

13TH JULY, 1916.

**PRESENT:—**

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

HIS EXCELLENCY MAJOR-GENERAL F. VENTRIS (General Officer Commanding Troops in China).

HON. MR. CLAUD SEVERN (Colonial Secretary).

HON. MR. J. H. KEMP (Attorney-General).

HON. MR. E. D. C. WOLFE (Colonial Treasurer).

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

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

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

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

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

HON. MR. E. SHELLIM.

HON. MR. D. LANDALE.

HON. MR. LAU CHU PAK.

HON. MR. P. H. HOLYOAK.

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

**Minutes**

The minutes of the last meeting were confirmed.

**Papers**

THE COLONIAL SECRETARY, by command of H.E. the Governor, laid on the table the annual report of the Superintendent of Imports and Exports, for the year 1915

**Financial Minutes**

THE COLONIAL SECRETARY, by command of H.E. the Governor, laid on the table financial minutes Nos. 16 and 17, and moved that they be referred to the Finance Committee.

THE COLONIAL TREASURER seconded, and this was agreed to.

THE COLONIAL SECRETARY, by command of H.E. the Governor, laid on the table report of proceedings of Finance Committee, No. 4, and moved that it be adopted.

THE COLONIAL TREASURER seconded, and this was agreed to.

**Hon. Mr. Pollock and the Government Civil Hospital Nursing Staff**

HON. MR. POLLOCK asked the following questions:—

(1.)—With reference to the statement, made in answer to my questions concerning the Government Nursing Staff, at the last meeting of the Legislative Council, to the following effect: "In a further telegram, dated the 8th January, Mr. Bonar Law stated that the Colonial Nursing Association were unable to say when they would be in a position to recommend candidates," is it not the fact that (1.)—The Colonial Nursing Association have recently sent out a Matron and a Sister to the Staff of the Peak Hospital in this Colony (a privately-owned Institution), and is it not the fact that (2.)—The owners of that Hospital have recently heard from the said Association that another Sister would be willing to come out to Hongkong to join that Hospital, if required? (3.)—Is it not also the fact that between May, 1915, and April, 1916, nurses have been sent out by the Colonial Nursing Association, as follows:—(i.) To Government Hospitals in British East Africa, 3; British Guiana, 1; Ceylon, 4; The Federated Malay States, 1; Gambia, 1; Gibraltar, 2; The Gold Coast, 1; Nigeria, 7; Nyassaland, 1; Sierra Leone, 2; The Straits Settlements, 2; and (ii.) to Nursing Associations in Canada, 1; Ceylon, 1; The Federated Malay States, 2; Mauritius, 1; South Africa, 1; The Straits Settlements, 2; Western Austra-

lia, 1; Bangkok, 1; Costa Rica, 1; Lisbon, 1; Shanghai (the Victoria Nursing Home), 4.

(2.)—Is it not the fact that with the exception of a few months in 1914, the Government Nursing Staff in this Colony has been for the last three years below the numbers borne on the Estimates?

(3.)—(.) With reference to the statement made, at the last meeting of the Legislative Council, by the Honourable Colonial Secretary to the following effect:—"This provision (*i.e.*, the provision of a certain number of Sisters on the Estimates) includes Sisters who would in the normal course be absent on leave," how does the Government reconcile that statement with the following statement, which was made by His Excellency the Governor, in the Legislative Council, on the 7th May, 1914: "The conclusion I arrived at was that while the Staff (namely, the Government Nursing Staff) was absolutely adequate for the work it has to do, there was no provision for absences during leave. That is in accordance with the policy of the Government; no department is supplied with extra members for filling vacancies caused through leave"? (ii.) Is it not the fact that, since the beginning of this year, several Government Nursing Sisters have had to postpone the long leave, due to them after four years of service, owing to the deficiency in the number of Sisters available for duty?

(4.)—Is it not the fact that short leave if granted to Government Nursing Sisters, has to be taken outside of the Colony, thereby involving a Sister going on short leave in considerable expense? Is it not the fact that the Members of the Government Nursing Staff of the Federated Malay States are entitled to take their short leave within the limits of those States? Why cannot a similar privilege be extended to the Government Nursing Staff in this Colony, so as to enable them to have an occasional rest from duty up at the Peak.

(5.)—Is it not the fact that, at the present time, in the "A" Block of the Government Civil Hospital, one Sister is responsible for the care of the patients in 4 Public Wards (2 on each floor) as well as in 6 Private Wards, in addition to having to attend operations in the theatre? How many beds are there in such 4 Public Wards?

THE COLONIAL SECRETARY replied as follow:—

Question 1:—(1) and (2). This Government has no information.

Question 1:—(3). In the *Nursing Times* of the 1st April, 1916, these appointments are published, under the heading "Colonial Nursing Association," as having been made since May, 1915.

Question 2:—During the period January, 1913, to June, 1916, inclusive, the Nursing Staff in the Colony has been below the number borne on the Estimates during 12 months. It has been equal to or in excess of that number during 30 months. Owing to the periodical grant of leave of absence it is normally the case throughout the Government Service that the establishment in the Colony is below that shown in the Estimates.

Question 3:—(1). His Excellency the Governor on the occasion mentioned went on to say that, taking the point regarding provision for leave and a further point regarding maternity cases into consideration, he had decided to recommend to the Secretary of State an increase of three Sisters as a temporary measure pending further investigation as to the disposition of the Staff. After some further remarks His Excellency added: "I am going to make, with the approval of the Secretary of State, an increase in the Staff for the specific purposes mentioned." The Staff was increased, and it is considered that the present establishment, when at full strength, is ample for purposes of granting customary leave of absence.

Question 3:—(11). Three Sisters, who have recently completed four years' service, have had their leave postponed, owing to vacancies on the Staff. Leave does not become due to Government Servants at stated intervals, but may be granted, subject to the necessities of the Service, after certain minimum periods of resident service.

Question 4:—It is not the case that short leave granted to Sisters has to be taken outside the Colony. It is not known what the practice is in the Federated Malay States.

Question 5:—One Sister is responsible, as stated, in the sense that she has immediate control of the Staff in A block, which consists of a probationer nurse, a Volunteer Aid Detachment Nurse on week day mornings, a Chinese Dresser, six Ward Boys, an Operating Theatre Boy, and five coolies. The Ward Boys do

a great part of the nursing, such as the making of beds, dusting of wards, serving and carrying meals to patients, which forms part of the duties of Nurses in English hospitals. The Sister also attends operations. For ten years past one Sister has supervised the nursing on two floors in a similar manner. There are 48 beds in the four public Wards in A Block. The number of occupied beds in A Block, including the private wards, averaged during April, May, and June 37.2, 30.3, and 33.1 respectively.

HON. MR. POLLOCK—Arising out of the answer to the last question, I should like to ask whether the Government are aware that only one sister is on duty at one time in "A" and "B" block. There are a good many more questions I shall put later on, but I should like that question answered now.

HIS EXCELLENCY—There is only one sister in attendance.

HON. MR. POLLOCK—There is only one sister on duty; the answer is absolutely dishonest.

THE COLONIAL SECRETARY—I understand that "A" and "B" blocks now form "A" block. There are two floors.

HON. MR. POLLOCK—With reference to the answer to question 3, I should like to ask whether it is not a fact that at the present moment the staff of sisters is five below the number borne on the Estimates.

HIS EXCELLENCY—I think you will have to give notice of these questions. We really cannot be expected to have this detailed information at our finger tips.

HON. MR. POLLOCK—I think the Government should be prepared to give the answers, and should be able to give a statement with regard to whether the staff is at full strength or not. The Government ought to be able, when asked for, to give such information. I feel, Sir, that it is a disgraceful thing that the Government should not be able to answer that question.

HIS EXCELLENCY—I am afraid I cannot oblige.

### Enemy Trade Marks

HON. MR. P. H. HOLYOAK, in accordance with notice of motion, moved the following Resolution:—  
"That it is expedient that all trade marks belonging to alien enemies and now on the Register here should be expunged, and it is therefore resolved that they be struck off the Register forthwith, and that subsequently to such trade marks being struck off the Register, that Section 19 of the 'Trade Marks Ordinance of 1909' be amended by providing that no trade mark shall be registered, at any future period, which is identical with, or so closely resembles, as to be calculated to deceive, one which has been so struck off, and that Section 3 of the 'Merchandise Marks Ordinance of 1890' be amended so as to make it an offence under that Ordinance to imitate or apply to goods any trade mark identical with, or so nearly resembling as to be calculated to deceive, a trade mark which has been so struck off."

In moving his resolution, the hon. member said—I confess that I was somewhat amazed when I heard the statement in the Council Chamber that no less than 133 alien enemy trade marks had been renewed in Hongkong since the outbreak of war, and more so when it was known that amongst these are a large number belonging to the Aniline Badische Soda Fabrik. Now, if there is one thing Great Britain has suffered more vitally from than another in her trade it has been the unfair competition of Germany in the dye trade, in which the Germans have largely controlled the world, and I imagine that this answer will be viewed with some astonishment and some alarm when it becomes known in England that this is the case. At the outbreak of war it was known that Great Britain was absolutely dependent for her dyes for the Army and Navy upon Germany, and if it had not been for the enterprise and sagacity of a small Manchester firm at that time, the circumstances would have proved dangerous in the extreme. We set to work and we were able to experiment and to evolve dyes hitherto made in Germany, and in a few months we were able to supply not only Great Britain for her Army and Navy, but also the Allies. I do not blame the Government for renewing these registrations, it is a part of the policy persistently and consistently carried out, I believe throughout the

Empire, but I am here to protest against it. The purpose and object of my resolution, if it is carried, is briefly this: That it will make it a criminal offence to use or to imitate any alien enemy trade mark on the register at the present time. I do not ask for the confiscation of these trade marks or to utilise them for our own benefit, I ask for the absolute destruction of them, and nothing short of that. I do not even ask that they should be torn out of the register, but that they might remain permanently on it and be so endorsed that they will never afterwards be copied with a view to obtaining trade on those marks or to trade under the protection of them. I am quite prepared to be told that this is contrary to the Hague Convention, and that it is revolutionary legislation, which this Government cannot support. If it were admitted that they were private marks, I am well aware that it is a sacred duty to protect, in a state of war under the Hague Convention, trade marks belonging to enemy firms. But, Sir, I contend that these marks are no more private than the property which has recently been sold belonging to liquidated enemy firms in this Colony, or even the German Bank which has recently been advertised for sale and will be sold next month. And if this were not so I would remind you that this same "Power" upon whose behalf the Hague Convention may now be invoked has treacherously trampled upon every treaty and agreement to which she has put her name—and that by her infamous and monstrous conduct of this War, her wilful *murder* of innocent and defenceless women and infants in arms on land and sea, to say nothing of the ruthless sinking of hospital ships and the barbarous treatment of her prisoners of war, she has deliberately sacrificed every right and claim which any International treaty, obligation or Convention could possibly have given her, and for years to come she must expect to reap the whirlwind of dishonour she has sown. Such a country is surely not deserving of the least consideration from us. And the resolution is not so revolutionary as perhaps some might be led to believe at first sight, because the Commonwealth of Australia has already introduced legislation prohibiting the possibility of any enemy trade marks entering her shores, and has suspended for the duration of the war all enemy trade marks on the register; something like 500, I believe. I am told

that the present is an inopportune time for such legislation. I may remind you that at the outbreak of war we were quite unprepared for it; we only had the navy mobilised, and I say it would be little short of a crime if we were to wait until the conclusion of the war to introduce our economical and fiscal reforms; and I say also that it is with the memory of previous mistakes ringing in our ears that we must prepare for legislation which will prevent the Germans from trading, and their trade marks from being used within the confines of the British Empire for ever afterwards. I am equally prepared to be told that it is not for this Colony to dictate to the Imperial Government on measures of this sort. I contend we have every right to pass such a resolution, and then to pass the Ordinance which will be a natural corollary of it, and, if necessary, it should go Home, even to the extent of being refused the Royal consent. But I cannot believe that the Royal consent will ever be refused to such an Ordinance if it were passed. I would remind you that the blood of the Colonies has freely flown, and much wealth has been given and is being offered for the purpose of carrying the war on in our favour, and I am perfectly certain that the claims of the Colonies will be fully recognised; indeed that they cannot be ignored when the time comes for the settlement of peace. Another argument which might be advanced against this resolution is that suggested in the Government answers to my previous questions, that inasmuch as registration in this Colony is not effective in China, it would be useless to destroy them. It is admitted that registration in this Colony carries at the present moment, owing to the absence of any treaty with China upon trade marks, no weight beyond Hongkong. I claim that that is an additional reason why we should destroy the enemy trade marks, and I claim this, further, that we should be able to control the markets in China by so doing, because I cannot conceive that a British manufacturer would be likely to use upon goods entering this Colony, or for re-exporting to Canton, or the Hinterland, or the coast ports, a trade mark which it is a criminal offence to use within the borders of Hongkong. I am certain that that would be the attitude of the British manufacturer. It has been suggested that

such legislation as that suggested by this resolution does not exist in any other place, not even in Germany, and that it is not usual for such a thing to be done. Knowing what we do of Germany, and all that she has done in this war, I find it impossible to believe that she will allow any British trade mark to remain on her register if it were not to her advantage to do so. I am prepared to be told that this is another nail in the coffin of the trade of Hongkong, and that this will mean driving trade away from Hongkong to the coast ports. I am one of those who believe that the presence of the Germans in Hongkong was never necessary and will not be in the future. I maintain that their trade in the Colony in the past has been obtained at the expense of the British merchant by a system which was largely immoral, immoral in the sense that the German trader created the obnoxious system of long credits, the aftermath of which has been that the liquidation of the German firms in Hongkong is not even now wholly completed. I conceive it possible, and I hope it may come to pass, that as a result of this war and the economic conferences which have already taken place, and which must take place in the future before peace is declared, that an agreement will be come to between Great Britain, France and Italy that no German ships shall use the Allied ports for the purposes of trade unless it be upon such terms as shall be decided upon in relation to curtailing German competition.

HIS EXCELLENCY—The hon. member is carrying his argument a long way from enemy trade marks.

HON. MR. HOLYOAK—With all deference, Sir, it is a part of the whole question.

HIS EXCELLENCY—I cannot see that it is very desirable to refer to a large question of Imperial policy.

HON. MR. HOLYOAK—It is all wrapped up in the Imperial policy, and I submit I am not going astray. Even be that so, I should like it be noted that I speak on behalf of the merchants of Hongkong who have formed this very opinion. It is the united opinion of the Chamber of Commerce, representing the heads of the great mercantile houses here, the banks,

and the shipping firms, and beyond that it is very largely, if not unanimously, the opinion of the British community at large, and I can only say that if the official majority is used to crush the resolution, as I have reason to believe it will be, it will only be another instance of the defiance of public opinion by the official majority.

HON. MR. POLLOCK—Hear, hear.

HON. MR. E. SHELLIM—In seconding the Resolution, I desire to say that there is no intention on our part to embarrass the Government but we consider the time opportune for the views held by the business men of this Colony to be fully and freely expressed and represented to H.M.'s Government.

HON. MR. POLLOCK—I would like to say a few words in support of this resolution. I think that as a matter of fact the hon. member who represents the Chamber of Commerce has really exaggerated the case against this resolution when he mentions trade marks as coming within the scope of the Hague Convention. That, I believe, is not so. There is no mention of the subject of trade marks in the Hague Convention. Even though they might come under the Hague Convention under the heading of "Private Property," I should say that this is the sort of thing which must depend upon the legislation of any particular place as to how much or how little protection is accorded to trade marks. This is a matter of domestic legislation purely, and, as the hon. member on my left has pointed out, the views he has expressed on this matter are not merely his own views, but they are also the views of the Chamber of Commerce of this Colony, a body of gentlemen, who, I think, can be trusted not to advance any measure likely to be hostile to British trade interests. With reference to the very interesting question which has been raised as to treaties, I read a report in the *Weekly Times* of the reply given to Professor Hewins by Mr. Runciman on the very subject of co-operation between the Allies for trade purposes, and certain remarks were made with reference to treaties, with special reference to their relation to trade marks. Mr. Runciman said:—"So far as the treaties with Austria and Germany are concerned, they are non-existent. W h e n t h e w a r b r o k e

out they came to an end, and history cannot go on when the war is over exactly at the same point." At another part of his reply Mr. Runciman said:—"Our own national and commercial interests must in all these matters be the first, and, so far as we are concerned, our only guide. . . . I am not prepared, however, to wait until peace is declared for that process to begin." With reference to the question whether this Colony should take the lead or not, I also read a very interesting statement in the *Weekly Times* which showed how, under the auspices of the learned Attorney-General, this Colony took the lead in certain legislation, and how much it was appreciated. I will read an extract. This says:—"It is particularly interesting to turn the leaves of the Journal of the Society of Comparative Legislation and to find how, in more than one instance, the Dominions and Colonies have proved to be more alert than the Mother Country in coping, by means of legislation, with dangers to the common weal, and how they have done their work with greater dispatch, vigour and sagacity. Attention has been drawn already in *The Times* to the rapidity with which the Australian Commonwealth dealt with companies influenced or controlled by enemy subjects. This *Journal* gives many similar instances of the thoroughness which has marked the conduct of the Dominions and Colonies since the outbreak of war. To take another example from these pages, Hongkong in November, 1914, passed an Ordinance which made the term "alien enemy" include "every firm which has, or which at any time since the outbreak of war has had, a partner or an office in the territory of any Sovereign of State that is at war with his Majesty." We have there striking testimony of the fact that the self-Governing Dominions have led the way in legislation, and that this Colony has also taken a lead where it was thought to be required. In this present case we have a strong body of experts to guide us with their opinions as to what is desirable, and we should not hesitate to again take the lead. The representatives of the Hongkong Chamber of Commerce may be accepted as absolutely competent to judge as to what is required in the interests of the trade of this Colony.

THE ATTORNEY-GENERAL—It is impossible to accept the motion as it stands, because it proposes to do by a mere resolution of this Council what can only be done by formal legislation. It is impossible to deal with rights of property in this arbitrary and summary way. That, of course, is a defect which might easily be amended by altering the terms of the resolution. I refer to it because it seems to me to be significant as indicating the mental attitude, if I may say so with all respect, of the framers of the motion. I do not think that they quite realise the importance of the rights of property which they propose to deal with, or the far-reaching issues of the action they suggest. As to the second part of the motion, I should like it to be understood that the position which the resolution aims at creating already exists in this Colony. The second part of the resolution asks that legislation should be introduced to make it an offence to apply to any goods any trade mark identical with or resembling an enemy trade mark. Well, that is the position here to-day. At present nobody can use an enemy mark, and there was a prosecution on the point only the other day against a person who was using an imitation of one of these enemy marks. Enemy marks are for all practical purposes suspended here, just as they are in Australia. Coming to the more substantial part of the question, I would like to mention two considerations which seem to me to show that the motion, even in the amended form in which I suggest it might be framed, would be ill-conceived. I think that before I go further I ought to explain that though I am speaking at the moment on behalf of the Government of this Colony as at present advised I have no authority to make any statement on behalf of His Majesty's Government, and any views I may express must not be taken as necessarily those of the Imperial authorities. The first consideration is that this is an international question, and being one of that nature it naturally is one with which this Government cannot attempt to deal. The other consideration is that it is an Imperial question. The legislation advocated in the resolution has not been adopted in any part of the British Empire. It has not been adopted in the United Kingdom, or in Australia, or even in Germany. No doubt

the reason why the German authorities have not attacked this particular form of property is that it is not to their interest to do so. And I would ask the hon. member who proposes this resolution to consider very carefully whether it might not be against our interests to attack German trade marks here. The hon. member referred to the case of Australia. It is quite true that legislation has been introduced and passed in Australia which has the effect of suspending the use of enemy trade marks in the Commonwealth. Suspension, however, is a very different thing from confiscation. I think the effect of the Australian legislation is to suspend the use of enemy trade marks for the duration of the war, and, as I have said before, that is the position here at the present moment. Not only has this policy of confiscation of private property not been adopted in the United Kingdom, but His Majesty's Government in November, 1914, and again in December, 1915, issued a general licence for the payment of fees on behalf of enemies for the purpose of obtaining the registration of trade marks and for the purpose of renewing the registration of trade marks. I would also like to point out what seems to be more or less lost sight of, and that is, the very wide distinction between trade measures which help us in the war and trade measures which are advocated as a means of avoiding German competition after the war, and the policy to be adopted for avoiding undesirable German dominance. There is a distinction between those things which help us in the war and those which give us no help at all in that direction. The measures adopted in the United Kingdom and elsewhere with regard to enemy trade are all based on the idea of endeavouring to weaken the enemy's resources during the war. The policy aimed at in this resolution will not help us in the slightest in the war and is entirely a post-war measure, and the Imperial Government have so far refused to bind themselves as to their post-war trade policy. That being so, I think it would be very unwise for this Colony to endeavour to force their hands. In view of these Imperial and international considerations, I think, Sir, that the Government cannot accept the motion. The question will no doubt be considered in due course by minds with a far wider and deeper knowledge of the facts and issues involved than any of us here can pretend

to possess, and I think it would be presumptuous on our part to dictate to His Majesty's Government on this subject.

HON. MR. HOLYOAK—In reply to what has fallen from my learned friend the Attorney-General, I may say that my resolution was proposed in the anticipation that if it were passed by the Council the inevitable corollary would be an Ordinance. The resolution is merely a means to an end. The Attorney-General says that means have already been found for preventing the use of German trade marks in this Colony or any imitation of them. I am well aware of that. A prosecution is now going on, but surely it is a rather farfetched method of protecting British interests when we have to prosecute in the name of a German for the illegal use of an enemy trade mark, and my resolution if carried would prevent that. The Attorney-General said that this was a matter which should be left to the future, and that is precisely the reply I expected this Government to make, that this question cannot be settled until after the war and must be left to future consideration, and I have no hesitation in saying that the future will find us in the same state of unpreparedness as we were at the commencement of the war, in regard to our trade policy. The Government wants to leave all questions of economic and fiscal reform until peace is declared. I contend that this is a thing which should be brought up at the present moment and be fully considered, and, if thought fit, legislated upon by the Imperial Government. My resolution was really proposed in the hope that we should be able to force upon the Imperial authorities at Home a question which we in Hongkong consider to be absolutely vital to British trade.

HIS EXCELENCY—If it is, as the hon. member who moved the resolution stated, that he did so with the idea of helping the Home Government, then I trust he will quite sympathise with the Government when they say that they cannot accept the resolution. Very hard words have been used regarding the action which the Government has indicated it will have to take in this matter, namely, to refuse the resolution, and I do not think that those hard words are justified when we learn what the intention of the hon. member who moved the resolution is.

What we are asked to do is to fly in the face of His Majesty's Government. The question of trade marks has been brought up by the Chamber of Commerce and the views of the Chamber of Commerce have been submitted to His Majesty's Government and the consideration of His Majesty's Government has been invited on the subject. This case is not analogous to the legislation which the hon. member who spoke third on the subject referred to, and which, by the way, this Government got very little credit for at the time from unofficial members in Hongkong or the unofficial public generally. That legislation was passed with and by the consent of His Majesty's Government. The legislation entailed by the resolution proposed is legislation which His Majesty's Government have most carefully considered and to which they cannot give their consent. I would appeal to hon. members that if this Council, in spite of the opinion given to it by the Attorney-General, passes this resolution and thereafter devotes much time to legislation which would inevitably be vetoed, it would be, at a very serious time, embarrassing His Majesty's Government. I understand we are at war, and I understand that it is the duty of all the Colonies in all the corners of the Empire to rally to the flag, and to assist His Majesty's Government in every way in its power. It may be that the discussion on this resolution may possibly be of some use, but it will be just as useful if the motion is withdrawn or a division is not pressed for. I therefore ask the hon. member not to press this resolution, which, I think, after what the Attorney-General has said, it will be realised is not convenient.

HON. MR. HOLYOAK—With all due deference, I regret that I am bound to ask for a division on the subject. I think that I may confidently say that the opinion of the Colony is not with the Government on the subject.

A vote was then taken. All the unofficial members voted for the resolution, and all the official members voted against it. The resolution was thus declared defeated.

### **Tobacco Tax for Hongkong**

THE ATTORNEY-GENERAL moved the first reading of a Bill intituled, "An Ordinance to provide for the taxation of tobacco."

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

The "Objects and Reasons" state that the object of this Bill is to provide for the taxation of tobacco consumed in the Colony. It is based on the Liquors Consolidation Ordinance, 1916.

THE ATTORNEY - GENERAL then moved the suspension of the Standing Orders so that the Bill could be passed through all its stages at that meeting.

THE COLONIAL SECRETARY seconded.

HON. MR. POLLOCK—I rise to oppose the suspension of the Standing Orders. This Bill was only sent out with the Orders of the Day, and we were then told that it would only come up for first reading to-day. My objection is not a purely formal one. Hon. unofficial members have had this Bill in their possession for barely three days—I saw it for the first time on Tuesday morning, and it is unreasonable to expect us to know much about it, because this Bill requires a great deal of study. I do not think there is an unofficial member who can be said to have had sufficient time to consider the measure, and the Objects and Reasons, which are usually finger-posts to guide us where to look, are of the shortest possible nature in this Bill. By the courtesy of the Attorney-General, I was supplied with a copy of the Straits Settlements Ordinance on this matter. That, I find, Sir, is quite a new measure, and, therefore, it cannot be said to have anything to recommend it from the point of view of experience. I find that there are various matters in regard to the measure which are very much open to criticism, and I do not mean merely small details. For instance, this Bill proposes to tax retrospectively tobacco which may have been in this Colony for the last year or two. It is not proposed to tax tobacco imported into this Colony, we will say, to-day or to-morrow, but it is proposed to tax tobacco which may have been imported a year or two ago, cigars and cigarettes, and make them liable to duty. That, Sir, is one point. Another point in the Objects and Reasons is that this Bill is based on the Liquors Consolidation Ordinance, 1911. Clause 17 of the proposed Ordinance says that the owners, charterers, agents, masters or compradores of any ship shall prevent the discharge of any dutiable tobacco. I cannot find a clause in the Liquors



Ordinance resembling that. Clauses 27 and 28 refer to the same people; you again make them all liable. Clause 41, which lays down that all persons embarking shall have their luggage searched is a most extraordinary clause, and I think it will be difficult to find any precedent for such extraordinary legislation as that. It will mean a great deal of inconvenience when one wishes to leave the Colony. I think that this is the first time in the history of the Colony that passengers who embark here will have to undergo the inconvenience of having their luggage searched, and have a white chalk cross or some other sign placed upon it showing that it has been examined by a Revenue Officer. Such an experience will be entirely new in the Colony, and I think it is a restriction of a most vexatious kind. We are told that this Bill is founded upon the Liquors Ordinance, but there are great differences between this Bill and the Liquors Bill. These are points which I have so far been able to find out in connection with the proposed Bill, and I submit that it is not right and proper that this Bill, which has been put down for first reading to-day, should be rushed through in this way, and I beg to move as an amendment that the further consideration of the Bill be postponed for a fortnight.

HON. MR. HOLYOAK—I beg to second that. I agree that insufficient time has been given for the consideration of the Bill, which is an important measure and which has so many controversial points. I may say, speaking on behalf of the Chamber of Commerce, who have already considered the question in the brief time allowed, that they consider the principle of retrospective taxation grossly unfair to the Colony and a thing almost, if not entirely, without precedent. Another thing which I should like to mention is the sudden manner in which this Bill has been flung upon us, because, as far as my recollection serves me, it was distinctly stated when the last Liquor Ordinance was passed that the revenue raised by the increase in duties would see us through for this year. One is therefore particularly interested in knowing what this money to be raised by the Bill is for.

HON. MR. E. SHELLIM—I beg to differ from the Hon. Members who have just spoken. The principle of the Bill having been accepted I am of opinion that

it should go through at this sitting. In Committee various amendments, such as, retrospective application of the Bill will doubtless be considered, and after the Bill passes, should later on further amendments be considered necessary, they will doubtless receive the sympathetic consideration of the Government.

HON. MR. POLLOCK—I suppose that this Bill will mean an increase in the staff if it is passed. That seems to be the result of a Bill of this sort.

HIS EXCELLENCY—We have got a staff.

HON. MR. POLLOCK—With all deference, Sir, I think there will have to be an increase of staff. That seems to be obvious to anybody taking a commonsense view of it. There must be some staff employed in connection of the matter. I am not at all satisfied that some other measure, such as an increase in the Rating assessment, could not have been devised to give us the extra revenue needed without any additional cost for collection. We do not know exactly what revenue we shall get from the measure, we are acting very much in the dark, as to the exact amount to be produced, and we are going to employ an additional staff, the expenditure on which Mr. Hutchison estimates at \$15,000 per annum.

HIS EXCELLENCY—Hon. members who have lived in the Colony, which is a free port, for a number of years are no doubt unaware of what happens in Colonies where the principal source of revenue is import duties. Now, I was for some time in the Colony of Fiji, and there the principal source of revenue was the import duties. And knowing what has happened there I have learned that if you want to tax new matter you have to put the tax on very quickly or otherwise you will simply play into the hands of the dealers and merchants and lose untold revenue and see undone what you have really worked for. In Fiji it was the custom to table a Bill containing alterations of this kind without any notice being given to unofficial members whatsoever. It was introduced and put through at a sitting. Now this is a Bill for the taxation of tobacco. In connection with the measure, on April 27th, we wrote to that august body, the Hongkong General Chamber of Commerce, and I do not call them august

in a sarcastic way, because I am among those who thoroughly respect them; they are a most useful body and guide us on many points. The Chamber of Commerce took a month to consider the letter, a reply being received on May 23rd and the Chamber approved the principle of this taxation if more revenue were required. In addition to that we circulated a report on June 28th amongst the unofficial members, so that they have had it in their hands for a fortnight. The Government took them into its confidence, and I know that that confidence was not misplaced. We showed the unofficial members and the Chamber of Commerce our hand—every card in it. Now we come to the Bill; and in connection with it I may say that we studiously avoided the pit-falls, profiting by the experience gained with regard to the liquor duties, of allowing stock in the Colony to escape the tax. This does not impose any hardship at all on the merchant, because any increase made will come down on the consumer. The traders do not lose money by it; you and I pay the tax when we buy our cigars and tobacco. We have made an extraordinary generous allowance to the petty trader and the luxurious private consumer. We are allowing these two classes 100lbs. free. The tax will not affect 100lbs. of tobacco. If they have 101lbs. they will have to pay a tax only on 1lb. We lost a lot of money, and we were put to untold worry and trouble and expense over the liquor duties, by allowing stocks in the Colony to escape the taxation. We want to avoid that. There is one matter more. As to the question of imposing taxation in this manner, hon. unofficial members, I am informed, agreed to this imposition of taxes after very careful consideration.

HON. MR. POLLOCK—No, Sir.

HIS EXCELLENCY—Well, then, I have been misinformed. It is necessary to increase the revenue of the Colony. We have increased the liquor duties, and the least item which we think we can tax now is your tobacco. The price of opium has already been put up. The matter is urgent because we want to lose no time. To suspend this legislation for a fortnight simply means that everybody will attempt to avoid taxation as far as they possibly can. That will not do anybody any good. It won't do dealers any good or

anybody else. Therefore, I ask hon. members to accept the provisions of this Bill, which have been very well thought out and of which the mercantile community and the unofficial members have been given very ample notice, much greater notice than they would get in other Colonies well known to me.

HON. MR. POLLOCK—In reply to your Excellency, I wish to deny that the unofficial members asked for this taxation.

HIS EXCELLENCY—Not for this taxation; I said it had been conveyed to me that unofficial members of both Councils of this Colony were anxious that some sort of increased taxation should be introduced.

HON. MR. POLLOCK—Then all I can say is that what has been conveyed to you is entirely wrong. I may add that I was somewhat astonished, and I think that the hon. member who represents the Chamber of Commerce was also astonished, to find that this measure was being introduced to add to the general revenue of the Colony. And I think, Sir, that we have the strongest possible grounds for our astonishment in view of what fell from your Excellency's own lips on March 1st last, when speaking on the increase in the liquor duties. You said after going fully into a large number of figures, that about \$100,000 was required to establish equilibrium between revenue and expenditure, and that that could be attained by the proposed increases in the resolution then before the Council. With regard to the suggestion that the unofficial members had invited this taxation, as your Excellency perfectly well knows, what the unofficial members discussed was the question of raising some sort of contribution towards a special war purpose. It had nothing whatever to do with establishing equilibrium between revenue and expenditure. I absolutely deny, as vehemently as I can, any suggestion that unofficial members have asked for, or have even discussed, taxation for the purpose of balancing revenue and expenditure. I cannot understand how the unofficial members' suggestions could have been twisted into what has fallen from your Excellency to-day, that we had asked for this taxation.

HIS EXCELLENCY—I did not say that.

HON. MR. POLLOCK—Your words conveyed that impression, and I certainly took you to mean that.

HON. MR. HOLYOAK was about to speak when

HIS EXCELLENCY remarked—You are not entitled to speak again,

HON. MR. HOLYOAK—I was about to make a statement with regard to what your Excellency has said in connection with suggestions by unofficial members. You distinctly implied that we had asked for this additional taxation.

HIS EXCELLENCY—I would like first of all to answer the hon. member who represents the Justices of the Peace. The balancing of revenue and expenditure to which reference has been made was on a very reduced Budget. The public works were this year cut down by about \$1,000,000. I do not suppose you want that sort of thing to go on. It was very obvious in March last that I would have to tax tobacco, but I was not going to tell everybody that I was going to do so. With regard to what the hon. member has said as to unofficial members suggesting the new taxation, I may say that they asked for some new taxation, and I did not say for what purpose it would be used.

HON. MR. POLLOCK—That is not correct, Sir.

HIS EXCELLENCY — If there is any misunderstanding then the fault is mine. I understood there was no objection to the increased taxation. I did not say for what purpose.

HON. MR. HOLYOAK was given permission to say a few words. The hon. member said—Unofficial members distinctly understood that any new taxation would be in the form of contribution for some war purpose or other. That was their suggestion when the matter was discussed. Among the possibilities discussed in this connection was a tobacco tax, or an increase in the assessment but such extra taxation was not to be for the the purpose of balancing revenue and expenditure.

HIS EXCELLENCY—If you wish to carry on your public works you must have more revenue. This is one of the ways in which I think it can most easily and advantageously be found. And the Chamber of Commerce agree with me.

HON. MR. HOLYOAK—"If necessary," which cannot be proved.

HIS EXCELLENCY—It can, and a great deal more, I can assure you.

The amendment to postpone consideration of the Bill for a fortnight was then put to the meeting and defeated, Mr. Pollock and Mr. Holyoak voting for the amendment, and the other members against it.

THE ATTORNEY - GENERAL then moved the second reading of the Bill. In doing so he said—I regret that the Objects and Reasons attached to the Bill are so meagre, but it was not found possible in the time at my disposal to give a more detailed *resumé* of the Bill. The Bill is founded upon the Hongkong Liquors Ordinance, and whole sections have been taken from that Ordinance as they stand. Certain provisions adopted in the Straits Settlements Tobacco Duties Ordinance have been utilised. The searching of passengers' luggage here is no new thing to the Colony, for it has existed here for, at least, the last seven years, if not longer. In no way can this be regarded as retrospective taxation. It is a misuse of language to call the imposition of duty on tobacco in the Colony retrospective taxation. There are two main points of interest in the Bill. In the first place the trade will want to know how the system is to be worked. The answer is that the system will be almost the same as the system under which the liquor duties are collected. In the second place the consumer will want to know how the duties will affect the retail price of tobacco, cigar's, and cigarettes. The answer to this is that the duties will increase the retail price by about 25 per cent. on an average. Your Excellency referred to the generous abatement of 100lbs. under section 6 of the Bill. Any tobacco in the possession of any person under this section up to 100lbs. will be duty free. It is not intended that any tobacco which is ex -

ported shall pay any duty and if any tobacco which has paid duty is exported provision will be made for a rebate of the duty. Clauses 9 and 10 are taken practically wholesale from the Liquors Ordinance and provide for the case of contracts which are already in existence or which may be in existence when the duties are altered or repealed. Clause 57 is a somewhat novel clause which provides that a summons may be served on a body corporate or the firm, and that a body corporate may appear by an officer or partner. I think that is all I need say on the principle of the Bill, and I beg to move its second reading.

THE COLONIAL SECRETARY seconded.

HON. MR. POLLOCK—With regard to Clause 17 Sir, there are shipping gentlemen here who will appreciate quite well the difference between master and agent and the owner, or charterer of a ship. The idea of this Clause seems to be absolutely ridiculous. Assuming a ship is on charter, surely the owner cannot be made liable for what is done on that vessel. He may know absolutely nothing beyond the fact that the ship is on charter. He would surely not know what was being discharged from the ship at a certain port. With regard to the Clause dealing with the examination of baggage leaving this Colony, I consider that to be an absolutely unnecessary and vexatious imposition. It is difficult enough to get away from here now, what with the passports and such like, and this will only add to the inconvenience already existing.

THE ATTORNEY-GENERAL—Regarding the placing of responsibility on the charterers, etc., of course if a charterer can prove that he knew absolutely nothing about what was happening on the ship at a certain time no blame could be attached to him. That is obvious. With regard to Clause 41, that appears to be a question for Committee,—the question of examination of luggage on embarking,—as it may be that the Government will be prepared to accept an amendment.

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

The following addition was made to clause 6 (5):  
—(d) Tobacco which is imported in broken packages in passengers' baggage for private use and which

does not exceed such quantity, weight or value as may be allowed by the Superintendent or as may be appointed by regulation made under this Ordinance.

The following addition was made to clause 11 (1):  
—(c) If the tobacco is imported by the post, the duty shall be payable before the delivery of the tobacco to the addressee, and the Postmaster-General shall refuse to deliver any such tobacco until the duty has been paid.

The following was added to Clause 17:—(3) Notwithstanding anything contained in this section it shall be lawful for the master of any ship to permit the landing of any dutiable tobacco which forms part of the contents of a mail brought into the Colony by such ship: provided that such tobacco is landed for removal direct to the Post Office as part of such mail.

The following was added to Clause 18:—(1) Notwithstanding anything contained in this section it shall be lawful for the master of any ship to remove or cause to be removed to the Post Office any dutiable tobacco which forms part of the contents of a mail brought into the Colony by such ship: provided that such dutiable tobacco is removed direct from the ship to the Post Office as part of the contents of such mail.

The following sub-section was added to Clause 24:  
—(g) Part of the contents of a mail and is either in the Post Office or is in course of removal direct to the Post Office from the ship on which it was imported.

In Clause 53 the words "or Monopoly" were inserted between "Government" and "Analyst" in the third line.

In Clause 55 the words "on the application of the Superintendent" were inserted between "may" and "award" in the first line.

In Clause 17 (1) the word "not allow" in the second line were substituted for the word "prevent."

In Clause 57 (2) the words "or other responsible representative" were added in the last line.

On Council resuming, the ATTORNEY-GENERAL moved that the Bill be read a third time.

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

### **Powers of Revenue Officers**

THE ATTORNEY - GENERAL moved the first reading of a Bill intituled, "An Ordinance to amend the Revenue Officers' Power of Arrest Ordinance, 1913."

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

The "Objects and Reasons" state that the objects of this Bill are:—(a.)—To bring the schedule to the principal Ordinance up to date. (b.)—To add to it the Tobacco Ordinance, 1916. (c.) To give the Governor in Council power to amend the schedule in order to avoid the necessity of passing amending Ordinances in the future.

### **Alien Enemies (Winding up) Ordinance, 1914**

The second reading of the amending Bill to the above Ordinance was postponed.

His EXCELLENCY—Council stands adjourned *sine die*.

### **FINANCE COMMITTEE.**

A meeting of the Finance Committee followed, the COLONIAL SECRETARY presiding.

### **Royal Observatory**

The Governor recommended the Council to vote a sum of five hundred and eighty-one dollars and five cents (\$581.05) in aid of Royal Observatory, Special Expenditure, Alteration to Magnetometer.

This was agreed to.

### **Harbour Master's Department**

The Governor recommended the Council to vote a sum of four thousand dollars (\$4,000) in aid of Harbour Master's Department, Special Expenditure, Motor Launch.

This was agreed to.