

28th 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. R. A. C. NORTH, *Acting*).

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

THE SECRETARY FOR CHINESE AFFAIRS (HON. MR. B. C. K. HAWKINS, *Acting*).

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. S. H. DODWELL.

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).

MINUTES.

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

NEW MEMBER.

The Hon. Mr. B. C. K. Hawkins (Secretary for Chinese Affairs, *Acting*) 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:—

The Defence (Entry Restrictions) Regulations, 1940, 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, dated 19th November, 1940.

The Trading with the Enemy (Specified Territories) (No. 2) Order, 1940, made by the Officer Administering the Government under section 2 (1) (e) 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, 1940, dated 20th November, 1940.

Administration Reports, 1939:—

Part III.—Public Health:—

Report of the Botanical and Forestry Department.

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. 9) dated 21st November, 1940, and moved that it be adopted.

THE FINANCIAL SECRETARY seconded, and this was agreed to.

IMMIGRATION CONTROL BILL, 1940.

THE ATTORNEY GENERAL moved the second 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: As I understand various members of this Council are speaking on this second reading I will reserve any further remarks I have to make for my speech in reply.

HON. MR. M. K. LO.—Your Excellency,—As Chinese constitute some 98% of the population of the Colony, any measure such as that contemplated by this Bill is a matter of very great concern to them. I propose, therefore, shortly to state the position of my Chinese colleagues and myself on this question.

For reasons indicated by my Honourable friend the Attorney General in his Objects and Reasons, we cannot but recognise that this measure is a painful necessity in these difficult times. Accordingly we accept the principle of this Bill, and have directed our attention only to its detailed provisions in order to satisfy our own minds that they do impose a minimum of inconvenience on the community compatible with the attainment of the end in view.

The permission granted by my Honourable friend the Secretary for Chinese Affairs to state that this Bill was referred by Government to the District Watch Committee for their consideration enables me to acknowledge with gratitude the helpful attitude of the Attorney General in regard to suggestions made by the District Watch Committee for certain amendments, which were all readily accepted by him and are now embodied in the Bill before the Council.

The Bill has also received the careful consideration of the Chinese Chamber of Commerce, whose observations (like those received from other sources), have been forwarded to Government. The Chamber's observations are directed chiefly to two points, namely, the provisions of section 7, and the fees set out in the Schedule.

As regards section 7, the Chamber points out that unnecessary hardship and inconvenience will be caused to passengers in possession of valid papers if they too have to proceed to the Immigration Office and remain there until permitted to leave. Personally I have always visualised that passengers whose title to land is clearly established by their papers, would be allowed to land by the Immigration Officer, and that only those whose cases require further investigation would be directed to proceed to the Immigration Office. I hope to receive an assurance from Government that my understanding is correct.

As regards the fees the Chamber suggests that they are too high, and should be reduced by fifty per cent.

Whilst it is appreciated that the fees are designed not to bring in revenue, but to make the immigration administration self-supporting, I feel that it must be borne in mind that the administrative measures contemplated by this Bill are in the interests of the Colony as a whole, and that accordingly the burden should not necessarily fall only on those whose movements bring them within the provisions. Accordingly I hope that the question of the reduction of the fees may be considered in committee.

The effect of this measure on the Colony depends, in our view, very largely on how it will be administered by the Immigration Officer. If it is administered sympathetically, and if the Immigration Officer succeeds in building up and maintaining a staff efficient in the discharge of their duties, untinged with corruption, or with even a suspicion of corruption, then we feel that any inconvenience will be cheerfully borne. My colleagues and I intend to maintain a close interest in the operation of this measure, and we shall have no hesitation in making to Government any representations which we may consider it our duty so to do.

Sir, had the circumstances been different, the Colony would now be in the midst of its preparations for celebrating its Centenary next year, and in the course of that celebration the interdependence of this Colony with China in general, and with the Province of Kwangtung in particular, would have received added emphasis. To me, at least, it is a matter of great sadness and profound regret that for the first time in its history, now approaching its Centenary, the Colony should find itself compelled to pass a measure which puts an end to the right of free and unrestricted movement between this Colony and China. But the terrible wars now raging on two Continents have brought about many unpleasant changes, and I feel and believe that Chinese in the Colony will accept this latest unpleasant change with their characteristic philosophic calm and understanding. (Applause.)

HON. DR. LI SHU-FAN.—Your Excellency,—As the present Bill is of such momentous importance to the general welfare of the Colony, I feel it my duty to make a few remarks.

I desire to say that I heartily endorse the views so lucidly set out by my senior Chinese colleague, who has dealt with the various aspects of the problem so ably, that I have little to add.

While I agree with the principle of the Bill, I share the Hon. Mr. Lo's view that the effect of the measure on the Colony largely depends on the administration and indeed the interpretation of the proposed Ordinance.

I should like to point out that the average Chinese generally looks at immigration measures, however mild, with askance. If this were not a wartime measure, it would have been viewed by the Chinese with the utmost concern.

While it is gratifying to note that Government undertakes to re-examine the problem when the situation permits, I fervently hope that when the semblance of normalcy should return, or if, and when the Ordinance should prove to be detrimental to the Colony, it would be amended or repealed without hesitation.

With these points in view, I feel that in the administration of the ordinance, the officials should be civil, sympathetic, tactful, and with despatch, in the execution of their duties.

I trust this statement will not be taken as casting any reflection on the present Immigration Officer, who, in my opinion, is highly qualified, and I venture to think that his appointment is a very happy choice.

Although this is an emergency measure, I feel it calls for thorough organization and accurate adjustment in accordance with circumstances. For instance, it is to be expected that the depots and places of detention should be provided with reasonable amenities, and that the inmates, while they are rightly guarded from escape, they should not be considered, or treated as ordinary prisoners. The issuing of entry permits and Residence Certificates should not be so drastically restricted as to cause undue hardship, or to defeat the object of the present Bill, leading thereby to widespread bribery, or wholesale smuggling of immigrants into the Colony.

In regard to the maximum cash security of \$250, I sincerely trust that the amount normally demanded will be small, in strict accordance to the status of the individual, and the distance from home in relation to repatriation, and that the maximum or the larger amounts will be demanded only on rare occasions. It is my view that every visitor of means is an economic asset to the Colony.

At the present moment there is a large number of Chinese, who are under the false impression that, according to the Immigration Bill, it is necessary to possess Residence Certificates, before they are permitted to reside in the Colony. Despite previous announcements, I should like to urge that the Government should do its utmost to remove such false impressions by making clear announcements designed to achieve this end. I believe this action would result also in diminishing the large number of applicants, who are at present thronging the immigration premises. (Applause.)

HON. MR. W. N. T. TAM.—Your Excellency,—While I have no hesitation in supporting this Bill, it is nevertheless with a sense of regret that such a measure should have been found necessary for Hong Kong.

Men of goodwill must deplore legislation anywhere and in any form which has the effect of curtailing the liberty of the individual to travel or to establish residence; for such restrictions often create misunderstanding and discontent among peoples and can have no place in a desirable world order.

My Senior colleague has made it clear that the Chinese members of this Council are supporting this measure only because they can find no other practical solution to the problems confronting us in Hong Kong. It is an imperfect remedy; but readily accepted in the hope of removing a greater imperfection.

As an example of our difficulties, we need only look at our social services, for which incessant and increasing demands have been made

on our finances both public and private. While not wishing to shirk our proper responsibilities, it is obvious that there is a limit to our resources. Our hospitals are overcrowded, the refugee camps are full. There is congestion in our prisons and our known charitable institutions are taxed to capacity.

I am convinced that there is no intention on the part of Government to be unsympathetic towards those who desire to find asylum here. These people are still welcome, if they can take care of themselves or be cared for; but to those who may become a public burden as soon as they arrive, this Colony is reluctantly compelled to close its gates.

It is regrettable to have to turn away those who have no means of livelihood; but unless we can feed them or offer them work, it is a dubious privilege for them to be admitted only to starve in our streets.

The charitably inclined will no doubt bear in mind that the scope for their good work remains the same. While the destitute may not come here, they are still present in alarming numbers besides the many who remain in adjacent territories and need help.

On grounds of humanity it is hoped that restrictions will be relaxed to admit those who may have to suffer bombing in the future, although the area to which admission may be given may only be a small one and confined to the New Territories.

My colleagues and I would be grateful if Government would give us an assurance that it is not proposed to raise revenue by this Bill, and that if the income from fees should exceed by an appreciable amount the cost of administration, then a reduction in fees would be considered. It would, however, be a popular gesture, if Government were prepared now, with the experience already derived from the working of the Immigration Department, to agree to a reduction of the fees.

The demands which have been made for certificates in anticipation of the passing of this Bill appear to be beyond the ability of the existing organisation to deal with them. While it is not suggested that a large personnel be immediately acquired, as the present demands may prove only temporary and dwindle after the first rush is over, it is hoped that increased facilities for supplying forms will be provided.

Finally I venture to echo what the Hon. Mr. M. K. Lo has said concerning administration and trust that in carrying out the law, red tape and bureaucracy will be guarded against, not forgetting that Hong Kong lives as an entrepôt for shipping and shipping includes passengers as well as cargo. (Applause.)

THE ATTORNEY GENERAL.—The Government is, I am sure, very grateful to the Hon. Members for their helpful speeches and for the trouble they have taken in assisting the Government advisers in removing or smoothing over any asperities the earlier draft of the Bill may have contained, and I personally am very grateful for the help I have received from the Hon. Senior Chinese Unofficial Member.

The Hon. Senior Chinese Unofficial Member, Mr. Lo, has referred to Clause 7 of the Bill and asked for an assurance in respect of that. I read that clause exactly as he does and, speaking for myself, I can give him that assurance. I can go further than that. The Immigration Officer, Mr. R. A. D. Forrest, also reads it as he does and it is his intention to give every facility to those persons in possession of proper papers to land without any further difficulty. The Department is to be administered as desired by other speakers—in the interests of passengers and all shipping generally and not to cause any obstruction or inconvenience that can be possibly avoided.

One other request is made by Mr. Lo and other Unofficial Members and that is that the fees should be reduced. The fees are reduceable or increaseable at any time by Your Excellency in Executive Council under Clause 20 of the Bill. The fees stated in the Schedule were those that it was considered desirable to have as a start-off; but further consideration has been given to the matter and I am authorised by Your Excellency to state that the fee for a certificate of four years' residence valid for five years will be reduced in committee, if my motion is passed, from \$10 to \$6, that is by a little over half, and that the fee for a certificate of ten years' residence will be reduced from \$5 to \$2, that is by more than half. It has been thought undesirable at the moment to reduce the other fees to start-off but it is the intention of the Government to treat this question sympathetically and always keep the question of fees under review—raising them only if there is a serious need so to do.

The object of the Bill is not to obtain revenue, but it is necessarily part of its object that it should, in these days, be administered as economically as possible and that the fees should go as far as possible to pay for the undertaking. If there is a surplus over I have no doubt the Government will consider reducing the fees on that ground alone. It is probably that the fees will not exceed the cost of administration of the department concerned.

The other members of this Council stressed the same points and I can give both the Hon. Dr. Li and the Hon. Mr. Tam the assurance of sympathetic administration by the officer selected to administer this Bill. It is well known that they are officers with experience in the Department of the Secretary for Chinese Affairs. The Immigration Officer and his deputy have both worked in that office and speak Chinese. I am sure they will administer the Bill in no hostile fashion.

There is one other assurance I have been asked to give, and that is to re-iterate what I said at the first reading that these residential certificates are certificates for persons who have been in the Colony for such and such a length of time and will be accepted in *lieu* of a passport for entry if the person is outside the Colony and wishes to return. They are not permits to stay in the Colony, and persons who are already in the Colony and who do not desire to go out and return do not require to have them.

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

BETTING DUTY AMENDMENT BILL, 1940.

THE ATTORNEY GENERAL moved the second reading of a Bill intituled "A Bill to amend the Betting Duty Ordinance, 1931."

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

ENTERTAINMENTS TAX AMENDMENT BILL, 1940.

THE ATTORNEY GENERAL. — With Your Excellency's permission and the permission of the Council, I would like to omit the next item. Representations have been made to Government and it has not been possible yet to study them thoroughly.

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

THE ATTORNEY GENERAL moved the second reading of a Bill intituled "A Bill to amend further the Advertisements Regulation Ordinance, 1912."

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:—

IMMIGRATION CONTROL BILL, 1940.

BETTING DUTY AMENDMENT BILL, 1940.

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

IMMIGRATION CONTROL BILL, 1940.

Clause 13.

HON. MR. M. K. LO.—May I mention one point in connection with Section 13, subsection 2. As I read that Section, it is not incumbent on the Immigration Officer to take a cash security but he may take a security in the form of a bond or chop of a respectable shop or in any other way. The Chinese Chamber of Commerce and various Chinese are very concerned with this question. I would like to ask

the Attorney General whether the Immigration Officer by this clause has the right to demand, for instance, security of a guarantee of a shop and not in cash.

THE ATTORNEY GENERAL.—The Immigration Officer is not bound to ask for a cash security or bound to ask for a security for a full amount. His object is to see that the conditions are fulfilled and, if the condition is for a temporary stay, that it is sufficient to make it probable that the person will go without taking him before a Magistrate. A shop guarantee or bond should be just as acceptable in this case as in all cases where securities are required.

Schedule.

THE ATTORNEY GENERAL.—I wish to move that the fourth item in the Schedule, "Certificate of four years' residence valid for five years, \$10," be amended by the substitution of \$6 for \$10; and I also move that the fifth item be amended by the substitution of \$2 for \$5 so that a certificate for four years' residence will be \$6 and a certificate for ten years' residence \$2.

HON. MR. M. K. LO.—In view of what the Attorney General has said on the motion he has just moved, I do not propose, with the concurrence of my colleagues, to move any amendment in committee on the other items, especially in view of what the Attorney General said in his introduction that the first three items would also be subject to revision by Government. But as the residential certificates have been reduced substantially we are quite prepared to leave the matter for the time being pending further consideration after the law has been working for a few months.

H.E. THE OFFICER ADMINISTERING THE GOVERNMENT.—I am particularly anxious to get this Bill passed without controversy or division if possible and I am grateful to you, Mr. Lo, for meeting the Government half-way on the amendment and very grateful that there has been no serious controversy on the subject.

Upon Council resuming,

THE ATTORNEY GENERAL.—I have to report that the Immigration Control Bill passed through Committee with two amendments only, and those in the Schedule, which under Clause 20 of the Bill can be amended at any time by Your Excellency in Council. If Your Excellency holds that these amendments are immaterial to the Bill, I will move the third reading.

H.E. THE OFFICER ADMINISTERING THE GOVERNMENT.—I do so rule.

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

THE ATTORNEY GENERAL reported that the Betting Duty Amendment Bill had passed through Committee without amendment, and moved third reading.

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

THE ATTORNEY GENERAL reported that the Advertisements Regulation (No. 2) 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.

ADJOURNMENT.

H.E. THE OFFICER ADMINISTERING THE GOVERNMENT.—Council stands adjourned *sine die*.
