

1st December, 1932.

PRESENT:—

HIS EXCELLENCY THE GOVERNOR (SIR WILLIAM PEEL, K.C.M.G., K.B.E.).

HIS EXCELLENCY THE GENERAL OFFICER COMMANDING THE TROOPS (MAJOR-GENERAL J. W. SANDILANDS, C.B., C.M.G., D.S.O.).

THE COLONIAL SECRETARY (HON. MR. W. T. SOUTHORN, C.M.G.).

THE ATTORNEY GENERAL (HON. MR. C. G. ALABASTER, K.C., O.B.E.).

THE SECRETARY FOR CHINESE AFFAIRS (HON. MR. A. E. WOOD).

THE COLONIAL TREASURER (HON. MR. E. TAYLOR).

HON. MR. E. D. C. WOLFE, C.M.G., (Inspector General of Police).

HON. COMMANDER G. F. HOLE, R.N., (Retired) (Harbour Master).

HON. DR. A. R. WELLINGTON, (Director of Medical and Sanitary Services).

HON. MR. R. M. HENDERSON, (Director of Public Works).

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

HON. MR. W. E. L. SHENTON.

HON. MR. J. P. BRAGA.

HON. MR. S. W. TS'O, O.B.E., LL.D.

HON. MR. J. J. PATERSON.

HON. MR. T. N. CHAU.

HON. MR. W. H. BELL.

MR. R. A. C. NORTH (Deputy Clerk of Councils).

ABSENT:—

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

MINUTES.

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

WELCOME TO GOVERNOR.

THE HON. SIR HENRY POLLOCK.—Sir, as this is the first Meeting of this Council since your return, the Unofficial Members desire to welcome you back, and to assure you of our continued cordial co-operation in both the Executive and Legislative Councils.

We also desire to take this opportunity of placing on record our unanimous appreciation, which is shared by the unofficial members of the Executive Council, of the ability with which the Honourable Mr. Southorn has administered the affairs of this Colony during Your Excellency's absence. (Applause).

H.E. THE GOVERNOR.—I thank the unofficial members very sincerely for the very kind welcome and for the assurance they have given me of their continued co-operation. I need hardly say, I have always felt I could look forward with complete confidence to such support. I should like to associate myself warmly with the appreciation of the work done by my honourable friend, Mr. Southorn, during my absence on leave. I congratulate him very heartily on the able way he administered the Government, and I congratulate the Colony on having had the advantage of his ability and experience. (Applause).

HON. MR. W. T. SOUTHORN.—I should like, Sir, to thank Your Excellency and the Hon. Senior Unofficial Member for the kind way in which you have referred to my work during Your Excellency's absence. I need hardly say it has been my endeavour to carry out Your Excellency's wishes to the best of my ability during your absence, and to carry on the work of the Colony in the best interests of the Colony's inhabitants. (Applause).

PAPERS.

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

Notification under section 90 of the Public Health and Buildings Ordinance, 1903,—
Closing of the Mount Caroline Cemetery, Section D, from and after 5th November, 1932.

Order made by the Governor in Council on the 10th day of November, 1932, under Regulation No. 25 of the Emergency Regulations published in the Government Gazette of the 2nd October, 1931, by Government Notification No. 621.

Rescission of Government Notification No. 478 of the 20th July, 1932, in connection with the importation of aerated waters from China.

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. 12 of November 16th, 1932, and moved that it be adopted.

THE COLONIAL TREASURER seconded and this was agreed to.

VEHICULAR FERRY.

THE COLONIAL TREASURER.—With Your Excellency's permission I should like to take this opportunity of making a statement on the general financial position of the Ferry Piers. The original revised estimate amounted to \$1,500,000 of which sum local work was estimated at \$1,250,000 and cost of machinery \$250,000. When tenders were called for the running of the service the question of an alternative berth at the Jordan Road Pier arose and it was decided that this should be built whilst the work was going on and not added subsequently at greater expense and inconvenience to traffic. The additional berth cost \$40,000. Subsequently discussion arose as to end loading of passengers on the Vehicular Ferry and as a result of agreement between all the technical representatives concerned a scheme was evolved which included alterations to the waiting areas and construction of an accounts office at an extra cost of \$12,000. The machinery originally estimated at £12,000 or \$250,000 actually cost £15,400 but exchange at 1s/4d reduced the dollar price to \$211,000. Additional machinery was later considered essential for successful working and control and two electrical winches and two weigh-bridges were purchased at a cost of £2,600 or \$39,000 at 1s/4d. The total cost therefore amounted to \$270,000 against the original sum of \$250,000 allowed, an excess of \$20,000. Furthermore the salaries and allowances of officers of the Public Works permanent staff directly employed on this work were not allowed for in the original estimate and amount to \$95,000 for the period 1st January, 1931, to 31st December, 1932, and are estimated at \$12,000 during 1933 or a total of \$107,000. As no provision was made under Public Works Personal Emoluments it will be recollected that in 1931 Council approved (Message No. 8 item No. 37) of a supplementary vote of \$209,921 in respect of salaries of officers employed on loan works being temporarily charged to Personal Emoluments. An adjustment is now necessary.

Summing up, the financial position is as follows:—

| | | |
|--|----------|-------------|
| Original revised estimate | | \$1,500,000 |
| Additions: | | |
| Net extra cost of machinery | \$20,000 | |
| Additional berth | 40,000 | |
| Alterations to waiting area and Construction of accounts office | 12,000 | |
| Salaries | 107,000 | |
| | | 179,000 |
| | Total | \$1,679,000 |

It will be seen therefore that the total cost of the Ferry Piers will be \$179,000 more than the original revised estimate, largely owing to the salaries of the permanent staff not having been included, and I propose to ask for a supplementary appropriation next year.

The resolution I am about to move, however, is necessitated by the bulk of the expenditure for the Vehicular Ferry falling in the current year.

Council by resolutions dated 16th July, 1931, and 10th December, 1931, apportioned \$730,000 for 1931, and \$770,000 for 1932 respectively. The actual expenditure in 1931, however, only amounted to \$417,907 or \$312,093 less than voted whereas the expenditure this year will be approximately \$1,060,000, or \$290,000 more than the sum voted.

Before I move the resolution I wish to call attention to the alteration of the figure \$275,000 to \$290,000 owing to a miscalculation discovered after the Agenda had been printed. Although this has been circulated, yet as two clear days notice has not been given, I ask Your Excellency's permission under Standing Order 15 to dispense with the necessary notice.

This was agreed to.

I now move "That this Council approves of the further expenditure of \$290,000 on the Vehicular Ferry during the financial year 1932 which sum shall be met from a future loan and shall meanwhile be charged as an advance from the surplus balances of the Colony."

THE COLONIAL SECRETARY seconded.

HON. MR. SHENTON.—I assume that includes salaries to bring it into the loan account.

H.E. THE GOVERNOR.—I presume so.

HON. MR. SHENTON.—Otherwise it would not come into the loan account.

THE COLONIAL TREASURER.—No.

The motion was agreed to.

MARKET BY-LAWS.

THE ATTORNEY GENERAL.—Sir, I rise to move that the amendment to the Market by-laws made by the Sanitary Board under section 16 of the Public Health and Buildings Ordinance, 1903, on the 8th day of November, be approved. Under section 17 of that Ordinance all by-laws made by the Board are subject to the approval of this Council. The by-law in question forbids spitting in markets.

THE COLONIAL SECRETARY seconded, and this was agreed to.

MAGISTRATES ORDINANCE, 1932.

THE ATTORNEY GENERAL moved the first reading of a Bill intituled "An Ordinance to consolidate and amend the law relating to the jurisdiction of magistrates and the procedure and practice before magistrates in relation to offences punishable on summary conviction and to indictable offences and for other purposes." He said: "Sir, I rise to move the first Reading of a Bill to consolidate and amend the law relating to the jurisdiction of magistrates and the procedure and practice before magistrates in relation to offences and for other purposes.

This consolidation Bill is linked with two other consolidation Bills on to-day's agenda, the Summary Offences and Police Force Bills, in all of which provision is made for bringing them into force on the same day, the 1st January, 1933. This is because the draftsman of the Bills in arranging the consolidations has transferred certain provisions from one enactment to another in which their inclusion seemed more appropriate. One of such transfers is referred to in paragraph (1) of the Memorandum of Objects and Reasons. That Memorandum and the Table of Correspondence draw attention to all the small amendments to the existing law which are to be found in the Bill."

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

Objects and Reasons.

The "Objects and Reasons" for the Bill were stated as follows:—

This Ordinance consolidates and to some extent amends the law relating to magistrates and their powers. A Table of Correspondence is attached which shows the source of each section. The chief amendments made are as follows:—

Sections 39 to 42 and section 44 have been transferred bodily from the Summary Offences Ordinance, 1845, in which they appear as sections 37, 38, 40 and 43.

All the provisions of these sections are more appropriate to a Magistrates' Ordinance.

Section 43 is new, being derived mainly from the Police Property Act, 1897, (60 & 61 Vict. c. 30), which empowers a Magistrate to make orders in respect of property that has come into the possession of the police in connection with any crime, [*cf.* s. 45 of the Summary Offences Ordinance, 1845], with the proviso (derived from s. 41 of the same Ordinance) that no order for forfeiture of property of which the owner is unknown shall be made within twelve months.

Section 80 (old section 77) has been redrafted to meet a point recently raised as to the effect of a committal for trial when the criminal session of the Supreme Court for the month in which the accused is committed opens considerably later than the average date, *i.e.*, the 18th of the month.

For example, the July, 1932, session did not open until August 2nd, 1932. Under section 77 of No. 3 of 1890 any accused person committed for trial between the 10th July and the 1st August should, according to the letter of the law, have been tried at that session, whereas the obvious intention of the section is to require that any such committal should be one for trial at the session to be opened on or about August 18th.

In section 94 (old section 90) the maximum amount of compensation that a magistrate can order where a complaint has been maliciously preferred and the maximum penalty he can inflict for the wilful giving of false testimony before him have been raised from \$50 to \$100 in each case. Section 42 of No. 1 of 1845 (which section is no longer needed and does not appear in the Bill of the Summary Offences Ordinance, 1932), already empowers a magistrate to grant compensation up to \$100 to the victim of a malicious and vexatious prosecution.

Old section 93 providing penalties for drunkenness has been omitted. Its provisions appear in the Bill of the Summary Offences Ordinance, 1932, to which they are more appropriate.

In section 101 (old section 96) a new provision has been added (para. 6) making it lawful, where a magistrate granting a review considers it desirable, for another magistrate to re-hear and determine the case.

Section 125 takes the place of old sections 120, 121, 122 and 123. It is derived from the Public Authorities Protection Act, 1893, (56 and 57 Vict. c. 61), section 1 of that Act having replaced sections 8, 9, 11 and 12 of the Justices' Protection Act, 1848 (11 and 12 Vict. c. 44), from which sections 120-123 of Ordinance No. 3 of 1890 were taken.

REGISTRATION OF UNITED KINGDOM PATENTS ORDINANCE, 1932.

THE ATTORNEY GENERAL moved the first reading of a Bill intituled "An Ordinance to consolidate and amend the law relating to the Registration of United Kingdom Patents." He said: This is another consolidation Bill, the new matter in which consists in fixing certain fees to be charged in the Registry and in amending section 8 (2) by the substitution of the date of the patent for the date of the issue of the patent.

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

Objects and Reasons.

The "Objects and Reasons" for the Bill were stated as follows:—

The Registration of United Kingdom Patents Ordinances of the Colony were introduced on the instructions of the Secretary of State in order to carry out the recommendations of the British Empire Patent Conference, 1922, and the Imperial Economic Conference, 1923.

They have been adapted with slight alterations from a draft model Ordinance prepared by the Board of Trade. Defects in the model have been pointed out by the Secretary of State from time to time and the principal Ordinance has been amended accordingly, the latest amendment having been effected by Ordinance No. 18 of 1932 which was passed to comply with the Secretary of State's "Circular (2)" despatch of the 27th February, 1932.

A more recent Colonial Office circular despatch dated the 5th September, 1932, points out a further defect which has been discovered in the model. and which necessitates the substitution of the words "date of the patent" for the words "date of the issue

of the patent" in two places in sub-section (2) of section 8 of Ordinance No. 13 of 1925, as enacted by section 2 of Ordinance No. 18 of 1932.

As the principal Ordinance of 1925 is a short Ordinance which has been amended by Ordinances No. 10 of 1928, No. 38 of 1931, and No. 18 of 1932, and as the Rules made under it in 1926 were amended twice in 1931 it has been considered desirable to repeal them all and to re-enact them, with the alteration directed by the Colonial Office despatch of the 5th September, 1932, in this new Ordinance.

PROTECTION OF WOMEN AND GIRLS AMENDMENT ORDINANCE, 1932.

THE ATTORNEY GENERAL moved the first reading of a Bill intituled "An Ordinance to amend the Protection of Women and Girls Ordinance, 1897." He said: Sir, I rise to move the first reading of a Bill to amend the Protection of Women and Girls Ordinance, 1897. Its principal object is to strengthen the hands of the police and magistrates in dealing with an unpleasant feature of urban night life.

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

Objects and Reasons.

The "Objects and Reasons" for the Bill were stated as follows:—

1. The substituted sub-section (2) of section 13 of the principal Ordinance raises the maximum fines from \$100, \$200 and \$500 to \$250, \$500 and \$1,000 respectively.

2. The effect of the substituted sub-section (1) of section 17 of the principal Ordinance is to substitute the words "solicits for immoral purposes" for the words "in any public place persistently solicits or importunes for immoral purposes" and to raise the penalty from three months to six months. The words "in any public place persistently solicits or importunes" came from section 1 of the Vagrancy Act, 1898, (61 & 62 Vict., c. 39); but they appear to afford an unnecessary degree of protection to a type of pest which has recently increased.

3. The substituted sub-section (3) of section 21 adds the words "or the hearing of any information or charge" after "indictment" in line 1, and the words "information or charge" in lines 6 and 12, of section 21 (3) of the sub-section it replaces. It expressly applies the enactment to the hearing of an information or charge by a magistrate, thus removing any doubt as to the intention of the legislature when this sub-section was added in 1909, (See

Memorandum attached to the Bill in Hong Kong Government Gazette of 8th October, 1909, page 785) to apply section 9 of the Criminal Law Amendment Act, 1885, to proceedings before magistrates as well as on indictment.

SUMMARY OFFENCES ORDINANCE, 1932.

THE ATTORNEY GENERAL moved the first reading of a Bill intituled "An Ordinance to amend and consolidate the law relating to Summary Offences." He said: Sir, I rise to move the First Reading of a Bill to amend and consolidate the law relating to Summary Offences. The principal Ordinance was passed 87 years ago and the amending Ordinances which have been passed in the interval caused in it a loss of cohesion which is corrected in the consolidation. I do not think that there is anything I can add to what is set out in the Objects and Reasons and Table attached to the Bill.

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

Objects and Reasons.

The "Objects and Reasons" for the Bill were stated as follows:—

This Ordinance consolidates and amends the law relating to Summary Offences in the manner indicated in the Table of Correspondence. In particular the following amendments are outstanding.

Section 4 is new and is based on the provisions of the Scavenging and Conservancy by-laws (Ordinances of Hong Kong, Vol. III p. 1602-5) that govern the conveyance etc., of pig-wash and night-soil. There has always been difficulty in enforcing those by-laws because the police have had no power to arrest offenders. This difficulty will now disappear.

Section 8 is a combination of sections 8 (1) and 21 of No. 1 of 1845, and also includes the main provisions of sections 19, 20, 21, 22, 23 and 24 of the Malicious Damage Ordinance, 1865, (which are repealed by section 32) in respect of damage to trees, etc. The overlapping of the provisions of the two Ordinances is thus got rid of.

Section 21 has been amplified by the inclusion therein of the provisions of the Vagrancy Act, 1824 (5 Geo. 4, c. 83, s. 4) dealing with loiterers and suspected persons, and of section 127 of the Magistrates' Ordinance, 1890.

Section 23 has been transferred from the Magistrates' Ordinance, 1890, in which it was section 93. The various forms of drunkenness dealt with would appear to be essentially summary

offences. The maximum fine under s.s. (1)—"drunk in public place or licensed premises"—has been raised from \$10 to \$25, and that under s.s. (2)—"drunk and disorderly"—and under s.s. (3)— "drunk when in charge of a vehicle etc., (other than a motor vehicle)"—has been raised in each case from \$25 to \$100. The Magistrates consider the lower penalties insufficient.

Sections 28, 29 and 31 of No. 1 of 1845 have been transferred to the new Police Force Ordinance and sections 37, 38, 39, 40, 41, 43 and 45 to the new Magistrates Ordinance, to which respectively their provisions are more appropriate.

In section 25, replacing the old section 44, the reference to section 13 is omitted, that section having been combined with others in the new section 13 as indicated in the Table of Correspondence. But the liability imposed by section 25 (old 44) on occupiers for offences against section 3 (1) has been extended to offences against section 3 (3), (13) and (14).

OPIUM AMENDMENT ORDINANCE, 1932.

THE ATTORNEY GENERAL moved the second reading of a Bill intituled "An Ordinance to amend the Opium Ordinance, 1932."

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

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

Upon Council resuming,

THE ATTORNEY GENERAL reported that the Bill had passed through Committee without amendment and moved the third reading.

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

THE POLICE FORCE ORDINANCE, 1932.

THE ATTORNEY GENERAL moved the second reading of a Bill intituled "An Ordinance to consolidate and amend the law relating to the establishment and regulation of the Police Force."

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

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

Upon Council resuming,

THE ATTORNEY GENERAL reported that the Bill had passed through Committee without amendment and moved the third reading.

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

THE PRISONS ORDINANCE, 1932.

THE ATTORNEY GENERAL moved the second reading of a Bill intituled "An Ordinance to consolidate and amend the law relating to Prisons."

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

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

Upon Council resuming,

THE ATTORNEY GENERAL reported that the Bill had passed through Committee without amendment and moved the third reading.

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

THE COMPANIES ORDINANCE, 1932.

THE ATTORNEY GENERAL.—I move that Clause 123 be recommitted to Committee in order to insert three words which have fallen out of the marginal note.

THE COLONIAL SECRETARY seconded and this was agreed to.

Council went into Committee.

THE ATTORNEY GENERAL.—I move that the words "contents of balance" be inserted before the word "sheet" in the marginal note of clause 123.

THE COLONIAL SECRETARY seconded and this was agreed to.

Upon Council resuming,

THE ATTORNEY GENERAL reported that Section 123 had passed through Committee with one immaterial amendment and moved the third reading of the Bill.

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

ADJOURNMENT.

H.E. THE GOVERNOR.—Council stands adjourned until Thursday, December 8th.

FINANCE COMMITTEE.

Following the Council, a meeting of the Finance Committee was held, the Colonial Secretary presiding.

Votes totalling \$30,953, contained in Message No. 13 from His Excellency the Governor, were considered.

No. 116.

THE COLONIAL TREASURER.—I should like the figure \$555 altered to \$638. Two small charges have come in since this appropriation was prepared.

This was agreed to.

All the votes were approved.
