value of the tenement, if they are approved by the Air Raid Precautions Officer and the Assessor, so long as they are not occupied or used for any other purpose.

2. Similarly, it is considered desirable that no person shall be liable to pay rates in respect of a tenement so approved, which is intended to be, and in fact is, used solely for the purpose of affording such protection.

3. With these objects in view, clauses 2 and 4 of this Bill provide for the amendment of the definition of "Rateable value" in section 2 (i) and for the addition of a new sub-section to section 39 of the

Rating Ordinance, 1901, so as to apply to "tenements" (defined in section 2 (j) of that Ordinance) which are approved by the said officers the exemptions that are applied to "hereditaments" by sub-section (1) and the first part of sub-section (2) of the Rating and Valuation (Air-Raid Works) Act, 1938, 1 & 2 Geo. 6, c. 65, and to extend those exemptions so as to cover purposes auxiliary to air-raid protection, such as ambulance rooms, dressing stations, gas-mask stores, etc., which, while not actually affording protection from hostile attack from the air, may be provided and used solely in connexion with Air Raid Precautions.

4. Clause 3 of the Bill makes provision for the inspection of exempted premises to ascertain whether the conditions of exemption are being carried out, and clause 5 provides a penalty for breach of such conditions.

DANGEROUS GOODS AMENDMENT BILL, 1939.

THE ATTORNEY GENERAL moved the first reading of a Bill intituled "An Ordinance to amend the Dangerous Goods Ordinance, 1873." He said: The object of this Bill is explained in the memorandum attached.

THE COLONIAL SECRETARY 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 certain amendments to the Dangerous Goods Ordinance, 1873, which are rendered necessary by the enactment of the Dangerous Goods Regulations, 1939, which supersede all existing regulations made under that Ordinance.

2. Clause 2 of the Bill adds two further sub-sections to section 8 of the principal Ordinance. The new sub-section (3) appeared in, but has now been deleted from, the original draft of the Dangerous Goods Regulations, 1939, in the form of two separate regulations. In view of the provisions of section 8 (1) of the principal Ordinance it is considered more appropriate that the two regulations referred to should be the subject of a provision of the Ordinance. The new sub-section (4) provides that an offence against sub-section (3) shall be visited only with the penalty prescribed in section 18A of the principal Ordinance in view of the fact that sub-section (3) as above stated was originally in the form of regulations.

3. Clause 3 of the Bill repeals sub-sections (4) and (5) of section 10 of the principal Ordinance and clause 4 of the Bill re-enacts sub-section (5) with one or two minor amendments as sub-section (3) of section 18A of the principal Ordinance, which is the "penalties" section. It is considered that sub-section (5) of section 10 of the

principal Ordinance would more appropriately appear as part of section 18A. There was a provision in the Petroleum Act, 1871, corresponding to sub-section (4) of section 10 of the principal Ordinance but this provision does not appear in the Petroleum (Consolidation) Act, 1928, which repealed the 1871 Act, and it is therefore proposed to repeal this sub-section which imposes heavy penalties for breach of any licence condition, however small in importance.

4. Clause 4 of the Bill also adds three new sub-sections to section 18A. The new sub-section (4) makes any servant or agent of a person licensed under the principal Ordinance to have possession of dangerous goods liable in the same way as the licensee. The new sub-section (5), conversely, makes a licensee liable for an offence committed by his servant or agent unless the licensee proves that he did not abet or consent to the commission of the offence and that he had taken all reasonable steps to prevent it. The proviso to this sub-section prevents any licensee from being sent to prison on incurring such vicarious liability. The new sub-section (6) provides for cancellation of the licence held by a person convicted of an offence against the principal Ordinance.

PENSIONS AMENDMENT BILL, 1939.

THE ATTORNEY GENERAL moved the first reading of a Bill intituled "An Ordinance to amend the Pensions Ordinance, 1932." He said: The object of this Bill is explained in the memorandum attached.

THE COLONIAL SECRETARY seconded, and the Bill was read a first time.

Objects and Reasons.

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

1. By section 2 (c) of the Pensions Ordinance No. 21 of 1932, provision was made for the addition to the pensionable emoluments of officers eligible for the occupation of Government quarters or for rent allowance of a sum equal to one-sixth of their salaries, subject to a maximum, this addition being intended to represent the value of that privilege. It was decided in 1936 to introduce new scales of salaries, officers drawing which would be required to pay an economic rent for Government quarters if occupied, instead of the former conventional rental at the rate of 6 per cent. of salary. In the case of such officers there is, therefore, no justification for the addition referred to as representing the value of their quarters privileges and it is desired to confine the operation of that privilege to officers still enjoying the old terms as to quarters. It was at the same time decided to reduce the maximum addition permitted under this provision from £200 to £150 in the case of all future appointments carrying free quarters.

2. No appointments on these new terms were made until after 1st April, 1937, and that date has accordingly been taken as the dividing line.

3. In order to carry out the above changes a new definition of "pensionable emoluments" is substituted for that appearing in subparagraph (1) of section 2 (c) of the Pensions Ordinance, 1932, and further sub-sections (cc) and (ccc) are added in amplification of that definition. The form now followed in the definition is in accordance with suggestions made by the Secretary of State and intended to be incorporated in future Colonial pensions legislation.

4. The new provisions will not affect the rights of any officers appointed before 1st April, 1937, who may retain the privilege of free quarters or of occupying quarters at the old conventional rental.

TOWN PLANNING BILL, 1939.

THE ATTORNEY GENERAL moved the second reading of a Bill intituled "An Ordinance for the promotion of the health, safety, convenience and general welfare of the community by making provision for the systematic preparation and approval of plans for the future lay-out of existing and potential urban areas as well as for the types of building suitable for erection therein." He said: When Council goes into Committee I will move certain minor amendments in Clause 3.

THE COLONIAL SECRETARY seconded, and the Bill was read a second time.

On the motion of the Attorney General, seconded by the Colonial Secretary, Council then went into Committee to consider the Bill clause by clause. The Attorney General moved the following amendments to the Bill, which were approved:—

In the fourth line of Clause 3, the word "such" be inserted before the word "existing," and in the same line the words "as the Governor may direct" be inserted after the word "areas."

Upon Council resuming,

THE ATTORNEY GENERAL reported that the Town Planning Bill had passed through Committee with certain minor amendments which were immaterial, and moved the third reading.

THE COLONIAL SECRETARY seconded, and the Bill was read a third time and passed.

ADJOURNMENT.

H.E. THE GOVERNOR.—Council stands adjourned until Thursday, 29th June.

SCHEDULE.

Appendix VI (C).

LOAN WORKS.

Additional Works to be charged to a proposed New Loan.

Works.	Revised Estimated cost.	Expenditure for 1938.	Expenditure for 1939.
	\$	\$	\$
Head 1.—New Markets:—			
(a) Central Market	50,000.00		50,000.00
Head 1.—Total	* 50,000.00		50,000.00
Head 2.—Water Works:—			
<i>Authorized Works.</i>			
(a) Supply to Albany ..	100,000.00	79,019.99	19,458.82
(b) Supply to Peak Road	130,000.00	51,676.34	76,818.60
(c) Cross Harbour Pipes	900,000.00	576,942.05	268,198.88
(d) Rapid Gravity Filters, Eastern	490,000.00	9,442.72	50,000.00
(e) Kowloon Chai Service Reservoir	240,000.00	19,726.87	180,000.00
(f) Supply Main to Kow- loon Chai Service Re- servoir	250,000.00	1,854.95	200,000.00
(g) Distribution, Island ..	100,000.00	17,878.64	35,000.00
(h) Distribution, Mainland	75,000.00	40,366.34	25,000.00
(i) Shing Mun Valley Scheme Catchwaters ..	1,070,000.00	213,641.86	360,000.00
<i>Proposed New Works:—</i>			
(j) Rapid Gravity Filters, Shing Mun Valley Scheme	150,000.00	—	120,000.00
(k) Tai Lam Chung Scheme, Preliminary Works	70,000.00	10,000.00	50,000.00
(l) New Meters	170,000.00	—	110,000.00
(m) Waste - Detection Equipment	300,000.00	—	120,000.00
(n) Reconstruction at Al- bany	150,000.00	—	—
(o) Miscellaneous Works ..	67,500.00	—	67,500.00
Head 2.—Total	4,262,500.00	1,020,549.76	1,681,976.30
Grand Total	4,312,500.00	1,020,549.76	1,731,976.30

* Part Cost: Total cost is \$910,126.10 of which \$860,126.10 is chargeable to 1934 Loan, Appendix VI (b).