

25TH JUNE, 1900.

PRESENT:—

HIS EXCELLENCY THE ACTING GOVERNOR, Major-General GASCOIGNE, C.M.G.

The Hon. F. H. MAY, C.M.G. (Acting Colonial Secretary).

Hon. W. MEIGH GOODMAN (Attorney-General).

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

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

Hon. BASIL TAYLOR (Acting Harbour Master).

Hon. A. W. BREWIN.

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

Hon. Dr. HO KAI.

Hon. J. THURBURN.

Hon. R. M. GRAY.

Hon. WEI A YUK.

Hon. J. J. KESWICK.

Mr. R. F. JOHNSTON (Acting Clerk of Council).

THE NEW MEMBERS.

Messrs. Basil Taylor and John Thurburn were sworn in as members of the Legislative Council.

PAPERS.

The ACTING COLONIAL SECRETARY placed on the table the following papers:—Returns of superior and subordinate courts for 1899; further correspondence on the subject of the Jubilee Road round the island; and the Secretary of State's despatch with reference to the colony's contribution to the South African War fund.

FINANCIAL.

The ACTING COLONIAL SECRETARY laid on the table Financial Minutes Nos. 30, 31, 32, 33, and 34, and moved that they be referred to the Finance Committee.

The COLONIAL TREASURER seconded, and the motion was carried.

The ACTING COLONIAL TREASURER brought up the report of the Finance Committee (No. 10), and moved its adoption.

The COLONIAL TREASURER seconded, and the motion was carried.

AMENDING THE MAGISTRATES ORDINANCE.

The ATTORNEY-GENERAL proposed the second reading of the Bill entitled An Ordinance to further amend the Magistrates Ordinance, 1890 (No. 10 of 1890). He said:— This Ordinance proposes to enable the magistrate to deal summarily with two classes of cases which, at the present time, must be committed by him for trial and can only be disposed of by the Supreme Court. Allow me to illustrate the first of them.

Suppose a coolie returning from Singapore to Canton on board a British ship steals 50 cents from a passenger bound for Japan. If this theft occurred after the ship had entered the land-locked waters of this colony, as, for instance the harbour, the magistrate could dispose of the case and the passenger could proceed on his journey. If, however the theft occurred on the High Sea, just before the ship reached our waters, it would have been committed "within the jurisdiction of the admiralty" and would, therefore, have to be sent for trial, if all offences committed within the jurisdiction of the admiralty are to remain in the excluding Schedule. It might be a great loss and inconvenience to the passenger to have to remain in Hongkong till the next Criminal Sessions of the Supreme Court in order to give evidence. It is quite possible that it would be held that Section 686 of the Imperial Merchant Shipping Act of 1894 actually confers on the Magistrate the jurisdiction which the Magistrates' Ordinance of 1890 does not confer. For that part of the Act applies to Her Majesty's dominions, and "Magistrate" is included in the definition of "Court." But, in any case, it is difficult to see why the jurisdiction should be withheld. The other amendment deals with petty cases of offering bribes, &c. With these introductory remarks I will refer you to the minute appended by me to the Bill, headed "Objects and Reasons." If I now read that minute I shall probably occupy less of your time than if I went more elaborately into the matter in a long speech. The objects and reasons are as follow:—

"There appears to be no valid reason why in cases of comparatively trifling offences committed within the Admiralty Jurisdiction, as for instance on board a British ship on the high seas, the offender should not be dealt with summarily by the Magistrate in the same way as if the offence had been committed after the ship had entered the harbour. There can be no doubt that the necessity at present existing, of sending all such cases to the Sessions of the Supreme Court, either works great hardship on innocent witnesses who are bound over to appear, or causes a failure of justice by the refusal of persons to prosecute. Hongkong is a port frequented by vessels, many of which stay there but a short period before proceeding to other places, and it is often most inconvenient for witnesses to remain after the ship has left. Where the sentence of six months' hard labour will adequately meet the case and the facts are clear and simple, there is no valid reason why the Magistrate should have to commit the accused for trial just because the offence happened outside the harbour.

"By section 80 of The Magistrates Ordinance, 1890, as amended by Ordinance 12 of 1895, the Magistrate cannot inflict imprisonment for more than six months. If, therefore, the

gravity or difficulty of the case rendered committal for trial desirable, the Magistrate would commit just as he can now, even where the case is not excluded by the schedule from summary jurisdiction. (See the third clause of section 80 of the Magistrates Ordinance.)

"As regards cases of ignorant Chinese offering small bribes of a dollar or two to Sanitary Overseers, or Overseers in the Public Works Department, to induce them to refrain from performing their duties, the Magistrate could quite well deal with matters of this kind and dispose of them promptly and satisfactorily. During the last two Sessions of the Supreme Court the time of the Chief Justice the Attorney General, the Crown Solicitor and the jury, was occupied by no less than four such cases, the last being a charge of offering forty cents to an officer to release from custody an offender whom he was taking to the Police Station. As a matter of fact the Magistrate does, continually, deal with much more serious offences than the offering of petty bribes, and therefore he could quite properly be entrusted to dispose of matters of that kind. This Ordinance is intended to make the amendments in the schedule to Ordinance No. 10 of 1890, necessary to confer the requisite jurisdiction upon the Magistrate."

The ACTING COLONIAL SECRETARY seconded and the motion was carried.

The Bill passed through the committee stage, and on the Council resuming it was read a third time and passed.

AMENDING THE PIERS ORDINANCE.

The ATTORNEY-GENERAL moved the second reading of the Bill entitled An Ordinance to amend the Piers Ordinance, 1899. He said— It will be remembered that before Ordinance 37 of 1899 was passed pier-owners were practically tenants at will, having merely licenses for their piers. In view of the requirements of commerce substantial piers became necessities and it was deemed a hardship that where a considerable sum of money had been laid out on a really substantial pier it was impossible to obtain a lease of the structure for a considerable period. The pier-owners desired to get leases for a number of years. The difficulty was met by Ordinance 37 of 1899 by which the rent was increased and the increased rent was specified in the Schedule, and it was understood that scale was to hold for 25 years, when it would be open to revision by the Governor in Council for a further period of another 25 years. Nothing was said in the Ordinance about the revision after 25 years. It was assumed by the Acting Attorney-General that it would suffice if a term to that effect was contained in the Leases, but the Secretary of State thought it should also be provided for by the Ordinance itself. Hence the second amendment. As regards 'Crown foreshore' I need only refer to the objects and reasons appended to the Bill which I will now read:—

"Crown foreshore' was defined by Lord Hale to be

"the ground (belonging to the Crown) between the ordinary high-water and low-water marks." The new Praya Wall will, in some instances, leave little, if any, ordinary Crown foreshore visible. But, as the bed of the sea extending from such new Praya Wall into the harbour belongs to the Crown, no person can erect or maintain a pier thereon without the permission of the Crown. It has been thought advisable, therefore, to extend, for purposes of the Pier Ordinance, 1899, the meaning of Crown foreshore so as to include Crown land covered with water below ordinary low-water mark.

"As regards the revision of rents, it was arranged, when the Piers Ordinance, 1899, was under consideration, that the Governor in Council should have power to revise and alter the scale of rents at the end of twenty-five years, such revised scale itself to remain in force for a like period of twenty-five years. It had been assumed that the insertion of a clause to that effect in the Leases of the Piers would suffice, but the Secretary of State deems it expedient that a provision authorising such revision should be inserted in the Ordinance itself. This will prevent any misunderstanding at the end of the period of twenty-five years, when the arrangement in question, assented to last year on behalf of the Pier Owners, may possibly have been forgotten or overlooked."

The ACTING COLONIAL SECRETARY seconded, and the motion was carried.

The Committee having passed through the committee stage, on the Council resuming, it was read a third time and passed.

PARTING WORDS.

His EXCELLENCY observed—Gentlemen, this is the last time I shall have the honour of presiding at your meeting, as His Excellency Sir Henry Blake will be here in a few days. It now only remains for me to thank you for the cordial support you have one and all given me during the three months I have had the high honour of presiding over your meetings. (Applause.)

The Council adjourned until Monday week.

MEETING OF THE FINANCE COMMITTEE.

A meeting of the Finance Committee was held immediately after the meeting of the Legislative Council, the Acting Colonial Secretary presiding.

At the previous meeting of the committee the consideration of the vote for \$2,300 in aid of the vote "Contribution towards Defence Work" was postponed at the request of the senior member for the Chinese, who desired more information with regard to it. The Chairman now said he was in a position to inform members that the guns were placed and the

work completed at Stonecutters and Belchers Point Lower Battery, but the guns had not yet arrived for Lyeemun Central Battery. The Chairman subsequently remarked that His Excellency had just informed him that the guns were on their way.

The vote was passed.

A vote of \$6,000 in aid of the vote "Water Account (Meters, &c.)" was passed.

The Officer Administering the Government recommended the Council to vote a sum of \$800, being increase to the salary of the Local Auditor for the current year.

The Hon. C. P. CHATER—Is this brought before us on the recommendation of the committee appointed by the Council or is it a petition by Mr. Nicolle?

The CHAIRMAN—Mr. Nicolle made a representation on the subject and after some correspondence with the Colonial Office the increase was authorised.

The vote was agreed to.

The Officer Administering the Government recommended the Council to vote a sum of \$1,800 to cover the cost of increases of salaries of Messrs. Chapman (Assessor of Rates), Dixon (Government Marine Surveyor), and Macdonald (Assistant Government Marine Surveyor) during the current year.

The vote was passed.

The Officer Administering the Government recommended the Council to vote a sum of \$7,000 in aid of the vote "Maintenance of Waterworks, City and Hill District."

The vote was passed.

The Officer Administering the Government recommended the Council to vote a sum of \$650 for the Salary of an additional Clerk at the Shanghai Branch Post Office.

The vote was passed.

This was all the business.