

19TH APRIL, 1904.

PRESENT:—

HIS EXCELLENCY THE OFFICER ADMINISTERING THE GOVERNMENT, F. H. MAY, C.M.G.

HIS EXCELLENCY MAJOR-GENERAL VILLIERS HATTON, C.B. (Commanding the Troops).

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

Hon. Sir H. S. BERKELEY (Attorney-General).

Hon. L. A. M. JOHNSTON (Colonial Treasurer).

Hon. A. W. BREWIN (Registrar-General).

Hon. Captain L. A. W. BARNES-LAWRENCE R.N. (Harbour Master).

Hon. P. N. H. JONES (Director of Public Works).

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

Hon. Dr. Ho KAI, C.M.G.

Hon. WEI A YUK.

Hon. H. E. POLLOCK, K.C.

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

NEW MEMBER.

Hon. P. N. H. Jones, Director of Public Works, was duly sworn and took his seat as an Official Member of Council.

FINANCIAL.

The COLONIAL SECRETARY laid on the table Financial Minutes (Nos. 21 to 23) and moved that they be referred to the Finance Committee.

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

The COLONIAL SECRETARY laid on the table the Report of the Finance Committee (No. 4), and moved its adoption.

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

PAPERS.

The COLONIAL SECRETARY laid on the table the following sessional papers:—Report of the Director of Public Works for the year 1903, despatch from the Secretary State on tropical diseases research, financial returns for the year 1903, returns of the Subordinate Court for the year 1903, report on the Health and Sanitary condition of the Colony for the year 1903, and the Blue Book for the year 1903.

NOTICE OF QUESTIONS.

Hon. Mr. POLLOCK—Your Excellency, I beg to give notice that I shall ask certain questions at next meeting of Council of which I gave notice on Friday last. I understand the Government is not prepared to answer these questions now. I beg to give notice that I shall ask them at next meeting.

HIS EXCELLENCY—The Clerk has the questions?

Hon. Mr. POLLOCK—Yes.

EMPLOYMENT OF PILOTS.

The ATTORNEY-GENERAL moved the second reading of the Bill entitled an Ordinance to provide for and regulate the Employment of Pilots. He said—The object of this Bill is to provide for the exercising of control over persons who practise as pilots in the waters of the Colony. There is at present, I understand, a so-called pilot service, but the men who ply for hire as pilots are not licensed or qualified in the sense of having passed under examination or had the approval of any person competent to say whether the man offering his services as a pilot knows anything of what he undertakes to do. In one sense it may be said that a place like this does not require pilots; the navigation is open, and there is no need to have pilots to bring ships into Hongkong or take them out. But apparently the Harbour is so extremely crowded and the difficulties of finding berths so considerable, that the Government has been approached by the shipping community and asked to provide some safeguard that persons who offer themselves for pilots within the waters of the Colony shall know what to do. That application was considered, with the result that this Bill has been brought in. There is no compulsion for anyone to take a pilot, nor will taking a pilot exempt the ship that takes him from any consequences that may occur from collision or otherwise. Government accepts absolutely no responsibility in the matter. People are free to take a pilot or not as they please. What the Government wants to do is to see that no one shall offer his services as a pilot who is not reasonably considered to be capable of performing the duties of a pilot. I think, that the measure which is a new one, will be found useful in its application.

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

The Council then went into committee on the Bill and considered it clause by clause, only a few minor amendments being made.

On the Council resuming, the Bill was read a third time and passed on the motion of the ATTORNEY-GENERAL, seconded by the COLONIAL SECRETARY.

HILL RESERVATION.

The ATTORNEY-GENERAL moved the second reading of the Bill entitled an Ordinance for the Reservation of a Residential Area in the Hill District. He said:—Sir, the necessity for this measure and the expediency of passing such a measure is, I think, very clearly if succinctly stated in the objects and reasons appended to the Ordinance itself. It will be found stated there that "The reservation of this district is desirable in order that a healthy place of residence may be preserved for all those who are accustomed to a temperate climate and to

whom life in the tropics presents the disadvantage of an unnatural environment." Of course, it is known to everyone that all persons of European birth and extraction are liable to suffer and do suffer more or less when they are obliged to live continuously under conditions of temperature and environment which are to them unnatural—conditions of life such as are to be found in all tropical countries, and which are at all times trying to those who are forced to live in the lower levels of tropical places. But that inconvenience and that danger which exists everywhere is accentuated in this island of Hongkong by the necessity, arising from a restricted area, which compels the dense population to live together closely crowded. It is unavoidable as far as I can see that the lower levels should be under this unenviable necessity, which is due to the fact of the restricted area in which thousands have to live where there is only room for hundreds. Now this fact is due to this other fact: that the continued influx of Chinese into Hongkong is enormous, attracted here as they are by the fact that they possess security to life and property to a greater extent than can be obtained elsewhere in this part of the East. Well, Sir, we welcome the Chinese who like to come here, and we put no limit upon their numbers. Consequently it is not possible to reserve within the limits below the line which is ordinarily known as the 700 feet contour any area within which the conditions of healthy life can be found as a rule. We want as many people to come here and live and trade and promote the prosperity of themselves and the country as choose to come. We, at the same time, wish and everyone, I think, in this honourable council, or outside of it, wishes to preserve an area capable of being inhabited without that close crowding which in all countries is detrimental, but especially so in a tropical country, as this one is. This crowding in goes on every day, and will continue to go on. The vast majority of the people who come here—of Chinese people, have never lived on the upper levels therefore the Government in casting about for an area that is suitable for a reservation have determined on a locality which has never hitherto been occupied by Chinese. We propose by this Bill to reserve an area within the Peak District which shall be free from the speculative builder, because as the pressure goes on from year to year it may come to pass that houses that have not so far existed there—may in future find their way to the Peak. It may be that the speculator instead of going over to Kowloon side would go up to the Peak, and conditions would be created that would and introduce the conditions that are so undesirable, and which now exist below. Therefore, I say that those who support the proposition that it is desirable, if possible, that an area such as I have referred to should be reserved will, no doubt, say that the best place to choose is the place we have chosen; that is, the Peak District. The Government has therefore decided to ask the Council to

pass this Bill. It is obvious to any one who reads the Bill that it does not restrict Chinese from building on the Peak. It will be observed that clause 5 enables the Governor in Council to exempt any Chinese from the operation of the ordinance. The object is not to prevent Chinese as such from living on the Peak, but to preserve a place that cannot be overcrowded. I move that this Bill be now read a second time.

The COLONIAL SECRETARY seconded.

The Hon. Dr. HO KAI—Sir, the Bill, the second reading of which has been just moved, has a decided savour of the nature of class legislation, and especially against the Chinese, and, as such, it should be my duty to oppose it in as strong a manner as possible; but, at the same time, Sir, I have had the reasons carefully explained to me for the necessity of such a Bill. I have considered these reasons very carefully and I must say, personally, I am quite convinced of the reasonableness and expediency of such a measure. The reason put forward was the limited space for the accommodation of Europeans at the Peak, and that it was necessary for the health of Europeans to live at a height of some hundreds of feet from the level of the sea, not only for their own health, but that of their wives and families especially the children. Having considered that carefully, I for myself certainly think a concession from the Chinese would not only be graceful but justifiable, and I as a member of the Chinese community, and I believe my colleague also, agreed to offer no opposition to this Bill, but will be glad to consent to a measure by which we know the health and happiness of a large section of the European community will be promoted—the section upon which the prosperity and wellbeing of this Colony so much depends, and by yielding them the principle of this Bill we are really promoting not only their welfare, but the welfare of the whole of this Colony. So far then, we do not propose to offer any opposition to this Bill, but as I am here representing the Chinese, the Chinese community, of course, have something to say to this Bill. In order to ascertain their views—those of the leading members only—manifestly it is impossible for us or for the Government even to ascertain the views of the Chinese in general, nor do I think it is imperative or necessary to do so—a series of meetings of the leading Chinese was held to consider the Bill, and to sum up, shortly, the result of it I wish to state that the majority have, after three meetings, instructed us, or let us know by resolution, that they would not oppose this Bill because they had had the reasons explained to them and

they thought, I suppose, the reasons were sufficient, but at the same time unanimously they have requested the Government to be so good as to alter somewhat the phraseology of the Bill. In Committee I hope I will be able to lay before the Council some suggestions as to the alteration of the Bill which, if found by the Council not objectionable and quite as effective in carrying out the principle of Bill, I hope every member of this Council will consent to unless he can point out a good reason for coming to any other conclusion for the sake of unanimity and for the satisfaction of those Chinese who have so far granted this concession. There was a minority in these meetings who are quite uncompromising, who are dead against the principle of this Bill, and on no account would support a Bill of this kind; but, as the majority have expressed their willingness to fall in with the principle of the Bill, should certain terms of the Bill be altered, I think my colleague and myself will be justified in offering no opposition to this Bill. In Committee I hope a fair hearing shall be accorded me, and if what I propose as an amendment meet with the approval of the Council I hope that a change in the phraseology will be conceded. With these few remarks I do not offer any opposition.

Hon. WEI YUK—Sir, I beg to say I quite agree with what my senior colleague has been saying, and I beg to support what he has said already in his speech.

Hon. Mr. POLLOCK—Your Excellency, I have very much pleasure now in supporting this Bill and perhaps as I was one of the gentlemen who were approached in connection with the drafting of the petition from owners of property at the Peak, the petition upon which the present Bill is founded, I may state, Sir, that there was no intention at all on the part of the movers in this of introducing anything in the way of class legislation against the Chinese. The grounds upon which we moved were simply and solely the question of the public health. We recognised, as the hon. and learned Attorney-General has pointed out, that it was imperative in this Colony, under the tropical and somewhat unnatural conditions under which we live here, that there should be some reservation on the higher levels for Europeans and their wives and families. I think, Sir, that those members of this Council who have been here like myself during the past 16 or 17 years will realise how much the Peak has been developed since the tramway went up there. You, sir, will no doubt remember that before the Peak Tramway was opened—which was as long ago as May, 1888—there were only a very few houses up at the Peak, and apart from the few at Magazine Gap which were lived in all the year round, those few who lived on what we may call the Peak proper never lived there except in the summer, but came down in the winter. Since the tram has

come all that has been altered. There has been what may be termed a regular rush of non-Chinese up to the Peak until at the present day, as it is well known, the sites which are available for fresh houses to be built at the Peak, especially in view of the land which has very properly been reserved, is very limited indeed. Therefore I think the hon. and learned Attorney-General might have spoken even more strongly than he did, for not merely is it undesirable that there should be any rush up to the Peak, but one may see that in the course of a few years' time it would be a very difficult thing indeed for Europeans at the Peak to obtain any fresh sites. As I have said, there has been a regular rush of Europeans up to the Peak. What is the case with regard to the Chinese? Although the tram was opened some 16 years ago we find now that not a single Chinaman except the class of domestic servants, etc., exempted under this Bill, is living at the Peak. That is a very good proof indeed that the Chinese gentlemen have never felt during the last 16 years any desire to live up at the Peak. Therefore, Sir, I think it is quite clear that there will be no hardship at all in enacting such a measure as this, and I think it is absolutely imperative in the interests of those who suffer from the hot climate that they should have this sanatorium to go to, and therefore I have very much pleasure in supporting this Bill.

HIS EXCELLENCY,—Gentlemen, I have listened to the speech of the hon. senior member for the Chinese with a great deal of interest, and it affords me a great deal of gratification to find that both he and his colleague are able to support this Bill. When I received the petition asking for this legislation I recognised that it was a somewhat delicate subject, that legislation of this kind might perhaps bear the appearance of what has been called class legislation. But knowing the Chinese community well, having had many years' experience of them, I relied upon their sound practical common-sense when I authorised the introduction of this legislation. I felt convinced that when the matter was thoroughly explained to them they would, as the majority of them appear to do, recognise that it is in the interests of this Colony as a whole that the European section of it should enjoy a healthy area where they and their wives and their families can reside. I need not dwell upon the point, but I may be allowed to remark that all of us here are workers. There are no idle drones in this Colony, and a man will work better, for himself first no doubt, but after all in the interests of the Colony in the long run, when he himself and, if married, his wife and family, are in good health. It also enables Europeans to keep their families in the Colony instead of undergoing the expense and the anxiety of a

separation which would be necessitated and was necessitated in the past before they found this area at the Peak where one enjoys a more or less temperate climate. The hon. senior member for the Chinese has mentioned that there is a minority who still do not view this Bill with favour. Well, I would only remind that minority of the various Statutes on the Statute Book by which privileges are accorded to the Chinese community that are not accorded to the European community. I would remind them of the constant endeavour of this Government, supported by the willing co-operation of the members of this Council, and the constant efforts made for the welfare of the Chinese community. One of the last Ordinances we passed was a Bill by which this Council amended the law relating to cubicles. Now the cubicle is a thing that touches the Chinese community very nearly, and we have been advised by our sanitary advisers not to have any cubicles at all in Chinese tenement-houses; but this hon. Council, recognising that to enforce such a law in its entirety would entail great hardship on the community, modified it by allowing a certain number of cubicles as a maximum in each house. I simply mention that as an indication of concessions made by the Government, supported by this Council, in the interests of the Chinese community as a whole, and therefore in the interests of this Colony as a whole. The hon. senior Chinese member has indicated that he has certain amendments to move in committee, and all I can say is I have no doubt they will receive the very earnest consideration of this Council; and if we can meet his wishes in any way it will afford us a great deal of pleasure to do so. (Applause.)

The second reading was carried, and the Council went into Committee on the Bill.

Section 3 was as follows:—After the passing of this Ordinance the Hill District shall be reserved as a place of residence for persons other than Chinese, and no Chinese shall, except as hereinafter provided, reside within the limits of the said District.

Hon. Dr. HO KAI proposed that this be deleted and that there be substituted for it a clause to the effect that after the passing of the Ordinance, and subject to all previous reservations, it shall be lawful for Chinese to reside in any locality below the 788 feet contour, and, with the consent of the Governor in Council, but not otherwise, in any locality within the Peak district. There were many Chinese, he said, who objected to the wording of the clause. In this proposed amendment of his the principle of the Bill was retained and there could be no reasonable offence in its wording. The old reservations were excepted and the consent of the Governor in Council was necessary. He did not think there could be any objection to the substitution.

His EXCELLENCY said he did not know that the Government would go so far as to allow Chinese to live anywhere beyond the reservations; still more reservations might become necessary as the Colony developed.

Hon. Dr. HO KAI argued that in that case the new laws would annul this one.

The ATTORNEY-GENERAL said that what Dr. Ho Kai proposed was exactly what the Bill provided: it was a distinction without a difference. If the purpose of the Bill could be served there was no necessity to insist upon any particular form of words. He proposed to strike out clause 3 and make some alteration in clause 4, which would have the same effect. He moved that these clauses be struck out and the following substituted as clause 3:—It shall not be lawful (save in accordance with the provisions of this Ordinance) for any owner, lessee, tenant or occupier of any land or building within the Hill District to let such land or building or any part thereof for the purpose of residence by any but non-Chinese or to permit any but non-Chinese to reside on or in such land or building.

This was agreed to.

Clause 5 was allowed to stand as follows:—It shall be lawful for the Governor-in-Council to exempt any Chinese from the operation of this Ordinance on such terms as the Governor-in-Council shall think fit.

Constructional Amendments proposed by the Attorney-General were made in various clauses.

When the Council resumed,

The ATTORNEY-GENERAL said he desired to postpone the second reading of the Bill entitled An Ordinance to amend Ordinance No. 8 of 1882 entitled "The Banishment and Conditional Pardons Ordinance, 1882." This was agreed to.

The Council adjourned till next Tuesday.

FINANCE COMMITTEE.

A meeting of the Finance Committee was held immediately after the Council—the Colonial Secretary (Hon. A. M. Thomson) presiding.

The following votes were passed:—

TROPICAL DISEASES.

The Officer Administering the Government recommended the Council to vote a sum of \$1,200 (at 1s. 8d.=£100) in aid of the vote Miscellaneous Services, being a contribution for the purpose of continuing the investigation of tropical diseases.

P.W.D. EMOLUMENTS.

The Officer Administering the Government recommended the Council to vote a sum of \$4,198.90 in aid of the vote Public Works Department under Personal Emoluments and Other Charges, for the following items:

PERSONAL EMOLUMENTS.

Executive Engineer at £40 per month,
(42 days' half pay from 2nd April, 1904, to 13th
May, 1904), = £27.14.5
(Full pay from 14th May, 1904, to 31st
December, 1904),= 303.4.7
£330.19.0 at 1s. 8d.= \$3,971.40

OTHER CHARGES. CONVEYANCE
ALLOWANCES.

Executive Engineer from 14th May, 1904, to
31st December, 1904, at \$30 per month= 227.50
Total \$4,198.90

PUBLIC WORKS.

The Officer Administering the Government
recommends the Council to vote a sum of \$13,700 in aid
of the vote, Public Works Recurrent and Extraordinary, for
the following items:—

PUBLIC WORKS RECURRENT.

Maintenance of public cemetery \$4,500
Maintenance of Praya wall and piers 7,200
\$11,700

PUBLIC WORKS EXTRAORDINARY.

New Territory survey \$2,000
Total \$13,700

This was all the business.
