

30TH JUNE, 1921.

**PRESENT:—**

HIS EXCELLENCY THE GOVERNOR, SIR  
REGINALD EDWARD STUBBS, K.C.M.G.

H.E. MAJOR-GENERAL SIR GEORGE  
MACAULAY KIRKPATRICK, K.C.B., K.C.S.I.  
(General Officer Commanding the Troops in  
China).

HON. MR. CLAUD SEVERN, C.M.G.  
(Colonial Secretary).

HON. MR. J. H. KEMP, C.B.E., K.C. (Attorney-  
General).

HON. MR. C. McI. MESSER, O.B.E.  
(Colonial Treasurer).

HON. MR. E. A. IRVING (Director of  
Education).

HON. MR. S. B. C. ROSS, O.B.E. (Secretary  
for Chinese Affairs).

HON. MR. T. L. PERKINS (Director of  
Public Works).

HON. MR. H. E. POLLOCK, K.C.

HON. MR. LAU CHU PAK.

HON. MR. P. H. HOLYOAK.

HON. MR. HO FOOK.

HON. MR. H. W. BIRD.

HON. MR. A. G. STEPHEN.

MR. S. B. B. McELDERRY (Clerk of  
Councils).

**Minutes**

The minutes of the last meeting of the  
Council were approved and signed by the  
President.

**Finance**

THE COLONIAL SECRETARY, by  
command of H.E. the Governor, laid on the

table Financial Minutes Nos. 50, 51, and 52,  
and moved that they be referred to the  
Finance Committee.

THE COLONIAL TREASURER seconded,  
and the motion was agreed to.

THE COLONIAL SECRETARY, by  
command of H.E. the Governor, laid on the  
table the report of the proceedings of the  
Finance Committee No. 7 and moved that it  
be adopted.

THE COLONIAL TREASURER seconded,  
and the motion was agreed to.

**Food Prices Control**

HON. MR. H. E. POLLOCK, K.C., in,  
accordance with notice previously given,  
asked the following questions:—

1.—Has the Committee for fixing the  
prices of food and other necessaries been  
dissolved and if so when was it dissolved and  
why? If not dissolved, how long is it since it  
last met?

2.—Is the Government aware that the  
prices of fish and firewood have been  
recently considerably increased by  
compradores? Will the Government cause  
enquiries to be made into the same, with a  
view to having same reduced?

THE COLONIAL SECRETARY replied—

1. — The Committee referred to was  
appointed under the Order-in-  
Council of 1896 as a war measure. It  
has long ago ceased to perform the  
functions for which it was appointed,  
though it has not been formally  
dissolved.

2. — The Government has received no  
complaints with regard to the  
increases in prices referred to, and is  
not disposed to interfere with retail  
trade in the Colony except in very  
exceptional circumstances.

### The Rents Ordinance

THE ATTORNEY-GENERAL moved the first reading of a Bill intituled, An Ordinance to amend the law relating to the recovery of possession in certain cases and to restrict the rents of certain domestic tenements.

He said: I am sorry that the notice given of this Bill has been so short. In spite of strenuous efforts on the part of the printers, the Bill in its complete form with the "Objects and Reasons" has only just been completed and placed in the hands of honourable members within the last few minutes. The urgency of the occasion is the explanation of the short notice, and, I think, its justification. As the "Objects and Reasons" attached to the Bill are unusually full and as they have only just been placed in the hands of honourable members, unless the Council is prepared to take them as read, I propose, with your permission to read them and say very little else in introducing the Bill.

The Council signified its wish that the Attorney-General should read the "Objects and Reasons," which he did as follows, making a few interpolations which are printed in parenthesis:—

#### OBJECTS AND REASONS.

1.—This bill is the outcome of the appointment by H.E. the Governor of a committee of the Legislative Council "to consider and advise what steps should be taken to protect the tenants of domestic tenements from unreasonable increases in rental and from arbitrary termination of their tenancies." The committee was appointed on the 23rd June.

2.—In appointing the committee H.E. the Governor suggested that a possible way of dealing with unreasonable increases in rental would be to add to the rents payable in 1914 and 1915 such a percentage as would compensate for the fall in value of money during the last six or seven years, and to provide that no rent higher than the maximum rent so ascertained should be recoverable after the 30th June of this year, unless such higher rent should have been authorised by some body appointed for this purpose.

3.—The committee, in the short time at their disposal, have been unable to formulate any scheme to carry out this suggestion. The question of the percentage to be added in order to compensate for the fall in the value of money is a difficult one. It is complicated by the fact that in all probability the proper percentage would vary according to the locality in which the house was situated and it might be necessary to divide the Colony into a considerable number of districts in which varying percentages might be added. The boundaries of these districts might be difficult to as-certain and to define. For instance, it is possible that a district may have been in an early stage of development in 1914, and that the owners of houses in that district were prepared to let their property at low rentals in order to attract tenants to the locality, hoping to recover their losses later when the extension of the town, or the increased popularity of the district, should have attracted a large population. (Certain instances of that were in the minds of the Committee). In a case like this it would seem hardly fair to allow only the same percentage of increases as would be allowed in an old established district. The difficulty does not end here, because it is possible that some recent houses in the same locality may have been let from the beginning at a rental perfectly fair to the owners, and it would be unreasonable to allow such owners the same rate of increase as would be allowed to owners who had at the beginning let their houses at a sacrifice. It may also be pointed out that no assistance in dealing with the proposed return to the basis of the rents payable six or seven years ago, with the addition of a certain percentage, can be obtained from legislation on this subject in the United Kingdom or in the Straits Settlements, as in both these cases the statutes went back for a much shorter period. The original Act in the United Kingdom, which became law on the 23rd December, 1915, went back to the rents in force on the 3rd August, 1914, and the first Ordinance on the subject in the Straits Settlement (which came into force on September 30th, 1917), went back only about a year and nine months.

4.—These difficulties are referred to, not for the purpose of showing that the above suggestion is impracticable, but to explain why it has not been possible to adopt it in the present bill which has been drafted at such short notice. The committee will proceed to consider the suggestion, and they will be glad to receive through the Chairman (the Attorney-General) any practical legislative proposals as to how this suggestion can be carried out. The importance of passing some legislation immediately is in order to prevent existing tenants from being turned out at the end of the current half year. (That sentence was written at a time when it was thought that the Bill would be passed through all its stages at this meeting of the Council).

5.—The main object of the present bill, therefore, is to ensure that tenants now in occupation shall not be dispossessed for the present, so long as they comply with the terms of the tenancies under which they hold. This policy obviously involves taking away from the landlords the right to give their tenants notice to quit.

6.—It also seems desirable to provide expressly against increases of rent during the currency of the Ordinance. In view of the fact that in many cases rents appear to have been raised excessively since the end of last year, in some cases possibly on account of the anticipated raising of the rates, it seems advisable to go back to the 31st December, 1920, for the purpose of ascertaining what is termed in the Ordinance the standard rent. Speaking broadly, if the bill becomes law, no tenant now in actual occupation will be obliged to pay any rent higher than that which was payable in respect of his tenement on the 31st December, 1920. Provision is made in clause 2 (f) for the cases of domestic tenements which were not let on 31st December, 1920. (On that I would like to say that revision of rents involved is not a very revolutionary one, and, speaking generally, I think that no one would say that rents were low at the end of last year).

7. — The bill applies only to private domestic tenements, and it does not apply to offices, godowns, hotels or boarding houses. It also does not apply to furnished houses. It does apply to every bed space, cubicle, room,

portion of a floor, floor, or building, which is the subject of a separate letting, and which is used for human habitation. It applies to a shop if the master or his employees live on the premises. It does not apply to the New Territories, except New Kowloon. It does not apply to an entirely new building which gets its occupation certificate after the commencement of the Ordinance, and any such building will be completely free from the restrictions of the Ordinance. This provision has been made because it is desirable not to discourage the erection of new domestic buildings. The clauses in the bill on which this paragraph is founded are clauses 2 (b) and 9.

8.—It is hoped that one subsidiary effect of the Ordinance will be to encourage the erection of new domestic buildings. In the first place, such new buildings will be entirely free from the restrictions of the Ordinance, and the owners will be entitled to charge whatever rents they can obtain. In the second place, as tenants cannot be turned out so long as they pay the standard rent, well-to-do immigrants who wish to acquire a residence in Hongkong will have to build for themselves.

9. — Tenants now in occupation will practically have their tenancies extended, on the old tenancy terms, so long as they pay the standard rent, and if they are turned out it will be due either to their own fault or to their failure or inability to pay the standard rent. There is one exception to this statement, *i.e.*, when the landlord requires the premises for his own occupation (see clause 4 (i) (e)), but even in that case the tenant will not be turned out unless the court is satisfied that alternative accommodation, reasonably equivalent as regards rent and suitability in all respects, is available. If a tenant does leave, or is ejected, no new tenant will be liable for any rent higher than the standard rent, notwithstanding any agreement to the contrary.

10.—It is obvious that the rights of intermediate lessees, *e.g.*, farmers, may be affected by the operation of the Ordinance. The lessee who collects the rents from the tenants in actual occupation will in future be  
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collection of the respective standard rents of his property, while he will still be bound to pay to his lessor the lump sum rent which he agreed to pay when he was unrestricted as to the rents which he could collect from his tenants. Clause 5 gives to such an intermediate lessee the right to apply to the court for the revision of the rent payable by him under his lease, and the court is given an uncontrolled discretion to make any order which the court may consider just. If there is another intermediate lessee above the lessee just referred to, the revision of the latter's rent will injuriously affect the former, who is accordingly also enabled to apply to the court to revise the rent payable by him to his lessor. The intention of this is that any loss caused by the reduction of the rents payable by the actual tenants shall be shared fairly by the various lessors. The Court in question will be the Summary Court, and there will be an appeal by special leave to the Full Court.

11.—Clause 6 provides that any question arising under the Ordinance is to be decided by the Summary Court in the first instance, and that an appeal will lie as of right to the full court of two judges, whose decision shall be final. (The giving of jurisdiction to the Summary Court is in order to secure quicker and simpler procedure and the lower scale of costs which prevails in that Court). It will be noticed that there is an appeal as of right in all cases, except in the one case of revision of rents payable under intermediate leases. An appeal as of right is not given in the latter case because no question of law would ordinarily be involved, and the decision is intended as a sort of arbitration between the parties so as to arrive in a more or less rough and ready way at a fair apportionment of the loss caused by the Ordinance.

12.—Returns under the Rating Ordinance, and assessments, are made admissible as evidence of the rent of premises. Power is also given to the court to order the production of any books of account or documents whatsoever, if it appears to the court that such books of account or documents may be relevant to any matters arising under the Ordinance.

13.—The Ordinance is to continue in force until the 30th June, 1922, and power is given

to the Legislative Council by resolution to extend this duration for such term, not exceeding one year at any one time, as may be specified in the resolution.

14.—When the Ordinance eventually does come to an end, any tenant then in occupation shall be deemed to be holding over on the same tenancy terms as those on which he was holding immediately before the termination of the Ordinance, unless he has received from his landlord such notice to quit, terminating with the termination of the Ordinance, as would have been a due notice to quit under the terms of his original tenancy. For example, a monthly tenant will be entitled to remain on in his house or other tenement for at least one month after the ultimate termination of the Ordinance, unless his landlord shall have given him one month's notice expiring with the Ordinance. In other words, a landlord can not turn a monthly tenant out, either at or after the ultimate expiration of the Ordinance, except by giving the tenant a month's notice. Similar remarks apply to other tenancies, such as yearly or weekly tenancies. Any tenant so holding over after the termination of the Ordinance holds over at the standard rent.

15.—(This, sir, is an important clause). Clause 4 (4) has a retrospective operation, and for that reason the sub-clause deserves special attention. It provides, in effect, that if any ejection order shall have been made before the passing of the Ordinance, but shall not have been executed, the court *may* rescind or vary the order, if it is one which would not have been made if the Ordinance had been in force. In other words, a tenant who has received notice to quit on the 30th June, but who, being quite unable to find other accommodation, remains on in his house after the 30th June, and who has an order for ejection made against him before the passing of the Ordinance, will, if this sub-clause become law before he has been actually turned out, be able to apply to the court to rescind or vary the ejection order.

THE ATTORNEY-GENERAL added—We can hardly flatter ourselves, sir, that this Bill is perfect, but I think any faults that it contains can best be discovered in the actual practical application of the Ordinance after it is passed, and, if necessary, supplementary legislation can be enacted.

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

#### **Amendment of the Public Health and Buildings Ordinance**

THE ATTORNEY-GENERAL—I beg to move that the second reading of the Bill intituled, An Ordinance to amend further the Public Health and Buildings Ordinance, 1903, be postponed to the next meeting of this Council.

This was agreed to.

#### **Amendment of the Crown Lands Resumption Ordinance**

THE ATTORNEY-GENERAL—I beg to move that the second reading of the Bill intituled, An Ordinance to amend the Crown Lands Resumption Ordinance, 1900, be also postponed to the next meeting of this Council.

This was agreed to.

#### **The Maintenance Orders (Facilities for Enforcement) Ordinance**

THE ATTORNEY-GENERAL—I beg to move the second reading of the Bill intituled, An Ordinance to facilitate the enforcement in the Colony of Maintenance Orders made in England or Ireland and *vice versâ*, and to declare the application of the Married Women (Desertion) Ordinance, 1905, and to amend the said Ordinance.

THE COLONIAL SECRETARY—I beg to second.

The motion was carried, and the Bill was read a second time.

THE ATTORNEY-GENERAL moved that the Council go into Committee to consider the Bill clause by clause. This was agreed to. The clauses were approved without amendment, except that a misprint was corrected.

On the Council resuming, the ATTORNEY-GENERAL moved, and the COLONIAL SECRETARY seconded, the third reading of the

Bill.

This was agreed to and the Bill passed accordingly.

#### **Amendment of the Criminal**

##### **Procedure Ordinance**

THE ATTORNEY-GENERAL moved the second reading of the Bill intituled, An Ordinance to amend the law relating to criminal procedure in the Supreme Court.

THE COLONIAL SECRETARY seconded, and it was agreed to.

The Council went into Committee, approved the Bill clause by clause, and, on the Council resuming, the third reading of the Bill was approved, on the motion of the ATTORNEY-GENERAL, seconded by the COLONIAL SECRETARY.

The Bill passed accordingly.

#### **The Non-Ferrous Metal Industry**

##### **Ordinance**

THE ATTORNEY-GENERAL moved the second reading of the Bill intituled, An Ordinance to repeal the Non-Ferrous Metal Industry Ordinance, 1919, and the Non-Ferrous Metal Industry Amendment Ordinance, 1920.

THE COLONIAL SECRETARY seconded, and it was agreed to.

The Council then went into Committee, approved the Bill clause by clause, and, on the Council resuming, the third reading of the Bill was approved, on the motion of the ATTORNEY-GENERAL, seconded by the COLONIAL SECRETARY

The Bill passed accordingly.

#### **The Companies Ordinance**

THE ATTORNEY-GENERAL moved the second reading of the Bill intituled, An Ordinance to amend further the law relating to Companies.

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

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

On Section 7 sub-section (c) the ATTORNEY-GENERAL proposed an amendment so that the Clause should read:—

(c) by the repeal of the words "unless executed within the Colony" in sub-section (8) (a) thereof.

THE ATTORNEY-GENERAL, in moving the amendment said: At present, transfers of shares which are on a local register are, under the Companies Ordinance, liable to stamp duty if executed within the Colony. The recent Stamp Ordinance provided that such transfers need not be stamped here and this amendment is to bring the Companies Ordinance into agreement with the recent Stamp Ordinance.

HON. MR. POLLOCK — This refers to registers outside the Colony?

THE ATTORNEY-GENERAL — Yes, a register kept, by licence, outside the Colony. The original draft of this Bill was made before the Stamp Ordinance was thought of.

Clause 7, as amended, was approved.

On Clause 13, the ATTORNEY-GENERAL moved the addition of a sub-section as follows:—

(3) Every Order in Council made under this section shall be laid on the table of the Legislative Council at the first meeting thereof held after the publication of such Order in Council in the *Gazette*, and if a resolution be passed at the first meeting of the Legislative Council held after such Order in Council shall have been laid on the table of the said Council resolving that any such Order in Council shall be rescinded or amended in any manner whatsoever, the said Order in Council shall, without prejudice to anything done thereunder, be deemed to be rescinded, or amended as the case may be, as from the date of publication in the *Gazette* of the passing of such resolution.

The amendment was approved.

Clause 19 was amended to read as follows:—

Section 224 of the Companies Ordinance 1911, is amended by the repeal of the word "smaller" and by the substitution therefor of the word "other," and by the addition of the words

"in Council" immediately after the word "Governor" in the third line thereof.

THE ATTORNEY-GENERAL moved a new clause, 24, as follows:—

24, Section 7 of the Companies Ordinance, 1915, is amended by the repeal of the words "unless executed by the transferor within the Colony" in sub-section (2) thereof.

He said: That, sir, is also an amendment to bring this Bill into line with the recent Stamp Ordinance. Formerly shares in China Companies, if executed by the transferor here, were liable to duty. The Stamp Ordinance exempts them from all duty and this brings this Ordinance into agreement.

The new clause was approved.

This involved a re-numbering of the subsequent sections; this was done, and the remainder of the clauses of the Bill were approved.

The Council resumed and the third reading was approved, on the motion of the ATTORNEY-GENERAL, seconded by the COLONIAL SECRETARY.

The Bill passed accordingly.

### **The Adjournment**

The Council adjourned until 2.30 p.m., on July 14th.

### **FINANCE COMMITTEE.**

A meeting of the Finance Committee was afterwards held, the COLONIAL SECRETARY presiding.

### **Hunghom Railway Station**

The Governor recommended the Council to vote a sum of \$2,700 on account of Kowloon-Canton Railway, Special Expenditure, New Building for block working at Hunghom.

THE CHAIRMAN—The Manager of the Railway has recommended, and the Government has agreed to, the closing of Hunghom station at present, as it is unsafe and likely to fall down, and does not seem to be required. He is submitting a plan of the future lay-out of the station and the operation of the railway and the reclamation and that involves in any case, whatever is done in future, the erection of an operating block cabin, of which he has submitted a plan and in making the recommendation for that operating block cabin he writes that it will always be necessary to have a staff there to operate the block section and to make up the trains. He proposes to make arrangements which will enable him to dispense with two pointsmen and no station master or booking clerk will be required. In place of these he is going to appoint two block operators. The cost of the whole work, including the alteration of fencing, levers, rodding, etc., is \$2,700, which he now asks.

Approved.

#### **Queen's College Laboratory**

The Governor recommended the Council to vote a sum of \$400 in aid of the vote Education, A.—Director of Education, Other Charges, Laboratory (Queen's College).

THE CHAIRMAN—In connection with the

laboratory equipment of Queen's College a sum of \$447.41 was spent in the first three months of this year on account of an indent which was sent in March last year, the goods not being received at all in that year. There is a corresponding saving in last year's vote. It is, therefore, necessary to provide for the order given this year for laboratory equipment and this bill of \$447 has nearly exhausted the vote, and there is an anticipated excess of \$381.84; \$400 is asked for to be on the safe side.

Approved.

#### **Harbour Office Vote**

The Governor recommended the Council to vote a sum of \$1,000 in aid of the vote Harbour Master's Department, Other Charges, Examination Fees.

THE CHAIRMAN—More examinations for certificates of competency as masters, mates and engineers have taken place this year than were expected. The total vote allowed for the whole year was \$1,000, and that has been already exhausted by the examinations, which took place between January and June. The fees amount to \$1,050. It is anticipated that nearly \$1,000 will be required for the second half year and this is now asked for.

Approved.