

1ST SEPTEMBER, 1909.

**PRESENT:—**

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

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

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

HON. MR. P. N. H. JONES (Director of  
Public Works).

HON. MR. A. W. BREWIN (Registrar-  
General).

HON. MR. F. J. BADELEY (Capt-  
Superintendent of Police).

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

HON. MR. E. OSBORNE.

Hon. Mr. E. A. HEWETT.

HON. MR. MURRAY STEWART.

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

Mr. C. CLEMENTI (Clerk of Councils).

**Minutes**

The minutes of the last meeting were read  
and confirmed.

**Financial Minute**

THE COLONIAL SECRETARY, by  
command of His Excellency the Governor, laid  
on the table Financial Minute No. 39, and  
moved that it be referred to the Finance  
Committee.

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

**Financial**

THE COLONIAL SECRETARY, by  
command of His Excellency the Governor, laid  
on the table the report of the Finance  
Committee (No. 13) and moved its adoption.

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

**Liquor Licences**

THE COLONIAL SECRETARY announced  
that it was not intended to proceed at the  
present meeting with the resolution under  
section 6 of the Liquor Licences Extension  
Ordinance, 1908.

**Magisterial Fines**

HON. MR. STEWART asked—"Is it a fact  
that, as stated in the newspapers, a coolie was  
fined \$25 at the Police Court for playing a dice  
game in the street, and that, in the same Court,  
on the same day, fines amounting to less than  
half that amount were imposed in the case of a  
conviction for being drunk and disorderly in  
Morrison Hill Road, and unprovokedly  
assaulting and wounding Mr. Blowey by  
striking him several times on the head with a  
heavy stick?"

THE COLONIAL SECRETARY replied—In  
the former case Mr. J. R. Wood inflicted a fine  
of \$25.00 for street gambling on the 27th  
August. The police reported that gambling in  
this particular locality was persistent and that  
they had been unable hitherto to make arrests.  
In the latter case Mr. F. A. Hazeland imposed a  
fine of \$12.00 on a Japanese on the 27th  
August for being drunk and disorderly and for  
a common assault. The Magistrate took into  
consideration the very drunken condition of  
the man and the fact that he was quite ignorant  
of what he was doing. The Magistrate  
considered the fine inflicted quite sufficient  
under the circumstances.

**Magistrates and Criminal Law Amendment  
Ordinance**

THE COLONIAL SECRETARY moved the  
first reading of a Bill entitled An Ordinance to  
amend the Magistrates and Criminal Law  
Amendment Ordinance, 1909.

THE COLONIAL TREASURER seconded.

HIS EXCELLENCY — Gentlemen, the memorandum which is attached to the Bill which it is proposed now to read for the first time gives more or less fully the object which we have in introducing this Bill. You will remember that the clause which it is now proposed to repeal met with some opposition in this Council at the time the Bill was passed, but no alternative was offered which should have any prospect of checking the insanitary and disease-producing habit which it was the object of that clause to combat. It was suggested that notices should be posted and that spittoons should be provided. Both those steps have been taken, but however effective measures of that sort may be when first instituted, they almost inevitably become a dead letter in the course of a short time.

The clause was intended to give power to the Governor-in-Council to make regulations, not with a view to prohibiting spitting, but to control it in certain public places. I may observe that it was not my intention that these regulations should in the circumstances be either harsh or drastic. But I had it in mind that they should prohibit spitting, except into proper receptacles in markets, where food is exposed for sale. I should have proposed that any procedure under the regulation should be by way of summons and confined to aggravated cases; that only European police should be allowed to arrest persons, in cases where a previous warning had been disregarded; and that newcomers just arrived in the Colony should not be made amenable.

Since the Bill passed the Council the Chinese members have approached me and told me it is their intention to inaugurate an anti-spitting committee "for the total suppression of the habit by educative and persuasive means." They informed me that some eighty of the leading members of the Chinese community had volunteered to support this association, and to conduct it "with energy, and earnestness, and success."

I have always said in this Council, gentlemen, since I have been here that in my opinion methods of co-operation are in every way to be preferred to methods of coercion. (Hear, hear.) I welcome, therefore, most cordially the initiative taken by members of the Chinese community with a view to checking the habit. Co-operation and coercion

cannot exist side by side, and therefore the Bill before you to-day provides for the repeal of the clause giving power to the Government to make regulations for restricting spitting. I recommend it to you, trusting entirely to the pledge of the leading members of the Chinese community that they will do—to use their own words — everything in their power "with earnestness and with energy," and I wish them in every way success. (Applause.)

The Bill was read a first time.

THE COLONIAL SECRETARY moved the second reading of the Bill entitled An Ordinance to amend and consolidate the Laws relating to Opium and its Compounds.

THE COLONIAL TREASURER seconded.

HON. MR. STEWART—Your Excellency, inasmuch as the principle of this Bill appears to be the elementary business one of making as clear as possible the terms of a prospective contract, no unofficial member is likely to oppose it. The only comment I have to make is upon the Government's failure to apply it thoroughly when dealing with the case of this particular contract a couple of months ago. A couple of months ago this principle was advanced throughout in the debates on the second and third readings of the Bill closing the opium divans. The plea of urgency was based upon it. Unofficial members were informed that there was pressing need for passing that Bill promptly, because until its provisions in final form were made known, the terms for the new farm advertised, and the tenders got in, the Colonial Treasurer could not possibly tell what the loss on closing the divans would amount to, the Secretary of State could not say what proportion he was prepared to bear, and the work of preparing the Estimates could not be proceeded with. Before all things, it was said to be necessary that the details of the new conditions under which henceforward the farm will be held should be left in no uncertainty. The importance of this was put forward as a reason for declining to accept an amendment providing a suspensory clause. A suspensory clause was objected to as opening a chink through which doubt might conceivably creep in. Stress was laid upon the difficulties liable to be engendered by indeterminate conditions. The conditions had

to be beyond doubt, and they had to be advertised without delay. They were advertised immediately after the Bill was passed and for many weeks subsequently. The assumption was that everything had been done to make the position clear. It therefore came as a surprise to find that all the time regulations embodied in this Bill were in process of incubation. We now learn that until they are hatched out it is impossible to proceed, in a satisfactory manner, with the business of negotiating. Your Excellency's introductory remarks last week made this plain. From them I gathered that the new Bill materially affects the position of the prospective farmer. This impression is confirmed by a perusal of its clauses. It would seem therefore that there was really no such pressing need, after all, for hurrying through the previous measure, and that all the subsequent advertisement has been so much waste of time and money. Two months ago I did not feel fully persuaded of the need for expedition. Now it is evident that then there was none. It is equally evident that, by this time, there must be. The unofficial members are therefore forced to agree once more to the adoption of those somewhat hasty methods of law-making, which are nowadays largely employed elsewhere, but which are nevertheless to be deprecated in a deliberative assembly.

HIS EXCELLENCY—Gentlemen, what the hon. member at the end of the table has said is correct, in that when the recent amending Ordinance was before the Council we believed that it would meet all that was required for inviting tenders for the new farm. But you are aware that there are a series of Ordinances dealing with opium, and a series of amending Ordinances have from time to time been passed under those Ordinances. The result has been that the law has become somewhat complicated and chaotic; and that on a close examination of the various Ordinances it appeared that there were some clauses which, as I said in my remarks at the last Council meeting, were confusing, if not contradictory. I do not think that the Government can be held very seriously to blame for this condition of things, and I do not agree with the hon. member that the alterations in the Bill are likely to very materially or seriously affect the farm. In my view they are unlikely to cause any alteration in the tender.

The legislation which we undertook a short time ago had, at any rate, this effect: that the amending Ordinance which was sent home to the Secretary of State obtained his approval. We therefore settled beyond doubt the question that our policy is in accordance with that policy for which the Secretary of State promised us a substantial contribution if it involved any loss to this Colony.

We had hoped and thought that legislation in connection with opium would cease for some considerable time when that last amending Ordinance was passed, and it is not the case that the present consolidating Ordinance has been a long time in incubation, or was conceived or thought of at the time, or for sometime after, the amending Ordinance was passed. There was at that time a need for haste in order to call for tenders. Those tenders were called for, and the general conditions surrounding the contract for opium in this Colony have no doubt been studied and appreciated by tenderers. Such minor alterations as may appear in the Ordinance now to be discussed will, as already said, be unlikely to affect materially those who intend to tender.

Council then resolved itself into a Committee of the whole Council to consider the Bill clause by clause.

HIS EXCELLENCY explained that, in the absence of the Attorney-General, he proposed to pilot the Bill through Committee. The Bill, he said, embodied four principal Ordinances, the Raw Opium Ordinance of 1887; the Prepared Opium Ordinance of 1891; the Morphia Ordinance of 1893, and Ordinance of 1908 to prohibit exportation of prepared opium to China. Under those three principal Ordinances a series of amending Ordinances had been incorporated from time to time.

The definition of prepared opium was new, having been taken from the Straits Ordinance. The definition of compound opium had also been revised to tally with the definition of prepared opium, while the definition of opium dross was new. Morphia in this Ordinance referred to morphine in all its forms, while the definition of raw opium was new. The definition of a chest of opium

had also been slightly amended, while in the definition of the Colony words were added to show that there was no doubt that the new Territory was included in this Ordinance.

On clause 2, HIS EXCELLENCY said that the definition of prepared opium was inserted for the first time. It was taken from the Straits Ordinance with the omission of the words "chewing or eating" in order not to conflict with the definition of "Compounds of Opium" which was also new. In the definition of "the Colony" words were added to make it clear that the New Territories were included; motor boats were included under "steamship;" and the words in the original definition of an opium divan (viz., that the dross is retained for the keeper's benefit) were omitted as unnecessary.

On Clause 4, HIS EXCELLENCY pointed out that in the present wording sale in the Colony as well as export from the Colony of loose opium could be effected under the Treasurer's licence. Sub-Sec. 2 was new—it had been the invariable custom to issue such a licence to the Farmer.

On Clause 11 (2) and 14, the words "bound for a port in China" had been added, and in the latter provision had been made that the cost of telegrams should be defrayed by the exporter.

Between Clause 18 and 19, the old Clause 19 of the 1887 Ordinance had been omitted being already included in the Merchant Shipping Ordinance.

Clause 22, HIS EXCELLENCY observed, should operate to increase the tenders since it assigned to the Farmer half of all fines in connection with offences relating to raw opium when the initiative was due to him, and also, in the discretion of the Magistrate, the opium confiscated. Hither-to the Farmer's employes had had little incentive in catching smugglers of raw opium in the New Territories. The wording of the Clause was amended.

In Clause 36, countries which prohibit the importation of prepared opium are included, their names being notified in the *Gazette*.

Clauses 51, 53, 54, 56 and 57, were a redraft of the existing Sec. 12 of the prepared Opium

Ordinance relating to compounds of opium, and it was especially in relation to these clauses that the existing law was confusing. His Excellency regarded it as of great importance that the law relating to the import and sale of morphia, and of opium for internal consumption should admit of no doubt, for, as hon. members are aware he regarded the misuse of these drugs as a very serious and growing danger. Sub-Sec. (3) and (8) of 53 were new.

Clause 52 was new and was rendered necessary by the recent King's Regulation.

On Clause 55, HIS EXCELLENCY said this Clause was new, and was intended to ensure that any vessel entering the Port with morphine or compounds of opium on board should have the same quantity on board when she left the port under a through bill of lading without transshipment, and should not illicitly dispose of any.

HON. Mr. OSBORNE pointed out that it would be impracticable for a shipmaster to declare morphine on board for Shanghai, for instance. Ships arriving on Saturday would have left long before the Harbour Master's Office was open on Monday.

HON. Mr. HEWETT said this clause was very vexatious, and ought to be left out, as it was quite unnecessary. It could not be said that it had been abused. It was just as well to say that a ship passing through Marseilles from China to London would have to provide a manifest of all her cargoes, because on certain of the goods an import duty was charged in France. He said the fact of handing in a manifest would not guarantee what was desired. A steamer between Yokohama and Bremen passed about a dozen ports, in all of which duties were charged. It would be just as well to say that the ship should hand a complete manifest in at each of these ports, and that would be absurd

HIS EXCELLENCY—Would you prefer to have this section left out?

HON. MR. HEWETT—Undoubtedly, Sir.

HON. MR. OSBORNE—Substitute a penalty for landing.

HON. MR. HEWETT — The final words "producing a false manifest" cover it. That is to say, a ship has cargo which has not been declared.

The clause was altered to read, "Any master of a vessel carrying morphine or compounds of opium in transit through the Colony under a through bill of lading, who shall discharge such morphine or compounds of opium in the Colony without declaring the same to the superintendent, shall be guilty of an offence under this Ordinance."

In clause 56, the words "locally or" were new, and met the appeal of the local druggists that medicines of their own manufacture might in the discretion of the Governor-in-Council be exempted.

Clause 62, the second paragraph, as well as clauses 63, and 64, were new, and embodied recent regulations, which were concurred in by the Farmer.

After clause 66, His EXCELLENCY stated that Sec. 25 of the Raw Opium Ordinance and 30 of the Prepared Opium Ordinance had been omitted as being superfluous, and the latter somewhat meaningless.

Clause 75.—The third to eighth line of (1) and similar lines in (2) were substituted for the former obligation upon the farmer to publish advertisements in Chinese and English papers, a process which often cost more than the opium seizure was worth.

Clause 76.—The last seven lines are new, and are in favour of the Farmer, who in the discretion of the Magistrate may be awarded forfeited opium under the conditions stated.

Clause 77(1) is substituted for the special legislation relating to Canton and Macao in Sec. 41 of 8 of 1891, which appears unnecessary, and the word "Magistrate" is substituted for Governor-in-Council in Sub-sec. (3), and in the second line of Clause 78.

Clause 78 — The words "except to the Opium Farmer" are new, and give the Governor power to sell forfeited opium to the Farmer.

Clause 83 (3) is new, and has been concurred in by the Farmer. His excellency pointed out that this and other new clauses

(e.g., 62, 63, and 64) were designed to make the right of search as little obnoxious as possible.

Clause 88 is new and favourable to the Farmer.

Clauses 93 and 94 are new. The latter was amended so as to bring into operation at once Sub-sections (1), (2), (3), and (4) of Sec. 23 of the Ordinance which relate to the letting of the Farm.

HIS EXCELLENCY pointed out the verbal and minor alterations in every clause throughout the Ordinance, and the Schedules having been accepted Council resumed.

THE COLONIAL SECRETARY said—As it is desirable that this Bill should be passed as soon as possible, with the Council's permission I will now move the third reading.

THE COLONIAL TREASURER seconded.

HON. MR. STEWART—Sir, with reference to the remark I made preparatory to the second reading, I should like to say that I did not intend to convey the impression that I had gone carefully through this Bill clause by clause comparing it in every detail with the original Ordinances. Such a colossal undertaking would be impossible for anyone having other work to do. By what I said I meant to indicate that I had read sufficient to realise that the whole of the law on the subject had been recast; and by saying that the Bill materially affects the conditions under which the new farm will be held, I meant that anyone contemplating tendering for the farm would have to begin at the very beginning, and to study *de novo* the conditions of the recast law on the subject. As the word "material" is liable to misunderstanding, I desire to explain my use of it. It was possibly clumsily used.

The Bill was read a third time and passed.

#### **Rating Ordinance Amendment**

THE COLONIAL SECRETARY moved the third reading of the Bill entitled an Ordinance to amend the Rating Ordinance, 1901.

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

### **Dogs Ordinance Amendment**

THE COLONIAL SECRETARY moved the third reading of the Bill entitled an Ordinance to amend the Ordinance, 1893.

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

### **Bills Postponed**

The following orders of the day were postponed:—

Second reading of the Bill entitled An Ordinance to authorize the Construction and Maintenance of a Harbour of Refuge upon and over certain portions of the Sea Bed and Foreshore situated upon the Harbour frontage of Taikoktsui, Monkoksui, and Yaumati, Kowloon, in this Colony.

Committee on the Bill entitled An Ordinance to amend the Malicious Damage Ordinance, 1865.

Committee on the Bill entitled An Ordinance to relieve the Governor-in-Council of certain ministerial duties.

HIS EXCELLENCY—Council will adjourn until Thursday week.

### **FINANCE COMMITTEE**

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

### **Public Works Extraordinary**

The Governor recommended the Council to vote a sum of Three thousand two hundred and seventy-seven Dollars (\$3,277) in aid of the vote, Public Works, Extraordinary, Quarantine Station at Lai-chi-hok,—Hospital, Approach Paths, &c.