

23RD MARCH, 1922.

PRESENT:—

HIS EXCELLENCY THE GOVERNOR, SIR
REGINALD EDWARD STUBBS, K.C.M.G.

HIS EXCELLENCY THE GENERAL OFFICER
COMMANDING THE TROOPS, MAJOR-GENERAL SIR
JOHN FOWLER, K.C.M.G., C.B., D.S.O.

HON. MR. CLAUD SEVERN, C.M.G.
(Colonial Secretary).

HON. MR. MCI. MESSER, O.B.E. (Colonial
Treasurer).

HON. MR. E. R. HALLIFAX, O.B.E.
(Secretary for Chinese Affairs).

HON. MR. E. A. IRVING (Director of
Education).

HON. MR. T. L. PERKINS (Director of
Public Works).

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

HON. MR. LAU CHU-PAK.

HON. MR. E. V. D. PARR.

HON. MR. A. G. STEPHEN.

HON. MR. A. O. LANG.

HON. MR. CHOW SHOU-SON.

MR. A. G. M. FLETCHER, C.B.E. (Clerk of
Councils).

ABSENT:—

HON. MR. J. H. KEMP, K.C., C.B.E. (Attorney-
General).

Minutes

The minutes of the last meeting were
approved and signed by the President.

Papers

THE COLONIAL SECRETARY, by
command of H.E. the Governor laid upon the
table an Order made by the Governor-in-
Council under section 4 of the Importation and
Exportation Ordinance, 1915, dated the 16th
day of March, 1922.

Finance

THE COLONIAL SECRETARY, by
command of H.E. the Governor, laid upon the
table Financial Minutes Nos. 18 and 19 and
moved that they be referred to the Finance
Committee.

The motion was agreed to.

THE COLONIAL SECRETARY, by
command of H.E. the Governor laid upon the
table the Report of the Finance Committee (No.
3) and moved that it be adopted.

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

**Hongkong and Shanghai Bank Amendment
Ordinance**

HON. MR. H. E. POLLOCK—With reference
to the next item on the orders of the day, I
would ask permission of your Excellency for
the Hon. Mr. Parr to move the first reading, as
I had expected to be in another place this
afternoon.

Permission having been granted,

HON. MR. PARR said—I beg to move the
first reading of a Bill intituled, An Ordinance
to amend the Hongkong and Shanghai Bank
Ordinance, 1866. The purposes of the Bill are
so fully set out in the "Objects and Reasons"
that I have little to say further in explanation.
Owing to the great increase in trade in this and
neighbouring ports in recent years, the
provisions of the existing Ordinance have been
found very cumbersome in practice. This Bill
provides much-needed reform and
opportunities for the expansion of the Bank's
currency and would allow of an extension of
the Bank's capital and the keeping of reserves
in offices where notes are issued. With regard
to the increase of the nominal capital from
\$20,000,000 to \$50,000,000, the former
nominal capital has been fully paid up and the
B a n k w i s h e s t o t a k e

power to raise further capital as and when it is required. With these few remarks I beg to move the first reading of the Bill.

HON. MR. LANG—I beg to second it.

The first reading was agreed to.

The "Objects and Reasons" state:

1.—The objects of this bill are:—

- (a) To give the Corporation power to increase its capital, with the consent of the Governor, up to \$50,000,000. The present limit is \$20,000,000.
- (b) To increase the limit of the ordinary note issue from \$15,000,000 to \$20,000,000.
- (c) To revise the requirements of the law as to the security to be held against the ordinary note issue.
- (d) To enable the Corporation to keep at certain places outside the Colony part of the security held against the excess note issue.

2.—Under the existing law the excess note issue must be fully covered by coin or bullion, under the control of custodians independent of the Corporation, and this will be so under the new Ordinance also. In future, however, the excess note issue will mean any issue in excess of \$20,000,000 instead of \$15,000,000 as at present.

3.—The present requirements of the law as to the security to be held against the ordinary note issue are that coins or securities approved by the Secretary of State must be kept with the Crown Agents, or with trustees appointed by the Secretary of State, equal in value to $\frac{1}{3}$ of the first \$10,000,000 of the issue, and that the remaining \$5,000,000 of the issue must be fully covered by such coin or securities, so deposited. The new Ordinance will provide simply that $\frac{2}{3}$ of the ordinary issue, which issue will in future amount to \$20,000,000, must be so covered.

4.—The comparison between the existing law and the new Ordinance can also be made in the following way, as regards the *first* \$20,000,000 of the *total* issue. Security under

present law:—

- $\frac{1}{3}$ of \$10,000,000 in coin or securities.
- \$5,000,000 in coin or securities.
- \$5,000,000 in coin or bullion.

Security under new Ordinance:

- $\frac{2}{3}$ of \$20,000,000 in coin or securities.

It will thus be seen that the value of the security will not be altered, but that the Corporation will be relieved from the necessity of keeping coin or bullion against any part of the first \$20,000,000 of the total note issue.

5.—It will be noted that one provision disappears in the proposed new section 13, *i.e.*, the requirement of the latter part of the present section 13 (1), that the Corporation must keep at each of its establishments an amount of coin or bullion equal in value to one third at least of the notes issued from such establishment and actually in circulation. It is considered that this may be left to the discretion of the Corporation.

6.—Sub-section (4) of section 13 will enable the Corporation, subject in all respects to the approval of the Governor, to keep, in places outside the Colony where notes may be issued by the Corporation, part of the excess note issue security, which must, of course, be in coin or bullion. The bringing of this section into practical operation, is of course, dependent upon the arrangement of a satisfactory scheme for the custody of the coin or bullion.

7.—Clause 4 is the usual saving clause.

Supreme Court (O.J.) Emergency Ordinance

H.E. THE GOVERNOR—The Attorney-General, unfortunately, is detained in another place; I will therefore ask the Colonial Secretary to move the second reading of this Bill.

THE COLONIAL SECRETARY—I beg to move the second reading of the Bill intituled, "An Ordinance to make temporary provision for the appointment of solicitors to appear in the Original Jurisdiction of the Supreme Court in certain emergencies."

THE COLONIAL TREASURER seconded and the motion was agreed to.

THE COLONIAL SECRETARY then moved, and the COLONIAL TREASURER seconded, that the Bill go into Committee for consideration clause by clause.

The Council consented. The Bill passed through Committee without amendment and on the Council resuming,

THE COLONIAL SECRETARY moved that the Bill be read a third time.

THE COLONIAL TREASURER seconded.

The third reading was agreed to, and the Bill accordingly passed into law.

Merchant Shipping (Aliens Employment) Ordinance

THE COLONIAL SECRETARY moved the second reading of the Bill intituled, "An Ordinance to restrict the emplement of aliens and of former enemy aliens on certain British ships registered in the Colony of Hongkong."

THE COLONIAL TREASURER seconded.

The second reading was passed, and the Bill was then carried through the further stages and passed into law.

Crown Lands Resumption Ordinance

THE COLONIAL SECRETARY moved the second reading of the Bill intituled, "An Ordinance to amend the Crown Lands Resumption Ordinance, 1921." He said: With regard to this Bill, I would like to add to what the Attorney-General said in moving the first reading, that in respect to representations which have been made relating to Clause 2 (c), in which the fear has been expressed that holders of lands under permit and settlers where they have no guarantee that their titles would be renewed may be deprived of their land and buildings without proper compensation—on behalf of the Government I would like to say that these cases would be treated in the same equitable manner in which they have always been treated in this Colony, and any compensation in respect of their

purely temporary rights will be on an adequate and equitable basis. The Ordinance, as has been pointed out, is aimed at preventing speculation in cases where purchases are made beyond the value of the land in expectation of compensation in the event of resumption to which the holder of the temporary title has no right at all.

THE COLONIAL TREASURER seconded

HON. MR. LAU CHU PAK—Since the first reading of this Bill many Chinese who have invested largely in landed property in this Colony have been very much alarmed as to the safety of such investments and their confidence in the good faith of the Government has also been much shaken. In their opinion this Bill, although simple in form, if passed into law, would have very far-reaching results, inflicting great loss on those who have helped so largely to build up the prosperity of this Colony and entailing great hardship on the original settler in the island of Hongkong. After the remarks which have just been made by the Hon. Colonial Secretary, which were, no doubt, made as answers to the arguments advanced by the Chinese who addressed a letter to me, in my capacity as Chairman of the Chinese Chamber of Commerce more than a month ago, I would like to say such arguments are still unknown to some of my unofficial colleagues on the Council, and, with your Excellency's permission, I would like to quote in full what the Chinese said in their letter to me.

I will begin with paragraph 4, which says:—

"As stated in the 'Objects and Reasons' of the Bill, the only part that is practically new is clause 2 (c) which aims at the exclusion of 'mere expectancies or probabilities' from all claims for compensation in land resumptions. Paragraph 1 of the Object and Reasons is not clear as to whether the Bill is intended to apply to lands held under certain tenures. For instance, it is not clear from the wording of either the Bill or the example given in the Objects, whether building-lands held under 75-year and 21-year leases which do not contain a 'renewal' clause, would come within the scope of the proposed Bill. We cannot believe that it is the intention of the Govern-

ment to bring this class of lands under the proposed law; but if it is, we submit that compensation should be paid in all such cases in respect of the probabilities or expectancy that the leases would be renewed."

H.E. THE GOVERNOR—It will be rather difficult to follow the discussion if the point is left too long. What I would like to know is whether it is seriously suggested by the persons who wrote that letter that a lease terminating at a definite date entitles the holder of the lease to expect a renewal and that he is entitled to compensation?

HON. MR. LAU CHU PAK—Under the condition on which the land was let to them I think that they are entitled to a renewal.

HON. MR. POLLOCK—Is that more than "expectancy"?

HON. MR. LAU CHU PAK—In almost every case in the Colony the land was bought on expectancy. You cannot get over that fact.

HON. MR. POLLOCK—Supposing a man has a lease for 75 years and there is an agreement that such lease should be renewed on certain terms—then there is an agreement and not mere expectancy.

H.E. THE GOVERNOR said he was sorry he interrupted the hon. member (Mr. Lau Chu Pak) and signified to him to continue.

HON. MR. LAU CHU PAK—Another point, which is very important, is that there are families who held lands before the island came under the British flag, and in the proclamation issued by Capt. Elliot at the time of the cession of the island it was said that the Chinese would be secured "in the enjoyment of their lawful private property and interests." Under the law of China these men are still entitled to hold their lands in perpetuity. When resumptions are made it is only reasonable that compensation should be paid to them with that in view. Under the Bill now before us there will be no compensation paid, because the Government have taken from them their rights in the land and given them leases in exchange. The natives of the New Territories are practically in this position. I do not think it is fair, sir, and it is my duty, I think, to let my colleagues on the Council know of the objections which were communicated to me by certain Chinese in a letter dated the 20th December.

Paragraph 5 of the letter says:—"Then there are lands held by natives of the soil under short leases or permits, or, in some few cases, we are informed, under no leases or permits at all, although the owners and their fore-fathers have been occupants thereof from time immemorial—long before the Colony came under the British flag. It has been represented to us that a large number of these poor people hold no leases, but yearly permits, from the Government, while some have not even obtained permits for putting up buildings on their land, through their ignorance of British law. It has been argued that, no matter what the form of document the people hold from the Government, they have a right to the permanent occupancy of the lands handed down to them by their forefathers, and that such right should be respected in face of the Proclamation issued by Captain Elliot at the time of the cession of the Island to Great Britain, which contained these words:—"They (the Chinese) are further secured in the enjoyment of their lawful private property and interests.' According to the land laws of China, all titles to land, whether building or agricultural, are practically perpetual; and this being the case, it would seem that the present holders, so long as they can prove their title, should be secured in the enjoyment of their property, and compensation should be paid to them for any resumption according to the prevailing market value, irrespective of the question of expectancy or probability. We believe that it is not this class of people that the Bill is designed to aim at but rather those who speculate in land."

In this the writers have my sympathy.

Paragraph 6 says:—"The fear expressed by the Government in paragraph 2 of the Objects and Reasons that inflated prices paid for land on mere expectancy might have the effect of checking development of the district concerned, is not shared by those who have had intimate knowledge of land development in the Colony. What is required to stimulate a healthy development in that direction is greater expedition in dealing with applications for land, and the payment of fair compensations for all lands resumed for public purposes."

The writers of the letter added:—

"While on this question of resumption, we desire to bring to the notice of the Government certain representations made to us to the effect that the Government has often compulsorily resumed large portions of private-owned land when only a much smaller area was actually required for public purposes, and resold the excess at a profit."

I hope that the Government may see their way in the future not to resume more land than is absolutely necessary for public purposes. I agree with the writers of the letter that the operation of this Bill, if passed, will seriously affect land development in the Colony, and I submit that the Government should take these views into consideration.

HON. MR. CHOW SHOU SON—I fully concur in the opinions expressed by my senior colleague.

H.E. THE GOVERNOR—With regard to the questions of Chinese tenancy I would prefer to say nothing at this stage, leaving it to members of the Council more familiar with it than I am; but I will not be a party to any suggestion that a lease for a fixed period of years contains any suggestion, expectancy or hope of renewal unless it is stated in the lease. I am forced to take the view of the ordinary landlord who grants his property for a particular period that when that period has passed the lease is dead, and it is for him to decide whether he will renew it at all. If a lease contained no expectation or promise of renewal I would not dream of allowing any expectancy of leniency of the Government to be taken into account in the compensation. This is a plain business transaction, and it must stand on that basis. Another point, as far as I can understand the suggestion of the letter is, that it shall be open to any land speculator to purchase any agricultural land for more than its market value because he has reason to believe—may have been informed or learnt from private sources, or had heard rumours or guesses—that the land was intended to be resumed in the future, and to expect to be lavishly compensated by the Government if the land is resumed. I can imagine nothing more calculated to delay the development of this Colony than a system by which people, obtaining private information or guessing

where development is taking place, should purchase that land in the expectation of being handsomely compensated on the resumption of the land by the Government. If anybody is to get a price above the market value I would prefer that it should be the original holder. With regard to annual terms, if there is any reasonable expectation—I am sure you will agree with me that it has been the practice of this Government to take very long views—we should deal equitably with the case. We have actually granted compensation for buildings in some cases where no compensation was really due, in order that there might be no feeling of hardship. I think the Government may be relied on to deal with all cases in a reasonable and equitable spirit. I think it is improbable that there are any number of original holders without a definite title to their land. I understand that the matter was dealt with by the Squatters Board, and I am not in a position to deal with it myself. With regard to what the hon. member said about Chinese law, if it is a fair statement of Chinese law it sounds rather remarkable, but I think if we came to apply the principles of Chinese law with regard to land tenure we ought certainly to apply them also to the compensation to be paid, and if the hon. member will inquire into the compensation paid at Canton when the new streets were made he will possibly have one of the surprises of his life.

The second reading of the Bill was then passed, with the two Chinese members dissenting, and the COLONIAL SECRETARY moved that the Council go into Committee to consider the Bill clause by clause.

THE COLONIAL TREASURER seconded and the motion was agreed to.

The Bill passed through Committee without amendment and on the Council resuming, the Bill was taken through the third reading stage and passed into law.

Indemnity Ordinance

H.E. THE GOVERNOR intimated that it was not proposed to take at this meeting, the second reading of the Bill intituled, An Ordinance to restrict the taking of legal proceedings in respect of certain acts and matters done during the war and to provide in certain cases remedies in substitution therefor.

The Rents Ordinance

H.E. THE GOVERNOR — Honourable members will remember that about this time last year, after much hesitation and reluctance, I was compelled to introduce a Bill restricting rents, and I expressed at the time the hope that it would not be necessary to retain that Bill in operation more than one year. At the time the Bill was passed certain fears were expressed as to the effect it might have on building and generally on business. Such fears, I am glad to say, proved not well founded. There has been a very considerable amount of building during the past year and I had hoped it would be sufficient to relieve the previous shortage of housing accommodation to the extent that it would make it unnecessary to continue the Bill in operation. I am informed, however, that this has not been the case and it is still necessary to continue to keep this Bill alive; otherwise tenants would be in the unfortunate position from which we had to rescue them last year. They would be at the mercy of unscrupulous landlords. I have, therefore, to give notice that it is the intention of the Government to propose in the next few weeks that the Ordinance restricting rents should be retained in operation another year. During the course of this year there have been communications to the effect that the Ordinance in certain circumstances had worked hardship on the landlords, and it might be that we shall think it desirable to introduce amendments which will require consideration. It will be of great assistance to the Government if those landlords of others who have found that the operation of the Ordinance as it stands needs amendment will inform the Government fully of the points to which they object in order that we may consider how far they weaken the principle of the measure

The Adjournment

I propose that the Council adjourn till this day week, and as there will be very little before the Council, I propose, unless members object, that we should meet at 12 o'clock on that day.

FINANCE COMMITTEE.

A meeting of the Finance Committee was held, the COLONIAL SECRETARY presiding.

Railway Votes

The Governor recommended the Council to vote a sum of \$1,200 in aid of the vote Kowloon-Canton Railway, Other Charges, Maintenance of Way, works and stations, repairs, Station buildings.

THE CHAIRMAN—The Engineer of the railway has reported that in consequence of the abnormally heavy traffic recently passing through, the collapsible gates have been seriously damaged and should be taken in hand at once. There are new gates and it is proposed to utilise them, and the estimate for carrying this work into effect is \$1,200.

The vote was approved.

The Governor recommended the Council to vote a sum of \$5,386 on account of Kowloon-Canton Railway, Special Expenditure, additional sidings, Loco Yard Hunghom.

THE CHAIRMAN—The Manager of the Railway states that they are experiencing great difficulty in the cleaning of the coaches. This work is done at Hunghom, at the loco yard, and after discussing the matter with the Traffic Superintendent it was decided to concentrate and transfer the whole of the cleaning to Hunghom putting in three sidings and laying additional water pipes.

HON. MR. PARR said that meant the coaches proceeding to Hunghom and then going back again.

THE COLONIAL SECRETARY said that with the present method it was impossible to clean the coaches in time for the next day's traffic. If the coaches were concentrated in one place they could be cleaned properly, the cisterns filled and everything done to them that was necessary so that they could move out the next morning.

HON. MR. PARR—They clean the coaches at night.

THE CHAIRMAN—Yes, it is done at night.

The vote was approved.