

25th August, 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 F. R. G. MATTHEWS, D. S. O.)

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

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

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

THE FINANCIAL SECRETARY (HON. A. G. CLARKE, *Acting*).

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

DR. HON. G. H. THOMAS, O.B.E. (Acting Director of Medical Services).

HON. D. F. LANDALE.

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

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

DR. HON. CHAU SIK-NIN.

HON. LEO D'ALMADA, K.C.

HON. N. O. C. MARSH

HON. P. S. CASSIDY.

MR. ALASTAIR TODD (Deputy Clerk of Councils).

ABSENT: —

HON. E. HIMSWORTH (Acting Superintendent of Imports and Exports).

MINUTES.

The Minutes of the meeting of the Council held on 11th August, 1948, were confirmed.

OATHS.

The Hon. P. S. Cassidy took the Oath of Allegiance and assumed his seat as a Member of the Council.

PAPERS.

THE COLONIAL SECRETARY, by command of His Excellency the Governor, laid upon the table the following papers: —

Annual Report of the Hong Kong and Kowloon Magistracies for the year 1946-47.

Annual Report of the District Office, New Territories for the year 1946-47.

Annual Report of the General Post Office for the year 1946-47.

MOTIONS.

THE ACTING ATTORNEY GENERAL moved: —

"That the amendment made by the Urban Council on the 3rd day of August, 1948, under Section 5 of the Public Health (Food) Ordinance, 1935, Ordinance No. 13 of 1935, to the by-laws under the heading 'Sale of Milk generally and Dairies and Milk Shops' in the Schedule to the said Ordinance, be approved." He said: Sir, the by-laws 1(a), 1(b) and 1(c) contain provisions for the pasteurisation of milk or cream, for the control of plant or apparatus used in any dairy and for the type and filling of containers in which the milk or cream is to be exposed for sale.

By-laws 1(b) and 1(c) are framed on the assumption that the milk or cream has been produced locally or, at all events, has been re-pasteurised in the Colony.

Frozen milk and frozen cream are, however, imported products and provided that the product is properly pasteurised in the country of origin and imported in approved containers approved by the Urban Council, the Urban Council is prepared to sanction the sale of frozen milk and frozen cream by milk-shops.

The object of the amendment referred to in the motion is to enable the Council to impose conditions of sale and to approve containers while at the same time dispensing with the provisions of the by-laws 1(b) and 1(c) which could not be applied in the case of imported products.

THE COLONIAL SECRETARY seconded, and the motion was carried.

THE ACTING FINANCIAL SECRETARY moved: —

That the Supplementary Provision for the fourth quarter ended 31st March, 1947, Schedule No. 3 of 1946-47, be approved. He said: Sir, the Schedule now before Honourable Members is the third, and the last, for the financial year 1946/47, and its approval will clear the way for final disposal of the finances of that year by a Supplementary Appropriation Ordinance.

All the items in the Schedule have been recommended for approval by the Finance Committee. They range in size from one of over two million dollars for stores to two of four dollars, and I think it must be conceded that in view of the fact that the estimates for 1946/47 were little more than inspired guesses, we have not done too badly. The largest excess, that on Unallocated Stores, merely indicates that rehabilitation materials came in more quickly than had been expected. Of other items, the excess on the vote for Transport of Government servants was due to the fact that practically every expatriate officer in that abnormal year received a passage; and the additional cost of Civil Pensions, etc., is due to occupation period arrears, and to the many invalidings following internment.

The additional provision of \$1,700,000 odd for H.C.L. and Rehabilitation Allowances actually represents only a 10% excess over the original provision, despite the fact that rates were raised by 50% during the course of the year.

THE COLONIAL SECRETARY seconded, and the motion was carried.

THE ACTING FINANCIAL SECRETARY moved: —

That a Bill intituled "An Ordinance to amend the Stamp Ordinance, 1921" which was read a First time on the 16th June, 1948, be not proceeded with.

He said: Sir, this motion is explained by the item which follows next on the Order of Business. It is Government's desire to withdraw the Bill which has already been read a First time and replace it by one which is felt to be based on sounder principles.

This was agreed to.

STAMP (AMENDMENT) BILL, 1948.

THE ACTING FINANCIAL SECRETARY moved the First reading of a Bill intituled "An Ordinance to amend the Stamp Ordinance, 1921", published in Supplement No. 3 to the Gazette on 20th August, 1948. He said: Sir, this Bill replaces that read a First time on the 16th June, and I do not think there is anything that I can usefully add to the full explanation which has been given in the Objects and Reasons.

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. As a result of the Stamp (Amendment) Ordinance, 1946, an excess stamp duty of 10% became payable on the excess consideration represented by a conveyance on sale executed on or after the 30th September, 1946. Certain provisions relating to such excess duty which were inserted to produce equity proved complicated and a cause for delay in practice.

2. Government can ill afford to lose the revenue produced by the excess stamp duty but it is appreciated that the original proposal, contained in a previous Bill submitted to Council, to substitute a 5% *ad valorem* duty in all cases would work hardship in those cases where, after excess stamp duty had already been paid, 5% *ad valorem* duty had to be paid on a fresh conveyance. Representations to this effect were received both from the Law Society and the Chambers of Commerce.

3. It is considered reasonable that future conveyances on sale should bear 3% *ad valorem* duty and that conveyances on sale, which have not already paid the 10% excess duty referred to, should in addition pay another 3% *ad valorem* duty by way of excess duty. The above objects are carried out by clauses 3 and 4 of the Bill.

4. In view of the fact that it is always customary, mainly in order to prevent evasion, to ascertain duty on other conveyances and instruments by reference to a conveyance on sale duties on voluntary assignments *inter vivos*, conveyances by way of exchange, leases granted for a premium, etc., will increase correspondingly. This would be the case even if no provision were made. Clause 4(2) is therefore declaratory and 4(1)(b) amends the Schedule so as to avoid conflict between Number 44 in the Schedule and the express provisions of section 23(1) of the principal Ordinance.

5. Instruments relating to land in the New Territories executed in pursuance of the New Territories Regulation Ordinance, 1910, have hitherto been exempt from stamp duty under the principal Ordinance. The validity of the method whereby this was effected is at least doubtful. It is considered that while power should be taken to exempt such instruments it may be desirable to limit the exemption to instruments of a particular character or executed for a particular purpose. The opportunity has accordingly been taken (clause 2) to amend section 4, which contains power to make regulations, so as to facilitate differentiation in the case of instruments affecting land in the New Territories.

6. Clause 5 is required to make certain amendments in the references in the first column of the Schedule consequential on the enactment of the Stamp (Amendment) Ordinance, 1947.

TRADE COMMISSIONERS' PRIVILEGES BILL, 1948.

THE ACTING ATTORNEY GENERAL moved the First reading of a Bill intituled "An Ordinance to provide for the remission of taxes, duties and fees to which trade commissioners and assistant trade commissioners may be subjected when payment of such moneys is inconsistent with the privileges of that office." He said: Sir, I would like to say in amplification of the Objects and Reasons that Government has been approached on behalf of the Trade Commissioners for the Commonwealth of Australia and Canada and has been asked that the privileges normally extended to Consuls should also be extended to them. The latter privileges are already provided for in the Consular Privileges Ordinance, 1947, and the present Bill follows the lines of that Ordinance, that is to say the privileges will be conditional upon reciprocal treatment being given by the Governments concerned to persons representing His Majesty's Government in the United Kingdom in a similar capacity.

The approval of the Secretary of State has already been 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. The object of the Bill is to provide a single Ordinance under which remission of taxes, duties or fees may be granted when a person is entitled to such treatment by reason of his status in a trade commissioner's office.

2. The persons entitled to remission and the particular moneys of which they should be exempted are subject to changes by reason of being based upon reciprocal agreements between the United Kingdom Government and the governments represented by trade commissioners in the United Kingdom.

3. Clause 3 of the Bill makes provision for the Governor to direct who amongst the class laid down in clause 2 shall be relieved from payment of taxes, duties or fees and also the extent to which such relief shall be granted.

RADIO-ACTIVE MINERALS BILL, 1948.

THE ACTING ATTORNEY GENERAL moved the Second reading of a Bill intituled "An Ordinance to regulate and control prospecting and mining for radio-active minerals and the export thereof and for purposes connected therewith."

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 ACTING ATTORNEY GENERAL: —Sir, the Superintendent of Imports and Exports has asked me, on his behalf, to move the amendments of which notice has already been given to Council. I move that clause 2 be amended by the insertion of the following interpretations immediately prior to the interpretation of the word "licence".

"To attempt to export means to do any act preparatory to or for the purpose of exportation, not being an act connected with an application for a permit to export" and secondly "Export means to take or cause to be taken out of the Colony by land, air or water, and includes the export of anything taken or sent from any country and brought into the Colony by land, air or water (whether or not landed or transhipped in the Colony) for the sole purpose of being carried to another country either by the same or another conveyance." The interpretations are based on the same lines as those contained in the Importation and Exportation Ordinance, 1915 and it is considered that they would improve the Bill.

The amendments were agreed to.

Clause 5.

THE ACTING ATTORNEY GENERAL: —Sir, I move that clause 5 be amended by the substitution of the words "Superintendent of Imports and Exports" for the word "Governor" in the third line thereof. The Superintendent of Imports and Exports, as Members are aware, is in fact concerned with the control of any export and it is considered that this duty can more properly be discharged by him, so that the Governor can be relieved of the responsibility which is now placed on him by clause 5 of the Bill.

The amendment was agreed to.

Clause 6.

THE ACTING ATTORNEY GENERAL: —Sir, I rise to move that clause 6 be amended by the substitution of the words "person authorised to issue such a licence or permit" for the word "Governor" in the second line thereof. The amendment is consequential upon the amendment effected in the previous clause.

The amendment was agreed to.

Clause 7.

THE ACTING ATTORNEY GENERAL: —Sir, I beg to move the following clause be substituted for clause 7. The marginal note as it appears in the notice given to Honourable Members is "Form of licence and permit." I would like the words "and permit" to be deleted as clause 7 relates to licence fee only.

7. "Every licence shall be subject to the payment of such fee as the Governor may determine and shall be in such form and for such period and shall contain such terms and conditions as the issuing authority may think fit to impose."

The amendment was agreed to.

Clause 11.

THE ACTING ATTORNEY GENERAL: —Sir, I move that clause 11 be amended by the substitution of a comma for a full stop at the end thereof, and by the insertion of the words and symbol "or any other enactment" after the comma aforesaid. There are other enactments under which other provisions and requirements are required to be complied with in addition to the amendment mentioned in clause 11 as it stands at the moment.

The amendment was agreed to.

Council then resumed.

THE ACTING ATTORNEY GENERAL reported that the Radio-Active Minerals Bill, 1948, had passed through committee with 5 amendments, and moved the Third reading.

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

RENT (WAR PERIOD) RELIEF BILL, 1948.

THE ACTING ATTORNEY GENERAL moved the Second reading of a Bill intituled "An Ordinance to relieve tenants from payment of rent in respect of the period of Japanese occupation and to adjust the rights of landlords and tenants."

THE COLONIAL SECRETARY seconded.

HON. D. F. LANDALE: —Sir, I would like to take the opportunity afforded me at the second reading of this Bill to comment on behalf of my Unofficial Colleagues and myself on the unfortunate misunderstanding which occurred in the very early stages of this Bill.

The Government, very commendably in our opinion, circulated the draft Bill, when it was in its infancy, to a number of bodies representative both of the landlord community and the tenant community and asked for their comments.

It was perhaps inevitable that with this wide circulation the Press should get wind of it, and I believe certain sections of the Press approached the Government for further information which was denied them. Had the information been given, the unfortunate result that a number of misinformed editorials were published, which misrepresented the whole issue to the public, would in all probability have been avoided. We would like to suggest, therefore, that when

Government again adopts a similar method of initiating legislation, the Press, through the newly reinforced Press Relations Office, be kept correctly informed. This should greatly assist in making their editorial comments helpful and constructive.

I also commend to certain sections of the Press this suggestion, that if Government adopts this course they take pains not to distort facts given to them by the Press Relations Office, as in fact happened in the case of one Chinese paper after the Press Conference held by my Honourable Friend the Attorney General when details of this Bill were made available.

The Bill was read a Second time.

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

Clause 4.

THE ACTING ATTORNEY GENERAL: —Sir, I rise to move that sub-clause 2 of clause 4 be amended by the substitution of a comma for a full stop at the end thereof and the addition after such comma of the following words and symbols:

"occurring during the war period: Provided that section 3 shall nevertheless apply if in the case of a breach occurring during the war period, but continuing thereafter the claim is limited to breaches continuing subsequent to the war period." The reasons have been stated at the foot of the notice already with Honourable Members. The sub-clause is at present too wide as it would prevent tenants in the case of tenancies which have continued subsequent to the war from seeking relief for breach of covenant occurring or continuing after the war period. This is not the intention of the Bill.

The amendment was agreed to.

Council then resumed.

THE ACTING ATTORNEY GENERAL reported that the Rent (War Period) Relief 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.

PUBLIC HEALTH (SANITATION) AMENDMENT BILL, 1948.

THE ACTING ATTORNEY GENERAL moved the Second reading of a Bill intituled "An Ordinance to amend the Public Health (Sanitation) 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.

Council then resumed.

THE ACTING ATTORNEY GENERAL reported that the Public Health (Sanitation) 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.

ADJOURNMENT.

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

This was agreed to.

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