

HONG KONG LEGISLATIVE COUNCIL.

16th January, 1936.

PRESENT:—

HIS EXCELLENCY THE GOVERNOR (SIR ANDREW CALDECOTT, Kt., C.M.G., C.B.E.).

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

THE COLONIAL SECRETARY (HON. SIR THOMAS SOUTHORN, K.B.E., C.M.G., LL.D.).

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

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

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

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

HON. SIR WILLIAM SHENTON, Kt.

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

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

HON. MR. T. N. CHAU.

HON. MR. J. J. PATERSON.

HON. MR. W. H. BELL.

HON. MR. M. K. LO.

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

ABSENT:—

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

NEW MEMBER.

His Excellency the General Officer Commanding the Troops in China (Major-General A. W. Bartholomew, C.B., C.M.G., C.B.E., D.S.O.) took the oath of allegiance, and assumed his seat as a member of the Council.

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. Attorney General (Chairman), the Hon. Secretary for Chinese Affairs, the Hon. Sir Hanry 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:—

Regulations made by the Governor in Council under section 3 of the Adulterated Food and Drugs Ordinance, 1935, Ordinance No. 8 of 1935, and section 9 of the Interpretation Ordinance, 1911, Ordinance No. 31 of 1911, to come into operation on the 1st January, 1936.

Regulations made by the Governor in Council under section 11 of the Dangerous Drugs Ordinance, 1935, Ordinance No. 35 of 1935, and section 9 of the Interpretation Ordinance, 1911, Ordinance No. 31 of 1911, to come into operation on the 1st January, 1936.

Order made by the Governor in Council under section 20 (3) of the Dangerous Drugs Ordinance, 1935, Ordinance No. 35 of 1935, and section 9 of the Interpretation Ordinance, 1911, Ordinance No. 31 of 1911.

Amendment to the Factories and Workshops Regulations made by the Governor in Council under section 4 (1) of the Factories and Workshops Ordinance, 1932, Ordinance No. 27 of 1932, with regard to Fire Precautions to Factories and Workshops.

Notification under section 3 of the Marriage Ordinance, 1875, Ordinance No. 7 of 1875, declaring the Basel Mission Chapel, Shaukiwan, now known as the Chung Chin Self-Supporting Church, Shaukiwan, Hong Kong, licensed for the celebration of marriages, dated 20th December, 1935.

Amendments to the Adulterated Food and Drugs Regulations made by the Governor in Council under section 3 of the

Adulterated Food and Drugs Ordinance, 1935, Ordinance No. 8 of 1935, and section 9 of the Interpretation Ordinance, 1911, Ordinance No. 31 of 1911.

Regulations as the grant, forfeiture, restoration and other matters concerning the Colonial Police and Fire Brigades Long Service Medal issued by the Governor with the approval of the Secretary of State for the Colonies pursuant to the Royal Warrant dated the 23rd March, 1934.

Proclamation No. 5—Ordinances Nos. 7, 8, 9, 13, 15, 16, 18 and 22 of 1935, to come into operation on the 1st January, 1936.

QUESTIONS.

HON. MR. J. P. BRAGA asked:—

1. Will the Honourable the Inspector General of Police state—
 - (a) what are the respective numbers of motor cars, exclusive of buses, trucks and lorries, registered for Kowloon for the past three years—1933 to 1935— inclusive;
 - (b) what are the facilities on Salisbury Road near the Star Ferry pier for the parking of motor cars;
 - (c) what is the approximate superficial ground area in each of the above three years allotted for the public parking of cars in that locality; and
 - (d) whether the ground area referred to in Question (c) represents an increase during the past three years in proportion to the larger number of privately owned cars in Kowloon?
2. Does the Government consider the authorised parking space on Salisbury Road sufficient for the number of registered motor cars for Kowloon?
3. Should such area not be deemed adequate, by what further provision, if any, and where does the Government contemplate increasing the accommodation to meet suitably the growing demand for parking spaces within the aforesaid area?
4. Does the Government contemplate the use of the open space of Crown land lying between Middle Road and Salisbury Road and the open space on Salisbury Road adjoining and to the east of the existing car park? If not, could not such spaces, or any other piece of Crown land in that neighbourhood, be utilised, provisionally, for adding to existing car parking spaces at Kowloon Point?

THE INSPECTOR GENERAL OF POLICE replied:—

1. (a) Statistics are not available for different parts of the Colony. The total number of private cars licensed for the whole Colony was

1933 2,605

1934 2,846

1935 3,078

- (b) There is a car park in Salisbury Road for 160 cars (minimum), another in Hankow Road for 20 cars and another in Middle Road for 30 cars.

- (c) 1933 3,000 square yards.

1934 3,750 „

1935 3,750 „

- (d) There are no statistics showing the number of privately owned cars in Kowloon.

2. The car park at Salisbury Road is often full. The other two parks in the vicinity are rarely full. The parking spaces are considered reasonably sufficient.
3. In view of answer of Question No. 2 this question does not arise.
4. In view of the answer to Question No. 2 the Government does not contemplate the provision of additional parking spaces on the areas mentioned.

HON. MR. M. K. LO asked:—

- 1.— (1) What was the total number of European Civil Servants employed by Government at

(a) end of 1923,

(b) end of 1931,

(c) end of 1935;

- (2) What was the number of persons constituting the European Senior Clerical and Accounting Staff at the aforesaid periods?

2.— What was the total amount of salaries paid to the Public Works Department Staff, European and non-European, in

(a) 1923,

(b) 1931,

(c) 1935.

3.— Since the date of the Report of the Retrenchment Commission (May 1931)

(a) what additions, if any,

(b) what reductions, if any, have been made in the European Staff on the Civil List?

4.— (a) In view of the imperative necessity for retrenchment, what is the policy of Government in regard to European officers who, having done 10 years of service in the Colony, but not having reached pensionable age, are nevertheless willing to retire?

(b) If under existing regulations there is no power to permit such retirements, will Government consider the question of amending such regulations with the view to conferring such power, in order to save the heavy expense of paying the return passage for such officers and families who have only a further short period to serve in order to qualify for pension?

THE COLONIAL SECRETARY replied:—

1.— (1) (a) 647.

(b) 923.

(c) 975.

(2) (a) 24.

(b) 63.

(c) 63.

There was no Senior Clerical and Accounting Staff in 1923, but figures have been given in respect of officers who now fall within that category.

2.—	(a)	1923	European	\$ 579,963		
			Non-European	225,859	Total	\$ 805,823
	(b)	1931	European	\$1,605,054		
			Non-European	495,840	„	\$2,100,894
	(c)	1935	European	\$1,105,375		
			Non-European	620,143	„	\$1,725,519

3.— (a) 86.

(b) 34.

4.— (a) The Government considers that it would not be economical to permit an officer to retire on pension after ten years in the public service irrespective of the age of such officer, unless his post could be abolished or at least kept vacant for a considerable period.

(b) The Government is prepared to give the matter careful consideration.

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. 17 and 18 of 5th and 27th December, 1935, respectively, and moved that they be adopted.

THE COLONIAL TREASURER seconded, and this was agreed to.

PUBLIC RECLAMATION VALIDATION AND CLAUSES ORDINANCE, 1936.

THE ATTORNEY GENERAL moved the first reading of a Bill intituled "An Ordinance to validate certain undertakings which have been constructed or commenced over and upon unleased Crown foreshore and sea bed; and to enact certain general provisions which shall be deemed incorporated, unless expressly varied or excepted, in future Ordinances authorising reclamation or other works of a public nature over and upon such foreshore and sea bed." He said: The long title of this Bill really describes sufficiently, I think, its scope and object, but as this Bill deals with a subject which has engaged

the attention of the Government, the Chamber of Commerce and other institutions over a period of five years I have added to it a Memorandum of Objects and Reasons which is rather longer than usual, and which explains the origin of the various clauses.

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. It is a recognised principle of English law that owners of land may be required by the Legislature to surrender some or all of the rights they possess in or over their land for purposes of public utility. It is an equally recognised principle that (save in certain exceptional cases of emergency with which we are not now concerned) it is unjust to require that surrender without making provision for due compensation to those whose private rights are affected. When the land itself has to be surrendered it is said to be compulsorily taken or purchased; but if some only of the rights in or over the land are required to be given up the land is commonly said to be injuriously affected.

2. In England the necessary authority to take or injuriously affect land is obtained from Parliament, either directly by an Act passed for the purpose, or indirectly under Acts containing general powers which may be exercised for particular purposes and upon certain conditions. The former class of Act usually specifies the land which may be taken and limits the time within which the acquisition must take place. The latter class contains no such limitations but in many cases some form of order is required before the powers can be put into force.

3. In this Colony both the direct and the indirect have been adopted in the past. Examples of such local Legislation are the Praya Reclamation Ordinance, 1889, The Praya East Reclamation Ordinance, 1921, the Harbour of Refuge Ordinance, 1909, the Foreshores and Sea Bed Ordinances of 1901 and 1932, and the Crown Lands Resumption Ordinance, 1900. Under some of these Ordinances, subject to the payment of compensation, private land can be taken for public purposes. Under others while the land itself is not taken provision is made for compensation where it has been injuriously affected by the loss of access to the sea where leases of foreshore and sea bed are granted.

4. But it seems that, unless the land itself is required or unless a Crown Lease of property is to be granted, our Legislature has not so far provided for the cases where private land is not required but may nevertheless be injuriously affected by a reclamation or

other improvement which is to be retained for public use as a roadway, pier approach or other work which the Government undertakes in the interests of the Colony generally.

5. The works set out in the Schedule to this Bill belong to this category. They have been undertaken over and upon unleased Crown foreshores and sea bed without complaint but at the same time without legislative authority, other than that which is contained in the Annual Appropriation Ordinances which have justified expenditure on the undertakings but have contained no provision for the extinction of rights or for compensation where compensation is due.

6. The possibility of enacting a Bill which while validating past works would give the Government general power to undertake similar works in the future has been carefully explored and been found open to serious objection. It has therefore been abandoned.

7. The objects of this Bill are different. They are first to validate the extinction of any public or private rights which might be considered to subsist in the works enumerated in the Schedule, which, as has been stated, have been undertaken without complaint; and, secondly, to make provision for a scheme of notice and compensation which is to be applied in the case of future Ordinances authorising undertakings of this nature.

8. Clause 1 is the Short title.

9. Clause 2 validates the undertakings enumerated in the Schedule.

10. Clause 3 applies the provisions of clause 10 to the Pipe Lines and other undertakings set out in the Schedule.

11. Clause 4, which is derived from section 1 of the Lands Clauses Consolidation Act, 1845, enacts that the clauses which follow shall, unless expressly excepted or varied, be deemed to be incorporated in any future Ordinance authorising any undertaking for reclamation or other works of a public nature over and upon unleased Crown foreshore and sea bed provisionally and subject to the definitive approval of the Governor in Council.

12. Clause 5 deals with the notification of the authorised undertaking, the hearing of objections, the publication of definitive approval and the commencement of the execution of the work. It may be compared with section 2 of Ordinance No. 26 of 1932.

13. Clause 6 provides for the extinction of rights upon the publication of the definitive approval. It is derived from section 8 of Ordinance No. 39 of 1909.

14. Clause 7 makes provision for the payment of compensation where private rights are affected. It is derived from section 12 of Ordinance No. 39 of 1909 and from section 2 of Ordinance No. 26 of 1932.

15. Clause 8 deals with the powers of the judge in claims for compensation and is identical with section 13 of Ordinance No. 39 of 1909.

16. Clause 9 makes it clear that the authorising Ordinance will not create new rights; and that to obtain compensation under the clauses of this Ordinance claimants must prove that enforceable rights existed independently of either Ordinance.

17. Clause 10 (1) is derived from section 74 of the Harbours, Docks and Piers Clauses Act, 1847, (10 and 11 Vict. c. 27). It is designed for the protection of the undertakings authorised or validated by Ordinance and is considered necessary especially for the protection of the Cross-Harbour Pipe Lines. The proviso to section 74 of the Act of 1847 is omitted as pilotage is not compulsory in the Colony (*cf.* Ordinance No. 11 of 1930, ss. 11 and 28).

18. Clause 10 (2) provides for claims and other proceedings by the Government under this section being brought in the name of the Attorney General (*cf.* Ordinance No. 10 of 1899, s. 17 (7)).

19. Clause 10 (3) makes it clear that proceedings *in rem* cannot be taken against a British or foreign warship (see Hailsham's Halsbury Vol. I paragraphs 121 and 122).

20. Clause 11 saves the rights of the Crown and is derived from section 9 of Ordinance No. 39 of 1909.

21. Clause 12 saves the rights of the Admiralty in respect of the Royal Naval Yard area (v. Despatch No. 130 from the Secretary of State dated 7.5.32).

22. The Bill in its present form (except that the items in the Schedule relating to the Refuse-boat Pier and Livestock Landing at Ma Tau Kok Road and to the Refuse-boat Pier at Kweilin Street now listed as completed were then listed as in progress) was submitted to the Secretary of State, who has approved of proceeding with its enactment.

DEFENCES (FIRING AREAS) ORDINANCE, 1936.

THE ATTORNEY GENERAL moved the first reading of a Bill intituled "An Ordinance to regulate Practice Firing from Hong Kong Defences and for clearing of certain Sea Areas in connection therewith." He said: Hitherto Practice Firing has not been governed by any regulation, but it is considered by the Military

Authorities that we should have some regulation designed for the protection of the public. This Bill is based on similar draft legislation at Home with regard to the defence of Plymouth. The areas mentioned in the schedule are those in which firing usually takes place.

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 Bill, prepared at the request of the Military Authorities, is based on certain draft Bye-laws printed by His Majesty's Printers under the authority of His Majesty's Stationery Office in 1932 as intended to be made by His Majesty's Principal Secretary of State for War under the provisions of the Military Lands Acts, 1892 to 1903, with the consent of the Board of Trade and of the County Council of Cornwall for regulating firing from certain of the Plymouth Defences.

2. A Table of Correspondence between the Bill and the draft Bye-laws in question and the draft notices annexed to such Bye-laws is attached.

POLICE FORCE AMENDMENT ORDINANCE, 1936.

THE ATTORNEY GENERAL moved the first reading of a Bill intituled "An Ordinance to amend the Police Force Ordinance, 1932." He said: The effect of this Bill 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 (i) of this Ordinance effects minor changes of police procedure by substituting two new sub-sections for sub-sections (2) and (3) of section 18 of the Police Force Ordinance, No. 37 of 1932, extending to European lance-sergeants of police and other European officers of police of equal or superior rank the duties in respect of persons in police custody and the powers as to release on bail of such persons, formerly exercised only by officers in charge of police stations.

2. This extension is necessary in order to facilitate inquiry into, and the release on bail of persons charged with numerous petty offences now investigated by such officers, who in the mixed police

force of this Colony exercise many of the functions performed elsewhere by officers of nominally superior rank.

3. Section 2 (ii) makes a consequential amendment in sub-section (5) of section 18 of the Police Force Ordinance, 1932.

4. In new sub-section (3), added by section 2 (i) of this Ordinance to section 18 of the Police Force Ordinance, 1932, the wording of section 38 of the Summary Jurisdiction Act, 1879, (42 & 43 Vict. c. 49), as enacted by section 22 of the Criminal Justice Administration Act, 1914, (4 & 5 Geo. 5, c. 58), has been more closely followed than in the sub-section which it replaces.

PENSIONS AMENDMENT ORDINANCE, 1936.

THE ATTORNEY GENERAL moved the first reading of a Bill intituled "An Ordinance to amend further the Pensions Ordinance, 1932." He said: This Bill provides for very small amendments in the principal Ordinance which have been suggested by the Secretary of State.

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:—

The object of this Ordinance, which was suggested by the Secretary of State in his despatches of the 13th September and the 26th October, 1935, is to remove an apparent conflict between sections 8 and 17 of the principal Ordinance and to ensure that the payment of gratuities made to female officers retiring on account of marriage shall be subject to the production of evidence that the marriage has in fact taken place.

CROWN RENTS (APPORTIONMENT) ORDINANCE, 1936.

THE ATTORNEY GENERAL moved the first reading of a Bill intituled "An Ordinance to make provision for the apportionment of Crown Rents." He said: The effect of this Bill is explained in the Memorandum. It has given the Government and legal community some thought. This particular Bill, which replaces one which was drafted by the previous Land Officer has been drafted by the present Officer with a Committee comprising, in addition to myself, three prominent solicitors in the Colony. It is hoped that the powers which this Bill confers will be of satisfaction to land owners.

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. Leases granted by the Crown, of land in this Colony, do not make any provision for apportionment of Crown Rent in the event of subdivision and transfer of a portion of the lot by assignment by the original lessee, who in practice then becomes known as the owner of the Remaining Portion of the Lot.

The original owner of the Remaining Portion, or his legal representative, remains liable to the Crown for the whole Crown Rent due in respect of the Lot and in practice so long as he retains the Remaining Portion he has to collect from the other section owners of the Lot the proportions of Crown Rent attributable to their respective sections and pay the whole to the Treasury.

After transfer of the Remaining Portion, it has been the custom of the Crown to look to the owner thereof for the time being, for payment of the whole Crown Rent due in respect of the Lot, leaving him to collect their proportions from the other section owners.

While the number of subdivisions of Lots remained small this custom caused little inconvenience, but in recent years the number of subdivisions has increased very rapidly and many of the older and larger Lots have been divided into fifty or more separate sections or subsections.

The owners of the Remaining Portions now find it increasingly difficult to collect proportions of Crown Rent and many of them, after having paid the whole of the Crown Rent to the Treasury for some time, have ultimately made default.

Many section owners who have always paid to the owner of the Remaining Portion their proportions of Crown Rent, have found that, without their knowledge, the owner of the Remaining Portion has made default.

In case of default the only satisfactory remedy which the Crown at present has, is to exercise its right of re-entry on the whole Lot, and this has been the practice in recent years.

Re-entry involves forfeiture of every portion of the Lot re-entered, and the extinction of all mortgages thereon, which is a serious matter, particularly for trustees who have invested trust funds on the security of house property.

Default in payment of Crown Rent by Remaining Portion owners is becoming more and more frequent and the serious effect of the increasing number of re-entries calls for a remedy.

2. The object of this Ordinance is to enable the Land Officer, in his discretion, on the application of an owner of a portion of a Lot and on payment of the prescribed fees to determine the Crown Rent which shall be payable direct to the Treasury in respect of such portion.

Section 3 provides for the foregoing.

Section 4 provides the principles to be observed in determination. Determination will, in so far as is reasonable, be according to area. Some old Crown Rents were fixed in sterling and these will be converted into local currency, at the rate at which all sterling Crown Rents were converted in 1862. Provision is also made for the addition of such sum, if any, as may be necessary to make the determined rent an even number of dollars. This will facilitate Treasury collection and book-keeping, without loss to the Crown, and the loss to the payer will be negligible.

Section 5 makes provision for proof of area.

Section 6 states the result of determination, on the application of a section owner other than the owner of a Remaining Portion.

Section 7 states the result of determination on the application of the owner of a Remaining Portion. Special provision is necessary in this case as at present the Crown looks to the owner of the Remaining Portion for payment of the whole Crown Rent due in respect of the Lot, and he cannot be released from this burden unless determination is also made in respect of each other section of the Lot. Compulsory determination is accordingly imposed in this case on the owners of the other sections of the Lot. The fees are in this as in other cases payable by the applicant for determination, namely the owner of the Remaining Portion, but relief is provided to enable him to recover from the owner of each section the fees applicable to such section.

Section 8 and 9 specify the procedure on determination and its effect.

Section 10 deals with correction of errors in the determination.

Section 11 deals with appeals to and revision by the Governor in Council.

Section 12 authorises the fees payable in the schedule.

Section 13 enables the Governor to appoint different dates for the application of the Ordinance to different lots areas or districts. Some such provision is necessary to prevent the Land Office being disorganised by too many simultaneous applications.

GAMBLING AMENDMENT ORDINANCE, 1936.

THE ATTORNEY GENERAL moved the first reading of a Bill intituled "An Ordinance to amend the Gambling Ordinance, 1891." He said: The Gambling Ordinance of 1891 deals with unlawful games and lotteries but hitherto has not dealt with betting. The amendment provided by this Bill will make it unlawful to bet in the streets or conduct a Club or building for the purpose of betting. The forms of betting and lotteries authorised by the Betting Duty Ordinance are however saved.

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 of this Ordinance amends the principal Ordinance, No. 2 of 1891, by adding to the definition of "Common gaming house" a paragraph relating to betting and receiving deposits on bets generally on the lines of sections 1 and 2 of the Betting Act, 1853, (16 and 17 Vict. c. 119).

2. Section 3 of this Ordinance also adds a definition of "gaming" which is not defined in the principal Ordinance though it appears in sections 8 and 14 as used in a sense applicable to and including the playing of the games mentioned in paragraph (1) of the definition of "Common gaming house". Moreover in the principal Ordinance "gambling" is defined as applying to and including lotteries whereas it is clearly used in sections 10, 11, 13, 15, 16 and 17 as applying to and including the said games as well as to lotteries. After this amending Ordinance the word "gaming" will be used as applicable to unlawful games and the word "gambling" as applicable to unlawful lotteries.

3. Sections 2, 4, 5, 6, 7, 8, 9, 10, 11, 12 and 13 effect consequential amendments in the principal Ordinance and sections 12 and 13 forbid street betting as well as street gaming and gambling.

4. Section 14 saves expressly the forms of betting and lotteries authorised by the Betting Duty Ordinance, No. 40 of 1931, as amended in 1933 and 1934.

COINAGE OFFENCES AMENDMENT ORDINANCE, 1936.

THE ATTORNEY GENERAL moved the first reading of a Bill intituled "An Ordinance to amend the Coinage Offences Ordinance 1865." He said: This Ordinance is rather urgent because of the recent introduction of cupro-nickel coinage in the Colony. We are

being flooded with imitations, some of which are being imported. But for this urgency I would ask that we defer this Bill for a few weeks because to-day I received intimation that an Act much wider in scope was passed in England last year. But I do not think that is sufficient reason for holding up this legislation because we are dealing with a crime present at the moment. It will have to be followed by another Ordinance later in the year.

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 corrects a typographical error in the references to the three previous sections (*cf.* 24 & 25 Vict. c. 99, s. 12) in section 11 of Ordinance No. 7 of 1865, which was made in the authorised 1924 edition of the Ordinances of Hong Kong.

2. Section 3 of the Ordinance adds a new paragraph to section 13 of Ordinance No. 7 of 1865 making the deliberate importation into the Colony of counterfeited King's current copper coin punishable with seven years imprisonment.

3. The King's copper coin is defined in section 2 of the principal Ordinance as including any copper coin and any coin of bronze or mixed metal, and the King's current coin is defined as including any coin whether made of gold, silver, copper, bronze or mixed metal, coined in any mint in His Majesty's dominions or any such coin lawfully current, by virtue of any proclamation or otherwise, in any part of His Majesty's dominions whether within this Colony or otherwise.

4. The new paragraph added to section 13 of the principal Ordinance follows *mutatis mutandis* the wording of section 6 which made the deliberate importation of counterfeited King's current gold or silver coin punishable with imprisonment for life.

5. The absence hitherto of any provision relating to the King's copper coin corresponding to section 6 of the principal Ordinance (which was based on section 7 of the Coinage Offences Act, 1861) was probably due to the fact that the importation of spurious cents or pence was unlikely.

6. Now, however, since ten cent and five cent pieces made of cupro-nickel have been authorised by Proclamation No. 4 in the *Hong Kong Government Gazette* Extraordinary of the 9th November, 1935, it has been found that the new coins are being counterfeited and imported and it is necessary to deal with that situation.

QUARANTINE AND PREVENTION OF DISEASES ORDINANCE, 1936.

THE ATTORNEY GENERAL moved the first reading of a Bill intituled "An Ordinance to amend and consolidate the law relating to Quarantine and the Prevention of Disease among Human Beings." He said: Honourable Members of this Council will remember that we passed an Ordinance which had a similar title last year, No. 12 of 1935, which contained a suspending Clause bringing it into force only on proclamation by Your Excellency. Before being brought into force it was sent to the Secretary of State, who referred it to the Ministry of Health. They have made certain criticisms which are set out in the Memorandum of Objects and Reasons. It was thought, after considering these criticisms, that it would be better not to bring No. 12 into force but to recast it in the light of these criticisms. That is what has been done in this 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:—

1. This Ordinance repeals Ordinance No. 12 of 1935 and re-enacts it as amended in consequence of suggestions made by the Ministry of Health in their letter of the 22nd August, 1935, enclosed with the Secretary of State's despatch No. 383 of the 19th September, 1935.
2. The Ministry of Health pointed out:—
 - (a) that the inclusion of separate definitions for "disease", "infectious disease" and "quarantinable disease" might lead to confusion and suggested that the use of the latter term to describe the five diseases referred to in the International Sanitary Convention, 1926, should be avoided. These points are dealt with in sections 2, 18 and 28 of the new Ordinance.
 - (b) that the term "quarantine" is used in Ordinance No. 12 of 1935 as synonymous with "observation" and suggested that it would be better and likely to avoid confusion if the international term "observation" only were used and that the term "quarantine" might be deleted. This point has been dealt with to a considerable extent in sections 2, 4, 5, 6, 8, 28, 36, 37, 44, 85, 87 and 94 and in the Schedule. The word "quarantine" is still however retained in the long and short titles and in the references to Quarantine Anchorages, Quarantine Signals and Quarantine Stations. The existing Quarantine Anchorages set out in section 16 of Table M to Ordinance No. 10 of 1899 as

amended by Government Notification Nos. 264 and 297 of 1933 are well known under that name and it would probably cause confusion to describe them as Observation Anchorages. Moreover the word "quarantine" appears in many of the Articles of the International Sanitary Convention Articles 136 and 148 of which refer to quarantine stations.

- (c) that the definition of "Sanitary aerodrome" in section 2 of the principal Ordinance was inadequate and suggested that it should be expanded to accord with Article 5 of the International Sanitary Convention for Aerial Navigation, 1933. This is dealt with in section 2.
- (d) that section 2 (2) (c) and 2 (2) (d) of Ordinance No. 12 of 1935 did not conform to the International Sanitary Convention, 1926, and suggested their deletion as well as an amendment of section 58. These points are dealt with in sections 2 and 58.
- (e) that the terms "contact vessel" and "contact aircraft" were to be deprecated. This point has been dealt with in sections 2, 21, 22, 23, 25, 27, 29, 31 and 36, and in the marginal note to section 50.
- (f) that section 30 of Ordinance No. 12 of 1935 was somewhat stringent and might lead to difficulties and delays unless some kind of general authorisation is envisaged. The same observation appears to apply also to section 86. These sections are amended accordingly by the addition of the words "either generally or specially,".
- (g) that section 35 of Ordinance No. 12 of 1935 prescribed no signal for healthy ships and suggested that the whole section might be amended so as to follow Part II of the Third Schedule to the Port Sanitary Regulations, (Statutory Rules and Orders 1933, No. 38), in force in England. This point is dealt with in the new section 35.
- (h) that it might be desirable to insert in section 41 of Ordinance No. 12 of 1935 some provision to ensure that the amount of the charge for the work shall be a reasonable sum, excluding any charge or claim in respect of profit and representing the actual or estimated cost to be incurred by the Government in undertaking the work, and also some provision limiting the amount which may be charged unless notice of the proposed charge has been given to the master or pilot before the work is undertaken. After consideration it was felt that to adopt these suggestions in their entirety might lead to difficulties in practice but the word "reasonable" has been inserted in the new section 41.

- (i) that His Majesty's Government had agreed to a proposal of the *Office Internationale d'Hygiene Publique* for an addition to Article 25 (6) of the International Sanitary Convention, 1926, to provide in certain cases for the fumigation of a ship before or during the discharge of cargo and for a subsequent fumigation if during or after the discharge live rats are still found, only one of the fumigations being charged to the ship. The new section 48 adopts this principle by making an appropriate substitution for section 48 (1) of the repealed Ordinance.
- (j) that section 52 of Ordinance No. 12 of 1935 appeared to be ineffective in its present form, and suggested that if the Colony does not possess the personnel and equipment necessary for deratisation periodical deratisation should not be prescribed, but on the other hand if the necessary personnel and equipment is available then deratisation certificates and deratisation exemption certificates should be obtainable and that the section should be expanded on the lines of Article 28 of the International Sanitary Convention, 1926. This matter is dealt with in the new section 52.
- (k) that the words "or destroyed" are not provided for in the Conventions and suggested their deletion in sections 53 (iv) and 58 (iv) of Ordinance No. 12 of 1935. This point is dealt with in the new sections 53 (iv) and 58 (iv).
- (l) that there is no provision in Ordinance No. 12 of 1935 whereby an aircraft or a vessel may continue its voyage if it does not desire to submit to the prescribed measures and suggested that a provision on the lines of Article 54 of the International Sanitary Convention, 1926, and Article 57 of the International Sanitary Convention for Aerial Navigation, 1933, should be included. The new Ordinance deals with this point by adding two sub-sections to section 20.

3. A Table of Correspondence, which sets out in detail the differences between the new Ordinance and the repealed Ordinance, is attached.

TELECOMMUNICATION ORDINANCE, 1936.

THE ATTORNEY GENERAL moved the first reading of a Bill intituled "An Ordinance to amend and consolidate the Law relating to Telecommunication." He said: Telecommunication is a long word but unfortunately it has become the title of an International Convention and has an International Bureau. That is why we are advised by the Post Office in London to make use of that word.

The Object of this Bill is to place under the control of the Governor-in-Council all forms of telecommunication in the Colony except the telegraphs erected by the Military, Naval and Air Force authorities and the concession granted to the Hong Kong Telephone Company, Limited, who have a concession for 50 years under certain Ordinances mentioned in the margin of Clause 3. Other systems must get licences from the Governor in Council. The Bill deals generally with the issue of licences and penalties and provides regulations for the properties of telecommunication which includes radio.

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 purpose of this measure is to give the Government wider control over the telegraphic and telephonic services of the Colony than is secured by the Telegraphic Messages Ordinance, 1894, the Telephone Ordinances, 1925 and 1930, and the Wireless Telegraphy Ordinance, 1926. The Secretary of State in his despatches of the 24th March, 1934, and 24th July, 1935, has agreed to the introduction of a measure to secure this aim and to bring up to date the law of the Colony on the subject.

2. The present Bill follows very closely the lines of Federated Malay States Enactment No. 6 of 1933, which itself is closely parallel with Straits Settlements Ordinance No. 55 as amended by subsequent enactments, in particular the Straits Settlements Telegraphs Amendment Ordinance, 1932. It has been revised after consideration of various suggestions made in a memorandum of the General Post Office transmitted with the Secretary of State's despatch of the 24th July, 1935.

3. The main effect of the Bill is to make telegraphic and telephonic services in the Colony a Government monopoly while preserving at the same time the concession of the Hongkong Telephone Company Limited, the position of which is governed by the Telephone Ordinances, 1925 and 1930.

4. Clause 3 gives the Governor in Council the exclusive privilege of working, etc., telegraphs and the power to license fit persons to do the same. Sub-clause (2) will enable licences to be granted to the Cable Companies or to the persons in charge of them and sub-clause (3) exempts Naval, Military and Air Force lines and the Hongkong Telephone Company's concession from the operation of the Ordinance.

Clause 4 empowers the Governor in time of emergency to take possession of licensed telegraphs, to withdraw from the public the use of telephone exchanges and trunk lines, and to order interception of messages.

Clause 5 empowers the Governor, when necessary in the public interest, to require the production of all telegraphic messages, and imposes penalties for refusal to produce.

Clause 6, which reproduces most of the provisions of the Telegraphic Messages Ordinance, 1894 protects certain telegraphic messages from publication within a certain period.

Clause 7 empowers the Governor in Council to make regulations governing telegraphs generally.

Clause 8 allows the revocation of licences for good cause.

Clause 9 exempts the Government from liability from loss or damage caused by the loss or delay of a telegraphic message.

5. Part III (Clause 10-14) defines the powers and duties of the Director of Public Works and of licensed persons in connection with the placing and maintaining of telegraphs.

6. Part IV (Clauses 15-26) lays down particular penalties for breaches of the provisions of the Ordinance.

7. Part V (Clauses 27-35) deals exclusively with Radio-communication (*i.e.* Wireless Telegraphy) and provides *inter alia* for the following matters:—

- (a) the vesting in the Governor in Council of the exclusive privilege of establishing and using stations and appliances for transmitting and receiving wireless messages, with the right to licence installations and apparatus ashore and afloat;
- (b) the licensing of dealers in apparatus for radiocommunication, with the main object of checking and tracing the existence of unlicensed installations;
- (c) the making by the Governor in Council of regulations for examining and issuing certificates of proficiency to operators, for ensuring the secrecy of wireless communications, for controlling, by rules to be framed beforehand, the use of wireless apparatus in times of emergency, and generally for giving effect to the provisions of this Part.
- (d) the payment, out of fines inflicted on offenders, of rewards to persons supplying the information that has led to conviction.

8. Part VI (Clause 36 to end) covers various miscellaneous matters, repeals, commencement, etc.

9. The source of each clause is shown in the Table of Correspondence attached.

MAGISTRATES AMENDMENT ORDINANCE, 1936.

THE ATTORNEY GENERAL moved the first reading of a Bill intituled "An Ordinance to amend further the Magistrates Ordinance, 1932." He said: This makes certain amendments in the Magistrates Ordinance particularly with relation to appeals and the effect of them is set out in the Memorandum.

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 26 of the Magistrates Ordinance, 1932, has been repealed in order to avoid overlapping with section 18 of the Police Force Ordinance, 1932, as enacted by section 2 of the Police Force Amendment Ordinance, 1936.
2. In section 108 (5) of the Magistrates Ordinance, 1932, the conditions of the recognizance did not require the attendance of the appellant at the hearing of the appeal. It merely required submission to the judgment of the Full Court and appearance before the magistrate within 10 days after such judgment. If the decision was adverse the appellant had ample time to forfeit his recognizance and leave the Colony. Section 3 of this Ordinance abolishes this period and requires the appellant's attendance at the hearing of the appeal.
3. Section 109 (1) of the Magistrates Ordinance, 1932, makes no provision for service of notice by post but it has been found in practice that such facilities are desirable. In the new section 4 of this Ordinance the wording of section 31 of the Summary Jurisdiction Act, 1879 (42 and 43 Vict. c. 49), as enacted by section 1 (x) of the Summary Jurisdiction (Appeals) Act, 1933 (23 & 24 Geo. 5, c. 58), has been used as a guide and the facilities for service by post therein provided have been adopted.
4. Section 5 of this Ordinance gives to the magistrate's clerk similar facilities for service by post which were lacking under section 118E (i) of the Magistrates Ordinance, 1932, as enacted by section 2 of the Magistrates Amendment Ordinance, 1935 (No. 19 of 1935).
5. Section 6 of this Ordinance carries out a suggestion made by the Secretary of State in his dispatch No. 225 of the 17th June, 1935, and corrects a small error in sub-section 4 (a) of section 118 I of the principal Ordinance.
6. The new Form 88 is necessary subsequent on the change introduced by section 2 of this Ordinance. Forms 93 and 94 have been provided for use in connection with the Alternative Procedure

under section 118E of the Magistrates Ordinance, 1932, as enacted by section 2 of the Magistrates Amendment Ordinance, 1935.

**BILLS OF EXCHANGE AND FALSIFICATION OF
DOCUMENTS AMENDMENT ORDINANCE, 1936.**

THE ATTORNEY GENERAL moved the first reading of a Bill intituled "An Ordinance to amend the Bill of Exchange Ordinance, 1885 and the Falsification of Documents Ordinance, 1935." He said: The passing of this Bill will not change the law. The object of it is merely to transfer from one Ordinance certain provisions to another to which they more fittingly belong.

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:—

This Ordinance repeals section 2 of the Falsification of Documents Ordinance, 1935, which was based on section 17 of the Revenue Act, 1883, and re-enacts it in the Bills of Exchange Ordinance, 1885, where its presence seems more appropriate. This course was suggested by the Secretary of State in his despatch No. 450 of the 30th October, 1935.

ADJOURNMENT.

H. E. THE GOVERNOR.—Council stands adjourned until Thursday, January 30.

FINANCE COMMITTEE.

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

Votes totalling \$66,145, contained in Message No. 1 from H. E. The Governor were considered.

All the votes were approved.
