

1ST JUNE, 1905.

PRESENT:—

HIS EXCELLENCY THE GOVERNOR, SIR MATTHEW NATHAN, K.C.M.G.

H. E. MAJOR-GENERAL VILLIERS-HATTON, C. B. (General Officer Commanding the Troops).

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

Hon. Sir H. S. BERKELEY, K.C. (Attorney-General).

Hon. Mr. L. A. M. JOHNSTON (Colonial Treasurer).

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

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

Hon. Captain L. A. W. BARNES-LAWRENCE R.N. (Harbour Master).

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

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

Hon. Mr. WEI YUK.

Hon. Mr. GERSHOM STEWART.

Hon. Mr. W. C. DICKSON.

Hon. Mr. R. SHEWAN.

Mr. A. G. M. FLETCHER (Clerk of Councils).

FINANCIAL.

The COLONIAL SECRETARY—Sir, I beg to bring up report of the Financial Committee No. 2, and propose its adoption.

The COLONIAL TREASURER seconded, and it was carried.

NEW TERRITORIES LAND ORDINANCE.

The ATTORNEY GENERAL—Sir, I rise to move the second reading of the bill, entitled: An Ordinance to facilitate the transfer of land in the New Territories and for settling disputes in respect thereof and for other purposes. The reasons for the introduction of this measure are so fully set out in the "reasons and objects" appended to the bill that it is hardly necessary for me to say anything further. The bill is designed to make more easy the transfer of land in the New Territory by small holders who are for the most part of the poorer class. With that object the Bill provides for the establishment in the New Territory of district offices for land registration. And the bill provides short, clear, simple forms of conveyances and other forms of documents dealing with the transfer and mortgage of landed property. In order to make the necessary recourse to courts of law as inexpensive as possible certain jurisdiction is conferred by the bill on the land officer who is empowered to decide any small question and settle disputes which arise between land holders in the New Territory. There is no question upon which more disputes

arise than questions of landed interests, and necessarily so in a New Territory. It is with the object of enabling them to be dealt with satisfactorily quickly, cheaply, easily and summarily that this bill has been drawn. Power is given to allow appeal to the Supreme Court in certain cases, from the decision of the land officer. If the officer refuses to allow appeal the holder may obtain special leave from the Supreme Court. As it is possible that there may be some owners in the New Territory who are not inclined to take advantage of the benefits conferred by this Bill the Governor may exempt any property from operation of this Ordinance. I move the reading of the Bill for a second time.

The COLONIAL SECRETARY seconded.

Hon. Mr. SHEWAN—I am sorry I cannot agree with the Hon. Attorney General's remark that the objects and reasons were perfectly plain. The Bill before us purports to be a bill to facilitate the transfer of land in the New Territory, but is also a bill to give the Governor power, without any restrictions, to grant exemption to Crown Lessees on any terms he shall think fit. In other words we are supposed to be passing an Ordinance but are leaving it all to the discretion of the Governor. In the objects and reasons for this Bill it is stated that some owners will prefer to hold under the usual law of the Colony. Undoubtedly they will, but why should this not be exactly provided for instead of being left entirely to the Governor? We seem to be making one law for the rich and another for the poor, and the Governor's discretion must give rise to heartburnings and jealousies. The "objects and reasons" read to me very curiously. It says: "As some owners in the New Territories will probably prefer to hold under the usual law of the Colony." Who are the owners who are as good as to prefer the usual law of the Colony, and who are those others for whom it is not good enough? The functions of us unofficial members are, I know, of no avail against the Government's fixed majority of officials who, I believe, are bound to vote with the Government and are not allowed consciences of their own, but to make us pass such a vague Ordinance as this is reducing us to absolute nonentities. The Government cannot pride itself on its dealings with land in the New Territory, for it has already made a painful exhibition of its own incapacity and greed by bringing in a bill to reverse the verdict of its own Land Court, and actually made the Bill retroactive to deprive a poor Chinaman of land which the Government's own Land Court had granted him after a careful hearing. If that be a fair specimen of our boasted British justice, then British justice must be a very poor thing, indeed. It was just another case of Naboth's Vineyard, only that Ahab was not

such a hypocrite as to try to justify himself by making a new law to cover his misdeeds. Now we are asked to pass a measure which, if in the hands of incompetent or unscrupulous officials, would only make confusion worse confounded, and leave the door open for grave abuses. I think the Building Ordinance had some such clause, and what has been the result? If ever a Bill has been more honoured in the breach than in the observance it is that Bill. We were told *ad nauseam* that houses must not be higher than one and a half times the width of the street, but look at the size of the houses that have since been built, and the amusing part of it is that the very sanitary expert for whom the Government specially made a place on the Council that he might drive it through with the weight of his authority, now sits as Head of the Sanitary Board, and merrily grants dispensations to all and sundry to break its provisions.

Hon. Mr. MAY—I rise to a point of order.

Hon. Mr. SHEWAN—I am trying to point out what happens when that right is given to the Governor or the Sanitary Board or some such authority. Now the very man who made the law now sits and recommends the Government to bring a fresh ordinance to break it. That may happen here. I will not continue if you think I am out of order. It is a travesty of legislation for us to be brought here, and made to pass such laws by a majority which is compelled to vote with the Government and knows not nor cares anything about them. I oppose the Bill because instead of stating clearly on what terms the Government propose to exempt Crown Lessees from its provisions it renders null and void all its provisions by leaving them to be modified on any terms the Governor thinks fit. Everyone should be equal before the law, and the law should be applied equally to everyone, but in this Colony it seems that anyone with influence who wants a law modified can get it altered in his favour by applying to the Sanitary Board or some other authority. Such bills are not legislation. What is the use of laws if you do not enforce them strictly and impartially, and what is the use of a law which, after providing over 40 different clauses, leaves it to the Governor to abrogate them all on such terms as he shall think fit.

Hon. Dr. HO KAI—The only objection raised by the Hon. Member opposite seems to be to a certain clause in the Bill.

Hon. Mr. SHEWAN—I object to the principle.

Hon. Dr. HO KAI—The principle of the Bill is stated to facilitate the dealing with land in the New Territories, but I understand the Hon. Member opposite objected to one clause in Sub-Section 4 of Section 1, which gives the Government power to exempt any landowner, for good reasons, who wishes to be placed under the usual law of the Colony. That is, of course, in one section, and I think it

quite competent for him, while approving the principle of the Bill, to bring forward that objection in Committee and have it altered or expunged altogether. As far as the principle of the Bill is concerned, it is constituted clearly to facilitate the transfer or mortgage of land in the New Territory, and on this principle the Bill is, I think, extremely sound, forasmuch as the small holders which preponderate in the New Territory would be presumed not to wish to incur any very great expenses or spend too much time or trouble in going to law over land valued at a few hundred dollars. Besides, by paying the usual fees and charges which obtain in the Colony in effecting transfers of properties and mortgages, the sum left to the present holder would be very small, indeed. So therefore, Sir, I say that a law which will facilitate matters and save money, time and trouble to peasant landholders is worthy of the support of this Council. And as a member representing the Chinese, I assure you, Sir, it has a very beneficent effect upon the small holders of property in the New Territory. Now, we know very well that holders of property in the New Territory have been accustomed to hold land from the Chinese Government, and have no exact plan of their holdings, and constantly you will find that some of them have got feet, sometimes yards, I won't say miles, but certainly yards, of land encroaching upon the property of others. In these sort of disputes; where the property is worth a few dollars—may be \$100—it is absurd to expect that these men should be able to come over to Hongkong and take the case up to the Supreme Court, employing lawyers, and possibly counsels, when the cost for settlement of the dispute may be quite as much, if not twice or three times as expensive as the worth of the land. It is the principle of this bill to do away with the hardships of peasant proprietors, and I say it is worthy of the support of this council. I quite admit, Sir, that there are several points in the Ordinance that require more careful and further consideration, and possibly we shall have to consider whether an amendment of such provisions is necessary or not; but that we can do afterwards. So far as the principle of the Bill is concerned, I say that I, and I believe my colleague also, most heartily support it inasmuch as we believe that if the Bill is passed and the provisions properly carried out, it will confer a decided boon on small land holders in the New Territory. It will, no doubt, give them great satisfaction and secure their confidence in the administration of justice in a British Colony.

Hon. Mr. WEI YUK—I quite concur in what my colleague has said.

The COLONIAL SECRETARY—Sir, it is to be regretted. I think, that the Hon. Member who opposed the Bill should have poured out the vials

of his wrath without first asking the meaning of the subsection which is so obnoxious to him, but it is possible, Sir, that it may have been a pleasure to him to find a peg on which to hang the accusations of incompetency and unscrupulousness against the officers who are going to administer the Bill.

Hon. Mr. SHEWAN—Sir, I rise to order. Have I made any charge of incompetency or accused anybody of being incompetent or unscrupulous?

The COLONIAL SECRETARY—I am using your own words.

Hon. Mr. SHEWAN—I said "who might."

His EXCELLENCY—You said "who might and will."

The ATTORNEY-GENERAL—Unless they are incompetent or unscrupulous your remarks are not to the point.

Hon. Mr. SHEWAN—I was looking to the future.

The COLONIAL SECRETARY—He also, Sir, accused the Council of passing legislation—

Hon. Mr. SHEWAN—I certainly rise to order, and object to the words "also accused." Did I accuse anybody?

His EXCELLENCY—So nearly that I cannot appreciate any difference.

Hon. Mr. SHEWAN—Very nearly, but I did not accuse.

The COLONIAL SECRETARY—The Hon. Member referred to recent legislation on land as inequitable and unjust. That, sir, I say, is not the case. The legislation gave power to appeal to the highest court in the Colony, and if the Government was successful on that appeal it only argues solid reason for taking that measure. It will, perhaps, console the Hon. Member if I explain to him that the words "on such terms as they shall think fit" really mean "in such cases." It is not proposed that the peasant proprietors in the New Territory should as a body be exempted from the operations of this Bill, but certain proprietors acquired land recently in the New Territory, and in such cases, when these proprietors desire, they can apply to come under the existing law of the Colony. There is not the slightest doubt that the Governor-in-Council will take their applications into consideration.

On the motion for the second reading of the Bill being put, Hon. Mr. Shewan was the only dissentient, and the Bill was read a second time.

#### THE SUGAR CONVENTION ORDINANCE.

The ATTORNEY-GENERAL moved the second reading of a Bill, entitled, "An Ordinance to amend the Sugar Convention Ordinance of 1904." He said Hon. Members

will remember that last year an ordinance was passed giving effect to the Convention which most of the powers of the world are parties to relating to sugar. The object of this Bill is to effect amendments having for object the exception of sugar which, though coming from a bounty giving country, has not received a bounty, and excepting from the operation of the Ordinance sugar merely in transit. These objects will be carried out by special regulations which will be made.

The COLONIAL SECRETARY seconded the motion, which was carried.

On the motion of the ATTORNEY GENERAL, seconded by the COLONIAL SECRETARY, Council resolved itself into committee to consider the Bill clause by clause.

No amendments were made and on Council again resuming, the Bill was read a third time and passed.

#### THE VAGRANCY ACT.

The ATTORNEY-GENERAL—I rise to ask Council to read for a second time a Bill, entitled "An Ordinance to amend the Vagrancy Ordinance, 1897." This is a measure in which I think we have been successful in grappling and dealing with a difficult question which has agitated the community for some time past and which must in some measure irritate or disturb or affect it for all time. The object is to stop as far as we can the vagrancy of able bodied men, and with this object it is proposed to alter in some respect the conditions under which vagrants are at present permitted to reside in the House of Detention. It is believed that the way they are treated there, and the unlimited liberty by day which is accorded them, is not such as to discourage the very class of men who do not need encouragement to go there. The Bill therefore creates the power to pass regulations affecting the dietary of these persons while in the house of detention, placing them upon a different footing than heretofore, and giving power to make them labour, neither of which will be hankered after, as it were, by the vagrant, who will be obliged to put up with it. The Bill also provides for the amendment of the present Ordinance in respect of liability which now rests upon masters of ships who bring men into the Colony who become a charge on the Colony. The present law leaves, the shipmaster in a position of doubt and difficulty He has to make up his mind as to whether a man on landing has sufficient means of subsistence. In order to relieve the shipmaster from this difficulty and cast upon him a proper responsibility, he is told plainly by the proposed Ordinance not to land any person who has not at the time the sum of \$50. If a man is landed here and becomes a vagrant, within a reasonable time after landing, the master will have to satisfy a magistrate that the man had \$50 at the time of landing. I think, this Bill is likely to do what we wish in respect of keeping away from this Colony a class of persons who are of no use whatever to it. I move that the council resolve in itself into a committee of the whole council to take the clauses of the Bill into consideration.

The COLONIAL SECRETARY seconded the motion, which was agreed to.

Hon. Mr. SHEWAN—Is that \$50 in cash, Sir, or in property?

HIS EXCELLENCY—\$50 in cash.

The ATTORNEY-GENERAL—The clause means money. He must be possessed of \$50.

Hon. Mr. SHEWAN—He might have £50.

The ATTORNEY-GENERAL—The dollar is the currency here, but a man might have fifty doubloons or fifty napoleons.

Hon. Mr. SHEWAN—And you wouldn't let him land, would you?

The ATTORNEY-GENERAL—Oh, yes.

Hon. Mr. STEWART—A man coming from a foreign place might not be able to get fifty Hongkong dollars.

Hon. Mr. DICKSON—I would point out that this clause fixes no limit of time for the liability attaching to masters of steamers. A man might spend \$50 in a month and become a vagrant long after that.

The ATTORNEY-GENERAL—I don't think the Hon. Member quite appreciates the meaning of the clause as it stands now. If a man becomes a vagrant two days after he

lands, so long as he had \$50 at the time of landing the shipping master cannot be held liable.

Hon. Mr. DICKSON moved as an amendment that clause 22 be altered to read "within one month of landing."

HIS EXCELLENCY—A month or six weeks would be hardly sufficient.

Mr. DICKSON—I then alter my amendment to "within two months of landing," my object being to have a reasonable time fixed.

Hon. Mr. SHEWAN seconded the motion. A ship cannot be expected to keep her accounts open for more than two or three months, and if she sails there is no opportunity of obtaining the money.

HIS EXCELLENCY—The Government is prepared to accept the amendment.

The ATTORNEY-GENERAL—If left as it is framed, it would be much better for shipowners. If a magistrate were satisfied that a man had means when he came to the Colony he would dismiss the application.

The amendment was agreed to, and council on resuming, adjourned until Thursday, 8th instant.

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