

4TH AUGUST, 1910.

PRESENT:—

HIS EXCELLENCY THE OFFICER ADMINISTERING THE GOVERNMENT, HON. SIR F. H. MAY, K.C.M.G.

HIS EXCELLENCY MAJOR GENERAL BROADWOOD, C.B., A.D.C. (General Officer Commanding).

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

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

HON. MR. C. MCL. MESSER (Colonial Treasurer).

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

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

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

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

HON. MR. E. A. HEWETT.

HON. MR. M. STEWART.

HON. MR. E. OSBORNE.

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 Minutes (Nos. 60 to 62), and moved that they 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. 8), and moved its adoption.

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

Papers

THE COLONIAL SECRETARY, by command of His Excellency the Governor, laid on the table the following papers:—Report on the Blue Book for 1909.

Resolution

THE COLONIAL SECRETARY moved the following resolution:—"That the percentage on the valuation of tenements payable as rates in the undermentioned places be altered from the 1st day of October, 1910, as follow:—

Taihang	From 9	to $10\frac{1}{2}$
Tunglowan	" $10\frac{3}{4}$	" $12\frac{1}{4}$
Whitfeild	" $10\frac{3}{4}$	" $12\frac{1}{4}$
Shaukiwan Road, as far as I.L. 1620	" $10\frac{3}{4}$	" $12\frac{1}{4}$ "

In doing so he said—This increase is necessitated, your Excellency, by the extension of the public lighting in these localities.

THE COLONIAL TREASURER seconded, and the resolution was adopted.

Segregation of Lepers Ordinance

THE ATTORNEY - GENERAL moved the first reading of a Bill entitled, "An Ordinance to provide for the segregation and treatment of lepers."

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

The object of this Bill is to check the spread of leprosy in the Colony by providing for the segregation and treatment of lepers. It is based on the laws prevailing in other Colonies and dependencies of the Crown.

Marriage Ordinance Amendment

THE ATTORNEY - GENERAL moved the first reading of a Bill entitled, "An Ordinance to amend the Marriage Ordinance, 1875."

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

The Bill is introduced to check the increasing number of undesirable civil marriages contracted in the Registrar-General's office by requiring that Chinese persons desiring to contract marriage shall satisfy the Registrar-General that they are permanently resident here, that they have been already married according to the rites and customs of China and that neither party has an undivorced husband or wife living. Clause 38 re-enacts section 37 of the Marriage Ordinance, 1875, subject to the reservation imposed by the previous section. The measure has the support of the District Watchmen Committee.

Crown Land Resumption Ordinance

THE ATTORNEY-GENERAL moved the third reading of the Bill entitled, "An Ordinance to amend the Crown Lands Resumption Ordinance, 1900, and to make special provision for the Resumption of Crown Lands of small value for public purposes."

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

Highways Ordinance

THE ATTORNEY-GENERAL moved that the Council go into committee on the Bill entitled, "An Ordinance to provide for the narrowing, stopping up, diversion, turning or alteration in levels of Highways."

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

Council then resolved itself into committee.

THE ATTORNEY - GENERAL — The committee adjourned this Bill, Sir, at the last meeting of Council in order that the question of compensation might receive the consideration of the Government. Your Excellency has approved of certain amendments being inserted in the Bill providing compensation, and we propose that in the event of the Governor-in-Council disallowing the objections and not granting compensation that it should be referred to arbitration, one arbitrator to be nominated by the Government and one arbitrator by the owner of the property concerned. These two arbitrators shall consider the amount of compensation if any to be awarded, and in the event of any disagreement we propose that the matter should be referred to the Puisne Judge of the Supreme Court, whose decision as umpire shall be final. That, Sir, is based upon the precedent existing in the Public Health Ordinance. I hope that the amendments which I have drafted to carry out this object will meet with the

support of hon. members.

THE ATTORNEY - GENERAL then moved that the following words be added at the end of clause 4: "and may in his discretion award such compensation as he may deem just in respect of the work proposed to be carried out."

This was agreed to.

THE ATTORNEY-GENERAL moved to leave out clause 5 and to insert new clauses 5, 6 and 7 as follows:

5.—If such objection is disallowed and the Governor-in-Council refuses to award compensation or if the person is dissatisfied with the compensation awarded, the matter shall be referred to arbitration and determined in the manner hereinafter provided.

6.—(1) Two arbitrators shall be appointed, one to be nominated by the Governor and the other by the person objecting to the works proposed to be carried out.

(2) The arbitrators shall determine whether compensation should be awarded and shall assess the amount of compensation, if any, to be paid in respect of the works proposed to be carried out,

(3) In the event of their disagreement the arbitrators shall refer the matter to the Puisne Judge of the Supreme Court as umpire, who shall assess the amount of compensation, if any, to be paid as aforesaid.

(4) The award of the said arbitrators or umpire as the case may be shall be final and conclusive and shall be forwarded in writing to the Colonial Secretary.

7.—Any compensation awarded under this Ordinance shall be paid out of the public revenue of the Colony.

As it is necessary to amend clause 6, I propose a new clause in lieu of clause 6 to be numbered 8.

8.—"When no objection has been duly made to the works proposed to be carried out or has been withdrawn, or when the amount of compensation, if any, to be paid has been duly determined, the Governor may by an order in writing authorise the Director of Public Works to proceed with the works necessary for the

narrowing, stopping up, diversion, turning or altering the level of such street, and no injunction shall be granted against the works so authorised as aforesaid nor shall any suit be brought for damages in respect of the same."

HON. MR. HEWETT—Does that fix a time in which a man can make an objection?

THE COLONIAL SECRETARY—Clause 3 covers that.

THE ATTORNEY-GENERAL—He must send in his objection within a week.

HON. MR. HEWETT—Is that sufficient? A person might have to refer to the owner of property who is at Home.

THE ATTORNEY-GENERAL — The clause is already passed.

HON. MR. HEWETT—Exactly, but I was not here last week, and it seems to me, your Excellency, that if you admit the possibility of objections and consequently the possibility of the Government having to pay compensation, that reasonable time should be given for an agent of property to communicate with his principals at Home, and enable them to deal with the question if necessary.

THE COLONIAL SECRETARY—You can lodge an objection and refer to the principal afterwards.

HON. MR. HEWETT—The clause is already passed, but it seems to me that a week is a particularly short time.

THE ATTORNEY-GENERAL—Clause 2 provides that there must be insertions in three successive numbers of the *Gazette*.

HON. MR. HEWETT—Then that practically gives a month instead of a week.

THE DIRECTOR OF PUBLIC WORKS—There is one clause read by the Attorney-General which would involve delay in proceeding with the work until compensation is determined. The work might be rather urgent and we should have to wait until compensation is decided. The amount of compensation could be determined whether the work was in progress or not.

HON. MR. HEWETT—I don't know. You have got nine points of the law.

THE DIRECTOR OF PUBLIC WORKS—This Bill gives power to proceed with the work whether compensation is awarded or not.

THE COLONIAL SECRETARY—A man is bound to get compensation.

HON. MR. STEWART—A man's objection may depend on the amount of the compensation he is going to get. He does not object if he gets enough.

HON. MR. HEWETT—That is business.

HIS EXCELLENCY—Now you have got to the stage of compensation. The man has objected and we have gone to arbitration. It is only a question of proceeding with the work pending arbitration.

THE DIRECTOR OF PUBLIC WORKS—All I wish is that the work should not necessarily be delayed until the amount of compensation is determined.

THE COLONIAL SECRETARY — It should go on one week after the third publication in the *Gazette*.

HON. MR. HEWETT—If an arbitration court is provided for, I presume there will not be much waste of time. Their decision will be given at an early date.

THE COLONIAL SECRETARY—Their decision will not be affected whether the work is done or not.

HON. MR. OSBORNE—Why wait at all? Why not go on with the work after giving a notice?

THE DIRECTOR OF PUBLIC WORKS That is what the Colonial Secretary is suggesting. After the week has elapsed in which objections can be lodged the work should be proceeded with. That seems reasonable.

HIS EXCELLENCY—It is proposed that the new clause 8 shall read: "Subject to the provisions of the foregoing sections as to compensation, the G o v e r n o r m a y a t a n y

time by an order in writing authorise the Director of Public Works to proceed with the works necessary for the narrowing, stopping up, diversion, turning or altering the level of such street and no injunction shall be granted against the work so authorised as aforesaid nor shall any suit be brought for damages in respect of the same."

HON. MR. STEWART—I don't realise, Sir, that in a matter of this kind there can possibly be any necessity of immediate action.

HIS EXCELLENCY—There very often is. You know the delays of the law. We frequently take land now, for instance, under the Land Resumption Ordinance. That is resumed by the Government and all questions stand over. The question of compensation will sometimes take months and months.

HON. MR. STEWART—With the result that Government sometimes has to pay very large sums, sums which from the public point of view might be too large to make the work worth while doing. As regards compensation, until it is ascertained what any proposed work is going to cost the Government, I should think it would be advisable to delay matters. I think it would be better not to begin a work until it is known what the award is going to be.

THE ATTORNEY-GENERAL—What difference does it make if a man is entitled to compensation anyway?

HON. MR. STEWART—It may make a difference from the government point of view.

HIS EXCELLENCY—An arbitrator is not likely to put a higher value on land than an owner will do himself.

HON. MR. STEWART—In this clause we have not got as far as receiving his protest. The Government simply signs an order to commence the work, and it is forthwith commenced. Personally, I don't see any necessity for giving these powers to the Government.

HIS EXCELLENCY—The new clause 5 reads: "If such objection is disallowed, and the Governor-in-Council refuses to award compensation or if the person is dissatisfied with the compensation awarded, the matter shall be referred to arbitration and determined in the manner hereinafter provided."

HON. MR. STEWART—That presupposes an objection having been made, considered, and disallowed, whereas the clause you last read empowers you to act before any objection has been made.

HON. DR. HO KAI submitted an amendment.

THE ATTORNEY-GENERAL—I think the amendment proposed by my learned friend opposite will meet the case.

HON. MR. OSBORNE—Wouldn't it be better to say, "at any time after compensation has been claimed"? Then you would know exactly what the maximum amount of compensation is.

HON. MR. STEWART—Why not wait until the arbitrators have decided the amount?

HIS EXCELLENCY—We might want to carry out an important public improvement.

HON. MR. STEWART—An idea does not dawn in a moment for the elevation of a road and become suddenly so important that it must be carried out at once.

THE COLONIAL SECRETARY—Many things may require to be done at once. There might be an earthquake.

HON. MR. STEWART—Special power might be given in case of earthquakes. In the event of there being no earthquakes it will not be at all necessary to take drastic measures.

HIS EXCELLENCY—We won't save any money by waiting until an arbitration is finished. My experience is that an owner claims as much as ever he can. He never makes a reasonable claim, but always an unreasonable one. I think the clause as amended by the Attorney-General is best. It seems to me that it covers the thing entirely without using a lot of unnecessary words.

Council then resumed, the Bill being left in committee.

Supplementary Estimates

THE COLONIAL SECRETARY moved that the Council go into committee on the Bill entitled, "An Ordinance to authorize the Appropriation of a Supplementary Sum of Three hundred and fourteen thousand five hundred and thirty-three Dollars and thirty-two Cents, to defray the Charges of the Year 1909."

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

The Bill was then considered in committee.

On Council resuming,

THE COLONIAL SECRETARY moved that it be read a third time.

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

HIS EXCELLENCY — Council stands adjourned until this day fortnight.

FINANCE COMMITTEE.

A meeting of the Finance Committee was held afterwards—the Colonial Secretary presiding. The following votes were passed:—

Hospital Quarantine Station

The Officer Administering the Government recommended the Council to vote a sum of Four thousand Dollars (\$4,000) in aid of the vote Public Works, Extraordinary, Buildings, Hospital at the Quarantine Station, Laichikok.

THE CHAIRMAN stated that this building was reported on by the Public Works Committee. His Excellency had instructed him to point out that the *Hygeia* was now abolished, and as Kennedy Town Hospital was already occupied this building was absolutely necessary.

HON. MR. OSBORNE—I vote against it, Sir. At a meeting of the Public Works Committee we thought it was a waste of money.

THE CHAIRMAN—It is a matter of opinion.

Hospital Charges

The Officer Administering the Government recommended the Council to vote a sum of Fifty Pounds sterling (£50) in aid of the vote, Medical Departments, *B.*—Hospitals and Asylums, Other Charges, Civil Hospital, Apparatus and Accessories for testing holds and tanks of ships carrying oil in bulk for the process of oil vapour.

Disinfecting Station

The Officer Administering the Government recommended the Council to vote a sum of Two thousand Dollars (\$2,000) in aid of the vote, Public Works, Extraordinary, Buildings, Work-shops at the Disinfecting Station.