

26th May, 1932.

PRESENT:—

HIS EXCELLENCY THE OFFICER ADMINISTERING THE GOVERNMENT (HON. MR. W. T. SOUTHORN, C.M.G.)

HIS EXCELLENCY THE GENERAL OFFICER COMMANDING THE TROOPS (MAJOR-GENERAL J. W. SANDILANDS, C.B., C.M.G., D.S.O.).

THE COLONIAL SECRETARY (HON. MR. E. R. HALLIFAX, C.M.G., C.B.E.).

THE ATTORNEY GENERAL (HON. MR. C. G. ALABASTER, K.C., O.B.E.).

THE SECRETARY FOR CHINESE AFFAIRS (HON. MR. A. E. WOOD).

THE COLONIAL TREASURER (HON. MR. E. TAYLOR).

HON. MR. H. T. CREASY, C.B.E., (Director of Public Works).

HON. COMMANDER G. F. HOLE, R.N., (Retired) (Harbour Master).

HON. DR. A. R. WELLINGTON (Director of Medical and Sanitary Services).

HON. MR. T. H. KING, (Inspector General of Police).

HON. SIR HENRY POLLOCK, K.T., K.C.

HON. MR. W. E. L. SHENTON.

HON. MR. R. H. KOTEWALL, C.M.G., LL.D.

HON. MR. J. P. BRAGA.

HON. MR. S. W. TS'O, O.B.E., LL.D.

HON. MR. T. N. CHAU.

HON. MR. W. H. BELL.

MR. R. A. C. NORTH (Deputy Clerk of Councils.)

ABSENT:—

HON. MR. J. J. PATERSON.

MINUTES.

The minutes of the previous meeting of the Council were confirmed.

PAPERS.

The Colonial Secretary, by command of H.E. The Officer Administering the Government, laid upon the table the following papers:—

Rescission of the Order of the 8th January, 1932, published in the Gazette of the 8th January, 1932 as Government Notification No. 5, declaring Shanghai to be an infected place.

Rescission of the Order of the 22nd January, 1932, published in the Gazette of the 22nd January, 1932, as Government Notification No. 37, declaring Pakhoi to be an infected place.

Amendment of the Order under sections 3 and 4 of the Importation and Exportation Ordinance, 1915—export of aircraft, ammunition, arms, explosives, saltpetre and sulphur.

Declaration under the Merchant Shipping Ordinance, 1899— Osaka declared an infected place.

Addition to the Dairies By-laws made under the Public Health and Buildings Ordinance, 1903.

Report of the Registrar of the Supreme Court for the year 1931.

FINANCE COMMITTEE'S REPORT.

THE COLONIAL SECRETARY brought up the report of the Finance Committee, No. 6 of 19th May 1932, and moved that it be adopted.

THE COLONIAL TREASURER seconded and this was agreed to.

KAI TAK AERODROME.

THE COLONIAL SECRETARY.—The resolution standing in my name is in connection with the aerodrome and hangar at Kai Tak. A resolution approving of the expenditure in 1932 of \$34,000 on the aerodrome and hangar was taken on 10th December last. \$25,000 was for the aerodrome and the remaining \$9,000 for the hangar. The Air Ministry has now advised us that

for civil purposes it is necessary to provide the aerodrome with a surrounding fence. The estimated cost of one of the type recommended by the Ministry is \$25,000. In addition \$4,500 is required for turfing. The \$9,000 voted for the hangar was sufficient for the actual building, but there are certain ancillary works for which funds have not yet been voted.

Full details as distributed to Hon. members, as below:—

The revised estimated expenditure for 1932 in respect of the aerodrome and hangar is as follows:—

AERODROME.

(a) Formation of Reclamation.			
(1) Turfing	\$	4,500	
(2) Sundry Works		2,000	
(3) Retention Money		2,000	\$ 8,500

(b) Roads.			
(1) Approach Road to Hangar	\$	2,750	
(2) Road North of Aerodrome		20,000	\$22,750

(c) Miscellaneous.			
(1) Fencing	\$	25,000	
(2) Telephones		6,650	\$31,650

Hangar.

(1) Small Sundry Works	\$	1,245	
(2) Apron (Concrete and Macadam surfacing immediately surrounding hangar)		12,765	
(3) Electric Lighting etc.		14,000	
(4) Water Services		6,000	
(5) Latrines and Petrol Store		3,750	
(6) Paint Work		2,040	
(7) Retention Money		7,000	\$46,800
		_____	109,700
Less already voted			34,000

Amount now required to complete			\$75,700

This was agreed to.

THE COLONIAL SECRETARY.—Hon. Members are no doubt aware that half the cost of the hangar is recoverable from the Air Ministry. £11,500 has already been paid by them on account in respect of expenditure incurred up to the end of last year. A final claim will be submitted by this Government as soon as the hangar is completed which will, it is anticipated, be before the end of the year. The final instalment of £30,000 of the total contribution of £100,000 for the aerodrome has already been paid by the Air Ministry.

I beg to move that this Council approves of the expenditure of a further sum of £75,700 on the Kai Tak aerodrome and hangar during the financial year 1932 which sum shall be met from a future loan and shall meanwhile be charged as an advance from the surplus balances of the Colony.

THE COLONIAL TREASURER seconded.

SIR HENRY POLLOCK.—I presume the figures will appear in *Hansard*.

THE COLONIAL SECRETARY.—Yes.

The resolution was agreed to.

REGISTRATION OF UNITED KINGDOM PATENTS AMENDMENT ORDINANCE, 1932.

THE ATTORNEY GENERAL moved the first reading of a Bill intituled "An Ordinance to amend the law relating to the registration of United Kingdom Patents." He said.—I rise to move the first reading. The principal ordinance is based on a model ordinance of all Crown Colonies. It has proved ineffective and the Secretary of State has sent a circular suggesting the amendment in the model. This Bill will make the amendments which are recommended. I now move the first reading of the Bill.

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

Objects and Reasons.

The "Objects and Reasons" for the Bill were stated as follows:—

In the new section 8 of Ordinance No. 13 of 1925, as amended by Ordinance No. 38 of 1931, enacted by this Ordinance the only changes are the division of the section into two subsections, the omission of the words "by some person or persons other than the holder of the certificate," and the substitution of the words "prior to the date of the issue of the certificate of registration" for the words "prior to the date of application for registration under section 3."

These amendments have been suggested by the Secretary of State in his despatch of the 27th February, 1932.

The Secretary of State points out that the fundamental principle underlying the grant of a patent is that monopoly rights are granted to the patentee for a term of years in consideration for the disclosure of his invention. If by manufacture, use or sale an invention has already been surrendered, such disclosure is therefore a bar to the acquisition of valid patent rights. The words "by some person or persons other than the holder of the certificate," which were included in the amendment effected by Ordinance No. 38 of 1931, appear to be contrary to this principle as they suggested that any person who desired to exploit an invention disclosed in Hong Kong by the inventor and subsequently patented in the United Kingdom would have no redress against the grant of exclusive privileges in Hong Kong to the United Kingdom patentee, unless such exploitation were commenced before the date of the United Kingdom patent.

THE PENSIONS ORDINANCE, 1932.

THE ATTORNEY GENERAL moved the first reading of a Bill intituled "An Ordinance to consolidate and amend the law regulating the granting of pensions, gratuities and other allowances in respect of public service." He said.—I rise to move the first reading of a Bill to consolidate and amend the law relating to the granting of pensions, gratuities and other allowances in respect of public service.

Subject to the provisoes to clause 19 of the Bill, this Bill repeals the Pensions Ordinances of 1862 and 1928 as well as the Pensions Minutes so far as they affect persons now in the public service and those who enter it hereafter; but the repeal does not affect the pensions of those who have already retired.

Under clause 2 of the Bill public servants entitled to free quarters or rent allowance or Government quarters receive credit therefor in the calculation of their pensionable emoluments.

Clause 3 gives the Governor in Council power to make regulations with the sanction of the Secretary of State. These regulations when so sanctioned will be read with the Ordinance under which they are made.

Clause 4 directs that the pensions, gratuities and other allowances shall be charged on and paid out of the General Revenue and Assets of the Colony.

Clause 5 emphasises the fact that pensions, gratuities and allowances cannot be claimed as of right or, indeed, without a certificate of due diligence and fidelity. Public servants guilty of negligence, irregularity or misconduct are liable to have their pensions, gratuities and allowances reduced or altogether withheld.

Clause 6 sets out the services which do not qualify for the privileges conferred by the Bill.

Clause 7 is necessary as Police pensions are governed by the Police Force Ordinances.

Clause 8 gives the conditions as to age etc., under which persons qualify for the benefits conferred. It will be noticed that, with the consent of the Governor, public servants will be entitled to retire at 50 or, without such consent, at 55.

Clause 9 deals with the case of persons removed for inefficiency.

Clause 10 deals with compulsory retirement by the Governor in Council, which may be resorted to at the age of 55 or, in certain cases, at the age of 50, as well as in cases of inefficiency and, in the case of a woman, marriage. With regard to paragraph (a) of this clause, I am authorised by Your Excellency to say that the Government regard 55 as the normal age for retirement on pension; and that, consequently, the exercise of the powers conferred by paragraph (a) is not to be regarded as casting a reflection on the officer concerned.

Clause 11 provides that an officer's pension shall not exceed two thirds of his highest pensionable emoluments.

Clause 12 prevents the assignment or attachment of pensions, gratuities and allowances and Clauses 13 and 14 deal with the effect of Bankruptcy and criminal conviction on pensions and allowances.

Clause 15 provides for the cesser of pensions and allowances on accepting employment in certain companies.

Clause 16 provides for the payment of death gratuities in the case of pensionable officers who die in the service, and Clause 17 provides for marriage gratuities where women retire on or with a view to marriage. Death gratuities will be exempt from Estate Duty and an amendment to make this point clear will be moved in Committee after the second reading.

Clause 18 provides for a special widows and orphans pension in the case of officers killed in the discharge of their duty.

Clause 19 applies the provisions of the Ordinance to all officers still in the service of the Colony or in other public service at its commencement subject to provisos relating to rights acquired under the existing pensions legislation.

As I stated at the beginning of my remarks, the Bill is not intended to affect persons who have already retired.

Members of the Council will find on the table draft regulations to be made under section 3 of the Ordinance. These cannot be brought into force until they have received the sanction of the Secretary of State; but they indicate generally the views of the Government to the method of calculation and terms on which pensions, gratuities and other allowances will be granted.

It will be seen that there are two sets of regulations, Regulations B are primarily for those who enter the service after the commencement of the Ordinance. Their pensions will be calculated under regulation 3 at the rate of 1/600th of the pensionable emoluments of an officer in respect of each complete month of his pensionable service. Under the corresponding regulation in Regulations A the calculation is at the rate of 1/720th, in respect of each month with a climatic addition of 60/720th, that is to say with a five years climatic addition. The result will be that persons who retire with more than 25 years service are more favoured by Regulations B and those who retire with less than 25 years service will be more favoured by Regulations A.

Persons who enter the service in the future are to be governed by Regulations B; but those in the service at the commencement of the Ordinance will be allowed a choice, either to remain under the 1/720th plus climatic addition rule, that is Regulations A, or definitely to elect to be governed instead by Regulations B, which provide for the 1/600th rule without climatic addition. They are to be given about a year to make up their minds whether to elect or not. I now move the first reading of the bill.

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

Objects and Reasons.

The "Objects and Reasons" for the Bill were stated as follows:—

Hitherto under the Pensions Ordinance, 1862, (Ordinance No. 2 of 1862) pensions, retired allowances and gratuities have been granted by order of the Secretary of State or in conformity with the provisions contained in minutes of the Government relating thereto.

The object of this Ordinance is to substitute therefor provisions contained in a new Ordinance and Regulations based on the recent pension enactments of similar Colonies or States.

For this purpose the Pensions Enactment, 1928, of the Federated Malay States has been used as the principal model and the sections of this Ordinance follow its provisions fairly closely, except where they are inapplicable or where local circumstances have made it necessary to interpolate provisions from the Pension Minutes, from special instructional despatches of the Secretary of State or from the enactments of other Colonies such as the Uganda Ordinance, No. 5 of 1927.

VAGRANCY AMENDMENT ORDINANCE, 1932.

THE ATTORNEY GENERAL moved the first reading of a Bill intituled "An Ordinance to amend the law relating to Vagrancy." He said.—This Bill will define mendicants and mendicancy. It is hoped that it will enable the police to deal more effectively with beggars in the Colony.

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

Objects and Reasons.

The "Objects and Reasons" were stated as follows:—

Section 10 of the Summary Offences Ordinance, 1845, as amended in 1924 and 1931 punishes mendicancy with a fine but does not define mendicancy.

Section 2 of this amending Ordinance adopts as a definition a portion of section 3 of the Vagrancy Act, 1924, and places it in the Vagrancy Ordinance, 1897, to which section 3 of this Ordinance transfers the mendicancy provision of the Summary Offences Ordinance and adds an alternative of imprisonment to the penalty. The word "waterway" has been added to the definition taken from the Vagrancy Act.

Section 15 of the principal Ordinance provides that the Superintendent of the House of Detention shall use his best endeavours to obtain suitable employment outside the house for vagrants admitted thereto.

Section 16 provides for the punishment of any vagrant who refuses or neglects to avail himself of such employment, when obtained.

Similar penal sections have been enacted in other Colonies; but it is not considered necessary to retain them. Section 16 is therefore repealed by this amending Ordinance.

VACCINATION AMENDMENT ORDINANCE, 1932.

THE ATTORNEY GENERAL moved the second reading of a Bill intituled "An Ordinance to amend the Vaccination Ordinance, 1923."

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

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

Upon Council resuming, the ATTORNEY GENERAL reported that the Bill had passed through Committee without amendment. He moved the third reading.

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

THE EMPLOYERS AND SERVANTS AMENDMENT ORDINANCE, 1932.

THE ATTORNEY GENERAL moved the second reading of a Bill intituled "An Ordinance to amend the Employers and Servants Ordinance, 1902."

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

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

Upon Council resuming, the ATTORNEY GENERAL reported that the Bill had passed through Committee without amendment. He moved the third reading.

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

**MILITARY STORES (EXPORTATION) AMENDMENT
ORDINANCE, 1932.**

THE ATTORNEY GENERAL moved the second reading of a Bill intituled "An Ordinance to amend the Military Stores (Exportation) Ordinance, 1862."

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

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

Upon Council resuming, the ATTORNEY GENERAL reported that the Bill had passed through Committee without amendment. He moved the third reading.

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

**BIRTHS AND DEATHS REGISTRATION AMENDMENT
ORDINANCE, 1932.**

THE ATTORNEY GENERAL moved the second reading of a Bill intituled "An Ordinance to amend the law relating to the Registration of Births and Deaths."

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

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

Upon Council resuming, the ATTORNEY GENERAL reported that the Bill had passed through Committee without amendment. He moved the third reading.

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

**EMPLOYMENT OF YOUNG PERSONS AND CHILDREN
AT SEA ORDINANCE, 1932.**

THE ATTORNEY GENERAL moved the second reading of a Bill intituled "An Ordinance to regulate the employment of Young Persons and Children at Sea."

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

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

SIR HENRY POLLOCK.—I notice that in the short title and in the first clause there is reference to "young persons" and "children." Would not "children" be sufficient for both cases?

THE ATTORNEY GENERAL.—There is a distinction. The term "children" deals with those under 14 years and "young persons" covers those from 14 to 16.

Upon Council resuming, the ATTORNEY GENERAL reported that the Bill had passed through Committee without amendment. He moved the third reading.

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

IMPORTATION AND EXPORTATION ORDINANCE, 1932.

THE ATTORNEY GENERAL moved the second reading of a Bill intituled "An Ordinance to amend the Importation and Exportation Ordinance 1932."

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

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

Upon Council resuming, the ATTORNEY GENERAL reported that the Bill had passed through Committee without amendment. He moved the third reading.

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

UNITED KINGDOM DESIGNS (PROTECTION) AMENDMENT ORDINANCE, 1932.

THE ATTORNEY GENERAL moved the second reading of a Bill intituled "An Ordinance to amend the United Kingdom Designs (Protection) Ordinance, 1928."

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

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

Upon Council resuming, the ATTORNEY GENERAL reported that the Bill had passed through Committee without amendment. He moved the third reading.

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

**CHINESE YOUNG MEN'S CHRISTIAN ASSOCIATION
ORDINANCE, 1932.**

HON. MR. S. W. TS'O moved the second reading of a Bill intituled "An Ordinance to provide for the incorporation of the Directors of the Chinese Young Men's Christian Association of Hong Kong."

HON. MR. R. H. KOTEWALL seconded and the Bill was read a second time.

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

Upon Council resuming, HON. MR. TS'O reported that the Bill had passed through Committee without amendment. He moved the third reading.

HON. MR. R. H. KOTEWALL seconded and the Bill was read a third time and passed.

ST. STEPHEN'S COLLEGE INCORPORATION ORDINANCE.

HON. MR. S. W. TS'O moved the second reading of a Bill intituled "An Ordinance to provide for the incorporation of St. Stephen's College."

HON. MR. W. E. L. SHENTON seconded and the Bill was read a second time.

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

Upon Council resuming, HON. MR. TS'O reported that the Bill had passed through Committee without amendment. He moved the third reading.

HON. MR. W. E. L. SHENTON seconded and the Bill was read a third time and passed.

ADJOURNMENT.

H.E. THE OFFICER ADMINISTERING THE GOVERNMENT.— Council stands adjourned till Thursday, June 9th.