

17TH OCTOBER, 1901.

PRESENT:—

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

Major-General Sir W. GASCOIGNE, K.C.M.G. (Commanding the Troops).

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

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

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

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

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

Hon. A. W. BREWIN (Registrar-General).

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).

COPIES OF TELEGRAMS.

The COLONIAL SECRETARY laid on the table copies of a telegram of condolence on the death of H.I.M.

the Empress Frederick of Germany, and acknowledgment by H.I.M. the German Emperor.

FINANCIAL.

The COLONIAL SECRETARY laid on the table Financial Minute No. 62, and moved that it be referred to the Finance Committee.

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

The COLONIAL SECRETARY laid on the table the report of the Finance Committee (No. 11), and moved its adoption.

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

SALARIES OF SUBORDINATE OFFICERS.

In connection with this Report the COLONIAL SECRETARY said—This Report deals with the Supply Bill, and the main suggestions contained in the Report will be considered when this Council goes into Committee on the supply Bill to-day. In addition to the matters dealt with in that Report, sir, a question was raised by the hon. member who represents the Chamber of Commerce, in the Finance Committee, and I promised him that I would enquire into the point raised by him and let him know the result of my enquiries. The point raised by the hon. member was in connection with the salaries of subordinate officials in the Civil Service of the Colony, and he considered that a distinct promise or undertaking had been given that the subordinate officials' salaries should be

dealt with forthwith. I have very carefully gone over the pages of the *Hansard* in which the question is discussed, and I have failed to find anything in the nature of a distinct promise. I lay upon the table a memorandum I have prepared, which contains what I have been able to find in the *Hansard* dealing with this subject. At the same time I may mention that all the papers on the subject of the salaries of subordinate officials show very clearly the desire of the Committee appointed to enquire into that question, that any increase that might be recommended should take place without any unnecessary delay, and this opinion was shared by your Excellency, because, in your despatch to the Secretary of State for the Colonies, you recommended that the increase should take place from the 1st of January this year, but the Secretary of State did not see his way to approve of that. Now I think, sir, that the Supply Bill reveals a very satisfactory state of affairs, so far as the financial position of this Colony is concerned, and I desire to express the hope, which I am sure is shared by every other member of Council, that your Excellency will see your way to make further representations on this subject to the Secretary of State, especially as a number of the heads and assistant heads were granted increases while the salaries of subordinates were being enquired into by the Committee. The Chinese employees also had received an increase. In view of these circumstances I trust, as I have said, that your Excellency will see your way to make further representations in the matter to the Secretary of States for the Colonies. (Applause.)

Hon. T. H. WHITEHEAD—Since last meeting of Council I have gone carefully over the *Hansard*, and looked up all that took place when the question was before the Council in March-April, 1900. Since then, too, I have consulted the Senior Unofficial Member and one or two others, and I have every reason to believe the Unofficial Members are unanimous in favour of your Excellency again urging upon the Secretary of State for the Colonies the expediency, upon public grounds—for the benefit of the public and of the public service—that the increase in the salaries of subordinate officers should come into force as from the 1st of January this year. The great increase in the cost of living and the immense rise in the price of the necessities of life must have been felt more severely by subordinate officials than by those drawing higher salaries. I heartily concur with the Hon. the Colonial Secretary, who has just spoken of the desirability of urging, with all your Excellency's force, upon the Secretary of State the necessity of granting the increase from the 1st of January this year.

H.E. the GOVERNOR—So far as I am concerned, as the Council will see, when I sent forward the recommendation of the Committee, I heartily endorsed that recommendation myself. But I can quite well understand the answer from the Secretary

of State; the Imperial Government possibly wished to see in what condition the finances of the Colony would be found when the Estimates were prepared. However, if it is desired that I should again bring the matter before the Secretary of State for the Colonies, I shall do so with the greatest pleasure. I will ask the Senior Unofficial Member if all the Unofficial Members are agreed that the increase should be from the 1st of January this year.

Hon. C. P. CHATER—Sir, I may state that the Unofficial Members are unanimously of opinion that the increase should take place from the 1st of January this year, instead of January, 1902.

H.E. the GOVERNOR—Very well, I shall take steps accordingly. (Applause.)

#### REVISION OF STATUTE LAW.

The ACTING ATTORNEY -GENERAL moved the second reading of a Bill entitled An Ordinance for promoting the Revision of the Statute Law by repealing Enactments which have become unnecessary and by making Amendments in various Ordinances.

The COLONIAL SECRETARY seconded, and the motion was carried.

The Council thereafter went into committee on the Bill, and considered it clause by clause.

On the Council resuming, there having been several alterations, the third reading of the Bill was not moved.

#### THE LAW RELATING TO BUILDINGS.

The ACTING ATTORNEY -GENERAL moved the second reading of a Bill entitled An Ordinance to further amend the Law relating to Buildings.

The COLONIAL SECRETARY seconded, and the motion was carried.

The Council thereafter went into committee on the Bill, and considered it clause by clause.

The Hon. T. H. WHITEHEAD said that he had not moved any amendments, as he presumed that more thorough legislation would at once follow on the receipt of the report of the Sanitary expert shortly to arrive here.

On the Council resuming, there having been several alterations, the third reading of the Bill was not moved.

#### MERCHANT SHIPPING CONSOLIDATION ORDINANCE.

The ACTING ATTORNEY -GENERAL moved that the Council go into committee on the 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 Hon. T. H. WHITEHEAD moved that paragraph 16 of the Quarantine Regulations should be altered to the effect that owners of steamers should not be made

responsible for expenses incurred through the removal and treatment ashore of passengers who might have been taken ill on board their ships.

Hon. J. J. BELL-IRVING seconded.

On a division Mr. WHITEHEAD's motion was lost by nine votes to four. The Hon. C. P. CHATER and the Hon. Dr. HO KAI, voted with the official majority.

On the Council resuming, there having been several alterations, the third reading of the Bill was not moved.

#### THE SUPPLY BILL.

The COLONIAL SECRETARY moved the third reading of the Bill entitled An Ordinance to apply a sum not exceeding Three million seven hundred and thirty-nine thousand three hundred and twelve dollars and twenty-six cents to the Public Service of the year 1902.

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

The Council then proceeded to consider separately each item on the Bill.

#### *Governor and Legislature.*

In moving the reduction of this item by \$100, Hon. T. H. WHITEHEAD said— In the magisterial enquiry into the loss of forty-three lives caused by the tumbling down in August this year of the houses Nos. 32 and 34, Cochrane Street, the fact was conclusively demonstrated that the Public Works Department was grievously undermanned. In your address to the Council on 26th ult your Excellency stated that the present financial position of the Colony is satisfactory, that on 31st December, 1900, the assets of the Colony showed a balance over liabilities of upwards of \$1,100,000, and that the assets by the end of this year would be largely increased. The undermanning of the Public Works Department can therefore not be due to any want of funds. This Department, so grievously undermanned, was largely, if not mainly, responsible for the faulty erection of the extra story on 32 and 34, Cochrane Street, the tumbling down of which houses caused forty-three deaths. The community would like to know who is responsible for allowing the said Department to become so grievously undermanned, and whether every precaution has now been taken to prevent the further construction of faulty buildings. *Re* the Memorandum signed by five of the Unofficial Members dealing with "Public Works Extraordinary," and laid before the Council on 22nd November, 1899, I may here quote the three concluding paragraphs:—

"17.—When we consider that in 1890 a sum of \$94,420 was voted for this Department as compared

with \$91,402 in the Estimates under consideration, we are still further convinced of the inadequacy of the present staff."

"18.—That this Department, with which the vital interests of the Colony as regards sanitation, water-supply, and development generally are so inseparably bound up, should undergo reduction at such a time, we consider a serious matter, and we earnestly urge upon His Excellency to take immediate steps to put the Department on a footing commensurate with its extended duties."

"19.—We would suggest to His Excellency the desirability of appointing a Committee to investigate and report on the question of the staff of the Public Works Department, and we make this proposal because, as we have already stated, the policy hitherto has been to starve our public works, and we recognise the importance of providing a staff sufficient to carry on the large works now impending."

I would also refer to the concluding paragraph of my own Memorandum laid on the Council table on 30th November, 1899:—

"It is useless to plead the insufficiency of the staff of the Public Works Department as a reason for not proceeding with any urgent work or works. Extraordinary works should be provided for by the provision of additional strength for the Department or by special staffs. At present, with much pressing work on hand, the staff is being apparently reduced. It is certainly much less strong than it was ten years ago when the population was much less and the area of the Colony twenty-nine square miles instead of four hundred and twenty-nine square miles."

On 4th October, 1899, pursuant to notice, I asked the Honourable the Director of Public Works (Mr. Ormsby) the following question:— "Has the attention of the Honourable the Director of Public Works been directed to the *China Mail's* leading articles of 15th and 23rd August alleging the existence of jerry-buildings in Hongkong; will the Honourable Member inform the Council whether the said allegation is well founded; and if so, will he state what powers his Department possesses to prevent the erection of such buildings; what action has been taken by his Department in the matter; and if his powers are insufficient, is he taking any steps to get increased powers?"

The reply was as follows:—"I have read the articles referred to and think there is foundation for the allegations. The powers possessed by my Department are defined in the Ordinances 15 of 1889 and 25 of 1891. An officer of the Department, assisted by an overseer, inspects building works in progress. The exceptional amount of such work in the Colony at present makes an increase in the staff

necessary if this work of supervision is to be thoroughly performed. The matter is engaging the attention of the Government." In allowing the erection of the extra story on 32 and 34, Cochrane Street the Government appears to have neglected its duty to provide for the public safety, though the Unofficial Members gave warning of the reduced and insufficient staff of the Public Works

Department when the Estimates for 1900 were before the Council in November, 1899.

In replying, the COLONIAL SECRETARY said that the hon. member had in his remarks carefully concealed the fact—of which he had been informed at the last meeting of Council—that His Excellency had appointed a Commission to enquire into the working of the Public Works Department. With regard to the question of increasing the staff of the Department, it would be within the recollection of hon. members, although apparently forgotten by the hon. member who had just spoken, that the late Director of Public Works, Mr. Ormsby, had stated that, with a few slight changes—which were afterwards carried out—the staff was quite sufficient. H.E. the Governor, however, was not satisfied that the staff was sufficient, and it was with a view of ascertaining what increase was necessary that the Commission had been appointed.

H.E. the GOVERNOR re-echoed what the Colonial Secretary had said as to Mr. Ormsby having stated that the staff of the Public Works Department was sufficient, and remarked that even after he had gone home Mr. Ormsby repeated that expression of opinion. The present Acting Director of Public Works, however, did not hold similar views. As to the voting of money, very large sums were voted, but it was not always possible to spend it in consequence of the scarcity of labour. It must be within memory that in the earlier part of the summer work in this Colony was almost entirely stopped for want of labour. In one large undertaking where 3,000 workmen were required 300 only could be procured. That very difficulty was now being experienced in connection with the building of one of the police stations in the New Territory, and the Director of Public Works had endeavoured again and again to procure the necessary labour. As to the works that would in the near future devolve for their execution upon the Department, did the hon. member mean to suggest that the Government should at once appoint a number of permanent officers to enable the Department to carry out those works? That was not the policy that had been adopted. On the contrary, if it was possible, such works would be given to contractors, and special men appointed to supervise them under direction of the Director of Public Works; then, when the work was finished, the Colony would not find itself with an officer or officers for whom it had no work. This matter of the supervision of buildings was one that His Excellency had gone into very closely, and as to the responsibility connected with the lamentable collapse of houses in Cochrane Street, the Attorney-General had stated that no responsibility attached to the Public Works Department. There was nothing

simpler than to say that the Government must go over all these buildings, but was the Government to take the whole responsibility off the shoulders of the architects and contractors? His Excellency had asked the opinion of a gentleman who probably knew more about buildings than any man in the Colony, the Senior Unofficial Member, and he had stated that three hundred men would not be sufficient for the work if the Government were to take upon itself the responsibility of seeing every brick put in right, every house properly built. The Commission that was shortly to sit would consider the whole question of the sufficiency or otherwise of the staff of the Public Works Department, and if it reported that the staff was insufficient, the Council would, His Excellency was sure, have pleasure in granting the funds necessary to augment it.

Hon. T. H. WHITEHEAD did not press for the reduction of the vote.

*Colonial Secretary Department.*

Hon. T. H. WHITEHEAD moved that this vote be reduced by \$100. He said—With reference to the statement of Revenue and Expenditure from June, 1898, to June, 1901, in the New Territory, it appears that the total revenue for those two years amounted to \$41,014.33 and that the total expenditure in the same period aggregated no less than \$736,571.34. In his report to the Colonial Office dated 8th October, 1898, the Honourable the Colonial Secretary, under the head of Revenue, wrote:—"However, until further experience has shown in what manner revenue can be best raised without exciting the suspicion or irritating the feelings and prejudices of the inhabitants, it would be well to interfere as little as possible with the present system and sources of taxation. If this be done, it is anticipated that there will be no difficulty in raising at the start an annual revenue sufficient to meet the cost of administering the New Territory. The expenditure is estimated at \$125,000. To cover this outlay taxation to the amount of 11/4 dollars or 2s. 6d. per head of the population will be sufficient," and added that when British rule was established, revenue would be greatly increased Paragraph 23 of the Secretary of State's despatch of 6th June, 1899, reads:—"It will be seen from p. 13 of Mr. Lockhart's report that the total revenue from taxation of the New Territory is estimated at about £16,000, and this may be regarded as the income which you will have at your disposal for the first year or two at any rate. It should amply suffice to defray the initial cost of a simple administration which at first will amount to little more than supervising local bodies and protecting life and property." In consequence of the great difference which exists between the estimated

and the actual figures of revenue and expenditure in the New Territory during those two years I think the Council is entitled to some further explanation than that yet given. The honourable member has been

hitherto regarded as a high authority on affairs Chinese, and in a memorable memorandum relating to a petition to the House of Commons from members of the community in 1894 asking for an amendment in the constitution of the Government of the Colony, the honourable member claimed that most of the petitioners were notoriously ignorant of Chinese affairs, and that the customs and peculiar requirements of the Chinese were a sealed book to the British resident in the Colony, while it was notorious that the Unofficial Members were very ignorant of Chinese and Chinese requirements. The difference between the honourable member's estimates in respect of revenue and expenditure in the New Territory and the actual figures realised seems incomprehensible. I would like to know about when the revenue will come up to the estimate.

In reply, the COLONIAL SECRETARY said the hon. member's remarks were not calculated to throw any light on the question; indeed, they would appear rather calculated to mislead. If the hon. member had tried to read the report with the object of learning something, instead of finding fault, he would have seen that the report not only stated what the probable revenue would be, but also pointed out that it would probably be found undesirable to raise revenue from certain sources from which it had been raised during the period of Chinese administration. Such had proved to be the case and certain revenue raised by the Chinese had been abandoned; it was found impracticable to raise it for reasons which the Colonial Secretary did not propose to enter into then. With regard to the question of land, the hon. member must be aware of the great difficulties which the Government had had to encounter. It had met with obstacles which even one with his (the Colonial Secretary's) experience of Chinese could not have foreseen. This was one of the first instances in which a Western Government had attempted to take over a large tract of Chinese territory and administer it. Perhaps that fact would strike the hon. member with its full significance, and illumine the darkness in which he now seemed to exist. The hon. member had referred to expenditure. A reference to the report would show that most of the expenditure that had been incurred had not been recommended in that report. The Colonial Secretary would be glad to know if he had been able to find any mention in the report for instance of the large amount which he represented had been spent on police stations. If the hon. member would refer to the report he would discover that the Colonial Secretary's ideas as to the

policing of the New Territory were that it should be done on much more reasonable lines than at present. Those ideas, however, were not accepted. Then there was a large expenditure on account of launches for the Police and other purposes and on account of the Taipo road. So far as the cost of administration was concerned, exclusive of the Police, it was less than had been estimated in the report. The Colonial Secretary said he did not regard the hon. member's criticisms as arising from a desire to further the public interests, but was afraid they arose from a wish to attack the report.

The Hon. T. H. WHITEHEAD dissented, and said that the assertion was most unwarranted and unjustifiable.

The COLONIAL SECRETARY said he was glad to hear the hon. member's disavowal, but he was bound to state the hon. member had not treated the report fairly and he could not accept his deductions. The fact remained that the bulk of the report was true, and the Colonial Secretary challenged the hon. member to point out where he had been wrong. "Under British rule," he concluded, "this territory will prosper, and the money we have expended—money which the hon. member seems to grudge—will be money well spent, and will return to us fourfold." (Applause.)

H. E. the GOVERNOR said that in this matter the hon. member had a perfect right to say the expenditure was large in proportion to the revenue. The reason it had been large was that up till the present there had been but little revenue derivable from the New Territory; it was entirely a question of demarcation of holdings. The most important source of revenue in the New Territory would be the land tax, and the Land Court had been established for the purpose of settling ownerships and thus hastening the time when the tax could be levied. But the task was a very difficult one, because there were so many different claims to hear—clan claims, family claims, individual claims, all kinds of claims. Until the man to whom the land belonged was found, the Government, much as it desired and was entitled to revenue, could not say—"We want so much on this land." There was only one way of dealing with a man, and that was in a just way. (Applause.) Much money had been spent on the New Territory. There had been the cost of the road to Taipo, and that of the establishment of police stations, which were absolutely indispensable if the lives and property of



people in the New Territory were to be protected. Then again, the Government had been obliged to spend a large amount of money on launches to prevent piracy round the two hundred miles of coast, and a large staff had had to be engaged from India for the purpose of trigonometrical and cadastral survey and of demarcating property and so facilitating the settlement of questions of ownership of land. In view of all this, was there anything else the hon. member could suggest the Government should have done to obtain revenue? If the hon. member would consider for a short time, he would see that in

taking over the New Territory it was absolutely necessary to expend money without any immediate prospects of remuneration. But this population of 100,000 had been brought under British rule, and no expenditure was unremunerative that would show these people that they would be protected in person and property, and that under our flag they would have due consideration and even-handed justice. (Applause.)

Hon. T. H. WHITEHEAD—It seems to me very strange that it could have been estimated as possible to collect a revenue of \$160,000 a year, and in these two years it has only been found possible to collect \$40,000.

H.E. the GOVERNOR—It seems to be perfectly clear. You must remember the estimate was that a certain amount of land would pay a certain amount of money. So it will, and until that time comes we cannot do any more. The hon. member does not suggest we should insist upon someone paying us money for the land regardless of ownership.

Hon. T. H. WHITEHEAD—No, of course not.

The reduction was not pressed for, and the vote was agreed to.

#### *Public Works Department.*

In moving a reduction of \$100 on this vote, the Hon. T. H. WHITEHEAD said—The state of roads in the Colony in former years used to be favourably commented upon. For some time past the roads in the City of Victoria, Kowloon, and elsewhere have been far from satisfactory, in fact, their condition has been characterised as discreditable and disgraceful. As it cannot be for want of funds, will the Honourable the Director of Public Works inform the Council who is responsible for the unsatisfactory state of the roads and the condition of the Praya in the neighbourhood of Blake Pier as described in this morning's leading article of the *Daily Press*? He said he had in the course of the morning visited the Praya and found that the position as described by the *Daily Press* was substantially correct.

The COLONIAL SECRETARY—With regard to the roads, I am glad to find myself for once in accord with the hon. member. The roads are not satisfactory, and the fact has been fully recognised by His Excellency, who has issued orders that they are to be made satisfactory, and has directed that a report showing they are in an improved condition be submitted in as short a time as possible. I am sure that all members of this Council are anxious that the roads of Hongkong should be a credit to the Colony. With regard to the article in this morning's *Daily Press*, which the hon. member has so quickly acted upon, the matter therein dealt with has been referred to the Sanitary Board, which is the responsible body,

and when the Sanitary Board has reported the hon. member, if he desires it, will be furnished with a copy of that report.

The reduction was not pressed, and the item was agreed to.

#### *Legal Departments.*

Discussing the vote under this head, the Hon. T. H. WHITEHEAD said—With reference to the second magisterial enquiry into the collapse of houses 32 and 34, Cochrane Street, resulting in the death of 43 persons, the Crown Solicitor, in reviewing the evidence, submitted "that the persons to blame in the matter of the collapse were: in the first place, the architect on whose professional knowledge the owner relied, and who gave it as his opinion, without making any examination at all, that the houses were fit and good; secondly, the official responsible in the Public Works Department, who, without making any examination whatever, passed the plans; and thirdly, the head of the Department, who had allowed the staff in charge of the duties of the Building Ordinance to dwindle down gradually, although the work was increasing, until it consisted of Mr. Crisp. He had actually taken away the assistant engineer in charge of building work and appointed nobody save one overseer, who had just come out to the Colony and hardly knew the streets. In this way an Ordinance which had been very carefully framed had been allowed to dwindle down to a mere farce. Mr. Bowley, in conclusion, asked his Worship to bring in a verdict, in addition to his previous finding, that the deaths of these people were due to the adding of a new story to the rotten party wall, and that the architect who recommended the addition and the Department which sanctioned it were guilty of gross negligence." The magistrate's decision cannot be regarded as at all satisfactory. The collapse of the houses was not brought about by any act of God, and could have been prevented had proper inspection and supervision been exercised by those whose duty it was to inspect and supervise. Will the Honourable the Attorney-General inform the Council whether any further proceedings are to be taken in connection with that deplorable and avoidable disaster, so that those responsible for the loss of life may be dealt with in such manner as will act as a deterrent in the future?

The ACTING ATTORNEY -GENERAL—With reference to the question which has been put by the hon. member, I have advised the Government upon that point, and the conclusion I came to was that there was no chance of a prosecution against anyone for manslaughter resulting in a conviction. Therefore I advised the Government not to enter into any prosecution for manslaughter.

Hon. T. H. WHITEHEAD—May I ask whether it was constitutional that the same magistrate should have

presided over the second enquiry, seeing that his brother was one of the most important witnesses.

The ACTING ATTORNEY -GENERAL—The magistrate need not have presided if he felt he could not do so fairly.

This concluded the discussion, and the various items of the Bill, with some alterations, were agreed to.

The third reading was not moved.

#### QUIET IN THE NIGHT.

The ACTING ATTORNEY -GENERAL moved the third reading of the Bill entitled An Ordinance to amend An Ordinance for the better securing the Peace and Quiet of the Inhabitants of the Town of Victoria and its vicinity during the night time (No. 17 of 1844).

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

This was all the business, and the Council adjourned.

#### FINANCE COMMITTEE.

A meeting of the Finance Committee was held immediately after the Council, the COLONIAL SECRETARY in the chair.

There was only one minute to be considered, in which the Governor recommended the Council to vote a sum of \$1,500 to cover the cost of repairing and effecting certain alteration to the Government Pavilions at the Peak.

The CHAIRMAN—As hon. members of the Committee are aware, the pavilions at the Peak have been lent for some time to certain parties, and have been used for the purposes of the Peak Club. These pavilions were formerly used as a sanatorium or summer resort for Government officers, and these officers have petitioned the Government that they revert to their former use. His Excellency has approved of the request, and the Peak Club has received notice. The pavilions are in need of repairs, and the estimated cost of repairs will be \$1,500, the sum now brought before us.

The vote was agreed to.

This was all the business.

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