

2nd October, 1947.

PRESENT: —

HIS HONOUR THE GOVERNOR'S DEPUTY (MR. D. M. MACDOUGALL, C. M. G.)

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

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

THE SECRETARY FOR CHINESE AFFAIRS (HON. R. R. TODD).

HON. T. MEGARRY.

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

DR. HON. I. NEWTON (Director of Medical Services).

HON. D. F. LANDALE.

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

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

HON. LEO D'ALMADA E CASTRO.

HON. R. D. GILLESPIE.

DR. HON. CHAU SIK-NIN.

HON. M. M. WATSON.

MR. ALASTAIR TODD (Deputy Clerk of Councils).

ABSENT: —

HIS EXCELLENCY THE GOVERNOR (SIR ALEXANDER WILLIAM GEORGE HERDER GRANTHAM, K.C.M.G.)

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

MINUTES.

The Minutes of the meeting of the Council held on 18th September, 1947, were confirmed.

MOTIONS.

THE ATTORNEY GENERAL: Sir, I desire to move the postponement to another meeting of this Council of the motion which stands first in my name on the Order Paper. My reason for so moving is that I have learned that representations have been received by my Honourable Friends, the Chinese Members of this Council, from Hawkers' Associations, who complain that the increased fees, which are contemplated by the By-laws, which are annexed to the Motion on the Order Paper, are too high. It is desired that time should be given to enable such representations to be examined, and preferably to be examined in relation to a tabulated statement, which perhaps the Urban Council can supply, which will show the existing fees for hawkers' licences, and also increase of such fees for which provision is envisaged in the By-laws.

THE SECRETARY FOR CHINESE AFFAIRS seconded, and the motion was carried.

CO-OPERATIVE SOCIETIES BILL, 1947.

THE ATTORNEY GENERAL moved the First reading of a Bill intituled "An Ordinance to provide for the formation and to regulate the operation of co-operative societies." He said: Sir, no legislation on the subject of co-operative societies exists in this Colony. In fact, however, after the liberation of the Colony, certain organizations of the nature of co-operative societies formed themselves and did valuable work in the marketing of fish and of agricultural produce. This fact showed that there was room for, and interest in, the inauguration of the co-operative movement in this Colony, a movement which, in fact, has taken root in probably all—or nearly all—other Colonies within the Empire. Experience gained in such other co-operative movements has resulted in the production of model legislation for the establishment and operation of co-operative societies. It is on such model that the Bill before Council is founded.

In the absence of previous formal experience of co-operatives in this Colony, it is not possible to gauge with accuracy how far the Bill before Council will be found in practice to be wholly suited to the conditions of this Colony. Experience of the Bill, and of the working of societies, which in the future may be established under this Bill, when it becomes an Ordinance will alone show whether or not the Bill, which I am presenting to this Council, will in the future require to be amended.

It is, I think, unnecessary that I should detain the Council with any very detailed description of the provisions of this Bill, since they are summarised in Objects and Reasons which have been printed with the Bill. It suffices, I think, Sir, if I call attention to Clause 59,

the last clause of the Bill, which states that the Ordinance will come into operation on such date as the Governor shall notify by proclamation. I would explain that it is thought necessary that the Bill, upon enactment, should not immediately come into force because this legislation hinges upon, is entirely dependent upon, for its successful execution, the existence of a Registrar of Co-operative Societies, who has ample and sufficient experience in this rather technical subject. A search is being made for an officer to fill such an appointment, so far without success, but there is hope that an appointment may soon be made. I say that the existence of an officer to assume these duties is an essential pre-requisite for the coming into force of the Ordinance because an examination of this legislation will show that the Registrar of Co-operative Societies is intended to be a "guide, philosopher and friend" of any organization which has co-operative ambitions.

THE SECRETARY FOR CHINESE AFFAIRS seconded, and the Bill was read a First time.

Objects and Reasons.

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

1. At the present time no legislation exists in the Colony governing the establishment and conduct of co-operative societies. The object of this Bill is to provide such legislation the need for which has arisen because of the tendency of certain sections of the community to form themselves into associations of a co-operative nature.

2. The Bill is modelled on legislation which has afforded precedent for legislation in other Colonies within the Empire. It is comprised of eleven parts—

- Part I — Preliminary.
- Part II — Registration.
- Part III — Duties and Privileges of Societies.
- Part IV — Rights and Liabilities of Members.
- Part V — Property and Funds of Registered Societies.
- Part VI — Audit, Inspection and Inquiry.
- Part VII — Dissolution.
- Part VIII — Surcharge and Attachment.
- Part IX — Disputes.
- Part X — Rules.
- Part XI — Miscellaneous.

3. Part II (Clauses 3-9) provides for the appointment of the Registrar, specifies societies which may be registered and conditions of registration and makes societies bodies corporate.

4. Part III (Clauses 10-20) provides for the amendment of the by-laws of registered societies, the disposal of produce to or through a registered society, transfer of interest on death of member, the receipt by registered societies of deposits by minors and the keeping of a register of members.

5. Part IV (Clauses 21-29) defines the qualification for membership and makes provision for voting and representation by proxy in the conduct of affairs of registered societies and restrictions on transfer of share or interest of members.

6. Part V (Clauses 30-34) provides for loans to members by a registered society, the investment of the funds and the disposals of its profits.

7. Part VI (Clauses 35-37) provides for the auditing of accounts and the inspection of the books of registered societies.

8. Part VII (Clauses 38-46) sets out the circumstances in which a registered society may be dissolved and the procedure for liquidation of such society's funds.

9. Part VIII (Clauses 47 and 48) gives the Registrar power to surcharge officers of a registered society who have misapplied the funds of the society.

10. Part IX (Clauses 49 and 50) makes provision for the settlement of disputes which may arise between members of a society or between one registered society and another and for the determination of any question of law arising out of such dispute by way of case stated for the ruling of the Supreme Court.

11. Part X (Clause 51) empowers the Governor to make rules for the purpose of carrying out the provisions of the Bill upon enactment and also provides that the rules contained in the Schedule thereto shall constitute such rules unless and until revoked or amended under such powers.

12. Part XI (Clauses 52-59) provides for the recovery of sums due from registered societies to the Government, excludes the application to registered societies of the Companies Ordinance and any Ordinance which may be passed relating to Trade Unions, provides the penalty for non-compliance with the Ordinance and provides that the Bill upon enactment shall come into force on a date to be notified by proclamation of the Governor.

FACTORIES AND WORKSHOPS AMENDMENT BILL, 1947.

THE ATTORNEY GENERAL moved the First reading of a Bill intituled "An Ordinance further to amend the Factories and Workshops Ordinance, 1937." He said: Sir, as indicated by the title of this Bill, it is a Bill to amend the principal Ordinance which has for ten

years been on the Statute Books of the Colony. Annexed to the Bill before honourable Members are Objects and Reasons which describe the amendments which the Bill seeks to effect. I feel that for such reason it is unnecessary, Sir, that I should elaborate on the provisions of this Bill.

THE SECRETARY FOR CHINESE AFFAIRS 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 main objects of the Bill are (a) to change the title of "Protector of Labour" to that of "Commissioner of Labour" throughout the Factories and Workshops Ordinance, 1937 (the principal Ordinance), and the Schedule thereto, (b) to widen the definition of "workshop," (c) to extend the power to make regulations, and (d) to increase penalties.

2. As regards (a) above, the title of the administrative officer concerned with labour matters in most Colonies is "Commissioner of Labour." The title is considered to be preferable to that of "Labour Officer" or "Protector of Labour," both of which, since the enactment of the Factories and Workshops Amendment Ordinance, 1946, (Ordinance, No. 24 of 1946), are used to designate the same officer. Accordingly, it is considered desirable that the titles at present in use should be repealed and replaced by that of "Commissioner of Labour." Clauses 2, 3, 4, 6, 9 and 10 of the Bill so provide.

3. As regards (b) above, it is necessary to widen the definition of "workshop" in Section 2 (9) of the principal Ordinance because, owing to the post-war shortage in Hong Kong of accommodation suitable for factories, many small manufacturing concerns have established themselves in tenement buildings. Such premises do not come within the definition of a factory in Section 2 (3), nor of a workshop, but in view of the fire hazards attendant on the manufacturing processes carried out in them which involve the use of petrol and other inflammable liquids or the use of open gas or vapourised petrol or kerosene jets, it is essential that they should be subject to the provisions of the Ordinance. Clause 2 so provides.

4. As regards (c) above, the power to make regulations under Section 5 (1) of the principal Ordinance is sufficiently comprehensive for general purposes, but recent investigations by the Labour Officer have indicated that it may be necessary to prohibit or restrict the use, except under due precautions, of potentially toxic materials in local industrial processes. It is therefore considered desirable to make provision, on the analogy of the Factories Act, 1937, Section 60 (1 Edw. 8 & 1 Geo. 6. ch. 67) of the United Kingdom, for power to make special regulations for the safety and health of workers. Such

provision is made by Clause 5 of the Bill, which repeals and re-enacts Section 5 of the principal Ordinance to include minor adaptations and the re-numbering of sub-sections (2), (3) and (4) as sub-sections (3), (4) and (5), respectively.

5. The maximum fines which may now be imposed under the principal Ordinance are two hundred and fifty dollars for an isolated offence and fifty dollars a day for a continuing offence respectively. These maxima, which have been in force since the enactment of the principal Ordinance in 1937, afford insufficient deterrent to the commission of offences under the Ordinance. Clauses 7 & 8 are designed to amend Sections 8 and 9 of the principal Ordinance to effect increase.

MISCELLANEOUS LICENCES AMENDMENT BILL, 1947.

THE ATTORNEY GENERAL moved the Second reading of a Bill intituled "An Ordinance further to amend the Miscellaneous Licences Ordinance, 1933."

THE SECRETARY FOR CHINESE AFFAIRS seconded, and the Bill was read a Second time.

On the motion of the ATTORNEY GENERAL, seconded by the SECRETARY FOR CHINESE AFFAIRS, Council then went into Committee to consider the Bill clause by clause.

Council then resumed.

THE ATTORNEY GENERAL reported that the Miscellaneous Licences Amendment Bill, 1947, had passed through Committee without amendment and moved the Third reading.

THE SECRETARY FOR CHINESE AFFAIRS seconded, and the Bill was read a Third time and passed into law.

ADJOURNMENT.

H.H. THE GOVERNOR'S DEPUTY: That concludes the agenda, Gentlemen, and this Council stands adjourned until two weeks from to-day.