

30TH MAY, 1918.

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. 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. MCIL MESSER (Captain Superintendent of Police).

HON. MR. E. SHELLIM.

HON. MR. D. LANDALE.

HON. MR. LAU CHU PAK.

HON. MR. P. H. HOLYOAK.

HON. MR. HO FOOK.

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

Papers

THE ATTORNEY-GENERAL, by command of H.E. the Governor, laid upon the table the Report of the Kowloon-Canton Railway for 1917, and the copies of telegrams sent to and from the Secretary of State with reference to the question of General Military Service.

The telegrams were as follows:—

Telegram from the Governor of Hongkong to the Secretary of State for the Colonies, dated 20th April, 1918.

Your telegram of 10th July 1917, the Committee of the Hongkong General Chamber of Commerce have expressed unanimously the opinion in which I concur that compulsory Military Service beyond the Colony should now be imposed, essential economic trades being protected and a tribunal representative

of all classes of the Commercial community and with substantial commercial majority being appointed to adjudicate. I shall be glad to learn whether His Majesty's Government are now prepared to include Hongkong, and to receive instructions as to the legal means by which compulsion is to be applied. I would recommend age limit not exceeding 45 years, discretion in Governor to define the racial application of the law and a small tribunal on lines of the Military Service Commission with an appeal from its decisions by individuals concerned, employers, or the Military Authorities to the Governor-in-Council. The Civil Service in my opinion should be included in the compulsion but the decisions in its case should rest solely with the Governor. The Executive Council unanimously concur in my recommendation.

MAY.

Telegram from the Secretary of State for the Colonies to the Governor of Hongkong, dated 20th May, 1918.

My telegram 8th May, proposals in your telegram 20th April generally approved. Age-limit should not exceed forty years. For the present at any rate only men belonging to pure European descent should be attested. War Office consider that, in view of probable small number, men should go to India for training where they will be attached to Sixth Training Battalion. Kirkee, with a view to being ultimately drafted to 1/6th Battalion Hampshire Regiment where they will serve together in the same company as far as possible. Men should be fit for general military service. As to legal means, following is extract from Jamaica Law, line of which may be followed. Every man whose name appears on any such list so signed by the Governor shall after such publication of such list as the Governor shall direct and within such time as the Governor shall appoint by notice to be published in the Jamaica *Gazette*, report himself for military service at such place and to such person as the Governor shall, in such notice or some other notice, appoint, and

from and after such report and until his discharge such man shall be subject to Army Act as if he were part of His Majesty's Regular Forces:—

- (a) while in Jamaica before and after serving as hereinafter mentioned:
- (b) while on the way from Jamaica for purpose of serving with the Imperial Forces outside Jamaica:
- (c) while serving with the Imperial Forces outside Jamaica:
- (d) while on the way back to Jamaica after so serving.

Copies of Law sent to you 30th April, 104.

LONG.

Finance

THE ATTORNEY-GENERAL, by command of H.E. the Governor, laid on the table Financial Minutes Nos. 25 and 26, and moved that they be referred to the Finance Committee.

THE COLONIAL TREASURER seconded, and this was agreed to.

THE ATTORNEY-GENERAL, by command of H.E. the Governor, also laid upon the table Report of Financial Committee, No. 2, and moved that it be adopted.

THE COLONIAL TREASURER seconded, and this was agreed to.

The Water Supply

THE DIRECTOR OF PUBLIC WORKS—By permission of the Council, I desire to make a statement regarding the curtailment of the water supply. When the new engines were about to undergo their trials, in November last, it was discovered that the steam-jacket of one of the cylinders was so badly cracked that it would not be possible to run the engine until a new cylinder had been obtained and erected. The new cylinder was ordered by telegram and, in view of the urgency of the matter and the difficulty of obtaining machinery of any kind from England under present conditions, a telegram was sent to the Secretary of State for the Colonies requesting that every facility should be given to the makers to replace the damaged part. A reply by telegram was received to the effect that arrangements for shipment of the new part would be made as early as possible and that no difficulty was anticipated. Owing to War exigencies,

however, the new cylinder has not yet arrived in the Colony. According to latest advices, it is now on its way and should arrive shortly. Had the engine been available, no difficulty would have arisen in maintaining the supply of water to the City.

HON. MR. HOLYOAK—Arising out of that statement, may I ask if the contractors will be held responsible for this?

H.E. THE GOVERNOR—I cannot answer that question.

HON. MR. HOLYOAK—Arising out of the statement—

H.E. THE GOVERNOR—I heard the question, but I cannot answer such a question off-hand.

HON. MR. HOLYOAK—May I give notice of the question for the next meeting.

H.E. THE GOVERNOR—Certainly.

The Conscription Bill

THE ATTORNEY-GENERAL moved the first reading of a Bill intituled "An Ordinance to provide for the raising of a force the members of which shall be liable to service with His Majesty's Forces outside the Colony during the present war." He said:—The object of the Bill is to raise a force of men for service with H.M.'s. Forces outside the Colony in order to supplement the numbers of those who have already left the Colony for that purpose. The reason is the present urgent need of the Empire for men. I do not propose to say anything further at this stage about the objects and reasons, but I would like to refer, very shortly, to three points. One is that it is the intention, when the Bill becomes law, to appoint a Tribunal with a substantial commercial majority. The second point is with reference to the very important question of the standard to be applied by the Tribunal. That question of the standard is dealt with in the Bill under sub-Clauses 4, 5, and 6 of Clause 5. Paragraph (a) of sub-Clause 4 lays down two grounds of absolute exemption, and they are the only grounds of absolute exemption. One is the ground of Imperial interests. That is not likely to give rise to much difficulty. The other ground is the ground of the essential interests of the Colony. That,

Sir, is intended to include, and I think it really does include, the essential trade interests of the Colony, and these trade interests—essential trade interests—will form, no doubt, by far the largest and most important number of cases which will come under these words, and I have no doubt that when the Tribunal come to apply these words to the cases coming before them they will consider the bearing on the subject of essential British interests—essential British trade interests in China which are controlled from Hongkong. The third point, Sir, is the question of subsistence allowances. The Government are making enquiries in more than one direction and they are prepared to deal sympathetically with the question of granting subsistence allowances to the dependents of those men who may be sent to the Front under the provisions of this law. I beg to move the first reading.

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

Bills of Exchange (Time of Noting) Ordinance, 1918

THE ATTORNEY-GENERAL moved the second reading of the Bill intituled "An Ordinance to amend the Bills of Exchange Ordinance, 1885." In doing so he said: Under the existing law, when a Bill of Exchange is noted or protested, it must be noted on the day on which it is dishonoured. That frequently caused inconvenience, and this Bill proposes to enable a bill to be noted on the business day next succeeding the day of dishonour. The provisions of the Bill are taken from the United Kingdom Bills of Exchange (Time of Noting) Act passed last year.

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

Claims Against Enemies Ordinance, 1918

THE ATTORNEY-GENERAL moved the second reading of the Bill intituled "An Ordinance to require certain returns to be made to the Custodian of Enemy Property." In doing so he said: This Bill deals with a portion of a subject which is considered by His Majesty's Government to be of considerable importance. The subject is the returns which have to be made to the Custodian of Enemy Property. One portion of that subject has been dealt with already under the "Trading with the Enemy" Ordinances, and under the existing law the following returns have to be made to the Custodian of Enemy Property. First, every person in the Colony who holds or manages any property for an enemy must make a return of such property. Secondly, that provision has been extended to include bank balances and deposits held for enemies and to debts of \$500 or upwards. Thirdly, every Company which is incorporated in the Colony or has a share transfer office here must make a return of all shares and debentures held by or for an enemy. In the fourth place, every partner of a firm, a partner of which became an enemy on the outbreak of war, or to which money was lent by a person who became an enemy, must make a return of all profits and interest due to such enemy. Those, heretofore, have been the only compulsory returns. The Custodian, however, was prepared to receive other returns made voluntarily, and this Bill proposes to make those voluntary returns compulsory. A proclamation to that effect was issued in England, and this Bill will bring the Hongkong law into line with the English law on the subject. The returns now made compulsory for the first time are of three classes. First, returns of all property of every description in enemy territory or in territory occupied by the enemy or of any interest in such property, to which any person in the Colony is entitled. Second, returns of all claims against any persons, firms, companies, or other corporations in enemy territory, or in territory in hostile occupation. And, third, returns of all claims against enemy Governments. It is to be hoped, Sir, that the public will endeavour to make themselves acquainted with the terms of this legislation, and of the previous legislation, and of the kindred legislation which requires certain payments to be made to the Custodian, for two
r e a s o n s .

Firstly, because the penalties imposed, or the penalties which may be imposed, for failure to comply with the legislation, are very heavy, and, secondly, for the higher reason that the Imperial Government considers it very important that these returns should be as complete as possible.

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

Summary Offences Amendment Ordinance, 1918

THE ATTORNEY-GENERAL moved the second reading of the Bill intituled "An Ordinance to amend further the Summary Offences Ordinance, 1845." In doing so he said: The Bill deals with a great deal of matter, which is matter of detail rather than principle, and should be considered in Committee rather than on a motion for the second reading. There are certain general points, however, to which I will refer shortly. One is that throughout the Bill the pecuniary penalty has been raised generally, but not universally, to \$250. It is, generally, the penalty recognised by the Magistrates' Ordinance as the maximum penalty which may be imposed by a magistrate for a summary offence if the particular enactment does not specify any particular penalty. The Bill also proposes almost throughout to increase the punishment by imprisonment for various offences to three months. In some cases the penalty at present is seven days without hard labour, or 14 days, for offences which seem to demand a very much more severe penalty—broaching cargo, wilful damage to bridges, unlawful possession, allowing rabid dogs to be at large and other offences of that kind. The Bill also creates certain new offences, such as the dropping of building material from houses to the danger of passers-by, forming obstructions in the streets and failing to light them, picking over refuse in public places—a point which has been

raised, I think, by unofficial members on previous occasions—and keeping noisy pets which are a nuisance to neighbours. The last general point I would like to refer to is the question which arises on clauses 19 and 20. These two clauses provide for what one must always feel should be used sparingly, but which I think, in these cases is justifiable, that is, vicarious criminal responsibility. Clause 19 makes the occupier of premises in or from which certain offences are committed, liable to the same penalty as the actual offenders. The offences are throwing rubbish down and making noises at night. It is very often practically impossible to ascertain the actual culprit. On the other hand, the occupier very often knows him and, very commonly, the offender is under the control of the occupier. Clause 20 imposes similar vicarious liability on contractors in three cases. One is allowing materials to fall from buildings to the danger of the public; another, the opening of trenches in the street and failing to light them; and the third, the depositing of material on Crown land without a permit. In all these cases I think, except in one, it is almost certain that the offences cannot take place without some connivance or neglect on the part of the contractor. The one exception is in the case of lighting a trench or obstruction in the road, and, there, I think, the liability put on the contractor may perhaps be justified in the interests of public safety.

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

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

On clause 3,

THE ATTORNEY-GENERAL—I move that in clause 3 (c) (i), after the words "public place" the following words be inserted, "or on any Government property unless with the consent of a public officer, or on any private property unless with the consent of the owner and of the occupier (if any) of such private property." The effect of that will be to prohibit the throwing of rubbish on to either Government property or private property without the consent of the owners.

THE COLONIAL TREASURER seconded, and the amendment was agreed to.

On clause 19,

HON. MR. LAU CHU PAK—With reference to this clause I do not think that the occupier of the premises should be punished. In some cases of which I know the occupier of a flat has sub-let to three families. These families are not under his control. I think the words "unless he produces the actual offender" should be added.

THE COLONIAL TREASURER—I take it that is the meaning of the section. This is intended to provide some scape-goat in case the actual offender cannot be found. That is my idea of it. No one would ever prosecute two people for the same offence. If the actual offender cannot be found, the occupier is responsible.

THE ATTORNEY-GENERAL—The clause might be amended by inserting after the words "actual offender" in the 7th line, the words "unless the actual offender shall first have been prosecuted to conviction."

HON. MR. LAU CHU PAK seconded, and this amendment was agreed to.

On clause 20,

THE ATTORNEY-GENERAL—I beg to move that after the words "actual offender," at the end of each sub-clause, the following words be inserted, "whether the actual offender be prosecuted or not."

THE COLONIAL TREASURER seconded, and this was agreed to.

On Council resuming,

THE ATTORNEY-GENERAL moved the third reading of the Bill as amended.

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

Dangerous Smoking Prevention Ordinance, 1918

THE ATTORNEY-GENERAL moved the second reading of the Bill intituled "An Ordinance to amend the Dangerous Smoking Prevention Ordinance, 1900."

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

Peak District (Residence) Ordinance, 1918

THE ATTORNEY-GENERAL moved the second reading of the Bill intituled "An Ordinance to provide that with certain exceptions no person shall reside within the Peak District without the consent of the Governor-in-Council." In doing so he said: The consents may be given so as to include the persons mentioned in clause 3—the members of the family of the person to whom the consent is given, persons in the *bona fide* employment of such person in or about his residence, and *bona fide* visitors entertained gratuitously by such person. The persons to whom the Bill does not apply are set out in clause 4 and include members of His Majesty's and Military Forces, the members of the Hongkong Police Force stationed within the Peak District, inmates of hospitals within the Peak District, visitors to hotels, public chair coolies and contractors and labourers employed at the Peak.

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

THE GOVERNOR—Council is adjourned till this day week.

FINANCE COMMITTEE.

A meeting of the Finance Committee followed at which the Colonial Treasurer presided.

Motor-Car for District Officer

The Governor recommended the Council to vote a sum of one thousand and ninety-seven dollars and fifty cents in aid of the vote Judicial and Legal Departments, *C.*—District Officer, Northern District, Other Charges, motor-car for District Officer.

The vote was agreed to.

Public Works

The Governor recommended the Council to vote a sum of thirty-eight thousand dollars in aid of the vote Public Works Extraordinary, Communications, (42) Roads (*a*) Shamshuiipo to Castle Peak: Section from Shamshuiipo Tsunwan, 20 feet wide.

THE CHAIRMAN—The Director of Public Works will be able to explain this vote.

THE DIRECTOR OF PUBLIC WORKS—The total cost was \$174,000 odd and the expenditure in 1917 was considerably below what was estimated, leaving a balance of \$77,000 to be spent this year. The sum provided in the Estimate was \$40,000, so now something over \$37,000 was required and, to provide for contingents, \$38,000 was asked for.

THE CHAIRMAN—It is practically a re-vote.

THE DIRECTOR OF PUBLIC WORKS—To the extent of about \$28,000, it is a re-vote.

The vote was agreed to.
