

30TH APRIL, 1908.

PRESENT.—

HIS EXCELLENCY THE GOVERNOR: — SIR
FREDERICK JOHN DEALTRY LUGARD,
K.C.M.G., C.B., D.S.O.

HIS EXCELLENCY THE OFFICER COMMANDING
THE TROOPS, COLONEL C. H. DARLING.

HON. MR. F. H. MAY, C.M.G. (Colonial
Secretary).

HON. MR. W. REES DAVIES (Attorney-
General).

HON. MR. A. M. THOMSON (Colonial
Treasurer),

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

HON. MR. E. A. IRVING (Registrar-
General).

HON. COMMANDER BASIL R. H. TAYLOR,
R.N. (Harbour Master).

HON. DR. HO KAI, M.B., C.M., C.M.G.

HON. MR. H. E. POLLOCK, K.C.

HON. MR. WEI YUK.

HON. MR. H. KESWICK.

HON. MR. E. OSBORNE.

HON. MR. MURRAY STEWART,

MR. C. CLEMENTI (Clerk of Councils).

Minutes.

The minutes of the previous meeting were read, and confirmed.

Papers.

The COLONIAL SECRETARY, by direction of His Excellency the Governor, laid on the table the Report of the Registrar-General.

Financial Minutes.

The COLONIAL SECRETARY, by direction of His Excellency the Governor, laid on the table Financial minutes Nos. 16, 17 and 18, and moved that they be referred to the Finance Committee.

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

Financial.

The COLONIAL SECRETARY, by direction of His Excellency the Governor, laid on the table the report of the Finance Committee (No. 6), and moved its adoption.

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

Public Health and Buildings Ordinance Amendment Bill.

THE DIRECTOR OF PUBLIC WORKS—I rise to move that the Bill entitled an Ordinance to amend the Public Health and Buildings Ordinance 1903, and the Public Health and Buildings Amendment Ordinance 1903, be now read a second time. Since this Bill was introduced, Sir, ad read a first time it has been very extensively criticised by the local architects on behalf of the European and Chinese property owners in this Colony. They have submitted statements of certain amendments which they considered should be made and meetings have been held with Your Excellency at which the amendments were fully discussed, and a great many of them have been adopted. They have shown perhaps a little undue nervousness in criticising the proposals because in one case they have suggested that the word "modify" should be altered to "reduce." Now, Sir, the word modify or its equivalent modification is

used repeatedly in the existing Ordinance and I have never heard it suggested that modification should mean anything except something less than was specified in the clause in connection with which that term was used. One of the principal features of the Bill is the concentration under the Building Authority of all matters which affect the construction of buildings. The submission of plans to the Medical Officer of Health and the requirement of his signature to certificates before they are issued will be dispensed with, and it is hoped considerable time will be saved in the passing of the plans. I propose only to refer to the principal matters dealt with in the Bill before the Council, because the objects and reasons of the Bill have been fully set forth both as regards the Bill itself and the subsequent amendments which have been circulated to members. I may say, Sir, it is proposed to withdraw the definition of "external air" which appears in the Bill because it is considered that it would operate rather harshly upon parties who wish to erect a building of moderate height and who happened to have opposite to this proposed building another of much greater height belonging to some neighbouring owner. The proportion of floor space and cubic space per head is very much reduced, Sir, in the amended Bill. A provision of a similar sort was incorporated in the original Ordinance I of 1903 but withdrawn when that Ordinance was amended at a later period. With certain other amendments which have been made in the present Bill now before the Council it is hoped that it will have greater effect and be found a useful provision. Section 101a—a new section— has been introduced to apply to existing buildings, when they are being altered, the provisions with regard to the thickness of walls which apply to new buildings. Under the present Ordinance the requirements as regards the thickness of walls are limited to new buildings only. It is evidently absurd to reconstruct a portion of an existing building of less thickness than that required for new buildings. Another section—103a—is to regulate the construction of partition walls principally with a view to requiring some more substantial form of construction than can be insisted on at the present time and with a view to securing the use of unflammable materials. This is an important matter in places which are so densely populated as are many of the buildings in this Colony. Section 107 is amended to regulate the openings in party walls. At the

present time there are no restrictions regarding the openings in party walls, and when a man makes an opening he does it where he pleases, with the result that in the course of time the wall may become a source of danger to the building. Section 151 introduces some amendments as regards the lighting of buildings of a greater depth than 40 feet as the present provisions in the Ordinance are found to be somewhat too drastic, and it is hoped this alteration will meet the requirements of the case. The Amending Section 153 is based largely upon the recommendations of the Cubicles Committee which included four unofficial members of this Council and one of the leading architects, and the proposals now made will, I presume, recommend themselves to the other members of this Council. In connection with that clause it is proposed to introduce an amendment with regard to houses on the Praya Reclamation, but it will be limited to houses not exceeding one hundred feet in depth. Section 153a, which it is proposed to re-number as 154a, provides for a scheme for improving existing blocks of buildings. That scheme, Sir, if it becomes at all general will undoubtedly confer a very substantial improvement in the condition of the city and I think the improvement will be effected at what may be regarded as a moderate cost. In section 175 it is not proposed to delete the words "by the owner." That has been a bone of contention on previous occasions. There can be no doubt that it was the intention of the original Ordinance that the space specified should be provided by the owners, and the provision has been in force for many years. It is not peculiar to Hongkong because it may be said to be universal that open spaces must be provided by the owner. Section 179 deals with open spaces and scavenging lanes. A few amendments are introduced to that, Sir, but I do not think they are of very vital importance. In section 180 the Government, Sir, are not prepared to accept a lane as part of the open space to be provided. Power of modification is contained in paragraph *a*, section 1, and that is considered sufficient to enable each case to be dealt with on its merits. In section 185, Sir, concerning the obstruction of streets on which domestic buildings front, I think that any member who cares to perambulate a portion of our city in which these streets are located would come to the conclusion that they are unduly restricted now by all manner of obstructions in the shape of stalls and accumulations of merchandise of all descriptions.

In section 186 it is proposed to substitute the word "building" for "domestic building" as regards the maintenance of private streets. I think that will commend itself to members, because there are streets, for instance in the neighbourhood of the Hongkong and Shanghai Bank, which are very much used and from a public health point of view it is as important that they should be maintained in a sanitary condition as other streets. Sections 222 and 223 relate to steps which must be taken before any work can be commenced or resumed. Some very considerable modifications have been introduced into these sections and they have been also recast and arranged so as to set forth more clearly what the provisions are in each specific case, whether it is commencement or resumption. Section 264a is a new section which is very important as it delegates to the Building Authority the power of modification or exemption with regard to certain sections which is now vested in the Board or in the Governor in Council. It is felt that in many cases the modification required is of such a slight extent that an undue amount of delay is involved in getting plans passed by these two bodies. A great deal of time must necessarily be occupied in dealing with matters of that description by the present course laid down in the Ordinance. Section 267 is also an important one as it admits of the construction of a simple class of buildings which is intended, of course, to apply more to the outlying districts. The provisions of the Ordinance are very largely framed with regard to the buildings in the city itself or the more populous parts of Kowloon, and they can scarcely be said to meet in a satisfactory way the requirements where buildings are less dense and developments are not so far advanced. With these few words, Sir, I move the second reading of the Bill.

THE HON. MR. OSBORNE—To rightly understand the complex questions involved in the Public Health and Buildings Ordinance, and to appreciate at their proper value the conclusions arrived at by the Sanitary Commissioners, one needs, I think, to revert to the history of its origin, to have followed the course of its development, and to be familiar with the events which culminated in this enquiry. The Colony of Hongkong,

Sir, came into the possession of Great Britain at a period when, throughout the world, the principles of advanced sanitation were little understood and even less practised. It came within the Empire as a prize of war; its sole value was considered to be its strategic position; its development as a trading centre was neither intended nor desired; its future lay unplanned; its commercial prospects unheeded. No wonder then, that neglected, unguided, it fell into evil ways and, maturing in an atmosphere of drift, it bred the evils of congested areas, insanitation and disease. Not till 1884 was there any serious attempt to grapple with the subject of sanitation; not till the first outbreak of plague in that memorable year 1884 did the community awake to a realization of its danger, nor did official apathy, heedless of warning from Dr. Ayres and others, yield to a sense of its obvious duty. Then, under the spur of panic, under threatened injury to its commercial interests, the Colony attempted to do in haste what it ought long since to have done at leisure; it attempted to rectify in a moment the mischief of many year's growth, and it is now and has for some years past been paying in full measure the penalty attendant upon indifference and neglect. But whatever blame attaches to individuals, applies only to those who in the years previous to 1884 allowed these evils to germinate and develop. The outcome of this state of affairs was the original and drastic Ordinance of 1903, described in the Commissioners' Report as the work of a novice. If, Sir, the deliberations of nearly ten years, embracing the recommendations of Messrs. Chadwick and Simpson, experts sent from home at the express wish of the public; embracing consultations with architects, medical authorities and lawyers; embracing the study of every known interest involved; reference to India and other countries; the whole of them collated and elaborated to suit local conditions; the whole of them discussed and criticised *ad nauseam* in public; if this, Sir, be correctly described as the work of a novice, it would be interesting to know in what consists the work of an expert. The fault, now laid bare by experience, lay not in that the Ordinance was ill-considered, ill-digested; but that it violated the one great principle which underlies all sound legislation, and which is that laws should be based only upon experience and fact, and that the human intellect is incapable of creating them to fit conditions not yet known.

Had this principle been observed, the Ordinance would have been framed with elasticity to deal with circumstances as they arose; and I submit that no amount of tinkering, no number of amending Ordinances will avail, until this principle be taken to heart and followed. Speaking from personal experience of plague measures, and conversant as I am with the work of the Sanitary Department in past years, I cannot allow this opportunity to pass without commenting, with your Excellency's permission, on the charges of incapacity and corruption levelled at the whole department in the Commissioners' report, especially where they say there was reason to fear that corruption and bribery extended throughout the staff of British inspectors. True it is that instances of corruption came to light during the enquiry, but so far as the evidence has been made public there is nothing in it to warrant such an assumption as that I have referred to; and considering the difficulty of obtaining suitable men for such unpalatable work, considering that in the first instance Inspectors had to be garnered from whatever local sources were available, it would have been wonderful indeed if such an organization as the Sanitary Department had been evolved at once without flaw and without fault; and if, Sir, corruption of individuals be accepted as evidence incriminating the whole, then very few of us round this table dare lift the first stone; for what business in the Colony is there which during recent years has not in some manner, in some measure, been victimised by the dishonesty of individual employees? Similarly, when wholesale charges of incapacity are preferred, it is well not to allow details to unduly sway one's judgment, but to bear in mind the stupendous task which had to be performed under conditions of difficulty and discouragement; in face of the obstinacy, ignorance and resistance of the very people on whose behalf these measures were being tried; then to give credit where credit is due, and frankly acknowledge the good work accomplished. But from beginning to end of the Commissioners' report there is not one word of approbation, not the faintest meed of praise; everything from the start has been wrongly done and practically the whole Sanitary staff are, by implication, branded either as rogues

or fools. Of all the mistakes, Sir, that have followed in the wake of the Public Health and Buildings Ordinance, not the least of them, I think, is the injustice, I might even say the cruel injustice, to thus bespatter the characters of those men who, whatever their faults, whatever their shortcomings, in the dark days following 1894 did at least fulfil their noxious and dangerous task to the best of their ability and with loyalty to the public weal. I do not say that none of the Commissioners' strictures were justified. I do not deny that the Sanitary department needed reform; but I do say that in criticising the work of that department, allowance should be made for the difficulties that had to be met, and that it is unfair to judge to-day when most of those difficulties have disappeared. Sir, despite the utterances of some, despite the criticisms of the Press, and despite the findings of this Commission, I believe the majority of men who are acquainted with the circumstances will declare unhesitatingly, that notwithstanding expense, notwithstanding mistakes and notwithstanding abuses, a great and lasting improvement has been effected in the sanitary condition of the Colony; those who can testify to the evil slums and stenchridden streets of former days will not withhold praise when they pass through the clean and wholesome thoroughfares of to-day; those who like myself were wont to exhibit as sights of the town the closely-packed underground opium dens and unutterable squalor of Chinatown will now search for such sights in vain; and if plague, that unsolved problem in other lands than ours, if plague has not been altogether banished from our midst, the accomplished results of the Sanitary department's endeavours in that direction are sufficiently encouraging to justify a continuance of their work with unabated vigour. As regards the Commission's recommendations and the provisions of the Bill before us, setting aside trivialities, with the report is somewhat overburdened, there appear to me to be three and only three important suggestions to consider. One is that the Building Authority shall be placed under the direct control of the Sanitary Board, another that there should be a simple form of appeal; another is that the Sanitary department shall be run by a Board having an unofficial majority, under a President of its own selection, which if it means anything at all, means that the department shall be converted

into a sort of half-fledged municipal corporation possessed of sufficient powers to work mischief, but insufficiently equipped to perform the functions appertaining to a genuine municipality. As to whether the Building Authority should be placed under the Sanitary Board, there are, no doubt, good arguments for and against; all, however, that the public wants and is concerned with is efficiency; they want their plans and arrangements put through with a minimum of circumlocution and with a maximum of indulgence, that their wishes will, as far as public interests allow, be granted. To the public it is immaterial whether the Building Authority is attached to one department or another; and if, as would appear to be the case, and as the honourable Director of Public Works has pointed out, the proposed arrangement results in efficiency, the public, I feel sure, will be satisfied with it. On the question of appeal there should certainly be some simple method by which persons feeling aggrieved can obtain a hearing not only by the President of the Board but by the Board itself. I think that much irritation in the past has been due to a conviction that the Sanitary department has acted with unnecessary harshness, and I feel sure that if individual grievances were given a patient and sympathetic hearing, this friction would give way to a sense of confidence in the department, which would go far towards securing the co-operation of the Chinese, where now there is resistance and misunderstanding. The whole Sanitary department, from President downwards, should understand that the law was not framed for the purpose of harrassing and annoying; that their business is to educate and assist; to give effect to the regulations in an intelligent and tolerant manner; to concede where concession is possible; and, above all, avoid a senseless interpretation of the law. Unless this spirit animate the department, unless the high officials protect the public against the misplaced zeal, stupidity, and arrogance of subordinates, there will continue to be irritation, antagonism, and trouble. And as most of the friction in the past has undoubtedly been due to administrative incapacity to apply the law in a common-sense and reasonable fashion, so the future success or failure of the reorganised department will depend largely upon the broad-mindedness of its President, who whilst on the one hand will carry out the unalterable

determination of the Government to cleanse this town in the interests of public health, will on the other hand initiate changes and reforms where the law is found to be inapplicable. And it is to be hoped that when appeals to the Governor in Council are heard, the President will be present to plead the cause of common sense. (Applause.) The chief point of thereport, however, lies in a recommendation concerning the constitution of the Board, which as I have already shown, virtually amounts to municipal control of sanitary affairs. This, Sir, is a matter which strikes at the root of Crown Colony government and as such calls for careful scrutiny. In the peculiar circumstances of our case, a British Colony run largely on alien money, with a British population, which owing to climatic and other reasons is constantly changing, it seems to me that, above all other considerations, our aim should be to give stability to our laws, consistency to our policy, and honesty to our administration; all of which I claim the Crown Colony system gives with a thoroughness unequalled by any other system. (Hear, hear.) I admit without argument that the system has faults; that our commercial progress is slow for lack of initiative and enterprise on the part of Government; I believe that under municipal control, given the right men to manage affairs, improvements would be effected in municipal matters which under existing conditions eventuate so slowly; that, for instance, some modern method of paving our streets would long since have ousted the old-fashioned and unsuitable mud and stone; I believe that more publicity would be given and therefore more interest taken in public affairs; I admit there has hitherto been too little sympathy with commercial interests, an unaccountable jealousy on the part of officials of private enterprise reaping private reward; that whereas in other countries new industries are given cheap land, relieved of taxation and otherwise fostered, here in Hongkong it is the practice to strangle with vexatious conditions. But these, Sir, are after all comparatively trivial grievances capable of easy removal. To change this system for that of government by an elected assembly; to set in authority over us men who are here to-day and gone to-morrow; or men whose interest in public affairs would probably be restricted to their private needs; men responsible to no one for their

mistakes; or men who in the matter of public expenditure would probably imperil the Colony's credit by emulating the phantasies of modern municipal extravagance; to place the government in such hands as these would, I think, be fraught with injury to the Colony, and hurtful to those who happened to be without the precincts of the municipal chamber. With a shifting population such as ours, with every one busily intent upon his own affairs, there would, I think, be difficulty in finding men suitable and willing to undertake such duties, so that the care of public affairs would pass into the hands of undersirable persons and we should be called upon to witness a repetition of those edifying public scandals which appear to be inseparable from democratic rule. This question of municipal government is of perennial growth; it has been championed and fought out before and discarded as unsuitable. No one questions the right of an enlightened community to manage its own affairs, but is there any evidence that the Asiatic sections of our population are possessed of the necessary enlightenment or the individual independence of character, power of self-restraint and impartiality of judgment, which are the first essentials of self-government? Does not the very history of this Public Health law, with its dismal tale of disease and death, answer emphatically in the negative? Are the people who, on the question of public health, have for years harassed the authorities by their apathy, their callousness, their passive resistance, are these the people to whom should be given the privilege, to whom should be entrusted the burden, of self-government? Or would we have them set aside, they who possess by far the largest stake in the Colony; would we ignore the Chinese and vest control in a handful of Europeans? I venture to predict, Sir, that if any such proposal were made, we should learn very quickly from the Chinese, and not only the Chinese, that they certainly prefer the trained, disinterested, civil servant with all his faults to a clique of untrained and possibly self-seeking amateurs. To judge from what appears in the local Press, one would imagine the community was crushed beneath the heel of official tyranny, though one seeks in vain for those evidences of indignation, or the cries of injustice usually associated with the cause of an oppressed people. A n d i s i t n o t s t r a n g e

that this discontent with the established order of government, which we are told exists, should not occasionally find expression in this Council Chamber? The machinery is here, ready at hand for any member of the community to lay bare his wrongs, to unburden his woes in public, but so far as my experience goes it is seldom that the voice of genuine grievance has been heard within these walls. If, for instance, the Chinese or the property owners feel so deeply about the iniquity of any particular provision of the Public Health law, why is it they have never thought it worth their while to bring the matter before this Council? And why is it that the profuse criticisms of property owners and architects, on this very Bill, should have dwindled down to the few comparatively unimportant matters detailed in their published report? I will tell you why it is, Sir. It is because the Chinese know, the property owners know, and every intelligent member of this community, if he will only acknowledge the truth, knows, that in this question of public health, involving as it does the very existence of the place as a centre of trade, the Government is fighting for the welfare of all against ignorance, self-interest and greed. It is for this reason that the foreign community generally are in agreement with the broad principles of the law, and it is for this reason that the measures adopted by Government deserve all the support which it is in the power of honourable members to give. Stripped of technicalities and side issues, this whole problem about which controversy has raged so long, resolves itself into the very simple question, whether the Colony is content to drift on as in days of old, generating evils, the result of which will not be depreciated property or a depleted revenue, but will be an empty and a ruined city; a commerce departed never to return. The community's answer to that question was the Public Health Ordinance of 1903, by which the Government was given a mandate from the people to purify this city at any cost, and however hardly it may press upon property owners, however distasteful it may be to the Chinese, there can be no turning back now, no departure from the broad lines laid down by Messrs. Chadwick and Simpson, and no shrinking from sacrifices which the future prosperity of the port demands. This mandate must be fulfilled by the Government adhering to a fixed, unalterable policy of sanitary reform and the unofficials on the Sanitary Board can most

usefully serve the Public, not by aspiring to an impractical scheme of municipal control, but acting in a consultative capacity to executive officials; by freely exercising their powers of exemption; by enquiring into and ventilating grievances; and above all by uniting with honourable members of this Council in criticising the details of the Government policy, not in a bickering spirit or in senseless cavil, but in a spirit of candour and fairness, which I am sure no one will more gladly welcome than those upon whom finally rests the responsibility of governing this Colony. (Applause).

THE HON. MR. POLLOCK—May it please your Excellency, I think there is one very important question of principle upon which I ought to address this assembly. As the hon. member on my right has explained, the effect of the present Amending Ordinance is to concentrate considerable power in his hands as Building Authority under the Public Health and Buildings Ordinance. I notice, Sir, in these drafts amending the Bill before the Council, copies of which I have only received within the last twenty-four hours, it is intended to confer still further power upon the Building Authority. He is to be invested which powers in the matter of modification and exemption which have hitherto been exercised either by the Governor in Council or the Sanitary Board under the provision of sections 151, 153, 175, 176, 188 and 216 of the Ordinance. I think, Sir, there can be no doubt that great as the powers of the Building Authority have been in the past, it is proposed at all events by the Government that they should be very much greater in the future. Under these circumstances I think it is very important as a question of principle that there should be inserted in this Ordinance a proviso enabling any one who has a dispute with the Building Authority as to the terms of the Ordinance to bring the matter by a short and simple process before the Supreme Court. Anybody, Sir, who is acquainted with the working of Ordinance 1 of 1903 and the Amending Ordinance is well aware that from time to time there have arisen differences of opinion as to the construction of the various sections of the Ordinance. It is also well known, Sir, that there has been considerable delay in the passing of plans. The Building

Authority might, perhaps, construe the Ordinance in a certain way and perhaps insist that his interpretation was right, while the person who wanted the work done would construe differently, and insisting that his interpretation was right, a deadlock would be created. There is no machinery provided for taking the matter before the independent judgment of the Supreme Court and the probable result is that the person who wants the work carried out gives way, or possibly the Building Authority may consent to adopt the construction of the other person and grant a modification only on certain terms and conditions. Therefore, I think, Sir, it would be considered that this Bill is not very acceptable in the absence of a proviso giving a right of appeal to the Supreme Court upon questions of construction, and I think, Sir, that the machinery should be by way of an originating summons, which is the machinery by which trustees under wills who are in doubt as to construction would apply to the Supreme Court and obtain a decision as to the proper procedure to follow. I will, Sir, with your permission, read a proviso which I would suggest might be included in the Bill. I do not say that it is perfect. The draft only came to hand yesterday and I have not had much time in which to consider it, but the following indicates the point I desire to make:

"In the event of any difference of opinion arising between the Building Authority or the head of the Sanitary Department or the Board and any person as to the meaning of any provision of the Ordinance, it shall be lawful for the Building Authority or for such person to take out an Originating Summons in the name of or against the Attorney General as the case may be for the purpose of having the meaning of such provision determined by the Supreme Court. The provisions of the Hongkong Code of Civil Procedure as to Originating Summonses shall extend, so far as the same are applicable and with such modifications as circumstances may require, to any Originating Summons which is issued under this section, and proceedings under this section shall be deemed to be civil proceedings brought by or against the Crown as the case may be."

It will be seen by the proposed clause that it would not merely lie within the power of the person who feels aggrieved by the decision of

the Building Authority or other officer but that it should also lie within the competence of the Building Authority either by himself or other officer to appeal to the Supreme Court for an interpretation of the particular provision in question. By that means we shall have in course of time authoritative decisions of the Supreme Court which will act as a very valuable record instead of as at present a number of different opinions in disputes which, as everybody knows who has experience in these matters, are constantly taking place in the present administration of the Ordinance.

THE HON. DR. HO KAI—Sir, It is not my intention to speak at length on the second reading of this Bill. I take it that we are agreed upon the main principle that the Public Health and Buildings Ordinances of the past are in need of amendment and that this Bill is introduced to effect such amendment. I shall not therefore follow my unofficial colleague on my right in his oratorical flight nor would I follow him in the administration of praise and blame all round and in turn. One thing, however, I will say, that his stricture upon the Sanitary Commission and their report is somewhat underserved. As the gentlemen who constituted that Commission are still, with one exception, in the Colony and will have an opportunity of defending themselves, I will leave that matter to them. There are, however, one or two things I wish to note. There is an impression abroad that some of the recommendations of the Sanitary Commission have not been adopted by the Government on account of the fact that they had exceeded their powers and had gone beyond the scope of the inquiry. Now if that allegation is true it represents an attitude which is very unfair, because it seems to me that any recommendation made by the Commission should be considered on its merits and not rejected because the Commission exceeded its powers. The same argument would apply to the allegation that the Commission was not thoroughly representative of the community. Again we can only confine ourselves to determining whether their recommendations are good or not. We should not think any the less of the recommendations because they were made by a body of men who were not representative of the public. I will go further and say that we should accept these

recommendations if they are likely to effect improvements whether the individuals be representative of the public or not. Now Sir, as regards the principles of this Bill. The most important, I think, is the alteration in the constitution of the Sanitary Board—the creation of a cadet officer as the administrative head of the Sanitary Department and as President of the Board—and having regard to the present representation on the Board I must acknowledge that I am in favour of the Government's proposal. I see no escape from it for the present. Some years later, when we can have something like a representative Municipal Council, a council composed of members elected by ratepayers irrespective of nationality, with proportionate representation, then, I say, will be the time to have such an assembly. At present the majority of ratepayers are inadequately and wretchedly represented upon the Board. Better the present arrangement than a quasi-municipality. While on this subject I would like to allude to something in the speech of my unofficial colleague on my right. He seemed to think that it was the shipping and commerce solely that made the prosperity of the port. But he made a mistake. What is that attracts shipping? It is the cheap labour, the presence of a large number of industrial frugal Chinese. There is the danger of over-legislation in sanitary matters, driving away this useful population; and then the shipping, the commerce, the manufactures and the industries of the Colony would starve for want of cheap labour. As regards section 175, upon which the Sanitary Commission has largely reported, I think it would be useful if the Government would make some statement of its intention. The Ordinance has been administered for the past five years and there are very few houses left which would be subject to the operation of this section. Out of perhaps a thousand houses, one hundred remain to be brought within the operation of the section, and it is not worth while wrangling about. It would be well, therefore, if the Government would make a pronouncement on the subject, and at the same time indicate their intention with regard to the half-lobby-half-kitchen scheme which has been in operation already with good results. If such a statement were made by the Government it would disarm much opposition to this bill, and to this particular section. Another thing of importance is the transfer from the Sanitary Board of certain functions to the

Building Authority. Now this arrangement, no doubt, will facilitate matters which I am sure everyone, from the architects and owners of property downwards, desire; but at the same time there is a general desire to have an appeal from the Building Authority to the Sanitary Board, so that, firstly, there may be a check on the Building Authority whoever he may be; and, secondly, to allow the Sanitary Board to have some say in the matter as they used to have. When we come to that part of the Ordinance I hope the Government will permit me to introduce some provision to the effect. In connection with the constitution of the Board I omitted to mention that there is a strong opposition to the Medical Officer of Health being a member of the Board. I understand that so far as Your Excellency is concerned, if we are unanimously opposed to his inclusion, the matter will be reconsidered, and the Government will not press this point. The Bill contains a number of sections of a technical character and will require careful consideration in Committee. I must take this opportunity of thanking Your Excellency for having held two lengthy conferences with three leading architects in this Colony representing European and Chinese landowners. The kindness and courtesy shown by Your Excellency have been duly appreciated and will no doubt save much of the time of this Council in considering this Bill in committee. The amendments drawn up by the Government to meet our views were not delivered till late yesterday and there has not been time for us to study the various amendments proposed by the Government; and I take it that even if we pass the second reading of the bill to-day the Government will not proceed with the committee stage until certain time has been given to us and the architects to study the new amendments introduced by the Government.

THE COLONIAL SECRETARY.—There is only one point I want to refer to in the very able and interesting speech of the Hon. Mr. Osborne, and the greatest compliment I might pay to him is to say that the hon. member on my left, who has sat for many years in the House of Commons, remarked to me in the course of it—"they would listen to this speaker in the House of Commons." Sir, the House of Commons is an

assembly to which in some future day I hope to introduce myself (Laughter). I have listened with much pleasure to the hon. member's speech and I certainly hope I shall have the pleasure of listening to him in that august assembly if ever I join it myself. One remark he made did not fill me with pleasure: it filled me with a great deal of sorrow. It was his remark that enterprises were strangled in Hongkong by vexatious conditions imposed by the Government. I suppose, Sir, he refers to the sale of Crown lands for the purposes of large and small enterprises. Now, Sir, I would like briefly to describe how the Government arrives at the upset price. It does not do so by rule of thumb. It takes the recorded sales, public and private, in the vicinity of each lot and works out the fair average price, a price generally below the average of what has been paid at public or private sales. My experience is that the upset price is generally over-bid. Honourable members may remember when a certain lot at Tsim tsui was offered at eighty cents per foot and sold at \$4 per foot. It is only when large lots are put up for large enterprises that unfortunately no bidding ensures. I think the Government would have had complaints from such large firms as Messrs. Butterfield & Swire and the Standard Oil Company if they considered that they were unfairly dealt with. I have had complaints from other companies in the Colony that we were selling land to their rivals too cheaply. I know, Sir, that is the sort of criticism made of the Government. The other day I was speaking to a gentleman who criticised the Government in this very matter of land sales, and when I asked what we should do he suggested that the Government should give land free for enterprises of an industrial nature. That struck me as a very curious proposition. I wonder what the existing companies would say if we were to give land away. If the honourable member can give the Government any assistance we would be obliged to him. The Government wants to promote industrial enterprises and if we are unwittingly hitting anyone hard we should know it in order that we may correct our methods in the future.

His EXCELLENCY THE GOVERNOR—
Before dealing with the various points raised in the exceedingly interesting debate to which we have just listened I desire to say one or two words in reference to the remarks which I made

when introducing this Bill. It has been remarked that in stating that the constitution of the Commission was not entirely representative I had been somewhat lacking in courtesy. It was so foreign to my thoughts to be in any way discourteous to the gentlemen who for so long a period contributed so much of their private time to the public interest on that Commission, that I would wish most emphatically to disclaim any intention whatever on my part of being guilty in the remotest degree of any discourtesy to them. How far the five unofficial members of the Sanitary Board could be representative of the community,—or how far any five gentlemen in this community may be entirely representative where there are such a variety of interests involved is a matter of opinion. But it is a matter of history that my predecessor appointed those gentlemen originally as a Committee of the Sanitary Board, which was afterwards extended to a Commission, and the reasons why he did so are well-known. It suffices for me to say that in alluding to that subject I intended no discourtesy, and no depreciation of their labours or of the work these gentlemen have done.

In the second place I have seen it stated that I was in error in saying that the members of the Commission had not access to the confidential documents which passed between the Secretary of State and the Governor. Neither in the report of the Commission nor in the papers which I studied on this subject, was there any indication whatever that they had access to confidential despatches. I find I was in error in the statement I made, and I greatly regret having made it. Exception has also been taken to my remarks that the Commission had somewhat exceeded their powers. The committee was constituted to advise on the question of the administration of the existing ordinance and my predecessor said "I do not contemplate modification of the Ordinance No. 1 of 1903." I think therefore that I was sufficiently accurate in the remark I made. It has moreover been stated that Sir Matthew Nathan repeatedly saw the Chairman of the Commission and had discussions with him from time to time as to the progress of their investigations. I regret very much that no record has been left of what transpired on those occasions, but it is perfectly clear from the fact of his having had these

discussions, and from the fact that he accepted the report, that he intended to deal with it as though it had been entirely within the terms of reference. And that is the attitude I have myself adopted, and the proof of it is that we are here to-day discussing the second reading of the Amending Bill, whether the report which led to its inauguration was within the original terms of reference or not. I may add that whether or not it was within the terms of reference no recommendation, be it great or small, that they made in that report has been set aside on that ground. Every single recommendation or suggestion has been considered on its merits irrespective of whether or not it was within the precise terms of the reference.

It is not usual, gentlemen, that a speech which is made in this Council should be debated by any public body outside the Council before it has been replied to in this Chamber. When, however, I saw that discussion was likely to take place at the Sanitary Board a short time ago, I took the opportunity of suggesting to the President that no limitation should be placed upon the discussion, so that members of the Commission who are members of the Sanitary Board might be able to reply to anything I had said in the fullest manner they desired. I have moreover allowed myself in the few words I have just said to travel outside the strict discussion of the Bill in order to amplify the remarks I made at the first reading.

It is eight weeks to-day since I introduced this Bill to the Council and hon. members and the community outside have had now considerable time to study its provisions, and I am glad to see that the fullest advantage has been taken of that opportunity. The European property owners appointed two leading firms of architects to study and report upon the Bill and the Chinese property owners adopted the same course and appointed a third firm to report in their interests. The Sanitary Board has had several meetings to discuss the Amending Ordinance and we are in possession of their views also. I welcome on behalf of the Government most cordially this body of opinion and the criticisms made, which have been most valuable and will tend to improve the Bill which I hope will be a useful measure and will set at rest this perennial controversy on the subject of sanitation in this Colony.

I turn now to one or two of the principal points raised in the speeches to which we have listened. In the first place I think, after the eloquent speech which we had from the hon. member on my right (Mr. Osborne), that I may dismiss the question of a municipality or quasi-municipality which was raised by the Sanitary Commission. I noted in the hon. member's speech with the greatest possible pleasure the encouraging tribute which he paid to the singleness of purpose—I do not say to the ability or non-ability—but to the singleness of purpose of Government officials in endeavouring to do the best, as far as in them lies, for the public welfare, and I hope the words of the hon. member reflect generally the opinion both of unofficial members of the Council and of the leading people of the Colony. (Applause). With regard to the matter of the administrative head of the Sanitary Department there is little to say. Both the hon. members on my right (Mr. Osborne and Dr. Ho Kai) who have spoken have signified their approval of the proposals of the Government in this matter. I entertain great hopes that the personal intervention of an administrative head who has powers and status, and can devote his whole time to his work, will result in the far better administration of the sanitary laws and, above all, in securing the co-operation and understanding of the Chinese in what we are trying to achieve. (Applause).

The hon. senior unofficial member of the Council alluded to the question of the appointment of the Medical Officer of Health as a member of the Sanitary Board. When introducing this Bill I said that this matter had been debated before and that, since there had then been considerable opposition to the proposal, if it appeared that the unanimous opinion of the unofficial members was still against that proposal I should not be prepared to insist upon it. At the same time I must say that the argument that the Medical Officer of Health would be practically master of the Board, or that having heard the arguments on the grounds of policy and finance against a proposal made by himself on purely sanitary grounds, that he could not and would not modify his opinion, I regard as of no great weight. Personally, I am of the opinion that as the Sanitary Board is only another name for Health Board it is essential that there should be a Government medical officer
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whether he be the Principal Civil Medical Officer or the Medical Officer of Health, or another, and I feel sure that the Secretary of State will concur in this view.

With regard to the question of open spaces, it has been urged that the law is too drastic and I have been anxious to make myself personally acquainted with the operation of the law by inspecting various types of houses to which it has been applied. I arrived at the conviction that it was absolutely impossible to make any law which would meet the great variety of types of houses often built on very steep gradients. The pre-existing law was modified by Ordinance 8 of 1907, which gives power of exemption and modification to the Governor in Council. I think, gentlemen, that if no other result had followed from the report of the Commission, the Commissioners might consider their labours had been effective in having procured the enactment of that ordinance. I think its value and importance have been underrated or at least have not been properly appreciated. It is now possible for exemptions or modifications to be applied for in any case in which the law appears to operate harshly in any variety or type of house. The hon. senior unofficial member laid stress upon the fact that over-legislation would tend to drive away the population and enhance the cost of labour. This policy of open spaces has now been in operation since 1899 and I may add that the policy of scavenging lanes has been in operation since 1887. I also am of opinion that it is wise and politic not to change our legislation too frequently but to allow, as by the Ordinance of last year, greater elasticity, and greater liberality in its interpretation by granting powers of exemption and modification.

With regard to the scavenging lanes, it may perhaps be argued that the money which the Government has spent in providing these might have been better spent in providing sums for large resumptions. That, however, is a matter of opinion and has now become an academic question. The policy has been in operation for 20 years, and it is one on which Messrs. Chadwick and Simpson laid special stress. These gentlemen, as the hon. member (Mr. Osborne) has reminded us, were experts sent out from Home to this Colony at the special wish of the community, and it was on their suggestions that the Public Health Ordinance was framed. I had intended to say a few words with reference to the

words "by the owner" in section 175 but in view of what has fallen from the senior unofficial member there is, I think, hardly any necessity now to touch upon that subject.

There is one other point upon which I think I may usefully say a few words, viz., the question of disinfection. I think, gentlemen, we are in process of reaching a solution in this matter which is the best of all possible solutions, and in my opinion the only solution, that is by enlisting the co-operation of the Chinese themselves in our endeavours to improve the sanitation of the city and to put an end to the abandonment of the dead in the streets. Owing to the tactful and indefatigable work of the Registrar-General, Mr. Brewin, supported by both the hon. members who represent the Chinese on this Council, and by the two gentlemen, Mr. Lau Chu Pak and Mr. Fung Wa Chun, who represent the Chinese community on the Sanitary Board, great progress has been made in securing the co-operation of the Chinese in this matter. The establishment of dispensaries has advanced very rapidly. Their objects are to enable the Chinese to understand what the sanitary law is; to teach them how to act in cases of infectious disease; to enable them to remove their sick and dead without the interference, if possible, of the sanitary officers, and to appoint street committees. At the beginning of February last, we advanced a further step by the appointment of Street Committees. I had the pleasure of meeting them a few weeks ago, and I was struck with the enthusiasm and obvious interest in their duties of the large number of gentlemen, some two hundred, who attended at Government House that day. In future the dispensaries will be under the control of the Tung Wa Hospital Committee and a special Committee has been appointed to attend to the supervision of the work. I trust this will result in a considerable decrease in the abandonment of dead bodies. With regard to details of method of disinfection there was a large number of minor recommendations made by the Commissioners in their report. The majority of these merely involve amendments to bye-laws, and some months ago, the Government asked the Sanitary Board to submit any revisions which they considered were needed in view of the report of the Commission.

Turning now to the amendment proposed by the hon. learned member on my right (Mr. Pollock), I think the point he has raised is an important one and I can promise that it shall receive the most careful consideration of the Government. He said that a deadlock was reached when there occurred a divergence of opinion between the person desiring to carry out the work, or his architect, and the Building Authority as to the interpretation of the law, but that, I think, is hardly a correct description of the existing condition of affairs since there is, of course, an appeal to the Governor-in-Council, who is advised by the Attorney General, then arriving at a decision in any such case. I do not say that such a ruling would be so entirely satisfactory from a legal point of view as a ruling by the Supreme Court. It has, however, the great merit that it involves no cost to either party and it is speedy and final. Should there be a considerable number of such applications, considerable expense to the Government might be involved, but I will not discuss the proposal at present and I should like to take the advice of my legal adviser upon it. All I can promise at present is that it shall have our careful consideration. The hon. member on my right (Dr. Ho Kai) asked that we should adjourn the discussion of the Bill in committee to give members sufficient time in which to study it, and I propose that we shall not take it for another three weeks.

HON. MR. POLLOCK—I have to ask your Excellency to grant a longer adjournment for a further two weeks. The Hon. Mr. Osborne is leaving the Colony on Thursday next and a member will have to be appointed to the Council in his place, and that member will come new to this Bill. He will have to study thoroughly the provisions of the original Ordinance and of the various Amending Ordinances and understand the purport of the various amendments proposed. I would ask for further adjournment on a personal ground. Circumstances have arisen which will render it necessary for me to leave the Colony on Thursday next by the "Empress of Japan," and I do not anticipate that I can be back within three weeks from this date. It would amount to this that in place of the hon. member there would be a new member who would not have mastered the intricacies of this important

Bill and I am afraid I should not be present in my place in the Council, as I would like to be, when this Bill is being considered. It is very important when this Bill, which we hope will put an end to Sanitary legislation for a time, is being considered that every unofficial member should be in his place.

HIS EXCELLENCY — I have already considered the point raised by the hon. member who has just sat down. I need hardly say that it is my desire to meet as fully as possible the views of unofficial members and to give as long an adjournment as may be necessary, but I hardly think—at any rate I have had no indication—that it is the general wish either of the unofficial members or of the community that this Bill should be hung up for a further five weeks. It had been my intention to take the Committee stage in a fortnight, but on consideration of the fact that we are losing the hon. member on my right (Mr. Osborne)—a loss which I most deeply regret—and also that the hon. member at the end of the table on my left (Mr. Keswick) is also leaving the Colony for a short time, I thought that it would be better to postpone the committee stage for a further week. That will give fully a fortnight in the one case and three weeks in the other for the temporary members appointed to their places in the Council to consider the provisions of the Bill. I could hardly adjourn the Committee stage for five weeks purely on the ground that one individual is going away on entirely voluntary business from the Colony, even though the cause is one we all deplore. I think that it would be better to adhere to my proposal to take the committee stage three weeks hence.

The Bill was then read a second time.

Foreign Corporations Ordinance.

THE ATTORNEY GENERAL moved the third reading of the Bill entitled An Ordinance to enable Foreign Corporations to acquire and hold land in the Colony.

THE COLONIAL SECRETARY seconded, and the motion was carried.

HIS EXCELLENCY—The Council stands adjourned till this day three weeks.

FINANCE COMMITTEE.

A meeting of the Finance Committee was held afterwards — the Colonial Secretary presiding. The following votes were passed:—

Medical Department Vote.

The Governor recommended the Council to vote a sum of Thirty-nine dollars (\$39) in aid of the vote. Medical Departments, B.—Hospitals and Asylums, Civil Hospital, Other Charges, Uniform for Indian Constable.

Police and Prison Department.

The Governor recommended the Council to vote a sum of One thousand dollars (\$1,000) in aid of the vote, Police and Prison Departments, A.—Police, Other Charges, Secret Service.

Colonial Secretary's Department.

The Governor recommended the Council to vote a sum of One thousand one hundred and twenty dollars (\$1,120) in aid of the vote, Colonial Secretary's Department and Legislature, Personal Emoluments, Temporary 1st Grade Clerk.