

16TH DECEMBER, 1909.

**PRESENT:—**

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

HON. SIR F.H. MAY, K.C.M.G. (Colonial Secretary).

HON. MR. F. A. HAZELAND (Attorney-General).

HON. MR. A. M. THOMSON (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. WEI YUK, C.M.G.

HON. MR. E. A. HEWETT.

HON. MR. E. OSBORNE.

HON. MR. MURRAY STEWART.

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 Minutes (Nos. 57 to 59), and moved that they be referred to the Finance Committee.

**Financial**

THE COLONIAL SECRETARY, by command of His Excellency the Governor, laid on the table the report of the Finance Committee (No. 20) and moved its adoption.

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

**Liquor Duties Rebate to the Services**

THE COLONIAL SECRETARY—I beg to move the resolution standing in my name under section 2 of the Liquors Ordinance Amendment Ordinance, No. 30 of 1909. Copies of the resolution have been circulated to members. The figures contained in the resolution are based on returns of consumption furnished by the naval and military authorities.

Resolved that the sum of \$2,189 as an Import Allowance up to and including the 31st December, 1909, be paid out of the Public Revenue of the Colony as a rebate in part of the duties paid on intoxicating liquors to the Naval Authorities in respect of the duties paid on intoxicating liquors (not being Naval Stores the property of His Majesty) consumed at the Royal Naval Canteen.

Further resolved that the sum of \$10,268 as an Import Allowance up to and including the 31st December, 1909, be paid out of the Public Revenue of the Colony as a rebate in part of the duties paid on intoxicating liquors to the Military Authorities in respect of the duties paid on the intoxicating liquors (not being Military Stores the property of His Majesty) consumed at Head Quarter House and the Military Messes and Canteens in the Colony or purchased by married officers or men borne on the strength of the Garrison for their own consumption.

Further resolved that the sum of \$8,400 as an Import Allowance for the year 1910 be paid out of the Public Revenue of the Colony as a rebate in part of the duties paid on intoxicating liquors to the Naval Authorities in respect of the duties paid on intoxicating liquors (not being Naval Stores the property of His Majesty) consumed at the Royal Naval Canteen.

Further resolved that the sum of \$47,600 as an Import Allowance for the year 1910

be paid out of the Public Revenue of the duties paid on intoxicating liquors to the Military Authorities in respect of the duties paid on intoxicating liquors (not being Naval Stores the property of His Majesty) consumed at Head Quarter House and the Military Messes and Canteens in the Colony or purchased by married officers or men borne on the strength of the Garrison for their own consumption.

THE COLONIAL TREASURER — In seconding, sir, I may state that in my opinion the amount should be treated as debit to revenue instead of an item in expenditure. This will make all the difference as to the payment of 20 per cent. for the military contribution.

HIS EXCELLENCY—The point raised by the Hon. Colonial Treasurer will be referred to the Secretary of State, on whose ruling depends the ultimate course to be adopted. I shall be glad to recommend the proposed procedure to his favourable consideration.

#### **Wireless Station on Pratas Island**

HIS EXCELLENCY — Gentleman, I have to announce to the Council that the recommendation which I made some time ago with regard to the establishment of a wireless station on the Pratas atoll to the Minister at Peking has been considered by the Waiwupu, to whom he referred it. He informs me now that the Waiwupu referred the matter to the consideration of the Board of Posts and Communications, and the latter now reply that the Viceroy of the Liang Kwang has been instructed to at once make the necessary arrangements. (Applause.)

#### **The Stamp Ordinance**

THE ATTORNEY-GENERAL moved the third reading of the Bill entitled, "An Ordinance to amend the Stamp Ordinance, 1901."

THE COLONIAL SECRETARY seconded.

HON. DR. HO KAI—Sir, before the third reading is taken and the Bill passed into law, I have a few remarks to make. In the second reading I, together with the other hon. members, gave my support to the Bill,

inasmuch as it would induce people to take out letters of administration or probate within a reasonable time. Since then, however, it has been pointed out to me that the delay in taking out administration or probate is due to ignorance of the law or to not knowing that the deceased had property in this Colony. This especially is the case with the relatives of a deceased person who reside in Canton and the interior of China. Ignorance as to the property of the deceased in the Colony is provided for by section 2 sub-section 20 (a), which contains a provision making it necessary to satisfy a judge of the Supreme Court that due and reasonable diligence has been exercised in ascertaining the existence of property in this Colony, but without success, then the judge will not impose a penalty. As to ignorance of the law, I think we will have to devise some special means of making the provisions of this Ordinance as widely known among the Chinese as possible. All the Ordinances are not translated beforehand and it will take some little time to translate and circulate this one. What I recommend the Government to do is to postpone the enforcement of this Ordinance until a translation has been made and copies distributed among the Chinese houses and shops in this Colony. It is well known that scarcely any Chinese read the *Gazette* and very few read the European newspapers, and in order to bring the provisions of this Ordinance to the notice of Chinese in Canton and other parts of China as well as in Hongkong I think translations should be distributed, as it will encourage the Chinese to come forward to take out administration and probate and will also prevent hardships to the relatives of the deceased person who may not be aware of the law and will have as a consequence to pay three times the amount he would have had to pay.

HON. MR. WEI YUK supported.

HIS EXCELLENCY—I take it that the motion which the hon. member who has just spoken desires to make is that the Bill should be recommitted for consideration of the last clause, which bears the date on which this Bill comes into operation.

HON. DR. HO KAI—I propose that the Bill be recommitted with a view to considering the last clause.

HON. MR. WEI YUK seconded.

Council then went into Committee to consider the clause.

HON. DR. HO KAI moved that clause 6 should read that the Ordinance should come into operation on July 1st, so as to allow six months for translation of the Ordinance and distribution of copies among the Chinese community. He thought this would facilitate the enforcement of the Ordinance and that the time would not be lost.

THE COLONIAL TREASURER was of opinion that six months was a very long time to allow for translation. It could be done in a fortnight.

THE COLONIAL SECRETARY agreed, and said that the trouble was not ignorance as suggested, but the trouble which has been found by the officers who had to administer probate was that full disclosure was not made. It was not that a man did not make disclosure, but he did not make full disclosure.

HON. DR. HO KAI replied that that was provided for in another section.

THE COLONIAL SECRETARY said that under the existing law a man could be prosecuted for concealment. But concealment had to be proved, and that was a difficult thing to do in connection with Chinese shops. If it could be proved, they could prosecute a man before the Magistrate and get him imprisoned. This clause was another way of remedying the evil

THE COLONIAL TREASURER stated that the hon. member might not know that in the present Ordinance the principle of penalising for ignorance and carelessness is enforced to the extent of ten times the duty not paid. No one had ever objected to that on account of people not being aware of it.

HON. DR. HO KAI said he was only speaking on half of people residing out of the Colony who did not know the law.

THE COLONIAL TREASURER said they could not recognise people outside the Colony.

HIS EXCELLENCY remarked that in any such case the person would under section 2, 20 (a) of the Bill have the opportunity of proving to the satisfaction of the Supreme Court for the period of a whole year that he was unaware of the existence of probate in the Colony.

THE ATTORNEY-GENERAL pointed out that the Ordinance did not take effect until after the interval of a year from the date of the demise of the deceased.

HON. DR. HO KAI asked how would that benefit a person who did not know the law.

THE CAPTAIN-SUPERINTENDENT OF POLICE said they they could not teach Hongkong law to all in the Kwangtung province.

HON. DR. HO KAI replied that if the Chinese here were given a little time they would be able to let people in the country know how matters stood.

THE COLONIAL SECRETARY pointed out that they knew it already.

HON. DR. HO KAI said he had been informed by a big firm of solicitors that they had several cases in which people did not know that their deceased relatives had property in the Colony. One occurred within the past week in which a widow came here to take out probate six years after the death of her husband.

THE COLONIAL TREASURER pointed out that whatever they did there were bound to be cases like that.

HON. MR. STEWART remarked that all the hon. member asked for was that steps should be taken to render these cases as few as possible.

HON. MR. HEWETT observed that if they agreed to this proposal they were opening a wide door, and equal time might be demanded so that all laws could be translated into Chinese and circulated not only in the Colony but among the neighbouring provinces.

HON. DR. HO KAI said he was not opposing the law. He simply wanted to

make it known so that many hardships might be prevented.

HIS EXCELLENCY remarked that the Ordinance was very short, and he thought postponement until February 1st would give ample time for translation and distribution.

HON. DR. HO KAI asked if his Excellency would consent to March 1st, and added that he wanted due notice to be given to the Chinese.

THE COLONIAL TREASURER said they might object to any criminal law on the same ground.

HON. MR. OSBORNE stated that it would be twelve months before any penalty would be inflicted.

HON. MR. STEWART thought the object would be served if a translation were made and widely circulated.

HIS EXCELLENCY agreed to extend the time to March 1st, but only in respect of subsection 20 (a). It must be understood that the extension would not apply to 20 (b) or the other clauses of the Bill.

HON. DR. HO KAI amended his motion to read March 1st.

This was accepted by the Committee.

On Council resuming,

THE ATTORNEY-GENERAL moved the third reading of the Bill.

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

#### **Squatters' Amendment Ordinance**

THE ATTORNEY-GENERAL moved the third reading of the Bill entitled, "An Ordinance to amend the Squatters' Ordinance, 1890."

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

#### **Liquor Licences Ordinance Amendment**

THE ATTORNEY-GENERAL—Sir, before I

move the third reading of the Bill entitled, "An Ordinance to amend the Liquor Licences Ordinance, 1898, and the Liquor Licences Extension Ordinance, 1908, and to repeal the Liquor Licences Amendment Ordinance, 1902." I beg to move that the Bill be recommitted, as I have a few formal amendments to make.

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

Council then went into Committee on the Bill, and on resuming,

THE ATTORNEY-GENERAL moved that the Bill be read a third time.

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

HIS EXCELLENCY—Council will adjourn *sine die*.

#### **FINANCE COMMITTEE**

A meeting of the Finance Committee was then held, the Colonial Secretary presiding. The following votes were passed:—

##### **Judicial and Legal**

The Governor recommended the Council to vote a sum of three hundred dollars (\$300) in aid of the Vote, Judicial and Legal Departments, *B*.—Magistracy, Other Charges, New Territories, Incidental Expenses.

##### **Police and Prison Vote**

The Governor recommended the Council to vote a sum of Forty-four thousand one hundred and twenty-one Dollars (\$44,121) in aid of the Vote, Police and Prison Departments, Special Expenditure, Fire Brigade, Floating Fire Engine.

##### **Post Office**

The Governor recommended the Council to vote a sum of Eighty-one thousand three hundred and fourteen Dollars (\$81,314) in aid of the Vote, Post Office, Hongkong Post Office, other Charges, for the following items:—

## Carriage of Mails:—

Share of Mail Subsidy .....	\$34,214
Transit Charges .....	47,000
Light .....	100
	—————
Total .....	\$81,314
	—————

THE CHAIRMAN—The vote is largely due to the increased popularity of the Siberian route.

HON. MR. HEWETT—You get the same postage on the Siberian route?

THE CHAIRMAN—Yes, four cents.

HON. DR. HO KAI—Is it just that those who make use of the Siberian route should have their excess cost borne by the ratepayers who do not make use of it?

THE CHAIRMAN—It is imperial policy