

29TH AUGUST, 1901.

PRESENT:—

HIS EXCELLENCY the GOVERNOR (Sir HENRY BLAKE, G.C.M.G.).

Hon. Col. L. F. BROWN, R.E. (Commanding the Troops).

Hon. J. H. STEWART LOCKHART, C.M.G. (Colonial Secretary).

Hon. H.E. POLLOCK, K.C. (Acting Attorney-General).

Hon. C. McI. MESSER (Acting Colonial Treasurer).

Hon. Commander R. M. RUMSEY, R.N. (Harbour Master).

Hon. W. CHATHAM (Acting Director of Public Works).

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

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

Hon. T. H. WHITEHEAD.

Hon. J. THURBURN.

Hon. J. J. BELL-IRVING.

Hon. Dr. HO KAI.

Hon. WEI A YUK.

Mr. C. CLEMENTI (Acting Clerk of Councils).

PAPERS.

The COLONIAL SECRETARY laid on the table a report on the New Territory during the second year of British Administration, which has already been extensively dealt with in the Press, and correspondence regarding increase of salaries of subordinate officers in the Civil Service of the Colony.

FINANCIAL.

The COLONIAL SECRETARY laid on the table Financial Minutes Nos. 48 to 56, and moved that they be referred to the Finance Committee.

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

OTHER PAPERS.

There were laid on the table a report of the proceedings of the Finance Committee at a meeting held on the 29th ult., and a report of the proceedings of the Public Works Committee at a meeting held on the same day, when a discussion took place on the subject of providing a refuse-destructor. The reports were adopted.

REPORTS OF STANDING LAW COMMITTEE.

The ACTING ATTORNEY-GENERAL laid on the table reports of proceedings of the Standing Law Committee on the Bill entitled an Ordinance to amend and consolidate the laws relating to stamps and stamp duty in the Colony of Hongkong, and on the Bill entitled an Ordinance for authorising the construction of a tramway within the Colony of Hongkong. He moved that they be considered in Committee of the Council.

The COLONIAL SECRETARY seconded, and the motion was carried.

PREVENTION OF EPIDEMIC, ENDEMIC OR CONTAGIOUS DISEASES.

The ACTING DIRECTOR OF PUBLIC WORKS laid on the table a copy of additional bye-laws made by the Sanitary Board in reference to the prevention of epidemic, endemic, or contagious disease, and moved their adoption. He said—The object of these bye-laws is to enable the Sanitary Board to take action at present, or at any period when any disease is not prevalent in the Colony, for the disinfection of premises. The necessity of this must be obvious to hon. members when they consider the number of bodies found in the streets and the number of people suffering from the disease who leave the Colony during an epidemic of Plague without their addresses being known so that the premises may be disinfected. I therefore beg leave to move the adoption of the bye-laws.

The ACTING ATTORNEY-GENERAL seconded.

COLONIAL SECRETARY—Before these bye-laws are passed, it would be well if the Hon. Acting Director of Public Works would inform hon. members how the expense that will be incurred in carrying them out is to be met.

Mr. CHATHAM—With regard to the question raised by the Hon. Colonial Secretary, sir, the expense at present incurred in such work is met from the vote for plague, and I therefore take it that any expenditure incurred in the carrying out of the steps proposed would be deferred from the same source.

HIS EXCELLENCY—I am anxious to know more about this subject before we finally adopt these bye-laws. The question is—Who is to pay for any damage that is done in the process of disinfection? For instance, a case occurred the other day in which, by no fault whatever of the sanitary authorities, who disinfected the house indicated to them, the wrong house was disinfected. The fact remains that a claim for \$50 was sent in to Government, and was paid, very properly paid. That claim of \$50 was for damage that had been done to property in the house in carrying out the disinfection. When we come to multiply that by thousands, I think it is well for us to consider whether or not those expenses to repay the loss that apparently does take place in this process of disinfection should be paid by the Colony. That is the reason I should like to have an understanding on the subject. Personally, I think that in a case of this kind, where the object is to benefit the population, the Colony should bear the expense.

The ACTING ATTORNEY-GENERAL—I think the ordinary rule of law would apply to a case like this. Supposing there has been any negligence in carrying out the work, and as a result damage was done, the officers

in charge of the operations should be responsible. I would submit, sir, it would be only fair, where such damage is due to negligence, that compensation should be paid to the party injured by such negligence.

His EXCELLENCY—The question is not one of negligence; it is a question of damage done to things in the house that *will* suffer, and *must* suffer, however carefully handled.

The ACTING ATTORNEY-GENERAL — If there is no negligence there will be no cause of action. I take it that when disinfection is going on the greatest care is exercised by the officers in charge.

His EXCELLENCY—There are articles that must be injured, no matter how great the care taken. If there is to be disinfection, then a certain amount of valuable property must be damaged in the process. The proposal to be carried out is a precautionary measure when there is no plague—to disinfect the entire city. Taking one quarter, and only a quarter, a very large amount of damage must be done by the disinfection. Who is to pay for that? These bye-laws are laid before the Council at the instance of the Sanitary Board, who ask for immense powers. At the same time, we must take into consideration the rights of the individual — the right to be protected from loss or compensated for injury done to property in consequence of what may be a very necessary precaution, if adopted by the Government.

The ACTING ATTORNEY-GENERAL—I think that any damage necessarily done in pursuance of statutory authority would not be recoverable in a court of law.

Dr. HO KAI—I think, after the expression of opinion by the Hon. Acting Attorney-General, that the law on the point that has been raised is very clear. Still, I think it would be better to defer consideration of these bye-laws till the next meeting. I am very unwilling to oppose such bye-laws as these, because I quite agree that during a non-epidemic time we should prepare ourselves to meet the disease should it again make its appearance by seeing that every house is clean. I also think that Government should make provision for compensating people for loss sustained in this disinfecting process during a non-epidemic time, and not make them suffer innocently. Suppose you disinfect my house simply because my next door neighbour has had plague in his house, and you damage my property, I cannot go to law with the certainty of recovering the amount of that damage. You say to me that I ought to sacrifice a certain expenditure for the public good, but though I may be willing to submit to the inconvenience and trouble entailed upon me in having my house disinfected, I do not see the justice of asking me to sacrifice hundreds of dollars for the public good without getting compensation, because at that time you cannot say that disinfection was necessary. Under these circumstances I think that those Chinese who occupy the house should be properly compensated for any

damage done to their property. It would be perhaps more desirable, however, to adjourn this matter until the next meeting, to give hon. members of Council some little time to think it over.

Mr. WHITEHEAD—I beg leave to second the proposal of the Hon. Member opposite. If disinfection cannot be done without certain damage being caused, I think compensation should be granted out of the public funds.

The COLONIAL SECRETARY These is no objection to this matter being postponed, but it is unfortunate that the question of compensation was not raised sooner so that the Sanitary Board might have had an opportunity of stating its views.

Mr. MAY—I should like, sir, to remove an impression in the mind of the hon. member on my right. He says that in plague time only the houses that actually have cases of plague in them are disinfected. That is not so. I beg to refer the Council to bye-law No. 8, one of the bye-laws printed under item 7. The powers of the Sanitary Board are that when plague is prevalent they can declare any section of the city to be infected with plague, and can appoint officers to go into every house in that area, and if an officer thinks the house wants cleansing and disinfecting he is empowered to cleanse and disinfect it, whether they had plague there or not. But the Board cannot do that until plague is actually epidemic. These powers have been exercised by myself and other officers, and I have never known yet of any claim for compensation on account of damage done by that disinfection, nor of any complaints by the Chinese population of damage done to goods. It must be remembered, sir, that these houses are principally the houses of the poor class, whose goods and chattels are not numerous, but in any case any officer entrusted with this power would remove such articles as would be destroyed by the disinfection process. All the Board wants to do is to go one step farther, and instead of having to wait till plague is actually epidemic in the city in order to take these steps, to get a little farther ahead of the plague and take those same steps before there is any plague at all. The only difference is that what is done at present when plague is prevalent will be done before plague becomes prevalent. I may say, sir, that I believe that if officers of intelligence and discretion are chosen —as they always are chosen, in fact —no difficulties will occur. I should be the last to wish to see any hardship inflicted on the native population, and I have only thought it right to make these remarks in order to remove the impression evident in the minds of some of the speakers.

The proposal to postpone the matter until next meeting of the Council was then put to the meeting and carried.

OTHER SANITARY BYE-LAWS.

Referring to other sanitary bye-laws for the disinfection of infected premises, the ACTING DIRECTOR OF PUBLIC WORKS asked—I presume this item will also stand over?

His EXCELLENCY—I think it ought to.

It was agreed to let the item stand over.

CORAL AND SHELL-FISHING.

The Hon. T. H. WHITEHEAD gave notice that at next meeting of Council he would ask— Will the Honourable the Colonial Secretary inform the Council of the approximate number of fishermen employed in taking coral and shell from the sea adjoining the New Territory and the names of the places where and about the extent of ground over which such fishing is carried on?

QUESTIONS.—1. CLAIMS TO LAND IN THE NEW TERRITORY.

Mr. WHITEHEAD—Will the Honourable the Colonial Secretary lay upon the Council table a return shewing—(1) the number of claims to Land in the New Territory sent in up to 30th June, 1901; and (2) the number of claims which had been finally disposed of by the Land Court up to that date? Also will the Honourable Member inform the Council what progress has been made with the Survey of the New Territory?

COLONIAL SECRETARY—In reply to the question of the hon. member, I beg to lay on the table a report on the progress made with the survey in the New Territory.

The report was as follows:—

Number of claims received and settled by the Land Court from 1st June, 1900, to 16th July, 1901:—Total claims received, 37,922; finally settled, 23,457.

During season 1899-1900, an area of 35,257.77 acres, containing 226,588 fields, was surveyed on the 16 inch scale. This area includes:—All the cultivation lying to the south of the Kowloon Hills; the whole of the Unlong District; sub-Districts Santin, Sheongshui, Han Yuck, Fan Ling and Lung Yeuk-tau of District Sheung U; and the District of Luk Yeuk.

During season 1900-1901, a total area of 9,024 acres, containing 139,857 fields, was surveyed; 550 acres being on the 16 inch scale and the remainder 8,474 acres on the 32 inch scale.

This area includes the following sub-districts of the Sheung U District, namely:—Hap Wo, Lam Tsun, Tsoi Hang and Shun Wan; and the following sub-districts of Shataukok District, namely:—Liu Mahang, Ha Po, Wohang, Lukkeng, Kukpo and portions of Hing Chun and Nam Yeuk. Also the Islands Cheong Chau, Peng Chau and Mah Wan and portions of Lantau at Tungchung and Mui Wo.

Demarcation.—The area surveyed during season 1900-1901, namely, 9,204 acres, has also been demarcated and 2,133.32 acres south of the Kowloon Hills.

During the recess season of 1900, a survey on the 64-inch scale was made of Kowloon City for the Land Court.

I should say that, at the very outside, about 25,000 acres

remain to be done.

Total area surveyed and demarcated up to date (from November, 1899, to July, 1901):—

Area surveyed on the 16 in. scale.	Area surveyed on the 32 in. scale.	Total area surveyed up to date.	Number of fields surveyed.	Area demarcated up to date.
Acres.	Acres.	Acres.	...	Acres.
35,807.77	8,474.00	44,281.77	366,445	11,157.32

2. EXPENDITURE ON THE NEW TERRITORY.

Mr. WHITEHEAD—Will the Honourable the Colonial Treasurer lay upon the Council table a statement shewing the total expenditure incurred in connection with the New Territory from the date of the lease thereof, viz., 9th June, 1898, to 30th June, 1901, and the total revenue collected from the said New Territory during the same period, the principal items under both heads to be shewn separately?

In reply to the question, the ACTING COLONIAL TREASURER laid on the table a statement showing the revenue and expenditure in the New Territory from June, 1898, to 30th June, 1901. The total revenue was \$41,014.33, and the total expenditure \$736,571.34.

3. THE ALLEGED DISCONTENT IN THE POLICE FORCE.

Mr. WHITEHEAD—Has the attention of the Honourable the Captain Superintendent of Police been directed to paragraphs and leaderettes which appeared in the *China Mail* of 23rd, 25th and 26th instant, in the *Telegraph* 27th, and in the *Daily Press* of 24th and 27th idem, in respect of discontent among the European members of the Police Force and the Gaol Staff, and will the Honourable Member inform the Councils to the correctness or otherwise of the allegations and statements therein made?

Mr. MAY—The reply to the first part of the question is "No." In reply to the second part of the question, I have to say that with the exception of five complaints by junior police officials for having been passed over for promotion, one by a constable against a sergeant for incivility, and three complaints by constables against bar-boys in the canteen for incivility, no complaints have reached me from any member of the Police Force or any members of the Gaol staff, and I decline to recognise or discuss any complaints which are not made to me through the appointed official channels.

4. BUILDING COLLAPSES IN THE COLONY.

Mr. WHITEHEAD—Will the Honourable the Director of Public Works lay upon the Council table, a statement showing:—

- (1.) The number of buildings in the Colony which have fallen down from 1st January, 1895, to 16th instant.

- (2.) The names of owners of the said buildings.
- (3.) The number of deaths caused thereby.
- (4.) The number of Coroner's enquiries held in connection with such deaths.
- (5.) The number of prosecutions, if any, instituted as the result of the said enquiries, and
- (6.) The causes, so far as ascertained, which have contributed to the tumbling down in each case, and, if the collapse of any or all of the buildings in question have resulted from defective construction, will the Honourable Member inform the Council:—

(1.) What precautions, if any, have been taken to prevent the erection of such buildings in the future; and

(2.) What precautions, if any, have been taken to prevent a recurrence of a like calamity attended with such heavy loss of life as that which occurred in Cochrane Street on 14th instant in connection with buildings already in existence?

Mr. CHATHAM—Time has not permitted the preparation of the statement asked for by the Hon. Member, but as soon as it is ready it will be laid on the table, and all available information on the subject will be given.

5. VENICE CONVENTION AND HONGKONG.

Mr. WHITEHEAD—Will the Honourable the Attorney-General inform the Council whether the "Venice Plague Convention of 1897" applies to the Colony of Hongkong?

The ACTING ATTORNEY-GENERAL—In my opinion the Convention does not apply to the Colony of Hongkong.

6. SHOULD SICK CHINESE LEAVE THE COLONY.

Mr. WHITEHEAD—If the "Venice Plague Convention of 1897" does not apply to the Colony of Hongkong, will the Honourable the Colonial Secretary inform the Council whether the Government will direct the Sanitary Board to take into consideration at an early date the question whether in the event of an epidemic of plague occurring during 1902, sick Chinese will, as during the 1894 epidemic, be permitted to leave the Colony for their homes on the mainland—provided the Chinese Government offers no objection—and if so, to determine under what conditions they will be allowed to do so?

COLONIAL SECRETARY—In reply to this question. I beg to state that instructions have been received from His Majesty's Government that the course suggested shall not be permitted.

7. THE STATEMENT PREPARED FOR MR OSBORNE.

Mr. WHITEHEAD—Will the Honourable the Colonial Secretary lay upon the Council table a copy of the detailed statement already prepared by the Medical Officer of Health and the Secretary of the Sanitary Board, by direction of its President, asked for by Mr. Edward Osborne at the Sanitary Board meeting held on the 8th instant, showing what recommendations the Board and its Officers have made during the past ten years in respect of

additional Markets, additional Public Latrines, and additional Public Urinals, and how far such recommendations had been carried out?

The COLONIAL SECRETARY laid on the table the return asked for.

8. MR. ORMSBY'S SUCCESSOR.

Mr. WHITEHEAD—Will the Honourable the Colonial Secretary inform the Council, whether the Government have telegraphed, urging on the Colonial Office the imperative necessity, in the interests of the trade and the shipping of the port, of selecting and appointing a thoroughly experienced officer, first-class in every respect, and of considerable professional standing, to take charge of the Public Works Department (in succession to Mr. R. D. Ormsby), and of the ever increasing duties devolving on that department in respect of roads, streets, buildings, drainage, water-works, reclamations, and the many important public works now in progress and in contemplation directly connected with the sanitation of the Colony?

COLONIAL SECRETARY—The answer to the question of the hon. member is in the negative.

Mr. WHITEHEAD—In consequence of the answer to the last question, I beg to give notice that at the next meeting of the Council I will move—"That in the opinion of this Council a thoroughly experienced officer of first-class ability in every respect and of considerable professional standing should be secured to fill the office of Director of Public Works, and that this Council would willingly entertain any proposals which might be made by the Government for the provision of a better salary than that hitherto paid."

JURY CONSOLIDATION ORDINANCE.

The ACTING ATTORNEY-GENERAL moved the first reading of a Bill entitled an Ordinance to further amend the Jury Consolidation Ordinance, 1887.

The COLONIAL SECRETARY seconded, and the motion was carried.

PROBATES ORDINANCE.

The ACTING ATTORNEY-GENERAL moved the first reading of a Bill entitled an Ordinance to amend the Probates Ordinance, 1897 (No. 3 of 1897).

The COLONIAL SECRETARY seconded, and the motion was carried.

MERCHANT SHIPPING CONSOLIDATION ORDINANCE.

The ACTING ATTORNEY-GENERAL moved the first reading of a Bill entitled an Ordinance to amend the Merchant Shipping Consolidation Ordinance, 1899 (Ordinance 36 of 1899).

The COLONIAL SECRETARY seconded, and the motion was carried.

THE MANUFACTURE OF GUNPOWDER.

The ACTING ATTORNEY-GENERAL moved the first reading of a Bill entitled an Ordinance to amend the law relating to the manufacture of gunpowder and of fireworks, and to regulate the sale and conveyance of gunpowder.

The COLONIAL SECRETARY seconded, and the motion was carried.

NATURALISATION.

The ACTING ATTORNEY-GENERAL moved the second reading of the Bill entitled an Ordinance for the naturalisation of Siu Yun-fai, alias Siu Yun-hang, alias Siu Kwok-yeung, alias Siu Ku-ming, alias Siu Yin-p'ing.

The COLONIAL SECRETARY seconded, and the motion was carried.

The Council thereafter went into committee on the Bill, and on resuming, there being no amendments, the Bill was read a third time.

TO VALIDATE CROWN LEASES.

The ACTING ATTORNEY-GENERAL moved the second reading of the Bill entitled an Ordinance to validate Crown leases heretofore made of foreshore and submerged lands within the territorial waters of the Colony for reclamation and other purposes and to legalise and facilitate the making of such leases hereafter.

He said: "The objects and reasons of the Bill are as follows:—

1. A very large number of Crown leases, including in the demised land portions of the foreshore and sea-bed, have from time to time, been granted in this Colony, most frequently for purposes of reclamation and with a view to meet the requirements of commerce and to facilitate the handling of the large traffic of Hongkong.

2. Owing to the extremely limited quantity of level ground with a deep water frontage provided by nature in this Colony, extensive reclamations have been absolutely necessary, not only for sanitary reasons connected with overcrowding, but also to enable the trade of the port to be carried on.

3. This necessity has been universally recognised, and although in theory the granting of leases of portions of the foreshore and of the sea-bed thereto adjacent may to some extent interfere with rights of fishing and navigation and with rights or alleged rights of access to the sea, it has, nevertheless, been felt that the public and the Colony as a whole have been gainers by the reclamations rather than losers.

4. The most extensive reclamations hitherto carried out, as for instance the Praya Reclamation now nearing completion, have been undertaken under statutory authority.

In the vast majority of the cases in which such authority has not been obtained, the interference with rights has been so insignificant as to occasion little or no inconvenience

and to call forth no complaint.

5. It is, however, desirable to obtain statutory validity for such past Crown leases as have, to any extent, interfered with public or private rights, and also to obtain statutory authority for the granting in the future of Crown leases of portions of the foreshore or bed of the sea in cases where the Governor in Council considers such leases expedient.

6. The proviso in section 2 is inserted to prevent any interference *ex post facto* with a judgment of the Supreme Court regarding Lantao Marine Lot No. 2, in which case the Court held that a Crown lease could not operate so as to deprive certain fishermen of their prescriptive right to take coral and shells from the sea.

7. The further proviso in section 3 is to make it clear that it is not intended to interfere with the rights, or alleged rights, of holders of Marine Lots, with regard to sea-access in front of their respective lots.

8. When the agreement for granting a lease requires the laying out of certain sums in building, &c., within a certain time, the actual granting of the lease is usually held over till the conditions have been fulfilled. This is why it has been deemed necessary to insert the words "and all agreements for the granting of such leases These also should be validated."

Continuing, the ACTING ATTORNEY-GENERAL said—I may mention that I have received various suggestions with reference to this Bill, some from the Hon. The Senior Unofficial Member and some from the Hon. Member representing the Chamber of Commerce. The Senior Unofficial Member raised two points under clause 3 of the Bill. The first was as to the granting of land otherwise than by auction. I think, sir, it is unnecessary to make any amendment in the clause of the Bill upon that point, because at the present time no power exists to grant land except by auction. With regard to another point raised by the Hon. Senior Unofficial Member, one in the last line but one of the third paragraph of clause 3 of the Bill, hon. members will see that the provisions of that particular part of the clause read as follows:— "Provided also that this section shall not be deemed to authorise the grant of any Crown lease which would derogate from or be inconsistent with the special rights of sea access (if any) of any holder of a *Marine Lot*, holding under a Crown lease, without the consent of such holder." To meet the views of the Hon. Senior Unofficial Member who contended that in some cases Inland Lots might be entitled to access to the sea, I propose to substitute the words "any Lot" for the words "a *Marine Lot*." In my opinion, however, holders of Inland Lots could only be entitled to access to the sea, if at all, in very exceptional cases. With regard to the suggestions raised by the Hon. Member representing the Chamber of

C o m m e r c e ,

a proposal was made by him in a letter which I received from him this morning that under Rule 52 of the Standing Orders he should move the postponement of the second reading until a translation of the Bill in the Chinese language shall have been published by proclamation in all the towns and villages of the New Territory, together with a notice calling upon all persons whose rights or interests of property may be affected thereby. With reference to that point, I would point out that, with all due respect to the Hon. Member, that is not a motion which properly comes under Rule 52 of the Standing Rules and Orders. I am of opinion, moreover, that there is no necessity for any such course being adopted as that which is suggested by the Hon. Member, and I would draw attention to the second paragraph of the third clause of this Bill, where provision is made for due notice being given in the *Gazette* to parties interested. It has been pointed out, however, by the Hon. Member, that as regards that notice it would be well that a proclamation should be made in the Chinese language, and posted up near the site of the property affected, because the *Government Gazette* has a limited circulation only. I propose on that point to move an amendment, when the Council goes into committee on the Bill, that after the words "three months" in the second paragraph of clause 3 of the Bill, the following words be inserted—"And also shall be published by proclamation in the Chinese language, which proclamation shall be publicly posted in some suitable place near the site of the said property." With regard to another point raised by the Hon. Member, who suggested that there might be an amendment at the end of the second paragraph of clause three of the Bill to empower parties to appeal to the Supreme Court. I am of opinion that any objection will be carefully considered and any equitable claim for compensation fully gone into by His Excellency the Governor in Council. Resort to law will only lead to delay. I beg, sir, to move the second reading of this Bill.

The COLONIAL SECRETARY seconded.

Hon. T. H. WHITEHEAD—Sir, the private rights and interests of a large number of Chinese in the Colony are affected by this Bill, and I submit that the Ordinance should not be proceeded with until those Chinese whose interests are thus affected have been given an opportunity of being heard. To proceed with this Bill before that has been done would, I think, be unreasonable and unjust, and I beg to move—"That under Rule 52 of the Standing Rules and Orders, the second reading of this Bill be postponed until a translation of the Bill in the Chinese language shall have been published by Proclamation in all towns and villages within the New Territory, together with a notice calling upon all persons whose rights or interests of property may be affected by it to bring their objections before the Council by petition within one month from the date of the issue of such notice."

His EXCELLENCY—I think the Hon. Member will find

that his resolution is not in order, as it does not come under Rule 52.

Hon. T. H. WHITEHEAD—Then, sir, with your permission I will move that the second reading of the Bill be postponed until a translation of the Bill in the Chinese language shall have been published by Proclamation in all towns and villages within the New Territory, together with a notice calling upon all persons whose rights or interests of property may be affected by it to bring their objections before the Council by Petition within one month from the date of the issue of such notice. In connection with this matter I might be permitted to read another letter I addressed to the learned Acting Attorney-General on the 22nd of this month:—

Hongkong, 22nd August, 1901.

DEAR POLLOCK,—In reply to your note asking for my suggestions *re* the proposed Foreshores and Seabed Ordinance, please allow me to point out the Supreme Court decided last year that a Crown Lease could not then operate so as to deprive certain fishermen of their "prescriptive rights" to take coral and shells from the sea, refer to case *in re* Lantao Marine Lot No. 2, and the Court gave judgment against the Government. If enacted, the Ordinance will enable the Government to do what the Supreme Court has decided the Government cannot now do legally, and the Government will not longer in respect of such Crown Leases be subject to the judgment of the Supreme Court. In other words this ordinance, if it becomes law, will give the Government the power to dispossess proprietary rights and to confiscate "prescriptive rights" in direct violation of the Kowloon Extension Agreement of 9th June, 1898, by virtue of which the Imperial Government of China leased to the Government of Great Britain for 99 years certain territory on the Kowloon Peninsula.

The seventh clause of the said Agreement stipulates: "It is further understood that there will be no expropriation or expulsion of the inhabitants and that if land is required it shall be bought at a fair price." Expropriation means the disposing of proprietary rights. This being so, I am distinctly opposed to the proposed Ordinance, which if enacted, will confer power in the Colonial Government to dispossess proprietary and "prescriptive rights" in violation of the expressed provisions of the said Kowloon Extension Agreement.

In consequence of the existence of "prescriptive rights" in respect of the quarrying of stone in the Colony, I understand that hitherto the Government's power has been

l i m i t e d t o

letting the said Stone Quarries by public tender to the highest bidder—the lessee being allowed to make his own arrangement with the owners of the said "prescriptive rights." The fact that "prescriptive rights" exist *in re* the taking of coral and shells from the sea, was demonstrated by the Supreme Court's decision of last year, regarding Lantao Marine Lot No. 2, and so far the Government does not appear to have appealed against the said decision.

The conditions in these two questions being more or less similar, why should the Government's powers not be limited to letting by public tender to the highest bidder the taking of coral and shells from the sea adjoining the New Territory—the lessee being allowed to make his own arrangements with the owner of the said "prescriptive rights"?

The proposed enactment appears to me to be inequitable and unjust, and for the information of those interested and concerned, I propose to send a copy of this letter to the local Press for publication.

Yours very truly,
(Signed) T. H. WHITEHEAD.

The Hon. H. E. POLLOCK, K.C.,
Attorney-General.

Hon. Dr. HO KAI seconded the amendment and stated, in the course of his speech, that he was not aware that any prescriptive rights existed by Chinese law.

The ACTING ATTORNEY-GENERAL in reply, stated that, from his researches, he believed that no prescriptive rights were recognised by Chinese law. He also stated with reference to Hon. T. H. Whitehead's letter to him of the 22nd instant, that the Judges of the Supreme Court were divided in opinion in the case referred to in that letter, and that instructions had been received from the Secretary of State, in the event of any other similar case occurring, to carry the matter up to the highest Court of Appeal.

Hon. T. H. Whitehead's amendment was then put to the vote and lost, only three voting for it—Hon. T. H. Whitehead, Hon. Dr. Ho Kai, and Hon. Wei A Yuk.

These three members voted against the motion for the second reading of the Bill, which was carried by a majority.

The Council then went into committee on the Bill, and the amendments proposed by the Acting Attorney-General were agreed to.

Hon. T. H. WHITEHEAD—I move that the following words be added after the word "Council," the last word in paragraph 2 of clause 3— "And his decision thereon shall be notified in writing to the objectors; and if within one month from the date of such notice no application has been made to the Supreme Court in its Summary Jurisdiction for leave to appeal from such decision, such decision shall be final and binding."

This amendment also was lost.

The third reading of the Bill was not moved on the Council resuming, because of the amendments that had been made.

TRAMWAYS ORDINANCE.

Hon. C. P. CHATER moved the second reading of a Bill

entitled an Ordinance to amend the scope of the Tramways Ordinance, 1883 (No. 6 of 1883), and the Tramways Ordinance Amendment Ordinance, 1883 (No. 18 of 1883). He said—I think I could not do better than place before your Excellency and the hon. members of this Council the reasons of this Bill, which are as follows:—The surviving promoters under Ordinance 6 of 1883 having parted, for valuable consideration, with their rights, if any, under that Ordinance so far as Tramways 1 to 5 are concerned, and a Company being now desirous of starting a Tramway in this Colony which would conflict with the lines of route of the said Tramways Nos. 1 to 5, it seems desirable, in order to clear the grounds for the operations of such company, that the provisions of Ordinance 6 of 1883, so far as they relate to the said Tramways Nos. 1 to 5, should be repealed, and this Bill so enacts accordingly.

Hon. J. J. BELL-IRVING seconded, and the motion was carried.

The Council thereafter went into committee on the Bill, which was agreed to. The third reading was not moved.

STAMPS AND STAMP DUTY.

In Committee on the Bill entitled an Ordinance to amend and consolidate the laws relating to stamps and stamp duty in the Colony of Hongkong, the ACTING ATTORNEY-GENERAL said the amendments suggested by the Standing Law Committee in the Bill were very few and explained the reasons for them. The amendments, which numbered three, were agreed to.

THE CONSTRUCTION OF A TRAMWAY.

Hon. C. P. CHATER moved that the Council go into Committee on the Bill entitled an Ordinance for authorising the construction of a tramway within the Colony of Hongkong.

Hon. J. J. BELL-IRVING seconded.

The ACTING ATTORNEY-GENERAL read the report of the Standing Law Committee on the Bill. There were altogether fifteen amendments for the consideration of the Council, the reasons for which were explained by the Acting Attorney-General, particular stress being laid by him upon the fact that the recommendations of the Standing Law Committee with reference to clauses 47 and 49 of the Bill were intended to stand or fall together. All those fifteen amendments were adopted by the Council, with two small amendments suggested by the Acting Attorney-General in the new clause 14 of the Bill which was recommended by the Standing Law Committee.

Hon. Col. L. F. BROWNE—I should like to ask the Attorney-General whether clause 19 covers

the case of the Tramway Company laying return wires. We referred the matter to the War Office, and after consultation with experts they came to the conclusion that return wires will have to be laid by the company.

The ACTING ATTORNEY-GENERAL—That is a matter, I think, which will have to be considered later by electrical experts at home with other points.

Hon. Col. L. F. BROWN then moved that the fares chargeable in the case of the military requiring the use of the tram in an emergency should not exceed the maximum fares authorised by the Ordinance in ordinary cases.

This amendment was not agreed to.

The Council then resumed.

SUPPLEMENTARY VOTE.

The ACTING COLONIAL TREASURER moved the third reading of the Bill entitled an Ordinance to authorise the appropriation of a supplementary sum of five hundred and fifty-nine thousand nine hundred and ninety-one dollars and seventy-eight cents, to defray the charges of the year 1900.

The COLONIAL SECRETARY seconded, and the Bill was read a third time.

The Council then adjourned *sine die*.

FINANCE COMMITTEE.

A meeting of the Finance Committee was held immediately after the Council, the Colonial Secretary presiding.

There were nine minutes down for consideration. In the first the Governor recommended the Council to vote a sum of \$11,967 to meet the cost of the erection of certain matsheds, &c., to be used as public baths.

ABSTRACT.

Matsheds, including tubs, &c., &c.,.....	\$3,585.00
Firewood, wages of attendants, &c., up to 31st May,	1,390.00
Subsequent expenditure up to 31st August, namely, 92 days, at \$76 per day,	6,992.00
Total,	\$11,967.00

The CHAIRMAN—This is a question with which hon. members are undoubtedly acquainted, and requires no explanation from me.

The ACTING ATTORNEY-GENERAL.—May I ask how many matsheds?

The ACTING DIRECTOR OF PUBLIC WORKS —I am sorry I have forgotten the exact number just now, but there is a considerable number in existence.

The CHAIRMAN—If the Hon. Attorney-General wants these figures he can be supplied with them, I suppose?

The ACTING DIRECTOR OF PUBLIC WORKS —Oh, certainly.

The vote was agreed to.

In the next minute the Governor recommended the Council to vote a sum of \$6,000 in aid of the vote "Repairs to Government House Furniture and Incidental Expenses."

The CHAIRMAN—I think this vote explains itself.

The vote was agreed to.

In the next minute the Governor recommended the Council to vote a sum of \$21,000 in aid of the following votes:—

PUBLIC WORKS, ANNUALLY RECURRENT EXPENDITURE.

1. Maintenance of Telegraphs.....	\$3,000
2. Maintenance of Praya Wall and Piers.....	2,000
3. Maintenance of Waterworks, Kowloon.....	6,000
4. Maintenance of Macadamised Roads in Victoria.....	5,000
5. Maintenance of Concreted Roads in Victoria.	2,000
6. Water Account.....	3,000
Total.....	\$21,000

The CHAIRMAN—Hon. members will be glad to note the items for the maintenance of roads in Victoria. I am sure we all agree it is necessary that great attention should be paid to our roads, and that they should be as satisfactory as possible. We all desire the roads in this Colony to be a credit to the Colony and to those who are in any way responsible for them.

The vote was agreed to.

In the next minute the Governor recommended the Council to vote a sum of \$2,750 in aid of the following votes in the Post Office:—

Incidental Expenses at the Agencies, \$1,500.00	
Commission on Money Orders,	1,250.00
Total,	\$2,750.00

The vote was agreed to.

In the next minute the Governor recommended the Council to vote a sum of \$12,000 to meet the cost to be incurred on account of the erection of two temporary markets, one opposite the Sailors' Home and one adjoining the new Harbour Office, during the current year.

The CHAIRMAN—As Hon. Members are aware, a great deal has been said lately about the want of market accommodation in this Colony, and I feel sure this vote will be most heartily recommended.

The vote was agreed to.

In the next minute the Governor recommended the Council to vote a sum of \$3,000 to meet the cost to be incurred on account of the extension of Wanchai Market, during the current year.

The vote was agreed to.

In the next minute the Governor recommended the Council to vote a sum of \$600 in aid of the vote of \$1,000 for the erection of a Home for Quarantined Dogs under the heading "Public Works Extraordinary."

The CHAIRMAN explained that this additional sum was needed in order that the dogs should be comfortably housed.

The vote was agreed to.

In the next minute the Governor recommended the Council to vote a sum of \$36,177.07 in aid of the following votes:—

PUBLIC WORKS EXTRAORDINARY.

1. Yaumati Nullah,	\$250.00
2. Gaol Extension,.....	927.07
3. Taipo Road,.....	35,000.00
	\$36,177.07
Total,.....	\$36,177.07

The CHAIRMAN — Should hon. members desire information with regard to these items, the Hon. Director of Public Works will be glad to supply it.

The ACTING ATTORNEY-GENERAL—With regard to item 3, how far will that carry the work, and when is the road likely to be completed as far as Taipo?

The ACTING DIRECTOR OF PUBLIC WORKS —The work is now in progress up to Taipo itself. The sum asked for covers the expenditure on this road as far as Taipo, excluding a small balance which will have to be voted in next year's Estimates. It is anticipated there will be no difficulty in completing the road as far as Taipo by the end of this year.

The vote was agreed to.

In the last minute the Governor recommended the Council to vote a sum of \$700 for "Furniture and Incidental Expenses," Registrar-General's Department.

The vote was agreed to.

This was all the business.

