

March 29th, 1928.

PRESENT:—

HIS EXCELLENCY THE GOVERNOR (SIR CECIL CLEMENTI, K.C.M.G.).

HIS EXCELLENCY THE GENERAL OFFICER COMMANDING THE TROOPS (MAJOR-GENERAL C. C. LUARD, C.B., C.M.G.).

THE COLONIAL SECRETARY (HON. MR. E. R. HALLIFAX, C.M.G., C.B.E.).

THE ATTORNEY-GENERAL (HON. SIR JOSEPH HORSFORD KEMP, KT, K.C., C.B.E.).

THE COLONIAL TREASURER (HON. MR. C. MCL. MESSER, O.B.E.).

HON. MR. H. T. CREASY, C.B.E. (Director of Public Works).

HON. MR. E. D. C. WOLFE, C.M.G. (Captain Superintendent of Police).

HON. MR. R. A. C. NORTH (Secretary for Chinese Affairs).

HON. SIR HENRY EDWARD POLLOCK, KT, K.C.

HON. SIR SHOU-SON CHOW, KT.

HON. MR. R. H. KOTEWALL, C.M.G., LL.D.

HON. MR. D. G. M. BERNARD.

HON. MR. A. C. HYNES.

HON. MR. J. OWEN HUGHES.

MR. T. W. AINSWORTH (Deputy Clerk of Councils).

NEW MEMBER.

Hon. Mr. R. A. C. NORTH, the Secretary for Chinese Affairs, took the oath upon taking his seat as a member of the Council.

MINUTES.

The Minutes of the previous meeting of the Council were confirmed.

PAPERS.

THE COLONIAL SECRETARY, by command of H.E. the Governor, laid upon the table the following papers:—

Regulation under section 3 (1) of the Opium Ordinance, 1923, on March 14th, 1928.

Order under section 5 of the Suppression of Piracy Amendment Ordinance, 1927, on March 15th, 1928.

Regulations under section 7 of the Suppression of Piracy Ordinance, 1868, on March 15th, 1928.

Report from the Harbour Master for 1927.

FINANCE COMMITTEE'S REPORT.

THE COLONIAL SECRETARY, by command of H.E. the Governor, laid upon the table the report of the Finance Committee No. 2 of March 15th, 1928, and moved that it be adopted.

THE COLONIAL TREASURER seconded, and this was agreed to.

PENSIONS AMENDMENT ORDINANCE.

THE ATTORNEY-GENERAL moved the first reading of a Bill intituled, "An Ordinance to amend the Pensions Ordinance, 1862." He said—The object of this Bill is to require the compulsory retirement at the age of 60 years of every Government servant, including in that term the judges. The Governor-in-Council will have the power to retain the services of any Government servant after that age, but unless the Governor-in-Council decides that his services shall be retained he will retire automatically at the age of 60 years. The provisions of the Ordinance do not apply to any public officer or judge who has attained the age of 60 years before the passing of the Ordinance.

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

OBJECTS AND REASONS.

The "Objects and Reasons" of this Bill state:—

The object of this Ordinance is to require the compulsory retirement at the age of sixty years of every judge or other public officer who attains that age after the commencement of this Ordinance, unless the Governor-in-Council decides that his services shall be retained. This is the rule of Ceylon.

**SECRETARY FOR CHINESE AFFAIRS INCORPORATION
ORDINANCE.**

THE ATTORNEY-GENERAL moved the first reading of a Bill intituled, "An Ordinance to provide for the incorporation of the Secretary for Chinese Affairs." He said—The list of properties in the Schedule of the Bill is a list of properties which at present stand in the name either of the present substantive holder of the Office of Secretary for Chinese Affairs, or in that of some former substantive or acting holder of that office, or in some register under the title Secretary for Chinese Affairs, or under the title Registrar-General; Registrar-General, of course, was the former title of the office of Secretary for Chinese Affairs. All these properties stand in the name, therefore, of the Secretary for Chinese Affairs, using that term to include all individuals who have held the office in the past. All the properties are held on trust. It is obvious, of course, that sooner or later each of these properties may have to be dealt with, and at present the means of dealing with these properties are not very convenient. For example, in the case of property held in the name of some former

Registrar-General it is necessary to get from him a power of attorney for some one in the Colony in order to deal with the legal estate. In the case of property standing in the name of some deceased former holder of the office it would be necessary to obtain authority from his executors before the property could be dealt with. It is obvious, therefore, that the simplest method will be to incorporate the Secretary for Chinese Affairs and to vest all this property in him; this will also enable him to hold as a corporation any other property that it may be desirable to assign to him in trust. The Bill follows generally the form of Incorporation Ordinances.

I said that all property specified in the schedule stands in the name of the Secretary for Chinese Affairs or the Registrar-General or in the name of some holder of this office. There is one exception to that. It is the case of Shaukiwan Inland Lot 142. This is the site of a temple at Shaukiwan. The Crown Lease in that case, which is for 999 years, is in the name of Lam Ah Neung, and as I have explained in the "Objects and Reasons" of this Bill an attempt was made to find Lam Ah Neung. The attempt was unsuccessful and it is not surprising for it turned out to be the name of a goddess, or at least the name was put forward by the villagers as standing for the goddess of the temple. That is the only case in which the Bill proposes to invest in the new Corporation any property which does not at present stand in the name of some holder of the office of Secretary for Chinese Affairs or in the name of the office itself.

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

OBJECTS AND REASONS.

The "Objects and Reasons" of this Bill state:—

1. The object of this Ordinance is to incorporate the Secretary for Chinese Affairs. It is desirable in many cases that that officer should hold leasehold property on trusts of various kinds and the convenience of incorporation for this purpose is obvious.

2. Section 7 vests in the new corporation the leasehold properties referred to in the Schedule. The Schedule is divided into four parts. Part I. comprises District Watchman stations. Part II. contains the Chinese Public Dispensaries. Part III. includes various temples and temple properties. Part IV. consists of various miscellaneous trusts, *e.g.*, schools.

3. The leasehold properties specified in the Schedule, with one exception, stand, in the respective registers, either in the name of the present substantive holder of the office of Secretary for Chinese Affairs, or in that of a former substantive or acting holder of the office of Registrar-General, or under the title "Secretary for Chinese Affairs" or the title "Registrar-General." It is clear in all cases that the intention was that the holder of the office for the time being should be able to deal with the legal estate, though this intention seems to have been imperfectly effected in many of the cases. "Registrar-General"

was until 1913 the title of the office now known as the "Secretary for Chinese Affairs." The one exception referred to at the beginning of this paragraph is S.I.L. 142. This is the site of a temple at Shaukiwan. The Crown lease, which is for 999 years, was issued in 1877 in the name of Lam Ah Neung. A long search for Lam Ah Neung resulted in the discovery that there never was any such person as Lam Ah Neung and that the name was only put forward by the villagers to represent the goddess of the temple. In the case of S.I.L. 528, K.I.L. 1647, K.I.L. 1686, K.I.L. 2004, K.I.L. 205, N.K.I.L. 35 and N.K.I.L. 552 no Crown lease has yet been issued and the lots are held on the conditions of grant in the name of the "Secretary for Chinese Affairs." Crown leases are about to be issued in these cases.

4. The vesting is in every case made subject to the trusts on which the respective properties shall have been held immediately before the commencement of the Ordinance.

5. Section 4 is drafted with the intention of enabling the officer for the time being performing the duties of the office to deal with the legal estate, whether he be the substantive holder of the office or only an acting Secretary for Chinese Affairs. It is also intended to obviate the rule that a lease granted to a corporation sole passes to the personal representatives of the occupant and not to his successors: *see* Halsbury, Vol. 8, para. 821, p. 371, and *Arundell's Case* (1615) 1 Roll. Abr. p. 515, cited in *Fulwood's Case* (1591) 4 Co. 64 b, Note A.

6. Section 5 provides a means of resolving any doubt as to who is, or was at any date, the occupant of the corporation. The method adopted is that of a certificate by the Colonial Secretary.

7. The other sections of the Ordinance are common form in incorporation Ordinances.

DANGEROUS DRUGS (AMENDMENT) ORDINANCE.

THE ATTORNEY-GENERAL moved the first reading of a Bill intituled, "An Ordinance to amend the Dangerous Drugs Ordinance, 1923." He said—This Bill is intended to enact the legislation required to give effect in Hong Kong to the terms of the International Convention on opium and dangerous drugs which was signed at Geneva on the 19th February, 1925. Our existing dangerous drugs legislation has already anticipated in some respects the requirements of the Convention, but it has been found necessary to make various technical alterations in the law and it will be also necessary to make certain alterations in our dangerous drugs regulations. The changes made are largely in the nature of provisions to stop up various loop-holes in the legislation which it has been found desirable to stop up so as to strengthen the defences of the Colony and the world generally against dangerous drugs. One important addition to the list of dangerous drugs was made by the recent Geneva Convention, namely the drug known under various names which is derived from the Indian hemp plant. Our legislation will go even further than the Convention, in prohibiting any possession of the plant or any part thereof in Hong Kong. The

tincture derived from the plant is used medicinally and will be included in the list of dangerous drugs, but the plant itself will be totally prohibited. This is the plant which is also used in the form of hashish and it is a drug which has very deleterious effects. The other provisions of the Bill are mere matters of detail and need not be referred to at this stage.

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

OBJECTS AND REASONS.

The "Objects and Reasons" of this Bill state:—

1. The object of this Bill is to enact the legislation required to give effect in Hong Kong to the terms of the International Convention signed at Geneva on the 19th February, 1925.

2. Reference to the draft memorandum which is published at the same time as this Bill will show the action which is being taken on the Convention. The draft in question is intended as a statement of what will have become the position after the enactment of the legislation now proposed.

3. A draft of certain proposed regulations is also published at the same time as this Bill. These regulations will bring the Hong Kong regulations into line with the latest English regulations.

4. Clauses 2 and 3 of the Bill alter the definitions of the terms exportation and importation in the following ways:—

- (a) Conveyance by air is included.
- (b) Conveyance in transit mails is included.
- (c) The present definitions refer only to "carriage" and this might be held not to apply to the case of a packet of drugs *thrown* across the land frontier. The case is perhaps likely, but the words "otherwise despatch" and "otherwise bring" are inserted with a view to covering it.

5. The new section 3 (1) of the principal Ordinance which is to be enacted by clause 6 of this Bill is based on section 4 (1) of the Opium Ordinance, 1923, as enacted by section 2 of the Opium (Amendment) Ordinance, 1924, but it contains the following additional points:

- (a) The prohibitions of the sub-section are expressly extended to the cases where the other party to the transaction is not in the Colony.
- (b) It is made an offence to *deal with* the drugs to which the Ordinance applies as well as to *deal in* them.
- (c) It is made an offence to pretend to deal in any of the drugs to which the Ordinance applies. This is intended to meet a possible defence that the accused had no real intention of dealing in dangerous drugs but was only pretending to do so with some other object.

- (d) The prohibitions of this sub-section are expressly made to apply whether it is intended that the drug in question should be imported into the Colony or not.

6. Clause 8 of the Bill amends section 6 (1) of the principal Ordinance so as to make the absolute discretion of the Superintendent perfectly clear, and also as to give him power to revoke any licence or authority already granted.

7. Section 9 of the principal Ordinance is strengthened by clause 9 of the Bill in the following ways:—

- (a) The possession of the keys of any box, drawer or other receptacle containing a drug to which the Ordinance applies is made presumptive evidence of possession of the drug with guilty knowledge.
- (b) The possession of a baggage receipt or of any thing intended to serve the purpose of a baggage receipt is similarly made presumptive evidence of possession with guilty knowledge.
- (c) A new sub-section (3) provides that the presumptions of section 9 cannot be rebutted by proof that the accused never had physical possession of the drug in question.

8. Section 10 of the principal Ordinance provides that a certificate signed by the Superintendent as to the character quantity or market value of any drug to which the Ordinance applies shall be conclusive evidence as to such character, quantity, or market value. It is difficult to see how under this section any particular certificate could be connected with the particular drugs which it was meant to cover, except, of course, by calling the Superintendent as a witness, and one object of the section was to avoid the necessity of calling him. Clause 10 of the Bill endeavours to meet this difficulty by means of a statutory form of a certificate which can be connected, by means of the officer who takes the drugs to the Superintendent, with the drugs actually seized, and which can be connected, by means of the officer who receives the drugs from the Superintendent, with the drugs produced in Court. The new section 10 inserted in the principal Ordinance by clause 10 of the Bill also provides that any such certificate purporting to be signed by the Superintendent shall until the contrary is proved be deemed to have been signed by him.

9. Clause 11 of the Bill adds three sections to the principal Ordinance. These sections are referred to in paragraphs 3, 9 and 6, respectively, of the draft memorandum.

10. Clause 12 of the Bill amends the form of Import Certificate in the Schedule to the principal Ordinance in certain minor respects in order to make it agree with the form of Import Certificate annexed to the Geneva Convention.

11. Clause 13 of the Bill contains the Superintendent's Certificate referred to in paragraph 8 above.

PRINCIPAL CIVIL MEDICAL OFFICER (CHANGE OF NAME) ORDINANCE.

THE ATTORNEY-GENERAL moved the first reading of a Bill intituled, "An Ordinance to give effect to the change in the name and style of the office heretofore known as that of the Principal Civil Medical Officer." He said—It is proposed that the Medical and Sanitary Services shall be re-organised and that the Medical head shall be known as the Director of Medical and Sanitary Services. This Bill is intended to effect the necessary change in title in the Ordinances and also in other official and legal documents.

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

OBJECTS AND REASONS.

The object of this Bill appears sufficiently from the preamble. The change of title is being made in connection with the re-organization of the Medical and Sanitary Departments.

REGISTRATION OF WATCHMEN.

THE ATTORNEY-GENERAL—The Bill to provide for the registration and regulation of watchmen was read a second time, and passed the committee stage, at the last meeting of Council. I now move that it be recommitted for two purposes. The first is in order to amend clause 12 so as to make it refer only to police watchmen. That is the clause which gives the power of arrest to watchmen. At present the clause as it stands gives the power to every registered watchman. It is proposed to alter it so as to give the power of arrest only to police watchmen. The other object of recommitting the Bill is that certain interested parties may, if they so choose, appear by counsel before the Committee of the whole Council at the next meeting on this day week if they have any considerations to put forward with regard to any particular provisions in the Bill.

THE COLONIAL SECRETARY seconded the motion, and the Bill was recommitted.

Council then went into Committee.

THE ATTORNEY-GENERAL proposed and the COLONIAL SECRETARY seconded, that clause 12 be altered to read "Every police watchman" instead of "Every registered watchman." This was agreed to.

HON. SIR HENRY EDWARD POLLOCK referred to section (a) of sub-section I. of clause 3 dealing with fixing of wages payable by employers of watchmen, and asked whether it was the Government's intention to make this clause so wide as to cover private watchmen.

H.E. THE GOVERNOR—This is one of the points, I understand, upon which the Council will be addressed by interested parties at the next meeting. I think the matter had better stand over so that we may hear what submissions they wish to make.

This course was agreed upon.

H.E. THE GOVERNOR—This Bill will remain in Committee until the next meeting of Council.

Council then resumed.

H.E. THE GOVERNOR—Council adjourns until Thursday next at 2.30 p.m.

FINANCE COMMITTEE.

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

Votes for supplementary expenditure, totalling \$9,725 were approved.
