

27TH DECEMBER, 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. E. D. C. WOLFE (Colonial Treasurer).

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

HON. MR. Mc.I. MESSER (Captain Superintendent of Police).

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

HON. MR. LAU CHU PAK.

HON. MR. P. H. HOLYOAK.

HON. MR. C. E. ANTON.

HON. MR. R. G. SHEWAN.

HON. MR. HO FOOK.

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

Financial

THE COLONIAL SECRETARY, by command of H.E. the Governor, laid on the table Financial Minutes Nos. 89 to 99, and moved that they be referred to the Finance Committee.

THE COLONIAL TREASURER seconded, and this was agreed to.

THE GOVERNOR—In connection with Financial Minute 91, which recommends the payment of a sum of \$275,000 in aid of the vote Public Works Extraordinary for compensations and resumptions, I would like to mention that this compensation is for

the resumption of that very picturesque hill called Morrison Hill and the buildings thereon. This sum of \$275,000 is the sum agreed upon with the owners three years ago. With regard to Financial Minute No. 95 recommending the payment of \$676.06 as an honorarium to Mr. R. O. Hutchison, I laid before the Secretary of State some time since an account of the extremely valuable services rendered by Mr. R. Hutchison with reference to the institution of the opium monopoly, the collection of the duty on alcoholic liquors, the institution of the taxation on tobacco and the working of what is known as the Importation and Exportation Ordinance by which the import and export of military stores is regulated. Business men will readily appreciate the enormous amount of work that was involved in incorporating that system in this free port. The honorarium approved by the Secretary of State was £100 and the number of dollars mentioned in the Financial Minute is the equivalent of that sum. Honourable members, I am sure, will gladly vote this honorarium to Mr. Hutchison.

Finance Minutes

THE COLONIAL SECRETARY, by command of H.E. the Governor, laid on the table report of the proceedings of the Finance Committee, No. 15, and moved that it be adopted.

THE COLONIAL TREASURER seconded, and this was agreed to.

HON. MR. P. H. HOLYOAK—Have I your permission, Sir, to ask a question with regard to the vote made by this Council to the Halifax Relief Fund?

THE GOVERNOR—You want to give notice of a question?

HON. MR. HOLYOAK—If it is desired I will give notice that I will ask the question whether a reply has been received acknowledging the vote made. What we feel is that the sum which the Colony voted has been merged into the general funds and that it has not gone direct to the Government of Canada, with our expression of sympathy, as no direct acknowledgment has been received.

THE GOVERNOR—I think it would be better to give notice of the question. I have not seen the correspondence myself.

THE COLONIAL SECRETARY—The Secretary of State, in his telegram approving the gift, stated that the Crown Agents would send the money to the Government of Canada with the expression of sympathy from the Colony.

HON. MR. HOLYOAK — No reply has been received from the Dominion of Canada at all as far as the Colony is concerned.

THE COLONIAL SECRETARY—No reply from the Dominion of Canada has been received, although it would appear that the money had been sent independently from the general funds.

THE GOVERNOR—We will make enquiries. It is rather odd, I must say.

HON. MR. HOLYOAK — If the money was forwarded with the message of sympathy as suggested it seems extraordinary that we should have had no acknowledgment at all.

Importation and Exportation Ordinance, 1917

THE ATTORNEY-GENERAL moved the first reading of a Bill intituled, "An Ordinance to amend the Importation and Exportation Ordinance, 1915."

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

The "Objects and Reasons" state:—

1.—The existing definitions of the terms "to export" and "to import" in the principal Ordinance refer only to the *carriage* of things out of and into the Colony. These definitions are not appropriate to the case of things which are not carried in the ordinary sense, but which are propelled through the air or through or under the water. It is therefore proposed to amend the definitions so as to make them more apt to include such cases. This explains clause 2 of the bill.

2. Clause 3 proposes to raise the penalty under the principal Ordinance from \$5,000 to \$10,000, as it is realised that in the abnormal conditions due to the war the smaller penalty would not be a sufficient deterrent in the case of some of the offences against the Ordinance which are possible.

THE ATTORNEY-GENERAL then moved that the Bill be proceeded with immediately. The reason for urgency, he said, is that it is desirable, though, perhaps, not absolutely necessary, that this Bill should be passed in order that the Government may be able to deal with a threatened depletion of the number of launches in the Colony.

THE COLONIAL SECRETARY seconded, and this was agreed to.

THE ATTORNEY-GENERAL — The object of passing this Bill through all its stages now is to enable the Government to deal with a situation which has arisen with regard to the launches of the Colony. A considerable number of launches is necessary for the commercial life of the Colony, and if the number were unduly diminished now it would be practically impossible to replace the launches under present conditions. In the principal Ordinance the definitions of the terms "to import" and "to export" are more appropriate to the carriage of goods than to things like launches that are not carried but which are water borne, and the definitions in the principal Ordinance are not very appropriate, either, to the case of aircraft which fly through the air. It is proposed to amend these definitions to make them more appropriate to cover such cases as well as the ordinary carriage of goods. That is the object of section two of the Bill. The object of clause three is to increase the penalty of the principal Ordinance from \$5,000 to \$10,000. The increasing stringency of conditions due to the war makes it more likely that persons will be prepared to pay heavy fines in order to secure the profit which illegal transactions sometimes bring if they are carried through successfully. In England the penalty under the corresponding Act was raised in 1915 from £100 to £500, and I think it is quite possible it may be necessary to raise it further. Clause three proposes to raise the penalty from \$5,000 to \$10,000. 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 read a third time and passed.

Contracts (War Restrictions) Ordinance, 1917

THE ATTORNEY-GENERAL moved the second reading of the Bill intituled, "An Ordinance to make provision with regard to the effect on certain contracts of certain requirements, regulations and restrictions rendered necessary by the present war." In doing so he said—The object of the Bill is to provide relief against actions for breach of contract where the fulfilment of the contract has been interfered with by the requirements, regulations or restrictions rendered necessary by the war. The Bill is introduced in consequence of representations made by the Chamber of Commerce and it is based on an English Act passed in 1915. I would like to point out three particulars under which it is important to grasp the effect of the Bill, because I think that a certain amount of misapprehension may exist with regard to this measure. One is that it affects not only future interferences but also past interferences. If a contract has been interfered with in the past by reason of any restrictions covered by the Bill, this Bill will afford a good defence to any action. Secondly, it affects not only future legal proceedings but even pending actions. It will not, of course, affect any judgment already given, but it will affect an action in which judgment has not been pronounced. In other words, if a plaintiff has commenced an action and has carried that action to a certain point he can now be met with this statutory defence. While this may entail hardship on the plaintiff it is a lesser hardship than to require a defendant to pay compensation for that for which he is not responsible. The third point is that the Ordinance is intended to provide a defence. It does not enable a person whose contract has been interfered with to insist on the other party carrying out the contract. It only gives him a defence in any action brought against him. In other words, it is a shield and not a sword. If a manufacturer has contracted to

supply certain goods, and, under the regulations imposed, is unable to supply goods of the standard he has promised to supply, he will be able to defend any action brought by the purchaser against him for noncompletion of such contract. He will not be able to insist on the purchaser taking goods of a different standard.

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 2 of the Bill was amended to read as follows:—

It is hereby declared that where the fulfilment by any person of any contract which was or is to be performed within the Colony has been or shall be interfered with by the necessity on the part of himself or any other person of complying with any requirement, regulation, or restriction of the Admiralty, the Army Council, the Minister of Munitions, or the Food Controller, under the Defence of the Realm Consolidation Act, 1914, or the Defence of the Realm (Amendment) No. 2, Act, 1915, or any regulation made thereunder, or with any regulation made under the Order of Her late Majesty Queen Victoria in Council made on the 26th day of October, 1896, as amended by the Order of His Majesty in Council made on the 21st day of March, 1916, that necessity is a good defence to any pending or future action or proceedings taken within the Colony against that person in respect of the non-fulfilment of the contract so far as it is due to that interference.

There were no further amendments, and, on Council resuming

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

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

Insurance Companies Deposit Ordinance

THE ATTORNEY-GENERAL moved the second reading of the Bill intituled, "An Ordinance to provide for the making of deposits by certain persons, firms and companies carrying on fire or marine insurance business." In doing so he said—The object of the Bill is to make sure that any companies or persons carrying on fire or marine insurance business in the Colony shall have a certain minimum amount of financial backing, in order to check the growth of mushroom companies which have no sound financial basis. Cases have occurred in the past of such mushroom companies. Some may have been simply amateurish attempts to engage in a business which requires a good deal of expert knowledge; some may have been patently fraudulent. Whatever the case the fact is that the public is defrauded, the sounder companies suffer and the reputation of the Colony is damaged. It is proposed, therefore, to require all companies carrying on fire or marine insurance to show that they have a certain amount of financial standing by making a deposit of \$100,000. If the company carries on both fire and marine insurance it must make, of course, double that deposit, namely, \$200,000. The nature of the deposit is set out in Clause 5 of the Bill and in Regulation 5 of the First Schedule. It will be seen from Clause 5 that at least a half of the deposit must be in fixed deposits in approved banks, or in British, Indian or Colonial Government bonds or stocks, or in securities authorised by law for the time being in the United Kingdom for the investment of trust funds. The other half may be in any other security approved by the Governor in Council, and may be in the form of leasehold property in the Colony of Hongkong. If it is in the form of leasehold property the regulations provide that it must be properly tied up by means of a legal mortgage to the Registrar of Companies. With reference to other securities such documents must be executed as will either transfer the legal ownership to the Registrar of Companies or as will enable him to complete such transference without any further concurrence on the part of any other person. It has been further thought advisable to provide for certain

exemptions. The exemption clause is Clause 11. The law in the United Kingdom requires companies carrying on fire or life insurance to make a deposit of £20,000. That deposit covers both kinds of business, fire and life insurance. In the Straits Settlements, by a recent ordinance, fire insurance companies are required to deposit \$100,000. Clause 11 of the Bill provides that every insurance company which proves to the satisfaction of the Registrar of Companies that it is maintaining a deposit in respect of insurance business in the United Kingdom, or a deposit in respect of fire or marine insurance business in any British possession or protectorate, shall be exempt to the extent of such deposit from making a deposit under this Ordinance. In other words the English deposit of £20,000 will relieve a Company from making a deposit here because that sum is practically equivalent to \$200,000. The deposit made in the Straits Settlements will go to the credit of the Company here to the extent of \$100,000 Hongkong currency, but if the Company carries on both fire and marine insurance it will have to make the additional deposit of \$100,000 in respect to its marine insurance business. In order to cover any difficulties over exchange a sub-clause has been introduced reading: "For the purposes of this section one pound sterling, or five dollars gold, or ten Straits dollars, or fifteen rupees, shall be deemed to be equivalent to ten Hongkong dollars." It will be seen that in this exemption clause all companies, British or foreign, local or non-local, stand on the same footing. If they have made a deposit in any part of the British Empire that deposit will count towards exempting them from making a deposit here. But it must be an actual deposit. There are some companies which are exempt in the United Kingdom, not because of any enquiry into their stability, but because the English Act was not made retrospective. They were carrying on business when the Act was passed and the Act did not apply to them. Those companies will have to make the deposit. I should have said in connection with Clause 5 that, if the companies find it convenient, the deposit made under that section may be made in some approved bank in the United Kingdom. Obviously it is no time to send securities across the world by post, and if the securities are

deposited in some approved bank and the deposit is held in the name of the Registrar of Companies in Hongkong that will be accepted by the Government as equivalent to a deposit here. There are other provisions requiring companies carrying on business here to file certain accounts and balance sheets, and making them liable to audit by special auditors if the Governor-in-Council so orders. Offences under the Ordinance include the furnishing of false accounts, the obstruction of any audit which has been ordered and failure to comply with the Ordinance in any way.

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

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

Clause 2. The last three words in sub-section I,— "within the Colony"—were deleted.

Clause 4, sub-section I was amended to read as follows:—"No company which has amongst its objects the carrying on of fire or marine insurance business, or of both fire and marine insurance business, whether within or without the Colony, shall hereafter be registered until such deposit or deposits as would be required under this Ordinance if the company were actually incorporated and were carrying on fire or marine insurance business, or both fire and marine insurance business, as the case may be, within the Colony, shall have been made.

Clause 5, sub-section 1. The words "which carries on business within the Colony" were added after "Every insurance Company."

Clause 5, sub-section 4. The words "within the Colony" were added after "If an insurance company carries on" and the words "or intends to carry on or is empowered to carry on" were deleted.

Clause 6, sub-section I. The words "which carries on business within the Colony" were added after "Every insurance company."

Clause 6, sub-section 5. This clause was amended to read as follows: "With every account and balance sheet so filed there shall be filed with the Registrar of Companies a copy of every report on the affairs of the insurance company submitted to the shareholders or policy holders of the insurance company in respect of the financial year to which such account or balance sheet relates, and a copy of every report or letter which is referred to in any auditor's certificate

appearing on any account or balance sheet so filed, and every such copy so filed shall be signed in the same manner as is provided in the case of accounts and balance sheets by sub-section (3) of this section."

Regulation 9 in the first schedule was amended to read as follows:

"If the deposit is partly in the form of leasehold property such property shall be insured in the name of the Registrar of Companies, against the risk of loss by fire, and typhoon, in such office or offices as the Registrar of Companies may direct, for the full insurable value thereof. Such property shall not be insured or re-insured with the insurance company making the deposit."

Upon Council resuming, the Attorney-General moved that the Bill, as amended, be read a third time.

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

The Governor wished the hon. members a brighter New Year, and the Council adjourned *sine die*.

FINANCE COMMITTEE.

A meeting of the Finance Committee followed, the Colonial Secretary presiding.

Imports and Exports

The Officer Administering the Government recommended the Council to vote a sum of three hundred dollars in aid of the vote Imports and Exports Department, Other Charges, Rent of Temporary Offices.

THE CHAIRMAN—This is the rent of temporary offices, adjacent to the Harbour office from the middle of November to the end of December at \$200 a month.

The vote was agreed to.

Filters

The Governor recommended the Council to vote a sum of one hundred dollars in aid of the vote Public Works Recurrent, Hongkong Water Works, (22) Maintenance of Aberdeen.

THE CHAIRMAN—This is required for cleaning and replacing filter materials in one of the filter beds in Aberdeen

The vote was agreed to.

The Governor recommended the Council to vote a sum of two hundred and seventy-five thousand dollars in aid of the vote Public Works Extraordinary, Public Health and Buildings Ordinance, 1903, (24) Compensation and Resumptions.

THE CHAIRMAN — H.E. the Governor has already explained the reason for this vote.

HON. MR. HOLYOAK — Assuming that this vote is made will the Government take into consideration the advisability of extending the present recreation ground?

THE CHAIRMAN—The scheme includes an extension of the recreation ground by over $6\frac{1}{2}$ acres.

THE DIRECTOR OF PUBLIC WORKS — Probably the hon. member is unaware that the Government has filled in the Soo Kun Poo valley for the purpose of utilising it as a recreation ground.

THE CHAIRMAN—It has never been suggested that the old scheme should be altered. Under that scheme the recreation ground will be extended by $6\frac{1}{2}$ acres, but since that scheme was drawn up the work referred to has been done in the Soo Kun Poo valley.

The vote was agreed to.

Steam Launches

The Governor recommended the Council to vote a sum of eight thousand eight hundred and fifty dollars in aid of the vote Harbour Master's Department,—D. Steam Launches, Other Charges, Repairs.

THE CHAIRMAN—This sum is in connection with extensive repairs to the Harbour Department's launch, No. 4. The launch has been put in thoroughly good condition and is now expected to do good service for from seven to ten years more.

HON. MR. HOLYOAK — This is, I suppose, because another cannot be built at the present time.

THE CHAIRMAN—I think it was considered cheaper to make the launch thoroughly sound than to build a new one. Another launch of the same size would probably have cost over \$20,000.

HON. MR. HOLYOAK—It seems to be a very large sum.

THE CHAIRMAN — The repairs were very extensive. The reason for the recommendation made by the Marine Surveyor was that it would be cheaper to have them done than to provide a new launch in view of the scarcity of material in the Colony.

The vote was agreed to.

Compensations and Resumptions

The Governor recommended the Council to vote a sum of six thousand dollars in aid of the vote Public Works Extraordinary, Hongkong, Public Health and Buildings Ordinance, 1903, (24) Compensation and Resumption.

THE CHAIRMAN—This \$6,000 is required in connection with the resumptions. Five thousand is required for the resumption of Inland Lot 1918 at Morrison Hill. The sum of \$75,000 was provided in the estimate, but the amount required is \$80,000. The \$1,000 is in connection with the provision of a new street and scavenging lane in Praya East.

The vote was agreed to.

Launch Coal

The Governor recommended the Council to vote a sum of one hundred and thirty-six dollars and fifty cents in aid of the vote Imports and Exports Department, Other Charges, Launch, Coal.

THE CHAIRMAN—This is in connection with the Revenue Department's launch No. 1. There was not sufficient money to pay for the coal for that particular launch. The price of coal has increased from \$13 to \$17.50 a ton.

The vote was agreed to.

Honorarium

The Governor recommended the Council to vote a sum of six hundred and seventy-six dollars and six cents in aid of the vote Miscellaneous Service, Honorarium to Mr. R. O. Hutchison.

THE CHAIRMAN — H.E. the Governor has explained this vote to Mr. Hutchison.

The vote was agreed to.

Roads

The Governor recommended the Council to vote a sum of one thousand two hundred dollars in aid of the votes Public Works, Extraordinary, New Territories, Communications, (45) Roads:—

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|---|-------------|
| (e) Taipo Road, Widening to 16' and improving bends, etc., between 5th and 9th milestones | \$ 700.00 |
| (f) General Works | 500.00 |
| | <hr/> |
| Total..... | \$ 1,200.00 |
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THE CHAIRMAN—The contractor for widening the Taipo road pointed out that the rates he was getting for turfing the new banks were very low. The matter was gone into and the amount asked for was considered reasonable, and very fair. That accounted for \$700. The payment of \$500 was in connection with numerous small works.

The vote was agreed to.

Halifax Relief Fund

The Governor recommended the Council to vote a sum of sixty-seven thousand six hundred and five dollars and sixty cents in aid of the vote Miscellaneous Services, Halifax, Nova Scotia Relief Fund.

The vote was agreed to.

Lighthouses

The Governor recommended the Council to vote a sum of one thousand four hundred dollars in aid of the vote Public Works, Recurrent, Hongkong, Buildings, (3) Maintenance of Lighthouses.

THE CHAIRMAN—This is the cost of electing a solid beacon on a rock in the Cheung Chow channel. The work has been carried out in a very substantial way and the channel is now lighted satisfactorily.

The vote was agreed to.

Victoria Goal

The Governor recommended the Council to vote a sum of nine thousand five hundred dollars in aid of the vote Public Works, Extraordinary, Hongkong, Miscellaneous, (14) Victoria Gaol: Constructing concrete platform over lower yard.

THE CHAIRMAN—This work at the Gaol has been altered from time to time and extended at the request of the Gaol authorities. The original vote for the work was \$31,500 and the cost now amounted roughly to \$44,000.

The vote was agreed to.