

10TH MARCH 1910.

**PRESENT:—**

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

HIS EXCELLENCY MAJOR-GENERAL R. G. BROADWOOD, C.B. (General Officer Commanding the Troops).

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

HON. MR. F. A. HAZELAND (Attorney-General).

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

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

HON. MR. A. W. BREWIN (Registrar-General).

HON. MR. F. J. BADELEY (Captain Superintendent of Police).

HON. MR. W. J. GRESSON.

HON. MR. E. A. HEWETT.

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

MR. C. CLEMENTI (Clerk of Councils).

**Minutes**

The minutes of the last meeting were read and confirmed.

**Financial Minutes**

THE COLONIAL SECRETARY, by command of His Excellency the Governor, laid on the table Financial Minutes (Nos. 6 to 12A), and moved that they be referred to the Finance Committee.

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

**Papers**

THE COLONIAL SECRETARY, by command of His Excellency the Governor, laid on the table the following papers:—Jury List for 1910; Annual Report on the British section of the Kowloon-Canton Railway for 1909.

**The Kowloon-Canton Railway**

HIS EXCELLENCY—Gentlemen, it has been my custom for the last two years to cause to be laid on the table of this Council, in the early months of the year, a report on the progress of the railway for the preceding twelve months, and a revised estimate of the total cost of completion. The report for last year and the revised estimates for completion are now before you, and I propose with your permission to endeavour to explain the figures and to enlarge on the details of the report as I have usually done in previous years.

You will probably wish in the first place that I should allude to the total cost for the completion of the railway. The original estimate of the Chief Resident Engineer was, as you remember, \$8,003,642, exclusive of the cost of workshops, and of rolling stock, neither of which could be estimated for in June, 1907, at the time when this estimate was framed. It also did not include interest on the capital account and loss on exchange. At the end of 1908, a revised estimate for completion was made by the Chief Resident Engineer, and was laid before this Council. That estimate included the two first items of which I have spoken, but it did not include interest on capital expenditure and loss on exchange. It amounted to \$11,004,128, and at the time the estimate was laid before you I went at considerable detail into the reason for this very considerable increase.

I am glad to say that the present estimated cost for completion does not very greatly exceed these figures, for though the foot total now stands at \$12,371,495, which is an increase of \$1,367,367 on the former estimate, \$913,922 of that sum is for interest on capital account and for loss on exchange, which have been hitherto omitted from all estimates. I explained at some length at the time I introduced the annual estimates for the current year the reason why I considered, and the Secretary of State approved, of this sum being charged to the railway instead of to the current revenue of the Colony. It is properly a debit to the railway and a credit to the colonial revenue.

Dealing with the several items in the estimates it will be noticed that expenditure under Land remains the same as it was before. No alteration has been made in those figures pending the final decision as to the location of the terminal station. Unofficial members of the Council, who at my invitation a short time ago attended the Executive Council, are aware of the advantages claimed for the alternative schemes. If the scheme which we have recommended to the Secretary of State on the advice of the managing director, Mr. Lindsey, is accepted, the present figures on land will be decreased by some four lakhs, but if, on the other hand, the station is to be placed on the land recently resumed it will probably be increased by the same amount.

Under earth work last year the estimated cost was reduced by \$132,228, which appears to have been due to a miscalculation by the late Chief Resident Engineer. In spite of a saving of some \$86,000 effected by Mr. Lindsey in the cost of the big cutting at Hunghom by altering the centre line, a careful estimate of the total required to complete the earth work shows that there will be an increase on the original estimate of \$127,080 and over last year's estimate of \$319,403. You will see the full details and the different items which are responsible for this increase in the report on the table.

Under tunnels there is an increase of \$311,320, which includes a sum of \$235,207 for completion of the Beacon Hill tunnel. As we have all learned, these tunnels have been found exceedingly difficult to estimate for, and in consequence of the exceedingly hard nature of the rock and other causes there has been a total increase on the original estimate of \$1,607,730,

which is something like 73 per cent. on the original estimate. In this connection I recently came across a note of a conversation I had with Sir John Wolfe Barry in London before I came out to the Colony, in which the cost of tunneling was estimated at £70 per yard, which works out at \$260 a foot, and you will see by the table given in the report that the actual cost has been just  $1\frac{4}{3}$  times this estimate. I am thankful to say that all the tunnels on the railway are now completed. They have all been constructed for a double line with the exception of the long tunnel. You will see from the very interesting table to which I have alluded that No. 1 tunnel is the most costly. That was the only tunnel which was made completely by contract, and there were no particular difficulties of any sort in its construction. No. 5 tunnel is probably on the whole, in proportion to its length, the cheapest of all, and that tunnel was undoubtedly from an engineering point of view much the most difficult. Its completion reflects great credit on the engineer, Mr. Logan, both in respect of his engineering ability and of the control he has maintained over the cost.

Under Roads there is an increase of \$35,220 over last year's estimate, which is \$37,700 over the original estimate. This is almost entirely due to an underestimate of the very expensive approaches to the Gascoyne Road bridge, which, as you know, is built at the junction of two roads. Under bridges, major, minor and culverts, there is a total increase last year of \$156,553. Of this I regret to say that \$94,379 represents loss due to defective bridges.

On the other hand, in looking at the estimates you will find there is an anticipated saving of \$139,998 on station buildings, and this in spite of the fact that \$100,000 has been set aside for a railway pier which had hitherto not been included. We intend that the buildings shall be of an inexpensive character until such time as experience and the demands of traffic show us what permanent and more expensive buildings are necessary. There is a decrease also in the estimate under the head Construction of \$132,115. The original cost of plant was about five and a half lakhs and depreciation to the extent of two lakhs has already been

written off. If we estimate that the balance will realise two-thirds of the book values there only remains a debit to the railway of one lakh, which allows for the estimated saving of \$132,115. Similarly under Stores, credit is shown for \$150,000 after all due depreciation has been written off.

Progress on the railway generally has been very satisfactory during the past year. The tunnels, as I have said, are now entirely completed, and the Beacon Hill tunnel, 7,212 feet in length, reflects, as I think you will all agree, the greatest credit on the tunnel superintendent, Mr. Waite, and his staff, and on the engineers engaged in the alignment and supervision. Plate-laying and ballasting were begun at the commencement of this year and are making fair progress. We hope the line will be open to traffic in July next and that it will be completed entirely by the end of December this year. The temporary line will not, as was anticipated, go over the engineers' or "overland" route, for owing to the alteration in the centre line through the big cutting at Hunghom it will now be able to follow the permanent route. By the time the rolling stock arrives from England and is erected—it is already two months overdue—we hope that the bridges now being reconstructed will be finished.

The last part of the report is by the Medical Officer, and it is an exceedingly satisfactory one. There has been a very great decrease in sickness and disease amongst those employed on the railway. At the tunnel the percentage of malarial cases fell from 4.48 per month, the figure at which it stood in 1907, to .76, which is a decrease of 590 per cent., and for this great credit is due to the indefatigable exertions of the railway medical officer, Dr. Hartley. Towards the close of last year Mr. Lindsey replaced Mr. Eves as Chief Resident Engineer and traffic superintendent. We have obtained the loan of his services for two years in order that we may get the highest possible expert advice both as regards organisation of traffic and as regards the methods by which the Canton section and our own section may be most advantageously and profitably worked in the future. I have every reason to be satisfied with what I have seen of his work, and he has already made several proposals which tend to efficiency and economy. I think you will all agree with me that it is sound policy to obtain at this juncture the best possible expert advice even at a little extra cost, in matters which affect the future working of the railway.

I have only to add that if any hon. member desires further information or wishes to ask any questions, opportunity will be afforded at the next meeting of the Council, when a resolution will be proposed for the amount of money which will be required during the current year.

### **Pension Amendment Ordinance**

THE ATTORNEY - GENERAL moved the second reading of the Bill entitled, "An Ordinance to amend the Pension Ordinance, 1862." In doing so he said—Under the existing pension rules there is a rule, 21, declaring that the Governor-in-Council had power to retire any public officer who had reached the age of 60. This rule is without any statutory power and is therefore *ultra vires*. It is desirable, therefore, that such statutory authority should be given to the Governor-in-Council.

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

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

On resuming, the ATTORNEY - GENERAL reported that the Bill had passed through committee without amendment, and moved that it be read a third time.

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

### **Liquors Ordinance Amendment Ordinance**

THE ATTORNEY-GENERAL moved the second reading of the Bill entitled, "An Ordinance to further amend the Liquors Ordinance, 1909." In doing so he said—This Bill gives effect to the instructions of the Secretary of State for the Colonies, who is not prepared to sanction the privilege granted to the Governor under section 56 of the principal Ordinance and inserted at the instance of the unofficial members, because the privilege has recently been

abolished as opportunity offered in those colonies in which it previously existed.

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

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

On resuming,

THE ATTORNEY-GENERAL reported that the Bill had passed through committee without amendment, and moved that it be read a third time.

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

#### **Magistrates' and Criminal Law Further Amendment Ordinance**

THE ATTORNEY-GENERAL moved the second reading of the Bill entitled, "An Ordinance further to amend the Magistrates' and Criminal Law Amendment Ordinance, 1909." In doing so he said—This Bill substitutes a new section for section 86 of the Magistrates' Ordinance, 1890, and is introduced at the instance of the Secretary of State. By sub-section 1 of the new section the Magistrate is empowered to whip youths and also to imprison them only in cases of simple larceny, assaults occasioning actual bodily harm, and indecent assault. By sub-section 2, where the youth is convicted of any offence other than an offence specified in sub-section 1, such youth may be whipped in lieu of any other punishment to which the offender is liable. Where a youth has been ordered to be whipped in lieu of imprisonment the Magistrate shall order him to be detained in prison for a period not exceeding forty-eight hours.

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

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

On the various clauses being passed, the Attorney-General asked that the Bill be allowed to remain in committee for further amendment.

Council then resumed.

#### **The Oaths' Ordinance**

THE ATTORNEY-GENERAL moved the second reading of the Bill entitled "An Ordinance to regulate the Law as to Oaths." In doing so he said—This Bill introduces the whole of the Oaths Act, 1909, and section 5 of the Oaths Act of 1888. Section 5 of the Oaths Act, 1888, is the section which allows a witness to take the Scotch form of oath should he so desire. The Act of 1909 does away with the kissing of the Bible. There has always been a great outcry against this practice by a large number of people, notably doctors, having regard to the germ theory of the propagation of disease.

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

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

On clause 2 being read,

HON. MR. HEWETT said—With regard to that I understand the objection to this oath is touching the Bible apart from the question as to whether a person puts his lips to it or not.

HON. ATTORNEY-GENERAL — I have an amendment to make, which is that section 2 sub-section 1 of the draft Bill be deleted and the following inserted in lieu thereof: "The person taking the oath shall hold the New Testament or in the case of a Jew the Old Testament in his uplifted hand while the officer administering the oath repeats the words of the oath in the same manner as heretofore, and the person taking the oath shall then say audibly 'I swear.'"

HON. MR. HEWETT—By simply holding his hand up?

THE ATTORNEY - GENERAL—Yes.

HON. MR. HEWETT—That is the point I had in my mind. I have been sworn in American courts, where they do not touch a Book at all. I suppose none of us have ever kissed the Bible, and we have been sworn on it scores of times. I never have. As long as you are sworn and stand on your oath you commit perjury if you break it. The point I want to make is that you need not touch a Bible or Testament at all.

THE ATTORNEY - GENERAL—That is exactly the same as the Scotch form of oath provided for in section 3.

HON. MR. HEWETT—Personally I don't want to kiss the Book.

HIS EXCELLENCY—If a man desires to swear in the Scotch form he can do so.

THE ATTORNEY-GENERAL — It has been suggested that it should be "I swear by Almighty God."

HON. MR. HEWETT—The American oath is "I swear to tell the truth, the whole truth, and nothing but the truth," or something like that. Almighty God is not mentioned. There are people who do not believe in God, possibly.

HIS EXCELLENCY—The whole of the words of the oath are read by the officer administering it. The man taking it says, "I swear," or, as proposed, "I swear by Almighty God."

THE ATTORNEY-GENERAL—In England now a witness repeats the whole of the oath, but there has been a lot of discussion about this, as it is considered that it wastes a lot of time. The Registrar of the Supreme Court and a Magistrate intimated to me that the repeating of the oath which takes a lot of time should be abolished. I understand when the statute passed the House of Commons there was a similar clause to that which I proposed, but when it got to the House of Lords the Chief Justice Lord Alverstone put in the clause which is in the draft Bill.

THE COLONIAL SECRETARY—I don't think, sir, the saving of time is a strong point at all. It is only a few minutes in the whole proceedings, and I don't know that any great effort is made to save time in the courts.

THE COLONIAL TREASURER—No, they waste a lot of time.

HIS EXCELLENCY—Do not the words, Mr. Attorney, as they stand give a discretion to the officer administering the oath to allow the person being sworn to repeat the oath or not?

THE HON. ATTORNEY-GENERAL—A person must repeat it.

HON. MR. HEWETT—To an ordinary man holding up his hand, having the oath read, is the same as taking it, but the lower classes when they repeat the words are more impressed by them.

THE COLONIAL TREASURER—There is not a single one who tells the truth if he wants to tell a lie. I know the lower orders myself, and if one of them wanted to tell a lie no oath would stop him from doing it.

THE REGISTRAR-GENERAL—Is that the same in Chinese?

HIS EXCELLENCY—I think the oath has a binding force, or it would not have been employed for all these number of years.

THE COLONIAL TREASURER—Anyone can take a declaration. Why make provision for an elaborate form of oath which anyone may refuse to take?

HIS EXCELLENCY—Your proposal is to cross out section 2?

THE COLONIAL TREASURER—I don't see any use for it at all.

THE ATTORNEY-GENERAL—I am rather in favour of keeping the practice here uniform with the practice in England.

THE COLONIAL TREASURER—Of course, that is the rule in all legal institutions. You must stick to old customs. You cannot introduce any reform.

THE ATTORNEY-GENERAL—I am personally very much in favour of uniformity of law.

H. E. THE GENERAL—No one can be forced to take this particular oath?

THE ATTORNEY - GENERAL — No. They can take the Scotch form of oath or even kiss the Book.

HIS EXCELLENCY — The object of retaining section 2 is that it is the normal form. If a man objects to it he can take the Scotch oath.

THE COLONIAL TREASURER—You cannot call it normal. This is a new form.

HIS EXCELLENCY—But it will be the normal form in the future, and unless a man distinctly objects to it the oath will be administered to him. If he objects he can take the Scotch oath under clause 3.

Section 2 sub-section 1 was amended as suggested by the Attorney-General, the words to be used after the oath has been read being altered to "I swear by Almighty God."

Council then resumed.

THE ATTORNEY-GENERAL reported that the Bill had passed through committee with slight amendments, and moved, no member objecting, that it be read a third time.

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

THE ATTORNEY-GENERAL moved the second reading of the Bill entitled "An Ordinance to amend the Official Signatures Fees Ordinance, 1888." In doing so he said—Certain licences which were formerly issued by the Colonial Secretary are now issued either by the Colonial Treasurer or by the Captain Superintendent of Police. It was the practice for the Colonial Secretary in the case of the transfer of a licence to another person to charge a fee of two dollars for such transfer under the provisions of Ordinance 1 of 1888 (Official Signatures Ordinance). There is no provision in the said Ordinance authorising a fee to be charged for the signature of the Colonial Treasurer and Captain Superintendent of Police, and it is desirable that the amount formerly levied by the Colonial Secretary should now be levied by the Colonial Treasurer and Captain Superintendent of Police, respectively. This is not a new impost.

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

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

On resuming,

THE ATTORNEY-GENERAL reported that the Bill had passed through committee without amendment, and moved that the Bill be read a third time.

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

HIS EXCELLENCY—Council adjourns *sine die*.

#### FINANCE COMMITTEE

A meeting of the Finance Committee was then held, the COLONIAL SECRETARY presiding. The following votes were passed:—

#### Public Works

The Governor recommended the Council to vote a sum of one hundred and fifty dollars (\$150) in aid of the vote, Public Works, Extraordinary, Miscellaneous, Furniture, etc., for the Public Works Department Matched and the District Officer's Quarters at Taipo for use by Engineers, Surveyors and Overseers.

The Governor recommended the Council to vote a sum of one hundred and sixteen dollars (\$116) in aid of the vote, Public Works, Extraordinary, Miscellaneous, Bamboo Fence around the proposed garden at the Queen's Statue Square.

THE CHAIRMAN—This is for putting up a railing in Royal Square.

HON. MR. GRESSON—Is this going to be a permanent thing?

THE CHAIRMAN—We hope to put up something better than a bamboo railing.

HON. MR. OSBORNE—Why not put up an iron railing?

THE CHAIRMAN—We are getting an iron railing from Home, but it is not out yet.

HON. MR. OSBORNE—I am afraid if you put up a bamboo railing we will never get anything better.

THE CHAIRMAN—I don't see the point of that remark.

The Governor recommended the Council to vote a sum of Five hundred Dollars (\$500) in aid of the vote Public Works, Extraordinary, Miscellaneous, Fish Breeding Pond Construction.

THE CHAIRMAN—It is proposed to endeavour to import and breed the fish known as the black bass in the Philippine Islands. We propose to place them in the reservoirs and issue fishing licences. I have no doubt if the experiment succeeds we will derive a little revenue from these licences. Some time ago we made an experiment with trout, but it did not succeed. Now we propose to import black bass, which is quite an important fish. I don't know whether you ever caught one, but I made its acquaintance last summer.

The Governor recommended the Council to vote a sum of fourteen thousand six hundred and ninety-four dollars (\$14,694) in aid of the vote, Public Works, Extraordinary, for the following items:—

Staff Quarters, Tai Po Additional Room at Queen's College .....	\$ 281
for Pupil Teachers .....	4,725
Market at Aberdeen .....	2,200
Extension of Tai Po Land Office to afford accommodation for District Officer .....	7,488
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Total .....	\$14,694
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#### Sanitary Department

The Governor recommended the Council to vote a sum of Two hundred and two Dollars (\$202) in aid of the vote, S a n i t a r y

Department, Personal Emoluments, Veterinary Staff, Tallyman at Mu Tau Kok Slaughter-House.

#### Colonial Secretary's Department

The Governor recommended the Council to vote a sum of Twenty-eight Dollars (\$28) in aid of the vote, Colonial Secretary's Department and Legislature, Other Charges, Hansard Reports.

#### Land Resumption

The Governor recommended the Council to vote a sum of One thousand one hundred and fifty-six Dollars (\$1,156) in aid of the vote, Public Works, Extraordinary, Public Health and Buildings' Ordinance, 1903, Compensation to the Squatters in Hok Un Village for resumption of their land and for disturbance.

#### Compensation to Opium Divan Licencees

The Governor recommended the Council to vote a sum of Sixteen thousand seven hundred and forty-seven Dollars and twenty-seven cents (\$16,747.27), in aid of the vote, Miscellaneous Services, Compensation to the Licencees of Opium and Dross Opium Divans whose divans have been closed as from the 1st of March, 1910.

THE CHAIRMAN—This is compensation to the licencees of opium divans.

HON. MRS. GRESSON — Has the Home Government's attention been drawn to this expenditure? They will begin collecting it by and by when we expect to get something back from them.

THE CHAIRMAN — Yes. His Excellency has included the item in the claim of this Government.