

*26th October, 1939.*

**PRESENT:—**

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

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

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. R. A. C. NORTH).

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

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

HON. MR. T. H. KING (Commissioner of Police).

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

HON. MR. A. B. PURVES (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. A. L. SHIELDS.

HON. MR. T. E. PEARCE.

HON. MR. LI TSE-FONG.

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

**ABSENT:—**

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

**MINUTES.**

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

**PAPERS.**

THE COLONIAL SECRETARY, by command of H.E. The Governor, laid upon the table the following papers:—

Order made by the Governor under Regulation 2 (2) of the Defence (Finance) Regulations, 1939, dated 9th October, 1939.

Amendment made by the Governor under the Emergency Powers (Defence) Act, 1939, as extended to the Colony by the Emergency Powers (Colonial Defence) Order in Council, 1939, to the Defence (Finance) Regulations, 1939, dated 9th October, 1939.

Order made by the Governor under section 2 of the Public Revenue Protection Ordinance, 1927, Ordinance No. 9 of 1927, altering duties on intoxicating and spirituous liquors and on light hydrocarbon oils, dated 12th October, 1939.

Amendment made by the Governor in Council under section 2 of the Emergency Regulations Ordinance, 1922, Ordinance No. 5 of 1922, to regulation 37 (1) relating to Squatters and Destitutes, dated 11th October, 1939.

Order made by the Chief Justice under section 32 of the Supreme Court Ordinance, 1873, Ordinance No. 3 of 1873, dated 28th September, 1939.

Amendment made by the Governor under section 1 (2) (d) of the Emergency Powers (Defence) Act, 1939, as applied to this Colony by the Emergency Powers (Colonial Defence) Order in Council, 1939, to section 7 (b) of the Immigration and Passports Ordinance, 1934, Ordinance No. 8 of 1934, dated 12th October, 1939.

Authorization made by the Governor under section 4 (3) (i) of the Trading with the Enemy Ordinance, 1914, Ordinance No. 25 of 1914, relating to the General Licence and Authority as to Fees in respect of Patents Designs and Trade Marks, dated 12th October, 1939.

Amendments made by the General Officer Commanding the Troops under section 10 of the Volunteer Ordinance, 1933, Ordinance No. 10 of 1933, with the approval of the Governor after consultation with the Commandant of the Hong Kong Volunteer Defence Corps, to the Regulations, dated 18th October, 1939.

Order made by the Governor in Council under section 12 of the Rope Company's Tramway Ordinance, 1901, Ordinance No. 21 of 1901, dated 17th October, 1939.

Order made by the Governor under section 2 of the Prisons Ordinance, 1932, Ordinance No. 38 of 1932, setting apart a portion of the buildings known as Victoria Gaol for the purpose of a prison designated the Victoria Gaol Remand Home, dated 17th October, 1939.

Order made by the Governor under section 3 of the Vagrancy Ordinance, 1897, Ordinance No. 9 of 1897, certifying a portion of the premises previously known as Victoria Gaol to be a House of Detention, dated 19th October, 1939.

Order made by the Governor under section 15 of the Deportation of Aliens Ordinance, 1935, Ordinance No. 39 of 1935, appointing a portion of the buildings previously known as Victoria Gaol to be a House of Detention, dated 19th October, 1939.

Order made by the Controller of Food under the Defence Regulations, 1939, with the consent of the Governor, dated 20th October, 1939.

Administration Reports, 1938:—

Part I.—General Administration:—

Report of the Secretary for Chinese Affairs.

#### MOTIONS.

THE ATTORNEY GENERAL moved:—Resolved pursuant to section 3 of the Public Officers (Changes of Style) Ordinance, 1937, that the style of the office of "Government Marine Surveyor" be changed to that of "Principal Surveyor of Ships" for all purposes and that the following addition be made to the Schedule to the said Ordinance:—

<i>Old Style of officer, office or department.</i>	<i>New Style of officer, office or department.</i>
Government Marine Surveyor.	Principal Surveyor of Ships.

He said: The Secretary of State has approved this change of title, and this resolution will go a considerable way to amending all the Ordinances in which the officer in question has been referred to by the old name.

THE COLONIAL SECRETARY seconded, and the resolution was approved.

**PROMISSORY OATHS AMENDMENT BILL, 1939.**

THE ATTORNEY GENERAL moved the first reading of a Bill intituled "An Ordinance to amend the Promissory Oaths Ordinance, 1869." He said: Under the existing Ordinance many officers have to take the same oath many times, sometimes even twice a day. The Ordinance is to simplify this.

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. Sections 7 (2) and 8 of the Promissory Oaths Ordinance, 1869, require that the oaths of members of the Executive and Legislative Councils respectively shall be tendered by the Governor.

2. The expression "Governor" includes the Officer Administering the Government in local enactments under section 39A (1) of the Interpretation Ordinance, No. 31 of 1911, and also under Article XIX of the Letters Patent of the 14th February, 1917, and under Article XXXVII of the Royal Instructions of the same date.

3. By Article VIII of the said Instructions the Governor presides at all meetings of the Executive Council, unless when prevented by illness or other grave cause; and in his absence such member as the Governor may appoint, or in the absence of such member the senior member of the Council actually present, shall preside.

4. By Article XXI of the said Instructions the Governor presides in the Legislative Council unless prevented by illness or other grave cause; and in his absence any member appointed by him in writing shall preside, or in default of such member, the member who is first in precedence of those present shall preside.

5. Although the Promissory Oaths Ordinance, 1869, does not require that the oaths of members of the Executive and Legislative Councils shall be taken at a meeting of the relevant Council, and although by section 11 of the Ordinance a person may enter upon his office and remain therein until the required oaths are duly tendered, it seems manifestly desirable that he should take the oaths at the first meeting of the Council which he attends.

6. The object of clauses 4 and 5 of this Bill is to enable the oaths of members of the Councils to be duly tendered, in the absence of the Governor or Officer Administering the Government, by the person lawfully presiding at the Council.

7. The object of clause 6 of the Bill is to substitute a new Schedule for the Schedule to the principal Ordinance, No. 1 of 1869.

8. In Part I of the old Schedule the Colonial Secretary, the Attorney General and the Financial Secretary were required to take the oath of allegiance and the official oath, which were tendered by the Governor.

9. All these officers are *ex officio* members of the Executive Council, which however now also includes as *ex officio* official members the Senior Military Officer for the time being in command of His Majesty's regular troops within the Colony, and the Secretary for Chinese Affairs, and generally one or two other appointed official members.

10. In England under the Promissory Oaths Act, 1868, (31 and 32 Vict. c. 72) the First Part of the Schedule comprises the First Lord of the Treasury, the Chancellor of the Exchequer, the Lord Chancellor, the President of the Council, the Lord Privy Seal, the Secretaries of State, the First Lord of the Admiralty, the Chief Commissioner of Works and Public Buildings, the President of the Board of Trade, the President of the Poor Law Board, the Lord Steward, the Lord Chamberlain, the Earl Marshal, the Commander in Chief, the Chancellor of the Duchy of Lancaster, the Paymaster General, the Postmaster General, the Minister of Agriculture and Fisheries, the President of the Board of Education, the Minister of Labour, the Minister of Health, the Minister of Pensions and the Minister of Transport.

11. While Part I in the proposed new Schedule does not seek to find local equivalents of that formidable list it is considered desirable that it should include all official members of the Executive Council.

12. Part II of the Schedule to the principal Ordinance deals with the persons required to take the oath of allegiance and the judicial oath. The new Part II differs from the old Part II only in the omission from the second paragraph of certain officials, all of whom are official justices of the peace and, therefore, included in the third paragraph, and of the provision that they had to take their oaths in the presence of the Governor. This is considered unnecessary especially as no corresponding official is included in the second Part of the Promissory Oaths Act, 1868. The new second paragraph of Part II provides for magistrates' oaths being tendered by a judge.

13. As all members of the Executive Council are required under section 7 of the principal Ordinance to take the oath of allegiance and as all the officers included in Part I of the Schedule will be members of that Council the words "oath of allegiance and the" are not necessary in the first line of section 5 of the principal Ordinance. They are therefore repealed by clause 2 (a) of the Bill.

14. Sections 5 and 6 of the principal Ordinance require each of the officers named in Parts I and II of the Schedule thereto to take their oaths "as soon as may be after his acceptance of office." As this might imply that acting officers should take the oaths as often

as they are appointed to act in any office, clauses 2 (b) and 3 of the Bill provide for the insertion of the word "first" between the words "his" and "acceptance".

#### **INTERPRETATION AMENDMENT BILL, 1939.**

THE ATTORNEY GENERAL moved the first reading of a Bill intituled "An Ordinance to amend the Interpretation Ordinance, 1911, so as to provide for the alteration of 'standard time' in this Colony by resolution of the Legislative Council."

He said: The agenda provides for the second and third readings of the Bill to-day but it has been decided not to proceed further than the first reading. The measure does not commit the Colony to any change of time or to a decision in favour of any change of time. It provides merely an interpretation that if it is desired to alter the time either forward or backward, it could be done by a simple resolution in this Council instead of by amending the Ordinance again and again.

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. This Bill, if passed, will enable standard time in the Colony to be regulated by resolution of the Legislative Council, so that daylight saving may be effected without regard to the Season of the year as it has to be in the United Kingdom under the Summer Time Acts, 1922 to 1925.

2. Although the daylight period in the Colony is longer in the Summer than in the Winter, it is considered that some daylight saving may be effected by advancing standard time throughout the year.

#### **VOLUNTEER (NO. 2) AMENDMENT BILL, 1939.**

THE ATTORNEY GENERAL moved the second reading of a Bill intituled "An Ordinance to amend further the Volunteer Ordinance, 1933."

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

#### **ESSENTIAL COMMODITIES RESERVES BILL, 1939.**

THE ATTORNEY GENERAL moved the second reading of a Bill intituled "An Ordinance to provide for the maintenance of reserve stocks of commodities which would be essential for the vital needs of the community during war or other public emergency; for the registration of importers of such commodities and for purposes incidental to or connected with the matters aforesaid."

He said: The only clause in the Bill which I wish to draw particular attention to is Clause 15 which provides for the financing of a scheme for conserving stocks by means of a levy made under Section 16. A copy of the proposed order is before members, as is a copy of the regulations. It is not proposed to enact either the regulations or the order to-day; they were merely circulated for information. The Hon. Financial Secretary will give further details with regard to the financing of this scheme.

THE FINANCIAL SECRETARY.—In seconding the motion, I should like to refer to the memorandum which has been circulated to Hon. Members and which contains details of the methods it is proposed to follow in applying the Ordinance to rice. It is not necessary to go through these proposals in detail and the only point of which I need give any further explanation here is with regard to the proposed financing of the scheme.

In order to ensure that the costs of holding the minimum stocks are evenly divided among all importers of rice in proportion to their actual imports and not merely in proportion to their estimated imports upon which the minimum stocks will be assessed, it is proposed to make a levy which will be paid into a central fund and from which an agreed rate of compensation will be paid to each holder of minimum stocks, estimated to be sufficient to cover substantially but not all the costs of holding the stocks.

In the initial period, it is proposed to make a levy of twelve cents per picul on all imports, but if this proves to be high a lower rate of levy may be imposed by order of the Governor-in-Council.

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 following Bills clause by clause:—

VOLUNTEER (NO. 2) AMENDMENT BILL, 1939;

ESSENTIAL COMMODITIES RESERVES BILL, 1939.

Upon Council resuming,

THE ATTORNEY GENERAL reported that the Volunteer (No. 2) Amendment Bill had passed through committee without amendment, and moved the third reading.

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

THE ATTORNEY GENERAL reported that the Essential Commodities Reserves Bill had passed through committee without amendment, and moved the third reading.

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

#### ADJOURNMENT.

H.E. THE GOVERNOR.—Council stands adjourned till November 9th.

#### FINANCE COMMITTEE.

Following the Council, a meeting of the Finance Committee was held, the Colonial Secretary presiding.

Votes totalling \$579,960 under Estimates, 1939, contained in Message No. 9 from His Excellency the Governor, were considered.

Item 199.—16, Magistracy, Kowloon:—1, Personal emoluments, \$5,700.

HON. SIR HENRY POLLOCK.—What does that mean?

THE FINANCIAL SECRETARY.—It means that, through change of personnel, certain individuals in the office of the Second Police Magistrate have been replaced by others whose salaries are higher and consequently more than that provided for by the Estimates.

Item 221.—31, Public Works Extraordinary:—1, Central Government Store, \$110,215.

HON. SIR HENRY POLLOCK.—Can we be told more about this? How much is due to higher cost of materials and how much to additional cost for extra works?

THE DIRECTOR OF PUBLIC WORKS.—The cost has increased to \$392,125 as stated. The amount provided is \$160,950, and I think Mr. Caine has inserted \$20,000 extra in connection with the Yacht Club. That makes up the total of the approved estimates.

THE FINANCIAL SECRETARY.—This is only a small part of it. The additional vote was only \$10,000. We asked for \$100,000 and \$10,000 was added on to make the Yacht Club building which we are taking over suitable for use by the Stores Department.

HON. SIR HENRY POLLOCK.—We are now asked to vote for \$110,215. It is rather serious that high cost of materials and contract should amount to such a big sum.

THE FINANCIAL SECRETARY.—Additional items are always required after we have made our estimates. The original estimates were only \$300,000, and the tenders turned out higher than estimated.

HON. SIR HENRY POLLOCK.—Speaking generally, the cost of materials and building is going up or down?

THE DIRECTOR OF PUBLIC WORKS.—Freight rates are up and imports of materials are naturally up in price. War conditions generally are responsible for the prices rising.

HON. SIR HENRY POLLOCK.—What I am trying to find out is whether the figures mentioned in the Budget are inclined to be increased.

THE DIRECTOR OF PUBLIC WORKS.—I should say some of them are liable to be if the war continues.

Item 222.—31, Public Works Extraordinary:—Buildings, Hospital Huts for refugee camps at North Point, King's Park and Ma Tau Chung, \$27,000.

HON. SIR HENRY POLLOCK.—I think it is very good to have these hospital huts, but can you tell us how many persons can be accommodated?

THE CHAIRMAN.—The Finance Committee on September 14 decided to grant expenditure up to \$9,000 a hut, making a total of \$27,000. I think I have the figures here showing how many persons can be accommodated. . . .

HON. SIR HENRY POLLOCK.—Perhaps you can let me know later. My reason for asking is that in view of the small number the huts may be abominably overcrowded.

All the votes were approved.

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