

5th December, 1951.

PRESENT:

HIS EXCELLENCY THE GOVERNOR
SIR ALEXANDER WILLIAM GEORGE HERDER GRANTHAM,
G.C.M.G.
THE HONOURABLE THE COLONIAL SECRETARY
MR. JOHN FEARNs NICOLL, C.M.G.
THE HONOURABLE THE ATTORNEY GENERAL
MR. G. E. STRICKLAND, *Acting*.
THE HONOURABLE THE SECRETARY FOR CHINESE AFFAIRS
MR. RONALD RUSKIN TODD.
THE HONOURABLE THE FINANCIAL SECRETARY
MR. ARTHUR GRENFELL CLARKE, *Acting*.
THE HONOURABLE THEODORE LOUIS BOWRING, O.B.E.
(*Director of Public Works*).
THE HONOURABLE DOUGLAS JAMES SMYTH CROZIER.
(*Director of Education*).
DR. THE HONOURABLE YEO KOK CHEANG
(*Acting Director of Medical and Health Services*).
THE HONOURABLE KENNETH MYER ARTHUR BARNETT
(*Chairman, Urban Council*).
THE HONOURABLE CHAU TSUN-NIN, C.B.E.
DR. THE HONOURABLE CHAU SIK-NIN, C.B.E.
THE HONOURABLE LEO D'ALMADA E CASTRO, K.C.
THE HONOURABLE MAURICE MURRAY WATSON.
THE HONOURABLE PHILIP STANLEY CASSIDY.
THE HONOURABLE CHARLES EDWARD MICHAEL TERRY.
THE HONOURABLE LO MAN WAI, O.B.E.
THE HONOURABLE NGAN SHING KWAN
MR. RONALD THOMPSON (*Deputy Clerk of Councils*).

ABSENT: —

HIS EXCELLENCY THE COMMANDER BRITISH FORCES
LIEUTENANT-GENERAL GEOIATREY CHARLES EVANS,
C.B., C.B.E., D.S.O.

MINUTES.

The Minutes of the meeting of the Council held on 7th November, 1951, were confirmed.

PAPERS.

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

<i>Subject</i>	<i>G.N. No.</i>
Sessional Papers, 1951: —	
No. 29—Annual Report by the Commissioner of Inland Revenue for the year 1950-51.	
No. 30—Annual Report by the Director of Education for the year 1950-51.	
The Emergency Regulations Ordinance. (Cap. 241)	
The Emergency (Registration of British Subjects) (Amendment) Regulations, 1951	A.195
The Emergency (Principal) Regulations, 1949.	
The Emergency Regulations (Commencement) (No. 2) Order, 1951	A.196
The Emergency (Requisition) Regulations, 1949.	
The Emergency (Requisition) (Use of Land by His Majesty's Forces) (Amendment) Order, 1951	A.197
Defence Regulations, 1940.	
Price Control Order, 1946—Amendments to the Schedule	A.199
Defence Regulations, 1940.	
Price Control Order, 1946—Amendments to the Schedule	A.200
The New Territories Ordinance. (Cap. 97).	
The Markets and Market Areas (N.T.) (Amendment) Rules 1951	A.201
The New Territories Ordinance. (Cap. 97).	
The New Territories (Amendment) Rules, 1951	A.202

<i>Subject</i>	<i>G.N. No.</i>
The Consular Conventions Ordinance, 1951.	
The Consular Conventions (Kingdom of Norway) Order, 1951	A.203
The Defence (Finance) Regulations, 1940.	
The Possession of Gold (Goldsmiths) (Amendment) (No. 9) Order, 1951	A.204
The Compulsory Service Ordinance, 1951.	
The Compulsory Service Tribunal Procedure Rules, 1951	A.205
The Public Health (Sanitary Provisions) Regulations, 1948.	
Declaration under Regulation 2(10)(a)	A.206
The Public Health (Sanitary Provisions) Regulations, 1948.	
Declaration under Regulation 2(10)(a)	A.207
The Emergency Regulations Ordinance. (Cap. 241).	
The Emergency (Control of Minerals) Regulations, 1951	A.208
Cancellation of the Schedule to Government Notification No. A. 207 published in Supplement No. 2 to Gazette No. 52 of 23.11.51	A.209
Defence Regulations, 1940.	
Price Control Order, 1946—Amendments to the Schedule	A.210

QUESTIONS.

HON. C. E. M. TERRY asked the following question: —

"In view of the letter which recently appeared in the local Press wherein it was stated that correspondence in regard to Reparations Claims by ex-residents of Shanghai now resident in Hong Kong had been referred by H.M. Foreign Office to H.M. Colonial Office, and of its implication that the Hong Kong Government is the correct channel for such claims will Government make a statement on this matter?"

THE COLONIAL SECRETARY replied as follows: —

"The implication of the letter from the Foreign Office to which the Honourable Member refers is not clear to this Government and clarification is being sought. A further reply will be made to the Honourable Member's question in due course."

PUBLIC ORDER (AMENDMENT) (No. 2) BILL, 1951.

THE ACTING ATTORNEY GENERAL moved the First reading of a Bill intituled "An Ordinance to amend the Public Order Ordinance, Cap. 245." He said: Sir, I have little to add to the Objects and Reasons. Members will recollect that the Protected Places (Safety) Ordinance, 1946, made provision for authorized guards in protected places.

The main object of the present Bill is to enable similar guards to be used in closed areas in addition to His Majesty's Forces and to enable them to arrest offenders.

At the same time opportunity has been taken to amend the Ordinance by removing certain provisions which were obnoxious for an Ordinance of a permanent character either because they lessened the control of the Courts over the use of force or because they might be read by the ignorant as an incitement to use firearms in cases where this was not absolutely necessary. As a result of the amendments the ordinary law will apply save that the position of His Majesty's Forces and of civilian guards is strengthened by the express power of arrest conferred.

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: —

Since the coming into force of the principal Ordinance it has been found necessary to declare a number of places closed areas. It is not always possible to guard these places exclusively with members of His Majesty's forces and it is proposed that the Commander British Forces should be entitled to place on guard at such places, such civilians as it is considered would make suitable guards.

2. Such guards could not perform their functions suitably at these closed areas, which are often situated in isolated places, unless they have power to arrest offenders. The main object of this Bill is to give legal authority to carrying out the above proposals. (See subsection (2) of the new section 14 introduced by clause 4 of the Bill.)

3. The Ordinance as originally drafted authorized the use of force, including the use of firearms, for securing compliance with orders made under Part II of the Ordinance and in subsection (2) of section 10 (relating to closed areas) used the words "such force (including the use of firearms) as may appear to such person to be necessary". This clearly went too far as it substituted the opinion of the person using force for the opinion of a Court as to what force was necessary. In fact when the law confers a power it confers by necessary implication all such powers as are necessary to enable the person to do or enforce the doing of the act authorized by the original power. (See section 25 of the Interpretation Ordinance, Cap. 1.) It seems desirable therefore to restore the ordinary rule of law throughout Part II. Moreover, the proper course when an offence is committed is to secure the punishment of the offender. It seems preferable to confer expressly a power of arrest and to omit any reference to the use of force, leaving this to be governed by the ordinary law. (See clause 2 and subsection (1) of the new section 14 introduced by clause 4 of the Bill.)

4. The effect of clause 3 is to make it an offence to fail to comply with a condition of a permit or permission issued under Part II of the principal Ordinance.

5. As powers of arrest have been given to persons unfamiliar with the application of the ordinary law, subsection (2) of the proposed new section 14 provides for the handing over to the police of any person arrested and the reference to section 47 of the Police Force Ordinance, Cap. 232, is designed to secure that the provisions therein contained as to discharging a person arrested on recognizance or taking him before a magistrate within 48 hours of his arrest, are observed.

INTERPRETATION (AMENDMENT) BILL, 1951.

THE ACTING ATTORNEY GENERAL moved the Second reading of a Bill intituled "An Ordinance to amend the Interpretation Ordinance, (Cap. 1)."

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 ACTING ATTORNEY GENERAL reported that the Interpretation (Amendment) Bill, 1951, 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.

“STAR” FERRY COMPANY (SERVICE) BILL, 1951.

THE ACTING FINANCIAL SECRETARY moved the Second reading of a Bill intituled "An Ordinance to authorize the "Star" Ferry Company, Limited, to maintain and operate a ferry service."

THE COLONIAL SECRETARY seconded.

HON. C. E. M. TERRY: —Your Excellency, I declare an interest in this Bill and shall abstain from voting at each stage.

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

Schedule.

THE ACTING FINANCIAL SECRETARY: —Sir, I beg to move an amendment to para. 5 of the Schedule. The amendment has been tabled and the reasons given. It merely corrects an error and revises the Bill to conform with the Revised Edition of the Laws.

This was agreed to.

Council then resumed.

THE ACTING FINANCIAL SECRETARY reported that the "Star" Ferry Company (Service) Bill, 1951, had passed through Committee with one amendment, and moved the Third reading.

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

**BY-LAWS UNDER PUBLIC HEALTH (ANIMALS & BIRDS)
ORDINANCE (CAP. 139).**

HON. K. M. A. BARNETT moved: —

That the By-laws made by the Urban Council on the 6th day of
November, 1951, under section 5 of the Public Health (Animals &
Birds) Ordinance (Cap. 139), be approved.

He said: Sir, the general purpose of the amendment is to empower the Senior Veterinary Officer to make conditions for the removal of animals, etc. from infested places and the particular necessity is to prevent the movement of tubercular cattle except direct to a specified slaughterhouse.

THE COLONIAL SECRETARY seconded, and the Motion was carried.

ADJOURNMENT.

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

THE ACTING ATTORNEY GENERAL: —This day fortnight, Sir.

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