

27TH AUGUST, 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. 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 Nos. 37 and 38, 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. 12) and moved its adoption.

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

Paper

THE COLONIAL SECRETARY, by command of His Excellency the Governor, laid on the table the report of the Sanitary and Medical Department.

**Liquor Licence Discussion
Postponed**

THE COLONIAL SECRETARY moved the postponement of the resolution under section 6 of the Liquor Licences Extension Ordinance, 1908.

THE ATTORNEY-GENERAL seconded, and the motion was agreed to.

Laws Relating To Opium

THE ATTORNEY-GENERAL moved the first reading of a Bill entitled an Ordinance to amend and consolidate the laws relating to opium and its compounds.

THE COLONIAL SECRETARY seconded.

HIS EXCELLENCY—Gentlemen, the Bill which my hon. and learned friend has moved should be read a first time is one which has been rendered necessary because of certain defects in the existing Ordinances, especially in the matter of the treatment of morphia—in fact, the Ordinances as they stand are so confusing that it is doubtful if on some particular points they are not absolutely contradictory. It has been necessary, therefore, to introduce certain small amendments in order to clarify the existing

law. It was thought better while we were doing this to recast the whole of the laws in one Consolidated Ordinance in order that those who tender for the farm may know exactly what the existing law is.

I may add that in the consolidated Ordinance no new principle of any considerable importance is introduced. The amendments which have been made will be pointed out when we discuss the Bill clause by clause in Committee. It is important to bear in mind that unless we take this opportunity of introducing such amendments as are necessary in the Ordinance it will be practically impossible to do so for the next three years until the currency of the new farm determines, because any alteration, however small, when tenders are accepted, would vitiate the terms of the contract. By introducing this Ordinance we render it necessary to postpone the date on which the tenders should be sent in, and we propose to postpone the date until 30th September next. You will, therefore, see, gentlemen, that the matter is very urgent. We wish to give the tenderers as long notice as possible in order that they may study any small alterations in the law which may affect them. I shall, therefore, ask the Council at our next meeting to consider the Bill not only in Committee, but also to pass its third reading, solely with a view to getting it out as soon as possible in order not to delay the contract.

Since the Bill will involve no new principle, I trust it may be treated as non-contentious. The law as it exists, with the innovations recently introduced, has been the subject of various protests, but I trust it will not be found necessary by unofficial members to renew these protests. Finally, I may point out to you that the Bill which is now on the table is a further revise from the one circulated yesterday. There are a few minor alterations which it has been found necessary to make. The Bill, therefore, now laid on the table is the draft which hon. members should accept as the latest revise.

The motion was agreed to.

Kowloon Harbour Of Refuge

THE ATTORNEY-GENERAL moved the first reading of a Bill entitled an Ordinance to authorize the Construction and Maintenance of

a Harbour of Refuge upon and over certain portions of the Sea Bed and Foreshore situated upon the Harbour frontage at Taikoktsui, Mongkoktsui, and Yaumati, Kowloon, in this Colony.

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

Malicious Damage Amendment Ordinance

THE ATTORNEY-GENERAL moved the second reading of the Bill entitled an Ordinance to amend the Malicious Damage Ordinance, 1865. In doing so he said— This Bill safeguards injuries to railways and tramways, and imposes penalties upon persons who commit acts of malicious damage in regard thereto. The principal Ordinance, that is to say, the Ordinance which deals with malicious damages to property — the Ordinance of 1865 — did not contain any provision such as is in the present Bill against persons who commit acts of malicious damage on railways or tramways. The reason of that, of course, is obvious to the Council. We had not arrived at the progressive stage we have now reached of having tramways and a railway nearing completion. Equally proper is it that the insertion of clauses providing safeguards that are necessary should now be made. The second part of the Bill relates to malicious damages to trees on Crown lands, and provides for the punishment of persons who cause malicious damage to such property. There always has been such a provision, but the mode of procedure for imposing, and more especially for collecting, a penalty has not been a good one. This is particularly the case with regard to the New Territories, where the villages are not assessed in the same way as assessments are made on the Hongkong side. To collect a fine at present you have to have a special assessment made of property in the New Territories, which is more trouble than it is worth. We propose to give the Governor power to impose a fine payable by the inhabitants, and which is leviable upon the registered property and collected in the same way as rent is collected.

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

HON. MR. OSBORNE, speaking on clause 3, asked—Does that mean that if a boy puts a stone on the tramway line he be imprisoned for life?

HIS EXCELLENCY—If he does it with the deliberate object of upsetting a tram. If it is not done with intent he is not liable.

HON. MR. OSBORNE—A child putting a stone on the tram line does no harm to the tramway?

THE ATTORNEY-GENERAL — There must be intent.

HON. MR. OSBORNE—But the clause says such person may be imprisoned for life.

THE ATTORNEY-GENERAL —First of all, intent must be established. It is exactly the same provision as is in force in England.

HON. DR. HO KAI—I think the first part of the clause applies to train-wreckers. The rest deals with the casual offender, whose term of imprisonment is not to exceed two years.

HON. MR. OSBORNE—It is a very different thing to put a sleeper on a line where an express train is running than to put stones on a tram line.

HIS EXCELLENCY—Do I understand your objection is that this clause ought only to be applicable to a railway, and not to a tramway?

HON. MR. OSBORNE—My objection is to this excessive punishment of an ignorant coolie who puts a stone on a tram line.

THE ATTORNEY-GENERAL — No coolie, however ignorant, can put a stone on a tram line without intent.

HON. MR. OSBORNE — There is no danger to life by putting a stone on a tram line.

THE ATTORNEY-GENERAL — There might be.

HON. MR. OSBORNE — The section is curiously worded. The lowest penalty is two years.

THE ATTORNEY-GENERAL—The penalty does not exceed that. It may be a day or an

hour. That is the maximum.

HON. MR. STEWART—The two clauses refer to different grades of maliciousness. This is not clear from the wording.

THE ATTORNEY-GENERAL — It is quite clear.

HON. MR. STEWART—Insert "or in the case of minor offences."

THE ATTORNEY-GENERAL—I prefer to leave it as it is. It is copied exactly from the English statutes.

HON. MR. OSBORNE — It is distinctly worded here that if a coolie puts a stone on the tram line he is liable, at the discretion of the Court, to be imprisoned for life, or for a term of not less than two years.

THE ATTORNEY-GENERAL—One portion of the offence is the unlawful and malicious obstruction of a railway with intent. You have got to prove all that to the satisfaction of a jury, or a man cannot be convicted. When that is proved the Court deals with the case as circumstances require, and makes the punishment fit the crime. I don't think we need trouble ourselves about this when it has been in force in England for 34 years.

HON. MR. OSBORNE—Railways have been in England for a long time, but in the New Territory people have not learned how to behave towards them. I want it to be made clear that a coolie who puts a small stone on a tram line cannot be imprisoned for three years.

HIS EXCELLENCY—Do you wish to move any amendment?

HON. MR. OSBORNE—No, Sir.

THE ATTORNEY-GENERAL — The matter can be left to the magistrate to give a fitting punishment.

HON. DR. HO KAI objected to clause 5, holding it unfair to make the owners of land liable to a fine for injuries to trees by the inhabitants of a village. Owners may reside miles away from the scene, and should

not be held responsible. He could understand making the village elders or headmen responsible.

HON. MR. OSBORNE, on the last clause of the Bill, objected to the principle of making a landlord liable for damage done by a tenant. It was the same principle which had made the sanitary laws in the Colony so objectionable.

THE ATTORNEY-GENERAL said he could see no alternative.

HIS EXCELLENCY—We will leave the Bill in Committee, and consider whether it is feasible to make alteration in the wording of this clause. The difficulties are that on the one hand villages in the N.T. are not liable to the Rating Ordinance, and therefore you cannot, by way of fine, increase an assessment which is non-existent, and on the other hand, that the persons who do this malicious damage can not be caught, but the responsible persons in the village must be well aware who they are.

Rating Ordinance Amendment

THE ATTORNEY-GENERAL moved the second reading of the Bill entitled an Ordinance to amend the Rating Ordinance, 1907.

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

Council then resolved itself into Committee.

On the second clause exempting any village or area in the New Territory from exemption,

HON. MR. GRESSON said—Why is there no reason stated?

THE ATTORNEY-GENERAL—There is the memorandum.

HON. MR. STEWART—It does not say why.

THE ATTORNEY-GENERAL — The reason is that in the New Territory there are places where the cost of assessment would exceed the amount collected for the rates.

HON. MR. OSBORNE — That would attract people to the New Territories.

THE ATTORNEY-GENERAL—It is only giving the power to the Council by resolution if good cause be shown to make certain exemptions. Most of the houses in the New Territory are of less than rateable value.

The clause was passed.

Council resumed, and it was reported that the Bill passed through committee.

Bills Postponed

THE ATTORNEY-GENERAL asked leave to postpone the second reading of the Tramway Ordinance and the Liquor Licences Ordinance.

Agreed to.

Dog Ordinance

THE ATTORNEY-GENERAL moved the second reading of the Bill entitled an Ordinance to amend the Dogs Ordinance, 1893. In doing so he said—The memorandum attached to the Bill indicates its object. It is really to provide a home for wandered or lost dog, where they may be kept and maintained. The home will be subject to the supervision of the police, and the dogs kept in such home shall not be liable to the dog tax. The bill provides that the fee for dog licences shall be three dollars instead of a dollar and a half. It is not a new proposal, being taken from the Ordinance of 1893. We imported it into this Ordinance.

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

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

With reference to the fee to be charged for a dog licence.

HON. MR. OSBORNE—Why is it increased?

THE ATTORNEY-GENERAL — It is not increased.

HON. MR. STEWART—Can we increase it now?

THE ATTORNEY-GENERAL — Yes, if you wish.

HON. MR. OSBORNE — A chance for revenue.

HON. MR. BADELEY—It would be very small.

HON. MR. STEWART—I think the privilege of keeping a dog is one that should be paid for. I move that the fee be five dollars instead of three.

HON. MR. WEI YUK—Three dollars is enough. As a matter of fact, it is too much for a watch dog.

\$100 is not too much for a fancy dog.

HON. MR. BADELEY — What about three dollars for the first dog and five dollars for the second?

HON. MR. OSBORNE—Make it more.

HON. MR. STEWART — That's a good suggestion. We might make it one dog three dollars, two dogs nine dollars, doubling the fee for each additional dog.

HIS EXCELLENCY—It might be rather hard to prove for what purpose a dog is being kept, viz., whether it is a watch dog or a "fancy" dog, and there are certain villages in the New Territory where dogs are kept for food. But this Ordinance does not apply to the N.T.

HON. MR. STEWART — I withdraw my amendment. On clause 3 it was suggested that there should be a limit to the number of permits granted.

HIS EXCELLENCY—I will explain the origin of this Bill. The Rev. Mr. Hickling called upon me some time ago and asked permission to start a dogs' home in order to prevent cruelty to dogs. I do not suppose any rival home is likely to be started.

The clause was passed.

On Council resuming, it was reported that the Bill had passed through Committee.

Cemetery Ordinance

THE ATTORNEY-GENERAL moved the second reading of the Bill entitled An Ordinance to set apart certain Crown land to be used as a burial ground for persons professing the Christian religion, other than members of the Roman Catholic Church. In doing so he said—The object of this Bill is to set apart a portion of land for a cemetery for the burial of persons professing the Christian religion other than those of the Church of Rome, which body had been in possession for years of a portion of the English cemetery. The other part of the cemetery has been open for the burial of persons of the Christian religion, but there has been no positive proscription against the interment therein of any person whatever professed during his lifetime, and it has been represented to the Government that it would be well if a portion of this land should now be formally set apart by law for the interment of persons professing the Christian religion other than Roman Catholics. The Bill now before you is designed to give effect to that object. I may add that already other bodies than Christians have had portions of land set apart for the burial of their dead. There is the Mohammedan Cemetery, the Jewish Cemetery, the Parsee Cemetery, and so on. I move that the Bill be now read a second time.

THE COLONIAL SECRETARY seconded.

HIS EXCELLENCY — With reference to what the hon. and learned member has said in explanation of the memorandum stating the object of this Bill, I would say that the only reason for excluding Roman Catholics is that they have a cemetery of their own.

HON. DR. HO KAI—Is it a new piece of land?

THE ATTORNEY-GENERAL—No. It is the old Colonial Cemetery.

The motion was agreed to.

Council then went into Committee.

THE ATTORNEY-GENERAL said that he proposed to leave the Bill in Committee for the present owing to the circumstance that difficulties had arisen in connection

with another portion of land which it was intended to set aside for the burial of Buddhists. A difficulty had arisen as to the means of access, and in consequence the plan had not been completed.

HON. MR. STEWART said His Excellency had been good enough to tell the Council the origin of the Bill for a dogs' home. Might they have some hint as to the need for this Ordinance?

HIS EXCELLENCY—I think everybody is aware of the fact that there has been a good deal of discussion at the Sanitary Board and elsewhere on the subject of Chinese interment in the Colonial Cemetery. The Colonial Cemetery, so far as I can ascertain from a study of the archives has always been open to any person irrespective of race or creed. It has now been desired that there should be a certain portion set aside for Christian interment. The Bishop presented to me a joint request from the representatives of the Church of England and various denominations of the Colony that a portion of the Colonial Cemetery should be dedicated for Christian burial.

Hon. Mr. OSBORNE—Protestants?

HIS EXCELLENCY — Any Christians except Roman Catholics.

HON. MR. STEWART — It excludes Roman Catholics. They have now, I take it, a right to be interred there.

HIS EXCELLENCY — They have a cemetery of their own.

HON. MR. OSBORNE—Does it mean the different sects of the Protestant religion.

THE ATTORNEY-GENERAL — It means persons professing the Christian religion. It would include Presbyterians—

HON. MR. STEWART — What about members of the Greek Church, and of the Armenian Church? Would it include Nestorian Christians?

THE COLONIAL SECRETARY said that members of the Greek Church and of the Armenian Church could not be described as Protestant.

HON. MR. STEWART—That's my point.

THE ATTORNEY-GENERAL stated that it was only the Protestants who would be affected by the Bill.

HON. MR. STEWART—But the preamble of the Bill includes members of the Armenian Church.

THE ATTORNEY-GENERAL—Yes.

HIS EXCELLENCY—I think it is a matter to be left to the Ecclesiastical authorities. They desire that this portion should be dedicated, and they are willing to agree that persons of the Christian religion shall be buried in it with the exception of Roman Catholics, who have their own cemetery.

HON. MR. STEWART—If it is as wide as that, the title of the Bill conflicts with the memorandum.

HIS EXCELLENCY — Yes, the memorandum is wrong. I propose to leave the Bill in Committee for the reason that the plan, which is an integral part of it, is not yet ready. I shall be very glad to show the hon. member the letter which was presented to me by the Bishop on behalf of the Church of England and in the name of the various denominations, and signed by the leading churchmen of all sects.

Council then resumed.

Ministerial Duties

THE ATTORNEY-GENERAL moved the second reading of the Bill entitled An Ordinance to relieve the Governor-in-Council of certain ministerial duties. In doing so he said—The object of this Ordinance is to invest in the Governor certain ministerial duties which at present require the assembling of the Executive Council. The various duties are in connection with several Ordinances set out in the schedule. All are absolutely what are called ministerial duties, and it is purely for the convenience of the Government that the alteration suggested should be made.

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

Council then went into Committee on the Bill.

His EXCELLENCY explained that this Bill dealt with matters which it was not considered necessary should be brought before the Executive Council, as they were purely formal. The obligation to have the *pro formâ* consent of the Governor-in-Council led inevitably to a tendency to summon *quorum* meetings, a procedure to which he was averse. All matters which were of sufficient importance to bring before the Council at all should be considered by the whole Council, but that body was composed of men these time was valuable, and it should not be summoned for purely *pro formâ* business. It was therefore proposed to substitute the Governor for the Governor-in-Council in such cases.

HON. Mr. GRESSON—On looking through the Bill the first thing that attracts my attention is the Merchant Shipping Ordinance of 1899. We have got no means of going through that just now. We are passing things in the dark. The Ordinance is not before us, so that we do not know what powers we are giving up. It seems to me very much like putting your name to a document you do not understand to agree to a schedule. When we discuss it Council can cross out each Ordinance referred to if it so desires.

HON. Mr. OSBORNE—Could'nt a short summary be prepared to show what has been give up?

HON. Mr. STEWART—I would suggest that the Bill be left in Committee to enable us to refer to these Ordinances.

His EXCELLENCY—Certainly.

The Bill was left in Committee.

Council then resumed.

His EXCELLENCY — Council stands adjourned until Wednesday next.

FINANCE COMMITTEE

A meeting of the Finance Committee was then held, the Colonial Secretary presiding. The following vote was passed:—

Sanitary Department

The Governor recommended the Council to vote a sum of Six hundred Dollars (\$600) in aid of the vote, Sanitary Department, Other Charges Sanitary Staff, Head Stones.

Public Works Extraordinary

The Governor recommended the Council to vote a sum of Eighteen thousand Dollars (\$18,000) in aid of the vote, Public Works, Extraordinary. Causeway Bay Typhoon Refuge, Deepening shallow area to one foot below Ordinance Datum.
