

10TH AUGUST, 1903.

PRESENT:—

HIS EXCELLENCY THE GOVERNOR, Sir HENRY A. BLAKE, G.C.M.G.

HIS EXCELLENCY Sir W. GASCOIGNE, K.C.M.G. (Commanding the Troops).

Hon. F. H. MAY, C.M.G. (Colonial Secretary),

Hon. Sir HENRY SPENCER BERKELEY, Kt. (Attorney-General).

Hon. A. M. THOMSON (Colonial Treasurer).

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

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

Hon. J. M. ATKINSON (Principal Civil Medical Officer).

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

Hon. Dr. HO KAI, C.M.G.

Hon. WEI YUK.

Hon. GERSHOM STEWART.

Mr. R. F. JOHNSTON (Acting Clerk of Councils).

FINANCIAL.

The COLONIAL SECRETARY laid on the table Financial Minute (No. 35) and moved that it be referred to the Finance Committee.

The COLONIAL TREASURER seconded, and the motion was agreed to.

The COLONIAL SECRETARY laid on the table the Report of the Finance Committee (No. 6) and moved its adoption.

The COLONIAL TREASURER seconded, and the motion was agreed to.

PAPERS.

The COLONIAL SECRETARY laid on the table the Report on the Assessment for 1903-1904 and the Report on the New Territories for 1902.

PUBLIC WORKS COMMITTEE.

The DIRECTOR OF PUBLIC WORKS laid on the table the Report of the Public Works Committee (No. 5).

VICTORIA DAY.

The ATTORNEY -GENERAL moved the second reading of the Bill entitled An Ordinance to set apart a holiday to be known as "Victoria Day" in loving remembrance of Her Most Gracious Majesty the late Queen Victoria. He said— The object of the introduction of this Ordinance everyone is aware of. It is to celebrate and keep in loving memory the birthday of Her late Majesty Queen Victoria by setting apart a day to be observed as a general holiday in the Colony. In doing this we are following the example of, if not setting the example to, the rest of the Empire. I move, sir, that this Bill be read a second time.

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

The Council then went into committee on the Bill and

considered it clause by clause, and one clause having been added the third reading was not taken.

INTRUSION INTO SERVANTS' QUARTERS.

The ATTORNEY -GENERAL moved the second reading of the Bill entitled An Ordinance to prevent intrusion by persons other than the servants of the occupier of premises into the portion of such premises used as servants' quarters. He said—Sir,—This Bill has been produced because of the inconvenient and injurious habit which has grown up among the servants of people here of introducing into the quarters set apart for them by their masters friends and outside coolies and others who in very many cases pass the night there. These quarters only contain room for the servants, and the result is that, apart from the annoyance and the noise of having these persons in the house and premises, the masters of the houses may render themselves liable for an infringement of the public health laws in respect of overcrowding of their premises. The Ordinance makes it a punishable offence for outside coolies or persons not belonging to the house, not in the employ of the occupier of the premises, to occupy without his permission the quarters provided for servants. I think the House will accept the principle of the Bill.

The COLONIAL SECRETARY seconded, and the second reading was agreed to.

The Council resolved itself into committee and considered the Bill clause by clause.

The ATTORNEY -GENERAL said he was willing to receive suggestions with regard to the penalty proposed—\$25 or 3 months.

H. E. the GOVERNOR said he thought that 3 months was too hard an alternative penalty.

The COLONIAL TREASURER suggested that the proposed term of imprisonment be left out of the Bill altogether, leaving it to the Magistrate to enforce in ordinary course any fine imposed.

The ATTORNEY -GENERAL signified his assent.

On the Council resuming, the Bill was read a third time and passed, on the motion of the ATTORNEY -GENERAL, seconded by the COLONIAL SECRETARY.

CHARGE FOR IMBECILES.

The ATTORNEY -GENERAL moved the second reading of the Bill entitled An Ordinance to provide for the Recovery of Costs and Charges incurred by the Colony by and on behalf of imbecile persons introduced into the Colony. He said—The reason for introducing this measure is that the Colony has from time to time been put to expense by having thrown on its charge imbecile persons brought here and left here without being able to

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in the hospitals and other charitable institutions to which they have been removed. It is considered to be a charge which the Colony as a whole should not be called upon to bear, and that those who bring such persons here without taking care that they do not become a charge upon this Colony ought to bear the cost. Similar legislation has been adopted in other colonies—Australia and New Zealand—and although it is new to Hongkong I do not think we can be doing wrong in following the example of the colonies I have named. I move that the Bill be read a second time.

The COLONIAL SECRETARY seconded, and the second reading was agreed to.

The Council then went into committee on the Bill, which was eventually referred to the Law Committee.

#### WATER SUPPLY.

The ATTORNEY -GENERAL moved the second reading of the Bill entitled An Ordinance to repeal The Waterworks Consolidation Ordinance, 1902, and to provide for and regulate the Supply of Water in the Colony of Hongkong and for the Maintenance and Repair of the Works in connection therewith. He said— Your Excellency and the Council will see from the title of the Bill that it is proposed to repeal an Ordinance which was passed by this Council last year. The reasons why the Government introduce this Bill are that on further consideration it has appeared that all the objects aimed at by the Bill of 1902, principal among which is the supply of a sufficient quantity of water to the town of Victoria with the least possible waste, may be effected without incurring the hardships which the Bill of 1902 would have unavoidably inflicted on a certain section of the community using water. The means by which this will be effected is known technically as the rider-main system. Rider-mains are a means by which the supply of water can be regulated to blocks of houses as affectively as it can be by meters in the case of single houses. The Director of Public Works has provided me with a very full and at the same time succinct statement of the objects and reasons for the introduction of the Bill. These objects and reasons are printed, and I do not know that I can add anything to them. The principle is that while we can we ought to give water to everyone in the town of Victoria, so long as it can be done without waste. We believe that this Bill will enable us to give the whole community of Hongkong the water that they require without inflicting upon them what in many cases would be the irksome and sometimes hard necessity of having to go long distances for their water.

The COLONIAL SECRETARY seconded.

H.E. Major-General GASCOIGNE—Sir, I beg with the utmost respect to move an amendment—that the second reading of this Bill be postponed until the matter

can have been threshed out thoroughly in the Council. This Bill was intended to supersede one passed last year. That Bill was passed after not one meeting of the Executive Council but, I should think, quite half-a-dozen. We met time after time, we heard arguments used, we adjourned the Council to look into these arguments and gradually reasons were given, and eventually after about half-a-dozen meetings those members who were first against it came round and gave their adhesion to it and then it passed to the Legislative Council with the result, I think I am safe in saying—I am speaking from memory—that, immediately, the Legislative Council, knowing that it had been threshed out most thoroughly in the Executive Council, were willing to let it go freely and without opposition. Then I think I am right in saying that your Excellency yourself when you came back to the Colony described it as a most excellent Bill. The present Bill came to me the other day on its first reading as an absolute surprise. I got an order for the Council to assemble 48 hours before it did assemble and I happened to look over the orders of the day only a few hours before the Council sat. Then I read with surprise that the Bill was to be read a first time, doing away with a Bill which I had taken a vast deal of interest in and without my knowing a single thing about it. The consequence was I was in a dilemma. I got up. Perhaps I was out of order; the Attorney-General said I was out of order speaking on the first reading and must make a motion and in order therefore to do so I moved that the Bill be not read a first time, not with the view of stifling discussion, which has been one thing I have always desired but to give it as free and full a discussion as I could; and I simply had no other way I knew of to attract the attention of the Council to the extraordinary words that Mr. Chadwick spoke to me in my house last year. I was really under the belief that the Council was unaware of these words. It was after the Council had passed the first reading that for the first time I received the whole papers connected with it. I saw that much that I rose to say I should differently have said. I saw that a number of suggestions I had made—that the matter should be passed to Mr. Chadwick and Professor Simpson—had been adopted, but I was absolutely unaware of these things, and although I studied in the short time these papers that were sent to me and read every word of them I cannot say that I have thoroughly grasped them yet. And it is a subject which I must say is a most important one for Hongkong. Perhaps, having gone through that anxious time as I did, I may exaggerate the importance of it. I am just about to leave the Colony and it cannot affect me personally, but all I can say is that the matter of the waste of water, in this tricky climate, and in view of the precarious, curious way

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seasons do not follow one another, depending as we do only on rain-water, there is no subject we can bring before the Council that is of the same importance; and therefore I respectfully say that before it goes into the second reading I would like to propose as an amendment that it be postponed until it can be thoroughly discussed in the Executive Council as I should like, myself, to ask several questions that I think bear upon it and would be better asked in the Executive Council than here. When it has passed the Executive Council, then send it to the Legislative Council, and, whether they go in for it or not, they will have the feeling that it has been passed by a number of men, among whom the unofficial members are represented, who are in possession of facts which the Legislative Council are unable to use. I do not know whether anybody will second me, but the amendment I propose is that the second reading of this Bill be postponed until the whole Bill can be discussed thoroughly by the Executive Council.

The amendment was not seconded.

HIS EXCELLENCY—Although no one has seconded the amendment proposed by H.E. the General Officer Commanding the Troops, still I think it is as well to place the Council in possession of the facts of my position in this matter, regarding which there is some misconception. Undoubtedly the usual course with this Bill would be to place it before the Executive Council, and I may tell you that as a matter of fact the papers have already been before every member of the Executive Council, who are all here. However, I should like to tell you in as few words as I can what has taken place with regard to this Bill. On the 29th of August a petition was sent forward in reference to the Ordinance of last year. An unsigned copy of that petition was sent to the Secretary of State by the Officer Administering the Government, with his remarks upon both the Ordinance and the petition. On the 3rd of September the signed petition was sent forward by the Officer Administering the Government, with a despatch which said that it was signed and practically unanimously supported by the principal Chinese landowners, merchants, traders, and shopkeepers. On the 6th of September another despatch was forwarded conveying the suggestion that an amount of money should be authorised for the purpose of supplying street fountains, but that if the Bill which had been sent home was not approved, that money would not be required. I returned to the Colony on the 9th of September, and on my return the papers were sent up to me simply for my information. I saw that an Ordinance—this Water Ordinance—had been passed, and I thought it was an excellent Ordinance. I did not read it, and knew nothing more than that it was an Ordinance for the purpose of preventing waste of water. On the 31st of

October I received the telegram:—"Referring to your despatch No. 393 and 404 [despatches by the Officer Administering the Government], I consider that in view of the influential signatures action will be suspended. It is my intention to consult Mr. Chadwick and Prof. Simpson. Is compromise possible? Please forward your views." Well, now, I think that on the last occasion on which H. E. the General Officer Commanding the Troops spoke on this subject, the said the answer to that telegram should have been "No; for we know no other way of preventing waste but the way recommended by Mr. Chadwick the expert you yourself sent out" I admire firmness very much, and I have no doubt it is a very pleasant feeling to now and again to be able to call the tune while your neighbour pays the piper. For the first time, after I received that despatch I got a copy of the Ordinance and I examined the Ordinance, I examined the petition, and I examined Mr. Chadwick's report of the 10th April, and I did not think that the answer should be "No," because, having read the Ordinance for the first time, and also these other documents, I came to the conclusion that a compromise was desirable, very desirable. I communicated with the Chinese community, and on the 14th of November the representatives of the Chinese met, and they forwarded to me the following resolution: "Resolved,— That this meeting approve of the system of rider-mains; (2) that the cost and expense in connection with the laying of rider-mains be met by a special tax on the landowners of Chinese houses, and that the increased cost of maintaining such service be met by a permanent tax of 1 1/4 per cent. on the rateable value of Chinese houses; (3) that should the owners of European houses desire to adopt rider-mains, they should pay a special tax; and (4) should owners of property refuse to pay a special tax and adopt the rider-main system, they should be bound to adopt the meter system." Well, when I received that resolution, I forwarded a telegram to the Secretary of State saying that the Chinese community agreed to the adoption of the rider-main system, the entire expense being borne by owners of property affected, and that I considered this system satisfactory. The matter was then hung up. We waited for communication from home. The first communication received from home was received in the month of March. That communication was enclosing Mr. Chadwick's report. I may say that a month later we received a despatch enclosing previous letters from Mr. Chadwick from the Crown Agents through whom the matter was referred to him for report, and this is his letter, written on 12th February:—"In reply to your letter of yesterday's date, I have the honour to state that

I am engaged in writing my report on the Hongkong Water Ordinance and that I hope to have it completed in the course of a week or so. I may say that the Ordinance as it stands is not one to which the Royal assent should be given, and with your permission I will consider the alterations that are necessary to make it a really workable enactment. I doubt whether any time will be gained by submitting a report on the Ordinance without some suggestions as to its amendment." The other document I received was Mr. Chadwick's report. Mr. Chadwick's report was a long one and I find in Section 13 he says:—"Since the petition of the Chinese householders has been under consideration a telegram has been received to the effect that the Chinese community agree to rider-mains. This is an arrangement which I suggested when last in Hongkong to mitigate the evils of the intermittent supply of water, always serious, but more so when the system of distributory pipes is not as in the present case expressly designed for this system of water distribution." Then he summarises the advantages of the rider-main system and in Section 18 he says:—"I cannot remember whether I had any part in drafting the Ordinance in question, as regards the text at least. Its date is subsequent to my departure. During the latter part of my visit I was fully employed in conjunction with Professor Simpson and other officers of Government in the consideration of the Sanitary and Buildings Ordinances. Be this as it may, I am free to admit that the enactment, if I am responsible for its draughtsmanship, is lacking in precision." Again in Section 28 he says:—"I observe that the petitioners accept the rider-main system, a resolution which is confirmed by telegram. I recommend that immediate steps be taken to introduce it at the earliest possible date. Its effect will be two-fold. It will mitigate the evils of the intermittent system, and secondly, it will be a permanent improvement inasmuch as it will facilitate the detection of waste. Thirdly, it will greatly facilitate the voluntary introduction of meters. Any tenement wishing for a constant supply at all seasons may remain connected with the principal main. It might ever be well to give instructions to carry out the rider-mains without waiting for the submission of this report or for its transmission to the Colony." Now as is usual, those papers were laid on the table for the information of the members of the Executive Council, but, as I said this had been hung up pending the reply to these reports and despatches. Then the matter got into the hands of the Director of Public Works for the purpose of considering how the principle of the rider-mains could best be adopted; and it was not until the month of August that it came back and was in point of fact ready for consideration by the Executive Council. Now in ordinary cases it would have been considered by me in Executive Council and it was so

intended but was brought on here with other Bills that were ready for this Council; and in the face of such reports as these, I have no doubt in my mind and I think I am safe in saying, the Executive Council would have accepted the principles so clearly laid down by Mr. Chadwick. I share in the surprise of His Excellency the Major-General Commanding the Troops at the apparently sudden change in the feelings of Mr. Chadwick with reference to these rider-mains. At the same time I cannot go beyond the fact that in the letter of 10th April he had recommended these rider-mains and that it was from his recommendation that the original petition had been framed. I think it right to tell you so much, because I think it is well to make my position in this perfectly clear. I do not see any necessity for its being taken out of the hands of the Legislative Council and I simply put the motion that the Bill be read a second time.

The motion was agreed to.

The Bill was left in the Committee stage.

#### EXPORTATION OF LIVE STOCK.

The ATTORNEY -GENERAL moved the second reading of the Bill entitled an Ordinance to provide for the Regulation of the Export of Cattle and other Live Stock from the Colony. He said—This Bill is the result of representations that have been made as to cruelties, whether intentional or not, inflicted on cattle and other live stock in the course of their transport from this Colony to places outside the Colony by ships and vessels trading between this Colony and other ports. The object of the Bill is to ensure that arrangements shall be made whereby the sufferings of cattle and other live stock exported from this Colony shall be lessened and so far as possible minimised. The Bill provides that the regulations which will affect the export of these animals from this Colony may be made by the Governor-in-Council in such manner had at such time as may seem necessary and expedient, and also makes any infringement, any disobedience, any contravention of any rule or regulation made a punishable offence. The Council will no doubt adopt the principle of the Bill, which is one to alleviate the suffering, in many cases the unnecessary suffering, of live stock going to places outside the Colony. I ask that the Bill be read a second time.

The COLONIAL SECRETARY seconded, and the second reading was agreed to.

The Council then went into committee on the Bill. when, on the suggestion of the HARBOUR MASTER, an amendment was made to include the regulation of the import as well as of the export of cattle and other live stock.

The third reading was not taken when the Council resumed.

FORESHORES AND SEA BED ORDINANCE.

The ATTORNEY -GENERAL moved the third reading of the Bill entitled an Ordinance to amend the Foreshores and Sea Bed Ordinance, No. 21 of 1901, and to repeal sub-section (1.) section 1 of Ordinance No. 11 of 1902.

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

LAND CLAIMS IN THE NEW TERRITORY.

The ATTORNEY -GENERAL moved the third reading of the Bill entitled an Ordinance to amend Ordinance No. 18 of 1900, entitled an Ordinance to facilitate the hearing, determination, and settlement of land claims in the New Territories, to establish a Land Court, and for other purposes.

The COLONIAL SECRETARY seconded.

Hon. Dr. HO KAI—Sir, I do not think I can give my support to this Bill for the third reading. My reasons I gave in committee at the last meeting of Council, and I will not trouble hon. members by repeating them. I only wish to remind the Council that my principal objection to the Bill was that it is retrospective, and if it passes into law it will cause great hardship and do injustice to certain claimants and also unsettle the title and rights of those who have acquired them from the original claimants and have already paid the purchase money upon the faith that the claim, once having been admitted by the Land Court, was all sufficient. For that reason I think the Ordinance should not be passed, and I propose to oppose it as a protest against its passing.

The ATTORNEY -GENERAL—The grounds on which the hon. member opposes the third reading of the Bill are very generally stated, and it is difficult to give him an answer. So far as I can see, what he calls hardship will be felt only by some speculators in land. Some purely speculative dealings in land may not realise the expectations of those who have been making such speculations, the Council does not recognise these speculations nor does the law. Supposing, for the sake of argument, a man came before the Land Court and established a claim which he then sold for say \$100, and the man who bought the land says—"I am now about to improve this land I have bought, and make docks and one thing and another." Then he sells for \$50,000 the claim which he had bought for \$100 and by and by somebody else buys it for \$500,000. In the meantime the matter is under consideration by the Land Court, which allows the claim of the original claimant who paid \$100. A considerable period elapses, the Land Court has a great amount of work to do, and does not always get its reports in with great rapidity. The papers come before the Governor-in-Council, who has the duty cast upon him of determining whether, the Land Court having allowed the claim, he shall grant a title. The House will see at once

that there is a great distinction between a claim and a title—between allowing a claim and granting a title; nothing can be sold until a title has been granted. The question for the Governor-in-Council is whether a title shall be granted or not, and he decides that the title shall not be granted, but that the land shall be retained for the public benefit. This requires that the person who acquired the land shall be granted compensation. What does that compensation amount to? The compensation that man is entitled to is \$100. He has sold his claim for \$100, and all that he is entitled to get from the Government as compensation is \$100. In such cases there is no hardship whatever involved, but on the other hand there is a distinct hardship on the public, and a danger to the public interests, where it is probable, obvious, that by some oversight, some misconception, or by some imposition upon it, the Land Court has given an erroneous decision, or where the Land Court is believed, by those who have the public interests in their protection, to have given an erroneous decision; and where these cases arise, or there is reason to believe they have arisen, there should be power to appeal. That does not necessarily mean to overthrow; it means to have a re-hearing, an investigation, to make sure that a decision which may effect the public interests to a very large extent is an accurate and proper one. That is what the Bill proposes to do; it does not in effect or in practice impose any hardship on any person. All it does is to protect the public interests by making sure that the decisions of the Land Court are such as the Governor-in-Council may consider just and proper.

The motion for the third reading was carried, and the Bill was passed.

The Council adjourned *sine die*.

FINANCE COMMITTEE.

A meeting of the Finance Committee was held immediately after the Council—Hon. F. H. May, C.M.G., Colonial Secretary, presiding.

PUBLIC WORKS.

The Governor recommended the Council to vote a sum of Sixteen thousand Dollars (\$16,000) in aid of Public Works Extraordinary to meet expenditure rendered necessary by rain-storm damages:—

Repairing roads, including landslips and bridges, .....	\$10,300
Repairing Taipo Road, .....	3,200
Repairing nullahs, .....	2,500
	\$16,000

The vote was agreed to.

This was all the business.