

16TH DECEMBER, 1915.

PRESENT:—

HIS EXCELLENCY THE GOVERNOR, SIR F. H. MAY, K.C.M.G.

HON. MR. CLAUD SEVERN (Colonial Secretary).

HON. MR. J. H. KEMP (Attorney General).

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

HON. MR. E. R. HALLIFAX (Secretary for Chinese Affairs).

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

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

HON. MR. POLLOCK, K.C.

HON. MR. E. SHELLIM.

HON. MR. D. LANDALE.

HON. MR. LAU CHU PAK.

HON. MR. P. H. HOLYOAK.

MR. A. G. M. FLETCHER (Clerk of Councils).

Minutes

The minutes of the last meeting were confirmed.

New Member

MR. P. H. HOLYOAK having taken the oath of allegiance took his seat in the Council.

Finance

THE COLONIAL SECRETARY, by command of H.E. the Governor, laid on the table Financial Minutes Nos. 64 to 66, and moved that they be referred to the Finance Committee.

THE COLONIAL TREASURER seconded, and this was agreed to.

Papers

THE COLONIAL SECRETARY, by command of H.E. the Governor, laid on the table the report of the proceedings of the

Finance Committee held on December 2nd, and moved that it be adopted.

THE COLONIAL TREASURER seconded, and this was agreed to.

Mr. Pollock and the Executive Council

HON. MR. H.E. POLLOCK—Sir, I beg to give notice that I shall put the following questions at the next meeting of the Legislative Council:—

1.—What steps is the Government or His Excellency the Governor taking to fill up the place of the late Mr. Hewett on the Executive Council?

2.—Is it not the fact that I was a Member of the Executive Council, as acting Attorney-General, for periods of time amounting to nearly three years, and is it not the fact that I acted in addition as an Unofficial Member of that Council during the last absences on leave in Europe of Sir Paul Chater and the late Mr. Hewett, respectively, in the years 1911 and 1912?

3.—Has the Government, or has His Excellency the Governor, sent any Despatch, and, if so, when, to the Right Honourable the Secretary of State for the Colonies recommending any, and, if so, what, person as successor to the late Mr. Hewett on the Executive Council?

4.—If any such Despatch has been addressed to the Right Honourable the Secretary of State for the Colonies, has the Right Honourable gentleman been informed in such Despatch of the facts referred to in the above question 2? Will the Government lay such Despatch (if any) upon the table of this Council?

5.—Will the Government recommend to the Right honourable the Secretary of State for the Colonies that the two Unofficial Members of the Executive Council shall be elected Members, instead of being nominated by the Government?

6.—Will the Government recommend to the Right Honourable the Secretary of State for the Colonies that all the Unofficial Members of the Legislative Council shall be elected, instead of two-thirds of them being nominated by the Government, and also that the number of Unofficial Members in that Council be increased?

I will now formally hand a copy of my questions to the Clerk of Councils.

British Nationality and Aliens

THE ATTORNEY-GENERAL moved the first reading of a Bill intituled, "An Ordinance to provide for the fees to be paid in this Colony in respect of various things and matters to be granted or done under the provisions of the British Nationality and Status of Aliens Act, 1914."

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

The "Objects and Reasons" state that the object of this bill is to provide for the fees to be paid in this Colony in respect of various things and matters to be granted or done under the provisions of the British Nationality and Status of Aliens Act, 1914.

The regulations made by the Secretary of State and published in the *London Gazette* of the 1st January, 1915, and in the *Hongkong Government Gazette* of the 28th May, 1915, are in force in the Colony except so far as respects the imposition of fees, and the appointment of a table of fees is therefore necessary in order to complete the machinery of the Act here.

Tramway Ordinance Amendment

THE ATTORNEY-GENERAL moved the first reading of the Bill intituled, "An Ordinance to amend further the Tramway Ordinance, 1902."

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

The "Objects and Reasons" state that two main objects of this Bill are to increase the maximum speed allowable on the Hongkong Electric Tramway, and to give to the company's officers and servants more satisfactory powers with regard to the detention of persons who commit offences against the Tramway Ordinance or against the

rules made thereunder.

Clause 1 is formal.

Clause 2 raises the maximum speed by five miles per hour. The present maximum has been found to be unnecessarily low.

Clause 2 also deals with the procedure for bringing new rules into operation. At present, a rule made by the Governor-in-Council cannot be brought into operation under a month, and a rule made by the company cannot be brought into operation under two months. This might be very inconvenient in case of emergency, and the clause will empower the Governor-in-Council to reduce either period if necessary in any particular case.

Clause 3 will relieve the company from the obligation to exhibit a list of the fares on the outside of the cars. It is impossible to find any place on the outside of the cars where such list would be of any real use.

Clause 4 improves the wording of Section 51 of the Principal Ordinance.

Clause 5 will repeal a provision in the Principal Ordinance which is more appropriately dealt with in the rules made under the Ordinance.

Clause 6 deals with the question of the detention of offenders, and its main object is to prevent their evading the law by the expedient of giving a false name and address, or by refusing to give any name or address.

Amending Societies Ordinance

THE ATTORNEY-GENERAL moved the first reading of a Bill intituled, "An Ordinance to amend the Societies Ordinance, 1911."

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

The "Objects and Reasons," state that the object of this Bill is to exclude money loan associations from the operation of the Societies Ordinance, 1911.

Deportation Ordinance

THE ATTORNEY-GENERAL moved the first reading of a Bill intituled, "An Ordinance to amend the Deportation Ordinances, 1912-1914."

THE COLONIAL SECRETARY seconded, and the Bills was read a first time.

The "Objections and Reasons," state that Article 3 of the China (Amendment) Order-in-Council, 1910, provides as follows:—

“Where a person not belonging to Hongkong is sentenced to imprisonment and deportation under Article 2, and is sent for imprisonment to Hongkong, the Governor of Hong kong shall, if lawfully empowered thereto, deport such person to the place to which he was ordered by the Court to be deported; and if not so empowered the Governor shall cause such person to be sent back to Shanghai.”

Clause 2 of the Bill is included to give the Governor, so far as the competency of the local legislature extends, the necessary powers to enable him to carry out the duties indicated in the above article.

The objects of clause 3 are (a) to provide that mere registration at British Consulate in China shall no longer be a bar to deportation and (b) to define the form of the certificate of British birth.

Company Law

THE ATTORNEY-GENERAL moved the second reading of the Bill intituled, "An Ordinance to amend the law relating to companies." In doing so he said:— This Bill, Sir, is supplementary to the China Companies Order-in-Council, 1915, which has just been issued by His Majesty-in-Council. The object of the two enactment at i.e. the Order-in-Council, and this Bill, is to enable better control to be exercised over Hongkong Companies which carry on business in China, and, incidentally, for better control over the operations in China of Hongkong companies which are controlled from Hongkong. The companies registered in Hongkong which carry on business in China fall into two classes, companies which are managed from Hongkong, and companies which are managed in some place in China, such as Shanghai. The former class are in the Order-in-Council and the Bill, given the name of "Hongkong-China Companies" and the other class, companies managed from some place in China, are given the name of "China Companies." There may be some question as to the particular class under which a company should fall, and there may even be a question whether a particular company falls into either class. But the main

distinction is clear. In the case of Hongkong and China companies, those companies which are managed here, the directors and officers are within our territorial jurisdiction, and that makes it easy for the Courts to exercise effective jurisdiction over the company. But in the case of China companies managed from some place in China, which frequently have their officers and directors and property outside our territory, the Courts here are not in a position to exercise at present any effective control over the company. The only way in which control can be exercised over the company in China by the Supreme Court of China, is, of course, through the person of the British officers and directors, and the main scheme of the Order-in-Council and the Bill is to ensure that a company registered in Hongkong, which carries on business in China and is managed from some place in China, shall have a certain proportion of British directors through whom control may be exercised over the Company. These two pieces of legislation also provide that the auditors must be British subjects, that no person other than a British subject shall be appointed liquidator of a China company without the leave of the Court, and that no shares shall in future be issued except either as fully paid up shares or on the terms that the shares shall be fully paid up three months after allotment. That provision is, of course, to avoid the difficulty which has been felt of enforcing calls in the case of persons who are not of British nationality. Shareholders who are not British are not amenable, of course, to the British Courts, and it might be difficult, in certain circumstances, to recover from them in cases of winding up. The Order-in-Council and the Bill also provided that the two Courts, the Supreme Court of Hongkong and the Supreme Court for China, shall be auxiliary to one another, and shall enforce each other's orders. There are also provisions for transferring any particular winding up from one Court to the other in case the other Court may be in a better position to supervise that winding up. Provision is also made for the establishment of a registry of companies at Shanghai where all documents relating to China companies shall be filed and where all fees shall be paid. The jurisdiction, of course, of the Supreme Court for China over these companies will continue to be exercised in accordance

with the Ordinances passed in Hongkong with respect to companies registered here. There is one other point which I think I should refer to. It is known, of course, that a number of companies here have their register of shareholders not in Hongkong but at Shanghai and other coast ports, and this is done under a system of licences. When a Company is licensed to keep its register at some other place outside the Colony, the shares on that register pay no death duties, and transfer fees are not payable in respect of the transfer of shares. That, of course, has the effect of depriving the Colony of a certain amount of revenue, and the company, by way of compensation, pays an annual fee to the Government of Hongkong. Now when this Bill comes into force with the Order-in-Council on January 1st the local registry of licences will disappear so far as China is concerned, but it was never expected that the fee payable by these companies to the Hongkong Government as compensation for the loss of revenue referred to would be abandoned, and the Bill provides that the fee shall continue to be paid to the Colonial Treasurer. In addition to the alterations in the Companies Ordinances necessitated by the Order-in-Council to bring our law into line with the Order-in-Council, there are also some other amendments, none of which, I think, are of any far-reaching importance. Some are corrections of obvious mistakes; others are slight improvements in the form of the principal Ordinance. It is intended, Sir, that this Ordinance shall come into force on January 1st, which is the date upon which the Order-in-Council will come into force. I beg to move the second reading.

HON. MR. POLLOCK—I should like to say a few words upon this Bill, Sir. In the first place, it seems to me that the definition of China Companies, and Hongkong and China Companies, respectively, are somewhat vague and likely to lead to some difficulty. I rather gather from what fell from the learned Attorney-General that the question of whether a company was directed or controlled in particular places or not was in the main to be determined by the question of where the directors were. But, Sir, there are some companies in this Colony in which there are directors in the three or four different places, and under three or four different jurisdictions, and therefore, Sir, I fancy that there might be

some difficulty in the future in determining exactly in what category a company is formed. Of course, I am aware that the learned Attorney-General has followed the wording of the China Order-in-Council, and I quite realise that he felt himself bound to do so. But, Sir, I think it is just as well to point out that I think this is a practical difficulty which might arise in the future. Another point, Sir, which I would like to draw attention to is in connection with sub-section 4 of Clause 3 of the Bill which says:—"All fees which companies are required by the Companies Ordinance to pay to the Registrar of Companies shall, in the case of a China Company, be paid to the Registrar of Companies at Shanghai." Your Excellency will remember that in introducing the Budget for this year you made use of the following expressions: "Under 'Other Charges' there is a sum equivalent to £300. . . . contributed from this Colony towards the cost of establishing a Registry of Companies which is to be established at Shanghai. This registry will be subordinate to the Hongkong Registry, and as the whole of the fees received will be paid over to the Hongkong Government, it is very desirable that the Colony should make a contribution towards the annual expense involved." Sir, there does seem to be a discrepancy between what fell from your Excellency and the provisions of sub-section 4 of Clause 3 of this Bill, and it seems to me that we were given to understand, when the Budget was introduced, that the fees would be paid over to the Hongkong Government. I do not know, Sir, whether the explanation is to be found in the Order-in-Council for China which has been referred to by the learned Attorney-General. The Order-in-Council says that all fees . . . which are paid to the Registrar of Companies at Shanghai shall be paid by him to the Colonial Treasurer at Hongkong. Well, Sir, I confess I am rather bewildered at the roundabout procedure adopted and would like to know, definitely, really what arrangement has been come to—whether the Governor will be able to assure us that what His Excellency said in introducing the Budget is correct; and that the whole of the fees received from the companies will be paid over to the Hongkong Government. There is some doubt on the point, and it should be cleared up. I have a few small amendments to make when the Bill is in Committee.

THE ATTORNEY-GENERAL—With regard to what has just been said by the hon. member on my left, it is necessary, of course, that the definitions in this Bill should follow exactly the definitions of the Order-in-Council, and I am afraid that it is impossible at this stage to delay the passing of the Bill in the hope of obtaining some alterations in the definitions of the Order-in-Council, which, by the way, would involve the passing of a new Order. I am also aware that there are some questions with regard to one or two companies as to whether they fall in one class or in the other, but I think, Sir, there will not be any practical difficulty. The question will, of course, ultimately have to be decided or agreed. The decision rests with the Court eventually, and I do not think that the question will arise in any company where any real difficulty is likely to arise on account of its non-British character. I think the discussions, if any, Sir, with regard to the companies of which I have heard, will be more or less friendly. Sub-section 4 of Clause 3 is necessary because if it were not inserted China companies would be under an obligation to pay off their fees to the Registrar of Companies here, which would be inconvenient, and an almost impossible procedure. This clause requires the fees to be paid at Shanghai, where, of course, the whole company is situated, and where the head office generally is, and avoids the inconvenience of having to send all the fees down here direct. The Clause referred to by the hon. member on my left in the Order-in-Council provides that the fees paid to the Registrar at Shanghai shall be paid by him to the Colonial Treasurer. I submit the provisions are clear and necessary.

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

On sub-section 4, Clause 3,

HON. MR. POLLOCK—With regard to this clause, I have listened carefully to what has fallen from the learned Attorney-General, but I still think amendment should be made. For one reason, it seems an absurdity that we should enact in this Colony that certain people outside jurisdiction ought to pay fees to a party outside jurisdiction. It seems to me that such legislation is absolutely futile, and cannot have any effect. In regard to the other matter, I do not see any difficulty in having the fees sent to Hongkong direct. That has been the procedure

followed for the last forty or fifty years.

HIS EXCELLENCY—The Order-in-Council has been under the consideration of His Majesty's Government and the form of this Bill, of course, had to conform with the Order-in-Council. The whole thing has been approved at Home, and I cannot see, myself, any difficulty in effecting the provisions of it. I cannot take upon myself the responsibility of changing some delicate piece of legislation which has been fashioned and conformed to the wishes of the Colonial Office and the Foreign Office combined, and I do not think matters of any real importance in the carrying out of the Ordinance are likely to have been missed by them.

THE ATTORNEY-GENERAL—I think that the answer to what the hon. member on my left has just said is to be found in the Order-in-Council. Whether this provision in the bill would be *ultra vires* if not re-enforced by the Order-in-Council is beside the point, because the Order-in-Council provides that the jurisdiction of the Supreme Court in China shall be exercised in accordance with the Ordinances passed here.

HON. MR. POLLOCK moved an amendment that the words "at Shanghai" should be deleted from the clause, but upon being put to the vote the amendment was lost.

HIS EXCELLENCY—The Bill has received extraordinary consideration, and the whole thing has really gone through the mill at Home, and I do not think there can be much wrong with it under these circumstances.

On Council resuming,

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

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

Imports and Exports

THE ATTORNEY-GENERAL moved the second reading of the Bill intituled, "An Ordinance to amend the law relating to importation and exportation." In doing so he said:—

The existence of a state of war has rendered it necessary from time to time to impose restrictions on the importation of goods coming into the Colony, and the exportation of goods from the Colony. The restrictions are imposed in accordance with a general policy which is carried out throughout the Empire, and the main object of it, of course, as to prevent any trading with the enemy or with enemy countries. The difficulty which has been felt here on more than one occasion, and which does not exist elsewhere, is that we have here no general Customs law, or any general Customs organisation. It has been possible hitherto to deal with the situation without any such system, but as things are now it is impossible to go on any further without fuller powers than the Government possesses at present. This Bill is intended to give the Government these fuller powers. The scheme of the Bill is to give the Governor-in-Council power to impose any restrictions necessary for all imports and exports. It also provides for the punishment of breaches of the regulations made, and for the forfeiture of any goods in respect of which an offence is committed. Other clauses provide for powers of search and seizure and arrest, and also provide that import and export manifests, which are now furnished under other Ordinances, shall be *prima facie* evidence, in the case of any prosecution or other proceedings, that the goods on the manifest were imported or exported, as the case may be. The powers given to the Governor-in-Council are rather wider than those usually conferred by Ordinance, but the subject is one which requires frequent changes to be made in the law at short notice. Attempts at evasion require prompt measures to meet them, and it is also found sometimes that new means can be devised of attaining the same end which will be more convenient to legitimate commerce a quick method of legislation is generally most convenient both to prevent evasion and to help legitimate operations. I beg to move the second reading.

THE COLONIAL SECRETARY seconded.

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

THE ATTORNEY-GENERAL moved the addition of the following clauses, which were approved.

6.—(1) Upon the failure of any condition of

any bond required as a condition on the granting of any permit or any licence issued under this Ordinance the sum secured by the bond shall be deemed to be a debt due to the Crown and may be recovered in the same manner as Crown rents are recovered upon a certificate purporting to be under the hand of the Colonial Treasurer.

(2) The recovery of any such sum shall not relieve any person from any other penalty to which he may be liable under this or any other Ordinance.

7.—(1) Upon the breach of any condition of any permit or any licence issued under this Ordinance any deposit required as a condition on the granting of such permit or licence shall upon application to a magistrate be declared by him to be forfeited to the Crown.

(2) The forfeiture of any such deposit shall not relieve any person from any other penalty to which he may be liable under this or any other Ordinance.

There were a few minor amendments, and on Council resuming,

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

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

THE GOVERNOR — Council stands adjourned until this day week.

FINANCE COMMITTEE.

A meeting of the Finance Committee followed, the COLONIAL SECRETARY presiding.

Lighting of Kowloon

The Governor recommended the Council to vote a sum of two hundred dollars (\$200) in aid of the vote Public Works, Recurrent, Kowloon, Lighting, Electric Lighting.

THE CHAIRMAN—The sum is needed for the upkeep of the additional lights which have been placed recently in the town of Shamshuipo, where, as I have informed the committee on a previous occasion, there is a scheme of re-arrangement going on.

The vote was agreed to.

War Expenditure

The Governor recommended the Council to vote a sum of seventeen thousand dollars (\$17,000) in aid of the vote Miscellaneous Services, War Department Expenditure.

THE CHAIRMAN—This is to complete the sum required under the arrangement by which the Colony bears the expense of the prisoners of war. This will carry us on to the end of the year.

The vote was agreed to.

Recreation Grounds

The Governor recommended the Council to vote a sum of three hundred and eighty dollars (\$ 3 8 0) i n a i d o f t h e v o t e

Public Works, Recurrent, Hongkong, Miscellaneous, Maintenance of Public Recreation Grounds.

THE CHAIRMAN—About three years ago quarters were built at Breezy Point, and the West End Park playground there, which had been used by three schools for some years, was taken up by the quarters and the Government undertook, in consequence, to make a new playground at a cost of \$2,500. That ground was laid out, but it has since been found that owing to the making of the ground a large amount of water has come down the bank bringing a lot of rocks, etc., on to the ground. The channelling has also been blocked up, and it has become a breeding place for mosquitoes. The work cost \$386.98, and the balance required is \$380.

The vote was agreed to.