

18TH JULY, 1925.

PRESENT:—

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

HIS EXCELLENCY THE GENERAL OFFICER COMMANDING THE TROOPS (MAJOR-GENERAL C. C. LUARD, C.B., C.M.G.).

THE COLONIAL SECRETARY (HON. SIR CLAUD SEVERN, K.B.E., C.M.G.).

THE ATTORNEY-GENERAL (HON. SIR HENRY POLLOCK, K.C.).

THE COLONIAL TREASURER (HON. MR. C. McI. MESSER, O.B.E.).

HON. MR. H. T. CREASY (Director of Public Works).

HON. MR. D. W. TRATMAN (Secretary for Chinese Affairs).

HON. DR. J. B. ADDISON, M.B.E. (Principal Civil Medical Officer).

HON. MR. P. H. HOLYOAK.

HON. MR. A. O. LANG.

HON. MR. CHOW SHOU-SON.

HON. MR. H. W. BIRD.

HON. MR. R. H. KOTEWALL.

HON. MR. C. G. ALABASTER, K.C., O.B.E.

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

The Late Mr. Chau Siu-ki

H.E. THE GOVERNOR — Gentlemen, Before we proceed to the business on the agenda paper, I desire, on behalf of this Council, to express to the families of all those who have lost their lives on the disaster in the Western part of the town, the very sincere regret at which we have received the news. Mr. Chau Siu-ki was, for a short time a member of this Council. He then found that his private affairs rendered it impossible for him to render active service to the Council, and asked me to accept his resignation, which I did with regret. I was greatly indebted to

him when he came forward a year or two afterwards to take the place vacated by the death of Mr. Ng Hon-tsz. Mr. Chau Siu-ki had a long record of good service to the Colony and his loss has deprived us of a citizen who could ill be spared in these troublous times. I think the Council will desire to express its deep regret, and to send a message of condolence to the family.

HON. MR. HOLYOAK—Sir, On behalf of the colleagues I desire to associate myself with the remarks expressed by Your Excellency in connection with the terrible disaster at Po Hing Fong in which our friend and colleague, Mr. Chau Siu-ki, lost his life as well as most members of his family, and to his surviving sons we desire to extend our deepest sympathy in the terrible tragedy which has befallen his family. It has been my privilege to know the late Mr. Chau Siu-ki intimately for the last 23 years and of recent years I have served with him in Public endeavour in many ways as well as having been associated with him in this Council, in various Committee, and in business affairs. He was a man for whom I had the highest admiration as one who was just and able in his views and an extremely loyal supporter of the Government of this Colony. We, no less than the Chinese, have lost a friend to whom we were deeply attached as well as an enthusiastic and able representative in connection with all causes for good. Truly it may be said the Colony is the poorer for his tragic passing.

HON. MR. KOTEWALL—Sir, My senior Chinese colleague has conceded to me the sad privilege of endorsing, in the name of the Chinese community, the touching remarks of your Excellency and of the hon. senior unofficial member; for I had the honour

of serving with the late Mr. Chau Siu-ki on this Council for two fairly long periods, and can also claim a friendship with him which extended over twenty-eight years. The disaster which overtook the Chinese community yesterday was so sudden and of such an appalling magnitude that it still leaves me, who have suffered the loss of many personal friends in it, incapable of properly expressing my feelings. You all know that Mr. Chau Siu-ki was associated with the public life of this Colony for about forty years, and that he had always given to it of his best, unstintingly and without any expectation of reward. During that long period he served on innumerable public and charitable committees, and closely identified himself with almost all movements having for their object the general welfare of the Colony. Though of a retiring disposition, his sterling character, innate good sense, and capacity for public affairs soon won for him a place in the front rank of our public and commercial life. About two years ago he signified his intention to retire from public life, but he never quite gave up interest in all important matters concerning the welfare of the Colony. It was only on the day before the disaster that he attended a meeting in my office in connection with the strike, and another meeting in the same evening concerning the formation of Chinese street-guards. But an inexorable fate struck him down the next morning. I am sure that he himself would have preferred this end, cruel as it was, to being spared to mourn the terrible loss, in one single day, of more than half of those nearest and dearest to him, including his aged mother, two sons and a daughter, two daughters-in-law, two grand-daughters, and his only grandson whose birth last year brought to his yearning heart much unalloyed joy. Though Mr. Chau Siu-ki is no longer with us, he has left behind him the cherished memory of a life full of good deeds well and unostentatiously done—a life which is a fine example to the younger generation. Our hearts sorrow for his death as for the deaths of so many useful and promising lives. On behalf of the Chinese community, the Hon. Mr. Chow Shou-son and I respectfully join in the expression of sincere condolence with the surviving members of Mr. Chau Siu-ki's family, and also with the relatives of the other victims of this cruel visitation.

All members of the Council remained standing while the above tributes were paid.

June Settlement

H.E. THE GOVERNOR announced that the Council would go into Committee in order to hear the views of anyone interested in the proposed Ordinance regarding the June Settlement.

MR. E. ZEITLYN, barrister—I appear on behalf of more than 100 business men of this Colony, who have bought shares, which were to have been delivered or settled on June 23rd last, and the representation, which I have been instructed to urge upon Your Excellency and the members of this honourable Council, is that the spirit of British legislation which is the greatest good of the greatest number may still be achieved, and honoured by legislating so that the smallest measure of harm may be done to the fewest in number. I am to urge and bring before you for your consideration the proposal, that instead of the legislation which is now before this honourable Council, there shall be an absolute annulment of all contracts for the June Settlement. The annulment shall not extend to July, August and September Settlements, because it is only the June Settlement that involves a very considerable number of people in this Colony. The considerations which I have been urged to bring to the notice of this honourable Council against the proposals embodied in the Bill now before it, are as follows:—In the circumstances of the present case it is wholly impossible for the business community to find the sum necessary to pay the amount involved in the difference between the flat rate and the contract rate. The springs of credit have dried up and that amount is wholly out of the reach of the business community involved. Secondly, even if that amount—impossible though it be—were to be found, the difficulties that are to be faced by the community are so large that there will be no end to their liability by the payment of the difference between the flat rate and the contract rate, for there will still be the amount to be found which may be due in September. In the interval, it may well be, that interested parties may depress the shares.

But even if it is not done; if it is possible to conceive a counsel of selfdenial being indulged in by those whose avocations are on the stock exchange, the

necessity of those who are involved directly with the interests of their clients who in September will be bound to find the difference between the contract price and the value of the shares on that date will, in itself, depress the shares, because everyone involved will be bound to make a reasonable effort to sell shares in order to find the money necessary. That, as the Hon. Council can easily see will, in itself, carry with it a further depression in the price of shares.

It is not in the nature of a threat, but it is in the nature of the choice of the lesser of two evils that the business community whom I represent will have to ask itself whether it will not be more honest and whether it will not be to the better furtherance of the trade of the community generally if, instead of meeting the impossible demand which the difference between the flat rate and the contract price plus the unknown quantity which will in all certain probability be wanted in September puts upon them—whether it will not be a wiser and more honest course to take the heroic measure of seeking relief which the bankruptcy jurisdiction of this Colony affords. If, on the other hand, this Hon. Council takes the view which it is my duty to urge upon it that the contracts for the June Settlement be cancelled, the number of people who will be involved are few. Secondly, the profits which they are losing are paper profits only. Thirdly, those who have sold their shares and find that the buyers cannot take them up would still retain their shares and these would be of a greater value than such shares are likely to have in September when the compulsory measure of selling which will be indulged in by everybody involved is likely to reduce those shares, so that the honest investor who has been prudent and far-seeing, will, at the end of September find himself with securities upon which he will not be able to raise the sums necessary either to revive industry or to carry it on.

If the settlement is entirely cancelled the shares will still have a value and it is hoped, in the circumstances that such value is likely to grow, whereas in the other circumstances it is likely to be depressed. These are the considerations which I have been instructed to lay before you, Sir, and this Hon. Council

in the greater interests of this community, and particularly by reason of the fact that if legislation with a retrospective effect is to be indulged in, it may be indulged in for the greater good of the greater number, or, as I put it inversely at the beginning, that the measure of injury be limited to the few in number.

Before I resume my seat, I have been asked to express the acknowledgments of those whom I represent for the opportunity which this Hon. Council has afforded them on this and a previous occasion for expressing its views—an act which makes this Council more truly an inquest of the people of Hongkong and its dependencies.

MR. W. E. L. SHENTON, of Messrs. Deacons, solicitors—Your Excellency and Gentlemen, I am representing here the Hongkong Stock Exchange and the Sharebrokers' Association. A number of meetings have been held by these Associations and at a meeting of both Associations held yesterday, they came to a decision by 36 votes to 1, to ask Your Excellency and this Council to modify the Bill that is at present before you. The desire of these two Associations is, should Your Excellency and the Council see fit to legislate in respect of the June Settlement day, it should be to legalise the alteration of the June Settlement date from June 23rd to July 23rd and also to declare the contracts which were made for the old June Settlement, June 23rd, valid in the same way as if they had been made for performance on July 23rd. I would also like to point out to Your Excellency, if I may, and this Council, that as regards every one of these contracts the brokers are personally responsible for the performance of them. If Your Excellency and this Council see fit to adopt the legislation in the mode I have suggested, it will be left to these two Associations to settle amongst themselves the contracts as between themselves, their principals and their agents. This proposal, Your Excellency, would carry with it the following eliminations in the present Ordinance now before you:

Section 2—Sub-sections (a), (b), (c), (e), and (f) delete, the balance remain.

Sections 3, 4, and 5 would stand.

Sections 6, 7, 8 and 9 would be eliminated; also the flat rate would disappear from the Schedule of the Ordinance.

Now if legislation, Your Excellency, was adopted in that form, it would meet a part of the argument raised by my learned friend, Mr. Zeitlyn, because the continuation to the September Settlement and the possible continuation afterwards would be eliminated. The only point where we are in issue, is as to annulment of the contracts. We do not know who these one hundred business men are, but I can only say I am sure my two Associations regard it as extraordinary, that in a time of emergency like this, there should be one hundred business men, who are likely to repudiate the contracts they have entered into.

H.E. THE GOVERNOR — Mr. Zeitlyn would you like to supplement your remarks in any way?

MR. ZEITLYN—If I may, Sir, I would like to address one remark with reference to what has just fallen from my friend, Mr. Shenton, who is surprised to learn there are one hundred business men of this community who desire to repudiate their contracts.

Your Excellency and this Hon. Council will not forget that this legislation has been induced by a breach of contract on the part of the Stock Brokers' Associations owing to the circumstances which have unfortunately arisen in the Colony, and the business men feel that in the circumstances that have arisen, that the fact, patent to everyone that the sources of credit are dried up and that it is to the greater interest of this Colony that its legitimate business should first of all be fostered rather than stock broking business, that without any desire to repudiate them, they think that if there is to be legislation, the legislation would do the least measure of injury if it proceeded on the lines of the annulment of the June contracts only, rather than on the lines which are now before this Hon. Council, and embodied in the Bill before it, because on these lines the evil seems to be without end, and the interests of the community will demand an act of surgery once and for all to get rid of this difficulty.

They will be compelled to seek the relief which the jurisdiction of the Courts afford them unless this Hon. Council in its wisdom, having given consideration to the proposals I have had the honour to present to-day, see fit to legislate that the June contracts at any rate — not the July or September contracts, because these involve few persons,—shall be got rid of and the evil consequences which must flow from it by an act of annulment.

MR. SHENTON—Sir, there is one more comment which has just been pointed out to me by a member of the Association, that is if the June Settlement contracts are annulled, the annulment will carry with it a great number of the contracts for July, August and September, which have been entered into based on the June contracts.

HON. MR. HOLYOAK — Speaking personally, Sir, as one who is not interested in this question except academically, for the protection of trade done in the Colony, the sanctity of contract is a thing, which, I think, all of us agree cannot lightly be interfered with or broken. I have felt from the first, Sir, as you are aware, extremely diffident about this Council dealing in any way with this question, and I have felt from the first that the only manner in which it could be dealt with is to legalise a day for the Settlement, which became impossible on the day it should have taken place owing to the state of emergency existing.

H.E. THE GOVERNOR—What I wish to ascertain, Mr. Holyoak, is whether you, as representing the Chamber of Commerce, share the view which I confess I hold myself, that any form of repudiation of contract will result in blackening the name of Hongkong in the face of the commercial world.

HON. MR. HOLYOAK—The matter has not been discussed by the Committee of the Chamber because it has never been definitely brought before it. It has been informally discussed, and I think I am right in saying that as far as the Chamber of Commerce goes it would view with alarm the principle of renunciation either in this matter or any other. It would form a precedent for repudiation of all contracts in every shape and form.

H.E. THE GOVERNOR—My own feeling is one of reluctance to deal with this matter in any shape or form, and I think the wisest course to take is to limit interference to a minimum. Personally I think the wisest course is to take the simple line of approving the postponement of the June Settlement until such other date as may be regarded as most convenient. That is practically what was proposed in the first Bill brought before the Council which was withdrawn after representations from various quarters interested implying something like a settlement by consent, which I can now clearly see is not the case.

THE ATTORNEY-GENERAL—Sir, There is just one matter of detail I should like to mention, and that is that the various Sharebrokers' Associations, apparently by an oversight, have still kept the date of the postponed June Settlement as July 21st. It should be altered to July 23rd, surely.

MR. SHENTON—It will be altered to the 23rd.

H.E. THE GOVERNOR—The point for the Committee to decide is whether it would prefer to continue with the Bill at present before the Council or whether it would adopt the course suggested by Mr. Shenton, which practically amounts to going back to the previous edition of the Bill. My own inclination is to adopt the latter course. If that is the view of the Council the practical steps to take are that the Committee having come to a decision, the Council will resume. The Bill must be formally read a second time and amendments can then be inserted in Committee afterwards.

Council then resumed.

THE ATTORNEY-GENERAL—I beg to move the second reading of the Bill.

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

Council then went into committee to consider the Bill clause by clause.

In the title the words "and to the facilitation of the carrying out of the June and July Settlements" were deleted. The following sections were also eliminated.

Section 2—Sub-sections (a), (b), (c), (d) and (f).

Sections 6, 7, 8 and 9; also the flat rates quoted in the Schedule of the Ordinance.

Council then resumed.

H.E. THE GOVERNOR—Under the Royal Instructions, if there have been no amendments whatever, or only minor amendments to a Bill in Committee, that Bill may be read a third time and passed at the one sitting of the Council, if members agree. I fear that it is not possible to state that only minor amendments have been made in this Bill. The only question, therefore, is whether it shall be declared a matter of urgency in order that it may be read a third time now. I feel myself handicapped by the Standing Orders. I cannot on my own initiative declare this to be a case of emergency. There is nothing in the Rules and Orders to prevent the Council meeting again in twenty minutes time. But I think that that would be juggling with the Rules and Orders and I consider that we ought to adjourn till another day.

It was decided that the Council should meet again on Monday, July 20th, at 12.45.