

20TH FEBRUARY, 1913.

PRESENT:—

HIS EXCELLENCY THE GOVERNOR, SIR F. H. MAY,
K.C.M.G.

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

HON. MR. A. M. THOMSON (Colonial Secretary).

HON. MR. J. A. S. BUCKNILL (Attorney-
General).

HON. MR. A. G. M. FLETCHER (Colonial
Secretary).

HON. MR. W. CHATHAM, C.M.G. (Director of
Public Works).

HON. MR. E. R. HALLIFAX (Registrar-General).

HON. MR. C. MCI. MESSER (Captain
Superintendent of Police).

HON. MR. E. R. HALLIFAX (Registrar-General).

HON. SIR KAI HO KAI, M.D., C.M.G.

HON. MR. E. A. HEWETT, C.M.G.

HON. MR. WEI YUK.

HON. MR. C. MONTAGUE EDE.

HON. MR. C. H. ROSS.

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

Minutes

The minutes of the previous meeting were
approved.

New Members

The Hon. Mr. A. G. M. Fletcher and the Hon. Mr.
C. MCI. Messer took the oath, and assumed their
seats as members.

Financial Minutes

THE COLONIAL SECRETARY, by command of
His Excellency the Governor, laid on the table
Financial Minute No. 8, and moved that it be referred
to the Finance Committee.

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

Jurors' List

THE COLONIAL SECRETARY, by command of
H.E. the Governor, laid on the table the Jurors' List for
1913.

Opium Amendment Ordinance

THE ATTORNEY-GENERAL moved the second
reading of a Bill entitled, "An Ordinance to amend the
Opium Ordinance, 1909." In doing so he said—It is
usual, Sir, when moving the second reading of a Bill, to
refer to the principles which underlie the Bill which has
been placed before the Council. In this case, Sir, the
provisions of this Bill are really very much matters of
detail, and it is rather difficult to extract any principles
which one can discuss broadly. However, so far as one
may, one can say that there are two main points in this
rather lengthy enactment. The first is an endeavour to
give greater control over all movements of raw opium,
and the second is to increase the penalties in connection
with offences against the Opium Ordinance. Now, the
object of both these points is really to endeavour to carry
out our obligations under The Hague Convention and
other Agreements with regard to trying to control and to
some extent order the movements of importation and
exportation of raw and to some extent of prepared
opium. These, Sir, really are the two points of the
principles—so far as one may call them principles—
which underlie the Bill, and in order to explain to hon.
members the Bill further, I thought it perhaps advisable,
with your permission, Sir, to very shortly refer to the
sections in detail whilst moving the second reading. It is
perhaps a little unusual to do so, but it is really the only
way of explaining the Bill thoroughly to members, and I
think it is desirable that members should understand
exactly what they are passing. The first section is quite
formal, and the second brings the operation of the Bill
into effect on the 1st day of March, 1913

That date is the date on which the present agreement with the Opium Farmer terminates. Hon. members will see that the third section of the Bill is very long and is divided into a large number of sections alphabetically arranged from (a) to (u). The whole of section three consists of various amendments to the principal Opium Ordinance of 1909, and, if you will bear with me for a moment, Sir, I propose to deal shortly with each of these sections. Section (a) enlarges the definition of opium divan. The definition which existed in the old law was not so wide as that which now appears in the draft Ordinance. It was found that in practice the definition as it existed was not sufficient to enable the authorities to check the use of places as opium divans. Under section (b) the arrangements which used to exist as to the storage of opium in the Colony are altered, and this section provides that opium in the Colony must be stored in certain definite places to be known as general or special warehouses; and it will be observed that the Opium Farmer's boiling establishment is to be regarded as one of those licensed warehouses. Section (c) deals with the formalities which the master of a ship has to go through before he can land any raw opium at all. Section (d) deals with formalities which must be observed by persons when they wish to remove opium from the Colony to a ship, whilst section (e) deals with the formalities also requisite with regard to exportation. There is, Sir, as members will see, a somewhat important amendment which has to be introduced in this sub-clause. The old section (e) provided that no permit for export or transhipment to any port other than the port of London or any port in the island of Formosa should be issued, but, owing to circumstances, that was found to be impracticable, and it is proposed at present that an altered section shall be put in. It lays down that no person shall export raw opium from the Colony if such exportation should have been notified by this Council as being illegal. In other words, there may from time to time be places to which it will be declared illegal to export opium, and on notification of a resolution of this Council in the *Gazette* it will be illegal to export opium to those places. Section (e) also deals with the formalities which have to be gone through when raw opium is to be moved from one place in the Colony to another. Sections (f) and (g) increase penalties, and so do sections (k), (l), (p), (s), and what is now section 4. Under section (h) the quantity of opium which may be sold by the Farmer to persons other than his licensees without express permit from the Superintendent is limited to the moderate amount of five taels, whilst under the same section is also limited the amount which the Farmer's licensees can sell to what may be called private

persons. Similarly also the amount which a person may have in his possession (other than those, of course, who are duly authorised) is limited. By section (i) a somewhat important alteration is introduced. This sub-section is due to a decision of the Supreme Court, under which it was held that unless it was clearly proved to what port or to what place the opium was being exported the person who was apparently exporting it could not be successfully prosecuted. This new section is introduced so as to avoid that difficulty. As hon. members will see, of course, where a person was endeavouring to smuggle opium out of the Colony it was not very likely that he would put on the package or parcel any definite address as to where it was going, because that in itself would be a condemnatory action. Now, it will not be necessary for the prosecution to prove to what place the opium is apparently being smuggled. Under section (j) no permit is to be issued for the export of prepared opium to countries which prohibit the import of such, but there is a safeguard in that section for the personal consumption of passengers on the voyage. Under section (m) the appointment of excise officers and the taking of security from, such excise officers as may be employees of the Opium Farmer are provided for. Under section (n) there is a slight amendment in the old Ordinance, and the amendment provides that, in addition to police and excise officers, revenue officers may be able to arrest under certain circumstances without a warrant when they reasonably suspect that an offence against the Ordinance is being committed. In section (o) some modifications of the arrangements are made under which the forfeiture of opium which has been seized in connection with convictions is disposed of. Section (q) repeals the proviso which existed in the old Ordinance with regard to the disposal of forfeited opium, and in section (r) there is again rearrangement as to the way in which the forfeited opium can be disposed of. Sections 4 and 5, which I propose to join up together in the committee stage, have

been drafted to meet the altered circumstances caused by the previous amendments. By section 4 the penalties for offences are increased, as they have been in other parts of this draft, so as to cover general offences against the Ordinance. Section 5, which relates to the amount of opium which might be allowed for personal consumption on board a steamer—which I have already pointed out has been dealt with in the previous part of this draft—has been repealed. Generally speaking, all the important sections dealing with greater control over raw opium simply deal with the arrangements by which this control is exercised for import, export and local movement. The old system in outline was that the importer of raw opium was bound to report the particulars of his proposed importation and obtained a permit from the Superintendent which would be countersigned by the Opium Farmer. Masters of ships carrying opium were bound to furnish particulars of their consignments, duplicates of which had to be furnished to the Chinese Maritime Customs. The principles of the old system are substantially followed, but various amendments which enable control to be more effectively established by local authorities and maintained are inserted.

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

Council then went into Committee, and on resuming,

THE ATTORNEY-GENERAL reported that the Bill had passed through Committee, with amendments, and moved that it be read a third time.

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

Magistrates Amendment Ordinance

THE ATTORNEY-GENERAL moved the second reading of a Bill entitled, "An Ordinance to amend the Magistrates Ordinance, 1890." In doing so he said—The object of this Bill is to bring together as far as convenient and possible all the ordinary powers which a magistrate has of whipping offenders. Most of the powers which hon. members see referred to in this Bill are to some extent already held by magistrates, and in addition to these powers which are in this Bill the magistrates also have extensive powers in many offences too numerous to mention in detail of whipping male offenders who are under the age of 16 years. In this Bill, Sir, the first provision under

section 2 refers to sections 44 and 45 of the Offences against the Persons Ordinance, 1865, and relate to what is familiarly called "stealing" people, and I should like to refer hon. members to these sections so that they can see exactly what they are. (Reads). There is already a limited power of whipping under one of these sections, and it is proposed now to give power to the magistrate to flog in these cases. The next provision is under section 52 of the Offences against the Persons Ordinance, 1865, and relates to committing an act of gross indecency with another male person under the age of 13. There is nothing new in that at all, as that power the magistrates already possess. Similarly, in section (c), referring to section 29 of the same Ordinance, which deals with certain thefts from a woman or child, the magistrate already holds power to flog under that, and there is nothing new in it. Section (d) refers to detention of males for emigration or other purposes. [Reads sections 107 and 108 of the Chinese Emigration Ordinance, 1889]. If members will refer to Section 110 of the Chinese Emigration Ordinance, 1889, they will see that any person convicted under sections 107 or 108 either summarily or before the Supreme Court, if he had been previously convicted, can be flogged, the Magistrate already holding the power to flog in the case of recidivists. In this particular case it is proposed to give the power to flog in the first instance. Under Section (e) that is, indecent assault, the power to flog under that Section has been held by the Magistrate for a long time. Then, Sir, another new one is in Section (f). It provides for the whipping of people who are stowaways and those who aid and abet stowaways. Section (g) is a rather important one. It provides for flogging in certain very specific cases, in which a person who has been properly banished from the Colony comes back. First of all is the case of the criminal who has been convicted of a crime, either by the Supreme Court here, or by His Majesty's Supreme Court in China, and who has been deported and has returned. Of course in the case of the Supreme Court
h e r e a c o n v i c t i o n c o u l d

only be for a serious crime. Under Sub-Section 2 is the case of a person who has twice been convicted before a Court of Summary Jurisdiction locally, and one may say, I suppose, in such case, that one who has been twice convicted is certainly not a desirable person to have back here. The third case is that of a person convicted of a criminal offence at a Magisterial Court in the Colony and after deportation has been convicted. under section 8 of the Deportation Ordinance, 1912, of illegally returning from banishment. Under Section 4 is the case of a person who returns from banishment after he has been convicted of one of these serious offences which has rendered him liable at the time to the punishment of flogging.

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

The Council then went into Committee, and on resuming,

THE ATTORNEY-GENERAL reported that the Bill had passed through Committee, with amendments, and moved that it be read a third time.

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

Revenue Officers' Power of Arrest Ordinance

THE ATTORNEY-GENERAL moved the second reading of a Bill entitled, "An Ordinance to consolidate and amend the law relating to the powers of arrest of revenue officers." In doing so he said—Sir,
I t i s c o n v e n i e n t

that the powers of arrest of revenue officers should be included in one enactment, and this little Ordinance includes them. There is only one new section under which there is any additional power given to revenue officers other than that already possessed, and that is under the Post Office Ordinance.

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

THE ATTORNEY-GENERAL—I do not wish to proceed further with this Bill to-day, because I wish to amend the Opium Ordinance.

The Jurors' List

The Council then sat *in camera* to consider the Jurors' List.

Other Bills

The remaining Orders of the Day were not proceeded with.

Council adjourned *sine die*.

FINANCE COMMITTEE.

A meeting of the Finance Committee was held afterwards—the COLONIAL SECRETARY in the chair. The following vote was passed:—

Royal Square

The Governor recommended the Council to vote a sum of \$2,000 in aid of the vote Botanical and Forestry Department, Other Charges, Garden in Royal Square.