

20TH OCTOBER, 1910.

**PRESENT:—**

HIS EXCELLENCY THE OFFICER ADMINISTERING THE GOVERNMENT, HON. SIR F. H. MAY, K.C.M.G.

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

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

HON. MR. W. REES DAVIES, K.C. (Attorney-General).

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

HON. MR. W. CHATHAM, C.M.G. (Director of Public Works).

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

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

HON. MR. E. A. HEWETT.

HON. MR. MURRAY STEWART.

HON. MR. E. OSBORNE.

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. 88 and 89), and moved that they be referred to the Finance Committee.

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

**Financial**

THE COLONIAL SECRETARY, by command of His Excellency the Governor, laid on the table the report of the Finance Committee (No. 15), and moved its adoption.

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

**Committees**

HIS EXCELLENCY—It is necessary to nominate Committees for the year. I nominate Finance Committee: All the members of Council except the Governor, with the Colonial Secretary as Chairman.

Law Committee: The Captain Superintendent of Police, Hon. Dr. Ho Kai, Hon. Mr. Hewett, Hon. Mr. Stewart and the Attorney-General as Chairman.

Public Works Committee: The Colonial Treasurer, Hon. Mr. Osborne, Hon. Mr. Keswick, Hon. Mr. Wei Yuk and the Director of Public Works as Chairman.

**The Import of Morphine**

HON. MR. STEWART asked:—With reference to certain regulations recently issued, will the Government inform the Council what countries export morphine and its compounds to this Colony, and what proportion, if any, of the quantity imported is exported from the United Kingdom?

THE COLONIAL SECRETARY replied:—

(a.) A record has only been kept since the Opium Ordinance (23/09) came into force on the 1st of last March.

(b.) Between the first of last March and the 30th September 7,030 lbs. of morphine were imported into the Colony, the whole amount being shipped from London.

(c.) Between the same dates 66,114 taels of compounds of opium were imported into Hongkong; and of this amount 23,097 taels (or about 34 per cent.) came from London, while the remainder came from Canton.

**Opium Amendment (No. 2) Ordinance**

THE ATTORNEY-GENERAL moved the first reading of a Bill entitled, "An Ordinance to amend the Opium Ordinance, 1910."

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

According to the memorandum attached, this Bill amends the Opium Ordinance, 1910, by providing that the declaration on the importation of opium, in the case of a limited company, shall be taken by the manager before taking delivery by himself or his servants. It also makes the failure to make such a declaration an offence against the Ordinance.

### **New Territories Administration Ordinance**

THE ATTORNEY-GENERAL moved the second reading of the Bill entitled, "An Ordinance to consolidate and amend the laws relating to the administration and regulation of the New Territories."

In doing so he said—The memorandum to this Bill sets out the changes which, I think, are not of very great importance, which it is proposed to make in the Ordinance affecting the New Territories. The Bill, Sir, as a whole is a consolidation Bill, and the object is to consolidate the entire laws governing the New Territories. As regards the first item in the memorandum, I may say that the Local Communities Ordinance, as stated, has really had no practical effect in the New Territories. Clause 12 authorises the levying of contributions on the inhabitants where extra crime requires the provision of extra police. That has been found to have had good effect and has been retained. With regard to the registration of births and deaths, it has been deemed proper by a gradual process to extend the law to the New Territories. As stated in the memorandum, it will be effected very gradually. The power given in clauses 9 to 11 were formerly vested in the Registrar-General, but we have now given those powers to the District Officer, Clause 21 makes an additional amendment which is really necessary. It authorises the land officer to examine witnesses upon oath, affirmation or otherwise. As regards clause 58, words have been added to make it clear that a plaintiff can sue if the debt is contracted in the New Territories. Under the old wording, if a debt was contracted in the New Territories and the debtor removed to Hongkong it was contended that proceedings would not lie against him. Two additional sections have also been added. Clause 72 authorises that money-changers' licences shall be issued by the District Officer in the northern district and the Captain Superintendent of Police in the southern district, instead of, as heretofore, by the Registrar - General. Those two districts have already been defined by an Order-in-Council.

THE COLONIAL SECRETARY seconded.

HON. MR. STEWART—Your Excellency, when the

New Territories became part of the King's Dominions, little more than a decade ago, the civilization of the inhabitants was of the most primitive kind, compared with that of the Chinese inhabitants of Hongkong. No one knows better than your Excellency, and no one can describe half so well, the conditions prevailing in the early days of British rule. Your Excellency took part in the skirmishing which attended the establishment of British rule, and you probably owe your life to the fact that cross bows do not carry far, and that the ginal is not a weapon of precision. I remember seeing, at Taipo, a heap of arms, collected from the villages around, which betokened a state of civilization primitive in the extreme. Where you find walled and moated villages; roads non-existent, and wheel traffic therefore unknown; commerce conducted by packman, or rather pack-woman, and the area of the market for the exchange of commodities restricted accordingly, you are sure to find even the art of agriculture crude, and a backward and unprogressive population. Civilization is mainly dependent on means of communication and transport. When these are bad you find a backward and unprogressive population. This was the condition of the people of the New Territories when we took them over in 1899. The Kowloon hills formed a natural barrier, cutting the inhabitants of the New Territories off from the stimulating influence of intercourse and commerce with the inhabitants of the Kowloon peninsula. The inhabitants of the New Territories were almost a separate people, and it was therefore perhaps inevitable that they should be governed separately under special laws suitable to the mental state of such simple village folk. Hence the laws which to-day we are asked to re-enact and to consolidate. If in re-enacting

and consolidating the laws we had been asked to agree to modifications indicative of the gradual disappearance of the difference between the population of the New Territory and of the Colony, it would have seemed a natural development, because, in the ten years which have elapsed since, although the Government has been slow to realise the principal economic need of the New Territory—good wide roads—and has devoted its attention mainly to the building of the railway, now that the latter is an accomplished fact, this means of communication and transport will tend to promote intercourse, and the inhabitants of the old Colony and New Territory will become more and more homogeneous as time goes on. But the only modifications that I have observed in the Bill now before us have the opposite effect. For instance, in clause 6, in line 4, section 1, are the words, "or any other commodity whatever." That section rules that it shall be lawful for the Governor-in-Council to make rules for the farming out or licensing for revenue purposes in the New Territories the right to sell, manufacture or otherwise deal in spirits, opium, salt, or *any other commodity whatever*." Sub-section 2 proceeds to say that the Governor-in-Council may make rules for the levying, collection, recovery by legal proceedings, etc., *in his absolute discretion*. Again in clause 7 it is provided that such rules shall be published in the *Gazette*. Now, a modification, which I suggest, would be that those regulations affecting the liberties and the taxation of the subjects of the King in the New Territories should be laid on the table of the Legislative Council. I learn from the hon. the Attorney-General that sections 9 and 10 contain no change, but they give a power to the District Officer which is extremely drastic, and I consider that power requires modification. I do not propose to go into the details of the Bill at this stage, but taking it as a whole, and particularly in connection with section 54, which makes it lawful for the Governor-in-Council to make regulations from time to time as he may think fit, for the purposes of this Ordinance, those powers seem to me to be altogether too wide. I am not opposed to the principle of absolutism *per se*. There are times and seasons when it is a very excellent form of government. We are all absolutists in time of trouble, and, in governing people as primitive as are the inhabitants of the New Territories, I am quite prepared to accept the principle that arbitrary powers are necessary; but of absolutism, like every other good thing, you can have too much. Absolutism calls for effective checks. In my opinion this Bill does not provide sufficient check upon the powers conferred on the Governor-in-Council and the Land Officer. Unless, therefore, the Government can give us some assurance that they are prepared to accept reasonable modification of the kind

I suggest—and particularly in agreeing to lay upon this table the regulations made under the Ordinance—I shall not see my way to vote for the second reading of this Bill.

HON. MR. HEWETT—Your Excellency, I had no idea that the hon. member who represents the Justices of the Peace was going to speak at this stage of the Bill. I think the remarks he has made, taking them as a whole, are valuable, and I am perfectly certain that your Excellency and the Government officials who are interested in the working of the New Territory will consider the points raised by him. But we must remember that the conditions, financial geographical, and otherwise, are such that up to the moment and for some time to come, I think, with all due deference to the hon. member, that it will be necessary to have a separate form of regulations controlling the New Territory.

HON. MR. STEWART—Hear, hear. I said so.

HON. MR. HEWETT—The railway, although it has certainly brought us within reach of the New Territory, is not always reliable—(laughter)—and I gather that if you administer the whole of the New Territory north of the hills on the same conditions as we administer this very small island and the small peninsula attached, it will probably mean a very great increase in the work of the department and of the staff. Therefore it appears to me that the course the Government has hitherto followed of giving very great powers to one or two government officials who reside in the New Territories north of the hills, and who are controlled by the Governor-in-Council, has proved very satisfactory, and should therefore be allowed to continue for some time to come. I think it would be quite premature to adopt an entire change, as I gather from the remarks

of the hon. member who spoke last is proposed by him. Because we have a railway is no reason why we should immediately revolutionise the whole government of the New Territories and ask the officers who have hitherto confined their attentions to this island and the peninsula to extend their operations to the scattered populace spread over the New Territories. I believe myself that the New Territories have got all the reasonable protection they can demand, and believe that the system of government, which is certainly economical, and which appeals to me personally, is thoroughly efficient and efficacious. I think the remarks made by the hon. member who represents the Justices of the Peace are deserving of consideration. Still, I don't think the time has yet arrived to make a change in the form of government hitherto followed. Government under this system gives very great powers to the one or two government officials who control the area north of the hills. Possibly I might have spoken more strongly had I had an idea that the hon. member was going to express the views that he did. At present I entirely endorse the policy of the Government.

THE ATTORNEY-GENERAL—With regard to the remarks made by the hon. member who represents the Justices of the Peace that the Bill entailed changes which are drastic, that is not so. As a matter of fact there are very few changes, and hardly any change involving any question of principle in the whole consolidating Ordinance. (Hon. Mr. Stewart—Hear, hear.) I agree with the statement of my hon. friend, but have nothing to say upon the interesting general outline which he has drawn up on the promising condition of the New Territories, and how much more they have become contiguous to us since the opening of the railway. Sir, there is practically nothing in this Bill which involves any change, and certainly no drastic change. As regards section 6, my hon. friend has drawn attention to the words "or any other commodity." That section is an exact reproduction of section 3 of the Ordinance of 1899, with the addition of the word "manufacture." However, I understand my hon. friend has already made some representations with regard to that clause to the Government, and I am prepared to meet him to the extent of amending that clause—(Hon. Mr. Stewart—Hear, hear)—by leaving out the words "any other commodity whatever" and inserting the words "kerosene oil, or any dangerous goods as defined by the Dangerous Goods Ordinance, 1873, or any other commodity which by resolution of the Legislative Council may be included in the subsection." I have the instructions of his Excellency to convey this information, and I am quite sure that it will

meet every possible point. The Legislative Council can legitimately claim to have a voice in any matter affecting revenue in the New Territories, therefore we are quite prepared to accept the suggestion of the hon. member. With regard to section 7, the only reason for the alteration is explained in the memorandum of the Bill. It was found that the machinery which exists under the existing Ordinance was altogether unnecessary. The rules had to be certified by the Colonial Secretary and duly recorded in the districts. It was almost impossible to carry out that system. What was known as the districts no longer exist, because the Local Communities Ordinance will be repealed. I do not personally see any objection to have any rules laid on the table if desired. The system hitherto in vogue has been found to be purely a waste of time. Now, Sir, with regard to clauses 9 to 11 inclusive, it has been found desirable to transfer this power to the District Officer, who is situated in the district and who resides among the people, who knows the people, and who is in a far better position living there on the spot to institute these inquiries than the Registrar-General, whose office is situated here. He is a competent government official, and it is with the full consent of the Registrar-General that we propose to make this change. The question is purely one of transferring the machinery which exists under the existing Ordinance to the District Officer in lieu of the Registrar-General. It is not in any way curtailing the powers which exist under the law as it stands. That, Sir, has been fully considered, and it has been deemed unnecessary to leave these duties any longer to the Registrar-General, who has a vast amount of work to do. It was thought better to transfer them to the District Officer, who is on the spot. As regards section 54, this I believe is a verbatim reproduction of Ordinance 3 of 1909, section 40. I may point out that

that section applies to part II. of the Ordinance. There is a section at the end giving general powers to the Governor-in-Council to make rules for regulating proceedings under this Ordinance. That particular section reenacts section 40 of the Ordinance of 1905, which has relation to land. I can give the Council a general assurance that there is nothing, generally speaking, in the Bill, apart from clauses 9 to 11, and his Excellency in the exercise of his discretion regards the District Officer as perfectly competent to carry out those duties.

HON. MR. STEWART—May I make a personal explanation?

HIS EXCELLENCY—Yes.

HON. MR. STEWART—I simply wanted to explain that I did not say and did not mean what the hon. member who represents the Chamber of Commerce understood me to mean. I asked for some modification, particularly a modification in the direction of laying regulations on the table of this Council. That was my main point. I did not advise a change in the system of government, and I did not advocate applying the laws of this Colony to the New Territories at the present time. I thought I made that plain.

HON. MR. HEWETT—The hon. member did not make it plain so far as I am concerned. I did not understand him.

HIS EXCELLENCY — Gentlemen, I think the hon. member who represents the Justices of the Peace will probably now be satisfied with the indication of the modifications we propose to introduce. I must say I agree with the hon. member who represents the Chamber of Commerce that it is desirable to keep the administration of the New Territories as simple as possible. (Hon. Mr. Stewart—Hear, hear.) Simplicity always means economy, and the New Territory is one of those parts of our administration which a conscientious official can look at complacently, knowing it is run economically if nothing else.

HON. MR. STEWART—Do I understand, Sir, that section 7—

THE ATTORNEY-GENERAL—On a point of order. When we go into committee on the Bill any member can challenge any clause.

HON. MR. STEWART—Are you going to publish the regulations in the *Gazette* only or lay them on the

table of this Council?

HIS EXCELLENCY—I do not think it is necessary. The Attorney-General indicates the modifications we are prepared to make.

HON. MR. STEWART—Yes, but he did not put it definitely? He only said he saw no objection to it.

THE COLONIAL SECRETARY — The hon. member can vote against the Bill if he wishes.

HIS EXCELLENCY—We do not wish him to do that. You adopt certain principles in the Bill and give power under these regulations to carry out those principles. There is no precedent that I know of for laying regulations made by the Governor-in-Council on this table. They are published in the *Gazette*. If there is anything obnoxious you can bring the matter before the Council by resolution. The Attorney-General has explained that there is no new principle introduced in the Bill. (To the Hon. Mr. Stewart)—Do you wish to divide?

HON. MR. STEWART—Yes.

The motion was then put to the meeting. The only dissentients were the Hon. Mr. Stewart and the Hon. Mr. Osborne.

HIS EXCELLENCY—The Ayes have it.

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

Clause 6, sub-section 1, was amended by deleting the words "or any other commodity" and inserting the words "kerosene oil, or any dangerous goods as defined by the Dangerous Goods Ordinance, 1873, or any other commodity which by resolution of the Legislative Council may be included in this sub-section."

On clause 7,

HON. MR. STEWART—I move, Sir, that the words "published in the *Gazette* in English and Chinese" be deleted, and the words "laid on the table of the Legislative Council" substituted.

HIS EXCELLENCY—I would point out that there does not seem to be any sense in that, because under section 6 the Legislature gives the Governor-in-Council power to make certain rules. All section 7 says is that the Governor-in-Council may make rules for doing the things he is authorised to do under section 6.

HON. MR. STEWART—Sub-section 1 of section 6 gives him power to levy taxes and to farm the various manufactures. It affects the liberties of the inhabitants of the New Territories, and the difference in my mind between publishing these regulations in the *Gazette* and laying them on the table of this Council is a very practical difference. No one reads the *Gazette*, I am sorry to say; most people are too busy. But if the regulations are brought before members of this Council, and their attention is drawn to them, the light of public criticism is directed to them in a more effective way than if they were merely published in the *Gazette*. This request of the unofficial members is not made now for the first time.

HON. MR. HEWETT—The request is not being made now by the unofficial members. I dissent.

HON. MR. STEWART—It was made in an argument lasting up till eight o'clock in the passing of the Liquors Ordinance, when the same objection was, I think, put forward to regulations being made in secret and the public having no means of criticising them until they were published in the *Gazette*. That same objection I raise now against these particular rules and regulations being published in the *Gazette* instead of being laid before this Council.

THE CAPTAIN SUPERINTENDENT OF POLICE—After they are made?

HON. MR. STEWART—Before they become effective I want them laid on the table of this Council.

HON. MR. HEWETT—With regard to the remarks made by the hon. member who represents the Justices of the Peace, it seems to me that if we adopt this principle here we will be revolutionising the whole principles of government of the Colony. All Ordinances give to the Governor-in-Council power to make, alter or amend regulations, and these are published in the *Gazette*. It is clearly the business of anyone interested in the working of this Ordinance to find out whether the regulations have been altered, and to what extent. The hon. member seems to think, although we are largely dealing with ignorant Chinese peasants, that the regulations would have more

publicity given to them by being laid on this table than by being published in the *Gazette*. The only reason why we so specially urged upon his Excellency Sir Frederick Lugard that the ordinary rule should be broken through in the case of the Liquors Bill was because it was an entirely new departure and was going to possibly make a very serious alteration in the whole life of the Colony, because we are all more or less interested in the sale or consumption of liquor. The Liquor Bill was a leap into the dark. That was why we asked his Excellency to specially break through the rule: because this departure was absolutely unknown hitherto in the Colony. But for the hon. member who represents the Justices of the Peace to ask for the Governor-in-Council to lay regulations in a matter of this sort before the Council seems to me calculated to upset the whole regular working of the government of the Colony. I speak as strongly as I do because the hon. member spoke just now in the names of the unofficial members, and he was not authorised to do so. I had no idea that he was going to oppose any clause in this Bill, and I for one dissent from him entirely.

HON. MR. STEWART—I may remark that when I referred to the action of the unofficial members it was in connection with the Liquors Ordinance.

HON. MR. HEWETT—That was a special question.

HIS EXCELLENCY—I can well understand the exception being made in the case of the Liquors Ordinance. That was an Ordinance which introduced a very wide-spread and far-reaching change which affected everybody in the community, and I daresay the community naturally wanted to see those rules and regulations. But what we are going to put in force here is simply dealing with what I may call twopenny-ha'penny rules and regulations, and there is no necessity for adopting the course suggested

by the hon. member who represents the Justices of the Peace. It simply means more red tape, more delay and more hampering of the administration. The Legislative Council does not meet so frequently as it has done in the past few months, because we have had a lot of details to get through. Small rules with regard to kerosene oil licences and the like are continually being altered, and it is now suggested that all these details should be foisted on this Council. I do not really think it is necessary, and I am not prepared to introduce the innovation.

HON. MR. OSBORNE—I, Sir, entirely support the hon. member who represents the Justices of the Peace. If these regulations were all of the twopenny-ha'penny description you have mentioned, it would not matter; but the clause gives very wide powers which may be used to alter the whole principle of the Ordinance.

THE COLONIAL SECRETARY—No, it does not.

HON. MR. OSBORNE—And the Executive Council has only two unofficial members, one of whom is often absent, so unless they are first submitted to this Council, there is little chance of the public becoming aware of the different points in the regulations or how they affect individual interests. I think unofficial members of this Council ought to fight consistently for the principle of having regulations made by the Governor-in-Council first approved by this Council.

HON. MR. STEWART—There are powers to tax people.

THE COLONIAL SECRETARY—The powers given to the Governor-in-Council are always within the four corners of the Bill.

HON. MR. OSBORNE—Then add these words to the Bill, Sir, "not incompatible with the principles of the Bill."

THE ATTORNEY-GENERAL—That must be so.

HON. MR. STEWART—But where you propose taxation we ask publicity. It is a good old rule and surely not new in British annals. We are considering the taxation of the comparatively helpless people of the New Territory, and it is important that the Legislative Council should consider their interests as well as the interests of those concerned in the liquor trade.

HIS EXCELLENCY—Perhaps ten or fifteen years hence there may be some point in the hon. member's

remarks, but I don't think there is to-day. This law has been working for eleven years, and I think working satisfactorily. As I said before, more complications introduce more delay and more expense in the long run.

HON. MR. STEWART — Surely the Government does not contemplate making regulations which they are not prepared to defend reasonably? If not, why not lay them on the table?

THE COLONIAL SECRETARY—You will see them in the *Gazette*.

HON. MR. STEWART—People have not got time to read the *Gazette*.

THE COLONIAL SECRETARY — We have heard that story before.

HON. MR. HEWETT—The hon. member does not appreciate the point I make, that if we adopt this we will be revolutionising the government of the Colony,

HON. MR. STEWART—It is only in connection with taxation—

HON. MR. HEWETT—I still maintain, with all due deference to the hon. member, that his proposal is absurd.

HIS EXCELLENCY—I would point out to the hon. member that under section 2 all regulations which are voluminous are re-enactments. All the existing regulations are in force.

HON. MR. STEWART—We are looking towards the future. Conditions will change and you will have to modify existing regulations as time goes on. I wish to devise machinery by which they may be modified publicly.

HIS EXCELLENCY—I must say that I did not know the *Gazette* was so little patronised. It is the usual form of making things known.

THE COLONIAL SECRETARY—Section 6 does not give the Governor-in-Council power to impose taxation—only to regulate it.

HON. MR. STEWART—He farms out, he sells the right to deal or manufacture in certain things. Does that not impose taxation on the people who buy it?

THE COLONIAL SECRETARY—I don't think so. Not in the sense of taxation.

HON. MR. STEWART—But in a very practical sense.

HON. MR. OSBORNE—It is levying taxation in an indirect way.

HIS EXCELLENCY — Unless you have any amendment to propose I will put the clause.

HON. MR. STEWART—I move that the words "published in the *Gazette* in English and Chinese" be deleted, and for them be substituted, "be laid on the table of the Legislative Council."

HON. MR. HEWETT—What does "laid on the table" mean? Does it mean merely laid or discussion?

THE ATTORNEY-GENERAL—It simply gives the Legislative Council a sort of tacit cognisance of what is going on.

The amendment on being put to the meeting was lost, only the Hon. Mr. Osborne and the Hon. Mr. Stewart supporting it, and the clause then stood part of the Bill.

On clause 9,

HON. MR. OSBORNE—Is there any provision for the payment of expenses by the District Officer? Can a man be deprived of his day's labour by having to attend and answer the questions of a District Officer?

THE COLONIAL SECRETARY—You might as well say a magistrate should pay him. Such a thing cannot be helped.

HON. MR. OSBORNE — That is in criminal cases.

THE COLONIAL SECRETARY — It happens every day.

THE ATTORNEY-GENERAL—There is general power under the Magistrates' Ordinance to award ordinary expenses.

HON. MR. OSBORNE—It is rather hard to take a man from his work and drag him to the District Officer's court to answer questions, without paying his expenses.

HON. MR. HEWETT—It happens in England.

HON. MR. OSBORNE—Only in criminal cases.

HON. MR. HEWETT—No, in civil cases as well.

HIS EXCELLENCY—I recollect where men were brought from Shataukok. They got travelling out-of-pocket expenses, but they did not get expenses for their time. I don't think that is reasonable.

THE COLONIAL SECRETARY—A juryman does not get his day's value.

HON. MR. OSBORNE—He does in a civil case.

HIS EXCELLENCY—Do you wish to move an amendment or not?

HON. MR. OSBORNE — Yes. I move an amendment to the effect that the District Officers shall award compensation—

HIS EXCELLENCY—I don't think you ought to introduce that principle. You might introduce payment of travelling expenses.

HON. MR. OSBORNE—Well, "that the District Officer shall award out-of-pocket expenses to such witnesses."

HON. MR. HEWETT—Has not the District Officer that power under the Magistrates' Ordinance?

THE ATTORNEY-GENERAL—I think he has.

HON. MR. OSBORNE—I want to make him do it.

THE COLONIAL SECRETARY — You cannot make him do it every case.

HON. MR. OSBORNE—You can if you put it in the Ordinance.

THE COLONIAL SECRETARY—I would rather take the clause out than that.

HIS EXCELLENCY—You make a great mistake in pampering the people over there. A man is told to come and answer questions as to how, for instance, certain trees were cut down by his neighbour. He is contumacious and won't come. There is no reason why he should not, and there should be power to oblige him. The people are not lambs in the Territory. Far from it.

HON. MR. WEI YUK—Hear, hear.

HON. MR. OSBORNE—If the matter was in the hands of the District Officer you could rely on his discretion, but it is not. It is left to his subordinates.

HIS EXCELLENCY—No man can be sent for without the authority of the District Officer. In India District Officers have ten times the power given under this Ordinance. People here appear to get frightened of giving a District Officer any responsibility at all.

HON. MR. OSBORNE—A District Officer in India is generally a man of vast experience.

HIS EXCELLENCY—He is no better than the men here. They are drawn from exactly the same class.

HON. MR. OSBORNE—I don't say he is any better, but he is of vast experience and an older man.

HON. MR. HEWETT—No, not older; very often he is a boy of twenty-six and has power over five million people.

THE ATTORNEY-GENERAL — I think the question is covered by the Magistrates' Ordinance. Sections 10 and 11 of the Bill both bring in the provisions of the Magistrates' Ordinance of 1890.

HON. MR. OSBORNE—That seems to be sufficient.

The clause was then passed.

On clause 10 (I),

HON. MR. STEWART—Will the powers under this section be used in the event of the Crown desiring to get information to work up one of its own cases?

HIS EXCELLENCY — I have never known them to be used for that purpose.

HON. MR. STEWART—Could it be used for that purpose?

HON. MR. HEWETT—I take it it would be misused if it were.

THE COLONIAL SECRETARY — A District Officer is not a detective.

HIS EXCELLENCY—It is only for the purposes of an inquiry directed by the Government. The Governor first directs the District Officer to inquire into and report on any matter relating to the New Territory. The District Officer having received that direction can summon people to come before him. He can not move of his own initiative.

HON. MR. STEWART—Your suggestion is that the Government would not dream of doing such a thing?

HIS EXCELLENCY—The Government does not use the power in that manner. The power has hitherto been used, as it was meant to be used, for inquiries into fights, disturbances, and things of that sort.

HON. MR. STEWART—So long as it is understood that it is to be used in that way I don't object.

The clause was passed.

HON. MR. OSBORNE—What is the difference between a police officer and a constable? The clause says a police officer or a constable.

HIS EXCELLENCY—A police officer will be above the rank of a constable.

HON. MR. STEWART—A constable is also a police officer, isn't he?

THE COLONIAL SECRETARY—Not necessarily; a constable is a private.

Clause 21 (2),

HON. MR. STEWART—This sub-section seems to give extraordinary powers to the Land Officer. Who is to decide that the evidence is false?

HON. MR. OSBORNE—He is prosecutor and judge in one.

HON. MR. STEWART—What sort of proof do you want that the evidence is false, and how are you going to get it?

HIS EXCELLENCY—The evidence will disclose it. A judge in Court can send a man to gaol for perjury, and perjury discloses itself.

HON. MR. STEWART—It is a most dangerous power for any judge to have.

THE COLONIAL SECRETARY—They have it in Hongkong already.

THE ATTORNEY-GENERAL—This is based on section 12 of Ordinance 4 of 1900.

HON. MR. OSBORNE—That was ten years ago.

THE ATTORNEY-GENERAL—If my hon. friend saw as much of perjury at Court as I do he would be very glad to take some steps to put it down.

HIS EXCELLENCY—I think it is very necessary to leave it in.

The clause with slight amendment was adopted.

Clause 23,

HON. MR. STEWART—I move that we substitute \$1,000 for \$2,000. It seems to me that \$2,000 is a very large sum for people over there.

HON. MR. HEWETT—Section 20 gives the Land Officer power to deal with property up to \$5,000.

HIS EXCELLENCY—That sum of \$2,000 was inserted at the time the Land Court Ordinance was passed. I think it was proposed at the time to make it \$5,000, and it was reduced in this Council to \$2,000. I think that is quite low enough.

HON. MR. STEWART—It is a very large sum for a villager in the New Territory. If he feels he has been unjustly treated in the matter I do not see why he should not have the right to appeal to somebody.

THE COLONIAL SECRETARY — They can always appeal to the Supreme Court.

HON. MR. STEWART—I don't understand that. The clause says the judgment of the Land Officer shall be conclusive for all purposes.

THE COLONIAL SECRETARY—If a judge of the Supreme Court shall give special leave to appeal he can always appeal to the Supreme Court.

The clause was adopted.

Clause 54,

HON. MR. OSBORNE—I beg to move, Sir, in this clause, as in the other, that such regulations shall be first submitted to this Council.

HIS EXCELLENCY—These are all regulations relating to land. I should think very few members of this Council would understand them.

HON. MR. STEWART—I support the amendment.

HIS EXCELLENCY—Do you wish to divide on it?

HON. MR. STEWART—Yes.

The amendment was lost, the Hon. Mr. Osborne and the Hon. Mr. Stewart being the only supporters. The clause was adopted.

THE ATTORNEY-GENERAL asked that part 3 of the Bill be deferred till next meeting, and moved that Council resume.

Council then resumed.

#### **Liquors Licences Amendment Ordinance.**

THE ATTORNEY-GENERAL moved the second reading of the Bill entitled, "An Ordinance to amend the Liquor Licences Amendment Ordinance, 1909." In doing so he said—It was found that these two amendments were necessary in order to fix definite hours for the sale of liquors on licensed premises. There was some conflict between the conditions imposed in the Ordinance of 1898 and the intentions of the Government with regard to it.

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

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

On clause 2,

HON. MR. OSBORNE—Will notice be given to the different publicans other than through the *Gazette*?

HIS EXCELLENCY—This will come into force when the new licences are issued. A clause is to be added at the end stating that it will come into force on December 1st. Then it will be a condition of their licences.

HON. MR. OSBORNE — We don't want a prosecution to be the first intimation.

THE COLONIAL SECRETARY—That would be impossible. It can only come into force after the new licences are issued.

HON. MR. OSBORNE—Yes, but the hours will be different to what they have been.

THE COLONIAL SECRETARY—They will be stated in the new licence.

THE ATTORNEY-GENERAL moved that the following new clause be added: "This Ordinance shall come into operation on December 1st, 1910."

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

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.

#### **Promissory Oaths Ordinance Amendment**

THE ATTORNEY-GENERAL moved the second reading of the Bill entitled, "An Ordinance to amend the Promissory Oaths Ordinance, 1869." In doing so he said—The object of this Bill, Sir, is to amend the schedule so as to provide that Justices of

the Peace in future may be sworn by one of the Police Magistrates instead of in the presence of the Governor. I may say that the system prevailing at Home is that a Justice of the Peace can be sworn before any other two Justices.

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

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

On resuming,

THE ATTORNEY-GENERAL reported that the Bill had passed through committee without amendment, and moved that it be read a third time.

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

HIS EXCELLENCY—Council adjourns until this day week.

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#### FINANCE COMMITTEE.

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

#### **Treasury Vote.**

The Officer Administering the Government recommended the Council to vote a sum of seven hundred and eighty-five dollars (\$785) in aid of the vote Treasury, A. — Treasurer's Office, Personal Emoluments, 4th Grade Clerk.

#### **Police and Prison Departments.**

The Officer Administering the Government recommended the Council to vote a sum of Five hundred Dollars (\$500) in aid of the vote, Police and Prison Departments, C. — Prison, Other Charges, Subsistence of Prisoners.