

23rd October, 1947.

PRESENT: —

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

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

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

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

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).

MINUTES.

The Minutes of the meeting of the Council held on 16th October, 1947, were confirmed.

QUESTIONS.

HON. R. D. GILLESPIE asked: —

On the 30th August, 1946, with reference to vehicles requisitioned during December, 1941, a Government announcement appeared in the Press, paragraph 4 of which read as follows: —

“4. Owners of vehicles who can produce definite evidence that their vehicles became a total loss before 25th December, 1941 will be paid compensation for the value of the vehicle. If they cannot produce definite evidence of destruction they should take no action at present, but should submit their claims to the Tribunal referred to in paragraph 3.”

On October 9th, 1947 a letter, purporting to be signed by the Colonial Secretary, was quoted in the "South China Morning Post". This letter contained the following paragraph: —

"In view of the nature and duration of the battle operations and the subsequent occupation of the Colony, it is considered that generally the loss or damage of requisitioned property was the result of war operations, in circumstances which do not permit acceptance by this Government of liability to pay compensation."

It would appear that this letter completely reverses Government's original decision.

Would Government, therefore, please state: —

1. Its reasons for this change of attitude?
2. Whether its policy is in conformity with that of the British Government?

THE COLONIAL SECRETARY replied as follows: —

1. The position regarding compensation for requisitioned cars is clearly laid down in Regulation 6(1) proviso (ii) of the Compensation (Defence) Regulations 1940 as follows: —

"No compensation shall, by authority of this paragraph, be payable in respect of any loss of, or damage to, any vehicle arising in consequence of war operations, unless it is shown that, at the time when the loss or damage occurred, the risk of the vehicle being lost or damaged in consequence of war operations was materially increased by the reason of the requisition thereof in the exercise of emergency powers".

2. This regulation has its counterpart in the emergency legislation of other Colonies and of the United Kingdom.

3. The announcement made in the Press on the 30th August, 1946, was issued with the object of obtaining complete data after a preliminary survey of the situation when it appeared on the facts then available that requisition necessarily involved material increase in risk of destruction or damage. Further investigation has however shown that this was not necessarily the case and in view of definite instructions from the Secretary of State that claims should be met at present only if they are enforceable in law, it has been necessary to adhere strictly to the letter of the Regulations.

4. The letter quoted in the "South China Morning Post" therefore correctly sets forth the present position. The claimant in this case did not state that his car had been destroyed or damaged before the 25th December, 1941, and in fact stated that he did not know its whereabouts.

5. The replies to the specific points on which statements are desired are therefore: —

(i) Government's attitude on the matter has not changed; compensation will be paid on any claim enforceable in law.

(ii) Yes. As already stated the local regulations have their counterparts elsewhere throughout the Empire and final confirmation from the Secretary of State as to how they should be applied, in view of the particular circumstances of the hostilities in Hong Kong, is now awaited.

HON. M. M. WATSON: —Arising out of the Colonial Secretary's answer to the Honourable Member, will Government emphasise when they are making representations to the Secretary of State as mentioned in the last part of the answer that the Government have already promised in their statement of the 30th August, 1946, to pay where definite evidence is produced of loss. It may be wrong, Sir, but they have done so.

H.E. THE GOVERNOR: —I am afraid I did not hear the beginning. Do I understand that the Honourable Member is asking a supplementary question?

HON. M. M. WATSON: —Yes.

H.E. THE GOVERNOR. —The Honourable Member, I am afraid, is out of order. A supplementary question can only be asked by the member who asked the original question in order to elucidate the answer. Perhaps if the Honourable Member afterwards would mention his point to the Colonial Secretary it will receive attention. Meanwhile, while we are in Council we should stick reasonably closely to the Standing Rules and Orders.

MOTIONS.

THE ATTORNEY GENERAL moved: —

That the Hawkers By-laws made by the Urban Council on the 16th day of September, 1947, under section 2 of the Hawkers Ordinance, 1935, Ordinance No. 22 of 1935, be approved.

He said: Sir, it will be recalled that at the meeting of this Council on 2nd October, I obtained the permission of this Council to postpone the motion for approval of by-laws made by the Urban Council, being the motion which I have just moved. I have taken such permission for postponement because it was desired that there should be more time for consideration of petitions which had been received regarding such by-laws by the Honourable Chinese Members of this Council and by the Secretary for Chinese Affairs. In the interval the opportunity has been taken in particular by the Honourable Members to whom I have referred to consider the by-laws and with them the petitions which have been received. Such Honourable Members consulted the Chairman of the Urban Council and obtained from him the views of the Urban Council in this matter. Such views are summarised in an explanatory note which has been prepared by the Chairman of the Urban Council and which Honourable Members will find annexed to the Order Paper before Council to-day. I understand that the Honourable Chinese Members and the Honourable the Secretary for Chinese Affairs have found the considerations advanced in support of the enactment of these by-laws to be fully acceptable to them. In regard to the explanatory note to which I have referred, I would ask Honourable Members to take note in particular of the fact that the note points out that the by-laws give effect in regard to the matters with which the by-laws deal to the recommendations of a Committee on hawking whose report was in the main accepted by Government. It will be recalled that such report was made by the Committee on hawking after very protracted and careful consideration of this problem.

THE COLONIAL SECRETARY seconded, and the motion was carried.

HONG KONG POLICE RESERVE AMENDMENT BILL, 1947.

THE ATTORNEY GENERAL moved the First reading of a Bill intituled "An Ordinance to amend the Hong Kong Police Reserve Ordinance, 1927."

He said: Sir, this Bill seeks to amend the Hong Kong Police Reserve Ordinance which was enacted in 1927. Section 11 of such Ordinance deals with the calling out of the Police Reserve for active service. It enables the Reserve to be called out for active service only in case of actual or apprehended tumult or riot or attack on the Colony, and within this restriction it also requires that the Reserve

be called out for active service only upon proclamation of the Governor. It is considered, however, that at this date the Ordinance should enable the calling out of the Reserve for active service more flexibly, that is to say, that in the event of riot or tumult it should be possible for the Reserve to be called out on active service without the requirement and possible delay entailed by the making of a proclamation for such purpose. Further, it is considered necessary that it should be possible to call out the Reserve for training purposes and so enable the Reserve to obtain experience of actual Police work in its full. Consequently, clause 2 of the Bill before Council, Sir, provides for the amendment of Section 11 so as to enable the Reserve to be called out for purposes connected with peace and good order in the Colony by departmental order of the Commissioner of Police, such order however to be made only with the approval of the Governor; and secondly, the amendment provides that the Reserve may be called out for training purposes by departmental order of the Commissioner of Police, without necessity in such case for prior approval of the Governor being obtained.

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. Section 11 of the Hong Kong Police Reserve Ordinance, 1927, the principal Ordinance, provides that in case of actual or apprehended tumult or riot or attack on the Colony, the Governor may, by Proclamation, call out the Reserve or portion or members thereof on active service. It is, therefore, not possible to call out the Reserve for active service in any situation other than that mentioned in the section quoted nor is it permissible to call out the Reserve, or portion of it, to enable training to be given to the Reserve under actual conditions of police service.

2. The object of this Bill is, by repeal and replacement of subsections (1) and (3) of section 11 of the principal Ordinance, to remedy such defect so as to empower the Commissioner of Police, with the prior approval of the Governor, to call out the Reserve for active service in whole or part for any purpose connected with the peace and good order of the Colony and to empower the Commissioner of Police to call out the Reserve for active service for training purposes.

3. The opportunity afforded by necessity to amend the principal Ordinance for the reasons given has been taken to amend sections 14 and 15 so as to make it clear that all ranks of the Reserve shall be vested with the protection and immunities of corresponding ranks in the regular police force when called out on active service or when, voluntarily, assisting the regular force in the execution of their duty.

LEGAL PRACTITIONERS AMENDMENT BILL, 1947.

THE ATTORNEY GENERAL moved the First reading of a Bill intituled "An Ordinance to amend the Legal Practitioners Ordinance, 1871."

He said: Sir, this short Bill seeks merely to add a section as section 9A to this Ordinance of 1871 dealing with the subject of Legal Practitioners. The Objects and Reasons which have been printed with the Bill before Council I think adequately explain the purpose of the amendment proposed by the Bill.

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 Legal Practitioners Ordinance, 1871, the principal Ordinance, requires that a person to be admitted as a solicitor shall have served articles of clerkship for a required term of years with a practising solicitor and that such service shall be solely with such solicitor. There is, however, no provision in the principal Ordinance corresponding to section 25 of the Solicitors Act, 1932 (22 & 23 Geo. 5. c. 37). Such section provides that where before the expiration of the term for which a clerk is articulated the solicitor to whom he is articulated ceases to practise, or dies, or his articles are cancelled by mutual agreement, or discharged by the court, the clerk may enter into fresh articles for the residue of the required term and such service shall be good service.

2. The object of this Bill is (Clause 2) to remedy such omission in the principal Ordinance by provision that an articulated clerk in the circumstances above described may qualify for admission as a solicitor by serving the residue of any term of his clerkship under fresh articles to another practising solicitor.

ADULTERATED FOOD AND DRUGS AMENDMENT BILL, 1947.

THE ATTORNEY GENERAL moved the First reading of a Bill intituled "An Ordinance to amend the Adulterated Food and Drugs Ordinance, 1935."

He said: Sir, this again is a short Bill for the amendment of the Adulterated Food and Drugs Ordinance, 1935. As explained in the Objects and Reasons, the intention of the Bill is to render the definitions of food and substance occurring in the principal Ordinance the same as the definitions employed in Section 100 of the Food & Drugs Act, 1938, in the United Kingdom, since such definitions are regarded as more adequate for the practical employment of the Ordinance.

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. Section 2 of the Adulterated Food and Drugs Ordinance, 1935, the principal Ordinance, contains a definition of food. In operation of such Ordinance doubt has arisen as to whether such definition covers substances which are used with food.

2. The object of this Bill is, therefore, to remove such doubt by amendment of section 2 of the principal Ordinance to provide for such Ordinance the definitions of "food" and "substance" employed in section 100 of the Food and Drugs Act, 1938 (1 & 2 Geo. VI. C. 56).

ANNOUNCEMENT.

HON. D. F. LANDALE: —May I make a statement in connection with Her Royal Highness Princess Elizabeth's Wedding Gift Fund?

H.E. THE GOVERNOR: —Yes.

HON. D. F. LANDALE: —Thank you, Sir. In my remarks at our last meeting in moving the resolution, I mentioned that Messrs. Lowe, Bingham & Matthews had kindly consented to act as Honorary Treasurers to the fund. We now find that it would be more convenient if we had Joint Honorary Treasurers, and both Messrs. Peat, Marwick & Mitchell and Messrs. Lowe, Bingham & Matthews have kindly consented to act in this capacity. Personal donations may, therefore, be sent to either firm.

ADJOURNMENT.

H.E. THE GOVERNOR: —That concludes the business, Gentlemen. When is it your pleasure that we should meet again?

THE ATTORNEY GENERAL: —14 days hence, Sir.

H.E. THE GOVERNOR: —Council will now adjourn to this day fortnight.