

30TH 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. C. P. CHATER.

Hon. HO KAL.

Hon. J. J. KESWICK.

Hon. T. H. WHITEHEAD.

Mr. A. M. THOMSON, Acting Clerk of Councils.

THE ESTIMATES.

The ACTING COLONIAL SECRETARY laid on the table a report of the proceedings of meetings of the Finance Committee held on the 16th and 23rd November dealing with the estimates.

Hon. T. H. WHITEHEAD—In connection with that report the unofficial members propose to add a rider, which will be laid on the Council table on as early a date as possible, more especially in connection with the military contribution, the audit question, and one or two other matters.

QUARANTINE.

Hon. T. H. WHITEHEAD—Will the Government inform the Council whether it has yet appointed a Commission to

enquire into the question of quarantine, and if so will it furnish a list of the members nominated on such commission?

The ACTING COLONIAL SECRETARY—I am directed by his Excellency to state that a Commission has been appointed and a list of the members was published in Saturday's *Gazette*.

THE PROPOSED NEW GAOL.

Hon. T. H. WHITEHEAD—Will the Government lay on the table the commission issued to certain persons to enquire into the selection of a site for the proposed new gaol, and a copy of any report which the committee may have made on the subject, and copies of the reports and proceedings of recent commissions on gaol accommodation? Your Excellency, there is one despatch by Mr. Fleming (then Officer Administering the Government) to the Secretary of State, a copy of which he promised would be laid on the table as soon as it was acknowledged by the Secretary of State, but, I suppose, owing to Mr. Fleming's departure, this was not done. It contained, I believe, the recommendations of the hon. member opposite (Hon. C. P. Chater) in connection with the extension of the present gaol in preference to the erection of a new gaol.

HIS EXCELLENCY—There seems to have been some little misunderstanding with regard to what actually happened in connection with this matter. The question asks "Will the Government lay upon the table the Commission issued to certain persons to enquire into the selection of a site for the proposed new gaol?" There has been no such commission appointed. The facts of the matter are these. The Secretary of State having received the despatch of Mr. Fleming and considered the whole question on both

sides, wrote on the 21st November a despatch in reply, which has been laid on the table of this Council, showing that he was entirely in favour of a new prison as distinguished from the extension of the present one on its own ground. That decision was accepted by Sir William Des Voeux in a short despatch although by his previous letters on the subject he had shown himself very anxious, as was Mr. Fleming, to avoid putting the colony to the great expense of a new gaol if it could be possibly avoided. In his despatch in reply to the Secretary of State Sir William Des Voeux said his Lordship's instructions had been communicated to the Surveyor-General, who was preparing detailed plans and estimates for the building of the gaol. In reply to that he received a despatch from the Secretary of State dated 27th May, stating that he had read with much dissatisfaction the reports of the inadequacy of the present building, and requesting him to call upon the Surveyor-General to lose no time in furnishing plans and estimates for the new prison. In the meantime Sir William Des Voeux had conveyed these instructions to the Surveyor-General and had instructed him to select a site and send in plans and estimates immediately. The Surveyor-General, who had previously expressed his not entire concurrence in the selection of the Bonham Road site made many years ago, suggested to me that a few of the officers who would have to deal with the prison should be associated with him to see if there was any other site that would be more suitable, in fact the appointment of what was merely a departmental committee. I was anxious to hear if there were any other sites that could be suggested, and I appointed a committee, consisting of the Surveyor-General, the Acting Superintendent of the Gaol, the Acting Captain Superintendent of Police, and the Colonial Surgeon. I must say that as to this proceeding quite an erroneous impression has been formed with regard to what has been done. It has been described as a hole-and-corner proceeding, a kind of thing which I am very anxious to avoid in everything I do. The original selection of the Bonham Road site was made in exactly the same way by Sir William Marsh, who, on the 9th of May, 1882, wrote to the Secretary of State that he, in company with the Acting Colonial Secretary, the Acting Surveyor-General, and the Colonial Surgeon, had visited the site proposed by Mr. Price, who was then in England. The letter of Sir William Marsh to the Secretary of State went on to say that apart from the drawbacks connected with the slope of the ground, the site appeared a very good one and that a better could hardly be found in the colony. What I have done is only repeating what had been done by Sir William Marsh. Apart entirely from the question of whether another site should be obtained, I think the hon. member who put the question was probably not aware of this. Probably he thought that this Committee was going to inquire into the question

which had already been inquired into by the Committee on which the unofficial members were represented by Mr. Chater, that question was not put before them at all. It was regarded as having been finally decided by the very imperative instructions of the Secretary of State. Not only did Sir William des Voeux direct the Surveyor-General to select a new site, but I myself was very much of opinion that although the site mentioned was an excellent one as regards health it was not so suitable as it was when it was selected nine years ago. Circumstances have altered since 1882, and the residential part of the town has extended in that direction, so that now instead of being away from the buildings of the city it is actually amongst them. Besides, it has become a very valuable site and it seemed a pity to throw it away upon a gaol. I was not aware at the time that other sites had been proposed, but I did think that the Causeway Bay site might be more suitable. I have heard it stated that Causeway Bay is very unhealthy, but apart from the fact that it was proposed to transfer the military there, and on the score of unhealthiness there was I believe no objection on the part of my predecessor to sending the military there, I thought not only on account of the gaol but for the benefit of the colony generally it would be well to have the question thoroughly investigated and set at rest. I therefore, in appointing this committee, urged them to look about for other sites and to direct their attention to Causeway Bay and ascertain whether its state was as insanitary as it was said to be. The committee made a report objecting to Causeway Bay, chiefly on sanitary grounds. I then called for further reports, one from Mr. McCallum, Sanitary Superintendent, and another from the resident engineer, to ascertain what real ground there was for giving this bad name to Causeway Bay, and if there was any ground for the objection to see whether it could not be removed; Without going further into the question I may say that the committee has made two preliminary reports, but I am not satisfied with the result, I think a still better site than the Bonham Road one could be selected, taking all things into consideration. With regard to the other part of question the I have since been considering whether the Gaol (assuming always that the Secretary of State's instructions have to be carried out) could not be built where it was many years ago, namely, on Stonecutter's Island. It seems to me a most appropriate place. When I asked why nobody had thought of that site I was told that some accident had occurred, some prisoners had been drowned in going across, the boat being upset, and they being in chains at the time were unable to swim. That, however, hardly seems to me to be a sufficient reason for objecting

to the site. On going through correspondence on the subject extending over very many years I found Stonecutter's Island was particularly favoured by different Secretaries of State and by different governors here, but the reason why it was taken out of the category of available sites in 1882, when the defences of the Colony were being considered, was that the Engineers had their eyes on Stonecutters' Island and it was considered that the whole of the Island would be required for defences. Therefore the Secretary of State wrote to the Governor informing him that it could no longer be considered as a gaol site. From that time it has never been so considered. Now that the defences have been arranged and the east part is still available I think we ought to have a separate gaol there, and therefore I am going to ask those who are best acquainted with the requirements of the gaol as to area, position, and access to report upon that site. The next papers asked for by the hon. member are copies of the reports and proceedings of recent commissions on the subject of the gaol. I find there was one commission in 1886, a report of whose proceedings was laid on the table. There was a committee, not a commission, in 1890, which was appointed to report on, first, the necessity of extension, second, the possibility of the extension of the present bailing, and, third, the advisability of having a prison elsewhere. The report of that committee would be very difficult to put into print, because it was an informal one. They reported that the cost of alterations on the present site was estimated at \$120,000 to \$140,000, the alternative plan suggested by Mr. Chater being estimated at \$88,000, but the majority of the committee were of opinion that it was open to objection with regard to the provision made for the lodging of the gaol staff, and the erection of a new block of buildings was regarded as the only feasible course, it being considered that the value of the present site would go far towards covering the expense of the new buildings. A report on the subject was also made by the Surveyor-General and was sent to the Secretary of State with a despatch from Mr. Fleming who was then administering the Government. The gist of Mr. Fleming's despatch was contained in the following remarks in his speech at the opening of the Council in October, 1890:—"The question of Gaol extension has not ceased to occupy my attention since we last met, as I am fully convinced of the necessity of providing, in some way or another farther prison accommodation. I have addressed the Secretary of State on the subject and although there are no doubt arguments in favour of building a new prison which it would not have been right of me to have concealed from him. I have expressed an opinion, in order to avoid so large an expenditure as would be involved in the erection of a new building, that the existing gaol should be added to on its present site by the Magistracy being removed to a piece of

ground which I believe has long been lying idle in the vicinity of the quarters occupied by the Captain Superintendent and Police Inspectors." That was written a few months after, and describes in a few words the tenour of his despatch. The answer of the Secretary of State has been laid on the table, but to bring the whole question to a focus I will read two or three extracts here:—

"The objections, however, to enlarging the present gaol, to some of which Mr. Brown calls attention, seem on full consideration to be insuperable. The two evils which it is wished to remedy, viz., overcrowding and association, would, under it, still continue. For the crowding of prisoners in the building would be substituted crowding of buildings on the site; out-buildings of low elevation, which do not seriously impede the circulation of a r. would be pulled down, and the area thus cleared, with a still larger space, would be filled by a large three-storied block, shutting out all light and air and absorbing the space used for exercising yards, work-shops, and other essentials—the prison thus made consisting of a number of large blocks separated by alley-ways from 20 to 25 feet wide. Again, a large number of the prisoners would still be kept in associated wards, and as it is considered that separation would be especially effective in the case of Chinese, an arrangement which after considerable expenditure would still fail in great measure to secure this object cannot be considered satisfactory. The disadvantage of duplicating the staff seems not be so serious as has been suggested. Wherever the extra accommodation is provided, additional warders must be employed, and the old prison in its new application could well be placed in charge of an assistant superintendent or chief warder. I will only add in conclusion that I rely on you to press this matter forward without delay. I have sufficiently commented in former despatches on the manner in which it has been shelved from time to time, and I earnestly trust that the suggestions now made will be recognised as reasonable and will meet with no further opposition in the colony—I have the honour to be, Sir, your most obedient humble servant.—KNUTSFORD."

Sir William Des Voeux accepted that decision as final, and as far as I was concerned there was no question of alternative whether the old gaol should be extended or a new gaol built. All that the committee was asked to do was merely to state whether the site selected 10 years ago was quite suitable or whether there was another more suitable. I have answered this question at very great length because I think it might possibly clear the way and perhaps save further discussion in our after proceedings to-day.

Hon. T. H. WHITEHEAD—I think the Council is much obliged to your Excellency for the explanation

you have made. The remarks I made at the last meeting were made under a misapprehension. I certainly looked upon the committee as appointed to enquire into the whole question and regarded the matter in this light, that the unofficial members had not been consulted and had been ignored entirely, and I thought that was not a proper course for the Government to follow.

EXCISE OFFICERS.

The ACTING COLONIAL SECRETARY—There are one or two other questions still standing over, but I can answer one of them. The hon. member (Hon. T. H. Whitehead) asked the Government to lay on the table a list of the excise officers appointed by the Government under the Excise Ordinance of 1884. From enquiries made I find that a list of excise officers is posted at the Magistracy where it can be consulted by any one who wishes to see it.

PUBLIC WORKS EXPENDITURE.

Hon. T. H. WHITEHEAD—I rise to move the following resolution:—, That the Government lay upon the table at the first meeting of Council, or as soon thereafter as possible, in each quarter, a return shewing particulars of progress of all public works during the previous quarter, in the form made use of by the Government in the sessional paper relating to the New Central Market, Civil Hospital Staff Quarters, &c., laid on the Council table on 26th October last." It is only reasonable the public should be informed, in fact the ratepayers have a right to know, how their money is being expended. The desired return would also tend in every way to act as a check—possibly an efficient check—on the cost of public works and on the great spending department of the Government. If some system had been adopted and closely adhered to in recent years, the reckless waste and wanton extravagance which attended the construction of the Victoria College, the Civil Hospital Staff Quarters, and certain other works might have been materially lessened. Not for one moment do I suggest that the policy of the past is likely to be continued by the Honourable Member, Mr. Cooper, for I have already stated in the Council that the Colony will be fortunate if this energetic and capable officer is confirmed in the post of Surveyor-General. From the return asked for the taxpayers would see every three months what progress was being made, what had been disbursed, and how much money was still wanted in respect of the various works under way. In regard to certain questions your Excellency on the 26th of last month said: "If these questions are likely to be continued, it will be a serious consideration whether or not the staff of our Civil servants is to be increased by a number of men or whether their salaries must be raised, to which I know the honourable member is not partial, in recognition of the extra hours and overtime which this work entails." Now, sir, I submit that if a proper system is followed the clerical and other work in the preparation of

the return would not necessitate either extra hours or overtime, nor any increase in the already too numerous staff of Civil servants. The official salaries in the Surveyor-General's department in 1887 were \$49,402, whereas this year, including the water and drainage, they aggregated no less than \$90,806. The list of the officers and others in the department laid on the table the other day is a somewhat startling document. Since your Excellency suggested a further increase in official salaries, or an increase in the already huge army of officials—an army as regards numbers sufficient to govern a small empire, instead of "a dot on the ocean"—I am credibly informed that a number of officials in several of the numerous departments find it difficult to pass the hours of the official day, from 10 a.m. to 4 p.m., and that, sir, rightly or wrongly is the general belief in the colony. You are no doubt aware the hours in mercantile and other offices are from 9 a.m. to 5 p.m. and frequently from 9 to 6 or 7 p.m. without extra pay, no two months holiday a year, and no pension to look forward to as in Government service. Were the Government to be frank and open, and to voluntarily give the ratepayers such information as this resolution asks for through their representatives in Council, in preference to yielding the same in reply to questions, I venture to say there would be more mutual confidence and a better understanding between the governing power and the governed.

Hon. C. P. CHATER—I have listened with interest to the remarks of the hon. member opposite, and I am rather of opinion that what is asked could be easily supplied by the hon. member who is now at the head of the department without much inconvenience to himself or staff. I think it is as well the unofficial members should be quite *au fait* as to what works are actually done and what progress has really been made with the works on hand. They have often been called upon to vote large sums of money which have been never expended or not expended for a whole year. We have also on record occasions when money has been actually spent without votes having been asked for from the unofficial members. I know of two instances. The first one is the very one about which your Excellency was speaking a while ago. I believe, if my memory serves me right, three years ago the unofficial members were called upon to vote a sum of \$500,000 for a new gaol. Even a site at the present moment has not been decided upon. Not that I regret the money has not been spent, I am rather pleased, and I trust, in spite of all we have heard, in spite of the opinion of the Secretary of State for the Colonies no such sum of money will be spent for a new gaol. We have another case—a case of money being spent without the vote of the unofficial members. I need hardly say I allude to Victoria College.

Large sums of money were asked to be voted long after they had been spent. For these reasons and for various others, I think it would be as well for the Government to take the unofficial members into their confidence and to supply them voluntarily with such information as has been asked for by the hon. member. I have much pleasure in seconding the resolution.

The ACTING COLONIAL SECRETARY—The hon. member alluded to a general belief that the Government employes do not know how to occupy their time from 10 to 4. I do not much wonder at the general opinion, seeing the hon. member has been driving it down the throats of the public on all occasions. I never knew anything of the kind myself. The difficulty in my department is to get through by six or seven o'clock. From the statement of the hon. member one would be led to believe that Government servants do not know what to do in the time or how to get through it.

Hon. T. H. WHITEHEAD—I refer more particularly to the clerks, not so much to the heads of the departments.

The ACTING COLONIAL SECRETARY—If the hon. member spent one day in my department, he would not find the clerks unoccupied—rather we have great trouble in getting through with the work. With regard to the motion of the hon. member I would ask if the hon. member would be satisfied with a half-yearly report. There are so many outside matters connected with public works that it would be very difficult to give a quarterly report.

Hon. T. H. WHITEHEAD said he would be quite satisfied with a half-yearly report.

The ACTING COLONIAL SECRETARY—I am instructed by His Excellency to say that that will be done.

THE BUILDING ORDINANCE.

The ACTING ATTORNEY -GENERAL—The first item on the orders of the day is the third reading of the Building Ordinance Amendment Bill. I understand there is some desire that the Bill should stand over for another week. I do not know whether any hon. member is prepared to move a resolution to that effect.

Hon. T. H. WHITEHEAD—Your Excellency, I have been applied to by two architects in the Colony to ask that the Bill may stand over till next Monday. They have not had an opportunity of preparing any amendment to the Bill since its last reading, but I think it is only right that they should have the opportunity afforded them of laying any suggestions before the Council which may occur to them. In view of the fact that it has been customary that Bills as amended have been sent round one or two days before the meeting of Council to unofficial members, and as this course has not been followed in the present instance, on that ground alone I think it is sufficient to ask for the Bill to stand over, but there is the further reason that at least two architects are desirous of considering some further amendments to the Bill.

The ACTING ATTORNEY -GENERAL—The hon. member

appears to be under some little misapprehension with regard to this Bill. The amendments proposed in Council last week were printed on a slip and attached to the Bill at last meeting and have not yet been incorporated into the Bill; but apart from that I do not think there is any objection to the Bill standing over for another week.

The ACTING COLONIAL SECRETARY—I may mention that but a few minutes ago, I received a long letter from one of the architects in this colony. I do hope this gentleman will not think he has been treated with any discourtesy, but it is absolutely impossible for me to consider documents received half-an-hour before the meeting of the Legislative Council. If gentlemen wish to have their letters properly considered, they should send them in at least a few days before the meeting of Council.

It was agreed that the third reading of the Bill stand over.

THE APPROPRIATION BILL, 1892.

The Council went into committee on this Bill.

The ACTING COLONIAL SECRETARY—As I mentioned at the meeting of the Finance Committee, the Committee on this Bill is now merely formal, but hon. members are quite at liberty to add any rider they think fit to the report, in order that it may be sent home.

The Bill was passed through Committee in the usual way without objection.

The ACTING COLONIAL SECRETARY moved the third reading of the Bill.

Hon. T. H. WHITEHEAD—I do not quite understand the position. Are we not to have the opportunity of going through the Bill item by item as before?

The ACTING COLONIAL SECRETARY—When we met in Finance Committee, which was practically a committee of the whole house, all members sitting thereon except His Excellency, we went through the Bill item by item. All the votes were passed, but I understood that there was objection to certain votes on the part of some hon. members, such as the military contribution and so on, but eventually they were all passed. I do not wish to do anything that will prejudice hon. members in any way, but I do not see that anything further can be added to the arguments that were put forward in Finance Committee.

Hon. T. H. WHITEHEAD—I quite misunderstood then what we were doing in Committee. I thought after the Bill was read over by the Clerk of Councils that we should now go through the Bill, item by item. We object in the first case to clause 1.

HIS EXCELLENCY—Clause 1 is the whole of the Bill.

Hon. T. H. WHITEHEAD—Then the unofficial members wish to make certain remarks and move

certain amendments to several of the items in clause 1.

The ACTING COLONIAL SECRETARY—If the hon. member objects to certain items he is at liberty to make a speech on those items and move an amendment, the items he does not object to will of course go through.

Hon. T. H. WHITEHEAD—After what has been said what I practically ask for is a postponement of the consideration of the Bill till Monday next.

HIS EXCELLENCY—I do not quite understand on what ground the hon. member proposes to postpone the third reading. If any hon. member has any strong reason to advance why the Bill should not now be read a third time, of course I am prepared to listen to him.

Hon. T. H. WHITEHEAD—Before the Bill passes there are one or two amendments which I should like to move.

The ACTING COLONIAL SECRETARY—The hon. member will recollect that the Bill has been discussed and considered in the Finance Committee and the alterations then suggested have been embodied in the Bill. It is really a mere matter of form to propose the third reading on this occasion, because it has been considered by the Finance Committee, which consists of identically the same gentlemen as compose this house with the exception of His Excellency.

Hon. C. P. CHATER—What the hon. member opposite (Hon. T. H. Whitehead), I think, means is this. When the Bill was in Finance Committee certain items were objected to by the unofficial members. These were carried against us. The same Bill is now in Committee: if the hon. member means to be consistent it is his duty to object to the same votes, and if possible get them altered. That is the position, I think, which he now takes up, and, in my opinion, a right one.

Hon. T. H. WHITEHEAD—Just so?

HIS EXCELLENCY—Every opportunity was given to go fully into the Bill and it hardly seems reasonable after passing the Bill in the ordinary way in Committee to object now to reading it a third time. I hardly see what the Council has gained by referring the Bill to the Finance Committee. It certainly seems to me a rather peculiar proceeding to object to the Bill now that it has passed the Finance Committee. I have no objection to re-committing the Bill on the understanding that after it has been recommitted there will be no objection taken to its being read a third time the same day. It is important that the estimates should reach home before the end of the year and even now, under present circumstances, that will be impossible.

Hon. T. H. WHITEHEAD—The Finance Committee meetings are more for the purpose of yielding information to the unofficial members, and when the Bill again comes before the Council we have the opportunity of moving amendments which may or may not have been made in Finance Committee. Last year the estimates for this year did not leave the Colony till the 23rd or 24th December

and I think we may reasonably ask under the circumstances that the third reading of this Bill be postponed until Monday next.

HIS EXCELLENCY—I am anxious to meet the wishes of hon. members and the only way to do so is to have another meeting this week. I will fix a day that will be most convenient for members and we can then consider this Bill on that day.

Hon. T. H. WHITEHEAD—If your Excellency can fix half-past three on Friday afternoon. I shall be pleased to attend then if other hon. members can make it convenient.

HIS EXCELLENCY—It must be on the understanding that if we meet on the day named with a view to the Bill being re-committed, after discussion there will be no objection taken to the third reading the same afternoon.

The consideration of the Bill was therefore postponed.

THE MERCHANT SHIPPING BILL.

The Council resumed consideration of this Bill in Committee.

On table L, which deals with quarantine regulations,

Hon. T. H. WHITEHEAD said—I have to move that this table be omitted. The Chamber of Commerce object to the quarantine regulations as an unreasonable interference on the part of the Government with European vessels and object that such vessels should be subject to certain rules and regulations while native craft are allowed to pass to and fro in the waters of the colony without let or hindrance. A great deal was said on the subject in the discussion on our antiquated quarantine rules which took place in the beginning of this month and I think it is scarcely necessary to repeat the arguments then brought forward. The Chamber of Commerce is opposed altogether to quarantine being continued as Government has confessed that it is not possible to make it applicable to native craft and to all vessels.

The ACTING ATTORNEY -GENERAL—At the last meeting when the sections giving power to make regulations was considered the hon. member was not present, but it was explained that it was the intention of the Government to keep the section under which these regulations are made as it is until the results of the Commission about to be appointed are known. Until that time it is the intention of the Government to keep these regulations in force subject to some alterations which I have to propose. I may point out to the hon. member that one object of the Commission is expressly to make suggestions with reference to the quarantine law at present in force in this Colony.

The regulations were then amended by providing for the transhipment of passengers and crew from vessels in quarantine and of substituting the *Hygeia* as a place for persons suffering from disease instead of the Lazaretto, which

was intended for persons not infected but in quarantine.

On Table Oa, which requires that a monthly rental of \$5 shall be paid half-yearly in advance for each buoy and moorings,

Hon. T. H. WHITEHEAD objected to the charge as being unreasonable. He said—These buoys and moorings are private property to which the Government make no contribution for first cost or upkeep. The buoys cost in the first place \$1,000 or \$2,000 and involve considerable expenditure afterwards for upkeep. A tax of \$60 a year on buoys appears to be unreasonable, and considering that shipping contributes much more than is spent on it, savours a good deal of a determination to get revenue somehow. I think a fair tax might be placed upon these buoys and I should suggest \$10 per year as being sufficient. The freer we make shipping the better.

The ACTING HARBOUR MASTER—The waters of the Colony, like the land, constitute our stock-in-trade. We have here a magnificent natural harbour which is let out to all comers for the nominal sum of 2½ cents a ton. For this popper-corn rent all people and ships lay claim to and possess equal rights. All parts of the harbour are not, however, equally valuable; the inshore berths off the business part of the town are the most valuable. The possession of a buoy is a great convenience as well as economy. On arrival you have not to go searching about for a berth, and when one is picked up you are not required to move, as is frequently the case if a foul berth is taken up. Hawse has never to be cleared, the wear and tear of cables and chain pipes is scarcely appreciable. If there were not manifold advantages shipowners would not be so keen on possessing moorings; great though the initial cost is, they are fully alive to the ultimate economy. In many places moorings are not allowed to be laid, it being held that where ships pay equal rates they possess equal rights to the waters of the port. Singapore is a case in point. In other places, as at Gibraltar, vessels pay a heavy tax for the privilege of laying moorings, only one class of vessel being so permitted, coal hulks, who pay from £30 to £40 according to the value of the berth. At other places, again, the Government lays down moorings and charges so much *per diem*. In Valparaiso the fee is \$5 a day; at Shanghai I have been informed the charge is the same, \$5. The berths at present occupied by buoys in Victoria comprise fully one-third of the waters and that third the best berths in the port. These buoys were originally laid down on the condition that when not in use by the vessels of the owners they will be available for any other vessel entering the harbour. Buoy owners soon felt aggrieved: the great advantages possessed by the buoys with regard to position, convenience, and safety made them scrambled for. Shipowners saturally said, "We have gone to great expense in laying these moorings and half the time our rivals in trade reap the benefit." On the other hand traders who did not possess buoys said, "We pay equal rates and possess

equal rights, why are the best berths to be monopolized for a few firms?" Neither arrangement was fair to all parties. At the same time, for shipowners on the strength of having spent large sums (on sufferance) in laying down moorings in the waters of the Colony to found thereon an exclusive right thereto is rubbish; as well might a man go and build a \$3,000 house on Crown land and feel aggrieved if asked to pay a quit rent on the score of the expense he has already been put to. The expense was a voluntary one undertaken for his own sole use, benefit, and gain, and from the first it was clearly understood to be but a tentative arrangement liable at any time to revocation. The buoy-owner, more fortunate than the squatter, however, can take up his moorings and they are none the worse. A nominal and trifling rent is now asked, \$5 a month, which the buoy-owner can recoup in a day. He is at perfect liberty to let his buoys when he so pleases and to charge what rent he can get. Since this Bill has been under discussion I have had many people come to me and urge that the Government should lay down buoys and charge a rent, as all the buoys in the best berths are now in the possession of a few large firms and the smaller vessels fear that trade jealousy will induce their owners even when vacant to refuse to rent them out. \$5 a month is the veriest trifle wherewith to secure such great advantages. Should, however, any of the present buoy-owners, who should in justice I think have the first refusal of the berths, think the terms exorbitant, they will of course remove their moorings in accordance with the conditions on which permission was originally granted. In view of newer and under the altered circumstances better arrangements being made as to moorings in the port, as also to the largely increasing traffic, buoy-owners must also clearly understand, when buoys are not being used by ships, that between the hours of sunset and sunrise a bright white light must be exhibited.

There being no seconder to Hon. T. H. Whitehead's amendment it fell to the ground and the table as it originally stood was passed.

On table T, which provides the scale of fees for licences of vessels,

Hon. T. H. WHITEHEAD asked what was the nature of the proposal to charge half the original fee for the issue of a duplicate licence.

Hon. HO KAI said he considered the charge for a duplicate licence too high. The Chinese were especially careful in looking after their licences, but it sometimes happened that they accidentally lost them and he thought the charge inserted for a duplicate was far too high. A fee of ten cents all round would be sufficient.

The ACTING HARBOUR MASTER said it was necessary to make some charge for a duplicate. Hitherto none had been made. He could not say whether there were any means of fraudulent dealing with these licences, but it was a peculiar fact that occasionally they had a dozen junk owners all coming on the same day and wanting duplicate licences.

Hon. T. H. WHITEHEAD said he thought a charge of one half the original fee a little unreasonable. He thought a fee of ten cents for a duplicate licence for the smaller vessels and fifty cents for the larger would be quite sufficient.

His EXCELLENCY suggested that a fee of one-tenth the original fee and not exceeding in any case \$1 would probably meet the case.

This amendment was accepted and the table passed.

On Table U, which provides regulations for the licensing, management, and control of boats,

Hon. T. H. WHITEHEAD objected to private boats being subject to these regulations. Private boats should no more be subject to licence than private chairs and private rickshas.

The ACTING HARBOUR MASTER—Ordinance 24 of 1889 repeals the words "plying for hire" in Section 39 of Ordinance 8 of 1879, the intention evidently being to license, control, and regulate all boats or vessels within the waters of the Colony. The failure to omit the words "plying for hire" in the regulations published in the *Gazette*, Government Notification No. 529, dated 28th December, 1889, nullified the Ordinance. Whether lighters existed in 1879 or not I cannot say, but they are not machines for ornament and luxury; they are vessels for trade and use and complete with Chinese cargo boats who pay a tax for floating in the waters of the Colony, so it seems only equitable that European owned lighters should pay *pro rata*. Owners of lighters and private cargo boats say they do not ply for hire. Nearly all the owners of lighters are agents for more than one company? Is it therefore asserted that all these years their lighters and private cargo-boats have loaded and unloaded ships other than their own and have received no consideration direct or indirect? Do the Kowloon Godown Company convey goods to and from their warehouses without any consideration direct or indirect whatsoever from their customers? There never has been any legal difficulty in the past to the hiring out of lighters, and their now having to pay in proportion to other vessels with whom they compete constitutes none.

The table was passed.

The ACTING ATTORNEY -GENERAL—Certain portions of the Bill, at the request of the hon. member who represents the Chamber of Commerce, were allowed to stand over. The hon. member asked that the regulations under table A of Section 4, which refer to the provision of, life-saving appliances, should stand over for a year in order that the local shipping companies should have time to supply themselves with these appliances from home. It is now

proposed that the regulations as regards safety appliances, shall not come into force until the 1st July, 1892. That will give seven clear months in which the companies can obtain these appliances. In the meantime, however, the old provisions, Ordinance 8 of 1879, Section 4 and Table A thereto, will be kept in force.

Hon. T. H. WHITEHEAD said the Chamber of Commerce had suggested that the rules should not come into force for twelve months.

Hon. J. J. KESWICK said he saw no objection to the amendment proposed by the Acting Attorney-General, making the time in which the rules should come into force seven months hence.

The Section as amended was agreed to.

The ACTING ATTORNEY -GENERAL said the next section that stood over was the one with reference to the survey of steam launches. He proposed to amend the section by adding the words, "subsections 21 to 23 of this section shall not apply to steam launches or yachts kept solely for pleasure."

The section as amended was passed.

The ACTING ATTORNEY -GENERAL said Section 13, which dealt with Marine Courts and Courts of Survey, had been allowed to stand over. He believed the hon. member who represented the Chamber of Commerce wished to propose an amendment to that Section.

Hon. T. H. WHITEHEAD—I do not know that I have at the moment any specific amendment to propose, but there are a number of arguments against the clause as it now stands. I think it is particularly desirable that where the term "Marine Court" is used throughout the Ordinance it should be understood that the constitution of that Court in no case includes the Harbour Master or his deputy or anyone connected with the Harbour Master's department in any case where the *personnel* of the Harbour Master's department is called upon to give evidence or is in any way interested in the case before the Marine Court. The reason is obvious. The *personnel* of the Harbour Master's department are under the control of the Harbour Master and it is reasonable to conclude that all acts done by his subordinates are done with his knowledge and sanctioned by him. The Harbour Master would therefore be literally sitting upon and passing judgment on his own acts done through his subordinates. The Harbour Master should not, I think, be the head of a Court of Enquiry when that enquiry affects the work of the Harbour Master's department or deals with the conduct of any officer connected with it. These enquiries before a Marine Court are primarily of a judicial character and a Stipendiary Magistrate was appointed by the Home Acts solely because and by reason of his legal training he would know how to act as moderator and treat evidence, &c. We have or pay for two Police Magistrates here

and one of them formerly always acted. Now the proposed plan reverses the English practice. You make the Harbour Master a Stipendiary Magistrate in form, while in fact he remains a sailor. You propose to enact the home law, but in reality you do not do so. You carry out the letter but subvert the spirit of the Act. If you insist on making the Harbour Master the head of the Court, make it subject to the right of the parties interested to notify the Government of their objection, and to have another person appointed head of the Court in the case in question. A man should never sit in judgment on his own staff on a departmental enquiry. Of course there may be advantages in having the Harbour Master there; he knows the working of the department and therefore office witnesses are less likely to prevaricate to him, and the enquiry may get along smoothly and quickly. In enquiries involving the competency or conduct of a subordinate, as in the *Pasia* case, the Harbour Master should surely be excluded from service on Courts of Survey. Special reasons exist *re* Courts of Survey *i.e.*, house acts provide for Stipendiary Magistrate. Confining oneself to the general principle embodied in our English doctrine that no man shall be judge in his own cause, are not the reputation of his subordinates and the well working of his office often almost as dear to a man as his own credit, with which after all they are generally closely allied? The question is one of the impartiality of the tribunal which like Caesar's wife should not only be spotless but also clearly "appear" so. The recent decision of the Colonial Office excluding the Chief Justices from the Legislative and Executive Councils is a pertinent illustration. They shall not take part in legislation or Councils on whose legislation they may be called to pronounce judgment. Why? In order that their decisions may be obviously free from all suggestion of partiality. If the highest judicial officer be excluded from Council in deference to this principle, what officer of lower rank can justly complain of its application to him to the *vice versa* effect by exclusion from judicial functions? It, however, the exigencies of the colony make it inconvenient to absolutely incapacitate the head of the Harbour Office from serving on Courts of Survey, it would be enough to limit the Governor's discretion only in those cases in which any party interested should give reasonable notice of his objection to the presence of the Harbour Master. Often probably there would be no objection.

The ACTING ATTORNEY -GENERAL—I think the hon.

member has rather treated this section as though we were presenting some new legislation. As a matter of fact these clauses sections 13 and 14, are simply the re-enactment of the law of the colony as it has stood since 1879. So far as I have understood the speech of the hon. member he has not even suggested that any abuses have existed or any grievances can be brought to light, born of these sections. I do not propose to follow the hon member through all his remarks, but with reference to Marine Courts, I would point out that Marine Courts or Courts of Inquiry deal chiefly with charges of incompetency or misconduct on the part of officers and conduct enquiries where a ship has been lost or damaged on the coasts of the Colony or elsewhere—in fact into shipping casualties. Such enquiries have nothing whatever to do with the partiality or impartiality of the Harbour Master, but when you come to consider what are the duties of a Court of Survey, such as the survey of ships, the detention of ships for unseaworthiness, and to hear appeals from refusals to grant certain certificates under Section 14, there might possibly be some reason to think that the Harbour Master's judgment might be biassed by having to deal in some cases with the subordinates in his office. Such an objection might be possible, I can hardly think it would be probable, but still the Government is willing to put in some amendment in this clause which deals with the refusals of certificates and the detention of ships for survey by a Court. The amendment proposed is that whenever the owner, charterer, master, or agent of a ship appeals from the refusal of a certificate to a Court of Survey, or in the case of the detention of his ship as in Section 9 (d), it shall be competent for him in his notice of appear which he has to forward to the Harbour Master to give notice that he objects to the Marine Magistrate being a member of the Court of Survey, stating his grounds. The Harbour Master is required to forward this notice of objection to the Governor, who may in his discretion direct that the Marine Magistrate shall not be a member of such Court of Survey.

Sections 13 and 14 as amended were passed.

ADJOURNMENT.

The Council adjourned.