

23RD MAY, 1892.

PRESENT:—

His Excellency the Governor, Sir WILLIAM ROBINSON, K.C.M.G.

Hon. G. T. M. O'BRIEN, C.M.G., Colonial Secretary.

Hon. W. M. GOODMAN, Attorney-General.

Hon. J. H. STEWART LOCKHART, Registrar-General.

Hon. F. H. May, Acting Colonial Treasurer.

Hon. F. A. COOPER, Director of Public Works.

Hon. R. M. RUMSEY, R.N., Harbour Master.

Hon. C. P. CHATER.

Hon. HO KAI.

Hon. T. H. WHITEHEAD.

Hon. E. R. BELLIOS.

Mr. A.M. THOMSON, Acting Clerk of Councils.

MINUTES.

The minutes of the last meeting were read and confirmed.

FINANCIAL REPORT.

The COLONIAL SECRETARY—I have the honour to lay upon the table report No. 7 of the Finance Committee. The Committee recommends the expenditure of \$1,981 for repairs to the Health Officer's steam-launch, and \$2,000 for drawbacks and refunds. I move that the report be adopted by the Council.

The ATTORNEY -GENERAL seconded.

Carried.

PAPERS.

The COLONIAL SECRETARY—I beg to lay upon the table the Blue Book of the Colony for 1891, and a report thereon, and the report of the Director of the Observatory for 1891.

PETITION.

The Clerk of Councils read a petition praying that the second reading of the Piers and Wharves Compensation Ordinance might be

postponed and that Mr. J. J. Francis, Q.C., might be permitted to represent the views of the petitioners before the Council.

Petition laid upon the table.

WONG-NEI-CHONG RECREATION GROUND.

Hon. C. P. CHATER — Referring to Government Notification No. 204 of the 4th May, 1892, reading—"Unless permission from the Government has been first obtained riding over that part of the Wong-nei chong Recreation Ground which is enclosed within the Racecourse and the training track is prohibited until further notice." will the Government state whether this notification is in consequence of their intention to complete forthwith the preparation for purposes of recreation of the ground mentioned, or if not what is proposed to be done in the matter of putting this ground in order?

The COLONIAL SECRETARY — Sir, in answer to the question whether the notification is in consequence of the intention of the Government to complete, for purposes of recreation, the ground mentioned, the answer is—No. As to the question if not, what is proposed to be done in the matter of putting the ground in order, the answer is that the course that will be followed by the Government will depend on whether or not a loan is raised to meet the expenditure on public works extraordinary.

THE PRAYA RECLAMATION.

Hon. T. H. WHITEHEAD moved—"That the Government publish in the *Government Gazette*, or lay on the table a list of the wharves, public and private, in respect of which a sum of \$180,000 was added by the Government to the cost of the Praya Reclamation, as appears from the Colonial Secretary's letter of the 19th February, 1889, to the Hon. C. P. Chater, and state the amount of compensation assessed in respect of each. The wharf owners are, I think, fully entitled to know how the sum of \$180,000 for partial compensation was arrived at. What was the amount assessed by Government in respect of each wharf, public and private, in the early part of 1889? I may read paragraphs 4 and 5 of the Colonial Secretary's letter of 19th February, 1889, to Mr. Chater on the subject:—"There is, however, another consideration cognate to those which have induced the view of the Secretary of State on this point, viz., with reference to the wharves and piers belonging to the public which will require to be removed in consequence of the proposed reclamation. The constructions in question are Pedder's Wharf, Murray Pier, and Pottinger Street Pier, Nam Pak Hong Pier, and the Harbour Master's Pier; and it seems to the Governor that in respect of these the case for compensation (which by inadvertence was not submitted to the Secretary of State) is even stronger than that in respect of the privately owned piers. Including for this reason all the wharves and piers both public and private, the Governor understands that the maximum sum required as compensation for them is \$180,000, it being impossible to obtain more approximate

figures for some weeks. Taking, however, the above maximum, and adding to it the \$40,000 for the increased width of Praya, the total of \$220,000 is obtained, an amount which represents 191/4 cents per foot of the private portion of the reclamation, or four per cent. of the profit which, according to the lowest estimate, will be derived from the project by the frontage lot-owners." It is quite clear therefore that an estimate or schedule of the value attaching to the various piers was then made out, and in the Hon. Mr. Chater's speech to the marine lot holders at the same time the whole matter was referred to very fully. The Honourable the Colonial Secretary's letter of 6th instant to one of the occupiers of one of the private wharfs bears out the statement that a schedule of the various items on which a computation of \$180,000 was based does exist. The letter, or last para., reads as follows:—"With regard to your request to be furnished with a copy of the schedule of the various items on which the computation of the sum of \$180,000, was based, I am to state that no useful purpose would be served by furnishing you with a copy, and that the schedule will not be binding on the arbitrators or other authority that will be appointed under the amending Ordinance to make the desired apportionment." I think that a most useful purpose would be served by the production of the schedule. It will be a guide and aid in the proper and rightful apportionment of the \$180,000. It may be that no formal schedule or list was prepared but surely some estimate, some data, or some memorandum of how the \$180,000 was computed can be produced. The information should be forthcoming before the second reading of the Wharves and Piers Compensation. Bill is proceeded with. I therefore move this resolution.

Hon. C. P. CHATER seconded.

The COLONIAL SECRETARY—Application has been made by owners of wharves and piers on several occasions for the detailed schedule moved for by the hon. member and it has been refused on the ground that inasmuch as it was binding neither on the Government nor on the owners its production would serve no useful purpose and might lead to unnecessary complications. This objection would equally apply to the request now made that it be published in the *Government Gazette* or laid upon this table. But there is another objection the sufficiency of which will, I think, be generally admitted, and that is that the schedule does not exist. Wishing to refer to it the other day I had search made for it in my office and it then transpired that no such schedule had ever been received. My hon. friend the Director of Public Works was kind enough to have search made for it in his office also, but neither there was any trace of it to be found. When the Praya Reclamation scheme was

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the Surveyor-General of the day reported that a sum of \$180,000 would be required for the compensation that it was proposed to make in respect of the wharves and piers that would be affected by the work, and that sum was inserted in the Reclamation Ordinance. Before arriving at this conclusion he must, doubtless, have calculated the existing value of each of the several wharves and piers, but there is no record of his calculations. The hon. member has made certain contentions in support of his motion, as, for instance, that the production of the schedule if it existed would serve the very useful purpose of guiding the authority by whom the apportionment will have to be made. As I have shown that it is a physical impossibility for the Government to comply with the motion, and as the question before the Council is limited to the point whether or no the motion should be accepted, I do not feel it necessary at present to answer these contentions; but if the hon. member should see fit to embody them in a substantive motion on some future occasion I shall be glad to discuss them. Meanwhile it may suffice for me to say that they are not admitted by the Government.

#### THE JUNK TRADE.

Hon. T. H. WHITEHEAD—On 11th April last I asked the following question—"With reference to the Honourable the Acting Harbour Master's report on the junk trade of Hongkong for 1891, dated 11th of January last, and more particularly to paragraph 17 thereof, which reads as follows:—"the only controllable causes of the depression of the junk trade are the suppression of the system of espionage established by the Chinese Customs in Hongkong and the preservation of the neutrality of British waters." will the Government lay upon the table copies of the former correspondence referred to in the said report and any further correspondence or information in its possession on the subject of the system of espionage established by the Imperial Chinese Customs in Hongkong, &c.?" and I then said, "I am greatly obliged to your Excellency for having caused me to be furnished with copies of the reports and correspondence. I have perused and carefully considered the papers and I am satisfied that it is unnecessary to lay them upon the table. The Acting Harbour Master has evidently written under an entire misapprehension, and with a view to correct any mistaken impression which may have been conveyed to the public I would suggest that your Excellency may cause to be made public the despatches received from Mr. J. McLeavy Brown, the Commissioner of Customs for Kowloon, dated 10th and 14th March last. Under the circumstances I asked your Excellency's permission to withdraw the question." The Acting Harbour Master's annual report of 21st January, paras. 10 and 11, again refer to the junk trade and the diminution thereof. It is scarcely accurate to say that the junk trade has diminished. I think such a statement is calculated to prejudice the credit of the colony. The erroneous impression created in regard to the junk trade, and the injustice done the Imperial Maritime Customs, should be corrected by the publication

of Mr. McLeavy Brown's despatches and the figures supplied by the Chinese Foreign Customs service—a service, I may safely say, not excelled in any other part of the globe. I therefore move the following resolution:—"With reference to the Acting Harbour Master's Report for 1891, dated 21st January last, and laid before the Legislative Council by command of your Excellency on the 9th instant, I beg to move that the Government lay on the table a copy of the despatches in connection with the junk trade, &c., received by the Government from Mr. J. McLeavy Brown, the Commissioner of the Chinese Imperial Maritime Customs for Kowloon, dated 10th and 14th March, 1892."

Hon. HO KAI seconded.

The COLONIAL SECRETARY—Sir, as just stated by the hon. member, in withdrawing a previous question he suggested the publication of Mr. MacLeavy Brown's letters of the 10th and 14th of March, and he then stated that after a perusal of the papers he was of the opinion that the remarks of Capt. Hastings, which led to those letters being written, had been made under a misapprehension. In that expression of opinion your Excellency tacitly acquiesced, but you did not adopt the suggestion for the publication of the letters in question because that would have necessitated the publication of other letters from Captain Hastings, and you considered it most undesirable to keep alive and prolong a controversy which had originated in a misapprehension, and which it was far better to allow to expire. This view will, I trust, commend itself on consideration to the good sense of the hon. member, and I think he may reasonably feel that although the Government cannot accept his motion his purpose will have been sufficiently met by the tenour of the answer which he has elicited. The question of editing reports received from officials is a delicate one. There is no doubt something to be said in favour of it, but on the other hand I have known of more than one complaint being made in other Colonies by the public and by unofficial members of Council that what they wanted was the actual opinions of the officials reporting, and not an edition revised by the Government of those opinions. It must not be supposed that because the Government publishes an official report it therefore agrees with all the opinions expressed in it, and I may take this opportunity of stating that without any desire to reflect on Captain Hastings, who is a very capable and hard working official, the Government does not share all the views which have found expression in his published reports.

Hon. T. H. WHITEHEAD—Your Excellency, I have listened with great attention and much appreciation to the remarks which have fallen from the hon. Colonial Secretary and I at once beg to withdraw the resolution. The purpose which I had in view in bringing it forward has been quite served. Referring to the principle which the hon. member has just mentioned, namely, in regard to the reports from the heads of various Government departments, I may say that that principle was fought for in this colony in the time of Sir Richard G. Macdonnell, and I am glad to say that the Colony was conceded what they asked for, and that was that they should be presented with a quite independent report from the head of each Government department, and not as had been previously the case, namely, reports the drafts of which had been previously submitted to the Governor and revised by him to suit whatever policy he might then have been carrying out. The principle is one which I should be sorry to see departed from in these times. I am very pleased to hear that the Governor does not share in all the views, or agree with all the views expressed in the reports which Commander Hastings has made.

The motion was therefore withdrawn.

#### THE MERCHANT SHIPPING ORDINANCE.

The ATTORNEY -GENERAL—I beg to move the third reading of the Bill entitled an Ordinance to amend the Merchant Shipping Consolidation Ordinance, 1891. I would like to add one word to the motion. It is this, A considerable part of the amendment effected by this Bill is taken up by a question of surveying steam launches, and what appears to have been very much objected to by the Chamber of Commerce was that all steam launches would be surveyed; not only those that were let for hire but those that are not let for hire. In the Merchant Shipping Bill it was put in that all must be surveyed. This has now been modified so that only the b iler must be looked at, and I should like to point out that the reason why that was originally put in the Bill was because the hon. member for the Chamber of Commerce himself practically proposed that that should be done—that all steam launches should be surveyed. I hold in my hand the report of the question asked by the hon. member and the answer I gave at the time while acting as Colonial Secretary. The question was, "Has the attention of the Government been directed to the result of the enquiry into the cause of the death of the engineer and firemen belonging to the steam-launch which was blown up on the 7th May, and to the rider added to their verdict by the jury to the effect that all launches plying in Hongkong Harbour, whether for passenger traffic or otherwise, should be compelled to undergo a periodical survey, and if so will the Government state whether it is intended to legislate rendering compulsory periodical surveys of all launches in Hongkong waters?" To which the Acting Colonial Secretary of the time replied as follows:—"The attention of the Government has been as directed. The coroner's depositions and the rider attached to the verdict duly received at the time the attention of the Attorney General, who at once communicated with the

Harbour Master on the subject, with a view to incorporate is the new Merchant Shipping Bill provisions requiring a periodical survey of all steam launches is Hongkong." I should only like to point out that there was no desire to do anything vexations, but that the Government gave effect, in legislating as they did, to the rider of the jury, and that rider was brought before the Council forcibly by the member for the Chamber of Commerce himself, and the chief objection made to this Bill since has been made by the Chamber of Commerce itself. However, the matter has now been rectified and the whole controversy will cease I hope.

The COLONIAL SECRETARY seconded the third reading, which was passed.

#### DIOCESAN SCHOOL AND ORPHANAGE.

Hon. C. P. CHATER—I beg to move that the Bill entitled an Ordinance for the incorporation of the Chairman of the Committee of the Diocesan School and Orphanage be read a third time.

The COLONIAL SECRETARY seconded.

Bill passed.

#### ST. JOHN'S CATHEDRAL CHURCH.

The ATTORNEY -GENERAL—I beg to move the third reading of the Bill entitled "an Ordinance to provide for the due performance of divine worship and other services in accordance with the rites of the Church of England at St. John's Cathedral Church at Victoria in this Colony and elsewhere, to incorporate a Church Body, to vest the said Cathedral in such Body and for other purposes in connection therewith." There is only one matter I need mention, that is that Mr. Mackintosh, the head of the Chamber of Commerce, has sent a letter to say he would be obliged to resign from the Church Body. He has left Hongkong and will not be able to serve on the Church Body. It will be observed that the lay members are described as resident in the Colony, and the question is who we should put in, as it cannot be said of course that Mr. Mackintosh is resident in the Colony. I have written Mr. Ford, the secretary of the Committee, and have an intimation from him on behalf of the Church Body that they would be pleased if Mr. Fielding Clarke would act. I have spoken to Mr. Fielding Clarke on the matter, and he is willing to act. I would suggest that we formally recommit the Bill to make this alteration.

This was agreed to.

The ATTORNEY -GENERAL then moved the third reading of the Bill.

The COLONIAL SECRETARY seconded.

Hon. T. H. WHITEHEAD—I rise to move that the Bill be read this day six months.

Hon. C. P. CHATER—I have much pleasure in seconding.

The vote resulted—

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| FOR (3).             | AGAINST (7).                 |
| Hon. T. H. Whitehead | The Colonial Secretary       |
| Hon. C. P. Chater    | The Attorney-General         |
| Hon. Ho Kai          | The Registrar-General        |
|                      | The Act. Colonial Treasurer  |
|                      | The Director of Public Works |
|                      | The Harbour Master           |
|                      | Hon. E. R. Belilios          |

THE WHARVES AND PIERS.

The ATTORNEY -GENERAL moved the second reading of an Ordinance to provide means for ascertaining the amounts to be paid by way of compensation in respect of the wharves and piers along the line of the Praya Reclamation. to fix the periods for the payment thereof and for other purposes in connection therewith. He said—I understand there is likely to be some suggestion made for postponement for some reason, but I may add something to what I have already said regarding this Bill. It is at least the outcome of an honest attempt to facilitate those who are entitled as a matter of grace to get something—because it was settled from the beginning that they had no legal rights—from the \$180,000 voted as compensation to wharf and pier owners. Inasmuch as it is impossible to give any one man his share without ascertaining the shares of the other wharf owners, it is only right to make some scheme by which that can be done, and some provision made. The scheme was that the Director of Public Works should do the best he could to apportion this money amongst the wharf owners. It was considered that some might not be satisfied with the portion allotted to them, and if there should be an appeal it should be heard by the Supreme Court, by which it would be adjusted. I do not see what hardship that could impose upon anybody I should have supposed that there would have been no opposition. I was informed on the last occasion that I should have been told of any intended opposition and it was understood that if there was any the Bill might have been modified in the meantime in order that it might be read a second and third time to-day. It was only on Saturday afternoon that I was informed that there was some sort of opposition. I do not know the exact details of the opposition to it and I don't know whether if we go into Committee any member has any specific alterations to suggest, which is the ordinary course. I will, therefore, simply move the second reading.

The COLONIAL SECRETARY seconded.

Hon. C. P. CHATER—In view of the petition before the Council and to enable the wharf owners, if possible, to arrive at a satisfactory arrangement, I would beg to move that the second reading should be postponed to a date to be fixed by your Excellency.

Hon. T. H. WHITEHEAD—I have much pleasure in seconding that.

Hon. E. R. BELILIOS—I beg to support the amendment. I do not see there will be any harm if consideration of the Bill is postponed.

HIS EXCELLENCY—I have no wish to have laid to my charge any hasty legislation. It was my intention to adjourn to-day for some months, but as it seems the desire on the part of many influential people outside that the second reading of the Bill should be postponed I will also postpone the adjournment of the Council until the 6th of June, but I must express an earnest hope that before that date some arrangement will be arrived at between the pier and wharf owners and the marine lot owners. I think I may as well at once state there is not the slightest chance of the Government increasing the amount of \$180,000 set aside for compensation by way of grace to holders of wharves and piers. I will postpone, however, the adjournment of Council to 6th June.

Hon. T. H. WHITEHEAD—May I ask if your Excellency will allow Counsel to be heard with reference to this Bill? In accordance with the petition sent in I move that Counsel be heard on behalf of the occupiers and owners of piers and wharves.

Hon. HO KAI seconded.

The COLONIAL SECRETARY—I rise to a point of order. The cases in which motion may be made to allow the appearance of counsel to be heard in respect of an Ordinance or draft Bill before this Council are laid down in No. 52 of the standing rules and orders. Rule No. 52 runs—"In any case where individual rights or interests of property may be peculiarly affected by any proposed Bill, all parties interested may, upon petition for that purpose, and on motion made, seconded, and carried, be heard before the Council, or any Committee thereof either in person or by counsel." It might very reasonably have been contended that the original Ordinance No 16 of 1889 was an Ordinance which peculiarly affected individual rights and the interests of property and one on which counsel might have been heard. But I submit Sir, as a point of order which it is for you to decide, that the present Ordinance cannot be considered to fall under the category of Bills peculiarly affecting individual rights and the interests of property. The present Ordinance does no more than provide convenient machinery for making the apportionment of a certain amount of money. I submit, therefore, that the motion is out of order.

HIS EXCELLENCY—I am asked as President of the Council to give my ruling on this case. I am asked to decide whether the Bill before the Council which has for its object the ascertaining of the amount of compensation which as a matter of grace is to be paid to the wharf and pier owners is, in the words of the Standing

Orders, a Bill "peculiarly affecting individual rights or the interests of property." I must say it is my decided opinion that this is not such a Bill. The orders, rule 52, refer to cases where the land or property of private owners is taken for a public scheme. The present Ordinance does nothing of the sort. That has been done by the previous Ordinance to which the Colonial Secretary has referred, No. 16 of 1889. This Bill simply provides a means of payment of a sum of money by way of compensation granted by the legislature.

I believe I am correct in saying that the wharf and pier owners have never had any rights whatever, and if they had any at all events they were swept away most decidedly by Ordinance No. 16 of 1889. Therefore it is my opinion as President of this Council that the petitioners cannot be heard.

The Council then adjourned till the 6th of June.

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