

LEGISLATIVE COUNCIL NO. 19.

WEDNESDAY, 8TH APRIL, 1885.

PRESENT:

HIS EXCELLENCY THE GOVERNOR

(SIR GEORGE FERGUSON BOWEN, G.C.M.G.)

His Honour the Chief Justice, (SIR GEORGE PHILLIPPO, Knt.)

The Honourable the Colonial Secretary, (WILLIAM HENRY MARSH, C.M.G.)

„ the Attorney General, (EDWARD LOUGHLIN O'MALLEY.)

„ the Colonial Treasurer, (ALFRED LISTER.)

„ the Surveyor General, (JOHN MACNEILE PRICE.)

„ the Registrar General (FREDERICK STEWART, LL.D.)

„ PHINEAS RYRIE.

„ WILLIAM KESWICK.

„ THOMAS JACKSON.

„ FREDERICK DAVID SASSOON.

„ WONG SHING.

The Council met pursuant to adjournment.

Minutes read and confirmed.

PAPERS.—The Colonial Secretary by direction of His Excellency the Governor, laid on the table Despatches respecting the question of Quarantine.

VOTE OF MONEY REFERRED TO THE FINANCE COMMITTEE.—Read the following Minute by His Excellency the Governor:—

G. F. BOWEN.

The Governor recommends the Council to vote the following sum:—

C.S.O. 688 of 1885.	For the construction of new Roads near the Mahomedan Cemetery, (second instalment),.....	<u>\$2,500.00</u>
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Government House, 8th April, 1885.

The Colonial Secretary moved that this paper be referred to the Finance Committee.

The Colonial Treasurer seconded.

Question—put and passed.

VOTES PASSED BY THE FINANCE COMMITTEE.—The Colonial Secretary moved the following Votes passed by the Finance Committee:—

(*Finance Committee, 7th April, 1885.*)

ESTABLISHMENTS.

Medical.

C.S.O. 344 of 1885.	Increase to the salary of the Clerk of the Civil Hospital, from \$20 to \$30 per month, rising to \$40 a month by an annual increment of \$2 a month, 9 months @ \$10=.....	<u>\$ 90.00</u>
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Police Magistrates.

C.S.O. 305 of 1885.	Increase to the Allowance to the Inspector of Weights and Measures, from \$8 to \$20 per month, from 1st April to 30th November, 1885, in lieu of receiving a portion of the fines,.....	<u>\$ 96.00</u>
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SERVICES EXCLUSIVE OF ESTABLISHMENTS.

Treasury.

C.S.O. 404 of 1885.	For restoring to their original condition the two shops in Praya West, recently used in connection with the Opium boiling Factory,.....	<u>\$ 200.00</u>
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Observatory.

C.S.O. 202 of 1885.	For the erection of a suitable house on piles for the proper working of the Automatic Tide-gauge, recently received from England,	<u>\$ 200.00</u>
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Miscellaneous Services.

C.S.O. 650 of 1885.	For surface scavenging the City of Victoria and the Villages, for 12 months,	<u>\$18,570.00</u>
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PETITION.—The Honourable WONG SHING brought up a Petition from certain Chinese Merchants, praying for leave to use the *Kau-ng* Chek or the Custom House Standard Chek in Hongkong instead of the *Chek* (foot) as described in Ordinance 8 of 1885, and moved that it be received.

Question—put and passed.

QUESTIONS.—The Honourable T. JACKSON, pursuant to notice, asked the following questions:—

- 1st. Has the Blockade of Pakhoi been legally notified?
- 2nd. Is it an effective blockade?
- 3rd. Can your Excellency suggest any remedies for the existing evils under which the trade of this Colony with Pakhoi, and the surrounding district is at present suffering, in consequence of the reported blockade?

His Excellency the Governor addressed the Council as follows:—

HONOURABLE MEMBERS OF THE LEGISLATIVE COUNCIL,—My Honourable friend who represents the Chamber of Commerce has, in the exercise of his undoubted privilege as a Member of this Council, put questions to the Government on a subject of the gravest importance to the interests of this community. I am very glad indeed that my Honourable friend has taken this course, because it enables me to lay before the Council a Minute giving the fullest information which I have been able to collect on all the subjects connected with the matter to which he refers. Before reading that minute I will, with the permission of the Council, inform you of a telegram which I have during the last half hour received from Her Majesty's *Chargé d'Affaires* at Peking:—

H.B.M. CHARGÉ D'AFFAIRES AT PEKING TO THE GOVERNOR OF HONGKONG.

(Received 8th April at 3.30 p.m.)

Protocol restoring peace between France and China has been signed in Paris, and would probably be submitted to the French Legislative Chambers on the 7th April.

Armistice with prohibition of contraband of war continues till definitive signature of Treaty. Please communicate to Admiral in command.

This, of course, I at once did. Favourable as is the prospect of peace, still as the present state of affairs seems likely to continue for a short time, I think it better that I should read to the Council the Minute to which I have referred:—

When the French Consul announced to me the blockade of Pakhoi and of the neighbouring Coast, I immediately (on the 6th March ultimo), telegraphed this intelligence to Her Majesty's Government, and on the following day (March 7th), I addressed to Lord DERBY the subjoined despatch:

GOVERNMENT HOUSE,
HONGKONG, 7th March, 1885.

"MY LORD,—I have the honour to report that I yesterday telegraphed to your Lordship in the following terms:—

The French Consul informs me that a blockade will be established from March the 7th on Pakhoi and the neighbouring coast of China, from the frontier of Tonquin to the 107th meridian of longitude.'

2. This blockade was announced to the French Consul at Hongkong by a telegram from Captain DE BEAUMONT, commanding the French Naval Forces in Tonquin, dated at Haiphong on the 5th instant. It was added that no notice of the blockade could be given to the Foreign Consuls at Pakhoi, as no communications were possible between the French Naval Forces and that port. Consequently, I telegraphed to the above effect to the British Consul at Pakhoi (Mr. ALLEN).

3. It appears that the longitude referred to is reckoned by the French from Paris; and therefore, the blockade would seem to extend from the Frontier of Tonquin to a short distance to the East of the Treaty Port of Pakhoi; which contains about 25,000 inhabitants and is the outlet of a large district.—Public Notice (By Proclamation in the *Hongkong Government Gazette* of March 7th 1885) of the blockade has been given at Hongkong, which carries on a considerable trade with Pakhoi; and Admiral Sir W. DOWELL has despatched thither the British Gun-boat *Espoir*.

4. It will be understood that the French are now blockading parts of the coast of China both to the North and to the South of Hongkong."

As is mentioned in this despatch, I lost no time in causing public notice of the blockade to be given in the *Hongkong Government Gazette* of March 7th, and there was a further notice in the *Gazette* of March 28th, when the British Consul at Pakhoi had sent me, under flying seal, a letter addressed to Her Majesty's Minister at Peking, to the effect that the blockade was then in active operation, being carried on by two French Men-of-war. This is all that I know concerning the blockade of Pakhoi.

The Council is, of course, aware (as the Honourable Gentlemen stated,) that all questions of the nature of that now under consideration should properly be addressed to the British Minister at Peking, who is *ex-Officio* Superintendent of Trade in China, and not to the Governor of Hongkong, whose jurisdiction is limited by law to the waters of this Colony. And it will be recollected that the Chamber of Commerce has hitherto acted on this principle, and has addressed its correspondence on matters affecting the trade of this community direct to the Minister, without even transmitting the letters through the Governor. The Honourable Member has, I think, given reasons which will be deemed sufficient by the British Legation in China, for treating the present case as an exception to the general rule of the Chamber. Moreover, I have always considered myself justified in addressing both Her Majesty's Government and my late lamented friend, Sir HARRY PARKES, on all matters affecting the commercial and general interests of this Colony. Thus I have reported, both by telegraph and by despatch, all the French blockades and other proceedings which can affect, directly or indirectly, the trade of this community; such as the stopping and search of the *Glenroy*, and of other British Merchant vessels, and of one of the P. & O. steamers; and the declaration of the French that they will treat rice as contraband of war. My instructions from the Imperial Authorities on this subject are to the effect that they recognise the exercise by the French of the customary rights of Belligerent nations, and that the legality of any seizure of a British ship by French cruisers "must depend, in the first instance, on the decision of the Prize Court, subject to ulterior diplomatic action."

These instructions confirm in principle the opinion given two months ago by my responsible Legal Adviser (the Attorney General), when one of the leading Mercantile Firms here asked a question of the Government as to whether coal would be regarded by the French as contraband of war; and suggested that the Home Government should be consulted on this point. I was then advised that "Neither the Imperial Government, nor the Colonial Government can give an authoritative opinion on questions of this nature, nor should any such application as that suggested be made to the Home Government.

Whatever cargo private firms carry in their ships on the China Seas under present circumstances, they carry entirely at their own risk."

I was further advised in connexion with this question that "it is of the utmost importance that the Colonial Government should not give any legal opinion upon matters of this kind; for otherwise it may find itself involved in dangerous responsibilities,

- (1.) To the Belligerents; for acts which, though harmless from an international point of view so long as they are distinctly the acts of private persons only, and done without the sanction or connivance of the Government, might, if they were done under the positive sanction or advice of the Government, form a proper subject of complaint by the Belligerents.
- (2.) To the Mercantile Firms, or other persons obtaining the opinion; who, if any harm should happen to them, would say that they were acting in accordance with the authoritative opinion of the Government, and were entitled to be either supported by the Government or compensated by it for loss incurred while acting within its advice."

Having thus stated as briefly as possible what has already taken place respecting this important subject, and the broad principles applicable to cases of this nature, I will now reply to the special questions put by my Honourable friend.

With regard to the 1st question, viz.: "Has the blockade of Pakhoi been legally notified?", I am advised that the notifications made to the Government and published in the *Gazette* of the 7th and 28th March (as stated above,) would be regarded as sufficient "to affect all merchants in this Colony with notice of the existence of an actual blockade, and with an obligation to observe it."

With regard to the 2nd question, viz.: "Whether the blockade is effective?" I am advised that this is a question, the reply to which must depend on facts of which the Colonial Government has no precise knowledge.

With regard to the 3rd question, I must, of course, in the first instance, communicate respecting it with Her Majesty's *Chargé d'Affaires* at Peking, who has already expressed his desire to co-operate with me as heartily as did Sir HARRY PARKES. Meanwhile, I will remark that, while there is no doubt but that the place where the legality of any seizures of ships must be tested is the Prize Court of the captors, still, at the same time, if under pretence of seizing vessels for breach of blockade, or for other similar offences, any Belligerent Power were to pursue any system clearly in violation of the rights of neutrals, as recognised by international law, the Government of the neutral Power would interfere on behalf of its subjects. I shall not fail, whenever circumstances seem to require it, to invoke energetically that "ulterior diplomatic action" which has been referred to above.

In conclusion, I would observe that, after the persevering efforts which I have made during the two years of my administration here, to procure the strengthening of the Defences, and to promote the general interests of this Colony, I need hardly assure this Council that I sympathize deeply with the grave inconveniences to which our Mercantile community have been subjected for some time past in consequence of the protracted Franco-Chinese complications. The general depression of trade has, moreover, led to a serious depression in the public revenue. But I have entire confidence in the elasticity of our resources, and in the energy and enterprise of this community; and I hope that the return of peace will soon restore the former prosperity and progress of Hongkong.

THE BILL ENTITLED THE BILLS OF EXCHANGE ORDINANCE, 1885, IN COMMITTEE.—REPORTED.— NOTICE OF THIRD READING.—On the motion of the Attorney General, the Council resumed consideration, in Committee, of the Bill entitled *The Bills of Exchange Ordinance, 1885*.

The Bill was reported with amendments.

The Attorney General gave notice that, at the next Meeting of Council, he would move that the Bill be read a third time.

THE BILL ENTITLED AN ORDINANCE FOR THE INCORPORATION OF THE ROMAN CATHOLIC VICAR APOSTOLIC OF HONGKONG.—COMMITTED.—On the motion of the Attorney General, seconded by the Colonial Secretary, the Bill entitled *an Ordinance for the Incorporation of the Roman Catholic Vicar Apostolic of Hongkong*, was Committed.

A BILL ENTITLED THE POST OFFICE ORDINANCE, 1884, AMENDMENT ORDINANCE, 1885.—FIRST READING.—On the motion of the Attorney General, seconded by the Colonial Secretary, a Bill entitled *The Post Office Ordinance, 1884, Amendment Ordinance, 1885*, was read a first time.

ADJOURNMENT OF THE OTHER ORDER OF THE DAY.—The Attorney General moved the postponement of the other Order of the Day.

Question—put and passed.

The Council adjourned until Wednesday, the 15th instant, at 4 P.M.

G. F. BOWEN,
Governor.

Read and confirmed, this 15th day of April, 1885.

ARATHOON SETH,
Clerk of Councils.