

*16th October, 1941.*

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**PRESENT:** —

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

HIS EXCELLENCY THE GENERAL OFFICER COMMANDING THE TROOPS, (MAJOR-GENERAL C. M. MALTBY, 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. R. R. TODD, *Acting*).

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

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

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

HON. MR. J. P. PENNEFATHER-EVANS (Commissioner of Police).

HON. MR. J. J. PATERSON.

HON. MR. A. L. SHIELDS.

HON. MR. LO MAN-KAM, C.B.E.

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

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

HON. MR. T. E. PEARCE.

HON. MR. LI TSE-FONG.

HON. MR. E. DAVIDSON.

MR. R. EDWARDS (Deputy Clerk of Councils).

THE ATTORNEY GENERAL. —I rise to move that a certain amount of the Standing Orders of this Council standing in the way of our passing through all their stages the items on the agenda to-day be suspended. I refer particularly to Standing Order 7 (1), which provides for two days' notice of the Order of Business and to Standing Order 25 (3), which provides for the publication of a Bill in the "Government Gazette" after its first reading and before the second reading is taken, also to Standing Order 29 (2), which deals with the suspension of Standing Orders.

THE COLONIAL SECRETARY seconded, and the motion was carried.

### 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: —

Regulations made by the Governor in Council under section 6 of the Dutiable Commodities Ordinance, 1931, Ordinance No. 36 of 1931, regarding the licensing authority and fees for licences in respect of proprietary medicines and toilet preparations, dated 25th September, 1941.

Resolution made and passed by the Legislative Council under section 3 of the Public Officers (Changes of Style) Ordinance, 1937, Ordinance No. 25 of 1937, on the 25th September, 1941

Amendment made by the Urban Council under section 3 of the Public Health (Sanitation) Ordinance, 1935, Ordinance No. 15 of 1935, to the by-laws under the heading "Dangerous and Offensive Trades" contained in Schedule A to that Ordinance, on the 26th August, 1941, and approved by the Legislative Council on 25th September, 1941.

Direction made by the Superintendent of Imports and Exports under section 6 (13) of the Dutiable Commodities Ordinance, 1931, Ordinance No. 36 of 1931, as to the affixing of duty paid labels on proprietary medicines and toilet preparations, dated 19th September, 1941.

Amendment made by the General Officer Commanding the Troops under section 10 of the Volunteer Ordinance, 1933, Ordinance No. 10 of 1933, with the approval of the Governor after consultation with the Commandant of the Hong Kong

Volunteer Defence Corps, to regulation 3 (1), dated 21st September, 1941.

Regulations made by the Governor in Council under the Pleasure Grounds and Bathing Places Regulation Ordinance, 1936, Ordinance No. 29 of 1936, on 1st October, 1941.

Order made by the Financial Secretary under regulation 4A of the regulations in the Schedule to the Miscellaneous Licences Ordinance, 1933, Ordinance No. 25 of 1933, prescribing the premium of exchange for ten-cent coins, dated 11th October, 1941.

Administration Reports, 1940-41: —

Part III. —Public Health: —

Report of the Botanical and Forestry Department.

### QUESTIONS.

HON. MR. LO MAN-KAM asked: —

1. Has the attention of Government been drawn to the Press reports of the Kwong Wing alleged bribery case, and in particular to the following extract from the report which appeared in the "South China Morning Post" of 4th October, 1941: —

"Giving his reasons for refusing the application and discharging Defendant, Mr. Sheldon said yesterday: —

‘ . . . Mr. Shaftain agrees with me that such a proceeding is unique. He tells me that he is acting on instructions and as I would expect, it is obvious that the whole matter is as distasteful to him as can well be.

. . . The only considerations are the interests of justice, if that is a phrase that can be properly employed with regard to this case.

. . . ’

Mr Shaftain then told the Magistrate that he had Mr. Campbell in Court, and wondered whether His Worship would agree to put him in the box at that stage, as he anticipated that within a few moments the case would automatically collapse.

Mr. Sheldon replied that he had given his reasons for not granting an adjournment and discharging Defendant, . . ."

2. Is Government aware—

(a) That the defendant was arrested on the 13th September, 1941.

(b) That he had to find \$20,000 for bail before he could be released on bail on Monday, the 25th September, 1941? and

(c) That he was not released and discharged until the 3rd October, 1941?

3. Who was the official who gave the instructions on which Mr. Shaftain acted?

4. Before the prosecution was instituted, had the case been submitted for advice to a law officer of the Crown, and, if not, why not?

5. If the case had been submitted to a law officer of the Crown, were the instructions given to Mr. Shaftain in accordance with the advice of such law officer?

6. Does Government consider that it was right and proper to initiate a prosecution in which the prosecuting officer knew that within a few moments of the case being heard it would “automatically collapse?”

THE COLONIAL SECRETARY replied: —

1. Yes.

2. The facts stated in the second question are accurate.

3. The instructions to Mr. Shaftain to institute proceedings were given by the solicitors to the Commission of Inquiry. Mr. Shaftain was, however, in touch with the law officers of the Crown on the evening of the 2nd October with reference to a matter which is not contained in the summary given in the first question.

4. The answer to the fourth is that the prosecution was instituted by the Commission and its advisers without reference to the law officers.

5. The fifth question does not therefore arise.

6. The sixth question is not in order, since it seeks to obtain an expression of opinion, but it may be observed that the prosecution was initiated on the 13th September and that Mr. Shaftain's opinion that it would collapse was not expressed until the 3rd October.

HON. MR. LO MAN-KAM. —Arising out of the answer to question 3, may I ask, Sir, whether the solicitors to the Commission had authority to instruct Mr. Shaftain to institute the proceedings?

THE ATTORNEY GENERAL. —Are you asking for an opinion or for a fact?

HON. MR. LO MAN-KAM. —I asked a question—whether the solicitors to the Commission had power to instruct Mr. Shaftain?

THE ATTORNEY GENERAL. —If the question is for an opinion, it is out of order under Standing Order 11 (5). If it is a question of fact, I really don't know.

H.E. THE GOVERNOR. —If it is a question of fact, due notice will have to be given in view of the fact that an answer cannot be given directly.

HON. MR. LO MAN-KAM. —If Your Excellency says that it does not arise out....

H.E. THE GOVERNOR. —I rule nothing of the sort. It is a proper supplementary question, but the Hon. Member must give notice of it, as it cannot be answered now.

HON. MR. LO MAN-KAM. —I didn't appreciate that, but that being so, will the Attorney General take it that I now give notice that this is a question I will ask at the next meeting?

THE ATTORNEY GENERAL. —Is it a question of fact?

HON. MR. LO MAN-KAM. —Yes.

THE ATTORNEY GENERAL. —Not a question of opinion?

HON. MR. LO MAN-KAM. —No.

### **FINANCE COMMITTEE'S REPORT.**

THE COLONIAL SECRETARY, by command of H.E. The Governor, laid on the table the report of the Finance Committee (No. 3 of 1941-42), dated 9th October, 1941, and moved that it be adopted.

THE FINANCIAL SECRETARY seconded, and this was agreed to.

### **MOTION.**

THE ATTORNEY GENERAL moved that the Order of the Chief Justice under section 74 of the Probates Ordinance, 1897, dated the 13th October, 1941, be approved. He said: This order is an order under the Probates Ordinance with regard to the procedure necessary in the case of estates of enemy subjects. It replaces another Order, practically in the same words, relating only to deceased German persons. The formal approval of this Council is necessary.

THE COLONIAL SECRETARY seconded, and the motion was carried.

### **SUBSIDIARY CURRENCY NOTES BILL, 1941.**

THE ATTORNEY GENERAL moved the first reading of a Bill intituled "An Ordinance to provide for the issue and re-issue by the Financial Secretary of limited legal tender subsidiary currency notes." He said: This Bill was published in a supplement to the "Extraordinary Gazette" yesterday in which we included the objects and reasons attached to Bill, and in to-day's newspapers there was a long statement by the Government showing the necessity for passing this Bill. It is an urgent measure because of the withdrawal from public use of such a large quantity of our nickel subsidiary coins. The disappearance of these coins from general use is due to various causes and has been the subject of correspondence and articles in the Press for about a week. The Secretary of State has approved of the introduction of this Bill, which is on the same lines as and replaces the Ordinance authorising the issue of one-cent currency notes earlier this year.

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

THE ATTORNEY GENERAL then moved the second reading of the Bill.

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.

#### Objects and Reasons.

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

1. The object of this Bill is to repeal Ordinance No. 10 of 1941, which authorized the issue and re-issue of one-cent currency notes legal tender for any amount not exceeding one dollar, and to replace it by a new Ordinance authorizing the issue of one cent currency notes, legal tender for any amount not exceeding one dollar, and five cents and ten cents notes, legal tender for any amount not exceeding two dollars.

2. The Bill follows the general lines of the Ordinance it will replace if passed; but the title of the security fund established by that Ordinance is necessarily changed from the "One-cent Note Security Fund" to the "Subsidiary Note Security Fund" and similar changes are made in the long and abort titles in the Bill. Sub-section (4) of clause 3 is new.

**ADJOURNMENT.**

H.E. THE GOVERNOR. —Council stands adjourned *sins die*.