

4TH JUNE, 1908.

PRESENT:—

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

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

HON. MR. W. REES DAVIES, K.C., (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. SIR HENRY BERKELEY, K.C.

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

HON. MR. WEI YUK.

HON. MR. H. W. SLADE.

HON. MR. MURRAY STEWART,

MR. C. CLEMENTI (Clerk of Councils).

Minutes.

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

Finance Minute.

THE COLONIAL SECRETARY, by direction of H.E. the Governor, laid on the table Financial minute No. 24 and moved that it be referred to the Finance Committee.

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

The Appropriation Bill.

THE COLONIAL SECRETARY moved the second reading of the Bill entitled an Ordinance to authorise the appropriation of a supplementary sum of \$166,735.85 to defray the charges of the year 1907.

THE COLONIAL TREASURER seconded and the motion was agreed to.

THE COLONIAL SECRETARY—I move that the Bill be referred to the Finance Committee.

THE COLONIAL TREASURER seconded and the motion was agreed to.

The Man Mo Temple.

THE ATTORNEY -GENERAL moved the second reading of the Bill entitled an Ordinance for the transfer of the properties of the Man Mo Temple to the Tung Wa Hospital. He remarked—It appears that certain hereditaments and premises were some time ago vested in trustees on behalf of the Chinese community in Hongkong, the Man Mo Temple, and it is now desired to transfer this property to the Tung Wa Hospital. The Bill was framed with care before I came here and is, I believe, acceptable to the Chinese community.

HON. DR. HO KAI seconded and the motion was agreed to.

The Council resolved itself into committee to consider the Bill clause by clause.

On resuming,

THE ATTORNEY GENERAL, having moved the suspension of the Standing Orders, moved that the Bill, having passed through committee practically without amendment, be read a third time.

THE COLONIAL SECRETARY seconded and the motion was agreed to.

Chemists and Druggists Ordinance.

THE ATTORNEY GENERAL moved that the Council resolve itself into committee on the Bill entitled an Ordinance to provide for the Registration of Chemists and Druggists and to regulate the Sale of Poisons.

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

In Committee,

HON. DR. HO KAI moved the following new sub-section (2f) of Section 11:

"By any person holding a foreign medical diploma who at the time of the passing of this Ordinance is *bona fide* engaged in medical and surgical practice in this Colony provided the medicine supplied is for the use of his own patients only."

There are, he said, a certain number of practitioners who are holding diplomas from the University of Tientsin and from the University of Oregon. These Chinese gentlemen, who have been trained in western medical science, have been in the Colony for some years and are in the habit of dispensing their own medicines to their patients. It would be hard upon them if the passing of this Ordinance prevented them from continuing this practice. I do not wish to encourage strangers who hold foreign diplomas not recognised by this Colony. We have our College of Medicine here. But no injustice should be done to those actually practising in the Colony at the time of the passing of this Ordinance.

THE COLONIAL SECRETARY—That is a system of protection.

HON. DR. HO KAI—They have practised here for so long. We don't want to deprive them of the privilege of dispensing medicines to their patients.

THE COLONIAL SECRETARY—You allow the Hongkong qualified men but don't allow the men who qualified in Tientsin or Oregon hereafter?

HON. DR. HO KAI—Yes.

THE COLONIAL SECRETARY — That is protecting them.

HIS EXCELLENCY said he proposed to introduce the words "medical or" after the word "Foreign" in line 2 of 2 (e) which would give effect to the object the mover of the resolution had in view.

HON. DR. HO KAI said that the introduction of these words would go beyond his intention and render it possible to exempt any person hereafter who held such diplomas as he referred to. All he desired was to protect two or three individuals long resident in the Colony who had been dispensing medicines to their patients. He however agreed to

withdraw his amendment, but asked that the Bill should remain in Committee in order to give the Hon. Attorney General time to study the full effect of the words proposed.

HIS EXCELLENCY said that the exemption of any such person would still remain subject to the approval of the Governor, who would refuse unless there were good grounds shown for exemption, such as existed in the cases cited by hon. member. He agreed that the Bill should remain in Committee to allow of an alteration of the words if on further consideration it appeared to the Government advisable to amend them.

The Bill was left in Committee.

Public Health and Buildings Ordinance.

THE ATTORNEY -GENERAL moved that the committee stage on the Bill entitled an Ordinance to amend the Public Health and Buildings Ordinance 1903 and the Public Health and Buildings Amendment Ordinance 1903 be resumed.

THE COLONIAL SECRETARY seconded and the motion was agreed to.

On clause 38, referring to the provision of smoke flues, which was held over from the last meeting of the Council,

THE DIRECTOR OF PUBLIC WORKS moved that the following proviso be added to the clause:

"Provided that in the case of chimneys or smoke-flues requiring to be extended to a greater height than 5 feet above the roof any extension in excess of that height may consist of iron pipes."

Carried.

Clause 44, referring to the proposition to demolish the upper storeys of every third house in insanitary areas, was withdrawn and the following amended Clause was submitted:

44. The following section is hereby added to the Principal Ordinance and shall be inserted after Section 154 thereof:—

154a. (1.) Whenever the Governor-in-Council on, the representation of the Medical Officer of Health is satisfied that any of the rooms in any block of domestic buildings are so dark as to be dangerous or prejudicial to

the health of inmates, he may direct the

demolition of all storeys above the lowermost storey of every third building in such block and the construction of additional windows for the remaining buildings and the carrying out of such other consequential works as he may deem necessary to render such buildings healthy, and the amount of compensation to be paid to the owners of such buildings as are demolished wholly or in part shall be determined by arbitration in the manner provided by Sections 251 to 254 inclusive of this Ordinance. Provided that whatever alteration or reconstruction of buildings may be involved in the carrying out of any such works it shall not be held to bring such buildings within the scope of sub-section (39) of Section 6 or of Section 180 of this Ordinance.

(2)The cost of any works carried out under this section exclusive of any compensation to owners shall be certified by the Building Authority, and the Governor-in-Council may thereafter impose a special improvement rate upon the owners of such of the adjoining houses as are in the opinion of the Governor-in-Council benefitted by such works, and in such proportions as the Governor-in-Council may decide; such rate not to exceed such annual sum as invested at compound interest at 5 per centum will amount in the period for which the rate is imposed to the total sum so certified as aforesaid with interest thereon at 5 per centum per annum and the period for which such rate is imposed shall not be less than 15 or more than 30 years. Every such rate may be recovered by the Colonial Treasurer in the same manner as if it were a rate imposed under the provisions of the Rating Ordinance 1901,

(3)The Governor-in-Council may in his discretion permit any part of any works directed under this section to be carried out by the owner at his own cost but subject to such conditions and in accordance with such plans and particulars as the Governor-in-Council may direct to the satisfaction of the Building Authority,

His EXCELLENCY said—In connection with this clause I desire to remind the Committee of the origin of the scheme which it embodies. The proposal was made in this Council on June 2nd last year by the hon. and learned member on my left (Mr. Pollock) who used these words: "The best solution laid before the community in connection with cubicles is that mooted some four years ago, namely that in Chinatown upper storeys of every third house should be pulled down with a view to the provision of lateral windows for the houses standing on either side." He added in the course of his speech that though the scheme would cost a considerable amount of money he was not alarmed at that. The cost mentioned amounted to \$8,000,000. He described it as being a thorough scheme and the

only one for settling the question once and for all. He added that in his opinion some proportion of the cost should be borne by the Government and some proportion by the owners.

At the next meeting of this Council, on the 27th June, five resolutions were moved by the senior unofficial member (Dr. Ho Kai), one of which was as follows: "that the scheme for pulling down the upper storeys of every third house in the blocks of houses in Chinatown and the provision of lateral windows in the upper storeys of the adjacent houses is a desirable and effective scheme." He supported that resolution in a very long and able speech, and explained that it arose from the suggestion made some four or five years previously and which had been considered when the Public Health and Buildings Ordinance of 1903 was drafted. The two main objections then advanced were, firstly, the great cost, and secondly, that the adjoining houses would not be able to stand when the support of the centre house was removed. Those objections were, he said, considered so serious that no provision for the demolition of every third house was inserted in the Bill. The hon. member had gone on to say that the cost of this proposed undertaking was much overrated, and he proposed that only a half or two-thirds of it should be borne by the Government, and in the course of his argument he assumed that only one half would be chargeable to the Revenue. Another of his resolutions was that a committee be appointed to consider the whole question.

The Government were unable to accept the first resolution involving so serious and drastic a change, but the resolution to appoint a committee was accepted, and the Hon. Colonial Secretary, who at that time occupied this chair, announced the committee he proposed to nominate. It consisted of the senior unofficial member (who had proposed the resolution), the hon. member on my left (Mr. Wei Yuk) who also represents the Chinese (who seconded the resolution), the Colonial Treasurer (who was chairman), the Hon. Director of Public Works, the Principal Medical Officer of Health, the Hon. Mr. Keswick, the Hon. Mr. Osborne, and Mr. Ram. The Committee considered the whole question and

reported to Government in favour of this scheme for demolishing every third house. Only one member, I think, raised any objection to the proposal, namely Mr. Ram, who did so solely on structural grounds. He thought the adjacent houses would not be able to stand. Mr. Keswick and Mr. Osborne, who wrote minutes on the general report, did not apparently object to the principle. In consequence of the report of the Cubicle Committee and of the resolutions proposed in this Council the Government after much consideration have inserted this clause which has been considered in some quarters as though it was a scheme proposed by the Government for the embarrassment of property owners. I wished therefore to point out before we discuss the matter in detail what the origin of the clause is and that it is in consequence of the recommendations made by an independent and very representative committee and of the resolutions and speeches made in this Council that this clause has been inserted in this Bill.

THE HON. MR. STEWART—I move that this section be omitted entirely. I am familiar with the origin of the idea and with all that you have said in describing its development. I base my objection to it in the first place on the problematical nature of the scheme in relation to the structural difficulties which present themselves, and in the second place on the risk of its proving disastrous to the financial prospects of property. As has been pointed out by many who speak with authority on the subject, if you demolish partly every third house you would impose a great strain upon the remaining walls. If you have sloping roofs on the lower floor of the house demolished you will have the rain running down it on both sides to the gutters, and you will have a very strong chance of these gutters being blocked by garbage and refuse thrown by the inhabitants of the houses on either side. You may have choked gutters, and the result will be that the water would soak into the the walls on either side and seriously impair their strength. On the other hand it is pointed out that if you have flat roofs they are bound to leak. There is no cement apparently manufactured that is impervious to rain such as we have here in the summer time. These flat roofs will very likely become a receptacle for refuse from the adjacent

houses, and it seems to me there are very great objections to the scheme on that ground. Again, another objection occurs to me. If in a typhoon the wind were to strike at an angle into these narrow places there would be a very grave risk of the whole of the buildings coming down like a pack of cards. These are some of the structural objections raised by those who speak with more authority than I do on the subject. There is also the important objection that investors and mortgagors always prefer clean titles. The clause seems to me to introduce an element of uncertainty into the title of property in Chinese houses, and for that reason I think it will militate very seriously against the sale of such property. It seems to me that a scheme of resumption is preferable in every way to this idea for which, while the Government was not responsible originally, they will make themselves responsible if they insist upon passing this clause. I therefore move to omit entirely.

THE HON. SIR HENRY BERKELEY—I second the amendment of the hon. member and press the Government to accept it and delete this clause from the Bill, thereby saving a great deal of future trouble in this Colony. It is true that the clause made its appearance in the Bill as the result of the recommendations of the Committee appointed in the circumstances referred to by your Excellency. It is also true that the Committee made what I may call a minority report. It was the report of probably the only person who was practically capable of expressing any opinion that was of any real value in guiding the Council in matters of this kind—that was the architect, Mr. Ram.

THE COLONIAL SECRETARY — What about the Director of Public Works? Is he not to count?

HON. SIR HENRY BERKELEY—I am speaking from the public point of view, the point of view of those who believe this legislation will affect the value of property in this colony, will seriously affect the investment of capital and will seriously affect transactions in property. Sir, I repeat the minority report is one which I respectfully submit is the one which should guide this Council in its determination. I would respectfully urge you

to accept it. This is not an idea which I have just evolved. It was considered by the Government in 1903. It was fully discussed then and it was decided that from the point of view of safety of the buildings it would not be wise to adopt the scheme of pulling down every third house for a portion of its height. It was determined then that the only proper scheme, if we could afford it, was resumption *en bloc*, but that, as often occurs here, was prevented by lack of money. We could not do what we ought properly to do and then this suggestion was made by which we would attempt to do improperly that which if done at all should be done properly. The general public cannot afford it and the reasons which existed in 1903 which induced the Government not to proceed with the scheme exist to-day, and the Government ought not to adopt the alternative suggestion now. As has been pointed out by the honourable member who represents the Chamber of Commerce, the primary object of the scheme is to introduce sanitary improvement; but it will not make a sanitary improvement if in pulling down every third house you create a sink between the remaining houses. As the honourable member has pointed out, the result of this scheme would be to make a well between adjacent houses. In these houses it is proposed to insert windows. Out of these windows I venture to prophecy if the Bill is passed as it stands there will be projected all sorts of rubbish upon the building below. Sir, that is not sanitary improvement. Sir, it was only yesterday that I attended a meeting for the purpose of discussing this Bill with others. By chance one of us looked out of the windows. There was, Sir, a courtyard, and in it a building with a flat roof, that was covered more or less with refuse thrown from windows of adjacent houses. This was not in the Chinese quarter but in Queen's Road Central. Therefore it seems that you will not altogether effect your object of sanitary reform by demolishing every third house. I do not think it can be regarded as a sanitary improvement. Then if you have a flat roof you will find it is bound to leak. I don't know whether the Director of Public Works can give me an instance of a flat roof that does not leak. On the other hand, if you put up a pitch roof you are bound to have gutters between the adjacent houses becoming blocked. Now we come to the structural objection taken by Mr.

Ram, that is that the result of this scheme will be to weaken the adjacent buildings. You must remember that the houses were built in a row and were never meant to stand alone. They all lean one against another. If you pull down every third house you will make that which was a party wall into an external wall, and of course a party wall will not fulfil the purpose of an external wall; the result will be that in many cases you have to build up external walls. You weaken every third house. That is the primary objection. Then you come to the question raised by the honourable member who represents the Chamber of Commerce that this proposal entails a charge upon property. From the point of view of owners of property it will not be an improvement, and from the point of view of the Bill, if it passes, it will be an improvement. That improvement is to be a charge upon those who in the words of this section have had, in the opinion of the Governor in Council, their properties benefited by such works. I pause for a moment to say that is rather vague. There is nothing to indicate what you mean by the owners of adjacent houses, whether those immediately adjacent or what. The knowledge of the uncertainty which this arrangement creates, the feeling of uneasiness which it will cause among owners of property and investors is also a serious objection. They will never know when at the will of the Governor in Council, moved by the Medical Officer of Health, a charge will not be made upon their property. This feeling of unrest will exist in the minds of those who have money to invest in mortgages and in house property. In this case I hope that the Government will not oppose this amendment because I take it that those who passed the resolution recommending the present legislation included several who have since seen reason to change their opinion, with the possible exception of the Director of Public Works. Mr. Ram was always against it. I have much pleasure in seconding the the amendment on three grounds. The first is that the proposed scheme will be non-effective, will not effect any sanitary improvement; the second is the great cost that it will entail, and the third is the liability to destroy the confidence of investors in property.

HON. MR. POLLOCK—Sir, Your Excellency has referred, as I gathered, to this

particular section as the outcome of my resolution, but I desire to disclaim having been the originator of any such clause as that now before the Council. My suggestion was that if such a scheme as this were carried out—which I think, from an ideal point of view, must be admitted is a good scheme—the Government should bear a considerable part of the cost, and that a loan should be raised for that purpose. There is no doubt that considerable expense would be cast, as has been pointed out by the mover and seconder of the amendment, upon the owners of the adjoining houses in order to make their property structurally safe. The party wall will be weakened, especially if lateral windows are inserted in that wall, and I desire to say that this scheme as now drawn up is not a scheme such as I suggested. It does not include the financial provision which I proposed in the Council last year.

THE DIRECTOR OF PUBLIC WORKS—The remarks which have fallen from Sir Henry Berkeley are such as to give the impression that I vetoed this proposition when it came before the Council in 1903, by stating that the scheme would not be a safe one to adopt. I would state, Sir, that I made no such statement before the Council. The opposition to the scheme came from a different quarter. I think, Sir, it is not necessary for me to follow the arguments brought against the scheme, but I quite recognise that in some cases it would be necessary to carry out some works to strengthen the walls if this scheme were carried out. Generally speaking, there would be many houses which would require no such additional strengthening.

THE COLONIAL SECRETARY—The hon. members who have supported the amendment have entirely left out of calculation the improvement to the remaining houses. The provision made in this Bill for allowing rooms that do not contain cubicles to be occupied in the proportion of one adult to every 30 square feet of floor space and 300 cubic feet of air space means that a far larger number of people can be accommodated in the improved houses. Calculations have been made and it can be shown that two houses will contain under this provision more people than in three old ones. It

is not clear whether hon. members who have criticised this section have read it aright or they would have realised that the Government propose to bear by far the larger proportion of the cost, and that the entire cost of the resumption and demolition of the third house will fall upon the Government. It is only the cost of the works in rendering the remaining houses habitable, propping the walls and inserting windows, that will fall upon the owners. Sir, the Government pay the compensation and the owner obtains a vast improvement in his property, at small expense. A lurid picture has been drawn of the nuisance of flat roofs between the houses, but I would ask whether hon. members have seen some of the specimens of these houses which exist in the Colony? The Cubicle Committee, under my personal guidance, visited such houses and were very much impressed by them. The Government, Sir, thought that property owners, when they read that they had only to bear a very minor part of the cost of the works, instead of being charged with the cost of the resumption of every third house, would have been so anxious to obtain the benefits of this section that the section was amended by substituting the words "Medical Officer of Health" for "the Sanitary Board." The Board has an unofficial majority and that majority—I won't say it represents the property owners—has a very large element in sympathy with property owners. Sir, I frankly confess that I, for one, thought that if the initiative of the scheme was left to the Sanitary Board the Government would be deluged with applications for carrying out improvements under this section. It seemed to the Government so extremely favourable. I think, Sir, that hon. members ought to further consider the section. I don't believe they realise that all the compensation falls on the Government and that only the cost of the minor works falls on the property owners. I don't believe they have calculated the enormous improvement to the property due to the increased number of inhabitants that the remaining houses will carry. I don't believe they have looked round the Colony to see whether any venturesome person has had the braveness to build such improved houses. If they considered the improvement they might alter their views.

HON. MR. STEWART—If it were such a favourable scheme isn't it strange that none

of the property owners have tried it on their own initiative? (Sir Henry Berkeley— Hear, hear).

THE COLONIAL SECRETARY—You are only providing the opportunity now by this Bill.

HON. MR. STEWART—If it were so favourable they should not need to wait. They would do it themselves.

HIS EXCELLENCY—Very often the various houses in a block are not under the same ownership. Where three houses belong to three different owners the Government must intervene.

HON. MR. STEWART—If the property was made more valuable you would imagine that people would do it for themselves.

HIS EXCELLENCY—Very possibly they will now that Government offers to bear the whole compensation for the demolished house.

HON. MR. STEWART—It brings an element of uncertainty into the title.

THE COLONIAL SECRETARY — Let me correct you. Until the amendment of section 46 of the Principal Ordinance becomes law the property owner has no inducement to pull down every third house, As the law stands, a floor without cubicles does not gain any advantage over a floor with cubicles. Section 11 is inserted in order to induce people to adopt this scheme. Hitherto property owners have had no inducement.

HON. DR. HO KAI—This will assist the owners. The Government never promised to assist before.

HON. MR. STEWART—Do you not see any point in this argument as to the element of uncertainty? Is there no force in it?

THE COLONIAL SECRETARY — At the present moment you are liable to have your property resumed.

HON. MR. STEWART—In that case you know where you are.

THE COLONIAL SECRETARY—Under this scheme, on due cause being shown, you are liable

to have a rotten property improved at the public expense and handed back to you a good property.

HON. MR. STEWART—Supposing there is a doubt as to the stability of the party walls?

THE COLONIAL SECRETARY—You must give credit to the Director of Public Works not to build a wall or house so that the first typhoon will blow it down.

HON. MR. STEWART—Many houses have fallen down.

THE COLONIAL SECRETARY—None, Sir, that have been built by the Public Works Department. Many have been blown down, but these were not built by the Director of Public Works.

HON. SIR HENRY BERKELEY—How does the Colonial Secretary account for the unanimous objection shown by property owners to the clause?

THE COLONIAL SECRETARY—My answer is that property owners have not understood it.

HON. SIR HENRY BERKELEY—Speaking from—

THE COLONIAL SECRETARY—I had the biggest property owner in the Colony in my office the other day, He had just come from a meeting where they had discussed this clause, yet he was ignorant of the fact which I have been trying to make clear, that the Government, and not the owners, are going to bear the cost of the resumption and compensation. He spoke against the clause but showed he did not understand it. All I ask is that hon. members should sleep over this clause.

HON. SIR HENRY BERKELEY—You mean postpone consideration until next meeting?

THE COLONIAL SECRETARY—Yes.

HIS EXCELLENCY—It is better to postpone it until next meeting.

THE COLONIAL SECRETARY—I endorse what Your Excellency has said. The clause is very important, and it would be a

pity if the scheme were jettisoned. Some compromise acceptable to all parties might be arrived at.

Consideration of the clause was accordingly deferred.

On clause 68,

THE ATTORNEY -GENERAL moved a new section so as to make consent by the Governor in Council necessary to applications for water closets.

THE COLONIAL SECRETARY said the reason for the amendment was that the Sanitary Board, in defiance of the medical opinion consulted, had decided to permit water closets in houses in Kowloon.

Carried.

Two sections in clause 51 providing that where the owner agreed to provide a scavenging lane without compensation the consent of the mortgagee or lessee was not needed, were deleted.

HON. MR. SLADE expressed the opinion that where an owner wished to rebuild his property he should be able to get back his scavenging lanes, if he desired, at the price that had been paid to him as compensation.

THE DIRECTOR OF PUBLIC WORKS said there was nothing in the Ordinance to prevent an owner retaining possession of the scavenging lane on his property, in which case the Government would pay no compensation for it,

but if the Government did resume the lane and pay for it he did not see why it should surrender the land at the price paid—the value might have either appreciated or depreciated.

The point was not pressed.

On clause 58,

HON. MR. STEWART moved to deduct from the 28 days' limit for the final return of plans by the Building Authority such time as was taken up through the plans being returned to the architects for amendment.

The amendment was allowed to stand over for further consideration.

On the amendment to clause 83 being reached,

His EXCELLENCY adjourned the Council until next Thursday,

FINANCE COMMITTEE.

A meeting of the Finance Committee was held after the Council, the Colonial Secretary presiding. The following vote was passed:

The Governor recommended the Council to vote a sum of Six thousand Dollars (\$6,000) in aid of the vote, Public Works Extraordinary, Building, Land Office at Tai Po.

The Committee considered the items contained in the Supplementary Appropriation Bill and unanimously agreed to recommend that they be voted: