

13th April, 1949.

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, 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. B. C. K. HAWKINS, O. B. E., *Acting*).

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

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

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

HON. A. F. FEHILYT, O. B. E (Chairman of Public Works)

HON. A. F. FEHILYT, LANDALE.

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

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

HON. LEO D'ALMADA, K. C.

HON. M. M. WATSON.

HON. P. S. CASSIDY.

MR. J. L. HAYWARD (Deputy Clerk of Councils).

ABSENT:—

DR. HON. CHAU SIK-NIN.

MINUTES.

The Minutes of the meeting of the Council held on 31st March, 1949, were confirmed.

PAPERS.

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

Annual Report of the Land Officer and Registrar of Marriages for the year 1947-1948.

DISTRICT WATCH FORCE BILL, 1949.

THE ACTING SECRETARY FOR CHINESE AFFAIRS moved the First reading of a Bill intituled “An Ordinance to amend and consolidate the law relating to the District Watch Force.” He said:

Sir, the Objects and Reasons attached to the Bill set out clearly the background and the purpose of this legislation, and since I have already spoken on the subject at the last meeting of the Council, I am sure that Honourable Members will agree that further elaboration is unnecessary. I therefore move that this Bill be read a First time.

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. Some seventy years ago the private watchmen or street-guards who had hitherto been hired by Chinese merchants and other citizens to supplement the efforts of the regular Police Force were organised into a single body, the District Watch Force, which was managed by a Committee of prominent Chinese gentlemen called the District Watch Committee, under the chairmanship of the Secretary for Chinese Affairs. From these beginnings the District Watch Force gradually evolved from a body of watchmen, in the usually accepted sense, into a special body of uniformed and plain-clothes men, each of whom has all the powers and authorities of ‘a police constable, attached to the Secretariat for Chinese Affairs. The duties of the Force consist not only of patrolling the streets, but of conducting enquiries in connection with the many matters which fall within the province of the Secretariat for Chinese Affairs. In 1941 the Force had a strength of about 160 men, each of whom had undergone a three months’ course at the Police Training School. Before the Pacific War the expenses of the Force were met from a District Watchmen’s Fund, the income of which consisted mainly of voluntary contributions collected from Chinese firms and shopkeepers which were based on the rent payable for the premises occupied by the subscribers. After the re-occupation of the Colony a total of 103 men reported back

for duty with the Force and as it was impracticable to revive the pre-war system of soliciting subscriptions for the upkeep of the Force, it became necessary for Government to assume direct responsibility and meet the salaries, allowances, pensions and other expenses of the Force by advances from the revenues of the Colony. The future of the Force was reviewed by Government in October, 1946, when it was decided that, in view of the long tradition behind the Force and the fact that it contained men who on account of their past service and present and future usefulness ought not to be dispensed with, Government would take over the Force and maintain it as it was then constituted. It was also decided that no further recruitment would take place and that the Force would be allowed gradually to fall in strength, e.g. by retirement and resignation, until it dwindled to about 40 or 50 men who would be sufficient to meet the particular needs of the Secretariat for Chinese Affairs. In accordance with these decisions provision has been made in the Estimates, since 1st April, 1947, for the maintenance of the District Watch Force from the general revenues of the Colony. As a consequence of the post-war developments outlined above and the change in the status of the District Watch Force from a non-Government to a Government institution, it is proposed to repeal the District Watch Force Ordinance, No. 23 of 1930, which regulates the appointment of members of the District Watch Committee and of district watchmen, and to replace it by a new Ordinance.

2. This Bill which is designed to supply such an Ordinance consists of five Parts as follows:—

- Part I : Preliminary,
- Part II : Constitution of District Watch Force,
- Part III : Discipline,
- Part IV : Procedure and Miscellaneous Provisions,
- Part V : Repeal.

3. Part I: This Part (clause 2) provides for the application of the Ordinance to all persons who, at the commencement of the Ordinance, are serving in the District Watch Force. Clause 4 vests in the Secretary for Chinese Affairs the supreme direction and administration of the Force subject to the orders and control of the Governor. Clause 5 provides that a district watchman shall, in relation to such duties as he may be required to perform, have all the powers and privileges of a constable of the Police Force while clause 8 defines the functions of the District Watch Force.

4. Part II provides for the constitution of the District Watch Force. In particular, this Part deals with the appointment and payment of district watchmen, their conditions of engagement and duration of service, 'and their interdiction, suspension or dismissal.

5. Part III (clauses 19 to 21 inclusive) deals with the discipline of the Force.

6. Part IV: In this Part clause 23 empowers the Governor in Council to make regulations dealing, *inter alia*, with conditions of service, while clauses 24 to 28 reproduce *mutatis mutandis* the provisions of certain sections of the Police Force Ordinance, 1948, relating to powers of arrest, etc. Clause 29 provides for the payment of certain pensions, approved by the District Watch Committee before the Pacific War, out of the general revenue of the Colony and clause 30 provides for the vesting in the Crown of certain investments and properties of the District Watch Committee.

7. Part V provides, by clause 31, for the repeal of the District Watch Force Ordinance, 1930.

ILLEGAL STRIKES AND LOCK-OUTS BILL, 1949.

THE ATTORNEY GENERAL moved the First reading of a Bill intituled "An Ordinance to prevent strikes and lock-outs having an object other than or in addition to the furtherance of a trade dispute within the trade or industry in which the disputants are engaged and being calculated to coerce the Government, and to prevent breaches of contract of service the consequence of which may be injurious to the public." He said: Sir, it will be recalled by Honourable Members that an ordinance intituled "The Illegal Strikes and Lock-Outs Ordinance" was enacted in 1927 and repealed in 1948. That Ordinance was enacted contemporaneously with similar legislation in the United Kingdom of 1927. That Ordinance had for a main objective, expressed in section 3, a declaration that a strike or lock-out is illegal if it has any object other than or additional to the furtherance of a trade dispute, and is a strike or lock-out designed to coerce the Government either directly or by inflicting hardship upon the community. Again section 6 of the Ordinance of 1927 which had provisions analogous to the Conspiracy and Protection of Property Act 1875, which is still in force in the United Kingdom, also provided that it will be an offence for persons in the service of the Crown or persons in the service of essential undertakings, such as provisions of electricity, gas or transport, to break their contracts of service in circumstances, which would entail, in the one case hindrance of the functions of Government, and in the other case the deprivation of the inhabitants of the Colony by depriving them of their most essential services or by endangering life or by endangering valuable property.

Sir, it is happily the case that in the 20 years that elapsed between 1927 and 1948 the occasion for the employment of the provisions of the 1927 Ordinance, which I have quoted, rarely, if at all, occurred. Thus, it was that when in March, 1948 this Council enacted the Trade Unions and Trade Disputes Ordinance, 1948 that Ordinance, in repealing the Ordinance of 1927 and reproducing a number of the provisions of the 1927 Ordinance, omitted the provisions similar to sections 3 and 6 of the 1927 Ordinance—the provisions—the nature of which I have already summarised. But, Sir, within the

last year in other countries of the world the tendency has unhappily developed whereby general strikes have been organised and operated with but little, if any, pretext of the furtherance of a trade dispute, but having political objective in total disregard for public order or public welfare. In these circumstances, it is considered regarding the matter in retrospect that perhaps it was unwise in repealing the Ordinance of 1927 not to reproduce in the Ordinance of 1948, which I have mentioned already, provisions corresponding to sections 3 and 6 of the 1927 Ordinance. I say perhaps it was unwise because in that way the Colony was deprived of legislation which could go far to prevent this Colony from experiencing the tendency which, as I have said, has disclosed itself in other parts of the world, whereby, for merely a political objective unassociated with trade disputes, a strike or lock-out has been used, or could be used, to coerce the Government or to coerce the community by thoroughly inconveniencing it.

Sir, it is for this reason that I move the First reading of this Bill to-day, because it will have the effect, if enacted by this Council, of replacing on the Statute Book an Ordinance containing provisions analogous to sections 3, 4 and 6 of the Ordinance of 1927.

Now, Sir, it is perhaps unnecessary, but, nevertheless, I will stress that the Bill before Council by no means alters or detracts from the provisions of the Trade Union's and Trade Disputes Ordinance, 1948. Upon the Bill before Council being enacted the position of Unions registered under the Ordinance of 1948 will not be in any way different. They will have before the law the same privileges and, I might add, the same obligations. But, as for Trade Unions, as for anybody else, the enactment of the Bill will replace legislation in this Colony which is opposed to any tendency to apply the strike or lock-out as a weapon to coerce the Government directly or by way of inconveniencing or endangering the life and welfare of the community, and all these without regard to any genuine trade dispute.

As, Sir, those provisions which this Bill now enacts were repealed with the Ordinance of 1927 last year, it is proposed that the Bill which replaces them should be subject to a periodical review of this Council. Thus, it will be seen that by clause 8 of the Bill it is provided that the Ordinance shall continue in force until and including the 31st December, 1949, but there is a proviso that the Ordinance may continue in force for periods of a year at a time upon the resolution of this Council.

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 Illegal Strikes and Lock-outs Ordinance, 1927 ("the 1927 Ordinance"), among other matters, rendered illegal strikes and lock-outs having objective other than the furtherance of a trade dispute

and being designed to coerce the Government. Furthermore, the 1927 Ordinance made it an offence wilfully to break contracts of service resulting in the public being deprived of certain essential services or in life or valuable property being endangered.

2. The Trade Unions and Trade Disputes Ordinance, 1948, repealed the 1927 Ordinance but the provisions of the 1927 Ordinance above described were not reproduced in the Ordinance of 1948.

3. It is however the fact that action by way of strike has in recent times been employed in a number of countries in disregard of genuine trade dispute but in furtherance of political objective and in disregard of public order and welfare. It is therefore considered that the provisions of the 1927 Ordinance as above described should be re-enacted as a measure of protection in case a similar tendency were, to manifest itself in this Colony.

4. The object of this Bill is therefore to re-enact the 1927 Ordinance to the extent of provision as above described. In so doing it is, however, provided (clause 8) that the duration of the Ordinance shall be limited to the 31st December, 1949, subject to the proviso that the Ordinance will be capable of continuance in force for periods of one year after that date upon resolution of Legislative Council.

STAMP AMENDMENT BILL, 1949.

THE ATTORNEY GENERAL moved the First reading of a Bill intituled "An Ordinance to amend the Stamp Ordinance, 1921." He said: Sir, the Bill before Council is accompanied by Objects and Reasons which I feel adequately explain the necessity for and the content of the Bill before Council. Suffice it perhaps if I should say that the purpose of the Bill is to give effect to increases of Stamp Duty and to use the power to impose payment of a fee upon Import and Export Declarations, all in conformity with the measures forecast before this Council, in connection with the raising of additional revenue for the services of the present financial year. The changes will have effect as from the 1st May, 1949 by the operation of clause 4 of 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. In order to increase revenue it is proposed to increase stamp duty from 10 cents to 15 cents in the case of receipts and also in the case of the various sub-heads under head No. 10 in the Schedule to the Stamp Ordinance which deals with bills of exchange, cheques, etc. The duty in the latter case is *ad valorem* as regards certain sub-heads. For the same reason two additional items have been inserted in the Schedule to the Stamp Ordinance namely import declarations and export declarations which will henceforth both be liable to the stamp duty of \$1.

2. It is considered of mutual advantage to banks and to Government to authorize cheques to be issued by banks bearing the words "stamp duty paid" instead of with adhesive stamps affixed. The banks will in such event account to Government at regular intervals. Clause 3 of the Bill introduces an additional section to the Stamp Ordinance based on a similar section in Singapore, under which the Colonial Secretary may authorise banks to adopt this practice.

3. Under clause 4 of the Bill the Ordinance will come into operation on the 1st of May, 1949, and in the case of instruments which require stamping before they are drawn or executed it would either be necessary to exempt altogether instruments drawn or executed before 'such date or to make special provision. The former alternative would entail a serious loss of revenue and it is accordingly proposed to treat such instruments in the same manner as foreign bills negotiated in the Colony. Under section 18 of the principal Ordinance such bills must be properly stamped before they can be negotiated here. Similarly bills, cheque's and letters of credit which are presented for payment, indorsed, transferred, negotiated, paid or used after 1st May, 1949, will require additional stamps. Provision is made however to exempt from penalty the drawer and holders prior to the person who fails to comply with this requirement.

REGISTRAR GENERAL (ESTABLISHMENT) BILL, 1949.

THE ATTORNEY GENERAL moved the Second reading of a Bill intituled "An Ordinance to establish the office of Registrar General, to define the duties thereof and to make provision incidental thereto."

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 Registrar General (Establishment) Bill, 1949, 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.

CHINA PENIEL MISSIONARY SOCIETY

INCORPORATION BILL, 1949.

HON. LEO D'ALMADA moved the First reading of a Bill intituled "An Ordinance to provide for the incorporation of the President in Hong Kong of the China Peniel Missionary Society." He said: Sir, the Objects and Reasons attached to the draft Bill sufficiently explain the purpose of the Bill, and I do not think I need add anything to them. I give notice that at the appropriate stage I shall move certain amendments necessitated by typographical errors in the printing of the Bill presented to Council to-day.

HON. P. S. CASSIDY 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 China Peniel Missionary Society has for many years carried on missionary and welfare work in China and Hong Kong and it is desired to incorporate the President in Hong Kong of the Society as a Corporation sole to ensure continuity of succession.
2. Clause 1 of the Bill comprises the short title of the Corporation sole.
3. Clause 3 of the Bill defines the powers of the Corporation.
4. Clause 4 of the Bill provides for the succession to property.
5. Clause 5 of the Bill provides for the execution of documents by or on behalf of the Corporation.
6. Clause 6 of the Bill provides for the appointment of the President,
7. Clause 7 of the Bill contains provisions saving the rights of the Crown as required, in the case of private ‘Bills, by Article XXVII of the Royal Instructions.

NORTH POINT WHARVES LIMITED BILL, 1949.

HON. LEO D’ALMADA moved the First reading of a Bill intituled “An Ordinance to authorise the making of by-laws by the North Point Wharves, Limited.” He said: Sir, this again is a very short Bill whose Objects and Reasons as set out in the draft sufficiently explain its purpose, and I do not think I need add anything to what is said there.

HON. M. M. WATSON 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 this Bill is to give the Company power subject to the approval of the Governor in Council to make by-laws for the maintenance of order and safety in the conduct of the business carried on at the wharves and godowns in course of construction belonging to the North Point Wharves Limited.
2. The general law is not quite suitable, and this was recognised in the case of the Hong Kong and Kowloon Wharf and Godown Company Limited who were granted special Ordinance for similar purposes in 1908.
3. Clause 5 contains provision saving the rights of the Crown as required, in the case of private Bills, by Article XXVII of the Royal Instructions.

ADJOURNMENT.

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

THE ATTORNEY GENERAL:— A fortnight's time, Sir.

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