

6TH JULY, 1911.

PRESENT:—

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

HIS EXCELLENCY MAJOR-GENERAL C. A. ANDERSON, C.B. (THE GENERAL OFFICER COMMANDING THE TROOPS).

HON. MR. W. D. BARNES (Colonial Secretary).

HON. MR. C. G. ALABASTER (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. CAPTAIN F. W. LYONS (Captain-Superintendent of Police).

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

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

HON. MR. E. A. HEWETT.

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

HON. MR. C. MONTAGUE EDE.

HON. MR. C. H. ROSS.

MR. C. CLEMENTI (Clerk of Councils).

Minutes

The minutes of the previous meeting were read and approved.

Coronation Congratulations

HIS EXCELLENCY—I have received two telegrams in connection with His Majesty's Coronation which I think will be interesting to the Council. The first is from the Vice-Admiral commanding the German Cruiser Squadron at Tsingtau. It is as follows:

I desire to express to your Excellency the heartiest congratulations of the German Cruiser Squadron on this day of the Coronation. May Their Majesties the King and Queen be vouchsafed a long and blessed reign to the benefit of the English nation.—VON KROSIGK, Vice-Admiral.

The second is from the Viceroy of Canton. It is as follows:—

To-day celebrates, amid great rejoicings, the Coronation of His Majesty the King, and all friendly States share your joy. To express my friendly regards and my gratitude for the assistance you have rendered me whenever needed I send you this telegram with an expression of hearty congratulations.—CHANG, Viceroy of Two Kwongs.

Financial—New Salary Scheme

THE COLONIAL SECRETARY—I beg to lay upon the table, by command of His Excellency the Governor, Finance Minutes Nos. 32 to 41, together with the correspondence relating to No. 41, and move that they be referred to the Finance Committee.

THE COLONIAL TREASURER seconded.

HIS EXCELLENCY — Gentlemen, in connection with the Financial Minutes which have been laid on the table, I desire to say a few words in explanation of one which is of exceptional importance, No. 40, regarding which there is a sessional paper laid upon the table. I think it will be for the convenience of members if I add a few words to the explanation given in that paper.

Formerly, as you are all aware, the salary of officers in the service of the Colony was paid in dollars. With the fall in the gold value of the dollar (which in the year 1876 was equal to four shillings sterling), compensation was granted to the extent of about 25 per cent. of the salary, and as the exchange value of the dollar continued to decline this compensation was increased in later years to about 50 per cent. of the salary. Owing to the continual fluctuation of exchange and the constantly decreasing value of the dollar the Secretary of State decided in the year 1902 that all salaries of civil servants should be paid in sterling and converted at the current rate of exchange of the day. Officers appointed subsequent to that date were therefore appointed on a

sterling salary, and when they were promoted to any post a salary was given to them fixed in sterling, and "the sterling salary scheme," which will be found in the Civil List on pages 148 and 162, was introduced.

Officers who at that time were in receipt of dollar salaries, were given their choice of retaining those salaries and the privileges which went with them, or of accepting the new sterling scheme, and this arrangement was simultaneously introduced into the Straits Settlements and the Federated Malay States. The intention had been to somewhat increase the salaries when they were converted from dollars into sterling, at the same time that certain privileges of conversion for the purposes of leave and pension were to be abolished. These privileges had allowed of the dollar being converted in some cases at four shillings and in some at three and eight pence.

In the Straits Settlements the whole of the services accepted the new sterling scheme with the exception of a few whose length of service rendered their pension privileges too valuable to be abandoned, but in Hongkong very few indeed accepted. The reason is given in the first paragraph of the sessional paper on the table. It was because a mistake was made and dollar salaries were converted at 25 per cent. exchange compensation rate instead of at 50 per cent., the rate which had already been sanctioned. The sterling salaries therefore became very much less than the dollar salaries had previously been for the same posts, and, of course, very much less than they were in the Straits Settlements, and when this fact became known naturally only those cadets joined this service who had failed to secure admission into the Straits Settlements. There was, in consequence, and has been continuously since, a great deal of discontent among the junior members of this service.

These facts were represented to the Secretary of State in June, 1907, by Sir Henry May, who was at that time administering the Government, and in 1908 not long after my own arrival I also represented the whole case. However, no action was taken, for reasons which I am not able to assign. I decided again early in 1910 to represent the whole matter to the Secretary of State, and I did so in a

dispatch dated 22nd April, a summary of which is given in the paper on the table. I proceeded myself on leave almost immediately after that dispatch was posted, and I was prepared to give any further detailed explanation verbally to the Secretary of State at the Colonial Office if the necessity for doing so should arise. I heard, however, as soon as I reached England that representations had been made by the Straits Settlements and the Federated Malay States with a view to an increase of salaries, in spite of the fact that they were already in the enjoyment of higher salaries for equivalent posts than the officers in this service. This representation was based on local circumstances which probably do not apply to Hongkong.

A memorial from the officers of the Federated Malay States had reached the Secretary of State, and I understand that the Governor had asked the Colonial Office that an official should be sent out to investigate the whole of the circumstances. In consequence of this memorial and of dispatches from the Governor of the Straits, Lord Crewe decided to send out Mr. Stubbs, from the Colonial Office. he referred to me and asked whether I would consent to Mr. Stubbs coming on to Hongkong to make a similar investigation here. I replied that I had dealt with the whole subject fully in my dispatch and that I was prepared to give further explanation if required. I did not, therefore, think it necessary to incur the additional expense of sending out an officer to make investigations here, but as it had been already decided that he should go to the Straits, if the Secretary of State desired that he should come here I would offer no objection.

Mr. Stubbs arrived here in December last, and we had several conversations on the subject of cadets' salaries. There was no question as to the necessity for an increase in the sterling salaries. The question rather was what form the increase should take, from what date it should be allowed, and what the amount should be. The status and the emoluments of certain particular appointments were also discussed. It was decided that a system of duty pay should be introduced as had already been decided in the Straits Settlements and the

Federated Malay Straits. This is a system which I have always favoured, and which I believe to be to the advantage of both the Government and the officials themselves. The actual rates decided upon you will see on page 3 of the sessional paper. In classes I. and II. no alteration was made in the rates of salary, but in class I. duty pay of £150 a year has been added, and in class II. £120. In class III. the scale is altered from £420 rising to £540 by £40 triennially to £400 rising to £560 by £20 annually with the addition of £100 duty pay.

The Secretary of State suggests that this scheme if approved by the Legislative Council should come into effect as from the 1st July last, and I recommend this to the Council. The cost, you will see, is calculated at \$6,241 for the current half-year. Therefore, it will be about double in subsequent years. That the increase is not an excessive one is, I think, amply proved by the fact that not a single dollar officer thought it worth while to accept it. It cannot, therefore, be called an increase on present salaries, and probably it can hardly be called even an equivalent.

It introduces, as I have said, a system of duty pay. The advantages which I claim for the Government in that system are that it does not add to the burden laid on the revenue of the Colony in pensions, because duty pay is only given to an officer while he is actually performing the duties of his office. It is not given to him while on leave and it is not pensionable. In the second place it is an inducement to an officer to stay on at his work and not to go too frequently or for too long a period on leave, for in a climate like Hongkong it is not necessary for an officer to be absent from his duties for very long or frequent periods on account of health. From the point of view of the officers it affords a substantial increase to their emoluments and no decrease in pension. At the same time it affords them an opportunity for saving a little money in order to pay for passages when the time comes to go Home on leave. It has also this advantage that when one officer is acting for another on leave he at once draws duty pay as soon as he begins to act, instead of having to wait three months before he gets any portion of the pay of the officer absent.

The Secretary of State desires that this system of duty pay should extend to all branches of the service, and I am now preparing a scheme which will be laid before the Council when ready. As this motion affects the personal and private interests of officers of the administration, the official members of Council will not vote upon it. In recommending it to the unofficial members I would impress upon them the fact that it is not in the nature of an increase of the salaries of the officers of the administration, but rather in the nature of a tardy act of justice in that it will not increase the emoluments of officers beyond those now drawn by dollar officers and will tend in some degree to remove the disadvantage under which this Colony labours in comparison with Singapore. I would point out to you that the scheme now before the Council is limited to officers holding cadet posts and does not affect the technical branches of the service, such as the medical and public works departments, the salaries in which are largely subject to the law of supply and demand. They have not, therefore, the same grievance, and I shall deal with these branches in my later proposals.

When I lay my further scheme before you I may probably have some other suggestions to make with regard to cadets. as, for instance, that there should be a charge for rent in all cases where government quarters are occupied, that increments should be annual instead of triennial, and also with regard to periods of leave.

I am convinced, gentlemen, that the proposals before you are for the good both of the service and its officers, and I recommend them strongly to you. I have not thought it advisable to delay this measure of reform for the larger scheme, and I hope unofficial members will view the proposals favourably.

The motion was agreed to.

Public Works Committee

THE DIRECTOR OF PUBLIC WORKS, by command of H. E. the Governor, laid on the table the report of the Public Works Committee No. 2.

Scavenging and Conservancy Bye-Laws

THE COLONIAL SECRETARY—Sir, I beg to move the approval of the Council of bye-laws made under section 16 of the Public Health and Buildings Ordinance, 1903-09, which are in the hands of hon. members. The bye-laws only reached the office a short time ago, and it was not possible to get them in the hands of hon. members previously. I understand they were passed by the Sanitary Board and submitted in the usual form.

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

Probates Amendment Ordinance

THE COLONIAL TREASURER moved the first reading of a Bill entitled, "An Ordinance to amend the Probates Ordinance, 1897.

THE ATTORNEY-GENERAL seconded, and the Bill was read a first time.

According to the objects and reasons, the amendments (a) and (b) together with an amendment which is being made by the Stamp Amendment Bill, 1911, in the Stamp (Amendment) Ordinance, 1909, are introduced to prevent doubts arising with regard to the Chinese law of inheritance, as it has been suggested, though not proved, in a recent case (*Li Chok Hung v. Li Pui Choi*) that the French principal of *le mort saisit le vif* is recognised as a portion of the law of China, and that consequently unless probate duty is collected, as estate duty is in England, since the Finance Act, 1894, on property passing on death, it cannot be collected at all, because, it is contended, the deceased leaves no estate. The amendment (c) is an amendment consequential on the Convention between the United Kingdom and Japan signed and ratified at Tokyo in 1900.

Stamp Amendment Ordinance

THE COLONIAL TREASURER moved the first reading of a Bill entitled, "An Ordinance to further amend the Stamp Ordinance, 1901, and the law relating to Stamps and Stamp Duty."

THE ATTORNEY-GENERAL seconded, and the Bill was read a first time.

The objects and reasons state that the proviso to section 8 (2) of the Principal Ordinance (Ordinance No. 16 of 1901) is introduced to enable transfers of shares, bills of exchange and promissory notes to be stamped after execution in cases of sudden departure from the Colony or other like cases. The words deleted by section 3 relate to a duty which has been obsolete since Ordinance No. 38 of 1902 was passed. Sections 4, 5, 6, 7, 9 and 10 are based on the Imperial Stamp Act, 1891, to the corresponding section of which reference is made in the marginal notes. Section 11 brings the local practice into line with the practice introduced into England by the Finance Act, 1894, which makes the duty payable on the value at the time of the grant of probate. The words "passing on death" are also introduced to prevent doubts arising with regard to the Chinese law of inheritance, as it has been suggested, though not proved, in a recent case (*Li Chok Hung v. Li Pui Choi*) that the French principal of *le mort saisit le vif* is recognised as a portion of the law of China, and that consequently unless probate duty is collected on the property passing on death it cannot be collected at all, because, it is contended, the deceased leaves no estate. The amendment effected by section 20 is intended to make the rates of interest uniform throughout the Colony. Sub-section (1) and (2) of section 13 are introduced to remove doubts, sub-section (3) is already law by virtue of section 51 of Ordinance No. 1 of 1865, but it has been found convenient to introduce it into the Stamp Ordinance.

Stamp Duties Management Ordinance

THE COLONIAL TREASURER moved the first reading of a Bill entitled, "An Ordinance to consolidate and amend the Law relating to the Management of Stamp Duties."

THE ATTORNEY-GENERAL seconded, and the Bill was read a first time.

It is stated in the objects and reasons that this Bill is based mainly on the Imperial

Stamp Duties Management Act, 1891 (54 and 55 Vict. c. 38), to the corresponding sections of which reference is made in the margin. The licence insisted on by section 3 is, however, only required in the case of unused stamps. Section 7 replaces section 13 of Ordinance No. 16 of 1901. Section 10 is based mainly on the Stamp Duties Management Act, 1891, but certain of its sub-sections, namely, sub sections (5) and (10) are taken from the Stamp Act, 1891, and sub-section (8) and (9) are a combination of sub-sections of the Stamp Duties Management Act with sub-sections of section 27 of Ordinance No. 16 of 1901. In section 13 of the Stamp Duties Management Act the maximum punishment is fourteen years' penal servitude. In section 9 of the Stamp Act the penalty is a fine of £50 in addition to any other penalty to which the offender may be liable. The maximum penalty under section 27 of Ordinance No. 16 of 1901 is two years' hard labour.

Private Vehicles Amendment Ordinance

THE ATTORNEY - GENERAL moved the first reading of a Bill entitled, "An Ordinance to amend the Private Vehicles Licensing Ordinance, 1895."

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

This Ordinance, according to the objects and reasons, is introduced to render Ordinance No. 5 of 1895 more intelligible, serious errors having been discovered during the course of the revision of the laws. This Ordinance deals with traffic as well as licences: the word "licensing" has therefore been deleted from the title. No new principle is introduced.

Supplementary Estimates

THE COLONIAL SECRETARY moved the first reading of a Bill entitled, "An Ordinance to authorize the appropriation of a supplementary sum of four hundred and thirty-eight thousand nine hundred and nine dollars and ninety-three cents, to defray the charges of the year 1910.

THE COLONIAL TREASURER seconded.

The sum mentioned is to be expended as

hereinafter specified:—

Audit Department,	\$ 1,121.18
Treasury,.....	170.91
Miscellaneous Services,	125,380.32
Judicial and Legal Departs,	1.53
Public Works, Recurrent,.....	2,335.24
Public Works, Extraordinary	264,003.53
Post Office,	26,671.35
Pensions,	19,225.87
	Total
	\$438,909.93

HIS EXCELLENCY — The appropriation accounts for the past year present no very remarkable features. Practically all the excesses over the provision which has been made in the estimates have been met out of supplementary votes approved by this Council, and in the case of one or two, such as the large vote for the redemption of subsidiary coinage, and the vote for the resumption of a piece of land to extend the Western Market, I gave a full explanation to this Council. On page 36 you will find a somewhat large increase in pensions of \$19,226, for which no vote was taken.

The total supplementary votes, you will see on page 37, amount to about \$824,000. The expenditure in excess of the estimates was therefore only \$478,147, of which \$47,627 were arrears of Military Contribution from 1909 which were already covered by Ordinance 1 of 1901. The actual expenditure for the past year stands at \$6,907,113, or \$44,429 under the estimate, but an increase of \$364,274 over the expenditure of last year. The average exchange for the year stood at 1s. 9.6d., and as the estimates have been calculated at the rate of 1s. 9d. this increase was in favour of payments made in sterling and probably accounts for the saving of \$44,429 which appears as a decrease in the estimated expenditure. Other savings were for the most part swallowed up by the large sum for the redemption of subsidiary coinage, which was \$126,282 over the amount provided in the estimates. The sum of \$55,500 stands for the resumption of a piece of land required to extend the old Western Market, and was more than covered by the saving of \$65,326 in the resumption of the lots Nos. 442 and 618 in the neighbourhood of the railway.

Including these resumptions, the public works extraordinary show very large variations from the original estimates, \$214,889 having been spent in works and in resumptions for which no provision had been made. On the other hand, \$325,690 were saved through similar reasons, leaving a balance saving of \$110,800. The full explanation appears in the appropriation accounts against each item on pages 30 and 32.

There was very little spent last year on the typhoon refuge. This was due to the necessary delays in placing the contract. The half-yearly statement which I promised Mr. Osborne should be laid on the table will be laid by the hon. Director of Public Works at our next meeting. The reason it is not laid to-day is that the measurements are not completed until the 12th of the month. I propose in future to publish an account showing in detail the amount credited to the fund from special light dues and every other source and full details of the expenditure and progress made during the year and up to date.

The military expenditure, you will see, stands at \$141,894 in excess of last year, although \$7,400 were saved in the expenditure on our Volunteers. This is in part due to the fact that \$47,627 were arrears from last year. The charges for the public debt increased by \$107,146. The reason for this increase is that in 1909 the charge on this account in the estimates was decreased by \$111,932, owing to very exceptional circumstances. For in that year the interest on advances for construction of the railway which had been paid from the vote during former years was re-credited and debited to construction account. You will remember probably that I explained this in great detail in a speech I made at the time on the railway estimates. For the first time the working expenses of the railway, \$73,574, appear in our estimates. Both these items will, of course, largely increase in the current year, because in 1910 they represent a quarter's payments only.

The actual revenue stood at \$6,960,869, and the expenditure at \$6,907,113. There is therefore a surplus shown on the working of the past year of \$53,756, which has been passed to colonial reserves. This, I think, we may consider fairly satisfactory, but last year

was to some extent a year of transition, because, on the one hand, we had not realised the full amount of the liquor duties, and, on the other hand, we were not paying the full amount for the service of the Railway Loan. The appropriation account for the current year will give us a more reliable indication of how we stand in regard to our financial equilibrium, and I trust when the time comes to lay on the table a similar account for the current year that we will have experienced a revival of prosperity which will make our way easier.

When I was speaking the other day on the subject of revenue, I said there were encouraging signs. Since then one other has come to light. It is in the annual trade report published by the Imperial Maritime Customs of China. Looking through it the other day I observed two notable facts. They appeared to me undeniable facts, whatever explanation individual members may choose to attach to them. They are these. In 1910 the value of China's foreign trade was the highest ever recorded, and reached a total of $843\frac{3}{4}$ million taels. It exceeded the previous year by over $86\frac{1}{2}$ million, and it exceeded the figures for 1908 by $172\frac{1}{2}$ millions. That is to say, that roughly speaking it increased by 86 million taels in each of those two years. Now of this increase in 1908 Hongkong took five millions. Last year it took $32\frac{3}{4}$ millions, and that in spite of the gigantic speculation in rubber and in opium, which, as we all know, had such disastrous results. It is quite true that the large sum taken by Hongkong is in part due to the inflated prices of opium, but I think you will agree that it does not destroy the significance of the figures I have given.

Larceny Amendment Ordinance

THE ATTORNEY - GENERAL moved the second reading of the Bill entitled, "An Ordinance to amend the Larceny (Amendment) Ordinance, 1909. In doing so he said—Until the year 1901, in England when agents misappropriated property entrusted to their keeping, they were punished under sections 75 and 76 of the Larceny Act, 1861, and liable to seven years' penal servitude. The corresponding Ordinance in Hongkong is Ordinance No. 5 of 1865, and the corresponding sections are

s e c t i o n s 6 2

and 63. We have not got penal servitude in this Colony, but in adapting English statutes to local use we adopt the principle of giving as many years' hard labour as there are years of penal servitude in the English statute. Therefore, in sections 62 and 63 of the Larceny Ordinance, 1865, the maximum was made seven years' hard labour. Also in the case of offences against the provisions of sections 64, 65, 67, 68, 69, 70 and 71, which deal with misappropriations by factors, trustees and directors, instead of the punishment being put down at seven years in each case, the punishment is stated as being the same as that under section 62. Now, it was found that the provisions of sections 75 and 76 of the English Act did not result in a sufficient number of offenders being brought to book, and so these sections were replaced by the more comprehensive sections of the Larceny Act, 1901, in which again the maximum was placed at seven years' penal servitude. The provisions of this Act were brought into force in this Colony by the Larceny Amendment Ordinance No. 7 of 1909, but instead of making the maximum seven years' hard labour the maximum was made two years. This departure from the ordinary practice must have been due to an oversight, for not only was the punishment changed under the repealed sections of the Principal Ordinance, but it was also automatically changed in the case of the seven sections which were left untouched. Neither of these results was brought to the notice of the Council when the Bill was before them.

THE ATTORNEY-GENERAL then read the paragraph at page 27 of the 1909 Hansard and said:—This Bill, therefore, corrects what I submit was an obvious mistake.

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.

HIS EXCELLENCY—Council will adjourn until this day fortnight.

FINANCE COMMITTEE.

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

Allowance to Mr. Hallifax

The Governor recommended the Council to vote a sum of One hundred and fifty-five dollars (\$155) in aid of the vote Judicial and Legal Departments, *B.*—Magistracy, Personal Emoluments, Special Allowance to Mr. E. R. Hallifax for acting as First Police Magistrate from October, 1909, to May, 1911.

Belilios Public School

The Governor recommended the Council to vote a sum of Twenty-five dollars (\$25) in aid of the vote Education, *A.*—Department of Director of Education, Other Charges, Belilios Public School, English Side, Books.

Public Works Extraordinary

The Governor recommended the Council to vote a sum of five thousand seven hundred and fifty-two dollars (\$5,752) in aid of the vote Public Works, Extraordinary, Buildings, Furnished Quarters for the Public Works Department Surveyor in the New Territories and Rest House for Public Works Department and other Officers visiting the Territory on official business.

Educational

The Governor recommended the Council to vote a sum of forty-nine dollars (\$49) in aid of the vote Education, *A.*—Department of Director of Education, Other Charges, Tai Po (New Territories) English School, Rent.

City Disinfecting Station

The Governor recommended the Council to vote a sum of Three thousand one

hundred dollars (\$3,100) in aid of the vote Public Works, Extraordinary, City Disinfecting Station, Workshops and Shed for dust-carts, ambulances, etc.

Kowloon Water Works

The Governor recommended the Council to vote a sum of thirty-nine thousand one hundred and sixty-four dollars and fifty-seven cents (\$39,164.57) in aid of the vote Public Works, Extraordinary, Water Works, Kowloon Water Works.

Police and Prison Departments

The Governor recommended the Council to vote a sum of Four thousand seven hundred and fifty dollars (\$4,750) in aid of the vote Police and Prison Departments, A.—Police, Other Charges, and B.—Fire Brigade, Other Charges, for the following items:—

Police Department.

Secret Service \$1,500

Fire Brigade.

Repairs to Engines, etc. 750
Stores, 2,500

Total \$4,750

Education Department

The Governor recommended the Council to vote a sum of ninety-five dollars (\$95) in aid of the vote Education, A.—Department of Director of Education, other charges, rent.

Departmental Emoluments

The Governor recommended the Council to vote a sum of Six thousand two hundred and forty-one dollars (\$6,241) in aid of the following votes:—

Registrar-General's Department,
Personal Emoluments \$ 635

Harbour Master's Department:—

C. — Imports and Exports Office,
Personal Emoluments 611

Judicial and Legal Departments:—

A. — Supreme Court, Personal
Emoluments 749

C. — District Officer, Personal
Emoluments 658

E.—Land Registry Office, Personal
Emoluments 1,532

Police and Prison Departments:—

A.—Police, Personal Emoluments .. 1,371

Police Office:—

A. — Hongkong Post Office,
Personal Emoluments 685

Total \$6,241

THE CHAIRMAN—This is the question of cadet salaries on which H.E. the Governor addressed the Council before we went into committee. I need scarcely say that if there is to be any voting on this no government officer will vote.

HON. DR. HO KAI—I think the unofficials, sir, are unanimous in recommending this vote.

THE CHAIRMAN—I am sure the service greatly appreciate the unanimity with which the unofficial members have passed it.

Medical Vote

The Governor recommended the Council to vote a sum of Twenty-five dollars (\$25) in aid of the vote Medical Departments, A.—Staff. Other Charges, Health Officer of Port, Rent.