

9th March, 1949.

PRESENT:—

HIS EXCELLENCY THE GOVERNOR (SIR ALEXANDER WILLIAM GEOEGE HEBDEE GEANTHAM, K. C. M. G.)

HIS EXCELLENCY THE GENERAL OFFICER COMMANDING THE TROOPS

(MAJOR-GENERAL F. R. G. MATTHEWS, C. B., D. S. O.)

THE COLONIAL SECRETARY (HON. D. M. MACDOUGALL, C. M. U.)

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

THE SECRETARY FOR CHINESE AFFAIRS (HON. B. C. K. HAWKINS, O. B. E., *Acting*).

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

HON. V. KENNIFF, C. B. E. (Director of Public Works).

DR. HON. I. NEWTON (Director of Medical Services).

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

HON. D. F. LANDALE.

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

HON. SIR MAN-KAM LO, KT., C. B. E.

DR. HON. CHAU SIK-NIN.

HON. LEO D'ALMADA, K. C.

HON. M. M. WATSON.

HON. P. S. CASSIDY.

MB. J. L. HAYWARD (Deputy Clerk of Councils).

MINUTES.

The Minutes of the meeting of the Council held on 23rd February, 1949, were confirmed.

HONG KONG DEFENCE FORCE (AMENDMENT) BILL, 1949.

THE ATTORNEY GENERAL moved the First reading of a Bill intituled "An Ordinance to amend the Hong Kong Defence Force Ordinance, 1948." He said: Sir, this Ordinance, as Council is aware, was enacted as recently as December, 1948. Administration of the Ordinance, however, has already revealed one important omission, and that is that no power is given by the Ordinance for regulations to be made for the Force as a whole. Section 13 of the Ordinance empowers the making of regulations by the Service Commanders, but they may make regulations only for their respective Units. Accordingly, Sir, the Bill before Council, by clause 2, provides for the repeal and replacement of section 13 so as to enable the Governor in Council to make Regulations for the Force as a whole, whilst preserving the existing power of Service Commanders to make regulations for their respective Units.

The opportunity has been taken to amend section 16 of the Ordinance to make it clear that by reference to Force Pay Codes, reference is meant not only to rates of pay, but to the whole of the provisions of the respective Force Pay Codes.

Additionally, the definition of "other dependant" has been inserted.

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. On further consideration as to the necessity of making regulations, it was agreed that there should be regulations governing the Force as a whole. An examination of section 13 of the Hong Kong Defence Force Ordinance, 1948, (hereinafter referred to as the principal Ordinance) will reveal that only Service Commanders are empowered to make regulations and, as the Force itself has no Service Commander, it therefore follows that an amendment to section 13 of the principal Ordinance is required in order to implement the above agreement. Accordingly clause 2 of the Bill has been designed to empower the Governor in Council to make regulations for the Force as a whole. In achieving this object the amendment does not interfere with the power given to a Service Commander to make, with the approval of the Governor, regulations for the unit of which he is a Service Commander.

2. Clause 3 of the Bill has been designed firstly, to amplify the expressions—
- (a) “shall be entitled to apply for the appropriate disability pension at Force Pay Code rates” in the last three lines of section 16(1) of the principal Ordinance;
 - (b) “payable at Force Pay Code rates” in section 16(2)(a) and (b) of the principal Ordinance;
 - (c) “paid at Force Pay Code rates” in section 16 (3) and (4); by the insertion of the words “in accordance with the provisions of the Force Pay Code” in the appropriate sub-sections and places for the purpose of making it clear that the provisions as well as the rates of the Force Pay Code apply—

and secondly, to meet the suggestion of the Secretary of State that there should be a definition of “other dependant.”

EMERGENCY REGULATIONS (AMENDMENT) BILL, 1949.

THE ATTORNEY GENERAL moved the First reading of a Bill intituled “An Ordinance to amend the Emergency Regulations Ordinance, 1922.” He said: Sir, the Emergency Regulations Ordinance which was enacted in 1922 gives wide powers, on the occasion of emergency or public danger, to the Governor in Council to make regulations. In fact, regulations have been made from time to time in the years that have elapsed since 1922 to meet emergencies of various types which have arisen within the Colony. While, as I have stated, the Ordinance gives wide powers to make regulations, yet the Ordinance goes on to enumerate subjects upon which regulations may be made. Thus it seems best for the removal of doubt that there should be addition to the list of subjects enumerated upon which regulations may be made where, as is the case, it is seen that there are other subjects which should be mentioned in the light of experience gained in recent years. Thus by clause 2 of the Bill amendment is made to section 2 of the Ordinance so as to set out further subjects upon which, if the necessity arises, the Governor in Council may make regulations. That clause also, Sir, Clause 2, provides for an additional subsection to section 2 of the principal Ordinance to make it clear that where there is conflict or inconsistency between regulations and existing law, that regulations would prevail.

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. Section 2(1) of the Emergency Regulations Ordinance, 1922, (the principal Ordinance) gives to the Governor in Council power on occasion of emergency or public danger to make any regulations

whatsoever which he may consider desirable in the public interest. Without prejudice to the generality of the powers given by section 2(1) of the principal Ordinance, section 2(2) nevertheless enumerates matters regarding which regulations may be made.

2. It is accordingly considered desirable (notwithstanding such generality) to amend the Ordinance to place beyond doubt the power to make regulations on further matters which experience has shown may be necessary in the event of emergency.

3. The Bill therefore seeks to amend section 2 of the principal Ordinance by the specific enumeration of further matters upon which regulations may be made, such amendment being modelled on provisions of section 2 of the Emergency Powers Defence Act, 1939 (2 & 3 Geo. 6, C.62), and Part II of the Emergency Powers Order in Council, 1939 (made on the 9th March, 1939 and extended to Hong Kong though never in fact published in the Colony).

4. Additionally by clause 3, the penalties provided by the principal Ordinance for contravention of any regulation made are increased by reason of the necessity for adequate deterrent and in view of the increased powers of punishment exercisable by magistrates.

MEDICAL REGISTRATION (AMENDMENT) BILL, 1949.

THE DIRECTOR OF MEDICAL SERVICES moved the First reading of a Bill intituled "An Ordinance further to amend the Medical Registration Ordinance, 1935." He said: Sir, section 3 of the principal Ordinance preserves the right of a Chinese to practise medicine by purely Chinese methods provided that he does not take or use any title suggesting or making people believe that he is entitled to practise medicine by scientific methods. It has been found that the main Ordinance is not sufficiently specific to achieve this and it is desirable that it should be stated what titles may or may not be used in the practice of herbalist medicine. Clause 2 of this Bill repeals and replaces section 3 of the principal Ordinance.

At the same time it has been considered 'advisable to increase the penalty under section 15 of the principal Ordinance. The other important change that this Bill will bring about concerns the medical register. This is kept in two parts. Part 2 is designed to permit registration of 'all persons qualified in the old Hong Kong College of Medicine and, from time to time, persons whose qualifications were not recognised by the General Council of Medical Education and Registration in the United Kingdom. The Hong Kong Medical Board now recommends that Part 2 of the Register should be abolished and the persons already registered in it shall be deemed to have been registered in Part 1.

The opportunity has also been taken to delete the words "in Europe, the United States of America or the Empire of Japan" from section 11(c) of the principal Ordinance. The naming of these areas

has led to confusion because the qualifications in Japan are no longer registrable by the General Council of Medical Education and Registration in the United Kingdom, and those in the United States never have been recognised.

Clauses 3 (*a*), 4, 5(*a*) and 5(*c*) are designed to effect these changes.

At the appropriate stage, I shall move two amendments which appear advisable from information which has become available since the publication of 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. Section 3 of the principal Ordinance preserves the right of a Chinese to practise for remuneration medicine or surgery according to purely Chinese methods, provided such person does not use a title calculated to lead people to believe that he is qualified to practise by modern scientific methods. It is considered desirable to expand this provision by specifying that certain titles may be used and that certain others may not be used so as to afford a clearer guide to Chinese herbalists. Clause 2 of the Bill accordingly repeals and replaces section 3. It is also considered advisable to increase the penalty under section 15. This is effected by clause 6 of the Bill.

2. Part II of the Register was designed originally to permit the registration of persons who had qualified in the Hong Kong College of Medicine but persons with medical qualifications not recognised by the General Council of Medical Education and Registration of the United Kingdom have from time to time been admitted to this Part of the Register. It has been recommended by the Hong Kong Medical Board that Part II of the Register should be abolished and that persons already registered in this Part should be entitled to be registered in a unified register to include such persons and persons previously registered under Part I. The necessary amendment is effected by clauses 3(*a*), 4, 5(*a*) and 5(*c*).

3. The words “in Europe, the United States of America or the Empire of Japan,” have been deleted from paragraph (*c*) of section 11 of the principal Ordinance, as the specific mention of these geographical areas has led to much misunderstanding in the past owing to the fact that Japanese qualifications are no longer registrable and United States qualifications have never been recognised. Clause 5(*b*).

BETTING DUTY (AMENDMENT) BILL, 1949.

THE ATTORNEY GENERAL moved the Second reading of a Bill intituled “An Ordinance to amend the Betting Duty Ordinance, 1931.”

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

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

Council then resumed.

THE ATTORNEY GENERAL reported that the Betting Duty Bill, 1949 had passed through Committee without amendment, and moved the Third reading.

THE COLONIAL SECRETARY seconded, and the Bill was read a Third time and passed into law.

MAGISTRATES (AMENDMENT) BILL, 1949.

THE ATTORNEY GENERAL moved the Second reading of a Bill intituled "An Ordinance to amend the Magistrates Ordinance, 1932." He said: Sir, in so doing I take the opportunity to mention that it is my intention, if a Second reading be given to the Bill, to move that the Bill be referred to the Standing Law Committee of this Council, thus enabling this Bill to be considered by that Committee and to enable that Committee to take into account or consider any recommendations or criticism which may be received in regard to the Bill.

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

THE ATTORNEY GENERAL:—Sir, I move under Standing Order 27(3)(13) of this Council that the Bill before Council be referred to the Standing Law Committee of this Council.

THE COLONIAL SECRETARY seconded.

H. E. THE GOVERNOR:—The Bill has been referred to the Standing Law Committee.

BRITISH-AMERICAN TOBACCO COMPANY (CHINA)

LIMITED (CAPITAL CONVERSION) BILL, 1949.

HON. D. F. LANDALE moved the First reading of a Bill intituled "An Ordinance to authorise the British-American Tobacco Company (China) Limited to convert the currency of its capital." He said: Sir, the Objects and Reasons clearly set out the causes for this measure and I have nothing further to add to them.

HON. SIR MAN-KAM LO 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 British-American Tobacco Company (China) Limited was incorporated on the 27th day of February, 1919, under the Companies Ordinance, 1911, with its registered office situate in Shanghai but was subsequently transferred to Hong Kong in 1936 and remained ‘so registered in December, 1941. The main business of the Company is concerned with the distribution of tobacco and cigarettes.

2. The capital of the Company is expressed in Mexican Dollars and the Company desires to be given the necessary authority to convert the currency of its capital in the same manner as is afforded by the Registration of China Companies Regulations, 1947, to former “China Companies” which have obtained registration in accordance with Proclamation No. 27 (Emergency Registration of China Companies). The issued capital of the Company consists of preference shares and ordinary shares.

3. To effect such conversion the enactment of legislation as in this Bill is required following the precedent of the appropriate provisions of the Registration of China Companies Regulations, 1947.

4. Clauses 1 and 2 comprise the short title and interpretation clauses.

5. Clause 3 of the Bill contains provisions for the conversion of the capital of the Company similar to those contained in Regulations 9 and 11 of the Registration of China Companies Regulations, 1947.

6. Clause 4 provides for the issue of a fresh certificate of incorporation showing the capital of the Company after such conversion.

7. Clause 5 of the Bill contains provision saving the rights of the Crown as required, in ease of private Bills, by Article XXVII of the Royal Instructions.

ADJOURNMENT.

H.E. THE GOVERNOR:—That concludes the business, Gentlemen. I understand that it is proposed to take the Budget a week from today. Is that so?

THE ATTORNEY GENERAL:—Yes, Sir.

H.E. THE GOVERNOR:—Council will adjourn to this day week.