

***24th June, 1936.***

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**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. MR. R. A. C. NORTH, *Acting*).

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

THE SECRETARY FOR CHINESE AFFAIRS (HON. MR. W. J. CARRIE, *Acting*).

THE COLONIAL TREASURER (HON. MR. E. TAYLOR, C.M.G.).

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. A. G. W. TICKLE, (Director of Public Works, *Acting*).

HON. MR. J. J. PATERSON.

HON. MR. W. H. BELL.

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

HON. MR. T. N. CHAU.

HON. MR. M. K. LO.

HON. MR. S. H. DODWELL.

HON. MR. A. F. B. SILVA-NETTO.

HON. MR. M. T. JOHNSON.

MR. D. M. MACDOUGALL (Deputy Clerk of Councils).

**ABSENT:—**

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

**MINUTES.**

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

**NEW MEMBER.**

The Hon. Mr. M. T. Johnson took the Oath of Allegiance and assumed his seat as a member of the Council.

**PAPERS.**

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

Kai Tak Civil Airport declared an Authorised Aerodrome by the Governor in Council under section 2 of the Quarantine and Prevention of Disease Ordinance, 1936, Ordinance No. 7 of 1936, dated 4th June, 1936.

Amendments to the Regulations of the Hong Kong Naval Volunteer Force made by the Governor under section 10 of the Naval Volunteer Ordinance, 1933, Ordinance No. 30 of 1933, dated 3rd June, 1936.

Amendments to the Vehicles and Traffic Regulations made by the Governor in Council under section 3 of the Vehicles and Traffic Regulation Ordinance, 1912, Ordinance No. 40 of 1912, dated 11th June, 1936.

Administration Reports, 1935:—

Part II.—Law and Order:—

Report on the New Territories: District Office, South.

**QUESTIONS.**

HON. MR. T. N. CHAU asked:—

With reference to the Hon. Colonial Secretary's replies to the questions asked by the Hon. Dr. R. H. Kotewall in this Council on the 10th January, 1935, in regard to the explosion of a gasometer at West Point, will the Government state:—

- (1) Whether it has been finally decided to move the gasometer at West Point to a more suitable site; and, if so, where the site is;
- (2) Whether advice of the Home Authorities has been obtained as to whether special legislation for the compulsory inspection of gasometers is desirable here; and

- (3) What action does the Government propose to take in regard to gasometers in other parts of the Colony?

THE COLONIAL SECRETARY replied:—

- (1) The Hong Kong and China Gas Company have purchased an area of land now known as Inland Lots 4097 and 4098 situated to the South of the Cattle Depot at Kennedy Town. One Gasometer of 500,000 cubic feet capacity has already been erected on this area to replace the former main Gasometer at West Point. Government understands that the Company proposes to transfer at a later date all the remaining gasholders in Hong Kong and Kowloon either to Kennedy Town or to Ma Tau Kok.
- (2) The advice of the Home Authorities on the desirability of special legislation for the compulsory external inspection of Gasometers has been obtained. Government has also had the benefit of the advice of the Institute of Gas Engineers in England on this subject.

In view, however, of the fact that a Gasholder Committee of the Institute of Gas Engineers has recently been examining in conjunction with the Home Office the question of the internal inspection of gasholders it has been considered advisable to postpone further consideration of the matter until that Committee has issued its recommendations.

An officer of this Government at present on leave is under instructions to visit the proper authorities at Home with a view to acquiring the latest information regarding maintenance and design of gasholders from the point of view of public safety.

- (3) The reply to this question is contained in the foregoing answers.

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

THE COLONIAL SECRETARY, by command of H.E. The Governor, laid upon the table the report of the Finance Committee No. 5 of 17th June, 1936 and moved that it be adopted.

THE COLONIAL TREASURER seconded, and this was agreed to.

#### **URBAN COUNCIL BY-LAW.**

THE ATTORNEY GENERAL.—Sir, The Urban Council has decided under section 4 of the Hawker's Ordinance, 1935, to rescind by-law No. 1 under the heading "B. Licensed (itinerant) hawkers" in the Schedule to that Ordinance.

The by-law in question provided for the issue of numbered licence boards to licensed itinerant hawkers. This system led to abuses and it had been decided to discontinue the issue of these boards. The itinerant hawkers will still have to have licences. I therefore move:—

That the rescission of by-law 1 contained in the Schedule of the Hawkers Ordinance, 1935, under the heading "B. Licensed (itinerant) hawkers" made by the Urban Council on the 26th day of May, 1936, be approved.

THE COLONIAL SECRETARY seconded, and this was agreed to.

### MOTION.

THE COLONIAL TREASURER.—I rise, Sir, to move the resolution standing in my name to increase the duty on light oils. The revenue for the year 1936 at the present rate of 25 cents per gallon was estimated last August at \$670,000. The actual revenue received during 1935 amounted to \$663,327. The receipts this year up to the end of May amounted to \$266,900, and if maintained to the end of the year at the same rate the revenue from this source for 1936 should be about \$640,000, or \$30,000 below the estimate. This may possibly be optimistic as although more motors are used the tendency is to employ cars of low petrol consumption more and more. Trade depression must also have its effects.

It is now proposed to increase the duty per gallon by 5 cents to 30 cents per gallon which should produce a further \$60,000 for the remainder of the year making the total receipts under this item \$700,000 for 1936.

As there is a direct relation between such a tax as this and the cost of roads I will give a rough estimate of the annual cost:

Personal Emoluments, etc. ....	\$154,000
Personal Emoluments, Administrative Staff .....	50,000
Recurrent Maintenance and Improvements 1936 .....	168,000
P.W.E. and Other Charges (3½ % on total expenditure 1926-35)	211,000
Special Expenditure (15% on total expenditure 1926-35) ....	17,000
Total .....	<u>\$600,000</u>

(Pensions, Passages and cost of housing the staff not included).

Regarding the figure \$168,000 for maintenance and improvements I would point out that the several votes for this purpose were severely pruned last January when the financial position was examined, the total provision as allowed by the estimates being reduced by no less than \$119,000. In 1933 the provision for recurrent maintenance and improvement amounted to \$462,000 and this sum has been reduced yearly since till the above figure of \$168,000 for 1936 has been arrived at. Since 1933 the length of the Hong Kong roads has increased and, during the same period, the annual expenditure on maintenance has been greatly reduced. Our roads are deteriorating in consequence, and the Hon. D.P.W. is very much concerned about the future. The slight additional duty of 5 cents per gallon on light oils estimated at the present rate of petrol consumption to produce \$120,000 in a full year will go some way towards meeting the bill for necessary repairs.

I now move the following resolution:—

Resolved, under Section 7 of the Motor Spirit Ordinance, 1930, Ordinance No. 4 of 1930, that the duties on light oils as set forth in the Resolution passed by the Legislative Council on the 22nd day of October, 1931, be increased to 30 cents per gallon.

H.E. THE GOVERNOR.—Gentlemen, The taxation on motor transport in this Colony seems hitherto to have been exceedingly light in comparison with the current rates in other territories. My Executive Council therefore had before it recently a proposal to raise the licence fees on motor vehicles. As a new registration period begins on the 1st July, little notice could have been given of any enhancement, and car-owners whose incomes have been reduced by the depression and who may be said to be living marginally, might not unreasonably have complained of a lack of any forewarning; whereas under the slight increase of the petrol tax now proposed the owner can, if he is living on a margin, adjust matters by using his car a little less. It may, however, prove necessary to budget for an increase in licence fees from the 1st July of next year, and, if so, proposals to that end will be put forward in connection with the 1937 Estimates.

In the United Kingdom the petrol tax is 8d. per gallon, in Malaya it is just under 10d. per gallon, and here it is round about 4d.; the present proposal is to increase it by 5 cents or less than a 1d. The current rate of 25 cents was fixed in October 1931 and among extra facilities provided for motorists since that date I may mention the new Peak Road and the new Vehicular Ferry. There is indeed a far greater range for motor transport than when our current petrol tax was adopted. I fancy that it will be generally agreed that the users of our motor roads should pay for them, and the figures just furnished by my Honourable Colleague the Colonial Treasurer show that on our present standard of upkeep the proceeds of the petrol tax will just about foot the 1936 bill. Unfortunately,

however, (as he has also pointed out) the item in that Bill for maintenance (\$168,000) is \$119,000 less than the provision in the printed Estimates and nearly three lakhs less than what was provided in 1933. Retrenchment of this kind, if continuous, is bound to prove uneconomic; what is momentarily saved in repairs is only too soon outbalanced by what has to be spent on reconstructions.

I therefore commend this resolution for your support; I do not believe that the 5 cent rise in duty will constitute a serious hardship for anybody but I do believe it necessary for the maintenance of a reasonable standard in our vehicular communications. I have left out of account altogether our expenditure on traffic regulation, because I propose to take that into account later on when we review our registration tariff in connection with the 1937 Budget.

THE COLONIAL SECRETARY seconded, and the resolution was agreed to.

### **(1935 SUPPLEMENTARY) APPROPRIATION ORDINANCE, 1936.**

THE COLONIAL TREASURER moved the first reading of a Bill intituled "An Ordinance to authorize the Appropriation of a Supplementary Sum of One hundred and twenty two thousand seven hundred and seventy one Dollars and fifteen Cents to defray the Charges of the year 1935." He said: Your Excellency,—Copies of the detailed statement of expenditure and the report on the finances for 1935 have already been furnished to each member. The details of all items making up this sum have already been fully explained to Honourable Members from time to time and have received the approval of the Finance Committee and of this Council in the usual way. The sum of \$122,771.15 represents the total of the supplementary appropriation required, no regard being allowed for under expenditure on the other heads of the Estimates. Actually, of course, there was a very large saving, the total expenditure being \$28,291,636 against an estimate of \$32,556,102 a decrease of \$4,264,466.

Ordinary Expenditure for the year amounted to \$25,030,568, as against \$27,364,990 in 1934 and against \$28,976,652 estimated for 1935.

Public Works Extraordinary amounted to \$2,801,919 compared with an actual expenditure of \$3,784,166 in 1934 and compared with \$3,079,450 approved for 1935.

Revenue for the year amounted to \$28,430,550 or \$2,155,100 below the original estimate of \$30,585,650. But as the total expenditure was less, viz, \$28,291,636, the difference of \$138,914 increased the excess of assets over liabilities on 31st December, 1935, making that sum \$12,387,669. The principal increases and decreases of the more important subheads of revenue compared with the original estimate for 1935 are explained in the report on the finances for 1935.

The expenditure estimates for the year were based on \$1=1s./4d. and a deficit of \$1,970,452 was budgetted for. Very wide fluctuations occurred in exchange from the opening rate of 1s./8½d. in January to 2s./6d. in April. Thereafter rates declined steadily at first but rapidly during the last three months of the year, the closing rate on the 31st December being 1s./3¾d. The average rate for the whole year was, however, 1s./11.9/16d., and it will readily be seen how favourable a reaction this has had on our sterling commitments, such as salaries, pensions and stores. Of \$12,701,739 provided for personal emoluments only \$10,248,600 was required. Pensions were estimated at \$2,070,000 but cost only \$1,555,605. Under "Other Charges" \$4,632,853 was provided but only \$3,730,038 expended.

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

### **PLEASURE GROUNDS AND BATHING PLACES REGULATION ORDINANCE, 1936.**

THE ATTORNEY GENERAL moved the first reading of a Bill intituled "An Ordinance to regulate certain pleasure grounds, bathing places and places of public resort." He said: Sir, This Bill was published for information in the *Gazette* of the 5th June and the regulations for bathing places on pages 13 and 14 of the Bill have attracted some notice in the Press.

With regard to the suggested by-law 1 (2) it will be noticed that dogs (except on a lead) will not be allowed upon the bathing beaches set out on page 4 or in the water at or near these beaches. It is the opinion of the Government that dogs are a nuisance on these beaches and the question of prohibiting them, even when on a lead, can be considered in committee on the second reading.

Another regulation to which I think I should draw attention is regulation 2 (4) on the top of page 14, from which it will be seen that private tents on the matshed beaches will only be allowed in special areas allotted and marked off for them. It is not the intention of the Government to allot any such area at Repulse Bay, where there is ample accommodation for bathers who have not matsheds, nor is it the intention of the Government to allow the erection of tents in front of the matsheds at any matshed beach.

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 substitutes new provisions for the Public Places Regulation Ordinance, No. 2 of 1870, and the Chinese

Recreation Ground Ordinance, No. 17 of 1923, which it repeals, and in addition confers on the Governor in Council a power to make regulations for bathing places, which the constantly increasing demand for bathing facilities in this Colony has made it necessary to control.

2. The places to which this Ordinance applies are set out in the First Schedule thereto.

3. In the Second Schedule to the Ordinance are re-enacted the existing regulations, collected and revised, made under Ordinance No. 2 of 1870, together with such additions as are now desirable.

### **FACTORIES AND WORKSHOPS AMENDMENT ORDINANCE, 1936.**

THE ATTORNEY GENERAL moved the first reading of a Bill intituled "An Ordinance to amend the Factories and Workshops Ordinance, 1932." He said: This adds a special section to section 4 of the principal Ordinance 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:—

Owing to the very great variety in the nature of the numerous different businesses carried on in the Colony and in the types of buildings used for industrial undertakings it is virtually impossible for the Governor in Council to make regulations prescribing all the minor precautions which may be appropriate in certain factories and workshops. The proposed amendment enables the Protector in special cases to make modifications in or additions to the regulations made by the Governor in Council whenever the circumstances of the case render such variations reasonable or desirable.

### **JURY AMENDMENT ORDINANCE, 1936.**

THE ATTORNEY GENERAL moved the first reading of a Bill intituled "An Ordinance to amend the Jury Ordinance, 1887," He said: This Bill regulates exemption from jury service of medical practitioners, registered dentists, members of the Royal College of Veterinary Surgeons and other persons holding diplomas of veterinary colleges.

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. Paragraph (5) of the principal Ordinance, No. 6 of 1887, exempted from Jury service persons entitled to practise medicine and surgery under the Medical Registration Ordinance, 1884, and persons entitled to practise dentistry under the Dentistry Ordinance, 1914.

2. The effect of this amending Ordinance will be to limit the exemption, in case of persons practising medicine or surgery, to persons duly registered or deemed to be medical practitioners under the Medical Registration Ordinance, 1935, (which replaced the 1884 Ordinance), and, in the case of dental practitioners, to persons duly registered as dental surgeons under the Dentistry Ordinance, 1914, and also to extend the exemption (on the lines of section 13 (2) (c) of Ordinance No. 9 of 1916) to members of the Royal College of Veterinary Surgeons of Great Britain and persons holding the diploma of such British or foreign veterinary institution or examining body as may be approved by the Governor.

### **ESTATE DUTY AMENDMENT ORDINANCE, 1936.**

THE ATTORNEY GENERAL moved the second reading of a Bill intituled "An Ordinance to amend the Estate Duty Ordinance, 1932."

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

HON. MR. M. K. LO.—Your Excellency, I desire to make some observations on the motion now before the Council.

The first Estate Duty Ordinance, replacing the probate duty formerly payable under the Stamp Ordinance, 1901, was passed in 1915. The scale of duty under the 1915 Ordinance remained in force until 1931, when the Estate Duty Amendment Ordinance, 1931, was passed. This 1931 Ordinance effected various amendments in the law which sixteen years' experience of the working of the 1915 Ordinance rendered desirable, and an increase in the scale of duty payable. On referring to Hansard I have not been able to discover any reason given for the increase, except by way of inference from the Hon. the Attorney General's statement that Hong Kong had been "exceptionally fortunate" as compared with certain other places named. To-day, after the lapse of only five years, we have the present Bill. Here again I have not been able to discover, either from the "Objects and Reasons," or from the Hon. the Attorney General's remarks in introducing the Bill any reason for the increase except, again, by way of inference from the Hon. the Attorney General's observation that—"even at 20%, the new rates will be lower for the larger estates than those existing in Malaya."

Sir, I respectfully submit that, on the introduction of any new legislation, Government should have, as a reason for such introduction, something more cogent than the fact that the law in some other place happens to differ from that of Hong Kong. In this particular case, why should the scale be increased again? Was the yield from estate duties less than reasonably anticipated? Do the total receipts from death duties in a year bear too low a ratio to the total revenue of the Colony? What is the estimated increase in the yield of death duties as the result of the proposed amendment? We know nothing about these points, and therefore we have to judge the necessity for or reasonableness of this Bill as best we can. But I may observe that, according to the Hon. the Colonial Treasurer's interesting and illuminating Report on the Finances of the Colony for the year 1935, the revenue from Estate Duties was \$1,011,609, which was actually more than the estimate of \$1,000,000. The Estate Duty revenue in 1935 comes to slightly more than 3½ per cent. of the total revenue of the Colony. And I may add that from Seligman's Encyclopaedia of Social Sciences, which I have consulted, I find the following remark: "During recent years inheritance taxes have yielded over 10 per cent. of the National Tax Revenue in England, over 5 per cent. in France, and less than 1 per cent. in Germany."

I submit, Sir, that the fact that the Estate Duty is on a certain scale in Malaya, or in the United Kingdom, or, indeed, in any other place, cannot be a criterion of what the scale should be in Hong Kong, nor be a cogent reason for amending our law, unless all the relevant circumstances between the contrasting places are comparable. I refrain from discussing the differences relevant in this case. But I feel I ought to refer to one point of difference which may defeat the very object of the legislation, which must obviously be to increase the Colony's revenue. Both in the United Kingdom and in Malaya the residents have more of the character of permanence, and therefore mere legislative machinery may prevent what I may call legal evasion of duties, *i.e.*, evasion by removing or transferring assets from the scope and reach of the legislation. But in Hong Kong the population is more transitory, and it is therefore relatively easier to evade the payment of duties. If, therefore, the incidence is made too onerous, those who are not permanently resident here will have a greater temptation to evade the duties, by transferring estates out of the Colony. And the increased amount levied on those who cannot escape may not compensate for the increasing amount evaded.

I observe that up to \$200,000 the rate under the Bill and under existing law is the same, namely, 6 per cent. From \$200,000 to \$800,000 the new rate is 1 per cent. in respect of each \$100,000 so that the rate becomes 12 per cent. on and up to \$800,000, whereas under the old rate the increase in percentage is 1 per cent. in respect of every \$200,000 up to \$800,000. Under the new scale the excess over 12 per cent., and up to 20 per cent., begins to apply only from an amount exceeding \$800,000, and up to an amount exceeding \$20,000,000. As the burden of increase under the new scale only falls on the larger

estates, and as the maximum percentage is 20 per cent., I do not say that the new scale is unreasonably onerous. I go further. If, as the result of this Bill, the revenue of the Colony, in these difficult times, can be appreciably augmented, I welcome this Bill.

Besides pointing out the danger that unduly high rates may defeat the aim of the legislation, the object of my remarks is, Sir, to express the hope that the scale to be legalised by this Bill will not be further increased merely because of a higher scale obtaining in some other place, and that in future reasons for any change in the law may be given to this Council in a fuller measure.

THE ATTORNEY GENERAL.—I am glad to see that the honourable and learned member does not regard the proposed new scale of Estate duty as unreasonably onerous, and that he welcomes the Bill if, as a result of it, the revenue of the Colony can be appreciably augmented in these difficult times.

It is estimated that the yield of the new duties will increase our revenue by \$200,000 in a complete year, and the object of the Bill is to obtain that increase. In proposing the first reading I compared the proposed duties with those prevailing in Malaya, just as I compared the duties we imposed in 1931 with those of other Colonies and the United Kingdom, not with a view to imitating the rates prevalent elsewhere, but to show that Estate duty is regarded as a legitimate source of revenue and to show that in framing our scale we had been careful, by keeping our rates substantially lower than those in other places, to avoid driving away capital which might be brought here for investment. In the United Kingdom the maximum rate is fifty per cent. In some Colonies it is as much as forty per cent. In Malaya it is twenty per cent. which is the figure at which we propose to fix our own maximum, but with this important difference. In Malaya it is twenty per cent. on estates exceeding \$10,000,000 in value. We do not propose to charge twenty per cent. unless the estate exceeds \$20,000,000 and our other percentages from 6 to 19 per cent. are graded correspondingly when compared with the Malayan scale.

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

**PENSIONS (NO. 2) AMENDMENT ORDINANCE.**

THE ATTORNEY GENERAL moved the second reading of a Bill intituled "An Ordinance to amend further the law relating to Pensions."

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

**ADJOURNMENT.**

H.E. THE GOVERNOR.—Council stands adjourned *sine die*.

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