

17TH DECEMBER, 1908

PRESENT:—

HIS EXCELLENCY THE GOVERNOR, SIR
FREDERICK DEALTRY LUGARD, K.C.M.G., C.B.,
D.S.O.

H. E. MAJOR-GENERAL R. G. BROADWOOD,
C.B., A.C.D. (General Officer Commanding).

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

HON. MR. W. REES DAVIES, K.C. (Attorney-
General).

HON. MR. A. M. THOMSON (Colonial
Treasurer).

HON. MR. W. CHATHAM, C.M.G. (Director of
Public Works).

HON. MR. E. A. IRVING (Registrar-General).

HON. MR. F. J. BADELEY (Captain
Superintendent of Police).

HON. DR. HO KAI, M.B., C.M., C.M.G.

HON. MR. WEI YUK, C.M.G.

HON. MR. H. E. POLLOCK, K.C.

HON. MR. E. A. HEWETT.

HON. MR. H. A. W. SLADE.

HON. MR. W. J. GRESSON.

MR. C. CLEMENTI (Clerk of Councils.)

Minutes

The minutes of the last meeting were read, and confirmed.

Financial Minutes

THE COLONIAL SECRETARY, by command of His Excellency the Governor, laid on the table Financial Minute No. 70, and moved that it be referred to the Finance Committee.

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

Financial

THE COLONIAL SECRETARY, by command of His Excellency the Governor, laid on the table the Report of the Finance Committee (No. 20) and moved its adoption.

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

New Bye-laws

THE COLONIAL SECRETARY—Sir, I beg to move that the bye-laws under Section 16 of the Public Health and Buildings Ordinance, 1903, relating to bakehouses, dairies and the importation and inspection of animals, be approved by this Council.

THE DIRECTOR OF PUBLIC WORKS seconded, and the motion was agreed to.

The King's Birthday

HIS EXCELLENCY—Before we proceed with the business of the day I wish to inform the Council that on the occasion of the King's Birthday I sent a telegram to England (as is customary in many colonies) in the following terms. "On behalf of Colony express loyalty to His Majesty the King anniversary of birthday, wishing him long life and health." I received by the last mail the following reply from the Secretary of State: "I have the honour to acknowledge the receipt of your telegram of the 9th instant expressing on behalf of the community of Hongkong their loyalty to His Majesty and their good wishes on the occasion of his birthday. The telegram has been laid before the King and I am commanded by His Majesty to convey to you and to the people of Hongkong His Majesty's sincere thanks for your loyal message which he has received with much pleasure."

The Tramways Ordinance

THE ATTORNEY GENERAL—I beg to move that the Council resolve itself into Committee to consider the third order of the day the Bill entitled An Ordinance for authorising the construction of a tramway within the Colony of Hongkong. I understand, Sir, that a petition has been presented to the Council in respect of this Bill.

THE COLONIAL SECRETARY seconded.

The petition signed by the Vicar Apostolic of Hongkong, on behalf of the Roman Catholic community against the proposed route of the projected tramway was read.

HON. MR. HEWETT—I beg to move that the petitioners be allowed to appear by Council, as prayed.

THE COLONIAL SECRETARY—Sir, *pro forma*, I second that motion.

This was agreed to, and Sir Henry Berkeley, K. C., the Right Reverend Bishop Pozzoni, and Mr. A. Denison, architect, entered the Chamber.

HIS EXCELLENCY—The petition presented on behalf of the Vicar Apostolic of Hongkong has been read to the Council. We shall be glad to hear

you speak in this Council on it.

SIR HENRY BERKELEY—May it please your Excellency and gentlemen of the Legislative Council. I appear by gracious permission of your honourable body in support of the petition which has been presented by the Right Reverend Bishop Pozzoni on behalf of the Roman Catholic community of this Colony. I ask your permission to refer to the petition. The second paragraph runs as follows:—

"2. The route of the said Tramway is, your Petitioner is informed, proposed to be marked in blue lines on the plan instead of the route marked on the said plan in red lines as originally proposed."

Your Excellency will see from that plan the route as originally proposed and as we respectfully submit, it should continue. That is marked in red. The route as now proposed is delineated in blue. If you follow the blue line you will come to where the line passes up Glenealy Valley for a considerable distance. It is carried over the gully on a proposed steel trestle for a viaduct some 50 feet in height. It is the carriage of the tram cars over this steel trestle viaduct that we oppose, and it is that part of the proposed route marked in blue we ask the Committee to reject. It is probably within the personal knowledge of members of this Committee that great noise is occasioned by trains or trams passing over a steel trestle bridge, and the longer the bridge and the higher the viaduct the greater the noise caused by the increased vibration. The route marked in red would carry the line all the way on solid ground. There would be no vibration to speak of and there would be little or no noise, nothing at all events that could be legitimately complained of. Part of it would pass, in a deep cutting, the Cathedral and the buildings which the Bishop desires to protect and keep in the quietness they have so long enjoyed. The cutting could occupy very small space superficially and it could be adequately protected from the danger of people falling over it by railings which need not be in any way an offence to artistic feeling, and might be of such an ornamental character as to adorn the Gardens. The third paragraph of the petition, Sir, states that the Cathedral of the Immaculate Conception is the principal place of worship of the Roman Catholic community of Hongkong, and is situated on the west side of the Public Gardens. The fourth paragraph is

that divine service or other religious observances take place daily in the Cathedral. I ask permission to emphasise the word daily. On that point you will hear the evidence of the Bishop, who will speak more in detail as to the nature of these religious observances for which in the highest degree it is essential to have quietness. The fifth paragraph of the petition says as much. It proceeds: It is essential to the due and reverent performance of such services and observances that there should be at such times an absolute absence of noise in such Cathedral and in the immediate neighbourhood thereof.

In addition I am instructed to mention a matter that was omitted from the petition, and that is that immediately adjoining the Cathedral is a mission school where persons are trained for the priesthood. The question whether there will be noise from the trams is a matter upon which the Committee can make up its mind after hearing Mr. Denison, but it will hardly require evidence to convince them that cars passing over a viaduct of this kind must make a most distracting noise, and surely that must in the opinion of the Committee prove dislocating to the teaching in the school. Further, Sir, I am instructed to call the attention of your honourable body to this fact which has been omitted from the petition: It seems that in proximity to the Cathedral and to this proposed viaduct there are a number of houses occupied by tenants of the mission. If the tramway passes along this viaduct it will pass close to and slightly above these houses, with the result that the interiors of these houses will be in full view of people passing in the tram. The trams, as I have just mentioned, not only run by day but by night, so that if the tram line is built as projected there will be an invasion of the privacy of the occupiers of these houses. Such an invasion can only be guarded against by closing windows which would, in a climate such as this, be impracticable in summer. The result would be, if the tramway is built as projected, a serious depreciation in the value of the property. That must weigh with the members of the Committee as well as the disturbance of the quietude which has for many years reigned within the precincts of the Cathedral. Sir, I would emphasise the fact that this petition is made on behalf of a large number of persons, over 7,000 persons in this community. It may be regarded, therefore, as a petition largely signed. The prayer of the petition is that the proposed route of the said tramway as marked in blue lines on the said plan be

not approved by this Committee. We do not presume to suggest that the route marked in red be approved. We do not presume to say how you should act. We only respectfully press the point that the route marked in blue with reference to the tram passing over a trestle bridge near the Cathedral should not be allowed. If you turn to the Bill you will find that this matter is dealt with in Clause 3, Construction and Route of the Railway. It is as follows:—(Quotes). We don't wish the tramway to be constructed in accordance with the plan which has been published. We desire it to be altered and not to be approved so far as it shows the route in blue line... Sir, the Committee will observe by the wording of the proviso that it was contemplated that there might be deviation from the plan as deposited. (Quotes). This will not necessitate any redrawing of the plans and if your Excellency expresses the desire they must be altered—they must be altered in accordance with the opinion of the Committee. I now propose with your permission to call the Bishop before you.

Bishop Pozzoni was then sworn and examined by Sir Henry Berkeley.

What is your name?—Domenico Pozzoni.

What office do you hold?—The title is Bishop of Tavia and the office is Vicar Apostolic of Hongkong.

The principal church of the Roman Catholic Community is situated?—About fifty feet above Caine Road west of the Public Gardens.

Is it correctly shown in the plans?—Yes.

When did you come here?—In 1885.

Where was the Cathedral at that time?—It was then in Wellington Street.

When was it removed from Wellington Street?—About 18 months after my arrival in Hongkong.

Why was it removed from Wellington Street?—Because the place became so noisy that our Catholic services could not be carried on with the necessary peace and quietude, especially such services as Holy Mass and most especially the Confessional. Just now at the Cathedral when coolies are making noises outside we are obliged to send an assistant outside to stop them.

How long is it since the Cathedral was in its present site?—Services began in July 1886.

Twenty-two years ago?—Yes.

During that time have you enjoyed quietude?—Yes.

Nothing to interrupt or disturb your services except occasional raucous voiced coolies to whom you promptly despatched an assistant?—Yes.

Have you a mission school?—Yes.

Where is it?—Near the Cathedral tower.

What kind of a school is it?—It is for those who desire to become missionary priests, and the curriculum includes theology and philosophy.

Quietude is required for study?—Yes.

Do the Church Body own some houses near?—Yes.

Are they occupied by tenants?—Yes.

Examined by the Director of Public Works:

In what part of the Cathedral is the Confessional held?—Sometimes near the altar and sometimes near the door. Sometimes all over the Cathedral.

Is it conducted in that part of the building nearest the tramway?—If there are crowds they go near to the door. If there is not a crowd they go near the altar.

As a rule it is conducted at the other end of the Cathedral?—We have no particular place. Some like to make their confession near the door, and the priest has to go to the door with them. Some like to go near the altar and the priest must be ready to go there. Here we have several nationalities. Generally the Chinese like to be near the door. All the foreign European missionaries and myself speak Chinese very slowly and we need quietness in order to understand what is being said, and in order to make ourselves understood.

Mr. Albert Denison was then called, and examined by Sir Henry Berkeley:

What is your profession?—I am a civil engineer.

Are you practising in this Colony?—Yes.

Have you examined and reported upon the line of tramway marked on the plan?—Yes.

I see by the plan that for some distance of its length the tramway is carried on a steel trestle viaduct, is that so?—That is so.

That is what is proposed?—Yes.

In places about how high?—About 50 feet high.

What is the juxtaposition of that trestle viaduct and the Cathedral?—It faces directly in front of the principal entrance.

About how far away?—Some 80 yards.

Can you say from your own knowledge whether a car passing over a steel structure of the kind proposed will not make a noise? If so, what character of noise?—It will make a rattling noise.

A disturbing noise?—A very loud noise at that distance. When a train passes over the Forth bridge anywhere within a mile you can hear it distinctly.

The effect of the steel bridge makes the sound louder?—Yes.

This line is one which the cars are to be pulled up by pulleys?—Yes.

Will any noise come from these?—Yes.

And those trams or pulleys passing over the trestle bridge will make a considerable noise, which will be heard at the Cathedral?—Distinctly.

They must be heard at the Cathedral?—Yes.

In your opinion would they make sufficient noise to distract the attention of persons in the Cathedral?—I should think so.

Will this noise be continuous?—As long as the cars are running the vibration of the trestle caused by the rope running over the pulleys will be continuous.

Even if the car has passed the Cathedral there will be a noise?—With the up car there will be no noise, but with the down car there will be a noise until it stops at the bottom.

Have you ever had any personal experience beyond the Forth bridge of noises made by cars passing over a small trestle bridge?—Yes, in the Isle of Wight there is a line of railway carried over a similar trestle to this, which is about 30 feet high. Two people driving in a carriage near this line could not hear each other speaking on account of the noise made.

Do you know the houses belonging to the Mission in the vicinity?—Yes.

What would be the effect, as far as their privacy goes, if the line projected in blue is adopted?—After sunset they would have to close their shutters.

Why?—Because anyone passing in trams could look straight in through the bedroom windows. The line is only about 60 feet away, and 20 feet above.

If the tramway were constructed on the route marked in red, would the objection as far as noise is concerned be done away with?—Yes.

And what about the privacy?—It would not be affected.

You see no objection I understand, then, to the original alternative route?—No.

Why would there be little or no noise in that event?—Because the rails would be laid on solid ground, and there would be no vibration. The line would be straight and would obviate the necessity for these curves and the pulleys which accentuate the noise.

The line marked in red would necessitate cutting through the gardens?—Yes.

Could such cutting be made adequately without disfiguring the gardens?—Yes.

You are, in the course of your profession, called upon frequently to value property here?—Yes.

Will you state what, in your opinion, would be the effect upon the capital value of this church property let to tenants if the line were built as projected in blue?—I should think the value would be very much less, and there would be some difficulty in getting tenants.

Would there be any greater cost in pursuing the route in red; the tunnel or cutting *versus* the steel trestle iron bridge?—I have not gone into it carefully, but I shouldn't think there would be very much difference. I should say, if anything, the cutting would be cheaper.

A steel trestle viaduct is very costly?—It is rather expensive.

If the question of cost is material, do I understand you to express an opinion that there would be no greater cost on the red route?—Yes.

BY THE HON. MR. POLLOCK:

Can you suggest, Mr. Denison, any method for carrying a tram along the proposed blue route other than the steel trestle viaduct which would cause less noise?—Concrete arches might be erected.

Do you think that would be more expensive?—I think it would be much more expensive.

By HIS EXCELLENCY:

Would the noise still be so great as to inconvenience people in the Cathedral?—Yes, your Excellency. I think the pulleys alone would be sufficient to inconvenience them. Even on the present tramway the noise is rather excessive.

By THE ATTORNEY -GENERAL:

Would the noise on the proposed tramway be greater than that caused by the electric trams in the streets?—Yes.

By THE COLONIAL SECRETARY:

Are you a member of the Union Church, Mr. Denison?—No.

Have you ever attended divine service there?—Yes.

Did you suffer any inconvenience from the noise of the pulleys on the Peak tramway?—I don't remember doing so, but the line there is straight, and on the solid.

Do you know the distance between the Union Church building and the central line of the Peak tramway?—I should say about 30 or 40 feet.

And the distance in this case is said to be 80 yards?

Sir HENRY BERKELEY—240 feet from the Cathedral, and 60 feet from the houses.

By SIR HENRY BERKELEY:

The Peak tramway at that part passes over the street?—Yes, but the cars just there travel very slowly. The car is opposite the compressor, so there is scarcely any noise.

The Union Church is a Protestant Church, isn't it?—Yes.

And there are no Masses and Confession?—No.

By THE HON MR. SLADE:

With regard to the privacy, couldn't that objection be easily obviated by a screen or barricade run up alongside the line to prevent people in cars looking into those houses?—Yes.

By THE HON MR. HEWETT:

But that would block out a good deal of the view of the gardens?—Yes.

You stated just now that you thought a cutting would be cheaper than trestles. Can you give the Committee any idea of the difference between the trestle and the tunnel scheme?—I have not gone into it.

By THE DIRECTOR of PUBLIC WORKS:

Your firm, Mr. Denison, were the original engineers engaged on this scheme, were they not?—Yes.

And the alignment shown on that plan in red is the alignment originally proposed by you, I think?—Yes.

And that was absolutely refused by Sir Matthew Nathan when he was governor, was it not?—I don't know. I was not here at the time.

You know you were required to prepare another scheme giving a different route?—No, I understand the route was the same. As a matter of fact the route was deviated to some extent.

You referred to the noise a train makes in passing over such a bridge as the Forth bridge: that is rather an exaggerated comparison is it not?—A train would make much more noise than a tramcar?—Eight carriages will make more noise than one.

And the weight of the carriages will be immensely greater than a tramcar?—Yes, I should say a railway carriage would be slightly heavier. But in this case there are not only the carriage wheels, but pulleys.

You don't anticipate hearing this noise a mile off?—No, but if it was heard half a mile away it would make a very loud noise in the Cathedral.

You think it would be heard half a mile away?—Yes.

As regards the privacy of the houses, is there not a path in the gardens at the present time just about on a level with the upper rooms in these houses?—Yes, but it is almost entirely hidden by trees.

Wouldn't the trees interpose between the tramway and the houses quite as much as between the path and the houses?—No, I think to make the tramway you will have to cut down these trees.

(Shows plan to Mr. Denison and points out relative positions of path and tramway).

You agree that the pathway overlooks the houses to at least as great an extent as the tramway would?—I don't think so. A certain number of trees must

be cut down to make the tramway.

The trees are between the pathway and the houses, and the tramway will be on the further side of the pathway from the houses, so that if the trees interpose between the pathway and the houses they must interpose between the tramway and the houses?—To a certain extent.

Anybody could stand on that pathway and look into the houses as much as they pleased?—Yes.

Whereas on the tramway the tram would whisk them past at a considerable rate?—That is so.

And the tramway will also be at a greater elevation than the pathway, so the principal view passengers will get will be of the tops of these houses?—I think you said just now that the pathway was higher than the tramway.

THE DIRECTOR OF PUBLIC WORKS—No, the tramway is higher than the pathway.

MR. DENISON—And you get a better view of the bedrooms.

SIR HENRY BERKELEY—Your Excellency, the first observation I will make is that no evidence has been called here to support the suggestions of the Director of Public Works, and I take it that the evidence of Mr. Denison makes it clear that as far as the privacy of these houses goes, they will be open to the view of persons in the trams every day; and trams will be passing to and fro every ten minutes or quarter of an hour. The evidence of Mr. Denison seems to me to indicate that there must necessarily be destruction of any such screen as is provided by the trees now growing along the proposed line of route. It is not altogether fair for the case of the petitioner that the Director of Public Works should take part in the discussion and vote after dragging in evidence, without being cross examined. He gives an expression of his opinion, but there is no evidence to support it before the Committee, and it ought not to have weight against the opinion of an expert of equal standing in the profession to himself, although not an official. The evidence of Mr. Denison on the point that the passing of the tramline along the blue route must expose the inhabitants of these houses is based on

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sense. The opinion of the Director of Public Works is based on the assumption, unwarranted by the evidence before the Committee, that a number of trees will be left as a screen between the cars and the houses. I need hardly remind the Committee that in dealing with an application of this kind they should approach it with a judicial mind. The Committee will consider the suggestions made, based only on the evidence before it, and it will not be in any way swayed or influenced by any suggestions not based upon the evidence. I am submitting to the Committee that the suggestions shadowed in the cross-examination of Mr. Denison by the Director of Public Works are based on assumption, and have no evidence to support them. Sir, I would also ask the Committee not to be influenced by what I cannot help describing as an unfortunate allusion by the Director of Public Works to our late Governor, Sir Mathew Nathan. This Committee is not to decide a question which affects deeply the feelings of 7,000 of the inhabitants of this Colony by any conceived notions of Sir Matthew Nathan on this point. Because Sir Matthew Nathan disapproved of this particular route, it is not to say that this Committee will disapprove of it. Sir, it is hardly fair for the Director of Public Works to refer to the respected name of our former highly esteemed Governor, and I confidently believe, when you come to the consideration of this petition, that the Committee will not in any way consider what may have been the opinion of some former governor, because, if Sir Matthew Nathan had sat to hear this petition it does not follow that he would not have changed his mind. Sir, I will pass on, but I cannot believe the allusion to be an inadvertence. It was an unfortunate allusion to make to a Committee having a majority of officials, and a very unhappy one for the feelings of those who come before the Committee, but I feel certain it will not affect the official mind. Besides, I trust your Excellency will recollect, and I am sure you will, that this is a private Bill. The Committee will not vote upon this Bill as if it was an important public measure. The allusion, I suppose, was made for some purpose. I take it that one of the standing in the Council of the Director of Public Works would not make an allusion like that without some object; therefore I am bound to comment upon it. I can only suppose that he asked that question for a purpose, the object being to impress the Committee unfavourably, so I appeal to members to decide this question

altogether apart from any person's opinion. Sir, I ask the Committee to remember the salient facts. The Bishop has told us that the Cathedral was removed to its present site for the purpose of securing that which will be taken from worshippers if the railway passes over this present bridge, namely, peace and quietness in the performance of religious observances. He told us that when he first came here 22 years ago the Cathedral was in Wellington Street, but as the town increased the noise became distracting, and they removed to the place where they now are. We have been on the present site for 22 years, and I do appeal to you to preserve to us that which we have had for 22 years unless there are any exigent public reasons why it should be taken away. We appeal to the Committee for considerate treatment when a scheme is proposed which will deprive us of that, and a scheme which is in no sense necessary for the undertaking projected. We are only opposed to that portion of the tramway which it is proposed to carry over the trestle bridge. If there were no other way of going to the Peak except over that trestle bridge I should be silent, but when there is an alternative route which will give us the quiet that is desired, and leave us in peace, I do ask that that route should be insisted upon. This is a private undertaking for the purpose of putting money into the pockets of those promoting the tramway; it is a speculation, nothing more or less. It will be useful to the public no doubt, but still it is a private speculation, and absolutely a matter of pounds, shillings and pence. I say you ought not to disturb the peace, quiet and calm which should reign, and which hitherto has reigned in this vicinity, and I appeal finally to the Committee not do so, because if you do what is proposed to be done we are absolutely left without a remedy. We could not get compensation, because the work was authorised by the legislature. I thank you gentlemen of the Committee for hearing me, I trust that the reasons I have mentioned may be deemed by you sufficient to warrant your coming to the conclusion that the route as proposed ought not to be assented to.

Counsel and the witnesses then withdrew.

HIS EXCELLENCY — The Council is not in Committee as was supposed by the learned gentleman who has just left. The

motion is whether we shall refer the Bill to the Law Committee. This Bill was introduced several years ago under circumstances very different to those which exist to-day. The differences are these: When the proposal was first made it was understood that the tramway would be in competition with the one already existing. Since then I understand an amalgamation of interests has taken place. Secondly, it was proposed that it should traverse a different route to that suggested to-day. In the third place, since this Bill passed its second reading it has been very considerably altered in many details. It is therefore, I think, permissible to discuss the general principles on this motion to refer it to Committee. I think it is better to discuss it now than on third reading, since, if we passed this motion, the labours of the Law Committee would be nullified if on the third reading the principle of sanctioning a second tramway were rejected. We have also to consider the petition laid before the Council to-day, and spoken to by the learned counsel who has just left the room.

I propose, therefore, to say a word or two with regard to my position in reference to this Bill. It appears to me that the principle involved is one, if I may so express it, of aesthetics against utility. If it is clearly understood by this Council that the community consider this tramway to be necessary for the business and for the general convenience of the Colony no doubt this Bill will be passed. If, on the other hand, it is considered not to be so, we must bear in mind that one of the most beautiful parts of the island will be disfigured by the carrying out of the project. I should regret extremely from that point of view to see a tramway on fifty foot trestles carried through the Glenealy Valley. But Hongkong unfortunately does not depend for its prosperity on its scenery, or we should not hear so much of trade depression. Residents generally come here for other purposes than to view the scenery, so it remains for us to say whether or not the tramway is really required for the convenience and business of the Colony. No doubt many of the unofficial members will be able to reflect the opinions which are held in the community. This is a private Bill and as it has been much altered since it passed its second reading all members of the Council will be able to vote upon it entirely unfettered by previous proceedings, and to give

their own personal opinion as to whether or not it should be carried through. The Bill is a very long one and there are connected with it various plans which require a good deal of study, and which have not been reproduced with the printed draft, and I therefore do not propose to put the motion to the vote to-day, but to adjourn this debate until our next meeting after any members who may wish to speak have done so.

As regards the petition to which we have just listened. It was perhaps premature to have heard it on the motion now before the Council. It should rather, I think, have been heard in Committee on the discussion of the third Clause of the Bill which deals with the question of the route the tramway should take. The point which we now have to consider is the general principle of the Bill as to whether or not there should be a tramway. The route in red which has been alluded to involves the cutting off of a considerable portion of the Public Gardens and some exceedingly deep cuttings which—I speak under correction—I think will be something like 30 or 40 feet deep, and which will require a considerable cutting to form the slope of the embankment. I understand that the sub-stitution for them of a tunnel is not from an engineering point of view possible, because in order not to kill the trees the arch of the tunnel would have to be at a greater depth than 15 feet—which is not practicable. The line in blue has been selected in the alternative as inflicting least injury on the Public Gardens, but as I have said these questions as to details of the different routes more properly belong to the discussion on Clause 3, if we agree to the general principle of having this tramway. The institution of this scheme I believe interfered with the extension of the existing tramway which would otherwise have been carried down to Queen's Road, and I think I am right in saying that arrangements had practically been completed with the Military Authorities for the acquisition of certain lands belonging to them required for that purpose.

HON. MR. HEWETT—Your Excellency—You spoke just now of having a discussion this afternoon as to the working of this Bill on the motion to go into Committee and afterwards I understood you to say we should have a discussion at next meeting. Would it not be better to hold over
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discussion until next week? My suggestion for doing that is the statement made by counsel, and as the remarks made by yourself and by counsel are distinctly of an educational nature I think it would be very much to the advantage of unofficial members of the Council if we have a further opportunity of considering them and also of finding out current opinion as the Bill has not been discussed for over a year.

HIS EXCELLENCY—I shall be glad to adjourn the discussion until next meeting.

Small Debt Court Ordinance

THE ATTORNEY GENERAL moved the third reading of the Bill entitled An Ordinance to empower a Magistrate to hold a Small Debt Court in the New Territories and to regulate the proceedings in relation thereto.—In doing so, he said—I have nothing further to say with regard to it, Sir, except that in the preliminary title the word "debt" should read "debts."

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

Magistrates Ordinance Amendment

THE ATTORNEY GENERAL moved that the Council go into Committee on the Bill entitled An Ordinance to amend The Magistrates Ordinance 1890 and to effect certain other amendments in Criminal Law.

In doing so, he said—With reference, Sir, to this order it will be in the recollection of the Committee that at the last meeting two of the clauses stood adjourned for consideration, the first of which is the clause relating to stocks. It was pointed out at that time, Sir, by the hon. and learned member opposite having regard to the phraseology proposed to be adopted in the new clause, that there were certain offences declared by virtue of this Ordinance to be misdemeanours. I have had the opportunity, with your Excellency's sanction, of conferring with the hon. and learned gentleman upon those points and have arrived at the conclusion, to meet what he desires in the matter, that the clause should be amended to make it perfectly clear that the particular ordinances mentioned are not to be included within the scope of the punishment imposed by stocks. That being so, Sir, I propose to

omit Clause 3, and to insert a new clause altogether, and I have so drafted it as to make it perfectly clear in future as to what offences stocks should apply. Instead of amending the principal Ordinance I have prepared a new clause, and propose to set out as a Schedule to the Bill the four exempted Ordinances to which the hon. gentleman referred. That will clear up the question entirely. I propose to leave out Clause 5 and substitute the following Section (reads). That exactly re-enacts the second existing Section of the Magistrates' Act with the amendment we have inserted here. And I also propose this proviso (reads). The hon. gentleman took exception to certain other Ordinances, but as I have already pointed out to him, they are not Ordinances which come within the magisterial jurisdiction at all. Personally speaking I don't think these four Ordinances are really of such a character that a magistrate could properly impose stocks. But perhaps it is just as well to make it clear. The four Ordinances are: The Medical Registration Ordinance of 1834, the Statutory Declarations Ordinance 1893, the Sale of Food and Drugs Ordinance of 1896, and the Stamp Ordinance of 1901.

HON. DR. HO KAI — Sir, I accept the amendment proposed by the learned Attorney General. I think the new Section is certainly an improvement on the one struck out.

Clause 5 as amended then became part of the Bill.

HIS EXCELLENCY—The only other Clause which has been held over in this Bill is the first Sub-section of Clause 7. I agreed to hold that Clause over for discussion at this meeting at the instance of the senior unofficial member (Dr. Ho Kai) and I have taken the opportunity of discussing the subject again with the Executive Council. I find that the majority of that Council are of opinion that the legislation proposed is reasonable and proper, in view especially of the pledge which I gave to the Council in Committee that no regulations would be passed for a period of at least six months, during which time we should take steps to educate Chinese opinion both by posting notices and also by including the subject in the lectures delivered on sanitation and hygiene by Chinese lecturers. We have passed the

second reading of the Bill already, and there is no amendment at present before the Committee. I would remind the Committee that the amended clause as it stands does not make spitting a nuisance. It does not enact any restriction whatever against it at the present time, nor does it empower the Governor-in-Council to make it an offence to spit. All that it does is to empower the Governor-in-Council, if necessity should arise in the future, to compel persons to spit circumspectly, that is to say into drains and spittoons so that the habit should not be a danger to the public health. During the discussion on the Public Health and Buildings Ordinance and on various other occasions I think I have given evidence to the Council that I most heartily desire the co-operation of the Chinese in all measures of sanitary reform in the Colony. It has been the burden of every utterance I have made on this subject, and I think therefore this Committee may trust me and may trust the Executive Council not to act in any way prejudicial to that idea. The discussions which take place in this Council find their echoes outside, and I would therefore deprecate observations which would convey an opposite impression. The principle I have supported is that we should seek the co-operation of the Chinese in all our measures of sanitary reform, and there is nothing to my mind in the amendment before the Council which is opposed to that principle.

HON. DR. HO KAI—Sir, I think since your Excellency has gone so far as to promise that for the next six months at least no step will be taken to make spitting a criminal offence, that it would perhaps be better still if your Excellency would allow certain measures to be carried out and at the end of that time see what effect they had. Then we would be in a position to know, if non-success attended our efforts, for what to legislate. It has this advantage: First of all we would say to the public that we would like to have spitting on floors in certain places stopped, and if it is not stopped in a certain time we shall have to pass compulsory measures. I think suitable measures might be devised and carried out. Then we would be in a position to know how far we have succeeded, or how far we have failed, and what measures we should adopt to achieve success. For this reason,

Sir, I move that this clause be struck out altogether for the time. It can be made the subject of distinct legislation afterwards.

HON. MR. WEI YUK seconded.

HON. MR. POLLOCK—Sir, I entirely support what has been said by the hon. senior unofficial member and I agree with the majority of the unofficial member of this Council that the time is not ripe for even granting power to the Governor-in-Council to make any regulations with regard to spitting. As your Excellency said the other day this matter has been discussed in the Sanitary Board for some time past, but up to the present moment, so far as I am aware, no educational steps have been taken. There has not, so far as I am aware, been any attempt either public or private to provide any receptacles for people to spit in. Therefore, Sir, I think I am quite correct in saying that educational measures have not begun at all, and I think, Sir, that it is very necessary before power is taken to actually bring legislation in force, that first of all educational measures should be tried. I deprecate any legislation or any power to legislate in this matter being conferred on this Council at the present moment, until it can be seen, as the hon. senior unofficial member has stated, what can be done in the way of education. As I put it now receptacles should be provided for Chinese to spit in. That seems to me the obvious preliminary measure before stating that spitting shall be an offence or making any regulation regarding it. Therefore, Sir, I hope your Excellency will yield to the wish expressed by all the unofficial members of this Council except the hon. member who represents the Chamber of Commerce, and that you will allow this clause to be deleted altogether.

HON. MR. SLADE—Sir, I quite agree with what has been said on this point, and I think a great deal can be done in this matter privately, and without Government regulations at all. An instance was given to me only a few days ago by a gentleman here. He objected to the state of his stairs and put the matter before his Chinese staff. He had notices put up and within two or three days the nuisance was very nearly, if not entirely, done away with. If one person can do that I think it can be done in all

offices and public buildings. If it is found that it is of no value, then the time will come for the Government to take the matter in hand.

THE COLONIAL SECRETARY—Sir, I think there is a misapprehension regarding the absence of educational measures. Such have been taken during several months past, and it strikes me, Sir, that the question having been raised it is much better to deal with it as proposed and take power. There is no use in threatening a man with an unloaded gun. If you want to threaten him you have got to load the gun first. That is all this Bill proposes to do. We say if you don't give up a certain habit you will make it necessary for us to legislate. It appears to be the opinion on the part of the Chinese and unofficial members that this Section is directed against the Chinese. In my experience Chinese are by no means the principal offenders. I think the Hon. Captain Superintendent of Police will have to educate his Indian police constables or he will have them run in. They are, in my experience, quite as bad offenders as any man wearing a queue in this habit of spitting. I don't think, Sir that private educational measures would be effective. In my opinion the places where the habit is most apparent are the public wharves of the Colony. In the summer time many of us go bathing from Queen's Statue Pier and that place is absolutely a disgrace. It is covered with chewed and spat out sugar cane and other deposits of even a more objectionable nature. I trust that the educational measures of the Registrar-General and the Captain Superintendent of Police may result in cleansing that wharf. I cannot see any objection to the Clause as it stands. As education goes on it will not be enforced. If education does not go on then it will be admitted that in certain localities some action will be necessary.

HON. DR. HO KAI—What is the difference between legislating after six months and creating the power now and not exercising it for six months?

THE COLONIAL SECRETARY — The Ordinance is here and we have a convenient place to put it in. As I said we are much more likely to succeed than if there is no power behind us.

HON. DR. HO KAI—But they do know. If

education does not improve matters, legislative measures can be passed. I do not know that it is peculiar to the Chinese but, like other people, they like to be led rather than to be driven. If you pass the Clause now you palpably apply the whip. Why not have the Clause left out and at the end of six months after other measures have been tried, then legislate when they are proved unsuccessful. If they are successful we will not have to burden our Statutes with any Clause empowering legislation on the subject.

HIS EXCELLENCY—We are not obliged to introduce any legislation immediately at the end of six months. You wish us to pledge ourselves to introduce legislation at the end of six months. We say legislation may at any time be introduced, but I have given a pledge that for six months at least it shall not be introduced.

HON. MR. GRESSON—Is not that in the nature of a threat, Sir? The very thing we want to avoid. The Chinese do not understand these things very clearly and will say the Government are doing their best to molest us in every possible way. They are going to introduce a Bill to put us into prison for spitting. We don't wish the Chinese in Hongkong to think that we are going to threaten them.

HON. MR. POLLOCK — I understood your Excellency to say just now that members of the Executive Council were not unanimous on this point. I would point out to your Excellency that a very large majority of the unofficials are against the introduction of this measure at the present moment.

THE COLONIAL SECRETARY — Sir, the parties that the hon. member represents are at cross purposes. One half want the Clause struck out altogether, while the Chinese members say give us six months grace, and, if the habit is not stopped, then legislate.

HON. DR. HO KAI—I did not say that, I said if it is not stopped then it will be time for you to pass a law.

HIS EXCELLENCY—I have already said that before any regulations are issued steps to educate opinion will be taken.

HON. DR. HO KAI—Then do away with the measure and the Chinese will see that the Government want their co-operation without holding up the whip. I only ask your Excellency to give us a chance of getting their co-operation without legislative compulsion.

HIS EXCELLENCY—The principle has been already decided and I am not prepared to go back on that principle. There is no amendment before the Committee.

HON. DR. HO KAI—I have an amendment.

THE COLONIAL TREASURER—This is a Bill to make various amendments in the law and this happens to be one of them. There is no principle involved in the Bill.

HIS EXCELLENCY—I will put the amendment by the senior unofficial member that this Clause be deleted.

The amendment was put, the voting being as follows: Ayes—Hon. Mr. Slade, Hon. Mr. Gresson, Hon. Mr. Pollock, Hon. Mr. Wei Yuk and Hon. Dr. Ho Kai. Noes—Hon. Mr. Hewett, Captain Superintendent of Police, the Registrar General, the Director of Public Works, the Colonial Treasurer, the Attorney General, the Colonial Secretary and the General Officer Commanding.

HIS EXCELLENCY—The noes have it by eight votes to five.

HON. DR. HO KAI proposed a new Section to take the place of the Section under debate. It proposed to give power to the Governor-in-Council to make regulations with regard to the provision of spittoons in places where spitting would be prohibited.

HON. MR. HEWETT asked if it was expected that a man should provide spittoons for use in his own office.

THE COLONIAL SECRETARY replied that there was no precedent for such a provision.

HON. MR. GRESSON remarked that the carrying out of this law was going to cause more trouble than all the spitting of which we complained.

HON. DR. HO KAI said he found nothing in the Statute Book of England with regard to spitting.

THE COLONIAL SECRETARY—England is so well educated that it is not necessary.

HON. MR. POLLOCK suggested that the last Clause of the amendment should be amended by adding a Clause to the effect that the provisions should be submitted to the Legislative Council for approval, and that they should be printed in English and Chinese in the *Gazette*.

THE COLONIAL TREASURER pointed out that it would be absurd to have the decisions of the Executive Council referred back again to the Legislative Council.

HON. MR. POLLOCK asked if it was proposed to make the Executive Council a Star Chamber so that its actions should not be the subject of criticism in the Legislative Council.

HIS EXCELLENCY remarked that anything done by the Governor-in-Council was done in virtue of the powers given by the Legislative Council.

HON. MR. POLLOCK said there was no reason why the ultimate expression of all wisdom should lie in the Executive Council.

HIS EXCELLENCY—Very limited powers are given by the Legislative Council to the Governor-in-Council. In making regulations, the maximum penalty is \$25.

HON. MR. POLLOCK—I am not referring to the penalty. It is a question of assuming rights in a manner which has aroused a great deal of controversy.

THE COLONIAL SECRETARY—Can you quote any precedent?

HON. MR. POLLOCK—It does not require any precedent.

The first part of Hon. Dr. Ho Kai's amendment, relating to the prohibition of spitting in certain places, was accepted by the Government. The second part, with regard to the provision of spittoons in offices and other public places for the convenience

of visitors, was voted upon. Only the Hon. Mr. Wei Yuk and Hon. Dr. Ho Kai supported it, all the other members voting against it. The third part with regard to the Interpretation Ordinance was withdrawn.

The Hon. Mr. Pollock's amendment, making it necessary that the regulation should receive the approval of the Legislative Council, was next considered.

HIS EXCELLENCY — I am afraid the Government cannot accept that amendment. It would nullify the utility of the Executive Council and overburden the Legislative Council if all Regulations, etc., had to be referred back for final approval. There is no precedent for such an amendment as is proposed.

HON. MR. POLLOCK asked for a division, and the voting resulted: "Noes," Hon. Mr. Slade, Hon. Mr. Hewett, Captain Superintendent of Police, Registrar-General, Director of Public Works, Colonial Treasurer, Attorney-General, Colonial Secretary and General Officer Commanding. "Ayes," Hon. Dr. Ho Kai, Hon. Mr. Wei Yuk, Hon. Mr. Gresson, and Hon. Mr. Pollock.

HON. MR. POLLOCK—What about the other amendment as to the printing in English and Chinese?

HIS EXCELLENCY—I see no objection to that.

Clause 8 then stood part of the Bill.

Clause 12—the repeal of Section 87 of the principal Ordinance and the Stock Punishment Limitation Ordinance—was passed.

Council then resumed.

THE ATTORNEY -GENERAL — Will the Council allow this Bill to be read a third time. The contentious points are all settled.

HON. DR. HO KAI—I object.

HON. MR. HEWETT—There is nothing to be gained by postponing the third reading. You cannot have any further discussion.

HON. DR. HO KAI—The Chinese may petition against the Bill.

HIS EXCELLENCY — Council stands adjourned *sine die*.

FINANCE COMMITTEE.

A meeting of the Finance Committee was then held, the Colonial Secretary presiding. The following vote was passed:—

Medical Departments

The Governor recommended the Council to vote a sum of Five thousand two hundred and seventy-five Dollars (\$5,275) in aid of the vote Medical Departments, Hospitals and Asylums, Other Charges, Infectious Hospitals, Hospital Hulk *Hygeia*, for the following items:—

| | |
|-----------------------|---------|
| Repairs,..... | \$1,708 |
| Typhoon Damages,..... | 3,567 |
| | ————— |
| Total,..... | \$5,275 |