

15TH MARCH, 1917.

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, C.M.G., (Colonial Secretary).

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

HON. MR. A. M. THOMSON (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. McI. 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. P. H. HOLYOAK.

HON. MR. LAU CHU PAK.

HON. MR. C. E. ANTON.

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

Papers

THE COLONIAL SECRETARY, by command of H.E. the Governor, laid on the table report of proceedings of the Public Works Committee held on February 22nd. Also, quarterly return of excesses on sub-heads met by savings under heads of expenditure for the fourth quarter of 1916.

The minutes of the last meeting were confirmed.

Finance

THE COLONIAL SECRETARY laid on the table Finance Minute No. 6 and moved that it be referred to

the Finance Committee.

THE COLONIAL TREASURER seconded, and this was agreed to.

THE COLONIAL SECRETARY also laid on the table report of proceedings of Finance Committee No. 1, and moved that it be adopted.

THE COLONIAL TREASURER seconded, and this was agreed to.

Jury List

THE COLONIAL SECRETARY laid on the table the Jury List for 1917.

The Food Prices Committee

HON. MR. POLLOCK asked the following questions:—

1.—On what date did the Committee, which was appointed by His Excellency the Governor to fix from time to time the maximum price for which any article of food may be sold by retail in the Colony, issue their last price list setting forth such maximum price?

2.—Will His Excellency the Governor direct another Meeting of such Committee to be held at an early date for the purpose of fixing a maximum price for articles of food?

3.—With reference to paragraph 6 of the schedule of maximum prices in the Government Proclamation, which paragraph runs as follows:—

"The prices of provisions imported from countries other than China (excepting those above enumerated) may not be raised more than 15 per cent. above the retail prices prevailing in the Colony on the 25th July, 1914,"

is it not the fact that the prices of the following imported provisions, namely, golden syrup, jam, cheese, mustard, table salt and bacon have been raised more than 15 per cent. above the retail prices prevailing in the Colony on the 25th July, 1914?

THE COLONIAL SECRETARY replied as follows:—

1.—Thirteen proclamations regulating the price of foodstuffs have been published, the first on the 18th August, 1914, the last on the 25th August, 1916. The last general revision of prices is contained in proclamation No. 10 of the 12th March, 1915.

2.—His Excellency the Governor will refer the matter to the Committee.

3.—The Government is informed that, since the 25th July, 1914, the retail prices in the Colony of the food-stuffs named have been increased by some 10 to 12 per cent. In certain cases the increase has been larger; in others less. The increase would have been considerably greater had it not been for the rise in exchange.

It must be remembered that various circumstances, as, for instance, the large increase in freight rates, which were not foreseen at the commencement of the war, have combined to raise prices. The recent prohibition of the export to the Colony of food-stuffs from the United Kingdom will, no doubt, further affect the price of food-stuffs imported from countries other than China. The question of the limitation of prices will be referred to the Committee.

Rating Ordinance, 1901

THE ATTORNEY-GENERAL moved the first reading of a Bill intituled, "An Ordinance to amend the Rating Ordinance, 1901."

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

The "Objects and Reasons" state that the object of this bill is to extend the powers of exemption, formerly granted to the Governor-in-Council by the Rating Amendment Ordinance, 1915, in respect of University Hostels, so as to enable him to deal similarly with educational institutions generally, other than schools, which are already exempt by law.

Public Servants' Liabilities

THE ATTORNEY-GENERAL moved the first reading of a Bill intituled, "An Ordinance to protect certain public servants from legal proceedings in respect of certain liabilities."

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

The "Objects and Reasons" state the object of this Bill is to prevent borrowing on the part of certain subordinate public servants by making such loans irrecoverable. The operation of the Bill is confined to public servants whose substantive pay does not exceed \$200 a month.

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

The "Objects and Reasons" are as follow:—

The object of this Bill is to deal with certain points which have arisen in the course of the liquidations since the last amending Ordinance was passed.

Clause 1 is formal.

Clause 2 contains definitions of terms.

"Corporation under enemy control," "enemy," "enemy subject," "immovable property" and "property under prohibited control" are defined for the purposes of clauses 13, 14, 15, 16, 17, and 22, which are referred to below.

It is important to remember that the term "alien enemy" will retain the meaning which it has under the present Ordinances, and will not be affected by the definition of "enemy" in the bill. It was originally intended to use the term "enemy subject" in the principal Ordinance and not the term "alien enemy," but the latter term was adopted in deference to the terminology which was being used in the United Kingdom at the time. To abandon the term now would require so many alterations in the existing Ordinances that it seems more convenient to retain it in spite of the fact that a certain amount of overlapping in the meanings of the terms used is thereby caused.

In order to clear up doubts as to whether arbitrations are legal proceedings for the purpose of the Alien Enemies (Winding-up) Amendment Ordinance, 1915, "legal proceeding" is defined as

including an arbitration. The sections affected are sections 2, 3, 4, and 5 of Ordinance No. 11 of 1915.

Clause 3 gives the Court wider power to stay legal proceedings brought against liquidators. Cases may arise in which justice could not be done if the case were heard during the war, owing, for instance, to the impossibility of obtaining evidence, and it seems desirable that the decision on such a 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, but it seems advisable to give it express jurisdiction.

The same remarks apply to clause 4, which amends the section of Ordinance No. 11 of 1915 which deals with the staying of actions brought against alien enemies. The clause also extends that section to all legal proceedings including arbitrations.

Clauses 5 and 6 are intended to dispel possible doubts as to the existence of powers which have been, or may have to be, assumed. It will be noticed that the liquidators are declared to have power to transfer the property of the persons whose affairs they are winding up whether they can or can not produce the documents of title relating to such property.

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 creditors who are not enemies or enemy subjects shall take priority over unsecured debts payable to creditors who are enemies or enemy subjects.

Clause 10 introduces a power of disclaimer, modelled on the power of disclaimer in bankruptcy, which may be made use of in the case of any leases which the liquidators have been unable to deal with otherwise. Any person injured by the disclaimer will be treated as a creditor of the 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. It will be noticed that sub-clause (3)

provides that where a liquidator has sublet the premises with the consent of the lessor the latter shall not be entitled to distrain on such premises except for the rent payable under the sub-lease, and shall not be entitled to re-enter except for breach of some covenant contained in the sub-lease.

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 of 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.

Clauses 13, 14, 15, 16 and 17 are intended to prevent any immovable property sold in the liquidations from passing under the control of persons who now are enemies or enemy subjects. A reference to the definition in clause 2 will show that "prohibited control" is defined so as to include control after the conclusion of peace by persons who are now enemies or enemy subjects. Both that term and the term "corporation under enemy control" have been defined as widely as possible in order to include every possible form of control by or on behalf of persons who are now enemies or enemy subjects. Clause 13 prohibits liquidators from transferring property to prohibited control. Clause 14 provides for statutory declarations being made to enable liquidators to test the *bonâ fides* of intending purchasers. The form of these declarations are given in clause 22. Clause 15 prohibits purchasers of immovable property from the liquidators from transferring

such property to prohibited control without the permission of the Governor. It also provides that any person contravening the provisions of the section shall forfeit to the Crown the sum of \$50,000. The reference to the permission of the Governor is intended to meet difficulties which might otherwise arise hereafter on the transfer of immovable property sold in the liquidations, as no doubt a time will eventually arrive when it will be very difficult to ascertain whether a sale will not involve a transfer to prohibited control as defined in this bill. In such cases the prohibited control suspected may be merely technical and of no practical importance, and it would seem undesirable that vendors should be unable to sell except at a depreciated price and at the risk of committing a technical offence, and equally undesirable that purchasers acting on all good faith should have to take property with a technical flaw in the title. Probably in such cases after due enquiry the Governor's permission would be given to the transfer. Clause 16 provides for the forfeiture of immovable property sold in liquidations which comes under prohibited control. Clause 17 gives the Governor power to require particulars for the purpose of enabling him to ascertain whether any such property is under prohibited control.

Clause 18 deals with the question of trade marks belonging to alien enemies. Now that the liquidations are coming to an end and the control of the liquidators for all practical purposes will soon cease it has become necessary to make some other provision in order to retain Government control over these marks and to prevent their use by unauthorised persons. The method adopted is to vest the trade marks in the Custodian, together with the goodwill of the trades in which they were used. It is also necessary to provide for the keeping of these marks on the register because when the liquidators have paid in all their surplus assets to the Custodian they will have no funds from which to pay renewal fees. This point is dealt with by providing that none of these marks shall be removed from the register for non-payment of renewal fees except by order of the Governor, and it is also provided that any such marks which have been removed for non-payment of renewal fees shall be restored to the register.

Clause 19 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 20 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 21 provides that the provisions of the Alien Enemies (Winding-up) Ordinance shall continue for such period after the conclusion of the war as may seem proper to the Governor. 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. 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 22 adds to the Alien Enemies (Winding-up) Ordinance a schedule of the forms of declaration to be made by purchasers before the completion of sales of immovable property sold in the liquidations.

Clause 23 contains two repeals. Sub-clause (1) repeals a definition of the term "person" which is defined afresh in clause 2 of this bill. Sub-clause (2) repeals a section which is rendered unnecessary by clause 20 of this bill.

Protection of Women and Girls

THE ATTORNEY-GENERAL moved the first reading of a Bill intituled, "An Ordinance to amend further the Protection of Women and Girls Ordinance, 1897."

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

The "Objects and Reasons" state that the existing law has been found inadequate for the purpose of dealing with the serious offence of the abduction of unmarried girls. This is due to two reasons. In the first place the present section applies only where the girl has been *taken* out of the possession of her

parent or guardian. It is believed that many girls get lost or run away from their homes and are then picked up by the kidnappers. In the second place it is necessary under the existing law for the prosecution to prove that the accused knew that the girl had been taken away from her parent or guardian against the will of the parent or guardian. This is generally very difficult to prove. The girl is generally either an unintelligent or an unwilling witness, and the facts relating to her leaving her home are often known to no one in the Colony except to herself and to the accused.

Clause 3 of the Bill alters the law on these two points. It makes it an offence to harbour an unmarried girl who has left her parents or guardians without their consent, as well as to harbour a girl who has been taken out of the possession of her parents or guardians. It also throws on the accused, once it is proved that he knowingly harboured the girl, the onus of proving that he did not know that she left her parent or guardian without the consent of the parent or guardian.

It has also been thought advisable to raise the age in the case of this offence to 21 years. This amendment, by clause 5 of the Bill, is also made in section 26 of the principal Ordinance.

The age is also raised to 21 in the case of offences under sub-section (1) of section 4 of the principal Ordinance.

The opportunity has been taken to transfer paragraph 2 of section 18 of the principal Ordinance to section 19 of that Ordinance, to which it appears more properly to belong.

The War Loan

THE ATTORNEY-GENERAL moved the second reading of the Bill intituled, "An Ordinance to amend the War Loan Ordinance, 1916." In doing so he said:

The object of this Bill is to provide that the revenue appropriated for the service of the Hongkong War Loan shall be exempt from military contribution.

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

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

The Bill passed through Committee without amendment, and, on Council resuming,

THE ATTORNEY-GENERAL moved that the Bill be read a third time.

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

Powers of Arrest

THE ATTORNEY-GENERAL moved the second reading of the Bill intituled, "An Ordinance to consolidate and amend the law relating to the powers of arrest possessed by revenue officers." In doing so he said:—

It has been pointed out that the Courts might possibly hold that the powers of arrest conferred by Ordinance 6 of 1913 were limited by other powers of arrest given by special Ordinances under which revenue officers are appointed. It has therefore been decided to make it clear that the powers of arrest conferred by the principal Ordinance are not to be limited by any other enactment. That amendment in the law is effected by sub-clause 2 of Clause 3 of this Bill. As the principal Ordinance is a short one and has already been amended once, it was thought better to repeal it and to reenact it with all its provisions, and with the amendment now being made, in a fresh Ordinance. I beg to move the second reading.

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

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

The Bill passed through Committee without amendment, and, on Council resuming,

THE ATTORNEY-GENERAL moved that the Bill be read a third time.

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

The Interpretation Ordinance, 1911

THE ATTORNEY-GENERAL moved the second reading of the Bill intituled, "An Ordinance to amend the Interpretation Ordinance, 1911." In doing so he said:—

What led to the amendment of the Interpretation Ordinance, 1911, being taken up was the amendment which is being made in the Ordinance which has just been passed. The whole subject of powers of arrest possessed by revenue officers will now be dealt with in that Ordinance, including the definition of the term "revenue officer," and it is therefore desirable to repeal the definition of "revenue officer" as it appears in the Interpretation Ordinance. The opportunity has been taken of repealing another definition which has become obsolete, and that is the definition "excise officer." The term is no longer required now that the opium farm has ceased to exist. Opportunity has also been taken to amend Section 9 of the Interpretation Ordinance so as to make it perfectly clear that where an Ordinance gives power to do any act, or to make any regulations, or to issue any warrant or authority, that power may be exercised at any time between the passing of the Ordinance and the time when it comes into operation. That is evidently the intention of the present section, number 9, but from the reading of it it is not quite clear, and argument might be raised, on the terms of the section, that it applied only to an Ordinance which contained a definite suspending clause. The present amendment proposes to substitute for section 9 a section which conforms more closely to the wording of the corresponding section in the English Act, and it also corresponds more closely to the original form of the section as it appeared in our Statute Book before the recent revision of the Ordinances. The Editor endeavoured to cut down the wording of the section, and it is not at all clear that in doing so he has not altered the effect of it. This new clause, which is now proposed to be substituted, will be a return to the original wording of the section, and will conform more closely to the corresponding section in the English Act.

THE COLONIAL SECRETARY seconded.

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

The Bill passed through Committee without amendment, and, on Council resuming,

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

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

Anglo-Portuguese Treaty

THE ATTORNEY-GENERAL moved the second

reading of the Bill intituled, "An Ordinance to make such provisions as are necessary to enable the Anglo-Portuguese Commercial Treaty to come into force as regards the Colony of Hongkong." In doing so he said:

It is proposed that this Colony shall, with other parts of the Empire, signify its adherence to the recent Anglo-Portuguese Commercial Treaty, and one article in the Treaty requires that adherents shall restrict the use of the terms "Port" and "Maderia" to wine which is the produce of Portugal and Maderia respectively. The Bill is founded on the corresponding English Act, and provides for the necessary legislation.

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

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

The Bill passed through Committee without amendment, and, on Council resuming,

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

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

Protection of Forests and Plantations

THE ATTORNEY-GENERAL moved the second reading of the Bill intituled, "An Ordinance to make provisions for the better protection of forests, forest reserves and plantations from fire" In doing so he said:

The object of this Bill, which is clearly set out in Clause 3, is to make provision for the protection of trees on Crown land from fire. The provision is that any person who wilfully or negligently sets fire to anything in or near forests, forest

reserves or plantations in such a manne as to endanger anything in forests, forest reserves or plantations shall be liable to a fine.

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

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

The Bill passed through Committee without amendment, and, on Council resuming,

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

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

Protection of Trees

THE ATTORNEY-GENERAL moved the second reading of the Bill intituled, "An Ordinance to make further provisions for the protection of trees on Crown land and other Crown property from wilful damage." In doing so he said:—

To a certain extent the object of this Bill is cognate to that of the Ordinance which has just been passed, but this Bill provides for a very special form of penalty which may be imposed on a village or area in case damage occurs near it which is attributable to the inhabitants of the village or area. It was thought better to keep these provisions distinct from the provisions of the Bill which has just been passed. It is not, of course, a new Bill; it is merely an alteration in the procedure, and the only substantial change which is made is that liability to pay the fines which are imposed is now extended in the old Colony from persons who are on the Crown rent roll so as to include also persons on the village rent roll. The object, no doubt, of the original Ordinance was that all landowners in the locality should be liable to pay their share of the penalty, but it was overlooked at the time, apparently, that some of the landowners did not appear on the Crown rent roll, but on the village rent roll. That is the only substantial change in the Bill. The main intention of it is to alter the procedure so as to enable the tribunal which will sit in each case to report to the Governor-in-Council to be constituted in a more convenient manner. In future the body will consist, in the New Territories, of the Superintendent of the Botanical and Forestry Department and either the District Officer in the case of the Northern District or the Assistant District Officer in the case of the

Southern District; and in the rest of the Colony will consist of the Superintendent of the Botanical and Forestry Department, and either the Secretary for Chinese Affairs or one of his assistants.

THE COLONIAL SECRETARY seconded.

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

The word "or" was substituted for the word "and" in the last line of sub-clause (5) of clause 8.

The following clause, to be numbered Clause 9, was added:—"This Ordinance shall also apply to every case of such damage or destruction which has occurred in the New Territories since the 1st day of January, 1916." The marginal note is: — "Retrospective effect of Ordinance."

Clause 9 was re-numbered as clause 10.

The Bill passed through Committee with this amendment, and, on Council resuming,

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

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

Extradition Ordinance

THE ATTORNEY-GENERAL moved the second reading of the Bill intituled, "An Ordinance to repeal in part the Malay States Extradition Ordinance, 1913." In doing so he said:—

The subject of the return of persons accused of crimes, who have escaped from the territory where the crime was committed, is, of course, dealt with in two bodies of law; one, extradition Acts and Treaties, and, secondly, the Fugitive Offenders Act. The extradition Acts apply to renditions between foreign States, and the Fugitive Offenders Act applies to the return of fugitives from one part of the British Dominions to another. The Malay States did not come within either body of law because they are protected States, and, consequently, we had to have here a special Ordinance providing

for the rendition of fugitives from here to the Malay States. By a recent Act powers have been taken to make the Fugitive Offenders Acts, which applies to the British Dominions, applicable to the Malay States, if so applied by Order-in-Council, and an Order-in-Council has been made, and published in the London *Gazette*, applying these Acts to the Malay States with the exception of one, Treng-ganu. That makes the Malay States Extradition Ordinance here unnecessary except as regards that one State.

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

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

The Bill passed through Committee without amendment, and, on Council resuming,

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

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

Pharmacy and Poisons

THE ATTORNEY-GENERAL moved the second reading of the Bill intituled, "An Ordinance to amend the Pharmacy and Poisons Ordinance, 1916." In doing so he said:—

The object of the Bill is to make certain minor and technical alterations in the Ordinance. Certain defects have been discovered since the Bill was passed. The only alteration of any substance in the Bill is that warrants issued under the Ordinance need not, in future, contain, if this Bill is passed, the name of the person against whom the warrant has been issued, but only the designation. In some cases, of course, the name is not known, but the individual may be perfectly clearly described or designated.

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

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

The Bill passed through Committee without amendment, and, on Council resuming,

THE ATTORNEY-GENERAL moved that the Bill be read a third time.

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

This was all the business, and the Governor announced that Council stood adjourned until that day fortnight.

FINANCE COMMITTEE.

At a meeting of the Finance Committee of the Hongkong Legislative Council, on March 15th, the Colonial Secretary presiding,

The Governor recommended the Council to vote a sum of two million dollars in aid of Miscellaneous Services, Contribution to Imperial Government for War Purposes.

THE CHAIRMAN—Mr. Treasurer, is not this the largest financial minute we have ever had?

THE COLONIAL TREASURER—I should say so.

THE CHAIRMAN—This is simply to confirm the vote of \$2,000,000 which hon. members made to His Majesty's Government. The money has been already sent Home.

The vote was agreed to.
