

15TH JULY, 1909

PRESENT:—

HIS EXCELLENCY THE GOVERNOR, SIR
FREDERICK DEALTRY LUGARD, K.C.M.G.,
C.B., D.S.O.

H. E. COLONEL DARLING, R. E.
(General Officer Commanding).

Hon. Mr. A. M. THOMSON (Colonial
Secretary).

Sir HENRY BERKELEY, K.C. (Attorney-
General).

Hon. Mr. C. McI. MESSER (Colonial
Treasurer).

HON. MR. P. N. H. JONES (Director of
Public Works).

HON. MR. A. W. BREWIN (Registrar-
General).

HON. MR. F. J. BADELEY (Capt-
Superintendent of Police).

HON. DR. HO KAI, M.B., C.M., C.M.G.

Hon. Mr. E. OSBORNE.

Hon. Mr. W. J. GRESSON.

Hon. Mr. E. A. HEWETT.

Hon. Mr. MURRAY STEWART.

Hon. Mr. WEI YUK, C.M.G.

MR. C. CLEMENTI (Clerk of Councils).

Minutes

The minutes of the last meeting were read,
and confirmed.

Financial Minutes

THE COLONIAL SECRETARY, by
command of His Excellency the Governor, laid
on the table Financial Minutes No. 31 and 32,
and moved that they be referred to the Finance
Committee.

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

Financial

THE COLONIAL SECRETARY, by
command of His Excellency the Governor, laid
on the table the report of the Finance
Committee (No. 10) and moved its adoption.

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

**Companies Local Registers Amendment
Ordinance**

THE ATTORNEY-GENERAL—Sir, with
respect to the first item on the order of the day,
the third reading of the Bill entitled An
Ordinance to amend the Companies Local
Registers Ordinance 1907, I move that the Bill
be recommitted in order that we may
reconsider Clause 4.

THE COLONIAL SECRETARY seconded,
and Council went into Committee on the Bill.

THE ATTORNEY-GENERAL—Sir, It will
be in the recollection of the Committee that at
the last meeting certain words were added to
Clause 4 which were, in effect, that a fee of
\$100 should be paid for an authorisation under
this Section to the Registrar of Companies.
The Committee will remember that the
Government had proposed that \$10 should be
the fee, but, on the motion by way of
amendment of an hon. member, the sum was
raised to \$100. Since the Committee rose it has
been suggested to the Government that a more
equitable way of calculating the fee would be
on a sliding scale, the amount of which was to
be based upon the amount of capital of the
Company making the application in each case.
That suggestion commends itself to the
Government, and I will now move that the
amount be altered from \$100 to \$25 in case of
companies having a capital not exceeding
\$25,000; to \$50 in cases of companies with a
capital exceeding \$25,000 and not exceeding
\$100,000; and to \$100 in cases of companies
whose capital exceeds \$100,000. I am not sure
whether that suggestion will meet with
approval, but it seems a fairly excellent basis
on which to go.

HON. MR. HEWETT—I think we may
reasonably ask for \$150 from companies
whose capital is over half a million, and for
\$200 from companies with a capital over one
million, but I don't hold very strong views on
the subject.

HON. MR. STEWART—May I inquire what
fees are charged in Singapore?

THE ATTORNEY-GENERAL — I don't know.

HON. MR. STEWART—What would it cost to register in London?

THE ATTORNEY-GENERAL — I don't know.

HON. MR. STEWART—We don't want to drive companies to register elsewhere.

HON. MR. OSBORNE—The object, Sir, of this amendment is to charge less to the small companies, but as this scale stands the company with a capital of \$25,000 pays \$1 per thousand. When it comes to a company with a capital of \$100,000 it pays fifty cents a thousand, while a company with over \$100,000 capital pays \$1 per thousand, so that in two instances companies would pay a dollar, and in the other instance fifty cents. My amendment is that the fee should be \$1 per thousand on the authorised capital, and that in no case shall the fee exceed \$250.

THE ATTORNEY-GENERAL — What do you mean by the authorised capital?

HON. MR. OSBORNE — The capital authorised by the association.

HON. MR. HEWETT—It must be the paid up capital. A company may have \$100,000 and \$50,000 paid up. The paid up capital is the capital they are working on.

HON. MR. OSBORNE—All right, make it paid up.

THE COLONIAL SECRETARY—This is an additional act imposed on the Registrar of the Court, and purely an administrative act. It would not take any more time or expense in the case of one company than in the case of another.

HON. MR. GRESSON—I quite agree with the Colonial Secretary, and I think it is very very hard on these companies to have to pay such a sum. Take the Shanghai Investment Company, for instance. It will have to pay \$250 for a minimum of work, and I don't think it should be asked pay it.

HIS EXCELLENCY—What fee would you

propose?

HON. MR. GRESSON—I think the fees at present in the Bill before us are quite reasonable.

THE ATTORNEY-GENERAL—What \$10?

HON. MR. GRESSON—No; \$25, \$50 and \$100.

HON. MR. OSBORNE—I think, Sir, that if there is any advantage whatever in these companies registering in Hongkong they can surely afford to pay what is, after all, a very small sum for each company. There is no doubt it entails a very large amount of work which the Colony has to pay for.

HON. MR. HEWETT — It is a distinct advantage to companies formed outside the Colony to be registered in the Colony, and I think they ought to pay for it. I will second the Hon. Mr. Osborne's motion, and it can go before the Committee in the usual way.

HIS EXCELLENCY—I think we are all agreed that there should be a sliding scale in proportion to capital.

HON. MR. HEWETT—I think the scale of the Government is too low.

HIS EXCELLENCY—I will put the hon. member's amendment to the Committee. It is: "That there shall be paid for an authorisation under this section a fee of \$1 per thousand on the paid up capital, but in no case shall it exceed \$250."

On the amendment being put to the meeting it was carried by eight votes to five.

Council then resumed.

THE ATTORNEY-GENERAL—Sir, I move that you report to the Council that the Bill has passed through Committee with slight amendments. I think we are all agreed upon it, and as there will not be a meeting of the Council for some time to come I move for permission to have the Bill read a third time, and that the title be deemed sufficient.

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

The Railways Ordinance

THE ATTORNEY-GENERAL—I move that Council resolve itself into Committee to take the Bill entitled An Ordinance to regulate the construction and management of Railways into further consideration.

THE COLONIAL SECRETARY seconded, and Council went into Committee on the Bill.

THE ATTORNEY-GENERAL—It will be in the recollection of the Committee that Clauses 11 and 13 were left over for further consideration as they appeared to deal practically with the same subject. I move that Sub-section 1 of Clause 13 be deleted, and that Sub-section 2 stand as Clause 13.

HON. MR. STEWART—What was the object of putting in both clauses in the original instance.

THE ATTORNEY-GENERAL—Section 11 was really attempting to put in clearer, shorter and more comprehensive language all that is contained in Section 13, Clause 1. Section 11 is supposed to be better drafting than Section 13, and we do not want them both.

HON. MR. HEWETT—Sub-section D of Section 13 seemed to give great protection to the railway as opposed to local agriculturists or whoever might be wanting to do things they should not do.

THE ATTORNEY-GENERAL—It is a matter of language, Section 11 is all we want.

THE ATTORNEY-GENERAL—I have no objection to add a proviso to Section 11.

HON. MR. GRESSON—I would suggest transferring C and D to Section 11.

It was agreed that the whole of Sub-section (1) of Section 13 should be deleted and that the provisos (C) and (D) should be added at the end of Section 11, that Sub-section 2 should be numbered as Clause 13.

THE ATTORNEY-GENERAL—As the Council will remember, at the meeting of the Committee, the hon. Mr. Osborne suggested that some provision should be made by which the Railway Administration should be

compelled to provide some means by which the sparks emitted at times from locomotive chimneys should be as far as possible prevented from setting fire to the surrounding country. The hon. member has very kindly sent me a Clause to this effect. "All locomotives which from the nature of their fuel are liable to emit sparks shall be equipped with spark arrestors or other effective appliances for the prevention of fires caused by sparks." I think the suggestion is an admirable one, but should be given effect to not by a Clause in the Bill but regulations which the Ordinance gives the Governor-in-Council power to make from time to time for the good order and general working of the railway. It would be better if the suggestion were given effect to by an administrative order rather than by a Legislative Act.

HON. MR. OSBORNE—If this was a private railway the suggestion of the Attorney-General would be all right, and no doubt the Government would make regulations compelling a private company to do this, but I do not think the Government is likely to make regulations to compel itself.

HIS EXCELLENCY—I think the hon. Attorney-General means to convey that the Government will give a pledge.

HON. DR. HO KAI—What about the penalty? How can the Government make regulations and impose a penalty on itself?

THE COLONIAL SECRETARY—If by not taking proper precautions an engine sets fire to crops the Government would have to pay.

HON. MR. OSBORNE—Private railways at home did not use this spark arrestor until they were compelled by the Board of Trade to do so.

HIS EXCELLENCY—Nothing would be gained, as the senior unofficial member points out, by inflicting a fine on a Government railway, but any private individual can sue for damages.

HON. MR. OSBORNE—I understand that the Government can do no wrong and that they cannot be sued.

HIS EXCELLENCY—If the hon. member will look at Clause 17 he will see that the "Railway Administration" is liable for damages in a Court of law. The Government will desire to protect the Crown Lands, through which the train passes, from any risk of fire equally with private lands.

HON. MR. HEWETT — I take it, Your Excellency, that if a private company's railway destroys property they are liable to be called upon to pay compensation, but I do not see the advantage of compelling the Government to fine itself. It is merely taking money out of one pocket to put it in another.

THE COLONIAL SECRETARY—There can be damages.

HON. MR. OSBORNE—We do not want to put a farmer to the expense of suing the Government if the action can be prevented.

HIS EXCELLENCY—Damage by sparks is only one out of many kinds of damages that may occur on the railway. I am prepared to give a promise that regulations dealing with this matter shall be made. As my hon. and learned friend has informed the Council, the Government is entirely in sympathy with the object sought to be effected by the amendment proposed by the hon. member, but I am advised that it can best be done by means of a Regulation.

HON. MR. OSBORNE—I am satisfied with your assurance, Sir.

On Council resuming,

THE ATTORNEY-GENERAL moved that it be reported that the Bill had passed through Committee with slight amendments, and moved that it be read a third time.

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

Patents Amendment Ordinance

THE ATTORNEY-GENERAL—With reference to the next item on the orders of the day, the Committee on the Bill entitled An Ordinance to amend the Patents Ordinance, you will remember when last I spoke on the subject I stated that the Bill had

been sent to the Committee of the Law Society for consideration. The Bill is just returned to me and I have not had time to give consideration to the recommendations they have been good enough to make, I would ask that the Bill be postponed until next meeting.

HON. MR. HEWETT—With regard to what the hon. Attorney-General has just said, the Patents Bill is rather an important one and I trust you will agree—and I venture to suggest it might be a useful thing if Your Excellency agrees—to send the Bill to the Chamber of Commerce, because a good many members of that body would like to have an opportunity of expressing their opinion on it at the next meeting.

HIS EXCELLENCY—It has, I think, already been sent to the Chamber for their remarks?

THE ATTORNEY-GENERAL—It will be sent.

HIS EXCELLENCY — Council stands adjourned *sine die*.

FINANCE COMMITTEE

A meeting of the Finance Committee was then held, the Colonial Secretary presiding.

The following vote was passed:—

Police and Prison Vote

The Governor recommended the Council to vote a sum of One hundred and fifty Dollars (\$150) in aid of the vote, Police and Prison Departments, A. — Police, Other Charges, Furniture.

THE CHAIRMAN—It was suggested to Government some time ago, and it has been decided to make Mount Gough Police Station partly a sanitarium for the police, and \$150 is required to furnish extra utensils necessary.

Education

The Governor recommended the Council to vote a sum of One thousand nine hundred and seventy-six Dollars (\$1,976) in aid of the vote, Education, Other Charges, Grants, Principal Grants under Grant Code.