

5TH MAY, 1891.

PRESENT : —

HIS EXCELLENCY THE GOVERNOR, SIR WILLIAM
DES VOEUX, K.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. HO KAI.

Hon. J. J. KESWICK.

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

THE NEW MERCHANT SHIPPING BILL.

HIS EXCELLENCY—There is a question on the paper with reference to a new Merchant Shipping Bill, to be put by hon. P Ryrie. Perhaps as the hon. member is not present the Hon. Mr. Keswick as being interested in the subject will put it in his place.

The ACTING CLERK OF COUNCILS—Hon. P. Ryrie and Hon. T. H. Whitehead have both sent letters asking that their absence may be excused.

Hon. J. J. KESWICK—In the absence of the hon. member I shall be pleased to put the question:—"Will the Government state definitely when the new Merchant Shipping Ordinance will be introduced?"

The ATTORNEY-GENERAL—I have only to reply that the Government are unable to state definitely when the Bill will be introduced, but I may add that the subject has not been lost sight of by the Government, and before the question was asked by the hon. member I had revised the draft Bill with the assistance of the Harbour Master which has been sent to the printers and has not yet been received back in its final form.

SUNDAY LABOUR IN THE HARBOUR.

The ATTORNEY-GENERAL—I have to move the second reading of a Bill to restrict the loading and unloading of cargo on Sundays in the waters of the colony. I should like to say a few words on the Bill before it goes into Committee. The subject is one in which I take some interest. I have read the papers on the subject and I have read the minutes of the international conference held in Paris in September 1889. I have also read the very interesting history of the Sunday labour question which has been printed by the direction of Captain Ashton, President of the British Mercantile Marine Officers' Association. The subject has excited some interest in England as appears from the question put in the House of Lords by the Earl of Meath Although I felt some difficulty in the matter I had come to the conclusion in my own mind that

something should be done at the time when I received what were not anticipated by me directions from His Excellency to draft a Bill on the subject and submit it to him. The Bill in its present form is as it passed from His Excellency with his approval. There may be some slight improvements made, in the definition of cargo for instance; probably ice and perishable articles of food should be excepted from that definition. Apart from that I think the Bill has the sympathy of the members. The question has passed through three stages. First comes that of a great grievance unredressed. The second stage was that of exhibition of sympathy, partly owing to the attitude the Press took up upon the matter on behalf of these men, and thereby some alteration in the public mind I have no doubt took place. The answer of the Chamber of Commerce can be taken, I hope, as ending that period where sympathy is expressed and nothing done. There seemed to be after that no remedy left but legislation. When a person is in trouble the question is whether a little help is not better than a great deal of sympathy. It has been reserved to His Excellency to give that help before he leaves, and I trust that this Bill will give relief to those officers who see the British flag flying on the shore while they are compelled to work all day Sunday on board ship.

The COLONIAL TREASURER seconded.

Hon. J. J. KESWICK—I desire to say a few words with reference to this Bill. I think a certain injustice is likely to be done by it to mail steamers. I would instance among such steamers the P. & O. steamers, for example, which being subsidised are obliged to observe scheduled times in the matter of arriving and sometimes also in departure from certain ports. If this Bill is passed as it stands at present the very possible effect in many instances will be that when a P. & O. steamer arrives here on Sunday morning and is due in Shanghai say on the following Thursday and is delayed through not being able to work on Sunday she will be heavily fined in such amount as is prescribed in such cases for not having arrived at her destination in due time. I do not believe that there is any desire or intention on the part of the Government in introducing a measure that it should be a hardship to any one, but on the contrary that it should be a relief to a large and worthy class of officers. With regard to the other mail steamers, the French, the German, or others, of course I am not aware whether they are obliged in their services out here to arrive and leave on certain dates

or pay a penalty, but such may be the case. I think the question of these foreign mail steamers requires to be carefully considered before making it applicable to them. It does not occur to me on this particular point that there is anything further I can say in the way of suggesting amendments to the Bill, but I hope care will be taken with reference to the schedule and that the amount proposed as the cost of a permit will be very carefully considered. It is not in all cases desirable that the same ratio should be followed with regard to different steamers. I may say in passing, I believe it would be desirable that every steamer whether large or small should pay the same amount, as the fact that one steamer is larger than another does not necessarily imply that it is more important to the larger steamer to get away from here on Sunday and consequently work on that day to enable her to do so. There is another point I would mention and although it may appear a small one I think it is not without importance. Yesterday I had a visit from the manager of the Ice Company here and he very properly pointed out that it happens to him continually that he has to send ice on board steamers on Sunday. The steamer may not be working cargo, she may be on the point of departure, and necessarily any such perishable articles are not sent on board till the last moment. It is not only sent for the ship's use, it is often actual cargo. There may be a demand for it at the coast ports and in that case it would not come under the head of provisions for ship's use; it is really cargo and naturally it is not put on board till the last moment. Then with regard to the discharge of fish and other articles of goods from the Canton river boats, I think it is very important indeed that there should be no restriction whatever of the proper carrying on of the traffic in these things as it at present exists.

HIS EXCELLENCY—I have followed the speech of the hon. member with great interest, and I am glad to say there is not one of the points he has mentioned that I have not already considered. With regard to the mail steamers I have thought carefully over the matter, but I am quite open to hear any arguments on the subject. It seems to me that if you exclude from the definition of cargo, mails and passengers' baggage you really do all for the mail steamers that they are justly entitled to. If they choose to compete for the carrying of cargo with other steamers, I think if they choose to load cargo on a Sunday they should be put on the same footing as the other steamers. They are perfectly at liberty to put off or take on mails or personal baggage, and if they choose to compete with other steamers in the matter of cargo, surely in the absence of something that does not occur to me at present they should be put in the same position as others

and not given an unfair advantage over them in being allowed to load on Sunday while other steamers are forbidden. With regard to foreign mail steamers, of course if English mail steamers are put in that position they should be put in exactly the same. Of course it is impossible to put this law into force until we know clearly the terms of the new convention with France and possibly with Germany, but it will be observed that while it is impossible for the present and until we know something more of these terms to put this law into force against the masters and consignees of these vessels, at the same time we have introduced a clause which enables us to punish those people who put the cargo on board. Where such difficulties might be raised owing to international obligations standing in the way of the steamer being proceeded against, the only thing you can do is to punish those who put the cargo on board, and of course the steamer will be unable to work the cargo if no one can be found to put it on board. I don't think there can be any objection to that, if our steamers are put in that position. All that can be required under the most favoured nation clause is that you shall be placed in the same position as others. If therefore they are put in the same position as our own steamers surely they can have no cause for complaint. For the moment until the terms of the new convention are made known it will not be possible to put the law into force against the master or consignees or owners of these vessels, but as it is not contemplated putting it in force at once perhaps that objection may fall to the ground before the time for its being actually put into force arrives. With regard to the schedule, I trust the hon. member will assist us with his experience of these matters. I need hardly say that the experience of him or of anyone else concerned in the subject will be most valuable. Of course my object in introducing the schedule was to fix some amount to consider. It is only a tentative scale, prepared for the consideration of Council. My object was to fix the cost of a permit at the smallest sum that would have the practical effect of putting an end to working cargo on Sunday. There is no desire to raise any revenue from it and if smaller amounts will have the same practical effect I am by no means averse to the consideration as to whether smaller amounts would answer the purpose. With the assistance of the Harbour Master and the Attorney-General that tentative scale has been drawn up and the Ordinance would be practically useless unless that schedule enables us to carry out the purposes of the Ordinance. On that schedule depends the whole Ordinance. Inasmuch as experience may teach us the necessity of altering it, the power to alter it has been lodged by the Ordinance with the Governor in Council. With regard

to the other matter the hon. member very properly drew attention to, that matter has already been considered by me, and the Attorney General will presently move an amendment in which ice and perishable articles of food are omitted from the terms of the definition of cargo. That not only covers ice, but the articles of food brought down by the river steamers. Of course there may be other improvements, but my desire is that having promised shortly after my return to the colony to a gentleman largely concerned in this matter that I would do my best before my departure to do what I considered an act of justice, I felt bound so long as the objections were not insuperable to perform that promise to the utmost and not to go away until I had done so. I am sorry to say that the unfortunate necessity which compels me to leave the colony long before I had intended has made the final consideration of this Ordinance appear somewhat hurried, but as a matter of fact it has not by any means been hurried in the sense that might be supposed, because this subject as you all know has been before the Government for a long time and the principle on which this Ordinance is drafted had my conditional assent, given to the gentleman I mentioned who has taken such a large interest in the matter, some three weeks ago. I think very possibly experience may show the necessity of amendment, but I do think it would be a graceful act on the part of this Council, now that it has become clear that no serious harm will be done to anybody by the Ordinance, and really the very lukewarm opposition made by the Chamber of Commerce seems to make that point very clear, that it would only be a graceful act on the part of this Council to give their opinion distinctly in favour of the principle of this Ordinance by passing it even although it may not be altogether as complete or as perfect as it might be.

The Bill was read a second time and the Council went into Committee on it.

Clauses 1 and 3 to 8 were passed without discussion.

HIS EXCELLENCY said, with respect to clause 9, providing that the Bill should come into operation on the 1st July, that he was willing to give the fullest possible time. He had only put that date in tentatively, and was willing to give time to warn everybody concerned that the Ordinance was coming into force. He had put in the 1st July tentatively, but he had no strong objection to extending the time somewhat if it was thought that date was not sufficiently distant.

No remarks being offered the clause was passed as it stood.

Clause 2, containing the definitions, was then considered.

The ATTORNEY-GENERAL—I have to move the following amendment, that instead of "cargo shall not include mails or personal luggage" it shall read thus:—"Cargo shall not include mails,

personal luggage, ice, or articles of food of a perishable nature or required for immediate consumption."

HIS EXCELLENCY said that subject to the view of the Attorney-General he would suggest to leave out the word "or."

Hon. J. J. KESWICK—May I suggest also that live stock should be added to the exemptions. Very often horses or other animals may arrive late on Saturday night and it would be only right that they should be discharged as so has possible.

The ATTORNEY-GENERAL—Then vessels might select Sunday as the day for their arrival with cattle.

The REGISTRAR-GENERAL—It would be as hard hip I think, to keep a cargo of pigs on board a steamer for a whole day after arrival.

HIS EXCELLENCY—I fear the amount of cruelty that goes on with regard to animals is so great that such an addition as that would scarcely be appreciable. However, if it is practicable without introducing all the evils this Ordinance is intended to cure I need hardly say I would be glad to make the amendment. How would this be—"perishable articles of food required for immediate consumption or, in respect of discharge from vessels, live stock," so as to exclude taking them on board?

The COLONIAL TREASURER—There is no live stock taken on board here.

Hon. J. J. KESWICK—Suppose race ponies are going to Shanghai by a steamer leaving on Sunday. You would not put them on board on Saturday and leave them on board all night if you could help it. That just occurs to me as one instance.

HIS EXCELLENCY—So you would not have the words "as regards discharge" so as to exclude loading?

Hon. J. J. KESWICK—I think not.

The definition was then passed in the following form:—"Cargo shall not include mails, personal luggage, live stock, ice, or perishable articles of food required for immediate consumption."

The schedule was then considered. Form 2 provided a scale of fees for the grant of Sunday permits ranging from \$100 for vessels of 400 tons or under to \$250 for vessels of over 2,000 tons.

HIS EXCELLENCY—Perhaps Mr. Keswick would be good enough to let us know what form his criticism takes as regards this schedule. I think he is rather under the impression the large steamers are too heavily taxed in comparison with the small ones.

Hon. J. J. KESWICK—I think, sir, the scale of fees is on the whole too high, but I recognise that it is a very difficult thing exactly to say what would be a fair scale to apply. In the remarks I made before I really intended to say that it does not follow that because a steamer is a small one it may not be more important

for her to pay her fee and get away than for a large one. It may be more important really for the smaller steamer. Suppose, for example a steamer is going to Swatow, where she knows very important freight awaits her, say three or four thousand dollars worth, it may be worth her while to pay \$150 and clear; a large ocean going steamer on the other hand may have no important freight awaiting her, but must get away in order to arrive at Woo-sung Bar before a certain time or be neaped, as it is called, and kept there for several days. For that reason the size of the steamer is no fair ground for charging her a higher sum than the smaller steamer going to Swatow. I think perhaps on the whole it would be desirable to reduce this charge and under all circumstances to make the charge the same for all vessels I really think, on the hurried consideration I have given it, that that would be right and fair. A large steamer would pay \$150 to get over the Woosung Bar, and a smaller steamer would pay \$150 in order to secure freight. I see a vessel of 2,000 tons has to pay \$250. \$250 represents on a large steamer, something like, roughly speaking one day's demurrage.

HIS EXCELLENCY—Less, I think.

Hon. J. J. KESWICK—It would depend on the size of the steamer.

HIS EXCELLENCY—I was given to understand every one of these schedule prices would be below the demurrage which would be paid by steamers of the class to which the price is attached.

The ATTORNEY-GENERAL—I may say that in framing this schedule I called in the assistance of the Harbour Master and we discussed the matter together. Of course different men take different views of the same thing. The principle on which we went was that a very large steamer might take a much larger quantity of cargo than a smaller one and it might be more important for her to get away. What we wanted was as far as possible to allow the officers to get their Sunday, not so much to get the fee, but to put on such a figure as would put an end to working on Sunday if it could be done. If you put it at too low a figure you simply make it a sort of tax without preventing working on Sunday. It is a matter with which I am not very familiar, but I did the best I could. Perhaps the hon. member could suggest something else.

Hon. J. J. KESWICK—With reference to the remark of the Attorney-General, it is one of those cases in which I am afraid no gradation is possible, because the effects upon different steamers are not identical. It might be worth a steamer's while to pay \$250 on one occasion and not on another. I understand at Bombay the scale of charges for Sunday permits is the equivalent of 12 cents per registered ton. In the case of a steamer of 1481 tons the charge under this schedule would be about 16 cents a ton.

HIS EXCELLENCY—For steamers of 2,000

tons the rate would be very near the Bombay rate and if a vessel is much larger it is under the Bombay rate. \$240 would be the Bombay rate for a steamer of 2,000 tons, whereas the maximum rate here is \$250, and therefore for a large number of steamers the rate would be under the Bombay rate.

Hon. J. J. KESWICK—Take a vessel of the size of the *Benledi*. I mention her because I have the figures in my mind. The tonnage is 1481 and that at 12 cents a ton would be \$177.72, according to the scale put down here she would be charged \$200.

HIS EXCELLENCY—No, \$175. She would be charged as under ??,500 tons.

The ATTORNEY-GENERAL—We tried to make it approximate somewhat roughly to the demurrage.

HIS EXCELLENCY—Giving due consideration to what the hon. member says, and while one cannot ever regulate these things exactly, I think it stands to reason that a larger steamer should pay a larger amount than a smaller steamer, and that, roughly speaking, there ought to be an ascending scale by which a large steamer of four or five thousand tons should pay more than a little steamer of 400 tons. Thought there may be a good deal in the exceptional circumstances mentioned by the hon. member I cannot think that in the average of cases it should override the general principle that the larger steamer ought to pay more. Certainly in the case of demurrage I believe it is the recognised principle that the amount is regulated by the tonnage. Is that not so?

Hon. J. J. KESWICK—Certainly, but demurrage is an agreed upon amount. You might agree upon \$100 or \$250 independently of the size of the steamer.

HIS EXCELLENCY—The question is whether any less sums than those put down would be effective. In the original draft a fixed sum of \$150. was put down, but I do not think \$150 in the case of a large steamer would be the least restriction on Sunday labour when their demurrage would be three or four times as great.

The ATTORNEY-GENERAL—I put in that \$150 on my own suggestion, but it was thought afterwards it might be amended. \$150 would be prohibitive in the case of small steamers, whereas it might pay a large steamer to pay \$150 and go on working on Sunday.

HIS EXCELLENCY—Suppose we put down the scale 25 per cent. in each case, try the lower figure at first and then if experience shows it does not really meet the necessity of the case we can increase it. I am only throwing out the suggestion for consideration. If experience shows the fees fixed do not meet the necessity of the case and vessels load and unload in spite of this restriction the scale can be amended. That would to a certain extent meet your views?

Hon. J. J. KESWICK—It would be a step in the right direction. It would prevent this Ordinance

being what I believe it certainly was not intended to be a hardship on persons who must work on Sunday even if only for an hour.

HIS EXCELLENCY—Then suppose we compromise the matter by putting the fees down 25 per cent. That will be \$75 for the first instead of \$100.

The ACTING ATTORNEY GENERAL pointed out that to take 25 per cent. off \$125 would leave an odd amount and suggested that \$25 should be taken off each.

Hon. J. J. KESWICK—No one, I am satisfied, would ever think of working their steamers except in case of necessity if they had to pay a fee for it, and it does happen frequently that steamers must call here, work for an hour or two only, and then go on.

HIS EXCELLENCY—Then I think it very simple to move all the figures down a line, making the highest amount \$100 and the lowest \$75. Of course no scale can be other than tentative. One must learn by experience what will have the desired effect. That is the reason for giving power to change the scale. I am perfectly certain the amounts are now considerably less than what are charged say in Bombay for the Sunday working of the Customs.

The scale was then passed, the fees being as follows:—400 tons or under, \$75; over 400 but not exceeding 700, \$100; over 700 but not exceeding 1,000, \$125; over 1,000 but not exceeding 1,500, \$150; over 1,500 but not exceeding 2,000, \$175; over 2,000, \$200.

The Bill was then reported and the Council resumed.

The ATTORNEY-GENERAL—Although the alterations in this Bill are very small, still at the same time in order to read it a third time now it will be necessary to move the suspension of the standing orders. As this is the last time we shall have the pleasure of seeing his Excellency here and as he takes such a great interest in this Bill it might be advisable to move the suspension of the standing orders and read the Bill a third time to-day. I therefore formally propose the suspension of the standing orders.

The COLONIAL TREASURER seconded.

Hon HO KAI—I think, your Excellency that we might be satisfied with having got this Bill so far. In going further to-day we shall fully

accomplish what we are about, but there is a chance that we shall be passing it rather in a hurry. Two of the unofficial members are not present to-day and I think it might be as well to give them an opportunity of saying anything on it if they see fit. If this Bill were very urgent such a suspension of the standing orders might not be inadvisable, but I think no harm will be done, having got the Bill thus far by allowing the third reading to remain over till the next meeting.

HIS EXCELLENCY—The objection only means that we shall be obliged to have another meeting to-morrow morning. Such a course would be very inconvenient, but if it is to the public advantage, it will have to be done. I have quite made up my mind that it is my duty to pass this Bill and not leave an of the responsibility to my *locumtenens*. If under these circumstances the hon. member presses his objection, we must have a meeting to-morrow morning; than we shall be completely in order. It is not as though this Ordinance were going to come into force at once. Two months will elapse before it comes into force. If the hon. member withdraws his objection I have not the slightest objection to making the time a month longer so as to give the fullest opportunity for urging objections against the Ordinance on side. That, I think, would meet what the hon. member desires and at the same time enable me to leave the colony without leaving an invidious task to my *locumtenens*.

Hon. HO KAI—Under those circumstances I withdraw my objection.

The date of the Bill coming into operation was then altered from 1st July to the 1st August.

The standing orders were suspended and the Bill read a third time and passed.

THE GAMBLING ORDINANCE.

The ATTORNEY-GENERAL moved the third reading and passing of the Gambling Ordinance, which was passed accordingly.

The ATTORNEY-GENERAL stated that though no doubt the subject was a difficult one to deal with he trusted the Ordinance would at least diminish the worst kinds of gambling prevalent in the Colony and show that the law at least disapproved of the evil.

The Council then adjourned.