

13TH MARCH, 1899.

PRESENT:—

His EXCELLENCY the GOVERNOR, Sir HENRY BLAKE, G.C.M.G.

His EXCELLENCY Major-General GASCOIGNE C.M.G. (Officer Commanding the Troops).

Hon. J. H. STEWART LOCKHART (Colonial Secretary).

Hon. H. E. POLLOCK (Acting Attorney-General).

Hon. R. MURRAY RUMSEY (Harbour Master).

Hon. F. H. MAY, C.M.G. (Captain Superintendent of Police).

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

Hon. R. D. ORMSBY (Director of Public Works).

Hon. C. P. CHATER, C.M.G.

Hon. T. H. WHITEHEAD.

Hon. Dr. HO KAI.

Hon. E. R. BELLIOS, C.M.G.

Hon. J. J. BELL-IRVING.

Hon. WEI A YUK.

Mr. J. G. T. BUCKLE (Clerk of Councils).

MINUTES.

The minutes of the previous meeting were read and adopted as a correct record.

PAPER.

The COLONIAL SECRETARY laid on the table the report of the Superintendent of the Fire Brigade for 1898.

THE GOVERNOR'S PEAK RESIDENCE.—AN

EXPLANATION BY THE HON. E. R.

BELLIOS.

A COMPLAINT FROM HON. T. H. WHITEHEAD.

The COLONIAL SECRETARY submitted the report of the Finance Committee (No. 2) and moved its adoption.

The COLONIAL TREASURER seconded.

The Hon. E. R. BELLIOS—At the last meeting of the Finance Committee, when the grant of \$3,500 for the erection of a temporary bungalow at "The Cliffs," for the accommodation of your Excellency's staff, was proposed, I voted against it. I desire now to explain a course that at first sight might indicate a want of consideration for your comfort. As a matter of fact, the contrary is the case, as I hope to be able to show you. So far back as the 19th June, 1893, I advocated the erection of a palace at the Peak for the use of the Governor,—(hear, hear)—and on the 17th July following I moved a resolution to that effect in this Council. That resolution was carried, only the two hon. members representing the Bench of Justices and the Chamber of Commerce respectively voting against it. In my speech proposing that resolution I urged the advisability of availing of the low rates then ruling for labour and materials. The then

Director of Public Works estimated the cost of a building suitable to the requirements at \$60,000. This advice was disregarded, and the Government neglected to act on the resolution, and the tenancy of "Craigieburn" was continued. When that lease expired, the house now occupied, namely "The Cliffs," was taken, the task of building being again deferred. "The Cliffs" is smaller than "Craigieburn," or than the large house opposite to Mount Austin Barracks, either of which might have been rented. The chief reason Sir William Robinson was reluctant to build was, as I understood, because the new residence would not have been completed before the expiration of his term of office. But your Excellency has but just commenced your administration, and if a residence were now commenced you would in eighteen months be lodged in a mansion worthy of the colony and of the Queen's representative. I come now to the question of economy, on which plea I suppose the present action will be defended. Well, Sir, I say such economy is false economy. True economy would be found in building a new house. If you add two years rent of "The Cliffs" to the proposed expenditure of \$3,500 you will find the total is more than the interest on \$75,000 at 3 1/2 per cent. per annum for the same period—\$8,700 versus \$5,250—besides the advantage derived by your being provided with a comfortable house. Besides, what guarantee is there that such a frail wooden structure as is proposed to be added to "The Cliffs" may not, especially in so exposed a position, be damaged or blown down in the first typhoon that occurs after its completion? It is also my experience that such estimates are almost invariably exceeded. Loss has already been incurred by delaying to build and this will be augmented by further procrastination. Mr. Cooper's estimate of \$60,000 for a Government residence would no longer suffice. Our present Director of Public Works estimates that a suitable residence could not now be built under \$75,000. This alone represents a loss to the colony of \$15,000. If to this you now add \$3,500 for a temporary bungalow you have a total of \$18,500 actually thrown away. I think that the local architects will bear me out in saying that there is no chance of building rates going down; the tendency is quite the other way, and further delay may result in further loss to the colonial exchequer. I hope your Excellency will take the bold and the prudent course and build. I shall be proud if anything I have said or done will conduce to such a resolution, and shall be very pleased to see the Governor

of this colony provided with a residence worthy of his position and dignity. (Hear, hear.)

The Hon. T. H. WHITEHEAD—When this vote was brought before the Finance Committee certain information was asked for which was partially supplied. I then considered that the vote was a necessary and reasonable one and I voted for it. The honourable member opposite asked what rent was paid for "The Cliffs" by the previous tenant. The Bank which I have the honour to represent was the previous tenant, and we paid \$2,000 a year rent. The honourable member who was in the chair at that meeting could not say from memory what the rental was now, but he thought it was \$2,700. Then the estimates were sent for and some of our valuable time was wasted until they arrived. It was found that the rental was \$2,600. I have not the least doubt there are good and valid reasons for this very large increase in rent, but so far the Council has not been informed of the reasons for that substantial increase. I submit that when financial votes are again brought forward the Chairman of the Finance Committee should come fully prepared with regard to such votes, and that every information should be furnished without its having to be dragged out of the Government. On the last occasion I submit that the time of the Finance Committee was unnecessarily wasted while the estimates were being sent for and certain information was being hunted up. I think it would be more conducive to the maintenance of the dignity of this honourable Council if the Finance Committee were treated with less flippancy than they were treated with on the last occasion. (Hear, hear.)

The COLONIAL SECRETARY—I very much regret to hear the honourable member on my right speak as he has done. It is true that some two minutes' time was wasted, as he puts it, in procuring the estimates from the inner office. When these estimates had been procured the Finance Committee was at once put in possession of the information desired. All the information on which both the speeches of the honourable members have been delivered was in possession of the Finance Committee at its last meeting. With regard to the increase in rent to which the honourable member on my right has referred, the increase amounts to \$600 a year as compared with the rent paid by the former tenant. That increase is due to certain improvements having been made to the property the expense of which amounted to a sum the interest on which is \$50 a month or \$600 a year.

The Hon. T. H. WHITEHEAD—At what per cent. per annum?

The COLONIAL SECRETARY—I think it was 5 per cent. The honourable member opposite can furnish you with that information no doubt. With regard to renting the house opposite Mount Austin Hotel and "Craigieburn," the reason why the Government did not rent either of these houses was that the rents asked by the owners were considered far too excessive.

HIS EXCELLENCY—With regard to this matter of the Governor's summer residence, I may tell the Council that the first thing I knew about the fact that "Craigieburn" was not available was when I got to London. I do not think they knew at the Colonial Office even that "Craigieburn" would not be available until immediately before my arrival in England. I think it goes without saying that "The Cliffs" is probably not a suitable place for the Governor for a permanent summer residence, but I determined I should wait for one summer at least before I determined the position of the Governor's House, because I think it is my duty not alone to consult my own convenience in this matter but to look forward a little and consider the possible expansion of the colony and possible best position for the future Governors. As regards this addition to "The Cliffs" that is to be put up, that is a temporary matter. I believe I am right in saying that at the expiration of the lease of three years the structure can be removed. In the meantime the possibility of a typhoon has been discounted by me, because the temporary structure will be occupied by my Private Secretary and my A.D.C. (Laughter.)

The report was adopted.

REPORT OF THE LAW COMMITTEE.

The ACTING ATTORNEY-GENERAL laid on the table the report of the Standing Law Committee on an Ordinance to amend the law relating to solicitors of the Supreme Court.

A SCHOOL WANTED AT KOWLOON.

The Hon. E. R. BELLIOS—At the next meeting of the Council I propose to ask a question on the subject of a school required for children of residents at Kowloon. (Hear, hear.)

THE JUBILEE ROAD.

The Hon. E. R. BELLIOS had given notice of the following questions:—

(1.)—There being an understanding between the subscribers to the fund for the commemoration of Her Majesty's Diamond Jubilee that the Jubilee Road shall be constructed, the funds for which are now lying in the Hongkong and Shanghai Bank untouched though nearly two years have elapsed since their subscription, will the Government be good enough to state whether the survey and planning of the road have been completed?

(2.)—Will the Government be good enough to state when it is proposed to commence work on the first section of the Jubilee Road?

(3.)—Will the first section be made round Mount Davis?

(4.)—Can the Government give the approximate date of the completion of the section to its juncture with the Aberdeen Road?

The COLONIAL SECRETARY gave the following answers to the different questions:—

- (1.)—Yes.
- (2.)—The work will be commenced as soon as the money subscribed is available.
- (3.)—The first section will not be round Mount Davis, as there are military objections.
- (4.)—No answer is required in view of the answer given to question 3.

INSANITARY LANES.

The Hon. C. P. CHATER had given notice of the following question:—

With reference to the Notes and Comments contained in the *Hongkong Telegraph* of Monday, the 27th February last, relating to the alleged insanitary condition of certain lanes and alleys lying between Queen's Road and the Praya, to the westward of Pedder Street, will the Government state whether the condition of the lanes and alleys in question is such as it is said to be?

The COLONIAL SECRETARY replied as follows:—

(1.)—Many of the Lanes in question, being private lanes, are used by wholesale dealers in fruit and vegetables for the conduct of their trade and may consequently be found during the day time to contain fresh vegetable refuse, but this is removed daily, night and morning, by the Government scavengers, and is not allowed to lie in the streets and lanes and decompose as alleged.

(2.)—It is customary to place soil pipes on the outside of kitchen walls, rather than on the inside, and such pipes do occasionally become choked, through carelessness of tenants, but immediate action is taken to compel the abatement of the nuisance and the tenants are rendered every assistance in the removal of such obstructions.

THE CONTROL OF THE SLAUGHTER HOUSES.

The Hon. T. H. WHITEHEAD had given notice of the following questions:—

(1) Will the Government inform the Council on what grounds it has refused to put an end to the farming out of the slaughter-houses to a Chinese contractor as recommended by the Sanitary Board in their resolution of 2nd February last, which reads:—

"That the Board recommend the Government to transfer the management and control of the slaughter-houses to the Sanitary Board upon the expiration of the present lease to the farmer."

(2.) Referring to the statement in the fifth paragraph of the Secretary of State's despatch No. 254 of 6th November, 1896, will the Government inform the Council whether the Secretary of State for the Colonies has given any decision as to the reconstruction of the Sanitary Board in connection with Sir William Robinson's recommendations on the subject contained in his despatch No. 150 of 30th June, 1896.

(3.) Will the Government inform the Council

whether, in the opinion of its legal adviser, the action of the Sanitary Board as at present constituted is, in face of the provisions of section 4 of the Public Health Ordinance No. 24 of 1887, legal and justifiable?

(4.) Will His Excellency the Governor inform the Council whether he has received any instructions to deal with the reconstitution of the Sanitary Board?

The COLONIAL SECRETARY replied as follows:—

(1)—The Government does not consider it advisable at present to make any alteration in the management of the slaughter-houses.

(2)—No decision has been given.

(3) — Opinions of the Attorney-General are confidential communications to Government and cannot be made public.

(4)—No instructions have been received.

LAY MEMBERS OF THE CHURCH BODY AND THEIR TENURE OF OFFICE.

The ACTING ATTORNEY-GENERAL—I beg to move the second reading of the Bill entitled An Ordinance to provide for the Performance of Divine Worship and other Services in accordance with the Rites and Ceremonies of the Church of England at Saint John's Cathedral Church at Victoria and elsewhere in this Colony; for the Incorporation of a Church Body in which the said Cathedral Church shall be vested and by which it shall be administered; and for other purposes connected with the said Cathedras Church. If honourable members will kindly turn to the statement of objects and reasons set out at the end of the Bill they will see that this measure is for the most part purely a re-enactment of the present law which is in force. The only point of any importance in which this Bill contains an amendment upon the present law is that it makes the tenure of office of lay members of the Church Body annual instead of permanent.

The COLONIAL SECRETARY seconded and the motion was carried.

The Council having considered the Bill in Committee it was read a third time and passed.

THE LAW RELATING TO SOLICITORS. THE

HON. E. R. BELILIOS AND THE

RESIDENCE CLAUSE.

The ACTING ATTORNEY-GENERAL—I beg to propose that the Council go into Committee to consider clause 21 of the Bill entitled an Ordinance to amend the law relating to solicitors of the Supreme Court. I would ask honourable members to kindly refer to the report of the Standing Law Committee on this Bill which I have laid on the table at this meeting of the Council, and I would now draw the attention of honourable members—

The Hon. T. H. WHITEHEAD—I submit that this is an irregular course of procedure.

The members are not being properly treated. I think these reports should be sent round one or two days or three days at least before the matter is brought up with a view to the business being conducted on regular lines.

The CLERK OF COUNCILS—It was sent round with the orders of the day.

The COLONIAL SECRETARY—I understand that the Clerk of Councils has forwarded to each member a copy of the report with the orders of the day. I do not know whether the honourable member has received it.

The Hon. T. H. WHITEHEAD—No; it has not reached me.

The Hon. C. P. CHATER—I have received mine.

The Hon. E. R. BELLIOS—I did not receive the amended form. The original form was sent to me. I only found it on the table.

HIS EXCELLENCY—I think this matter had better stand over until the amended form can be sent round to the members. It is very important that the amended form should be properly considered.

After consulting with the Acting Attorney General HIS EXCELLENCY said—The Acting Attorney-General says he will probably not be here at the next meeting of the Council, and it is important we should have his assistance, I quite agree with honourable members that these matters should be forwarded in time to give time for consideration. Has the honourable member a copy now?

The Hon. T. H. WHITEHEAD—No, sir. There is not one on the table—neither of the amended nor of the original.

The Hon. E. R. BELLIOS—I think the omission of this important clause should have been published in the *Gazette* for solicitors to see.

HIS EXCELLENCY—I do not think that that would be the regular course.

Hon. C. P. CHATER—The Honourable Mr. Bell-Irving has received his copy of the Report and so have I.

The ACTING ATTORNEY-GENERAL—The amendment I referred to is No. 13 in the report. I will just read the paragraph in the report. It says, "That the whole of clause 21 be struck out and that clause 22 be numbered clause 21. The Hon. E. R. Bellios, C.M.G., was opposed to this amendment but all the other members of the Committee were in favour of it. I have caused a special slip to be printed for honourable members containing clause 21. Honourable members will remember that I referred to this particular clause at a previous meeting of the Council. That clause runs as follows.—"No person who shall have been admitted as a solicitor of the Supreme Court of Judicature in England or as an attorney or writer in one of the Courts at Dublin or Edinburgh shall be admitted to practise within the colony as a solicitor otherwise than as a clerk to a solicitor or firm of solicitors practising in the colony until he shall have actually resided in the colony for a period of six months next

preceding such admission and unless he shall have previously given six months' notice in writing to the Registrar of the Court of his desire and intention to apply to be so admitted; but any person who may have been admitted to practise as a solicitor within the colony as a clerk to another solicitor or firm of solicitors shall, after having so practised for a period of six months, be deemed to have been admitted to practise within the colony as a solicitor and shall be entitled so to practise upon his own account unless precluded from so doing by any lawful agreement or undertaking." With regard to the publication of the omission of this clause in the *Government Gazette*, I would point out that no determination has been come to as yet by the Council as to the deletion of this clause. It will be for honourable members of this Council to decide by a majority when this matter is in committee whether this clause shall or shall not be retained. With these observations I beg to move that the Council go into committee to consider clause 21 of the Bill entitled an Ordinance to amend the law relating to solicitors of the Supreme Court.

The COLONIAL SECRETARY seconded, and the motion was carried.

The ACTING ATTORNEY GENERAL—I beg to move, in accordance with the conclusion arrived at by the majority of the honourable members of the Law Committee that the whole of clause 21 be struck out and that clause 22 be renumbered as clause 21. I think, sir, it will be seen that the object of this clause 21 is undoubtedly to confer to a certain extent a sort of monopoly, if I may so express it, on the solicitors at present practising in the colony in the solicitors' legal work of the colony; because it would be very difficult for an outside person, if this clause were to remain standing, to go into practice on his own account. Of course if any solicitor came to this colony and acted as clerk to a firm of solicitors he would no doubt be asked to enter into an agreement binding him down to prevent him from practising in the colony. I think it is better that there should be freedom in these matters, and that people should be free to come and go and be free to set up as solicitors without any restriction; that the public should have the benefit of the best legal advice available, and that no one who comes into the colony should be in any way restricted from setting up in the profession of solicitor. I therefore beg to move that the whole of clause 21 be struck out and clause 22 be re-numbered.

The COLONIAL SECRETARY seconded.

The Hon. E. R. BELLIOS—As I object to the deletion of clause 21 I beg to offer a few remarks in support of my contentions. I understand

that this clause forms part of the Ordinance now in force in the Straits Settlements. The conditions which obtain here are similar to those which obtain in the Straits Settlements, and I do not see the reason why such an important clause should be deleted from our Bill. I take it that the advantages to be derived from the retention of this clause would be threefold. First, it would restrict the influx of lawyers of unknown character and dispositions into the colony, thus restricting and discouraging litigation. (Laughter.) Secondly, it would protect the interest, of our fellow-citizens the old-established solicitors and attorneys in this island; and thirdly, it would safeguard the colony from being victimised by unscrupulous men. For instance, a practitioner works hard and builds up a business for himself, but there appears suddenly in the field a rank stranger, a man probably of loose character, who has no knowledge of the local laws and customs, and who sets to work either by fair or foul means, and cuts into the business of the old-established lawyer. Surely, sir, notice of some kind, however short, might be given to enable this old resident to cope with the new-comer as best he may in the preservation of his vested interests and rights. Six months' notice of residence or probation cannot be a hardship to the new-comer. He has everything to win and nothing to lose, and his character should be known before the residents can be allowed to entrust their interests in his hands. Honourable members will remember the man named Webber who landed here a few years ago and soon after he was admitted into the courts commenced to practice in this colony. Before his character became known he victimised a number of clients, and before any redress could be obtained he cleared out of the colony. Mr. Norton Kyshe in his "History of the Laws and Courts of Hongkong," tells us that the lawyers in Hongkong enjoy a high reputation. If that is so I contend it is the duty of the legislature to see that no black sheep enters their ranks, and that that reputation continues unsullied. In my address I have mentioned only the Straits Settlements, but I find that except the Cape and Jamaica all the British colonies have made laws and regulations fixing periods of residence before a solicitor can be admitted in the courts and qualified to practice. In South Australia one year's residence and notice of desire to be admitted is necessary. In all other Australian courts no solicitor can be admitted to practice without serving his time in the colony and passing examinations there. In Canada in the district of Ontario it is and has for many years past been necessary for an English solicitor desirous of practicing there to be first resident in the colony for one year, while in the Quebec district he cannot be admitted to practice until he has served his articles afresh in the colony for a period of from three to five years. In British Columbia an English solicitor can be admitted to practice only after a period of one year's *bona fide* residence in the colony. In New Zealand an English solicitor before he can be admitted to practice in the colony must give notice of his desire to

enter and must pass a thorough examination as to his knowledge of local laws. If this clause be expunged from the Bill Hongkong will be taking a retrograde movement, and will not be in touch with the other British colonies. For these reasons, and for the sake of the welfare of the colony, I submit that clause 21 should form part of the Bill.

The Hon. Dr. HO KAI—Sir, I am one of the members of the Law Committee who voted against the retention of the clause, and for the reason that it is against free trade and free competition. At the end of this 19th century it is very curious to hear one speak of the vested interests of a profession or a trade, and to argue that those who happen to have been in the locality for some little time should in consequence have the field to themselves, and that a sort of monopoly should be created in their favour and the door shut against others. The honourable member who has just sat down said he defended the retention of this clause on three grounds. First of all, he said, it would decrease litigation. If you took away all the lawyers from a place I am afraid it would not stop litigation. One more solicitor in a place or one less will not lessen or materially affect the litigation in that place, provided the inhabitants of that particular district are bent upon litigation. Some people, it will be within the knowledge of this Council, are particularly fond of litigation, and I am sure one or two more solicitors in the colony would not increase it. As to the vested interests of existing solicitors being affected, vested interests are totally at variance with the idea of free trade in England and equal opportunities to all—not only to the Queen's subjects but to foreigners. (Hear, hear.) As to our being cheated by unscrupulous men in any trade or profession, we have to use our common sense, as for instance when we ask advice of a doctor, a solicitor, or an architect. The law cannot like an old grandmother provide all this for grown-up men. (Hear, hear.) The honourable member who has just sat down seemed to think he had given us a good example in favour of the retention of the clause. He gave the case of Mr. Webber. I think everybody who was in the colony during Mr. Webber's time knows that he came out as a solicitor clerk to Mr. Ewens. He was with Mr. Ewens for more than a year—I believe it was two years—after that he came out and got himself admitted as a solicitor practising in the colony on his own account, and it was only after he left Mr. Ewens's office

that these scandals came out. Supposing a man in the same way were to come into the colony, serve his time with a solicitor, and then, supposing clause 21 were retained, set up for himself, what protection should we get? I think the example mentioned by the honourable gentleman served to show how imperfect the protection would be if the clause were retained. (Hear, hear.) For the broad reason of fair play I am against the retention of this clause. The honourable member quoted a lot of other colonies which have a clause of this kind in operation. He mentioned Australia, but Australia is different from Hongkong. Hongkong is a Crown colony, whereas the Australian colonies are mostly self-governing. Therefore the law in the Australian colonies may be materially different from the law of England and may require a year or six months for a man to get accustomed to it; but in this colony we mostly adopt the law of England as our law, and our local ordinances are not very voluminous. A man can easily get hold of them in a very short time. For these reasons I support the deletion of the clause and when in the law Committee supported the proposal to strike it out.

The Hon. E. R. BELLIOS—With your permission there is one point I may as well answer. My honourable friend referred to solicitors who had served their time in a solicitor's firm here and then went out and formed a practice. He put such solicitor on the same footing as a full-blown solicitor who comes direct from England and starts as a solicitor. A

solicitor who comes as a clerk to a firm of solicitors comes on the recommendation of people in England who have probably known him from childhood. They have studied him, they have studied his character, and recommended him to a firm of solicitors in this colony. Consequently there is some safeguard with regard to him, but it is quite different in a full-blown solicitor coming here and starting practice within a fortnight of his arrival.

The motion was then put and carried.

The ACTING ATTORNEY-GENERAL suggested that as he would not be present at the next meeting of the Council it would be advisable for the Standing Orders to be suspended so that the Bill could be read a third time. He proposed that the standing orders be suspended.

The ACTING COLONIAL SECRETARY seconded, and the motion was passed.

The Hon. E. R. BELLIOS—I would request you to postpone the third reading of the Bill until the solicitors have had their say on the subject.

The ACTING ATTORNEY-GENERAL—The standing orders having been suspended I beg leave to move the third reading of the Bill.

The COLONIAL SECRETARY seconded. A division was then taken at the request of the Hon. E. R. Bellios, and every member of the Council, except the Hon. E. R. Bellios, voted in favour of the motion, which was accordingly carried.

The Council then adjourned *sine die*.