

3rd March, 1948.

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.)

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

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

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

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

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

DR. HON. CHAU SIK-NIN.

HON. R. D. GILLESPIE.

HON. M. M. WATSON.

MR. ALASTAIR TODD (Deputy Clerk of Councils)

ABSENT: —

HON. D. F. LANDALE.

HON. LEO D'ALMADA, K.C.

MINUTES.

The Minutes of the meeting held on 25th February, 1948, were confirmed.

MOTIONS.

THE ATTORNEY GENERAL moved the following resolution: —

Resolved under section 4 of the Dutiable Commodities Ordinance, 1931, that, in respect of importations paid for after the 25th January, 1948, the rate for the purpose of calculating the Hong Kong Dollar equivalent of French Francs in connection with the duty on toilet preparations and proprietary medicines as imposed by a resolution of this Council under the said Ordinance of the 3rd December, 1947, be Hong Kong \$1 to 54 French Francs in lieu of the rate of Hong Kong \$1 to 30 French Francs established by the said resolution. He said: Sir, the terms of the resolution are, I think, self-explanatory. A resolution was passed by this Council on 3rd December, 1947, providing for the duties payable under the Dutiable Commodities Ordinance, 1931, section 4. Meanwhile devaluation of the franc has taken place with effect from 25th January, 1948. It is therefore necessary in the resolution of 3rd December, 1947, to make an amendment in the calculation of the Hong Kong dollar equivalent to the franc consistent with the devaluation of the franc occurring on the date I mention.

THE COLONIAL SECRETARY seconded, and the motion was carried.

THE CHAIRMAN, URBAN COUNCIL moved: —

That the Markets By-laws made by the Urban Council on 17th February, 1948, under section 5 of the Public Health (Food) Ordinance, 1935, Ordinance No. 13 of 1935, be approved. He said: Sir, under section 7 of the Public Health (Food) Ordinance, the approval of this Council is required for the revised Markets By-laws made by the Urban Council.

These revised by-laws, a copy of which is attached to the Order Paper, are substantially the same as the present existing Markets By-laws but provision is made for the following new provisions: —

Under By-law 9 (4): Stalls in markets other than Wholesale Markets are to be restricted to retail sale.

Under By-law 17: Power is given to the Urban Council to terminate forthwith the leases of stalls which have been unoccupied or inadequately occupied for normal business for a period of one month.

By-law 20: Prohibits the use of a stall for any other purpose than that for which it is let.

- By-law 30: Provides for the medical examination of persons engaged or employed in markets if and when this is considered advisable or necessary by a Health Officer.
- By-law 50: Relates to sale of horseflesh and is similar to regulations in the United Kingdom and elsewhere.
- By-law 52: Simplifies the service of notices as, at times, the Urban Council has difficulty in locating the lessees of market stalls.
- By-law 53: Allows of appeals to the Urban Council within 14 days from the service of notices.

THE COLONIAL SECRETARY seconded, and the motion was carried.

TRADE UNIONS AND TRADE DISPUTES BILL, 1948.

THE ATTORNEY GENERAL moved the First reading of a Bill intituled "An Ordinance to regulate trade unions and trade disputes." He said: Sir, the necessity has been seen, and has long been seen in the United Kingdom and elsewhere within the Empire, for legislation for the regulation and guidance of trade unions and also for legislation providing machinery for the settlement of trade disputes. In fact in this Colony in the years immediately preceding the war, this necessity was also felt, and a Bill was drafted and in fact printed rather similar to the Bill now before Council. The necessity for such legislation recognised as existing pre-war is no less to-day. The Bill before Council is designed to provide legislation for the topics which I have mentioned. The Bill in clause 2 defines trade disputes and trade unions. The Bill provides that an officer to be known as the Registrar of Trade Unions may be appointed by the Governor. Thereafter clause 5 requires that no organisation, being a trade union as defined, may do any act in furtherance of its purpose as a trade union unless it is registered with the Registrar of Trade Unions. The Bill empowers the Registrar of Trade Unions either to register or to refuse registration, and again it empowers him after registration to cancel it, but both where there is refusal to register and a decision to cancel the reasons for such decision by the Registrar must be given to the parties concerned, and such parties are given by the Bill the right to appeal to the Governor-in-Council. The Bill sets out the obligations which it imposes on a registered Trade Union. They are serious obligations. They limit the purposes for which trade union funds may be utilised. They require that no person may be an officer of a trade union unless he is a person engaged in the industry with which the union is concerned, and there is prohibition against the employment of trade union funds for payment of fines and penalties imposed on individuals, and there is restriction against the use of trade union funds for political purposes. Again a trade union must see to its accounts. Accounts must be kept and a statement

of accounts submitted to the Registrar of Trade Unions. Now these are, as I have stated, obligations imposed and following upon registration as a trade union. They are designedly so imposed because it is necessary and reasonable to expect from trade unions duly registered a high sense of responsibility and a measure of administrative regularity. I say that such is necessary and is so provided for in the Bill because the Bill by clauses 28 and 29 reproduces provisions of the United Kingdom legislation and of the legislation of other Colonies, which follows a model ordinance, whereby a measure of exemption is given to trade unions from actionability for tortious acts and from liability for criminal prosecution for conspiracy.

The other and perhaps lesser feature of this Bill is, as I have indicated, to provide for trade disputes. As to that, there is provided in the Bill in clause 33, provision allowing of peaceful picketing in connection with a trade dispute, but it is desirable that I should emphasise the words "peaceful." Picketing must be peaceful because there is a prohibition and an offence created by clause 32 if picketing or any action in furtherance of a trade dispute were to involve violence and intimidation. On the aspect again of trade disputes settlement, provision is made by clause 35 whereby the Governor may appoint an Arbitration Tribunal for the settlement of a trade dispute, the work of such Tribunal being given publicity; but at the same time there is a reservation made which is designed to encourage and perpetuate the practice of settlement of disputes by machinery existing within industries affected by disputes because it is stipulated that an Arbitration Tribunal to be appointed by the Governor with the consent of parties shall not be appointed unless the machinery in an affected industry has been tried and has failed.

For the rest, Sir, the Bill provides for the repeal of the Illegal Strikes and Lockouts Ordinance which in so far as it has not been reproduced in the Bill before Council has upon enactment of this Bill no further useful purpose.

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 main object of the Bill is to provide for the compulsory registration of Trade Unions. It has for some time been the practice for a trade union to give particulars of its constitution and organisation to the Secretary for Chinese Affairs. The practice has no legal sanction. Under Clause 8 of the Bill a trade union failing to register or dissolve commits an offence.

2. Registration is effected by the Registrar of Trade Unions who is to be appointed by the Governor (Clause 6) and who is by Clause 9 empowered to refuse to register on specified grounds (Clause 10).

Registration can also be cancelled by the Registrar for specified grounds upon notice which, except where the trade union has ceased to exist, must be not less than two months notice (Clause 11). Appeal against refusal or cancellation lies to the Governor in Council.

3. The principal reason for requiring registration is to ensure that trade unions are constituted for lawful objects but registration also enables the constitution and organisation of trade unions and the application of its funds to be controlled as a failure to comply with the provisions of the Ordinance relating to these matters is a ground upon which registration can be refused or cancelled.

4. **Constitution.** Provision is made for the membership of minors between the ages of 16 and 21 (Clause 12), and the provisions as to affiliation outside the Colony previously contained in Section 7 of the Illegal Strikes and Lock-outs Ordinance, 1927, are reproduced by Clause 14. Except where consent to affiliation has been obtained it is an offence to be in possession of directions from a trade union outside the Colony as to the conduct of persons in the Colony (Clause 34). Under Clause 13 trade union officials must be engaged or employed in industry or occupation with which the trade union is connected but exemption may be granted by the Governor in Council. Provision is made by Clauses 15 to 18 for change of name and for the amalgamation of unions having common trade interests.

5. **Organisation and Application of Funds.** The organisation of a trade union is determined by its rules of which registration is required (Clause 9). These rules also govern application of the funds of a trade union. Subject to these, Clause 20 stipulates how such funds may be expended and Clauses 21 and 22 contain two express prohibitions, the former against paying court fines or penalties out of funds and the latter against making contributions to political parties or for political purposes. The latter provision is based on Section 8 of the Illegal Strikes and Lock-Outs Ordinance, 1927, but in view of the special position of Hong Kong, has been extended to cover political parties and purposes within the Colony. Provision for accounts and audit is made by Clauses 23 and 24 respectively and Clause 31 enables complaints as to misapplication of funds to be dealt with by a magistrate.

6. Under Section 3 of the Illegal Strikes and Lock-Outs Ordinance, 1927, strikes or lock-outs designed or calculated to coerce the Government were declared illegal, following similar provision in the United Kingdom by the Trade Disputes and Trade Unions Act, 1927. Section 5(1) of the said Ordinance also made it an offence to watch or beset a residence or place of business and by sub-section (2), attending at such residence or place in such numbers or in such manner as was calculated to intimidate any person therein was deemed to be watching and besetting notwithstanding that it was done in

furtherance of a trade dispute. This followed the provisions of section 3 of the Imperial Act. The Imperial Act which was subjected to strong criticism has now been repealed and picketing is now lawful provided no illegal act is committed. The Secretary of State is anxious that the position in the Colonies should correspond to that in the United Kingdom. Clause 32 of the Bill accordingly reproduces sub-section (1) only of section 5 of the said Ordinance.

7. Section 6 of the Illegal Strikes and Lock-Outs Ordinance, 1927, made it an offence in certain cases to break one's contract. In England and in other Colonies the rule of law whereby it was an actionable wrong to combine or conspire with a view to induce breach of contract by others has been reversed so far as relates to acts done in pursuance of a trade dispute. A similar clause (Clause 30) now appears in the present Bill and is strengthened by Clauses 28 and 29 which follow a Model Ordinance approved by the Secretary of State. It is logical to repeal section 6 of the Illegal Strikes and Lock-Outs Ordinance. Indeed, save in so far as it is incorporated by the present Bill, the said Ordinance has ceased to be of use and is repealed by Clause 47(1) of the Bill.

8. It has been considered desirable to incorporate in the Bill provisions for reference to arbitration. These provisions are based on those of the Trade Unions, Conciliation and Trade Disputes Bill, 1942, of Northern Rhodesia. It should be observed that arbitration is entirely voluntary and that there is no provision for enforcing an award. It is however considered that the fact that the machinery exists together with the force of public opinion will achieve a good deal. Provision has been made to enable the Arbitration Tribunal to compel attendance before it and obtain the necessary information. See Clause 39 of the Bill.

9. A comparative table has been prepared and is annexed.

DANGEROUS DRUGS (AMENDMENT) BILL, 1948.

THE ATTORNEY GENERAL moved the Second reading of a Bill intituled "An Ordinance further to amend the Dangerous Drugs Ordinance, 1935."

THE COLONIAL SECRETARY seconded, and the Bill was read a Second time.

Council then went into Committee to consider the Bill clause by clause.

Clause 1.

THE ATTORNEY GENERAL. —I move that clause 1 be amended by the replacement of 1948 for the figure 1947.

The amendment was agreed to.

Council then resumed.

THE ATTORNEY GENERAL reported that the Dangerous Drugs (Amendment) Bill, 1948, had passed through Committee with one amendment and moved the Third reading.

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

FORESTRY (AMENDMENT) BILL, 1948.

THE ATTORNEY GENERAL moved the Second reading of a Bill intituled "An Ordinance to amend the Forestry Ordinance, 1937."

THE COLONIAL SECRETARY seconded, and the Bill was read a Second time.

Council then went into Committee to consider the Bill clause by clause.

Council then resumed.

THE ATTORNEY GENERAL reported that the Forestry (Amendment) Bill, 1948, had passed through Committee without amendment and moved the Third reading.

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

DEFENCES (FIRING AREAS) AMENDMENT BILL, 1948.

THE ATTORNEY GENERAL moved, the Second reading of a Bill intituled "An Ordinance to amend the Defences (Firing Areas) Ordinance, 1936."

THE COLONIAL SECRETARY seconded, and the Bill was read a Second time.

Council then went into Committee to consider the Bill clause by clause.

Clause 2.

THE ATTORNEY GENERAL. —Sir, I rise to move that this clause be amended by the deletion of the full stop at the end of the definition of "Commander, Kowloon Area" and by the addition of the following words: "or the officer for the time being commanding Royal Artillery, Hong Kong." Since the first reading of this Bill I have learned that amendment is desirable so as to amend the definition of Commander, Kowloon Area, so as to provide that the

Bill shall be given flexibility in administration as to whether the Commander, Kowloon Area or Officer Commanding, Royal Artillery shall in fact be the authority for the purpose of arranging firing practices.

The amendment was agreed to.

Second Schedule.

THE ATTORNEY GENERAL. —I rise to move that the second schedule as provided for by clause 7 be amended by the insertion of the words "General Officer Commanding, Hong Kong" after the words "Commander-in-Chief, British Pacific Fleet." The purpose is to add the General Officer Commanding to the list of persons who should be supplied with programmes, notices and charts in regard to firing practices.

The amendment was agreed to.

Council then resumed.

THE ATTORNEY GENERAL reported that the Defences (Firing Areas) Bill, 1948 had passed through Committee with two amendments and moved the Third reading.

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

ADJOURNMENT.

H.E. THE GOVERNOR. — That concludes the business before us gentlemen. It is proposed to take the First reading of the Appropriation Bill for the financial year 1948-49 on 19th March. I would suggest that it would be a good thing to clear the decks of the Trade Union Bill, and take the Second reading of that next week at a fairly short meeting and then on the 19th we will have the First reading of the Appropriation Bill, with a speech by the Financial Secretary, and I myself also propose to address the Council. If this is agreeable, I suggest we adjourn until next Wednesday, the 10th March.

This was agreed to, and Council adjourned until Wednesday, 10th March, at 2.30 p.m.