

23RD MAY, 1912.

PRESENT:—

HIS EXCELLENCY THE OFFICER ADMINISTERING THE GOVERNMENT, HON. MR. CLAUD SEVERN.

HIS EXCELLENCY THE GENERAL OFFICER COMMANDING THE TROOPS, MAJOR-GENERAL C. A. ANDERSON, C.B.

HON. MR. C. CLEMENTI (Colonial Secretary).

HON. MR. C. G. ALABASTER (Attorney-General).

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

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

HON. MR. E. R. HALLIFAX (Registrar-General.)

HON. CAPT. F. J. BADELEY (Captain-Superintendent of Police).

HON. SIR KAI HO KAI, M.D. C.M.G.

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

HON. MR. H. E. POLLOCK, K.C.

HON. MR. C. H. ROSS.

HON. MR. E. OSBORNE.

HON. MR. MURRAY STEWART.

MR. R. H. CROFTON (Clerk of Councils).

Minutes

The minutes of the previous meeting were read and approved.

New Member

THE HON. MR. MURRAY STEWART took the oath and assumed his seat as a member.

Financial Minutes

THE COLONIAL SECRETARY, by command of His Excellency the Officer Administering the Government, laid on the table Financial Minute No. 23, and moved that it 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 Officer Administering the Government, laid on the table the report of the Finance Committee (No. 5), and moved its adoption.

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

Papers

THE DIRECTOR OF PUBLIC WORKS, by command of His Excellency the Officer Administering the Government, laid on the table the report of the Public Works Committee.

The Revised Ordinances

THE COLONIAL SECRETARY—I have to inform hon. members that two volumes of the Laws of Hongkong which have been prepared by Sir Francis Piggott are laid on the table, and to give notice that at next meeting of the Council I shall move that in accordance with section 8 (2) of the Statute Laws (New Revised Edition) Ordinance, 1911, the new Revised edition of the Laws of Hongkong prepared by Sir Francis Taylor Piggott and now laid before this Council be approved.

Law Revision (Supplementary Ordinance, 1912)

THE ATTORNEY-GENERAL moved the first reading of a Bill entitled, "An Ordinance to amend the Law Revision Ordinances, 1911 and 1912, and for further revision." In doing so he said— This Ordinance, which has been drafted by the editor now engaged in the revision, is one of the last three revision Ordinances. It represents a revision of the Ordinances relating to Law Revision.

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

THE ATTORNEY-GENERAL then moved the suspension of so much of the Standing Orders as was necessary to enable the Bill to pass all its stages that day.

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

THE ATTORNEY-GENERAL moved that the Bill be read a second time.

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

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

On Council resuming,

THE ATTORNEY-GENERAL reported that there had been no amendments and moved that the Bill be read a third time.

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

Law Revision (Supplementary) Ordinance, 1912

THE ATTORNEY-GENERAL moved the first reading of a Bill entitled, "An Ordinance to amend the Law Amendment Ordinances, 1911 and 1912, and for further revision." He said this Bill, which has, like the last, been drafted by the editor, has the same effect on the law Amendment Ordinances as the last Bill had on the Law Revision Ordinances, namely, that it revises them.

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

THE ATTORNEY-GENERAL moved that so much of the Standing Orders be suspended as would enable the Bill to pass through all its stages that day.

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

THE ATTORNEY-GENERAL then moved the second reading of the Bill.

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

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

On Council resuming,

THE ATTORNEY-GENERAL reported that there had been no amendments and moved that the Bill be read a third time.

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

General Revision (Amendment) Ordinance, 1912

THE ATTORNEY-GENERAL moved the first reading of a Bill entitled, "An Ordinance to amend the General Revision Ordinance, 1912, and for further revision." In doing so he said— This Bill, like the other two, is drafted by the editor. It is the last of the series and revises the General Revision Ordinance, 1912.

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

THE ATTORNEY-GENERAL moved that so much of the Standing Orders be suspended as would enable the Bill to pass through all its stages that day.

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

THE ATTORNEY-GENERAL moved the second reading of the Bill.

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

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

On Council resuming,

THE ATTORNEY-GENERAL reported that there had been no amendments, and moved that the Bill be read a third time.

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

The Copyright Repeal Ordinance, 1912

THE ATTORNEY-GENERAL moved the second reading of a Bill entitled, "An Ordinance to repeal certain enactments relating to the Law of C o p y r i g h t . " I n

doing so he said—The object and scope of this Bill were explained on the first reading and also in the memorandum attached to the Bill. As that speech and memorandum have been printed in *Hansard* I do not propose to say anything further.

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

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

On Council resuming,

THE ATTORNEY-GENERAL reported that the Bill had passed through Committee without amendment, and moved that it be read a third time.

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

The Full Court Ordinance 1912

THE ATTORNEY-GENERAL moved the second reading of a Bill entitled, "An Ordinance to make provision for the reconstitution of the Full Court." In doing so he said—For years in this Colony there has been criticism of the system of appeals from the decisions of Judges of First Instance. That system involves an appeal from one Judge to himself and another, and it gives the Chief Justice two votes to the Puisne Judge's one. The result is that no appeal from the Chief Justice can be reversed in this Colony unless he changes his mind. Yet the system requires that anybody who wishes to carry his case further and to appeal to the Privy Council must go to the expense of an appeal to the Full Court of this Colony, and give the Chief Justice an opportunity of changing his mind. That system has been described by your predecessor in that chair as a farce, but this Bill is, I think, the first attempt to crystallise that criticism, and whether that crystallisation is one that will commend itself to members or not is not for me to say, but it is the intention of the Government to refer this Bill, after the second reading, to the Law Committee, so that the learned members of that Committee will have an opportunity of shaping its clauses. The Bill makes provision for the rules which are to apply when three judges in the permanent service of the Colony are available, but inasmuch as three Judges in the

permanent service of the Colony are not yet available, it also makes provision for the rules which are to apply meantime. These rules will ensure that in every case of importance two Judges who are fresh to the case will sit on the appeal. It is the intention that the temporary Judge shall be generally a Judge of His Britannic Majesty's Supreme Court in China, and an arrangement has been made, with the sanction of the Secretary of State for Foreign Affairs, whereby the services of Sir Havilland de Sausmarez will be lent to this Colony, but in the event of it being impossible to obtain the services of Sir Havilland or some other Judge of that Court, the Bill makes provision for the temporary appointment of someone in this Colony who, though not a Judge, a permanent Judge, is qualified for judicial appointment. This person may either be a barrister already in the service of the Crown in some other position, or else a member of the local Bar, as the circumstances dictate and as it may appear to the Government advisable.

THE COLONIAL SECRETARY seconded.

HON. MR. OSBORNE—I beg to move as an amendment that the second reading of this Bill be postponed until the next meeting of the Council. There has been circulated within the last few hours among hon. members two rather lengthy—or rather one lengthy memorandum and one shorter—in which are expressed the views of the local committee of the Law Society, and although, sir, this Bill is primarily one that concerns the legal fraternity, yet it involves principles which are of considerable interest to the community at large, and I think hon. members would like the opportunity of weighing the pros and cons of these memoranda before they proceed to the second reading.

HON. MR. POLLOCK—If it had not been that the Attorney-General had said that he was going to move that this Bill be referred to the Law Committee of the Council, I should have supported the motion of my hon. friend opposite, but in view of the fact that it would involve a delay of several days, I think that will

be sufficient delay for the Bill as a whole to be considered with the various points referred to in that memorandum. I understand that it is desirable that this Bill should be passed at a fairly early date, and I think the course that the Attorney-General has suggested is quite a reasonable one.

HON. MR. STEWART—If the second reading of the Bill is passed the Council commits itself to the principle of the Bill. I understand that the hon. member on my left desires that the principle of the Bill should be reconsidered, and I for one would value this concession on the part of the Government, as I would myself like to have an opportunity of going into the whole question. The hon. member who represents the Justices has said that he understands that it is desirable that there should be no delay, but, sir, the Attorney-General opened his speech by reminding the Council that this question has been under discussion for years. I remember speaking on the subject myself, I think in 1908, when I had the honour of representing the Chamber of Commerce before, and the Chamber of Commerce then requested me to indicate to this Council their approval of the idea of having a Judge down from Shanghai. But, sir, the fact that we have been thinking over it all these years seems to me to dispose of the plea of urgency which the hon. member who represents the Justices of the Peace advanced. I ask the Government to accede to the request of my hon. friend who sits on my left. I beg that you will delay taking the second reading for a week.

HIS EXCELLENCY—I am sure the members of this Council are very glad to see the hon. member at the end of the table among us again and to have the benefit of his experience in this Colony. The Government are not prepared to forego the second reading at this meeting, as the principle of the Bill is set out in the heading, and as the Bill has had the approval of the Secretary of State for the Colonies and the Secretary of State for Foreign Affairs, and is also agreed to by the community. The Bill, after its second reading, will be referred to the Law Committee, as has been stated by the Attorney-General, and after the Law Committee have reported on it, the Council will have a further opportunity in the usual way of considering it again in Committee. I have not had an opportunity of reading the memorandum which the hon. member produced

just now, but no doubt I shall have an opportunity of doing so before long. The Government proposes to proceed with the second reading now.

Council then divided, the amendment, which was supported by Hon. Mr. Osborne and Hon. Mr. Stewart, being defeated by 11 votes to 2.

The motion was then agreed to, and the Bill was read a second time.

THE ATTORNEY-GENERAL moved that the further consideration of the Bill be referred to the Standing Law Committee.

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

HIS EXCELLENCY—I nominate Hon. Mr. Murray Stewart as a member of the Law Committee, in place of Hon. Mr. Hewett.

Supplementary Estimates

THE ATTORNEY-GENERAL moved the third reading of a Bill entitled, "An Ordinance to authorize the appropriation of a supplementary sum of one hundred and sixty-three thousand eight hundred and ninety-six dollars and ninety-three cents, to defray the charges of the year 1911." In doing so he said—The Finance Committee considered this Bill and agreed to recommend it to the Council for adoption.

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

HIS EXCELLENCY—There are two other volumes of the Revised Laws still to come before the Council, and as the consideration of the Full Court Bill by the Law Committee will take some time, Council will adjourn for a fortnight.

FINANCE COMMITTEE.
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A minute of the Finance Committee was held afterwards—the Colonial Secretary in the chair. The following vote was passed:—

The Officer Administering the Government recommends the Council to vote a sum of One thousand Dollars (\$1,000) in aid of the vote Public Works, Extraordinary, Drainage, Flushing Tanks and Iron Pipes.