

22nd March, 1934.

PRESENT:—

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

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

THE COLONIAL SECRETARY (HON. SIR THOMAS SOUTHORN, K.B.E., 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. COMMANDER G. F. HOLE, R.N., (Retired) (Harbour Master).

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

HON. MR. R. M. HENDERSON, (Director of Public Works).

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

HON. SIR WILLIAM SHENTON, KT.

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. C. G. S. MACKIE.

HON. MR. T. N. CHAU.

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

MINUTES.

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

STANDING LAW COMMITTEE.

H.E. THE GOVERNOR.—As this is the first meeting of the Council this year, it is necessary to appoint the Standing Law Committee. I propose to appoint the following members who have agreed to serve:—The Hon. the Attorney General (chairman), the Hon. the Secretary for Chinese Affairs, the Hon. Sir Henry Pollock, the Hon. Sir William Shenton and the Hon. Mr. S. W. Ts'o.

PAPERS.

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

Notice under section 9 (1) of the Nurses Registration Ordinance, 1931—Register of Nurses.

Regulation under section 2 of the Advertisements Regulation Ordinance, 1912—relating to the display of advertisements.

Regulations of the Hong Kong Naval Volunteer Force.

Regulation under sections 13 and 30 of the Vagrancy Ordinance, 1897—relating to vagrants.

Regulation under section 5 of the Ferries Ordinance, 1917, amending the list of excluded ferries.

Regulations under section 25 (4) of the Merchant Shipping Ordinance, 1899, relating to Table M in the schedule to the Ordinance.

Haiphong declared an infected place.

Regulations under section 5 of the Dangerous Goods Ordinance, 1873, relating to Case and Bulk Oil.

H. Skott and Company, Limited, exempted from the requirements of sub-section 2 of section 93 of the Companies Ordinance, 1932.

Notice of commencement of the Naval Volunteer Ordinance.

Regulation under section 37 (2) of the Merchant Shipping Ordinance, 1899, relating to Table E.

Regulation under section 5 of the Ferries Ordinance, 1917, relating to Regulation 15A.

Shanghai declared an infected place.

Notices to Mariners.

Order under section 5 of the Ferries Ordinance, 1917, relating to the Ferry of Hu Tim operating between Tap Mun Village and Tai Po.

The Anglican Church, situate at No. 3, Duke Street, Kowloon Tong, licensed for the celebration of marriages.

Regulation under section 23 of the Waterworks Ordinance, 1903.

Amendments to Appendix B (Pilotage Dues)—Increase of fees.

Report of the Registrar of the Supreme Court, Official Trustee, Official Administrator and Registrar of Companies for the year 1933.

Report of the Committee regarding the marketing of New Territories produce in Hong Kong and Kowloon, (Sessional Paper No. 1 of 1934).

QUESTIONS.

HON. MR. J. P. BRAGA asked:—

1.—Will the Honourable the Colonial Secretary state the reasons for the recent felling of the trees in Nathan Road at Kowloon, and on whose instructions were those useful and ornamental trees destroyed?

2.—Is it not true that shortly before the trees were felled quite a number of those with damaged or decaying trunks were treated at some expenditure of public money in a manner to arrest destruction through natural causes? And if true, what is the explanation for the sudden change of policy leading to the destruction of perfectly sound trees by means of human agency?

3.—Is it the intention of Government to cut down any more, and if so, how many, of the trees that once formed such a picturesque avenue in Nathan Road?

4.—Was any reference made to the Kowloon Residents' Association, or to the Hong Kong Automobile Association before the decision was taken and put into effect for the removal of the trees in question?

5.—Will the Government consider the advisability of restoring, partially if not totally, the avenue that excited so much admiration, by commencing a programme of sapling planting in places where planting will not constitute a danger to wheeled traffic?

6.—In future, in any matter affecting the amenities of the Peninsula, will the Government be good enough to ascertain, in the first place, the views of responsible bodies or organisations in Kowloon before carrying out decisions concerning which Kowloon residents may advantageously be consulted?

THE COLONIAL SECRETARY replied:—

1.—Instructions were issued by Government that certain trees should be felled, on the recommendations of the Inspector General of Police after consultation with the Superintendent, Botanical and Forestry Department, on the ground that they form an obstruction to traffic.

2.—The treatment of damaged roadside trees is a routine matter usually attended to in February before the spring rains begin. When the trees in Nathan Road were treated the recommendations of the Inspector General of Police had not been received.

3.—It is the intention of Government as at present advised to remove certain other trees, in particular those in the neighbourhood of bus stops and those at the corners of side streets.

4.—The answer is in the negative.

5.—Only such trees as are considered to constitute a definite obstruction to traffic are being removed. It is not therefore considered advisable to replace them.

6.—The Government are at all times prepared to give full consideration to views expressed by representative bodies, but cannot see their way to give the specific undertaking asked for.

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. 13 and 14 of 21st December, 1933, and 29th December, 1933, respectively, and Nos. 1 and 2 of 23rd January, 1934 and 21st February, 1934, respectively, and moved that they be adopted.

THE COLONIAL TREASURER seconded and this was agreed to.

MOTIONS.

THE COLONIAL TREASURER.—The Resolutions standing in my name are in connection with expenditure on the Wireless Telegraph Station at the Air Port, Kai Tak, and on the Second Cross Harbour Pipe. Provision is made in the current Estimates on page 114 Appendix V (B). Honourable Members will remember that when various resolutions were taken on 12th October, 1933, (Hansard 1933 p. 145) the Honourable the Colonial Secretary stated that resolutions for these works would be taken when the authority of the Secretary of State had been obtained.

This has now been received.

I therefore move:

- (a) That this Council approves of the expenditure of \$95,000 on Air Port—Wireless Telegraph Station during the financial year 1934 which sum shall be met from a future loan and shall meanwhile be charged as an advance from the surplus balances of the Colony.
- (b) That this Council approves the construction of a Second Cross Harbour Pipe at an estimated cost of \$375,000.
- (c) That this Council authorises the said sum of \$375,000 to be charged to a future loan and sanctions an advance of \$323,000 on account of this work during the financial year 1934 from the surplus balances of the Colony.

THE COLONIAL SECRETARY seconded and the resolution was agreed to.

THE ATTORNEY GENERAL moved that the Order dated the 15th day of January, 1934, made by the Chief Justice under section 32 of the Supreme Court Ordinance, 1873, be approved. He said: Sir, Under section 32 of the Supreme Court Ordinance, 1873, the Orders of the Chief Justice regulating the fees payable in the Supreme Court require the approval of this Council. I therefore move that the Order made by the Chief Justice, dated the 15th January, 1934, which makes certain amendments in the Order published by Government Notification 450 of 1931, be approved.

THE COLONIAL SECRETARY seconded and the motion was agreed to.

REGISTRATION OF PERSONS ORDINANCE, 1934.

THE ATTORNEY GENERAL moved the first reading of a Bill intituled "An Ordinance to provide for the Registration of Certain Persons." He said: The object of this Bill is to

replace two Ordinances which were passed during the war and which, though still law, have not been strictly enforced in recent years. Clauses 2 and 3 require non-Chinese aliens, with a few exceptions mentioned in clauses 3 (4) and 3 (5), to register the particulars concerning themselves which are set out in the Schedule. Clause 4 provides for the registration of non-Chinese guests at hotels and similar establishments, and clause 5 provides for the furnishing of lists of non-Chinese passengers in ships arriving at or departing from the Colony.

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. This Ordinance repeals the Travellers Restriction Ordinance, 1915, and the Registration of Persons Ordinance, 1916, and re-enacts with some changes those of their provisions which it is considered desirable to retain.
2. Sections 2 and 3 and the Schedule are restricted to aliens other than those of Chinese race, they are in part new but are based mainly on sections 7 and 8 of Ordinance No. 19 of 1915, on sections 2 and 3 and the First and Second Schedules of Ordinance No. 6 of 1916, and the Registration of Persons Bill, 1922.
3. The registration of Persons Ordinance, 1916, was not limited to aliens, and persons of Chinese race were excluded though the Governor in Council was given power in section 5 to include them. It is considered impracticable to require the registration of all or even a substantial portion of the Chinese in the Colony.
4. Section 4, which is not limited to aliens but which does not apply to persons of Chinese race, re-enacts with very slight modification section 14 of Ordinance No. 19 of 1915. The section is made to apply to all hotel guests and not merely those over fourteen years of age.
5. Section 5 which requires passenger lists, in the case of non-Chinese enacts the existing practice and is derived from section 9 of Ordinance No. 19 of 1915.
6. Section 6 is derived in part from section 5 (a) of Ordinance No. 6 of 1916, and section 7 from section 16 of Ordinance No. 19 of 1915, but the penalties have been reduced.
7. The Schedule is more detailed than the Schedule to Ordinance No. 6 of 1916.

COMMISSIONERS POWERS AMENDMENT ORDINANCE, 1934.

THE ATTORNEY GENERAL moved the first reading of a Bill intituled "An Ordinance to amend the Commissioners Powers Ordinance, 1886." He said: The Secretary of State has pointed out certain defects in the Commissioners Powers Ordinance, 1886, which are corrected by this Bill, the effect of which is explained 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. Section 2 of this Ordinance substitutes for section 4 of the principal Ordinance a new section the object of which is to encourage witnesses to make a full disclosure, and which in this respect follows in principle the old section which it replaces.

2. Old section 4 of the principal Ordinance was based on section 7 of the Truck Commission Act, 1870 (33 and 34 Vct. c 105) and empowered commissioners to indemnify a witness from all proceedings "in respect of any matter touching which he has been examined". No such indemnity can now be given under the new section, but a witness is assured of freedom from civil action arising out of his examination by sub-section (1) and is protected from indiscriminate proceedings by sub-section (2) which requires the consent of the Attorney General to a prosecution.

3. Section 3 of this Ordinance inserts a new section 6 in the principal Ordinance which entitles any person whose conduct is the subject of inquiry, or who is concerned in the matter under inquiry, to be represented by counsel or a solicitor. A similar amendment appears in the Straits Settlements Inquiry Commissions (Amendment) Ordinance, No. 13 of 1933.

4. Both the foregoing amendments are made in consequence of suggestions made by the Secretary of State in his despatches of 12th July and 9th August, 1932, and the form of the Ordinance has been approved by the Secretary of State in his despatch of the 15th November, 1933.

MERCHANDISE MARKS AMENDMENT ORDINANCE, 1934.

THE ATTORNEY GENERAL moved the first reading of a Bill intituled "An Ordinance to amend the Merchandise Marks Ordinance, 1890." He said: This Bill strengthens the principal Ordinance, which deals with those who apply false trade marks

and false trade descriptions to goods, by increasing the penalties which a magistrate may impose and by adding to it certain provisions which are taken from the Merchandise Marks Act, 1891.

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. Section 3 (3) (b) of the principal Ordinance provided that offenders should be liable on summary conviction to imprisonment for any term not exceeding four months, or to a fine not exceeding \$100, and in the case of a second or subsequent conviction to imprisonment for any term not exceeding six months, or to a fine not exceeding \$250.

2. The paragraph was founded in section 2 (3) (ii) of the Merchandise Marks Act, 1887, where the fines on summary conviction were £20 and £50 respectively.

3. The Hong Kong General Chamber of Commerce has asked that the maximum fine on summary conviction should be increased.

4. Section 2 of this Ordinance substitutes a paragraph providing that the maximum penalty on summary conviction shall be six months imprisonment or a fine of one thousand dollars. Under section 3 (3) (a) of the principal Ordinance conviction before the Supreme Court renders the offender liable to a term not exceeding two years and to a fine not exceeding two thousand dollars.

5. Section 3 of this Ordinance adds a paragraph to section 5 (1) of the principal Ordinance providing that a person shall be deemed to apply a trade mark or trade description to goods if he makes in any affidavit, declaration or writing a statement to the effect that a trade mark or trade description is applicable to the goods. This provision is inserted because cases sometimes arise, which do not fall within the provisions of Perjury Ordinance, No. 21 of 1922, but in which false trade descriptions are made with reference to goods with a view to obtaining Empire preference, Customs or other facilities. In England under section 1 of the Merchandise Marks Act, 1891, the customs entry relating to imported goods is, for the purposes of the Act of 1887, on which the principal Ordinance is founded, to be deemed to be a trade description applied to the goods. In this Colony the false trade descriptions are more often applied in the case of goods exported.

6. Section 11 (2) of the principal Ordinance which is founded on section 12 (2) of the Merchandise Marks Act, 1887, provides

for informations or complaints laid or made for the purpose of enforcing forfeiture in cases where the owner of goods or things, which would be liable to forfeiture on his conviction, is unknown or cannot be found.

7. Cases arise in which the owner is known, but is outside the jurisdiction of the courts. In order to remove doubts and to implement an undertaking given to the Hong Kong General Chamber of Commerce in 1917 that the point would be dealt with at the next amendment of the Ordinance, section 4 of this Ordinance adds the words "in the Colony" after the words "cannot be found."

8. Sub-sections (1) and (3) of section 5 of this Ordinance are based on sub-sections (1) and (3) of section 2 of the Merchandise Marks Act, 1891. The reference to the Legislature in sub-section 2 (1) of the Act is omitted as unnecessary and because it might be thought to conflict, to some extent, with Regulation 5 of the Regulations published in Statutory Rules and Orders, 1929, p. 1436, which it is intended to follow in the local regulations. Section 5 (2) of this Ordinance is in the usual form (compare section 2 (3) of Ordinance No. 35 of 1923).

RETIREMENT OF HON. MR. A. E. WOOD.

H.E. THE GOVERNOR.—It has just occurred to me that this is the last time we shall have the presence at this Council of the Hon. Mr. A. E. Wood, Secretary for Chinese Affairs, who is leaving the Colony on leave prior to retirement next Saturday. Although the rule enabling officers to retire at the age of fifty may have some merit it also has its demerits and it was hardly intended to enable people with the youth and vitality of our friend Mr. Wood to retire almost as soon as he reaches that age. However, he has felt that his health has suffered to some extent after 27 years in this Colony, and I did not feel quite justified in opposing his application to go. At the same time one feels that such an officer with such a knowledge of the Chinese language, Chinese people and Chinese character and who has earned their respect and friendship to the extent that he has done will be a great loss to the Colony. I am sure you will join with me in expressing our great regret at his departure and wishing him a happy retirement.

HON. SIR HENRY POLLOCK.—On behalf of the Unofficial members of this Council I would like to associate myself with the words that have fallen from Your Excellency's lips.

HON. MR. R. H. KOTEWALL.—Two days ago, in another place, I gave expression to the high esteem and regard in which the Hon. Secretary for Chinese Affairs is held by the Chinese community. Having known Mr. Wood for practically the whole period of his career in the Colony and having been closely associated with

him in public affairs during the past ten years I can thoroughly endorse the expression which has fallen from your Excellency. Mr. Wood's retirement is a great loss to the whole Chinese community.

ADJOURNMENT.

H.E. THE GOVERNOR.—Council stands adjourned until Thursday, 29th March at 2.30 p.m.

FINANCE COMMITTEE.

Following the Council a meeting of the Finance Committee was held, the Colonial Secretary presiding.

Votes totalling \$128,100 contained in Message No. 3 from H.E. the Governor, being \$96,508 under Estimates, 1933, and \$31,592 under Estimates 1934, were considered.

All the votes were approved.
