

16TH SEPTEMBER, 1909.

PRESENT:—

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

H. E. COLONEL C. H. DARLING,
(General Officer Commanding).

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

HON. SIR H. S. BERKELEY, K. C.
(Attorney-General).

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. W. J. GRESSON.

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 Minutes

THE COLONIAL SECRETARY, by
command of His Excellency the Governor, laid
on the table Financial Minute (No. 40), and
moved that it be referred to the Finance
Committee.

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

The Liquors Ordinance

THE ACTING ATTORNEY-GENERAL—
Sir, I beg to move the second reading of the
Ordinance to provide for the collection of
duties upon intoxicating spirits. His
Excellency in his speech to the Council when
the Bill was read a first time so fully dealt with
it that it will not be necessary for me to
address the Council at any length. His
Excellency on that occasion gave the reasons
which led the head of the Government to
introduce this Bill, and showed the necessity
for its introduction—for the purpose of raising
the revenue necessary to carry on His
Majesty's Government in the Colony. He also
dealt generally with the Bill in such a manner
that made every member of this Council and
other persons outside who read the speech
fully acquainted with the principle of the Bill
and the measures to be included to give effect
to that principle. The principle is, shortly, the
imposition of duties upon liquor as being after
consideration, deemed to be the article most
properly subject to duty in the occasion which
has arisen. The House will remember that
originally it was intended that the revenue
required should be met by an increase in the
fees for liquor licences, but, after reflection,
after considering the representations made to
the Government, it appears that it would be
less harsh if, instead of imposing a duty upon
one class, persons who belonged to what is
known as "the trade," we should place it upon
the community as a whole, the community of
consumers of liquor. In other words, it was
considered more equitable to place this duty
upon the whole community rather than upon a
single individual or class. The result is that the
Licences Ordinance, the measure under which
it was proposed to raise revenue, has been
withdrawn, and in its place is brought forward
this Bill to impose a duty upon the importation
of spirituous liquors into this Colony. Sir, the
necessity for discovering some fresh source of
revenue I need not dwell upon.

It is readily and generally recognised as a living necessity in view of the measures which this Colony has taken for the aid and assistance of China in suppressing opium. It is the abandonment of the last of the revenue obtained hitherto from opium, which we have every reason to believe will not come here in such a large volume in the future as in the past. That has compelled those responsible for the finances of the Colony to look about for some source that will give the supply of ready money needed for carrying on the Government of the country. For that source we propose to tap that which we believe the community agrees to be the most legitimate thing, namely, the consumption of liquor in the Colony. What I have just said, namely, the feeling of the community in that respect, I am justified in saying, because, if I remember aright, His Excellency, in a speech on the first reading of the Bill, quoted from a resolution of the representatives of the people, the unofficial members, to the effect that a duty should be imposed on all foreign and Chinese alcoholic liquors. That is what we are doing. The Bill, then, is designed to carry into effect the views of unofficial members that it is expedient that money required for the purposes of the Treasury should be derived by a duty on foreign and Chinese alcoholic liquors imported into the Colony. It is not necessary for me to address the Council at any length on the occasion, because to-day I am speaking on the principle of the Bill, and that has been practically accepted, and I believe hon. members will accept it to-day by passing the second reading unanimously. Let me be permitted to say that we are agreed to two things: that there should be a revenue derived from a duty on imported liquors. And if that is so it only follows logically that the Bill that imposes those duties must contain provisions which will enable the Government to effectively collect the duties which the Council authorises them to impose. The measures for that purpose will be such as are calculated to defeat, to detect, and to punish for evading or smuggling. It is obvious that if you pass the Bill giving the Government power to impose duties, you must also give power to enforce. It is, I believe, not going too far to say that there are very few persons who will put themselves out of the way to pay duties they are not actively called on to pay. Hence it is that in every country where

revenue is partly derived from import duties there is that institution known as the Custom House. And even in England, where it is supposed there is absolutely free trade, people landing from abroad are liable to have their baggage examined, and it takes more or less time to get it passed through the Customs. This Bill will, of course, contain such measures as are essential for the enforcing of the duties which the Council empowers the Government to impose. The provisions of the Bill in that respect necessary have been made, as hon. members will see when we go into Committee, as inoffensive as it is possible for any such measures to be. Of course, it is always disagreeable to have your baggage searched, but the baggage is in most cases not searched unless there is some reason to suppose that the person accompanying the baggage has in it articles liable to duty. The Bill, of course, does contain, and must contain, and would be no good unless it did contain, powers which give to revenue officers the right, should occasion arise, to see that the Government is not being defrauded of revenue. That is all we can say about those provisions. There is nothing offensive in them: they are the ordinary provisions found in every Bill which deals with the import duties. As a matter of fact, this particular provision that will be contained in the Bill is not conceived out of the mere consciousness of the draftsman, but is taken from the Ordinance of a neighbouring Colony, the Straits Settlements, almost word for word, the only difference being that it is less offensive. We come next to the method by which we propose to collect revenue. The method of collection will be, shortly, that when goods arrive in the Colony they will be stored under bond in the King's warehouse or in a warehouse specially licensed for the purpose, unless they are delivered direct from the ship to the purchaser, who has paid the duty and obtained a permit to take his goods direct from the ship instead of into a bonded warehouse. The goods placed in bond, of course, will remain there until duty has been paid upon them; and provision is made in the Bill by which goods may be removed from bond to bond, from King's warehouse to private warehouse, or *vice versa*, upon the production of a removal permit. That is practically what will hap -

pen with regard to imported liquor. Then liquor has to be dealt with that is made in the Colony. I am glad to say there are one or two factories where spirits are distilled, and there is a factory to which we all wish success, at the head of the bay here, where beer is being made. It is an experiment which we hope will flourish. With respect to the home-made liquors, they, of course, would have to pay their share towards the revenue. The imposition upon them will be that which is known as excise, and, according to the class of liquor made in the Colony, it will pay whatever the equivalent class of liquor pays on importation. That is to say, if anyone is clever enough to make good whisky in the Colony, the excise will be whatever the import duty on good whisky may be, and the same will apply to beer. Then there is another class of goods, those which pass through the Colony in transit. They are quite free from duty, and this Bill does not touch them at all. They can be put in bond and exported again. But here it will be necessary to do what to some people appears offensive, namely, to see that such goods put into bond are really exported again, and not distributed in the Colony. I put it to the gentlemen of the Council that it is a misapplication of the word "offensive" to say that it is offensive to see that goods placed in bond for export are exported, and not used in the Colony. Since the Bill was read a first time the matter has received the very careful and anxious consideration of the Government, and every desire has existed to do what was possible to produce a Bill which, while it would have the effect of raising the revenue, would be easy to work, and would fall as lightly as possible on all of us who are subject to it. One or two limitations have been made in the Bill since it was printed and read a first time. There are not many, and I will just mention one or two of the more important ones. In the first instance, we have omitted from the interpretation clause the words "medicated wines," because they will be treated as ordinary wines, and therefore subject to the ordinary duties, or else they will come under the definition of denatured wines, wines to which something has been added to make them unfit for use as a beverage. When we come to deal with the amount of duty to be imposed, we propose to have the duty on liquors not in bottle at the printed figure, namely, \$3.20 a gallon, but with respect to

liquor imported in bottle we propose to ask the Council when in Committee to reduce the amount to \$2.40, which, taking six bottles to the gallon, would give a duty of 40 cents a bottle. The reason for this discrimination between liquor in wood and liquor in other receptacles is that the former is of much higher proof. Liquor in casks is always in a state of high proof, which, to use the technical term, has to be "broken down," reduced in strength. Regulations as to "breaking down" will be made after the Bill has become law. Bottling and reduction can be permitted in bond. We propose, in order to expedite the unloading of vessels, to give power to the keeper, whoever he may be, of the King's warehouse, to have goods taken from the ship without a permit, the keeper of the King's warehouse being a person to whom the revenue may be entrusted. It is hoped that this will prevent the delaying of the ship. We understand that desires in that respect will be greatly facilitated by the fact that the Government will be able to have at its disposal the large godowns of the Kowloon Wharf and Godown Co. and also of Messrs. Holt. There will be a new section dealing with the removal of liquor in bond; that is, liquors not for export. If it is desired to remove these liquors from bond to bond, say, from the King's bond to a private bond, that can be done if permission is obtained from the proper officer. We propose also to ask the Committee to assent to the reduction of the fee for a licensed warehouse from \$1,000 to \$500. We also propose to ask the Committee to assent to the principle that no licence fee of any kind shall be charged for storage in a naval or military warehouse. With regard to the proposal which we originally thought seemed necessary, and which some may still think necessary, with regard to the inspection of baggage, we propose to ask the Committee to strike out that clause, without which we trust to be able to make the Bill effective. These, Sir, are about the only differences between the Bill as originally printed, and the Bill as we shall ask the Committee to pass it this afternoon. I believe that we are agreed upon the principle of the Bill. I believe there is nobody who does not recognise the necessity for revenue, and I cannot conceive any person who, after calm consideration, can object to any clauses in

the Bill which are required to make the Bill effective for its purpose of collecting revenue. I do not think that any person who recognises that it is right and proper to impose an import duty cannot agree that it is essential to carry that principle into effect and exercise checks and inflict punishments where these checks are evaded. We, therefore, propose in the Bill to give power to a Magistrate to issue a search warrant to examine premises in which he has reason to believe liquors are concealed. This is not peculiar to Hongkong, as there is no country in the world where right of search does not exist. There is certainly not a Colony in which that power does not exist. It is necessary to prevent the smuggling of dutiable goods. In this Colony we have the principle applied to the prevention of the smuggling of arms and ammunition. I will leave it to the Council to imagine what value the Prohibition of Arms and Ammunition Ordinance would have, if we simply prohibited the practice and gave no powers to prevent the smuggling. With respect to the liquor law, the provision we propose merely gives to the Magistrate power on proper information laid before him to issue a search warrant. This constitutes a safeguard, as the Magistrate will have to be satisfied with the information before he issues a warrant. Of course the man whose house is searched has always his remedy if there be no justification for the search, and the Bill provides compensation in cases where a search has been made and nothing has been found to justify the search. But, Sir, this principle is not new. Every Magistrate in the Colony has power to have the house of anyone sitting round this table searched if a person of repute lays before him any information that stolen goods are therein secreted. It does not follow that because the goods are secreted in my house that I am a thief. Frequently in my experience houses have been searched for goods secreted there which were stolen by the servants or their friends. It would be the height of folly to say that it would be unjust that such a right should be given, and it would be absurd to ask the Government to prohibit this right to issue search warrants because it was offensive to have a policeman come to the house. It is only a weapon placed in the hands of the law for the more effective enforcement of the law for the protection of the property of the individual. This power is for the protection of the Government, and therefore of the public.

There is nothing objectionable in such a power being given. The Council is stultifying itself if it passes the law authorising the raising of revenue, and then refuses to pass the measures essential to that law being carried out. I do not expect any serious opposition to the principle of this Bill, and in Committee we can discuss these clauses to which I have referred. The words "domiciliary visits" have been used by some, but the persons who used them did so in a sense which did not belong to them. A domiciliary visit is a visit much as are made in certain foreign countries by the police without obtaining any warrant, on sworn information, entering houses and searching them for papers and other things. That is meant by domiciliary visits, and it is an abuse of language to describe the visit paid by the constable holding a warrant, issued by the Magistrate on sworn information as a domiciliary visit. It is a search by the police in the execution of the law. Sir, I beg to move the second reading of the Bill.

THE COLONIAL SECRETARY seconded.

HIS EXCELLENCY — Gentlemen, — It is usual for the President of this Council to reserve any observations he may have to make until all hon. members who desire to speak have done so, but on this occasion, with the consent of the Council, I propose to make a few remarks regarding the amount of revenue required without forfeiting the privilege and duty of replying to the speeches of hon. members at the close of the debate. I do so because it has been represented to me by several unofficial members that it will facilitate matters if I make some explanations as to the financial position.

The question which is in the mind of a good many members of this Council is, I believe, somewhat as follows: On the 13th August last, when a resolution for increasing liquor licence fees was introduced into this Council, it was estimated that the revenue which would be derived from the operation of that resolution would amount to something like two and a half lakhs, whereas to-day we propose to read a second time a Bill to impose import duties, and it is estimated that the revenue which will accrue from these duties will amount to perhaps

seven or eight lakhs—the hon. member for the Chamber of Commerce put it as high even as ten lakhs. Why, therefore, if two and a half lakhs were considered sufficient in the first instance, is the taxpayer now being asked to pay so much more towards the revenue? I will address myself as briefly as possible to reply to this question.

I would remind you that when I introduced the Budget last year I pointed out that by appropriating for the revenue of the year the sum of \$371,500 (*viz.*, the capital amount of Widows' and Orphans' Fund), together with the amount which the Government has hitherto paid as interest on that sum and equalisation of exchange, we incurred a total liability of \$421,800. In addition to this the gross expenditure exceeded the estimated revenue by \$72,170. These two sums together amount to \$494,000, or, roughly speaking, five lakhs. You will find the figures on page 123 of Hansard for 1908. This was the amount of the real deficit of last year, which we have to make good in estimating for next year. To this we have to add whatever deficit may accrue owing to lower tenders for the Opium Farm than we have hitherto received. From that loss we can deduct whatever sum the Imperial Government gives us as a substantial part of our loss. It has been estimated that we may lose as much as five lakhs on opium. If the Imperial Government were to give us half that sum there would still remain two and a half lakhs to make good.

When I proposed the resolution of August 13th I had no anticipation that the increase then suggested would meet this very large deficiency, but I considered it was the maximum by which the liquor licence fees could possibly be raised. I cannot estimate yet with any precision what the deficit will be when we have completed the Estimates for next year. It depends in part upon the tender for the Opium Farm, and in part upon the contribution of the Imperial Government. I had hoped that with two and a half lakhs from the increase of liquor licence fees, together with considerable retrenchments, and together, also, with some further savings, which I hope may be considerable, and which I will explain in a week or two when I have the duty of introducing the Budget for next year,—I had hoped from these various sources that we

should meet, or nearly meet, the five lakhs' deficit on last year's revenue. Even so, the loss from the opium remains entirely unprovided for. It would, therefore, have been necessary had we passed that resolution to have devised some further means for meeting any deficit which might result from loss on opium.

Now, as regards the revenue which will be derived from the import duties which we propose under this Bill. You will no doubt all agree with me that all persons engaged in the liquor trade who have at the present time any stocks of liquor in the Colony will retain them for sale in the Colony duty free. If they have stocks originally intended for export it is natural that they should retain them, and further stocks to replace them would be ordered for export from Bond. I think it is very probable, therefore, that the revenue derived from import duties during the year 1910 will be less than the normal amount, and we should not estimate the total revenue from liquor at more than seven and a half lakhs. From that you must take a sum for the cost of the machinery, including the licence fees for collecting the duties, which will probably amount to the best part of another lakh, leaving, roughly, four lakhs' nett increase over the sum hitherto paid in licences to meet the five lakhs' deficit on last year's estimate, in addition to the opium deficit. Looking to the retrenchments which we have been able to effect, and to the other savings I have alluded to, I hope that this sum will meet our requirements next year, and I hope it will leave us a little to the good, but you will see yourselves that the margin is not large.

With regard to the following year, 1911, I would remind you that in that year we have to meet the full interest on capital account of the railway, *viz.*, on fully one million sterling; also, that the sinking fund comes into operation in that year. Moreover, very few railways have paid their working expenses in the first year, so that we must anticipate a further sum on that account. Therefore, in 1911 we shall probably have to find fully three lakhs additional to what we are now paying for railway expenses. Thus, even if the duties derived from this Bill considerably increase in that year, when an efficient staff has been created,

and when existing stocks of liquor in the Colony have been consumed, I think you will agree with me that there is not too large a margin to meet the increased cost due to the cost of the railway.

I have made these few remarks with your consent before any hon. members who wish to speak have done so, because I think that in all probability, having cleared the financial position, many arguments which otherwise would have been propounded will now be rendered unnecessary.

HON. DR. HO KAI—Sir, up till this morning it was not my intention to speak on the second reading of this Bill, but after listening to the remarks of the learned Attorney-General, which showed that there was more than one principle in the Bill—first, the principle with regard to the levying of a tax on intoxicating liquors, and secondly, the principle of enforcing the law concerning the levying of those duties—I am left no choice but to speak. However much I approve of the principle of levying duties on intoxicating liquors, I do not approve of the principles—the drastic principles—of enforcement, and especially of detection. From this you will see, Sir, that I refer to sections 31 and 35. Those sections give power to the Government to order a search of the baggage of all persons landing in this Colony, and also to enter every business place, and every domestic home in the Colony. Now, Sir, the Attorney-General seemed to make light of those provisions. He said that they were not only necessary but could not be offensive; he also said that they exist in the Ordinance at Singapore. But he forgets to tell us that in Singapore the provisions are in connection with the Opium Farm, and that the firm that has the opium monopoly also runs the Spirit Farm. These powers of search for the detection of contraband goods are not new in Hongkong. They are already conferred on the Opium Farmer and his excisemen. Every house here could be visited by night or day under warrant, and also every person landing in the Colony could be searched, as well as his luggage. At the same time, in connection with the working of this law, we thought it was unnecessary, at this stage particularly, for us to consider those measures. I understand from Your Excellency that it is your particular wish

that this Bill should pass the Council quickly, but with these two clauses in, I am afraid that the discussion on them would involve some considerable time, and that the quick passage of the Bill will be delayed. I understand, Sir, further, that if this Ordinance is passed very soon afterwards a consolidating Ordinance will be introduced. I submit, therefore, that the two clauses 31 and 35 should be deleted from the present Bill, and if, after further consideration, they are thought necessary, they can be introduced in the consolidating Ordinance. There is no necessity, Sir, to bring into force these sections, as there is no machinery to put them in action at once. That is one of the reasons why I oppose the retention of these two clauses. Further, Sir, in our various conferences on the provisions of this Ordinance, or the desirability of passing an Ordinance of this kind, I thought it was understood that there was no necessity for anticipating any difficulty in the detection of smuggling of spirituous liquors into this Colony, and that it would not be necessary to institute searches in private houses, and also in places of business. In fact, even if we were to institute such searches, and to find liquor on the premises searched, it would be extremely difficult for us to prove that it was smuggled, and it would be equally impossible for the owners to prove that these liquors had had duty paid on them, and to give reasons for their being on the premises. Liquor, unlike opium, is kept by nearly every householder in the Colony, European and Chinese alike. Once liquor is imported into the Colony without paying duty, it is almost impossible to detect, and to bring the crime home to the smuggler. Therefore, these provisions will do very little good, but, on the other hand, will become a source of irritation to a large number of the inhabitants; so much so that they will have a tendency of exciting enmity against the measure, which, with these two clauses left out, would be almost unanimously supported by the community in general. My third reason for thinking that these clauses are not necessary is that the power of searching luggage and private houses is already possessed by the Opium Farmer, and that power of search could be made use of to assist the Government in detecting liquor which had been smuggled. The ideal picture of a Chinaman with two bottles of whisky or brandy up his sleeves is all very well for a cartoon in a comic paper,

but in reality it will never occur. First of all, a Chinaman with two bottles up his sleeves would not earn 40 or 50 cents a bottle, as he would only get a half or a quarter of the value of the tariff on that particular liquor, for he most smuggle to sell considerably cheaper than the duty-paid article can be sold. The Chinaman knows better. If possible he would smuggle two bottles of opium and make \$40 or \$50 out of it. Therefore, Sir, the power if given is of no use. It would only create alarm, and make people believe that they would be subjected to further search; first a search for opium, and then another by excisemen for spirits. I do not think that it is necessary to have these powers at the present moment. If liquor is brought from Home, ships will be held responsible if it is not put on the bill of lading, and the master of a vessel, or the company or owner, would be liable if they did not return a correct manifest. Again, it was suggested that spirits of wine might be smuggled from Canton or Macao. That also is impracticable, because both in Canton and Macao liquor imported has to pay duty, and it is inconceivable that a man would ship liquor to either of these ports, and then re-ship it to Hongkong. For these reasons, Sir, I certainly think that it is advisable, and at all events for the present at least, to allow these two clauses to stand over. We have already a preventive service here for the detection of opium, and by offering sufficient inducement to the excisemen, they would be willing to give information whenever, in their search for opium, they detected liquor. All that would be necessary would be to give them or some other persons power to arrest smugglers of liquor and to take them to the Central Police Station, where, unless they could give a good explanation of how they came into possession of the liquor, they could be charged under the provisions of this Ordinance, and the goods smuggled confiscated. By these means the opposition of a great majority of people, especially of the Chinese community, to the principle of the Ordinance would be removed, and the object of the Ordinance would not suffer to any appreciable extent. When we go into Committee on the Bill I will move that these clauses should be deleted.

HON. MR. WEI YUK—Sir, I concur with the remarks of my hon. friend, the Hon. Dr. Ho Kai, and I have much pleasure in supporting

him.

HON. MR. HEWETT—Your Excellency, — As this Bill will be discussed very fully in Committee I will reserve the remarks I intended to make until we arrive at that stage, but I will now pass one or two remarks on the general purport of the Bill which I think I ought to make. The remarks made by Your Excellency were welcomed by this Council, and I am sure will be appreciated by the community at large. When the question of increasing the licence fees was raised we understood that you required a quarter of a million, but we understand now that after the end of this year you will require a million, therefore, it is better not to make two bites at a cherry, but to go straight to your object at once. Both from your remarks, and the remarks made by the hon. Attorney-General, it is very interesting to note that it is anticipated that at least half of the revenue expected to be derived from this source will be required to make up the deficiency caused by the opium policy which has been forced upon us, against our will, by the Imperial Government. That, of course, is a valuable point. I regretted to note Your Excellency mentioned incidentally that possibly the Government would only give us half the loss—I trust they will be more honest and give us all we are entitled to claim for acting in accordance with their policy. I mention this point, because in proposing the resolution to increase the licence fees the Colonial Secretary stated that the increased revenue was not required to meet any loss on opium. The hon. Attorney-General in referring to the provisions of the Bill fortunately did so with great detail. It was doubly fortunate, not only because it threw an illuminating light on the Bill before us, but because it gave me an opportunity of comparing—very hurriedly, I admit—the Bill before us dated 16/9/09 with the Bill dated 10/9/09. I would draw Your Excellency's attention to the Bill dated 6/9/09. A Council meeting was held at 2.30 p.m. on the 10th inst., but that Bill did not reach members until late on the afternoon of the 9th, so that we had no opportunity to read it through until the morning before the Council meeting. I need hardly say that each unofficial member should have had an opportunity of considering with his colleagues such a far

reaching, drastic measure of an entirely new form of legislation in the Colony. I find that when the discussion took place—or rather a few remarks were made—at the meeting of 10th September, not only I but other hon. members of the Council were speaking on the provisions of the Bill dated 6th inst., which they received the night before, and which they supposed was the latest edition of the Bill. It was not until Sunday that I found there was a new copy of the Bill dated the 10th inst.

THE COLONIAL SECRETARY—I told you that in seconding the motion.

HON. MR. HEWETT—If you did, you did it hurriedly and were not understood. Here again we come here after careful consideration for the best part of the week of the Bill dated 9th September before us, and I find that a new Bill is on the table. Thanks to the detailed manner in which the hon. Attorney-General proposed the motion, I was able to look through it, and I find that some radical changes have been made. I think it is necessary to emphasise this point, not because we complain that we were badly treated, but because I wish Your Excellency to understand that if called upon to speak and vote upon a Bill dated 16th September we are doing so hurriedly and without having an opportunity of studying its provisions. I would point out to Your Excellency that it is quite possible that we appear to support certain provisions, and when in Committee they do not meet with our approval it will be said that we changed our ideas. In view of the far-reaching importance of this Bill and the changes made in such a very short time—three copies inside a week—I think it is very necessary to emphasise this point, I notice that among other clauses there is one dealing with bottling and blending, which has been entirely cut out of this last Bill, and there are one or two changes, somewhat drastic, which will be dealt with in Committee. With regard to the changes in this Bill, the senior unofficial member was speaking on the draft dated 10th September, and was apparently quite unaware of the fact that there was a new Bill, or if he was aware he was unaware of the changes made. There is only one point to which I would like to refer, and that is, I don't think on inquiries made, if the Bill is delayed, that your Excellency need be at all afraid so far as European liquors are concerned that any large

quantity will be imported for the purpose of evading duties. I don't think much harm would be done by delay. This is an entirely new departure, and we have no knowledge at all as to the provisions under which the King's warehouse and private bonded warehouse are to be worked, and we also don't know the conditions and regulations under which bottling and blending—a very important industry in this Colony—are to be carried out. Therefore, Sir, I think it is most desirable that all those regulations should be placed before Council to give us an opportunity of discussing them.

THE ATTORNEY-GENERAL—Wait till the Bill is passed.

HON. MR. HEWETT—I don't see how we can pass a Bill and then deal with the legislation in it unless the regulations have been framed. An entirely new departure like this, with regulations of such a far-reaching nature, dealing with a very important trade of the Colony, should not be dealt with by the Governor-in-Council, but should be dealt with by the Legislative Council before they become operative.

HON. MR. MURRAY STEWART said—This day's work in this Council will, in any event, be noteworthy in the annals of the Colony. The decision which we are to-day driven to take is fraught with possibilities of danger. No one can fail to feel the grave responsibility of sharing in it. The occasion takes you by the throat and puts you into a corner and demands that you should speak out, if it should seem that any aspect of the question needs emphasising. One aspect does, in my opinion. Through all the discussions which have led up to this moment I have been haunted by the fear of an impression getting abroad that the Colony has fallen away from its old faith in the freedom of the port. Your Excellency has tried to dissipate this impression, but in spite of all that has been said, in spite of the very satisfactory assurances which you have given, doubt will, I fear, still tend to linger. Only the other day an old resident who used to occupy a seat at this table wrote to the papers saying that madness lies the way we are going. There are many old residents here, and many more at home having

interests here, who will view with apprehension the proposals contained in this Bill. The imposition of an import duty in any shape or form may seem to them to indicate on ominous weakening of the ideal which has hitherto been the Colony's guiding star. Anyone familiar with Hongkong's history, but knowing little of the inside workings which have resulted in the present measure, may quite conceivably imagine that an extraordinary thing has happened. He will have it in mind that hitherto proposals to impede by taxation the unfettered freedom of trade have usually emanated from the Government and have steadfastly been opposed by the mercantile community. He will note that the present proposals seemed to come from the community, and he may conclude that the attitude of the community's representatives towards an old and vital question has undergone a remarkable change. That is not the case. True, responsibility for the proposed step rests upon the unofficial members. I do not seek to shirk any responsibility inherent in our proposals. I am only anxious to make clear the nature of that responsibility and to disclaim any for proposals of the Government which go further than the recommendations in which I concurred. I am loath to tread over ground so familiar to most of us, and so extensively wandered over this afternoon, but for my purpose I must sketch the circumstances under which these recommendations were made. They may be briefly stated thus: The Government, having decided to raise revenue somehow from the sale of intoxicating liquors, brings forward a scheme—admittedly a faulty one. Discontent with it is widely expressed. The unofficial members meet to see if they can arrive at some solution of the difficulty. We did not meet to discuss other sources of revenue. It is not our business to prepare the Estimates. This does not seem to be fully understood. We did, however, as it turned out, discuss other possible sources. None seemed so suitable as the source indicated. After much consideration we decided to recommend an import duty. We passed resolutions indicating plainly that we did not intend the through trade to be touched in any way—the Colony was only to pay on liquor actually consumed in it—and we united in the hope and belief that the Government would receive and favourably consider certain suggestions as to the method of collection

which would not change the character of the port. A method of collection, believed to be at once efficacious and almost frictionless, as regards ocean steamers, was suggested and thrashed out at the private meeting at Government House to which reference has been made. The risks of petty smuggling by passengers coming from great distances were held to be so small as to be negligible. It was pointed out that unless cases of wine are very carefully packed, breakage is likely to occur, and that, therefore, if in any quantity, such cargo is certain to be declared. Anything less than a case was voted to be not worth bothering about, certainly not worth while changing the character of the port for. The assumption was that, as regards ocean steamers, the collection of the duty could be worked entirely through the Harbour Office. It was seen and agreed to in all these discussions that the case was different as regards steamers arriving from Macao, Canton and the Coast Ports. It seemed to me that special powers to deal with passengers by these steamers would have to be taken by the Government. But after hearing the senior unofficial member this afternoon I should like to think over that again. But upon this we were all agreed, that there were to be no finnikin regulations for dealing with passengers by ocean steamers. The globe-trotter and his luggage were to go free. From these hints as to what occurred it will be evident that the unofficial members were not indifferent to the principle of freedom, which it is, perhaps, their first duty to protect. Your Excellency commented on the unusual nature of the step which we took in making public the resolutions at which we had arrived. These were sent to the Press, not because we were sure that we were right, but because in a case of the kind the fullest possible publicity seemed desirable. It seems to me desirable that any proposals involving taxation should be referred to the public. English political liberty is supposed to rest on the theory which prompted our action. We had some idea that our suggestions might stimulate criticism and reveal neglected aspects of the question. But, in any case, what happened shows that a bald statement to the effect that the unofficials urged the Government to put on an import duty, as if the circumstances had its origin in their eagerness to impose one, is at least

open to misconstruction. Our choice lay between two evils, the doubled licensed fees on the one hand, the duty on the other. We chose, we hope, the lesser evil, but we were not so blind as to fail to see it in the light of an evil. Personally, I regret having had to agree to the surrender of a single inch of our freedom from trade restrictions. It goes against the grain with me to witness the institution of even the smallest Customs service. I am haunted by the prospect of seeing upon our quays the man in the brass hat whose business it is to challenge the passenger to unstrap his trunks. I object to that man wherever met. I object to meeting him so often. He straddles across the threshold of nearly every country — a standing nuisance to travel—the symbol of economic false doctrine, financial heresy, and political schism. He is the outward and visible sign of denial of the great doctrine of universal free trade. In that I still believe, although the hopes on which it is based seem more than ever dim. But dim though they may appear, and though elsewhere it may be that retaliation is justifiable, the jealous guarding of that doctrine in this Colony is dictated by the vital necessities of our situation. And so when I read the version of this Bill which reached me last Thursday evening—the evening before the first reading took place—I was staggered to find that the Government proposed to arrogate to themselves powers under which a complete Customs service could be established. How extensive those powers were does not seem to have been fully realised in some quarters. Under them Customs stations could have been established at every wharf in the harbour, in every bay in the coast line, and on every road leading into the Colony. Passengers landing from any steamer could have been held up and arrested without warrant if they objected to open luggage, at the bidding of any revenue officer, who might be a Chinese talking no English. And not only could such an officer have so held up any passenger landing he would have been equally formidable when, after landing, the passenger might reasonably have imagined himself safe in the bosom of the Colony. According to Clause 31 in that version of the Bill "any person landing or being about to land or having recently landed from any ship or entering or having recently entered the Colony by land shall, on demand by any revenue or police officer, permit his

baggage to be searched, etc." Having recently landed! This meant that none of these huge trucks of luggage which are man-hauled up to the doors of our leading hotels in the travelling season would be safe from the danger of being arrested by any Indian constable or Chinese lukong whose suspicions might fasten on the saratoga trunk of some American globe-trotter, probably an elderly total abstainer from a prohibition State. (Laughter.) The phraseology of Clause 32 was similarly open to objection. Clause 34 gave power to any revenue officer to arrest anyone without warrant on suspicion of his having in his possession any dutiable liquors, and 35 gave the right of domiciliary search on the warrant of a single J.P. Altogether these clauses seemed to leave nothing of our former liberties beyond what the Government might be pleased to allow us to enjoy on sufferance. Having agreed, after much painful heart-searching, to the surrender of the port's freedom to the extent of a most carefully measured inch, immediately the Government annexe an ell. Explaining this, Your Excellency assured us that all these powers which it was proposed to take were not intended for use, but that from the Government point of view it was desirable to have them. I can understand that from the administrative point of view it is always comfortable to have large powers in reserve. But the possession of large powers which tends to make administration comfortable frequently make the public uncomfortable, and these seemed well calculated to have that effect. The contemplation of them made me, as a member of the public, most uncomfortable. And as a humble representative of the public I felt bound to protest. I did so at the first possible opportunity, as Your Excellency may remember. Subsequently I found that already in the first revised version of the Bill, which was laid on the table at the last meeting, the offending words "recently landed" had been cut out of clause 31. And to-day the Government has announced the deletion of clause 30 and sundry other important modifications. I admired the skill and address with which the hon. the Attorney-General built up a defence of these powers and gracefully retired under cover of it from an untenable position. I commend the con-

ciliatory spirit in which our representations have been thus met. I hope it may prove a happy augury of the spirit in which this Bill will eventually be operated. The Senior Unofficial Member has dealt with certain other clauses to which he objects. At present I do not propose thus to criticise the Bill. I shall have many objections to make in Committee. We have now to vote on the principle of raising revenue by an import duty on liquor. To that principle the unofficials stand committed. We cannot, therefore, vote against the second reading. I hope we may find he officials whose duty it will be to operate it imbued with the idea of maintaining the essentials of freedom — resisting the temptation to introduce restrictions convenient to their immediate purposes, but calculated to hamper trade or hinder travel. That will be one of our dangers. It is not that officials are less thoughtful than other men. Other men in their place would do the same. They would be just as liable to get carried away by zeal. Further, all protective services tend to expand. Weak spots keep revealing themselves to officials eager for efficiency. A demand sets up for more and more stations, more and more regulations, more and more officers. This I dread—the multiplication of minor officials. In this case their one thought will be revenue. They will become eager to stop every conceivable hole and corner where it may get past. They will need restraining. And the power behind them, the Government, may conceivably now and then also need restraining. That is perhaps, the main danger. Appetite grows by what it feeds on. The Government will be exposed to the constant temptation of trying to get more and more revenue in this way. Here it will be the duty of the representatives of the community to keep watch and ward, remembering that no amount of revenue could compensate for starting a diversion of that through trade on and by which the port lives and thrives. I shall vote for the second reading of this Bill in the hope that it may be administered throughout in the spirit of Your Excellency's assurances and in the manner originally suggested by the unofficial members. In that case the character of the port need suffer no noticeable change. Freedom may still be our motto. We may still regard it as the pole star of our policy, the "fixed mark" which has so far looked on many tempests and never yet been shaken. At least

the policy which made the place is not in any danger from any fundamental change in attitude of the unofficial members of this Council, and this fact I hope I may have helped to make clear.

His EXCELLENCY—Gentlemen,—I think there is very little for me to say in winding up the debate on the second reading, for the principle of the Bill has been accepted, I think unanimously, by the Council, though strong objection has been taken to various clauses, and these we shall be able to discuss in Committee.

The senior unofficial member. (Dr. Ho Kai) takes very strong exception to the rights of search, and he has pointed out to us that in his opinion all that is required, or all that is rendered possible by those sections, could be achieved by using the machinery of the Opium Farmer. I confess I am surprised at such a line of argument. If that machinery is capable of being used for the purpose he advocates, it stands to reason that the Government is not going to duplicate it by creating a second machinery. At an interview I had with him and other leading members of the Chinese community, it was strongly urged upon me that a farm was not desired by the Chinese. The Government has done its utmost to meet their wishes. Perhaps we are attempting the impossible, but in deference to the strong wishes expressed to me by those leading members of the Chinese community, we have not instituted a farm. We hope to carry through with what I consider to be the minimum powers of control which any Government must secure to itself, not only to protect the revenue, which is in fact the asset of the taxpayer, but also to protect those who do pay their duties and who also have every right to the protection of the Government.

The hon. unofficial member at the end of the table (Mr. M. Stewart) has referred to what he terms the very satisfactory assurances given by Government and he expressed the hope that in Committee the spirit of concession and conciliation with which all representations of the unofficial members have been met will be continued. I can only say that any reasonable suggestion regarding any clause in the Bill will receive the utmost consideration from Government

in the most conciliatory spirit possible. But neither this Government nor any Government can afford to forego the necessary powers to enable it to enforce the law without which it cannot be made operative. To do so would be to abandon the principle of the Bill itself.

The hon. member who represents the Chamber of Commerce (Mr. Hewett) complains that one revise after another of the Bill has been shot upon the Council and that he was unaware of and had not before seen the revise dated this day. I may tell him that I had not myself seen it before I entered this room. This revise dated the 16th is not strictly speaking before the Council at all. It embodies for the convenience of members amendments which it had been proposed to make verbally during the passage of the Bill in Committee. The origin of these amendments is to be found in that spirit of conciliation, to which the hon. member (Mr. Stewart) alluded, and in the endeavour to meet any reasonable and rational suggestions which have reached the Government. The hon. member, I refer to the hon. member who spoke last, remarked that a great principle was being infringed by the imposition of import duties, and he appeared to me to indicate his belief—I do not know if I rightly understood him—that the imposition of those import duties was an infraction of the great principle of free trade. If that was his view, I cannot say that I share it, for I have always held the opinion that duties imposed solely for the purpose of revenue cannot be considered protective. There is nothing in this Bill which imposes any duty of a protective nature—in fact, as you are aware, the excise duty is put on a par with the import duty, which is rather against the principle of protection than for it.

The senior unofficial member drew a humorous picture of the Chinaman with two bottles, one up each sleeve, and I think with great force asked why the bottles should not contain opium instead of spirits. That appeared to me in some degree to afford an answer to his own protest against the powers of search contained in the Bill. If it is so much more lucrative to smuggle opium, and if, as he says, there will, therefore, be no smuggling of spirits, it is certainly natural to anticipate that the right of search claimed by Government will not be put in force. It will be enforced

only so gradually and to such degree as circumstances may show that it is necessary.

I have answered to the best of my ability such points as have been raised on the general principles of the Bill. As regards the points in connection with the various clauses we shall have every opportunity to discuss them presently in Committee. (Applause.)

The motion was carried, and the Bill was read a second time.

On Clause 2, Council then went into Committee.

HON. MR. HEWETT said he had a list of eighteen medicated wines, some of which were drunk by teetotalers. (Laughter.) Eight of those wines at least were nearly half the proof of brandy. He thought no medicated wine should be admitted free; of course, there were certain medicated wines which nobody would drink as a beverage.

HIS EXCELLENCY—They either come under the definition of denatured spirits or they are dutiable.

HON. MR. HEWETT—These things are drunk as a medicine.

THE ATTORNEY-GENERAL—It is only such medicated wines which have had something added which make them unfit to drink as a beverage which come under the heading of denatured spirits.

HON. MR. HEWETT—Medicated wines should be allowed duty free. A list of exemptions should be drafted.

Agreed to.

On considering Part I, Clause 3, it was agreed to omit the definition of "Medicated Wines" as proposed by Government, and that a list of exemptions should be published if necessary. The definition of "Native Wines and Spirits" was held over.

HON. DR. HO KAI—I propose that the following scale be substituted for the duty proposed in the Bill:—

	Per Gallon
Brandy and liquers	\$3.00
Whisky	2.40
Gin, Rum, and other spirituous liquors	1.20
.....	
Champagne	2.40
All other sparkling wines	1.80
Port, Sherry, Madeira	1.80
Other still wines in bottles	1.20
Other still wines in wood	0.60
All other intoxicating liquors, excepting Spirits of wine, and native wines and spirits	0.24
On all native wines and spirits, other than Arrack	0.15
Spirit of Wines and Arrack	3.00

It had been approved by the unofficial members at a meeting when they discussed the subject for a couple of hours. We had the advice of two experts, gentlemen engaged in the trade. The list is double the original list, but we think it will give a scale which is more fair. We hope the Government will accept it.

HIS EXCELLENCY — Will the scale produce less or more than the one before us?

HON. DR. HO KAI—Nearly the same, Sir. We charge \$2.40 for champagne.

HON. MR. HEWETT—In arriving at this scale we calculated on so many cents a bottle, so as to simplify retailing.

HON. MR. STEWART—If you charge the same for gin, whisky and brandy, you encourage smuggling. The difference between the prices is so great. Whisky is twice as expensive as gin, brandy more expensive again, and with the same duty it will be an encouragement to smuggling.

HIS EXCELLENCY—We took this scale from the Straits Ordinance, which has been in operation for some years and appears to have given satisfaction. We therefore thought it advisable to adopt this scale in the Bill and amend it later if necessary.

HON. DR. HO KAI—It is easy to carry out this scale.

THE ATTORNEY-GENERAL asked if the unofficial members were prepared to add that whisky not in bottles should pay a duty of \$3.20.

HIS EXCELLENCY said it was very important to discriminate between whisky in wood and whisky in bottles. Since the former might contain from 25 per cent. to 50 per cent. more alcohol than the latter.

HON. MR. HEWETT said they had discriminated as far as cheap wines were concerned. To be consistent the unofficial members should accept the alteration suggested by the Hon. Attorney-General.

HON. MR. GRESSON said they had spent two hours discussing that list, and they should not upset it.

THE ATTORNEY-GENERAL thought the Committee should accept the scale fixed by the Government, and later, if it were expedient, the Legislative Council by resolution could alter it. They were groping in the dark and they thought their list was better.

HON. MR. HEWETT—We are business men and we discussed ours fully.

HON. MR. STEWART—We think ours better.

HIS EXCELLENCY—I have no objection to the scale proposed, except that discrimination should be drawn between spirituous liquors in cask and in bottle.

It was agreed to insert "whisky in wood, \$3 a gallon."

HON. MR. STEWART—I think brandy and liqueurs should be charged more than whisky in wood. I should say \$3.60.

HON. MR. HEWETT thought it was advisable to have as few grades as possible. It was agreed to insert \$3.60 for brandy and liqueurs.

A new clause 5 was added relative to the responsibility of Ship-masters. In clause 6 (new number 7) it was decided to delete the fee for a permit, and any other similar small fees throughout the Bill.

When Part 2 had been completed, His EXCELLENCY said that he proposed to adjourn until to-morrow.

Hon. Mr. HEWETT said that that was mail day, but he could attend if the meeting was called for four o'clock. He thought most of the contentious part was finished.

HON. DR. HO KAI—No.

HON. MR. HEWETT said the Director of Public Works informed him that he would

be able to have the electric light for tomorrow night, and they could sit as long as His Excellency pleased.

HIS EXCELLENCY — Council stands adjourned until four o'clock to-morrow. The meeting of the Executive Council convened for to-morrow will be adjourned.
