

*7th July, 1938.*

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**PRESENT:—**

HIS EXCELLENCY THE GOVERNOR (SIR G. A. S. NORTHCOTE, K.C.M.G.).

HIS EXCELLENCY THE GENERAL OFFICER COMMANDING THE TROOPS (MAJOR GENERAL A. W. BARTHOLOMEW, C.B., C.M.G., C.B.E., D.S.O.).

THE COLONIAL SECRETARY (HON. MR. N. L. SMITH, C.M.G.).

THE ATTORNEY GENERAL (HON. MR. J. A. FRASER, M.C., *Acting*).

THE SECRETARY FOR CHINESE AFFAIRS (HON. MR. R. A. C. NORTH).

THE FINANCIAL SECRETARY (HON. MR. S. CAINE).

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

HON. MR. R. M. HENDERSON (Director of Public Works).

HON. MR. T. H. KING (Commissioner of Police).

HON. DR. P. S. SELWYN-CLARKE, M.C., (Director of Medical Services).

HON. SIR HENRY POLLOCK, KT., K.C., LL.D.

HON. MR. J. J. PATERSON.

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

HON. MR. S. H. DODWELL.

HON. DR. LI SHU-FAN.

HON. MR. A. L. SHIELDS.

MR. T. MEGARRY (Clerk of Councils).

**ABSENT:—**

HON. MR. LO MAN-KAM.

HON. MR. LEO D'ALMADA E CASTRO, JNR.

**MINUTES.**

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

**ANNOUNCEMENT.**

THE CLERK OF COUNCILS, by command of H.E. The Governor, read the following announcement:—

LETTERS PATENT passed under the Great Seal of the Realm amending Article XVI of the Letters Patent of the 14th of February, 1917, constituting the Office of Governor and Commander-in-Chief of the Colony of Hong Kong and its Dependencies.

Dated 30th April, 1938.

GEORGE THE SIXTH by the Grace of God of Great Britain, Ireland and the British Dominions beyond the Seas King, Defender of the Faith, Emperor of India.

To all to whom these Presents shall come, Greeting!

WHEREAS by certain Letters Patent under the Great Seal bearing date at Westminster of the Fourteenth day of February, 1917, His Majesty King George the Fifth did constitute the office of Governor and Commander-in-Chief in and over Our Colony of Hong Kong and its Dependencies.

AND WHEREAS We are minded to make other provision than is contained in Article XVI of the said Letters Patent:

NOW KNOW YE that We do hereby declare Our will and pleasure as follows:—

I. Article XVI of the said Letters Patent of the Fourteenth day of February, 1917, is hereby revoked but without prejudice to anything lawfully done thereunder, and the following Article is substituted therefor:—

"XVI. The Governor may, subject to such instructions as may from time to time be given to him by Us through one of Our Principal Secretaries of State, upon sufficient cause to him appearing, dismiss or suspend from the exercise of his office any person holding any public office within the Colony, or, subject as aforesaid, may take such other disciplinary action as may seem to him desirable."

II. And We do hereby reserve to Ourselves, Our heirs and successors, full power and authority from time to time to revoke, alter, or amend these Our Letters Patent as to Us or them may seem fit.

And We do direct and enjoin that these Our Letters Patent shall come into operation on a date to be fixed by the Governor by Proclamation in the Hong Kong Government Gazette, and shall be published in the said Gazette, and shall be read and proclaimed at such place or places within the Colony as the Governor may think fit.

In Witness whereof We have caused these Our Letters to be made Patent.

Witness Ourselves at Westminster this thirtieth day of April, 1938, in the Second year of Our Reign.

BY WARRANT under The King's Sign Manual.

SCHUSTER.

H.E. THE GOVERNOR.—Whereas by Article II of the Letters Patent intituled "Letters Patent passed under the Great Seal of the Realm amending Article XVI of the Letters Patent of the 14th of February, 1917, constituting the Office of Governor and Commander-in-Chief of the Colony of Hong Kong and its Dependencies" and dated the 30th day of April, 1938, a copy whereof is appended to this Proclamation, it is directed and enjoined that the said Letters Patent shall come into operation on a date to be fixed by the Governor by Proclamation in the Hong Kong Government Gazette, and shall be published in the said Gazette, and shall be read and proclaimed at such place or places within the Colony as the Governor shall think fit:

And whereas I have thought fit that the said Letters Patent shall be read and proclaimed in the presence of the Legislative Council of this Colony on this 7th day of July, 1938, at the Council Chamber and that they shall come into operation on the 7th day of July, 1938:

And whereas the said Letters Patent have been so read accordingly:

Now therefore I, Sir Geoffrey Alexander Stafford Northcote, Knight Commander of the Most Distinguished Order of Saint Michael and Saint George, Governor and Commander-in-Chief of the Colony of Hong Kong and its Dependencies and Vice-Admiral of the same, do hereby Proclaim the said Letters Patent and appoint that they shall come into operation on the 7th day of July, 1938.

#### **PAPERS.**

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

Notice to Airmen No. 3 of the year 1938, dated 27th May, 1938.

Declaration under section 18 of the Quarantine and Prevention of Disease Ordinance, 1936, Ordinance No. 7 of 1936, dated 29th May, 1938.

Regulations made by the Governor in Council under section 2 of the Emergency Regulations Ordinance, 1922, Ordinance No. 5 of 1922, for the prevention of cholera, dated 29th May, 1938.

Declaration made by the Urban Council, with the approval of the Governor in Council, under By-law 11 of the Domestic Cleanliness and Prevention of Disease By-laws in Schedule A to the Public Health (Sanitation) Ordinance, 1935, Ordinance No. 15 of 1935, dated 26th May, 1938.

Amendment made by the Governor in Council under section 3 of the Post Office Ordinance, 1926, Ordinance No. 7 of 1926, to the Post Office Regulations, dated 8th June, 1938.

Declaration under section 18 of the Quarantine and Prevention of Disease Ordinance, 1936, Ordinance No. 7 of 1936, dated 20th June, 1938.

Amendment made by the Governor in Council under section 10 (6) of the Merchant Shipping Ordinance, 1899, Ordinance No. 10 of 1899, to Table C in the Schedule to that Ordinance, dated 21st June, 1938.

Declaration under section 18 of the Quarantine and Prevention of Disease Ordinance, 1936, Ordinance No. 7 of 1936, dated 27th June, 1938.

Regulation made by the Governor in Council under section 3 of the Pensions Ordinance, 1932, Ordinance No. 21 of 1932, regarding the payment of pension to Mr. P. L. Collisson, O.B.E., dated 27th June, 1938.

Amendment made by the Governor in Council under section 17 of the Prisons Ordinance, 1932, Ordinance No. 38 of 1932, to the Prison Rules, dated 27th June, 1938.

Administration Reports, 1937:—

Part I.—General Administration:—

Report on the Finances.

Part III.—Public Health:—

Report of the Chairman of the Urban Council.

Report of the Botanical and Forestry Department.

Part IV.—Education:—

Report of the Director of Education.

**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. 5 of 16th June, 1938, and moved that it be adopted.

THE FINANCIAL SECRETARY seconded, and this was agreed to.

**MOTIONS.**

THE FINANCIAL SECRETARY.—There are three resolutions in my name relating to loan expenditure which are inter-connected and I propose, with your permission, to address the Council on all of them together. They have been found necessary to deal with three matters. First, the Director of Colonial Audit has pointed out that the authority of this Council has never been obtained for the actual expenditure on the Shing Mun Gorge Dam in 1936 which exceeded the sum authorized to be advanced in that year from the surplus balances of the Colony in accordance with this Council's resolution of the 19th of March, 1936; and a similar excess was incurred in the expenditure on the Airport in that year. Secondly, there was a similar excess in 1937 over the amount authorized to be advanced for this work by the Council's resolutions of the 29th of September, 1937. This latter excess was due, not to an increase in the expenditure, but to the failure of receipts from the sale of plant belonging to the loan works to come up to the amount estimated to be credited from that source. As it happened, sufficiently favourable offers for the remaining plant were not received during the remainder of 1937, but further credits aggregating over \$30,000 have been received in the current year and it is possible that still further sums will be received later in the year, so that the excess in 1937 is more apparent than real.

Lastly, with the approval of the Secretary of State for the Colonies and the concurrence of members of the Finance Committee, it has been decided to charge to the loan account the cost of the remedial work at Pineapple Pass Dam which has unfortunately become necessary. This is estimated at a maximum of \$80,000 and it is necessary to provide both for an increase in the total expenditure under Item 2 of the loan schedule and also for the advance from surplus balances during the year 1938 of a sum sufficient to cover this expenditure.

It so happens that a credit has been received under another item of the loan schedule. A sum of \$100,000 has been received as a contribution from the Air Ministry to the cost of the Airport dealt with in Item 6 of the loan schedule. This item has therefore been reduced by that amount, Item 2 has been increased by \$80,000 and Item 8 by \$20,000. It is hoped that expenditure on the Pineapple Pass work will not eat up all the increase now made under Item 2, particularly after allowance is made for the sums to be credited to that head for sale of plant, and if that hope is fulfilled savings will be available for transfer to Item 8, the new Central Market. Any necessary resolution

dealing with such further transfer will be submitted in due course when the actual net expenditure under Item 2 is known.

I now move

That this Council approves, under section 3 (2) of the Hong Kong Dollar Loan Ordinance, No. 11 of 1934, of the following transfers in the schedule:—

Item 2.—Shing Mun Valley Water Scheme to be increased from \$10,132,877.98 to \$10,212,877.98.

Item 6.—Airport to be reduced from \$1,007,485.92 to \$907,485.92.

Item 8.—Other Public Works to be increased from \$889,000 to \$909,000.

THE COLONIAL SECRETARY seconded, and this was agreed to.

THE FINANCIAL SECRETARY.—I move that this Council sanctions the expenditure on Loan Works authorized under Ordinance No. 11 of 1934 of the total net sums as enumerated below and the meeting of such sums by advances from the surplus balances of the Colony pending the issue of the remainder of the Loan authorized under the said Ordinance.

#### SCHEDULE.

	<i>During the financial year 1936.</i>	<i>During the financial year 1937.</i>
Head 2 (b) (3).		
Shing Mun Valley Water Scheme.		
2nd Section.		
Gorge Dam .....	\$2,239,103.69	\$388,223.77
Head 6 (b).		
Airport.		
Airport and Seaplane Slipway .....	170,254.67	—————

THE COLONIAL SECRETARY seconded, and this was agreed to.

THE FINANCIAL SECRETARY.—I move that this Council approves of the expenditure during the financial year 1938 on the various items of loan works authorized under Ordinance No. 11 of 1934, as specified below, of a sum of \$915,577.21 which sum shall be met by advances from the surplus balances of the Colony pending the issue of the remainder of the loan authorized under the said Ordinance.

## Item 2.—Shing Mun Valley Water Schemes.

(b) Second section.

(3) Gorge Dam ..... \$ 80,000.00

Item 4.—New Gaol at Stanley ..... 60,000.00

## Item 6.—Airport:—

(b) Airport and Seaplane Slipway ..... 17,000.00

(c) Wireless Telegraph Station ..... 55,727.21

## Item 8.—Other Public Works:—

(a) Central Market ..... 689,000.00

(b) Wholesale Market ..... 13,850.00

Total ..... \$915,577.21

THE COLONIAL SECRETARY seconded, and this was agreed to.

**(1937 SUPPLEMENTARY) APPROPRIATION ORDINANCE, 1938.**

THE FINANCIAL SECRETARY moved the first reading of a Bill intituled "An Ordinance to authorize the Appropriation of a Supplementary sum of seven hundred and seventy-four thousand three hundred and twenty-one dollars and forty-four cents to defray the Charges of the year 1937." He said: Copies of a detailed statement of expenditure and of a report on the finances of the Colony for the year 1937 are now before Honourable members. The various excesses over the estimated and appropriated sums are explained in the detailed statement of expenditure and these extra appropriations have received the approval of the Finance Committee and of this Council in the usual way. The sum of \$774,321.44 set out in Clause 2 of the Bill represents the total of the supplementary appropriation required under the several heads without any deduction for under-expenditure in other Departments and other Heads of the Estimates. Actual savings on other heads of expenditure more than offset the excesses and total expenditure for the year 1937 was \$147,938 less than the Estimate.

As to the general financial outcome of last year, I do not propose to recapitulate the detailed figures set out in the Report which has been circulated; but Honourable members are aware that the result was much more favourable than originally anticipated, a surplus of \$1,085,146 being realized instead of a deficit of \$3,598,910 as estimated.

This was due to the general improvement in trade during the first half of the year and in the latter half to the increase of population due to the hostilities in China which for the time being has improved the revenue of the Colony.

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

### **MERCHANDISE MARKS AMENDMENT ORDINANCE, 1938.**

THE ATTORNEY GENERAL moved the first reading of a Bill intituled "An Ordinance to amend the Merchandise Marks Ordinance, 1890." He said: The Memorandum of Objects and Reasons for this amendment is 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. By section 2 (1) (e) (ii) of the Merchandise Marks Ordinance, 1890, it is provided that the expression "trade description" means any description, statement or other indication, direct or indirect as to the place or country in which any goods were made or produced.

2. In statutes the word "place" is generally found in conjunction with other words which give it a colour and control its interpretation (see "Place" in Stroud's Judicial Dictionary). So that although the word if it stood alone might apply to a factory or premises its conjunction in the enactment in question with the word "country" seems to indicate a geographical meaning such as town or district.

3. It is consequently considered probable, that a false statement in a declaration to the effect that certain goods were made in a certain factory or on certain premises would not be covered by the present definition so as to justify prosecution under the penal provisions of the Ordinance.

4. The object of this Amending Bill is to remove doubts by inserting the words "factory, premises," before the word "place" in section 2 (1) (e) (ii) of the principal Ordinance.

### **BANKRUPTCY AMENDMENT ORDINANCE, 1938.**

THE ATTORNEY GENERAL moved the first reading of a Bill intituled "An Ordinance to amend the Bankruptcy Ordinance, 1931." He said: The Memorandum of Objects and Reasons for this amendment is 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. Clause 2 of this Bill amends the principal Ordinance, No. 10 of 1931, by substituting for sub-section 2 of section 75 thereof a new sub-section corresponding to section 2 of the Crown Solicitors Ordinance, 1912, as enacted by section 2 of Ordinance No. 31 of 1935, but omitting the words "law agent", rendered unnecessary by the Solicitors (Scotland) Act, 1933, (23 and 24 Geo. 5, c. 21).

2. Under old sub-section (2) only barristers or solicitors are eligible for appointment as Official Receiver. By this amendment the appointment may be held by a person who is or who has successfully passed the qualifying examinations for admission as a barrister, advocate, solicitor or proctor, or by a member of the Colonial Legal Service.

3. It was necessary to appoint the Official Receiver to act as from 25th May, 1938, in another legal post during the temporary absence of the holder of that post, and to appoint to carry out the duties of Official Receiver another member of the Colonial Legal Service who was formerly a solicitor but who has relinquished that qualification in order to be called to the Bar.

4. For the reasons given in the preceding paragraph the operation of this Ordinance is expressed to take effect from 25th May, 1938.

### **DENTISTRY AMENDMENT ORDINANCE, 1938.**

THE ATTORNEY GENERAL moved the first reading of a Bill intituled "An Ordinance to amend the Dentistry Ordinance, 1914." He said: The Memorandum of Objects and Reasons is 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. By section 5 (3) of the Dentistry Ordinance, No. 16 of 1914, the power of the Director of Medical Services to remove from the Dental Register the name of a person who has ceased to reside in the Colony is limited to the names of persons who have "ceased for a period extending over five years" so to reside.

2. This provision has resulted in the retention on the Register of the names of persons who have long severed all connexion with Hong Kong.

3. This Bill substitutes a new paragraph (*b*) and adds a new paragraph (*bb*) to section 5 (3) of the principal Ordinance, making better provision for the removal therefrom of the names of persons who have ceased to reside in the Colony and do not intend to return, or who cannot be traced, and thus enabling the Register to be kept up to date.

### **REGISTRATION OF PERSONS AMENDMENT ORDINANCE, 1938.**

THE ATTORNEY GENERAL moved the first reading of a Bill intituled "An Ordinance to amend the Registration of Persons Ordinance, 1934." He said: The Memorandum of Objects and Reasons for this amendment is attached to the Bill. I would call special attention to paragraph 2 of the Memorandum.

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. Owing to the provisions of section 20 of the Magistrates Ordinance, 1932, a person who commits an offence under the Registration of Persons Ordinance, No. 3 of 1934, cannot be proceeded against after the expiry of six months from the date on which the offence was committed, unless information has been laid or complaint made before that time.

2. Cases have occurred in which aliens who have failed to report their intended departure from the Colony, in contravention of section 2 (2) of the Ordinance, at Police Headquarters, have, on returning to the Colony after the six-months' period, been immune from prosecution, the offence not having come to the notice of the authorities within the prescribed time.

3. Clause 2 of this Bill, by inserting a new section 7A in the principal Ordinance substituting a two-years' for the six-months' limitation, is intended to cure this defect.

4. Similar provisions are contained *e.g.*, in section 38 (5) of the Opium Ordinance, No. 7 of 1932, and in England in section 28 (3) of the Criminal Justice Act, 1925 (15 and 16 Geo. 5 c. 86).

#### **ADJOURNMENT.**

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

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