

7th December, 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. GRASETT, 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. H. R. BUTTERS, *Acting*).

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. LO MAN-KAM.

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

HON. MR. T. E. PEARCE.

HON. MR. LI TSE-FONG.

HON. MR. W. N. T. TAM.

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

ABSENT:—

HON. MR. A. L. SHIELDS.

MINUTES.

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

NEW MEMBERS.

The Hon. Mr. H. R. Butters (Financial Secretary, *Acting*) and the Hon. Mr. W. N. T. Tam took the Oath of Allegiance and assumed their seats as members of the Council.

TRIBUTES TO HON. MR. CAINE AND HON. MR. CHAU.

H.E. THE GOVERNOR.—Honourable Members,—We meet to-day without two gentlemen to whom this Council owes a deep debt of gratitude for their many services.

Mr. Sydney Caine, the late Financial Secretary, has been released by this Government in response to a very urgent request from the Secretary of State for him to return to take charge of the Economic Department of the Colonial Office. That is a post of very great importance to the Empire and, greatly reluctant though I was that Hong Kong should lose Mr. Caine's invaluable assistance, I realized that Imperial needs must take precedence over Colonial interests: I therefore replied acceding to the Secretary of State's wish. Mr. Caine's service here extended over less than two and a half years; but in that short space of time he won a high respect and warm affection not only among members of this Council and his official colleagues but also within a very widely diverse circle. On all who came into contact with him his sincerity, his humanity and his friendliness acted as a charm which won him quickly a high esteem: those who were more fortunate in that they worked with him very quickly recognized that his objective outlook, his intellectual ability and his real knowledge of his subject placed him in the first rank of public servants. As the first to hold the new post of Financial Secretary in this Colony, Mr. Caine broke much new ground and for that reason also his work will have a lasting value here. The many services which Mrs. Caine and he, in his private capacity, rendered to the poorest and most unfortunate people in this town were of a creative character the value of which time will prove: their inspiration and practicality will be sorely missed by those concerned with social welfare.

Mr. Chau Tsun-nin, whose regretted retirement in accordance with constitutional practice has just taken place, proved himself during the last eight years a worthy son of the late Mr. Chau Shiu-ki, who contributed most valuably to this Council's activities. Mr. Chau Tsun-nin has in one way or another been serving the community since the year 1921 and throughout that long period he has been inspired by a high and steady sense of his duty towards his fellow men and an ardent determination to throw his weight upon the side of the true interests of the people of this Colony. I feel sure that his colleagues on this Council have often been impressed, as I have been

impressed, by the shrewdness and the broadmindedness of the advice given by him in this Chamber, as well as by the dignity with which he has borne the role of Senior Chinese Member during these last years. In tendering appreciative thanks to Mr. Chau for his services I express the wish, which I know will be widely shared, that he has many years of public service still before him. (Applause).

HON. SIR HENRY POLLOCK.—As Senior Unofficial Member, I should like to associate myself entirely with what Your Excellency has just said with regard to Mr. Caine and Mr. Chau. (Applause).

HON. MR. M. K. LO.—Your Excellency,—On behalf of my Chinese colleagues on this Council, as well as on my own, I desire respectfully to associate ourselves with Your Excellency's tribute to Mr. Caine.

It was a matter of supreme good fortune to the Colony that, in connection with all the varied financial measures which had to be taken consequent on the outbreak of the European war, Hong Kong should have had the benefit of Mr. Caine's services. Under his expert administration all these measures, which by reason of their complexity might have been expected to cause some initial confusion, operated from the beginning with gratifying smoothness, and with the minimum restrictive effect on trade.

That Mr. Caine was a Financial Secretary of exceptional ability was patent to the general public by his masterly exposition of the Budget and other financial proposals, and by his able handling of each and every financial and economic problem which confronted the Colony. And those who have had the privilege of sitting on committees with him, or of meeting him in conferences and discussions, could not fail to appreciate—as I have appreciated with unbounded admiration—the keenness of his intellect, his logical mind, his firm grasp of the fundamentals and difficulties of every problem, his efficiency, and his ready acceptance of any sound point raised in argument. After a discussion with Mr. Caine one left, not with the impression of having attended merely to receive a preconceived decision of a high Official, but with the conviction that, irrespective of the actual outcome of the discussion, every aspect of the question had been fairly weighed and considered.

Delightfully unostentatious, invariably courteous and ever accessible, Mr. Caine has left in the Colony a host of friends and well-wishers. By his departure Hong Kong has lost an officer of extraordinary ability, brilliant performance and devoted service.

Despite the pressure of his official duties Mr. Caine somehow managed to find time to take an active interest in social welfare work, and to such work Mrs. Caine, too, devoted much of her short time in Hong Kong. May I, Sir, in the name of the Chinese Community, express to Mr. and Mrs. Caine our deep gratitude for their initiative and labour in the cause of the poor and needy Chinese of the Colony, and our best wishes for their health and happiness. (Applause).

Your Excellency,—My Chinese colleagues on this Council, and I, wish respectfully to associate ourselves with Your Excellency's tribute to our friend Mr. T. N. Chau.

I have had the privilege of serving on this Council as a junior colleague to Mr. Chau for a matter of only just over four years. But we returned as students from England within a year or so of one another, and for some twenty years we have been brought into close contact in social, charitable and public affairs. I can therefore claim the honour of being one of his intimate friends.

Sir, it is no exaggeration to say that, alike amongst Chinese and Europeans, Mr. Chau's popularity has not been surpassed. No one who has been privileged to come into contact with him can fail to appreciate his unfailing cheerfulness and charm. He has always done his best in all matters affecting the public; criticism, fair or otherwise, and misunderstanding, explicable or otherwise, have never upset his serenity nor produced in him any bitterness or rancour. His loyalty, frankness, co-operation and friendship are very precious to his colleagues and friends.

The services which the members of the Chau family have rendered, and are rendering, to the Colony are, of course, well known. But it is pleasing to recall that Mr. Chau's father, the late Mr. Chau Shiu-ki, was an honoured member of this Council many years ago. The appointment by the Governor to a seat on this Council, first of a father and then of his son, constitutes, I believe, a record unique in the history of the Legislative Council of Hong Kong—a record of which, as I venture to think, not only the Chau family, but the Colony, may be justly proud.

I wish, Sir, to take this opportunity of recording my gratitude to Mr. Chau for all the kindness he has shown to me as his junior colleague on this Council and, above all, for his forbearance of my shortcomings.

I rejoice to think that for very many years to come Mr. Chau's ability, knowledge, experience and services will continue to be available to the Colony which he has already served so well. (Applause).

PAPERS.

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

Resolution made and passed by the Legislative Council under section 39 of the Liquors Ordinance, 1931, Ordinance No. 36 of 1931, on the 16th November, 1939.

Resolution made and passed by the Legislative Council under section 7 of the Hydrocarbon Oils Ordinance, 1939, Ordinance No. 11 of 1939, on the 16th November, 1939.

Resolution made and passed by the Legislative Council under section 3 of the Public Officers (Changes of Style) Ordinance, 1937, Ordinance No. 25 of 1937, on the 16th November, 1939.

Amendment Order made by the Controller of Food, under the Defence Regulations, 1939, with the consent of the Governor, dated 17th November, 1939.

Order made by the Governor in Council under section 20 (1) (e) of the Trading with the Enemy Ordinance, 1914, Ordinance No. 25 of 1914, dated 16th November, 1939.

Order made by the Controller of Food, under the Defence Regulations, 1939, with the consent of the Governor, fixing the standard prices of certain articles of food, dated 24th November, 1939.

Amendment made by the Governor in Council under section 3 of the Vehicles and Traffic Regulation Ordinance, 1912, Ordinance No. 40 of 1912, dated 30th November, 1939.

Order made by the Governor in Council under section 15 of the Essential Commodities Reserves Ordinance, 1939, Ordinance No. 38 of 1939, dated 29th November, 1939.

Order made by the Controller of Food under the Defence Regulations, 1939, with the consent of the Governor, fixing the standard prices of certain articles of food, dated 1st December, 1939.

URBAN COUNCIL BY-LAWS.

THE ATTORNEY GENERAL moved: That the by-law made by the Urban Council under section 5 of the Public Health (Food) Ordinance, 1935, on the 7th day of November, 1939, amending the by-laws in the Schedule under the heading "Markets" and sub-heading "Market Stalls," be approved.

He said: The new by-law reads as follows.—"Every stall-holder, if called upon to do so, shall provide himself with a scale marked in English weights and shall weigh any goods purchased from him on such scale if requested by a customer to do so." The by-law has been made by the Urban Council but it requires confirmation of this Council before it can come into effect. I am informed by the Urban Council that the effect of the new by-law is that in those markets which are frequented by people who are more accustomed to English weights than Chinese weights there must be scales available to weigh purchases in the manner requested by the customer. It is not intended to apply the by-law to all markets.

THE COLONIAL SECRETARY seconded, and the motion was approved.

VAGRANCY AMENDMENT BILL, 1939.

THE ATTORNEY GENERAL moved the first reading of a Bill intituled "An Ordinance to amend the Vagrancy Ordinance, 1897." He said: This Bill will enable us to deal with the problem of mendicants and destitutes more satisfactory than we can under the present Vagrancy Ordinance. The Bill is explained in detail 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 long title of the Vagrancy Ordinance, 1897, is "An Ordinance to amend the law relating to vagrants." The Ordinance however deals with "mendicants" as well as "vagrants;" and, as it is now intended to include provisions relating to "destitutes" who do not belong to the Colony and cannot prove that they are or have the status of British subjects, clause 2 of this Bill extends the long title of the Ordinance by the addition of the words "destitutes and mendicants" after the word "vagrants."

2. Clause 3 of the Bill adds to section 2 of the Ordinance a definition of "destitute" adapted from the terms of the definition of "destitute person" in section 2 (1) (c) of the Deportation (British Subjects) Ordinance, No. 16 of 1936.

3. Clause 4 of the Bill adds a new section, 24A, to the Vagrancy Ordinance, 1897. Sub-section (1) follows, *mutatis mutandis* the terms of section 5 of that Ordinance. The first part of sub-section (2) is generally on the lines of section 6 of the 1897 Ordinance. The latter part is derived partly from section 2 (2) and section 3 (c) of Ordinance No. 16 of 1936, which relate to the deportation of destitute immigrant British subjects not belonging to the Colony, and partly from section 13 (2) of Ordinance No. 8 of 1934 which relates to magisterial expulsion orders for contraventions of the Immigration and Passports Ordinance. Sub-section (3) is adapted from section 13 (3) of Ordinance No. 8 of 1934 and from the amendments made to sections 3 and 4 of that Ordinance by sections 2 and 3 of Ordinance No. 23 of 1935. Sub-section (4) provides a penalty for expelled persons who return within five years, a much lighter penalty than that provided by section 13 of the Deportation of Aliens Ordinance, No. 39 of 1935.

4. Although there is provision as stated above in the legislation of this Colony for the deportation of destitute British subjects who do not belong to the Colony and also for the expulsion of immigrants who enter the Colony in contravention of the Immigration and Passports Ordinance, there is no provision except in the Emergency Regulations providing for the expulsion of those aliens who are not required to have

passports or travel papers, who do not belong by birth or residence to the Colony, who pass in freely whenever they desire, who are destitute and unable to find work and who therefore can look only to public funds or private charity for their subsistence. Convicted alien mendicants can be deported under the Deportation of Aliens Ordinance, No. 39 of 1935, but it is considered more suitable in most cases that mendicants should be expelled under the new provisions introduced by this Bill.

5. Clause 5 of the Bill adds the words "a mendicant or a destitute" after the word "vagrant" in section 26 of the 1897 Ordinance so as to bring mendicants and destitutes within the scope of that section. It is a necessary corollary to give effect to sub-section (1) of the new section 24A.

RATING (NO. 2) AMENDMENT BILL, 1939.

THE ATTORNEY GENERAL moved the first reading of a Bill intituled "An Ordinance to amend further the Rating Ordinance, 1901." He said: The object of this Bill is merely to make the new rating year coincide with the new financial year.

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:—

The objects of the amendments to the principal Ordinance effected by this Bill is to make the rating year coincide with the new financial year.

VOLUNTEER (NO. 3) AMENDMENT BILL, 1939.

THE ATTORNEY GENERAL moved the first reading of a Bill intituled "An Ordinance to amend yet further the Volunteer Ordinance, 1933." He said: The object of this Bill is to enable officers of auxiliary units to be treated differently to ordinary officers as regards drilling and uniform.

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. Regulation 3 (1) of the Hong Kong Volunteer Regulations (Government Notification No. 696 in the Hong Kong Government Gazette No. 37 of the 25th August, 1939) provides for the division of the Hong Kong Volunteer Defence Corps into various Corps units

and Auxiliary Units and an Affiliated Unit, and paragraph (5) of the Regulation provides *inter alia* that members of an Auxiliary Unit shall not be required to undergo any training unless called out for actual military service.

2. For administrative and other reasons it is considered that the officers of Auxiliary Units, generally technical experts, may be gazetted as officers thereof without the previous training in the ranks of the Corps usually required in the case of officers of Corps Units.

3. The objects of this amending Bill is therefore to add to the definitions in section 2 of the principal Ordinance a special definition for officers of Auxiliary Units.

4. Such officers will then be in a position similar to other ranks in an auxiliary unit in that they will not be required to undergo military training or to provide themselves with uniform until their services are necessary.

PREVENTION OF EVICTION CONSOLIDATION AND AMENDMENT BILL, 1939.

THE ATTORNEY GENERAL moved the second reading of a Bill intituled "An Ordinance to consolidate and amend the Prevention of Eviction Ordinances, 1938 and 1939."

He said: As the Bill stands in print before members, it represents the recommendations of the Special Committee appointed to consider the effect of the restrictive legislation which was introduced in the summer of 1938. Government has carefully considered the Bill as drafted by the Committee and accepts it subject to the reservation that Government does not see its way to accept the provisions of Subsections E and F of Subsection 5 of Section 3 which will be found on page 3 and which provide six cases in which landlords are free from the restrictive provisions of the Bill. Four of these cases Government is prepared to adopt, but it is not prepared to adopt the two sub-paragraphs relating to mortgages—sub-paragraphs E and F and the proviso thereto.

Government fully appreciates that mortgagees suffer hardship through being deprived of their full rights by this legislation, but it feels it will be a greater hardship on those whom legislation of this kind is intended to protect if the protection afforded by the present law is taken away by the insertion of the two sub-paragraphs in question. Therefore, when this Council goes into committee after the second reading, I propose to move that paragraphs E and F and the proviso thereto on page 3 as well as the word "further" in the next paragraph be deleted, and the word "or" be inserted before the word "the" in the fourth line in the penultimate paragraph.

Subject to these amendments which will be made at the proper time, I move the second reading of the Bill.

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

Council then went into Committee to consider the Bill clause by clause.

Clause 3.

THE ATTORNEY GENERAL.—I move that paragraphs E and F be deleted, that the proviso immediately following be deleted, that the word "further" in the next paragraph be deleted, and that the word "or" be inserted before the word "the" in the penultimate paragraph.

HON. MR. LO MAN-KAM.—I should like to make a few remarks in order to explain the origin of these proposals. The Committee received the proposals from certain quarters, not from owners of property but from bankers, who pointed out that with these restrictions in practice bankers would not lend money on house property at all. That being so, when a person is in need of financial assistance that person will not be able to get it owing to the reluctance of bankers to lend money.

Speaking as a member of that Committee, whose recommendations were unanimous, I feel that cases in which it became necessary to sell by order of the mortgagee or by the owner himself would in fact not be a frequent practice, and further that the real danger from some such provisions would be adequately safeguarded by the provisions which compel those seeking to exercise those powers to satisfy the Court of their bona-fides in the matter. No one on the Committee really felt very strongly as to the necessity for the inclusion or deletion of those provisions, but a suggestion was made that the provisions would be acceptable—I think that was indicated by the Attorney General at the first reading—if such powers were restricted to mortgages to a certain date. Speaking quite frankly, I can see the logic of either having or deleting these provisions, but I cannot see the logic of restricting them to mortgages of a certain date.

I have no hesitation, although I was a member of that Committee, in accepting the amendments, but I would not be prepared to accept any provisions restricted to a certain date.

Upon Council resuming,

THE ATTORNEY GENERAL.—I have to report that this Bill passed through committee with the material amendments to Clause 3, and in accordance with Standing Order 28 (1) of this Council the Bill as amended in committee has to be published in the Gazette before it can be passed.

APPROPRIATION FOR 1940-41 BILL, 1939.

THE FINANCIAL SECRETARY moved the second reading of a Bill intituled "An Ordinance to apply a sum not exceeding Forty-nine

million seven hundred and six thousand seven hundred and eighty-seven Dollars to the Public Service of the financial year beginning on the 1st January, 1940, and ending on the 31st March, 1941, and also to apply an additional sum not exceeding Five hundred and fifty-nine thousand one hundred Dollars to the Waterworks Renewals and Improvements Fund for the service of that Fund in the said financial year."

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

On the motion of the Financial Secretary, seconded by the Colonial Secretary, Council then went into committee to consider the Bill clause by clause.

Upon Council resuming,

THE FINANCIAL SECRETARY reported that the Appropriation for 1940-41 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.

ADJOURNMENT.

H.E. THE GOVERNOR.—Council stands adjourned until next Thursday at 2.30 p.m.

FINANCE COMMITTEE.

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

Votes totalling \$353,832 under Estimates, 1939, contained in Message No. 10 from His Excellency the Governor, were considered.

Item 247.—12, Imports and Exports Office: 19, Opium, Preparation and Carriage, \$30,000.

HON. MR. PEARCE.—Does the sale of Government opium cover the cost of preparation?

THE CHAIRMAN.—Revenue has gone up very much recently on this particular item.

HON. MR. PEARCE.—Can we have a full statement about the overhead charges, etc.?

THE CHAIRMAN.—Yes.

Item 249.—14, Legal Departments: Legal Expenses, \$5,000.

HON. MR. LO.—Can we assume that this money will only be applied for the purpose set out here? What I mean is that sometimes you get an outside barrister for the Legal Department; can the money be used for this sort of thing instead of for the purpose for which it was voted?

THE CHAIRMAN.—I will go into that.

Item 260.—18, Miscellaneous Services: Special War Expenditure, \$100,000.

HON. MR. DODWELL.—I see \$6,000 are being asked for the Shipping Control Advisory Board. Can you tell me what the money is for?

THE CHAIRMAN.—I cannot say off-hand but I will make a note of it and let you know later.

HON. SIR HENRY POLLOCK.—Where exactly are the aliens being interned?

THE CHAIRMAN.—La Salle College.

HON. SIR HENRY POLLOCK.—Is that in the main building?

THE CHAIRMAN.—Yes.

HON. SIR HENRY POLLOCK.—With regard to the last item—Miscellaneous, \$7,500—can you tell me what that is?

THE CHAIRMAN.—I'll look that up and give you the details later.

Item 282.—30, Treasury, etc.: Rent of Office, \$1,500.

HON. MR. TAM.—Is that for the Censors' room?

THE CHAIRMAN.—The Censorship Department wants more room and it is a big room. The Assessor's Sub-Department is moving to Marina House, and the Censorship Department is taking over their place.

HON. MR. TAM.—The office in Marina House, is it on a lease?

THE CHAIRMAN.—Yes, with three months' notice.

HON. MR. TAM.—I see it is the ground floor. Would not the other floors be suitable?

THE CHAIRMAN.—They will be more suitable if we can find any.

Item 283.—31, Public Works Extraordinary: Port Works—64, Repairs to decking of nullahs at Kai Tak, \$750.

HON. SIR HENRY POLLOCK.—It says in the explanation, "Pending reconstruction, temporary shoring has been put in hand at an estimated cost of \$7,500, and a supplementary vote for this amount is accordingly requested." I should like to know how much the reconstruction will cost.

THE DIRECTOR OF PUBLIC WORKS.—I am afraid it is a pretty big figure. I should say over one lakh and possibly more in years to come if the aerodrome is extended to carry planes of over 30 tons in weight. It is a very big problem.

HON. SIR HENRY POLLOCK.—How long have aircraft up to 12 tons been running?

THE DIRECTOR OF PUBLIC WORKS.—I am told the figure of 12 tons is slightly under-estimated. Actually, the French planes weigh as much as 14 tons.

HON. SIR HENRY POLLOCK.—Will this expenditure be sufficient to cover 14 tons?

THE DIRECTOR OF PUBLIC WORKS.—Yes, this expenditure is merely for a strip of the aerodrome which we have marked out.

All the votes were approved.
