

5TH MAY, 1910.

PRESENT:—

HIS EXCELLENCY THE OFFICER ADMINISTERING THE GOVERNMENT, HON. SIR F. H. MAY, K.C.M.G.

HIS EXCELLENCY COLONEL C. W. R. ST. JOHN (Officer Commanding the Troops).

HON. MR. A. M. THOMSON (Colonial Secretary).

HON. MR. C. McI. MESSER (Colonial Treasurer).

HON. MR. W. CHATHAM, C.M.G. (Director of Public Works).

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

HON. MR. F. J. BADELEY (Captain Superintendent of Police).

HON. MR. WEI YUK, C.M.G.

HON. MR. E. A. HEWETT.

HON. MR. M. STEWART.

HON. MR. E. OSBORNE.

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. 27 to 31), and moved that they be referred to the Finance Committee.

THE DIRECTOR OF PUBLIC WORKS seconded, and the motion was agreed to.

Papers

THE COLONIAL SECRETARY, by command of His Excellency the Governor, laid on the table the following papers: Report of the Director of the Observatory for 1909; and the Report of the Education Committee for the same year.

Financial

THE COLONIAL SECRETARY, by command of His Excellency the Governor, laid on the table the report of the Finance Committee (No. 3), and moved its adoption.

THE DIRECTOR OF PUBLIC WORKS seconded, and the motion was agreed to.

Questions

HON. MR. MURRAY STEWART — Your Excellency, I beg leave to give notice that at the next meeting I shall ask the following questions:—

(a) Did the Governor of the Colony, in this Council, on the 20th July, 1903, accurately state the intentions of the Government when he said, "As regards the ground in front of the Club, I hope that nothing will ever be built upon it. I propose that that ground shall be made a public garden. . . . My idea is that the ground shall be preserved as an open space entirely and add to the beauty of the place"?

(b) Did the Honourable the Director of Public Works (then, as now, Mr. Chatham) at the official ceremony of laying the foundation-stone of the new Law Courts, on November the 12th, 1903, in the presence of the Governor of the Colony, the Hon. the Colonial Secretary (then Mr., now Sir Henry May), and many other high Government officials, accurately state the intentions of the Government when he read from a written document this announcement: "The area to the north of this will, therefore, remain unbuilt upon, and an almost unrivalled site for the Courts, having regard to the open spaces which will adjoin them on three sides, will thus be created"?

(c) Did His Excellency Sir Frederick Lugard accurately state the intentions of the Government when, on the 28th October, 1909, he said in this Council, in reply to a question whether the Government would undertake to have the plot in question cleared and made presentable, as soon as it was no longer necessary to the work on the Law Courts and Post Office to maintain it in its present untidy state: "the present intention of the Government is to clear the plot as soon as it can be done"?

(d) In view of these seemingly authoritative statements, not easily to be thought of as irresponsible utterances, is it, on consideration, really incomprehensible to high Government officials how an impression was created in the public mind which led to many hearing with surprise of the recent decision to sell to a private purposes, for building purposes, the site in question?

These questions, Sir, I had intended to ask at this meeting, but I did not receive the notice calling the meeting until Tuesday afternoon. May I suggest that, after the Council has been adjourned *sine die*, sufficient notice of the next meeting should be given to enable members who have questions to ask, or resolutions to bring forward, to comply with the rule making it necessary to give three clear days' notice of such business.

HON. MR. OSBORNE—I beg, Sir, to endorse the remarks as to giving notice.

HIS EXCELLENCY—The last question which the hon. member asks is, I am afraid, not in order. You cannot invite an expression of opinion. It is a matter of opinion whether such an impression could be created or whether it could not. I am sorry hon. members did not receive longer notice of the meeting. I thought it was an understood thing that the session would go on until the business was disposed of. However, the desire of hon. members will be borne in mind and more notice will be given in future.

Squatters' Amendment Ordinance

THE COLONIAL SECRETARY moved the first reading of a Bill entitled, "An Ordinance to amend the Squatters' Ordinance, 1890."

THE COLONIAL TREASURER seconded, and the Bill was read a first time.

This Bill repeals the Squatters' Amendment Ordinance, 1909, and gives effect to instructions of the Secretary of State for the Colonies, who is of opinion that the question of compensation to claimants should be left to the Squatters' Board and not wholly to the Director of Public Works.

The Pharmacy Amendment Ordinance

THE COLONIAL SECRETARY moved the second reading of the Bill entitled, "An Ordinance to amend the Pharmacy Ordinance, 1908." In doing so he said—From the printed reasons adhered to the Bill it will be seen that this measure provides a procedure for searching for poison, as defined by clause 2, which there is good reason to believe is in the possession of any person contrary to the provisions of the principal Ordinance. It is proposed in the first instance that the Ordinance shall apply only to cocaine, eucaine and like substances and their preparations. Clause 15 empowers the Governor-in-Council to make regulations for the purpose of controlling the sale, possession, importation and exportation of poison, and it provides a specific penalty on violation of regulations made under the principal Ordinance. Clause 16 enables the Governor-in-Council to add to or remove from Schedule A of the principal Ordinance any article declared to be a poison. Clause 17 provides alternative and more drastic penalties for concealing or selling poisons as defined or for violating any regulation made as to the possession, importation or exportation of such poisons.

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

Council then resolved itself into a Committee of the whole Council to consider the Bill clause by clause.

On resuming,

THE COLONIAL SECRETARY proposed that the Bill be left in Committee, and this was agreed to.

Merchant Shipping Further Amendment Ordinance

THE COLONIAL SECRETARY moved the second reading of the Bill entitled, "An Ordinance further to amend the Merchant Shipping Ordinance, 1899." In doing so he said—By Ordinance No. 9 of 1909, section 41 was amended by declaring that Acts hereafter passed amending the Merchant Shipping Act, 1894, shall be in force in the Colony. It is desirable that the principal Ordinance be further amended by declaring that the said Acts shall be in force in the Colony only if they are not inconsistent with the provisions of the principal Ordinance.

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

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

On resuming,

THE COLONIAL SECRETARY reported that the Bill had passed through Committee without amendment, and, no one objecting, he proposed that it be read a third time.

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

Malicious Damage Amendment Ordinance

THE COLONIAL SECRETARY moved the second reading of the Bill entitled, "An Ordinance to amend the Malicious Damage Ordinance, 1865." In doing so he said—It will be within the recollection of the Council that a Bill was passed in 1909 practically on similar lines to this one. This Bill repeals the Malicious Damage Amendment Ordinance, 1909, and re-enacts Part I. without any amendment. Part II. is amended by declaring that the Governor-in-Council instead of the Governor shall impose the fine which is payable under section 5. Before the matter is submitted to the Governor-in-Council for decision, an inquiry is to be held by the District Officer and an Assistant District Officer, in order to give the persons on whom the punishment may fall a full opportunity of being heard.

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

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

On clause 5,

HON. MR. STEWART asked—Is it the intention to include incendiarism in "otherwise damaged or destroyed"?

HIS EXCELLENCY—Yes.

HON. MR. STEWART—Wouldn't it be better to state it, seeing it is a frequent cause of damage?

HON. MR. HEWETT—Is this Bill being applied to the whole Colony, or only to the New Territory north of the hills, and not the Island?

HIS EXCELLENCY — To the whole Colony.

HON. MR. HEWETT—Then it states "a district officer," and there is no district officer in Hongkong or at Kowloon Point.

HIS EXCELLENCY—We had only the New Territory in mind when this was framed.

HON. MR. HEWETT—That I understand, but I thought it might raise trouble later on if the wording was left as it is. I would suggest that this particular clause be held over for reference to the Attorney-General.

HIS EXCELLENCY — You are quite right. We will have to make some alteration in it.

The clause was held over as suggested, and the Bill was left in Committee.

Opium Amendment Ordinance

THE COLONIAL SECRETARY moved the second reading of the Bill entitled, "An Ordinance to amend the Opium Ordinance, 1909." In doing so he said—The whole of the opium laws were amended and consolidated by the Opium Ordinance of 1909, which came into force in March of this year. Since that date it has been discovered that the consolidating Bill is defective, and that the Government monopoly is not protected as it should have been. This Bill amends the Opium Ordinance, 1909, by declaring that it is an offence to be in possession of morphine or compound of opium unless it is exempt from the provisions of the Ordinance or is obtained in accordance with any regulations made thereunder. Clause 3 of the Bill amends section 56 of the principal Ordinance by making it quite clear that the Governor-in-Council has power to exempt any medicine from one or more of the provisions of the Ordinance. Clause 4 of the Bill amends section 85 of the principal Ordinance by declaring that the appropriation of penalties referred to therein should also relate to morphine and compounds of opium.

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

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

THE COLONIAL SECRETARY said he proposed to substitute the following clause for clause 4, and to re-number clause 4 clause 5:—

The following section numbered 79a is hereby inserted after section 79 of the principal Ordinance: "79a. At the hearing of any charge under this Ordinance the production of the certificate of the Government Analyst shall be sufficient evidence of the facts therein stated unless the defendant requires that the Analyst should be called as a witness, but if the defendant shall require the Analyst to be called the Magistrate may order him, in addition to any other penalty, to pay a fee of \$25 for the attendance of the Analyst, such fee to be recoverable in the same way as the penalty imposed under this Ordinance is recoverable, and to be paid into the Treasury."

Council then resumed.

THE COLONIAL SECRETARY—As it is a matter of some importance that this Bill should come into force as soon as possible, I beg to move that the Standing Orders be suspended, and that the Bill be read a third time.

THE COLONIAL TREASURER seconded

HIS EXCELLENCY—The new clause introduced is to save the Analyst from continually attending Court. The same provision occurs in the Liquor Ordinance, so that the certificate of the Analyst can be received in evidence without him personally attending.

HON. MR. STEWART—In the event of the case going in favour of the defendant, I presume he would not have to pay this fee?

HIS EXCELLENCY—No. If he is not convicted there will be no penalty and no additional fee.

HON. MR. STEWART — I think you want something put in to indicate that it is only in the event of a man being found guilty that he shall pay. This does not make it clear that he shall not pay if he is not guilty.

THE COLONIAL SECRETARY — In case a defendant called the analyst whose report was already in his favour ought he not to have to pay the fee whether convicted or not?

HON. MR. HEWETT—The fee is only enforced and recoverable in the event of a man having to pay some other penalty. It seems to me quite clear.

HON. MR. STEWART—It is not clear. The Hon. Colonial Secretary has just said a man would have to pay even if he were innocent.

HIS EXCELLENCY—The clause says that the Analyst shall not be called unless the defendant require that he should be called, and if the defendant shall require the Analyst to be called the Magistrate may order him, in addition to any other penalty, to pay the fee of the Analyst. So it is quite clear it is in the discretion of the Magistrate, and if there is a conviction the defendant may have to pay the Analyst's fee.

HON. MR. STEWART—As I understand you, he has to pay that fee in any case?

HIS EXCELLENCY—No. This section is word for word with a similar section in the Liquor Ordinance.

HON. MR. STEWART—If there is any doubt, why not make it quite plain?

HIS EXCELLENCY—I don't think there is any doubt.

HON. MR. HEWETT—The section is quite clear.

HON. MR. STEWART—There are two members who see a possibility of doubt being thrown upon it, and I propose that the words "if convicted" should be inserted.

THE COLONIAL SECRETARY — We cannot insert it now. The motion before the meeting is the suspension of the Standing Orders.

HON. MR. STEWART—Then I will vote against it.

HIS EXCELLENCY—If you read the clause again I think you will see it is as plain as English can be.

HON. MR. STEWART—It is perfectly clear that if he is convicted he will have to pay.

HIS EXCELLENCY—He may have to pay.

HON. MR. STEWART—It is not clear that if the defendant is acquitted he gets off paying.

HIS EXCELLENCY—You had better let the matter stand over until the Attorney-General is here to argue the point with you.

THE COLONIAL SECRETARY'S motion was allowed to stand down.

Magistrates' Amendment Ordinance

THE COLONIAL SECRETARY moved the second reading of the Bill entitled, "An Ordinance to amend the Magistrates' Ordinance, 1890." In doing so he said—By section 4 of the Bill an accused committed for trial between the tenth and eighteenth days of any month inclusive shall be tried at the Criminal Sessions commencing on the eighteenth day of the next month. The object of this section is to give the Attorney-General and Crown Solicitor sufficient time to prepare the cases for the Sessions. This Bill also substitutes a new section for section 86 of the Magistrates' Ordinance, 1890, which is introduced at the instance of the Secretary of State. By sub-section 1 of the new section the Magistrate is empowered to whip youths and also to imprison them only in the cases of simple larceny, assault occasioning actual bodily harm and indecent assault. By sub-section 2, where the youth is convicted of any offence other than an offence specified in sub-section 1, such youth may be whipped in lieu of any other punishment to which the offender is liable. Where a youth has been ordered to be whipped in lieu of imprisonment the Magistrate shall also order him to be detained in prison for a period not exceeding forty-eight hours.

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

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

After the clauses had been considered the Bill was left in Committee, and the Council resumed.

HIS EXCELLENCY—Council stands adjourned until this day week.

FINANCE COMMITTEE

A meeting of the Finance Committee was held afterwards—the Colonial Secretary presiding. The following votes were passed:—

Observatory

The Governor recommended the Council to vote a sum of One hundred and twenty Dollars (\$120) in aid of the vote, Observatory, Other Charges, Bombs and Tubes for making urgent typhoon signals.

Public Works

The Governor recommended the Council to vote a sum of two hundred and twenty-five dollars (\$225) in aid of the vote, Public Works, Extraordinary, Miscellaneous, Furniture for the District Office, Taipo.

Police And Prison Departments

The Governor recommended the Council to vote a sum of nine thousand eight hundred and fifty-two dollars and twenty-five cents (\$9,852.25) in aid of the vote, Police and Prison Departments, Special Expenditure, Fire Brigade, Floating Fire Engine.

Miscellaneous Services

The Officer Administering the Government recommended the Council to vote a sum of six hundred dollars (\$600) in aid of the vote, Miscellaneous Services, Dr. Eitel's Chinese-English Dictionary for Cadets.

HON. MR. HEWETT—Do these dictionaries become the property of the cadets?

THE CHAIRMAN—They are supposed by the regulations to keep up the study of Chinese, and if they use these books for thirty years by that time the edition will be out of date.

Compiling Regulations

The Officer Administering the Government recommended the Council to vote a sum of One hundred and fifty Dollars (\$150) in aid of the vote, Miscellaneous Services. Balance of fee to Crown Solicitor for compilation of existing Regulations and Orders-in-Council.