

8th May, 1941.

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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. E. GRASETT, C.B., 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. R. A. C. NORTH).

THE FINANCIAL SECRETARY (HON. MR. R. R. TODD, *Acting*).

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

HON. MR. A. B. PURVES (Director of Public Works).

HON. MR. J. P. PENNEFATHER-EVANS (Commissioner of Police).

HON. MR. J. J. PATERSON.

HON. MR. S. H. DODWELL

HON. MR. LO MAN-KAM.

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

HON. MR. A. L. SHIELDS.

HON. MR. W. N. T. TAM.

HON. MR. T. E. PEARCE.

HON. MR. LI TSE-FONG.

MR. C. B. BURGESS (Deputy Clerk of Councils).

ABSENT: —

HON. MR. W. J. CARRIE (Chairman of the Urban Council).

MINUTES.

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

PAPERS.

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

Regulations made by the Governor in Council under section 6 of the Dutiable Commodities Ordinance, 1931, Ordinance No. 36 of 1931, prescribing forms and fees for sails of toilet preparations, dated 17th April, 1941.

Amendment made by the Governor in Council under section 3 of the Adulterated Food and Drugs Ordinance, 1935, Ordinance No. 8 of 1935, to the regulations, dated 18th April, 1941.

Order made by the Governor under regulation 2 (1) of the Defence Regulations, 1940, declaring dockyards, shipbuilding yards and foundries to be essential services, dated 17th April, 1941.

Order made by the Controller of Trade under regulation 50 of the Defence Regulations, 1940, with the consent of the Governor, amending the order relating to the export of certain goods, dated 17th April, 1941.

Amendments made by the Urban Council under section 4 (XVI) of the Public Health (Sanitation) Ordinance, 1935, Ordinance No. 15 of 1935, to the by-laws under the heading "Conservancy" contained in Schedule A to the said Ordinance on 25th March, 1941, and approved by the Legislative Council on 24th April, 1941.

Amendment made by the Governor under the Emergency Powers (Defence) Acts, 1939 and 1940, as applied to the Colony by the Emergency Powers (Colonial Defence) Orders in Council, 1939 and 1940, to the Defence Regulations, 1940, dated 25th April, 1941.

Amendment made by the Governor under regulation 33 of the Defence Regulations, 1940, to the order appearing in the volume of Hong Kong War Emergency Legislation, dated 25th April, 1941.

Order made by the Governor under regulation 32 of the Defence Regulations, 1940, declaring certain places as protected places, dated 25th April, 1941.

The Trading with the Enemy Ordinance, 1914, Amendment Regulations, 1941, made by the Governor under the Emergency

Powers (Defence) Acts, 1939 and 1940, as applied to the Colony by the Emergency Powers (Colonial Defence) Orders in Council, 1939 and 1940, dated 22nd April, 1941.

Amendments made by the Governor in Council under section 3 of the Miscellaneous Licences Ordinance, 1933, Ordinance No. 25 of 1933, to the regulations in the Second Schedule, dated 26th April, 1941.

Amendment made by the Governor in Council under section 5 of the Dangerous Goods Ordinance, 1873, Ordinance No. 1 of 1873, to the regulations, dated 29th April, 1941.

Amendment made by the Governor in Council under section 3 of the Vehicles and Traffic Regulation Ordinance, 1912, Ordinance No. 40 of 1912, to the regulations, dated 1st May, 1941.

The Defences (Firing Areas) Amendment Regulations, 1941, made by the Governor under the Emergency Powers (Defence) Acts, 1939 and 1940, as applied to the Colony by the Emergency Powers (Colonial Defence) Orders in Council, 1939 and 1940, dated 26th April, 1941.

Order made by the Controller of Trade under regulation 50 of the Defence Regulations, 1940, with the consent of the Governor, prohibiting the export of empty metal drums, dated 2nd May, 1941.

Order made by the Director of Supply under regulation 50 of the Defence Regulations, 1940, with the consent of the Governor, amending the First and Second Schedules to the order of 21st March, 1941, dated 2nd May, 1941.

Proclamation No. 4—The Regulations of Hong Kong (1937 edition), Volume III, 1915-1931, laid before and approved by the Legislative Council on 24th April, 1941.

QUESTIONS.

HON. MR. LO MAN-KAM asked: —

1. Will Government make a full statement on the recent fire of the squatters' huts at Tai Hang, and in particular: —

- (1) What notice was given to the squatters before the huts were destroyed?
- (2) By whom, on whose authority and under what powers the huts were set on fire?

- (3) Were only the huts destroyed or were personal belongings of the squatters also destroyed?
- (4) What arrangements have been made for the accommodation of the squatters whose huts were destroyed?

THE DIRECTOR OF PUBLIC WORKS replied: —

(1) Verbal warnings were given on several occasions by a Land Bailiff of the Crown Lands Office that huts would be demolished if the owners did not do so themselves, and the "elder of the squatters" was so informed.

(2) The demolition was carried out by a Land Bailiff of the Public Works Department with the co-operation of a representative of the Medical Department. Both these officers hold warrants under regulation 37 (1) of the regulations made under Ordinance No. 5 of 1922 (Emergency Regulations) to take possession of, demolish and remove any structure erected without lawful authority on unleased Crown Land.

No huts were set on fire. The huts were dismantled and the poles and timber collected and taken away by lorries to a Government dump at Wanchai: the matting and palm leaves were destroyed by fire to prevent re-erection. This practice has been in force for many years, otherwise sheds are re-erected as soon as the demolition party has left the area.

(3) Only huts were destroyed and each inhabitant was given ample warning to remove his or her personal belongings.

(4) Squatters had previously been offered accommodation and food at Pat Heung Camp by Honourable Director of Medical Services who states, however, that only 66 persons availed themselves of this offer. Persons who were sick and willing to go to hospital were removed there by ambulance. In other cases, where the occupants were sick but refused to go to hospital or were too old to evict, the hut was not demolished.

HON. MR. LO MAN-KAM asked: —

2. Will the Government make any statement regarding the recent representations made by the former night-soil collectors now replaced by Government employees?

THE COLONIAL SECRETARY replied: —

As Honourable Members are aware this matter has been under discussion for some time. The resolution of the Urban Council in which the change of system was proposed was communicated to the Government on 9th October, 1940, and financial provision

was included in the Budget for 1941-42. A decision was reached on 20th March, 1941, and it was announced that collection by the Sanitary Department would begin on the first of May, 1941.

Every effort was made by the Chairman of the Urban Council to induce persons employed on nightsoil collection to apply for employment under the Government and they were given until April 23rd to do so. By that date it had become evident that the majority of these would not come forward and it then became necessary to recruit others to take their place.

Since the beginning of this month demonstrations have taken place and representatives of persons formerly engaged in nightsoil collection have been interviewed by Government officials. The object of these representations has been to obtain a postponement of the inauguration of the new system for a considerable period, it being asserted at the same time that the demonstrators have no desire to obtain employment under the Government Scheme.

Departmental collection of nightsoil has been undertaken as a measure of public health with the support of the Urban Council and of the Government's advisers on health matters and a reversion to the former system, or lack of system, is now out of the question; it is felt therefore that no useful purpose can be served by further representations on these lines. The attitude of the Government has been clearly stated and no reversal of general policy will be considered. Nor can any claim to compensation for the loss of a privilege which has no legal foundation be considered; cases of individual hardship, if brought to the notice of the proper authorities, will however receive sympathetic attention. The full quota of collectors has now been engaged but applications from persons formerly engaged in the trade will still be given priority for consideration as vacancies occur; and for any who may become destitute, maintenance in Government camps is available as well as assistance for those who wish to return to the country.

MOTIONS.

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

Resolved pursuant to sections 3 and 4 of the Dutiable Commodities Ordinance, 1931, with effect from two o'clock p.m. on Thursday, the tenth day of April, 1941, as follows: —

[S. 3.] APPLICATION OF ORDINANCE TO TOILET PREPARATIONS AND CERTAIN OTHER SUBSTANCES.

All the provisions of the Dutiable Commodities Ordinance, 1931, except Parts II, III and IV thereof, shall apply to toilet preparations.

For the purposes of this resolution "toilet preparations" means any substance commonly used for the toilet and includes—

- toilet soap;
- shaving soap and cream;
- tooth paste or powder and liquid preparations for dental purposes or mouth washes;
- perfumed spirits;
- toilet paste or powder;
- toilet cream;
- hair dye;
- scented sachets;
- lipstick, rouge and grease paint;
- preparations for use in manicure and chiropody;
- preparations, whether medicinal or not, for use on the hair, face or body;
- bath salts and essences;
- smelling salts;
- prepared Fuller's earth:

but does not include any substance made or sold under a name or synonym specified in the British Pharmacopoeia or the British Pharmaceutical Codex.

[S. 4.] DUTIES ON TOILET PREPARATIONS.

Duty shall be payable on toilet preparations at the following rates—

On any quantity for retail at a price (excluding the duty) —

	<i>Duty</i>
not exceeding 10 cents	1 cent
over 10 cents and not exceeding 20 cents	2 cents
over 20 cents and not exceeding 50 cents	5 "
over 50 cents and not exceeding \$1.00	10 "
over \$1.00 and not exceeding \$1.50	15 "
over \$1.50 and not exceeding \$2.00	20 "
and in addition, for every dollar or fraction of a dollar by which the retail price exceeds \$2.00	10 "

Provided that in the case of toilet preparations packed in two or more cakes in one container, or in two or more containers enclosed in a larger container, duty shall be assessed on each cake or container which can be sold separately and at the retail price for that cake or container.

The Resolution as it now appears differs in two important respects from the Resolution which, in anticipation of the approval of this Council, was brought into effect as from the 10th, April, 1941, by an order made by Your Excellency in exercise of the powers conferred by the Public Revenue Protection Ordinance.

In the first place the revised Resolution has been so worded as to dispel all doubt as to whether certain balms, ointments, lotions, oils, powders and other preparations for external use which have medicinal properties are dutiable. Some preparations are used for toilet purposes as well as for medicinal purposes, while others are used for medicinal purposes only: I wish to make it quite clear that it is Government's intention to tax even those preparations which are used only for medicinal purposes. There is a tax on such preparations in the United Kingdom and elsewhere, and the effect of excluding them would be to raise endless questions as to which preparations are used for medicinal purposes only and so increase the cost of collection of the duty.

To give effect to Government's intention, the Resolution is now intituled "APPLICATION OF ORDINANCE TO TOILET PREPARATIONS AND CERTAIN OTHER SUBSTANCES" instead of "APPLICATION OF ORDINANCE TO TOILET PREPARATIONS", while in the list of substances included under the general term "toilet preparations" the words "preparations, whether medicinal or not, for use on the hair, face or body" have been substituted for the words "preparations for use on the hair, face or body". All proprietary brands of medicinal preparations for external use are therefore to be dutiable, but I would point out that any substance made and sold under a name or synonym specified in the British Pharmacopoeia or the British Pharmaceutical Codex will not be dutiable. I would also like to add that as a matter of practice duty will not be collected on preparations made up by chemists in accordance with special prescriptions given by medical practitioners to their patients.

The second important amendment is the lowering of the minimum amount of duty payable from 5 cents to one cent. According to the original Resolution a duty of 5 cents was payable on any quantity retailed at a price not exceeding 50 cents; it has, however, been represented to Government that many locally made toilet preparations, including some of the medicinal preparations which I have just mentioned, are retailed for 15 cents, 10 cents and even 5 cents or less and that it is not reasonable to impose a duty which may amount to 100 per cent. of the retail price. This point will be met by the imposition of a duty of one cent where the retail price does not exceed

10 cents and a duty of two cents where the retail price is over 10 cents and does not exceed 20 cents.

Representations on other matters connected with this new tax have been made to Government by retailers, importers and manufacturers, but I do not propose to go into them here. Difficulties are inevitable when a new tax like this one is imposed but, given a little patience and a little time for the department concerned to gain experience, they are, I believe all capable of a solution which will be satisfactory to both sides.

I venture to say that the new tax on toilet preparations has been well received by the public. The public appreciates the need for more revenue to meet the cost of the measures which Government is taking for the defence of the Colony. It is difficult to estimate the yield from this tax so soon after its introduction but an intelligent guess would be approximately half a million dollars per annum.

THE COLONIAL SECRETARY seconded.

HON. MR. LO MAN-KAM. —On behalf of my Chinese colleagues on this Council, I have a few observations to make on the motion now before this Council.

My colleagues and I feel that articles of necessity, including medicines which are commonly used by even the very poor in the Colony, should not be taxed along with what are commonly known as "toilet preparations."

I understand from the Hon. Financial Secretary that great difficulties exist in defining and demarcating what are popularly known as toilet preparations, as distinguished from medicinal preparations for use on the hair, face or body, which are not toilet preparations.

In a sense every new tax has its contributory effect on the increase of cost of living in Hong Kong. But we agree that the revised rates as set out in the motion do materially remove the objections to the tax mentioned above, from the point of view of effect rather than principle. For this reason, my colleagues' and I do not oppose this motion. But we venture to express the hope that Government will reconsider this matter during the operation of the tax and in the light of the experience to be gained thereby, so that if it is at all possible, articles of necessity and genuine medicinal preparations not commonly used for toilet may be excluded from the tax.

THE COLONIAL SECRETARY. —I am glad to hear from the Honourable Mr. M. K. Lo that he does not wish to press to a division his objections to this resolution. I am authorized by Your Excellency to say that the points which he has just brought forward will receive the careful consideration of the Government when there has been time to see clearly the effect of the new tax as a whole.

The resolution was carried.

THE COLONIAL SECRETARY. — I rise to move the following resolution: —

Resolved that this Council approves the following war measures to ensure the adequate supply of rice and the control of the price of rice and to provide for the turn over of rice reserves in this Colony—

1. The Government shall take over all reserve stocks of rice in this Colony.
2. The Government shall become the sole importer of rice to this Colony and the sole exporter of rice from this Colony to Shanghai and to such other destinations as may be decided upon.
3. The Government shall sell its rice direct to local retailers.
4. Arrangements shall be made to finance these measures from surplus Government funds, the balance to be made up from moneys advanced by the Hong Kong and Shanghai Banking Corporation.
5. These measures shall be put into force on June 1, 1941.

Honourable Members will doubtless have observed in the local press on Sunday and Monday of this week an official statement, in anticipation of the motion which I am about to propose, which followed the receipt of a telegram from the Secretary of State signifying his approval of the scheme in question.

The provision of an adequate stock of rice, not only for reserves against a possible emergency, but also for the daily requirements of the population at reasonable rates, has been the constant concern of the Government almost since the outbreak of war in September, 1939.

The agreement under which war stocks were maintained in the terms of the Essential Commodities Ordinance of 1939 will expire at the end of this month and there is no need to consider an extension of that agreement as adequate supplementary stocks are now held in reserve on Government account. But the rice situation as a whole has, in recent months, become increasingly difficult, partly because of the uncertainty of imports from the normal countries of supply, Indo-China and Thailand, and partly owing to the great difficulty of effectively controlling the prices of various grades of rice by means of Government Regulations. There will continue to be difficulties, especially as tonnage becomes more and more scarce, but it is confidently hoped that the action which is now proposed will go far to improve existing conditions.

I should perhaps explain that as regards re-export of rice, surplus to our own requirements, for the International Settlement at Shanghai,

we are proposing to take special action to assist our friends in that port and that, following a flying visit paid last month by our energetic Rice Controller, Mr. F. C. Barry, adequate arrangements to this end, which should also materially help the soaring price problem in both ports, have been made with the Municipal Council of Shanghai.

As regards the financial commitments of the scheme, which are probably almost as greatly the concern of this Council as the provision of reasonably cheap rice for the Chinese community, I would say that unless the world price of this commodity suddenly falls violently, there is no reason why the monopoly should not be ultimately self-supporting. There must, however, be immediate outgoings for purchases of rice, and it is proposed to use for these the surplus balances of the Colony up to, say, five million dollars. Beyond that figure the Hong Kong and Shanghai Bank has, with its customary public spirit, consented to give its financial assistance. I should perhaps add that, for accounting purposes, interest at the Bank's rate will equally apply in the case of the sums advanced from surplus balances.

The wording of the second paragraph of the motion is purposely wide, but it is the present intention of the Government to control the re-export of all imported rice to all destinations. The comparatively small amount of rice produced locally will not, at least to begin with, be included in the scheme.

As the opening words of the motion indicate, this is pre-eminently a war measure and there is no intention of interfering perpetually in this primary trade of the Colony's merchants. No terminal date has been put in the motion which I propose, because it seems probable that the system will have to be continued for at least some time after the formal declaration of peace. No one expects world trading conditions, to be suddenly restored when that day arrives, but I am authorized to say that a return to normal trade will be sought at the earliest moment that such a course appears to be safe.

THE FINANCIAL SECRETARY seconded, and the resolution was carried.

POST OFFICE AMENDMENT BILL, 1941.

THE ATTORNEY GENERAL moved the first reading of a Bill intituled "An Ordinance to amend the Post Office Ordinance, 1926." He said: The small amendment to this Ordinance is explained in the Memorandum of Objects and Reasons.

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 adds to the penalties section of the Post office Ordinance, 1926, a sub-section, similar to sub-section (2) of section 36 of the Telecommunication Ordinance, No. 18 of 1936, enabling a court or magistrate inflicting a fine to direct, on the application of the Postmaster General or other prosecuting officer, that a portion of the fine shall be paid to the persons whose information has led to the Conviction.

2. It is considered that a provision of this nature is necessary to prevent the loss of normal postal revenue and to secure that postal packets do not escape censorship.

MISCELLANEOUS LICENCES AMENDMENT BILL, 1941.

THE ATTORNEY GENERAL moved the second reading of a Bill intituled "An Ordinance to amend the Miscellaneous Licences Ordinance, 1933."

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

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

Clause 6.

THE ATTORNEY GENERAL. —I have to move an amendment here, of which I gave notice at the first reading, in connection with this clause. That amendment is in paragraph 2 (1) relating to timber stores. The amended paragraph to be substituted reads: "Every timber store shall be constructed and maintained in good and substantial repair and clean condition, to the satisfaction of the Licensing Authorities."

THE COLONIAL SECRETARY seconded, and the amendment was agreed to.

Upon Council resuming,

THE ATTORNEY GENERAL stated. — The Miscellaneous Licences Amendment Ordinance has passed through Committee with one amendment, notice of which I gave at the first reading. It Your Excellency rules that the amendment is immaterial, I will move the third reading of the Bill.

H.E. THE GOVERNOR. —I do so rule.

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

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

ADJOURNMENT.

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