

12th May, 1938.

PRESENT:—

HIS EXCELLENCY THE GOVERNOR (SIR G. A. S. NORTHCOTE, K.C.M.G.).

THE HONOURABLE THE OFFICER COMMANDING THE TROOPS (BRIGADIER F. W. L. BISSETT, D.S.O., M.C.).

THE COLONIAL SECRETARY (HON. MR. N. L. SMITH, C.M.G.).

THE ATTORNEY GENERAL (HON. MR. J. A. FRASER, M.C., *Acting*).

THE SECRETARY FOR CHINESE AFFAIRS (HON. MR. R. A. C. NORTH).

THE FINANCIAL SECRETARY (HON. MR. S. CAINE).

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

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

HON. MR. T. H. KING (Commissioner of Police).

HON. DR. P. S. SELWYN-CLARKE, M.C., (Director of Medical Services).

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

HON. MR. CHAU TSUN-NIN, C.B.E.

HON. MR. LO MAN-KAM.

HON. MR. LEO D'ALMADA E CASTRO, JNR.

HON. MR. A. L. SHIELDS.

MR. B. C. K. HAWKINS (Deputy Clerk of Councils).

ABSENT:—

HON. MR. J. J. PATERSON.

HON. MR. S. H. DODWELL.

HON. DR. LI SHU-FAN.

MINUTES.

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

NEW MEMBERS.

The Honourable the Officer Commanding the Troops (Brigadier F. W. L. Bissett, D.S.O., M.C.), and the Honourable Mr. A. L. Shields took the Oath of Allegiance and assumed their seats as Members of the Council.

PAPERS.

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

The French Convent St. Teresa's Hospital exempted by the Governor in Council under section 8 of the Nursing and Maternity Homes Registration Ordinance, 1936, Ordinance No. 48 of 1936, from the operation of the said Ordinance, dated 14th April, 1938.

Amendment made by the Governor in Council under sections 25 (4) and 42 of the Merchant Shipping Ordinance, 1899, Ordinance No. 10 of 1899, to Table M in the Schedule to that Ordinance, dated 21st April, 1938.

Notice to Airmen No. 1 of 1938, dated 22nd April, 1938.

Amendment made by the Governor in Council under section 56 of the Trade Marks Ordinance, 1909, Ordinance No. 40 of 1909, to the Trade Marks Rules, dated 22nd April, 1938.

Declaration under section 18 of the Quarantine and Prevention of Disease Ordinance, 1936, Ordinance No. 7 of 1936, dated 6th May, 1938.

Notice to Airmen No. 2 of 1938, dated 4th May, 1938.

Proclamation No. 3.—The Geneva Convention Act, 1937 (Colonies) Order in Council, 1937, to come into operation on the 29th April, 1938.

The Code of Vernacular School Subsidies.

Sessional Papers, 1938:—

No. 7.—Report by the Chairman (Mr. W. J. Carrie) of the Shanghai Refugees Committee.

MOTIONS.

THE ATTORNEY GENERAL moved the following resolution:

Resolved that the style of the office of "Assistant Attorney General" be changed to that of "Crown Counsel" for all purposes and that the following addition be made to the Schedule to the Public Officers (Changes of Style) Ordinance, 1937:—

<i>Old style of officer, office or department.</i>	<i>New style of officer, office or department.</i>
Assistant Attorney General.	Crown Counsel.

He said: This amendment is made on instructions of the Secretary of State for the Colonies.

THE COLONIAL SECRETARY seconded, and this was agreed to.

URBAN COUNCIL BY-LAWS.

THE ATTORNEY GENERAL moved:—

That the by-laws made by the Urban Council under sections 5 and 6 of the Public Health (Food) Ordinance, 1935, on the 26th day of April, 1938, amending the by-laws in the Schedule to that Ordinance under the heading "Dairies and Milk Shops," be approved. He said: The effect of the amendments is as follows:—

The heading to which I have referred is extended by words making it apply to the sale of milk generally, and new by-laws numbered 1A, 1B and 1C, dealing with the pasteurization of milk are added.

On and after the 1st January, 1939, which is the date on which the new by-laws are to come into force, all milk sold, offered or exposed for sale or used in the preparation of food for sale must be pasteurized, that is, treated with heat and then cooled in the manner prescribed in the by-laws. That is the effect of by-law 1A, which makes it an offence to sell milk which has not been "pasteurized."

By-law 1B requires pasteurizing apparatus to be of a type approved by the Urban Council, the treatment of the milk by heat to be automatically recorded and the records kept for two months and to be open to inspection by Health or Food Officers.

By-law 1C prescribes certain standards for the construction, sealing and labelling of milk bottles and enables the Urban Council to lay down standards for other types of containers in which milk is sold, except where it is sold in bulk. This by-law also requires containers to be filled by machinery or other approved means in the premises in which the milk is pasteurized and to be thoroughly cleansed and sterilized— in the case of bottles, with steam or boiling water—before they are used.

THE COLONIAL SECRETARY seconded, and this was agreed to.

PROTECTION OF WOMEN AND GIRLS ORDINANCE, 1938.

THE ATTORNEY GENERAL moved the second reading of a Bill intituled "An Ordinance to amend the law relating to the protection of women and girls." He said: Certain amendments to this Ordinance have been proposed which I suggest be made in Committee. A list giving details of the proposed amendments has been circulated and is now in the hands of Honourable Members.

HON. MR. M. K. LO.—The importance of the Bill before this Council lies of course in Sections 31 to 36. As I hope and believe that the enactment of this Bill as an Ordinance will mark the termination of a protracted controversy on one of the most difficult social questions of the Colony, I feel it right that I should make a few observations this afternoon.

It is my conviction that the new provisions will enable my honourable friend the Secretary for Chinese Affairs to deal with the problems of the "transferred girl" and the improperly-treated girl with thoroughness and efficiency. And I should like to say that the principle of the Bill has been fully accepted by the District Watch Committee.

When, in July last year, I was approached to support the petition which has since been presented to the Secretary of State for the Colonies, I intimated that, whilst I found myself unable to subscribe to all the statements and views contained in that petition, I was in sympathy with the promoters of the petition in so far as they sought to secure registration and protection of those girls whose position might require special care and protection, for reasons which might be summarised as follows:—

- (a) The question as to how far certain classes of girls required State protection greater than that at present afforded by existing legislation, and as to how far such increased protection was administratively or politically possible was admittedly a difficult one; indeed, the complexity of the problem could not be better illustrated than by the fact that three able Commissioners, specially sent out from England to investigate and report, had failed to agree.
- (b) In the light of the present meagre actual knowledge and available material one's views could at best be based on mere opinions and conjectures.
- (c) Without necessarily subscribing to all the statements and views set out in the petition, one could not be absolutely sure that those who were advocating a greater measure of protection for transferred girls might not possibly be right, and that those who opposed the same, however strong and however *bona fide* might be such opposition, might not possibly be wrong.

- (d) I therefore felt that it was in the interests of the Colony that in a case of this kind the conflicting views should be subject to the test of trial and experiment: if opponents of the reform should prove to be right, no harm would have been done and the inestimable boon to the social conscience of the Colony that here there was no "problem" to solve, would have been achieved; if the advocates for the reform should prove to be right, then a great blot on the fair name of the Colony would have been removed.
- (e) It was conceded that any new legislation along the lines envisaged by the petitioners would not achieve much good unless it were administered with tact and sympathy as well as ability; but, given such administration, I felt sure that the Protector, in carrying out her contemplated duties, would never have had to resort to a house-to-house search—an idea which the Majority Report rightly characterised as fantastic—and further that the grave danger of corruption of individual members of the staff of the Protector would be safeguarded.

Sir, the above remain the main reasons why I wholeheartedly support the Bill now before this Council. In the hands of the Secretary for Chinese Affairs, the new law will be a powerful instrument for good. The Colony should be grateful to you, Sir, for the deep and personal interest which Your Excellency has taken in the solution of this difficult question.

Before I sit down I should like to pay a sincere tribute to my honourable friends the Attorney General and the Secretary for Chinese Affairs for the very patient manner in which they have dealt with this question, considered the varying and conflicting views and, in short, hammered out a formula, now embodied in Clauses 31 to 36, which should give satisfaction to all parties concerned.

H.E. THE GOVERNOR.—It is with very much pleasure that I have listened to what the Hon. Mr. M. K. Lo has said and which, I feel sure, constitutes the great bulk, and the best, of Chinese opinion on this matter.

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

Council then went into Committee to consider the Bill clause by clause.

Clause 2.

THE ATTORNEY GENERAL.—I move that in paragraph (b), "of premises" be inserted after "Keeper" and "in question" be deleted;

In paragraph (c), the inverted commas be closed after "Occupier" and not after "premises", and "the premises" be substituted for "any premises" in the second line;

In paragraph (*d*), the inverted commas be closed after "Owner" and not after "premises";

In paragraph (*e*), "or" be substituted for "and provisions referring", "construed as including references to" for "taken as including", and "and the civil equivalent of Christian marriages" for "or their civil equivalent".

These amendments are mainly in matters of form to secure uniformity throughout the clause.

Clause 3 (1).

THE ATTORNEY GENERAL.—I move that in the proviso, "of" in the third line be deleted and a comma be inserted after "magistrate"; "the" be substituted for "such" in the penultimate line.

Clause 5.

THE ATTORNEY GENERAL.—I move that to the side note "cf. No. 3 of 1916, s. 5 (2), and No. 1 of 1932, s. 17 (1) (*e*)," be added. This is subject to other provisions referred to at the end of the Ordinance.

Clause 6.

THE ATTORNEY GENERAL.—I move that to the side note "cf. No. 3 of 1916, ss. 2, 5, and No. 1 of 1932, s. 17 (1) (*e*)," be added.

Clause 10.

THE ATTORNEY GENERAL.—I move that to the side note "cf. No. 3 of 1916, s. 5," be added.

Clause 17 (3).

THE ATTORNEY GENERAL.—I move that "or the magistrate" be inserted after "court" in the penultimate line. The purposes of this amendment is to make it clear that the presumption applies in magisterial proceedings.

Clause 19.

THE ATTORNEY GENERAL.—I move that in paragraph (*b*), "to" be substituted for "on" in the third line.

Clause 21 (3).

THE ATTORNEY GENERAL.—I move that "is" be substituted for "shall be" in the fourth line and "section" for "sections" in the fifth line.

Clause 22.

THE ATTORNEY GENERAL.—I move that the word "any" be deleted in the seventh line. The word "any" is deleted for uniformity with the English Act.

Clause 26.

THE ATTORNEY GENERAL.—I move that the following proviso be added "Provided that no prosecution shall be brought under this section in respect of any girl of or above the age of 16 years without the consent of the Secretary for Chinese Affairs". This proviso was added on the recommendation of Honourable Mr. Lo. The age set out in the English section is 16 and this proviso is added to ensure that no prosecution is brought in respect of a girl between the ages of 16 and 21 except on good grounds.

Clause 30 (2).

THE ATTORNEY GENERAL.—I move that "section", be substituted for "sections" in the second line.

Clause 31.

THE ATTORNEY GENERAL.—I move that for sub-clause (1), the following be substituted:—

"31.—(1) Whenever any person adopts as his own and obtains the custody of the child of any other person, such child being a girl under the age of 21 years, the legal guardianship of such child while in this Colony shall vest in the Secretary for Chinese Affairs unless the custody of the child was given to the adopter by order of a competent court;" that a new sub-clause (2) be added as follows:—

"(2) Subject to the provisions of sub-section (5), whenever the Secretary for Chinese Affairs, upon such inquiry as he may think fit to make, is satisfied that either of the parents or any person acting in the place of a parent of any girl under the age of 21 years has parted or agreed to part with the custody of the girl to some other person either permanently or for any consideration except marriage, the Secretary for Chinese Affairs, in his absolute discretion, may in writing declare that the girl shall be his ward, and upon the making of such declaration the legal guardianship of the girl while in this Colony shall vest in the Secretary for Chinese Affairs;" and that the present sub-clause (2) be re-numbered as sub-clause (3) and substitute for "the legal guardianship of such girl while within the Colony shall be vested in the Secretary for Chinese Affairs," the following:— "and subject to the provisions of sub-section (5) the Secretary for Chinese Affairs may in his absolute discretion declare that the girl shall be his ward, and upon the making of such declaration the legal guardianship of the girl while in this Colony shall vest in the Secretary for Chinese Affairs."

I also move that a new sub-clause (4) be added as follows:—

"(4) The Secretary for Chinese Affairs may revoke any such declaration as is mentioned in sub-section (2) or (3) by a subsequent declaration, and upon the making of any such subsequent declaration the legal guardianship of the girl to whom the declaration relates shall vest or re-vest in the person in whom, but for the provisions of this section, it would otherwise by law be vested: Provided that, notwithstanding anything in this sub-section, the powers conferred by sub-sections (2) and (3) may be exercised from time to time as occasion requires."

Also that a new sub-clause (5) be added as follows:—

"(5) As soon as practicable after making any declaration under this section in respect of any girl, the Secretary for Chinese Affairs shall inform the person in whose custody the girl appears to be of the making of the declaration and any person aggrieved by the making of any declaration by the Secretary for Chinese Affairs under this section may apply in a summary manner to a judge in chambers within three months after the making of the declaration or within such extended time as the judge in any case may allow and on such application the judge may give such directions in the matter as he thinks proper";

That the present sub-clause (3) be re-numbered as sub-clause (6) and "so" in the sixth line be deleted;

That the present sub-clause (4) be re-numbered as sub-clause (7) and in paragraph (b) "photographs of such girl and of himself" be substituted for "copies of her and such person's own photographs";

That the present sub-clause (5) be re-numbered as sub-clause (8) and "executed under sub-section (6) or (7)" be substituted for "mentioned in sub-sections (3) or (4)" in the third and fourth lines; and

That the present sub-clause (6) be re-numbered as sub-clause (9).

The effect of the first three sub-clauses is that the guardianship of an adopted child vests in the Secretary for Chinese Affairs upon the passing of the custody of the child to the adopter and in other cases to empower the Secretary for Chinese Affairs after inquiry to assume the guardianship of a girl under 21 living with her parents by making a declaration to that effect, subject to appeal to a judge in chambers as set out in sub-clause 5.

Sub-clause 4 allows of a certain elasticity in applying these provisions and makes it clear that a declaration of guardianship may if necessary be made more than once in respect of the same child.

H.E. THE GOVERNOR.—Is there any particular point in using the phrase "in the Colony" in one place and "in this Colony" in another?

THE ATTORNEY GENERAL.—Both expressions are used in the Interpretation Ordinance. In law there is no difference.

Clause 32.

THE ATTORNEY GENERAL.—I move that in the side note, "under s. 31 (1)" be deleted, and for the whole clause the following be substituted:—

"32.—(1) The Secretary for Chinese Affairs shall keep a register of the girls of whom the legal guardianship is vested in him by virtue of this Ordinance.

This provision was transferred from the Regulations. It seems more fitting that a provision casting the duty of keeping a register upon the Secretary for Chinese Affairs should appear in the Ordinance rather than in the Regulations.

(2) Every person who at the date of the passing of this Ordinance has in his custody or control any girl the legal guardianship of whom is vested in the Secretary for Chinese Affairs pursuant to section 31 (1) shall within three months from such date as may be appointed by the Governor by notification in the *Gazette* give notice thereof in a manner to be prescribed by regulations.

This sub-clause has been redrafted in order to meet the objection that I understand Honourable Sir Henry Pollock had—I think rightly—to it in its original form.

(3) Every person who acquires the custody or control of any such girl shall within one month from the date of acquiring such custody or control give notice thereof in a manner to be prescribed by regulations.

(4) Every person who brings into the Colony any such girl shall within one week from the date of bringing such girl into the Colony give notice thereof in a manner to be prescribed by regulations:

Provided that nothing in this section shall apply in the case of any girl required to be registered under the Female Domestic Service Ordinance, 1923."

With regard to the proviso it is hoped that the register kept under Ordinance No. 1 of 1923 will disappear and then these will be the only provisions before registration.

Clause 33.

THE ATTORNEY GENERAL.—I move that "with respect to any of the following matters or for any of the following purposes" be

substituted for "for the following purposes"; and that in paragraph (a), "pursuant to section 31 (1)" be deleted.

Clause 34.

THE ATTORNEY GENERAL.—I move that in sub-clause (1), "any regulation" be substituted for "the regulations" in the second line; and in

Sub-clause (3), Add a side note—"Ordinance No. 41 of 1932."

Clause 35 (1).

THE ATTORNEY GENERAL.—I move that "section 32, 33 or 34" be substituted for "sections 32, 33 and 34"; that in paragraph (a), "section 32 (1)" be substituted for "section 33"; that in paragraph (b), "any Assistant Secretary" be substituted for "Assistant to the Secretary"; and for paragraph (c), substitute the following:—

"(c) any photograph purporting to be certified by the Secretary for Chinese Affairs or any Assistant Secretary for Chinese Affairs as a photograph furnished to him in pursuance of any of the provisions of this Ordinance or any regulation made thereunder or in connexion with the registration of any girl under this Ordinance."

I have used the word "photograph" instead of the words "copy of a photograph" wherever these words appear. The word "photograph" seems to include any copy of a photograph.

Clause 36.

THE ATTORNEY GENERAL.—I move that in sub-clause (1), for the first paragraph the following be substituted:—

"36.—(1) Whenever the Secretary for Chinese Affairs has reason to believe that any woman or girl has been brought into or is about to be taken out of this Colony by force, threats, intimidation, false pretences, false representations or other fraudulent means, or is in the custody or control or under the direction or influence of another person and is or is likely to be exposed to any danger of seduction or prostitution, he may inquire into the case and—";

in paragraph (i), "so" be deleted in the fourth line;

for paragraph (ii) (b), the following be substituted:—

"(b) to furnish photographs of such woman or girl and of himself;" and in the proviso, all the words after "detention" be deleted and "of any person of or above the age of 18 years," be substituted.

The original draft of this sub-clause was unnecessarily complicated and this amendment I think clarifies it.

In sub-clause (2), "woman or" be inserted before "girl" in the first line and "executed under" for "mentioned in" in the fourth line.

In sub-clause (3), an error of spelling in "generally" in the fourth line be corrected.

Clause 37.

THE ATTORNEY GENERAL.—I move that in sub-clause (1), "section 31 (6)" be substituted for "section 31 (3)" in the second line; that sub-clause (2) be deleted; and sub-clauses (3) and (4) be re-numbered as (2) and (3).

The reason for the deletion of this sub-clause is that a general provision to the same effect will shortly be made in the Interpretation Ordinance in the course of Law Revision, and it is unnecessary in the short time which will intervene to include a special provision in this Bill.

Clause 39 (1).

THE ATTORNEY GENERAL.—I move that "refuge" be substituted for "safety" in the penultimate line.

This is the only place in this Bill where the word "safety" is used instead of "refuge" and I have altered it accordingly.

Clause 40.

THE ATTORNEY GENERAL.—I move that in the side note, all the words after "Affairs" be deleted and "to require persons to attend inquiry," be substituted;

For sub-clause (1) the following be substituted:—

"(1) The Secretary for Chinese Affairs may from time to time hold any such inquiry as he thinks fit for any of the purposes of this Ordinance and by notice in writing under his hand may require any person to attend such inquiry and to give evidence."

It seemed unnecessary to name certain sections in defining the powers of inquiry of the Secretary for Chinese Affairs, and I have therefore substituted a general provision.

In sub-clause (2), paragraph (b), ",or" be substituted for "relating to such woman or girl and" in the second line, and ",relating to the

matter under inquiry; or" for "respecting such woman or girl or in any way relating to the matter being inquired into; or" in the two last lines;

For sub-clause (2), paragraph (c), "(c) having any woman or girl in his custody or control and being required by the Secretary for Chinese Affairs to produce her, without lawful excuse refuses or neglects to comply with such requirement," be substituted.

THE ATTORNEY GENERAL.—I move the following amendments on the Schedule:—

Regulations under the heading "Places of refuge":

In regulation 1, substitute "Tai Po" for "Taipo" in the third line.

Regulations under the heading "Registration":

In regulation 1, substitute "Notice required by section 32 shall be given" for "Registration may be effected," and delete "The register shall be kept by the Secretary for Chinese Affairs."

In regulation 2, delete "pursuant to section 31 (1)" in paragraph (a) and in paragraph (b).

In regulation 3, substitute "to be notified" for "on registration."

Appendix A: Substitute the heading "Form of Notice." for "Registration Form."

Upon Council resuming,

THE ATTORNEY GENERAL.—Your Excellency,—I have the honour to report that the Protection of Women and Girls Bill has been extensively amended in Committee, and the amendments incorporated in a reprint of the Bill which is now in the hands of Honourable Members. May I say, Your Excellency, that the amendments in Committee make no alteration in the principle of the Bill at all, but only in matters of detail. The title and scope of the Bill have not been changed, and the character of the Bill has not altered. There is no reason why these amendments should not be made in Committee.

I therefore move 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*.

FINANCE COMMITTEE.

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

The Hon. Director of Medical Services attended by invitation.

Votes totalling \$215,372 under Estimates, 1938, were considered.

Item 57.—34, Public Works Extraordinary:—New Kowloon. Anti-Malarial Works. 80—Anti-Malarial Works, \$5,000.

HON. SIR HENRY POLLOCK.—What are the less urgent works in the New Territories?

THE DIRECTOR OF MEDICAL SERVICES.—The sum was voted generally. The trouble in the New Territories is largely a matter of wet cultivation, and we have not quite made up our minds how to deal satisfactorily with it, so we are asking for a transfer of the money to New Kowloon where we know work is very necessary.

HON. SIR HENRY POLLOCK.—Is it in the neighbourhood of Taipo?

HON. DR. SELWYN-CLARKE.—It is general.

HON. MR. CAINE.—A certain amount is voted each year. It is divided between Hong Kong, Kowloon, New Kowloon and the New Territories.

HON. SIR HENRY POLLOCK.—I think that anything that can eliminate malaria in the New Territories is urgent.

All the votes were approved.
