

1ST FEBRUARY, 1899.

PRESENT:—

His EXCELLENCY the GOVERNOR, Sir Henry BLAKE, G.C.M.G.

His EXCELLENCY Major-General GASCOIGNE C.M.G. (Officer Commanding the Troops).

Hon. T. SERCOMBE SMITH (Acting Colonial Secretary).

Hon. H. E. POLLOCK (Acting 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. Dr. HO KAI.

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

Hon. J. J. BELL-IRVING.

Hon. WEI A YUK.

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

MINUTES.

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

THE PROPOSED NEW GOVERNMENT BUILDINGS.

Hon. E. R. BELLIOS—Your Excellency, I beg to give notice that at the next meeting of the Legislative Council I intend to ask the following questions:—(1) Will the Government state why, as the sites for the proposed new Law Courts and new Post Office have been selected, and the plans of the former, at any rate, have been considered, steps are not taken to carry the proposals into effect? (2) Will the Government state whether the Secretary of State for the Colonies has sanctioned the scheme for the new public buildings above mentioned just put before him by the Government?

His EXCELLENCY—I do not think you can submit the first question, because I think you will see if you refer to "Parliamentary Practice" that it is hardly in order. The question asks for an opinion. You can ask a question of fact, but when you ask why a certain thing has not been done, I do not think that can be put to the Government. The second question is quite in order. I should suggest that the other question should be remodelled into a resolution.

Hon. E. R. BELLIOS—Your Excellency. I might amend the question by striking out the word "why." It is immaterial whether the word "why" is there or not.

HIS EXCELLENCY—I am afraid you will find it difficult to delete the word without altering the question. You can consider the matter and put it in some other form.

Hon. C. P. CHATER—Your Excellency, the hon. member can two days previous to any meeting send in

notice of question—

His EXCELLENCY—This is not a matter of no ice. It is a matter as to the form of the question. The form of the question, as you will observe, is a matter of opinion why the Government has not done this, that or the other thing. I think the question must be as to a matter of fact.

Hon. C. P. CHATER—I how to your ruling. Perhaps I did not express myself properly. I meant that the hon. member could alter his question so as to bring it within the rules, and put it in two days before the meeting.

Hon. E. R. BELLIOS—Your Excellency if I read the question in the following manner probably it would suit your Excellency's views:—Will the Government state whether or not the sites for the proposed new Law Courts and new Post Office have been selected, and the plans of the former, at any rate, have been considered, why steps are not taken to carry the proposals into effect?"

His EXCELLENCY—The first part is quite in order. If the hon member will consider the matter while the proceedings are going on, he will be able to get it amended.

Subsequently Mr. BELLIOS having re-drafted his questions got up to read them, but

His EXCELLENCY remarked—It is not necessary when giving notice of question to read the question. It is the usual custom in Parliament simply to hand in the question, and then these matters can be settled with the clerk.

THE FINANCE REPORT.

The report of the Finance Committee (No. 1) was laid on the table and adopted, on the motion of the ACTING COLONIAL SECRETARY, seconded by the ACTING COLONIAL TREASURER.

THE LAW RELATING TO PRISONS.

The ACTING ATTORNEY-GENERAL—I beg leave to move the first reading of a Bill entitled an Ordinance to amend and consolidate the law relating to Prisons. As I shall have at the next meeting of the Council to move some amendments in committee, and as it is very desirable that the new rules and regulations under this Bill should be passed very shortly, I propose to indicate to honourable members the amendments which I shall have to move in committee. In the last line of section 4 "The Ordinance" ought to read "This Ordinance," and in clause 5 it seems to me, subject to the opinion of honourable members, that the words "appointed thereto under the provisions of this Ordinance," words which are

i n s e c t i o n 4

of Ordinance 18 of 1885, are superfluous. Then in clause 13 instead of "the regulations of a prison" I think the words "prison rules or regulations" would be appropriate, and in line 4 of clause 13 I think "rules" instead of "regulations" would be the proper word to use, or "rules or regulations." With regard to clause 17 of the Bill, that is a clause which honourable members will have to consider very carefully. It has been copied verbatim from section 16 of Ordinance 18 of 1885. It seems to me that the clause is unnecessary, that it has no real significance, and may be liable to misconstruction, and I think that at the next meeting of the Council honourable members will have to consider whether clause 17 cannot be taken out of the Bill altogether. In clause 18 of the Bill instead of saying "Every warder or other subordinate prison officer" it would be sufficient to say "Every prison officer" and strike out the words "Warder or" in line 3 of that clause. I think these are all the amendments so far as I know which I propose to move in committee at the next meeting of the Council and I hope that in the meantime honourable members will consider the points I have indicated. There is another point which the Colonial Secretary reminds me of. Section 19 refers to making rules as to the remission of a portion of the sentence passed upon prisoners. Some question has been raised as to whether that would or would not infringe upon the prerogative of the Crown, because the Governor has by letters patent in this colony power to remit sentences. I must say that it seems to me, so far as I have gone into the matter, that such a provision in clause 19 of the Bill would not infringe upon the prerogative of the Governor to remit sentences, because the provisions of the rules and regulations in regard to the remission of sentences simply and solely relate to a prisoner being able by good conduct to obtain automatically, so to speak, the remission of his sentence. Of course that is a point perhaps which honourable members would like to consider between this and the next meeting of the Council. It seems to me so far as I have gone into the matter that there is no difficulty of that sort. With these remarks I beg leave to move the first reading of the Bill.

The ACTING COLONIAL SECRETARY seconded, and the motion was carried.

NATURALISATION.

The Bill entitled an Ordinance for the Naturalization of Mak Ngan Wan, alias Mak Chin Ki, alias Mak Sui Nin, alias Mak Yat Wo, alias Mak Sun, was read a second time.

THE HONGKONG BANK NOTE ISSUE.

The ACTING ATTORNEY-GENERAL—I beg leave to move the second reading of the Bill entitled an Ordinance to amend Ordinance 5 of 1866 and the Hongkong and Shanghai Bank Ordinance Amendment Ordinance, 1882. Honourable members will remember that early in the year 1898 Ordinance No. 6 of 1898 was passed authorising an excess note issue by the Hongkong and Shanghai Banking Corporation. On the

Ordinance being sent home the Secretary of State came to the conclusion that it was incomplete in two respects, which are mentioned in the objects and reasons at the foot of the Bill, namely:— (1.) That it does not embody the arrangement which was made with the Bank in 1889 with regard to the security for its ordinary note issue, and (2.) That it does not provide with sufficient clearness that the deposit which is required in respect of the excess note issue is to be under the custody of the Colonial Secretary and the Colonial Treasurer and not under that of the Bank." I beg to move the second reading of the Bill.

The ACTING COLONIAL SECRETARY seconded and the motion was carried.

The Council then went into committee to consider the Bill clause by clause. No alterations were made, and on the Council resuming, the Bill was read a third time and passed, on the motion of the ACTING ATTORNEY-GENERAL, seconded by the ACTING COLONIAL SECRETARY.

THE PUBLIC BUILDINGS ORDINANCE.

On the motion of the ACTING ATTORNEY GENERAL, seconded by the ACTING COLONIAL SECRETARY, the second reading of the Bill entitled an Ordinance to amend Ordinance 8 of 1870 (Public Buildings) was passed.

The Council then went into committee to consider the Bill clause by clause and no alterations being made, on the Council resuming the Bill was read a third time and passed, on the motion of the ACTING ATTORNEY-GENERAL, seconded by the ACTING COLONIAL SECRETARY.

THE RESERVATION OF SUNG WONG TOI.

The ACTING ATTORNEY-GENERAL—I beg leave to move the second reading of the Bill entitled an Ordinance to provide for the reservation of certain land at British Kowloon known as Sung Wong Toi or Sung Wong T'ong. As honourable members will see from the statement of the objects and reasons attached to the Bill, the object of this Bill is to preserve in perpetuity a very interesting monument at British Kowloon. It is a very celebrated rock with an historic inscription upon it. I beg to move the second reading of the Bill.

The ACTING COLONIAL SECRETARY seconded, and the motion was carried.

The Council then went into committee to consider the Bill clause by clause, and no alterations being made, on the Council resuming the Bill was read a third time and passed, on the motion of the ACTING ATTORNEY-GENERAL, seconded of the ACTING COLONIAL SECRETARY.

THE DOGS ORDINANCE.

The ACTING ATTORNEY-GENERAL—I beg leave to move the second reading of the Bill entitled an Ordinance to amend the Dogs Ordinance, 1893. As honourable members will see from the statement of the objects and reasons attached to this Bill, the object of the Bill is to enlarge the power to make regulations, which was originally conferred upon the Governor-in-Council to make regulations relating to the importation of dogs. It seemed advisable at the same time to increase the maximum penalty which could be imposed under section 6 of that Ordinance from ten to one hundred dollars, which latter fine is the maximum laid down in the Singapore and Malacca Dog Regulations. It seemed also desirable to specify a maximum term of imprisonment in default of payment of the fine. I beg leave to move the second reading.

The ACTING COLONIAL SECRETARY seconded, and the motion was carried.

The Council then went into committee to consider the Bill clause by clause, and no alterations being made, on the Council resuming the Bill was read a third time and passed, on the motion of the ACTING ATTORNEY-GENERAL, seconded by the ACTING COLONIAL SECRETARY.

THE REGULATION OF VEHICLES.

The ACTING ATTORNEY-GENERAL—I beg leave to move the second reading of the Bill entitled an Ordinance for the Regulation of Vehicles. Honourable members will see that the object of this Bill is to lay down the rule of the road in this colony. Section 3 provides for the ordinary rule of the road for vehicles; section 4 provides for the ordinary rule of the road for a passing vehicle; and section 5 deals with the carrying of lights. It may be noted with regard to section 5 that this legislation applies to private vehicles as well as to public vehicles, and I think that honourable members of the Council will agree with me when I say it is equally necessary that private vehicles should carry lights as well as public vehicles. With regard to clause 6 of the Bill, I propose to move in committee an amendment in line one, inserting the word "pusher" between the words "drawer" and "rider." That will make clause 6 in conformity with clause 5, which speaks of a person "driving, drawing, pushing, riding," etc. Honourable members will see that clause 6 provides that no person shall by negligence or wilful misbehaviour cause any hurt or damage to any person, horse, cattle, or goods conveyed in any vehicles passing or being upon any street or road, or if the vehicle be drawn by a horse or other animal shall negligently or wilfully be at such distance from such vehicle or in such a situation whilst it shall be passing upon such street or road that he cannot have the direction and government of the horse or animal drawing the same, or shall leave any vehicle drawn by a horse or other animal unattended in any street or road or at any place of public resort or

entertainment, whether such vehicle shall be hired or not, or shall leave any vehicle on such street or road so as to obstruct the passage thereof." Clause 7 gives power to the Governor in Council to make bye-laws. In clause 8 I propose to make an amendment in line 4 by substituting for the word "person" the words "any member of the police force." I think honourable members will probably agree that it would be undesirable to give to any person, whoever he might be, the power of arresting any other person with or without warrant. With regard to the latter part of clause 8, that is taken from the Highways Act at home, which enables the Police Magistrate if a person refuses to disclose his name "to proceed against him by a description of his person and the offence only without adding any name or designation." In clause 9 the Bill provides a penalty for a breach of the Ordinance or any bye-law made under it. I beg to move the second reading of the Bill.

The ACTING COLONIAL SECRETARY seconded, and the motion was carried.

The Council then went into committee to consider the Bill clause by clause.

When they came to clause 6 the HARBOUR MASTER suggested that the words "if the vehicle be drawn by a horse or other animal" and the words "the horse or animal drawing" should be deleted so that persons in charge of vehicles other than those drawn by horses might be included.

The CAPTAIN SUPERINTENDENT OF POLICE did not agree with the suggestion. He added that the vehicles referred to were trucks and trollies, which were sometimes laden with loads which were light but bulky, and it was really an impossibility that every person behind such a vehicle should have the view of what was directly in front.

The HARBOUR MASTER—The Honourable Captain Superintendent of Police is quite right in saying I refer chiefly to trollies. I think they are most dangerous. I come across them near my office on a steep hill with a load probably some eight feet above the wheels. The trolley is guided by a man who is behind and who cannot possibly see where he is going. It is drawn by six or eight men with ropes, who do not care how the thing goes. They let it go down as it pleases, and I think that is a great danger.

His EXCELLENCY—As a matter of fact do these men who pull at the rope let it run down-hill?

The HARBOUR MASTER—They do not guide it. It is left with the man behind, who cannot see where it goes to. Sometimes a man walks by the side and directs the man behind.

The CAPTAIN SUPERINTENDENT OF POLICE —As a matter of fact, in compiling my official report last year I looked through the records of accidents caused by trollies and other vehicles in the streets, and I think there are less of such accidents in this city than there are in any other city of the same size. The accidents caused by trollies last year reached the "large" total of two.

His EXCELLENCY put the matter to the vote with the result that four (Major-General Goscoigne, the Hon. Wei A Yuk, the Hon. E. R. Belilios, and the Harbour Master) voted for the words in question to be left out, the rest of the Council (with the exception of His Excellency, who did not vote) being against.

With regard to the amendment proposed by the Attorney-General to clause 8—substituting for the word "person" the words "member of the police force"—some objection was raised by the ACTING COLONIAL SECRETARY and Dr. HO KAI.

His EXCELLENCY—I have just been asking the Attorney-General what has been the common practice here. It strikes me that if a man does you a personal damage you have the right to detain him until a policeman comes. Otherwise a man might take my coat and tear it up and walk away because there was no policeman standing by.

The CAPTAIN SUPERINTENDENT OF POLICE —I think it will be better for the clause to read "any member of the police force." It will be much safer.

The HARBOUR-MASTER—I suggest it should be "any police officer on his own observation or on the application of any person who shall see the offence committed."

His EXCELLENCY (to the Captain Superintendent of Police)—Would it not be the duty of the constable to detain any person and get his name and address in the case of any complaint being made to him?

The CAPTAIN SUPERINTENDENT OF POLICE —Yes, sir, it would.

His EXCELLENCY—Then what is the necessity of this?

The Hon. Dr. HO KAI suggested that the amendment should be withdrawn.

The ACTING ATTORNEY-GENERAL—I do not think I should withdraw the amendment; it would be dangerous.

The CAPTAIN SUPERINTENDENT OF POLICE —In the existing law dealing with vehicles and so forth—14 of 1845—the power is vested in the police officers of the colony. If a man is knocked down by a ricksha he accompanies the coolie to the nearest constable and gives him into custody. I do not think any necessity has yet arisen or been shown for giving these exceptional powers to the general public, and I think it is undesirable in this colony, where you have a large number of nationalities, and especially some who are by no means disinclined to exercise a good deal more power than they have any right to. I refer to the Chinese, who are very fond of taking upon themselves power which really belongs to the police.

The ACTING COLONIAL SECRETARY—I suggest we should delete the words "any person who shall see such offence committed" and substitute "any member of the police force."

This was agreed to and the Bill passed through the committee stage.

THE LAW RELATING TO SOLICITORS.

The second reading of the Bill entitled An Ordinance to amend the law relating to Solicitors of the Supreme Court was on the Orders of the Day, but the ACTING ATTORNEY-GENERAL asked that it might be postponed so that he might consider certain suggestions made by the Judges of the Supreme Court which had been handed to him only the day before.

ADJOURNMENT.

The Council then adjourned until Wednesday, February 8th.