

22ND JANUARY, 1914.

PRESENT:—

HIS EXCELLENCY THE GOVERNOR, SIR FRANCIS HENRY MAY, K.C.M.G.

H.E. MAJOR-GENERAL F. H. KELLY, C.B.

HON. MR. CLAUD SEVERN (Colonial Secretary).

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

HON. MR. J. A. S. BUCKNILL, K.C. (Attorney-General).

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

HON. MR. E. R. HALLIFAX (Secretary for Chinese Affairs).

HON. MR. C. McI. MESSER (Captain Superintendent of Police).

HON. SIR KAI HO KAI, K.T., M.B., C.M.G.

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

HON. MR. E. A. HEWETT, C.M.G.

HON. MR. H. E. POLLOCK, K.C.

HON. MR. D. LANDALE.

HON. MR. E. SHELLIM.

MR. A. G. M. FLETCHER (Clerk of Councils).

Minutes

The minutes of the last meeting were confirmed.

Paper

THE COLONIAL SECRETARY, by command of H.E. the Governor, laid on the table the quarterly return of excesses on sub-heads met by savings under heads of expenditure for the fourth quarter of 1913.

Financial Minutes

THE COLONIAL SECRETARY, by command of H.E. the Governor, laid on the table Financial Minutes Nos. 1 and 2, and moved that they be referred to the Finance Committee.

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

The School of Tropical Medicine

THE COLONIAL SECRETARY—Sir, with reference to Financial Minute No. 59, in which the Council voted a sum of £150 in aid of the vote Miscellaneous Services, grant-in-aid of the scientific institutions' contribution to the endowment fund of the London School of Tropical Medicine, a despatch has been received from the Secretary of State, which I will proceed to read:—

Downing Street,
25th November, 1913.

SIR,—I have the honour to acknowledge receipt of your despatch No. 370 of the 23rd ult. and to express my appreciation of the vote of £150 by the Legislative Council of Hongkong, as a donation towards the fund for the endowment of the London School of Tropical Medicine. The Crown Agents for the Colony have been instructed to pay over the amount to the schools.—I have the honour to be, Sir, your obedient and humble servant.

(Signed) L. HARCOURT.

Standing Committees

HIS EXCELLENCY—It is necessary to appoint Standing Committees for the ensuing year, and I appoint the following:—

FINANCE COMMITTEE—All the members of Council except myself.

PUBLIC WORKS COMMITTEE—The Director of Public Works, the Colonial Treasurer, the Hon. Mr. Wei Yuk, Hon. Mr. E. A. Hewett and Hon. Mr. E. Shellim.

LAW COMMITTEE—The Attorney-General, the Secretary for Chinese Affairs, Hon. Mr. H. E. Pollock, Hon. Mr. D. Landale and the Hon. Sir Kai Ho Kai.

Chinese Emigration Ordinance

THE ATTORNEY-GENERAL — Sir, there is a Bill which has been on the paper for some months relating to Chinese Passenger Ships, and I think I may mention before moving the first reading of the first Bill on the orders of the day that that Bill has been withdrawn and the present Bill substituted. The reason for the withdrawal was that there were so many amendments that it was found necessary to recast the whole Bill. I therefore move the first reading of the Bill entitled, "An Ordinance to amend and consolidate the Law relating to 'Chinese Passenger Ships' as defined by the Chinese Passengers' Act, 1855, and concerning Asiatic Emigrants generally."

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

The Objects and Reasons attached to the Bill were as follows:—

This Bill should, it is proposed, repeal and supersede the Chinese Emigration Ordinance, 1889, and its amending Ordinances.

There are many circumstances connected with Chinese Emigration which, although important at the time of the Chinese Passengers Act, 1855, are now not of practical consequence; there have been also since the date of the Chinese Emigration Ordinance, 1889, great changes in the conditions under which Asiatic Emigration is permitted from places or in vessels under British control.

The scheme of this Bill is to endeavour to simplify and compress the rather disconnected provisions of the Chinese Emigration Ordinance, 1889, and its amending Ordinances; to connect it more sharply and clearly with its mother Act (The Chinese Passengers Act, 1855), to omit such portions as seem to be at the present day obsolete, unnecessary or forbidden and to bring it up to a stage of modern requirements.

It is difficult, therefore, owing to the much altered features of the Bill when it is compared with those of the existing Ordinances, to give a tabulated comparison which may be of complete service without entering into a great mass of detail.

A general summary of the Bill itself and a general comparative analysis of its divergencies from the existing Law seems at any rate desirable. The present Bill is divided into the following parts:

Part I.— Preliminary Provisions.

Part II.— Provisions relating to ships carrying emigrants.

" III.— Provisions relating to emigrants: —
(a)— Medical Inspection.

(b)— Provisions relating to Passage Brokers.

(c)— Provisions as to Emigration Boarding-Houses.

Part IV.— Penal Provisions.

" V.— Miscellaneous.

Part I. Preliminary Provisions. — The preliminary provisions consist of "definitions" and "explanatory clauses" indicating where departure has been made from the provisions of the Chinese Passengers Act, 1855, and contain certain exemptions from the provisions of the Act in cases in which Asiatic passengers who cannot be classified properly as emigrants are being carried.

Part II. Provisions relating to Ships carrying Emigrants.—The general scheme of this Part of the Bill is that all ships to which the Bill applies must be possessed of some form of licence. Licences are in the Bill divided into three classes designated as "General," "Outport" and "Special."

The "Outport" licence is that capable of being granted by an Emigration Officer to a ship about to proceed with emigrants from a port outside the Colony.

The "General" licence and the "Special" licence are licences capable of being granted by the Governor to ships which are about to proceed with emigrants from a port in the Colony. The "General" licence is, as its name implies, under no restriction of period; a "Special" licence is referable only to Mail Ships and is limited in period. In this part are also laid down other formalities which have to be complied with by these ships and the conditions under which each class of licence may be granted.

Voyages are divided into two categories, namely, "long" and "short" voyages; a "long" voyage is a voyage declared to be of more than 30 days' duration; a "short" voyage is a voyage of more than 7 and not more than 30 days' duration or any other voyage declared to be a short voyage.

There are three Schedules of Regulations respecting the internal accommodation, comfort and treatment of passengers on voyages. Of these schedules the Sixth prescribes what is necessary on long voyages; the Fourth what is necessary on short voyages on ships under "General" or "Outport" licence; the Fifth what is necessary on short voyages

on ships under "Special" licence. The requirements on long voyages are naturally more elaborate than those for short voyages. The requirements on short voyages on ships under "Special" licence are slightly less rigorous than those on short voyages on ships under "General" or "Outport" licences, the reason being that "Special" licences are restricted to ships of that superior class which carries Mails.

Part III Provisions relating to Emigrants:—

- (a)— Medical Inspection. — The provisions relative to medical inspection are all brought together in sections 24 to 30.
- (b)— Provisions relating to "Passage Brokers." — There is little difference between these provisions and those which existed under the Asiatic Emigration Ordinance, 1889, and its amending Ordinances.
- (c)— Provisions as to Emigration Boarding Houses.—The same remarks apply here as are made with regard to paragraph (b) above.

Part IV. Penal Provisions. — The Penal provisions of the Bill have all been brought together in sections 47 to 56.

Part V. Miscellaneous.—These are more or less Formal sections.

The principal differences which exist between the provisions of the Bill and of the Chinese Emigration Ordinance, 1889, and its Amending Ordinances are as follows:—

- (a)— All references to contract emigrants are omitted in the Bill because Contract Emigration is now a thing of the past.
- (b)— A number of sections of the Chinese Emigration Ordinance, 1889, relative to illegal or prohibited fittings are omitted in the Bill because it is thought that these provisions are now unnecessary and out of date.
- (c)— The classification of voyages is clearly marked by their division into two simple categories, namely, "long" and "short." The obligations which a ship is compelled to undertake towards emigrants depend primarily upon whether she is proceeding on the "long" or "short" voyage.
- (d)— The provisions of the Bill relative to Medical requirements and the Penal provisions are grouped respectively in a more convenient form than in the Chinese Emigration Ordinance, 1889.

Arms and Ammunition Amendment Ordinance

THE ATTORNEY-GENERAL moved the first reading of a Bill entitled, "An Ordinance to amend the Arms and Ammunition Ordinance, 1900."

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

THE ATTORNEY-GENERAL appends the following "Objects and Reasons":—

The existing penalties with regard to the contravention of the Arms and Ammunition Ordinance, 1900, relative to smuggling of arms and ammunition, appear unfortunately to have little, if any, deterrent effect.

It has been observed with regret that the illicit introduction of weapons and cartridges continues rife, and the object of this Ordinance is to increase the penalty in order to endeavour to check in some measure this dangerous traffic.

The Pharmacy Ordinance

THE ATTORNEY-GENERAL moved the first reading of a Bill entitled, "An Ordinance to amend Ordinance No. 9 of 1910 as incorporated in the Pharmacy Ordinance, 1908."

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

The Objects and Reasons attached to the Bill were as follows:—

As under the provisions of the Bill now before the Legislative Council entitled, "An Ordinance to amend and consolidate the laws relating to Opium," that part of the existing Opium Ordinance, 1909, which refers to Morphine and Compounds of Opium is cut out from the purview of the new Opium Bill, it becomes necessary, as is indicated in the Objects and Reasons attached to the new Opium Bill, to make provision with regard to Morphine and Compounds of Opium by including such substances within the ambit of the Pharmacy laws.

This inclusion it is proposed should be effected partly by Order of the Governor-in-Council and partly by resolution of the Legislative Council under the provisions of the Pharmacy Ordinances; and partly by the provisions of the present Bill substantively amending the Pharmacy Ordinances.

It is proposed in the first place that under the provisions of section 9 of the Pharmacy Ordinance, 1908, Schedule "A" of that Ordinance should be amended by the introduction into Part II. thereof of a new definition of "Morphine and its compounds"; this step being effected by Order of the Governor-in-Council.

Secondly, it is proposed to insert as a "poison" in the Schedule to Ordinance No. 9 of 1910 (which is incorporated in the Pharmacy Ordinance, 1908), a similar new definition of the same substances; this change being effected by resolution of the Legislative Council under section 2 of Ordinance No. 9 of 1910.

Thirdly, by the present Bill, it is proposed to make some slight alterations in the existing Ordinance No. 9 of 1910 as incorporated in the Pharmacy Ordinance, 1908. These alterations will be found in section 2 of the present Bill, and the features of these alterations which deserve remark are as follows:—

- (a)— In section 3 of Ordinance No. 9 of 1910, the powers given to a Police officer of search for poisons, under warrant issued by a Justice of the Peace, are extended to Revenue officers;
- (b)— By giving power in cases of urgency to European Police or Revenue officers to search without warrant for poisons believed to be illegally concealed or deposited in any place;
- (c)— By altering the pecuniary penalty for contravention of the Ordinance so as to give as an alternative to the present maximum fine of 2,000 dollars a pecuniary penalty of ten times the market value of the poison in respect of which an offence has been committed;
- (d)— It is also provided that the market value of any poison in respect of which any offence has been committed against the Ordinance shall be determined by a certificate of the Government Analyst.

The Opium Amendment Ordinance

THE ATTORNEY-GENERAL—Sir, I beg to move the second reading of the Bill entitled, "An Ordinance to amend and consolidate the Laws relating to Opium." In doing so I hope that hon. members will pardon me if I have to address the Council at some length. Of course the fundamental reason for the appearance of this

Bill and its introduction into this Council is because it was recently decided that the present system under which the opium traffic is regulated in this Colony should be altered, and that the arrangements with regard to opium should be taken over entirely by the Government. It was hoped at one time that it might be possible to avoid a new Bill, and that one might graft the new arrangements on to the present law in such a way as to dispense with all the formalities of a totally new measure, but when it came to be tried it was seen that the law as it at present stood was so complicated that it was necessary to make an enormous number of amendments in order to bring up the law to meet the new altered circumstances. And accordingly it was decided—and perhaps it is better that it is so—that with the new arrangements a new clean Bill should be prepared under which it is hoped that the future working will be simple and free from disadvantage. All long Bills, Sir, are at first sight alarming, and look formidable, but, as a matter of fact, in this case there is very little alteration from the law as it at present stands. Broadly speaking, the first principal alteration is that the part of the existing opium law which deals with morphine and compounds of opium is extracted from the Bill which is now before the Council and is placed under an amendment of the Pharmacy Ordinance, of which the first reading was taken just now, and a draft of which is before hon. members. The second important thing, I think, is that in some cases the penalties are slightly decreased, in cases where it is thought that breaches against which the penalties are directed are breaches of a technical character: whilst in other cases where the breaches are of a non-technical character, and where there may be suppositions that the breaches are wilful, the penalties have been slightly increased. The third, and perhaps also a very important, point, is the provision of certain temporary arrangements under which the present licensee or Opium Farmer hands over to the Government his business which he carries on, and although this may seem at first sight to be rather remarkable, if hon. members were to refer to the law as it at present exists it will be seen that the Opium Farmer is under very similar obligations to any new licensee who might have been licensed in his stead under the old Act. The Bill as it

stands is divided into four Parts with an epilogue of schedules, and a prologue of definitions. The definitions do not really differ materially from the definitions which existed under the old law. The schedules do not materially differ from the schedules which existed under the old law either. The four Parts of the Bill really deal with separate affairs, and it would be simple perhaps if I roughly indicated what these four Parts deal with before proceeding to the details of each part. The first Part of the Bill, after the preliminary definitions, deals with raw opium, and I may say at once that the alterations in this Part of the Bill are not great when compared with the position which obtains under the existing law. The only substantial difference is that a more effective control is given over the movements of raw opium than exists at present. The second Part of the Bill deals with prepared opium, and, of course, here there is considerable alteration, not so much in the actual position with regard to raw opium in the Colony, but particularly in the change which has taken place, the Opium Farmer and his agents and his servants being wiped out of the law and the Superintendent of Imports and Exports being placed in their stead. As hon. members will understand, in relation to this Part of the Bill, a good deal of the existing law is taken up in defining the relationships which exist between the Government and the licensee (the Opium Farmer), the Government and the public, and between the Opium Farmer and the public. Now, one of these factors is eliminated and the sole position is the relation of the Government, which is now the monopolist, to the public. The third Part of the Bill, necessarily a lengthy Part, deals with the administration of the Ordinance, and when I say administration I include, of course, the appointment of the requisite officers, their position towards the public, and the penal provisions of the law which are necessary in order to ensure its effective working. There is, as I have already indicated, some slight alteration here not only with regard to the position of the Government towards the public, but also with regard to the penalties. The fourth Part of the Bill deals with the temporary provision which seemed to be necessary in order to ensure the handing over by the Opium Farmer to the Government of his business, and, if necessary, his stock-in-trade and utensils with which he carries on his operations. Those,

Sir, are very broadly the main features of the Bill, and I now propose, subject to your approval, to deal very shortly with the Bill in detail. I should point out, perhaps, first, that the Bill does not come into operation until March 1st, 1914, which is the time when the present farm licence expires. The fourth section deals entirely with definitions, and if hon. members will look up the definitions which are contained in the existing law they will see that there is practically no difference. The first Part of the Bill, that is to say, the part which deals with raw opium, looks alarming at first sight, but when one comes to analyse it it is very simple. This Part again, is divided into four divisions, and if one analyses it carefully, one sees what these divisions are, and how they naturally follow in sequence. The first is importation; what is the position of raw opium imported. The second deals with exportation; what is the position of opium to be exported. The third deals with the restrictions on the movement of opium, whilst it is in the jurisdiction, or, at any rate, within the confines, of the Colony. The fourth deals with the obligations which are cast upon persons who have actually stored or are in possession of opium in the Colony: so that the first Part whittles down to four very clearly cut divisions dealing respectively with exports, imports, local movements and obligations of people who are in possession of raw opium in the Colony. Now the second Part of the Bill, dealing with prepared and dross opium, is even simpler, because it vests entirely the exclusive right of dealing with prepared opium, of preparing raw opium, and of handling prepared opium, dross opium, opium dross and halan in the hands of the Superintendent; just, if one may say so, in the same way as up to the present time it was vested in the hands of the Opium Farmer. The usual precautions are inserted and also prohibitory clauses dealing with sales to women and young persons, the prevention of opium divans, and other small parts of the present law which indicate certain breaches of the law. But in the main there is practically no alteration in this part of the Ordinance with the exception that a Government officer, the Superintendent of Imports and Exports, is placed in the same position substantially as, only in a

clearer position than was, the Opium Farmer under the existing law. Now then, Sir, with regard to Part 3, the general part: that is necessarily, as I said, a long Part, but hon. members will see that it is divided up into various sub-heads: firstly, the appointment and duties of revenue and police officers. That is, of course, necessary because up to now there has been no arrangement for the appointment of Government officers dealing with the business. The second part deals with searches, examinations, arrests and seizures. All those sections under that head are substantially the same, although they may differ slightly in detail, as those which exist under the present law. The next part relates to forfeitures. Here there is some difference, because, as hon. members are aware, under the existing law in certain cases forfeitures of opium in part, or sometimes in whole, went to the Opium Farmer. Here, as the Government is put in the position of the Opium Farmer, this position is much simplified. Then there is the procedure under the legal heading, under which there is practically nothing new at all. With regard to the penal provisions, those are all, for convenience, put under one sub-heading, and I think that is important, because it will be easy for those who have to administer the law to see by a glance at the penal provisions, sections 55 to 61, what is the penalty for each sort of contravention contemplated in the Ordinance. Then, Sir, with regard to Part 4, the temporary provisions, I think that they are really extremely simple. They provide that after the passage of the Ordinance the necessary arrangements shall be made to take over the business from the Opium Farmer, and hon. members will see there is some elaborate but necessary arrangement, by which, in the event of there being any dispute between the retiring Opium Farmer and the incoming Government, there shall be arbitrators appointed who shall decide on any question in dispute. There is one point in the Bill to which I should perhaps call particular attention. That is, there is a sub-section in the Bill under section 23, which provides that a report, signed by the Superintendent, based on a certificate of analysis of the Government Analyst, shall be conclusive proof as to whether certain prepared opium, or dross opium, or opium dross, or halan, is, or is not, of Government origin. Now, one need not elaborate or dilate upon that point, but it is a point of some

importance, because, of course, as hon. members will no doubt imagine, it will be possible, by secret processes, to determine whether any of these substances, prepared opium, or dross opium or opium dross or halan, which is found in the possession of anyone in the Colony, is, or is not, of Government origin, and if, when ascertained, if was possible for any one to obtain a knowledge as to how this method of distinguishing is carried out it seems important to have this section introduced. There are a few amendments which are put down on the copies of the Bill which are before the Council. I do not think that most of them are of any importance, although possibly some of them may be. Section 62 is to come out, at any rate, temporarily, and I understand that the Government does not propose to complete the Bill to-day, although it may go into Committee so that we can put forward the Bill as far as we can; but it is not possible that the Bill should be actually passed to-day, because, as hon. members will understand, the Pharmacy Ordinance, which comes in at the same time, introducing new arrangements dealing with morphine and compounds of opium, must be passed simultaneously, or otherwise there will be a gap through which compounds of opium and morphine might escape.

HON. MR. HEWETT — Will the hon. Attorney-General explain why section 62 is coming out? That is a point of interest.

THE ATTORNEY-GENERAL — I understand the reason why it is temporarily cut out is because it is a matter which has got to be referred to England, and the exact form which section 62 will take is not yet known. With these few remarks I beg to move the second reading of the Bill.

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

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

On Clause 5,

HON. MR. POLLOCK said—With regard to the exceptions, that sub-section requires some amendment: for instance, to take one point, the proviso at the end: "provided that s u c h o p i u m s h a l l n o t b e

removed from such steamship whilst in the waters of the Colony." As that clause is drafted, it will refer to opium imported by the Superintendent as well as the opium in a steamship. I think, therefore, that it would be better if sub-section 2 of section 5 was split into (a) and (b) to read, "shall not apply to (a) opium imported by the Superintendent"; and (b) "shall not apply to opium brought into the Colony," and so on. There is a further point, Sir, which I think will have to be provided for in this section. The proviso at the end seems to be too wide; for instance, opium might arrive in this Colony from India, bound for Formosa, and if it could not leave the ship on which it arrived to be transhipped to a coasting steamer, I do not know what would happen to the opium.

THE COLONIAL TREASURER—Ship it back to the place where it came from.

HON. MR. HEWETT—The point, Sir, is this: a considerable quantity of opium passes through Hongkong which is bought by the Japanese Government for medical purposes in Formosa. If this clause, sub-section 2 of section 5, is not amended, I cannot see any section in this Ordinance which will permit of the opium being transhipped in Hongkong, and this is a perfectly legitimate trade, which will continue.

HON. MR. POLLOCK—Emphasising the point, if the Council will refer to sub-section 1, clause 9, of the Bill, they will see that it is there provided that no person shall remove raw opium from any ship except for the purpose of taking it from the ship to the general warehouse.

HIS EXCELLENCY—We will hold this clause over.

On Clause 9,

HON. MR. POLLOCK said—I think this clause will have to be considered in connection with clause 5.

HIS EXCELLENCY—This can be held over, too.

Clauses 11 and 12 were also held over.

On Clause 22,

HON. MR. POLLOCK—I suppose the hon. Attorney-General is satisfied that this clause is correct, that the Superintendent is the only

person in the Colony to prepare opium.

THE ATTORNEY-GENERAL—Yes.

HON. MR. POLLOCK—He will be rather busy.

THE ATTORNEY-GENERAL—The Assistant Superintendent will assist in the cooking of it! I suppose the hon. member thinks that by that clause the unfortunate Superintendent will have to boil all the opium in the place!

Clauses 24 and 27 were held over.

On Clause 29,

HON. SIR KAI HO KAI—In this section 20 taels of opium are allowed to be in the possession of any person, while I think the existing Ordinance only allows five taels of prepared opium. The reason of the latter provision was that no person would be allowed to possess a large quantity of prepared opium, which gave him an opportunity to smuggle it into places where prepared opium is excluded. In the present section the five tael limit has been exceeded, and I don't think that is an improvement. Unless the Government have a very cogent reason, I think five taels, as formerly, is sufficient.

HIS EXCELLENCY—You are quite right. It is an error, and we are going to correct it: five taels will be substituted for 20 taels.

The clause as amended was approved.

On Clause 45,

HON. SIR KAI HO KAI—In this clause I think there should be some provision introduced to prevent any abuses by European revenue officers, who may be of an inferior rank, and who enter houses without warrants. It seems to me the reasonable course would be to apply for a warrant. Every man's home is his castle, and the sanctity of the home should not be violated by subordinate officers who are allowed to enter without a warrant. In case of larceny, or where an officer is in pursuit of a criminal, if the criminal gets into a dwelling house the officer is allowed to follow him into the house, but it seems to me that it is very large power to be given to anyone to enter any domestic house or dwelling house without a warrant.

HIS EXCELLENCY—It is only if, by reason of delay in obtaining the necessary warrant, the opium is likely to be removed.

THE ATTORNEY-GENERAL—I don't think it is very unusual. There are cases of great urgency where it is necessary to proceed without a warrant, just as there are criminal cases where it is necessary to proceed without a warrant. As the hon. member knows perfectly well, any person committing a felony may be arrested at once.

HON. SIR KAI HO KAI—Quite so, but a warrant can be applied for and a watch kept outside, and the moment there was an attempt to remove the opium it could be frustrated and the person seized at once.

THE COLONIAL TREASURER — You could hardly watch a place and apply for a warrant at the same time.

HON. SIR KAI HO KAI—Not the same person, perhaps.

THE COLONIAL TREASURER—This is a point that has always been discussed in any legislation in connection with opium, spirits, arms or anything else. It has always been the same old discussion.

HON. SIR KAI HO KAI—To repeat a discussion like this shows a constant danger.

THE COLONIAL TREASURER—All these Ordinances have been in operation for many years, and I have never heard of any trouble.

HON. MR. HEWETT—There is a good deal of feeling on the subject on the part of the Chinese. I think the matter might be held over. The fear of abuse is, I think, a very natural objection the Chinese community have raised to exceptional powers being given to subordinate officers.

HON. SIR KAI HO KAI—Especially in the case of a European constable coming fresh from Europe, who may be more zealous than discreet.

The clause was held over.

On Clause 55, sub-section 5,

HON. MR. POLLOCK—This is rather a hard provision: "If any ship is used for the importation, landing, removal, carriage or conveyance, or for the exportation of any

opium in contravention of section 46, the master, owners, or agents thereof shall, on summary conviction, be liable to a fine not exceeding \$5,000." I do not know if there is any precedent for such a provision as that.

THE ATTORNEY-GENERAL — The amount of the fine, \$5,000, is a sort of general penalty. Under the old Ordinance it was \$2,000.

HON. MR. POLLOCK—If the ship is used, the master, owner or agents are to be fined, although they might be innocent.

THE COLONIAL SECRETARY — The question would be brought up for the Court to consider.

HON. MR. POLLOCK—All you would have to do to get a conviction would be to prove that the ship was used for importation.

HON. MR. HEWETT—I take it that no excessive fine would be enforced unless it was proved that the captain had been grossly negligent.

THE COLONIAL SECRETARY — The leading case in the Straits is in connection with a German mail boat. Opium was found on the boat, and the captain was fined a large sum.

HON. MR. HEWETT — Contributory negligence was probably assumed. I think the clause is all right. I don't think \$5,000 is excessive.

On Clause 57,

HON. SIR KAI HO KAI—Sub-section (b) of this clause seems to me to be an unfair provision altogether. I think there should be some provision introduced to deal with a person who removed opium from a place where it was stored; wilfully removed it to another place in order to evade the revenue, or to make an improper use of it.

THE ATTORNEY-GENERAL—I don't think that really goes far enough. There might be cases where the proprietor of the premises tacitly agreed to the seizure, stealing, larceny or abstraction of the opium by other people, and when the shortage was discovered he might say he knew nothing about it. In such case it would be entirely in the discretion of

the Magistrate as to what penalty he might inflict. If the person who was the owner of the premises was able to prove satisfactorily to the Magistrate that he really did not know anything about it, that he had taken all reasonable precautions, and that it was a genuine case of larceny in which he himself suffered, then the Magistrate would no doubt inflict a nominal penalty, but if it was another sort of case in which the owner of the premises was in any way a *particeps criminis*, the full penalty would probably be inflicted—the whole gamut of possibilities would lie between an absolutely innocent owner and a person who tacitly acquiesced in the abstraction and a person who had been merely negligent and who kept it in a place where it was open to extraction.

HON. SIR KAI HO KAI—I venture to disagree. For a person who has lost by robbery or larceny a certain valuable property, and proves this to the Magistrate, to be convicted under this section and fined even the nominal penalty of half a dollar, it would be an indignity.

HIS EXCELLENCY—He may not be fined.

HON. SIR KAI HO KAI—If a person in charge of opium can prove to the satisfaction of the Magistrate that the opium had been lost or stolen without his knowledge and without negligence, he should not be convicted.

THE ATTORNEY-GENERAL—If you leave your watch in a public road you cannot be surprised if it is taken. There may be many cases in which there is tacit acquiescence in the abstraction, and yet a fairly strong case may be made out to show there has been no acquiescence in the abstraction.

HON. SIR KAI HO KAI—But he has to satisfy the Magistrate; the onus of proof is on him. And if he can prove to the satisfaction of the Magistrate I don't think the Magistrate should convict him, but only inflict a nominal fine or caution.

HON. MR. SHELLIM—Assuming, of course, that all reasonable precautions have been taken.

HON. SIR KAI HO KAI—That rests with the Magistrate. He has to be satisfied that every precaution has been taken.

THE COLONIAL TREASURER—He can only show that he has ostensibly taken precautions, but he can go behind them all himself.

THE ATTORNEY-GENERAL — The Magistrate may say, "I believe you are a perfectly honest person. You had the opium locked up, and somebody made a hole in the wall and took it away. I shall discharge you."

HON. MR. SHELLIM—The robbery may have occurred months before it was detected.

HIS EXCELLENCY—We are dealing with a valuable article with which there is tremendous temptation, and more now than ever. We are bound by our obligations to a friendly Power and in our own interests to make the law extremely strict on this point, otherwise unprincipled people will take advantage of it.

HON. SIR KAI HO KAI—Is it the intention of the Government to have an opium depot?

HIS EXCELLENCY—Not at present.

HON. SIR KAI HO KAI—I think we ought not to subject those who have acted *bona fide* to the stigma of being convicted under this section of the Ordinance.

THE ATTORNEY-GENERAL — There are many other cases of a similar character. Many highly respectable people are convicted of offences for which a nominal fine is inflicted, and no stigma attaches to them at all.

HON. SIR KAI HO KAI—I would like the hon. Attorney-General to give some concrete example showing how highly respectable persons who are always exercising proper precautions are yet being convicted.

THE COLONIAL SECRETARY—There is the case I mentioned just now of the German mail.

THE ATTORNEY-GENERAL — I was convicted myself once for fishing without a licence, and the Magistrate fined me a penny!

HON. SIR KAI HO KAI—That was properly convicted.

HON. MR. HEWETT—There is another point in connection with this sub-section (c). If the person who is found in possession of the opium, and the owner whose opium is missing and various other people are to be punished, I think the godown keeper should also be punished. very often a native has the keys in his possession for certain parts of the day and night, and may be in collusion with thieves. People cannot always leave the keys in the hands of a responsible white man.

THE ATTORNEY-GENERAL — They ought to have special places for opium in their warehouses

HON. MR. HEWETT—Never mind where they are. You punish the owner and I think the godown keeper ought also to be punished. It is a point which I think should be considered. The whole clause should be considered.

HIS EXCELLENCY—Truly, I think the clause is good enough.

HON. MR. HEWETT—To cover the point I have raised about the godown keeper?

HIS EXCELLENCY — We are granting people for the purpose of their business a very valuable privilege.

THE ATTORNEY-GENERAL — The fining of a godown keeper would not do anyone much good. Supposing he is an Indian watchman, he cannot pay the fine and burdens the prison for a year. The person we want to get at is some responsible person.

HON. MR. HEWETT—Make the Secretary of the Wharf Company responsible?

HON. MR. POLLOCK—I don't see why an Indian watchman should not be liable if he is the person who actually did it.

THE ATTORNEY-GENERAL — He may have been asleep.

HIS EXCELLENCY — If the Godown Company don't want to be responsible they need not take the responsibility. The Government has not got a warehouse itself for the very simple reason that it does not know how long this opium traffic is going to last.

HON. MR. HEWETT — Opium is an enormously valuable thing, particularly now under existing conditions, and therefore the

key ought never to be out of the possession of some responsible person who can be punished. Supposing, for example, opium was stored in the Godown Company; even then the Government would have no power to fine the Godown Company. You would fine the owner of the opium, my hon. friend on the right (Hon. Mr. Shellim). If people are going to be punished for letting their opium disappear through carelessness, amongst others deserving of punishment clearly should be the people in charge of the godown in which the opium is stored.

THE ATTORNEY-GENERAL — They get punished indirectly.

HON. MR. HEWETT—Not at all.

THE ATTORNEY-GENERAL—If you were fined \$5,000 or \$6,000 you would probably get rid of your godown keeper.

HIS EXCELLENCY—There are only a few persons licensed to store opium in licensed warehouses.

HON. MR. HEWETT—The point is, are these godown keepers liable under this clause? I think they are not, and the hon. member opposite (Hon. Mr. Pollock) thinks they are not. I suggest the clause might be further considered.

HIS EXCELLENCY—No amendment has been proposed. What is the amendment?

HON. MR. HEWETT — I only have an amendment if my point is not covered by the existing Ordinance. The hon. Colonial Secretary thinks it is. The hon. member opposite (Hon. Mr. Pollock) thinks it is not.

HIS EXCELLENCY — We will hold the clause over.

On Clause 62,

HON. MR. POLLOCK—With regard to the omission of this clause I very strongly object to the clause within brackets, marginal note "nett receipts only to be credited to revenue," being omitted. In October last when the Bill relating to revenue was circulated to this Council, there was also circulated to hon. members of the Council a white book containing

estimates of revenue and expenditure for the year 1914, and on page 119 of appendix 3 there is clearly shown a deduction made on account of the expenditure on the Opium Monopoly. The figure there shown as a deduction I think was slightly corrected afterwards in Council by His Excellency the Officer Administering the Government. \$921,960 is given as a deduction to be made for the purposes of the defence contribution, and there is a reference to a marginal note at the foot of that page (marginal note 2 C.O., telegram 11th October, 1913). The gross receipts of the farm for January and February are given out of the Government monopoly for ten months as a total of roughly \$2,500,000. Then there is a deduction made for expenses coming to \$921,960, and the nett receipts for the Opium Farm are then shown as being \$1,651,240. That was circulated to hon. members, clearly showing a reduction in assessing the opium revenue for military contribution to certain expenses which are there set out, amounting to between \$900,000 and \$1,000,000: and when this budget was before hon. members they had that before them, and, in fact, the revenue Bill passed through on that footing—that these reductions would be allowed. His Excellency the Officer Administering the Government, in referring to military expenditure in his budget speech at page 73 of *Hansard*, says:—"The defence contribution to the Imperial Government shows an increase of \$256,194. The calculation of this item is shown in appendix 3." Appendix 3 did show how the military contribution worked out, and how that increase was arrived at. It was arrived at by allowing for this deduction, and it appeared from the speech of the Officer Administering the Government, in *Hansard*, near the bottom of page 71, that as a matter of fact the amount to be deducted for the expenses in connection with the Opium Farm was not \$921,000 odd, but \$993,000 odd, or in round figures \$1,000,000. Well, Sir, notwithstanding that deduction, there was an increase in the defence contribution, as pointed out by his Excellency in Council, of \$256,194. But, Sir, if this further sum amounting roughly to \$1,000,000 is not to be deducted, it will mean that another \$200,000 will have to be paid towards military contribution above and beyond the sum passed and voted at a recent meeting of this Council. At a recent meeting the military contribution

was passed with the increase of \$226,000 odd, but if these expenses are not to be deducted a further \$200,000 would have to be paid in respect of military contribution. I think, and I hope other unofficial members agree with me, that it is quite wrong that we should have to pay for military contribution on this expenditure in connection with the Opium Farm. Under the old arrangement on which the Opium Farmer ran the preparing of the opium, and on which it was farmed out to him, this Colony did not have to pay anything at all out of revenue in connection with the purchasing or preparing of opium, and the early revenue received from the Opium Farmer was a clean and clear profit to the Colony. It seems to me it is only fair, adopting a similar principle, that we should be allowed to deduct for the purposes of military contribution the amount which has to be used and expended by the Government in connection with the Opium Farm. Why, Sir, this Bill, in which clause 62 appears, exactly follows out what was passed by this Council when they passed the Revenue Bill for 1914. It stated there quite clearly, in clause 62, that nett receipts only were to be credited to revenue for the purposes of military contribution, and this Opium Bill was introduced into this Council only a month ago.

His EXCELLENCY—I think I can shorten the discussion if you will allow me to say one or two words: this is, I have not the slightest doubt that only net receipts will be credited to the revenue for the purpose of the computation of the military contribution, but it is not at all necessary to put any such clause as this into this Bill. The military contribution is a matter *per se*. There are various other items in the revenue, some of which are wholly excepted and some of which are excepted in part from the assessment of the military contribution, and this sort of revenue will be one of these. I don't think unofficial members need be alarmed about the question. Representation has been made to the Secretary of State on the matter, and the principle is accepted. We are merely asked how the net receipts are arrived at, and that information has gone home. In the meantime it is quite unnecessary to put this clause in the Bill. It is simply taken out because there is no valid reason why it should be there, not because we wish to bring anything more than net receipts into the revenue.

HON. MR. HEWETT—This clause was put in the Bill which was published as recently as the 13th December, and speaking for myself I am entirely in accord with what my hon. friend opposite has said, and I fail to see why the clause should be eliminated. I think it should stand.

THE COLONIAL SECRETARY—The actual details of reduction are not yet settled, and until we know how they are settled, even if we wanted to put in a clause, we could not word it.

HON. MR. HEWETT—Why not put in a clause to say that the defence contribution will only be charged on the net receipts of the Opium Farm. I fail to see why the clause should not be put in, and I see no reason why it should be taken out.

THE COLONIAL SECRETARY—It is not definite enough.

HON. MR. HEWETT—Leave it to the Attorney-General to frame something definite enough.

HON. MR. POLLOCK—It is very unsatisfactory that the clause should be left out altogether.

HIS EXCELLENCY—It is not definite enough, and we are now treating opium in an exceptional manner, but hon. members of Council will have the fullest information on the subject. It is a matter for discussion on the annual estimates. I think the military contribution is included in the estimates with other items, so it is not a matter to include in the Bill.

HON. MR. POLLOCK—We have already passed it with the deductions. You cannot reverse that by striking out this clause.

HIS EXCELLENCY—We have told you already that we are assessing the net receipts only for military contribution. That has been approved. Now it is only a question of settling some small details. If we were not in a position to assure you that the principle had been approved, there might be some reason for reluctance in your not wishing to part with this clause. The question is that the clause be deleted.

Hon. Mr. POLLOCK—I am afraid I must vote against it.

HIS EXCELLENCY—Do you wish to divide on the question?

HON. MR. POLLOCK—Yes.

A vote was then taken, and resulted as follows:

—

AYES: The Captain Superintendent of Police, the Secretary of Chinese Affairs, the Director of Public Works, the Colonial Treasurer, the Attorney-General, the Colonial Secretary and the General Officer Commanding Troops.

NOES: Hon. Mr. Landale, Hon. Mr. Shellim, Hon. Mr. Hewett, Hon. Mr. Pollock, Hon. Mr. Wei Yuk and Hon. Sir Kai Ho Kai.

The motion to delete the clause was declared carried.

The Bill was left in Committee.

Registration of Dentists Ordinance

THE ATTORNEY-GENERAL moved the second reading of a Bill entitled, "An Ordinance to provide for the registration of qualified Dental Surgeons and otherwise to regulate the practice of Dentistry." In doing so he said—It may be known to some hon. members that this is not the first occasion on which an attempt has been made by Government to regulate in some measure the practice of dentistry in this Colony. A Bill was introduced before this Council some years ago, but for various reasons, which it is unnecessary for me to enter upon now, it was not carried through. Of course, there are considerable difficulties in bringing forward a Bill which will satisfy everybody and please everybody. Naturally, the ideal thing would be for no person to be allowed to practise dentistry unless he was properly qualified. Nowadays, Sir, when the extraction of one's teeth appears to be the modern panacea for every evil to which human flesh is heir, oral hygiene appears to be the newest factor in modern medicine. Unfortunately, with a huge population like ours, at present there does not exist, and I do not think it likely that there will exist for some time, until streams of qualified gentlemen are poured out of the portals of the University of Hongkong, a sufficient number of really qualified dentists to cater for the whole wants of the population. Consequently, one is confronted, when one introduces a Bill of this kind, with a difficulty which at

once arises. What is one to do with the great mass of the people? We know very well that a great many of them cannot afford the fees which qualified dentists charge, and are entitled to charge. The only answer appears to be the natural one that, since there is not a sufficient number of qualified persons, one must at present allow Chinese persons to continue to practice the extraction of teeth, and to carry out minor dental operations as I understand they have carried them out for years in the Colony. That seems to me the first point of importance in the Bill; that there shall be no interference at present with unqualified Chinese persons carrying on dentistry in the Colony. The second point of importance is that, apart from the persons mentioned, nobody shall be allowed, unless he is a qualified person, or an exempted person, or a person of a certain class to which I will refer directly, to call himself a dentist, or to carry on the practice of dentistry at all. The Bill is not to apply at all to qualified medical men, to medical officers of His Majesty's forces, to medical officers in the service of the Government, or to medical officers registered under the Medical Registration Ordinance of 1884. With regard to another suggested class of exemption, persons holding the medical diploma granted by the Hongkong College of Medicine, it is suggested that this class should be deleted, as such deletion would cause no hardship. The class of persons which will be registered will be those qualified men whose attainments are such as to enable them to practice. Their names will be placed on the register on the recommendation of a Board with the approval of the Governor-in-Council. In addition to those highly qualified and trained experts, and in addition to medical men who have sufficient knowledge of dentistry to be allowed, if they wish, to carry it on, there is also another class—I hope there is no doubt it is a class which is decadent, and which will gradually die out—that is, the class of persons who after long practice have acquired a certain proficiency in dentistry though they may not have any academic diploma which will justify their name being placed on the register as qualified dental surgeons. To those persons it is proposed to extend a hand, that is to say, they shall be called exempted persons and will be allowed to practice and continue to earn their livelihood as they have hitherto done. But, as I have said, they will die out, and that class

will be replaced, let us hope, by the graduates of the University who will take up positions as qualified dental practitioners, and no doubt will find many aching mouths ready for them when they qualify. The really important part of the Ordinance is that part which says what these people may do, and what they may not. There is no restriction to the activities of the person who is registered, or who is exempted or who is a medical man. But with regard to everybody else, and to use the words of the section, "No person other than a registered dental surgeon or an exempted person shall by any public or private advertisement, or in any way whatsoever, describe himself, or hold himself out as, or offer his services as a dental surgeon, doctor of dentistry, or under other like title or designation, or as in any way licensed or authorised or qualified to perform, or as otherwise capable of performing any dental operation." If he does so he is liable to a fine, and possibly to a more severe penalty. Now, Sir, it is not proposed that this Bill should be proceeded with beyond the second reading to-day, because there have been quite recently a few suggestions, and valuable suggestions, as to proposed amendments, but in view of recent circumstances which have occurred in the Colony, it does seem desirable to try to put the dental profession on some sort of basis; temporary though it may be, so far as Chinese unqualified persons are to be allowed to continue to practice dentistry as they are doing. So far as one can judge from what little comment there has been on the Bill in the public Press, the public and the dental practitioners themselves seem to welcome the Bill.

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

HIS EXCELLENCY — Council stands adjourned till this day fortnight.

FINANCE COMMITTEE.

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

The Officer Administering the Government recommended the Council to vote a sum of \$2,930 in aid of the vote Miscellaneous Services, Rent of Telephones.

Volunteers

The Governor recommended the Council to vote a sum of \$2,500 in aid of the vote Military Expenditure, *B.* — Volunteers, Range for gun practice.

THE CHAIRMAN—This vote is for a very short range between Kennedy and Bowen Roads, and I will ask the General Officer Commanding to explain what a short range is. It is rather a new thing, and the reason of the amount of the vote being so high is because it

was thought that it would be better to make it a horizontal range instead of following up the slope of the hill.

HIS EXCELLENCY THE GENERAL — These short ranges are found very useful at Home for teaching the preliminary part of firing. The range is 30 yards, and the targets are miniature and so drawn to scale that the strike of the bullet is indicated. It is a most useful way of teaching, especially for machine gun practice.
