

Thursday, 12th September, 1946.

—————
PRESENT: —

HIS EXCELLENCY THE GOVERNOR (SIR MARK AITCHISON YOUNG, G.C.M.G.).

THE HONOURABLE THE OFFICER COMMANDING THE TROOPS (BRIGADIER P. L. LINDSAY).

THE COLONIAL SECRETARY (HON. MR. R. R. TODD, *Acting*).

THE ATTORNEY GENERAL (HON. MR. G. E. STRICKLAND, *Acting*).

THE SECRETARY FOR CHINESE AFFAIRS (HON. MR. T. MEGARRY, *Acting*).

THE FINANCIAL SECRETARY (HON. MR. C.G.S. FOLLOWS, C.M.G., *Acting*).

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

HON. MR. C. H. SANSOM, C.M.G., C.B.E., (Acting Commissioner of Police).

HON. MR. V. KENNIFF (Director of Public Works).

HON. DR. J. P. FEHILY, O.B.E., (Acting Chairman, Urban Council).

HON. MR. D. F. LANDALE.

HON. MR. CHAU TSUN-NIN, C.B.E.

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

HON. MR. LEO D'ALMADA E CASTRO.

HON. MR. R. D. GILLESPIE.

HON. DR. CHAU SIK-NIN.

MR. D. R. HOLMES, M.B.E., M.C., (Deputy Clerk of Councils).

MINUTES.

The Minutes of the meeting of the Council held on Thursday, 5th September, 1946, were confirmed.

PAPERS.

The COLONIAL SECRETARY, by command of H.E. the Governor, laid upon the table the following papers: —

Amendments made by the Governor in Council under section 42 (1) (c) of the Merchant Shipping Ordinance, 1899, Ordinance No. 10 of 1899, to Table E in the Regulations, dated 19th August, 1946.

Amendments made by the Governor in Council under Section 8 of the Law Amendment (Transitional Provision) Ordinance, 1946, Ordinance No. 2 of 1946, to the First Schedule to the said Ordinance, dated 22nd August, 1946.

Additional items made by the Acting Director of Supplies, Trade and Industry under Defence Regulation 50 of the Defence Regulations, 1940, to the Schedule to the Price Control Order, 1946, dated 21st August, 1946.

QUESTIONS.

The HON. Mr. LO MAN-KAM asked: I arise to put the question standing in my name: —

With reference to the question which I put to Government in my Budget speech on the 5th September, 1946, will Government be good enough to answer the same, which is as follows: —

Will Government specifically give details of "European" posts in, for example, the Education, Medical, Police and Public Works Departments to which it is likely that Chinese and other local-born officers have been, or will be, appointed in 1946-47, bearing in mind that the estimates of expenditure of these four important Departments of the Government Service form a large percentage of the total Estimates of the Colony?

The COLONIAL SECRETARY replied: —

1. It is not yet possible to estimate with any accuracy the number of vacancies which are likely to occur in European posts during the present financial year as in a number of cases the Colonial Office Medical Advisers are not yet in a position to decide whether officers will be fit for further duty in Hong Kong.

2. It is, however, possible to state that 22 vacancies are expected in the European establishment of the Education Department and it is hoped that it will be possible to fill not less than one half of these vacancies by the appointment of members of the Chinese staff.

3. As regards the Medical Department recommendations for the appointment of two Chinese doctors to posts formerly held by Europeans are at the present time under consideration. Certain other proposals for the replacement of European officers are being considered, including the replacement of 10 European Nursing Sisters by Chinese Nursing Sisters. The total number of vacancies caused by the retirement of European Officers is not yet determined, but the policy is to appoint qualified Chinese candidates, as opportunity occurs, to the majority of the posts which have hitherto been held by Europeans.

4. The establishment of Chinese Sub-Inspectors in the Police Force has been increased from 44 to 87 and it is proposed that officers who prove themselves to be in every way suitable should be given opportunities for further promotion. With this object in view three posts, Local Inspector, Local Chief Inspector and Local Assistant Superintendent, have been provided for in the current Estimates.

5. In the Public Works Department the Engineering Staff is up to establishment. There are, however, vacancies for Architects and enquiries are being made as to whether local candidates with the necessary qualifications can be found to fill these vacancies.

The HON. Mr. R. D. GILLESPIE asked: —I arise to put the question standing in my name: —

- (a) To what class of person, and in what order of priority, does Government insist that dealers should sell new motor cars?
- (b) What check is made by Government to see that those people who are allowed to buy new cars do not resell them?
- (c) How many new cars have, in fact, been resold, and on what grounds did Government sanction the transfers?

The COLONIAL SECRETARY replied: —

(a) Every dealer is required, before the arrival of each shipment of motor-cars imported by him, to submit to the Controller of Land Transport a list of the persons to whom he proposes to sell the cars. Apart from ensuring adequate provision for the needs of doctors, as little restriction as possible has been imposed on the dealers in the past. At the present time no injunctions are being issued to dealers as to the order of priority in which they should sell new cars.

(b) When the Police Department receives an application for the registration of change of ownership of a motor-car, a check is made to ascertain whether or not the car has been imported as a new car since the re-occupation. If this proves to be the case the change of ownership is not registered until approval has been obtained from the Controller of Land Transport.

(c) Government can only give particulars in regard to re-sales which have been registered. The re-sale of two new cars has been registered by the Police Department with the approval of the Controller of Land Transport. In the first case approval was given because the owner was leaving the Colony at short notice; in the second case approval was given because the car had been damaged beyond repair in an accident and had to be sold as scrap.

MOTIONS.

The COLONIAL SECRETARY presented the Report of the Select Committee on the Estimates of Revenue and Expenditure for the year 1946-47 and on the Appropriation Bill for 1946-47, and moved the following resolution: "That the Estimates of Revenue and Expenditure for the year 1946-47, incorporating the amendments proposed by the Select Committee, be approved."

He said: —Your Excellency, I rise to present the Report of the Select Committee which was appointed, at the meeting of this Council held on the 5th September, to consider the draft Estimates for the year 1946-47 and the Appropriation Bill; and also to move the Resolution that the Estimates of Revenue and Expenditure for the year 1946-47, incorporating the amendments proposed by the Select Committee, be approved.

A copy of the Report of the Select. Committee, which consisted of myself, the Financial Secretary and all the Unofficial Members of this Council, is in the hands of each Honourable Member.

After due consideration the Committee decided to recommend no amendment to the Estimates of Revenue.

As will be seen in the Report of the Select Committee, some of the proposed amendments to the Estimates of Expenditure are of a minor clerical and accounting nature. One or two, however, deserve special mention.

Under Head 10, Fire Brigade, an increase of some \$74,000 under the Personal Emoluments Sub-head is necessitated by the recent decision to bring the rates of pay of the Fire Brigade into line with those approved some time ago for the Police Force and to increase the establishment to provide for a twelve-hour day. Both the Police and the Fire Brigade are disciplined forces, and when at the

beginning of this year proposals for improved terms of service in the Police Force were submitted to the Secretary of State it was pointed out that the extension of such improved terms to the Fire Brigade was a natural consequence. Shortening of the hours of duty involves an increase in the personnel of the Brigade and this is again reflected in extra provision for uniforms. During the debate on September 5th several tributes were paid by Honourable Members to the work of the Police Force since the re-occupation in circumstances of great difficulty and risk; perhaps this not an inopportune occasion to point out that the work of the Fire Brigade also has been carried out in difficult circumstances and that an ever-present element of risk is inherent in their duties.

Under Head 16, Medical Department, the Committee has seen fit to recommend the inclusion of a sum of \$32,000 to cover the expenses of a scheme which will enable 19 medical students, who have finished their studies at Chinese Universities, to complete one year's clinical work as internes in our local hospitals and so to qualify for their Hong Kong degree. There is a world-wide shortage of doctors, which is felt as keenly in the Colonies as elsewhere, and the present scheme is in the interests of both the students themselves and our Medical Department. The Honourable Director of Medical Services, in the review of the work of the Medical Department which he gave at the last meeting of this Council, assured Honourable Members that very earnest consideration is being given to the improvement of the medical and health services. This small new item in the Estimates will contribute towards the betterment of those services.

The amendments recommended in the Report of the Select Committee, together with certain others which were referred to by the Honourable Financial Secretary at the end of his speech before this Council on September 5th will necessitate amendments to the Schedule to the Appropriation Bill. These amendments will be made when this Council goes into Committee to conclude the Second reading of the Bill later this afternoon.

I should like to express my cordial thanks to my Unofficial colleagues for the careful and diligent attention they have given to the Estimates both before and during the Select Committee stage and for their sympathetic appreciation of the financial and other difficulties which confront Government during these days of rehabilitation and reconstruction. During the twelve months which have elapsed since the re-occupation, many things have had to be done and many important decisions taken for which no time-honoured precedents were available for guidance.

Finally, may I pay my humble tribute to my colleague, the Hon. Financial Secretary, for his labours at all stages of the preparation and presentation of these Estimates? No one is in a better position than I am to realise the difficulties and delays, at times exasperating,

with which he has been confronted, or to observe the unfailing perseverance and patience with which he has overcome them all. I associate with these remarks the name of his assistant, Mr. Hetherington.

Your Excellency, I now move that the Estimates of Revenue and Expenditure for the year 1946-47, as amended by the Select Committee, be approved.

The FINANCIAL SECRETARY seconded and the amendments proposed by the Select Committee were approved.

PROTECTED PLACES (SAFETY) BILL, 1946.

The ATTORNEY GENERAL moved the First reading of a Bill intituled "An Ordinance to make better provision for the safety of places declared to be protected places."

He said: The objects and reasons of the Bill have been fully set out but I should like to make two additional observations. In the first place all reasonable means will be taken to bring home to the public that a place has been declared to be a protected place and what its boundaries are, not only by publication in the press but by posters in the vicinity of the protected place. Secondly, I would like to say that in the event of death being caused by shooting in any protected place a magisterial inquiry will be held pursuant to the Coroner's Abolition Ordinance, 1880, so that the way in which the powers empowered by the Bill are being exercised may, in such case, receive full publicity.

The COLONIAL SECRETARY seconded and the Bill was read a First time.

Objects and Reasons.

1. The object of the Bill is to afford greater protection to vulnerable points and premises where equipment and commodities essential to the life of the community may be stored by constituting authorised guards of such premises and empowering such guards to take more energetic action than they lawfully may at present.

2. Power exists under Regulation 32 of the Defence Regulations 1940 as modified by the Emergency Powers (Extension) Proclamation for the Governor in the interests of defence or the protection of the public or for the maintenance of essential supplies and services to declare premises to be protected places, that is to say, places where special precautions are taken to prevent the entry of unauthorised persons.

3. Unfortunately the war has increased not only the facilities for obtaining arms but the number of persons who are prepared to resort to lawlessness which on occasions has taken the form of murder of those who seek to protect their property or to maintain law and order.

4. In these circumstances it has become necessary to employ members of the Forces and other special guards to guard docks and godowns as well as vital installations. These guards are handicapped in that in the eyes of the law their powers to suppress disorder and apprehend lawbreakers are only those given to the ordinary private citizen. In the exercise of such powers they are further handicapped by the very nature of their duties. If a guard were to leave his post in order to apprehend an offender he would often be compelled to leave the premises he is guarding temporarily unprotected, thus failing in his primary duty. In fact on a number of occasions in Kowloon, stones have been deliberately thrown at sentries in order to provoke them to desert their post and thus facilitate the looting of the valuable property they were guarding. Such tactics might equally well be employed to overpower a guard.

5. Although improvement has been effected in the strength and efficiency of the Police Force, theft and armed robbery occur with alarming frequency and essential equipment is often involved.

6. It has accordingly been decided to declare certain premises protected places by order of the Governor under Regulation 32 aforesaid and to arm the guards of such premises with special duties and powers including power to discharge firearms in the course of duty. Such power is specified in Clause 5 of the Bill.

7. Premises will be declared to be protected places only after careful scrutiny of all the surrounding circumstances. It is obvious however that the details of the duty of guards over such places will necessarily differ. Differences in execution will also occur according to whether servicemen or other bands of watchmen are employed. While therefore Clause 4 of the Bill specifies in sub-section (1) the duties of an authorised Guard, sub-section (2) provides for more detailed directions being given by the Governor or his delegate. This provision will also it is hoped provide a safeguard in that if in fact the loss of life caused in practice by the exercise of the power to discharge firearms appears unwarranted, appropriate directions can by virtue of the joint effect of sub-section (2) of Clause 4 and the opening words of Clause 5 be given.

8. Apart from the giving of such direction, limitations on the power to discharge firearms are imposed by Clause 6 of the

Bill which accords with the common law rule that no greater force must be used in the discharge of duty than is reasonably necessary for its performance.

9. It will be readily appreciated that guards will normally have no police experience and will often be persons of no great intelligence. It would be unfortunate if such men were to find themselves before the Courts on a serious charge merely because of an excess of duty committed in good faith. The Bill seeks to avoid this in two ways: first, by wording Clause 5 so that reasonable belief enables a guard to exercise the power and secondly, by placing the onus of proving that a guard exceeded his duty on those who allege it. See Clause 7 of the Bill.

PROTECTION OF WOMEN AND GIRLS (AMENDMENT) BILL, 1946.

The ATTORNEY GENERAL moved the First reading of a Bill intituled "An Ordinance to amend the Protection of Women and Girls Ordinance, 1938."

He said: I would like to explain that under Section 31 of the Ordinance where a person without an order of the Court adopts and obtains custody of a female child under 21 of another person, the legal guardianship of such female vests in the Secretary for Chinese Affairs. This salutary provision would be entirely ineffective without a complete register of such wards. The loss of the register during the Japanese occupation compels us to make a fresh start. That is the sole purpose of this Bill.

The COLONIAL SECRETARY seconded and the Bill was read a First time.

Objects and Reasons.

1. During the Japanese occupation of Hong Kong (25th December, 1941 to 15th August, 1945) the register of girls of whom the legal guardianship is vested in the Secretary for Chinese Affairs under the Protection of Women and Girls Ordinance, 1938, kept by the Secretary for Chinese Affairs under section 32 (1) of that Ordinance, was lost.

2. The object of this Bill is to compile a fresh register and to compel registration of all girls the legal guardianship of whom is vested in the Secretary for Chinese Affairs irrespective of whether or not notice has already been given under the said Ordinance. It is considered that this can best be effected by repeal and re-enactment with modifications of section 32 of the said Ordinance. This is carried out by Clause 2 of this Bill.

3. In view of the fact that more than 21 years have elapsed since the enactment of the Female Domestic Service Ordinance, 1923, which prohibited the further employment of mui tsai, the proviso to section 32 has not been re-enacted.

**VEHICLES AND TRAFFIC REGULATION
(AMENDMENT) BILL, 1916.**

The ATTORNEY GENERAL moved the Second reading of a Bill intituled "An Ordinance to amend temporarily the Vehicles and Traffic 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 Bill clause by clause.

The ATTORNEY GENERAL: —In Clause 2 of the Bill I move an amendment. When the Bill was drafted it was not anticipated that we would desire to license motor tricycles. I now understand that motor tricycles have been adopted in Singapore and are a success and it is considered desirable to have the power to license motor tricycles as public vehicles. I would formally like to move that Clause 2 of the Bill be amended to read as follows: "Paragraph (h) of Section 2 of the Vehicles and Traffic Regulation Ordinance, 1912, is amended by the deletion of the words "or tricycle not propelled by mechanical power."

The COLONIAL SECRETARY seconded, and this was agreed to.

Upon Council resuming.

The ATTORNEY GENERAL reported that the Vehicles and Traffic Regulation (Amendment) Bill, 1946, had passed through Committee with one amendment.

The ATTORNEY GENERAL: In view of that amendment I propose with leave of the Council to defer moving the Third reading of the Bill until a subsequent meeting.

H.E. The GOVERNOR: With the agreement of Council the Third reading of the Bill will accordingly be deferred until a subsequent; meeting of the Council.

APPROPRIATION FOR 1946-1947 BILL, 1946.

On the motion of the FINANCIAL SECRETARY, seconded by the COLONIAL SECRETARY, Council then went into Committee to consider clause by clause a Bill intituled "An Ordinance to apply a sum not exceeding One hundred and sixty million seven hundred and fifty-one thousand six hundred and sixty-five dollars to the Public Service of the financial year ending 31st March, 1947."

The FINANCIAL SECRETARY: I propose to move a number of amendments and perhaps I should say a few words in explanation. Most of the amendments relate to alterations which were made in the Estimates subsequent to the First reading of the Appropriation Bill. They were therefore included in the Estimates when they were considered some days ago in Select Committee. I explained in general terms when replying to the Budget debate at the last meeting of this Honourable Council the reasons for most of the amendments and I would just add that the balance relate to additions covering omissions which were subsequently discovered, the correction of a certain number of clerical errors and adjustments in a number of cases where it was discovered that overlapping had occurred, as for example where a department had included some items in its departmental estimates which had already been included under some other head.

The FINANCIAL SECRETARY: Your Excellency, I beg to move that:

Clause 2: For the words "One hundred and sixty million seven hundred and fifty-one thousand six hundred and sixty-five dollars" shall be read the words "One hundred and sixty-one million eight hundred and seventy-one thousand nine hundred and seventy-six dollars."

For the words and figures "C.S.O. and Legislature 462,859" shall be read the words and figures "Colonial Secretariat and Legislature 477,112."

For the figures "17,866" shown against Hong Kong Royal Naval Volunteer Force shall be read the figures "8,266."

For the figures "106,297" shown against D. O. North shall be read the figures "106,311."

For the figures "60,092" shown against D. O. South shall be read the figures "59,756."

For the figures "6,206,585" shown against Education shall be read the figures "6,392,275."

For the figures "672,837" shown against Fire Brigade shall be read the figures "774,940."

For the figures "8,825,264" shown against Harbour Department shall be read the figures "8,864,993."

For the figures "310,906" shown against Air Services shall be read the figures "310,490."

For the figures "613,450" shown against Imports and Exports Office shall be read the figures "595,218."

For the figures "290,369" shown against Supreme Court shall be read the figures "245,439."

For the figures "82,571" shown against Magistracy Hong Kong shall be read the figures "81,905."

For the figures "66,102" shown against Magistracy Kowloon shall be read the figures "65,412."

For the figures "11,216,318" shown against Kowloon-Canton Railway shall be read the figures "11,085,835."

For the figures "335,732" shown against Legal Department shall be read the figures "333,532."

For the figures "10,599,336" shown against Medical shall be read the figures "10,711,380."

For the figures "62,972,258" shown against Miscellaneous shall be read the figures "62,837,771."

For the figures "5,226,644" shown against Police Force shall be read the figures "5,849,189."

For the words and figures "Wireless 715,604" shall be read the words and figures "Telecommunications 767,644."

For the figures "176,408" shown against Broadcasting shall be read the figures "174,848."

For the figures "1,643,120" shown against Prisons shall be read the figures "1,653,120."

For the figures "3,166,589" shown against P.W.D. shall be read the figures "2,888,996."

For the figures "7,179,837" shown against Public Works Recurrent shall be read the figures "6,189,398."

For the figures "16,062,000" shown against Public Works Extraordinary shall be read the figures "16,127,000."

For the figures "181,165" shown against Royal Observatory shall be read the figures "176,735."

For the figures "3,008,777" shown against Sanitary Department shall be read the figures "3,017,987."

For the figures "131,408" shown against Secretariat for Chinese Affairs shall be read the figures "135,808."

For the figures "94,989" shown against Labour Office shall be read the figures "96,989."

For the figures "8,562,659" shown against Stores shall be read the figures "8,730,017."

For the figures "655,553" shown against Treasury shall be read the figures "1,279,592."

For the figures "1,267,319" shown against Development Secretariat shall be read the figures "1,993,267."

For the figures "160,751,665" shown as the total shall be read the figures "1,61,871,976."

H.E. The GOVERNOR: The question is that Clause 2, amended as proposed by the FINANCIAL SECRETARY, now stand part of the Bill.

Clause 2, as amended, was passed.

The FINANCIAL SECRETARY: Preamble: I beg to move that for the words "One hundred and sixty million seven hundred and fifty-one thousand six hundred and sixty-five dollars" in line 4 shall be read the words "One hundred and sixty-one million eight hundred and seventy-one thousand nine hundred and seventy-six dollars."

H.E. The GOVERNOR: The question is that the Preamble, amended as proposed by the FINANCIAL SECRETARY, now stand part of the Bill.

The Preamble, as amended, was passed.

The FINANCIAL SECRETARY: Enacting Clause and Title: I beg to move that for the words "One hundred and sixty million seven hundred and fifty-one thousand six hundred and sixty-five

dollars" in the Title shall be read the words "One hundred and sixty-one million eight hundred and seventy-one thousand nine hundred and seventy-six dollars."

H.E. The GOVERNOR: The question is that the Enacting Clause and the Title, amended as proposed by the FINANCIAL SECRETARY, now stand part of the Bill.

The Enacting Clause and the Title, as amended, were passed.

Upon Council resuming.

The FINANCIAL SECRETARY said: I have to report that a Bill intituled, "An Ordinance to apply a sum not exceeding One hundred and sixty million seven hundred and fifty-one thousand six hundred and sixty-five dollars to the Public Service of the financial year ending 31st March, 1947" has passed through Committee with amendments and in view of those amendments and with the leave of the Council I propose not to move the Third reading until a subsequent meeting.

H.E. The GOVERNOR: With the agreement of the Council the Third reading of the Appropriation Bill, as, now amended, will accordingly be deferred until a subsequent meeting of this Council.

ADJOURNMENT

H.E. The GOVERNOR: Council stands adjourned until Thursday, 19th September, 1946.
