

22nd August, 1935.

PRESENT:—

HIS EXCELLENCY THE OFFICER ADMINISTERING THE GOVERNMENT (SIR THOMAS SOUTHORN, K.B.E., C.M.G.).

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

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

THE SECRETARY FOR CHINESE AFFAIRS (HON. MR. N. L. SMITH).

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

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

HON. DR. W. B. A. MOORE, (Acting Director of Medical and Sanitary Services).

HON. MR. M. J. BREEN, (Postmaster General).

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

HON. SIR WILLIAM SHENTON, KT.

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

HON. MR. J. P. BRAGA, O.B.E.

HON. MR. W. H. BELL.

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

HON. MR. T. N. CHAU.

MR. H. R. BUTTERS, (Deputy Clerk of Councils).

ABSENT:—

THE COLONIAL SECRETARY (HON. MR. D. W. TRATMAN, C.M.G., *Acting*).

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

HON. MR. J. J. PATERSON.

MINUTES.

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

PAPERS.

The ATTORNEY GENERAL, by command of H.E. the Officer Administering the Government, and in the absence of the Colonial Secretary, laid upon the table the following papers:

Harbour Master authorized to sign Passenger and Safety Certificates.

Vehicles and Traffic Regulations.

Amendment of Regulations under section 3 of the Post Office Ordinance, 1926.

Motor Vehicles (International Circulation) Regulations, 1935.

Order under section 3 (1) of the Printers and Publishers Ordinance, 1927, relating to form of licence.

Order under section 2 of the Rating (Refunds) Ordinance, 1926.

Regulations relating to the award of Efficiency Decoration to the Hong Kong Volunteer Defence Corps.

Regulations relating to the awards of Efficiency Medal to the Hong Kong Volunteer Defence Corps.

Administration Reports, 1934:—

Part I.—General Administration:—

Financial Returns.

Assessment.

Secretariat for Chinese Affairs.

Imports and Exports Office.

Part II.—Law and Order:—

New Territories.

Police and Fire Brigade.

Prisons.

Part III.—Public Health:—

Medical and Sanitary.

Sanitary.

Botanical and Forestry.

QUESTIONS.

HON. MR. J. P. BRAGA asked:—

1.—Has the attention of Government been attracted by certain recent letters in the local English newspapers concerning the unsatisfactory condition of the Children's Playground at the junction of Middle and Chatham Roads in Kowloon?

2.—What steps, if any, has Government taken to remedy the conditions complained of?

3.—Will Government effect immediate improvements in the directions of—

- (a) rendering the playground free from the objectionable features specified in the letters referred to in Question 1;
- (b) providing hygienic appliances for drinking water;
- (c) more effective guarding of the grounds to prevent its use by loiterers and others whose presence on the ground might be open to objection;
- (d) the provision of trees in suitable places on the ground to supply shade in the hot summer months;
- (e) the exclusive use of the playground by children only with their attendants?

4.—Will Government consider favourably the innovation of inviting written suggestions, for the improvement of the playgrounds at Kowloon, from mothers for the benefit of whose children the grounds are maintained?

THE DIRECTOR OF PUBLIC WORKS.—I am directed to reply:—

1.—No, but the matter was subsequently brought to the notice of the Government by the Kowloon Residents' Association.

2.—Two additional watchmen are now employed making three in all. These are under the supervision of the Custodian of Playgrounds and who in addition to daily duty also pays surprise visits in the evenings.

A drinking fountain is being supplied at each ground.

At Cox's Road orders have been given for a concrete post and wire fence in addition to the existing bamboo fence which is being repaired.

Additional attention is being paid to keeping the grounds tidy.

3.—The regulations made under Section 2 of the Public Regulation Ordinances of 1870, and set forth in Government Notification No. 700 published in the *Gazette* of 6th November, 1931, apply to the children's playgrounds at Chatham Road and Middle Road, Kowloon.

The Inspector General of Police will take steps to enforce stricter compliance with these regulations.

It is proposed to amend the regulations with a view to prohibiting any adult not in charge of a child from entering the playground.

The Finance Committee will be asked to approve a supplementary vote for the provision of trees.

4.—The Government is at all times ready to consider any suggestions which may be addressed to it by responsible persons.

FINANCE COMMITTEE'S REPORT.

THE COLONIAL TREASURER, by command of H. E. the Officer Administering the Government, laid upon the table the report of the Finance Committee, No. 11 of July 11th, 1935, and moved that it be adopted.

THE DIRECTOR OF PUBLIC WORKS seconded, and this was agreed to.

MOTIONS.

THE COLONIAL TREASURER.—Your Excellency,—The Resolution standing in my name is for the expenditure of certain sums from the Government House and City Development Fund.

As Honourable Members are aware Government envisages in the City Development scheme certain alterations in the layout of the area bounded by Ice House Street, Queen's Road, Garden Road and Lower Albert Road and as early as 1932 it was foreseen that the resumption of I.L. No. 564 might be necessary in this connection. After protracted negotiations with the lot holders it became evident that it would not be possible to arrive at an agreed valuation of the property and Government accordingly resumed the site in December, 1934, and submitted the question of the value of the property to arbitration. The Board of Arbitration awarded the sum of \$257,157.00 in respect of the property, and costs to each party together with an award to a member of the board totalling \$1,375.00. In addition to these awards accrued interest from the date of resumption until the date of payment amounting to \$12,907.16 was payable by the Crown, making the aggregate cost of resumption \$271,439.16. Your approval of this expenditure is requested.

I therefore move,

That this Council approves the expenditure during 1935 of \$271,439.16 from the Government House and City Development Fund, allocated as follows:—

- (1) City Development.
- (b) Resumption of Inland Lot No. 564 \$271,439.16.

HON. SIR HENRY POLLOCK.—Where is this Inland Lot No. 564?

THE COLONIAL TREASURER.—At the corner of Ice House Street, opposite the National City Bank of New York.

THE DIRECTOR OF PUBLIC WORKS seconded, and the motion was agreed to.

SANITARY BY-LAWS.

THE ATTORNEY GENERAL moved "That the amendment to the Scavenging and Conservancy By-laws, made by the Sanitary Board under section 16 (7) of the Public Health and Buildings Ordinance, 1903, on the 2nd. July, 1935 be approved." He said: By Section 17 of the Ordinance any by-law made by the Sanitary Board under section 16 requires the approval of this Council. The Sanitary Board has rescinded two of the Scavenging and Conservancy by-laws and substituted two others relating to the disposal and removal of refuse.

THE SECRETARY FOR CHINESE AFFAIRS seconded, and this was agreed to.

LARCENY ORDINANCE, 1935.

THE ATTORNEY GENERAL moved the first reading of a Bill intituled "An Ordinance to consolidate, amend and simplify the law relating to Larceny and Kindred offences." He said: In England the law relating to larceny is mainly contained in the Act of 1861 and the Amending Act of 1916. Our own existing Ordinance, No. 5 of 1865, is based mainly on the Act of 1861 and this Ordinance brings it up to date by having consolidated the provisions of our own Ordinance with new provisions based on the later English Act but omitting however from the old Ordinance certain provisions which related to the Falsification of Documents and Impersonation rather than to true larceny. These are being made the subject of two other Bills.

THE SECRETARY FOR CHINESE AFFAIRS seconded, and the Bill was read a first time.

Objects and Reasons.

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

The object of this Ordinance is to bring the law of Hong Kong relating to larceny into line with the law of England as contained in the Larceny Act, 1861 (24 & 25 Vict. c. 96) and the Larceny Act, 1916 (6 & 7 Geo. 5, c. 50), from both of which the provisions of this Ordinance have been drawn.

The arrangement of the 1916 Act has been followed, and in sections based on the earlier Act but nearly resembling other sections in the 1916 Act, the language of the 1916 Act has been adopted in order to secure as far as possible a uniform style throughout the Ordinance.

Sections in the English Acts (*e.g.* the sections of the 1916 Act relating to postal offences) which deal with matters for which adequate provision has been made in other Ordinances, have not been reproduced in this Ordinance.

A table of correspondence attached to the Bill shows the origin of its various clauses and the nature of the amendments.

FALSIFICATION OF DOCUMENTS ORDINANCE, 1935.

THE ATTORNEY GENERAL moved the first reading of a Bill intituled "An Ordinance to amend the law relating to the falsification of documents and to amend the Forgery Ordinance, 1922." He said: As I stated in my last motion, there are certain provisions in the existing Larceny Ordinance which do not properly belong to the Larceny Act, but more properly belong to an Ordinance relating to the falsification of documents. It is

considered desirable, therefore, to repeal the Corrupt Practices (Documentary) Ordinance, 1865, which is a very old enactment. It is proposed now to combine those provisions relating to the falsification of documents which are not contained in the Forgery Ordinance with provisions from this old enactment and certain provisions from English legislation.

THE SECRETARY FOR CHINESE AFFAIRS 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 collects in one enactment the local provisions dealing with the falsification of documents which are not included in the Forgery Ordinance, 1922, or in particular Ordinances like the Post Office Ordinance, No. 7 of 1926, (s. 32 (1) (*j*)—imitation stamps), or the Medical Registration Ordinance, No. 1 of 1884, (s. 16—false particulars for registration), and attempts, by the addition of sections 2 and 4, to bring the law of the Colony on this subject as nearly as possible into line with the law of England.

2. It reproduces, with slight amendments, sections 7, 8, 30, 37, 38, 44 and 50 of the Corrupt Practices (Documentary) Ordinance, No. 4 of 1865, which it repeals, and section 74 of the Larceny Ordinance, No. 5 of 1865, repealed by the Larceny Ordinance, 1935.

3. New section 2 of this Ordinance is based on section 17 of the Revenue Act, 1883, (46 & 47 Vict. c. 55), and new section 4 on the latter part of section 1 of the Banking Companies' (Shares) Act, 1867 (30 & 31 Vict. c. 29).

4. Section 48 of Ordinance No. 4 of 1865 has not been reproduced in this Ordinance, and although the instances in which this section might be invoked are rare, its provisions have been given effect to by a new section 18, added by this Ordinance to the Forgery Ordinance, 1922, to which it is considered those provisions more properly belong.

5. The attached Table of Correspondence shows in detail the variations between the provisions of this Ordinance and those of the English Acts on which it is based.

FALSE PERSONATIONS ORDINANCE, 1935.

THE ATTORNEY GENERAL moved the first reading of a Bill intituled "An Ordinance to amend the law relating to false personation." He said: This is a companion to the two Bills of

which I have already moved the first reading, and puts into one Ordinance not only the existing provisions of our law relating to False Personation but also of certain other provisions derived from English legislation.

THE SECRETARY FOR CHINESE AFFAIRS 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 collects and re-enacts, with slight amendments, those provisions of the Larceny Ordinance, No. 5 of 1865 (section 78) and the Corrupt Practices (Documentary) Ordinance, No. 4 of 1865 (sections 5 and 35), which deal with false personation and are repealed and not reproduced by the Larceny Ordinance, 1935, and the Falsification of Documents Ordinance, 1935.

2. Section 2, and also sections 6, 7 and 8, which correspond to sections 10, 11 and 12 of the Falsification of Documents Ordinance, 1935, have been added to this Ordinance in order to assimilate the law of Hong Kong on this subject as nearly as possible to the law of England.

3. The attached Table of Correspondence gives in detail the departures from the English provisions on which this Ordinance is based.

DANGEROUS DRUGS ORDINANCE, 1935.

THE ATTORNEY GENERAL moved the first reading of a Bill intituled "An Ordinance to amend and consolidate the law relating to dangerous drugs." He said: This Bill will repeal the Dangerous Drugs Ordinance, 1932, which was another consolidating Ordinance, but was never brought into force as shortly after it was passed the Secretary of State sent out certain model clauses for our consideration. In view of this, it was thought better not to enact the Ordinance of 1932, but to prepare a new consolidating Ordinance. The Ordinance as it now stands has the approval of the Secretary of State for the Colonies.

THE SECRETARY FOR CHINESE AFFAIRS 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 Secretary of State's despatch of the 31st May, 1933, intimated that His Majesty would not be advised to exercise his

powers of disallowance in respect of Ordinance No. 31 of 1932; but called attention to a Circular despatch of the same date transmitting revised model clauses relating to the importation, exportation and transit of dangerous drugs.

As a result of a consideration of these model clauses it was decided not to bring Ordinance No. 31 of 1932 into force by a proclamation under section 19 thereof; but to repeal it and re-enact it in this new Ordinance in a revised form in which the model clauses have been incorporated. The Bill of this revised Ordinance was submitted to the Secretary of State and section 21 (3) has been redrafted in consequence of the directions contained in his despatch of the 29th May, 1935.

3. A Table of Correspondence is attached which shows the variations between this new Ordinance, the Ordinance it is to replace and the model clauses.

SUMMARY OFFENCES AMENDMENT ORDINANCE, 1935.

THE ATTORNEY GENERAL moved the first reading of a Bill intituled "An Ordinance to amend the Summary Offences Ordinance, 1932." He said: A very recent Act, the Post Office Amendment Ordinance, 1935, contained provisions relating to the sending of offensive and irritating messages by telephone and telegraph, and the object of this Bill is to introduce similar legislation for the same offences to be dealt with under the Summary Offences Ordinance.

THE SECRETARY FOR CHINESE AFFAIRS seconded, and the Bill was read a first time.

Objects and Reasons.

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

Section 2 of this Ordinance inserts in the principal Ordinance a new section 19A based on the provisions of section 10 (2) of the Post Office (Amendment) Act, 1935, (25 Geo. 5, c. 15) relating to the sending of grossly offensive matter by telephone, and to false and malicious telephone messages and telegrams. Paragraphs (a) and (b) have been adapted so as to include messages by telegraph, telephone, wireless telegraphy or wireless telephony.

OFFICIAL SIGNATURES FEES ORDINANCE, 1935.

THE ATTORNEY GENERAL moved the first reading of a Bill intituled "An Ordinance to regulate certain official signatures and to provide for the payment therefor." He said: We have had for a great many years an Official Signatures Ordinance which consisted mainly of a schedule and which was operated according to

an understanding but it had no definite provisions as to cases in which charges were to be made. This was considered unsatisfactory and this new Bill, in clause 2, states the occasions under which the fees shall be charged.

THE SECRETARY FOR CHINESE AFFAIRS 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 Official Signatures Fees Ordinance, No. 1 of 1888, and two amending Ordinances, Nos. 22 of 1931 and 24 of 1934, and substitutes new provisions therefor.

2. Section 2 (1) of this Ordinance specifies the cases in which, subject to the provisions of the Crown Fees Ordinance, No. 5 of 1870, a fee is to be charged for the official signatures set out in the Schedule, thus giving effect to the present practice of charging a fee under Ordinance No. 1 of 1888, the provisions of which were derived originally from section 11 of Ordinance No. 21 of 1844, a licensing Ordinance, for certain signatures to certificates, licences and similar official permissions for which no other enactment prescribes a fee, and removing doubts arising from the form of Ordinance No. 1 of 1888, which have been expressed as to the scope of that Ordinance.

Section 2 (2) of this Ordinance enables the signature of public officers, under local enactments, to be affixed by an agent to certain documents, which the agent is required to sign.

3. Section 3 of this Ordinance gives the Governor in Council power to amend the Schedule in any manner whatsoever.

4. The Schedule to this Ordinance is derived from section 2 of Ordinance No. 1 of 1888, as amended by Ordinances Nos. 5 of 1928, 18 of 1929, 22 of 1931 and 24 of 1934. The exception to section 2 (1) of Ordinance No. 1 of 1888 is now rendered unnecessary by section 2 of this Ordinance, and has been omitted, and the opportunity has been taken to include in the Schedule the Registrar of the Supreme Court, the Registrar of Companies, the Official Trustee and the Official Administrator, for the signature of each of whom a fee of \$5 is to be charged.

ESTATE DUTY AND NEW TERRITORIES REGULATION AMENDMENT ORDINANCE, 1935.

THE ATTORNEY GENERAL moved the first reading of a Bill intituled "An Ordinance to amend the law relating to Estate Duty and to provide for the payment of any such duty, which may be due,

before a successor is registered without probate or administration." He said: The purpose of this Bill is fully explained in the memorandum of "Objects and Reasons". It will not be brought into operation until 1st January, 1937.

THE SECRETARY FOR CHINESE AFFAIRS 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 Estate Duty Ordinance (No. 3 of 1932) extends generally to the New Territories (under section 3 of the Interpretation Ordinance, 1911) but by section 6 (4) land there situate, in respect of which a successor has been registered under the first clause of section 29 of the New Territories Regulation Ordinance, 1910 (No. 34 of 1910), has been exempted where it does not form part of an estate of which probate or letters of administration have been granted by the Supreme Court.

2. The effect of section 2 of this amending Ordinance will be to remove the exemption, as from the 1st January, 1937, and to substitute a new exemption, not limited to land, under which property situate in the New Territories, other than New Kowloon, will be exempt from duty where the principal value of the estate does not exceed two thousand dollars, and property situate elsewhere in the Colony where the principal value of the estate does not exceed five hundred dollars.

3. The Schedules to the Estate Duty Ordinance do not provide for the payment of any duty where the principal value of the estate does not exceed five hundred dollars, but having regard to the provisions of section 4 thereof it is considered desirable to make express provision in section 6 of that Ordinance for the exemption of these small estates.

4. Section 2 of this Ordinance also adds a new paragraph (4A) to section 6 of the principal Ordinance exempting from estate duty temples for the worship of ancestors situated in the New Territories, other than New Kowloon, which are registered in the name of a manager of a clan, family or *t'ong*. The paragraph also exempts from duty so much of any clan, family or *t'ong* property as is used for the maintenance of such temples. Registration of managers of clan, family or *t'ong* property is effected under section 27 of Ordinance No. 34 of 1910.

5. Section 2 of this Ordinance also adds another new paragraph (4B) to section 6 of the principal Ordinance exempting from estate duty any other temple in the New Territories, other than New Kowloon, certified, by the District Officer of the district

where such temple is situated, to be a "Chinese temple" as defined in section 2 of the Chinese Temples Ordinance, 1928. This paragraph also exempts from duty so much of any property as is used for the maintenance of such temple.

6. Section 3 of this amending Ordinance requires that the Land Officer shall be satisfied that any estate duty, which may be due, has been paid before registering a successor under section 29 of the New Territories Regulation Ordinance, 1910. This amendment seems necessary in view of the repeal paragraph 6 (4) of the Estate Duty Ordinance, 1932, by section 2.

7. Section 4 postpones the operation of this amending Ordinance until the 1st January, 1937.

CROWN SOLICITORS AMENDMENT ORDINANCE, 1935.

THE ATTORNEY GENERAL moved the second reading of a Bill intituled "An Ordinance to amend the Crown Solicitors Ordinance, 1912, and to repeal the Crown Solicitors Amendment Ordinance, 1924."

THE SECRETARY FOR CHINESE AFFAIRS seconded, and the Bill was read a second time.

Council then 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, and moved the third reading.

THE SECRETARY FOR CHINESE AFFAIRS seconded, and the Bill was read a third time and passed.

ADJOURNMENT.

H.E. THE OFFICER ADMINISTERING THE GOVERNMENT.—Council stands adjourned until Thursday, 5th September.

FINANCE COMMITTEE.

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

Votes totalling \$155,712, contained in Message No. 12 from H.E. the Officer Administering the Government, were considered.

Item 60.—24, Botanical and Forestry Department:—6, Forestry, \$365.00.

HON. MR. J. P. BRAGA.—Regarding Item 60, I take it these trees will be planted almost at once?

THE CHAIRMAN.—Almost at once, I imagine.

HON. MR. J. P. BRAGA.—It will be a good time.

THE CHAIRMAN.—The money is voted for this year, and if we do not start now we shall not do it in time.

All the votes were approved.
