

3RD NOVEMBER, 1921.

PRESENT:—

HIS EXCELLENCY THE GOVERNOR, SIR REGINALD EDWARD STUBBS, K.C.M.G.

H.E. LIEUT.-GENERAL SIR GEORGE MACAU LAY KIRKPATRICK, K.C.B., K.C.S.I. (General Officer Commanding the Troops in China).

HON. MR. CLAUD SEVERN, C.M.G. (Colonial Secretary).

HON. MR. J. H. KEMP, C.B.E., K.C. (Attorney-General).

HON. MR. C. MCL. MESSER, O.B.E. (Colonial Treasurer).

HON. MR. E. A. IRVING (Director of Education).

HON. MR. S. B. C. ROSS, O.B.E. (Secretary for Chinese Affairs).

HON. MR. T. L. PERKINS (Director of Public Works).

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

HON. MR. LAU CHU PAK.

HON. MR. P. H. HOLYOAK.

HON. MR. HO FOOK.

HON. MR. H. W. BIRD.

HON. MR. A. G. STEPHEN.

MR. S. B. B. McELDERRY (Clerk of Councils).

Minutes

The minutes of the last meeting of the Council were approved and signed by the President

Papers

THE COLONIAL SECRETARY, by command of H.E. the Governor, laid on the table Regulations made by the Governor-in-Council under Section 3 of the Licensing Ordinance 1887, Ordinance No. 8, of 1887, on October 13th, 1921, which were published in the *Government Gazette* of October, 28th, 1921.

Finance

THE COLONIAL SECRETARY, by command of H.E. the Governor, laid upon the table Financial Minute No. 114 and moved that it be referred to the Finance Committee.

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

THE COLONIAL SECRETARY, by command of H.E. the Governor laid upon the table the Report of Finance Committee (No. 12), and moved that it be adopted.

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

**Notice of Questions by
Hon. Mr. Pollock**

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

1.—When does the Government intend to publish the Report of the Committee appointed by His Excellency the Governor for the purpose of considering what measures can best be taken

(i.)—To facilitate the prompt acquisition by applicants of sites which they require:

(ii.)—To facilitate the prompt passing of building plans?

2.—What measures does the Government propose to take for the purpose of carrying out the recommendations made in the Report of the Commission on Child Labour?

Appropriation Ordinance for 1922

With the consent of the Council, the second reading of the Bill intituled, An Ordinance to apply a sum not exceeding Sixteen million four hundred and fifty

thousand one hundred and thirty-one Dollars to the Public Service of the year 1922, was postponed to the next meeting of the Council

Widows' and Orphans' Pension Ordinances

THE ATTORNEY-GENERAL moved the second reading of the Bill intituled, An Ordinance to amend the Widows' and Orphans' Pension Ordinances, 1908 and 1921.

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

THE ATTORNEY-GENERAL — I beg to move that the Council now go into Committee to consider the Bill clause by clause.

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

On sub-Clause 3 of Clause 4, in the first line of paragraph (a) and the first line of paragraph (b), the Attorney-General moved that the words "three months" be substituted for the word "one month" in each case. The motion having been seconded by the COLONIAL SECRETARY, was adopted by the Committee to stand part of the Bill.

On the Council resuming the ATTORNEY-GENERAL moved that the Bill as amended be read a third time.

THE COLONIAL SECRETARY seconded, and the Council assented to the third reading.

The Bill passed accordingly.

Legal Practitioners Amendment

Ordinance

THE ATTORNEY-GENERAL moved the second reading of the Bill intituled, An Ordinance to amend further the Legal Practitioners Ordinance, 1871.

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

Council resolved itself into Committee to consider the Bill clause by clause. The Bill passed through Committee without amendment, and on Council resuming it was read a third time on the motion of the ATTORNEY-

GENERAL seconded by the COLONIAL SECRETARY.

The Rents Amendment Ordinance

THE ATTORNEY-GENERAL referred to the report of the proceedings of the Standing Law Committee, held on October 28th, 1921, which had been circulated and laid on the table. He said: I beg, also, to move the second reading of the Bill to amend the Rents Ordinance, 1921. As will be seen by the report of the Standing Law Committee, that Committee recommends that Clauses 7, 8, 9 and 10 of the Bill should be omitted and that three new draft clauses which appear in the report should be inserted. These proposed changes require a short explanation. The general reason, I think, for the omission of Clauses 7 to 10 is that it is desirable, in an Ordinance of this temporary character, to avoid making any amendments other than those which are absolutely necessary. Clause 7 was intended to safeguard tenants, somewhat, in cases where the landlord proposes to give notice to quit on the ground of intention to pull down or reconstruct. No doubt the clause would have been some additional safeguard to tenants, but I think it is not essential and the tenant will always be able to raise the question of the good faith of the notice at a later stage. Clause 8 was intended to provide that notice to quit, given by a tenant, should not affect any sub-tenant who had not joined in or confirmed the notice. At the time the Clause was drafted that was believed to be the effect of the existing law and, as I explained when introducing the Bill the first time, the Supreme Court, in Summary Jurisdiction, has since declared that to be the effect of the existing Ordinance. I think, therefore, this Clause may be safely omitted. Clause 9 is very much on the same point and may be safely omitted also. Clause 10 was rather intended in the interests of the landlords but, as they appear to object somewhat to Clause 7, 8 and 9, I do not think they can ask for the insertion of Clause 10.

That leaves the Bill with Clauses 2 and 3, (which make certain minor amendments), Clause 4 (which gives power to transfer actions from Summary to Original Jurisdiction, — which is clearly necessary), Clause 5 (which makes it an offence to issue a distraint in excess of the standard rent) and Clause 6 (which makes it an offence to do any act *mala fide* in order to induce the tenant of a domestic tenement to give up his tenancy.

The three additional Clauses are, I think, justified on public grounds quite apart from any conflicting interest of landlords and tenants. The first of these clauses (which will be numbered "7") provides that where a landlord gives notice with the intention of pulling down or reconstructing the house, or block of houses, notice given to the immediate tenant of the landlord shall bind all the sub-tenants. It is obvious that the owner cannot always know who the sub-tenants are, and if he is obliged to give notice to every sub-tenant as well as the immediate tenant he may find, when he comes to pull down the property, his way blocked by some sub-tenant of whom he was unaware and whose existence, perhaps, was deliberately concealed from him. I think it is only fair to provide that any notice given in those circumstances shall bind all the sub-tenants. If a landlord had to find out and give notice to all sub-tenants it might appreciably delay the development of the property.

The new Clause 8 deals with the same subsection of the original Ordinance, namely the one referring to cases where the landlord intends to pull down and reconstruct. The problem is as follows: The owner agrees to sell his property to a purchaser who intends to pull the house down and rebuild or reconstruct. The actual completion of the purchase may take some time. The owner, therefore, agrees with the intending purchaser to give all the necessary notice to the tenants so as to enable the purchaser to commence his building operations so soon as the purchase is completed. Under the present law, the owner (the vendor) cannot give notice because he does not intend to rebuild, and the intending purchaser cannot give it because he is not the owner. This clause is intended to enable the owner to give notice to the tenants on behalf of the intending purchaser.

Clause 9 provides that if a lessee is adjudged bankrupt he ceases to have any claim under section 4 of the principal Ordinance. In other words, he cannot rely on that section in order to enable him to remain on in possession of the premises. His interest ceases on adjudication and his trustee acquires no interest.

THE COLONIAL SECRETARY seconded, and the Bill passed the second reading.

The Council resolved itself into Committee to consider the Bill clause by clause.

THE ATTORNEY-GENERAL moved that Clause 7 of the Bill be omitted.

THE COLONIAL SECRETARY seconded, and this was carried.

THE ATTORNEY-GENERAL moved that the clause marked "7" in the report of the Standing Law Committee be substituted.

THE COLONIAL SECRETARY seconded, and it was carried.

THE ATTORNEY-GENERAL moved that clause 8 of the Bill be omitted.

THE COLONIAL SECRETARY seconded and it was agreed to.

THE ATTORNEY-GENERAL moved that the clause marked "8" in the report of the Standing Law Committee be substituted.

THE COLONIAL SECRETARY seconded, and this was agreed to.

THE ATTORNEY-GENERAL moved that Clause 9 of the Bill be omitted.

THE COLONIAL SECRETARY seconded, and this was agreed to.

THE ATTORNEY-GENERAL moved that the clause marked "9" in the report of the Standing Law Committee be substituted.

THE COLONIAL SECRETARY seconded, and this was approved.

THE ATTORNEY-GENERAL moved that Clause 10 of the Bill be omitted.

The COLONIAL SECRETARY seconded, and this was agreed to.

The Council then resumed.

THE ATTORNEY-GENERAL moved the third reading of the Bill as amended in Committee.

THE COLONIAL SECRETARY seconded, and the motion was carried.

The Bill passed accordingly.

Mercantile Bank Note Issue

Ordinance

HON. MR. H. E. POLLOCK, K.C., moved the second reading of the Bill intituled, An Ordinance to extend for a further period the powers granted by the

Mercantile Bank Note Issue Ordinance, 1911, to the Mercantile Bank of India, Limited, to make, issue, re-issue and circulate notes in the Colony.

HON. MR. HO FOOK seconded, and the motion was agreed to.

Council considered the Bill in Committee clause by clause and passed it without amendment.

On Council resuming, the Bill was read a third time.

St. Joseph's College Incorporation Ordinance

HON. MR. H. E. POLLOCK, K.C., moved the second reading of the Bill intituled, An Ordinance for the incorporation of the Christian Brothers School known in French as "L'Institut des Frères des Ecoles Chrétiennes" and known in Hongkong as "St. Joseph's College."

HON. MR. H. W. BIRD seconded.

The Bill having passed the second reading it was considered by the Council clause by clause in Committee and passed without amendment.

On the Council resuming, the Bill was read a third time and passed.

Indemnity Ordinance

With the consent of the Council, the second reading of the Bill intituled, An Ordinance to restrict the taking of legal proceedings in respect of certain acts and matters done during the war and to provide in certain cases remedies in substitution therefor was postponed to the next meeting of the Council.

The Adjournment

HON. MR. POLLOCK, rising as His Excellency was about to announce the adjournment of the Council, said: Sir,—With reference to the adjournment of the Council the Unofficial Members have not had an opportunity yet of meeting to discuss the Budget Bill and I think we should like a further adjournment—say till Monday week, the 14th inst. Speaking for myself, it would be a great convenience.

HIS EXCELLENCY—I am prepared to adjourn for a further week if it is desired.

HON. MR. POLLOCK—I said Monday because Mr Stephen will not be here on

Thursday fortnight. If Your Excellency would kindly adjourn until Monday, 14th, that would suit everybody.

HIS EXCELLENCY accordingly adjourned the Council until Monday, the 14th inst.

FINANCE COMMITTEE

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

Government Quarters at Happy Valley

The Governor recommended the Council to vote \$27,000 in aid of the following votes:—
Public Works, Extraordinary, Hongkong, Buildings:—

Additional Quarters at Happy Valley (12 houses).....	\$20,000
Miscellaneous:—	
Central Police Station:—	
Reconstruction of kitchen and bath-room block	7,000
Total	<u>\$27,000</u>

THE CHAIRMAN—In the first case, the amount provided in this year's estimates is \$50,000, but the estimated total expenditure for the year on these quarters is \$70,000, the reason being that not so much was expended in 1920 as was expected. The expenditure in 1920 was \$85,892. The total estimated cost of the work is \$155,892 and the amount of the accepted tender is \$161,720. Therefore, more has been expended this year than was estimated for and \$20,000 is asked for. With regard to the second item, the amount provided in this year's estimates is \$35,000 and the estimated total expenditure for the year is \$42,000. A supplementary vote of \$7,000 is asked for. The same reason exists there. In 1920 the expenditure was \$4,237. When the estimates were drawn up it was expected to be more; therefore, more is carried into the current year than is estimated for. The total cost of the work is \$54,237 and the amount of the accepted tender is \$50,034. I understand that certain extras brought it up to \$4,000 over the accepted tender after the work was started.

THE DIRECTOR OF PUBLIC WORKS—Yes.

The vote was approved.