

22ND JUNE, 1916.

PRESENT:—

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

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

HON. MR. CLAUD SEVERN (Colonial Secretary).

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

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

HON. MR. E. R. HALLIFAX (Secretary for Chinese Affairs).

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

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

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

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

HON. MR. E. SHELLIM.

HON. MR. LAU CHU PAK.

HON. MR. P. H. HOLYOAK.

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

Minutes

The minutes of the last meeting were confirmed.

Papers

THE COLONIAL SECRETARY, by command of H.E. the Governor, laid upon the table the following annual reports for 1915:—Report on the Blue Book; report on the Finances; report on the Botanical and Forestry department; report on the General Post Office; report on the Kowloon-Canton Railway, British section; report of the Captain Superintendent of Police; report of the Superintendent of the Prison; report of the Harbour Master; report of the Registrar of the Supreme Court; report of the Director of the Royal Observatory; report of the Land Officer; report

on the Assessment; also the quarterly return of excesses on sub-heads met by savings under heads of expenditure, and the report of the proceedings of the Public Works Committee.

Financial Minutes

THE COLONIAL SECRETARY, by command of H.E. the Governor, laid on the table financial minutes No. 8 to 12, and moved that they be referred to the Finance Committee.

THE COLONIAL TREASURER seconded, and this was agreed to.

Bathing Facilities

HON. MR. H. E. POLLOCK asked:—"Will the Government provide, at an early date, the same facilities to the public for bathing at North Point and West Point as last year?"

THE COLONIAL SECRETARY replied:—Instructions were given in the middle of April to provide such facilities, at an estimated cost of \$500. \$180 has been provided in the estimates for the wages of two watchmen.

Registration of Enemy Trade Marks

HON. MR. P. H. HOLYOAK asked:—

(1.)—Will the Government state whether the registration in Hongkong of any German trade marks has been renewed since the outbreak of war?

(2.)—Assuming that the registration of any such trade marks has been renewed, will the Government state what firms have been granted renewals and whether instructions will now be given for the cancellation of any such renewals?

(3.)—Will the Government give instructions that all German trade marks registered in this Colony shall be cancelled, or at any rate that no further renewals of the registration therefor shall be granted during the present War?

THE COLONIAL SECRETARY replied:—The registration of 133 trade marks belonging to enemy firms has been renewed since the outbreak of war. These trade marks belong to the following firms:—The Badische Anilin & Soda Fabrik; Siemssen & Co.; Carl Bodiker & Co.; Meyerink & Co. and W. & C. Dunlop; Arnold, Karberg & Co.; Melchers & Co.; and Ferd. Bornemann. This Government does not propose to issue instructions on the lines suggested by the honourable member. As far as is known a policy of cancellation of trade marks has not been adopted in any British Possession or in Germany, and it would hardly be opportune to initiate such a measure in this Colony where the value of a trade mark depends largely upon its user in China.

Supplementary Vote

THE COLONIAL SECRETARY moved the first reading of a Bill intituled:— "An Ordinance to authorize the appropriation of a supplementary sum of three millions nine hundred and forty-seven thousand and twenty-seven dollars and forty-one cents, to defray the charges of the year 1915." The amount is made up as follow:—

Miscellaneous Services	\$812,731.78
Kowloon-Canton Railway	3,036,199.56
Charge on Account of Public Debt	55,151.86
Pensions	31,049.40
Charitable Services	11,894.81
	\$3 947,027.41
Total,	

In doing so he said—I propose to make some remarks on the appropriation account at the second reading of the Bill. In the meantime, I would refer hon. members to the report on the Finances for the year 1915, which I have just laid on the table, where, in paragraph 4, they will find a lucid explanation of the large supplementary expenditure required this year.

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

Alien Enemies (Winding Up) Ordinance

THE ATTORNEY-GENERAL moved the first reading of a Bill intituled:— "An Ordinance to amend further the Alien Enemies (Winding up) Ordinance, 1914."

The "Objects and Reasons" state:—

The object of this Bill is to deal with certain points which have arisen in the course of the liquidations and with others which may arise hereafter.

Clause 1 is formal.

Clause 2 has the effect of expressly including arbitrations among the proceedings which may not be begun without the permission of the Governor where the other party is an alien enemy or a liquidator.

Clause 3 makes the discretion of the Court to stay actions brought against liquidators somewhat wider than at present.

Clause 4, read with clause 2, gives the Court power to stay an arbitration to which an alien enemy is a party, and it widens the discretion of the Court to stay proceedings generally brought against alien enemies.

With regard to the two clauses last referred to, it must be pointed out that cases may conceivably arise in which justice could not be done during the war owing to the evidence or for some similar reason, and it seems desirable that the decision of any such point should rest with a judicial tribunal and not with the executive. It is possible that the Court already has inherent jurisdiction in the matter.

Clause 5 is declaratory and has been drafted with reference to cases which have actually occurred.

Clause 6 is intended to allay any possible doubts as to the powers of the liquidators to pass the legal estate.

Clause 7 expressly provides that a liquidator's powers pass to his successors in office.

Clause 8 provides that liquidators shall be at liberty to distribute the assets in the first instance on the footing that no interest accrues on any debt after the commencement of the winding up. This provision has been borrowed from the law relating to bankruptcy. The clause does not take away the right of the creditor to interest, if his debt carries interest, and any surplus assets may be applied in payment of such interest. The rights of secured creditors are saved.

Clause 9 provides that unsecured debts payable to non-enemy creditors shall take priority over unsecured debts payable to creditors who are enemies. This clause is based on sub-section (3) of section 1 of the Trading with the Enemy Amendment Act, 1916.

Clause 10 introduces a power of disclaimer, modelled on the power of disclaimer in bankruptcy.

A n y p e r s o n i n j u r e d b y t h e

disclaimer will be treated as a creditor of an alien enemy to the extent of such injury, and a right to obtain the decision of the Court on the amount of damage suffered is recognised.

Clause 11 provides machinery for compelling secured creditors to realise their securities. On such realisation the secured creditor is to retain the amount to which he is entitled under the terms of the security and is to pay the balance to the liquidator. In case of dispute as to the amount to which the secured creditor is entitled the latter has a right to a decision of the Court on the point. It is, of course, possible that in some cases, owing to contingent liabilities, it will not be possible at present to define exactly the amount to which the secured creditor is entitled, and in such cases it may be necessary that the total proceeds should continue to be held by the secured creditor, if the total liability, ascertained and contingent, exceeds the amount of the proceeds.

Clause 12 provides for the enforcement of orders made by the Court on applications for directions.

Clause 13 provides that the validity of acts done by liquidators is not to be questioned on the ground that at the time when the act was done the person whose affairs are being wound up was not an alien enemy, or had died, or, in the case of a corporate body, had ceased to exist. A somewhat similar provision appears in section 9 of the Trading with the Enemy Amendment Act, 1916.

Clause 14 provides that no legal proceeding of any kind shall be brought against any liquidator or public officer, except with the permission of the Governor, in respect of any act or omission connected with any winding up under the Alien Enemies (Winding up) Ordinances.

Clause 15 provides for the continuance of the Governor's and the liquidator's powers for such period after the conclusion of the war as may seem proper to the Governor-in-Council. The object of the clause is to provide an interval during which the whole position, both here and in other parts of the Empire and in enemy countries, may be considered before the liquidators' control of the estates comes to an end, and it may also be that on the conclusion of the war various questions as to the liabilities of firms which are being wound up will still be unsettled.

Clause 16 repeals a section which will be rendered unnecessary by clause 13 of this Bill.

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

Enemy Trading

THE ATTORNEY-GENERAL moved the first reading of a Bill intitled:— "An Ordinance to amend further the Trading with the Enemy Ordinance, 1914."

The "Objects and Reasons" state:—

The object of this Bill is to introduce the provisions of the Trading with the Enemy Amendment Act, 1916, 5 and 6 Geo. 5, c. 105, with the exception of certain provisions which appear to be unnecessary here.

Clause 1, 2, 3, 5 and 12 are formal or deal with minor details.

Clause 4 gives the Governor power to cancel contracts with enemy subjects which are injurious to the public interest.

Clause 6, 8 and 9 give the Governor power to vest in the Custodian any property belonging either to an enemy or to an enemy subject, and they enable the Governor to confer on the Custodian such powers of dealing with such property as he may think fit.

Clause 7 provides that the various restrictions on dealing with enemy property shall continue after the conclusion of the war until they are removed by Order of the Governor-in-Council.

Clause 10 imposes certain restrictions on the exercise by enemy subjects of rights in respect of limited companies.

Clause 11 gives power to wind up any company registered in the Colony which has traded with the enemy through some branch or agent outside the Colony.

Clause 13 is intended to make it quite clear that the Custodian of enemy property like every other person in the Colony, requires the permission of the Governor before he can make any payment to an enemy subject.

The following are the sections of the Act which have not been adopted:—

(a.)— Section 1 gives power to restrict, or wind up, firms of enemy nationality or enemy associations. This is unnecessary here on account of the Alien Enemies (Winding up) Ordinances.

(b.)— Section 5 requires enemy subjects within the United Kingdom to report to the Custodian all shares and all property of the value of £50 or upwards. This is also obviously unnecessary here.

(c.)— Section 6 deals with the vesting of patent rights in the Custodian, and enemy patent rights are not being dealt with in any way here

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

Registration of Chemists

THE ATTORNEY-GENERAL moved the first reading of a Bill intituled, "An Ordinance to consolidate and amend the law relating to the Registration of Pharmaceutical Chemists and to the Regulation of the Sale and Use of Poisons."

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

Registration

Council went into Committee on the Bill intituled, "An Ordinance to provide for the registration of certain persons."

In sub-clauses (1) and (2) of Clause 2 the words "except the persons specified" were substituted for the words "include in the first line of each clause."

In clause 2, sub-clause (2), the words "one week" were substituted for the words "two weeks" wherever the latter words occurred, and the words "of Police" were added after the word "Superintendent."

The following clause, forming sub-clause (3) of clause 2, was added:—

Every person who shall hereafter cease to fall within the excepted classes specified in the First Schedule hereto, whether on account of an alteration in the said Schedule or for any other cause, shall within one week of his so ceasing to fall within the said excepted classes, unless such person shall have departed from the Colony within the said period of one week, furnish to the Captain Superintendent of Police a return of the particulars specified in the Second Schedule hereto.

The succeeding sub-clauses were then re-numbered (4) and (5).

In the respective first lines of sub-clauses (1), (3) and (4) of clause 3 of the words "except the persons specified" were substituted for the word "included."

The marginal note "Register to be confidential" was added to Clause 4.

On the first schedule, the following paragraph was added:—

(4)—Consular officers of foreign States.

In paragraph (5) the word "four" was substituted for "three."

In (6) paragraph the word "race" was substituted for the word "nationality."

Paragraphs (4), (5) and (6) were renumbered (5), (6) and (7).

HIS EXCELLENCY—Council stands adjourned until this day week.

FINANCE COMMITTEE.

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

Harbour Master's Department

The Governor recommended the Council to vote a sum of one thousand three hundred and twenty-five dollars and thirty-nine cents (\$1,325.39) in aid of the vote of Harbour Master's Department Special Expenditure, *F*.—Lighthouses and Lights, Installation of an Aga Light at Cape Collinson.

THE CHAIRMAN—This is in connection with the reorganisation of the lighthouses. It is estimated that the erection of an Aga Light at Cape Collinson will effect a saving of \$3,343 a year.

The vote was agreed to.

Educational

The Governor recommended the Council to vote a sum of eight hundred and fourteen dollars (\$814) in aid of the vote of Education. *A*.—Department of Director of Education, Special Expenditure, Peak School, Furniture for Quarters.

THE CHAIRMAN—Provision was made last year for furniture for the Peak School. Pending the return of the headmistress from leave no furniture was purchased and this expenditure has thus only been incurred this year so that it is in the nature of a re-vote. It is necessary heavy furniture.

The vote was agreed to.

Harbour Telephone Cable

The Governor recommended the Council to vote a sum of seven thousand five hundred dollars (\$7,500) in aid of the vote of Public Works, Extraordinary, Hongkong, Miscellaneous, Telephone Cable across Harbour.

THE CHAIRMAN — This is a re-vote for providing a cable across the harbour.

THE DIRECTOR OF PUBLIC WORKS — Additional accommodation is required.

THE CHAIRMAN—The money was not spent last year because the cables did not arrive, so it has to be spent this year.

The vote was agreed to.

Police and Prison

The Governor recommended the Council to vote a sum of thirteen thousand three hundred and six dollars and eighty-one cents (\$13,306.81) in aid of the vote Police and Prison Departments, Special Expenditure, *B.*—Fire Brigade, Motor Fire Engine and Pump.

THE CHAIRMAN—This is a re-vote also. It is for the motor-fire-engine and pump, which did not arrive in time to be paid for last year.

The vote was agreed to.

Wireless Station

The Governor recommended the Council to vote a sum of one thousand four hundred and fifty-seven dollars and fifty-five cents (\$1,457.55) in aid of the vote of Public Works, Extraordinary, Hongkong, Buildings, Wireless Telegraph Station.

THE CHAIRMAN—This sum of money is for providing cooling tanks at the works at the wireless station, and for the erection of another motor. This work has been carried out by the Royal Naval Dockyard. No provision was made in the estimates for this year, but the work is necessary.

The vote was agreed to.