

1st September, 1938.

PRESENT:—

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

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. 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. MR. J. J. PATERSON.

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

HON. MR. LO MAN-KAM.

HON. DR. LI SHU-FAN.

HON. MR. S. H. DODWELL.

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

ABSENT:—

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

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

HON. MR. A. L. SHIELDS.

MINUTES.

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

PAPERS.

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

Rescission of the Order made by the Governor in Council on the 19th May, 1938, under section 18 of the Quarantine and Prevention of Disease Ordinance, 1936, Ordinance No. 7 of 1936, dated 28th July, 1938.

Declaration under section 18 of the Quarantine and Prevention of Disease Ordinance, 1936, Ordinance No. 7 of 1936, dated 28th July, 1938.

Amendment made by the General Officer Commanding the Troops, with the approval of the Governor after consultation with the Commandant of the Hong Kong Volunteer Defence Corps, under section 10 of the Volunteer Ordinance, 1933, Ordinance No. 10 of 1933, to the First Schedule to that Ordinance, dated 29th July, 1938.

Amendments made by the Governor in Council under sections 37 (2) and 43 (3) of the Merchant Shipping Ordinance, 1899, Ordinance No. 10 of 1899, to Tables E, T and U in the Schedule to that Ordinance, dated 20th August, 1938.

Regulations made by the Governor in Council under section 2 of the Emergency Regulations Ordinance, 1922, Ordinance No. 5 of 1922, prohibiting the importation of milk into the Colony, dated 23rd August, 1938.

Regulations made by the Governor in Council under section 3 of the Post Office Ordinance, 1926, Ordinance No. 7 of 1926, dated 25th August, 1938.

Rates of postage determined by the Governor in Council under the Post Office Ordinance, 1926, Ordinance No. 7 of 1926, dated 25th August, 1938.

Notice to Airmen No. 4 of the year 1938, dated 22nd August, 1938.

Proclamation No. 7.—The Merchant Shipping (No. 2) Amendment Ordinance, 1934, Ordinance No. 25 of 1934, and the Merchant Shipping Amendment Ordinance, 1937, Ordinance No. 22 of 1937, to come into operation on the 1st day of September, 1938.

Administration Reports, 1937:—

Part II.—Law and Order:—

Report of the Police Magistrates' Courts.

Sessional Papers, 1938:—

No. 10.—Water Finances.

- I. Memorandum by Financial Secretary.
- II. Memorandum on Modifications decided upon in proposals made in Part I.

No. 11.—University of Hong Kong.

Despatch No. 514 of 27th June, 1938, to the Secretary of State for the Colonies.

Ordinances of Hong Kong (1937 Edition), Volume I, 1844-1900.

Regulations of Hong Kong (1937 Edition), Volume I, 1844-1900.

QUESTIONS.

HON. MR. LO MAN-KAM asked:—

With reference to my questions in this Council on March 9, 1938, and to the Hon. the Colonial Secretary's reply, is Government now in a position to give any indication as to when the Report will be published?

THE COLONIAL SECRETARY replied:—

The Government is not at the present time in a position to say when the Report in question will be published.

HON. MR. LO MAN-KAM asked:—

In regard to revenue in respect of water consumption:—

- (1) According to actual receipts from 1st January, 1938, up to the end of July, 1938, (or up to the end of the latest month in respect of which actual figures are available), what was the amount received in respect of 2% of the rates?
- (2) In respect of the same period what was the amount received:—
 - (i) For meter and fire service rental?

- (ii) For excess consumption?
- (iii) For shipping and construction supplies?
- (3) In respect of the same period what would have been the revenue received if the charges for water had been on the basis set out in Appendix 2 to Sessional Paper No. 4 of 1938, with separate figures for the separate categories therein shown?

Thus:—

| | | |
|--|---------------------------|----------|
| Flat rates | million gallons at \$0.30 | \$ |
| Peak Supplies | million gallons at \$0.50 | \$ |
| High Levels | million gallons at \$0.40 | \$ |
| Shipping and Construction supplies | million gallons at \$1.00 | \$ |

THE COLONIAL SECRETARY replied:—

The answers to these questions have been set out in printed form, and are now before Hon. Members.

Period 1st January, 1938, to 31st July, 1938.

| | |
|---|----------------|
| (1) Actual receipts in respect of 2% of rates | \$ 442,892.32 |
| <i>Actual receipts.</i> | |
| (2) (i) Meter and Fire Service Rentals | \$ 243,841.02 |
| (ii) Excess Consumption | 971,553.75 |
| (iii) Shipping and Construction Supplies | 99,290.00 |
| Total | \$1,314,684.77 |

(3) *Revenue for same period under new charges.**Filtered.*

| | | | | | | | |
|-------------------------------|-------------------------------------|--|--|--|--|---|----------------|
| (i) Peak District | | | | | | | |
| | 40 M.G. @ 45 cts. p. 1,000 | | | | | | \$ 18,000.00 |
| (ii) Higher Levels | | | | | | | |
| | 100 " " 35 " " | | | | | | 35,000.00 |
| (iii) Military | 24 " " 10 " " | | | | | | 2,400.00 |
| (iv) Other Districts | | | | | | | |
| | 3,066 " " 25 " " | | | | | | 766,500.00 |
| (v) Shipping and Construction | | | | | | | |
| | 99 M.G. @ \$1 | | | | | " | 99,000.00 |
| | <i>Unfiltered</i> 50 " " 20 cts | | | | | " | 10,000.00 |
| | | | | | | | \$930,900.00 |
| | Meter and Fire Service Rentals..... | | | | | | 243,841.02 |
| | | | | | | | \$1,174,741.02 |

*Explanatory Notes.**1 and 2 Treasury figures.*

2. (1) Meter and Fire Services Rentals being payable annually in advance the total figure for the whole year will not greatly exceed the figure for the 7 months.
3. Approximate figures. Exact figures would take over a month to work out, as the recorded consumption through every meter would have to be taken. Future revenue will be adversely affected by the water restrictions now in force. The rates for the various districts were modified subsequently to the publication of Sessional Paper No. 4 of 1938.

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. 6 of 28th July, 1938, and moved that it be adopted.

THE FINANCIAL SECRETARY seconded, and this was agreed to.

MOTIONS.

THE ATTORNEY GENERAL moved the following resolution:—

Resolved that the First Volume of the new edition of the Ordinances, and the First Volume of the new edition of the Regulations of the Colony, which have been prepared under the authority of the Ordinances and Regulations of Hong Kong (1937 Edition) Ordinance, 1936, and which have this day been laid before this Council for approval, be approved. He said: Your Excellency, fourteen years have elapsed since the last revision of the Ordinances of this Colony, and for that reason it has been thought better not to delay the publication of the new edition prepared under authority of the Ordinances and Regulations of Hong Kong (1937 edition) Ordinance, No. 51 of 1936, until the whole of that edition has been printed, but to publish each volume of the Ordinances and Regulations as soon as it is ready. Authority for this course is contained in Ordinance No. 51 of 1936. The formal approval of this Council is sought for the first volume of the Ordinances and the first volume of the Regulations which are now before it. That approval, if given, will I assume, be notified by a proclamation by you Sir, after this meeting. The effect of that proclamation will be that this volume of the new edition of the Ordinances will from to-morrow become the sole and only proper statute book of the Colony up to the date of the latest of the Ordinances obtained in that volume.

Similarly, the companion volume of the Regulations will be deemed to contain all the Regulations in force under and by virtue of the Ordinances in the corresponding volume on the first day of January, 1938. The same proclamation will also bring into force the Law Revision Ordinance, 1937. The amendments contained in that Ordinance and the schedule thereto have already been incorporated in the first volume of the Ordinances.

It was at first thought possible to include in this first volume all the Ordinances up to the end of 1901, and with that end in view, certain amendments were made by the Law Revision Ordinance in the Code of Civil Procedure and other Ordinances passed in the year 1901. It is found, however, that to include all the Ordinances in the year 1901 in the first volume of the new edition would make that volume too bulky, and so we stopped at the year 1900. Although the result of this will be to make it necessary for some amendments to be made to volume 3 of the edition prepared by the late Mr. Dyer Ball, it is hoped that no great inconvenience will be caused thereby, because the second volume of the new edition of the Ordinances is now well under way, and should be ready for publication shortly, and thereafter the other volumes and the index should appear in rapid succession.

The cost of the new edition is somewhat higher than the old one, \$200 instead of \$90, but since the edition is limited, that will not reimburse the Government for the cost of production. It will include all the Ordinances up to the end of 1937, a volume containing chronological tables and a full index, and it is hoped to include a volume

containing various Orders in Council, Proclamations, Imperial Acts and similar Documents affecting Hong Kong arranged in the same manner as the old Volume 3 of the edition prepared by the Hon. Mr. Alabaster, K.C. I should also say that the price of the whole new set of the regulations is \$100. The Ordinances will be obtainable from the Government Printers and the Regulations from the Colonial Secretary's Office.

THE COLONIAL SECRETARY seconded.

H.E. THE GOVERNOR.—The Council will welcome the result of the Hon. Attorney General's labours.

The resolution was approved.

THE ATTORNEY GENERAL moved the following resolution:—

Resolved pursuant to section 3 of the Public Officers (Changes of Style) Ordinance, 1937, that the style of the offices of "Superintendent of Prisons" be changed to that of "Commissioner of Prisons" and of "Assistant Superintendent of Prisons" to "Superintendent of Prisons" for all purposes, and that the following addition be made to the Schedule to the said Ordinance:—

| <i>Old style of officer, office or department.</i> | <i>New style of officer, office or department.</i> |
|--|--|
| Superintendent of Prisons. | Commissioner of Prisons. |
| Assistant Superintendent of Prisons. | Superintendent of Prisons. |

He said: The appointment of Major Willcocks to be in charge of the prisons in this Colony with the title of Commissioner of Prisons has made it necessary formally to alter that title in all Ordinances, Regulations, Enactments and other documents in which the name Superintendent of Prisons now appears. Similarly the amendment of the title Assistant Superintendent of Prisons will be made by changing that title to Superintendent of Prisons.

THE COLONIAL SECRETARY seconded, and the resolution was approved.

FEMALE DOMESTIC SERVICE ORDINANCE, 1938.

THE ATTORNEY GENERAL moved the first reading of a Bill intituled "An Ordinance to amend the Female Domestic Service Ordin-

ance, 1923. He said: The Objects and Reasons for this amendment are set out in a memorandum attached to the Bill. The amendment is made, of course, in connection with the women's and girls' legislation lately passed in this Colony.

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

Objects and Reasons.

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

1. The Mui Tsai Commission recommended at pages 116 and 117 of their Report that the employment of a female under twelve years as a domestic servant should be prohibited by law, that the six months time limit for prosecutions for the offence of bringing an unregistered Mui Tsai into the Colony should be removed and that a Mui Tsai shall cease to be a Mui Tsai on reaching the age of eighteen.

2. The object of this Bill is to implement these recommendations. Other recommendations are being dealt with in other Bills or by amendments to the regulations and administrative action.

OFFENCES AGAINST THE PERSON AMENDMENT ORDINANCE, 1938.

THE ATTORNEY GENERAL moved the first reading of a Bill intituled "An Ordinance to repeal and replace Section 45A of the Offences Against the Person Ordinance, 1865, as enacted by the Offences Against the Person Amendment Ordinance, 1929." He said: The Objects and Reasons for this amendment are set out in a memorandum attached to the Bill. As in the former case, this Bill is also in connection with the new Women and Girls Ordinance.

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 Mui Tsai Commission at pages 34, 35, 56, 116 (5) and 117 (6) of their Report recommended the revision of section 45A of Ordinance No. 2 of 1865 so as to remove the limitation which restricts its operation to minors, to alter the method of expressing the exclusion of marriage and adoption from the scope of the section, and to remove from offences of this nature the six months time limit for prosecutions imposed by section 20 of the Magistrates Ordinance, 1932 for the trial of offences which are not indictable.

2. This Bill repeals section 45A with these recommendations in view.

3. The offences are made misdemeanours and the maximum term of imprisonment is raised to two years. The alternative of a fine or recognizances is already provided in section 61 of the Offences Against the Person Ordinance, 1865. The offence though made indictable may still be dealt with summarily under section 84 of Ordinance No. 41 of 1932.

4. The restriction of the operation of the section to minors is removed, and the method of expressing the exclusion of adoption or marriage etc. has been altered.

5. Sub-sections (1) and (2) are made to apply to temporary as well as permanent transfers so as to cover more clearly transactions which partake of the nature of a pledge.

6. Sub-sections (3), (4), (5) and (6) as enacted in 1929 are omitted as in view of the redraft they do not appear necessary.

7. The consent of the Secretary for Chinese Affairs to prosecutions is substituted for the consent of the Attorney General. Compare Ordinance No. 1 of 1923, s. 19.

WATERWORKS ORDINANCE, 1938.

THE ATTORNEY GENERAL moved the first reading of a Bill intituled "An Ordinance to provide for and regulate the supply of water." He said: The Objects and Reasons for this measure are contained in a memorandum attached to the Bill and there is also a table of correspondence which shows the clauses of this Bill and the corresponding clauses of Ordinance No. 16 of 1903. It is merely a guide as most of the sections have been redrafted. There has been to-day laid on the table a memorandum by the Hon. Financial Secretary on the water finances of the Colony which sets out the charges for the water and the reasons for the new scheme.

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 object of this Bill is to repeal the Waterworks Ordinance, 1903, and the regulations made thereunder and to replace them by an Ordinance and Regulations in accordance with modern requirements.

2. A Table of Correspondence is attached as a guide to the source of the provisions of the various clauses which are not entirely new.

3. The Bill is drafted on the assumption that there is to be in future no general free allowance of water based on rateable valuation but that free allowances may be permitted in the case of hospitals and other approved institutions (see Appendix III).

4. Provision has been made for the following new features:—

- (a) power to demand deposits to cover payments for chargeable water (clause 9 and reg. 3);
- (b) the licensing of approved plumbers (reg. 10);
- (c) the stamping of approved fittings (reg. 11);
- (d) charging fees for the privilege of using main water for flushing (reg. 18);
- (e) separate floor metering (reg. 7 (c));
- (f) the representation of the water authority by authorized officers (clauses 2 (b) and 28 and reg. 1).

5. The demanding of deposits to cover water charges, etc., is in conformity with modern waterworks practice and has been found necessary in Hong Kong.

6. The licensing of plumbers and stamping of approved fittings are also in accordance with modern waterworks practice.

7. The charging of a fixed fee for the flushing privilege, when exercised, is considered a fairer method than increasing the cost of water used in the premises concerned. A fee equivalent to the meter rental is proposed so that for an average residence the flushing fee would be \$10 per annum in addition to payment at the ordinary rate for all water consumed.

8. In order to enable separate floor meters to be installed in tenement houses the water authority is given special powers (reg. 7 (c)).

NEW TERRITORIES REGULATION AMENDMENT ORDINANCE, 1938.

THE ATTORNEY GENERAL moved the first reading of a Bill intituled "An Ordinance to amend the New Territories Regulation Ordinance, 1910." He said: The Objects and Reasons for this amendment are set out in a memorandum attached to the Bill. The Ordinance as it now stands provides only for the making of regulations in that Ordinance for the sanitation of the New Territories in the same manner as the by-laws made by the Urban Council for the urban districts of the Colony. I have shown in the Objects and Reasons the measures it

is proposed to enact for this rather important amendment of the Ordinance which, I hope, will show the general policy of the Government in this matter.

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. Clause 2 of this Bill substitutes a new sub-section (1) in section 6A of the principal Ordinance empowering the Governor in Council to make rules for the prevention and abatement of nuisances and the making of magistrates' orders in connexion therewith, and making certain other verbal amendments consequent on the repeal of the Public Health and Buildings Ordinance, 1903, and the replacement of that Ordinance by new legislation.

2. For some years the Government has endeavoured by the giving of lectures, the circulation of notices and the appointment of a Health Officer in an advisory capacity, to educate the villagers in the New Territories in the principles of sanitation. Other measures have been taken, such as the provision of facilities for scavenging in semi-urban districts, the provision of public latrines, and the assistance of villagers from public funds in the carrying out of small works of improvement to secure more sanitary conditions in certain areas. These measures are in addition to the major works undertaken by the Public Works Department.

3. It is now considered desirable to supplement these measures by the appointment of an additional staff of Chinese Sanitary Inspectors and to lay down rules for the prevention of nuisances.

4. Powers of entry and inspection are being given to Health Officers and Sanitary Inspectors by the application of sections 8 and 19 of the Public Health (Sanitation) Ordinance, 1935, to the New Territories, by Order of the Governor in Council under section 99 of that Ordinance.

5. The object of this Bill is to enable the Governor in Council to lay down simple general rules for the prevention and abatement of nuisances, it being considered impracticable at present to apply in rural districts the same laws and regulations as apply to the urban areas of Hong Kong, Kowloon and New Kowloon.

6. It is proposed in these rules to deal with nuisances which may be the subject of summary prosecution in England under the Public Health Acts. On finding any such nuisance, the inspector would request its abatement and, if it were not abated, apply to a magistrate to make an order. The owner or tenant of the premises on which

the nuisance is found to exist would then have an opportunity of contesting the making of the order, and breach of an order, if made, would be dealt with under the ordinary law relating to summary proceedings before magistrates.

SAND ORDINANCE, 1938.

THE ATTORNEY GENERAL moved the second reading of a Bill intituled "An Ordinance to amend the Sand Ordinance, 1935."

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

SEDITION ORDINANCE, 1938.

THE ATTORNEY GENERAL moved the second reading of a Bill intituled "An Ordinance to make better provision for the prevention and punishment of sedition."

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

PROHIBITED PUBLICATIONS ORDINANCE, 1938.

THE ATTORNEY GENERAL moved the second reading of a Bill intituled "An Ordinance to prohibit the importation of undesirable publications."

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

On the motion of the Attorney General, seconded by the Colonial Secretary, the Council then went into committee to consider the following bills clause by clause:

SAND ORDINANCE, 1938.

SEDITION ORDINANCE, 1938.

PROHIBITED PUBLICATIONS ORDINANCE, 1938.

Upon Council resuming,

THE ATTORNEY GENERAL reported that the Sand Ordinance Amendment 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.

THE ATTORNEY GENERAL reported that the Sedition 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.

THE ATTORNEY GENERAL reported that the Prohibited Publications 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.

H.E. THE GOVERNOR.—The Council stands adjourned to September 15.

FINANCE COMMITTEE.

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

Votes totalling \$242,911 under Estimates 1938, contained in Message No. 7 from His Excellency the Governor, were considered.

146.—23, Sanitary Department:—7, Coffins and Biers, \$2,000.

HON. MR. PATERSON.—On a point of English, what is the difference between a coffin and a bier?

THE CHAIRMAN.—A bier is what you carry a coffin on. The sub-head covers both.

HON. MR. CAINE.—They are probably all coffins.

147.—26, Kowloon-Canton Railway:—Special Expenditure. Repairs to 1 Locomotive and 2 wagons damaged by bombing, \$4,318.

HON. DR. LI.—I should like to know whether any claim for compensation has been made by the Government to the responsible party.

THE CHAIRMAN.—Not yet in respect of this item. We did claim in a previous case, as Hon. Members will remember, and we got nothing. The claim has presumably been registered. It was made towards the end of last year.

148.—26, Kowloon-Canton Railway:—Special Expenditure. Repairs to Rolling Stock due to collision at Mile 8½, \$40,300.

HON. MR. PATERSON.—Has there been an inquiry?

THE CHAIRMAN.—Yes.

HON. MR. PATERSON.—I was out there after it occurred and it looked as if the trains had charged each other on a straight bit of rails.

THE CHAIRMAN.—There has been an exhaustive inquiry. There were no lives lost and nobody was seriously injured. The inquiry was reported to Government and comes to about 11 pages of notes. It found one of the officers guilty of negligence and he was reduced in grade. The finding was approved by His Excellency the Governor on August 6, the law officers having agreed that the finding was correct.

HON. MR. PATERSON.—He seems to have got off pretty cheaply. I notice that he has lost the taxpayers \$40,000.

THE CHAIRMAN.—There would be no harm, I think, in seeing the findings, if members are interested. It is very long.

153.—34, Public Works Extraordinary:—New Kowloon. Miscellaneous. 75, New Kowloon Cemetery No. 7, \$15,000.

HON. DR. LI.—I notice that cemeteries of this Colony, and particularly the new one, are rather devoid of any growth or trees. I strongly recommend to your attention that this point be borne in mind. I think it can be suitably done.

THE CHAIRMAN.—That has been taken up quite recently. It was raised when we were considering the estimates for next year. We were thinking particularly of Chai Wan cemetery. It is rather an eye-sore.

HON. DR. LI.—That reminds me. I was there recently and my impression was that it was still quite devoid of growth.

THE CHAIRMAN.—It has not been done but it is on the programme.

All the votes were approved.
