

*13th November, 1941.*

**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. H. R. BUTTERS).

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. 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.

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

**ABSENT: —**

HON. MR. A. L. SHIELDS.

HON. MR. E. DAVIDSON.

**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: —

Order made by the Chief Justice under section 74 of the Probates Ordinance, 1897, Ordinance No. 2 of 1897, on 13th October, 1941, and approved by the Legislative Council on 16th October, 1941.

The Defence Secretary appointed a competent authority for the purposes of regulation 73 of the Defence Regulations, 1940.

Mr. W. J. Anderson appointed Controller of Firewood with effect from 27th September, 1940, and Mr. W. T. Stanton appointed Assistant Controller of Firewood with effect from 19th September, 1941.

The Photography and Sketching Restriction Order, 1941, made by the Governor under regulation 15 of the Defence Regulations, 1940, dated 16th October, 1941.

Amendments made by the Governor under the Emergency Powers (Defence) Acts, 1939 and 1940, as applied to this Colony by the Emergency Powers (Colonial Defence) Orders in Council, 1939 and 1940; for incorporation in the Second Edition of the volume of Hong Kong War Emergency Legislations, dated 10th October, 1941.

Amendments made by the Director of Supply under regulation 50 of the Defence Regulations, 1940, with the approval of the Governor, to the Metals (Licensing, Usage and Price) Control Order, 1941, dated 15th October, 1941.

Amendment made by the Governor under regulations 37, 44 and 64 of the Defence Regulations, 1940, to the Blackout Order, 1940, dated 20th October, 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 the Hong Kong Volunteer Regulations, dated 1st October, 1941.

Order made by the Controller of Trade under regulation 50 of

the Defence Regulations, 1940, with the consent of the Governor, relating to cotton yarns of all descriptions, dated 22nd October, 1941.

Order made by the Controller of Trade under regulation 50 of the Defence Regulations, 1940, with the consent of the Governor, amending the Order prohibiting the export and re-export of goods to certain countries, dated 24th October, 1941.

Amendment made by the Governor in Council under section 3 of the Essential Commodities Reserves Ordinance, 1939, Ordinance No. 38 of 1939, to the Schedule to the said Ordinance, dated 27th October, 1941.

Declaration made by the Governor in Council under regulation 4 of the Quarantine (Measures on Departure) Regulations, 1939, dated 28th October, 1941.

The Midwives (Post-Graduate Study) Regulations, 1941, made by the Midwives Board under section 4 of the Midwives Ordinance, 1910, Ordinance No. 22 of 1910, as amended by the Midwives Amendment Ordinance, 1941, Ordinance No. 17 of 1941, and approved by the Governor on 22nd 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 Hong Kong five-cent and ten-cent notes, dated 31st October, 1941.

Proclamation No. 8. — Appointment of a Commissioner to conduct inquiries in Government Departments.

### QUESTION.

HON. MR. LO MAN-KAM asked: —

With reference to the Honourable the Colonial Secretary's answers to my questions at the meeting of the Legislative Council held on the 16th October, 1941, and arising out of the answer to my third question, will Government state whether the solicitors to the Commission had received any authority from Government, or from any official on behalf of Government to give the instructions to Mr. Shaftain mentioned in the said answer?

THE COLONIAL SECRETARY replied: —

The engagement of legal advisers to the Commission was approved by Government on the advice of the Attorney General. The authority of these Solicitors in this particular instance to instruct the police official to undertake the prosecution was given by the Commission of Inquiry.

**MOTION.**

THE ATTORNEY GENERAL moved that the amendment made by the Chief Justice under section 8 of the Trade Marks (Emergency) Ordinance, 1940, dated the 29th October, 1941, be approved. He said: The form the amendment takes is that Rule 9 is amended by the deletion from the fourth line thereof of the words "wherever possible" and the substitution therefor of the following words; "unless, having regard to the Circumstances, the Registrar considers it expedient (as to the whole or a part of those documents) or impossible." The effect of the amendment is that a few words are changed in Rule 9, which requires copies of applications, for orders relating to enemy trade marks to be forwarded with certain accompanying documents to the proprietors of the trade marks or their representatives. In some cases the owners of the trade marks are in enemy occupied territory and, therefore, it is impracticable, sometimes undesirable, for papers to be sent to them, so a slight change is made in Rule 9 by the Chief Justice, and the amendment requires confirmation by this Council.

THE COLONIAL SECRETARY seconded, and the motion was carried.

**MAGISTRATES AMENDMENT BILL, 1941.**

THE ATTORNEY GENERAL moved the first reading of a Bill intitled "An Ordinance to amend the Magistrates Ordinance, 1932." He said: The effect of this Bill will be that in certain cases a Magistrate, instead of sending a person to prison for some summary offence, may bind him over to do a day's work or work for a day or two on some useful object and then go away, and never be put in prison at all. It is necessary to have some such powers, because Stanley Gaol is very much congested with prisoners at present and it is not desirable to put casual offenders in there in association with more serious offenders.

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: —

Section 30 of the Magistrates Ordinance, 1932, was taken from section 16 of the Summary Jurisdiction Act, 1879 (42 and 43 Viet. c. 49). That section was repealed and replaced by section 1 of the Probation of Offenders Act, 1907 (7 Edw. 7, c. 17). Clause 2 of the bill is an adaptation of the section from the later English Act which gives wider powers to the magistrate of releasing an offender on probation.

There is one important difference between clause 2 of the bill and the corresponding English section in that power is given in the

bill to the magistrate to make it a condition of release that where the offender is a male he must do manual labour for a period not exceeding 14 days to be performed within a reasonable length of time.

Thus in a suitable case a man may be ordered to do such useful work as stone-breaking at any quarry. It is hoped that this may in a small measure help to reduce the prison population at Stanley Gaol.

Clause 3 makes a consequential amendment in the form of the recognizance.

**ADJOURNMENT.**

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