

*20th July, 1939.*

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**PRESENT:—**

HIS EXCELLENCY THE GOVERNOR (SIR G. A. S. NORTHCOTE, K.C.M.G.).

THE HONOURABLE THE OFFICER COMMANDING THE TROOPS (BRIGADIER T. MACLEOD, C.R.A.).

THE COLONIAL SECRETARY (HON. MR. W. J. CARRIE, *Acting*).

THE ATTORNEY GENERAL (HON. MR. C. G. ALABASTER, O.B.E., K.C.).

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

THE FINANCIAL SECRETARY (HON. MR. S. CAINE).

HON. COMMANDER G. F. HOLE, R.N. (Retired), (Harbour Master).

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

HON. MR. C. G. PERDUE (Acting Commissioner of Police).

HON. MR. A. B. PURVES (Acting Director of Public Works).

HON. SIR HENRY POLLOCK, KT., K.C., LL.D.

HON. MR. S. H. DODWELL.

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

HON. MR. LO MAN-KAM.

HON. MR. LEO D'ALMADA E CASTRO, JNR.

HON. MR. T. E. PEARCE.

HON. MR. J. K. BOUSFIELD, M.C.

HON. MR. LI TSE-FONG.

MR. C. B. BURGESS (Deputy Clerk of Councils).

### MINUTES.

The Minutes of the previous meeting of the Council were confirmed.

### NEW MEMBERS.

The Hon. Mr. W. J. Carrie (Colonial Secretary, *Acting*), the Hon. Mr. H. R. Butters (Secretary for Chinese Affairs, *Acting*), the Hon. Mr. A. B. Purves (Director of Public Works, *Acting*), and the Hon. Mr. Li Tse-fong took the Oath of Allegiance or made affirmation and assumed their seats as members of the Council.

### ANNOUNCEMENT.

H.E. THE GOVERNOR.—Honourable Members,—As is now well known I have received the approval of the Secretary of State for the Colonies of the introduction into this Council of a bill which when enacted will render liable to enrolment in a reserve force, to be known as the Hong Kong Defence Reserve, all male British subjects of or over the age of eighteen and under fifty-five years. The honourable and learned member, the Attorney-General, will explain the intended processes of the measure but I take this opportunity to mention two or three points connected with or arising out of it.

In the first place, although the bill is drawn in wider terms, it is intended at the present time to apply its provisions only to British citizens of European descent: the recently compiled register of persons of that class being used as the basis of operations. It is for that reason that the procedure of enrolment is directed towards individuals and not classes of persons, as is the case in the United Kingdom. I trust sincerely that the many other British subjects in this Colony will understand that this differentiation is being made solely on grounds of practicability. Such a measure as this cannot be put into effect without a complete register of persons liable under its provisions. No such register exists except of British subjects of European extraction, nor could any other be compiled easily. On the other hand, I am fully aware that, should the need arise, many battalions of excellent soldiers could be obtained here on the voluntary system from other British subjects.

Secondly, action under the ordinance will consist of a series of steps, each of which can be taken without necessitating action on the next. Thus it does not follow that at the outset all the provisions of the ordinance will be made to apply over the whole age-range between eighteen and fifty-five years of age.

In the third place, it will be observed that the Reserve is divided into three groups. The first is the combatant group whose name is self explanatory: the functions of the third, the general group for essential services, will be too numerous and heterogeneous for brief description; they will range from guard and special constable duties

to clerical work. The key-posts group, however, calls for a little comment.

It is obvious that there will be many posts in official and non-official employment which in all circumstances must continue to be filled by staff trained in the duties of those posts. The exemption list in clause three of the bill furnishes certain examples but there are many others which are essential for the maintenance of the defence of the Colony and of the life of the civil community. In the United Kingdom this need is being met by means of a schedule of reserved occupations, men engaged in which will not normally be enlisted for whole-time service in war. That method is not regarded as suitable to conditions in Colonies such as this, however, and we are tackling this problem by enrolling key-men in the Colony's Reserve Force and assigning them—it may be in many cases against their own desires—to duty in the key-posts group. No reasonable person would deny that the men so assigned will be giving the best service in their power to their King and country.

In the meantime, until that key posts group comes into being, it would be contrary to common sense to allow men whose duties in civil life would necessarily place them in that group, to join the Volunteer Forces. I have, therefore, directed the officers commanding the two local volunteer organizations not to enlist men between eighteen and forty-one years belonging to certain occupations unless they carry the written consent of their employers to join up.

I commend this bill to the earnest and favourable consideration of Members. It is my intention to summon Council again on July 27th for the second and third readings.

#### **PAPERS.**

THE COLONIAL SECRETARY.—By Your Excellency's command, I lay upon the table certain papers, copies of which are in the hands of Honourable Members.

The papers laid on the table were:

Quarantine (Measures on Departure) Regulations made by the Governor in Council under section 8 of the Quarantine and Prevention of Disease Ordinance, 1936, Ordinance No. 7 of 1936, dated 28th June, 1939.

Amendments made by the Governor in Council under Section 25 (4) of the Merchant Shipping Ordinance, 1899, Ordinance No. 10 of 1899, to Table X in the Regulations, dated 30th June, 1939.

Regulations made by the Governor in Council under Section 2 of the Lighting Control Ordinance, 1936, Ordinance No. 55 of 1936, relating to the control of lighting, dated 14th July, 1939.

Proclamation No. 6.—Asiatic Emigration Ordinance, 1915,— Declaring voyage of any ship from Hong Kong to Saigon to be a short voyage.

Administration Reports, 1938:—

Part II.—Law and Order:—

Report on the New Territories, District Office, South.

Sessional Papers, 1939:—

No. 3.—Report by the Labour Officer Mr. H. R. Butters on Labour and Labour Conditions in Hong Kong.

### QUESTIONS.

HON. MR. LO MAN-KAM asked:—

1. Will Government introduce at an early date local legislation on the lines of the Merchandise Marks Act, 1926, under which it is not lawful to sell, expose for sale, etc., in the United Kingdom, any imported goods to which there is applied the name or trade mark of any manufacturer or trade or the name of any place or district, in the United Kingdom, unless accompanied by indication of origin, but with an amendment to the effect that, in the case of goods manufactured or produced outside His Majesty's Dominions, indication of origin shall be a definite indication of the country in which the goods were manufactured or produced?

2. If the answer to the above question is in the negative, will Government state reasons?

THE COLONIAL SECRETARY replied:—

Legislation on the lines suggested could only be undertaken after reference to and with the approval of the Secretary of State.

It is proposed to address an inquiry to him on this subject in the near future.

### FINANCE COMMITTEE'S REPORT.

THE COLONIAL SECRETARY, by command of H.E. The Governor, laid upon the table the Report of the Finance Committee (No. 5), dated 29th June, 1939, and moved that it be adopted.

THE FINANCIAL SECRETARY seconded, and this was agreed to.

**VOLUNTEER AMENDMENT BILL, 1939.**

THE ATTORNEY GENERAL moved the first reading of a Bill intituled "An Ordinance to amend the Volunteer Ordinance, 1933." He said: The regulations in the Volunteer Ordinance have recently been revised and during the revision it was suggested that the Ordinance itself required revision on two very minor points.

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 7 of the principal Ordinance provides that an annual inspection of the corps shall be held by a general or field officer of His Majesty's Army. Clause 2 of this Bill amends the provision by the substitution of the words "may be held" for the words "shall be held".

2. Section 16 (6) of the principal Ordinance provides that for the purposes of that section the year shall be deemed to commence on the 16th day of April. Clause 3 of this Bill changes that date to the 1st day of April in order to make the corps training year coincide with the Government's financial year.

**REGISTRATION OF PERSONS AMENDMENT BILL, 1939.**

THE ATTORNEY GENERAL moved the first reading of a Bill intituled "An Ordinance to amend the Registration of Persons Ordinance, 1939." He said: The first two amendments affected by Clauses 2 and 3 are formal and suggested by the Secretary of State. The amendment introduced in Clause 4 is not new at all and is placed in the Ordinance for the purpose of requiring every British subject to notify his change of address.

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 5 of the Registration of Persons Ordinance, 1939, imposes a duty on masters, persons in charge, owners and agents of ships and aircraft arriving within or departing from the waters of the Colony and carrying passengers of other than Chinese race to furnish passenger lists.

2. Clause 2 of this Bill amends the section by inserting the words "or territory" after the word "waters" so as to cover the case of land planes.

3. Section 6 of the Ordinance gives to the expression "British subject" the meaning it has under the British Nationality and Status of Aliens Acts, 1914 to 1922.

4. Clause 3 of this Bill substitutes the figures "1933" for "1922" so as to bring the Act of 1933 within the ambit of the definition.

5. The above amendments were suggested by the Secretary of State in his despatch No. 186 of the 26th May, 1939.

6. Clause 4 of this Bill adds to section 8 of the principal Ordinance a sub-section requiring British subjects who have made and signed the returns of particulars required by sub-section (1) of that section to keep the return up to date by reporting changes of their residential or business addresses or of intended departure from the Colony within one week before each change of address or intended departure. The clause in effect merely adds to the principal Ordinance a requirement already imposed on such British subjects by Government Notification No. 435 of the 2nd June, 1939, which was issued by the Governor in Council under section 10 of the principal Ordinance.

### **HYDROCARBON OILS AMENDMENT BILL, 1939.**

THE ATTORNEY GENERAL moved the first reading of a Bill intituled "An Ordinance to amend the Hydrocarbon Oils Ordinance, 1939." He said: This is for the purpose of making few amendments of the principal Ordinance—partly revision of the amendments and partly amendments intended to implement Article 2 (*i*) (*a*) and (*b*) of the International Convention concerning Exemption from Taxation for liquid fuel and lubricants used in Air Traffic of the 1st March, 1939.

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. Clauses 2 and 4 of this Bill will add to sections 3 (1) and 30 of the principal Ordinance, No. 11 of 1939, certain provisions similar to provisions which (with the sanction of the Secretary of State in his despatch No. 57 of the 23rd February, 1938,) the Editor of the Ordinances and Regulations of Hong Kong (1937 edition) would have made in corresponding sections of the Motor Spirit Ordinance, 1930, had the latter Ordinance not been repealed and replaced by the principal Ordinance.

2. The new paragraph added to section 3 (1) of the principal Ordinance is derived from section 10 (1) of the Petroleum (Consolidation) Act, 1928, and the proviso added to section 30 of the principal Ordinance is intended to make it clear that an importers licence will not be necessary to cover the hydrocarbon oils which aircraft, ships,

motor boats or motor vehicles bring with them on arrival for their own use while in port and which are not removed therefrom.

3. Clause 3 of the Bill adds two sub-sections to section 6 of the principal Ordinance and are based on and are intended to implement Article 2 (i) (a) and (b) of the International Convention concerning Exemption from Taxation for Liquid Fuel and Lubricants used in Air Traffic of the 1st March, 1939.

### **COMPULSORY SERVICE BILL, 1939.**

THE ATTORNEY GENERAL moved the first reading of a Bill intituled "An Ordinance to make provision with respect to compulsory service."

He said: The reasons for the enactment of legislation of this nature and the general principles underlying it as well as the classes of British subjects which will be affected by it, have already been explained in Your Excellency's Special Announcement. It remains, therefore, for me only to explain the various processes of enrolment.

Although nearly all British subjects of or over the age of eighteen and under fifty-five who are ordinarily resident in the Colony, will be liable to be called upon, subject to the explanatory reservations made in Your Excellency's Announcement, no one will in fact have to do anything at all until he receives an order for Medical Examination in Form No. 1 in the Schedule to the Bill. That order will tell him where and when to go for the examination.

If as a result of the examination he is certified fit for enrolment in the reserve he then becomes liable to receive an Order in Form No. 2 in the Schedule to attend before the Compulsory Service Tribunal at a stated date, time and place, unless before that time he has voluntarily enrolled in the Hong Kong Volunteer Defence Corps or in the Hong Kong Naval Volunteer Force. That second Order gives him his last chance of voluntary enrolment in either of these forces. If he does not take that chance, or if he is not accepted as a volunteer, he goes before the Tribunal which will decide whether he shall be permanently or temporarily exempted, in Imperial or Colonial interests or on the ground of serious hardship, or whether he shall be enrolled in the reserve, and in the latter case the Tribunal will decide to which of the three groups, the combatant group, the key-posts group or the general group for essential services, he is to be assigned, subject to two provisos the first of which will prevent his assignment against his consent to the combatant group if he is forty one or over or if he expresses a conscientious objection to combatant service, in which case he will be assigned by the tribunal to one of the other groups. The second proviso will enable him whatever his age to select his own non-combatant group only if the proper military authority consents.

If the British subject, or his employer or the proper military authority is dissatisfied with the decision of the Compulsory Service Tribunal, provision is made for appealing to an Appeal Tribunal which can confirm, vary or reverse the decision.

Thereafter enrolment lists will be gazetted and the Reserve will thereby be constituted.

If the decision is for assignment to the combatant group the proper military authority will decide in which section of the group, naval, military or air, the British subject shall serve.

If the decision is for assignment to the essential service group or even to the key-posts group, the nature of the duties which will be required and the organization, discipline and general government thereof will be indicated in regulations which the Governor in Council is empowered to make under clause 11 (6) of the Bill. As Your Excellency has stated the duties will be various, as circumstances demand, such as special constabulary duties, clerical work, censorship, guards, air raid precautions, fire prevention and ambulance work.

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 provisions of this Bill are based upon the General Military Service Ordinance, 1918, which was repealed by Ordinance No. 23 of 1919.
2. The object of this Bill is to create a reserve force called the Hong Kong Defence Reserve the members of which shall be liable for service with the Hong Kong Volunteer Defence Corps, the Hong Kong Naval Volunteer Force or in essential services.
3. With certain exceptions, which are specified in clause 3 (1), the liability to enrolment in this reserve will extend to all male British subjects of or over the age of eighteen and under fifty-five years but those who have attained the age of forty-one years and those who express a conscientious objection to the undertaking of combatant service will not, without their consent, be posted to the combatant group of the reserve.
4. Subject to the exceptions referred to in the preceding paragraph, it is intended that the case of every male British subject between the specified ages shall be considered with a view to his enrolment. This applies to civil servants as well as to the other members of the community, but in the case of civil servants the procedure will be different.

5. The first step in the procedure is a medical examination which is provided for in clause 5 of the Bill.

6. The next step is an order, issued by the proper authority, directing the British subject in question to appear before the compulsory service tribunal, unless he has already enrolled as a volunteer in the Hong Kong Volunteer Defence Corps or the Hong Kong Naval Volunteer Force. This tribunal will, subject to the appeal referred to below, be the sole judge as to whether the British subject in question shall be enrolled or exempted and as to the group of the reserve to which he shall be assigned. The only grounds on which exemption may be granted are that it is expedient in Imperial interests or the interests of this Colony to do so, or that serious hardship would result to the British subject in consequence.

7. Provision is made in clause 11 (2) for voluntary enlistment in the non-combatant groups of the reserve, for which also by clause 11 (6) the Governor in Council is empowered to make regulations.

8. An appeal from the decisions of this tribunal to an appeal tribunal consisting of the Chief Justice, a senior officer of His Majesty's forces and one other member is provided. The appeal may be against either enrolment or exemption, and it may be made by the British subject in question, or by his employer (if any), or by the military authorities.

9. The cases of all civil servants between the specified ages will also be inquired into, but in their case the functions of the tribunal will be performed by the Governor, whose decision is final.

10. Enrolment lists will eventually be published in the *Gazette* containing the names of all those British subjects who have been passed by the compulsory service tribunal for enrolment and who have not successfully appealed against the decision of the tribunal. The lists will also contain the names of any civil servants passed for enrolment by the Governor. From the date of the publication of any such list in the *Gazette* the persons whose names appear in the list shall be deemed to have been enrolled in, and to belong to, the Hong Kong Defence Reserve.

11. The sittings of the compulsory service tribunal and the appeal tribunal will be held in public unless in any case a majority of the members of a tribunal see fit to hold the sittings in private.

12. By clause 16 the Governor is given power to disband the reserve or any group thereof without prejudice to its re-establishment in accordance with the provisions of the Ordinance.

#### **ADJOURNMENT.**

H.E. THE GOVERNOR.—Council stands adjourned until to-day week, 27th July at 2.30 p.m.