

17th July, 1947.

PRESENT: —

HIS EXCELLENCY THE OFFICER ADMINISTERING THE GOVERNMENT (MR. D. M. MACDOUGALL, C.M.G.)

THE HON. THE GENERAL OFFICER COMMANDING THE TROOPS (MAJOR-GENERAL G. W. E. J. ERSKINE, C. B., D. S. O.)

THE COLONIAL SECRETARY (HON. MR. R. R. TODD, *Acting*).

THE ATTORNEY GENERAL (HON. MR. J. B. GRIFFIN, K.C.)

THE SECRETARY FOR CHINESE AFFAIRS (HON. MR. B. C. E. HAWKINS, O.B.E., *Acting*).

THE FINANCIAL SECRETARY (HON. MR. C. G. S. FOLLOWS, C.M.G., *Acting*).

HON. MR. T. MEGARRY.

HON. MR. V. KENNIFF (Director of Public Works).

HON. DR. I. NEWTON (Acting Director of Medical Services).

HON. MR. D. F. LANDALE.

HON. MR. CHAU TSUN-NIN, C.B.E.

HON. MR. LO MAN-KAM, C.B.E.

HON. MR. R. D. GILLESPIE.

HON. DR. CHAU SIK-NIN.

HON. MR. M. M. WATSON.

MR. ALASTAIR TODD (Deputy Clerk of Councils).

ABSENT: —

HON. MR. LEO D'ALMADA E CASTRO.

MINUTES.

The Minutes of the meeting held on 10th July, 1947, were confirmed.

VERANDAHS AND BALCONIES (INCLOSURE FOR OFFICE ACCOMMODATION) BILL, 1947.

THE ATTORNEY GENERAL moved the First reading of a Bill intituled "An Ordinance to authorise the Director of Public Works to grant permits for the inclosure of verandahs and balconies over unleased Crown land or streets for certain purposes." He said: Sir, the purpose of this Bill is explained in the Objects and Reasons. It suffices merely for me to emphasise that the Bill, if enacted, will have effect only to the 31st December, 1951; also, that the authorisation which the Director of Public Works will under the Bill be empowered to give will be merely to authorise the inclosing of verandahs and balconies over unleased Crown land or over any street for the purpose only of producing in present conditions extra office accommodation.

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. Shortage of office accommodation in the Colony has resulted in applications being made to the Director of Public Works for permission to inclose and use verandahs and balconies as offices.

2. The inclosure, wholly or in part, of verandahs and balconies over unleased Crown land or over any street is prohibited by section 63 of the Buildings Ordinance, 1935, and by section 32(2) of the Public Health (Sanitation) Ordinance, 1935.

3. It is considered that this shortage of office accommodation is likely to last a few years and that in the circumstances it is reasonable, despite the prohibition contained in the above-mentioned Ordinances, that the Director of Public Works be authorised, in his discretion and subject to such conditions as he may prescribe, to grant permission to any owner of premises where a verandah or balcony is situate over unleased Crown land or over any street, to inclose such verandah or balcony for use as office accommodation.

LARCENY AMENDMENT BILL, 1947.

THE ATTORNEY GENERAL moved the First reading of a Bill intituled "An Ordinance to amend the Larceny Ordinance, 1935." He said: Sir, at the present time the practice is unfortunately prevalent in the Colony of using threatening letters to extort payment of money. Section 46 of the Larceny Ordinance, 1935, makes it a

felony punishable with imprisonment for life, and, in the case of males, corporal punishment if any person utters, knowing the contents thereof, any letter demanding property with menaces. Experience, however, has shown in the prosecution of offenders that there is difficulty in proving that a person uttering a threatening letter has done so with knowledge of the contents of the letter. The purpose of this Bill is, therefore, by clause 3 to add a section which will make the possession of a threatening letter an offence, and which will put the onus on the person having a threatening letter to show that he had it without intent to utter such letter.

The opportunity has also been taken to provide for an increase of penalty where there is proved a conspiracy or attempt to utter a letter threatening persons with the idea of obtaining money by such threat.

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. At the present time the practice is prevalent in the Colony of using threatening letters to extort payment of money. In particular such letters threaten the use of explosives, if payment be not made.

2. Section 46 of the Larceny Ordinance, 1935 (the principal Ordinance), makes it a felony, punishable on conviction with imprisonment for life and, in the case of males under 16 with corporal punishment, if any person “utters, **knowing the contents thereof**, any letter or writing demanding of any persons with menaces, and without any reasonable or probable cause, any property or valuable thing.” Such section, however, places on the Crown the onus of proving knowledge of the contents of such letter or writing by any person uttering them. Experience has shown that such an onus is in the type of case usual in this Colony most difficult to discharge.

3. In these circumstances it is considered that provision should be made rendering it an offence to be in possession of a letter or writing demanding money with menaces, the onus being placed upon any person so found in possession to prove that he had no intent to utter such letter or writing. Such provision is made by Clause 3 of this Bill.

4. The Larceny Ordinance provides no specific punishment for conspiring or attempting to utter a letter or other writing demanding money or other property with menaces. Consequently such an offence can only be punishable under section 5 of the Misdemeanours Punishment Ordinance, 1898, as a misdemeanour at Common Law with imprisonment for a term not exceeding three years and to a fine not exceeding \$1,000. In view of the prevalent practice above described,

it is considered necessary to provide for an increase in the penalty which may be imposed upon a conviction for such conspiracy or attempt. Clause 2 of this Bill seeks to make such provision by the addition of a sub-section to section 46 of the principal Ordinance.

MAGISTRATES AMENDMENT BILL, 1947.

THE ATTORNEY GENERAL moved the First reading of a Bill intituled "An Ordinance to amend the Magistrates Ordinance, 1932." He said: Section 89 of the Magistrates Ordinance, 1932 lists a number of offences in regard to which magistrates are empowered upon conviction for such offences to order corporal punishment in addition to other punishment provided for such offences. It is, however, the policy in United Kingdom and in other colonial territories progressively to remove or reduce flogging as a penalty for criminal offences. In line with this policy, this Bill proposes to repeal Section 89 of the Magistrates Ordinance, 1932, to remove from magistrates the power to impose corporal punishment in the manner which I have described, and it is proposed by this Bill to replace Section 89 by a provision which will give to magistrates power to impose corporal punishment on male adult offenders in only one particular class of offences, that is, an offence popularly known in the present prevalence of the crime as "bag-snatching" from the person of a woman or child. The Bill upon enactment will, of course, make no Change in the power of magistrates to impose corporal punishment on juvenile offenders; similarly, no change will be made in the power, which will continue, of the Supreme Court upon conviction of offences upon indictment to impose corporal punishment where necessity appears to be shown.

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. Section 89 of the Magistrates Ordinance, 1932 (the principal Ordinance), empowers a Magistrate to impose the penalty of flogging upon any male offender convicted of the offences specified in such section.

2. It is considered that, in conformity with general policy within Colonial territories progressively to remove or reduce flogging as a penalty for criminal offences, the power of a Magistrate to impose the penalty of flogging on a male adult, should be restricted to cases of conviction for the stealing of any ornament or chattel from the person of any woman or child.

3. The object of this Bill is, therefore, by repeal and replacement of section 89 of the principal Ordinance, to effect this purpose.

JURY AMENDMENT BILL, 1947.

THE ATTORNEY GENERAL moved the First reading of a Bill intituled "An Ordinance to amend the Jury Ordinance, 1887." He said: Sir, it has been mentioned in the Objects and Reasons which accompany the Bill before Council that Government received a resolution unanimously adopted at a public meeting held on the 19th March in this year which was attended by representatives of many sections of the women of this Colony. The resolution reads as follows: —

“That this meeting, consisting of women representing different sections of the Colony's community, asks the Government to consider the introduction of legislation giving to women the privilege and obligation of jury service.”

The main purpose of this Bill is to give legislative effect to this resolution. This is simply done, because, as enacted by clauses 2 and 3 of the Bill, it is necessary only to make minor amendment to Sections 2 and 3 of the Jury Ordinance in order to make it clear that women as well as men may serve on juries in this Colony. Thus, upon the passing of this Bill, the position as regards obligation to jury service of women in this Colony will be similar to that which exists in the United Kingdom and has existed since 1919.

The remainder of the Bill, as fully explained in the Objects and Reasons, effects amendments which are in a number of cases incidental or consequential upon the amendment of the Ordinance for the main purpose which I have described.

I would note especially that amendment is to be made whereby it will be possible both as regards men and women henceforth to add to jury lists without the necessity for waiting for the lapse of a full year between dates of the formal settlement of the jury list.

In conclusion, I would remark that as must be obvious to Honourable Members, the fact that women would become, if this Bill be enacted, eligible for jury service, will be of great importance and assistance, because by that means the panel of jurors will be increased and therefore the burden—because it is often a considerable burden—of jury service will be more spread out throughout the community.

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. Sections 2 and 3 of the Jury Ordinance, 1887, the principal Ordinance, restrict Jury service to men between the ages of twenty-one and sixty.

2. A public meeting was held on the 19th of March, 1947, which was attended by representatives of many sections of women of the Colony. Such meeting unanimously adopted a resolution in the following terms: —

"That this meeting, consisting of women representing different sections of the Colony's community, asks the Government to consider the introduction of legislation giving to women the privilege and obligation of Jury Service".

Such resolution was forwarded to Government subsequent to such meeting.

3. The primary object of this Bill is, therefore, to give effect to the resolution above quoted by amendment of sections 2 and 3 of the principal Ordinance in such manner as to remove the present restriction to men of the obligation to perform Jury service.

4. The opportunity afforded by such necessity to amend the principal Ordinance has been taken to provide in section 3, as amended by Clause 3 of this Bill, that a person liable for service as a juror shall have a sufficient knowledge of the English language. Such provision will confirm the interpretation which, in practice, the Court now places upon the expression "is not ignorant of the English language" which occurs in section 3 of the principal Ordinance.

5. Further amendments for which the Bill provides, are: —

Clause 4—Section 4 of the principal Ordinance sets out the categories of persons not liable to serve as jurors. Among such categories, sub-section (11) of section 4 exempts the masters of steamers and local pilots. It is considered that similar exemption should be provided for professional pilots of aircraft.

Clause 5—It has become settled practice to Gazette the Jury lists, when settled, under the provisions of sections 7 and 8 of the principal Ordinance. The purpose of this Clause is to render such practice obligatory.

Clause 6—Sections 7 and 8 of the principal Ordinance provide for the manner in which the Jury lists shall be prepared. The effect of such provisions is that the lists, having been finally settled, must remain unamended for one year. Consequently, it is not possible to avail of the services of any individual who may become liable to Jury service after the lists are closed. The purpose of this Clause is to amend the principal Ordinance by the inclusion of power to add to settled Jury lists. Such power enables addition, within the current year of persons, being women, who will become liable to Jury service upon enactment of this Bill.

Clause 7—Section 16 of the principal Ordinance empowers the Attorney General to secure the appointment of a special jury for the trial of any case. The section also empowers a judge, on the application of any private prosecutor or of the person accused, to order a

special jury. The section does not, however, enable a judge, **of his own instance**, to order that a special jury be summoned. This clause, therefore, provides for the repeal and replacement of section 16 to remedy such defect.

Clause 8—Consequentially on the extension to women of the liability to serve on juries, it is desirable to empower a judge to order that a jury be composed of men only or of women only and empower exemption of women from service on a jury in respect of any case the facts or issues of which are of such a nature as to make such exemption desirable. Such provision follows section 1 of the Sex Disqualification (Removal) Act, 1919 (9 and 10 Geo. 5. C. 71).

Clause 9—The principal Ordinance contains no provision empowering the making of rules. Such power is desirable to enable administrative details relating to jury service to be prescribed. The purpose of this Clause is so to provide.

TRADE MARKS REGISTER (RE-CONSTRUCTION) BILL, 1947.

THE ATTORNEY GENERAL moved the Second reading of a Bill intituled "An Ordinance to authorise and provide for the re-construction of the Register of Trade Marks formerly kept under the Trade Marks Ordinance, 1909, and to amend and modify the application of the said Ordinance."

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

On the motion of the ATTORNEY GENERAL, seconded by the COLONIAL SECRETARY, Council then went into Committee to consider the Bill clause by clause.

Council then resumed.

THE ATTORNEY GENERAL reported that the Trade Marks Register (Re-Construction) Bill, 1947, 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 into law.

ADJOURNMENT.

H.E. THE OFFICER ADMINISTERING THE GOVERNMENT: That concludes the business, and this Council stands adjourned two weeks from to-day.