

8TH NOVEMBER, 1897.

PRESENT:—

His EXCELLENCY the Governor, Sir WILLIAM ROBINSON, G.C.M.G.

His EXCELLENCY Major-General BLACK, C.B. (Officer Commanding the Forces.)

Hon. J. H. STEWART LOCKHART (COLONIAL SECRETARY).

Hon. W. M. GOODMAN (Attorney-General).

Hon. R. MURRAY RUMSEY (Harbour Master).

Hon. F. H. MAY, C.M.G. (Captain Superintendent of Police).

Hon. R. D. ORMSBY (Director of Public Works).

Hon. C. P. CHATER, C.M.G.

Hon. HO KAI.

Hon. T. H. WHITEHEAD.

Hon. E. R. BELLIOS, C.M.G.

Hon. J. J. BELL-IRVING.

Mr. J. G. T. BUCKLE (Clerk of Councils).

MINUTES.

The minutes of the previous meeting were read and confirmed.

The COLONIAL SECRETARY laid on the table a financial minute and moved that it be referred to the Finance Committee.

Carried.

THE CHARGE FOR WATER SUPPLIED TO GOVERNMENT ESTABLISHMENTS.

The COLONIAL SECRETARY laid on the table the report of the Finance Committee, No. 9, referring to the Appropriation Bill, and in doing so said—It will be observed that the Committee unanimously recommended all the items with the exception of that for water supplied to Government House and similar items in the estimated expenditure of other departments. I understand your Excellency is about to make a statement with reference to the charge for water supplied to Government establishments. The hon. member who represents the Chamber of Commerce has suggested that the report of the Committee appointed to inquire into the question of increase of salaries should be published and I have informed Your Excellency of his suggestion.

His EXCELLENCY—I have instructed the Water Authority not to make any charge in respect of water supplied to Government establishments. (Applause). With regard to the other matter mentioned, I have no objection at all to the correspondence being published in due course.

LAW COMMITTEES REPORT.

The ATTORNEY-GENERAL—I beg to submit the report of the Law Committee on the Interpretation Bill. The Committee held a meeting after the last Council and the

Bill was passed without amendment.

SANITARY BY-LAW.

The COLONIAL SECRETARY moved that a by-law made by the Sanitary Board be approved. He said it would be remembered that at the last meeting of Council he stated that this by-law had been referred again to the Sanitary Board with a view to a reconsideration of the definition of the word "street." The Sanitary Board had accepted the suggestion made on that point and the by-law was now brought forward for approval.

By-law approved.

AMENDMENT OF THE CODE OF CIVIL PROCEDURE.

The ATTORNEY-GENERAL — I would ask your Excellency's permission to move a resolution amending the Code of Civil Procedure, which is made on the recommendation of the Judges, the Chief Justice and the Puisne Judge. It would be open to me to give notice to-day and move the resolution at the next meeting, but I see by the standing orders a motion may be made without notice the urgency of which is admitted by the President and two-thirds of the members present. I would therefore ask your Excellency's permission to mention the matter and ask the Council to say this resolution may be moved at this meeting. It is simply a resolution making a slight alteration in the Code of Civil Procedure which I will explain when I move the resolution. In a case which occurred the other day, upon the affidavit being tendered which it is necessary for a plaintiff to make in order to obtain judgment, the plaintiff happened to be a corporation and one of the learned members of the legal profession took the objection that a corporation could not make an affidavit. It was found that was so, and that the law in England was up to a few years ago the same as our law but when a case was decided on the point an alteration was made in the rules and orders under the Judicature Act. The resolution I wish to move brings our law into precisely the same state as the English law. It is purely a technical matter and the defect in our law should be, at once, remedied. I take it hon. members will say it is urgent.

Urgency granted.

The ATTORNEY-GENERAL—I beg to move the following resolution:—"Be it resolved that sub-section 2 of section 13 of the Hongkong Code of Civil Procedure shall be and the same is hereby amended by the addition after the words 'upon filing an affidavit' of the words 'made by himself or by any other person who can swear positively to the facts.'" If I may repeat myself, where the plaintiff is a corporation or is absent from the colony the affidavit required by sub-sec-

tion 2 of section 13 of the Code of Civil Procedure before the plaintiff can proceed to judgment cannot be made. The same difficulty arose in England, and some years ago the amendment in the procedure was made there which it is now proposed to make in our Code. The only effect of the resolution will be to assimilate the law in this colony to that of England. In so complicated a matter as a Civil Code time and experience are certain to bring to light some *casus omissus*, and accordingly section 99 of the Code provided for necessary amendments, by resolution of the Legislative Council, to be published in the *Gazette*. The wording of the resolution follows the wording of order 14 rule 1 made under the English Judicature Acts.

The COLONIAL SECRETARY seconded.

Carried.

THE APPROPRIATION BILL.

The COLONIAL SECRETARY—I have the honour to move that the Council go into committee on the Bill entitled "An Ordinance to apply a sum of not exceeding two millions three hundred and forty-three thousand seven hundred and thirty dollars to the public service of the year 1898."

The HARBOUR MASTER seconded.

Hon. T. H. WHITEHEAD—Before proceeding to consider this Bill in committee I would like to make a few remarks if I am in order. I have very carefully considered the Estimates now before the Council together with the very ably constructed address you delivered two weeks ago, and I beg to offer your Excellency my hearty congratulations on your wise decision not to increase the municipal taxation of the colony. At this time, when there has been a substantial general increase in the cost of living and in the necessaries of life owing to the serious fall in exchange with gold countries and other causes, the burden of any addition to the taxes would have been very severely felt by the middle classes, as it is customary here for the tenant and not the house-owner to pay the assessed rates. The working classes among the Chinese would have also been severely hit by the consequences, as Chinese tenement houses are let at a lump sum, taxes included, and again sublet to tenants who let out the individual floors and rooms. Your Excellency is also to be warmly congratulated in that it has been possible to balance the Budget without taxing shipping, the life blood of the colony, beyond what is required to pay for the upkeep of the lighthouses and the regulation of the harbour. The perusal of your Excellency's address leads to the conclusion that the colony's financial position is eminently satisfactory, but, sir, after thoroughly examining into matters, I cannot find any cause for jubilation. On the contrary, I consider that the necessity for economy and retrenchment in every direction is as urgent now as ever, if not more so. The Government is in debt to the extent of £340,000, or the balance due in respect of two gold loans of £200,000 each, one raised in 1887, when the dollar was  $3/2$ , and the other in 1893 at  $2/7 \frac{1}{4}$ , as appears

from the Treasurer's statement dated 16th August last. The amount of dollars received in respect of the 1887 loan was \$1,263,157.90, and the 1893 loan \$1,536,000, or in all \$2,799,000. The dollar cost of repaying or redeeming £60,000 of the first loan appears to have been about \$434,000, and to repay the balance of £340,000 at the present rate of exchange would cost about \$3,568,000, which shows a prospective loss on the colony's gold loans of upwards of \$1,000,000. Whether the present rate of exchange may ultimately be obtained is very doubtful. No one can begin to predict the depth to which silver may descend, as England continues hostile to the white metal and one country after another legislates against it. Even Bulgaria has taken to the yellow metal and is selling off her silver. For any Government whose revenue is raised in silver to contract loans in gold is a most hazardous experiment, in this instance a colossal blunder, and should the dollar fall to  $1/6$  the loss to the ratepayers of Hongkong may amount to \$2,000,000, through the Government having borrowed in gold in opposition to the views of several of the unofficial members. It is true that if the colony had borrowed locally we would have had to pay two per cent. more interest, but that expense would have been an infinitesimal item as compared with the enormous loss the appreciation of gold is likely to entail on the colony. It is no doubt satisfactory that the opium monopoly will bring in a largely increased rental during the next three years, but the antiquated system of farming out the tax on opium is unfortunately attended with grave abuses and a good deal of state created crime. Some other less objectionable means of collecting the revenue should be found. The Imperial Government continues to impose a tax of  $17 \frac{1}{2}$  per cent. on the city's purely municipal revenue for military purposes, which is unfair and unreasonable, retards the material development of the colony and delays the erection of a suitable Post Office, Court house, Harbour Master's Office, and other public buildings which are urgently needed. The military contribution exacted from Hongkong is heavier and higher in proportion to revenue than that levied upon any other Crown colony in Her Majesty's dominions, and so far the Imperial Government has given no sufficient reason for refusing to extend to this colony the same fair treatment of this question as has been conceded to the sister colony of Singapore. Had the unofficial members of Council adopted the same course as that pursued by the unofficial members of the Singapore Council and caused the home Government to realise that we are in earnest in our protests I feel sure that what has been conceded to Singapore would not

be denied to Hongkong. Your Excellency's endeavours on behalf of Hongkong in connection with this tax were greatly appreciated, and I desire to refresh the memory of hon. members as to what you wrote to the SECRETARY of State on the subject in a despatch dated 28th August, 1895, and for which I feel certain the community will continue to feel grateful. Paragraphs 4 and 5 of that despatch read:—"As you are aware, no municipality exists in Hongkong, and for that reason no distinction has hitherto been made between the revenue collected for general and for municipal purposes. But, though no such distinction has been made, there are certain items of revenue which may legitimately be regarded as municipal, and which, if a municipality existed or were created, would be levied and expended by it. The enclosed list, drawn up by the Acting Treasurer (Mr. Thomson), shows what these items are. If this colony is to be treated in the same manner as the Straits Settlements, where the local or municipal revenues, amounting in round figures to  $1\frac{1}{2}$  million dollars, are exempted from contributing towards the military expenditure, it would seem to be only fair that the municipal revenue of Hongkong should be allowed to enjoy a similar exemption. In this connection it should be remembered, as the unofficial members point out, that loans have been raised by Government for the purpose of carrying out works of a purely municipal nature, such as water-works, markets, &c., and it appears equitable that the revenue derived from such works, instead of being subjected to a charge of  $17\frac{1}{2}$  per cent., should be applied to their upkeep, to defraying the interest on the moneys raised by loan to construct them, and to forming a sinking fund with a view to the ultimate liquidation of the debt incurred on their account." And in paragraph 7 your Excellency said:—"The arguments advanced by the unofficial members regarding the exemption of the municipal items from contributing towards the military expenditure appear to me to be reasonable and worthy of favourable consideration. In your address of two weeks ago Your excellency said—"I am informed that Victoria may now be regarded as one of the best drained cities east of Suez and that its domestic sanitation will compare favourably with that of any of the large cities in England." Though much has been done to improve the insanitary condition of the city, and notwithstanding the fact that the Sanitary Board has performed an immense amount of good and useful work during the last three years, a great deal has yet to be accomplished. Three years ago Mr. Jackson, of the Hongkong and Shanghai Bank, speaking at a public meeting, said that "the insanitary condition of Hongkong was a disgrace to our civilisation and to the Government." These words are as true to-day as when they were uttered in 1894. Being a member of the Insanitary Dwellings Commission I speak from knowledge and from

a recent personal inspection of a number of Chinese dwellings in Hongkong. There are scores of them which I am sorry to say are mere hotbeds of disease and quite unfit for human habitation. The inaction of the Government in respect of these insanitary buildings must, I fear, be due in some measure to the great influence exercised by landlords in Hongkong, but I sincerely hope that Government will without further delay enact the necessary legislation whereby the Sanitary Board (or what remains of what was at one time a popularly constituted body) will obtain the requisite powers to compel house owners to put their properties into a sanitary condition. If Hongkong is to maintain its prosperity the city must be made thoroughly sanitary as far as human efforts can make it. That no portion of the resumed area of Taipingshan has yet been realised reflects unfavourably on some one. If private individuals looked after their investments in house property on similar lines to the management of the Taipingshan resumption, which cost about one million dollars, they would soon find themselves involved in bankruptcy. The recent discovery through the instrumentality of a ratepayer that bribery and corruption has been rampant in the Police Force and in other departments of the Government service is a dark blot on the system of Crown Colony Government. There are increasing almost daily proofs of the necessity for a form of Government which will yield the residents some voice in respect of municipal matters. As long ago as 1847 a Parliamentary Committee was appointed to inquire into Hongkong matters and the report of that Committee made the following amongst other recommendations:—"That a share in the administration of the ordinary and local affairs of the island be given by some system of municipal government to the British residents." And the SECRETARY of State three years ago, in the concluding paragraph of his despatch of the 23rd August, 1894, said:—"Still it is possible that the Sanitary Board might be developed into a satisfactory Municipal Council controlling all or some of the revenue which is now derived from rates. Whether any scheme of the kind is possible I would ask you carefully to consider at your leisure." Sir, I think that if something of this kind had been granted in by-gone years the irregularities in the Police Force and in the Registrar-General's and other departments might have been less serious than they were recently discovered to be. I think also the defalcations in the Post Office and the Treasury might have been less heavy than they were and that the legacy of insanitation throughout the city which this generation fell heir to might have been less onerous than it was. I should rejoice as on-of this Council to be able to join in an address

to your Excellency such as was presented to you before leaving Trinidad and I hope the remarks I have made may have some effect and that before you leave us you may be able to do something more for us. We are greatly indebted to you for many things, including the extension and improvement of the Recreation Ground and several new roads, amongst them the road from Victoria Gap to Mount Kellett, which is very much appreciated, and the road from Plantation Road to Magazine Gap, which will also be greatly appreciated and will be an immense boon, Let me read one paragraph from the address presented to you before leaving Trinidad:—"If every measure initiated by Your Excellency has not met with the unanimous approval of this Council, there will remain after you leave these shores monuments of good work done during your administration, the credit of which but few will dare to begrudge you. The unofficial section of this Council will long have reason to remember the liberal extension of their privileges which has been allowed at your suggestion. We allude to the increase in their number, so that now that section of this Council is in the majority, and the establishment of the Standing Committee on Finance, while the public are grateful for the steps taken in assigning districts to the several unofficial members of the Council, so that their wants are more easily brought to the notice of the Legislature."

HIS EXCELLENCY—Do you make any motion?

Hon. T. H. WHITEHEAD—No, Sir.

Council then went into Committee on the Bill.

Hon. T. H. WHITEHEAD, on the vote for Public Works Extraordinary, said:—While on this subject might I ask for some information about the new Public Offices? In Council last year, on the 8th July, I asked if the Government would inform the Council of the cause of delay in taking steps to obtain by public competition plans and designs for the proposed new Government Offices, including the Post Office, the Supreme Court, etc.

HIS EXCELLENCY—I think the SECRETARY of State refused to allow public competition; is not that so?

The COLONIAL SECRETARY—Yes, and a despatch has been received from the SECRETARY of State asking for further information as to the financial position of the colony.

Hon. T. H. WHITEHEAD—Have the Government leased Beaconsfield?

The COLONIAL SECRETARY—Yes.

Hon. T. H. WHITEHEAD—For what period and on what conditions?

The COLONIAL SECRETARY—For three years at \$425 a month with the option of renewal for another three years.

Of course that will relieve the Government of the cost of rent for the offices at present occupied by the Attorney-General, the Crown Solicitor, the Education Department, and the Sanitary Department.

Hon. T. H. WHITEHEAD—It seems a great pity that our valuable reclamation ground, worth \$10 a square foot, should lie fallow.

The Bill passed through Committee without amendment and was read a third time and passed.

CHINESE EXTRADITION BILL.

Council resumed Committee on the Bill entitled "An Ordinance to amend The Chinese Extradition Ordinance 1889."

The ATTORNEY-GENERAL—The Council will recollect that this Bill was left in the committee stage on one point in order that any hon. member might move an amendment if he thought fit. There was some objection taken to the words "six months immediately prior to the date of his so being brought before the Magistrate," as determining the period of residence in the colony that would render depositions inadmissible in proceedings against a person whose extradition was applied for. The hon. member on my left (Hon. Ho Kai) thought this would give too much facility, and I thought he was to communicate with me, but until I got into the room two or three minutes before the Council met I had not heard from him. Personally I would prefer the Bill in its present state. I believe the working of the Bill will be most carefully watched and if there is any reason to suppose it leads to abuse it will be amended. I think it would be better to leave the Bill in its present state, if my hon. friend on my left consents, because the principle of this six months has been approved by the SECRETARY of State and I do not like to make an alteration at a moment's notice. If we omitted the words "immediately prior to" and made any six months do a person contemplating the commission of piratical attacks or other crimes in Chinese jurisdiction could live here six months, go away and commit his crimes, and then come back here and say this Ordinance did not apply to him.

Hon. HO KAI—Sir, on the last occasion I raised an objection to the words "immediately prior to," and at my request the Bill was left in Committee. I did promise the Attorney-General to communicate with him in the interval, but unfortunately, as he was aware, I had to go to Canton on business for a few days and I did not get back until Saturday. I made an effort to communicate with him to-day, but did not find him at his office. Now it seems to me that my objection, although I stated it as plainly as I could, has not been understood by the Attorney-General. The six months, if the words "immediately prior to" were allowed to remain, would apply to the case of every Chinaman who happened to leave the colony temporarily, no matter how long he might have resided in the colony, because a Chinese mandarin would not think of charging a man with having committed a serious crime in China while he was residing in Hongkong,

because it would be impossible for a man to commit a crime in the interior of China while he was resident in Hongkong; they would wait for an opportunity until the man they wanted went back to the country to take his children to get married, or on account of sickness, or on the occasion of the annual visit to the ancestral home. It is that time that would be pitched upon for the commission of the alleged crime. Any merchant, no matter how long he might have resided in the colony, if he went to visit his ancestral home would be brought within the provisions of this Ordinance. It is proposed to alter the law to suit the Chinese Government, and no doubt we should try to please the Viceroy of Canton as far as we can, but I do think that we should hesitate at placing all the Chinese merchants and residents of this colony, no matter how long they may have resided here, under the thumb of the mandarins on the mainland. If you retain these words every Chinese resident who goes away for any purpose whatsoever will be brought under the provisions of this clause. It is all very well to say you will watch the working of the Ordinance with a great deal of care, but cases have happened before where great injustice has been worked on residents of this colony, so much so that one person was sentenced to imprisonment for two lives and twenty years for attempting to practice it. Now we don't want any repetition of that, and I stick to the principle of the English law that it is better ten guilty men should escape than that one innocent man should suffer. When in Canton I had a talk with the Consul on the matter, and I think the point has not been sufficiently considered. I regret that when communications were passing with the Consul the representatives of the Chinese were not communicated with, for then we would have been able to give our advice, instead of being spoken to only at the last moment. I have spoken to several leading Chinese and also the British Consul at Canton, and I think this point requires the serious consideration of the Government.

H. E. the GENERAL—Will you not make a motion?

Hon. Ho Kai — Yes, I move that the words "immediately prior to" be struck out. The sentence should be altered to read in this way, "The person accused has not resided in the colony more than six months during the twelve months previous to the date of his so being brought before the Magistrate," that is, if he can prove that during the twelve months he has resided in the colony continuously and has only left for a month or two, then in that case the Chinese Government would have to secure their extradition in the old way and bring the witnesses down from Canton, but if the man has not resided in the colony six months during the previous year depositions might be received.

H.E. the GENERAL—I second that.

Hon. C. P. CHATER—I think the Attorney-General will probably be able to accede to the hon. member's alternative resolution, not the first one simply omitting the words "immediately prior to," but his second or alternative

proposition, making the period of residence six months in the previous year.

The ATTORNEY-GENERAL—Personally I would rather the Bill remained as it stands, but I do not propose to make any special objection to the amendment. But I may mention to the Council what one objection is. There are, according to the Viceroy, certain Chinese criminals who make Hongkong their head quarters and who return to Hongkong immediately after committing their robberies on the mainland. These are the people who are intended to be got at by this Bill. But if the honourable member's wording stands, all one of these men has got to do is to reside here for six or seven months, then he can do what he likes on the mainland during the remaining five months of the year and this Ordinance will not apply to his case, and we know the difficulties under the old system are so great that extradition is not often demanded. You cannot devise any scheme that is free from objection. In Europe depositions are used universally, but here depositions have not been used at all hitherto, because it was thought they would be liable to abuse. This Bill provides three safeguards; first, that the depositions must be taken before the Consul, and the Consul must certify that there has been no force or compulsion used in obtaining them; then there is the safeguard of the residence of six months; and lastly there are only certain crimes to which this Ordinance applies; they cannot make up any bogus crimes. The crimes are only crimes of violence, murder, manslaughter, piracy, burglary, housebreaking, or robbery with violence. My own personal view is that it would be better the Bill should be left as it is. At the same time, if it is the wish of the Council it should read "six months during the period of twelve months immediately prior" it may be so altered but as I say, any one who wishes to commit crimes in China will only have to reside here over six months out of the last year and then he will be free to do as he likes.

H.E. the GENERAL—But that evil is somewhat less than that suggested by my hon. friend opposite, and therefore I am strongly in favour of the motion brought forward by him.

The ATTORNEY-GENERAL—In view of the general feeling of the Council I do not oppose the motion of my hon. friend on my left and the Bill will pass with the words "six months during the period of twelve months immediately prior to."

Council resumed.

The Bill as amended was read a third time and passed.

THE VAGRANCY BILL.

His EXCELLENCY said he did not propose to take the next item on the orders of the day, Committee on the Bill entitled An Ordinance to amend the Law relating to Vagrants.

THE INTERPRETATION BILL.

The ATTORNEY-GENERAL—I beg to move the third reading of the Bill entitled An Ordinance to consolidate and amend the Laws relating to the Construction of Ordinances, to further shorten the Language used in Ordinances, and for other like purposes. This Bill has been passed by the Law Committee without alteration and I think it will be a very useful statute on our books. I feel much obliged to our learned Chief Justice, who drafted this Ordinance.

The COLONIAL SECRETARY seconded.

Bill read a third time and passed.

ADJOURNMENT.

The Council adjourned until the 29th Nov.

FINANCE COMMITTEE.

A meeting of the Finance Committee was held after the Council meeting, the COLONIAL SECRETARY presiding.

The CHAIRMAN said he had only one minute to bring before the Committee and that was one in which H.E. the Governor recommended a vote of \$650 for the purchase and repair of police boats.

Vote recommended.

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