

*7th March, 1940.*

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**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. E. GRASETT, D.S.O., M.C.).

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

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

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

THE FINANCIAL SECRETARY (HON. MR. H. R. BUTTERS, *Acting*).

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

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

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

HON. MR. A. B. PURVES (Director of Public Works).

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

HON. MR. J. J. PATERSON.

HON. MR. LO MAN-KAM.

HON. MR. S. H. DODWELL.

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

HON. DR. LI SHU-FAN.

HON. MR. A. L. SHIELDS.

HON. MR. W. N. T. TAM.

MR. C. B. BURGESS (Deputy Clerk of Councils).

**MINUTES.**

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

**STANDING LAW COMMITTEE.**

THE COLONIAL SECRETARY.—By Your Excellency's direction, I rise to announce the appointment of the Standing Law Committee for 1940.

The following Members have been appointed and have agreed to serve:—

The Honourable the Attorney General (Chairman).

The Honourable the Financial Secretary.

The Honourable Sir Henry Edward Pollock, KT., K.C., LL.D.

The Honourable Mr. M. K. LO.

The Honourable Mr. Leo D'Almada e Castro, Junior.

**PAPERS.**

THE COLONIAL SECRETARY.—By command of Your Excellency, I lay upon the table certain papers, copies of which are in the hands of Honourable Members, except for Item Nos. 34 and 35 on the list, namely the List of statements and abstracts of reports, and the Annual Abstract Account for 1938, with a report of the Director of Colonial Audit, which are too bulky to print, but these are available for Honourable Members to scrutinize if they desire.

The papers laid on the table were as follows:—

Amendments made by the Governor in Council under section 29 of the Waterworks Ordinance, 1938, Ordinance No. 20 of 1938, to the regulations in the Schedule to that Ordinance, dated 27th December, 1939.

Amendment made by the Governor in Council under section 3 of the Vehicles and Traffic Regulation Ordinance, 1912, Ordinance No. 40 of 1912, to the regulations, dated 27th December, 1939.

Amendments made by the Urban Council under sections 5 and 6 of the Public Health (Food) Ordinance, 1935, Ordinance No. 13 of 1935, to the by-laws in the schedule to that Ordinance under the heading "Sale of Milk generally and Dairies and Milk Shops" on the 5th day of December, 1939, and approved by the Legislative Council on the 28th day of December, 1939.

Order made by the Controller of Trade under the Defence Regulations, 1939, with the consent of the Governor, prohibiting the export, except by licence, of certain goods, dated 29th December, 1939.

Amendment made by the Governor in Council under section 4 (1) (a) of the Stamp Ordinance, 1921, Ordinance No. 8 of 1921, to Heading No. 10 in the Schedule to that Ordinance, dated 5th January, 1940.

Rules made by the Governor under section 20 (3) of the Juvenile Offenders Ordinance, 1932, Ordinance No. 1 of 1932, dated 4th January, 1940.

Order made by the Controller of Food under the Defence Regulations, 1939, with the consent of the Governor, fixing the standard prices for certain articles of food, dated 5th January, 1940.

Order made by the Governor in Council under section 3 of the Importation and Exportation Ordinance, 1915, Ordinance No. 32 of 1915, prohibiting the importation of certain merchandise from Macao, dated 12th January, 1940.

Order made by the Controller of Trade under the Defence Regulations, 1939, with the consent of the Governor, prohibiting the export of copper coins of all kinds, except by licence, dated 12th January, 1940.

Amendments made by the Governor in Council under section 2 of the Lighting Control Ordinance, 1936, Ordinance No. 55 of 1936, to the regulations, dated 15th January, 1940.

Control of Communications Order, 1940, made by the Governor under the Defence Regulations, 1939, dated 13th January, 1940.

Order made by the Controller of Food under the Defence Regulations, 1939, with the consent of the Governor, fixing the standard price for Rolled Oats and Oatmeal, dated 19th January, 1940.

Trading with the Enemy (Specified Persons) (Amendment) Order, 1940, made by the Governor, with the prior approval of the Secretary of State, under section 3 (2) of the Trading with the Enemy Ordinance, 1914, Ordinance No. 25 of 1914, as amended by regulation 2 of the Trading with the Enemy Ordinance, 1914, Amendment Regulations, 1939, dated 12th January, 1940.

Order made by the Governor in Council under section 73 (4) of the Public Health (Sanitation) Ordinance, 1935, Ordinance No. 15 of 1935, dated 15th January, 1940.

Amendments made by the Governor under the Emergency Powers (Colonial Defence) Order in Council, 1939, to the Colonial Defence Regulations, 1939, dated 20th January, 1940.

Rules made by the Governor under regulation 18 of the Defence Regulations, 1939, dated 20th January, 1940.

Order made by the Controller of Food under the Defence Regulations, 1939, with the consent of the Governor, fixing the standard prices for certain articles of food, dated 26th January, 1940.

Amendments made by the Governor in Council under section 17 of the Prisons Ordinance, 1932, Ordinance No. 38 of 1932, to the Prison Rules, dated 1st February, 1940.

Order made by the Controller of Food under the Defence Regulations, 1939, with the consent of the Governor, fixing the standard prices for certain articles of food, dated 1st February, 1940.

Amendments made by the Governor in Council under section 2 of the Emergency Regulations Ordinance, 1922, Ordinance No. 5 of 1922, to the regulations, dated 5th January, 1940.

Import (Certificates of Origin and Interest) Order, 1940, made by the Governor in Council under section 3 of the Importation and Exportation Ordinance, 1915, Ordinance No. 32 of 1915, dated 1st February, 1940.

Amendments made by the Governor in Council under section 3 of the Vehicles and Traffic Regulation Ordinance, 1912, Ordinance No. 40 of 1912, to the regulations, dated 12th February, 1940.

Amendment made by the Governor in Council under section 3 of the Vehicles and Traffic Regulation Ordinance, 1912, Ordinance No. 40 of 1912, to the regulations, dated 14th February, 1940.

Defence (Bunker Coal and Oil) Order, 1940, made by the Governor under regulation 46 of the Defence Regulations, 1939, dated 13th February, 1940.

Order made by the Governor under regulation 33 of the Defence Regulations, 1939, declaring the whole of the Colony of Hong Kong and Kowloon excepting certain parts to be a protected area, dated 16th February, 1940.

Additional Defence Regulations made by the Governor under the Emergency Powers (Colonial Defence) Order in Council, 1939, dated 16th February, 1940.

Regulations for the control of fishing made by the Governor under the Emergency Powers (Defence) Act, 1939, as extended to the Colony by the Emergency Powers (Colonial Defence) Order in Council, 1939, dated 13th February, 1940.

Order made by the Controller of Food under the Defence Regulations, 1939, with the consent of the Governor, fixing the standard price of Golden State Evaporated Milk, dated 16th February, 1940.

Amendment made by the Governor in Council under section 3 of the Miscellaneous Licences Ordinance, 1933, Ordinance No. 25 of 1933, to the regulations, dated 1st March, 1940.

Proclamation No. 1—Merchant Shipping Amendment Ordinance, 1939, Ordinance No. 22 of 1939, to come into operation on 6th January, 1940.

Proclamation No. 2—Crown Rents (Apportionment) Ordinance, 1936, Ordinance No. 4 of 1936, to come into operation as regards certain lots on 12th January, 1940.

Sessional Papers, 1940:—

No. 1.—Report of the War Revenue Committee.

No. 2.—Report of the Daylight Saving Committee.

Administration Reports, 1939:—

Part II.—Law and Order:—

Report of Official Receiver and Registrar of Trade Marks and Patents.

List of statements and abstracts of reports of the following Companies which have been deposited with the Registrar of Companies under the Life Insurance Companies Ordinance, 1907, during the year 1939:—

*Statements under Section 12.*

The China Hong Nin Life Insurance Company, Limited.

The Sincere Life Assurance Company, Limited.

The Wing On Life Assurance Company, Limited.

The Luk Hoi Tong Life Assurance Company, Limited.

West Coast Life Insurance Company.

*Statements under Section 13.*

Tai Shan Insurance Company, Limited.

China Insurance Company, Limited.

Annual Abstract Account for 1938, with a report of the Director of Colonial Audit.

**FINANCE COMMITTEE'S REPORTS.**

THE COLONIAL SECRETARY, by command of H.E. The Governor, laid upon the table the reports of the Finance Committee (No. 10) and (No. 1) dated 28th December, 1939, and 15th February, 1940, respectively and moved that they be adopted.

THE FINANCIAL SECRETARY seconded, and this was agreed to.

**FISHERIES RESEARCH STATION GRANT.**

THE COLONIAL SECRETARY.—Sir, I rise to move that this Council gratefully accept a free grant of £8,000 from the Colonial Development Fund for the purpose of the establishment in the Colony of a Fisheries Research Station. On 26th September, 1938, this Government requested the Secretary of State for the Colonies to make formal application on its behalf to the Colonial Development Advisory Committee for a grant to cover the capital cost of the establishment in the Colony of a Fisheries Station and Experimental Aquarium.

In February, 1939, the Secretary of State replied that the Colonial Development Advisory Committee had recommended, and the Lords Commissioners of the Treasury had approved, that a free grant not exceeding £10,000 from the Colonial Development Fund should be paid to this Government to meet the cost of the proposed Station.

On the outbreak of war an enquiry was addressed to the Secretary of State asking whether, in view of the necessity for the conservation of Government funds for the effective prosecution of the war, the proposed grant might still be expected to be available.

The Secretary of State suggested in reply that the original application should be restricted so as to exclude the aquarium section of the scheme, at any rate for the duration of the war. It was considered, however, that it was highly desirable that the Fisheries Station should be constructed from the outset as a complete unit, and further, that the aquarium section was an essential component of the project as a whole.

The Finance Committee of this Council was thereupon consulted and agreed that the cost of the Aquarium, which is expected to be in the nature of £2,000, should be borne by this Government, and that a reduced grant of £8,000 should be gratefully accepted from the Colonial Development Advisory Committee for the construction of the fisheries research section of the proposed station.

This is the first grant which has been made from the Colonial Development Fund to this Colony and it is perhaps a fitting coincidence that I should to-day be moving this resolution so soon after the publication of the far-reaching proposals of His Majesty's Government in the matter of Colonial policy in which the expansion and development of this Fund play so important a part.

THE FINANCIAL SECRETARY seconded, and the motion was unanimously approved.

### **WAR REVENUE COMMITTEE REPORT.**

THE COLONIAL SECRETARY.—I rise to move that this Council approves generally the Report of the War Revenue Committee, published in Sessional Paper No. 1 of 1940, and accordingly resolves that the Government should proceed, as recommended in Chapter III paragraph 1 of the Report, with measures on the lines of the War Revenue Bill attached as an appendix to the Report. The Report in question has to-day been laid on the table of this Council, but in view of the urgency of the situation it has already, three weeks ago, been circulated to honourable members and, a day later, released to the Press; and the Government welcomes the generally favourable reception which it received from the public.

It will be observed that to-day's agenda does not include legislative action on the lines indicated in the Appendix to the Report but it is, I understand, Your Excellency's intention that the Bill in question, with a few modifications, should be introduced in this Council at an early date. It must therefore be clear that the approval of the Report which I shall shortly propose will in no way preclude or prejudice the ordinary rights of debate when the Bill comes before the Council.

I should like to take this opportunity of expressing the thanks of the Government, and I think I may say of the whole Colony, to all the members of the committee who signed the Report for the time they gave to their arduous task and for the patience with which, from a mass of conflicting views and opinions, they arrived at a conclusion that was virtually unanimous.

I have Your Excellency's authority to add that the intentions of Government for the disposal of the proceeds of the War Revenue Tax will be made public in detail as soon after the acceptance of this motion by the Council as is possible. At the present time I can say no more than that they will be devoted to three forms of expenditure; these

will be first to cover the net cost of their own collection, secondly to defray the abnormal expenditure forced on this Colony by the war with Germany, and thirdly to make a substantial gift to His Majesty's Government towards the prosecution of that war. That contribution is expected principally to take the form of locally built vessels to be presented to the Royal Navy.

Investigations into the cost of the two former and the most suitable types of craft for the last are already far advanced, but for obvious reasons this would not be the moment for their announcement even were they complete.

I wish to express the hope and the belief that this motion will be accepted unanimously by the Honourable Members of this Council and that that acceptance may be taken also as general approval of the subsequent course of Government action which I have just outlined.

THE ATTORNEY GENERAL seconded.

HON. SIR HENRY POLLOCK.—Sir, The Unofficial Members of this Council are unanimously in favour of a substantial annual War Gift for the defence of the Empire being made by this Colony, and they agree that, for the duration of the War, taxation for that purpose shall be imposed upon the lines which are embodied in the War Revenue Bill, to the framing of which the War Revenue Committee has devoted much time and thought. (Applause).

#### **SUPREME COURT IN PRIZE.**

THE ATTORNEY GENERAL.—I rise to move that the Order for regulating the fees to be payable in the Supreme Court in Prize, dated 20th day of January, 1940, made by the Chief Justice in exercise of the powers conferred by section 32 of the Supreme Court Ordinance, No. 3 of 1873 and section 7 (1) of the Colonial Courts of Admiralty Act, 1890, be approved. This order, which is based on the Home order with fees in local currency for cases taken in the local Prize Court, has been made by the Chief Justice and needs the confirmation of this Council.

THE COLONIAL SECRETARY seconded, and this was agreed to.

#### **URBAN COUNCIL BY-LAWS.**

THE ATTORNEY GENERAL.—I rise to move that the by-law made by the Urban Council under section 5 of the Public Health (Food) Ordinance, 1935, on the 19th day of December, 1939, amending the by-laws in the Schedule to that Ordinance under the heading "Markets," be approved. This by-law is before Members, and they will see that it enables the Urban Council to re-adjust rents of market stallholders who have, or whose relatives have, been in possession of their stalls for five years without calling for new tenders.

THE COLONIAL SECRETARY seconded, and this was agreed to.

THE ATTORNEY GENERAL.—I rise to move that the additional by-law made by the Urban Council under section 3 of the Public Health (Sanitation) Ordinance, 1935, on the 30th day of January, 1940, under the heading "Dangerous and Offensive Trades," be approved. The Urban Council has made oil burning for the production of soot or lampblack to be an offensive trade, and incidentally it is generally considered offensive.

#### **INCITEMENT TO DISAFFECTION AMENDMENT BILL, 1940.**

THE ATTORNEY GENERAL moved the first reading of a Bill intituled "An Ordinance to amend the Incitement to Disaffection Ordinance, 1939." He said: The former principal Ordinance did not follow the Home legislation rigidly and on reconsideration it has been decided to make amendments which make our legislation almost identical with that of the law in England.

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 Bill is to amend section 3 of the Incitement to Disaffection Ordinance, 1939, so as to conform more closely with the provisions of section 2 (2) and (4) of the Incitement to Disaffection Act, 1934.

#### **MERCHANT SHIPPING AMENDMENT BILL, 1940.**

THE ATTORNEY GENERAL moved the first reading of a Bill intituled "An Ordinance to amend the Merchant Shipping Ordinance, 1899." He said: This Bill is explained in the "Objects and Reasons." There it will be seen that the Secretary of State has obtained His Majesty's approval for the introduction of this Bill in this Council.

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. Article XLVII of the Treaty of Tientsin (1858) provided that "British merchant vessels are not entitled to resort to other than the Ports of Trade declared open by this Treaty. They are not unlawfully to enter other Ports in China or to carry on clandestine Trade along the coast thereof. Any vessel violating this provision shall, with her cargo, be subject to confiscation by the Chinese Government."

2. Various ports were opened to foreign trade by that Treaty, some had been opened before by the Treaty of Nanking, and others have been opened since.

3. The Treaty provisions do not appear to have been implemented by specific provisions in the Merchant Shipping Act or Ordinance, possibly because the liability to confiscation by the Chinese Government was in itself considered a sufficient deterrent.

4. Now however that the movements of the Chinese Customs preventive service are restricted by hostilities in the waters of the coast of China near the Colony the amendments to section 22 (6) of the Merchant Shipping Ordinance, 1899, seem called for if the Treaty provisions are to be made effective.

5. By Article XXVI of the Royal Instructions, Bills relating to Treaty obligations or affecting Trade or shipping require either a clause suspending their operation until the signification of the Royal pleasure thereon or prior submission of the Bill for Royal instructions through the Secretary of State. The latter alternative was adopted in this case and His Majesty's instructions for the introduction of the Bill to the Legislative Council have been received.

#### **SHOPS (HOURS OF CLOSING) BILL, 1940.**

THE ATTORNEY GENERAL moved the first reading of a Bill intituled "An Ordinance to regulate the closing hours of retail shops." He said: This Bill has been recommended to Government by the Committee which has been considering shop closing hours and daylight saving generally, and the Bill is based generally on legislation in the United Kingdom noted in the margin of each section. The hours here will be rather longer than at Home. It is a beginning, and requires the shops concerned to close by 8 o'clock in the evening.

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 bill was drafted and recommended by the Committee appointed, under Government Notification No. 1171 of the 12th December, 1939, to examine and report, *inter alia*, on the advisability of limiting by statute the number of hours per diem during which workers in shops and factories may be employed.

#### **HONG KONG CORPS OF AIR RAID WARDENS**

#### **BILL, 1940.**

THE ATTORNEY GENERAL moved the first reading of a Bill intituled "An Ordinance to provide for the establishment and regulation

of the Hong Kong Corps of Air Raid Wardens." He said: This Ordinance runs very much on the lines of the Police Reserve Ordinance and enables Air Raid Wardens to be regulated and better organised than they were before.

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 considered desirable that Air Raid Wardens should be organized into a corps with their rights and duties defined under statutory enactment.

2. This Bill, which follows generally the lines of the Hong Kong Police Reserve Ordinance, No. 24 of 1927, is intended, when enacted, to carry out that object. A provision corresponding to section 3 (2) of Ordinance No. 24 of 1927 is no longer necessary as it has been made general by section 40 (4) of the Interpretation Ordinance, No. 31 of 1911, as published in the 1937 edition of the Ordinances of Hong Kong.

### **ADMINISTRATION OF ESTATES BY CONSULAR OFFICERS BILL, 1940.**

THE ATTORNEY GENERAL moved the first reading of a Bill intituled "An Ordinance to make provision for the Administration of Estates by Consular Officers." He said: The object of this Bill is to implement the obligations undertaken under eight commercial treaties with countries mentioned in the schedule of the 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. The foreign countries enumerated in the first column of the Schedule have entered into Commercial Treaties with His Majesty containing obligations in regard to the administration of the estates of deceased nationals of either party to the respective treaties dying in the territory of the other party.

2. In so far as the United Kingdom is concerned, the necessary legal provision to fulfil these obligations is made by Orders in Council applying section 4 of the Domicile Act, 1861, (24 and 25 Vict. c. 121) to each of the foreign countries.

3. The Secretary of State has suggested in his circular despatch of the 3rd January, 1940, the desirability of each Colony giving legal effect to these obligations and he has prepared a draft model Ordinance for the purpose. This bill follows closely the provisions of the draft.

4. The only variation occurs in the first sentence of clause 3 where the words "by order notified in the Gazette under the hand of the Colonial Secretary" are substituted for the words in the model draft "by order published in the Gazette."

### **TRADE MARKS (EMERGENCY) BILL, 1940.**

THE ATTORNEY GENERAL moved the first reading of a Bill intituled "An Ordinance to make such special provision with respect to trade marks as is expedient to meet any emergency which may arise as a result of war." He said: This Bill, which is framed on the Patents, Designs, Copyright and Trade Marks (Emergency) Act, 1939, in the United Kingdom, is to deal with the state of affairs in which goods formerly protected by trade marks of enemy subjects may be produced 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 object of this bill is to suspend the trade mark rights in Hong Kong of an enemy or an enemy subject where it is difficult or impracticable to describe an article or substance without the use of such trade mark.

2. The effect of the bill is to enable persons desiring to trade in products formerly protected by trade marks registered in the names of enemies and enemy subjects to obtain a licence suspending the rights of such enemies and enemy subjects for such period as will enable the new product to become known on the local market.

3. Provision is made in clause 4 to enable an enemy to file an application for registration of a trade mark but no certificate will be issued until the conclusion of the war.

4. Power is given to the Chief Justice to make rules and prescribe fees with the approval and concurrence of the Legislative Council.

5. The provisions of the Patents, Designs, Copyright and Trade Marks (Emergency) Act, 1939, have been followed closely, but references to patents, designs and copyright have been omitted for the following reasons:—

- (1) only patents already registered in the United Kingdom can be registered in this Colony;
  - (2) there is no register of designs in Hong Kong;
  - (3) the Imperial Copyright Act, 1911, is applicable to this Colony.
6. A Table of Correspondence between this bill and the Patents, Designs, Copyright and Trade Marks (Emergency) Act, 1939, is attached.

#### **REGISTRATION OF DENTISTS BILL, 1940.**

THE ATTORNEY GENERAL moved the second reading of a Bill intituled "An Ordinance to provide for the Registration of Dentists."

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

#### **WATERWORKS AMENDMENT BILL, 1940.**

THE ATTORNEY GENERAL moved the second reading of a Bill intituled "An Ordinance to amend the Waterworks Ordinance, 1938."

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

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

#### **REGISTRATION OF DENTISTS BILL, 1940.**

#### **WATERWORKS AMENDMENT BILL, 1940.**

THE ATTORNEY GENERAL.—In Clause 1 of the Registration of Dentists Ordinance, I move that the date be altered from 1939 to 1940.

THE COLONIAL SECRETARY seconded, and this was agreed to.

THE ATTORNEY GENERAL.—In the Enacting Clause and Title of the Waterworks Amendment Bill I move that "1938" be substituted for "1939".

Upon Council resuming,

THE ATTORNEY GENERAL reported that the Registration of Dentists Bill, 1940, had passed through Committee with a correction in the date in Clause 1 and moved the third reading.

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

THE ATTORNEY GENERAL reported that the Waterworks Amendment Bill, 1940, had passed through Committee with the correction of a printer's error in the Enacting Clause and Title 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 until 2.30 p.m., on March 14. At that meeting it is hoped to move the first reading of the Bill which will implement the motion that has been carried this afternoon in respect of war revenue. I hope and believe that it will be possible at the same time to make a clear statement of Government's intention with regard to expenditure so far as the gift to His Majesty's Government is concerned, with such details as are possible regarding figures, and to pass a resolution voting a certain sum for that purpose.

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