

28TH DECEMBER, 1899.

PRESENT:—

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

The Hon. J. H. STEWART LOCKHART, C.M.G. (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. Dr. HO KAI.

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

Hon. WEI A YUK.

Hon. J. J. KESWICK.

Mr. R. F. JOHNSTON (Acting Clerk of Councils).

FINANCIAL.

The COLONIAL SECRETARY laid on the table the report of the Finance Committee (No. 13) and moved its adoption.

The COLONIAL TREASURER seconded, and the motion was carried.

THE PIERS ORDINANCE.

The ACTING ATTORNEY-GENERAL—I beg, sir, to move the second reading of the Bill entitled the Piers Ordinance, 1899. Honourable members will have had the opportunity of reading the objects and reasons attached to the Bill, and I do not think I need go through them now. This matter, sir, has formed the subject of a good deal of discussion between the Government and the pierowners, and this has resulted in the Bill being drawn up in its present form. Apart from this Bill the owners of piers are liable to have their licences determined by three months' notice. They were very anxious to be given something in the shape of permanent tenure of their piers and wharves in the view of the valuable nature of the piers and wharves erected in this colony, and it is intended, sir, if this Bill is passed that leases shall be granted to owners of piers and wharves for a period of 50 years, at the rate for 50 years mentioned in the schedule, subject to revision at the end of 25 years, if thought desirable: I think, sir, the principle of this Bill has been accepted on behalf of the pierowners by a committee appointed by them, and I have taken a great deal of trouble in my consideration of the Bill and in the details connected with the Bill. I think, sir, the compromise suggested in this Bill—the lengthened term for pierowners, this being a great benefit to them, and the increase of rent, which I think is a fair increase of rent—is a fair compromise to arrive at. I understand that the committee appointed by the pierowners have, upon

the understanding that their term is lengthened to the period I have mentioned, agreed to accept the scale of rent inserted in the schedule of this Bill.

The COLONIAL SECRETARY—I beg to second, and in doing so I beg to inform this Council that the question of compensation for removal of piers was referred to the Secretary of State for the Colonies, and a reply was received to the effect that while he was not ready to abandon any rights the Crown might possess he was at the same time prepared to consider each individual case on its own merits as it might arise.

The Hon. E. E. BELLIOS—Your Excellency, in comparing this Bill with the Bill which was before the Council some time in the middle of this year, I find that the wharves and piers of the Kowloon Wharves and Godowns Company have been exempted from the operation of the Bill. I feel, sir, that if the case of the other wharves were placed before Your Excellency in their true lights you would also be disposed to exempt them as well from the proposed increased dues. The inadvisability of the proposed measure is so palpable that it needs but little comment from me. The extra taxation is to be imposed now, long after the several steam boat companies have entered into leases with landed proprietors on the Praya for sea frontages, some of these leases running on for twenty-one years and long after large sums of money have been expended on the erection of wharves. Some of these wharves have cost as much as one hundred thousand dollars, an expenditure entered upon without the least prospect of a single dollar coming back in the shape of interest for capital sunk there. These wharves being fixtures and passengers having become accustomed to use them, they cannot now well be removed. To tax them now is tantamount to permitting a man to build a costly house on Crown land and then to come down upon him for six or eight times the amount of Crown rent he had reckoned on having to pay when he first acquired the site. It is like taking him unawares and seizing advantage of his helpless condition. The tax will fall on one section of the community—shareholders of the several steamboat companies, a small proportion compared with the large population inhabiting this colony. The opium farmer benefits by these wharves. They afford him facilities to search passengers landing here with smuggled opium on their persons. I know it for a fact that when the subsisting agreement was being negotiated Sir William Robinson tried his best to persuade the opium farmer to abandon his right of search. This the farmer consented to do, on condition that a large sum should be deducted from

the rent he had to pay into the Treasury for the farm. It is therefore evident that the colony benefits by the use of these wharves. Assuming that there were no wharves in the harbour and that steamers coming here were compelled to discharge in mid-stream, it is easy to imagine the state in which our food stuffs would be found if they had to be pitched and dumped overboard helter-skelter into sampans. Imagine these sampans struggling against wind and tide to arrive at the different market places in the city of Victoria! Imagine the state of mind in which housekeepers would be found owing to the delay in these supplies reaching their destination! The total sum to be collected from these wharves would be so small that it would assuredly not be worth while causing all this amount of irritation, inconvenience and disappointment amongst a large number of Her Majesty's loyal subjects. Assuming for the sake of argument, however, that the steamers which use these wharves do no special good to the colony, it cannot be denied that they bring grist to the mill in the shape of passengers coming here *en route* to different parts of the world. These people stay here for days, if not for weeks, and during their sojourn spend money in the colony, thus in no inconsiderable degree helping to augment the Colonial Exchequer. The services of the river steamers are recognised by the Chinese Government, for in Canton they are allowed certain privileges, privileges that are denied to the ocean-going boats resorting to that port for trade; whereas here in a British colony flying the Union Jack, under which they are supposed to thrive, it is now proposed to mulct them in payment of heavy wharf dues, instead of being privileged, instead of being exempted from paying light dues, and instead of being subsidised by the State as are the river steamers in Tonkin. I trust these remarks will convince your Excellency that wharves are constructed chiefly for the comfort and benefit of the general public. Consequently, the proposed heavy wharf dues should not be imposed upon them.

The ACTING ATTORNEY-GENERAL—Your Excellency, with regard to what has just fallen from the honourable member, I would mention that the piers and wharves mentioned by him were erected under a special Ordinance. Therefore they seem to stand on a somewhat different footing from the other piers and wharves in the colony. With regard to what has fallen from the honourable member as to the increase of rent in accordance with the schedule of this Bill, I would inform the honourable member that Mr. Arnold, who is the secretary to the steamboat company of which the honourable member is chairman, was one of the committee which considered this question, and that Committee suggested certain matters of detail in which they considered that this Bill might be improved, but it was never suggested that the rent which it was proposed to levy was an exorbitant rent as the honourable member seems to think.

The motion was carried.

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

No special comment was made until the schedule with the scale of rents chargeable under the Ordinance for encroachments of piers over Crown foreshore was reached, which scale is as follows:—(a) Within the Harbour limits on the Hongkong side:—

For encroachments of 500 sq. ft. or less	\$ 120
For encroachments exceeding 500 square feet, but not exceeding 1,000 sq. ft.	180
For encroachments exceeding 1,000 sq. feet, but not exceeding 2,000 sq. ft.	300
For encroachments exceeding 2,000 sq. feet, but not exceeding 3,000 sq. ft.	480
For encroachments exceeding 3,000 sq. feet, but not exceeding 5,000 sq. ft.	660
For encroachments exceeding 5,000 sq. feet, but not exceeding 10,000 sq. ft.	900
For encroachments exceed. 10,000 sq. ft.	1,200

(b) In any other place: half the above scale.

The Hon. E. R. BELLIOS—I beg to propose that this scale be reduced by one-half. Perhaps you are not aware that for our largest pier under present conditions only \$15 a month is charged. Recently rates have been added to the extent of \$15 a month, making \$30 a month. This new schedule will make the payment three times as much.

The DIRECTOR OF PUBLIC WORKS—I think the honourable member is labouring under a mistake. One pier in the harbour is paying \$215 a month under a special agreement. Of the last eight piers which Your Excellency has sanctioned, seven pay \$75 a month, and they are very willing to pay it, and for the eighth \$90 a month is being paid. They are under special agreements, and under this Ordinance these rates will continue. I have every reason to know that the people have paid the money very willingly and make a very good thing out of it. One of the cases which brought forward this Piers Ordinance last year was a case where the Government got \$75 a month for a small bamboo pier near the Central Market whilst the fortunate owner sub-let it for \$125 a month. That was a case to show what an extremely profitable property these piers are. So I think the honourable member has fallen into a great mistake when he says the maximum amount paid by the Canton and Macao Steamboat Company is \$30 a month.

His EXCELLENCY THE GOVERNOR (jocularly) —No wonder they pay good dividends.

The Hon. E. R. BELLIOS—These arrangements were entered into when the Bill was pending.

The DIRECTOR OF PUBLIC WORKS—With regard to the Macao Wharf the payment of the

sum of \$215 a month was agreed to long before this Bill was contemplated.

The Hon. E. R. BELLIOS—Of course I cannot defend my company; but the reason of that was that we were compelled to shift and we had nowhere to go to.

The HARBOUR MASTER—The honourable member mentions the privileges conferred upon the colony by the wharves and piers, but he has not mentioned the privilege granted to the Canton and Macao Steamboat Company, who are only charged one-third light dues when the boats come in at night and nothing when they come in during the day.

The Hon. E. R. BELLIOS—I have also mentioned that at Tonkin the river steamers are exempt from all dues and are subsidised.

The COLONIAL TREASURER (jocularly) — I think theatres are subsidised there too.

His EXCELLENCY the GOVERNOR—Do you wish this to be put—that the rents be reduced by one-half?

The Hon. E. R. BELLIOS.—Yes.

His EXCELLENCY the GOVERNOR—This has been before the Piers Committee. The rents in the present schedule are one-half the rents in the original schedule.

The Hon. E. R. BELLIOS—I have only just heard that Mr. Arnold was chairman of that committee.

His EXCELLENCY the GOVERNOR—Oh no; he was not chairman. He was one of the members.

The Hon. E. R. BELLIOS—He had no authority from the Board to act as such.

The Hon. C. P. CHATER—I may mention, for Your Excellency's information, that I have had a good deal to do with regard to this Bill. It originally came forward I think 12 months ago. When General Black was administering the colony an order or regulation was passed putting on a tariff double that which is in this Bill, and an advertisement was put in the *Gazette* stating it was to take effect from a certain date. I appealed to General Black and to the Executive Council very strongly on the subject, and ultimately it was decided to leave the matter in abeyance until Your Excellency's arrival. On Your Excellency's arrival, if you recollect, you took up this question at once, and the matter has been threshed out from that date till now. Nearly 12 months ago the pier owners called a meeting of those interested in piers. A committee was appointed, and if I mistake not Mr. Herbert Smith, of the China Navigation Company, was appointed chairman. They went into the question very thoroughly and submitted their views to me to bring before the Government, which I did. After some negotiations the matter was arranged, and this tariff was what was arrived at by this Committee. The only one point which was held over, and for which the Bill has been so long delayed, was with regard to the compensation clause. The owners, like the honourable

member opposite, argued that after having spent large amounts in putting down piers and wharves it would be a great hardship if within two or three months the Government ordered their removal without compensation. Their views and also the views of the Government on this point were submitted by Your Excellency, to the Secretary of State; hence the delay. The reply of the Secretary of State was received a short time ago and was submitted to me, and I in turn submitted it to the committee. Mr. Arnold is a member of that committee, and took a very prominent part in it. I think the minutes of the committee were forwarded to your Excellency or to the Colonial Secretary, and they bore Mr. Arnold's signature. It is for that reason I cannot possibly second or help the honourable member with regard to the various points he has brought forward. If the matter had not been gone into as fully as it has I should have been inclined to support him in one or two of the amendments he has expressed, but the matter having been thoroughly gone into by the pier owners and by those who are likely to have piers in the future, and a committee formed of these pier owners having arrived at the conclusions they did, I regret that I for one cannot support him at the present moment.

His EXCELLENCY THE GOVERNOR — Does the honourable member wish the amendment to be put?

The Hon. E. R. BELLIOS—Yes, sir.

The amendment was then put and lost.

His EXCELLENCY the GOVERNOR—With regard to what the Hon. Mr. Chater has said, I see no reason why I should not read you the Secretary of State's answer on this question of compensation, because I think the pier owners need not be afraid. This was my despatch which I sent in September:—

Sir,—I have the honour to submit for your decision the following point which has arisen in connection with the rights of this Government over the piers and wharves erected on Crown land and within the waters of this Colony.

"2.—Before the passing of Ordinance 15 of 1889 there were no laws on the subject of piers and wharves, though the construction of some had been sanctioned by Special Ordinance (18 and 19 of 1884).

"3.—In March, 1888, it was brought to the notice of the Government that the rents which were being paid by pier owners or lessees for the encroachment over the Crown foreshore or over the bed of the harbour were much too low and out of all proportion to the value of the piers. The question was considered in Executive Council and it was decided that under Section 68 of Ordinance 15 of 1899, as amended by Ordinance 25 of 1891, a revised schedule should be drawn up comprising increased rates and a new form of agreement.

"4.—Owing to the representations of the pierowners, which were supported by the Hongkong Chamber of Commerce, it was considered advisable whilst raising the rents to reduce the rates fixed in the revised schedule.

"5.—The representatives of the wharf and pier owners, whilst expressing themselves willing to pay the increased rents fixed in the revised schedule as amended rent, urge that compensation should be paid to the owner of any pier, the removal of which is required on public grounds.

"6.—I have consulted the Acting Attorney-General on the question of compensation who advises that though the right of removal without compensation undoubtedly exists under the agreement between the Government and owners of piers, a copy of which is attached, the Government has never exercised that right hitherto, and probably would never do so, as such a course would be inequitable, however legally justifiable, and, further, he points out that in the case of the removal of piers under the Praya Reclamation Ordinance 16 of 1889, compensation was paid, which seems to create a precedent.

"7.—Some of the piers at present erected and some proposed to be erected are expensive structures, and it is pointed out that the right to remove them without compensation destroys their value as security, should it be necessary to utilize them for that purpose.

"I endeavoured to define the expression "Public purposes" but found it impossible to do so in a manner satisfactory to the owners. At present I do not see any purpose for which we should require to remove a pier, save Praya Reclamation, which is already provided for.

"8. I concur in the opinion of the Acting Attorney-General, but as the right of the Crown unquestionably exists to demand removal of piers without awarding any compensation, I do not consider myself entitled to surrender this right without definite authority to do so. I have, therefore, the honour to request that you will favour me with an early decision on this matter and that, in view of the desirability of collecting the increased rents as soon as possible, you will convey to me your reply by telegraph." I got a telegram in reply, but this is the despatch which followed:—

"Sir,—I have the honour to acknowledge the receipt of your despatch No. 257 of the 8th, ultimo, submitting for my decision the question of surrendering the legal right of the Crown to demand the removal of piers and wharves erected on Crown land within the waters of Hongkong, without awarding any compensation to the owners.

"2.—I consider that it would not be advisable to surrender the right, which I am advised Government undoubtedly possesses under the existing law, of demanding the removal of these structures without giving compensation, but it should not be rigorously insisted on under all circumstances, and each case as it arises should be judged on its merits.

"4.—I have already informed you to the above effect in my telegram of the 13th, inst." So you see, although the right is there, I do not think any Government would ever dream of removing an expensive pier for public purposes without giving compensation.

The Bill having passed through the committee stage the Council resumed, and the Bill was read a third time and passed.

THE COMPANIES ORDINANCE.

The Bill entitled an Ordinance to amend the Companies Ordinance, 1877, passed through the committee stage and was read a third time and passed.

DANGEROUS GOODS ORDINANCE.

The Bill entitled an Ordinance to amend the Dangerous Goods Ordinance, 1873, was read a third time and passed.

THE SUMMONING OF CHINESE BY THE REGISTRAR-GENERAL.

The Bill entitled an Ordinance to provide for the summoning of Chinese before the Registrar-General was read a third time and passed.

THE ARMS ORDINANCE.

The next item on the agenda was:—"Committee on the Bill entitled an Ordinance to amend and consolidate the law relating to the carriage and possession of arms and ammunition."

The COLONIAL SECRETARY said with regard to this—
With regard to the next item on the Orders of the Day, I beg to inform Your Excellency and this Council that a letter has been received from the Secretary of the Chamber of Commerce asking that this Bill may be still further postponed in order to allow the committee of the Chamber further time to consider it. Owing to the intervention of the Christmas holidays and the absence of certain members of the Committee the Chamber has not had full opportunity of giving the matter that consideration which the Chamber considers it deserves. I think, sir, that the request for postponement is reasonable, and I would, therefore, suggest that this item be discharged and the further consideration of the Bill postponed for a fortnight.

The ACTING ATTORNEY-GENERAL—I would ask your Excellency's leave to withdraw this item in the Orders of the Day. I may mention, sir, that I have forwarded this afternoon to the Secretary of the Chamber four copies of this Bill, four copies of proposed amendments, and four copies of additional amendments which the Government propose to make in consequence of certain suggestions made by the learned Counsel who addressed us at the last meeting of the Council.

The item was accordingly discharged.

ADJOURNMENT.

The Council then adjourned for a fortnight.