

10TH OCTOBER, 1907.

PRESENT:—

HIS EXCELLENCY THE GOVERNOR, SIR FREDERICK JOHN DEALTRY LUGARD, K.C.M.G., C.B., D.S.O.

His Excellency Major-General R. G. BROADWOOD, C.B., A.C.D., General Officer Commanding the Troops.

Hon. Mr. F. H. MAY (Colonial Secretary).

Hon. Mr. W. REES DAVIES (Attorney-General)

Hon. Mr. A. M. THOMSON (Colonial Treasurer).

Hon. Mr. W. CHATHAM, C.M.G. (Director of Public Works).

Hon. Mr. A. W. BREWIN (Registrar-General).

Hon. Commander BASIL R. H. TAYLOR, R. N. (Harbour Master).

Hon. Dr. HO KAI, M.B., C.M., C.M.G.

Hon. Mr. E. A. HEWETT.

Hon. Mr. H. KESWICK.

Hon. Mr. WEI YUK.

Hon. Mr. E. OSBORNE.

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

MINUTES.

The minutes of the previous meeting were read and confirmed.

STANDING COMMITTEES.

HIS EXCELLENCY—Before proceeding with the business, under the standing orders it is necessary to appoint the standing committees for the year.

Finance Committee — All the members except myself, with the Colonial Secretary as chairman.

Law Committee—The Attorney-General as chairman and the former members, Hon. Dr. Ho Kai, Hon. Mr. Wei Yuk, Hon. Mr. H. E. Pollock and the Hon. the Harbour Master.

The Public Works Committee remains without change—The Hon. Director of Public Works, Chairman, the Hon. Colonial Treasurer, Hon. Mr. Osborne, and Hon. Mr. Keswick.

FINANCIAL MINUTES.

The COLONIAL SECRETARY, by command of H.E. the Governor, laid on the table Financial Minutes 48 and 49 and moved that they be referred to the Finance Committee.

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

FINANCIAL.

The COLONIAL SECRETARY, by command of H.E. the Governor, laid on the table the report of the Finance Committee No. 9 and moved its adoption.

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

THE COMPANIES ORDINANCE.

The ATTORNEY -GENERAL—Sir, I move the second reading of the Bill to Amend the Law Relating to Companies. Now, Sir, the object of the Bill is set forth in the preamble. Companies registered under the Ordinance of 1865 are required to keep a register of members. Under this Bill the Governor-in-Council is empowered to grant a license relieving a company from keeping its register at the registered office in Hongkong. In such case the register kept hitherto presumably at the head office of the company is to be regarded as the register kept under the Companies Ordinance 1865. I may say, Sir, that the Bill has received the full consideration of the Chamber of Commerce at Hongkong and also of the authorities representing the various companies in Shanghai which will be primarily interested in

the proposal. Representations have been forwarded to the Government from the representatives of the various Shanghai companies, and they approved in general all the proposals contained in the Bill. There were, Sir, two or three amendments proposed by the representatives of the Shanghai companies, and they were submitted for the consideration of the Government, which has approved of all these amendments. Two out of three were incorporated in the Bill and in reference to the third amendment the Government approved of it in a modified form. The amendments proposed by the representatives of the Shanghai Chamber of Commerce were considered in regard to Clause 4 of the Bill, where it is proposed that a fee of four cents for every \$100 of the nominal capital of the company should be paid in respect of the license issued under the Ordinance. It was suggested that instead of "nominal capital" it should be "paid up capital." We are of opinion that that was a practical proposal, and the Government amended it accordingly. In Clause 4, Sub-section 8 (b) the question of domicile was raised and in regard to stamp duties it was suggested in the Bill as originally drafted in Clause 4, Subsection 8 (b) the words "domicile elsewhere where than in the Colony," should be eliminated. The reasons for this, which I think are unnecessary to recapitulate, appear to be sufficient. The Government eliminated these words. The only other amendment was in Clause 6, Sub-section 1, which requires that in the event of a company not having obtained a license it shall be struck off the register if it fails to comply with the Ordinance after the expiration of one month. The proposal from Shanghai was that the time of expiration of notice should be three months instead of one. The Government has met them half way and suggested that a notice of two months would be sufficient. The Bill is non-controversial and I trust the Council will approve. I move that the Bill be read a second time.

The COLONIAL SECRETARY seconded.

Hon. Mr. HEWETT—Sir, after the explanation made by the Hon. Attorney-General it is unnecessary for me to say anything. He explained to the Council that the question had been referred to Shanghai, and the Bill as it now stands in its altered form with one slight alteration, has been accepted by the Chambers of Commerce at Shanghai and Hongkong. With regard to Section 6, Sub-section 1, I wish to make a slight suggestion which, I trust, we will be enabled to deal with in the committee stage of the Bill.

The Bill was then read a second time. Council went into committee to consider the Bill clause by clause, and the Attorney-General, intimated he would consider the point raised by the Hon. Mr. Hewett and, if necessary, recommit the Bill.

EXPOSURE IN THE STOCKS.

The ATTORNEY -GENERAL—Sir, I rise to move the second reading of the Bill entitled an Ordinance to limit the imposition by public exposure in the stocks. I need not expatiate on this Bill at any length. It has been thought that punishment inflicted in the stocks has in some cases taken rather an exaggerated form. Having regard to representations in the matter it is desirable that in future punishment should be limited to cases where an offence is punishable by imprisonment only. The Bill is introduced with that object.

THE COLONIAL SECRETARY seconded.

Hon. Mr. KESWICK—I wish, Sir, to oppose this Bill because I feel it is being rushed on us. You will pardon me, You Excellency, if I call your attention to the fact that you have only recently arrived here, and have not had opportunity of studying the conditions under which we live and the conditions of crime and the status of the people who commit crimes and incommode us here. The Hon. Attorney-General has also but recently arrived. I cannot but feel that we are being rushed on this Bill by a small section of the Chinese community here who evidently have control of one of the morning papers and who, having acquired a certain amount of Western knowledge and learning, consider the exposure of their fellow countrymen in the stocks is a reflection upon themselves. They, however, entirely forget that we are absolutely next door to China, and that a man only requires twenty minutes to get over the border. The people who are punished by stocks are not the enlightened gentlemen of the Chinese nation who are a credit to any nation under the sun, but rogues and vagabonds who so freely come across here. I think in dealing with men of that type we have to consider the conditions under which they themselves live in their own country. In their own country torture is one of the smallest things they have to suffer. I need not expatiate on the various punishments imposed on malefactors in China. They are well known to us all. I wish to draw your attention to the experience of Shanghai. There the bamboo, the cangue and the stocks were abolished inside the Settlement, although outside these methods of punishment and torture and other methods were freely in vogue. There, instead of twenty minutes to get over the border it takes at the utmost ten. What was the consequence of the removal of these methods of punishment? The consequence was that crime increased by leaps and bounds, and the prisons were soon full, showing that two or three days in the municipal goal was no deterrent whatever. These things, Sir, I think, should be considered very carefully by all members of the Council before voting for the Bill now before them. I

have the greatest admiration for our Chinese fellow subjects who have emancipated themselves from the old style which obtains across the border, but I maintain that if they studied the best interests of their nationals they would, instead of trying to mitigate the forms of punishment, assist you, Sir, and all concerned in the Government, in making it absolutely plain in a most effective way as regards rogues and vagabonds that we have no place for them (applause.)

Hon. Dr. HO KAI—Sir, I did not intend to speak on this Bill, but I think after the remarks of the hon. gentleman opposite a few words from me are necessary. I do not think the hon. member could have studied the Bill. This Bill is not to take the punishment by means of stocks away altogether from the statute. It simply limits that punishment to certain crimes— crimes which ought to be punished by some effective punishment; crimes like larceny, robbery, returning from banishment and others. So-called municipal crimes, crimes which are created by law for good order in the place, such as obstruction, hawking without licenses and so on, are crimes which, we think, ought not to be punishable by stocks. The hon. gentleman was also under a misapprehension. It is not only a small section of the Chinese community who advocate the bill. I may say the great majority of the Chinese are in favour of it. I quite admit there were some who wished to go further, but the majority of the Chinese thought a Bill such as the one before the Council would be suitable. I am sure there need be no misapprehension that, if the Bill is passed, crime will be on the increase, because the more serious crimes are still punishable by stocks, if thought necessary by the magistrate. If the imposition of stocks were made more universal, to apply not only to Chinese but others as well, it would take away a great deal of the opposition of the majority of the Chinese to this mode of punishment.

THE ATTORNEY -GENERAL — I think the hon. gentleman opposite has correctly interpreted the effect of the Bill. I have here returns showing the number of prisoners sentenced to stocks in the year 1906, and I find that all serious offences would still be punishable by stocks assuming this Bill is passed. The particular offences not punishable by stocks are in the main offences of a minor degree. For instance under the Licensing Ordinance stocks were imposed during the year 1906. That would no longer apply. Then there are two cases under the Merchant Shipping Ordinance. They would no longer apply. Neither would a number of police offences. All the more serious offences, however, appear still to be retained, and I do not think my hon. friend at the end of the table need have any great apprehension that crime would be increased by the proposed depreciation of the punishment.

The COLONIAL SECRETARY—Sir, as one who had the duty of maintaining law and order in the Colony for nine years, I have no hesitation in saying I do not think

the Bill will in any way weaken the hands of the authorities in suppressing crime — what may be legitimately called crime.

HIS EXCELLENCY—The hon. gentleman at the end of the table said I had not been long in the Colony. That is very true, but I have been here long enough to give very careful consideration to this Bill which is of exceptional interest. I was particularly struck in studying the papers by the argument that if punishment by stocks was made too common, law abiding people like the Chinese would cease to be able to recognise criminals whom public opinion really condemned. I think that is a very strong argument, gentlemen. In such a case, when law abiding citizens went down the street and saw any prisoner in the stocks, they would recognise his features and could at any time afterwards take measures of precaution against him. If on the other hand the person is put in the stocks for petty offences such for instance as hawking, or some of the others to which the Attorney-General alluded, we will cease to carry with us the public opinion of the large majority of the lower class Chinese. I think that is a very important point. Beyond that remark I have nothing further to say than what was said by the Attorney General, that the Bill in no way weakens the hands of the Government or detracts from our power to impose a penalty in accordance with tradition and with the law of the Colony for many years past (applause).

The Bill was read a second time, and the Council went into committee to consider it clause by clause.

On resuming, the ATTORNEY -GENERAL reported that the Bill had passed through committee without amendment and moved that it be read a third time.

The COLONIAL SECRETARY seconded, and the bill was read a third time, passed and became law.

THE ESTIMATES.

The COLONIAL SECRETARY moved that Council resolve itself into a committee of the whole Council to consider the Bill entitled "An Ordinance to apply a sum not exceeding Four million nine hundred and ninety-two thousand nine hundred and fifty-three Dollars to the Public Service of the year 1908."

The COLONIAL TREASURER seconded, and Council went into committee.

On resuming, the COLONIAL SECRETARY reported that the Bill had passed through the committee without amendment, and moved that it be read a third time.

The COLONIAL TREASURER seconded, and the Bill was read a third time and became law.

PUBLIC NOTARIES ORDINANCE.

The ATTORNEY -GENERAL.—With regard to the next order of the day, Sir, I do not propose to move that Council go into committee to-day on the Bill relating to the appointment of notaries.

Hon. Mr. OSBORNE—If your Excellency will permit me, although I am not in order, I would like now, as I am leaving next week for North China, to bring to the notice of the Council certain facts which I have been asked to bring forward. As they are of a somewhat technical nature I will, with your Excellency's permission, read some extracts from the letter addressed to me—"In England only those persons who have served articles for five years, in London for seven years, to a notary public are themselves appointed notaries"—

The ATTORNEY -GENERAL—On a point of order. There is no question before the Council, and it would not be open for me to reply to any observations of the hon. gentleman. I would therefore suggest to him that he reserves any observations on the Bill he wishes to make until I am ready to move the second reading.

Hon. Mr. OSBORNE—I understood the second reading had been moved.

His EXCELLENCY—The second reading was postponed.

The COLONIAL SECRETARY—I think if the hon. member were to forward the letter he has received, it would receive every consideration.

Hon. Mr. OSBORNE.—Yes, Sir.

SEDITIONOUS PUBLICATIONS ORDINANCE.

The ATTORNEY -GENERAL—Before moving the third reading of the Bill to prevent the publication of seditious matter, I would ask that the Bill be recommitted in regard to a very simple matter. It will be within the recollection of the Council that the hon. gentleman opposite addressed a question to me as to whether a magistrate would have power to deal summarily with the penal clause of the Bill. I expressed the opinion at that time, and I still adhere to it, that a magistrate would not have power to deal summarily with a prisoner. I did so having regard to Ordinance 3 of 1890, which enumerates in the schedule the list of offences

excluded from summary jurisdiction, and mentions the printing or publishing of blasphemous, seditious or defamatory libels. This Bill is to prevent the publication of seditious matter and when I gave the answer which I did to the hon. gentleman, I was of the opinion that it would be excluded from the summary jurisdiction of the magistrate, but it is just possible that other people may take a different view, that some one may construe the law differently to what I do, and as it is the desire of the Government that all these offences should not be dealt with summarily, I ask the permission of the Council to move the recommittal of the Bill in order to insert express words, providing that the offence shall only be dealt with by the Supreme Court.

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

The ATTORNEY -GENERAL—I beg to move the following new clause:—"No person shall be convicted of an offence against this Ordinance, except by the Supreme Court."

This was agreed to, and on Council resuming the Bill was read a third time, passed and became law.

HIS EXCELLENCY—Council stands adjourned until Thursday, 24th instant.

FINANCE COMMITTEE.

A meeting of the Finance Committee was then held—the Colonial Secretary presiding. The following votes were passed.

GOVERNMENT HOUSE REPAIRS.

The GOVERNOR recommended the Council to vote a sum of three thousand dollars (\$3,000) in aid of the vote, Public Works Extraordinary, Miscellaneous, Hot Water Apparatus and Baths, Government House.

EVENING CLASSES.

The GOVERNOR recommended the Council to vote a sum of seven thousand three hundred and thirty-six dollars (\$7,336) in aid of the vote Education, Department of Inspector of Schools — Other Charges, Evening Continuation Classes.
