

12TH SEPTEMBER, 1893.

PRESENT—

His Excellency the Governor, Sir WILLIAM ROBINSON, K.C.M.G.

Hon. G. T. M. O'BRIEN, C.M.G., Colonial Secretary.

Hon. W. M. GOODMAN, Attorney-General.

Hon. N. G. MITCHELL-INNES, Colonial Treasurer.

Hon. A. M. THOMSON, Acting Registrar-General.

Hon. F. A. COOPER, Director of Public Works.

Hon. R. M. RUMSEY, Harbour Master.

Hon. C. P. CHATER.

Hon. HO KAI.

Hon. J. J. KESWICK.

Hon. T. H. WHITEHEAD.

Hon. E. R. BELLIOS.

Mr. A. SETH, Clerk of Councils.

MINUTES.

The minutes of the last meeting were read and confirmed.

PAPERS.

The COLONIAL SECRETARY—I have the honour to lay on the table a copy of a correspondence

with the Secretary of State on the subject of the Treasury defalcations. I have also to bring up the report of the Finance Committee No. 5. The Finance Committee unanimously agreed to the expenditure recommended by your Excellency in the four minutes referred to in the report.

THE MORPHINE QUESTION: —HON. T. H. WHITEHEAD'S MOTION.

Hon. T. H. WHITEHEAD—Your Excellency, pursuant to notice I rise to move—"That the Government lay on the table copies of any reports received from the Sanitary Board, the Medical Department, the Honourable the Registrar-General's Department, or any other Department, and the Captain Superintendent of Police, on the subject of the consumption of morphine and the practice of administering or injecting preparations of morphine by unqualified persons, as well as a copy of any Petition or memorial received from the Opium Farmer, the correspondence which has recently passed between the Opium Farmer, his agents or attorneys, and the Government on the subject of the morphine question, the preparations of

morphine, and their sale and administration, before proceeding with the second reading of the Morphine Ordinance of 1893." The injection and administration of morphine by unqualified persons should not longer be permitted. Government should adopt such steps as will put a stop to the evil, and the report of the Colonial Surgeon, dated 14th July last, clearly shews how this can be done without taking away the rights of our chemists, or interfering with the freedom and the liberty of the subject. The Bill does what the Colonial Surgeon advises should not be done. When the honourable the learned Attorney-General moved the first reading he referred to the Morphine Ordinance as an exceptional measure. It is more—it is a very extraordinary and in some respects an unreasonable and most objectionable measure. If passed in its present form the new Act will without any notice sweep away the privileges and the rights which our duly qualified chemists have very properly exercised since Hongkong was a British Colony. Home chemists have similar but no higher qualifications than those dispensing medicine here, and the former continue to freely enjoy under the laws of the mother country the rights which this Bill denies to our qualified chemists in this Crown colony. On Saturday afternoon and yesterday we have been supplied with several of the reports asked for, but in view of its importance and that the Morphine Ordinance as now framed is absolutely antagonistic and diametrically opposed to the laws of England. I earnestly beg your Excellency to give the Council and the public the further reports this motion calls for, for our guidance, and in order that honourable members may have the opportunity of studying the subject, and extending to it the due consideration it deserves I would earnestly ask your Excellency to postpone the second reading of the Bill until the next meeting of Council.

Hon. C. P. CHATER—Sir, I beg to second the proposition of the hon. member who represents the Chamber of Commerce, namely, that the consideration of this Bill be postponed until the next meeting of the Council. No one can be more with the Government than I am in desiring to repress the sale of morphine by ignorant and unqualified persons, which is attended with such pernicious results, but at the same time I am of opinion that we should be most careful to do no harm or injustice to the European dispensaries, where the sale of morphine or preparations containing morphine is under the control of duly qualified chemists. As the Bill now stands it is obvious that it cannot be passed without most seriously affecting these people, and I have no doubt that the hon. and learned Attorney-General has now recognised this and is here this afternoon prepared with amendments and alterations to the Bill. But I think that the alterations and amendments will be of such a nature as to almost alter the whole Bill. Under these

circumstances I beg that your Excellency will be pleased to postpone the consideration of this Bill until we have had time to digest it in, probably, its new and altered form.

The COLONIAL SECRETARY—Sir, the Government is unable to accept the motion. The hon. mover gave notice at our last meeting that he would call for certain papers. Those papers, with a view to avoiding delay, were furnished to him and other hon. members on Saturday. That apparently did not suit the hon. member's purpose, for he then altered the form of his motion so as to include additional papers.

Hon. T. H. WHITEHEAD—I beg to be permitted, sir, to say that I gave notice of the alteration in my motion before I received the papers referred to, on Saturday afternoon.

The COLONIAL SECRETARY—Of course, I at once accept the explanation of the hon. member. I received the notice of application for permission to alter the terms of the resolution after the papers had gone to the hon. gentleman, but I, of course, accept in the most unqualified way the explanation he has given. However, sir, those additional papers were supplied to him and the other members of Council on Monday. The whole of the papers could easily be mastered in a very few minutes. Nevertheless he still moves for the adjournment of the second reading. The Government cannot agree to his motion for delay, as the matter in hand is very pressing and urgent as well as very serious. The practice which the Bill aims at repressing is not only terribly pernicious, but it is one which is growing and will continue to grow until it is forcibly checked. It may be a matter of comparative indifference to the hon. mover that the remedy should be delayed and that during the interval of delay scores, or it may be hundreds, of additional victims should be claimed by the tyranny of morphine injections, but the Government cannot so regard its duty, and for these reasons the Government will vote against the motion.

The Council then voted as follows:—

FOR.	AGAINST.
Hon. T. H. Whitehead	The Colonial Secretary
Hon. C. P. Chater	The Attorney-General
Hon. J. J. Keswick	The Harbour Master
	The Director of Public Works
	The Act. Registrar-General
	The Colonial Treasurer
	Hon. E. R. Belilios
	Hon. Ho Kai

THE MORPHINE ORDINANCE: —SECOND READING.

The ATTORNEY-GENERAL—Since the first reading of this Bill, sir, I have had the opportunity of making myself fully acquainted with the views of those who are more immediately interested in the passage of a measure of this kind. I need hardly say on the part of the Government that their desire is purely and simply to put down the evil, which is patent to us all, connected with the abuse of morphine.

There is no desire, there has been no desire, on the part of the Government to in any way interfere with the legitimate medical use of the drug. I may say that for my own part I am always very glad to receive any suggestions that can be made by hon. members of Council or by members of the community to improve any measure which I have in charge. It is not only my duty but my pleasure to consider those suggestions very fully and to submit them to the Government, and I may say that during the interval—the long interval, a fortnight—between the first and second readings of this Bill I have had the benefit of many suggestions, and I have had the benefit of the views of various persons who are interested in this subject. Those suggestions and views have been considered by the Government, they have not been in any way disregarded, and no doubt material improvements in the Ordinance are now able to be made on account of these suggestions, and the expression of those views. An Ordinance of this kind is not an easy thing to draw. It is made public when it is read on the first occasion and the object of that publicity is to invite criticism and discussion on the value, on the merits, and the demerits of such an Ordinance. This Ordinance, like others, has been subjected to a full criticism, which has been an advantage to us all, and I shall propose, with the permission of the Governor, when this Bill gets into Committee, several important amendments which will, I trust, have the desired effect of rendering the measure no infringement of the rights of anyone, will make no one dissatisfied, but will put a stop once and for all to this evil of the injection of morphine which is growing and spreading among us. When this Bill was being prepared it was first of all drafted in such a way as to put down injections only, but the view naturally presented itself that if you are putting down the sad abuse of morphine—the pernicious practice of taking morphine by injection—it would be illogical to allow it to be taken in other ways. Therefore as the Bill was considered it was thought advisable at that time to extend its operation in such a way as to deal with the administration of morphine in other ways than by injection. That was a very natural view to take. If you can prevent persons having the possession of a syringe or morphine you remove at once the temptation to use the morphine or syringe. If you allow persons to have morphine or syringes then it places the temptation before them to break the law if this Bill is passed. However, it appears that there are certain preparations which contain morphine which are used in England and here, and which seem to be in the nature of household remedies. We have Keatings' Lozenges, and Powell's Balsam of Aniseed, which contain a certain amount of morphine, and it has been alleged that there are many medicines of that description, which

may be described as household remedies, which contain certain preparations of morphine. This was explained to the Government and it becomes at once apparent that the Bill, as prepared in the first instance, goes further than the necessities of the case require, and that being so the Bill is now considerably altered. First of all, the most important alteration is in the definition of morphine. I shall propose when we come to the Committee stage to alter the definition of morphine, which hitherto not only included morphine, but preparations of morphine, with other ingredients, in the form of pills, lozenges, &c. I have entirely altered that definition of morphine and after carefully going through it with the Government Analyst and with others, I think I may say without breach of confidence that the definition as it now stands will be satisfactory to all here. I do not think that any chemist in Hongkong will complain of the definition now. It reads as follows:—"Morphine shall include morphia and all salts of morphine and any solution thereof that can be used as an injection, but not preparations for ordinary internal use containing morphine as an ingredient but not suitable for purposes of injection." The only possible suggestion which can, I think be made to that is that it should also include the preparations of morphine for external use, but I am informed that there is only one preparation of morphine which can be used for external application and that, as a matter of fact, is not used in any way except under medical prescription, in which case it would be covered by the Act. Then I come to the definition of chemist and druggist and I have stated in the Ordinance that that shall mean "a chemist or druggist holding a European or American certificate of qualification." Those hon. members who were members of this Council in 1891 will remember that when the Opium Act was passed—No. 21 of 1891—there was an exception made to the entire monopoly of the Opium Farmer in the 10th section, which provides that "no medical practitioner, chemist or druggist, not being a Chinese, or being such and having a European or American diploma, &c." I have adopted the same definition here for the purpose of defining a chemist and druggist. There are not many chemists and druggists here and I think the definition given will cover all those who should be allowed to deal in morphine. Now the 3rd section remains practically as it was before. It forbids the administration by injection, but it takes out the other forms of administration, so that it really confines the principle of this Bill to the prevention of the administration of morphine in that particular form by injection. Then comes the question, having forbidden one person to inject another, unless being duly qualified, are we to put hindrances in the way of those who wish to obtain syringes and morphine? I understand that

morphine is not only obtained from chemists in this colony but that there are actually some persons who import morphine and distribute it to the Chinese. These transactions in the opinion of the chemists, ought not to be allowed, and if we wish to prevent this evil we must put some check on the procuring of morphine by unqualified persons who sell and distribute it to the Chinese. Therefore section 4 enacts that "Any person who shall, except in cases where morphine has been prescribed by some duly qualified medical practitioner, furnish morphine or furnish a hypodermic syringe or other appliance for the injection of morphine, to any person, except to a duly qualified medical practitioner or to a chemist or druggist shall, on conviction before a Magistrate, be liable to a fine not exceeding fifty dollars, or to imprisonment with or without hard labour not exceeding two months." Hon. members will observe that I have reduced the penalty in both these instances, in both sections 3 and 4, from \$100 or three months' imprisonment to \$50 or two months' imprisonment. Then there is this important proviso "that this section shall not apply to the furnishing of morphine or hypodermic syringes or other appliances for the injection of morphine for the purpose of *bonâ fide* exportation." It has been pointed out to me that this being a distributing centre for morphine there may be different views held on the question in the interior of China, say, and it would be hard to prevent the export trade. The Government has no intention to do anything against that and it will allow the export of morphine as before. If any hon. members think that it would be better to omit the clause referring to the hypodermic syringe in those sections, on the ground that the syringe might be used for other purposes than the injection of morphine, I shall be quite willing to leave it out. I may point out that I have to a certain extent provided for that by using the words "hypodermic syringe, or other appliances for the injection of morphine." There may be some persons who require a syringe—a naturalist for instance, for preparing butterflies, or other persons for injecting quinine. It is a matter for consideration whether those very few persons requiring a hypodermic syringe for other purposes should prevent there being restrictions placed upon the sale of syringes. It may be that those persons would be willing, for the sake of the suppression of so great an evil, to give up their privilege and be told if they wanted one, "No, we are sorry we cannot supply you, as the Government are endeavouring to put down a serious vice." But if hon. members desire it I have no objection to omitting the syringes. Then we come to clause 5 and that subjects these morphine dens to very much the same treatment as an ordinary common gaming house. It provides that "It shall be lawful for any constable or officer of the Police duly authorized by warrant of any Justice of the

Peace (which shall be in the form in the Schedule hereto), with such assistants as may be necessary, to enter and, if necessary, to break into any place which such Justice of the Peace shall, from sworn information or of his own knowledge, have reasonable grounds to suspect and believe to be a place kept or used for the injection of morphine contrary to the provisions of this Ordinance or where such injection is carried on and to arrest any persons who may be found therein and whom he may suspect to have acted or to be acting in contravention of this Ordinance, and to seize all morphine, hypodermic syringes, and other appliances which may be found there and which are capable of being used for the injection of morphine, and on conviction of the offender, or in any case if the Magistrate shall so order, they shall be forfeited to Her Majesty the Queen, her heirs and successors, and be dealt with as the Magistrate may direct." I would call the attention of hon. members to the scope and effect of that clause 5. It does not allow the police to go into any place and seize syringes. It only permits them to do so when a Magistrate shall "have reasonable grounds to suspect and believe that the place is kept or used for the injection of morphine." I do not think that any hon. member will object to it being permissible for the police to go into these places and seize syringes and such things. Of course it is not likely that while the police are standing by any injection will be done, and that is why in the first draft of the Bill it was thought desirable to make the mere possession of morphine illegal. However, even if the policeman cannot prove that the occupier of the place was actually injecting, which is sure to be stopped immediately on the approach of the police, there may be sufficient evidence before the Magistrate to justify the forfeiture of the morphine and appliances. This, sir, shortly is the scheme of the Ordinance, but there are one or two other remarks which I have to make to prevent misconception. It has been suggested to me on the words "some duly qualified medical practitioner" that there might be some imperfectly educated Chinese practitioners who may give prescriptions broadcast. Those who raised this objection did so because they are not fully acquainted with the details of the law. I would point out that the words used are "duly qualified medical practitioner" and I may call attention to section 8 of the Medical Registration Ordinance No. 6 of 1884, which is as follows:—"The words 'legally qualified medical practitioner' or 'duly qualified medical practitioner' or any words importing a person recognised at law as a practitioner in medicine or surgery, or as any kind of a member of the medical profession, where used in any Ordinance, shall be construed to mean a practitioner registered under this Ordinance." It is true that there was a slight amendment made to

the Medical Registration Ordinance by No. 4 of 1893, but the words of Section 6 of that are, "In the principal Ordinance the words 'registered under the Ordinance' or words to the like effect shall be deemed to refer to registration under the principal Ordinance as amended by this or by future Ordinance." It therefore follows that a man is not a duly qualified medical practitioner, within the meaning of the Morphine Ordinance, unless he is a registered medical man in this colony, and there are no Chinese—I have just looked to prevent misconception—at the present time registered on the register in this colony. Nor do I think it at all likely that unless they pass, as they are bound to pass, an examination as difficult as the minimum examination in England for the purpose, they would be able to be registered. The words of the Ordinance as regards that are, "provided that such person shall prove to the satisfaction of the Medical Board that he is of good character, and has passed through a course of study and examination as thorough and sufficient as the minimum course of study and examination in any similar case required under the Imperial Acts of 1858 and 1886." I am quoting now from Section 12 of Ordinance 4 of 1893. They are not deemed on the register you see, unless they have passed such examination as would entitle them to be registered in England. Therefore I trust we shall have heard the last of suggestions of that kind. There is one other matter only which I need trouble you with. I mentioned at the first reading of the Bill that there seemed to be a strong impression about that this legislation is undertaken solely and simply in the interest of the Opium Farmer. I fully admit that the Opium Farm called attention to this evil in the first instance, but it was not because the Opium Farmer brought it to the attention of the Government that legislation was under taken. It was because the Government had information of this evil practice that they thought it necessary to legislate, and in order the more clearly to show that I will quote with His Excellency's permission a few words of my own minute written so long ago as June upon this matter. My words were, "The proper point of view from which to regard this question is the public good, and not the interest of the Opium Farmer or of the public revenue." That view I strongly advocated last June, that view has been held by the Government from June to the present time, and therefore, though I quite admit that the knowledge of this evil began by correspondence with the Opium Farmer, I repeat once again that it is not in the interest of the Opium Farmer that the Government brings forward this measure. If I have a custom pernicious to the community brought to my attention by the Opium Farmer or any one else it is time to consider whether legislation should not be resorted to.

This view the Government has taken all along. They are not legislating in favour of opium; they are aiming simply and solely at putting down the pernicious and evil practice which everyone admits to exist. I trust that there will be no opposition to this Ordinance on the part of any hon. members of this Council, and I shall be surprised if any chemist in the Colony objects to the Bill as it stands after the amendments are made which I will propose later on. I beg to move the second reading of the Bill.

Hon. HO KAI—I beg to second the proposal. I would have supported the motion for an adjournment of the second reading had I not been informed by the hon. and learned Attorney-General that the Bill has been so altered as to remove all objection to it, and that he had obtained the advice of those most interested in this Bill. They have regarded the alterations, he says, as satisfactory. And, secondly. I voted against an adjournment because I thought we might at all events proceed to consider the Bill to-day. We know that this practice of morphine injection has been carried on too far already. It is a habit which will grow upon those who resort to it and if you allow them to continue in that practice I am inclined to think that as time goes on it will be more difficult to get them to abandon it. Therefore if we get this Ordinance through and commence as soon as possible to put down this pernicious practice we shall save a few victims, while those also who have already commenced will have a week or fortnight less of the habit. For these reasons I was against the adjournment of the second reading which I now support.

Hon. C. P. CHATER—Sir, I need hardly say that I have paid great attention to the remarks of the hon. and learned Attorney-General, and I am pleased to find from those remarks that he is prepared to make important amendments, as he calls them, to the Bill, and that when these important amendments are made the Bill will be most satisfactory to all parties concerned. That is to say the Bill will do what we are all anxious it should do and as soon as possible, —suppress these frightful dens, at the same time without in the least way interfering with the class who rightly are entitled to dispense morphine. When I addressed your Excellency asking you to postpone the second reading of this Bill I was anxious to see that no injustice was done to any one interested in this business. I am pleased to hear that the hon. and learned Attorney-General has consulted several people and that he is assured that they are satisfied. I will therefore vote for the second reading. But I fear in looking at the form marked "B" that the amendments are so many that perhaps I may have to ask your Excellency to keep the Bill in the Committee stage so as to enable those parties interested, and the public in general, to look at these altered clauses and sections to see that there are no further faults to be found. I ask this simply because I think it would be an

injustice to the parties interested if a Bill, altered and amended as this appears to be, should be passed at one sitting.

The COLONIAL SECRETARY—It is not intended to take the third reading to-day, in fact as the alterations in the Ordinance are of some importance it would hardly be in accordance with the standing orders to do so. It was never the intention of the Government to take the third reading to-day.

Hon. T. H. WHITEHEAD—I rise to concur with the words which have fallen from the senior unofficial member. When I moved for a week's adjournment I did so not with a view of putting any obstacles in the way but in order that we might have an opportunity of studying the wholesale amendments which the hon. the learned Attorney-General proposes to make and which at first sight might appear to be very satisfactory. I am very glad to be informed by him that they were made with the approval of those parties whose interests are more immediately concerned. The Bill as amended appears in a totally new form and would not be recognised as the same Bill which was brought before us on the 29th of last month. As to myself having been accused of wishing for delay I would point out that the last of the reports we have been furnished with is dated July 14th, and the first reading of the Bill in question did not come before the Council until August 29th. And as to the preparation of the Ordinance it would appear to have been done in a very peculiar and dilatory sort of way, for five days after the Bill was submitted to this Council I find that the hon. Colonial Secretary writes to the leading chemist in Hongkong and asks him for the information which the Government ought to have had in its possession before the Bill was originally drafted. The letter I refer to is dated September 2nd and asks Mr. Humphreys to furnish a list showing the medicines and preparations containing morphine but which are nevertheless customarily sold to applicants without prescription, and so forth. I am very sorry, sir, that I should have been accused of wishing to put unnecessary delay in the way, but the delay rests with the Government and not with me. I was fully alive to the importance of this Bill, and had it not been amended to meet the wishes of those whose interests are affected I should have considered that we were only reasonably entitled to an adjournment of a week for an opportunity of studying and considering the subject.

The Bill was then read a second time.

The Council then went into Committee on the Bill.

The COLONIAL SECRETARY—I will take advantage of this opportunity to make a brief observation to the Council. It is in the way of an explanation. I should have made it when replying to the motion of the hon. member for the Chamber of Commerce for

adjournment, but he interrupted me while I was speaking—not at all improperly—and the point slipped me for the moment. I had intended to inform him that all the papers described in his motion had been furnished to him and other hon. members with one exception, viz: —a letter from the Treasurer forwarding certain reports. With that exception all the papers described in the motion have been furnished. It is not usual to furnish papers by members of the Executive Council to members of the Legislative Council unless they are published in connection with a despatch from the Secretary of State or on some such occasion.

The Council then proceeded to consider the Bill clause by clause. All the amendments suggested by the Attorney-General were adopted without discussion, but at the request of some hon. members the clauses in several sections referring to the furnishing of "hypodermic syringes or other appliances" were deleted and the Bill left without any reference to them. Only one point was raised during the Committee stage.

Upon Clause 3, which read "any person who shall administer by injection any morphine to any other person, &c."

The HARBOUR MASTER—I would suggest that instead of the words "to any other person" the words "to any Chinese" be inserted. The object of this Ordinance is the suppression of the pernicious practice of injection by ignorant Chinese, but I think the Ordinance goes rather beyond that because it forbids not only ignorant Chinese but all Chinese, and not only those but all Europeans, not the ignorant ones only but the intelligent ones also, and I think it will be admitted that injections may be given intelligently. I only submit the suggestion. Getting it prescribed by a medical practitioner means a payment of a \$5 fee.

His EXCELLENCY—Do you think any intelligent people use it without medical advice?

The HARBOUR MASTER—Certainly I do. I have given morphine injections myself, but if this Ordinance is passed no one will be able to do so without laying themselves open to a penalty.

The ATTORNEY-GENERAL—You have used it on people yourself? The arguments of the hon. member only show the necessity of the Ordinance. (Laughter.)

The ACTING REGISTRAR-GENERAL—I should not think that we could make any distinction between classes.

His EXCELLENCY—No, I don't think we can make any distinction.

The Bill was reported and the Council resumed, it being understood that if any amendments are to be suggested the Bill may be recommitted at the next meeting.

ADJOURNMENT.

His EXCELLENCY—We will adjourn until the 18th.