

10TH SEPTEMBER, 1915.

**PRESENT:—**

HIS EXCELLENCY THE GOVERNOR, SIR FRANCIS HENRY MAY, K.C.M.G.

HIS EXCELLENCY MAJOR-GENERAL F. VENTRIS (General Officer Commanding the Troops).

HON. MR. A. M. THOMSON (Colonial Secretary).

HON. MR. J. H. KEMP (Attorney-General).

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

HON. MR. W. CHATHAM, C.M.G. (Director of Public Works).

HON. MR. C. MCI. MESSER (Captain Superintendent of Police).

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

HON. MR. WEI YUK, C.M.G.

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

HON. MR. E. SHELLIM.

HON. MR. D. LANDALE.

HON. MR. LAU CHU PAK.

MR. A. G. M. FLETCHER (Clerk of Councils).

**Minutes**

The minutes of the last meeting were read and confirmed.

**Finance**

THE COLONIAL SECRETARY, by command of H.E. the Governor, laid on the table Financial Minutes Nos. 31 to 39, and moved that they be referred to the Finance Committee.

THE COLONIAL TREASURER seconded, and this was agreed to.

**Papers**

THE COLONIAL SECRETARY, by command of H.E. the Governor, laid on the table the following papers: — Report of meeting of Public Works Committee held on

July 8th; further financial provision for the construction account of the Kowloon-Canton railway; quarterly return of excesses on sub-heads met by savings under heads of expenditure; statement regarding Typhoon Refuge of June 20th; a diagram of low level dam under construction at Tytam Tuk, showing progress to June 30th; report of the Director of Public Works for the year 1914, Educational System of Hongkong.

**Evidence (Amendment) Ordinance**

THE ATTORNEY-GENERAL moved the first reading of a Bill intituled, "An Ordinance to amend the Evidence Ordinance, 1889."

THE COLONIAL SECRETARY seconded, and the motion was agreed to.

The "Objects and Reasons" state:—

The main object of this Bill is to assimilate the law of Hongkong to the law of the United Kingdom in respect of the admissibility of affidavits and notarial acts taken and made before British diplomatic or consular officers. The only changes proposed to be effected by this part of the Bill, *i.e.*, clauses 2 and 3, are certain small alterations which were made in the United Kingdom by the Commissioners for Oaths Act, 1891, 54 and 55 Vict., c. 50, s. 2.

An amendment of section 25 of the Principal Ordinance is necessary because the definition of "consular officer" in the Interpretation Ordinance, 1911, does not appear to be quite wide enough.

It is also proposed to amend Section 32 of the Principal Ordinance in three points. This is dealt with in Clause 4.

Paragraphs (a) and (c) of that clause correct a grammatical mistake.

Paragraph (b) does away with what has often been a source of embarrassment and has sometimes led to the loss of valuable evidence, *i.e.*, the requirement that before a deposition can be taken some medical practitioner must express an opinion that the patient "is not likely to recover."

Paragraph (d) corrects a double error. In the first place, the section as a whole relates only to indictable offences, so that the clause introduced by the words, "if the same relate to any indictable offence," exhausts the whole class and leaves nothing to be operated upon by the clause introduced by the words, "and in all other cases." In the second place, the proper officer to receive the deposition in cases where the accused has not been committed or bailed to appear for trial is obviously the Magistrate's Clerk and not the Registrar of the Supreme Court.

#### **Land Registration (Amendment) Ordinance**

THE ATTORNEY-GENERAL moved the first reading of a Bill intituled, "An Ordinance to amend the Land Registration Ordinance, 1844."

THE COLONIAL SECRETARY seconded, and the motion was agreed to.

The "Objects and Reasons" attached to the Bill state:—

The main object of this Bill is to enable a defendant to register a judgment without having to obtain the plaintiff's signature to the memorial. Inconvenience is sometimes caused through the unwillingness of an unsuccessful plaintiff to assist a successful defendant in this respect.

Clauses 3 and 4 provide for the case of a judgment by which no "sum" is "recovered."

#### **Trading with the Enemy (Second Amendment) Ordinance**

THE ATTORNEY-GENERAL moved the first reading of a Bill intituled, "An Ordinance to amend further the Trading with the Enemy Ordinance 1914, and to effect certain purposes connected therewith."

THE COLONIAL SECRETARY seconded, and the motion was agreed to.

THE ATTORNEY-GENERAL then moved the suspension of the Standing Orders in order that the Bill might pass through all its stages at that meeting.

HON. MR. POLLOCK—I think, Sir, that if it was intended to pass this Bill through all its stages at this meeting, the hon. members of the

Council should have been given the usual notice, and that a "star" should have been affixed opposite this Bill on the agenda. It is very inconvenient, because when notice is given of the first reading of a Bill hon. members do not trouble to read through the Bill very closely.

THE COLONIAL SECRETARY—I do not know exactly on what date this notice was sent out, but it was only circulated quite recently.

HON. MR. POLLOCK—Well, that does not absolve the matter. When it was known that this Bill was intended to go through at one meeting notice should have been given. Hon. members only came up there for what appeared, on the face of the agenda, to be the first reading of the Bill.

HIS EXCELLENCY—The hon. member is quite right. We ought to have given notice that it was intended to carry this Bill through all its stages to-day, but some information reached me yesterday by telegraph which makes it very desirable to pass this Bill. If hon. members will pass it, it will enable us to deal with certain matters more expeditiously and more satisfactorily. The usual procedure involves, as hon. members know, a certain amount of circumlocution and delay. I apologise to hon. members for not giving due notice. We ought to have done so, I confess.

The motion was carried.

THE ATTORNEY-GENERAL then moved the second reading of the Bill. In doing so he said—The bulk of this Ordinance, Sir, was taken from a recent English Act, and deals with the payments of money to custodians of enemy property, who will receive and hold all money payable to enemies in the Colony, and in whom may be vested property held in the Colony on behalf of enemies. I think that, judging from certain enquiries which have been put to me from time to time, there is some not unnatural misunderstanding about the law on the subject, and I think it would perhaps serve a useful purpose, and help in the understanding of this Bill, if I refer shortly to the present law on the subject of payment of money to alien enemies, and what I shall say with regard to payment of money to enemies will apply equally to payments

made on their behalf and dealings with property on their behalf. By the general law of the Empire it is, of course, illegal for any person in British territory to pay any money to any person resident or carrying on business in enemy territory, and similar obligations have been placed on British subjects in China not to pay money to enemies resident in or carrying on business in enemy territory. That law has been in force practically since the beginning of the war, and recently, on the 25th June, a further prohibition was introduced, namely, prohibition against payments by persons in our territory to persons of enemy nationality in China, Siam, Persia, and Morocco, so that by the general law it is now illegal to pay any money to any person in enemy territory or to any person of enemy nationality in any of the four countries which I have mentioned. The first point I should like to make it clear about this Bill is that the Bill refers to enemies in this sense, namely: Persons carrying on business or resident in enemy country and persons of enemy nationality in China, Siam, Persia, or Morocco. It does not refer to payments of money to enemy subjects who are not enemies in the sense I have just explained. It is true that by our local law no payment may be made to any person of enemy nationality without your permission, Sir. This is a special prohibition in force here to avoid improper interference with the liquidation of German firms, but the provisions of this Bill with regard to payments do not refer, as I have just said, to payments to persons of enemy nationality in neutral countries, but only to enemies in the sense which I explained at the beginning. The second point which I should like to make clear, also a matter of some misunderstanding, is that it will only refer to payments which are due to be made in Hongkong. In the United Kingdom a custodian has been appointed to receive payments which are due in England, Scotland and Ireland. In the Straits Settlements a custodian has been appointed to receive payments which would have been payable in the Straits Settlements; and in China an enemy dividend account has been opened into which money has to be paid which is due by British subjects in China to enemy subjects there. This Bill will refer to payments due to be made in Hongkong to enemies. Sections 3 to 8 are taken almost verbatim from the English Act, Trading with the Enemy Amendment Act, 1914. They provide for the constitution of the office of custodian, and require that dividends, interest, and shares in profits shall be paid to him which would otherwise go to the enemy. The Bill also requires persons holding property on behalf of enemies to

furnish particulars in respect of that property to the custodian, and imposes penalties on persons who fail to make these payments and who fail to furnish these particulars. These penalties are substantial, and amount to fines up to \$1,000 and to imprisonment for six months with or without hard labour. The Supreme Court is also given power, on the application of a creditor or a Government Department, to vest any property held on behalf of enemies, or belonging to enemies, in the custodian, to be dealt with for the benefit of the creditors of the enemy estate. The custodian will hold all this property subject to your directions, Sir, but failing such directions he will hold it until the close of the war. There is also power, in some cases with the intervention of the Court, to apply the money or property so held for the payment of the debts due by the enemy to whom the money or property belongs. The last three sections of the Bill refer to a some what different matter. Section 10 is taken verbatim from the Certificates of Origin Amendment Ordinance, 1915, which is being repealed, and the provisions of which have been inserted in this Bill, as they will perhaps appear here more conveniently. The matter is really more properly dealt with in a Trading with the Enemy Ordinance than in an Ordinances relating to Certificates of Origin. Section 10, perhaps I should explain, gives the Superintendent of Imports and Exports power to seize any goods which may be found in the Colony when he has reason to suspect that they have come from an enemy country, and the goods so seized may be forfeited by a Magistrate, and in the proceedings for forfeiture the onus is thrown on the claimant of the goods to show that the origin of the goods was not enemy territory. Section 11 is an extension of that same policy to meet the new case of the recent Proclamation, which makes enemy subjects in China enemies in a trading sense. It provides that where the Superintendent of Imports and Exports has reason to suspect that any goods which have come into the Colony have come either directly or indirectly from an enemy he may seize the goods, and the same proceedings follow

as in the case of goods coming from enemy territory. Section 12 is a reenactment of a section in the Certificates of Origin Amendment Ordinance. The provision is intended to facilitate proof where evidence has to be given of facts, and things done at a distance from this Colony. It provides that any certificate of a British Consular officer shall be *prima facie* evidence of the truth of the matter stated therein. It is open to the defendant to rebut that evidence, but until he does so such certificate will be sufficient evidence of the truth of the matter stated therein. I beg to move the second reading.

THE COLONIAL SECRETARY seconded.

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

The Bill passed through Committee without amendment, and

THE ATTORNEY-GENERAL then moved that it be read a third time.

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

The "Objects and Reasons" state:—

The object of Clauses 3 to 8, both inclusive, of this Bill is to introduce the provisions of the Trading with the Enemy Amendment Act, 1914, 5 Geo. 5, c. 12, with reference to the constitution of the office of Custodian of enemy property.

Clause 9, which is founded on Section 9 of the above Act, is intended to prevent the acquisition by companies of any undertakings liable to inspection under Section 3 of the Principal Ordinance.

Clauses 10 and 12 propose to re-enact the provision of the Certificates of Origin Amendment Ordinance, 1915, repealed by Clause 2 of the Bill. It has been thought that it would be more convenient to have the provisions of that Ordinance in the present Bill.

The object of Clause 11 is to apply to goods coming from or destined for persons of enemy nationality in China. Siam, Persia and Morocco, the powers of seizure and forfeiture given by the above Ordinance with respect to goods coming from an enemy country.

### Asiatic Emigration Ordinance

THE ATTORNEY-GENERAL moved the first reading of a Bill intituled, "An Ordinance to amend and consolidate the Law relating to 'Chinese Passenger Ships' as defined by the Chinese Passengers Act, 1855, and concerning Asiatic Emigrants generally."

THE COLONIAL SECRETARY seconded, and the motion was agreed to.

The "Objects and Reasons" attached to the Bill state, *inter alia*:—

This Bill should, it is proposed, repeal and supersede the Chinese Emigration Ordinance, 1889, and its amending Ordinances.

There are many circumstances connected with Chinese Emigration which, although important at the time of the Chinese Passengers Act, 1855, are now not of practical consequence; there have been also since the date of the Chinese Emigration Ordinance, 1889, great changes in the conditions under which Asiatic Emigration is permitted from places or in vessels under British control.

The scheme of the Bill is to endeavour to simplify and compress the rather disconnected provisions of the Chinese Emigration Ordinance, 1889, and its amending Ordinances; to connect it more sharply and clearly with its mother Act (the Chinese Passengers Act, 1855), to omit such portions as seem to be at the present day obsolete, unnecessary or forbidden, and to bring it up to a stage of modern requirements.

### FINANCE COMMITTEE.

A meeting of the Finance Committee followed, the COLONIAL SECRETARY presiding,

The Governor recommended the following votes:—

#### Stationery

A sum of \$8,000 in aid of the vote Miscellaneous Services, Stationery.

THE CHAIRMAN—The explanation is that the use of stationery has increased very much during the past few years, and this sum is required to meet the expenditure for 1915.

The vote was agreed to.

### **Water Works**

A sum of \$2,300 in aid of the vote Public Works, Recurrent, Kowloon, Water Works, Water Account (Meters, etc.).

THE CHAIRMAN—The explanation is that a large number of extra meters have been fixed.

The vote was agreed to.

### **Gear for Government Launches**

A sum of \$90 in aid of the vote Miscellaneous Services, Government Launches, Gear, etc.

THE CHAIRMAN—This is owing to the moving of coal to the railway. The coaling station in Kowloon has been moved further away. The coal is for the launches at Tai Po.

The vote was agreed to.

### **"Miscellaneous Services"**

A sum of \$4,555 in aid of the vote Miscellaneous Services, Other Miscellaneous Services.

THE CHAIRMAN—The vote for this is now exhausted. This sum is unforeseen expenditure and was paid on account of certain steamers which were kept at Singapore on account of this Government. They had to stay there some days and this Government had to pay the demurrage.

The vote was agreed to.

### **Judicial and Legal Expenses**

A sum of \$2,500 in aid of the vote Judicial and Legal Departments, C.— District Officer, Personal Emoluments, Northern District, District Officer.

THE CHAIRMAN—This is in connection with the District Officer's salary. After considerable discussion his increment was allowed from June of last year. This amount is required to put the matter through for the current year with arrears.

The vote was agreed to.

### **War Department Expenditure**

A sum of \$75,000 in aid of the vote Miscellaneous Services, War Department Expenditure.

THE CHAIRMAN—It is estimated that this sum of \$75,000 will be required for the remaining six months.

THE COLONIAL TREASURER — More will be wanted now, because of the prisoners of war at Kowloon; we shall want another \$30,000 or \$40,000.

THE CHAIRMAN—We shall come to that later. Probably another vote will be taken.

The vote was agreed to.

### **Education Department Charge**

A sum of \$228 in aid of the vote Education, A.— Department of Director of Education, Other Charges, Director of Education, Transport.

THE CHAIRMAN—This has been brought about owing to travelling expenses in connection with the appointment of assistant masters in England.

The vote was agreed to.

### **Improvement at the C.S.O.**

A sum of \$140 in aid of the vote Public Works, Extraordinary, Hongkong, Miscellaneous, Improvement to the record room in Colonial Secretary's Office.

THE CHAIRMAN—Something extra was found necessary to be done after the work was stated, and the \$140 is required to do this.

The vote was agreed to.

### **Reward Fund**

A sum of \$2,000 in aid of the vote Imports and Exports Department, Other Charges, Reward Fund.

THE CHAIRMAN—This is in connection with the Trading with the Enemy Ordinance. It was thought best to start a local fund on the same principle as the Opium Department. This money will be placed to the credit of the Reward Fund, and at the end of the year any balance in favour of the Government will be paid back. It might probably happen that no part of the money will be required.

The vote was agreed to.