

13th February, 1947.

PRESENT: —

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

HIS EXCELLENCY THE GENERAL OFFICER COMMANDING THE TROOPS, (MAJOR-GENERAL G. W. E. J. ERSKINE, C.B., D.S.O.).

THE COLONIAL SECRETARY (HON. MR. D. M. MACDOUGALL, C.M.G.).

THE ATTORNEY GENERAL (HON. MR. J. B. GRIFFIN, K.C.).

THE SECRETARY FOR CHINESE AFFAIRS (HON. MR. R. R. TODD, *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. T. M. HAZLERIGG, C.B.E., M.C.

HON. MR. T. MEGARRY.

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

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

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

HON. MR. C. C. ROBERTS.

HON. MR. LEO D'ALMADA E CASTRO.

HON. MR. R. D. GILLESPIE.

HON. DR. CHAU SIK-NIN.

HON. MR. M. M. WATSON.

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

MINUTES.

The Minutes of the meeting held on 6th February, 1947, were confirmed.

PAPERS.

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

Amendment made by the Governor in Council under section 8 of the Law Amendment (Transitional Provisions) Ordinance, 1946, Ordinance No. 2 of 1946, to Schedule III to the said Ordinance, dated 6th December, 1946.

Amendment made by the Governor in Council under section 23 of the Peak Tramway Ordinance, 1883, Ordinance No. 2 of 1883, to the Schedule to the said Ordinance, dated 6th December, 1946.

Notification made by the Governor with the prior approval of the Secretary of State declaring certain territories not to be treated as Enemy Territory for the purposes of the Trading with the Enemy Ordinance, 1914, Ordinance No. 25 of 1914, dated 7th December, 1946.

Order made by the Governor under section 3 of the Protected Places (Safety) Ordinance, 1946, Ordinance No. 16 of 1946, relating to authorized guards, dated 9th December, 1946.

Additional items and amendments 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, on 11th December, 1946.

Amendment made by the Governor in Council under section 42 of the Merchant Shipping Ordinance, 1899, Ordinance No. 10 of 1899, to Table U in the Regulations, dated 30th November, 1946.

The Property Appreciation Duty Regulations, 1946, made by the Governor in Council under section 5A of the Stamp Ordinance, 1921, Ordinance No. 8 of 1921, dated 14th December, 1946.

Amendment made by the Governor in Council under section 37 of the Protection of Women and Girls Ordinance, 1938, Ordinance No. 5 of 1938, to the Regulations in the Schedule to the said Ordinance, dated 14th December, 1946.

Amendments made by the Governor in Council under section 8 of the Law Amendment (Transitional Provisions) Ordinance, 1946, Ordinance No. 2 of 1946, to Schedule I to the said Ordinance in respect of the Moratorium Proclamation, dated 17th December, 1946.

Additional items and amendment 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, on 18th December, 1946.

Amendments made by the Acting Director of Supplies, Trade and Industry under Defence Regulation 50 of the Defence Regulations, 1940, to the Schedule to the Prohibited Exports Order, 1946, on 18th December, 1946.

PENSIONS AMENDMENT BILL, 1947.

THE ATTORNEY GENERAL moved the First reading of a Bill intituled "An Ordinance to amend further the Pensions Ordinance, 1932. " He said: Sir, at the present time the Pensions Ordinance, 1932, by Section 3 provides that it shall be lawful for the Governor in Council to make regulations for the granting of pensions, gratuities and other allowances to persons who have been in the public service of the Colony, and the dependants of such persons where such service is terminated by death. Such regulations may not, under the present law, be made with retrospective effect. It is desired, however, —and the Secretary of State has recommended that such course be taken—that regulations be made, or that we take power by amendment of the Ordinance, to make regulations having a retrospective effect. The intention is that regulations may be made with retrospective effect where such retrospectivity would be to the benefit of an officer. An instance of such benefit is presented by the fact that the Governor in Council may shortly make regulations which will enable an officer to exercise his option to receive a reduced pension and gratuity at any time up to his retirement, instead of many years in advance of his retirement as is the present position. Thus, if this Bill becomes law and such regulations are made, they can be made with retrospective effect, and having received prior approval of the Legislative Council for such retrospectivity, it will be possible for officers who have retired from the 1st September, 1945, to enjoy the benefit of being able to review the option which they may already have made to receive a reduced pension and a gratuity. Clause 2 of the Bill which is before the Council is designed to effect this aim.

As regards the new sub-section 4 which clause 2 of the Bill is designed to introduce, this provision is necessary because at the present time difficulty is experienced, particularly in the case of officers who have served in more than one colony, in regard to the date of computation of their pension upon ultimate retirement: computation has to take place in the various colonies in which they have served and thus it may not be possible for the award by the Governor in Council of pension to be made actually on the date of retirement. This provision will make it clear that, however long computation takes, yet the actual date of retirement will be the date taken into account for assessing the pension—in other words, the pension will be calculated in accordance with the law prevailing at the actual date of retirement, regardless of the actual date of award.

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 first object of this measure is to give the Governor in Council power (subject to the approval of the Legislative Council) to give retrospective effect to any regulation made under the Ordinance in any case where the Governor in Council is satisfied that such retrospective effect will be to the advantage of any person. The amendment proposed in Sub-section 3 under Clause 2 of the Bill will enable certain contemplated amendments to the Pensions Regulations to be made applicable to the officers eligible to retire since the 1st September, 1945.

2. Particularly in the case of Government servants who have served in more than one colony it is often not possible to complete the computation of pensions in time to make the formal award by the actual date of retirement. As a matter of law the Governor in Council can only exercise such powers as lie has at the time of the award whereas the intention is that the pension should be governed by the law at the date of retirement. Sub-section 4 contained in Clause 2 of the Bill is designed to give effect to such intention.

3. The Secretary of State has recommended this measure.

POLICE FORCE AMENDMENT BILL, 1947.

THE ATTORNEY GENERAL moved the First reading of a Bill intituled "An Ordinance to amend further the Police Force Ordinance, 1932." He said: Sir, the law governing pensions in regard to members of the Police Force below the rank of superintendent is governed by the Police Force Ordinance. It is desired to make amendment to the Police Force Ordinance similar to the amendment which has been proposed in the Bill to amend the Pensions Ordinance, and for the same reason.

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:

The purpose of this measure is to effect amendments, to the provisions applicable to pensions of members of the Police Force, parallel to those contemplated in the case of the Pensions Ordinance, 1932.

HONG KONG WAR MEMORIAL FUND BILL, 1947.

THE ATTORNEY GENERAL moved the First reading of a Bill intituled "An Ordinance for the establishment and administration of a Hong Kong War Memorial Fund." He said: Sir, it will be recalled that Your Excellency appointed a large and representative Committee, under the chairmanship of Mr. Justice Williams, to consider how most appropriately a memorial could be created for those who died

and suffered in the Second World War. The Committee considered the matter and ultimately reached a conclusion which it recommended, and which has been accepted by Government, whereby it was suggested that the memorial should take the form of a Fund rather than the form of a cenotaph or memorial building. The object of this Bill, therefore, is to establish such a Fund by statute. The Bill at clause 3 provides that the Fund shall be created, and thereafter maintained, by voluntary contributions and also by such appropriations as this Council may from time to time vote towards the Fund. The objects of the Fund appear in clause 4 of the Bill. Briefly stated, they are to provide means to assist the maintenance and education, benefit and advancement of the widow or children of any officer or member of the various forces and organizations which served Hong Kong and which are named in the First Schedule to the Bill. Secondly, it provides that contributions from the Fund may be made to persons or to the relatives of persons who died, or to persons who themselves suffered or are suffering as a consequence of being subjected to torture during the enemy occupation of the Colony. Finally, a subsidiary but nevertheless important objective for the Fund is provided for by that same clause 2 in that it creates a Third Schedule of charitable objects which can meet the attention of the Fund when the requirements of the First and Second Schedule are met. The Bill provides for the administration of the Fund by a Committee, and in order to ensure the continuity of the Fund the Chairman of the Committee is by this Bill incorporated. Finally, I would point out that the Bill by clause 7 gives to the Committee considerable power to govern its operation of the Fund in that it empowers regulations to be made by the Committee which shall be in due course furnished to His Excellency, and by His Excellency be subjected to disallowance, alteration or amendment.

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 primary object of this Bill is to establish in this Colony a Fund out of which provision can be made for assisting without distinction of class or nationality, the dependants of members of certain services which participated in the defence of the Colony where such members as the result of their service lost their lives or were wholly or partially incapacitated from earning a living. This is effected by sub-clause 1 of Clause 4. The Bill provides that assistance from the Fund may also be extended to members of such services who survived and have been wholly or partially incapacitated from earning a living.

2. The First Schedule specifies the Services whose members or their dependants may be assisted from the Fund and the effect of sub-section 3 of clause 4 of the Bill is to enable the Fund to be applied

also for the benefit of persons who were subjected to torture during the occupation and died or were incapacitated thereby and those who were executed and for the benefit of the dependants of such persons.

3. A subsidiary but important object of this Bill is to enable the Fund, after ample provision has been made for the foregoing purposes, to be applied for general charitable purposes. These purposes are specified in the Third Schedule but may be added to by the Governor. See sub-clauses (4) and (5) of Clause 4.

4. The Fund has been called the Hong Kong War Memorial Fund because Government does not propose to erect a Cenotaph or other monument in memory of those who died in the Second World War but wishes to perpetuate their memory by the creation of the Fund provided for by this Bill.

5. Provision is made for the administration of the Fund by a Committee and in order to ensure continuity, the Bill provides for the incorporation of the Chairman of the Committee with the usual powers of a corporate body.

6. In order that the Committee may not be hampered in its administration of the Fund by any regulations prescribed by the proposed Bill, the Committee is empowered to make its own regulations, subject only to disallowance by the Governor.

7. The Bill envisages that the Fund will be financed in part out of the revenues of the Colony and in part out of voluntary contributions. It is the present intention of Government to ask Legislative Council to appropriate for each financial year a sum proportionate to the contributions of the public during the financial year immediately preceding.

8. A Comparative Table has been omitted as it would not in the circumstances greatly assist. Clauses 10 and 11 of the Bill are based on sections 2 and 4 of Ordinance No. 6 of 1891. In considering clauses 5, 7, 8 and 9 of the measure, comparison with the provisions of the Mercantile Marine Assistance Fund Ordinance, 1933 and of the Regulations contained in the Schedule thereto may prove useful.

ADJOURNMENT.

H.E. THE GOVERNOR. —Council will now adjourn until Thursday, 20th February.