

11th May, 1949.

PRESENT:—

HIS EXCELLENCY THE GOVERNOR (SIR ALEXANDER WILLIAM GEORGE HERDER GRANTHAM, 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. G.)

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.)

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

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

HON. A. NICOL, (Acting Director of Public Works).

HON. D. F. LANDALE.

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

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

HON. LEO D'ALMADA E CASTEO, K.C.

HON. M. M. WATSON. HON. C. BLAKEE, M.C., E.D.

MR. ALASTAIE TODD (Deputy Clerk of Councils).

ABSENT:—

DR. HON. CHAU SIK-NIN.

MINUTES.

The Minutes of the meeting of the Council held on 27th April, 1949, were confirmed.

PAPERS.

THE COLONIAL SECRETARY, by command of His Excellency the Governor, laid upon the table the following papers:—

Annual Report of the Officer i/c Fisheries for the year 1947-48.

Annual Report of the Forestry Officer for the year 1947-48.

Specification by the District Commissioner, New Territories, of places for the export of goods into China across the land frontier between Hong Kong and China.

THE ATTORNEY GENERAL, by command of His Excellency the Governor, laid upon the table the following paper:—

Report of the Standing Law Committee upon its consideration of the Bill intituled “An Ordinance to amend the Magistrates Ordinance, 1932.”

He said: Sir, I beg to present the Report of the Standing Law Committee to which a Bill intituled “An Ordinance to amend the Magistrates Ordinance, 1932” was referred by Council for the Committee’s consideration after the Second reading of the Bill at the Council meeting of the 9th March. Copies of the Report are also in the hands of Honourable Members. The Committee’s recommendations and the reasons therefor are itemised in a Schedule to the Report which is now presented. The Committee, in considering its recommendations *inter alia* considered criticisms and proposals which were made available by a Joint Committee of the Bar Association and the Law Society. The Committee’s Report also presents a reprint of the Bill amended so as to embody the Committee’s recommendations.

Sir, it is proposed to publish such reprint of the Bill to enable the procedure prescribed by Standing Order 27 paragraph 14 of the Standing Orders of this Council to be followed when the Committee stage and further readings of the Bill are reached.

MOTIONS.

THE FINANCIAL SECRETARY moved that the Supplementary provisions for the fourth quarter ended 31st March, 1948, Schedule No. 4 of 1947-48, be approved.

He said: This schedule sets out the final excesses on the various Heads and sub-heads of the Estimates at the close of the financial year 1947-48 and thus clears the way for the final disposal of the finances of that year by a Supplementary Appropriation Ordinance.

All the items in the schedule have been approved by Finance Committee. Most of the larger sums are in respect of adjustments resulting from the recommendations of the Salaries Commission, and these total some \$11½ million. There is also a large item of approximately \$20½ million which represents sums held in Suspense which were charged to expenditure at the end of the year as a result of the settlement with His Majesty's Government on the subject of war expenditure. It will be recollected that as part of this settlement His Majesty's Government agreed to make a grant to the Government of Hong Kong of \$16 million to assist the Colony in solving problems arising out of expenditure connected with the war, and that a sum of \$12 million was advanced by the Imperial Government shortly after Civil Government was resumed.

Civil Government was re-established after a lapse of several years on the 1st May, 1946, and there was inevitably a great deal of delay before the accounts for the first eleven months of Civil Administration up to the 31st March, 1947 could be finally disposed of. The final schedule of supplementary provision was approved on the 25th August last, and the Supplementary Appropriation Ordinance was passed on the 20th October. We are now finalising the finances of the second year of Civil Administration. Things still have not settled down into a fixed routine, and the closing of the accounts was delayed by adjustments resulting from the revision of salaries, and from the transfer to expenditure as a result of the settlement with His Majesty's Government of items previously held in Suspense.

We have, however, succeeded in catching up by some three months on the previous year, and I anticipate that there will be a further considerable improvement in dealing with the final schedule for 1948-49.

In future it is proposed to dispose of Special Warrants actually approved up to the end of March by the submission to this Council of the usual schedule as soon as possible after the close of the financial year. Later, when all adjustments have been made and the excesses on all sub-heads have been accurately determined, a supplementary schedule will be presented.

INDECENT EXHIBITIONS AND

OBSCENE PUBLICATIONS CONSOLIDATION BILL, 1949.

THE ATTORNEY GENERAL moved the First reading of a Bill intituled "An Ordinance to amend and consolidate the law relating to exhibitions, publications and advertisements of an indecent, revolting or offensive nature." He said: Sir, the Indecent Exhibitions Ordinance, 1918 and the Obscene Publications Ordinance, 1914 represent a duplication of legislation on the same subject. It is proposed by the Bill before Council to repeal the Obscene Publications Ordinance, 1914 and for the future to rely for legislation on this subject on the Indecent Exhibitions Ordinance, 1918, amended as indicated by clause 2 of the Bill. Such clause is designed to increase the maximum

penalty which may be awarded for an offence since existing penalties have been shown by experience to be an insufficient deterrent against the commission of offences under this Ordinance. Furthermore, the opportunity has been taken to extend to Justices of the Peace, as well as Magistrates, the power to issue a search warrant where an offence against the Ordinance is suspected.

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 Obscene Publications Ordinance, 1914, does not create any offence but provides machinery for the seizure and destruction of obscene or indecent publications. Similar machinery is however provided by the Indecent Exhibitions Ordinance, 1918, which is wider in its scope but under the latter Ordinance the power of issuing a search warrant is given to a magistrate whereas in the former it is given to a justice of the peace.

2. A penalty of \$250.00 or three months' imprisonment is provided for by the Indecent Exhibitions Ordinance, 1918, for offences against that Ordinance. This is considered entirely inadequate as an effective deterrent to the publication in newspapers of obscene matters which has continued despite numerous prosecutions.

3. The objects of the present Bill .are—

(a) to increase the penalty for offences against the Indecent Exhibitions Ordinance, 1918 [clause 2(a)];

(b) to enable a warrant under the said Ordinance to be issued by .a justice of the peace [clause 2(b)];

and finally to discontinue the present duplication by the repeal of the Obscene Publications Ordinance, 1914, (clause 3).

EDUCATION (AMENDMENT) BILL, 1949.

THE ATTORNEY GENERAL moved the First reading of a Bill intituled "An Ordinance further to amend the Education Ordinance, 1913." He said: Sir, the Objects and Reasons printed with the Bill exhaustively explain its purposes, and it suffices, I think, if I mention that it is my intention, at the appropriate stage, to seek the permission of Council to add a clause to this Bill to make a slight amendment to section 7 of the Ordinance which has recently been shown to be somewhat ambiguous.

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. It is proposed to replace the regulations under the Education Ordinance by regulations improving the standard of hygiene, sanitation, and safety to be observed in schools. Full application of these regulations might result in schools, which are unable immediately to conform with such standard, being closed.

2. It is therefore proposed (clause 2) to amend section 10 of the principal Ordinance to give the Director of Education a power to waive or modify regulations in particular cases where he is satisfied in regard to any particular case that compliance with the highest standards is impracticable or unnecessary.

PUBLIC HEALTH (SANITATION) AMENDMENT BILL, 1949.

THE ATTORNEY GENERAL moved the First reading of a Bill intituled “An Ordinance further to amend the Public Health (Sanitation) Ordinance, 1935.” He said; this Bill intends primarily, by way of clause 6, to increase throughout the Ordinance the penalties prescribed. This is necessary in the light of experience because it now appears clear that the penalties provided in the Ordinance are in fact inadequate to provide a deterrent effect.

Clauses 2 and 4 of the Bill make amendments consequential in the main on the necessity for administrative convenience to provide that the Deputy Director of Health Services shall be the professional adviser to the Urban Council instead of as at present, the Director of Medical Services. There is one amendment provided for by clause 3 which is intended to meet the need which is seen by the Urban Council to exercise in the interest of public health a measure of control over swimming baths and swimming pools, whether public or private.

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

Objects and Reasons.

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

1. It is necessary that section 3 of the principal Ordinance should contain a definition of “health officer” and of “officer of the Sanitary Department”, to correspond with the definitions of such officers in section 3 of the Public Health (Food) Ordinance, 1935. Clause 2 of the Bill will effect this.

2. (1) It is considered desirable by the Urban Council that, in the interests of public health control be exercised over public and private swimming baths and swimming pools. Clause 3 (a) of the Bill will enable control to be exercised by enabling by-laws to be made.

(2) Section 4(2) of the principal Ordinance empowers the Urban Council to prescribe fines for any breach of by-law not exceeding \$50 in each case. This maximum of \$50 is considered inadequate. Clause 3 (b) of the Bill provides for increase to 500 dollars.

3. Clause 5 of the Bill provides for the amendment of section 7 of the principal Ordinance to constitute, for administrative convenience, the Deputy Director of Health Services as the professional adviser to the Council instead of the Director of Medical Services.

4. Clause 6 of the Bill is designed to effect necessary increases in the penalties prescribed throughout the principal Ordinance. Postwar experience has shown that the existing penalties are inadequate to ensure that penalties having deterrent effect may be imposed in suitable cases.

ZETLAND HALL TRUSTEES

INCORPORATION (AMENDMENT) BILL, 1949.

HON. D. F. LANDALE moved the Second reading of a Bill intituled "An Ordinance to amend the Zetland Hall Trustees Incorporation Ordinance, 1922."

HON. CHAU TSUN-NIN seconded, and the Bill was read a Second time.

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

Clause 2.

HON. D. F. LANDALE: —Sir, I move that in clause 2, sub-section (1) of section 2 of the principal Ordinance as proposed to be enacted by paragraph (a) of clause 2 be amended by the substitution of the words and figures "21st day of April" for the words "15th day of April."

The reason for this is that the Statutory Declaration referred to in the provision was in fact signed and filed on the 21st day of April.

This was agreed to.

Clause 8.

HON. D. F. LANDALE: Sir, I move that the Bill before Council be amended by the insertion of a further clause as clause 8, to read as follows: —

“Renumbering of section 10 of the principal ordinance and insertion of new section 10.

8. Section 10 of the principal Ordinance is hereby re-numbered as section 11 and the following section is hereby inserted as section 10:—

“Fees. 10. There shall be payable by the corporation to the Registrar of Companies a fee of three dollars on each and every Statutory Declaration nomination or certificate made and filed under the provisions of this Ordinance and a fee of one dollar shall be payable for every search of the file.”

The reason for this, Sir, is that the amendment makes provision, which had been omitted, for the payment of fees where documents are filed with the Registrar of Companies as required by the Ordinance upon its amendment by the Bill.

This was agreed to.

Clause 8.

HON. D. F. LANDALE: Sir, I move that the Bill before Council be amended by the re-numbering of clause 8 as clause 9, and by the deletion of the words “The following Schedule to the principal Ordinance is hereby added after section 10 thereof” and by the substitution therefor of the words “The principal Ordinance is hereby amended by the addition thereto of the following Schedule.”

The reason for this is consequential on proposals for the new clause 8.

This was agreed to.

Council then resumed.

HON. D. F. LANDALE reported that the Zetland Hall Trustees Incorporation (Amendment) Bill, 1949, had passed through Committee with three amendments and moved the Third reading.

HON. CHAU TSUN-NIN seconded, and the Bill was read a Third time and passed into law.

ADJOURNMENT.

H.E. THE GOVERNOR: —That concludes the business, Gentlemen. When is it your pleasure that we should meet again?

THE ATTORNEY GENERAL: —I suggest one week, Sir.

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