

6th November, 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. W. E. L. SHENTON.

HON. MR. J. OWEN HUGHES.

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

HON. MR. J. P. BRAGA.

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

HON. MR. J. J. PATERSON.

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

ABSENT:—

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

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 4 of the Midwives Ordinance 1910, on 8th October, 1930.

Regulation under section 3 of the Post Office Ordinance, 1926, on 27th October, 1930.

Regulations under the provisions of section 11 of the Volunteer Ordinance, 1920, on 28th October, 1930.

POLICE FORCE AMENDMENT ORDINANCE, 1930.

THE ATTORNEY GENERAL moved the first reading of a Bill intituled "An Ordinance to amend the Police Force Ordinance, 1900." He said: This Ordinance amends a section of the principal Ordinance dealing with police pensions. Under the principal Ordinance the pension of every individual policeman has to come before the Governor-in-Council, even if the amount of his pension is merely a matter of calculation. The Ordinance is amended so that the Governor-in-Council shall have power to make rules affecting pensions and only exceptional cases, where rules are inapplicable to an individual case, will be brought before the Governor-in-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:

Under section 17 of the Police Force Ordinance, 1900, the Governor-in-Council not only regulates the general conditions on which and the manner in which pensions are to be granted to members of the Force, but determines the question of granting a pension and the amount thereof in each particular case. There does not seem to be any sufficient reason why members of the Police Force should be thus singled out from other pensionable public servants, or why the Governor-in-Council should have to deal with each case of retirement especially where the pension is a mere matter of calculation.

PROBATES AMENDMENT ORDINANCE, 1930.

THE ATTORNEY GENERAL moved the first reading of a Bill intituled "An Ordinance to amend the Probates Ordinance, 1897."

He said: Under the Real and Personal Property Convention of Washington, 1899, provision was made for notification to the nearest American Consul whenever a citizen of the United States died, leaving no heirs or testamentary executors, and to carry out that Convention an amendment to the Probate Ordinance was enacted whereby the Registrar should make that notification. It has now been agreed between His Majesty's Government and the United States Government that notification to the nearest American Consul shall be made in all cases, without regard to whether or not the deceased person has left heirs or testamentary representatives in the Colony, so a small amendment is made to section 14 of the principal Ordinance.

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 this Ordinance is to give effect to an arrangement which has been arrived at between His Majesty's Government and the United States Government relating to the manner in which the provisions of Article 3 of the Real and Personal Property Convention of Washington of the 2nd of March, 1899, which has been applied to this Colony, may be carried out.

2. Under the arrangement steps have to be taken to ensure official notification of the death of every United States citizen in this Colony to the nearest Consular Officer regardless of whether such citizen leaves heirs or executors in the Colony.

SUMMARY OFFENCES AMENDMENT ORDINANCE, 1930.

THE ATTORNEY GENERAL moved the first reading of a Bill intituled "An Ordinance to amend the Summary Offences Ordinance, 1845." He said: In the first part of this Ordinance amendments are made to the Summary Offences Ordinance in respect of firecrackers, processions, notices and things of that kind which were formerly dealt with under Ordinance No. 3, of 1888, and it is considered desirable that they should be transferred to a general one, so they are transferred to the Summary Offences Ordinance of 1845. Subsequent sections are amendments which have been suggested from time to time under the principal Ordinance and all of them are explained in the memorandum of Objects and Reasons attached to 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. This Bill is intended to effect certain amendments of the Summary Offences Ordinance, 1845, (No. 1 of 1845).

2. Clause 2 transfers with amendments certain provisions of Ordinance No. 3 of 1888 to this general Ordinance.

The new paragraphs (13A.), (13B.), (13C.), (13D.), and (13E.) are derived respectively from sections 25 and 27, 22 and 27, and 23 and 27 and 50 and 51 of that Ordinance.

The clause also deletes the word "or" from all but the penultimate paragraph as unnecessary and difficult to insert correctly in the new paragraphs (13B) and (13C).

3. Clause 3 repeals section 6 (4) of the Ordinance which required householders to affix to their houses and keep lighted at night lamps or lanterns of an approved pattern.

The clause also repeals section 7 of the Ordinance. Sub-section (1) of that section is unnecessary as the powers of arrest given by it to the police are sufficiently covered by sections 26 and 27 of the Police Force Ordinance No. 11 of 1900. Sub-section (2) of section 7 which gave several powers of arrest to private individuals is considered no longer necessary or desirable.

4. Clause 4 adds a proviso to section 13 (1) of the principal Ordinance permitting ceremonial music of a moderately quiet character up to midnight in the case of funerals and marriages.

The clause also makes section 13 applicable to all districts and areas not specially exempted by the Governor-in-Council.

5. Clause 5 adds a few words to section 19 (3) to make it clear that the section is to apply to cases where wines, spirits and liquors are consumed, spilled or allowed to run to waste with intent to destroy evidence of any offence.

6. Clause 6 amends section 23, which deals with riotous behaviour provoking breaches of the peace, by making it clear that inflammatory speeches are within the mischief contemplated by the section.

7. Clause 7 repeals section 25 dealing with the apprehension of offenders as its provisions are sufficiently covered by sections 26 and 27 of the Police Force Ordinance No. 11 of 1900.

8. Clause 8 substitutes a new section for section 26, which dealt with the arrest of loose, idle and disorderly persons disturbing the public peace or found loitering at night and suspected of having committed or being about to commit offences; but which did not appear to create any specific offence. The new section creates an offence punishable by fine or imprisonment.

9. Clause 9, 11 and 12 delete the word "pawned" from sections 28, 39 and 40 as by virtue of section 30 of the Pawnbrokers Ordinance No. 16 of 1930, the said sections do not affect pawnbrokers.

10. Clause 10 repeals sections 30 and 33. Section 30 gave powers of arrest which are considered sufficiently provided for in the Police Ordinance already referred to.

11. Clause 13 gives power to make regulations.

12. Clause 14 repeals provisions of Ordinance No. 3 of 1888 which are considered as sufficiently dealt with by this Bill.

DISTRICT WATCH FORCE ORDINANCE, 1930.

THE ATTORNEY GENERAL moved the first reading of a Bill intituled "An Ordinance to consolidate and amend the law relating to the District Watch Force." He said: The provisions of this Bill are practically the same as those contained in the Regulation of Chinese Ordinance, 1888. It has been decided that this very valuable Force should have an Ordinance of its own and the name of the Committee has been changed from The District Watchmen's Committee to District Watch Committee as more suitable and as preferred by the Committee themselves.

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:

Provisions relating to the valuable force of District Watchmen have been contained hitherto in Part IV of Ordinance No. 3 of 1888. It is considered that they should have an Ordinance of their own. This Ordinance therefore repeals that part and re-enacts it substantially here. Clause 2 regularises appointments to the District Watch Committee. Clause 3 is derived from sections 18 and 19 of Ordinance 3 of 1888, the power to appoint the watchmen being given to the Committee.

Clause 4 and 5 are similarly derived from the old sections 29 and 21 respectively. Clause 6 which provides a penalty for personation is based on section 25 of Ordinance No. 24 of 1927. With regard to clause 7 it may be stated that by virtue of section 12 of the Interpretation Ordinance, 1911, (No. 31 of 1911) the repeal of an enactment does not affect any right, privilege, obligation or liability acquired, accrued, or incurred under the enactment so repealed.

PLACES OF PUBLIC ENTERTAINMENT REGULATION AMENDMENT ORDINANCE, 1930.

THE ATTORNEY GENERAL moved the first reading of a Bill intituled "An Ordinance to amend the law relating to theatrical performances at places of public entertainment." He said: Here again the provisions of Special Ordinance have been transferred

to a general Ordinance and made generally applicable. This amendment will be particularly useful to the Treasurer in obtaining information he will need next year when he will have to collect his entertainment duties.

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:

The provisions of sections 26 and 27 (4) and (5) of Ordinance No. 3 of 1888 dealing with permits for theatrical performances were limited in their application. It has been thought desirable to adapt them for general purposes and to transfer them to a general Ordinance.

LAW REVISION ORDINANCE, 1930.

THE ATTORNEY GENERAL moved the first reading of a Bill intituled "An Ordinance for promoting the revision of the Ordinances of Hong Kong by the repeal of Ordinances and other Enactments which are spent or no longer required, and by the correction of errors." He said: The first section is the short title. The second section repeals six Ordinances, the provisions of which have either been transferred to other Ordinances or are deemed sufficiently covered by other provisions of the law. Section 3 repeals two sections of the Larceny Ordinance which are no longer necessary, being in one case an error which should have been repealed in 1928. Clause 4 amends a number of tiny errors which have been pointed out from time to 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:

It has been the practice in the past from time to time to collect, in a Law Revision Ordinance, lists of Ordinances, the provisions of which are regarded as spent; either because these provisions have been replaced by other like provisions in other Ordinances or because they are no longer applicable to local conditions. An example of such was the Law Revision Ordinance, 1924, (Ordinance No. 5 of 1924) section 56 of which contained a long list. Section 2 of this Ordinance contains a list of Ordinances which it has been decided are no longer required.

Section 3 repeals two sections of the Larceny Ordinance, 1865, which ought to have been repealed by Ordinance No. 15 of 1928. It also repeals a section of the Midwives
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corresponding section of the Midwives Act, 1902 was repealed by the Statute Law Revision Act, 1927.

Section 4 corrects minor errors in several Ordinances.

COMPANIES AMENDMENT ORDINANCE, 1930.

THE ATTORNEY GENERAL moved the first reading of a Bill intituled "An Ordinance to amend the law relating to Companies." He said: This Ordinance transfers from the Registrar of Companies to the Clerk of Councils the duty of publishing the annual lists of authorised auditors and places that list under the control of the Governor-in-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:

This Ordinance amends the law contained in section 113 (1) of the Companies Ordinance, 1911, under which the Registrar of Companies had to publish lists of persons qualified in his opinion to perform the duties required of an auditor, by repealing that sub-section and by substituting a sub-section more closely analogous to section 7 of the Public Health and Buildings Ordinance, 1903, (Ordinance No. 1 of 1903) under which the Governor-in-Council controls the appointment and removal of authorised architects.

ADJOURNMENT.

H.E. THE GOVERNOR.—Council stands adjourned *sine die*.

FINANCE COMMITTEE.

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

Votes totalling \$285,319, contained in message No. 15 from H.E. the Governor, were considered.

Item 132: Medical Department:—Expenses of Courses of Study and attendance on Medical Congress.

HON. MR. J. OWEN HUGHES.—May I enquire if these extra courses of study have already been authorised by the Government for medical officers Home on leave. Are they already approved?

THE CHAIRMAN.—Yes, they are very much encouraged both by the Colonial Office and by ourselves for any Government officers.

There is always running expenditure on account of officers taking special courses of study, medical and other, while in England.

Item 133: Public Works Department. Other Charges, Incidentals. Compensation for damage caused by lorry collision.

HON. SIR SHOU-SON CHOW.—Is this the final account?

THE CHAIRMAN.—Yes, it is the final account. It has been through the Finance Committee already and an advance vote was granted.

Item 134: Miscellaneous Services:—Kowloon Tong Building Scheme. Government Contribution \$105,000.

THE HON. MR. J. P. BRAGA.—There are a few points that require clearing up before I feel I can vote for such a large sum of money in connexion with the Kowloon Tong building scheme. I think in order to facilitate replies, Sir, I should put my questions separately after each has been answered. The first is one that really asks for a little explanation because the explanatory statement in paragraph 2 of Item 134 does not appear too clear from my reading of the last three lines. It is stated that it is intended, with the approval of the Secretary of State, to contribute towards an 80 per cent. but final settlement the sum of \$105,000. Might I know, Sir,—80 per cent. of what total amount?

THE CHAIRMAN.—If you have several questions it is better to get them altogether.

HON. MR. BRAGA.—The next point is that the sum of \$105,000 is asked for, in order to dispose finally of such disputes—that is, disputes between the Government and the Company on the one hand and the Subscribers and the Company on the other hand, and to close the Subscribers' Account. Has such an account as the Subscribers' Account been presented by the Company to the Government? If the account has been submitted to the Government, and I assume that such an account has been, otherwise the amount that is now asked to be voted could not have been arrived at, can the Government lay on the table in the form of a Sessional Paper the statement of accounts that have been submitted to the Government by the Kowloon Tong Company?

My third question relates to a reply given by the Government at a Council meeting held on July 25, last year, as reported in *Hansard* at page 125 in which your predecessor, Sir, stated "When the whole scheme has been completed Government will under sub-clauses (b) and (c) of Clause 5 of the Agreement be entitled to receive in all a sum of \$315,827.22." It is pertinent, Sir, to enquire whether this sum of 300,000 odd dollars has been received by the Government in the first instance or whether it has been set off against any account owing

by the Government to the Company, and whether the sum of \$105,000 included in the Minute is an additional sum to the \$315,000? In other words, whether, in order to assist in the closing of the final statement of accounts, a sum of over \$420,000 is required to liquidate what I may term the Government's share of the losses arising out of the Kowloon Tong scheme?

THE CHAIRMAN.—I think I can answer your questions generally. There was a Committee that sat on this settlement whose report is here and which I can give you if you wish, although it is a very long matter. You will remember yourself, Mr. Braga, that difficulties arose over the Kowloon Tong scheme owing to labour trouble in 1922 and 1925 and disturbances in the Colony, and that for one reason or another the expenses to Subscribers were very much more heavy than they were originally estimated to be, mostly for reasons quite beyond control. As a consequence, difficulties arose between the Subscribers, the Promoters and the Government—the three sides to the question concerned. It appeared at one moment as if there was going to be very serious litigation, and the recommendations of this Committee have ended in an agreement between all three sides. One more side is concerned, and that is the contractors whose bills were overdue for payment, and the result is that they have reduced their demands to 80 per cent., and the remaining excess over the original cost to Subscribers is equally shared between the Government and the Promoters, and with these two payments—the Government subscription being in effect a reduction of one quarter of the premium which they would otherwise have received—the whole matter is settled and much future trouble avoided. All the parties are in agreement and the Government feels justified in asking for this vote to make the agreement effective.

HON. MR. BRAGA.—And what has become of the \$300,000 odd that was due to the Government?

THE CHAIRMAN.—All paid.

HON. MR. BRAGA.—That has been paid and accounted for?

THE CHAIRMAN.—Yes.

HON. MR. BRAGA.—And the Treasurer has received the amount of \$315,000?

THE COLONIAL TREASURER.—It is all paid with the exception of one small outstanding amount.

THE CHAIRMAN.—To all intents and purposes, it has all been paid.

HON. MR. BRAGA.—Would it be a fair assumption that, upon payment of this \$105,000 by the Government to the original Company,

Subscribers would not, under the triangular scheme, be called upon by the Kowloon Tong Company or by the contractors for any further instalments?

THE CHAIRMAN.—As I understand it, when the Government has paid the \$105,000, and the subscribers have paid their total proportion for the settlement, adjustment will be made between individual subscribers.

HON. MR. BRAGA.—And the Government knows exactly what this proportion is going to be?

THE CHAIRMAN.—That is a matter between Subscribers and their own Association, with which the Government deals as a body.

HON. MR. BRAGA.—That is an important point when it comes to the Subscribers, because I know of instances where Subscribers have paid and yet fresh demands have been made upon them for an additional percentage of the excess cost, and it is here where I think the Government ought to step in and protect Subscribers, and so if this Council were to vote \$105,000 Subscribers should be entirely free from any further exactions.

THE CHAIRMAN.—I think this is an absolutely final settlement of the whole thing.

HON. MR. J. J. PATERSON.—Is the \$105,000 guaranteed?

THE CHAIRMAN.—We shall not be asked to vote this until the other \$105,000 has been definitely settled.

THE COLONIAL TREASURER.—We shall not pay until they pay.

HON. MR. BRAGA.—So that we can take it that Subscribers will not be called upon to pay anything more. I have been at such length because Subscribers are, in a large number of cases, very small salaried men who, in some instances, have drawn entirely their Provident Fund money in order to be sure of a roof over their heads when the question of housing accommodation was in a very acute stage a few years back and I think they really deserve every protection and consideration.

THE CHAIRMAN.—I think they have had consideration and protection and this is a final arrangement to which they are all agreed.

HON. MR. BRAGA.—This is satisfactory.

Item 136: Public Works Extraordinary:—Hong Kong Miscellaneous, Victoria Gaol, Fire Fighting Appliances, \$3,200.

THE CHAIRMAN.—This is a re-vote; it is two years old really.

HON. MR. J. OWEN HUGHES.—Do the Crown Agents give any explanation of the delay in delivering such a very ordinary piece of machinery?

THE CHAIRMAN.—I have no explanation, at the moment.

HON. MR. OWEN HUGHES.—There ought to be some reason set out as to the delay.

THE CHAIRMAN.—Yes, I will enquire.

HON. MR. PATERSON.—One of the reasons was a mistake in the voltage.

All the votes were approved.
