

4th September, 1930.

PRESENT:—

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

HIS EXCELLENCY THE GENERAL OFFICER COMMANDING THE TROOPS (MAJOR-GENERAL J. W. SANDILANDS, C.B., C.M.G., 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. J. P. BRAGA.

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

HON. MR. J. J. PATERSON.

HON. MR. PAUL LAUDER.

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

MINUTES.

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

PAPERS.

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

Regulation under section 3 of the Vehicles and Traffic Regulation Ordinance, 1912, on 18th August, 1930.

Regulation under section 12 of the Female Domestic Service Ordinance, 1923, on 18th August, 1930.

Regulation under sections 25 (4), 33 (2) and 42 of the Merchant Shipping Ordinance, 1899, on 27th August, 1930.

Medical and Sanitary Report 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. 11, of 14th. August, 1930, and moved that it be adopted.

THE COLONIAL TREASURER seconded and this was agreed to.

MOTIONS.

The following motion stood in the name of the Colonial Secretary:

(a) That this Council approves the construction of Piers at Jubilee Street and Jordan Road in connexion with the institution of a Ferry Service which will include the transport of vehicles at an estimated total cost of \$1,300,000.

(b) That this Council authorises the sum of \$100,000 out of the said sum of \$1,300,000 to be charged to a future loan and sanctions an advance of this sum of \$100,000 during the financial year 1930 from the surplus balances of the Colony.

THE COLONIAL SECRETARY stated:—In view of an expressed wish on the part of Unofficial Members to be allowed further time to consider the scheme in all its bearings, I ask leave to postpone the Resolution standing in my name which deals with the proposed Vehicles Ferry Service across the Harbour.

The postponement was agreed to.

Eating Houses.

THE COLONIAL SECRETARY.—Until recently the licensing of Eating Houses was in the hands of the Colonial Treasurer. It

was found more convenient to transfer this duty to the Sanitary Board, which was given power to make Bye-laws. The Bye-laws now before the Council for approval have been so made by the Board.

Honourable Members will notice that the Resolution immediately following varies Section 1 of the Resolution now before you. After the adoption of the Eating House Bye-laws by the Board, it was decided, on further consideration, that it was advisable to make the Board itself the Licensing Authority in accordance with the usual practice and to substitute "Board" for "Head of Sanitary Department" in paragraph 1.

I beg to move "That the Bye-laws made by the Sanitary Board under section 16 of the Public Health and Buildings Ordinance, 1903, on the 15th day of April, 1930, be adopted."

THE ATTORNEY GENERAL seconded, and the resolution was agreed to.

THE COLONIAL SECRETARY then moved "That the Bye-law made under section 16 of the Public Health and Buildings Ordinance, 1903, on the 13th day of May, 1930, be adopted."

THE ATTORNEY GENERAL seconded and the resolution was agreed to.

PILOTS ORDINANCE, 1930.

THE ATTORNEY GENERAL moved the first reading of "A Bill to Provide for and Regulate the Employment of Pilots." He said: The object of this Bill is to bring our pilotage law up to date. Many of its provisions are taken from those of the English Pilotage Act, 1913. It will not make pilotage in this Colony compulsory but will go far to ensure that it is maintained in a high state of efficiency because it provides for the periodical examination of pilots as to their capacity and as to their physical fitness. I would like to draw attention to subsection 5 of clause 3 which provides that in future licensed pilots shall be British subjects, but this provision is not to apply to holders of existing licences or to persons specially exempted by Your Excellency. I should like to draw attention also to the provisions on page eight of the Print which enacts that where pilotage services are rendered at night the dues will be doubled. 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 original proposal, which led eventually to the drafting of this Ordinance, was a proposal to amend the Pilots Ordinance,

1904, Ordinance No. 3 of 1904, so as to provide for the payment of an examination fee by applicants for pilot's licences. Section 3 of Ordinance No. 3 of 1904 provides only for a licence fee, and it is therefore possible for an applicant to be examined and re-examined several times until he passes and yet to be liable only for the single licence fee. It was then found that the Ordinance required alteration on other points also. Some of these points are mentioned below:

- (a) It contains no power to require a pilot to be re-examined as to his competency.
- (b) It makes no provision for periodical medical tests for sight and physical fitness.
- (c) It does not apply to motor ships.
- (d) The procedure for obtaining a pilot's licence is unnecessarily complicated.

It was accordingly considered that the more convenient course would be to repeal the Ordinance and to re-enact it with the necessary alterations.

2. Section 2 of this Ordinance defines "ship" as including every description of vessel used in navigation, over 60 tons net register, propelled by machinery. This will include motor ships. It is considered unnecessary to provide for the case of sailing ships.

3. Section 3 of this Ordinance which, *inter alia*, gives the Harbour Master power to licence pilots, contains one provision which is new, *i.e.*, the provision in sub-section (5) that pilots must be British subjects. Persons holding pilot's licences under Ordinance No. 3 of 1904 immediately before the commencement of this Ordinance are excluded from this provision. The sub-section also gives the Governor in Council power to exempt any other person from the provisions of the sub-section. It might, for instance, be desirable to have this power in the case of a person who had previously held a pilot's licence for many years but who was not actually holding a pilot's licence at the commencement of this Ordinance.

4. Section 4 of this Ordinance is the general section giving the Governor in Council power to prescribe fees, fix pilotage dues, and make any other regulations which he may think desirable in connexion with a pilotage service. The power of making regulations is also referred to in sections 8 and 14 of this Ordinance. In Ordinance No. 3 of 1904, the power of making regulations is contained in sections 3, 4 and 7.

5. Section 5 of this Ordinance deals with the examination of applicants for pilot's licences. Under section 2 of Ordinance No. 3 of 1904, two documents are necessary, *i.e.*, a certificate of competency as a pilot and a pilot's licence. This seems to be an unnecessary duplication. That section also requires an applicant to make a declaration to his having passed the examination. This also seems unnecessary, as the examiners will communicate the result of the examination to the Harbour Master. The second proviso in that section is out of place, because the creation of the offence of acting as a pilot without a licence is not properly attached as a proviso to a power to grant licences. There is another inappropriately placed provision in that section, *i.e.*, the provision that nothing in the Ordinance is to be held to make pilotage compulsory. That section also gives the Harbour Master power to limit the number of pilots. That provision is now omitted as being unnecessary and undesirable. The regulations in the Schedule deal with certain other details relating to the examination.

6. Section 6 of this Ordinance is new. It requires all pilots to pass an examination for sight and physical fitness when called on by the Harbour Master and at least once every five years.

7. Section 7 of this Ordinance is based on section 19 of the Pilotage Act, 1913, 2 & 3 Geo. 5, c. 31.

8. Section 8 of this Ordinance is based on section 20 of the Pilotage Act, 1913.

9. Section 9 of this Ordinance is based on section 26 of the Pilotage Act, 1913. The Harbour Master's powers of cancellation and suspension of a pilot's licence are dealt with in Ordinance No. 3 of 1904 by sections 4, 5 (2), 5 (4), 6 and 8.

10. Section 10 of this Ordinance provides for an appeal to the Governor in Council from any authority acting under the Ordinance. This section was suggested by section 27 of the Pilotage Act, 1913. There is no such power in Ordinance No. 3 of 1904.

11. Section 11 of this Ordinance prohibits unlicensed persons from acting as pilots. This part of the section corresponds to the second proviso in section 2 of Ordinance No. 3 of 1904. Sub-section (2) of section 11 provides that the master of a ship shall not knowingly employ an unlicensed pilot. This part of the section is taken from section 30 of the Pilotage Act, 1913.

12. Section 12 of this Ordinance is also taken from section 30 of the Pilotage Act, 1913.

13. Section 13 of this Ordinance is taken from section 33 of the Pilotage Act, 1913.

14. Section 14 is based on section 34 of the Pilotage Act, 1913. There is no corresponding provision in Ordinance No. 3 of 1904. The regulations in the Schedule lay down the daily sum payable in the circumstances contemplated by the section.

15. Section 15 of this Ordinance is taken from section 36 of the Pilotage Act, 1913. It corresponds to section 5 (1) of Ordinance No. 3 of 1904.

16. Section 16 of this Ordinance is taken from section 37 of the Pilotage Act, 1913. It corresponds to, but is wider than, section 5 (3) of Ordinance No. 3 of 1904.

17. Section 17 of this Ordinance is based on section 46 of the Pilotage Act, 1913. It corresponds to section 6 of Ordinance No. 3 of 1904. It differs both from the Act and from Ordinance No. 3 of 1904 in two respects. In the first place it applies to acts endangering any person whatsoever and not only to acts endangering persons on board the ship which is being piloted. In the second place it makes the offence a summary one.

18. Section 18 is based on section 47 of the Pilotage Act, 1913. There is no corresponding provision in Ordinance No. 3 of 1904. The reference to aiders and abettors in the Act is omitted in reliance of section 37 of the Magistrates Ordinance, 1890.

19. Section 19 is based on section 48 of the Pilotage Act, 1913. It corresponds to section 5 (4) of Ordinance No. 3 of 1904.

20. Section 20 is based on section 49 of the Pilotage Act, 1913. The corresponding section in Ordinance No. 3 of 1904 is section 7. Section 20 of this Ordinance gives the Harbour Master power to withhold a clearance from a ship in any case in which the pilotage dues have not been paid. This power does not appear in the Act but it is contained in section 7 of Ordinance No. 3 of 1904.

21. Section 21 corresponds to section 50 of the Pilotage Act, 1913, and to section 8 of Ordinance No. 3 of 1904.

22. Section 22 of this Ordinance is based on section 51 of the Pilotage Act, 1913.

23. Section 23 of this Ordinance is based on section 9 of Ordinance No. 3 of 1904.

24. Section 24 is taken from section 10 of Ordinance No. 3 of 1904.

25. Section 25 is taken from section 11 of Ordinance No. 3 of 1904.

26. Section 26 of this Ordinance is a combination of section 61 of the Pilotage Act, 1913, and section 13 of Ordinance No. 3 of 1904.

27. Section 27 of this Ordinance is the general penalty section. The only special penalty provided in the Ordinance is that provided in section 17 for acts endangering life, etc. In Ordinance No. 3 of 1904 the penalties are laid down in the second proviso to section 2, and in sections 4, 5 (2), 5 (3), 5 (4), 6 and 8.

28. Section 28 of this Ordinance provides that nothing in the Ordinance is to be deemed to make pilotage compulsory.

29. Section 29 of this Ordinance repeals Ordinance No. 3 of 1904 and all regulations in force thereunder.

30. Section 30 of this Ordinance preserves existing licences, but makes the licensees otherwise subject to the provisions of the new Ordinance.

31. The Schedule contains *inter alia*, the qualifications to be required from pilots in future.

FIRE BRIGADE ORDINANCE, 1930.

THE ATTORNEY GENERAL moved the second reading of "A Bill to amend the Fire Brigade Ordinance, 1923." He said: The object of this Bill is to improve the discipline in the Force by applying to it provisions which already exist in the case of certain other forces in the Colony. I beg to move the second reading.

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

Council went into Committee to consider the Bill Clause by Clause.

Upon Council resuming,

THE ATTORNEY GENERAL reported that the Bill 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.

ADJOURNMENT.

H.E. THE GOVERNOR.—Council will adjourn *sine die*.

FINANCE COMMITTEE.

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

Votes totalling \$313,100, contained in message No. 12 from H.E. the Governor, were considered.

Item 101: Miscellaneous Services:—Contribution towards the cost of building the Seawall, Marine Lots Nos. 430 and 431, \$300,000.

HON. MR. R. H. KOTEWALL.—I should like to declare my interest as an Honorary Director of this Company and I shall therefore abstain from voting.

HON. MR. J. P. BRAGA.—Could this Committee have a little more information explaining the circumstances of this case? It is stated here that in view of the circumstances the Government has decided to re-adjust the terms, but what those circumstances are is not explained in the item.

THE COLONIAL SECRETARY.—I think we can give all the explanations we have available.

HON. MR. BRAGA.—I should like to know whether the reclamation scheme for berthing ocean steamers has been abandoned or not, and if it has been abandoned whether it is on the advice of the Harbour Master or the Harbour Master and the Harbour Board. If no such advice has been taken, can the Committee be informed why it is that the scheme in its original form has been abandoned and apparently a gift of \$300,000 is to be made to the Crown Lessee of Marine Lots Nos. 430 and 431.

THE COLONIAL SECRETARY.—At the time this arrangement was made there was no Harbour Board in existence. Also, the times when the arrangement was made with Mr. Kwik were spacious times and we were expecting to develop very rapidly in other parts of the Colony as well as at North Point. Mr. Kwik had arranged on his own lot to build a wall on a slope, which necessitated piers running out for the berthing of ships. After he began his work and carried it on, nearly to completion, the Government had in mind the continuation of this development on Mr. Kwik's property and further eastward and intended to make a perpendicular seawall so that ships could lie alongside, and to unify the scheme. They approached Mr. Kwik to alter his seawall to come into line. Mr. Kwik saw the advantages to him if the Government carried out the complete scheme, and he was prepared to do it under the conditions you see in this minute—the advance of a loan of \$600,000—but the scheme cost him a good deal more. The circumstances of the Colony have altered and the Government are no longer in a position to carry on immediately with the continuation of this perpendicular seawall. Mr. Kwik has reaped certain advantages from having altered his design, but he has lost something by the lack of the continuation of this wall by the Government, and this new arrangement is considered to be a fair adjustment between the two parties.

HON. MR. BRAGA.—But one portion of my question is left unanswered. It is true that the Harbour Board was not then consulted, but the Harbour Board has since come into existence and I take it from the Minute that the decision to abandon the original scheme must have been arrived at after the formation of the Harbour Board.

THE CHAIRMAN.—It is abandoned for the time. We cannot say any more than that. It is impossible for the Government in the present circumstances to continue.

HON. MR. BRAGA.—The unanswered portion of my question is whether the opinion of the Harbour Master has been obtained for the abandonment of the scheme?

THE CHAIRMAN.—At the moment, it is purely a financial question.

HON. MR. PATERSON.—The loan, I take it, is secured on the property?

THE CHAIRMAN.—Yes.

HON. MR. PATERSON.—The answer really means that these three lakhs are inevitable?

THE CHAIRMAN.—Yes, I think it is. It is a fair re-adjustment under the new conditions—a perfectly fair arrangement as we did not continue our part of the bargain.

HON. SIR SHOUSON CHOW.—I would like to explain that owing to the change of policy on the part of the Government it cost Mr. Kwik over a million dollars extra to make the perpendicular wall instead of the piers.

THE CHAIRMAN.—Yes, I think that is correct.

Item 102: Public Works Extraordinary: — To provide furniture and house accommodation for staff and W/T machines at Fanling, \$1,500.

HON. MR. J. P. BRAGA.—It is explained at the bottom of the item that the expenditure will be met out of savings under the first section of the Kowloon City to Ma Yau Tong Road. Am I to presume that this section has been definitely abandoned?

HON. MR. CREASY.—We are not proceeding with that work at present at all.

HON. MR. BRAGA.—Is there an idea of definitely abandoning this road as part of the great circular eastern road to Saikung?

THE CHAIRMAN.—It is abandoned for this year and each year it is a matter for the Legislative Council to decide again.

HON. MR. BRAGA.—So the vote lapses for the time being. Is there anything to prevent its re-insertion in the budget for the coming year?

THE CHAIRMAN.—Nothing, if the Legislative Council so desires.

All the votes were approved.
