

21ST NOVEMBER, 1891.

PRESENT:—

HIS EXCELLENCY THE ACTING GOVERNOR, Major-General
G. DIGBY BARKER, C.B.

Hon. W. M. GOODMAN, Acting Colonial Secretary.

Hon. A. J. LEACH, Acting Attorney-General.

Hon. J. H. STEWART-LOCKHART, Registrar General.

Hon. N. G. MITCHELL-INNES, Colonial Treasurer.

Hon. F. A. COOPER, Acting Surveyor-General.

Hon. W. C. H. HASTINGS, Acting Harbour Master

Hon. P. RYRIE.

Hon. C. P. CHATER.

Hon. Ho Kai.

Hon. T. H. WHITEHEAD.

HON. T. H. WHITEHEAD'S QUESTIONS.

The ACTING COLONIAL SECRETARY said that to save time he proposed to postpone the replies to the questions put by Hon. T. H. Whitehead till Monday.

THE MERCHANT SHIPPING BILL.

The ACTING ATTORNEY -GENERAL moved that the Council resume consideration of this Bill in Committee.

The ACTING HARBOUR MASTER seconded.

Hon. T. H. WHITEHEAD—Your Excellency, I rise to move that the Council adjourn until Monday. In reference to my non-attendance at the meeting of yesterday, I think in justice to myself I may be allowed to read the letter which I wrote to you yesterday. It is as follows:—

Hongkong, 20th November, 1891.

His Excellency Major-General G. D. Barker, C.B.,

the Officer Administering the Government.

Sir,—The meeting of Council to be held this afternoon has been summoned without the unofficial members having been in any way consulted. Hitherto it has been customary for the Governor or the Officer Administering the Government to decide upon a day which would suit the

convenience of all. Through the senior unofficial, my colleagues and myself wrote and asked your Excellency, on very good reasons mentioned, to postpone the proposed meeting until Monday 23rd, and intimated that with the view of meeting your wishes we were ready to assemble at an hour earlier on Monday than the usual time. We are all agreed that there is no urgent or even pressing necessity for hastily pushing forward the Merchant Shipping Bill; in fact the public will benefit by further full consideration of the matter, notwithstanding any ideas which may exist in the minds of one or two of the Honourable the Official Members to a contrary effect, or to the effect that this most important legislation, affecting as it does the vast shipping in the waters of the port, which after all is the Colony's existence and very life blood, must be passed before the arrival of our new Governor. I am very sorry your Excellency has felt compelled to refuse our reasonable request, and still more sorry that I cannot possibly attend the meeting. The French mail arrived from home this morning, the German mail leaves for Europe to-morrow, and I cannot leave my office without neglecting my work under the circumstances.

I have the honour to be, Sir, your Excellency's most obedient servant,

T. H. WHITEHEAD.

HIS EXCELLENCY—Before the hon. member proceeds further I ask him to read my reply to that letter.

Hon. T. H. WHITEHEAD—I have not got it with me, your Excellency.

The ACTING COLONIAL SECRETARY then produced and read a copy of the letter, which was as follows:—

Colonial Secretary's Office,

20th November, 1891.

Sir,—I am directed by the Officer Administering the Government to acknowledge the receipt of your letter of this day's date addressed to His Excellency regarding your inability to attend the meeting of the Legislative Council held this afternoon.

His Excellency regrets that although the adjournment until to-day was notified in Council on Monday

last the unofficial members should have waited until yesterday (Thursday) before pointing out that Friday would be inconvenient to them, when it was too late to change the day to Thursday.

I am to add that the Council has now been adjourned to Saturday, the 21st instant, at 11 a.m., when it is hoped that you will be able to attend, as it will be necessary to proceed with the Merchant Shipping Bill and other business.

The forenoon has been fixed instead of the afternoon at the special request of Mr. Chater.

In conclusion I am to observe that the Government has decided that delay is undesirable, and that instead of any hurry being shewn in the matter of the Bill, as suggested by your letter, they have already allowed nearly four months for the consideration of the Bill since the first reading.

I have the honour to be, Sir, your most obedient servant,

W. MEIGH GOODMAN,
Acting Colonial Secretary.

The Hon. T. H. Whitehead.

Hon. T. H. WHITEHEAD—Your Excellency after three long hours in this Council on Monday afternoon, your Excellency suddenly intimated that the Council would stand adjourned until Friday. I then firmly believed that I would be able to attend the meeting on that day. I was not then aware that the arrival here of the French mail from home would be delayed. The French mail was delayed in its arrival here and important letters received by it required to be answered by the German mail which leaves this afternoon. There was no opportunity given for the unofficial members to state whether Friday would be a convenient day or not, because the intimation assumed more the nature of a command than a request, but I then fully believed that I would be able to be here on Friday. I was grieved, very much grieved, to read in the papers of last night and this morning the serious and grave charges which your Excellency has thought fit to bring against certain unofficial members of antagonism to the Government and of obstruction. I at once disclaim any such intention. I also disclaim that any of my actions can be construed into obstruction. I think by no process of reasoning can any of my acts be contorted to bear such an interpretation as obstruction. It is true that on the Opium Bill there was a long discussion, and there was also a long discussion on the subject of quarantine regulations, and it may not be palatable, it may not be convenient for the Government to be told that the continuance in a worse form than formerly of their opium policy, the farming system, stands condemned on economic grounds, or that the continuance of the quarantine regulations is as unjust as it is inequitable; but I disclaim that any of my acts can be construed into obstruction. No such intention ever occurred to me and I assure your Excellency that I had no idea whatever of causing any obstruction. Anything I have said or done has been with the view of promoting the interests and the general weal and welfare of the Colony, and so long as I have the honour to be the mouthpiece of the

members of the Chamber of Commerce in this Council I shall to the best of my ability endeavour to forward their views and their opinions, which are the views and opinions of the men of most experience in the Colony, men who are intimately acquainted with the requirements of the shipping trade of the colony, which is the subject of the bill before us. At the meeting which your Excellency gave to the deputation from the Chamber of Commerce your Excellency did not put forward one reason why this legislation should be hurried forward. What your Excellency said was that this Bill was simply a collection of all the old Ordinances in regard to shipping and that it was desirable to have it pushed forward. I grant, your Excellency, that it is desirable, but there is no urgency, no necessity for having two meetings of Council a week on this subject. The reasons your Excellency gave yesterday for two meetings a week are that one extra hour is not sufficient time, that "Christmas is drawing near, the days are closing in, and we must get the business before us completed." Legislation against time cannot be too strongly condemned—

HIS EXCELLENCY—Really I cannot think this is in order. I should like to ask the hon. member to come to the point of his speech. Is it that he is as busy to-day as he said he was yesterday and that he cannot afford time for the discussion the Bill to-day? If so I think he might possibly find that time by not proceeding with these remarks. Or is it that he has got time but wishes to keep us here listening to those remarks, which I think uncalled for and out of place at the present moment? I think it would be very much better if we proceeded with the business we have been called together to deal with.

The REGISTRAR-GENERAL—Hear, hear.

Hon. T. H. WHITEHEAD—Your Excellency. I have to propose an amendment, that the Council adjourn till Monday, and I am speaking to that amendment.

HIS EXCELLENCY—Then I must ask you to make your remarks as short as possible, and if anyone wishes to second the amendment let him do so.

Hon. T. H. WHITEHEAD—I would say this further, your Excellency, that two meetings of Council a week are unnecessary. We are, I think, suffering from over-legislation. This matter is being hurried forward, and although we have no desire to impede or obstruct we are busy men and there is no urgent necessity for pushing this forward. I therefore move that consideration of this Bill be adjourned till Monday. The German mail, as I said before, is leaving this afternoon, and it is very inconvenient, in fact almost impossible for business men to be absent from their offices if they are not to neglect writing their letters, and their business.

Hon. P. RYRIE—I have much pleasure in seconding the motion of my hon. friend. I think

we have had too many attempts of late in this Council to burke discussion at meetings. I have never seen such a thing before in this Council, and I have been in it for twenty-six years. A member gets up and he is immediately sat upon.

HIS EXCELLENCY—I am surprised at the remarks of the hon. member who has seconded this resclution. His last remark may be applicable to the present case, for I think the action which he described is suitable to the present case; but he speaks as if it was a custom. I defy him to prove it; it is not so. Does anyone else wish to speak on this amendment?

The ACTING HARBOUR MASTER—I may remark, your Excellency, that the German mail leaves at two o'clock this afternoon, and if the hon. members are willing to give up any recreation they may have intended for the afternoon we can meet after the departure of the mail.

Hon. T. H. WHITEHEAD—I shall be most happy to do so, for I have every wish to forward the work before us. I may be permitted to make one further remark at this point, and that is with reference to a remark which was made to me yesterday by one of the hon. official members of this Council, who unhesitatingly stated it was very unfortunate that your Excellency could not dispense altogether with the attendance of the unofficial members so that all these discussions and obstruction might be done away with. I think it is extremely unfortunate that such a feeling should evidently exist among official members, and I trust it is not one that is shared by your Excellency.

The COLONIAL TREASURER—As this is a personal matter, your Excellency, perhaps I may be allowed to make a personal statement with regard to it. The statement of the hon. member is entirely misleading, indeed I shall not be going too far in saying it is absolutely false. I did have a private conversation with the hon. member, and as he followed his usual course of substituting invective for argument, I thought it propor to tell him at once that my opinion was that the persons sent here to govern this Colony were the officials and that the presence of unofficial members in this Council was in order that they might be of assistance to the Government in legislation. I said that as soon as they abandoned that position and took up an attitude of factious opposition to the Government, their services might very well be dispensed with. But I took care to add that so long as the unofficial members carried out what in my opinion was their duty of assisting the Government their presence was exceedingly desirable. I deny that I ever said it was unfortunate that your Excellency could not dispense with them. What I had in my mind all the time was that the unofficial members were not giving the assistance to the Government which they ought to give.

Hon. P. RYRIE—Who pays for your food, your daily food? Is it the unofficials or the officials?

HIS EXCELLENCY—The wish which I have, and which I have always had, is to hear fully the views of the unofficial members on all questions, particularly on the question now

before us. I have put it off from week to week and from day to day till yesterday afternoon, and then I again postponed it because some of the unofficial members were not present. I am very glad to see that they are present now and I hope we shall now be able to proceed. Is it the wish of the hon. member who proposed the amendment that it should be put to the vote?

Hon. T. H. WHITEHEAD—Might I not amend the amendment by making it three o'clock this afternoon, or half-past two?

HIS EXCELLENCY—May I ask if the other unofficial members, whose views we are particularly anxious to obtain, agree to our re-assembling this afternoon?

Hon. C. P. CHATER—For my part, your Excellency, I am quite prepared either to-go on now or in the afternoon or both now and in the afternoon.

HIS EXCELLENCY—I do not think it is the general sense of the unofficial members that we should again adjourn. I said yesterday that I should only keep the Council from eleven to one, two hours, and although twenty-five minutes of that time has already been taken up with extraneous matters I still say that I will not keep the Council beyond the hour I have named. It would be extremely inconvenient to adjourn till the afternoon now, still more so even than yesterday, and therefore I think we should proceed. If the hon. member (Hon. T. H. Whitehead) wishes to press his amendment we will take a division.

Hon. T. H. WHITEHEAD—I wish to press it, your Excellency.

The Council then divided. Hon. Ho Kai did not vote.

FOR.	AGAINST.
Hon. T. H. Whitehead	Hon. C. P. Chater
Hon. P. Ryrie	The Acting Harbour Master
	The Acting Surveyor-General
	The Colonial Treasurer
	The Registrar-General
	The Acting Attorney-General
	The Acting Colonial Secretary
	His Excellency

The amendment was therefore lost, and the Council went into Committee on the Bill.

Hon. T. H. WHITEHEAD—With every respect to your Excellency I must ask your permission to retire. I have some important letters to write which must be sent by the German mail.

HIS EXCELLENCY—Before the hon. member retires I will ask him if he will kindly hand to any of the other unofficial members the numbers of those clauses in the Bill at the consideration of which he wishes to be present and which he wishes to discuss, so that I may as far as possible leave those over for future consideration. A great deal of the Bill is old matter, the consolidation and re-enactment of existing Ordinances, not proposed

to be altered in any way, and we shall make great progress if we get through even with these. I cannot go so far as to say we will take no debatable clauses, but so far as we can we will leave over the clauses which the hon. member desires to discuss.

Hon. T. H. WHITEHEAD—One of the most important sections, your Excellency, to be discussed is section 32. The Chamber of commerce are very desirous of submitting an amendment to that, with your Excellency's permission, and if the section can be left over I shall be obliged.

His EXCELLENCY—Certainly.

The ACTING ATTORNEY -GENERAL—I may point out that the Government have also an amendment to make to that clause.

Hon. T. H. WHITEHEAD—I am much obliged to your Excellency and I am very sorry that business compels me to ask your permission to retire.

The hon. member then withdrew, and the Council resumed consideration of the Bill.

On Section 24, sub-section 4, which requires that ships on arriving in Harbour shall take up the berth pointed out to them by the Harbour Master and not move without his permission to any other, except in case of necessity,

The ACTING ATTORNEY -GENERAL proposed the insertion of the words "subject to the provisions of Section 30," so that the clause run:—"Subject to the provisions of Section 30 every such master, &c." Section 30 provided for private buoys and of course a vessel coming into Harbour whose owners or agents had a private buoy would proceed to that buoy at once.

The sub-section as amended was passed.

On sub-section 6 of the same section, which requires every ship proceeding to sea to hoist a blue peter twenty-four hours before the departure of the vessel,

The ACTING ATTORNEY -GENERAL said it had been pointed out that this clause needed amendment, as in some cases vessels entered the Harbour and remained but a very short time. He therefore proposed to insert the words "where practicable."

The sub-section was agreed to.

With regard to Section 25, which deals with quarantine, and gives the Governor power to set apart suitable places in available situations for quarantine stations,

The ACTING ATTORNEY -GENERAL said that owing to the lazaretto being done away with and the *Hygeia* substituted, which was intended only for those actually suffering from disease, it was necessary to have places for the detention and seclusion of persons who might not be actually suffering from disease. To remove any doubt as to whether such places were provided for by the present law, he proposed the addition of the words "whether actually suffering from disease or not"

Hon. C. P. CHATER—I think the hon. member who represents the Chamber of Commerce brought forward certain proposals with regard to quarantine. Perhaps this clause might be held over until the Commission your Excellency promised to appoint has reported.

His EXCELLENCY—It could hardly stand over so long. This Commission will probably have extensive enquiries to make and can hardly report for some months. The enquiries may extend to the regulations in force in different colonies.

The ACTING ATTORNEY -GENERAL—The section can be repealed immediately the result of the Commission is known, or the regulations made under the Ordinance may be varied according to the report of the Commission.

The section was passed.

The ACTING ATTORNEY -GENERAL proposed a new sub-section to section 27, requiring that every junk or other Chinese built vessel, when under weigh within the waters of the Colony, shall from sunset to sunrise cause to be exhibited a bright white light visible all round at a height not less than 10 feet above the hull, and shall for each omission or neglect so to do be liable to a penalty not exceeding \$100. The necessity of such a clause was obvious. It was the intention as far as possible to safeguard vessels moving in the waters of the Colony at night from the dangers of collision.

In place of section 30, the following section was substituted:—(1) It shall be lawful for the Harbour Master to place in the waters of the Colony such Government moorings and buoys as may be approved by the Governor, and to allow the use thereof upon such terms and conditions and for such fees as the Governor in Council may direct. (2) No person shall place moorings or buoys in the waters of the Colony except with the sanction of the Harbour Master and except upon the conditions contained in table (Oa) of the schedule hereto, and such moorings and buoys shall be of such nature as the Harbour Master shall approve. (3) No person shall moor or anchor hulks or vessels of like description within the waters of the Colony without the sanction of the Harbour Master and except upon such conditions and subject to the payment of such fees as the Governor in Council may direct. (4) Moorings and buoys sanctioned by the Harbour master under sub-section 2 shall not be made use of by any vessel other than the vessels of the person to whom such sanction has been granted except with the consent of such person. The Master of any vessel using any such moorings and buoys without such consent shall be liable to a penalty of twenty dollars per day for every day or part of a day during which he shall so use such moorings and buoys after he has been requested to remove therefrom. (5) Until the Governor shall otherwise direct the fees under sub-section 3 for hulks and vessels of like description shall be the same as for

lighters in table (A.) of the schedule hereto. (6) The Governor in Council shall have power to make, alter, and revoke rules regulating the terms, conditions, and fees for any of the purposes mentioned in this section and to alter or revoke the conditions contained in Table (Oa).

Hon. HO KAI said in the notes handed to him by Mr. Whitehead there was an objection to this section. One note said the fee of \$60 was unreasonable. The cost of a buoy was one or two thousand dollars and the upkeep and depreciation amounted to a considerable sum, to which the Government contributed nothing. Seeing that shipping was already taxed more than was spent on it the imposition of a large fee savoured of the intention to get revenue at all costs. \$20 a year ought to be sufficient.

The ACTING ATTORNEY-GENERAL said the question of the fees could be dealt with when the schedule came under consideration.

HIS EXCELLENCY—I may mention that the amount of fee was fixed on the suggestion of one of the unofficial members, Mr. Keswick.

Hon. P. RYRIE—The amount is very much disapproved in the Chamber of Commerce. They think it far too high.

The ACTING ATTORNEY-GENERAL proposed to add a provision to section 32, which deals with the erection of lighthouses and light dues, giving the Government power to lay and maintain telegraph cables, in view particularly of the cable about to be laid to the Gap Rock.

Hon. P. RYRIE reminded the Council that light dues were regulated by another Ordinance, and that it was expressly stated that the dues would be reduced when the Gap Rock light was paid for.

The ACTING ATTORNEY-GENERAL pointed out that the Ordinance to which the hon. member referred was incorporated in the Bill.

On section 37, which deals with the importation and storage of explosives, a new clause was added providing that nothing in the section was to be deemed to affect the provisions of the Dangerous Goods Ordinance of 1883 or of any Ordinance amending the same.

On sub-section 16 of section 38, which provides that every master of a junk who shall bring to the colony a person suffering from leprosy or any contagious disease shall be liable to a penalty not exceeding \$10 for every such person,

Hon. HO KAI said this was a hardship on the Chinese junk-owners. Leprosy was well known to the Chinese, but they had no knowledge of what Europeans considered contagious diseases. They did not regard smallpox, for instance, in that light, and a junk-owner might not know of a case was on board.

The ACTING HARBOUR MASTER said the provision had

been in force for twelve years, and he did not know of a single case of hardship having occurred.

The REGISTRAR-GENERAL said he agreed with the hon. member (Hon Ho Kai) as to there being a probability of cases of hardship arising. He suggested the insertion of the word "knowingly." This word had been introduced into the Health Ordinance to cover the case of an owner unknowingly offending against the Ordinance.

The ACTING ATTORNEY-GENERAL said he did not see much objection to the word being inserted, as it would be for the Magistrate to decide whether the man did or did not know he had such a case on board.

The COLONIAL TREASURER—If the word "knowingly" is added the duty is thrown on the prosecution of proving that the junk master did know. The master has only to say that the man was wrapped up in rugs and that he had no means of knowing whether he was suffering from any disease, to get off. The word "knowingly" so weakens the clause as to make it of almost no value. The magistrate is supposed to be a man of common sense, and he may be trusted not to convict if there is any reasonable excuse.

HIS EXCELLENCY suggested that the burden of proof of not knowing might be put on the junk-owner.

Hon. HO KAI said it was not so much a case of the master knowing or otherwise whether he had a person suffering from disease on board as whether he knew or considered it to be contagious,

The ACTING COLONIAL SECRETARY said this was a British Colony. If certain diseases were not looked upon as contagious in China or were not regarded so seriously among the Chinese, that was no reason why this Colony should run the risk of having all kinds of disease imported into it.

It was agreed to let the clause stand over for further consideration.

Progress was reported at section 39, and the Council then adjourned till the 23rd inst.

FINANCE COMMITTEE.

At the conclusion of the Council meeting a meeting of the Finance Committee was held, the Acting Colonial Secretary presiding.

The CHAIRMAN said the only business was the passing of the Supplementary Appropriation Bill. The only new items in the Bill were the three he had mentioned on the last occasion, and these had all been covered by financial minutes previously agreed to.

The Bill was agreed to, and the Committee adjourned.