

9TH MARCH, 1911.

PRESENT:—

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

HIS EXCELLENCY THE GENERAL OFFICER
COMMANDING THE TROOPS (MAJOR-GENERAL C.
A. ANDERSON, C.B.).

HON. MR. C. CLEMENTI (Colonial
Secretary).

HON. MR. W. REES DAVIES, K.C.
(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. DR. HO KAI, M.D., C.M.G.

HON. MR. WEI YUK, C.M.G.

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

HON. MR. E. A. HEWETT

HON. MR. E. OSBORNE.

HON. MR. KESWICK

MR. R. H. CROFTON (Clerk of Councils)

Minutes

The minutes of the last meeting were read
and confirmed.

Paper

THE COLONIAL SECRETARY, by
command of His Excellency the Governor,
laid on the table the Jurors' List for 1911.

Financial Minutes

THE COLONIAL SECRETARY, by
command of His Excellency the Governor,
laid on the table Financial Minutes (Nos. 17
to 19), 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 His Excellency the Governor,
laid on the table the report of the Finance
Committee (No. 2), and moved its adoption.

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

Opium Compensation

HIS EXCELLENCY—Gentlemen, before
proceeding with the orders of the day I have
much pleasure in reading to you the following
telegram which I received the other day from
the Secretary of State:—London, 24th
February, 1911, Governor, Hongkong. With
reference to your despatch No. 435 of Dec.
23rd, two further grants of £12,000 each will
be placed on Imperial Estimates for financial
years 1911-12 and 1912-13 as compensation
to Hongkong for loss of opium revenue.—
Harcourt. (Applause.)

The Fisheries (Dynamite) Ordinance

THE ATTORNEY - GENERAL moved the
first reading of a Bill entitled, "An Ordinance
to prohibit the use of Dynamite or other
Explosives for the purpose of catching or
destroying Fish."

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

The Interpretation Ordinance

THE ATTORNEY-GENERAL moved the
first reading of a Bill entitled, "An Ordinance
to amend and codify the law as to Common
Forms and as to the Interpretation of Terms
used in Ordinances."

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

Police Force Amendment Ordinance

THE ATTORNEY-GENERAL moved the first reading of a Bill entitled, "An Ordinance to amend the Police Force Ordinance, 1900." The object of section 23 was evidently to give summary powers to the Capt. Superintendent and Deputy Superintendent of Police. The latter part of the section was practically unnecessary, as almost every case that could arise under it could be dealt with under section 22. Section 22 is amended by transferring the effect of the latter part of section 23 (1) to it and making the sentence uniform. The Captain Superintendent of Police no longer desires to have the power to award imprisonment. These powers have consequently been abolished, and he has been given a power, which he desires, to impose small fines on sergeants or constables for breaches of discipline or neglect of duty.

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

Harbour of Refuge Amendment Ordinance

THE ATTORNEY - GENERAL moved the second reading of the Bill entitled, "An Ordinance to amend the Harbour of Refuge Ordinance, 1909." In doing so he said — The principal Ordinance was passed last year. It provided that claims for compensation for injuries to property through access to the sea being interfered with by works authorised under the Ordinance should be in the absolute discretion of the Governor. Your Excellency has thought it irregular that duties of a quasi judicial character should be placed upon you, who are the head of the Executive and familiar with all the preliminary proceedings with reference to the properties in question, and it seemed more desirable and more consistent with the common practice that these duties should be reposed in one of the Judges of the Supreme Court. The Bill amends the Ordinance by delegating to one of the Judges of the Supreme Court power to determine the amount of compensation to be awarded when any claimant is dissatisfied with the amount of compensation proposed to be awarded by the Government, and vests the Judge with ordinary powers for the purpose of investigating such claims. I should like to add that the amended Bill is worded in such a way as not to deprive a claimant, if he likes to accept what sum may be offered him by the

Government. If he is dissatisfied he has the opportunity of appealing to a Judge of the Supreme Court, who will investigate the matter and hear evidence upon it.

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

Council then went into committee to consider the Bill clause by clause.

HON. MR. OSBORNE proposed an amendment that a Judge, if he thought fit, should sit with an assessor or assessors.

THE ATTORNEY-GENERAL—I think a Judge is quite competent.

HON. MR. HEWETT—As I understood the hon. member's remarks, he thinks that a Judge should have power to call in an assessor.

HON. MR. OSBORNE—That is so.

THE ATTORNEY-GENERAL—I think that is opening the way to unnecessary expense. The matter was originally vested in the Governor absolutely, but now it is proposed to transfer it to a Judge. After all, it is only a question of compensation, and questions of that character are decided every day by Judges.

HON. MR. OSBORNE — In technical matters Judges have assessors to assist them.

HON. MR. HEWETT — Supposing the hon. member's resolution is not accepted, if a Judge would like to have the assistance of an assessor, could he call one in under the existing law?

THE ATTORNEY-GENERAL—No, I think not.

HON. MR. HEWETT—Can you conceive a case arising in which a Judge might like to have the opinion of an assessor?

THE ATTORNEY-GENERAL—I think it is undesirable myself. We know perfectly well that expert opinion is always available on either side.

HIS EXCELLENCY—The amendment goes a great deal further than the original

Ordinance. Under the existing law the award is in the absolute discretion of the Governor. Now it is transferred to the Supreme Court, and without assessors and counsel, and expert evidence can be heard on either side.

HON. MR. HEWETT — I asked the Attorney-General whether a Judge had power to call assessors, and he said he had not.

HON. MR. POLLOCK—It would be as well to have this power, so that if a Judge feels that he would like the assistance of an assessor he can call one in.

THE COLONIAL SECRETARY — The section now gives very much greater latitude than before.

HON. MR. POLLOCK—Presumably this is a case of some importance; at all events it is a case of sufficient importance to induce a party to appeal from the Government to a Judge. I presume it is a point in which a substantial amount would be involved, therefore if a Judge felt that he would be assisted by an assessor he should have an assessor.

THE ATTORNEY-GENERAL — Can my hon. and learned friend point out to me any precedent of that sort? We have assessors in the Admiralty Court, where questions of expert knowledge are involved, but this is not a question of expert knowledge at all.

HON. MR. POLLOCK — At Home a reference is frequently made to assessors who are themselves experts.

THE COLONIAL TREASURER — The assessor should not be a Government official.

HON. MR. HEWETT—I can quite conceive a case referred to a Court of law in which a Judge might be very glad to have an assessor to advise him on points of value. The point put forward by my hon. friend on the right gives a Judge an opportunity of calling in advice if he thinks it advisable to have it.

THE ATTORNEY-GENERAL — Let the expert witness go into the witness-box and give his ideas.

HON. MR. OSBORNE—I take it that an assessor would be able to give the Judge a clearer idea of any point if he sat as assessor, rather than by giving evidence in the witness-

box.

HIS EXCELLENCY—The point is that the hon. Attorney-General does not think it advisable that an assessor should sit on the bench. He can be called to give evidence. It was only in December 1909, that the Council passed the original Ordinance in which absolute discretion was vested in the Governor. Now we propose that very much more latitude should be given by referring the matter to a Judge of the Supreme Court, who can call in expert evidence, hear counsel and so on. The only reason why the Attorney-General takes exception to the proposal is that it will involve extra cost on both sides.

HON. MR. HEWETT—I think the extra cost involved in a case of this sort, supposing it lasted three or four days, would be very small. An assessor gets a couple of guineas a day, which is neither here nor there.

THE COLONIAL TREASURER — He gets nearer \$200 a day.

HON. MR. HEWETT—I had the honour to sit with the Chief Justice as sole assessor in an Admiralty case, which lasted two or three days, and I think I got about \$25.

HON. MR. OSBORNE — Under the old Ordinance was the Governor debarred from calling in the services of an assessor?

THE ATTORNEY-GENERAL—What is the difference between hearing the view of an expert witness in the box and putting him on the bench?

HON. MR. OSBORNE—An expert witness put into the witness-box by the Government would say an amount was adequate, while an expert put in by the claimant would say just the reverse.

HIS EXCELLENCY—I would suggest that the amendment be put in this form: That if a Judge is desired by either party to sit with an assessor it should be in his discretion to do so or not, the cost of the assessor if he is called in being paid by the party who asks for him. This form of words indicate to the Judge that it was not the intention of the Ordinance that an assessor should be appointed unless the Judge himself saw especial reason for doing so.

THE ATTORNEY-GENERAL—I propose, Sir, to defer this question for further consideration. I would ask that the Bill be allowed to remain in committee at this stage, and move that Council resume.

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

Criminal Law Amendment Ordinance

THE ATTORNEY-GENERAL moved the second reading of the Bill entitled, "An Ordinance to introduce into the Criminal Law Ordinance of 1865 certain provisions of the Criminal Law Amendment Acts of the United Kingdom of 1861, and for other purposes." In doing so he said—This Bill is of a very simple character. It proposes to add to the Offence against the Person Ordinance, 1865, two sections which are in the Imperial Act, 24 and 25 Victoria, chapter 100, which were left out of the Ordinance of 1865 and subsequent amending Ordinances. We had no railway at that time and they were therefore unnecessary. The Chief Justice, who is at the present time engaged in revising the laws and bringing them up to date, considers it desirable—and I concur—that these sections should be embodied in the Ordinance, and it requires express authority to carry that out. As regards clause 3 of the Bill, it adds to the Malicious Damage Ordinance of 1865—again for purposes of consolidation—two sections which appear in the Ordinance of last year.

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

Council then went into committee to consider the Bill clause by clause.

The Bill was left in committee and Council resumed.

Hongkong University

THE ATTORNEY-GENERAL—I beg, Sir, to move the second reading of the Bill entitled, "An Ordinance for the incorporation and regulation of the University of Hongkong." I will ask my hon. friend the Colonial Secretary to dilate on the Government's beneficent intentions.

THE COLONIAL SECRETARY—I beg to second the motion, but there is no necessity

for me to make any speech on this subject, as the matter was fully explained to the Council by your Excellency at the last meeting.

THE HON. DR. HO KAI—Sir, although no opposition to the principle of the Bill is anticipated, yet considering the immense importance of the measure and the novel and most interesting occasion on which this Council is called upon for the first time to pass an Ordinance of this nature, it will not be out of place if I were to say a few words in support of the second reading. This Bill, Sir, seeks to incorporate a new institution called the University of Hongkong, an institution which owes its inception and accomplishment to the foresight, broad-mindedness and extraordinary energy of your Excellency (applause)—and the great generosity of a fellow-citizen, Sir Hormusjee Mody. (Applause.) I need not touch on the objects and aims of the University, as you, Sir, have at various times made them quite clear to this Council and the public both here and in England. Nor need I make any remark on the benefits such an establishment would confer upon the various communities, especially the Chinese, of Hongkong, the Straits Settlements and China, as they are ably set forth in your Excellency's Memoranda and have been repeatedly discussed in the public Press. The leading Chinese in this Colony, Canton and elsewhere recognised these, and showed their due appreciation of them by large personal donations and the energy and enthusiasm with which they went about soliciting subscriptions. The total contributions from the Chinese up to the present time are close upon \$700,000, and I venture to say that in the annals of this Colony or elsewhere it would be hard to find that such a vast sum of money has ever been subscribed by the Chinese towards one single institution within such a short space of time. Some have expressed doubts as to the utility and benefit of this institution, and they based their arguments mainly on two grounds. Firstly, that the results obtained in some of the Universities in a certain Asiatic Empire have not proved altogether satisfactory; and, secondly, that the higher and technical education of the Chinese would raise up keen competition and rivalry to Europeans. The first objection has been dealt with exhaustively by your Excellency,

and in the Bill before the Council ample provisions have been made to prevent the students from acquiring anything that is improper or hurtful to their morals, their patriotism and to their usefulness as intelligent and practical men of business. As to the second, I desire to give the same answer to it as I gave 24 years ago, when the College of Medicine for the Chinese was first established. There was the same objection, even more strongly urged, by a number of persons whose opinion I valued and whose support and sympathy I wish to win. I told them then that I was quite confident that the training of native students in Western medical science would not prejudice the interest of European medical men, but on the contrary it would increase their practice manifold among the Chinese. I pointed out then that there were very few Chinese who desired to consult a European doctor, but when we succeeded in training native practitioners they would practice among their own countrymen and make Western medical science and practice popular among the Chinese, and that for every Chinaman who required European medical assistance then, there would, in years to come, probably be hundreds and thousands demanding such aid, and that there would be plenty of work for all. Well, my prediction has come true, and in the present instance I venture to suggest for the consideration of those who have still any doubt in the matter the following facts: — There are vast resources in the Chinese Empire practically untouched, and, with a few exceptions, manufactories and industries worthy of the name do not exist. When the University has turned out a number of engineers, for example, where do you suppose they would go? Of course, they would go to the interior of China and open mines, build railways, establish factories all over the Empire And in so doing they will want materials, machinery, and skilled and experienced assistance. Where can they find all these but in Europe and America? Even if some of them were to stay in Hongkong, do you think they would be content to occupy subordinate positions in old establishments and so come into competition with the old hands? I should certainly think not. They would promote for them-selves new industries and enterprises and obtain new machinery and skilled and expert assistance either locally or from

Europe and America. In my opinion it is not possible for a single University, or half a dozen, for the matter of that, to turn out professional men fast enough to supply the vast Empire of China with men to meet immediate wants. I will not trespass on the time of the Council any longer, and I will conclude by saying that my colleague and myself as representing the Chinese community do accord to the Bill our cordial support, and we beg to tender to your Excellency our heartfelt thanks for having thus far brought the project to a successful issue. I hope that after the second reading your Excellency will not proceed further with the Bill to-day, as I understand the Senate of the College of Medicine have some important suggestions and amendments to offer for your consideration.

HON. MR. HEWETT—Your Excellency, I was not aware that there was going to be any speaking on this particular Bill this afternoon, but after the remarks which have fallen from the senior unofficial member it seems to me only fitting that some further remarks should be made by unofficial members in this particular case. I am speaking entirely for myself, as I do not know what the views of my unofficial colleagues are, but I am perfectly certain that they have demonstrated in the clearest possible manner their entire sympathy with the movement. I consider that the whole community and the whole British Empire and all those connected with the trade of the Far East are very much indebted to all those who are concerned in starting this very useful institution. Of course, as we know, the sinews of war were provided in the first place by one of our oldest residents, to whom we render all possible credit, but the success of this institution is very largely due to His Excellency the Governor, whose personal efforts both here and at Home are known to us. The call which has been made has been most liberally responded to, and something like the best part of one million has been subscribed by the Chinese alone. One point to which my hon. friend on the left referred was that objection had been raised that possibly the higher education of the Chinese would result in undue competition against the foreigners. I think that has been answered by the extreme liberality displayed by the British residents in subscribing to this University for the training of competitors to fight

against them. I trust that no British subject or any subject owing allegiance to any other country and working in Hongkong or China is afraid of competition. Competition is the life of business, and no business would succeed were it not for competition. I do not wish to refer to any possibly selfish consideration such as training Chinese here under British masters, so that they may possibly go into the interior and induce contracts to come our way. It is perfectly certain that that was the last feeling that induced people to support this scheme. I take it that we look at it from a much broader point of view. We realise that Great Britain has of late years become one of the most important trading nations dealing with China. We cannot claim to be one of the pioneers, because there were others three or four centuries ago when our trade consisted of nothing more than an occasional piratical cruise into these waters. Within recent years, for about seventy-five or eighty years, we certainly have held the premier position. Hongkong is the oldest established foreign Colony in the immediate vicinity of the Empire of China, and it is clearly due to us and due to our fellow-residents, most of whom are Chinese subjects, that we should enable our friends in the Chinese Empire to obtain all those higher opportunities of education which are unfortunately at the moment denied to them in the greater part of the Empire, and which very few of them can obtain without cost and trouble in sending their sons to Europe or America. I am glad to think that a large number of Chinese subjects will in future look to Hongkong as their *Alma Mater*, that people will be able to secure here at comparatively reasonable cost the highest possible class of Western education, coupled with the higher branches of Chinese education. It is only our duty that we should have founded such an institution as the proposed University, and that that is the opinion of those who are engaged in the trade in China is more than demonstrated by the very liberal way in which they have supported the scheme, and I feel sure that these remarks will be endorsed by the whole community and by our friends at Home.

HIS EXCELLENCY—I do not propose to inflict a further speech upon you, as I spoke on this subject on the first reading of the Bill. You have heard the able defence of the senior

unofficial member to the project of the University on its material side, and we have heard a defence of the scheme in its larger aspect from the hon. member representing the Chamber of Commerce. I wish that I had with me at the moment a report which I recently read of Lord Curzon's remarkable rectorial address in Glasgow on the East and West. His concluding words were an appeal to "remember that the progressive elevation of the East is still the noblest work with which the West is charged." That is the keynote of the speech which the hon. member who has just sat down delivered, and for my part I think with him that that should be our first and foremost principle in establishing this University. There was a personal reference made to myself by both the hon. members who have spoken for which I am most grateful. If either officially or privately I have been able to assist this scheme, it is a mere trifle compared with the personal energy devoted to it by the senior unofficial member, his Chinese colleagues and so many other hard workers who promoted the subscription list and have themselves given very generously towards it.

The hon. member who first spoke asked that the Bill might not be considered in committee to-day because he understood that the Senate of the College of Medicine had some important amendments which they proposed to suggest. These amendments were submitted and carefully considered, and I hope that they have been met in a way entirely satisfactory to the Court and Senate. As Patron of the College of Medicine I propose on Wednesday next to summon a meeting of the Court and Senate to discuss any remaining matters which they may wish to put forward. I now propose to you, gentlemen, that the Bill entitled, "An Ordinance for the incorporation and regulation of the University of Hongkong" be read a second time. (Applause.)

The motion was agreed to.

Penalties' Amendment Ordinance

THE ATTORNEY-GENERAL moved the second reading of the Bill entitled, "An Ordinance to abolish Minimum Penalties, and to bring the Law of the Colony as to Penalties into uniformity with the Law of England, and for other purposes." In

doing so he said—I may say at once, Sir, that this Bill together with others to which I have referred was drafted by the Chief Justice, and I shall ask the Council to read it a second time and then refer it to the Law Committee of this Council. That will enable the Bill to receive very careful consideration. It is a Bill involving technical questions of a legal character and will be considered by the Law Committee, who will subsequently report to this Council. The object is to bring the law of the Colony as to punishments into line with the laws of England. It abolishes the minimum and gives a Judge a proper power to deal with cases which may be treated leniently. On the question of inserting examples into an Ordinance I may say at once that I am not at one with the Chief Justice, but the Bill will receive the consideration of the Law Committee.

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

THE ATTORNEY-GENERAL moved that the Bill be referred to the Standing Committee on Law.

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

Liquors Consolidation Ordinance

THE ATTORNEY-GENERAL moved the second reading of the Bill entitled, "An Ordinance to consolidate and amend the law relating to Intoxicating Liquors." In doing so he said—In this Bill, Sir, I have consolidated all the existing Liquor Ordinances. Comparatively few amendments have been made in the Bill, but they have been inserted for the purpose of giving effect to the real intention of the law. The duty of issuing licences in certain cases has been transferred from one official to another, who is considered the proper person to discharge that duty. A number of new sections have been introduced which are based on the precedent of the Police Force Ordinance of 1900, relating to the machinery, examination and the engagement of native revenue officers. I ask the Council to allow the Bill to be read a second time. I may state that in its new form it consolidates the entire existing laws of the Colony as regards liquor.

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

Council then went into committee to consider the Bill clause by clause.

THE ATTORNEY - GENERAL stated that the definition of a barmaid had been inserted.

HON. DR. HO KAI—How about partners? In a case before the Police Court partners were mentioned. I suppose you do not recognise partners?

THE COLONIAL SECRETARY—No. We only recognise the person whose name is on the licence.

HON. MR. OSBORNE—According to the barmaid definition, a woman would not be a barmaid if she sold liquor but was not behind the bar.

THE ATTORNEY - GENERAL — She would be a barmaid within licensed premises.

HON. MR. OSBORNE—If a lady plays the piano only she is not a barmaid?

HIS EXCELLENCY — It is practically impossible, I think, to include that class of thing.

HON. MR. HEWETT—I take it the idea in framing this clause was to adopt what is commonly known as the American system: that no woman should be employed in the bar at all. According to this clause as it now stands, there is nothing to prevent girls being engaged in the bar so long as they do not actually handle the drink. If the idea is to prevent girls and women serving in the bar I don't think that this definition meets the case. In America no women are allowed in bars at all, and that is the idea we are working on at the present moment. In all these grog shops in Hongkong there are girls, daughters or nieces, and they walk about and make themselves agreeable while a coolie serves the liquor.

HIS EXCELLENCY—All these licences are renewable annually, and if the Licensing Board hears of a house employing women or allowing them on the premises the licence may not be renewed.

HON. MR. HEWETT—I speak subject to correction, but I believe every house in Hongkong does employ women. I don't reflect for a moment on the character of the

house or the women. Women are just as much in the bars now as they were a few years ago.

HIS EXCELLENCY—Can you suggest any possible amendment to cover that?

HON. MR. HEWETT—No, that is for the law officer of the Crown.

THE ATTORNEY-GENERAL — As His Excellency pointed out, a licence should not be renewed if a publican abuses his privileges and allows women of the baser sort to assemble in his premises. The police would report such an occurrence and the licence would probably be refused.

HON. MR. HEWETT—I don't suggest for a moment that these women are of the baser sort. They are generally relatives. Other people who stick to the letter of the law probably lose custom.

THE COLONIAL TREASURER — This question will be discussed at the Licensing Board in a day or two, so it might be better to let it stand over.

HIS EXCELLENCY—We will leave the Bill in committee. It has defied our ability to draft a definition to cover the cases referred to, and we have therefore considered that the best way will be to leave the matter to the Licensing Board.

The committee had reached clause 40 when Council resumed, the Bill being left in committee.

HIS EXCELLENCY — Council stands adjourned till this day week.

FINANCE COMMITTEE.

A meeting of the Finance Committee was held afterwards—the Colonial Secretary in the chair. The following votes were passed:—

Quarters for Searchers

The Governor recommended the Council to vote a sum of Five thousand five hundred Dollars (\$5,500) in aid of the vote Public Works, Extraordinary, Buildings, Imports and Exports Office, Quarters for Searchers, etc.

Compensation to Squatters

The Governor recommended the Council to vote a sum of Seven hundred and ninety-four Dollars (\$794) in aid of the vote, Public Works, Extraordinary, Compensation to Squatters in Hok Un Village for Houses.

Secret Service

The Governor recommended the Council to vote a sum of One thousand Dollars (\$1,000) in aid of the vote, Harbour Master's Departments, C. — Imports and Exports Office, Other Charges, Secret Service.