

8TH FEBRUARY, 1899.

PRESENT:—

His EXCELLENCY the GOVERNOR, Sir Henry BLAKE, G.C.M.G.

His EXCELLENCY Major-General GASCOIGNE C.M.G. (Officer Commanding the Troops).

Hon. J. H. STEWART LOCKHART (Colonial Secretary).

Hon. H. E. POLLOCK (Acting Attorney-General).

Hon. R. MURRAY RUMSEY (Harbour Master).

Hon. F. H. MAY, C.M.G. (Captain Superintendent of Police).

Hon. A. M. THOMSON (Colonial Treasurer).

Hon. R. D. ORMSBY (Director of Public Works).

Hon. C. P. CHATER, C.M.G.

Hon. T. H. WHITEHEAD.

Hon. Dr. HO KAI.

Hon. E. R. BELLIOS, C.M.G.

Hon. J. J. BELL-IRVING.

Hon. WEI A YUK.

Mr. J. G. T. BUCKLE (Clerk of Councils).

MINUTES.

The minutes of the previous meeting were read and adopted as a correct record.

PAPERS.

The COLONIAL SECRETARY laid on the table the report of the Head Master of Queen's College for the year 1898 and the report of the Superintendent of Victoria Gaol for the same year.

THE PROPOSED NEW GOVERNMENT OFFICES.

The Hon. E. R. BELLIOS said—I have sent a copy of the following questions to the Clerk of Councils: (1) Will the Government state whether or not sites for the proposed new Law Courts and for the new Post Office have been selected? (2) Will the Government state whether the plans for the above-named buildings have been considered, and whether they are prepared to recommend such plans for adoption? (3) Will the Government state whether the Secretary of State for the Colonies has sanctioned any scheme for the erection of the new public offices above-named put before him by the Government?

The COLONIAL SECRETARY—In reply to the first question I have to state that the site selected for the new Law Courts is a site immediately north of the site of the City Hall on the Praya Reclamation Ground. With regard to the second question, the site at present selected for the new Post Office is the site now occupied by the Post Office and the Supreme Court or by a portion of those buildings, but an official decision has not been arrived at. No plans for the new Post Office have been considered. As to the third question, the Secretary of State has not sanctioned any scheme for the erection of the new public offices referred to in the two previous answers.

The Hon. E. R. BELLIOS—I intend to ask a few questions at the next Council meeting, a copy of which I will hand to the Clerk of Councils for approval. They will refer to the plot of land now lying fallow and situated to the north of the gaol and the Magistracy.

His EXCELLENCY—I have just been speaking to the Clerk on the matter, and I think all questions that are to be asked should appear in the orders of the day. I suggest that this should be done in future.

A NEEDLESS WARNING.

The COLONIAL SECRETARY—I have the honour to move the following resolution standing in my name:— "Whereas it has been usual to warn officers appointed to the service of this Colony since 1894, from a country possessing a gold standard of currency, that the exchange compensation allowance on half their salaries will be granted to them so long as it is granted to other members of the service, but that the continuance thereof is not guaranteed and it is subject to the annual vote of the Council, and it is deemed that such warning is calculated to deter eligible persons from entering the public service, it is hereby resolved that it is expedient to discontinue such warning in future, and to regard the compensation as a permanent but not as a pensionable emolument." The terms of the resolution are so clear that I do not consider any further comment is necessary from me.

The COLONIAL TREASURER seconded and the motion was carried.

THE LAWS RELATING TO MERCHANT SHIPPING, ETC.

The ACTING ATTORNEY GENERAL—I rise to move the first reading of a Bill entitled an Ordinance to consolidate and amend the Laws relating to Merchant Shipping, the duties of the Harbour Master, the control and management of the waters of the Colony, and the regulation of vessels navigating the same. At the next meeting of the Council in moving the second reading I propose to move that this Bill be referred to the Standing Law Committee for consideration.

The COLONIAL SECRETARY seconded.

The Hon. T. H. WHITEHEAD—On former occasions when Bills have been introduced into this Council in connection with the merchant shipping it has been usual for the Government to forward copies for the consideration of the Chamber of Commerce, who have practical knowledge of the shipping, and their suggestions have been invited. Perhaps on this occasion the usual course might be followed?

His EXCELLENCY—I do not know what the custom has been. In fact I know nothing about this Bill. I have never seen it, but it seems to me as the first reading of a Bill is a purely *pro forma* matter, considerable time will elapse before the Bill will be read a second time. I think a copy of the Bill might be sent to the Chamber of Commerce, and no doubt the committee would be very glad to have their opinion on it. It would be very valuable. I quite agree with the honourable member on the advisability of it.

It was understood that a copy of the Bill should be forwarded to the Chamber of Commerce.

The Bill passed the first reading.

CRIMINAL PROCEDURE IN THE SUPREME COURT.

The ACTING ATTORNEY GENERAL — I rise to propose the first reading of a Bill entitled an Ordinance to consolidate and amend the Laws relating to Criminal Procedure in the Supreme Court. At the next meeting after the Bill has been read a second time I propose to move that the Bill be referred to the Standing Law Committee.

The COLONIAL SECRETARY seconded and the motion was carried.

THE LAW RELATING TO PRISONS.

The ACTING ATTORNEY GENERAL—I rise to move the second reading of the Bill entitled an Ordinance to amend and consolidate the Law relating to Prisons. As I indicated to honourable members of this Council when this Bill was last before the Council on the first reading, I shall have some amendments to move in committee. The first amendment which I shall have to move is in the last line of clause 4—to substitute the word "this" for "the" before the word "ordinance." The next amendment which I propose to move in committee is to strike out the words "appointed thereto under the provisions of this ordinance" which occur at the end of clause 5. The next amendment which I shall have to move in committee will be in clause 13. Instead of "The regulations of a prison" I propose to substitute "prison rules or regulations," and at the beginning of line 4 of the same clause I propose to substitute for "regulations" the words "rules or regulations." Section 17 of the Bill seems to me to be quite unnecessary as I informed honourable members at the last meeting of the Council, and unless some honourable member can show good cause to the contrary I propose to move that clause 17 be left out of the Bill entirely. With regard to clause 18 I think the words "warder or other subordinate" in the first line should come out and also the words "warder or" in the third line. I think that these are all the amendments which I shall have to move to the Bill in committee. Honourable members will see that this is a consolidating Bill. It is founded in the main upon the

present Prison Ordinance—Ordinance 18 of 1885—but there are, as honourable members will see from the "objects and reasons," certain amendments introduced. The first amendment is in section 8 which differs from section 7 of the Prisons Ordinance of 1885 in the omission of the word "warmed" which used to come between the word "lighted" and the word "ventilated." The reason for the omission of the "warmed" is that cells here are not as a matter of fact warmed at all. Section 9 of the present Ordinance differs from section 8 of the Prisons Ordinance of 1885 in the following main respects:— (i) By abolishing the rigid classification of hard labour into two classes which was laid down by the old Ordinance and which was found unworkable in practice and in leaving such classification to be prescribed by the Prison Rules and Regulations. (ii) The language of the old section as to the employment of prisoners outside of the walls has been modified in accordance with the recommendation of the Captain Superintendent of Police. (8) Section 11 of the present Ordinance differs from section 10 of the Prisons Ordinance of 1885, in that the words "who escapes or attempts to escape from any prison or" are now added. The object of this amendment is to prevent difficulties from arising in the prosecution of prisoners who are caught while attempting to escape and who have not committed anything which could be described as a "breach" of prison. The fourth respect in which this Bill contains an amendment of the existing law is that section 12 of this Bill differs, from 11 section of the old Ordinance in giving power to impose imprisonment either with or without hard labour, and in altering the penalty of £20 sterling into a penalty of \$200. There are also one or two slight verbal alterations introduced with which I do not need to trouble honourable members with any observations. The fifth amendment introduced by this Bill is that by section 13 the former penalty of £10 has been converted into \$100. The sixth amendment is that in adapting section 18 from the provisions of Ordinance 13 of 1889 as affected by section 2 of Ordinance 15 of 1896 it has been thought expedient to leave out the following words which were contained in Ordinance 13 of 1889, namely, "who is guilty of any neglect or violation of duty in his office, or of any disobedience to any rules made under the provisions of section 17 of Ordinance 18 of 1885." The reason for leaving out these words is that special provisions for dealing with the offences contained in the omitted words are contained in the new draft Prison Rules. The seventh amendment is that section 19 of the Bill consists of an adaptation of section 17 of the Prisons Ordinance of 1885 with certain additions which are intended to

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as to whether the rules, which it is proposed to bring into force directly this Ordinance is passed, will be *ultra vires* or not. The second sentence of this section is new and is intended to confer full power upon the Governor-in-Council to impose by the rules any punishment which he may think fit for a breach of any of the rules. The eighth amendment introduced is the provision contained in section 21 of the Bill which is new so far as this colony is concerned, but is adapted from the provisions of section 9 of a Statute which was passed in the last session of the Imperial Parliament (61 and 62 Vic. c. 41). The proviso, however, at the end of the section is original and does not correspond with anything contained in the home Act. Such a proviso, however, appears to be just, and its insertion was recommended by the Acting Police Magistrate. With these observations I beg to move the second reading of the Bill.

The COLONIAL SECRETARY seconded, and the motion was carried.

The Council then went into committee to consider the Bill clause by clause. The amendments suggested by the Acting Attorney-General and mentioned above were adopted and also several others, including one to clause 12, which clause reads as follows:—Every person who, contrary to any prison rule or regulation, brings or attempts by any means whatever to introduce into any prison any spirituous or fermented liquor or tobacco or opium, and every officer of a prison who suffers any spirituous or fermented liquor or tobacco or opium to be sold or used therein, contrary to the prison regulations, shall be sentenced on conviction to imprisonment for a term not exceeding six months with or without hard labour, or to a penalty not exceeding two hundred dollars, or to both in the discretion of the Court, and any officer of a prison convicted under this section shall, in addition to any other punishment, forfeit his office and all arrears of salary due to him.

The ACTING ATTORNEY-GENERAL—I have to move an amendment to the last line of clause 12. I do not know what the opinion of the Captain Superintendent of Police is on the subject, but it seems to me that the word "shall" towards the end is too compulsory. I do not know that it is intended, but the language is so framed that such an offence would carry with it forfeiture of office and arrears of salary. Perhaps it would be preferable to use the word "may" instead of the word "shall."

The COLONIAL TREASURER—I should very much object to retaining a man who has been convicted in an office. I do not know about the arrears of salary.

The CAPTAIN SUPERINTENDENT OF POLICE —I agree with the Colonial Treasurer. In the rules at home certain offences entail not only forfeiture of office but forfeiture of arrears of salary.

His EXCELLENCY—Would it entail loss of arrears of salary if a man had been previously well conducted?

The CAPTAIN SUPERINTENDENT OF POLICE —In the home Act I believe it would do so. This Bill is really

copied almost verbatim from the home Act.

The Hon. T. H. WHITEHEAD—The words "shall in the discretion of the Governor" might be inserted, and then it is made optional.

His EXCELLENCY—The word "shall" appears to me as far as carrying with it dismissal is concerned right enough, but in the other case it is rather strong.

The CAPTAIN SUPERINTENDENT OF POLICE —I see no objection to leaving the words "arrears of salary" out. It is not usual in other departments to forfeit arrears of salary when a man is dismissed, but I think dismissal ought to be compulsory.

His EXCELLENCY—There are two questions. One is, is it advisable to make it the law that when a man is convicted under this section he shall be deprived of his office? The other question is whether being so deprived of his office he shall not be paid the arrears of a salary due to him.

The Hon. T. H. WHITEHEAD —I think a man convicted should vacate his office, but that he should have the salary which he has earned.

His EXCELLENCY—It seems to me you should pay the salary up to the date of the dismissal.

On the motion of the Hon. T. H. WHITEHEAD, seconded by the Hon. C. P. CHATER, the words "and all the arrears of salary due to him" were deleted.

On the motion of the ACTING ATTORNEY-GENERAL, seconded by the COLONIAL SECRETARY, the words "arrears of salary due to him" which occurred in clause 13 were also deleted.

The Bill passed through the committee stage.

#### THE LAW RELATING TO SOLICITORS OF THE SUPREME COURT.

On the motion of the ACTING ATTORNEY-GENERAL, seconded by the COLONIAL SECRETARY, the second reading of the Bill entitled An Ordinance to amend the law relating to Solicitors of the Supreme Court was passed.

The ACTING ATTORNEY-GENERAL—In moving that this Council go into committee to consider the Bill clause by clause—

The COLONIAL TREASURER—There is no immediate hurry, and I would suggest that the consideration in committee be postponed to the next meeting of the Council.

His EXCELLENCY—I do not know that there is any wish on the part of the Council to postpone it.

The COLONIAL TREASURER — This is a highly technical Bill, and it is for this sort of thing that the Law Committee was appointed.

The ACTING ATTORNEY-GENERAL—There is a point I should mention in connection with clause 21 of the Bill. Some honourable members suggested to me that clause 21 was not an advisable clause to leave in. Clause 21, as honourable members will see, is a special clause which is borrowed from a similar provision contained in the Straits Settlements Ordinances and in the Statutes of some of the Australian colonies. Clause 21 says:—"No person who shall have been admitted as a solicitor of the Supreme Court of Judicature in England or as an attorney or writer in one of the Courts at Dublin or Edinburgh shall be admitted to practise within the colony as a solicitor otherwise than as a clerk to a solicitor or firm of solicitors practising in the colony until he shall have actually resided in the colony for a period of six months next preceding such admission and unless he shall have previously given six months' notice in writing to the Registrar of the Court of his desire and intention to apply to be so admitted; but any person who may have been admitted to practise as a solicitor within the colony as a clerk to another solicitor or firm of solicitors shall, after having so practised for a period of six months, be deemed to have been admitted to practise within the colony as a solicitor and shall be entitled so to practise upon his own account unless precluded from so doing by any lawful agreement or undertaking." Honourable members will see that according to this clause no solicitor coming into this colony could start on his own account until he had actually resided in the colony for six months and until he had given notice to the Registrars six months previously that he intended so to practice, unless he intended to come to the colony as a clerk to a firm of solicitors, in which case of course he would be bound down from practising on his own account for so many years after the

termination of his engagement. This is rather an important clause in the Bill. Of course it would be considered by the Law Committee, of which I think three unofficial members of the Council are members. Of course I do not know whether the other unofficial members of the Council who are not members of the Law Committee would like to have this Bill discussed by the Law Committee alone, or whether they would wish to have it discussed in the whole Council clause by clause.

The COLONIAL SECRETARY—Anything referred to the Law Committee is reported upon by them, and the full Council has the opportunity of discussing that report. I think the suggestion of the Colonial Treasurer is one which deserves consideration. As he pointed out, this Bill is a very technical one. It is one which should be referred to the Law Committee, and if your Excellency has no objection I will now formally move that it be referred to the Law Committee.

The Hon. T. H. WHITEHEAD seconded, and the motion was carried.

#### NATURALIZATION.

The Bill entitled An Ordinance for the Naturalization of Mak Ngan Wan, alias Mak Chin K'i, alias Mak Sui Nin, alias Mak Yat Wo, alias Mak Sun went through Committee, was read a third time and passed, on the motion of the ACTING ATTORNEY-GENERAL, seconded by the COLONIAL SECRETARY.

#### THE REGULATION OF VEHICLES.

On the motion of the ACTING ATTORNEY-GENERAL, seconded by the COLONIAL TREASURER, the Bill entitled An Ordinance for the Regulation of Vehicles was read a third time and passed.

#### ADJOURNMENT.

The Council adjourned until Monday next.