

3RD AUGUST, 1922

**PRESENT:—**

HIS EXCELLENCY THE OFFICER ADMINISTERING THE GOVERNMENT, HON. MR. CLAUD SEVERN, C.M.G.

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

HON. MR. A. G. M. FLETCHER, C.M.G., C.B.E. (Colonial Secretary).

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

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. E. V. D. PARR.

HON. MR. A. O. LANG.

HON. MR. CHOW SHOU-SON

HON. MR. A. R. LOWE.

HON. MR. H. W. BIRD.

HON. MR. NG HON-TSZ

MR. A. DYER BALL (Clerk of Councils).

**ABSENT:—**

HON. MR. D. W. TRATMAN (Colonial Treasurer).

**Minutes**

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

**Tribute to the Late Mr. Murray Stewart**

The members of the Council stood in their places while H.E. THE PRESIDENT spoke as

follows:—Since our last meeting we have heard of the death of Mr. Murray Stewart, who was a member of this Council at various times from the year 1908 to the year 1912. He took the deepest interest in public affairs and his speeches always showed that he had a thorough knowledge of the subject on which he spoke. Outside the Council he will be remembered for the strong attitude that he took up in obtaining for the Colony as an open space the piece of land which has become known as the "finest site," and the wisdom of his action has been fully recognised as this land is now to be used for the erection of the Colony's War Memorial. After he left the Colony in 1912 his interest in local affairs in no way flagged and throughout the War in spite of failing health he worked indefatigably on our behalf in organising and superintending the distribution of the sums of money placed at his disposal by the War Charities Committee.

Mr. Murray Stewart was a man of culture and one whose friendship was a thing to be valued. Personally though I only knew him here for a comparatively short time, I much appreciated his talents and his high character. It was with a sense of pain that his old friends witnessed the loss of physical powers which was so apparent when he visited the Colony last year, but the charm of manner and the keen interest in our affairs still remained. He was astonished at the progress made in every direction during the nine years of his absence, and his last words to the friends whom he gathered round him before he left were that though he expected to see changes in the Colony and rejoiced to find us so prosperous there was one thing he knew would not have changed, and that was the affection of those whose friendship he had gained here.

I think it will be the wish of Honourable Members that a message of sympathy should be sent to his brother Mr. Gershom Stewart.

HON. MR. E. V. D. PARR—This Council, sir, will cordially endorse all you have said in your true and eloquent reference to the memory of the late Mr. Murray Stewart. As a personal friend I can corroborate that he gave of his best in the interests of the Colony, both before and after he became a member of this Council and on his return to the Colony he was able to view with pride the progress that had been made, and might justly claim to have materially assisted that progress, both while he was residing here and after he left the Colony. Similar service which his brother, Mr. Gershom Stewart, M.P. is rendering the Colony at home is equally appreciated here today. On behalf of the Unofficial Members of the Council I wish to say, sir, that we entirely support and associate ourselves with the vote of sympathy you have proposed.

After a moment's silence, His EXCELLENCY said—The Clerk of Councils will, be directed to forward to the relatives an expression of the sympathy of the Council.

#### Finance

THE COLONIAL SECRETARY, by command of H.E. The Officer Administering the Government, laid upon the table Financial Minutes Nos. 42 to 51 and moved that they be referred to the Finance Committee.

THE ATTORNEY-GENERAL seconded, and the motion was agreed to.

THE COLONIAL SECRETARY, by command of H.E. The Officer Administering the Government, laid upon the table the Report of the Finance Committee (No. 7) and moved that it be adopted.

THE ATTORNEY-GENERAL seconded and the motion was agreed to.

#### Petition

H.E. THE OFFICER ADMINISTERING THE GOVERNMENT informed the Council that a petition relating to the Indemnity Bill had been received by the Clerk.

THE ATTORNEY-GENERAL moved that the petition be received by the Council and be laid on the table.

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

#### Amendment of Notification of Infectious Disease By-Laws

THE COLONIAL SECRETARY, by command of H.E. The Officer Administering the Government laid on the table the following By-law made under section 16 of the Public Health and Buildings Ordinance, 1903, Ordinance No. 1 of 1903, and moved that it be approved by the Council:—

"By-law No. 1 of the Notification of Infectious Disease By-laws contained in Schedule B of the Public Health and Buildings Ordinance No. 1 of 1903, and published in the *Gazette* on the 27th day of February, 1920, as Government Notification No. 109, is hereby repealed and the following substituted therefor:—

- 1.— If any inmate of any premises be suffering from plague, cholera, small-pox, diphtheria, scarlet fever, typhus fever, enteric fever, relapsing fever, para-typhoid fever, cerebrospinal fever, yellow fever, puerperal fever, or rabies, and if such inmate be under the care of a legally qualified and registered medical practitioner the said medical practitioner shall forthwith furnish the Medical Officer of Health with a notification thereof in writing stating the name of such inmate and the situation of such premises.

Such legally qualified medical practitioner shall be entitled to receive, on application to the Secretary, the sum of \$1 for each and every such notification.

Made by the Sanitary Board this 18th day of July, 1922."

THE COLONIAL SECRETARY explained that the amended by-law included rabies in the list of notifiable infectious diseases and he moved that the amendment be approved by the Legislative Council.

THE ATTORNEY-GENERAL seconded, and the motion was agreed to.

#### Papers

THE COLONIAL SECRETARY, by command of H.E. The Officer Administering the Government laid on the table the annual reports for the year 1921:—

Report of the Superintendent of Prisons.  
 Report on the General Post Office.  
 Report on the Botanical and Forestry Department.  
 Report on the Kowloon-Canton Railway (British Section).  
 Report of the Director of Education.

Also the following papers which have been published in the *Government Gazette* as Government Notifications:—

Order made by the Governor in Council under sections 3 and 4 of the Importation and Exportation Ordinance, 1915, Ordinance No. 32 of 1915, dated April 13th, 1922.

3 Orders made by the Officer Administering the Government in Council under section 24 of the Rents Ordinance, 1922, Ordinance No. 14 of 1922, dated July 6th, 1922.

Order made by the Officer Administering the Government in Council under section 24 of the Rents Ordinance, 1922, Ordinance No. 14 of 1922, dated June 29th, 1922.

Order made by the Officer Administering the Government in Council under section 9 of the Post Office Ordinance, 1900, Ordinance No. 6 of 1900, dated July 6th, 1922.

Regulation made by the Officer Administering the Government in Council under section 8 of the Dentistry Ordinance, 1914, Ordinance No. 16 of 1914, dated July 13th, 1922.

Order made by the Officer Administering the Government in Council under section 9 of the Post Office Ordinance, 1900, Ordinance No. 6 of 1900, dated July 13th, 1922.

Order made by the Officer Administering the Government in Council under section 24 of the Rents Ordinance, 1922, Ordinance No. 14 of 1922, dated July 13th, 1922.

Regulation made by the Officer Administering the Government in Council under section 28 (5) of the Merchant Shipping Ordinance, 1899, Ordinance No. 10 of 1899, dated July 20th, 1922.

Regulation made by the Officer Administering the Government in Council under the provisions of sections 25 (4) and 42 (1) of the Merchant Shipping Ordinance, 1899,

Ordinance No. 10 of 1899, dated July 20th, 1922.

### The Passing of Plans

HON. MR. H. W. BIRD, in accordance with notice previously given, asked the following questions:—

1.—In view of the fact that the Government hesitated to adopt the recommendation of the Committee appointed to enquire into delays in connection with the passing of plans, set out in paragraph 6 (iii.), (e), (f) and (g) on page 3 of the Committee's report, will the Government state the average period that now elapses between the time when the plans leave the Building Authority's Office, and the notification to that officer of the Council's decision?

2.—Does the Government claim that when plans are referred to the Governor in Council the provisions of Sec. 222 Sub.-Secs. (2) and (3) of the Public Health and Buildings Ordinance are rendered null and void?

3.—If that is the case will the Government state on what grounds such claim is made?

THE COLONIAL SECRETARY replied:—

1.—The average period is 22 days.

2. and 3. — Reference of plans to the Governor-in-Council is almost invariably for the purpose of a modification of, or exemption from, certain requirements of the Public Health and Buildings Ordinance No. 1 of 1903, which they contravene and, in order to comply with Section 222 thereof, such plans are usually formally disapproved pending the decision of the Governor-in-Council. There is, therefore, no question of Section 222 being rendered null and void by reason of any reference to the Government.

It would greatly facilitate and expedite the work of the Buildings Ordinance Office if the Architect adopted the procedure recommended by the Committee referred to in the Honourable Member's first question, namely that applicants should, when submitting plans, state clearly what modifications or exceptions they require and under what sections of the Ordinance.

HON. MR. BIRD—In that case may I say that sub-sections 2 and 3 of Section 202 are reduced to a farce?

H.E. THE PRESIDENT—If the hon. member wishes to ask a further question, he must give notice.

HON. MR. BIRD—That is not a question, sir.

H.E. THE PRESIDENT—Then you are out of order.

### Wild Birds Ordinance

THE ATTORNEY-GENERAL moved the first reading of a Bill intituled, An Ordinance to make provision for the protection of certain Wild Birds and Game. he said: The present Ordinance dealing with this subject, — Ordinance No. 18 of 1914 — is somewhat unsatisfactory in parts and not very clear. Some of its provisions have not been enforced: for example, those relating to the possession of live pheasants and partridges for sale. Others are not in accordance with the conditions of the Colony; for example, certain birds are given the protection of a close season though they do not breed here. The present Bill is an attempt to re-enact the provisions of the existing Ordinance in a clearer form and with various corrections and alterations. I think the Bill is very much clearer than the present Ordinance and the licence, which is given in the schedule, is undoubtedly very much clearer than the present one.

The scheme of the Bill is to divide birds into three classes:—Game, (consisting of snipe, woodcock, plover, curlew, teal, wild duck, wild geese, partridges, quails, pigeons and doves); vermin, (namely, magpies, kites and hawks); and all other birds, (neither game nor vermin). Game birds may be shot under licence, with certain restrictions such as those relating to the close season. Vermin, under this Ordinance, may be shot at any time, by anybody, without any licence under this Ordinance. Other birds may not be shot at all at any time, except under special licence given for scientific and similar purposes. Pheasants have been omitted from the list of birds which may be shot because I understand it is hoped to lay down a stock of pheasants in the

neighbourhood of Fanling and it is desirable to protect pheasants generally, throughout the Colony, owing to their scarcity. Deer are no longer protected under this Ordinance because they are generally a source of annoyance and damage to cultivators. I referred just now to the form of licence; that licence now clearly states what birds may be shot and at what times. It also draws attention, in the notes to the licence, to the most important provisions which affect sportsmen and it shows them that the licence may, in certain events, be revoked by the Captain Superintendent of Police.

The question of a close season is dealt with in Clause 7 of the Bill and Regulation 2 of the Schedule. The effect is that partridges and quail are given the same close season as at present, that is from the 1st of February to the 15th of October. The reason why quail are given that close season is that—I understand—they are found very largely on the same ground as partridges, and if quail shooting were allowed it would have the effect of disturbing the partridges in their breeding season. Doves and pigeons may not be shot under existing law, but I understand they have increased very greatly and they are now under the Bill to be allowed to be shot, except, of course, in the close season, which will extend from the 1st of March to the 15th of October. The question of possession of live pheasants and partridges for sale is a rather complicated and technical one and it is explained sufficiently, I think, in paragraph 10 of the "Objects and Reasons," and I do not propose to go into that point again.

There are two new provisions in the Bill. One is clause 5, which prohibits the shooting of birds within 200 yards of any inhabited house in Victoria, the Peak district or Kowloon Peninsula, south of a line drawn from Kowloon Police Station to Shamshui Police Station. The other, clause, 12, provides that any person doing injury to growing crops whilst engaged in pursuit of game shall be liable to pay to the owner of the crops such a sum of money, not exceeding \$50, as the magistrate may determine. The nests and eggs of birds protected by this Bill are, of course, also protected. Clause 15 postpones the commencement of the Ordinance to the 1st of September as existing licences do not expire until the 31st August.

I think that I can summarise, Sir, very shortly, the alterations and differences between the present Bill and the existing law. In the first place the Ordinance is clearer, and the licence is certainly clearer. Pheasants are now to be protected absolutely and not only during the close season. The reason, as I have said, is that it is hoped to lay some down. Plover, wild duck and teal disappear from the close season provision because they do not breed here. Kites, hawks, deer, rabbits and hares are no longer protected under the Bill and may be shot at any time without a licence. Deer, as I have said, are a danger to the gardens and fields, and rabbits and hares are practically non-existent here. Doves are now to be allowed to be shot during the open season. There is some slight change, as I mentioned just now, about the provision for the possession of live partridges and pheasants. There was some discussion about increasing the licence fee, but it was decided eventually not to increase it, and it remains at the former figure of \$10. I beg to move the first reading.

THE COLONIAL SECRETARY seconded and the first reading was approved.

The Objects and Reasons state:—

1.—The object of this Bill is to consolidate and revise the existing law on the subject of the protection of birds and game. The Wild Birds and Game Preservation Ordinance, 1914, Ordinance No. 18 of 1914, is somewhat unsatisfactory and obscure: certain of its provisions have never been enforced, while others are not in accordance with local conditions. The present bill, therefore, repeals this Ordinance and replaces it with a clearer and more intelligible enactment, protecting game and harmless wild birds and at the same time withdrawing protection from noxious birds and from one destructive animal, the deer.

2.—The arrangement of the bill is somewhat different from that of the Ordinance to be repealed. The definitions of "game" and "vermin," the form of game licences, the close season and certain other matters are, for the sake of convenience, assigned to regulations which take the form of a schedule to the bill.

3.—It is now clearly stated in the licence, authorised by Regulation 5, which birds may

be shot and at what times. The definition of "vermin" is new, the effect of it being that kites and hawks are added to the list of birds that may be shot all the year round. Pheasants have been omitted from the list of birds which may be shot because it is proposed, owing to the lack of pheasants in the Colony, to lay down a stock of Yangtze pheasants shortly near Fanling, and it is desired that these should be absolutely protected for the present. Deer may now be shot at any time without a licence, the reason being that the destructive habits of this animal are a constant source of danger and damage to crops and vegetation of all kinds.

4.—Clause 2 authorises a definition of "game" and "vermin" by regulations.

5.—Clauses 3, 4, 10, 11, 13 and 14 reenact in a slightly modified form the provisions of sections 4, 5, 9, 10, 11 and 12 of the existing Ordinance.

6.—Clause 5 prohibits shooting at birds within two hundred yards of inhabited houses in Victoria, the Peak District, and part of the Kowloon Peninsula.

7.—Clause 6, taken from a portion of section 6 of the existing Ordinance, protects the nests and eggs of game.

8.—Clause 7 provides for the protection of certain game during the close season. Regulation 2 in the schedule maintains for partridges and quail the same close season as now exists. Quail are given this benefit solely in the interests of the partridge and in order to permit the successful breeding of the later. Doves, which may not be shot under the existing law, have increased in large numbers, and are now included in the birds that may be shot in the open season. The open season for pigeons and doves is made to extend from the 16th October to the last day of February. It is not considered necessary that plover, wild duck and teal which now receive the protection of the close season, should be so protected in the future.

9.—Clause 8 is based on section 7 of the existing Ordinance.

10.—Clause 9 deals with the possession, sale, etc., of live partridges and pheasants, enlarging and altering section 8 of

the existing Ordinance. It will in future be an offence at any time in the year to possess partridges and pheasants taken in the Colony, and (*vide* regulation 3 in the Schedule) to sell, offer for sale or possess for the purpose of sale any live partridges or pheasants, between the 1st April and the 30th September. The prohibited season proposed is roughly that during which the birds mate, breed and become fully fledged. Our local close season is made much larger simply to reduce the number of birds shot, our good communications making the number of guns per acre excessive. The local open season corresponds roughly with the period in which the cock partridge ceases to utter his piercing call and in which therefore finding birds is a matter of hard work and good dogs.

11.—Clause 12 provides that compensation shall be paid to the owner of crops injured by persons, their attendants or dogs, engaged in the pursuit of game.

12.—Clause 15 empowers the Governor in Council to make regulations for various purposes, and provides also that the regulations in the schedule shall be in force until altered or amended, and that all regulations made shall be laid before the Legislative Council.

13. — Clause 15 postpones the commencement of the Ordinance until the 1st September. This is because the existing licences extend until the 31st August.

14.—Clause 16 repeals the Wild Birds and Game Preservation Ordinance, No. 18 of 1914.

### **Registration of Persons Ordinance**

THE ATTORNEY-GENERAL moved the first reading of a Bill intituled, An Ordinance to provide for the registration of certain persons. He said: This Bill is merely the re-enactment of the existing Registration of Persons Ordinance, with certain alterations. We are proceeding by this method of repeal and re-enactment, partly because it is more convenient for purposes of reference to the law, and partly because misunderstanding might otherwise be caused and people might not know what they are intended now to do under the amended provisions. What is intended is that every person liable to registration, that is, every person who does not come within the

first schedule to the Bill, shall register afresh, giving the particulars set out in the second schedule. Persons in the Colony when the Ordinance comes into force will have a month within which to register, persons arriving in the Colony will have a month after arrival, and persons who during the currency of the Ordinance fall outside the excepted clauses have a month in which to register.

The principal change which the Bill makes is that persons who register will have to give particulars of any special qualifications which they may possess and which are not disclosed by the mere statement of a person's profession or occupation. The reason is that it may be known beforehand what each registered person may be able to do in the case of sudden emergency. A note to the second schedule contains suggestions as to how that particular item should be filled up. It is important that a person should give sufficiently full particulars to enable his qualifications to be judged and it is also hoped that people will not be deterred by modesty from stating qualifications even if they are not as full as the persons who possess them might wish.

It will also be necessary in future for registered persons to register their business and house telephone numbers; if they have no house telephone number, the number of the nearest telephone to their house. The bill also contains provisions for keeping the register up to date and it is hoped that everyone liable to registration will co-operate fully with the Government in making the register complete, and keeping it, at all times, up to date. There are certain changes in the law which I have referred to in "Objects and Reasons" and I need not refer to them here. I beg to move the first reading.

THE DIRECTOR OF PUBLIC WORKS—I beg to second.

The first reading of the Bill was approved.

The Objects and Reasons state:—

1. — This bill proposes to repeal the Registration of Persons Ordinance, 1916, and to re-enact the provisions of that Ordinance with certain alterations.

2.—The method of repeal and re-enactment, rather than that of amend-

ment, has been adopted, partly for convenience of reference and partly in order to avoid possible misunderstanding.

3.—Every person liable to registration, *i.e.*, every person except the persons specified in the First Schedule, will have to register afresh under the new Ordinance. Persons in the Colony at the commencement of the Ordinance will have a month in which to register, and persons arriving in the Colony after the commencement of the Ordinance will have a month after arrival in which to register.

4.—The principal change introduced by the new bill is that in future it will be necessary for everyone liable to registration to state any special qualifications which are not disclosed by the mere statement of the person's profession or occupation. This is in order that it may be known beforehand what each registered person would be able to do in the event of an emergency. A note to the Second Schedule makes some suggestions as to how the special qualification space should be filled up. It will be important to give details from which the extent of the qualification may be gathered. Clause 4 of the bill provides that the returns and register are to be confidential.

5.—The following minor changes have also been made:

6.—Persons arriving in the Colony after the commencement of the Ordinance will have a month in which to register, instead of two weeks as at present. A similar remark applies to persons who may happen, after the commencement of the Ordinance, to cease to be within the excepted classes specified in the First Schedule. For example, a soldier who leaves the army in the Colony, or a youth who reaches the age of 19 years, will in future have one month in which to register instead of two weeks as at present.

7.—Every registered person will have to report to the Captain Superintendent of Police any intended departure from the Colony which is intended to extend, or which may possibly extend, to a period of more than one month.

8.—Returns will no longer be required to be witnessed.

9.—The maximum fine is made \$250 in

accordance with what may be called the standard fine for minor offences. Under the present Ordinance it is \$50. The further fine of \$10 a day for continuing offences has not been changed.

10.—In order to facilitate proof, it is provided that in any criminal proceedings under the Ordinance it shall be presumed that the accused person was liable to registration.

11.—Women are excluded from the Ordinance altogether, and need not register.

12.—Certain particulars have been omitted in the Second Schedule, *e.g.*, particulars as to marriage and place of birth. On the other hand it will in future be necessary for each registered person to state his business telephone number and telephone number. If he has no house telephone number he will be required to give the number of the nearest telephone to his house. The addition of the special qualification item was referred to in paragraph 4 above.

#### **Recreation Grounds Amendment Ordinance**

THE ATTORNEY-GENERAL moved the first reading of a Bill intituled, An Ordinance to amend the Recreation Grounds Ordinance, 1909. He said: The revenue derived from the Chinese Recreation Ground amounts to about \$273 a month and the average expenditure amounts to about \$134, leaving a surplus of \$139 a month. That surplus has been accumulating for many years, and in 1920 the sum of \$10,000 was paid out of the accumulated revenue towards the cost of the new maternity hospital at Saiyingpun. It is proposed now to make a monthly payment of \$100 from the surplus revenue of the Chinese recreation ground towards the upkeep of the same hospital. The payment of \$10,000 was not directly authorised by the Recreation Grounds Ordinance and it is desired now to make that payment legal. It is also desired to take power to contribute \$100 a month in future from surplus revenues to the maternity hospital. I beg to move the first reading.

THE COLONIAL SECRETARY seconded, and the first reading was approved

The Objects and Reasons state:—

1.—The object of this bill is to give power to apply the surplus revenue derived from the Chinese Recreation Ground to any charitable purpose approved by the Governor. Naturally, only Chinese charities will be so approved. The immediate intention is to contribute \$100 a month to the upkeep of the new Maternity Hospital at Sai Ying Pun. The present revenue from the Chinese Recreation Ground is about \$273 a month, and the average expenditure for the last six months was \$134 a month, leaving a surplus of about \$139 a month.

2.—Clause 3 of the bill is added because in 1920 the sum of \$10,000 was paid out of the accumulated revenue of the Chinese Recreation Ground towards the cost of constructing the above Maternity Hospital, and it is necessary to legalise this payment. The balance to the credit of the Chinese Recreation Ground account on the 31st May, 1922, was \$6,359.91.

#### **Supplementary Appropriation Ordinance**

THE COLONIAL SECRETARY—Sir, I beg to move the first reading of a Bill intituled. An Ordinance to authorise the Appropriation of a Supplementary Sum of One million and one thousand two hundred and sixty-two dollars and twelve cents to defray the charges of the year 1921. He said: It is hardly necessary at this stage to comment at any length upon this Bill as hon. members have in their hands the Draft Appropriation Account, which gives in detail the particulars of the sums set out, and any explanation required can be given later in the Finance Committee. The sum which the Council is asked to vote is considerably less than the sum which ordinarily appears in the Supplementary Appropriation Account; but, on the other hand, it is spread over a much greater number of main heads of expenditure than is customary. The explanation is the fall in exchange, which affected the accounts in every department of the Government service. The estimates for 1921 were based on a rate of 3s. 4d. and the average for the year is 2s. 8d. I might mention that, against this sum of \$1,001,262.12 is offset a considerably larger saving of some  $2\frac{1}{2}$  million dollars in the five main heads of expenditure which are not shown in this Bill.

THE ATTORNEY-GENERAL seconded and the Bill was read a first time.

#### **The Indemnity Ordinance**

THE ATTORNEY-GENERAL moved 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 COLONIAL SECRETARY seconded.

THE ATTORNEY-GENERAL—Sir, certain interested persons wish to be heard by counsel upon this Bill and I beg to move that they now be so heard.

HON. MR. E. V. D. PARR—I second that.

The resolution was carried.

MR. C. G. ALABASTER, O.B.E., barrister-at-law, then addressed the Council. He said: May it please Your Excellency, and honourable members of the Legislative Council, I propose, with your permission, to follow the practice that was adopted when counsel was heard on the Rents Bill and to read the petition which has been presented to-day, supplementing it, if necessary, by commenting on it as I read it.

THE PRESIDENT—I think, perhaps, as a printed copy of the petition is in the hands of hon. members it will be unnecessary to read every word.

MR. ALABASTER — That will perhaps shorten it, but my instructions are to oppose this Bill and to protest, in so far as it is possible to protest. This is a petition of a considerable number of steamship companies, some registered in Hongkong and others in Shanghai; with shareholders, — men and women—of many different nationalities, some connected with the Colony and some wholly unconnected with it.

Counsel then read the salient paragraphs of the following petition:—

#### PETITION

To the Hon. Mr. CLAUD SEVERN, LL.D, the Officer Administering the Government



of the Colony of Hongkong for the time being and to the Members of the Legislative Council of the Colony of Hongkong.

The humble Petition of:—

Messrs. The Douglas Steamship Co., Ltd., owners of the steamships Haitan and Haihong.

Messrs. Moller & Co. (Shanghai), Ltd., of Shanghai, owners of the steamships Manapouri and Castlefield (now called Lindsay Moller and Ralph Moller respectively).

Messrs. Carmichael and Clarke of Hongkong, representing the owners of the steamship Brisbane.

The Luen Hing Steamship Co., Ltd., of Hongkong, the owners of the steamship Pheumpenh.

The Lai Hing Steamship Co., Ltd., of Hongkong, the owners of the steamship Telemachus.

The Po Shun Steamship Co., Ltd., of Hongkong, the owners of the steamship Haimun.

The Wollowra Steamship Co., Ltd., of Shanghai, the owners of the steamship Wollowra.

Un Man Cheun of Hongkong, the owners of the steamship Lien Shing.

Sheweth as follows:—

1.—In or about the month of March, 1918, the Government of Hongkong notified your Petitioners of their decision to bring the said steamships under Hongkong Government control. Your petitioners whilst protesting in every possible way did not oppose the action of the Government of Hongkong at the time being contented, having paid under protest the moneys demanded, to leave the adjustment thereof to a later date as your petitioners considered that their ships were required for furthering the interests of the British Empire in the late war and understood that moneys received by the Hongkong Government by reason of such action would after making adequate compensation to the owners be remitted to England and used in connection with the late war.

2.—On the 11th day of April, 1918, our Solicitors Messrs. Deacon, Looker, Deacon

and Harston addressed the following letter to the Honourable Colonial Secretary:—

11th April, 1918.

SIR,—We have the honour to address you with reference to the bringing under Government control of all steamers flying the British flag which have not yet been requisitioned for Imperial service, and whose ports of registry are either Hongkong or Shanghai.

We are instructed by the owners of the steamships Telemachus, Pheumpenh, Haimun, Brisbane, Wollowra, Manapouri, Castlefield and Patriot to represent their interests generally, and particularly as to the remuneration which the Government propose to any under the above scheme.

The owners have now had the advantage of considering the information which was imparted by the Assistant Colonial Secretary at the Meeting at the Sanitary Board Office held on the 28th March last, when they were informed that the Government propose to pay the tramp Blue Book rates, as to one third thereof at an exchange of 2/ - to the pound, and as to the balance at the rate of exchange of the day of payment, plus 2/8 per ton for Eastern service, and 5 per cent. on the net profits in consideration of the services of the owners in running the ships on behalf of the Government.

The owners instruct us they have also had a number of meetings amongst themselves, at which the Government's proposals have been most carefully considered and discussed.

The owners have come to the conclusion that the remuneration offered by the Government is not only wholly inadequate but must result in a heavy loss to the owners.

Each of the owners has, in respect of his ship, made out a working account, based on the previous working expenses of his ship, and each individual item, although approximate only, can be substantiated by the owners' books, which books the owners are prepared to produce for inspection to the Government at any time.

We enclose herewith working accounts of the steamships Telemachus, Pheumpenh, Haimun, Brisbane, Wollowra, Manapouri, Castlefield and Patriot.

From a perusal of such working accounts it will be seen that when the remuneration proposed to be paid by the Government is placed against the working expenses, the result is a very substantial monthly loss in each individual case.

Unless the Government are prepared to very substantially increase the remuneration, bankruptcy or liquidation will be the inevitable outcome.

From a perusal of the working accounts, the result appears to be as follows:—

s.s. Telemachus	a monthly loss of	\$3,211.65
" Pheumphen	"	4,735.73
" Haimun	"	2,849.69
" Brisbane	"	997.00
" Wollowra	"	4,295.50
" Manapouri	"	948.00
" Castlefield	"	595.75
" Patriot	a very substantial loss in view of the requisition of the s.s. Wollowra.	

The owners desire us to represent as strongly as possible to His Excellency the Governor, the vital necessity of propounding a new scheme whereby a very much higher remuneration is allocated to the owners, and desire us to point out that it is most inequitable that the shipping trade of this Colony should be selected as the only industry to be taxed. It is well known and has often been pronounced by His Excellency the Governor that the shipping at Hongkong is the life blood of the Colony, That without shipping this Colony cannot exist.

The owners feel certain that His Excellency will appreciate the extraordinary competition which British shipping has to contend with in the Japanese shipping, that unless sufficient inducements are shown to British shipping enterprise the same cannot be expected to flourish. The owners consider that British shipping Companies should not be penalised in these times when Japanese shipping Companies are building up enormous reserves, and will, unless British Shipping is well fostered, become invincible competitors in the not distant future, especially in the Far East.

In view of the working accounts enclosed herewith, in respect of which the owners invite full and complete investigation, the owners hope that His Excellency the Governor will

see his way to very substantially increase the remuneration now offered.

The owners, whilst being desirous of assisting the Government in every possible way at this serious juncture, consider that their present request is not only reasonable, but such as they are justified in putting forward and pressing under the present circumstances.

The owners desire to make a further request which they deem of vital importance to their interests, which is that a representative from amongst their ranks be appointed by His Excellency the Governor to the sub-committee of the London Shipping Controller, and of his Deputy in the Far East.

This letter is written without prejudice to the owners' rights in every respect, and must not be construed as an admission in any way.—We have the honour to be, Sir, Your obedient servants,

(Sd.) DEACON, LOOKER, DEACON AND HARSTON.

The Hon. Colonial Secretary.

3.—On the 19th day of April, 1918, our said Solicitors addressed the following letter to the Honourable Colonial Secretary:—

19th, April 1918.

SIR,—

*re Hongkong Shipping Control Scheme.*

We have the honour to acknowledge receipt of your letter of the 15th instant, No. 1 in 3456/1916.

We have placed the above letter before our clients who are the owners of the ships referred to in our letter of the 11th instant.

Our clients much regret that His Excellency cannot see his way to increase the proposed remuneration, because, as you state, His Excellency is at present bound by instructions from home, but our clients note with pleasure that His Excellency is prepared to assist our clients in every possible way.

Our clients are at present unaware under what legislative authority the above scheme is being carried out, and would be grateful for some enlightenment on the subject.

As far as we ourselves are aware, there are only two legislative authorities under which such a scheme could possibly be

brought into operation, and they are as follows:

(a) Under the Proclamation in the London *Gazette* of the 3rd August, 1914, the Lords Commissioners of the Admiralty by Warrant under the hand of their Secretary, or under the hand of any Flag Officer of His Majesty's Navy holding any appointment under the Admiralty, are entitled to requisition and take for service any British ship or British vessel as defined in the Merchant Shipping Act, 1894, within the British Isles or the waters adjacent thereto, for such period or time as may be necessary, on condition that the owners of all ships and vessels so requisitioned shall receive pay for their use and for services rendered during their employment in the Government service and compensation for loss or damage thereby occasioned according to the term to be arranged as soon as possible after the said ship has been taken up, either by mutual agreement between the Lords Commissioners of the Admiralty and the owners, or failing such agreement, by the Award of a Board of Arbitration to be constituted and appointed for the purpose.

By a Proclamation in the London *Gazette* of the 14th August, 1914, certain persons were appointed to the Board of Arbitration contemplated by His Majesty's proclamation of the 3rd August, 1914, and Lord Mersey was appointed as President and Mr. William Walton as Vice-President.

By an Order-in-Council dated the 28th of June, 1917, by way of amendment to the Regulations called "the Defence of the Realm Regulations" under the Defence of the Realm (Consolidation) Act 1914, it is provided by Regulation 39 BBB:—

1.—That the Shipping Controller may make orders regulating and giving directions in respect of the nature of the trades in which ships are to be employed, the traffic to be carried therein, and the terms and conditions on which the trade is to be carried, the ports at which cargo is to be loaded or discharged or passengers embark or disembark (including directions requiring ships to proceed to specified port for the purpose of loading or

unloading cargo or embarking or disembarking passengers) the ports at which consignees of cargo are to take delivery thereof, the rates (maxima or minima) to be charged for rates or hire of ships and the carriage of passengers, the form of bills of lading and passenger certificates, and other matters affecting shipping where it appears to the Controller necessary or expedient to make such order for the purpose of making shipping available to the needs of the country, in such manner as to make the best use thereof having regard to the circumstances at the time, provided that any order made under this Regulation shall have effect subject to any Regulations made or Orders given under Regulations 37, 38 or 39.

2.—Any Order made under this Regulation may contain such provisions as to entry inspection of books and documents or otherwise as may appear to the Controller necessary or expedient for the purpose of his duties.

3.—The Shipping Controller may by order requisition or require to be placed at his disposal, in order that they may be used in the manner best suited to the needs of the country, any ship, or any cargo space or passenger accommodation in any ships, or any rights under any charter, freight engagement, or similar contract affecting any ship and require ships so requisitioned to be delivered to the Controller or any persons named by him at such times and at such places as the Controller may require, where it appears to the Controller necessary or expedient to make any such order for the purpose of making shipping available for the needs of the country in such manner as to make the best use thereof having regard to the circumstances of the time.

Such compensation shall be paid in respect of the use of the ship or cargo space or passenger accommodation requisitioned under this Regulation and for service rendered during the use thereof, and for loss or damage thereby occasioned as in default of agreement, may be determined by the Board of Arbitration constituted under the Proclamation of the 3rd of August, 1914, respecting the requisitioning of ships by the Admiralty.

(b) By a Proclamation published in the *Hongkong Government Gazette* on the 5th August, 1914, bringing into operation the Order-in-Council of the 26th October, 1896, it is provided:—

6.— The Governor may require any person to supply any animals, vehicles, ships, boats, or other personal property belonging to or under the control of such person to the Government, if such property be required in aid of or in connection with the defence of the Colony, and, in default of the person supplying the same, may seize and take possession of and retain such animals, vehicles, boats or other personal property for such purposes.

12.—The Governor shall, out of the public funds of the Colony, pay to every person who shall be required to do any personal service by virtue of this Order such remuneration and to every person whose property shall be taken or temporarily taken possession of or removed or destroyed by virtue of this Order such compensation as shall be agreed on between the Governor and such person, and in default of agreement, such remuneration or compensation as shall be awarded by the Board hereinafter mentioned whose award shall be final.

13.—For the purpose of determining the amount of any remuneration or compensation payable under this Order the Governor shall appoint a Board consisting of five persons, of whom one shall be a Judge or Stipendiary Magistrate, two shall be officers either in the Civil Government of the Colony or in His Majesty's naval or military service and the other two shall be inhabitants of the Colony. All questions referred to the said Board shall in case of a difference of opinion, be decided by the votes of the majority of the members. The Judge or Stipendiary Magistrate shall be the Chairman of the Board.

Should the above scheme have been brought into operation under the powers contained in the Proclamation in the *Hongkong*

*Government Gazette* of the 5th August, 1914, bringing into operation the Order-in-Council of the 26th October, 1896, in view of His Excellency being prepared to assist our clients in every way in his power, our clients feel justified in suggesting that His Excellency might be prepared to appoint a Board for the purpose of fixing the remuneration and compensation to be paid to the owners under the above scheme.

Should the above scheme have been brought into operation under the powers referred to in (a) above it is obvious from the decision in *The China Mutual Steam Navigation Co., Ltd. v. Maclay* reported in 1918, I.K.B. page 331 that although the Board of Arbitration referred to in the Proclamation of the 3rd August, 1915, might have powers to assess the remuneration on a requisition basis it clearly has no power to assess the remuneration and compensation under the above scheme consequently whether the above scheme has been brought into operation under the legislation referred to in (a) above or under other legislation not referred to in this letter or merely on the basis of negotiation our clients feel further justified in suggesting that His Excellency might possibly see his way to communicate with the Home Authorities and obtain the necessary power to appoint a Board of Arbitration here for the purpose of fixing the remuneration and compensation to be paid to the owners under the above scheme, and in the event of such a Board being appointed, our clients consider that their interest should be fully represented on such a Board, and that they should have a full opportunity of placing their views before such Board. In connection with this suggestion, our clients desire to state that they do not consider that the present members of the Sub-Committee here of the London Shipping Controller are in a position to fully or adequately represent our clients' interest or that they should be called upon to do so. Furthermore, our clients feel that a local Board of Arbitration is essential as local conditions must be taken into consideration.

Our clients desire us to state that it is not their desire or intention to oppose or hinder the Government in any way but to secure for themselves a just, reasonable and adequate remuneration and compensation under the circumstances.

This letter is written without prejudice to the owners' rights in every respect and must not be construed as an admission in any way.—We have the honour to be, Sir, Your obedient servants,

(Sd.) DEACON, LOOKER, DEACON, AND  
HARSTON.

The Honourable Colonial Secretary.

4.—On the 1st day of May, 1918, our said Solicitors addressed the following letter to the Honourable Colonial Secretary:—

Encl.

1st May, 1918.

SIR,—

*re The Hongkong Shipping Control Scheme.*

We have the honour to enclose herewith copy of a letter which was received on the 25th April last by the Secretary of the Ship Owners' Protection Association of Hongkong from the Secretary of the Shipping Control Committee.

The enclosed letter received the consideration of the Committee of the Ship Owners' Protection Association of Hongkong this morning who have instructed us to state that in view of your letter of the 24th April last No. 2, 186/1918 they prefer to address any communication which they may desire to make either to Mr. Fletcher or to Mr. Carey because unless they have a representative on the Shipping Control Committee they cannot see their way to make any communication to such Committee as they do not consider their interests are adequately represented or protected in regard to communications made to such Committee at the moment and they are of opinion having regard to what has recently taken place that they are justified in the position now taken up by them.

The Ship Owners' Protection Association of Hongkong desire to again put forward a request for representation on the Shipping Control Committee which the Ship Owners' Protection Association of Hongkong venture to think now has the sympathetic support of certain members of the present Shipping Control Committee. —We have the honour to be, Sir, Your obedient servants,

(Sd.) DEACON, LOOKER, DEACON, AND  
HARSTON.

The Hon. Colonial Secretary.

5. — The Ship Owners' Protection Association of Hongkong which was and is an Association for the protection of our interests with reference to the aforesaid Government control scheme were never permitted to have a representative on the Shipping Central Committee nor were we the individual shipowners represented whereas the Committee in question was substantially composed of representatives of Shipping Companies in direct opposition to us.

6.—The said Steamships were then and are now on the Hongkong or Shanghai registers. The position being as follows:

S.S. Telemachus	Hongkong Register.
S.S. Pheumpenh	”
S.S. Haimun	”
S.S. Brisbane	”
S.S. Wollowra	”
S.S. Lienshing	”
S.S. Manapouri	Shanghai Register.
S.S. Castlefield	”

7.—Thereafter the said Steamships were taken under the said control and the Hongkong Government received in respect of their earnings large sums of money which sums the Government still retain against the will and consent of your Petitioners. Further your Petitioners know that the Home Government do not require the said moneys and have so informed the Hongkong Government.

8.—The said sums were not required in aid of or in connection with the defence of the Colony or of the Empire or used for the purposes of the prosecution of the war now happily ended.

9.—In the Financial Statement for the month of February, 1921, published in the *Gazette* of the 27th May, 1921, under the heading "Liabilities" is the item "Shipping Control Account \$2,231,204.11."

10.—The retention of the said sum by the Government is not warranted by any Act of Parliament, Ordinance, Order-in-Council, Royal Prerogative or other lawful authority.

11.—In these circumstances and as a test case a statement of claim was filed on the 5th December, 1919, by the Shipowners Protection Association through the owners of the Steamship Wollowra for the recovery of \$596,672.34 the profit retained

by the Government in respect of the use of that ship.

12.—On the 19th day of January, 1920, the then Honourable the Colonial Secretary, being aware that this was not an isolated claim but a test claim brought by one only of your Petitioners to test the legality or otherwise of the action of the Government of Hongkong, made the following statement in the Legislative Council (1920 Hansard p. 8):—

"With regard to the European Community, I will deal first with the proposal I laid down before the Council for building a hotel and flats in Kowloon. We had money for the work, or thought we had, and things had reached the stage of architects being on the point of making preliminary plans, when the owners of vessels requisitioned under the local scheme bethought themselves that there was no reason why the profits made under this scheme should be devoted to improvements beneficial to the Colony, such as providing hotel and housing accommodation and also extending facilities for education among the various classes of the community. They saw no reason why the money should be devoted to those purposes, but thought that the money should come back into their own pockets. I must leave the community of this Colony to judge which is the better way of disposing of profits, which may be considered war profits, and which would have gone at home into the Imperial Exchequer. The Government in view of the action taken, which may in time come before the Courts, do not feel in a position to spend any of these profits on the proposals until the Courts have finally dealt with the matter. Therefore the Colony has been deprived of what it urgently needs—hotel accommodation and money which might have been advanced for the purpose of building houses when the scheme of building flats was given up. The University also has been deprived of a quarter of a million of dollars and education generally of a sum of five lakhs of dollars."

13.—Subsequently on the 25th August, 1920, the Government consented to the case being postponed until the return of the then Acting Colonial Secretary—Mr. Fletcher—to the Colony. On the 6th June, 1921, the Crown Solicitor by letter to your Petitioners'

Solicitors stated that the condition of postponement until Mr. Fletcher's return was then still insisted on by the Government.

14.—Your Petitioners learn that it is the intention of the Government to introduce a Bill into the Legislative Council to prevent the recovery of the said money by your Petitioners. Separate actions have now been commenced in the Supreme Court of Hongkong on behalf of all ships concerned.

15.—Your Petitioners are aware that it is not unusual after wars for Acts to be passed protecting persons who have acted in good faith and in the supposed execution of their duties from pains, penalties and punishment for actions not warranted by the law, but your Petitioners point out that your Petitioners' claims have never been for damages but are merely for the return of moneys standing to the credit of the Shipping Control Account which were not required for the purposes of the war and which were obtained by the use of their ships. They desire respectfully to point out that the effect of the Bill if passed would be to authorise the seizure in the year 1922 at a time when shipping is depressed and freights are low of the moneys of British Companies who are competing with alien companies which were enabled to build up Reserves during the war, through not being financially controlled. Your Petitioners state that not only is shipping now depressed and freights low but that it is practically impossible to operate their ships at a profit. The Steamships Castlefield and Manapouri have already been laid up and unless some financial assistance is forthcoming many more will have to be laid up.

16.—The result of the control caused a substantial financial loss in the case of several of the controlled ships and the officially audited accounts showing this loss have been submitted to the Hongkong Government and are as follows:—

S.S. Manapouri	\$42,359.67.
S.S. Castlefield	19,134.44.
S.S. Brisbane	89,017.54
S.S. Pheumpenh	10,488.55.
S.S. Telemachus	36,319.62
S.S. Haimun	13,667.38

17.—Your Petitioners desire also to point out that the needs of the Government for housing and education should be met by the community at large and not by what amounts to a special levy on certain small shipowning Companies a large proportion of whose shareholders are resident elsewhere than in the Colony. It appears to your Petitioners that the Government of Hongkong are attempting to tax a small branch of the community of this Colony for social improvements by indirect legislation, many of the contributors being entirely unconnected with the Colony of Hongkong.

18.—Your Petitioners desire to point out that the only commercial and industrial interests in this Colony which were put under Government Control and whose profits were impounded by the Government during the war were the shipping interests; whilst all other commercial and industrial interests including Docks and Marine Insurance Companies both of which made large profits from shipping operated under Blue Book rates were permitted to take and retain their profits.

19.—Your Petitioners desire to protest against the compensation tendered by the proposed Ordinance stating that the same is wholly inadequate.

20.—Your Petitioners desire to further point out that negotiations have for some time past been proceeding with the Government of Hongkong and a tentative proposal was made to your Petitioners which met with Your Petitioners' approval but notwithstanding such approval the Government have after consulting the Unofficial Members of the Councils withdrawn their proposal.

21.—Your Petitioners therefore urge that the Bill be so modified as to save the rights of all your Petitioners to prosecute their claims unimpaired in the Courts or in the alternative to distribute the aforesaid sum of \$2,231,204.11 rateably amongst your Petitioners. For in its present form the Bill is in the opinion of your Petitioners unwarranted, unjust, inequitable and unfair and represents an attempt to tax ships not registered in this Colony.

And your Petitioners will ever  
pray, etc.

Dated this third day of August, 1922.

MR. ALABASTER, in one of his comments, referred to the quotation in the petition from a speech by the present Officer Administering the Government, and said:— "The speech shows that after the war, in 1920, the Government was still retaining these profits, made out of shipping control, and that they were proposing to spend them on purposes in no way connected with the war." He continued:

On the first reading of the Bill the learned Attorney-General pointed out that at the time when the ships were first brought under control the whole Empire was fighting for its national existence. Many things had to be done for which no strict legal justification could be found, the occasion being urgent and the conditions new. The comment of your petitioners on that is that the moneys which you now hold have not been used for the purpose of protecting our national existence. They are not asking for damages, they are not asking for the moneys you have spent, but they are asking to have back the moneys you have left over and which they say you illegally took. The learned Attorney-General stated that the great majority of shipowners in the United Kingdom accepted the terms which the Government offered, which were Blue Book rates. That was not so. They were compelled to accept those rates as the result of a Bill passed through both Houses of Parliament early in the war, and not as any part of post-war legislation. The Attorney-General also pointed out, and he made a great point of this in his speech, that the Government took the risk of any dangers to the ships due to the operations of war. Our reply to that is this: that the Government very wisely insured our ships with underwriters and paid, as premiums, part of the profits that they obtained by running our ships. We are not asking for the return of those premiums; we are only asking for the money left over. The learned Attorney-General stated that at one time the Government did offer the Imperial Government the whole of the collections from this requisition fund if they would accept the war risk, and the Imperial Government refused to do so. Why? The Imperial Government obviously did not wish to accept responsibility for an action which was in its inception

and throughout its career, entirely illogical and unjustified. The Government at Home would have accepted no further risks than the Government did here, for they would have insured their ships and paid the premiums out of the very large profits they made. It is now proposed, we learn from the learned Attorney-General's speech on the first reading of the Ordinance, not to spend this money as was originally intended on hotels, flats, universities and other schemes but to redeem part of the war loan. The money was not collected by the Government for that purpose and to state now that we will use this money instead of other money which would have been allocated to the redemption of war loan in order to make it appear as if this money will in some way be connected with the war, is, I submit, window dressing. It does not alter the character of the goods at all if you re-arrange them in your window in order to make them appear more attractive. The wrong that has been done to these people remains. Their ships were taken, the Government made profits and the owners have been reduced to very dire straits as a result of that and they do ask that, either they be given these moneys back, or else that they, at any rate, be allowed to prove their right to the return of these moneys by action in the Courts.

THE COLONIAL SECRETARY—I would ask permission to comment briefly on this petition, in no spirit of hostility to the petitioners, but simply to make clear the Government's position in the matter. It may, perhaps, be most simply explained by reading the Government's replies to the letters which appear in the petition. The first is that of 11th April, 1918, in which it is said:—

"The owners have now had the advantage of considering the information which was imparted by the Assistant Colonial Secretary at the meeting at the Sanitary Board Office held on the 28th March last, when they were informed that the Government propose to pay tramp Blue Book rates, as to one third thereof at an exchange of 2/- to the pound, and as to the balance at the rate of exchange of the day of payment, plus 2/8 per ton for Eastern service, and 5 per cent. on the net profits in consideration of the services of the owners in running the ships on behalf of the

Government.

"The owners instruct us they have also had a number of meetings amongst themselves, at which the Government's proposals have been most carefully considered and discussed.

"The owners have come to the conclusion that the remuneration offered by the Government is not only wholly inadequate but must result in a heavy loss to the owners."

The use of the word "Government" in this letter is somewhat equivocal, and in our reply we made it quite clear that it was the Imperial Government, and not the Hongkong Government, which was responsible for this scheme. The Government's reply, which was dated April 15th, said:—

"You were informed at the meeting held on the 28th March that this Government has definite instructions 'to see that remuneration of colonial register-vessels is not appreciably higher or lower than that of competing vessels registered in the United Kingdom.' The remuneration payable in respect of the latter class of vessel is, it is understood, under discussion; but this Government is advised that the rate actually in force is appreciably lower than that now offered to your clients. In the circumstances this Government is precluded, by its instructions, from offering more favourable terms than those which have been put before you; but it will watch closely the progress of negotiations in the United Kingdom, in order that any concession made there may be introduced also in the local scheme."

The next paragraph discussed the losses which they said would be incurred under the scheme, and in our reply we said:—

"The Government, will, however, closely watch the working of the requisition scheme, and I am to assure you that the interests of the owners will receive its sympathetic consideration."

We then received the letters of April 19th and 1st May, 1918 (reproduced in the petition). In the first we were asked



among other things under what legislative authority we were acting. We replied on May 14th as follows:—

GENTLEMEN, — I am directed to acknowledge the receipt of your letters of the 19th April, and the 1st May, regarding the Hongkong Shipping Control Scheme, and at the same time to express regret that they have remained so long unanswered.

2.—With regard to the question of remuneration to owners, this Government, as you are aware, is acting under the instructions of His Majesty's Government. His Excellency has made representations by telegram on the subject.

3.—As to the question of legal authority, the ships have been requisitioned on behalf of, and under instructions from, His Majesty's Government, who have instructed this Government to superintend their management. In these circumstances this Government must refer you to His Majesty's Government on the point of legal authority for the requisitioning.

4.—With regard to the request for a local Board of Arbitration, this Government has definite instructions that the remuneration to vessels under the local scheme is to approximate to that paid to the larger and more important class of vessels on the China Coast, which are under the Imperial Liner Requisition Scheme. It would, in the opinion of this Government, be inadvisable to suggest that the two classes of vessels should be dealt with separately. As I have stated above, representations have already been made to the Home Authorities on the question of remuneration.

5.—It would seem that the owners, in pressing their request for a representative on the Shipping Control Committee, are under a misapprehension as to the functions of that Committee. The Committee have been chosen, as an independent body having no connection with the requisitioned ships to advise the Government on technical matters in connection with the ships; the Government having no one in its service who is conversant with the details of the shipping business. The Government is

always ready to consider sympathetically any representations that the owners may wish to make; but it does not consider that any useful purpose would be served by putting an owner on the Committee. The question of the employment of the ships for the needs of the Colony is one on which the Government is advised by the Vital Requirements Committee, and Mr. H. P. White has been invited to accept a seat upon that body.

On the subject of remuneration our instructions from the Imperial Government were quite definite. We made representations about the rate of exchange and the cost and age of these vessels which were between 27 and 43 years old, but our instructions remained the same. We were to treat them on the same lines as the vessels of the Indo-China Co. and the China Navigation Co. With regard to the point of the representation of the owners on the Shipping Committee, of which I was Chairman, there were two members, Mr. Sutherland, of Messrs. Jardine, Matheson & Co., and Mr. Young, of Messrs. Butterfield & Swire. They were appointed by the Shipping Control, not by this Government, and it was thought inadvisable to have the owners of these ships on the Committee which was a purely advisory Committee; but I think the owners will agree that I consulted them on every possible detail. Our most remunerative charter—the *Wollowra*—was made on the advice of Mr. Williamson, Chairman of the Shipowners' Protection Association. In the first paragraph of the petition it is said that

"In or about the month of March, 1918, the Government of Hongkong notified your Petitioners of their decision to bring the said Steamships under Hongkong Government control. Your petitioners whilst protesting in every possible way did not oppose the action of the Government of Hongkong at the time, being contented, having paid under protest the moneys demanded, to leave the adjustment thereof to a later date as your Petitioners considered that their ships were required for furthering the interests of the British Empire in the late war and understood that moneys received by the Hongkong Government by reason of such action would after making adequate compensa-

tion to the owners be remitted to England and used in connection with the late war.

In clause 12 of the Petition it is stated that on the 19th January, 1920, the then Colonial Secretary made a statement as to the use to which the money should be put. I would point out that there is a large gap between the two dates.

When the scheme came into force this Government stated quite clearly that we were merely agents and any money that accrued was going to the Imperial Government. We then began to look into the details of the scheme and there was nothing at the time to show what the outcome would be. It was not merely a question of war risk. That was quite a minor point. The total sum we spent on war risk was \$44,000. As a matter of fact, it was a question of the whole liability; anything might have happened; it was a question which way the war went, and the Government did not see why as agents it should take on this responsibility unless it was covered. We put the point to the Home Government and the Home Government asked us to take the whole risk. We accepted that and in the circumstances we could not pay over the receipts from the ships until we were out of the wood—until the result of the control scheme were known. We did not finally wind up the scheme until March, 1919. We then put the position before the Home Government and they allowed us to retain the profits which had been made. I want that point to be quite clear. The scheme was not run with any intention of using the money accruing from it for the purposes of the Colony.

The COLONIAL SECRETARY added: The petition to the Council was received by me only shortly before one o'clock to-day I do not propose to go through it in any sense in detail. I mentioned that the Government was in entire sympathy with the owners and open to assist them as far as possible and I should like to take this opportunity to read the penultimate paragraph of my final report informing the Government of the conclusion of the work under the scheme:—

"The thanks of the Government are above all due to the owners of the ships, upon whose loyal and patriotic co-operation it has been able to rely from the beginning to the

end. It must be remembered that the owners found themselves deprived of a very large part of their earnings, at a time of maximum freights when their competitors were making enormous profits; and there has been not one complaint. The Shipowners' Protection Association, whose title explains its object, has maintained most cordial relations with the Government throughout, and has given very great assistance. The Association's Chairman, Mr. S. T. Williamson, put his experience and advice wholly at the Government's service, and he did much to solve difficulties and to smooth away misunderstandings. It may be recorded that, in spite of the many points of law which arose and the inevitable differences of opinion, every question in dispute was invariably settled in a spirit of friendly compromise.'

All I wish to do is to emphasise the point that this Government has been merely an agent in the matter; that it acted under the instructions of the Imperial Government which it has not been able to vary one jot or tittle. As you are all aware, the Imperial Government has passed an Indemnity Act and the question was put to us whether we should come under that Act, or have a local ordinance to fit the local conditions. It was decided that, on the whole, a local ordinance would be the better method.

I do not quite know the point in the petition about myself but it was in the summer of 1920, when I was acting Colonial Secretary, that the *Wollowra* action was filed. It suited both sides not to go on at the time. I was going on leave in 1921 and as I was the only person who had intimate knowledge of the working of the scheme, it was agreed by both sides to defer action till my return. The Indemnity Ordinance was introduced while I was away and the point was raised that action in this matter of the shipping money had been delayed owing to my absence, and the Bill was accordingly held over until my return. We had been negotiating and now the Government finds it necessary to bring forward this Bill.

HIS EXCELLENCY THE OFFICER ADMINISTERING THE GOVERNMENT put the motion for the second reading of the Bill and declared it passed.

THE ATTORNEY-GENERAL thereupon moved that the Council go into Committee to consider the Bill clause by clause.

In Committee the ATTORNEY-GENERAL moved verbal amendment to clauses 2 and 3 which had been printed on the margin of the new print of the Bill and these were agreed to.

On the passage of the Bill through Committee being reported to the Council, His EXCELLENCY announced that it was proposed to take the third reading of the Bill on August 17th.

The Council then adjourned until that date.

#### FINANCE COMMITTEE.

A meeting of the Finance Committee followed, the COLONIAL SECRETARY presiding:

#### **Expenditure on a Steam Launch**

The Officer Administering the Government recommended the Council to vote a sum of \$4,700 in aid of the vote Sanitary Department, Special Expenditure, 1 steam launch.

THE CHAIRMAN—The vote was \$45,000 and the total cost is \$49,700.

The vote was approved.

#### **Charitable Services**

The Officer Administering the Government recommended the Council to vote a sum of \$5,000 on account of Charitable Services, Grant in aid of Charitable Institution, Fatshan Hospital, Fatshan.

THE CHAIRMAN—This has been before the committee. It is an extension of Dr. Webb-Anderson's hospital near Fatshan.

HON. MR. A. O. LANG—How much do we give annually?

THE CHAIRMAN — We do not give annually. We have given them a motor boat before. It was given during the war.

HON. MR. A. O. LANG—Was it not because of the propaganda work he had done?

THE CHAIRMAN — No, certainly not propaganda work. Dr. Webb-Anderson does excellent medical work all round the delta there.

The vote was approved.

#### **Furniture Vote**

The Officer Administering the Government recommended the Council to vote a sum of \$1,000 in aid of the vote Governor, Other Charges, Furniture.

THE CHAIRMAN—The expenditure was on account of the Prince of Wales' visit.

Approved.

#### **The Pass Office**

The Officer Administering the Government recommended the Council to vote a sum of \$1,000 on account of Police Department, Special Expenditure, Pass Office.

THE CHAIRMAN — This item is in connection with the Registration of Persons Ordinance, read a first time to-day.

Approved.

#### **Cape D'Aguilar Wireless Station**

The Officer Administering the Government recommended the Council to vote a sum of \$3,000 in aid of the vote Public Works, Extraordinary, Hongkong, Buildings, (18) Cape D'Aguilar Wireless Station, Extension to accommodate Chinese Linesmen.

THE CHAIRMAN—The vote was \$3,500, last year and only \$500 was spent: this is a re-vote.

Approved.

#### **Prison Transport**

The Officer Administering the Government recommended the Council to vote a sum of \$1,370 on account of Prison Department, Other Charges, Transport.

THE CHAIRMAN—It was expected that the new steam launch would be ready, but as it is not, it is still necessary to hire. The superintendent gets an allowance in respect of a motor-car.

Approved.

#### Miscellaneous Works

The Officer Administering the Government recommended the Council to vote a sum of \$6,000 in aid of the vote Public Works, Extraordinary, Kowloon, Miscellaneous, (84) Miscellaneous Works.

THE CHAIRMAN—The vote is \$5,000 and there are innumerable very small items; repairs to the Police Station, putting in wash basins, and so on. A sum of \$1,000 was asked for a temporary pier for coaling launches. It was the practice formerly to have very much larger votes, but they were cut down in order that the Council might have an opportunity of knowing how they were spent.

Approved.

#### Additions to the S.C.A. Library

The Officer Administering the Government recommended the Council to vote a sum of \$425 in aid of the vote, Secretary for Chinese Affairs, Other Charges, Library.

THE CHAIRMAN — There was an opportunity of getting a complete copy of the *China Review* which is a most useful work.

Approved.

#### Printing and Binding

The Officer Administering the Government recommended the Council to vote a sum of \$15,000 in aid of the vote Miscellaneous Services, Printing and binding.

THE CHAIRMAN—These votes come under six different heads, totalling \$26,700. The Gaol for various reasons, has been unable to cope with the printing that ordinarily goes to it and the work has gone to the Government printers.

Approved.

#### Railway Vote

The Officer Administering the Government recommended the Council to vote a sum of \$20,700 in aid of the following votes:—

Kowloon-Canton Railway:—

Maintenance of Way, Works, and Stations, Other Charges, Sleepers .....	\$18,000.00
Repairs, Station Buildings .....	2,700.00
	<hr/>
Total .....	\$20,700.00
	<hr/>

THE CHAIRMAN—This is on account of an acting man who did not realise the situation last year and made a mistaken estimate. The sum actually required is very much more.

HON. MR. A. O. LANG—These estimates should be very carefully checked in future.

THE CHAIRMAN—They are as a rule. It is very rare to have a mistake like this. It is the first time, I think. They are checked first in the department concerned and then in this department by a special officer. The estimate was prepared by an officer not in the Government service. Mr. Baker was away at the time.

HON. MR. A. O. LANG—All the more reason why it should have been carefully checked, Sir.

THE CHAIRMAN—Yes, quite.

The vote was approved.

The Committee then rose.