

30TH APRIL, 1891.

PRESENT : —

HIS EXCELLENCY THE GOVERNOR, SIR WILLIAM DES VOEUX, K.C.M.G.

Hon. W. M. DEANE, Acting Colonial Secretary, C.M.G.

Hon. W. M. GOODMAN, Attorney-General.

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

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

Hon. S. BROWN, Surveyor-General.

Hon. P. RYRIE.

Hon. HO KAI.

Hon. J. J. KESWICK.

Hon. T. H. WHITEHEAD.

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

THE GOVERNOR'S STATEMENT ON THE
CONDITION OF THE COLONY.

HIS EXCELLENCY—I had prepared for this Council a speech on the conditions and prospects of the colony, but as the very urgent representations of my medical adviser reluctantly compelled me to believe that I was unable to bear the strain of delivering it. I sent it yesterday to the Press, and a copy of it is laid on the table.

PAPERS LAID ON THE TABLE.

The ACTING COLONIAL SECRETARY laid on the table a report on the operations of the Public Works for 1890. A despatch from the Secretary of State with reference to the military contribution in reply to the memorial of the unofficial members of Council of December last, the Harbour Master's Report for 1890 returns of the Superior and Subordinate Courts for 1890, the return of Births and Deaths for 1890.

A SUPPOSED IMPLTATION.

Hon. P. RYRIE asked the following question—"Whether if when His Excellency asked me at the meeting of Council on the 25th March last if the protest I then laid on the table was a perfectly respectful protest, he meant to imply that I was likely to present, or the unofficial members to concur in, a protest that was not perfectly respectful?"

HIS EXCELLENCY—One of the rules of this Council is that any protest presented must be in respectful terms. It was therefore impossible for me to accept it until I knew whether it was in respectful terms. I did not mean to imply by any means that it was likely to be in disrespectful terms, and I have every reason to believe from the hon. member's demeanour at the time that he did not think I meant so either.

THE MILITARY CONTRIBUTION FOR 1890.

Hon. P. RYRIE asked the Colonial Treasurer—"Whether the arrears of the military contribution 1890, payment of which was authorized

by this Council on the 19th March last, has been paid, and if paid on what date or dates it or any portion of it was paid, and if so upon what authority?"

HIS EXCELLENCY—I will answer that question myself. The equivalent of £20,000 was paid on my warrant into the military chest on the 21st February. A telegram had been received from the Secretary of State requesting the immediate payment of the money. He had before him the reasons against the voting of this money which had been urged at the passing of the estimates for 1891, and his telegram therefore evidently conveyed the deliberate decision of Her Majesty's Government after giving the matter full consideration. After myself giving my best attention to the matter, apart from the light thrown upon it by the Secretary of State's despatch and elsewhere, and after arriving at the conviction, which every day tends to, strengthen, that the payment was a right one, however unfortunate the circumstances under which the demand was made, it would under ordinary circumstances have been my duty to have at once summoned a meeting of Council for the purpose of passing the vote. For reasons which are well known I was not then in a condition to hold a meeting of Council, and feeling that I ought not to leave to others the invidious task of defending the vote, I ordered immediate payment. I did so entirely on my own responsibility.

THE WATER SUPPLY.

The Hon. T. H. WHITEHEAD ask the following question :—"Will the Government lay on the table a report on the present state of the Tytam reservoir and state (a) the quantity of water in the reservoir on 1st August last, (b) the quantity delivered daily through the tunnel, (c) the estimated flow into the reservoir between the 1st August last and now, (d) the quantity now left in the reservoir, (e) the cause of the difference, if any, between the quantity passed out of the reservoir as shown by its contents then and now, including the estimated flow into it and the quantity delivered through the tunnel."

The ACTING COLONIAL SECRETARY laid on the table the document asked for. In answer to (a) it stated that the quantity in the Tytam reservoir on the 1st August last was 307,650,000 gallons. With regard to the quantity of water delivered daily from the tunnel a table showing the daily and monthly deliveries from 1st August to 23rd April was given. The totals for the months were August, 58,082,000 gallons; September, 55,667,200 gallons; October, 50,322,400 gallons; November, 50,280,000 gallons, December

51,79,000 gallons; January, 49,983,000 gallons; February, 77,301,000 gallons; March, 29,177,000 gallons; April, 19,647,000 gallons. With regard to the daily delivery the average from 1st August to 31st January was about 1,600,000 gallons daily; 1st March to 23rd March 1,075,000 gallons; 24th March to 31st March 729,000 gallons; from the 1st to 23rd April about 729,000 gallons daily, since the 23rd about 483,000 gallons daily. In reply to (c) the document stated—The estimated proximate flow into the reservoir between 1st August and now, including evaporation, is 94,606,000, which gives a daily average of 355,000 gallons. Hon. J. M. Price in his report dated 1st November, 1889, placed the daily flow during the months between October and March at 150,000 gallons. Mr. James Orange in his paper read before the Institution of Civil Engineers in 1879 estimated the day weather flow at 200,000 gallons per diem. (d) The reservoir is practically empty.

THE COST OF THE TYTAM RESERVOIR.

Hon. T. H. WHITEHEAD asked—Will the Government lay on the table a complete statement of the cost to date of the Tytam reservoir and works connected therewith, including the service reservoir; also a statement of the cost of the works to date for the distribution of the Tytam water, and the estimated farther sum required to complete the distribution works?"

The ACTING COLONIAL SECRETARY laid the document on the table.

THE ASSESSED TAXES.

Hon. T. H. WHITEHEAD asked—"Will the Hon. the Colonial Treasurer lay on the table a statement of (1) the particulars of the expenditure under the head of miscellaneous services in the statement of receipts and payments for 1890. (2) the assessed taxes refunded for void or empty houses in the years 1888, 1889, and 1890, and (3) the assessed taxes for first quarter of 1887, of 1870, and of 1891, and the taxes refunded for void or empty houses. in each of those quarters?"

Document laid on the table.

THE CLOSING OF PRAYA EAST.

Hon. T. H. WHITEHEAD ASKED —Will the Government lay upon the table the papers and correspondence relating to the closing of the thoroughfare leading from Arsenal Street eastward along the Praya, now blocked to carriage traffic since November last to the great inconvenience of the public and state when there is any probability of the road being again opened to traffic?

The ACTING COLONIAL SECRETARY—With reference to that question I am directed to inform the hon. member that the road will probably be open in about a month. His Excellency is not in a position to lay the papers on the table because it is possible that legal proceedings may eventually arise. The delay in completing the road

has arisen from the necessity of communicating in England with the executors of deceased persons.

ALTERATIONS IN THE PLANS FOR THE PRAYA RECLAMATION.

Hon T. H. WHITEHEAD asked (a) "Have the plans for the construction of the sea wall of the Praya Reclamation as designed by the late Surveyor-General and approved by Sir John Coode been altered in any respect since the commencement of the work? (b) If they have been altered in any respect what additional expense if any does it entail beyond the sum mentioned in the *Government Gazette* of the 6th July, 1879?"

The ACTING COLONIAL SECRETARY—In reply to the hon. member, I may inform him that it has been decided with Sir John Coode's approval to substitute concrete blocks for the foundation of the Praya Wall in lieu of granite footings. Sir John Coode has also recommended some minor modifications in the original design. The object of all these alterations is to add to the stability of the work and accelerate the period of its completion. With regard to the second part of the question I may say that there is no reason to anticipate that through these alterations the original estimate on which is based the amount to be contributed by the lot holders, as given in the *Government Gazette* of the 6th July, 1889 will be exceeded.

THE RUMOURED WASTE IN TYTAM RESERVOIR.

Hon. T. H. WHITEHEAD asked—Is there a leak in the Tytam reservoir dam? If so, what is the nature of the leak, and if there is leakage what is the estimated cost of making the reservoir water-tight?

The ACTING COLONIAL SECRETARY—There is a slight percolation through the dam but nothing more than would be expected in a dam of its height. This percolation is yearly decreasing owing to the natural operations at work within the dam itself and will probably stop in a short time without involving any expenditure of money.

Hon. T. H. WHITEHEAD asked—Assuming the reservoir was full what is the estimated quantity of water which would be lost *per diem* by the leakage if there be any?

The ACTING COLONIAL SECRETARY—In answer to the hon. member I would state that no water is lost by the leakage. It is all intercepted by the longitudinal channels constructed along the outside face of the dam and conveyed direct to the tunnel.

THE ESTIMATED COST OF TYTAM RESERVOIR.

Hon. T. H. WHITEHEAD—Will the Government state the original estimated cost of the Tytam reservoir and works connected therewith including the service reservoir; and the original estimated cost of the works for the distribution of the Tytam water?

THE ACTING COLONIAL SECRETARY.—In reply to the hon. member I am directed to state that the estimated cost of the Tytam reservoir and the works connected thereto, not

including mains, was \$908,000. The original estimated cost of the works for the distribution of Tytam and Pokfulam water was \$200,000.

THE BUILDING COVENANTS IN CROWN LEASES.

Hon. T. H. WHITEHEAD asked—Does the Government notification No. 139 of 28th March last refer to covenants in leases granted before the year 1883 or to breaches of agreements for leases issued subsequent to that date?

The ACTING COLONIAL SECRETARY—In reply to the hon. member I would inform him that the notification refers to people who have bought land and not conformed to the terms of their leases. Each case will be dealt with on its own merits irrespective of time.

TREASURY ACCOUNTS.

Hon. T. H. WHITEHEAD asked—Will the Hon. the Colonial Treasurer give the Council some information regarding the various items aggregating millions of dollars under the head of receipts and payments in the statement dated 6th inst. and laid before the Council on 10th idem; and further, an explanation as to the decrease in expenditure against the name of the Postmaster General as appears in said statement under the heads of establishments and services exclusive of establishments."

The ACTING COLONIAL SECRETARY—I have had the information asked for by the hon. member prepared. It is a very long statement and I think it would be better with your Excellency's permission to lay it on the table.

HIS EXCELLENCY—I think it will serve all purposes if it is laid on the table and printed if the hon. member has no objection.

Hon. T. H. WHITEHEAD—None whatever.

The document was then laid on the table.

THE MILITARY CONTRIBUTION.

Hon. T. H. WHITEHEAD asked—"If the full military contribution of £40,000 for 1890 had been paid on or before 31st December last would there not have been a deficiency in revenue as compared with actual expenditure in 1890, and if so how much would have been the deficiency?"

The ACTING COLONIAL SECRETARY—In reply, I have to inform the hon. member that if the extraordinary public works had been paid from the accumulated balances, there would not, I believe, have been any deficiency.

THE STATE OF QUEEN'S ROAD.

Hon. T. H. WHITEHEAD asked—Has the attention of the Government been called to the leading articles in the *Daily Press* of the 17th March and *China Mail* of the 20th inst. referring to the unsatisfactory state of Queen's Road Central, and will the Surveyor-General state what steps are being taken to put it in proper order?

The ACTING COLONIAL SECRETARY—I have to inform the hon. member that His Excellency has seen the articles referred to and is informed by the Surveyor-General that Queen's Road Central is in as good order as the necessary operations of the Water and Drainage Department

will admit. It is proposed as soon as the sewers and water mains are completed in any locality to relay the roadway. The Surveyor-General adds that if any hon. member or the writers of the newspaper articles will kindly point out to him any spot where the defects are to which reference has been made he will do his best to have them remedied.

THE ENFORCEMENT OF THE OPIUM ORDINANCE.

Hon. T. H. WHITEHEAD asked—Have the Government issued any instructions recently for the more stringent enforcement of the Opium Ordinance, 1887 and for the more frequent examination of opium godowns? If such instructions have been issued has it been done on the application or complaint of the Chinese Government or the officers of that Government?

The ACTING COLONIAL SECRETARY—I have to inform the hon. member in reply to his question that the Superintendent of Imports and Exports was directed last year that it was part of his duty under the Opium Ordinance to make surprise visits to opium stores. The answer to the second part of the question is a negative.

THE PROPOSED LIGHTHOUSE ON WAGLAN.

Hon. T. H. WHITEHEAD said—With reference to His Excellency the Governor's statement in Council on 18th December 1889, v z., "I was given to understand last year that, in "consideration of our having undertaken the "work of the Gap Rock Light, the Imperial "Chinese Maritime Customs would undertake "the lighthouse on Waglan," will the Government state whether the Chinese Government have commenced the erection of the very necessary lighthouse on Waglan, and if not when operations are likely to be commenced?"

The ACTING COLONIAL SECRETARY—In reply to the hon. member I have to state that on the 25th September the Colonial Secretary wrote to the Commissioner of Customs on the subject and on the 2nd October received the following reply :—"In reply to your despatch of the 25th ultimo, I have the honour to acquaint you for the information of His Excellency the Officer Administering the Government that I am in receipt of late instructions from the Inspector General of Customs to the effect that Mr. Henderson, the engineer-in-chief of the Lighthouse Department, and Mr Bisbee, the Coast Inspector, have been directed to visit Waglan forthwith for the purposes of making the observations and measurements necessary for the preparation of plans and estimates for a first order light for the position."

SUNDAY WORK IN THE HARBOUR.

The ATTORNEY-GENERAL—I have the honour to ask leave to introduce and move the first reading of a Bill entitled "An Ordinance to restrict the loading of cargo on Sunday in certain waters of the Colony." I am sorry that owing to pressure of other business I have not had the advantage of having my first draft of this Bill gone through by your Excellency or

in Executive Council, and possibly it may require some modifications. It will be published in the *Gazette*.

The ACTING COLONIAL SECRETARY seconded.

HIS EXCELLENCY—I am unable to-day to launch into the subject, but I may just say the ventilation this subject has received during the last few years has led me to the conviction that a mea are of this kind would have no appreciable effect on the trade of the port. Consequently I have felt that I should before I leave remove an injustice towards a deserving class of men. I trust I shall be able to go through this draft, and it will be published in the *Gazette* on Saturday.

Bill read a first time.

THE GAMBLING ORDINANCE.

The Council resumed committee on the Gambling Ordinance.

HIS EXCELLENCY—I wish to make quite clear my position in this matter. You are all aware that my faith in any Ordinance of this kind is not great; but not only the Secretary of State, but I believe a very considerable majority, or a very large portion, of the best public feeling of the colony is in favour of such an Ordinance. I am at least persuaded that it will not be the sham the present law is, and it is the only law short of the licensing of gambling houses—which I honestly believe is the best way of restricting gambling—the only law short of that that has the least prospect of doing any good. It is a stringent law no doubt, but stringency is required to prevent its being a sham. While passing a law of this kind for the restriction of gambling among the Chinese it would be in my opinion in the highest degree unjust to omit such forms of gambling as the totalisator at the races. That in my opinion has all the objections of licensed gambling houses without the advantage a law for the licensing of gambling houses would have of restricting a very large amount of gambling that now takes place elsewhere. The totalisator is, I consider, very much more injurious than ordinary betting. Ordinary betting of course cannot be suppressed, it is an impossibility. I consider the totalisator infinitely worse than betting on account of its extreme ease. When people want to bet they very often have a difficulty in finding people to bet with them, and when they do bet they do not always get paid. If any gambling has to be stopped the totalisator is to my mind decidedly as bad as any other form of gambling, and it is therefore the intention of this Ordinance to suppress it. I know from personal experience it causes people to gamble who would not think of it otherwise, and I think it would be the greatest injustice and lay this Council open to the charge of very gross partiality to stop Chinese gambling and not stop that. Consequently I have specially introduced a clause in reference to it, so that when people talk of putting down all gambling they may know what it means themselves.

Sub-section 4 in the definition of a common gaming house, any place "in which excessive stakes are ordinarily played for," was struck out, HIS EXCELLENCY remarking that he was satisfied it would be impossible to carry it into effect.

The ATTORNEY-GENERAL said that though he agreed the clause should be struck out he would like to say that it was not introduced without some thought on his part and in consequence of a judgment by Mr. Justice Smith in *Jenks v. Turpin* where he discussed the question of the unlawfulness of paying for excessive takes and said each case must be adjudicated on its own merits. Having read an extract from the judgment referred to the hon. member went on to say that according to it the question of what was excessive stakes was to be determined by a jury, and he thought it might be decided here by the Magistrate, who was a man of common sense at least, and if any one was not satisfied with his decision it would be possible to appeal to the Supreme Court, so that in that way it might be determined what was excessive. He thought it was only right to say the clause was not introduced without some consideration.

HIS EXCELLENCY—I am sure no member thought that, but on the other hand I am of opinion that while the whole Ordinance is a restraint of freedom in some respects this would be an excessive restraint of freedom, in fact if persons in a private house chose to play high and frequently they might be subject under this specific clause to the supervision of the police. Now I confess I am not without a certain sympathy with the saying attributed to a celebrated prelate that he preferred England free to England sober. I am not without an aualagous feeling with regard to gambling, but while there may be reasons for disregarding that feeling to a certain extent I think to deal with the matter of excessive stakes, it might be in a private house, is pushing matters too far, not to mention the extraordinary difficulty put before judges and magistrates of saying what "excessive" is. Probably they might differ very often themselves on the subject and an irregular state of the law would thereby be introduced.

The other clauses of the Bill, as printed in the amended draft, were passed without alteration or discussion.

THE MERCHANT SHIPPING ACT.

Hon. P. RYRIE—Some time ago I put a question in this Council about amending the Merchant Shipping Ordinance. It was stated at the time that it would be amended shortly. Something like a year has elapsed and nothing has been done, and I now beg to give notice that at the next meeting of this Council I will ask when the new Merchant Shipping Ordinance will be introduced.

ADJOURNMENT.

The Council then adjourned.