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*Thursday, 12th December, 1946.*

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**PRESENT: —**

HIS EXCELLENCY THE GOVERNOR (SIR MARK AITCHISON YOUNG, G.C.M.G.).

HIS EXCELLENCY THE GENERAL OFFICER COMMANDING THE TROOPS (MAJOR-GENERAL F. W. FESTING, C.B., C.B.E., D.S.O.).

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

THE ATTORNEY GENERAL (HON. MR. G. E. STRICKLAND, *Acting*).

THE SECRETARY FOR CHINESE AFFAIRS (HON. MR. T. MEGARRY, *Acting*).

THE FINANCIAL SECRETARY (HON. MR. C.G.S. FOLLOWS, C.M.G., *Acting*).

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

HON. MR. T. M. HAZLERIGG, C.B.E., M.C.

HON. MR. V. KENNIFF (Director of Public Works).

HON. DR. J. P. FEHILY, O.B.E., (Acting Chairman, Urban Council).

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

HON. MR. LO MAN-RAM, C.B.E.

HON. MR. C. C. ROBERTS.

HON. MR. LEO D'ALMADA E CASTRO.

HON. MR. R. D. GILLESPIE.

HON. DR. CHAU SIK-NIN.

HON. MR. M. M. WATSON.

MR. D. R. HOLMES, M.B.E., M.C., (Deputy Clerk of Councils).

**MINUTES.**

The Minutes of the meeting of the Council held on 28th November, 1946, were confirmed.

**ANNOUNCEMENT.**

The COLONIAL SECRETARY—By Your Excellency's direction I rise to make the following Announcement:

Among the papers to be laid on the table at this meeting of Council is the report of the Committee appointed in July this year, under the Chairmanship of His Honour Mr. Justice Williams, to advise Government on the form which a War Memorial for this Colony should take and on the manner in which its cost should be defrayed. The report, which was submitted on the 19th November, has now been considered by Government and the following conclusions have been reached.

The Committee recommends that a Hong Kong War Memorial Fund should be established to provide for the objects set out in Clause 4 of the Hong Kong War Services Assistance Fund Bill and also for undertakings of a nature to benefit the community as a whole. Such undertakings might include measures for the amelioration of the condition of the poorer classes and for the provision of certain social welfare amenities for the people. The objects set out in the War Services Assistance Fund Bill should take precedence over the undertakings of a more general nature and the cost of the whole scheme should be met both by public subscription and by a contribution from public funds.

Government has accepted the recommendations of the Committee. The War Services Assistance Fund Bill, which passed its First Reading in this Council on the 31st of October, will be withdrawn and in its place a new Bill designed to give effect to the Committee's recommendations will be introduced.

It is proposed that the sum to be contributed from public funds shall be proportionate to that contributed by public subscription. The new Bill will be framed accordingly and this Council will be asked in due course to approve the necessary expenditure.

**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 3 of the Vehicles and Traffic Regulation Ordinance, 1912, Ordinance No. 40 of 1912, as amended by the Vehicles and Traffic Regulation (Amendment) Ordinance, 1946, Ordinance No. 18 of 1946, dated 2nd October, 1946.

Order made by the Governor under Section 2 of the Public Revenue Protection Ordinance, 1927, Ordinance No. 9 of 1927, dated 2nd October, 1946.

Amendment made by the Governor in Council under Section 29 of the Waterworks Ordinance, 1938, Ordinance No. 20 of 1938, to the regulations, dated 2nd October, 1946.

Amendment made by the Midwives Board under Section 4 of the Midwives Ordinance, 1910, Ordinance No. 22 of 1910, to the regulations, dated 2nd October, 1946.

Additional items and amendments made by the Acting Director of Supplies, Trade and Industry under Defence Regulation 50 of the Defence Regulations, 1940, to the Schedule to the Price Control Order, 1946, dated 2nd October, 1946.

Additional items added by the Acting Director of Supplies, Trade and Industry under Defence Regulation 50 of the Defence Regulations, 1940, to the Schedule to the Prohibited Exports Order, 1946, dated 2nd October, 1946.

Item deleted by the Acting Director of Supplies, Trade and Industry under Defence Regulation 50 of the Defence Regulations, 1940, from the Schedule to the Prohibited Exports Order, 1946, dated 2nd October, 1946.

Amendment made by the Acting Director of Supplies, Trade and Industry under Defence Regulation 50 of the Defence Regulations, 1940, to the Schedule to the Prohibited Exports Order, 1946, dated 3rd October, 1946.

Additional items and amendments made by the Acting Director of Supplies, Trade and Industry under Defence Regulation 50 of the Defence Regulations, 1940, to the Schedule to the Price Control Order, 1946, dated 8th October, 1946.

Letter of 30th November, 1946, from the Chairman of the Board of Directors of the Lingnan University to the Government of Hong Kong thanking the Government for the gift of \$20,000 to the University.

Report of the Hong Kong War Memorial Committee.

Report of the Hong Kong Port Administration Inquiry Committee.

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**QUESTIONS.**

The HON. MR. LO MAN-KAM asked:

With reference to the first question which I put to Government on the 25th July, 1946 on the subject of the responsibility for the requisition of—

- (1) Leasehold property:
- (2) Steamer and other craft:
- (3) Personal property:

and the answer of the Hon. the Colonial Secretary of the same day, can Government make a further statement on the matter, and if Government has not reached a decision, will Government state when a decision is likely to be reached?

The COLONIAL SECRETARY replied:

Government regrets that no decision will be possible in these matters until War Damage claims have been examined in detail. With this object in view a War Damage Claims Commission will shortly be appointed and it is anticipated that they will visit Hong Kong about March next year. The question of the extent to which responsibility can be assumed for claims for which there is no legal liability under Regulations 4 and 6 of the Compensation (Defence) Regulations, 1940, will have to be considered in the light of such contribution as may be forthcoming from Imperial funds and on account of reparations from the enemy. As the Honourable Member will realise it will not be possible for this Colony to provide full compensation from its own resources.

The HON. MR. LO MAN-KAM asked:

With reference to the motion which I introduced on the 27th August, 1946, on the subject of the Moratorium and Debtor/Creditor Relationship, and to the reply of the Hon. the Attorney General, can Government make any further statement on the matter and if Government has not reached a decision on any of the points raised in the Debate will Government give an indication as to how long the Colony will have to wait before a decision can be reached?

The COLONIAL SECRETARY replied:

It is regretted that this Government is not yet in a position to make any further statement on the subject of the Moratorium and Debtor-Creditor relationships.

As was pointed out in the course of the debate on the Motion which the Honourable Member introduced on the 27th August, the

considerations which affect the problem of Debtor/Creditor relationships are by no means the same in the different British dependencies which were occupied by the Japanese. His Majesty's Government has not yet reached any final decision in the matter for, as will be readily realised, it is extremely difficult to find a formula which will be entirely satisfactory. In spite of the fact that no decision has yet been reached on the major question of Debtor/Creditor relationships the related but simpler question of clearing balances has been satisfactorily settled.

Although, as was explained recently by the Secretary of State for the Colonies in reply to a question in the House of Commons concerning Malaya, there is no immediate prospect of lifting the Moratorium, the possibility of exempting dealings in land affected by occupation transactions has been taken up with the Secretary of State subject to the exclusion of cases where the Land Officer has received notice of a claim that any occupation transaction affecting such land is void or voidable.

The possibility of a partial removal of the ban on the transfer of shares has also been suggested to the Secretary of State with a view to permitting dealings in shares of those companies, who, although in default with the strict requirements of Company Law, have furnished certain minimum particulars to the Registrar of Companies. Any block of shares concerning which a Company had received conflicting claims would naturally be excluded.

Replies from the Secretary of State on these two points are now awaited.

The HON. MR. R. D. GILLESPIE asked:

In the answer given to my question at the meeting of the Legislative Council on 15th August, 1946, concerning the registration in Hong Kong of China Companies who had availed themselves of certain Defence Regulations and re-registered elsewhere as a temporary expedient, Government stated *inter alia*: —

(1) On 9th April last, guidance was sought from the Secretary of State and Registrar of Companies in England, but no final reply had yet been received.

(2) Draft legislation had been prepared here in the meantime and is now being referred to the Secretary of State.

Four months having elapsed since this reply was given, is Government now in a position to indicate when legislation will be enacted to permit of the registration of the China Companies concerned?

The COLONIAL SECRETARY replied:

Since 15th August, 1946, when the Honourable Member's previous question was asked in this Council, further correspondence on this subject has taken place between Government and the Secretary of State for the Colonies. Several points have been clarified but the Secretary of State has indicated that before further action can be taken locally it is necessary to refer the proposed legislation to the Board of Trade. It is contemplated that it may be necessary for the Board of Trade to make an order in each case directing the cessation of registration in the United Kingdom so that a Company shall not be on the United Kingdom register and on the Hong Kong register at the same time.

The draft legislation has already been forwarded to the Secretary of State who has been requested to inform this Government of the final decision at an early date.

The HON. MR. R. D. GILLESPIE asked:

Government in its reply to the question asked on the 25th July by the Hon. Mr. D. F. Landale on the subject of the future administration of the Port of Hong Kong, stated, *inferred alia*, that it was considered desirable that the late Sir David Owen's recommendations for the creation of a Port Trust should receive complete re-consideration in the light of present conditions, and that it was proposed that the Port Executive Committee should continue to function until a final decision on policy had been reached. Will Government state how the matter now stands?

The COLONIAL SECRETARY replied:

In August last a fully representative Committee, under the Chairmanship of the Honourable Mr. T. M. Hazlerigg, C.B.E., M.C., was appointed for the purpose of assisting the Government in the reconsideration of its policy in regard to the future administration of the Port of Hong Kong.

The report of this Committee was submitted on the 18th November and it has today been laid on the table of this Council. The Government takes this opportunity of expressing its appreciation of the services which have been rendered by the Chairman and members of the Committee in conducting this investigation and submitting their comprehensive and very valuable report.

It will be seen that the principal recommendations of the Committee are that a Port Trust should not be established and that the requisite co-ordination and the necessary representation of the interests concerned should be attained by the formation of a

Port Committee whose duty it would be to consider and advise Government upon all matters relating to the welfare, control, administration and development of the Port.

The Government after considering these recommendations has decided to accept them and is now taking steps to bring them into effect.

### **RULES MADE BY THE CHIEF JUSTICE.**

The ATTORNEY GENERAL: Your Excellency, I arise to move that the Rules dated the 29th day of November, 1946, made by the Chief Justice under Section 74 of the Probates Ordinance, 1897, Ordinance No. 2 of 1897, be approved.

He said: During the occupation of the Colony the probate records kept at the Supreme Court were lost or destroyed. This involved the disappearance of petitions of probate with the accompanying papers including the will itself, the petitions in which the Chief Justice had not yet made a grant. The ordinary practice where a will is lost is for a motion to be made in Court supported by affidavits deposing to the contents of the will and how it came to be lost. It is considered that where such petitions had already been filed in the Court prior to the enemy occupation, some provision should be made to obviate the expense and delay that would result if the ordinary practice was to be followed. The Rules made by the Chief Justice were made with this object in mind and you will see that they will enable the Chief Justice to make such grant or other order as in the circumstances of the case he may deem fit without any motion being made to the Court or other Court proceedings instituted and that he may order that the Court and other fees be waived in connection with the application.

The COLONIAL SECRETARY seconded and the Motion was carried.

### **HOLIDAYS BILL, 1946.**

The ATTORNEY GENERAL: I arise to move the First reading of a Bill intituled "An Ordinance to consolidate and amend the law relating to general and school holidays."

He said: As explained in the Objects and Reasons of this Bill, there is very little there that is new. The Bill consolidates the present law relating to this subject and makes two changes. One is the addition of a new general holiday on the 30th August to celebrate the liberation of the Colony from the Japanese occupation. The other change is a substitution of a holiday to be

known as Remembrance Sunday in lieu of Armistice Day. I trust the Bill will be a popular one and I do not propose to make any further explanation.

The COLONIAL SECRETARY seconded and the Bill was read a First time.

### **Objects and Reasons.**

1. The object of this measure is to consolidate for the purpose of clarity the law relating to holidays and to incorporate into the Ordinance two further amendments.

2. The first of these is provision for a general holiday on the 30th August, (or if that day should be a Sunday the following day), a holiday which was inaugurated this year to celebrate the anniversary of the liberation of the Colony from Japanese occupation. Although the Japanese gave effect to the surrender in some measure as from the 15th August, 1945, the actual entry of our forces took place on the 30th August which is considered the most suitable date upon which to celebrate this important anniversary.

3. The second amendment is the elimination of Armistice Day from the list of general holidays and its replacement by the day following Remembrance Sunday. As has already been announced His Majesty the King has approved that the Sunday before the 11th November, or the 11th or 12th November when those dates fall on a Sunday, should be known as Remembrance Sunday and that it should be a day of remembrance for both great wars and associated with the National observance at the Cenotaph and the two minutes silence.

4. A comparative table is annexed to the objects and reasons.

### **TABLE OF COMPARISON.**

<b>Holidays Ord., 1912.</b>	<b>Holidays Ord., 1946.</b>	<b>Remarks.</b>
1.	1.	Short Title.
2. (a) (b)	2. (a) (b)	"School holiday" as defined by the Holidays Amendment Ordinance, 1941.
3. (1) (2) (3) (4)	3. (1) (2) (3) (4)	

(5)	(5)	
(6)	(6)	
(7)	(7)	
(8)	(8)	
(9)	(9)	
(10)	(10)	
(11)	(11)	
---	(12)	New.
(12)	(13)	as amended by the Holidays Amendment Ordinance, 1941.
(13)	(14)	
(14)	---	Repealed.
(---)	(15)	New.
(15)	(16)	
(16)	(17)	
Proviso	---	Spent.
4.	4.	as amended by the Holidays Amendment Ordinance, 1941.
5.	5.	as amended by the Holidays Amendment Ordinance, 1941.
6.	6.	
7.	7.	as amended by the Holidays Amendment Ordinance, 1941.
8.	8.	as amended by the Holidays Amendment Ordinance, 1941.

### **TRAMWAY AMENDMENT BILL, 1946.**

The ATTORNEY GENERAL moved the Second reading of a Bill intituled "An Ordinance to amend the Tramway Ordinance, 1902."

The COLONIAL SECRETARY seconded and the Bill was read a Second time.

On the motion of the ATTORNEY GENERAL, seconded by the COLONIAL SECRETARY, Council went into Committee.

Council then resumed.

The ATTORNEY GENERAL reported that the Tramway Amendment Bill, 1946, had passed through Committee without amendment and moved that it be read a Third time and passed into law.

The COLONIAL SECRETARY seconded and the Bill was read a Third time.

**ADJOURNMENT.**

H.E. The GOVERNOR: Council now adjourns until Thursday, 19th December, 1946.

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