

26th June, 1930.

PRESENT:—

HIS EXCELLENCY THE GOVERNOR (SIR WILLIAM PEEL, K.B.E., C.M.G.).

THE HON. THE OFFICER COMMANDING THE TROOPS (COLONEL W. D. S. BROWNERIGG, D.S.O.).

THE COLONIAL SECRETARY (HON. MR. E. R. HALLIFAX, C.M.G., C.B.E.).

THE ATTORNEY GENERAL (HON. MR. C. G. ALABASTER, K.C., O.B.E.).

THE SECRETARY FOR CHINESE AFFAIRS (HON. MR. A. E. WOOD).

THE COLONIAL TREASURER (HON. MR. C. MCI. MESSER, O.B.E.).

HON. MR. H. T. CREASY, C.B.E. (Director of Public Works).

HON. MR. E. D. C. WOLFE, C.M.G. (Inspector General of Police).

HON. COMMANDER G. F. HOLE, R.N. (Retired) (Harbour Master).

HON. DR. A. R. WELLINGTON (Director of Medical and Sanitary Services).

HON. SIR SHOU-SON CHOW, K.T.

HON. MR. J. OWEN HUGHES.

HON. MR. C. G. S. MACKIE.

HON. MR. R. H. KOTEWALL, C.M.G., LL.D.

HON. MR. S. W. TS'O O.B.E., LL.D.

HON. MR. J. J. PATERSON.

HON. MR. A. F. B. SILVA-NETTO.

HON. MR. PAUL LAUDER.

MR. N. L. SMITH (Deputy Clerk of Councils).

MINUTES.

The minutes of the previous meeting of the Council were confirmed.

NEW MEMBER.

The Secretary for Chinese Affairs, (Hon. Mr. A. E. Wood) took the oath of allegiance and his seat as a member of the Council.

PAPERS.

THE COLONIAL SECRETARY, by command of H.E. The Governor, laid on the table the following papers:—

Regulation under section 3 of the Importation and Exportation Ordinance, 1915, on 19th June, 1930.

Rescission of the Order declaring Shanghai to be an infected place, on 16th June, 1930.

Regulations under section 3 of the Vehicles and Traffic Regulation Ordinance, 1912, on 17th June, 1930.

Regulation under section 3 of the Dogs Ordinance, 1927, on 19th June, 1930.

Regulations under the Public Places Regulation Ordinance, 1870, on 19th June, 1930.

Resolution under the provisions of section 7 of the Tobacco Ordinance, 1916, on 19th June, 1930.

Report of the New Territories for the year 1929.

FINANCE COMMITTEE'S REPORT.

THE COLONIAL SECRETARY, by command of H.E. The Governor, laid upon the table the report of the Finance Committee, No. 7 of 19th June, 1930, and moved that it be adopted.

THE COLONIAL TREASURER seconded and this was agreed to.

CHARGES OF THE YEAR 1929.

THE COLONIAL SECRETARY moved the first reading of "An Ordinance to authorise the Appropriation of a Supplementary Sum of Three hundred and four thousand, five hundred and thirty-eight Dollars and eighty-three Cents to defray the Charges of the year 1929." He said: Sir,—The passing of the Supplementary Appropriation Bill which is needed annually after the closing of the accounts of the preceding year constitutes the formal ratification of expenditure

which has already been approved in the detailed form of Finance Messages, by the Finance Committee of the Council and has actually been incurred by the Government under that authority. Many of the minutes in the Finance Messages represent only re-allocations of expenditure as set out in the approved Estimates for the year under consideration and are not additional calls upon the public purse. Reference to the draft appropriation account in fact will show in this respect that there are savings of over \$2,800,000 on the year's working. The dangerous situation in respect of water last year compelled the Government to postpone expenditure that could by any means be held over, because though the cost of the Water Emergency fortunately did not exceed the \$375,000 voted, it was impossible until late in the year to foretell the amount that would ultimately be needed to meet the crisis.

The sum concerned for 1929 is \$304,538.83, a total close to the previous year's low record of \$292,104.79 and comparing favourably with the total for a number of previous years which was in the region of \$1,000,000.

The Appropriation Account contains the fullest details of every item and it is unnecessary for me to delay honourable members longer than is required to refer to one outstanding matter.

The Water Emergency cost the Colony a total sum of \$357,992 as will be seen on page 30 of the draft Appropriation Account—a sum greater than the total with which we are now dealing, but a part of the expenditure was covered by savings in the department.

A Sessional Paper giving the history of the emergency has been prepared and is now in the printers' hands and will shortly be laid on the Council Table.

I beg, Sir, to move the first reading of "An Ordinance to authorize the Appropriation of a Supplementary Sum of Three hundred and four thousand, five hundred and thirty-eight Dollars and eighty-three Cents to defray the Charges of the year 1929."

THE COLONIAL TREASURER seconded and the Bill was read a first time.

NEW TERRITORIES ORDINANCE.

THE ATTORNEY GENERAL moved the first reading of "An Ordinance to amend the New Territories Regulation Ordinance, 1910." He said: The object of this Bill is to resolve doubts which have arisen as to the construction of sections 4, 20 and 24 of Ordinance No. 34 of 1910. A very full memorandum of Objects and Reasons is attached to the Bill. I beg to move the first reading.

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 second paragraph of section 4 of the New Territories Regulation Ordinance, 1910, is not necessary and has given rise to doubts as it seems to authorise the application to the New Territories of regulations, etc., apart from the Ordinance (with penalty clauses) under which they are made. Section 2 of this Ordinance therefore repeals that paragraph.

2. Section 20 of the New Territories Regulation Ordinance, 1910, Ordinance No. 34 of 1910, which gives the Land Officer a general power to decide all questions regarding any land in the New Territories, provides that he shall not have power to decide "any question or dispute in respect of any land having a capital value exceeding five thousand dollars, or an annual value exceeding five hundred dollars, unless with the written consent of the parties." Section 3 of the Ordinance defines the term "land" in such a way that in some cases at least it may include rent. The question arises whether the term has this meaning in the passage quoted above. The view has been expressed that it has this meaning in the above passage, and that the Land Officer has jurisdiction to decide a claim for arrears of rent up to the total amount of five thousand dollars. If the term "land" in the above passage does not include "rent," then the Land Officer has no jurisdiction to decide a claim for arrears of rent if either (a) the physical land has a capital value exceeding five thousand dollars or (b) the annual rent exceeds five hundred dollars. If the Land Officer has jurisdiction, the jurisdiction of the Supreme Court is ousted by section 24 of the Ordinance. Different opinions have been expressed as to whether the term "land" does or does not include rent in the above passage. Accordingly, a landlord may be in doubt as to his proper remedy, and in case of difference of opinion between the two jurisdictions he may be left without any remedy at all. In the case of New Kowloon this position is of less importance, because a landlord has now a remedy in New Kowloon under the Distress for Rent Ordinance, 1883, as amended by the Distress for Rent Amendment Ordinance, 1928. In the New Territories other than New Kowloon, however, there is no machinery for distraint.

3. This Ordinance is intended to resolve the above doubt. The effect of paragraph (b) of the new proviso to be inserted by section 3 of this Ordinance is that the Land Officer will clearly have power to decide claims to arrears of rent so long as the monthly value of the rent does not exceed \$500 and so long as the total claim does not exceed \$1,500.

4. The limits of the Land Officer's jurisdiction in proceedings relating to land as distinguished from rent are not being altered. Those limits are dealt with in paragraph (d) of the new proviso. It therefore seems desirable to provide that the Land Officer shall not

have jurisdiction in claims to arrears of rent where the plaintiff's title is disputed *bona fide* except in those cases where he would have jurisdiction if the proceedings related to the land itself as distinguished from the rent. This point is dealt with in paragraph (c) of the new proviso. This proviso gives the Land Officer jurisdiction over the specified limits if the parties consent. This is merely a continuation of the present provision.

5. The new proviso is inserted immediately after the first sentence of section 20 of the principal Ordinance because it is really a proviso to that sentence and not a proviso to the sentence which gives the Land Officer power to enforce Chinese customs.

6. The doubt referred to in paragraph 2 above arises also in section 24 of the principal Ordinance. Accordingly, that section is repealed by section 4 of this Ordinance, and a new section is inserted which is intended simply to make the jurisdiction of the Land Officer and that of the Supreme Court mutually exclusive, except the right of the Supreme Court to issue distrains for rent in New Kowloon, as provided in Ordinance No. 8 of 1928.

7. Section 5 of this Ordinance makes the provisions of the Ordinance retrospective. It is only a question of procedure and not of substantive rights.

MOTOR SPIRIT ORDINANCE.

THE ATTORNEY GENERAL moved the second reading of "An Ordinance to provide for the taxation of Light Hydrocarbon Oils." He said: This Bill was read a first time at the last meeting of Council and I have nothing to add to what I said then and to the Objects and Reasons attached to the Bill which are printed and are in honourable members' hands.

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

Council went into Committee to consider the Bill clause by clause. A minor amendment was made in Committee and upon Council resuming,

THE ATTORNEY GENERAL reported that the Bill has passed through Committee with the deletion of the word "of" between "premises" and "licensee" in the marginal note of clause 22 and moved the third reading.

THE COLONIAL SECRETARY seconded and the Bill was read a third time and passed.

ADJOURNMENT.

Council adjourned *sine die*.

FINANCE COMMITTEE.

Following the Council, a meeting of the Finance Committee was held, the Colonial Secretary presiding.

Votes totalling \$49,276, contained in Message No. 8 from H.E. The Governor, were considered.

All the votes were approved.
