

18TH SEPTEMBER, 1919.

**PRESENT:—**

HIS EXCELLENCY THE OFFICER ADMINISTERING THE GOVERNMENT, HON. MR. CLAUD SEVERN, C.M.G.

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

HON. MR. A. G. M. FLETCHER, C.B.E. (Colonial Secretary).

HON. MR. H. E. POLLOCK, K.C. (Attorney-General).

HON. MR. C. McI. MESSER, O.B.E. (Colonial Treasurer).

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

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

HON. MR. E. D. C. WOLFE (Captain Superintendent of Police).

HON. MR. LAU CHU PAK.

HON. MR. HO FOOK.

HON. MR. C. G. ALABASTER, O.B.E.

HON. MR. S. H. DODWELL.

HON. MR. E. V. D. PARR.

MR. J. A. E. BULLOCK, M.B.E., Clerk of Councils.

H.E. THE OFFICER ADMINISTERING THE GOVERNMENT — After the combined meeting of the Executive and Legislative Councils held on July 19th. in connection with the Peace Celebrations a message of congratulation was sent to H.M. the King, which was in the form of a resolution of the joint Councils. I have now received the following dispatch from the Secretary of State for the Colonies:—"I have the honour to acknowledge the receipt of your telegram of July 21st., forwarding a message from the Executive and Legislative Councils of Hongkong to H.M. the King, and I am commanded by His Majesty to request you to convey to the Executive and Legislative Councils his great appreciation of their expressions of loyalty and devotion and of

their congratulations on the attainment of Peace."

**Finance**

THE COLONIAL SECRETARY, by command of H.E. the Officer Administering the Government, laid upon the table financial minutes Nos. 89 to 101 and moved that they be referred to the Finance Committee.

THE COLONIAL TREASURER seconded, and this was agreed to.

THE COLONIAL SECRETARY, by command of H.E. the Officer Administering the Government, laid upon the table the report of the Finance Committee, No. 9 and moved that it be adopted.

THE COLONIAL TREASURER seconded, and this was agreed to.

**Papers**

THE COLONIAL SECRETARY, by command of H.E. the Officer Administering the Government laid upon the table the report of the Police Magistrates' Courts, 1918, and the Director of Public Works' report, 1918; and Sessional Paper No. 9 —the Quarterly Return of Excesses on sub-heads met by savings under the Heads of Expenditure.

**Telephonic Communication with Cheung Chau**

THE COLONIAL SECRETARY — with reference to the question regarding the telephone cable to Cheung Chau, asked by the Hon. member representing the Justices of the Peace at the meeting of Council on August 28th., the cable has been taken up and has been found to be too defective to admit of adequate repairs being made, so this communication will not be restored until a new cable is laid.

That cable was ordered just at the time of the Armistice and no definite news has been received as to whether or not it has been shipped. It is coming from America and it is thought possible that it has been shipped.

#### **Sugar Convention Ordinance, 1919**

THE ATTORNEY-GENERAL — I beg to move the second reading of the Bill intituled, An Ordinance to repeal the Sugar Convention Ordinance, 1904. As hon. members will see from the statement of the "Objects and Reasons," the object of this Bill is to carry out the instructions received from the Secretary of State for the Colonies for the repeal of the Sugar Convention Ordinance, 1904, in view of the withdrawal of His Majesty's Government from the Brussels' Sugar Convention, the effect of which withdrawal is to relieve both the Imperial Government and the various Colonial administrations from their obligations under the Convention.

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

Council went into Committee to consider the Bill clause by clause. The Bill passed through Committee without amendment, and, upon Council resuming,

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

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

#### **Places of Public Entertainment Regulation Ordinance, 1919**

THE ATTORNEY-GENERAL — I beg to move the second reading of the Bill intituled. An Ordinance to consolidate and amend the law relating to Places of Public Entertainment. As hon. members will see from the "Objects and Reasons" this is a consolidating and amending Ordinance. The principal amendments effected by this Ordinance are to render public cinematograph displays subject to permit in writing from the Captain. Superintendent of Police who shall not give such permit unless and until the films and posters have been censored and passed in accordance with Regulations to be made under

this Ordinance by the Governor-in-Council and to give statutory power to prescribe fees to be payable in respect of such censoring. The opportunity is also taken to fill up a lacuna in the power of making regulations given by section 6 of the Theatres Ordinance, 1908. That section makes no general reference to the prescribing of conditions of licences and permits. It seems obvious that this power should exist. Such a power is usual in Ordinances which give power to issue licences. Clause 7, like Clause 7 of the Theatre Ordinance, 1908, contains an exemption in regard to Chinese public theatrical performances, which are dealt with under Ordinance 3 of 1888, and under the regulations made thereunder.

THE COLONIAL SECRETARY seconded.

HON. MR. C. G. ALABASTER—I move that this Bill and the Regulations there-under be referred back for further consideration. With regard to the Bill itself, the Clause that I wish to draw particular attention to is Clause 6 which, as it stands at present, transfers to the Executive Council the right of advising Your Excellency as to all legislation with regard to places of public entertainment and removes that power almost entirely from the Legislative Council. When you came to the Colony, Sir, in 1912 the right of the Legislative Council to control the legislation of the Executive was fully recognised. One of the first Ordinances which you put your hand to as Officer Administering the Government was Ordinance No. 19 of 1912, which contained a provision in this form—"The Governor-in-Council may make regulations which shall be subject to the approval of, and shall not come into force unless confirmed by, the Legislative Council." The very next Ordinance in 1912 contained a similar provision, and now that war has ended and it is not necessary to regard every piece of legislation as a piece of emergency war legislation, I submit the time has come to go back to the principle fully recognised in 1912, and that any regulations the Governor-in-Council may make shall be submitted to the criticism of the Legislative Council. The need for such criticism is exemplified by the Regulations which are sent to us with our papers, and which we do not obtain

as a right but out of courtesy. These Regulations, in their present form, I submit, are unacceptable, unnecessarily harsh and unnecessarily cumbersome. What it is desired to do is to prohibit anyone from holding any public entertainment without permission, which permission will be withheld unless proper precautions, having regard to all circumstances of the case, are taken against fire. That would be obtained by a very simple set of regulations, but these regulations achieve that end by the most circuitous route it is possible for human ingenuity to desire. They lay down a procedure under which these permits are granted, and I can describe that procedure best by giving a concrete example. I will assume that a well-known conjurer comes to this Colony and desires to give a public performance, the whole proceeds of which shall be devoted to a local charity, provided he can obtain the use of a room in which to give his performance. I will suppose, also, that he has been able to prevail upon the charitable instincts of the hon. member who sits next but one on my right to allow the use of his ball-room or his banqueting hall for the purpose if he can obtain permission. What has he to do to obtain that permission. Has he to telephone to the Governor and get his reply? No, that would be too simple. He has to apply in writing, first of all, to the hon. member who sits opposite me. The application must be writing and in it he must state his name and address and description. He must also state the character of the entertainment for which the premises are proposed to be used, the locality of such premises and the general nature of the building. The hon. member who sits opposite me will consider that within the water-tight compartment of his own department, and if he is satisfied he will then transfer the papers, under cover, to the hon. member on my left who will again consider the application from the point of view of his department. If both these officers are satisfied, the hon. member next but one on my right will be so informed. But that does not conclude the matter. It has hardly begun yet. He has to go to an architect and has to ask the architect, not to give him a copy of the original plans which were made when the room was built—that would be too simple—but an entirely new set of plans has to be prepared. These plans must show elevations, and sections to a scale of not less than 1-10 of an inch to a foot, together with a block plan

showing the position of such premises in relation to adjoining buildings and public streets with such completeness as the Building Authority may require. Such plans shall be amended in any particular required by the Building Authority and shall be retained by him and shall form no part of the plans which are required to be deposited with the Building Authority under the provisions of the Public Health and Buildings Ordinance, 1903. Such plans shall show the number of persons to be accommodated in the various parts respectively of such premises and the area to be assigned to each person, which shall not be less than 2 feet 3 inches by 1 foot 8 inches, also the widths of all staircases, corridors, gangways, and doorways and the heights of all tiers and other parts of the buildings. Such plans shall be drawn on tracing cloth and shall be submitted in duplicate, and copies of such plans shall be posted on the licensed premises by the licensee.

H.E. THE OFFICER ADMINISTERING THE GOVERNMENT—Would it not be sufficient to state that the application would be subject to all the regulations with reading them in detail?

HON. MR. ALABASTER I shall go on to point out—

H.E. THE OFFICER ADMINISTERING THE GOVERNMENT—There is a very simple answer to all this.

HON. MR. ALABASTER—Perhaps so. I have not found one and I have read the Regulations with care. If the third authority, approached in writing, is not satisfied the owner of the premises will be informed that his room is unsuitable, that it does not conform with these regulations. But there is power—perhaps it was to these regulations to which His Excellency was referring—for the Building Authority to waive such of these requirements as are inapplicable to the room, but he can only do that by asking the applicant to again make written application. So that where a person wishes to cross a road, you force him down half-a-dozen blind alleys, give him a dozen rests and make him put his hand in his

pocket. I should have thought a very simple form of regulation would have been all that was necessary—to the effect that the applicant must satisfy the Building Authority that the place is suitable for the type of entertainment.

H.E. THE OFFICER ADMINISTERING THE GOVERNMENT—May I ask the hon. member whether the entertainment he describes is a private or a public entertainment.

HON. MR. ALABASTER—I will read the written definition:—

"For the purposes of these Regulations, 'Entertainment' includes any concert, stage play, stage performance, cinematograph display, exhibition of dancing, conjuring, or juggling, acrobatic performance, boxing contest, or circus, or any other entertainment of a similar character. 'Public entertainment' means any entertainment to which the general public are admitted with or without payment for admission"

In the example I gave there would be payment for admission as all payments were to be devoted to a charitable object. Regulation 1 says that any person who desires to keep or use any building or place (other than a matshed) for a public entertainment shall do all of these things I have specified. Then we go on to consider the type of these Regulations and find them extremely irksome and applicable only to a few permanent buildings. For instance, we know that the Peak Club, and the Military Barracks at Mount Austin have theatres attached to them but here we find Regulation 2, covering the site:—

"One half at least of the total length of the boundaries of the site of any premises which consist of an entire building and, in the case of a room or other premises not consisting of an entire building, one half at least of the total length of the boundaries of the site of the building of which such room or other premises form part shall abut upon streets of which one street at least shall be not less than 40 feet wide and of the remainder none shall be less than 30 feet wide if a carriage-way or 20 feet wide if a footway."

I submit we shall have to rebuild all the small theatres in the Colony if these Regulations are intended to apply as they stand, and if they are not intended to apply except to a few certain buildings we can make Regulations applicable to

those certain buildings and other Regulations applicable to other types. As a matter of draughtsmanship, it would appear that these Regulations have been drafted not by one hand but by many, for we find "tier" in Regulation 7 and Regulation 19, but there is a different definition of 'tier' in Regulation 7 to that in Regulation 19 and it is not made clear whether the word 'tier' is intended to have the same meaning in both Regulations. Again in Regulation 8 we find a reference to the highest part of the top tier, having been told just above that 'tier' is a horizontal division. We are not told how to get to the highest part of the horizontal division, We shall have to do so by tobogganing gently down the slope of the perpendicular. We find references in Regulations 29 and 30 to entrances and gates. In Regulation 29 all gates shall be made to open both ways. In Regulation 30 all barriers shall be made to open one way. I don't know the difference between a barrier made to open and a gate, but if it is intended that there should be a difference it should be made clear. I beg to move that the Regulations be referred back for further consideration.

H.E. THE OFFICER ADMINISTERING THE GOVERNMENT—With regard to what the hon. member has pointed out, I may say that these Regulations are consolidating ones and are based very much on the lines of previous Regulations, with certain safeguards thought necessary. There is nothing harsh about them. With regard to the particular example given by the hon. member, if a person has a large room in his house and invites people there for a charitable object—of course they have to pay for admission—all he has to do, as has been done over and over again under the Regulations, is simply to write a note saying that he is giving this performance and asking to be exempted from these Regulations. The room is probably looked at by the Department of Public Works, one of the officials visits it, and possibly a dollar is charged and there is an end to the matter and it is finished. There is nothing improper in that. Of course, the man should have such exemption. The hon. member has pointed out one or two matters to which he has taken exception—to the definition of a "tier." I read these things over and I can see

what he means by his reference to horizontal tiers. They are not, of course, absolutely horizontal, but on a slope, and the reference is clearly to the front of each tier. However, on behalf of the Government, I have no objection whatever to the Bill standing over to be considered. Does the hon. member propose to have a Committee?

HON. MR. ALABASTER — These Regulations might be referred to the Law Committee.

H.E. THE OFFICER ADMINISTERING THE GOVERNMENT—As regards Section 6—I think you began by that—these Regulations will be submitted and approved by the Legislative Council in the case of this Bill, and future Regulations, in the ordinary way, will be made by the Governor-in-Council. I have no intention of departing from that principle pending the arrival of the new Governor when the whole question of principle can be considered. The Bill will stand over.

HON. MR. ALABASTER—My criticism was upon the Regulations.

H.E. THE OFFICER ADMINISTERING THE GOVERNMENT—Did you read Regulation 51, which gives the Governor-in-Council power to exempt.

HON. MR. ALABASTER — That is not legislation. I draw a distinction between executive action and legislation.

THE ATTORNEY-GENERAL — I understand that the hon. member does not wish to refer the Bill itself to the Law Committee, of course reserving the principle as regards Regulations being approved by the Legislative Council. That principle can stand over until the arrival of H.E. the Governor. That being so and the second reading of this Bill having been moved and seconded I beg to move that the Council now go into Committee to consider the Bill clause by clause.

HON. MR. ALABASTER pointed out that the Bill had not passed its second reading and that he would object to its second reading.

THE ATTORNEY-GENERAL—In view of that I beg to move that the Bill stand over for further consideration and that the Regulations be referred to the Standing Law Committee.

The COLONIAL SECRETARY seconded and this was agreed to.

### **Rice Ordinance, 1919**

THE COLONIAL SECRETARY moved that the Council go into Committee to consider the Bill intituled "An Ordinance for the acquisition and disposal of rice by the Hongkong Government, and for validating acts previously done," explaining that certain clauses had been left in Committee at the previous meeting of the Council.

This course was agreed to.

THE ATTORNEY-GENERAL pointed out that the amendment proposed to Clause 2 now appeared in italics as Clause 4 of the Bill. The amendment suggested by the Hon. Mr. Dodwell to Clause 3 now appeared as Clause 16. As regarded Clause 14 containing the power to make regulations it was proposed to omit that Clause altogether.

THE ATTORNEY-GENERAL then moved that the following clause should be entered in the Bill in the place of the original Clause 4 as per the draft Bill dated September 12th., 1919.

If any person by having obeyed any direction made under Section 2 or by obeying any order made under sub-section (1) of Section 3, has been or shall be prevented from fulfilling any contract, such person shall not be deemed to have thereby committed a breach of contract, but such contract shall be deemed to have been or to be cancelled so far as its fulfilment has been or may be prevented by any such direction or order.

This was agreed to.

THE ATTORNEY-GENERAL moved that, Clause 14 be omitted.—This was agreed to.

The clause was as follows:—

"It shall be lawful for the Governor in Council to make regulations for the registration and supervision of persons dealing in rice supplied by the Government."

THE ATTORNEY-GENERAL moved that Clause 15 and 16 as printed in the said draft Bill should be re-numbered 14 and 15, pointing out that in the latter Clause

it had been stated quite clearly that the Bill was an emergency measure, in accordance with the wish expressed by the Hon. Mr. Dodwell, and he also moved that such latter Clause, as re-numbered, should form part of the Bill. This was agreed to.

The Clause referred to reads:—

In view of this Ordinance being an emergency measure it shall be lawful for the Legislative Council at any time after the commencement of this Ordinance, and from time to time and so often as occasion may require, to pass a Resolution suspending the operation of this Ordinance or of any section or sections thereof either for a definite period or until the Legislative Council shall make a further resolution reviving the operation of the said Ordinance or of any section or sections thereof.

Upon Council resuming, the Colonial Secretary moved that the Bill, as amended, be read a third time.

THE ATTORNEY-GENERAL seconded, and the Bill was read a third time and passed.

Council then adjourned *sine die*.

#### FINANCE COMMITTEE.

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

#### Repairs to Chairs in Council Chamber

The Officer Administering the Government recommended the Council to vote a sum of five hundred and thirty dollars (\$530) in aid of the vote Public Works, Extraordinary, Hongkong, Repairs to Chairs in Council Chamber.

THE CHAIRMAN—This works out at \$38 a chair. They were in very bad condition. The springs and everything had gone. The expense would have been greater had we ordered new chairs.

The vote was agreed to.

#### Extensions of Lighting

The Officer Administering the Government recommended the Council to vote a sum of five hundred and fifty dollars (\$550) in aid of the vote Public Works, Extraordinary,

Hongkong, Lighting, (16) Extensions of Lighting.

THE CHAIRMAN—The vote is \$1,000. This is for various new lamps in different parts of the town.

The vote was agreed to.

#### Tytam Tuk Water Works

The Officer Administering the Government recommended the Council to vote a sum of one thousand five hundred dollars (\$1,500) in aid of the vote Public Works, Extraordinary, Hongkong, Water Works, Tytam Tuk Scheme—Second Section.

THE CHAIRMAN—This is owing to the pumping machinery trials which were delayed. These are charges in connection with the trials which were recently made. I may add that the trials were entirely satisfactory.

The vote was agreed to.

#### Civil Hospital

The Officer Administering the Government recommended the Council to vote a sum of eight thousand, four hundred dollars (\$8,400) in aid of the vote. Medical Department, Other Charges, Civil Hospital:—

Cleansing materials .....	\$ 300.00
Incidental expenses .....	100.00
Provisions for patients .....	7,000.00
Washing .....	1,000.00
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Total .....	\$8,400.00
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The vote was agreed to.

#### Victoria Hospital

The Officer Administering the Government recommended the Council to vote a sum of fifty dollars (\$50) in aid of the vote Medical Department, Other Charges, Victoria Hospital for Women and Children, incident expenses.

THE CHAIRMAN—The vote is \$200. This small additional sum is now required.

The vote was agreed to.

### Miscellaneous Water Works

The Officer Administering the Government recommended the Council to vote a sum of two thousand, eight hundred dollars (\$2,800) in aid of the vote Public Works, Extraordinary, Hongkong, Water Works, (29) Miscellaneous Water Works.

THE CHAIRMAN—The vote is \$2,000. The chief works in hand include the extension of the overseers' bungalow in Bowen Road and the provision of a number of group hydrants for fire purposes.

The vote was agreed to.

### Pokfulum Road Improvement

The Officer Administering the Government recommended the Council to vote a sum of three thousand dollars (\$3,000) in aid of the vote Public Works, Extraordinary, Hongkong, Communications, (13) Roads, (n) Pokfulum Road, Improvement of Bridge No. 8.

THE CHAIRMAN—I think hon. members know this bridge. It is just below the Dairy Farm. The vote is \$5,500 but there has been a large increase in all charges since the estimates and there was more work than was anticipated on the approaches to the bridge.

The vote was agreed to.

### Improvements to Buildings

The Officer Administering the Government recommended the Council to vote a sum of one thousand five hundred dollars (\$1,500) in aid of the vote Public Works, Recurrent, Hongkong, Buildings, (2) Improvements to Buildings.

The vote was agreed to.

### Typewriter for Queen's College

The Officer Administering the Government recommended the Council to vote a sum of one hundred and twenty dollars (\$120) in aid of the vote Education, A.— Department of Director of Education, Queen's College, Other Charges, Typewriter.

The vote was agreed to.

### Road Improvements

The Officer Administering the Government recommended the Council to vote a

sum of two thousand dollars (\$2,000) in aid of the vote Public Works, Recurrent, Hongkong, Communications (7) Improvements to Roads and Bridges outside City.

THE CHAIRMAN—This is for asphaltting and macadamising the cross section where the Stanley and Tytam Tuk road goes past the road leading to the pumping engines.

The vote was agreed to.

### Rent of Married Police Quarters

The Officer Administering the Government recommended the Council to vote a sum of one thousand, two hundred, and ten dollars (\$1,210) in aid of the vote Police and Prison Departments, A.— Police, Other Charges, Rent of Married Police Quarters.

THE CHAIRMAN—This is the rent for what was formerly the Berlin Foundling House. The rent is \$110 from June and \$220 from the 1st. of September.

The vote was agreed to.

### Resumptions at Kowloon

The Officer Administering the Government recommended the Council to vote a sum of fifteen thousand dollars (\$15,000) in aid of the vote Public Works, Extraordinary, Kowloon, Public Health and Buildings Ordinance, 1903 (38) Compensation and Resumptions.

THE CHAIRMAN—This is Inland Lot No. 96. It stands at the junction of Nathan and Jordan roads. It is an old group of buildings standing well back from the road. It is necessary to acquire the land for improvement.

HON. MR. ALABASTER—What are the improvements?

THE CHAIRMAN—It is wanted for building sites.

The vote was agreed to.

### Harbour Moorings

The Officer Administering the Government recommended the Council to vote a sum of two thousand, two hundred, and ninety dollars (\$2,290) in aid of the vote Harbour Master's Department, Special Expenditure, Acquisition and re-arrangement of moorings in Victoria Harbour.

THE CHAIRMAN—Two more C Class buoys are required.

The vote was agreed to.