

31st August, 1949.

PRESENT:—

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

HIS EXCELLENCY THE GENERAL OFFICER COMMANDING IN CHIEF
(LIEUTENANT-GENERAL F. W. FESTING, C. B., C. B. E., D. S. O.)

THE COLONIAL SECRETARY (HON. J. E. NICOLL, C. M. G.)

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

THE SECRETARY FOR CHINESE AFFAIRS (HON. B. C. K. HAWKINS, O. B. E., *Acting*).

THE FINANCIAL SECRETARY (HON. G. 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. NICOL (Acting Director of Public Works).

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 E CASTKO, K. C.

HON. M. M. WATSON.

HON. C. BLAKER, M. C., E. D.

MR. G. G. HAMILTON (Clerk of Councils).

ABSENT:—

HON. D. F. LANDALE.

MINUTES.

The Minutes of the meeting of the Council held on 17th August, 1949, were confirmed.

PAPERS.

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

Annual Report of the Commissioner, Rating & Valuation Department, for the year 1948/49.

EXPULSION OF UNDESIRABLES BILL, 1949.

THE ATTORNEY GENERAL moved the Second Reading of a Bill intituled "An Ordinance to control the population of the Colony by providing for the expulsion of undesirables therefrom as occasion may require." He said, Sir: In so doing, I would like, with your permission, to attempt to anticipate or to deal with criticism of the Bill which may be in the minds of Honourable Members.

Sir, guided by what I have read or heard since the Bill was given a First reading a fortnight ago, criticism of this Bill appears to me to be, in the main, directed at the fact that the Bill provides for too arbitrary a procedure which is capable of being put in motion against a very wide range of persons. As to this, Sir, I would say that it is certainly the case that the Bill aims to provide legislation having such ingredients, although I would again refer to clause 5 of the Bill which sets out provision for careful investigation of cases. I revert, however, to the point which I tried to make and to emphasise in moving the First reading of the Bill. It is this: that the legislation contemplated by this Bill is intended to provide a reinforcement to legislation giving enabling powers to meet emergency as and when it arises. Honourable Members do not need to be told by me that a common feature of all legislation in the nature of emergency legislation is that it provides enabling powers of wide range and of arbitrary character. But, Sir, it equally must be the common experience of all who are aware of the operation and manner of operation of emergency powers whether in Hong Kong or elsewhere within the Empire that emergency powers are regarded as being there for use in circumstances of real need, and that there is always hesitation to employ such powers except to the extent which the interests of public safety, order and health require.

Sir, in the first paragraph of the Objects and Reasons which were published with the Bill, the point is made that Hong Kong has traditionally allowed free ingress to Chinese from China except in times of emergency. In fact, what has happened has been, over the years, that in respect of Chinese who come from China an exemption has been extended in practice, though not in fact in law, from the

ordinary application of the Immigration Law, which, like the immigration law of any other country in the world, makes a list of the types and categories of persons to whom entry is refused.

Now, Sir, the consequence of such liberality of practice in the case of Hong Kong is that many persons come to Hong Kong and remain here who would never have been allowed to enter at all had the normal operation of the immigration laws been applied. Thus, Sir, it can happen, in times of emergency and difficulty, in times when trade has become seriously disrupted, that persons who are in the Colony merely because of the operation of the liberal policy which I described, can become a serious menace to the health and public order of the Colony and a serious burden to its economic structure. Such a situation, of course, becomes aggravated according as conditions of disrupted trade and communications prevail, because such a situation has its natural repercussions upon the prospect of useful employment and remuneration by persons who are not naturally absorbed into the economy of the Colony.

Thus it is, that as conditions improve emergency conditions would recede and I therefore anticipate that this legislation, if enacted, and the necessity for employment of it, will fluctuate according as conditions of trade and communications improve. Thus if conditions and communications improve as between Hong Kong and China the necessity to employ the legislation would correspondingly recede. In short, the Colony would less and less be faced with the necessity, on the grounds of public order and health, to apply the proposed legislation for the expulsion of persons and, incidentally, to apply the procedure of expulsion which has recently been applied in cities of China itself. As normal conditions are restored by the freedom of trade and communications, I feel confident that the necessity for this legislation will very strongly recede. It will no longer be so necessary that persons whose presence in the Colony is an embarrassment because they have no affiliation here should be dealt with by the powers visualised by the legislation, and then the time will come when the operation of clause 14 will become of immediate interest, whereby, upon the resolution of this Council, the legislation proposed will stand suspended.

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 4.

THE ATTORNEY GENERAL:—Sir, I rise to move two amendments in this Clause 4 as now before committee.

In the first place, I move that in paragraph (e) of the clause the word “on repatriation” be deleted. I so propose. Sir, because those words, if retained, are too restrictive in that they would render the

provision inapplicable to persons who have been expelled from a territory to which they belong.

Second, Sir, I move amendment of paragraph (g) of clause 4 by deletion of paragraph (g) and by the substitution therefor of the following paragraph reading as follows: —

Ordinance
No. 7 of 1889.

“(g) has been convicted by a competent court outside the Colony of an offence which if committed in the Colony Ordinance would constitute any of the offences specified in the First Schedule to the Chinese Extradition Ordinance, 1889; or”.

Sir, the reasons for this amendment to paragraph (g), or substitution of paragraph (g), is this: in its present form paragraph (g) suggests that a person may be deemed undesirable even if he has the means to support himself and his dependents. Adequate provision for cases of incapacity for self-support is made by paragraphs (b) and (c) of clause 4. The substitution proposed makes provision to empower the expulsion of persons convicted of serious offences elsewhere and the Chinese Extradition Ordinance, 1889, provides a convenient list of such offences.

These were agreed to.

Council then resumed.

THE ATTORNEY GENERAL reported that the Expulsion of Undesirables Bill, 1949, 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.

EMERGENCY REGULATIONS

(AMENDMENT) (NO. 2) BILL, 1949.

THE ATTORNEY GENERAL moved the Second reading of a Bill intituled “An Ordinance further to amend the Emergency Regulations Ordinance, 1922.”

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 Emergency Regulations (Amendment) (No. 2) 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.

ADJOURNMENT.

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

THE ATTORNEY GENERAL:—I suggest this day fortnight, Sir.

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