

15TH AUGUST, 1898.

PRESENT:—

- His EXCELLENCY the ACTING GOVERNOR (Major-General Black, C.B., Officer Commanding the Troops.)
- Hon. T. SERCOMBE SMITH (Acting 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. A. M. THOMSON (Acting Colonial Treasurer.)
- 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.
- Hon. WEI YUK.
- Mr. J. G. T. BUCKLE (Clerk of Councils.)

MINUTES.

The minutes of the previous meeting were read and adopted as a correct record.

FINANCIAL MINUTES.

On the motion of the ACTING COLONIAL SECRETARY, seconded by the ACTING COLONIAL TREASURER, financial minutes Nos. 10 and 11 were referred to the Finance Committee.

AN OPEN SPACE AT KOWLOON TO BE PRESERVED.
AN INTERESTING RELIC OF ANTIQUITY.

Hon. HO KAI—In accordance with the notice I gave at the last meeting of the Council, I have much pleasure in moving the following resolution:—"That it is desirable in the interests of the public that the piece of ground situate at British Kowloon and generally known as 'Sung Wong Toi' or 'Sung Wong T'ong', together with a certain area of land surrounding and adjacent thereto as delineated and marked red on the annexed plan,

should not be let for building or other purposes, but should be reserved for the benefit of the public in perpetuity, and that the same should be delimited and marked off and kept in good order by the Public Works Department of this colony." I have included in my resolution both of the names given to the place, viz.,—"Sung Wong Toi," which means a tower of observation of a King of Sung, and "Sung Wong T'ong," which means hall of a King of Sung—in order to prevent misunderstanding. The exact designation of the place seemed to be in doubt, and I thought it wise in order to fix the place more particularly to give both terms. I think myself that "Sung Wong Toi," a place of observation of a King of Sung, is the right definition; but seeing that the other name was adopted by certain European Chinese scholars, such as Dr. Eitel, I thought it best to put both names in my resolution. In moving this resolution I am guided by several motives and reasons. My principal motive is to preserve an additional open space for the colony of Hongkong and its dependencies. It may seem to be looking too far ahead, as it were, at this time of the day to reserve an open space for British Kowloon, where the population is not very great, but taking into consideration the rapid growth of Hongkong itself, from the barren rock of 50 years ago to a most thickly-populated place— more thickly populated per square mile, I should say, than any other city in the world— I do not think we are looking so far ahead after all in preserving this piece of ground for the benefit of the public of Hongkong and Kowloon. Knowing as we do the Chinese, their love of British liberty and protection, and their great appreciation of British justice and fair play, we can tell I think beforehand that in a very few years, if the territory recently acquired by the British Government, together with British Kowloon, be administered with due care and tact, the Chinese will flock to the place in overwhelming numbers,

and I think that in less than ten years the whole place will be occupied, and that Kowloon will soon become a centre of English trade and manufacture second only to Hongkong itself—(hear, hear)—a centre which will rival Hongkong itself in prosperity and growth. Therefore, I think that after all we are not looking too far ahead in reserving a place of exercise and recreation for a future generation. My next reason in proposing this resolution is that I wish to preserve for the colony of Hongkong a monument of some antiquity. There stands on this spot a large stone with an inscription upon it close upon 600 or over 600 years old. Everywhere in this colony we meet with new objects—inventions of modern civilisation—but in this one spot we can gaze upon a monument of over 600 years old—(hear, hear)—and although I am not a very great admirer of antiquity still at the same time I think we owe it to ourselves and to the public of Hongkong to see that this particular spot is preserved. (Hear, hear.) My third reason for wishing to preserve this piece of ground is to carry out the stipulation which the Chinese Government made when Kowloon was leased and finally ceded to Great Britain. If you refer to old papers you will find that a stipulation was contained in the treaty ceding Kowloon that this spot, Sung Wong Toi, together with the hill on which it stands, should be reserved for ever. This stipulation has not been carried out. We have not done anything with the site, but I think the stipulation has been lost sight of more or less. I think these are good and sufficient reasons for preserving the site and for keeping our promise as to the preservation of the place. I think the inhabitants of Victoria do not know this place sufficiently well, and I would like to refer them to the history of Hongkong by Dr. Eitel. where, on pages 129 and 130, there is a short and interesting account of the very spot I propose to reserve. As everybody can get access to this work, I will not detain you by reading the passage to which I refer, particularly as most of us have already had the pleasure of hearing it read by the honourable gentleman opposite (Hon. T. H. Whitehead). It is to your Excellency we owe a pleasant afternoon's outing to this spot, and when this resolution is passed and carried out, I hope the public of Hongkong will pay a visit to this place. I am sure they will be amply repaid for their trouble. They can satisfy their curiosity and add to their knowledge of local matters. They will find there ancient entrenchments and encampments from which they will learn a good deal of ancient history—how the people who then occupied the land fortified themselves. Here the geologist can find grand specimens of Hongkong granite, the best kind of stone, hundreds of tons in weight. Anyone fond of ancient inscriptions will find there lines inscribed on rock which will satisfy abundantly his taste in that respect; and, furthermore, if he is fond of mythology he will also find there something which will satisfy him. There is a story that when the King of Sung was hurrying away from the spot to avoid capture he left his girdle behind and it petrified and became fixed to the rock and formed a belt half round it. Of course I am not saying this is genuine. (Hear, hear.) In conclusion I can only say that a very pleasant afternoon can be spent upon

this spot. (Hear, hear.)

Hon. WEI A YUK seconded.

The DIRECTOR OF PUBLIC WORKS—I have much pleasure in supporting the resolution. It would be something more than a pity to destroy this interesting relic of the past, about the only historical relic, as it were, in the vicinity of Hongkong. The only commercial value of the spot would be as a granite quarry. Granite and other good building stone happens to be a thing with which we are particularly rich in the colony, while in the territory about to be leased by China to England there is sufficient excellent granite and other good building stone to last for a great many centuries and for half a dozen places besides Hongkong. For that reason I think we can very well spare this spot and at the same time preserve this interesting relic.

Hon. T. H. WHITEHEAD—The resolution has my hearty support, but I think it would be interesting to the members of the Council if the hon. member would give us the details as to the promise given by the British Government to the Chinese Government with reference to this spot. Was it in writing or was it verbal?

Hon. HO KAI—You will find the following on page 129 of Dr. Eitel's history:—"When the Peninsula was leased and subsequently ceded to the British Crown, the Chinese Government specially stipulated that the rock inscription and the whole hill should remain untouched." (Hear, hear.)

The resolution was then put and carried unanimously.

REPORT OF THE FINANCE COMMITTEE.

The ACTING COLONIAL SECRETARY laid on the table finance report No. 3.

NATURALISATION OF CHINESE.

The first readings of Bills for the naturalisation of Chan Li Choy *alias* Chan Chun Chuen, of Leung Luk, *alias* Leung Cheung Soy and Li Chung, *alias* Li Chan Shing, were passed.

THE RECREATION GROUND FOR CAUSEWAY BAY.

The ATTORNEY-GENERAL—I beg to propose the first reading of a Bill entitled an ordinance to provide for the reservation of certain land at Causeway Bay as a recreation ground and for making of regulations as to its use.

Hon. T. H. WHITEHEAD seconded.

Carried unanimously.

HIS EXCELLENCY—The Council have already given their opinion upon this matter, so I do not see why it should not be absolutely recorded on the minutes of the Council.

THE ATTORNEY-GENERAL—I move that the standing orders be suspended in order that this Bill may be read a second time to-day. The matter has already been brought before the Council by resolution, it being resolved by the Legislative Council that it was desirable in the interest of the public that the land mentioned in this Ordinance should be reserved as an open space and appropriated for the purpose of recreation, and that the sanction of the Secretary of State should be asked for the introduction of an Ordinance giving the Governor in Council power to make regulations from time to time as to the uses of the land reserved and to enforce such regulations by suitable penalties. That sanction was asked for and has been granted. The Secretary of State suggested, however, that the right should be reserved to re-appropriate the land should it appear necessary or desirable to do so in the interests of either the local or the Imperial Government. Of course if at some future time for Government or for Imperial purposes not now foreseen it becomes desirable to use the land for some other purpose this can be done, provision being made for it in the Bill. I may say that the Secretary of State has approved of the title of the "Queen's Recreation Ground" being given to the ground—(Hear, hear)—so that it will be a fitting memorial of the Jubilee of Her Majesty. The Bill gives the Governor power to make regulations, these regulations to be published in the *Gazette*, and provides for notice of re-appropriation being gazetted should re-appropriation be considered necessary at any future time. As to the identification of the land a plan has been prepared for depositing in the Land Office, such plan to be signed by the Director of Public Works and countersigned by the Governor.

Hon. T. H. WHITEHEAD seconded.

Carried

THE ATTORNEY-GENERAL proposed and the Hon. T. H. WHITEHEAD seconded the second reading. The Bill was then considered in Committee.

HIS EXCELLENCY—I just want to say a word on this subject. I have personally taken a very great interest in this matter from the very first—(hear, hear)—and I feel convinced that to-day the Council has taken action with regard to an Ordinance which although not showy will I believe be more thought of in the future and will do more good than many of the other Ordinances which stand on the statute book of the colony. (Hear, hear.) From the first I have felt very strongly on this point. Hongkong is growing, and we know that in all the great cities of the world—in

Vienna Paris, London, New York, and elsewhere—it has been necessary at great expense to buy back for the public use land which a little more foresight would have secured long ago. Therefore I think the Council has most wisely taken action in this matter in securing this land for ever for the physical development of the youth and manhood of the colony. (Hear, hear). And the action of the Council with regard to the other matter is no less important—the preservation of this hill of a King of Sung. My friend Dr. Ho Kai has called this a brand new colony, and we are glad to have the respectable halo of antiquity drawn over us. (Hear, hear.) To China 600 years is as yesterday, but with us in Europe 600 years is a long long way back. Dr. Ho Kai has put the matter very clearly before us, and I will only say this: It interests me in this way. From the earliest ages of the world when man emerged from the lower creation—if he did emerge from the lower creation—that hill has been a natural spot of defence. In primeval times thousands of years ago that hill was looked upon by man as a natural defence against wild animals first and possibly against wild tribes later. In all parts of the world you find these natural ramparts. We find them in England, Scotland, and Ireland, and I have always looked upon them with particular interest. I was glad when my brother officer, Lieutenant Machell, drew my attention to it in the interesting lecture which he delivered in January of the present year. As I said before, I believe we have done good work to-day in preserving these sites for the recreation and instruction of those coming after. (Hear, hear.)

The Council having resumed,

THE ATTORNEY-GENERAL proposed that the Bill be read a third time and passed.

THE HON. T. H. WHITEHEAD I second that. I do so with pleasure, and I sincerely hope that the wish which the honourable member opposite (Hon. Dr. Ho Kai) expressed when the resolution on this subject was before the Council will be borne in mind—that the ground be reserved for all nationalities, irrespective of race, creed, or religion. I can assure the honourable member that the men who take part in recreation down there would welcome with open arms not only the senior member who represents the Chinese but the junior member if they would come and take part in our recreation and health-giving exercise. They would receive a right hearty welcome. Their example might have a wonderful effect on the viceroys in the various provinces and on ministers in the Tsung-li-yamen. I need only ask you to look at India to see what our Indian friends have done. India has given us one of the best cricketers the world has ever produced. It has also given us excellent football players, and it has put into the field a polo team which I think has not yet been beaten. I venture to hope that at no very

distant date the representatives of the Chinese and their friends will come down and take part in the manly recreation which goes on at Causeway Bay. (Hear, hear.)

The Bill was read a third time and passed.

VACATIONS IN THE SUPREME COURT.

The ATTORNEY GENERAL—I propose the second reading of the Bill entitled an Ordinance for the establishment of vacations in the Supreme Court. Your Excellency has already spoken strongly on the necessity for places of relaxation, but in order to enjoy any places of relaxation it is necessary to have time to do so. (Hear hear). There is a certain class of men who are really being hardworked—(laughter, and hear, hear) of whom it may be said as was said by Tennyson of the brook—"Men may come and men may go," but their work "goes on for ever." I do not know whether it is a good thing for them. It may be, but there is a proverb, "All work and no play makes Jack a dull boy." I have therefore much pleasure in proposing the second reading of the Bill for the establishment of vacations in the Supreme Court. It has long been a matter of surprise to me that at Hongkong there have been no vacations in the Supreme Court. I am not aware that such a state of things exists elsewhere or generally in the colonies. Most assuredly it is not the case in England. In England there are four vacations in the Supreme Court—the long vacation, which begins on the 10th of August and expires on the 24th of October; the Christmas vacation, which begins on the 24th of December and expires on the 6th of January; the Easter vacation, and the Whitsuntide vacation. First of all they have the long vacation of nearly two and a half months; they have 14 days at Christmas, four or five days at Easter, and three or four days at Whitsuntide. In other words their vacations extend over three months in the year, and it is found a benefit to the profession that it should be so, that men should have some sort of relaxation. In this colony in 1873, without going further back, an Ordinance—Ordinance 12 of 1873—provided by section 26 a vacation of two months during August and September. In 1882, by an Ordinance passed in September of that year, this vacation was practically done away with *in toto*. It is no use now going into the history of the passing of that Ordinance, but we have had since that time 16 years' experience, and there seems to be an almost unanimous feeling among both branches of the profession that some vacation should be observed by the Supreme Court. The old vacation of two months in August and September seems to have followed the English practice. We all know that August is a most delightful month in England. I am not aware that August is a delightful month either in Hongkong or any of the places adjacent where you can go, and no doubt the time of year was found unsuitable. The desire of the profession also appears to be that the vacation should be one month instead of two—that it should be from the 20th September to the 17th October. That is a time of the year when persons who need relaxation would possibly go to Japan to enjoy themselves. This morning I received a letter from three members of the profession with

regard to this Ordinance. This has not given me much opportunity of going into it. Had they sent it on Saturday I should have had much longer to consider the matter, but I have done the best I could during the short time. I have looked at the circular sent round before this Bill was brought in, and I find that one of the gentlemen who signed this letter said he did not object and that another of them said he objected to the short vacation, saying it would not be of any use to anybody. I referred these objections to the gentleman who was prominent in bringing this Bill to my attention, and he said that the almost unanimous feeling was that short vacations were of considerable utility and would not interfere in any way with the work required by the public. It will make no difference to myself. My experience of the Court is confined chiefly, at the present time, to the criminal work and provision is made in the Bill for the criminal work to go on precisely as though there were no vacations, and also the work in the Summary Court, though there is power given to the Judges to postpone any matter which can reasonably be postponed over the vacation. But I understand that the judge of the Summary Court proceeds much in the same way as before whether the vacation is on or not. The judges have been consulted with regard to the Bill. The learned Chief Justice, who is always very kind in these matters, has read through the Bill, and it has met with his approval. The Judges have therefore approved of the Bill and the whole of the profession with the exception of three solicitors, only one of whom disapproved of it *in toto*. In these days one goes a good deal by majorities, and there is a vast majority in favour of the Bill. To prevent any inconvenience the Bill will not be brought into operation till 1st December next.

The ACTING COLONIAL SECRETARY seconded.

The Bill having been considered in committee it was read a third time and passed.

A SUPPLEMENTARY VOTE.

On the motion of the ACTING COLONIAL TREASURER, seconded by the ACTING COLONIAL SECRETARY, the Council went into Committee on the Bill entitled an Ordinance to authorise the appropriation of a supplementary sum of three hundred and sixty-eight thousand, eight hundred and sixty-nine dollars and ninety-three cents, to defray the charges of the year 1897.

The Bill was read a third time and passed.

THE REGISTRATION OF TRADE MARKS.

The ATTORNEY-GENERAL—I have the honour to move the third reading of the Bill

entitled an Ordinance to amend the law relating to the Registration of Trade Marks. At the previous meeting of the Council the Council resolved itself into Committee, and the Bill was passed clause by clause, certain amendments being made. Various suggestions for the amendment of the Bill have been made. This morning I had an interview with the honourable member for the Chamber of Commerce. I have gone into these matters with him, and I pointed out that the suggested improvements related chiefly to the rules. When the Bill was published the first time I published a memorandum with it and also the Trade Mark Rules for 1898 which were proposed to be made by the Governor. These rules, include the classification of goods in accordance with the second schedule and the fees. The Bill itself gives the Governor in Council power to make the necessary rules and to prescribe the fees, and until the Bill is passed it will be impossible for the Governor to make these rules including the schedules attached to them. If the honourable member for the Chamber of Commerce will point out in the course of the week any objections to the rules those objections can be duly considered, and I shall then be in a position to lay before His Excellency the Rules as amended. Among other suggestions it was said that it was rather hard that a fee should be charged for the continuance at the end of 14 years of a trade mark which was registered before the passing of the Ordinance, but in this I am only following on the lines followed in England. As regards the Bill itself the only matter I have had my attention specially called to as far as I can recollect at the present moment is with regard to application for registration, it being suggested that we should allow application to be made by an agent of a firm and also that he should be allowed to make a statutory declaration or affidavit, subject to a confirmatory affidavit being made within three months by the party for whom the application for registration is made. I have made provision for the making of the application for registration by an agent, but when we come to the statutory declaration or affidavit, I think it would be entirely out of place to allow an affidavit to be made by deputy. A man must speak for himself, and be answerable if he speaks falsely. I do not think there was any other point except with regard to clause 3, which says:—“(1.) For the purposes of this Ordinance, a trade mark must consist of or contain at least one of the following essential particulars:—(a) A name of an individual or firm printed, impressed, or woven in some particular and distinctive manner; or (b) a written signature or copy of a written signature of the individual or firm applying for registration thereof as a trade mark; or (c) a distinctive device, mark, brand, heading, label, or ticket; or (d) an invented word or invented words; or (e) a word or words having no reference to the character or quality of the goods, and not being a geographical name.” I should like to point

out that these words are not my own words, but are taken absolutely verbatim from the Act in force in England, and what is the law in England can very well be the law here. The objection taken was that under that definition there might be some Chinese word or character in use as a trade mark, but seeing that they find no difficulty in England I do not think we shall find any here. Then application has to be made to the Governor, who can at his discretion grant it or otherwise. The trade mark, I assume, would come before the Attorney-General, and the Governor would be advised by him. I think we cannot do better than follow the latest Act in England. Therefore, I do not think there is any objection, so far as I am aware, to the Bill itself. One or two slight matters may be improved, and when I have had the opportunity of seeing the honourable member for the Chamber of Commerce as regards the classification of goods I will consider them. I should not attempt to grapple with such a subject out of my own head. The list of 50 classes of goods has been sent to me from England, and this list, with some slight variation, will, I think, be good enough for Hongkong. As regards the rules I shall be pleased to receive suggestions, but those suggestions should be made speedily.

The ACTING COLONIAL SECRETARY seconded.

The Hon. T. H. WHITEHEAD—Before this is passed there is one question I should like to ask. I can speak from knowledge that the Attorney-General has put in a vast amount of time in regard to this Bill. It is full of technicalities and has entailed a great amount of work. Rule 5 says:—“An application for registration of a trade mark, if made by any firm or partnership, may be signed by some one or more members of such firm or partnership, as the case may be.” It may well happen that no member or partner in the firm is resident in the colony at the time application is made, and it might be well, therefore, if we can make provision for application to be made by an agent.

The ATTORNEY-GENERAL—I have put it into the Bill that an agent may make application; but this will not apply with regard to an affidavit.

The Bill was read a third time and passed.

ADJOURNMENT.

The Council then adjourned until the 29th of August.

FINANCE COMMITTEE.

A meeting of the Finance Committee then took place, the Acting Colonial Secretary presiding.

The minutes of the previous meeting were read and adopted as a correct record.

The Committee agreed to vote a sum of \$500 in aid of the vote "Coal, oil, and water for steam launch."

The CHAIRMAN—This is needful on account of the increased price of coal this year.

The HARBOUR MASTER—It does not say in what department.

The CHAIRMAN—The Government Marine Surveyor's Department.

The Committee also agreed to vote a sum of \$2,500 in aid of the vote "Miscellaneous works."

The CHAIRMAN—In explanation of this I may tell honourable members that it refers to the expense to be incurred by the Government in laying out a piece of land in the west part of the town. It is proposed to terrace and plant with trees and shrubs a site in the vicinity of Richmond Terrace, the residents of the neighbourhood having agreed to provide a like sum of \$2,500.

It was understood that should the Government require the land for other purposes the money subscribed should be returned to the subscribers or their representatives, without interest.

The Committee then adjourned.
