

*11th May, 1933.*

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**PRESENT:—**

HIS EXCELLENCY THE GOVERNOR (SIR WILLIAM PEEL, K.C.M.G., K.B.E.)

THE HONOURABLE THE OFFICER COMMANDING THE TROOPS, (COLONEL R. B. COUSENS, D.S.O.).

THE COLONIAL SECRETARY (HON. MR. W. T. SOUTHORN, C.M.G.).

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. E. D. C. WOLFE, C.M.G., (Inspector General of Police).

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

HON. COMMANDER J. B. NEWILL, D.S.O., R.N., (Retired) (Harbour Master).

HON. MR. A. G. W. TICKLE, (Director of Public Works).

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

HON. MR. C. G. S. MACKIE.

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. J. J. PATERSON.

HON. MR. T. N. CHAU.

HON. MR. PAUL LAUDER.

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

**MINUTES.**

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

**NEW MEMBERS.**

The Honourable, the Officer Commanding the Troops, Colonel R. B. Cousens, D.S.O.; the Secretary for Chinese Affairs, Hon. Mr. A. E. Wood; Hon. Mr. A. G. W. Tickle, Director of Public Works and the Hon. Mr. Paul Lauder took the oath of allegiance and their seats as members of the Council.

**PAPERS.**

THE COLONIAL SECRETARY, by command of H.E. The Governor, laid upon the table the following papers:—

Regulations under section 210 of the Public Health and Buildings Ordinance, 1903.

Regulations under section 2 of the Public Places Regulation Ordinance, 1870.

Regulation under section 5 of the Ferries Ordinance, 1917.

Amendment to the regulations made under section 3 of the Post Office Ordinance, 1926.

Appointment of Protector of Labour for the purposes of the Factories and Workshops Ordinance, 1932.

Amendments to the regulations made under section 3 of the Vehicles and Traffic Regulation Ordinance, 1912.

Amendments to the regulations made under section 4 of the Factories and Workshops Ordinance, 1932, to the Schedule to the said Ordinance.

Regulations made under section 6 (1) of the Places of Public Entertainment Regulation Ordinance, 1919.

Amendments to the regulations made under sections 25 (4), 33 (2) and 42 (1) of the Merchant Shipping Ordinance, 1899, to Table M in the Schedule to the said Ordinance.

Regulations made under sections 33 (5) and 88 of the Liquors Ordinance, 1931, altering Form No. 9, Chinese Restaurant Licence, in the First Schedule to the said Ordinance.

Regulations made under sections 33 (5) and 88 of the Liquors Ordinance, 1931, amending Form No. 9A, Chinese Restaurant Licence.

Order made under section 3 of the Dogs Ordinance, 1927.

Amendments to the regulations made under section 5 of the Ferries Ordinance, 1917, to the Ferries Regulations.

Amendments to the regulations made under sections 25 (4) and 42 (1) of the Merchant Shipping Ordinance, 1899, to Table M in the Schedule to the said Ordinance.

Order made under sub-section (2) of section 2 of the Empire Preference Ordinance, 1932.

Financial Returns for the year 1932.

Report on the Finances for the year 1932.

Report of the Director of the Royal Observatory, Hong Kong, for the year 1932.

Report of the Official Receiver and Registrar of Trade Marks and Letters Patent for the year 1932.

Report of the Land Officer for the year 1932.

Report of the Superintendent of Prisons for the year 1932.

Kowloon-Canton Railway (British Section) Annual Report for 1932.

#### **ANNOUNCEMENTS.**

THE COLONIAL TREASURER:—With Your Excellency's permission, I would like to make an announcement regarding Government Loans. There are two, the 3½ per cent. sterling loan of £1,485,733 maturing in 1943 with a sinking fund amounting at present to £904,410, and the Public Works Loan of 1927 amounting to \$4,297,000. The latter was issued in two instalments, \$3,000,000 at par on 1st November, 1927, and \$1,927,000 at a premium of 3 per cent. on the 1st November, 1928, both issues bearing interest at 6 per cent. with a sinking fund of \$333,000 per annum, amounting at present to £125,792, designed to amortise the loan on 1st November, 1938. It is with this second loan that I propose to deal to-day.

This loan was issued for the purpose of defraying the cost of certain Public Works and was fully expended by the end of 1931. On the 1st November last, the Government had the right to pay off the loan, but for reasons which it is unnecessary to detail here, it was impossible to do so. These reasons have now been removed and Government proposes to redeem the loan on the 1st August next. Interest will cease on 31st July. Bond-holders however, will be given

the option to convert their holdings into a new loan bearing interest at the rate of 4 per cent. per annum. The new loan will be for an amount not exceeding \$4,927,000, and will be known as the Public Works Redemption Loan 1933, interest being payable half yearly on the 1st February and 1st August. In order to give security of tenure to bond-holders, the term of the loan will be for 20 years, Government not taking power to redeem before 1st August, 1953. A sinking fund will be set up at the rate of \$3.45 per hundred dollars on the total nominal value. The bonds will be issued in denominations of \$1,000 and \$5,000 and \$10,000 at par, payable to bearer with half yearly interest coupons attached.

As I have already stated, interest on the existing loan will cease on 31st July, 1933. The coupon dated 1st November, 1933, bearing interest for three months only, will be payable on presentation on or after the 1st August, 1933. Bond-holders desiring to exercise their option to convert, must send notice of their election in sufficient time to reach the Hong Kong and Shanghai Banking Corporation in Hong Kong by the 11th July, 1933, after which date the election cannot be recognised without the special sanction of the Colonial Treasurer, which sanction will be only given if the Colonial Treasurer is satisfied that the delay was due solely to the absence of the bond-holder from Hong Kong. The remaining bonds will be redeemed for cash on the 1st August. All bond-holders are requested to send their bonds for conversion or redemption, as the case may be, to the Hong Kong and Shanghai Banking Corporation in Hong Kong as soon as possible.

Full particulars will be embodied in an Ordinance to be published in due course and forms of request for continuance and for redemption will be printed and will be obtainable at the Colonial Treasury and at the offices of the Hong Kong and Shanghai Banking Corporation.

#### **FINANCE COMMITTEE'S REPORT.**

THE COLONIAL SECRETARY, by command of H.E. the Governor, laid upon the table the reports of the Finance Committee Nos. 4 and 5 of 23rd March, 1933 and 4th May, 1933, respectively, and moved that they be adopted.

THE COLONIAL TREASURER seconded and this was agreed to.

#### **CRIMINAL APPEAL RULES, 1933.**

THE ATTORNEY GENERAL moved:—

That the rules dated the 27th day of April, 1933, made by the Chief Justice under section 10 of the Criminal Procedure Ordinance, 1899, as enacted by the Criminal Procedure Amendment Ordinance, 1933, be approved.

He said:—

Sir,—Under section 10 of Ordinance No. 9 of 1899, as enacted by section 2 of Ordinance No. 5 of 1933, the Chief Justice is empowered to make rules regulating the practice and procedure of the Supreme Court in its Criminal Jurisdiction.

Such rules require, however, the approval of this Council before they can be brought into effect.

In exercise of his powers, His Honour, the Chief Justice made the Criminal Appeal Rules on the 27th April. Since copies were supplied to Honourable Members certain errors in printing and punctuation have been discovered and the Chief Justice is agreeable to the corrections being made by this Council, in order that the Rules may be brought into force before the next Criminal Sessions.

The corrections suggested are:

- (1) in rule 14 (*a*) the insertion of a comma after the word "given" in line 4.
- (2) in rule 18 the insertion of comma after the word "Ordinance" in line 4.
- (3) in rule 21 the deletion of the comma after the word "time" in line 4.
- (4) in rule 26 (*d*) the deletion of the comma after the word "otherwise" in line 3.
- (5) in rule 26 (*k*) the insertion of a comma after the word "shall" in line 3.
- (6) in rule 26 (*l*) the insertion of a comma after the word "magistrate" in line 1.
- (7) in rule 28 (*a*) the deletion of the comma after the word "Court" in line 4.
- (8) in rule 32 the substitution of the figure 78 for the illegible figure in line 4.
- (9) in rule 35 (*a*) the insertion of a comma after the word "solicitor" in line 3.
- (10) in rule 36 (*i*) the deletion of the comma after the word "appeal" in line 2.
- (11) in rule 37 the insertion of a comma after the word "order" in line 5.

- (12) in rule 39 (a) the deletion of the comma after the word "leave" in line 6.
- (13) in rule 41 the insertion of a comma after the word "may" in line 7.
- (14) in Form I A the correction of the misspelling of the word "offence" in the marginal note.
- (15) in Form III the substitution of the word "my" for the word "may".
- (16) the substitution of small type for the capitals used in Forms V and VI to make them conform with the type in Form IV.
- (17) in Form X the correction of the misspelling of the word "levied."
- (18) in Form XX the substitution of "it" for "is" in line 1, and the insertion of a comma after "may" in line 11.

Subject to these corrections being made, I move that the rules dated the 27th day of April, 1933, made by the Chief Justice under section 10 of the Criminal Procedure Ordinance, 1899, as enacted by the Criminal Procedure Amendment Ordinance, 1933, be approved.

THE COLONIAL SECRETARY seconded and the resolution was agreed to.

### **TELEPRINTING SERVICES ORDINANCE, 1933.**

THE ATTORNEY GENERAL moved the first reading of a Bill intituled "An Ordinance to make provision for licensing, permitting, regulating and controlling the special services known as teleprinting, teletyping and telephotography." He said.—The object of this Bill is set out in the title and explained in the memorandum attached to it. It is merely an empowering Ordinance.

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:—

1. The object of this Ordinance is to enable the Governor in Council to make regulations for licensing, permitting, regulating and controlling teleprinting, teletyping and telephotography in the Colony.

2. These are modern developments of telegraphy of which use is being made or contemplated by different organizations in the Colony and it seems desirable to place such user under proper control, to regulate competition in what is now an open field and to prevent induction or other interference with Government or other services.

3. The Hong Kong Telephone Company Ltd. has under the Telephone Ordinances, 1925 and 1930, the sole right, subject to those Ordinances, to operate public telephonic communication within the Colony, including trunk line telephonic communication therein for communicating with places outside the Colony, and although the three services mentioned are capable of being operated over telephone lines they are essentially telegraphic services which are equally capable of being operated over telegraph lines and possibly also by wireless.

4. The Ordinance is drafted generally on the lines of the Wireless Telegraphy Ordinance, No. 11 of 1926.

### **DIVORCE AMENDMENT ORDINANCE, 1933.**

THE ATTORNEY GENERAL moved the first reading of a Bill intituled "An Ordinance to amend the Divorce Ordinance, 1932". He said.—With regard to this Bill, I do not think I need add anything to what is stated in the memorandum of Objects and Reasons.

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:—

1. Sections 2 and 4 of this Ordinance carry out the instructions of the Secretary of State, conveyed in his despatch No. 115 of the 7th February, 1933, intimating that His Majesty will not be advised to exercise his power of disallowance in respect of the Divorce Ordinance, 1932.

2. Section 2 substitutes a new sub-section for section 4 (3) of the principal Ordinance in which the words "where both the parties to the marriage were in the Colony at the time of the commencement of proceedings" are replaced by the words "where both the parties to the marriage had their usual place of residence in the Colony at the time of the commencement of proceedings."

3. The Secretary of State points out that to require merely the presence of both parties to the marriage in the Colony at the commencement of the proceedings is open to some objection on the ground that it might lead to abuse of the jurisdiction by a mere temporary

presence. Although such abuse could be prevented by the court under its existing powers, nevertheless it seems undesirable that the Ordinance should contain a jurisdiction wider than admittedly it would be proper for the court to exercise. Moreover the provision in the principal Ordinance as passed would not seem to cover a case where both parties were ordinarily resident in the Colony and one of them had deserted the other and left the Colony.

4. The amendment makes it clear that the parties to the marriage must have their usual place of residence in the Colony at the time of the commencement of proceedings for judicial separation or for the restitution of conjugal rights.

5. Section 4 also carries out the suggestion in the same despatch that sub-section (2) of section 38 of the principal Ordinance should be omitted. That sub-section provided that the court may dispense with service out of jurisdiction of any petition under the Ordinance, or allow service by notice published in the Gazette, if it seems necessary or expedient to do so.

6. The Secretary of State points out that there is ample power for substituted service and that it is inconceivable that in matters appertaining to divorce the court would ever think it right to dispense with service altogether. The sub-section is therefore repealed.

7. Section 3 substitutes a redrafted sub-section for section 17 (3) of the principal Ordinance. The latter was copied from section 17 (3) of the Straits Settlements Ordinance No. 123 and provided that a decree of judicial separation shall have the effect of a divorce *a mensa et thoro* under the existing law and such other legal effect as thereafter mentioned. There being no existing law in the Colony providing for divorce *a mensa et thoro* it has been considered necessary to redraft the sub-section to give it the effect obviously intended.

8. Section 5 repeals the forms of citation contained in the Schedule to the principal Ordinance the use of which was authorised by section 36. Power is given by section 48 (2) of that Ordinance to vary the forms and to add new forms by rules made by the Chief Justice. In framing the rules it has been considered that forms of citation, which are no longer used in England (see Halsbury's Supplement Vol. 16 paragraph 1034) will not be required in the Colony.

9. Section 6 provides that the Amending Ordinance shall be read and construed as one with, and come into operation at the same time as the principal Ordinance, which under section 49 of the latter Ordinance will be on such day as the Governor shall notify by Proclamation. In consequence of Article 26 of the Royal Instructions the section also provides that this Proclamation is not to be issued until His Majesty's pleasure not to disallow the amending Ordinance is known.

### **VOLUNTEER ORDINANCE, 1933.**

THE ATTORNEY GENERAL moved the first reading of a Bill intituled "An Ordinance to amend and consolidate the law relating to the Hong Kong Volunteer Defence Corps." He said.—A memorandum of Objects and Reasons as well as a Table of Correspondence are attached to this Bill, which consolidates the enactments relating to the Hong Kong Volunteer Defence Corps with minor amendments detailed in the Table. It is eminently desirable that enactments of this nature should be consolidated from time to time so as to enable every member of the Corps to have in a handy form the regulations governing his service.

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:—

1. The Volunteer Ordinance, 1920, has been mutilated by the Amendment Ordinances of 1926 and 1927 and by numerous notifications in the Gazettes amending its Schedules. This is inconvenient in the case of an Ordinance, a complete copy of which should be accessible to every member.

2. Moreover the principal Ordinance contemplated an organization of several volunteer corps, under different styles, and was drafted accordingly. The amendment Ordinance of 1927 made provision for the inclusion of any number of auxiliary units in any such corps, but the amendments to the regulations in the Schedule (see Government Notifications Nos. 749 of 1927 and 664 of 1930) refer to "the corps" and provide that it shall consist of certain named corps units as "units and auxiliary units". The very name of the corps is not mentioned in the Ordinances and has to be sought in Government Notification No. 178 of 1920. Paragraph (*d*) of section 2 (as amended in 1926) provided that except in one case "officer means a person holding a commission as officer in a volunteer corps", whereas the word "officer" is frequently used in the Ordinance to denote an officer of the regular forces. Section 3 of the 1920 Ordinance authorised the Governor to accept the services of persons desiring to be formed into a volunteer corps, but contained no express provision for enrolment of members after the corps had been formed.

3. To remove these and other defects it has been thought best to repeal the existing Ordinances and to re-enact them in a redrafted consolidation Ordinance to which a Table of Correspondence, showing the precise nature of the amendments effected, is attached.

4. In redrafting section 4 it has been considered desirable to state expressly that the commissioned officers of the corps shall be British subjects. The Act of Settlement (12 & 13 Will. III, c 2, s. 3) prohibits aliens holding military office. An officer holds an office within the meaning of the Act, (See Manual of Military Law, 1929, p. 216 footnote).

5. In section 12 (the old section 13) a reference to courses of instruction or training has been added; and the proviso, limiting pay and allowances to a maximum of seven days in any one year, has been omitted so as to conform with regulation No. 9 in the First Schedule.

**ADJOURNMENT.**

H.E. THE GOVERNOR: Council stands adjourned to 25th May.