

22nd December, 1938.

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. E. GRASETT, D.S.O., M.C.).

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

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

THE SECRETARY FOR CHINESE AFFAIRS (HON. MR. W. J. CARRIE, *Acting*).

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. 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. LO MAN-KAM.

HON. MR. S. H. DODWELL.

HON. DR. LI SHU-FAN.

HON. MR. A. L. SHIELDS.

MR. B. C. K. HAWKINS (Deputy Clerk of Councils).

ABSENT:—

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

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

MINUTES.

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

NEW MEMBER.

Major General A. E. Grasett, D.S.O., M.C., (General Officer Commanding The Troops), took the Oath of Allegiance and assumed his seat as a member of the Council.

MILITARY CONTRIBUTION.

THE COLONIAL SECRETARY.—Sir, I am the bearer of a message from Your Excellency:—

Honourable Members,—In my address to this Council on the occasion of the presentation of the estimates for 1939 on 13th October I stated that I had addressed the Secretary of State with a proposal for a new method of assessment for the Military contribution paid by this Colony. I am now glad to be able to inform you that the Secretary of State has conveyed to me the approval of His Majesty's Government of the adoption for an experimental period of 5 years of a system of fixed contribution. The amount of this fixed contribution is to be \$6,000,000 per annum, the figure suggested by me after confidential consultation with the Unofficial Members of this Council. It has been agreed that if, owing to exchange fluctuations, the sterling value of this contribution for any year, at the average rate of exchange for the year, should fall below £350,000, or if there should be a formal devaluation of the dollar reducing its value below that figure, the amount of the contribution should be immediately reviewed without waiting for the end of the quinquennium. It has also been agreed that the fixed contribution system should be regarded as an experiment subject to review at the end of the first quinquennium, with the proviso that if the experiment is found to be unsatisfactory either the Colonial Government or His Majesty's Government may propose to revert to the former percentage basis at the end of the first 5 year period or to adopt some other basis of calculation.

2. It is intended that, if the fixed contribution system is continued, future re-assessments of the amount should have regard to the general economic position of the Colony, not only to the revenue position; but no exact method of re-assessment has been laid down. I believe that this fixed contribution will be found very much more satisfactory from many points of view than the old percentage basis. The sum which has been fixed is less than is expected to be payable for 1938 and less than the amount which would have been payable for 1939 on the 20% basis as applied to the approved estimate of revenue of 1939, the figure allowed for in the estimates for 1939 being \$6,149,228.

3. It was mentioned in the budget debate that there would be payable in respect of 1938 nearly \$1,000,000 additional Military

contribution in excess of that provided for in the 1938 estimates, owing to the increase of the revenue over the original estimates; and that in accordance with the usual custom, this would be payable in the following year. In view, however, of the adoption of the new basis with effect from 1st January, I have directed that the whole of the contribution payable for 1938, or as close an approximation of it as can be made, should be paid before the close of this financial year so that we may start off as nearly as possible with a clean sheet. The formal approval of this Council for this payment is not required as the contribution is permanently authorized by Ordinance.

4. I have sent to the Secretary of State the draft Bill of an Ordinance to give effect to the new scheme and this will be introduced in Council as soon as his approval of its terms has been received.

PAPERS.

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

Amendments made by the Governor in Council under section 9 (1) of the Police Force Ordinance, 1932, Ordinance No. 37 of 1932, on 18th November, 1938, to the Police Pensions Regulations.

Declaration under section 18 of the Quarantine and Prevention of Disease Ordinance, 1936, Ordinance No. 7 of 1936, dated 24th November, 1938.

Amendment made by the Governor in Council under section 2 of the Emergency Regulations Ordinance, 1922, Ordinance No. 5 of 1922, dated 24th November, 1938.

Amendment made by the Governor in Council under section 2 of the Emergency Regulations Ordinance, 1922, Ordinance No. 5 of 1922, dated 30th November, 1938.

Amendments made by the Governor in Council under section 3 of the Adulterated Food and Drugs Ordinance, 1935, Ordinance No. 8 of 1935, dated 1st December, 1938.

Amendments made by the Governor under section 10 of the Hong Kong Naval Volunteer Ordinance, 1933, Ordinance No. 30 of 1933, dated 29th November, 1938.

Amendment made by the Governor in Council under section 42 of the Merchant Shipping Ordinance, 1899, Ordinance No. 10 of 1899, on 5th December, 1938, to Table C in the regulations.

Amendment made by the Governor in Council under sections 25 and 42 of the Merchant Shipping Ordinance, 1899, Ordinance No. 10 of 1899, on 5th December, 1938, to Table M in the regulations.

Amendment made by the Governor in Council under section 3 of the Pharmacy and Poisons Ordinance, 1937, Ordinance No. 8 of 1937, dated 5th December, 1938.

Notice to Airmen No. 6 of the year 1938, dated 7th December, 1938.

Forms prescribed by the Governor in Council under section 4 of the Asylums Ordinance, 1936, Ordinance No. 22 of 1936, dated 9th December, 1938.

Rule made by the Governor in Council under section 6A (3) of the New Territories Regulation Ordinance, 1910, Ordinance No. 34 of 1910, dated 14th December, 1938.

Proclamation No. 13.—Crown Rents (Apportionment) Ordinance, 1936, to come into operation as regards certain lots on 18th November, 1938.

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. 10 of 24th November, 1938, and moved that it be adopted.

THE FINANCIAL SECRETARY seconded, and this was agreed to.

MOTIONS.

THE FINANCIAL SECRETARY moved: That this Council do approve under section 3 (2) of the Hong Kong Dollar Loan Ordinance, No. 11 of 1934, of the following transfer in the Schedule:—

Item 3.—Vehicular Ferry; to be reduced from \$1,915,603.80 to \$1,911,450.97.

I must ask the forgiveness of Your Excellency and the Council for having to move this Resolution, which arises out of a mistake made in a Resolution adopted by this Council on the 10th of November, 1938. The item of Loan Works—Vehicular Ferry—has been completed and at a less cost than originally estimated, and the savings have been allocated to other Heads of the Loan Schedule. These Heads were accordingly increased in the Resolution of the 10th of November, but the Head "Vehicular Ferry" was not reduced with the result that the Council has now authorised the expenditure of more money than is available—a piece of financial juggling which, unfortunately, is not possible in practice. (Laughter).

THE COLONIAL SECRETARY seconded, and the resolution was approved.

THE FINANCIAL SECRETARY.—I rise to move the following Resolution:—

Resolved pursuant to section 49 (4) (b) of the Rating Ordinance, 1901, Ordinance No. 6 of 1901, as enacted by section 2 of the Rating Amendment Ordinance, 1935, Ordinance No. 10 of 1935, that the annual rate provided for in paragraph (a) of sub-section 4 of the said Ordinance be altered and reduced, in respect of that part of the New Territories comprised in the urban area of Tsun Wan, by fifty per cent. for the period 1st July, 1938, to 31st December, 1938, and that the rate for the said area for the said period be as appearing in the second column of the scale hereunder.

Resolved further that as from 1st January, 1939, the annual rate shall be restored to the full assessment, as appearing in the third column of the scale hereunder.

Class of building.	Annual Rate for period 1st July to 31st December, 1938.	Annual Rate as from 1st January, 1939.
Third class. If noted in the list as neither having nor using Government Waterworks water	\$1	\$2
If not so noted	\$2	\$4
Second class. If noted in the list as neither having nor using Government Waterworks water	\$3	\$6
If not so noted	\$6	\$12
First class. If noted in the list as neither having nor using Government Waterworks water	\$4	\$8
If not so noted	\$8	\$16
Special class. If noted in the list as neither having nor using Government Waterworks water	\$1 per \$1,000 of the valuation.	\$2 per \$1,000 of the valuation.
If not so noted	\$2 per \$1,000 of the valuation.	\$4 per \$1,000 of the valuation.

Members of the Council will remember that by a Resolution on the 28th of July, 1937, the rates to be paid in the urban area of Tsun Wan, were reduced by fifty per cent. for the period ending June 30th, 1938. The justification for that reduction was that certain services of an urban character which it had been intended to provide for that area and which were to be paid for by the rates to be raised, had not been fully provided. The inhabitants of that area have recently petitioned for a continuation of this reduction of fifty per cent. on

the ground that the services in question had still not been fully supplied at the end of the period of reduction, and Government has agreed that it would be reasonable that a further six months' extension should be given. I accordingly move the Resolution standing in my name.

THE COLONIAL SECRETARY seconded, and the resolution was approved.

ASIATIC EMIGRATION (NO. 2) AMENDMENT ORDINANCE, 1938.

THE ATTORNEY GENERAL moved the first reading of a Bill intituled "An Ordinance to amend further the Asiatic Emigration Ordinance, 1915." He said: The 5th and 6th schedules of the principal Ordinance require in their terms, the carrying of medical officers and interpreters in ships on long voyages. There is no similar requirement in the 4th schedule, which deals with short voyages, and, for the reasons explained in the memorandum of Objects and Reasons, it is desirable to bring Saigon in the scheme of such voyages.

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 provisions of the Sixth Schedule to the Asiatic Emigration Ordinance, 1915, requiring a duly approved medical officer and interpreter to be carried, have no counter-part in the case of short voyages, which are regulated by the Fourth and Fifth Schedules to that Ordinance.
2. A British ship carrying a large number of Chinese emigrants recently arrived at Saigon from Hong Kong with a case of smallpox on board.
3. The voyage to Saigon is of less than seven days' duration, but it is considered that it should be declared by the Governor to be a short voyage for the purposes of the principal Ordinance.
4. The object of the present amendment is to require a doctor and interpreter to be carried by ships having on board more than fifty emigrants, even on short voyages, and thus to assimilate the requirements of the Asiatic Emigration Ordinance to those of section 303 of the Merchant Shipping Act, 1894.
5. Clauses 2 and 3 of this Bill effect this amendment by adding to regulation 2 of the Fourth Schedule and to regulation 3 of the Fifth Schedule to the principal Ordinance which apply to short voyages words requiring a medical officer and interpreter duly approved by the Emigration Officer to be carried where the number of emigrants on board exceeds fifty.

6. Clause 4 of the Bill is the suspending clause required by the proviso to section 2 of the Chinese Passengers Act, 1855, (18 & 19 Vict., c. 104).

CRIMINAL PROCEDURE AMENDMENT ORDINANCE, 1938.

THE ATTORNEY GENERAL moved the first reading of a Bill intituled "An Ordinance to amend the Criminal Procedure Ordinance, 1899." He said: The Criminal Procedure Ordinance has another section, 77a, which enacts a provision of the old Infanticide Act of 1922 that has been replaced in the United Kingdom by the Infanticide Act of 1938. This is similar in its terms, but raises the age from the newly born child to children under one year old. It is desirable that we should bring our legislation into line with that of the United Kingdom.

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 enacts in section 77A of the Criminal Procedure Ordinance, No. 9 of 1899, the provisions of section 1 of the Infanticide Act, 1938, (1 & 2 Geo. 6, c. 36) in substitution for the provisions of section 1 of the Infanticide Act, 1922, (12 & 13 Geo. 5, c. 18).

SEDITION AMENDMENT ORDINANCE, 1938.

THE ATTORNEY GENERAL moved the second reading of a Bill intituled "An Ordinance to amend the Sedition Ordinance, 1938."

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

Council then went into Committee to consider the Bill clause by clause.

THE ATTORNEY GENERAL.—I would like to move an amendment in the terms set out in the paper I have just handed to Your Excellency, that is to say, to insert the following paragraphs as paragraphs (a) and (b) and to renumber the remaining paragraphs as (c) and (d) respectively:—

- (a) by the substitution of the following paragraph for paragraph (i) in sub-section (1) thereof:—
 - (i) to bring into hatred or contempt or to excite disaffection against the person of His Majesty, or His heirs or

successors, or against the Government of this Colony or the Government of any other part of His Majesty's dominions or of any territory under His Majesty's protection as by law established; or

That amendment will not materially alter the law as it stood at the beginning of this year, but it will make some changes in the principal Ordinance passed in September which made provision for attacks on His Majesty, His Heirs or successors and against the Government of this Colony, but did not include other parts of His Majesty's dominions. It was thought desirable to revert to the original plan which has been in force in the Colony since 1914.

(b) by the repeal of paragraph (vi) in sub-section (1) thereof;

This relates to attempts to seduce members of His Majesty's Services from allegiance to His Majesty. It has been suggested that that should not be dealt with as part of the Law of Sedition but in a special enactment founded and based on section 1 of the Incitement to Disaffection Act, 1934, in the United Kingdom, and it is proposed to follow that suggestion. That is why sub-section 3 (1) (vi) is cut out from the principal Ordinance.

Although in one sense these amendments appear to be material, in fact they leave us much as we were in the early part of this year and as we had been since 1914.

THE COLONIAL SECRETARY seconded, and the amendments were agreed to.

Upon Council resuming,

THE ATTORNEY GENERAL.—It is necessary for Your Excellency to rule whether the amendments made in Committee are in fact material before we can proceed with the other business. Alternatively we can suspend so much of the Standing Orders as is in the way of the Bill being read a third time at this meeting.

H.E. THE GOVERNOR.—In my opinion, for the reasons explained by the Honourable the Attorney General, the amendments are not material, but in a case such as this, where there is any possibility of doubt in the mind of any member, it is better to put the question to the Council itself. So I will ask the Honourable the Attorney General to move the suspension of the relative portions of the Standing Orders which will enable the third reading of the Bill at this meeting, thereby clearing this Bill off our Statue-making programme before the end of the year.

THE ATTORNEY GENERAL.—I move the suspension of that part of the Standing Orders which stands in the way of this Bill passing through its remaining stages at this meeting.

THE COLONIAL SECRETARY seconded, and this was agreed to.

THE ATTORNEY GENERAL then moved the third reading of the Bill.

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

**EMPIRE PREFERENCE (NO. 2) AMENDMENT
ORDINANCE, 1938.**

THE ATTORNEY GENERAL moved the first reading of a Bill intituled "An Ordinance to amend further the law relating to Empire Preference." He said: The nature of this Bill is explained in the Memorandum of Objects and Reasons. It is desirable, as this is a financial Bill, that it should pass through all its stages to-day, but at the moment I am only moving the first reading.

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

THE ATTORNEY GENERAL.—I rise to move the second reading of a Bill intituled "An Ordinance to amend further the law relating to Empire Preference."

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

Council then 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 suspension of that part of the Standing Orders which stood in the way of the Bill passing through all its stages that day.

THE COLONIAL SECRETARY seconded, and this was agreed to.

THE ATTORNEY GENERAL then moved the third reading of the Bill.

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

Objects and Reasons.

The "Objects and Reasons" for the Bill were stated as follows:—

1. By section 3 (1) of Ordinance No. 32 of 1932, as amended by Ordinance No. 25 of 1937, it is provided that there shall be charged, levied and paid, in respect of the first registration in the Colony of every motor vehicle which, in the opinion of the Commissioner of Police, is not an Empire product, a special licence fee of an amount equal to twenty per cent. of the value of such vehicle, including cost, freight and insurance, on arrival in the Colony, after deduction of the value of the tyres and of any spare wheels or other spare parts.

2. This special licence fee is in addition to the ordinary licence fee payable under any Ordinance or regulations relating to the licensing of vehicles.

3. The object of this Bill is to reduce the percentage charge of the special licence fee from twenty to fifteen and so to implement the Trade Agreement between the United States and the United Kingdom, which was signed at Washington on the 17th November, 1938, and which applies to the Colony.

FAREWELL TO MAJOR-GENERAL BARTHOLOMEW.

H.E. THE GOVERNOR.—Honourable Members,—Before we adjourn I desire to express what is, I feel sure, the unanimous sentiment of the Council by referring with appreciation to the services rendered by General Bartholomew to this Colony. (Applause).

During General Bartholomew's period of service here the defences of Hong Kong were notably advanced and he has left the Colony much more secure than when he found it. On very many occasions during the last twelve troublous months I have had need of his advice and I have always found his counsel as wise and as lucid as his response was prompt. As Governor I owe him much gratitude and that debt descends upon the Colony which I have the honour to govern. Mrs. Bartholomew has identified herself with so many public duties that to her also a grateful acknowledgment of her services is her least due. That I gladly make.

On your behalf, therefore, Honourable Members, as well as on my own I thank them both and wish them many years of health and happiness in England.

HON. SIR HENRY POLLOCK.—Sir, I am confident that the Unofficial Members of the Council would desire to be associated with the tribute Your Excellency has just paid to Major-General Bartholomew.

HON. MR. T. N. CHAU.—Sir, as Senior Chinese member, I beg to endorse all that has been said by Your Excellency regarding Major-General Bartholomew and Mrs. Bartholomew.

H.E. THE GOVERNOR.—That message will, of course, be transmitted to Major General Bartholomew in England.

ADJOURNMENT.

H.E. THE GOVERNOR.—Before I adjourn the Council *sine die*, I wish all Members a Merry Christmas and a Happy New Year.

FINANCE COMMITTEE.

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

Votes totalling \$437,177, contained in Message No. 11 from H.E. The Governor, were considered.

Item 302.—32, Public Works Department:—Special Expenditure, 22, One Granulator, \$5,500.

HON. SIR HENRY POLLOCK.—What is a granulator?

THE DIRECTOR OF PUBLIC WORKS.—It is a stone breaker for breaking rock into very small sizes, not quite to sand.

All the votes were approved.
