

27th February, 1947.

PRESENT: —

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

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

THE COLONIAL SECRETARY (HON. MR. D. M. HACDOUGALL, C.M.G.).

THE ATTORNEY GENERAL (HON. MR. J. B. GRIFFIN, K.C.).

THE SECRETARY FOR CHINESE AFFAIRS (HON. MR. R. R. TODD, *Acting*).

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

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

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

HON. MR. T. MEGARRY.

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

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

HON. MR. LO MAN-KAM, 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 held on 20th February, 1947, were confirmed.

MOTIONS.

THE ATTORNEY GENERAL: Sir, I rise to move a resolution in the following terms: —

Resolved that under the powers conferred by Section 3 of the Pensions Ordinance, 1932, as amended by the Pensions Amendment Ordinance, 1947, and Section 9 of the Police Force Ordinance, 1932, as amended by the Police Force Amendment Ordinance, 1947, the retrospective effect as expressed therein of the proposed Regulations in the Schedule hereto be approved.

He said: Honourable Members will recall that on the 20th of this month the Pensions Amendment Ordinance, 1947, and the Police Force Amendment Ordinance, 1947, were passed by this Council. The main object of those Ordinances was to provide that where the Governor in Council makes regulations, such regulations may have retrospective effect where they are or would be for the benefit of officers or for the removal of disabilities resting on such officers. Such Ordinances as amended, however, stipulated that not only should regulations be made by the Governor in Council but such regulations should also receive the prior approval of this Council. Thus in the Schedule to the Resolution which I am moving appear two sets of amendments, one set to amend the Pensions Regulations made under the Pensions Ordinance and the other to amend the Police Pensions Regulations made under the Police Force Ordinance.

As regards the first set of Regulations which I have named, it will be seen that the Regulations deal with the exercise of the option to receive oil retirement a reduced pension and a gratuity instead of a full pension. The Regulations will provide that such option can be exercisable at any time and will also provide that options already exercised may in fact be, cancelled. It is provided by the proposed Paragraph 7 of the Regulations that the Regulations will have retrospective effect to the 1st September, 1945, thus the Regulations can be applied to those cases of persons who have retired since that date.

As regards the second set of Regulations, the Police Pensions Regulations, they provide for the inclusion of the same provisions relating to the option, and in addition the Regulations provide for the amendment of Regulation 7 of the existing Police Pensions Regulations to deal with cases of persons who have been on leave without salary with the approval of the Secretary of State. That provision appears in the Pensions Regulations, but similar provision does not appear in the Police Pensions Regulations. Additionally, by Paragraph 4 to Regulation 7 as enacted by the proposed Regulations it is provided

that such Regulations will have effect as from the 26th December, 1941, thus absence on leave without salary giving continuity to service for the purposes of pension will be applicable to cases of certain Police Officers who after the 26th December, 1941, remained in the Colony, but nevertheless had or have to be regarded as being on leave without salary during the intervening period between December, 1941, and September, 1945.

THE COLONIAL SECRETARY seconded, and the motion was carried.

PUBLIC DANCE-HALLS TAX BILL, 1947.

THE ATTORNEY GENERAL moved the First reading of a Bill intituled "Art Ordinance to impose a tax in respect of payment for the services of dancing partners and a tax on food sold and consumed in public dance-halls." He said: Sir, the main objective of this Bill now before Council on First reading is to raise necessary revenue by the means of imposing a tax of 10% in respect of payment for the services of dancing partners whose services are engaged in public dance-halls, and further for the purpose, of imposing a tax of 10% on food sold or consumed in such public dance-halls. These objectives are sought to be achieved by clauses 3 and 4 of the Bill before Council. The remaining clauses of the Bill are largely administrative, dealing, that is to say, with the manner of collection of the tax, providing for inspection and imposing penalties for proprietors of public dance-halls who fail to conform with the provisions of the Ordinance requiring payment of tax. Clauses 10 and 11 deal with the position of corporations who may be the proprietors of such dance-halls, and clause 11 in particular deals with or anticipates the situation that may arise where it can be shown that in fact the liability, or the fault for failing to enforce the Ordinance, lies on the servant or agent of the owner of the dance-hall and not on that person. Clause 11 will provide that in fact the liability will fall on the proprietor of the dance-hall to ensure the enforcement of the Ordinance.

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

Objects and Reasons.

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

1. The object of this Bill is to raise necessary revenue by the imposition of a tax of ten per cent in respect of payment for the services of dancing partners and a tax of ten per cent on food sold and consumed in public dance-halls. This is achieved by Clauses 3 and 4 of the Bill.

2. Clause 5 permits the Legislative Council by resolution to increase, decrease, recast, suspend or vary such tax. The word "suspend" has been used in preference to the word "abolish" which occurs in Section 3 (2) of the Entertainments Tax Ordinance, 1930,

for the reason that it is envisaged that, whilst it may not be desirable to abolish the tax altogether, it may be convenient in certain circumstances to allow the Legislative Council to grant such exemptions from the operation of the Ordinance as it thinks fit.

3. Clause 6 of the Bill provides for the method of payment for the services of dancing partners and denotation that the tax has been paid.

4. Clause 9 (2) gives a Magistrate discretion to suspend or revoke a licence. It is considered that this power would afford an effective deterrent against evasion of the tax..

5. The hire of dancing partners in public dance-halls is ordinarily entrusted to an employee. Evasions of the tax therefore would usually be due to the acts or omissions of such employee. In the circumstances it seems essential to include in the Bill the provisions of Clauses 10 and 11. Clause 10 has been inserted to safeguard compliance with the Ordinance in the event that a public dance-hall be owned by a limited company. Clause 11 is considered necessary to obviate certain defences which may be raised by proprietors of dance-halls.

6. A comparative table has been omitted. The Bill follows closely the Meals and Intoxicating Liquors Tax Ordinance, 1946. The definitions in Clause 2 of the Bill have been modelled on those contained in the Entertainments Tax Ordinance, 1930, and the Miscellaneous Licences Ordinance, 1933. Modifications however have been made in the case of "Proprietor" and "Public dance-hall" while the definition of "food" follows the definition of food contained in the Food and Drugs (Adulteration) Act, 1928 (18 and 19 Geo. 5, Ch. 31).

JUVENILE OFFENDERS (AMENDMENT) BILL, 1947.

THE ATTORNEY GEERAL moved the First reading of a Bill intituled "An Ordinance to amend the Juvenile Offenders Ordinance, 1932. " He said: Sir, this is a short bill which has for its objective the introduction of a probationary system which can extend Dot only to persons under the age of 16 but in suitable cases to persons between the ages of 16 and 21. The opportunity has been taken by amendment of Section 9 of the principal Ordinance (the Juvenile Offenders Ordinance) to introduce provisions corresponding to provisions in United Kingdom legislation dealing, for instance, with the possibility of including in an order for probation a condition as to place of residence.

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. Under section 30 of the Magistrates Ordinance, 1932, and under section 96 of the Criminal Procedure Ordinance, 1899, provision is made for a magistrate and the Supreme Court respectively to permit

the conditional release of offenders. No provision however for an adequate system of Probation is made except by section 9 of the Juvenile Offenders Ordinance which does not apply to persons over the age of sixteen. It is considered that Probation could be beneficially applied to adolescent offenders under twenty-one, whom magistrates are now reluctantly compelled to send to prison. The necessary power is conferred by the first amendment to section 9 of the Juvenile Offenders Ordinance, 1932, contained in Clause 2 of the Bill.

2. The second amendment contained in Clause 2 is based upon sub-section 3 of the Probation of Offenders Act, 1907.

3. It is doubtful from the wording of sub-sections 3 and 4 of Section 9 aforesaid whether a Court may lawfully insert into a recognizance entered into by a person released on probation a condition as to his place of residence. This is expressly provided for in the United Kingdom by sub-section (2) of Section 2 of the Probation of Offenders Act, 1907, and is clearly desirable. The necessary amendment is effected by the third amendment in Clause 2 of the Bill.

ADJOURNMENT.

H.E. THE GOVERNOR. —Council will now adjourn until Thursday, 13th March.