

21st November, 1940.

PRESENT:—

HIS EXCELLENCY THE OFFICER ADMINISTERING THE GOVERNMENT (LIEUT.-GENERAL E. F. NORTON, C.B., D.S.O., M.C.).

HIS EXCELLENCY THE GENERAL OFFICER COMMANDING THE TROOPS, (MAJOR-GENERAL A. E. GRASETT, C.B., 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).

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

HON. MR. H. J. PEARCE, M.C. (Director of Public Works, *Acting*).

HON. MR. C. G. PERDUE (Commissioner of Police, *Acting*).

HON. MR. W. J. CARRIE (Chairman of the Urban Council).

HON. MR. J. J. PATERSON.

HON. MR. LO MAN-KAM.

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

HON. DR. LI SHU-FAN.

HON. MR. A. L. SHIELDS.

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

HON. MR. T. E. PEARCE.

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

ABSENT:—

HON. MR. S. H. DODWELL.

MINUTES.

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

NEW MEMBER.

The Hon. Mr. W. J. Carrie (Chairman of the Urban Council) 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 Officer Administering the Government, laid upon the table the following papers:—

Amendments made by the Governor in Council under section 44 of the Asiatic Emigration Ordinance, 1915, Ordinance No. 30 of 1915, and section 3 of the Boarding-house Ordinance, 1917, Ordinance No. 23 of 1917, to the Boarding-house Rules, dated 11th October, 1940.

Resolution made and passed by the Legislative Council under section 4 of the Dutiable Commodities Ordinance, 1931, Ordinance No. 36 of 1931, on the 17th October, 1940.

Amendment 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 Daires and Milk Shops," on the 27th August, 1940, and approved by the Legislative Council on the 17th October, 1940.

Amendment made by the Urban Council under section 5 of the Public Health (Food) Ordinance, 1935, Ordinance No. 13 of 1935, to the by-laws under the heading "Restaurants, Eating-houses and Food Stalls" in the Schedule to that Ordinance, on the 27th August, 1940, and approved by the Legislative Council on the 17th October, 1940.

Amendment made by the Urban Council under section 2 of the Hawkers Ordinance, 1935, Ordinance No. 22 of 1935, to the by-laws under the heading "A. General and Licensing" in the Schedule to that Ordinance, on the 10th September, 1940, and approved by the Legislative Council on the 17th October, 1940.

Order made by the Officer Administering the Government under regulation 33 of the Defence Regulations, 1940, dated 11th October, 1940.

Order made by the Controller of Food under the Defence Regulations, 1940, with the consent of the Officer Administering the Government, fixing the standard price for certain articles of food, dated 18th October, 1940.

The Trading with the Enemy Ordinance, 1914, Fourth Amendment Regulations, 1940, made by the Officer Administering the Government under the Emergency Powers (Defence) Acts, 1939 and 1940, as applied to the Colony by the Emergency Powers (Colonial Defence) Orders in Council, 1939 and 1940, dated 24th October, 1940.

The Alien Enemies (Winding up) Ordinance, 1914, Amendment Regulations, 1940, made by the Officer Administering the Government under the Emergency Powers (Defence) Acts, 1939 and 1940, as applied to the Colony by the Emergency Powers (Colonial Defence) Orders in Council, 1939 and 1940, dated 24th October, 1940.

Amendment made by the Officer Administering the Government under the Emergency Powers (Defence) Acts, 1939 and 1940, as applied to the Colony by the Emergency Powers (Colonial Defence) Orders in Council, 1939 and 1940, to section 8 of the Registration of Persons Ordinance, 1939, Ordinance No. 12 of 1939, dated 24th October, 1940.

Order made by the Controller of Trade under regulation 50 of the Defence Regulations, 1940, with the consent of the Officer Administering the Government, prohibiting the issue of petrol from a fuel service pump into any receptacle other than the tank of a motor vehicle, dated 21st October, 1940.

Amendment made by the Governor in Council under section 42 of the Merchant Shipping Ordinance, 1899, Ordinance No. 10 of 1899, to Table M in the Regulations, dated 26th October, 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 31st October, 1940.

Additional Defence Regulations made by the Officer Administering the Government under the Emergency Powers (Colonial Defence) Order in Council, 1939, and the Emergency Powers (Colonial Defence) (Amendment) Order in Council, 1940, to the Defence Regulations, 1940, dated 24th October, 1940.

Order made by the Controller of Food under the Defence Regulations, 1940, with the consent of the Officer Administering the Government, fixing the maximum prices for certain articles of food, dated 1st November, 1940.

Order made by the Officer Administering the Government under section 2 of the Public Revenue Protection Ordinance, 1927, Ordinance No. 9 of 1927, giving full force and effect to the provisions of altering the duties on light oils appearing in the resolution, dated 7th November, 1940.

Order made by the Officer Administering the Government under regulation 32 of the Defence Regulations, 1940, declaring the Government Stores Department to be protected places, dated 5th November, 1940.

Order made by the Officer Administering the Government under regulation 46 of the Defence Regulations, 1940, for the examination of all articles put on board ships (except river steamers) and aircraft, dated 6th November, 1940.

Amendments made by the Officer Administering the Government under the Emergency Powers (Colonial Defence) Orders in Council, 1939 and 1940, to the Defence Regulations, 1940, dated 7th November, 1940.

Order made by the Controller of Trade under regulation 50 of the Defence Regulations, 1940, with the consent of the Officer Administering the Government, controlling cargo in ship owned or controlled by an enemy, dated 8th November, 1940.

Order made by the Controller of Trade under regulation 50 of the Defence Regulations, 1940, with the consent of the Officer Administering the Government, prohibiting the movement of rice except by licence, dated 6th November, 1940.

Amendments made by the Governor in Council under section 3 of the Registration of Imports and Exports Ordinance, 1922, Ordinance No. 12 of 1922, to the forms in the appendix to the regulations, dated 13th November, 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 November, 1940.

Regulation made by the Governor in Council under sections 3 and 4 of the Importation and Exportation Ordinance, 1915, Ordinance No. 32 of 1915, regulating the import and export of certain drugs, dated 14th November, 1940.

Order made by the Governor in Council under section 3 (1) (a) of the Opium Ordinance, 1932, Ordinance No. 7 of 1932, determining the prices of Grade 2 opium, dated 15th November, 1940.

The Prison Rules Amendment Regulations, 1940, made by the Officer Administering the Government under section 1 (2) (d) of the Emergency Powers (Defence) Act, 1939, as applied to the Colony by the Emergency Powers (Colonial Defence) Order in Council, 1939, as respectively amended by the Emergency Powers (Defence) Act, 1940, and the Emergency Powers (Colonial Defence) (Amendment) Order in Council, 1940, dated 8th November, 1940.

Order made by the Officer Administering the Government under regulation 6 of the Defence Regulations, 1940, regulating the

posting of Christmas cards, newspapers, etc., dated 13th November, 1940.

Order made by the Controller of Food under the Defence Regulations, 1940, with the consent of the Officer Administering the Government, fixing the standard price of 4 oz. tin Eagle Sweetened Condensed Milk, dated 15th November, 1940.

Proclamation No. 11—Calling out certain members of the Hong Kong Corps of Air Raid Wardens.

Proclamation No. 12—Calling out all the members of the Hong Kong Corps of Air Raid Wardens.

Administration Reports, 1939:—

Report on the Social and Economic Progress of the People of the Colony of Hong Kong.

FINANCE COMMITTEE'S REPORT.

THE COLONIAL SECRETARY, by command of H.E. the Officer Administering the Government, laid upon the table the Report of the Finance Committee (No. 8) dated 17th October, 1940, and moved that it be adopted.

THE FINANCIAL SECRETARY seconded, and this was agreed to.

MIDWIVES AMENDMENT BILL, 1940.

THE ATTORNEY GENERAL moved the first reading of a Bill intituled "A Bill to amend the Midwives Ordinance, 1910." He said: This Bill is explained in the memorandum of Objects and Reasons and provides for an increase in the personnel of the Midwives Board, and also enables regulations to be made for post-graduate courses and for the removal from the register of persons who do not maintain a proper standard of efficiency as a result of the post-graduate training.

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

Objects and Reasons.

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

1. Section 4 (1) of the principal Ordinance provides for the establishment of a Midwives Board consisting of the Director of Medical Services and six other persons appointed by the Governor.

2. All seven members of the present Board are fully qualified medical practitioners and it is not considered desirable to reduce the number of members so qualified as it is from members of the Board that examiners for the certificate are drawn.

3. At the same time it is considered desirable to permit midwives to be represented on the Board by certain qualified members of their own profession.

4. Clause 2 of this Bill, therefore, increases the personnel of the Board to nine, two of whom will be certified and enrolled midwives.

5. Section 4 (2) of the principal Ordinance enumerates the powers and duties of the Midwives Board. Paragraph (a) (iii) empowers it to make regulations, subject to the approval of the Governor, regulating the course of training and the conduct of examinations. Paragraph (e) empowers it to decide upon the removal from the roll of the name of any midwife for disobeying the regulations or for other misconduct, and upon the restoration to the roll of the name of any midwife so removed.

6. Doubts have been expressed as to whether the powers in the said paragraphs were sufficiently comprehensive to authorize regulations providing for post-graduate training or for the removal from the roll of those not attaining the standard of proficiency required by such post-graduate training regulations.

7. Clause 3 of the Bill amends the two paragraphs so as to remove these doubts.

IMMIGRATION CONTROL BILL, 1940.

THE ATTORNEY GENERAL moved the first reading of a Bill intituled "A Bill to regulate the entry and departure of persons into and out of the Colony, to prohibit the entry of undesirable immigrants and to confer various powers in connexion therewith." He said: This is fully explained in the memorandum of Objects and Reasons and also in the Table of Correspondence, which show that a great deal of the provisions of the Bill are taken from those of the existing Ordinance which it is to replace. Certain provisions are taken from Straits Settlements enactments.

The main feature of the Bill is that whereas under the existing 1934 Ordinance, passports or travel documents were not required for persons of Chinese race, hereafter, when this Bill has passed through all its stages and has been proclaimed by Your Excellency, it will apply to all immigrants. Those who have not got passports or travel documents may obtain other entry permits which will be accepted in lieu thereof, and these are of various kinds. There are certificates of ten years' residence, certificates of four years' residence, which will be just as effective but which will be more expensive than those of ten years' residence, and special entry permits for those who are not residents at all but who are entitled to come here for various reasons. For instance, there will be frontier passes for those who have to pass in and out. It is not essential for anyone to have these passes or passports if they are going away with no intention of returning. They are entry permits and passes not residential licences.

At the same time, judging by those applying for these passes even before the Ordinance has been read a first time, I gather that the populace generally is desirous of having these things in case they should require to use them later on.

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 Immigration and Passports Ordinance, No. 8 of 1934, and to replace it by an Ordinance which will carry out a recommendation of the Excess Population Reduction Committee as elaborated in "A Scheme for the Control of Immigration into Hong Kong" prepared by Mr. S. M. Middlebrook of the Malayan Civil Service temporarily seconded to Hong Kong for advice on immigration questions.

2. Although China issues passports to its nationals very few of such nationals possess them, and indeed even very few of the nationals of European countries found it necessary to have them for entry into the Colony until the enactment of the Passports Ordinance, No. 35 of 1923 (since repealed and replaced by Ordinance No. 8 of 1934).

3. The regulations under the 1923 Ordinance, and the provisions of the 1934 Ordinance exempted (a) persons under the age of fifteen years, (b) persons of Chinese race and (c) persons who pass through the waters of the Colony without landing, and the 1934 Ordinance also exempted persons employed in the service of any ship who arrive in the Colony and leave in the same ship on her next departure. Permission to enter was denied to all other persons unless they were in possession of valid passports or travel documents, and under section 4 of the 1934 Ordinance certain classes of undesirable immigrants could also be excluded.

4. The Excess Population Reduction Committee recommended, *inter alia*, the suspension of the exemption in the case of persons of Chinese race; but recommended also that Entry Passes and Residential Certificates should be issued locally and accepted for entry into the Colony as the equivalent of passports in the case of those who did not possess passports or travel documents.

5. Mr. Middlebrook's scheme elaborates this recommendation and provides also for the issue of Frontier Passes. But the chief feature of his scheme is the establishment of an Immigration Department to take over the duties of the Police Passport Office and to issue all the entry documents, passes and certificates.

6. The local issue of residential certificates is not new in the history of the Colony. Thus by Ordinance No. 16 of 1844 "to secure tranquillity and good order in the Colony of Hong Kong and its dependencies and to prevent the resort thereto of abandoned characters and of persons without any ostensible means of subsistence" a Registry was established for the registration of all male residents of the age of twenty-one years and upwards or capable of earning a livelihood; and registration tickets, for which fees were payable, were granted by the Registrar General to applicants who appeared fit and proper persons to be permitted to reside in the Colony. The Registrar General was also empowered to prohibit from residing in the Colony vagabonds or bad characters without visible means of subsistence.

7. Similar Ordinances have been enacted from time to time as the development of the Colony required, but generally it has not been found necessary or even desirable, in view of the geographical position of the Colony and the composition of the majority of its inhabitants, to discourage free immigration until the overwhelming influx of refugees during the last two or three years made immigration control a necessity in the interests of health, sanitation and defence.

8. The scheme as at present envisaged is an emergency measure to meet abnormal conditions; and it is the intention of the Government to re-examine the whole problem as soon as the situation permits.

9. A table of correspondence is attached showing the relation between the new provisions and the enactments they will replace.

BETTING DUTY AMENDMENT BILL, 1940.

THE ATTORNEY GENERAL moved the first reading of a Bill intituled "A Bill to amend the Betting Duty Ordinance, 1931." He said: This Bill is explained in the memorandum attached to it and its object is to obtain more revenue by raising the duty on Cash Sweep tickets and Cash Sweep chances from five to ten per cent. and to alter the percentage which may be paid by the Club if they so wish. There will be no change in the duty on pari-mutuel chances.

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 raise the betting duty on cash-sweep tickets and cash-sweep chances from five per cent. to ten per cent.
2. Clause 3 of the Bill provides for that change in section 6 (2) of the principal Ordinance, No. 40 of 1931.

3. This raising of the duty involves reconsideration of the proviso to section 2 of the principal Ordinance which enacted that not less than ninety per cent., or in the case of a club organizing the race not less than eighty per cent., of the total contributions or subscriptions, after deduction of the duty, should be devoted to prizes for the subscribers.

4. The Taxation Committee recommended that any increase in betting duty should be borne entirely by the betting public, and to achieve this result as nearly as possible clause 2 of the Bill substitutes "eighty-nine" for "ninety" and "seventy-eight" for "eighty" in the proviso to section 2 of the principal Ordinance.

5. The changed figures will enable the clubs as well as the Government to derive some benefit; but there is nothing in the new proviso to prevent the clubs devoting to prizes for the public a higher percentage if they so decide.

6. Clause 4 of the Bill provides that the amendments shall not affect tickets or chances on races run before the 1st January, 1941.

ENTERTAINMENTS TAX AMENDMENT BILL, 1940.

THE ATTORNEY GENERAL moved the first reading of a Bill intituled "A Bill to amend the Entertainments Tax Ordinance, 1930." He said: The object of this Bill is also to obtain more revenue. That would be obtained if this Council passes a resolution under the principal Ordinance authorising the raising of the revenue, but to prepare the way for such a resolution it is desired first to reduce the tax-free limit from 20 cents to 14 cents which this Bill, when passed, will do. The object of the Bill is to make the tax-free limit 14 cents and after that, at some other meeting, introduce a resolution increasing the duties on all other admission charges.

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 provided by section 3 (1) of the Entertainments Tax Ordinance, 1930, (Vol. III of the Ordinances of Hong Kong, 1937 Edition) that there shall be charged, levied and paid on all payments for admission to any entertainment . . . a duty at such rates as the Legislative Council may by resolution prescribe.

2. Section 5 (1) (a) however provides that the duty shall not be charged on payments for admission to any entertainment where the Financial Secretary is satisfied that the charge for admission is not more than twenty cents for each person.

3. The rates at present in force are as follows:—

Where the amount of payment for admission, excluding the amount of duty—

does not exceed 20 cents.....	Free
exceeds 20 cents and does not exceed 50 cents	5 cents
exceeds 50 cents and does not exceed \$1.....	10 cents
exceeds \$1 and does not exceed \$2	20 cents
exceeds \$2 and does not exceed \$3	30 cents
exceeds \$3 and does not exceed \$4	40 cents
exceeds \$4 and does not exceed \$5	50 cents
exceeds \$5.....	50 cents for the first \$5 and 20 cents for each additional \$5 or part thereof.

4. As the War Expenditure of the Colony recently undertaken or contemplated exceeds the estimate of revenue from the War Taxation Ordinance, the question of introducing a Resolution into the Legislative Council providing for an increase in the above rates has had to be considered; and in this connexion it has been deemed desirable to reduce the maximum for duty free admission charges from 20 cents to 14 cents and at the same time to increase the duties on all other admission charges.

5. This necessitates amending section 5 (1) (a) of the Ordinance by changing the 20 cents exemption to 14 cents which is effected by clause 2 of the Bill.

ADVERTISEMENTS REGULATION (NO. 2) AMENDMENT BILL, 1940.

THE ATTORNEY GENERAL moved the first reading of a Bill intituled "A Bill to amend further the Advertisements Regulation Ordinance, 1912." He said: This Bill is fully explained in the memorandum of Objects and Reasons.

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

Objects and Reasons.

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

1. Section 5 of the principal Advertisements Regulation Ordinance, No. 19 of 1912, as it appears in Volume II of the 1937 edition of the Ordinances of Hong Kong gave certain powers to the Director of Public Works and the Commissioner of Police, and their authorized deputies, with regard to the removal or obliteration of illegal advertisements and sky signs.

2. Sub-section (4) of that section provided that the Director of Public Works, the Commissioner of Police and any person so authorized or deputed by either of them as aforesaid should not be held liable for any damage done by him in the course of the removal or obliteration of any advertisement in pursuance of that section.

3. The Amending Ordinance, No. 16 of 1940, repealed the whole section and enacted another generally to the same effect but substituting the Chairman of the Urban Council for the Director of Public Works and the Commissioner of Police.

4. While there is no objection to the transfer of duties and powers under the Ordinance from the head of one department to the head of another, sub-section (4) of section 5 is both in its original and in its substituted form open to the objection, which has been pointed out by the Secretary of State in his despatch of the 15th August, 1940, relating to the Amending Ordinance, that it is generally undesirable to include in legislation enactments which negative or restrict normal rights of action against public officers or public bodies such as the right of action which a private person may have in respect of an illegal or negligent act.

5. The object therefore of this amending Bill is to repeal the sub-section.

FACTORIES AND WORKSHOPS AMENDMENT BILL, 1940.

THE ATTORNEY GENERAL moved the second reading of a Bill intituled "A Bill to amend the Factories and Workshops Ordinance, 1937."

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 OFFICER ADMINISTERING THE GOVERNMENT.—Council stands adjourned for one week.

FINANCE COMMITTEE.

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

Votes totalling \$1,369,826, contained in Message No. 10 from H.E. the Officer Administering the Government, were considered.

Item 192.—6, Defence. C.—Air Raid Precautions:—Special Expenditure: 22, Medical Stores, \$210,000.

HON. MR. PEARCE.—May I ask if this is quite apart from any stores ordered by the Director of Medical Services? The A.R.P. ordinary stores have all been shroffed over and gone into, I suppose. I would like to have some details of the position.

THE CHAIRMAN.—I think the Director of Medical Services does the ordering but they are under A.R.P. because they are for A.R.P. purposes.

HON. MR. PEARCE.—It seems a very large sum of money. Can we be informed what the stores are?

THE CHAIRMAN.—The vote was originally for \$300,000. That was cut down to \$210,000. The items are:—

1.	Hospital equipment (non-technical)	\$ 6,000
2.	Hospital equipment (technical)	30,000
3.	Hospital equipment (bedding and linen)	70,000
4.	Stretchers (wheeled).....	8,000
5.	Stretchers (chair)	1,000
6.	Extra camp beds	10,000
7.	Thomas' splints (railway).....	4,000
8.	Cleansing materials	10,000
9.	Lighting (lamps).....	10,000
10.	Known alterations to private buildings.....	1,000
11.	Unforeseen expenditure—	
	(a) Alterations to private buildings.....	30,000
	(b) Additional equipment necessary in the event of an emergency	30,000

HON. MR. PEARCE.—Did I hear you say bedding and linen cost \$70,000? What is it for exactly? For the A.R.P. staff?

THE CHAIRMAN.—For subsidiary hospitals for possible casualties.

HON. MR. PEARCE.—Doesn't that come under the Director of Medical Services?

THE CHAIRMAN.—It is for casualty clearing stations to relieve the hospitals.

HON. MR. PEARCE.—What is the purpose of these subsidiary hospitals?

THE FINANCIAL SECRETARY.—For use in the event of an emergency.

THE CHAIRMAN.—It is an ordinary precaution for possible casualties. Would you like to have a fuller statement circularised?

HON. MR. PEARCE.—No. I was just wondering why this was divorced from the Director of Medical Services as a defence scheme.

THE CHAIRMAN.—They are casualty clearing stations and are therefore technically under the A.R.P. although the Director of Medical Services says what is wanted.

All the votes were approved.
