

11TH MARCH, 1909.

PRESENT:—

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

H. E. MAJOR-GENERAL R. G. BROADWOOD, C.B., A.D.C. (General Officer Commanding).

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

Sir HENRY BERKELEY, K.C. (Acting 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. MR. F. J. BADELEY (Capt-Superintendent of Police).

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

HON. MR. WEI YUK, C.M.G.

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

HON. MR. E. A. HEWETT.

HON. MR. H. A. W. SLADE.

HON. MR. W. J. GRESSON.

MR. A. G. M. FLETCHER (Clerk of Councils).

Minutes

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

Papers

THE COLONIAL SECRETARY by command of H. E. the Governor, laid on the table the following papers:—Jury List for 1909; Memorandum regarding the restriction of Opium in Hongkong and in China.

Financial

THE COLONIAL SECRETARY—I have the honour to bring up the Report of the Finance Committee, No. 1, and to move its adoption.

THE COLONIAL TREASURER seconded,

and the motion was agreed to.

Public Works Committee Report

THE COLONIAL SECRETARY—I have the honour to lay on the table the Report of the Public Works Committee, No. 2 of 1908, on the proposed new Peak tramway (printed elsewhere), and to move its adoption.

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

Questions

THE HON. MR. POLLOCK asked the following questions standing in his name:

In view of the comparatively small cost of putting up a fixed light, similar to that on Mahwan Island, to indicate the South-eastern entrance to the Capsuimun Pass, will the Government have such a light put up?

Will the Government consider the advisability of making arrangements for the signalling of typhoons, by wireless telegraphy, from one of Pratas groups of islands? Has the Government any information to communicate to the Council upon this subject?

THE COLONIAL SECRETARY in answer to the first question said:—

The Harbour Master advises that a light such as the hon. member suggests would be of no practical utility for the following reasons: (a) If the weather is thick the light would be of no use, being invisible; and if it is clear there is a perfect leading light in Green Island light, which leads straight through the channel between Mahwan and Lantau. (b) There are no cross currents in the vicinity, so that all the Master of a vessel has to do is to steer his well known course from the anchorage, until Green Island Light gets upon its proper bearing, when he can turn up through the channel, on a well known course, with Green Island light dead astern of him as a check; the tidal stream will be either directly with him or directly against him. The finances of the Colony, as the hon. member is aware, are not in a condition to admit of expenditure even on minor works unless urgent necessity is shown, and as at present advised, the Government considers that the most urgently required light (when funds admit) is that

on the Channel rocks advocated by the Committee appointed in 1907. I may inform the hon. member that the Harbour Master has received a very widely signed petition from Masters of River Steamers advocating the light which forms the subject of the hon. member's question and another on Tong Ko Island, but advancing no reason whatever, an enquiry is being made on the subject from the signatories.

In answer to the second question the Colonial Secretary said:

The Government cannot hold out any hope of being able to make arrangements for the signalling referred to. If the hon. member will repeat his question in three or four weeks' time the Governor hopes to be able to make a statement, but at the present moment, he is unable to do so.

The Opium Question

His EXCELLENCY—Gentlemen, I rise to make a statement on the subject of the opium question, concerning which a paper has been laid on the table to-day, and which I promised the Council to make on as early a date as possible.

It was on May 14th last that the hon. member who at that time represented the Chamber of Commerce in this Council asked me several questions with regard to telegrams which had appeared in the local Press announcing that His Majesty's Government had stated in Parliament that all opium divans were to be closed forthwith. I read the telegram which I had received from the Secretary of State and I informed the hon. member that I had sent a long confidential telegram in reply explaining very fully the difficulties which such a course would involve, and asking the Secretary of State to defer any final decision until he had received a despatch from me on the subject. On May 28th the same hon. member brought forward a resolution in this Council, and he supported it in a long and able speech in which he criticised the action of His Majesty's Government. The resolution was supported by all the unofficial members of the Council. I informed them that I would forward a copy of the debate to the Secretary of State, and I said that I had myself confidence that when the Secretary of State received my despatch he would not act in any precipitate manner, but would take into consideration the difficulties which I pointed out.

As soon as I received the telegram, on the 7th May, we took steps to ascertain the effect upon the revenue of the Colony if all the divans were at once closed. The Opium Farmer showed great confidence in the fair dealing of the Government and a broad spirit in allowing his private books to be thoroughly examined. This task I confined to Mr. Clementi, who conducted it in an exceedingly able and exhaustive way. I think there are few Europeans in this Colony, or out of it, who would have been competent to conduct such a task, to carry it through in so short time, and to collect such a mass of valuable material as he did (applause). The Government is very much indebted to him for the results of the stupendous and difficult task which he undertook. One result of the examination was to show that the charges which have from time to time been made against the Opium Farmer here of smuggling opium into China have no apparent foundation in fact, and the farmer therefore benefited by his straightforward action in allowing his books to be fully inspected by Government. A further investigation was entrusted to Mr. Hutchison into the conditions and statistics of the divans of the Colony, which was carried out with hardly less ability. These investigations were completed in the months of June and July.

Early in June I received a copy of the Home *Hansard* giving a full account of the debate of May 7th, and it was then evident that the Secretary of State had in point of fact stated that it was the policy of His Majesty's Government that all divans in Hongkong should be forthwith closed. I wrote at once (on June 13th), to the Secretary of State, urging some delay. I suggested that half the divans should be closed in March 1909, and the remaining half should be closed in March 1910, when the contract of the Opium Farmer would expire. I pointed out to him that the immediate closure of the divans would involve the Government in a moral, if not a legal claim for compensation to the Opium Farmer estimated at \$500,000 in addition to compensation to the divan keepers, whose licences I was unable to cancel, except for breach of their conditions until they should expire, unless by special legislation. My object was to gain time, for I could not ignore the orders which had been communicated to me by the Secretary of State over a month previously.

There was a further debate in the House of Commons on July 28th. The Secretary of State had at that time received my despatch of June 13th, and when he pledged His Majesty's Government "to act on the advice they had recently obtained and would obtain from the Governor of Hongkong" he supposed I was prepared to recommend that half the number of the divans should be closed in March 1909, and half in March 1910. As a matter of fact, I had never intended to *advise* that course. My intention had been limited to urging it as a reprieve from the sentence of immediate abolition to which I did not see my way to give effect. Following the debate in the Home Parliament the Hon. Mr. Stewart, on September 24th, moved a second resolution in this Council condemning the reasons which had been given by the Under Secretary of State in the House in support of the policy of His Majesty's Government, and in a long and able speech he subjected the policy of the Home Government to very severe criticism. I said in reply that the Under Secretary of State had stated that he hoped that "the best opinion in Hongkong and the opinion of the Governor would be found to coincide with the measures proposed."

It was on that same day (September 24th), that I introduced the Estimates for the year to the Council, and I told hon. members that no provision had been made in those estimates to meet any expenditure upon compensation to the Opium Farmer or to the opium divan keepers, or to meet any decrease in revenue which might result from any measures taken with regard to the Opium Farmer. I did so in the first place because no finality had been reached in the question, and in the second place because the estimates already showed a deficit of \$72,000 and there was no money at my disposal with which to make provision. I added that if, consequential on the policy of the Home Government, it should be necessary to impose any new taxation, hon. members would have full opportunity of debating the whole question when the proposals for the new taxation were laid before the Council.

The general position as regards the finances of the Colony, as I explained on that occasion, were extremely disheartening, owing partly to the large expenditure on the railway, partly to the great loss on exchange, as well as to many other causes. The year 1908 showed a deficit

estimated at about $6\frac{1}{2}$ lacs, which reduced our reserves from one and a half million to about \$900,000, and we should have had a deficit of nearly five lacs to provide in the current year had it not been for the fortuitous windfall which accrued by taking over the Widows' and Orphans' Fund amounting to four and a half lacs, which (as I said) we must regard as a loan to carry us over our difficulties.

Meantime no action had been taken with regard to closing the divans because I was awaiting the reply of the Secretary of State to my despatch, and also the reports of Messrs. Clementi and Hutchison, and I also desired to have more precise information, as to the financial position of the Colony. In the meantime I took the opportunity of very carefully studying the question, and I prepared a memorandum with the aid of the reports of Messrs. Clementi and Hutchison with the object of showing first that Hongkong had not been so apathetic and indifferent as it had been represented in the House of Commons by Messrs. Taylor and Johnson; and secondly with a view to representing the "reasoned opinion" for which the Under Secretary of State had asked in his speech in the House. These reports and the financial statistics were available in about the month of August, but the pressure which hon. members know is generally involved in the preparation of the Annual Estimates, together with the work of verification of references in the memorandum, etc., took some little time. Although the memo. had been roughly prepared early in September, it was not until October that I was able to submit the memorandum to the Secretary of State, together with the despatch in which I submitted proposals for giving effect to the policy which His Majesty's Government had announced. I telegraphed on Oct. 23rd asking the Secretary of State to cancel my former despatch, and to await the arrival of one I was now submitting.

I desire with regard to this, to explain to the Council that as my proposals involved a very considerable modification of the declared policy of His Majesty's Government, I was for that reason unable to lay them before this Council until I knew what the attitude of the Secretary of State would be towards them. They were very fully discussed in the Executive Council. And I requested the Secretary of State to permit me at as early a

date as possible to communicate to this Council the action which had been taken in this matter, which so vitally affected the finances of the Colony.

The proposals which that despatch contained I will summarise as follows: In the first place, that steps should be taken to diminish the available supply of opium for consumption in Hongkong proportionately to the decrease in the export from India, and in the production and in the export from China. This decrease being progressive, in accordance with the programme put forward by the Chinese Government, would lead to the total cessation of the supply in ten years, supposing that within the same period China has ceased to produce and export opium. To this end I suggested that for the remaining year of the present contract with the Farmer the maximum number of chests which he is entitled to purchase should be reduced from 1800 to 1200, —a proposal to which he was willing to agree without claiming compensation provided that divans were not abolished. I proposed that in the new contract the number should be further reduced to 900 (which is about the average consumption of the last few years) with a progressive decrease in each succeeding contract, so long as the Indian Government follows a similar policy with regard to its exports.

In the second place, I suggested some further restrictions upon the farmer in the new contract with a view to the more effective control of his operations. I also informed the Secretary of State of the increasing use of morphia and of opium compounds in the form of pills, and of hypodermic injections of morphia, and I explained to him the efficacy of the Hongkong legislation in regard to these. I told him we had it under consideration still further to increase these restrictive measures by legislation. With regard to divans I gave it as my own opinion that they form in this Colony a useful means of control. I explained their nature, which I believed not to be fully appreciated in England, and I said that I had fears lest their entire abolition might demoralise domestic life by compelling smokers to smoke in their women's quarters, and by extending the influence of bad example. Finally, I informed Lord Crewe of the financial condition of the Colony, and that in

that year, 1908, we had a deficit of six lacs, with a further deficit of five lacs in 1909. I pointed out that this grave situation of the public finances was further aggravated by personal losses due to typhoons, to the fall in the rate of exchange, and to the heavy trade depression which has weighed upon the Colony for the last few years. I described the negotiations undertaken with the farmer as a result of which I estimated that the total and immediate abolition of the divans would cost this Colony upwards of five lacs of dollars. I added finally that in the present condition of the Colony's finances it was practically impossible to meet this extra charge unless His Majesty's Government saw their way to make a grant for the purpose. Although these proposals were in point of fact inconsistent with the declared policy of His Majesty's Government in respect of divans, they provided in substitution of that policy, a means of restriction which I, for my own part, considered to be at least equally, and perhaps more effective for fulfilling the high objects which His Majesty's Government had in view. (Hear hear.) I asked the Secretary of State to reconsider by the light of the information I had given him, and having regard to the financial position of the Colony, the decision at which the House of Commons had arrived.

The Secretary of State informed me in reply that His Majesty's Government had pledged themselves to Parliament and that they would not recede from the policy of abolishing the opium divans in Hongkong as soon as may be, and to that pledge they would steadfastly adhere. At the same time His Majesty's Government recognised that there were grave difficulties in the way of immediate action to as great an extent as they would desire. The Secretary of State acknowledged that I had brought forward weighty arguments to illustrate both the possible dangers attending precipitate action, and also the degree to which effective measures in Hongkong must be dependent on the course of events on the mainland. He said that the Conference at Shanghai would afford fuller information to Government as to what has actually been accomplished in China in the direction of closing the divans, and limiting the production of opium, and would furnish valuable suggestions for treatment of the question as a whole. The Secretary of State added:

"Taking all these circumstances into account and influenced by their strong desire not to impose an undue burden on the Colony, His Majesty's Government are prepared to proceed gradually in the course which they have decided to adopt, and while arranging for the immediate reduction to defer the final and total abolition until after March 1910. By that time the existing opium farm will have expired, and the difficulties arising from the contract with the Farmer will no longer present themselves, while the intervening period will allow time for the receipt and due consideration of the Commissioners recommendations. But it is necessary that steps should be taken forthwith towards carrying out the policy to which His Majesty's Government are pledged. I have been in telegraphic communication with you on this aspect of the question, and I learn that as the result of discussion with the Farmer you will be able to arrange, without giving rise to a claim from him for compensation, that the maximum amount of opium which he is permitted to prepare for local consumption shall be reduced to 1000 chests during the last year of the farm, and that 26 divan licences shall be extinguished forthwith, as they expire. Whatever compensation may be found to be equitably due to the holders of these licences will be provided from Colonial revenues.

His Majesty's Government have decided, under all the circumstances of the case, to accept these proposals as a first step in the realisation of their aims and as an earnest of the future co-operation of the Colony. It would be premature to discuss, on this occasion, the arrangements which will come into force in March 1910. I shall doubtless bear further from you on the subject in due course, and I need only remark here that His Majesty's Government cannot admit the possibility of any divan licences remaining in force after that date, and that in framing any recommendations you may submit, you should be governed by this consideration. His Majesty's Government recognise that as a result of giving effect to their policy the Colonial revenue must suffer a loss which it would be impossible for the local Government wholly to replace. The amount of that loss cannot be estimated until the conditions which will obtain after March 1910 are known with some degree of accuracy, but when the time arrives His Majesty's Government on their part will be prepared to ask Parliament to give a substantial contribution towards making good to the Colony the revenue which it is found to have lost as the direct result of measures adopted under their instructions." (Hear, hear.)

The final result therefore gentlemen, is that 26 licences were renewed on March 1st last. There

may be some small compensation for goodwill, but it will not be a large sum. No compensation is asked for by the farmer for any steps which are now being taken, and there is no other cost or loss which falls within the present year. The next contract will have to be issued under some restrictions as to the amount of opium which may be purchased by the farmer and no divans will be allowed. There will also be some minor restrictions to effect a better control of the farm. It is probable that under these circumstances the tender for the next farm will be lower than the amount paid for the present one, but we have the promise of His Majesty's Government to give us a substantial contribution towards meeting any loss which is the direct result of the measures prescribed by the Imperial Government.

I have always felt certain that on receipt of full information regarding local conditions, the Imperial Government would on the one hand recognise that precipitate action would be impossible, and on the other hand would deal justly and generously with the Colony. I am glad that both of these anticipations have been realised. (applause). The Secretary of State concludes his despatch with the following words:

"I have read with regret the observations in the Legislative Council which you have brought to my notice. The supposition that His Majesty's Government have acted with indifference to the views and interests of the inhabitants of Hongkong is entirely erroneous. It is a matter of much concern to me that, at the moment when this question assumed an acute form the Colony should be suffering from an interruption of its prosperity which, though (as I hope and believe) it is only transient, has materially increased the difficulties of the position. His Majesty's Government have been unable to see that they had any option in the matter, for the growth and strength of the movement in China have rendered it impossible that they should abstain from corresponding action in British territory for which they are responsible. I shall be slow to believe that public opinion in Hongkong can be permanently at variance with that of this country on such a question, and I must ask you, and the community over which you preside, to accept the assurance that the policy which His Majesty's Government have adopted has been dictated by paramount considerations of their duty to civilization."

I have spoken, gentlemen, at some length as the seriousness of the matter demands. I have not laid the whole of the despatches on the table, in the first place, because they are very lengthy, and in the second place, as Council will readily appreciate, they contain passages which it would be inadvisable to

publish in a State paper. I have, however, given you their purport very fully. I have summarised everything from my own despatches which is necessary for a full understanding of what has taken place, while I have for the most part quoted the *ipsissima verba* of the Secretary of State's despatch in all essential particulars. The memorandum which I have laid on the table to-day has been largely re-written in order to omit all passages based on confidential information, or which might give umbrage to other Powers. It contains some information which I hope members of Council will find of interest. (Applause.)

Merchant Shipping Ordinance Amendment

THE ACTING ATTORNEY-GENERAL moved the Second reading of the Bill entitled An Ordinance further to amend The Merchant Shipping Ordinance, 1899. In doing so he said—The object of the Bill is to bring into force in this Colony, certain provisions of the Merchant Shipping Act passed by the Imperial Parliament in 1906. Among others it is intended to incorporate in the local Merchant Shipping Ordinance provisions extending to foreign ships, duties and liabilities with respect to deck and load lines, and life-saving appliances which at present extend only to British shipping.

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

The Council afterwards went into Committee to consider the Bill, and on resuming His Excellency reported that the Bill had been left in Committee.

Hunghom Reclamation

THE ACTING ATTORNEY-GENERAL moved the second reading of the Bill entitled An Ordinance to authorise for public purposes the reclamation of certain portions of the Crown foreshore and sea bed situated in Hunghom Bay in the Colony of Hongkong and to validate such reclamation as has heretofore taken place. In doing so he said—The Bill is necessary for the purpose of taking authority to reclaim that portion of land in Hunghom Bay required for the railway. The Bill also provides that work done prior to the passing of the Ordinance shall be valid.

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

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

HON. MR. GRESSON—I should like to know the meaning of the marginal note "extinction of public rights."

THE ACTING ATTORNEY-GENERAL—The rights to go upon the foreshore, to fish, to spread nets, and so on.

HON. MR. GRESSON—The point I would like to make is that if you can bring in an Ordinance now to extinguish public rights it would be quoted in future as a precedent. In this case the rights are of no great importance, but as a matter of principle it does not seem to be reasonable. People may have rights, and in years afterwards, according to this Ordinance, you can legislate to take away public rights. It seems to me a bad principle.

THE DIRECTOR OF PUBLIC WORKS—The only rights are the rights of small craft sailing over the area and persons occasionally fishing there.

HIS EXCELLENCY—The clause refers only to the matters dealt with in the present Bill and does not lay down any new and novel principle.

HON. MR. GRESSON—This might be cited in future when you wish to introduce a similar Bill. It seems to give the Government right to resume any land by the passing of an Ordinance.

THE COLONIAL SECRETARY—They have the right now.

HON. MR. GRESSON—People will hesitate to buy land if you can take away rights by Ordinance. It will limit your land sales.

THE COLONIAL TREASURER—There are no public rights here whatever.

HON. MR. GRESSON—The time might come when there would be important rights concerned.

HON. MR. POLLOCK—This applies to public rights not to private rights.

HIS EXCELLENCY — Have you any amendment?

HON. MR. GRESSON—I thought perhaps it was a mistake.

HIS EXCELLENCY — You wish the marginal note altered?

HON. MR. GRESSON—Yes. It seems very drastic.

The marginal note was altered to read "determination of public rights," and with

several other verbal alterations the Bill passed through Committee.

THE ACTING ATTORNEY-GENERAL—No one dissenting, I move that the Bill be read a third time.

THE COLONIAL SECRETARY seconded, and the Bill was read a third time, and became law.

HIS EXCELLENCY—The Council stands adjourned till this day fortnight.
