

17TH MAY, 1906.

PRESENT:—

HIS EXCELLENCY THE GOVERNOR, MAJOR SIR MATTHEW NATHAN, K.C.M.G.

HIS EXCELLENCY MAJOR-GENERAL VILLIERS HATTON, C.B. (Commanding the Troops).

Hon. Mr. T. SERCOMBE SMITH (Colonial Secretary).

Hon. SIR H. S. BERKELEY, K.C. (Attorney-General).

Hon. Mr. A. M. THOMSON (Colonial Treasurer).

Hon. Mr. A. W. BREWIN (Registrar-General).

Hon. Captain L. A. W. BARNES-LAWRENCE, R.N. (Harbour Master).

Hon. Mr. W. CHATHAM (Director of Public Works).

Hon. Mr. E. A. HEWETT.

Hon. Mr. H. E. POLLOCK, K.C.

Hon. Dr. HO KAI, M.B., C.M., C.M.G.

Hon. Mr. WEI YUK.

Hon. Mr. E. OSBORNE.

Hon. Mr. C. W. DICKSON.

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

MINUTES.

The minutes of the previous meeting were read and confirmed.

NEW MEMBERS.

The Hon. Mr. E. Osborne and the Hon. Mr. E. A. Hewett subscribed the usual oaths and took their seats as members.

APPOINTMENT TO COMMITTEES.

HIS EXCELLENCY—I appoint the Hon Mr. Pollock to the Law Committee *vice* Mr. Shewan, and the Hon. Mr. Osborne and the Hon. Mr. Hewett to the Public Works Committee *vice* Sir Paul Chater and Mr. Gershom Stewart.

PAPERS.

The COLONIAL SECRETARY laid on the table the following papers:—Jurors list for 1906; report of Queen's College for 1905; City of Victoria and Hill District Waterworks; report of the Superintendent of Victoria Gaol for 1905; report of the Director of the Hongkong Observatory for 1905; report of the Blue Book for 1905; report of the Harbour Master for 1905; report of the Registrar-general for 1905; report of the health and sanitary condition of the Colony for 1905; a research into the etiology of beri-beri, together with a report of an outbreak.

FINANCIAL MINUTES.

The HON. COLONIAL SECRETARY—Sir, I have the honour to lay on the table Financial minutes Nos. 7 to 27, excepting No. 15, which is withdrawn, and move that they be referred to the Finance Committee.

The HON. COLONIAL TREASURER—I beg to second the motion.

The motion was carried.

HIS EXCELLENCY—The most important of the Financial minutes which it is proposed to refer to the Finance Committee is No. 23, which is to provide a fund of \$350,000 for the construction of the Kowloon-canton Railway. This is the amount which the Chief Resident Engineer anticipates being able to spend by the end of the current year. I will explain to you briefly how it is proposed that the money should be provided in connection with the loan which was authorised by this Council. On the 6th April and 6th October of each year there is due from the Viceroy of the Hu Kwang Provinces interest at the rate of

$4\frac{1}{2}$ per cent. on the loan of \$11,000,000 made to him by

this Government, or on so much of it as is still outstanding. There is also due under the agreement with Viceroy Chan Chih-tung a sum of £110,000 on the 6th October of each year, as an instalment towards a refund of that loan. These sums, received as interest or in repayment, will be credited

to a special fund. On that special fund the interest at $3\frac{1}{2}$

per cent. on the stock we have raised will be the first charge; and then from the fund the money for the construction of our section of the Canton-kowloon railway will be drawn. The balance of the Viceroy's repayments not required for this construction will be devoted to paying off our debt. We

shall pay into the special fund interest at the rate of $3\frac{1}{2}$ %

on the advances made from it for the construction of our railway. The next financial minute of importance is No. 19, which is for a sum of \$42,000 in aid of the vote, public works extraordinary, No. 19, for forming and kerbing streets. This is a very considerable excess on the original vote of \$40,000. It is mainly due to works that have been taken in hand either in fulfilment of obligations of private owners to whom the Government has sold land, or to take advantage of work carried out by private owners in fulfilment of their obligations to Government connected with such sales. For instance, the reclamation at Tsimchatsoi has involved the construction of two roads by the lessees. The construction of those two roads, partly paid for by lessees, has had to be completed by Government. Towards covering this Excess \$12,000 has been noted as a saving on item 17, that is, the extension of Robinson Road in Kowloon, as a private reclamation has enabled the Government to get the work done under more advantageous conditions than were anticipated. Financial minute No. 13 provides a sum of \$16,000 in aid of the vote, refunds of revenue. This is due to a larger refund of rates under section 35 of Ordinance No. 6 of 1901, having to be made than was anticipated when the estimates were prepared. Financial minute No. 9 is to provide a sum

of \$15,200 in aid of the vote public works extraordinary, communications, metallic circuits including new route to North Point. Of this sum of \$15,200, \$12,200 is due to metallic circuits rendered necessary through the Government telephone system being injuriously affected by the working of the Electric Tramways. Financial minutes Nos. 7 and 16 together provide \$6,000 in aid of the vote for lighthouses. This sum is due to the prevalence of fog in the first four months of the year, necessitating an extensive use of fog signals. At the suggestion of the Harbour-master the Brethren of Trinity House are being communicated with to see if some more economical and efficient means of sound signalling cannot be adopted in the Colony. Financial minute No. 20 for \$4,455 is in aid of the vote already passed in this Council in connection with the reception of H.R.H. Prince Arthur of Connaught. In view of the generous manner in which private buildings were decorated, I consider this is a fair charge on the public. Financial minute No. 12 is to provide \$1,740 in aid of the vote for the hospital hulk *Hygeia*, this excess is due of course to the regrettable prevalence of smallpox in the early part of the year. The remainder of the votes do not require special explanation by me.

FINANCIAL.

The COLONIAL SECRETARY—I beg to lay on the table the report of the Finance Committee No. I, and move that it be adopted.

The COLONIAL TREASURER—I beg to second.

The motion was carried.

AMENDMENT TO THE SCAVENGING AND CONSERVANCY BYE-LAWS.

The COLONIAL SECRETARY—I beg to move, with the approval of hon. members, that bye-law No. 4 of the Scavenging and Conservancy Bye-laws be hereby amended by deleting the full stop at the end thereof and substituting a colon and adding the following words:— In the case of bake-houses, dairies, laundries, opium divans and premises used for offensive trades, such dustbins shall be constructed of materials to the satisfaction of the Sanitary Board.

The ATTORNEY-GENERAL seconded, and the motion was carried.

REGISTRATION OF PARTNERS.

Hon. Mr. POLLOCK—Your Excellency, I beg to move "that it is desirable that legislation for the registration of partners, with limited liability, should be introduced into

this Colony". This motion, sir, is brought forward in connection with a question which is a comparatively old one in this Colony—I think it was first agitated over 30 years ago—namely, the question of the registration of members of Chinese firms in this Colony. Various attempts, as your Excellency is aware, have been made from time to time in this Colony and also in the sister colony of the Straits Settlements for the purpose of putting, if possible, the question of registration of partners in Chinese firms upon a satisfactory footing. From time to time in the Straits Settlements, Ordinances have been introduced with that object, and I believe have got as far as the committee stage and have been dropped. I believe at the present time there is an Ordinance dealing with this question in the Straits Settlements which has now either passed the second reading or else is in the committee stage. As I have said, from time to time this question, a very important question, has come up for consideration, and my only excuse for coming before the Council and bringing the question up again is that I have a scheme to propose on different lines from any legislation hitherto proposed. Your Excellency is perhaps aware that in 1901 representatives of a commission sat here in this Colony and made a report which was published in the *Government Gazette* of October, 1901, dealing with the question of registration for Chinese partners in firms. But, sir, that commission sat upon the basis that if such Chinese partners registered as partners in a firm all the provisions of English law would apply, by virtue of which every partner would be liable for the entire loss sustained by the whole. The question of registration was discussed upon the basis that although that was English law it would be applied to Chinese partners so registering. It was pointed out by various witnesses who gave evidence before that commission, and by various gentlemen who sat upon that commission, that the probable result would be that the wealthy Chinese would put forward some poor relation, a man of straw, and get him registered as a partner in the firm. But, sir, I think that the very essence of successful registration of partners of Chinese firms is that we should follow out in the adoption of any scheme of registration Chinese law with regard to the liability of partners. And that law, as I understand it, makes a partner only liable for the losses of the firm in proportion to his total share of capital in the firm. In other words, let us assume the capital of a firm to be \$10,000; if a partner subscribes \$1,000 and the firm gets into difficulty, as regards making good the deficiency he would only be liable to one-tenth of the amount because his share of capital was \$1,000 out of \$10,000. I am speaking from a Chinese point of view now, because we have to consider the view they will take of the matter. The Chinese must look upon the view of each partner being held liable. For the whole deficit as being inequitable: I say inequitable purely looking at it from their point of view. That being so, it seems to me obviously useless to expect them to come forward and register their true names if it would bring upon them the provisions of English law. What I would suggest is this: that as an inducement to persuade the Chinese to register their proper names as partners,

and to persuade the proper people to come forward as partners, if they registered it should be enacted that by so doing they could come forward and obtain the benefit of the Chinese law of partnership. That would be an inducement which I would suggest should be held out in order to persuade the Chinese to register. It seems to me that if anything like penal provisions are inserted in a bill, all forms of registration will entirely fall short of their object. Unless we hold forth some such substantial inducement as I have hinted at, we shall always fail, always have a man of straw put forward in place of the real partner. Of course it would also be necessary in any such legislation to provide that individual names should be registered as opposed to "tong" names. Those of us who have had experience of partnership disputes in this Colony are aware of the great difficulty occasioned to the learned judges when a tong name is introduced. The question is—Who is represented by the tong? The reply of the defendant is—I am not the tong; it is my cousin or somebody else, not me. Of course, sir, I am perfectly well aware that there are a good many things to be said on the other side in connection with the question of registration, but my reason for bringing forward this question now is that this point of registration with liability according to Chinese law may be considered and discussed in this Colony. Of course, I don't expect your Excellency at the present moment to pledge the Government to anything. No doubt the question will be considered and discussed in the Chamber of Commerce, and it is a point requiring consideration before any action is taken. It is a question put forward on somewhat different lines from those on which it was dealt with before.

Hon. Dr. Ho Kai—I beg to second the motion. I think there cannot be two opinions about the desirability of doing something to secure a registration of partnerships in this colony, as well as in other colonies like Singapore, Penang, and other places in the Straits Settlements. This subject, as the hon. member opposite has just stated, came up for consideration 30 years ago, and I believe at that time a petition by leading Chinese merchants was presented praying that measures should be taken and laws enacted to have all Chinese partnerships registered, and that the real partners of Chinese firms should be made known. Since that time the question has often been raised and discussed, and the concensus of opinion is that it is a desirable thing if we could bring it about. Commissions, too, have been appointed to consider the question, and in two of them I have taken part. In the last one, in the year 1901, the result of our inquiry, so far as I can remember, was that we would have no objection at all in recommending an Ordinance to be passed for the registration of partnerships, but at the same time we found very great difficulty in recommending the

provisions that should be contained in that Ordinance. First of all we found that if the Ordinance or Law we proposed should be made could have any chance of success at all, it would require a very large staff, and secondly, a very great deal of expense. Then another difficulty was, supposing we expended a very large amount in trying to get every registration as correct as possible, the question would arise—Could we depend upon the correctness of those registrations after all? I think that under the English law, as explained to the Council just now by my hon. and learned friend opposite, the Chinese would not, in spite of any penalty inflicted by the Ordinance, come forward and register their true names. They would do just as they are doing now, even under the compulsion of law; they would supply tong names, or fictitious names. The registration might contain one character of a man's real name and one character of another name, and the result of so much labour and expense on the part of the Government would be lost when a case of insolvency or bankruptcy occurred. We knew that the more stringent the law we made the more would we drive away capital from the Colony, and prevent the sending of money to be invested in the various businesses here; and that evil we considered to be very great, and it would overbalance whatever benefit we might derive from such a law. Now, without that law we might have a large number of fraudulent bankruptcy cases, partnership disputes and so on, still we would have a large amount of capital sent from the interior of China to this Colony; but if we had a stringent law compelling registration of partnerships it might be that we would not have the benefit of that money. The only point we considered of any interest at all, and I believe all Chinese merchants who gave evidence and sat on the commission agreed, was that if we could modify the provisions of the English law, and conform more or less with the Chinese law and practice, requiring each partner to contribute towards the liabilities of the firm in the same proportion as they contributed to the capital, then a large number of Chinese residents in the Colony, and out of it, would be glad to make known their real names, and to register their true names and the amount of capital they took in their firms; and furthermore, it would induce them in times of trouble to come forward and honestly discharge their share of liabilities, and also to assist the creditors in getting hold of some other partners who might be well to do and able to pay their share of liability, and compelling them to come forward and settle. And instead, sir, of everybody running away when a case of bankruptcy occurred, we would have some substantial man, at all events, come forward and pay his share of liability, and also get other partners, whom they would know much better than the creditors, to

pay their share as well: and even if the worst came to the worst, in every case fifty per cent. might be paid, and that would be much better than the whole of the partners of the firm running away. Some of them might be got at by creditors through proceedings in the Supreme Court, but what they could get out of the estate would hardly pay Court expenses. For that reason alone I support this motion for legislating for the registration of partners with proportionate liabilities; when the liability of each partner is in direct proportion to the amount he has to contribute towards the capital of a firm, and if legislation were attempted on these lines I think it would have a very beneficial result, and would give the Chinese residents in the Colony, or away from the Colony in Canton and neighbouring ports, an opportunity of taking part in business enterprises in the Colony which otherwise they would not dare to do openly. I think a very good example could be shown, and members of Council will see the force of it: A firm starts with, say, a lakh of dollars, \$100,000, capital. A man who is worth under a lakh might be glad to take a \$10,000 share in that firm. Well, the firm might go on steadily for a few years until a commercial crisis occurred, and then it might lose something like two lakhs in addition to its capital. As an honourable man, this partner might give away all the money he had left, but even then he could not satisfy more than a certain percentage of the whole amount. What he would say is simply this—Well, I couldn't do anything more even if I were to give up every penny I possessed; and he wouldn't dare to come forward to make any arrangement at all, because the law would be directed solely against him. If I were a creditor I should prefer that this man come forward and pay, say, \$20,000 instead of denying his liabilities altogether. A debtor doesn't mind paying his proportion, but when you saddle him with the whole of the load, he will simply say—Well, I cannot meet all the liabilities of the firm, and therefore I won't. I think there is a great deal in this, and I am quite sure your Excellency and the Government will give your best attention to the subject; and if an Ordinance is to be drafted my friend opposite says he will be glad to give his services, and I also shall be very glad indeed to contribute mine.

Hon. Mr. HEWETT—Sir, with regard to the motion now before hon. members of the Council, the question naturally attracted the attention of the Chamber of Commerce, of which I have the honour to be the representative. So soon as I heard that this motion was to be brought before the Council to day, I asked my colleagues at the Chamber of Commerce to hold a meeting and to discuss the motion as we knew it at that time. At the Chamber of Commerce when we considered the question, the only conclusion that we came to was that the motion was extremely vague, and

we did not understand what it meant. The Chamber thought that certain conditions were contemplated, and that being so it requested me to state, with your Excellency's permission, before this Council, that the only view they could express was that until they read the speeches made by the proposer and seconder of the motion, and any further debate which might take place, they were unable to express an opinion, and they requested me therefore to express the hope, if such were permissible, that should the view of the Chamber of Commerce be required, a division should not be taken of it, but a final division be deferred until a later meeting when the committee of the Chamber could have an opportunity of considering the arguments brought forward, and could request me to state its views. I may say that so far as I am personally concerned I go further. The opinion I hold, your Excellency, is that nothing could be gained by carrying such a motion; I do not see that any advantage could accrue by accepting or rejecting it. The committee of the Chamber of Commerce as at present composed support their predecessors in the firm belief that legislation in this direction is desirable, and they would gladly welcome it, provided such legislation could be brought before the Council in the form of a bill, and would result in a satisfactory solution of the difficulties and abuses which we now experience in the conduct of trade, and at the same time not affecting the prosperity of the Colony by frightening Chinese capitalists from coming and investing their money here. As I have already stated, your Excellency, I am not in favour of the motion personally. I have listened to the able speeches made by the learned gentlemen, but regret to say I do not consider the motion should be adopted by the Council. To show the vagueness of the resolution as understood by the committee of the Chamber of Commerce, I may say that until the hon. member who proposed the resolution spoke I certainly did not understand that the proposed legislation was to extend only to Chinese firms. Taking the motion as it stands, it most clearly referred to all persons doing business in the Colony. Supposing the matter of the registration of partners was accepted and became law, the object would be that we would be asking British and other firms trading in the Colony to conform with certain inquisitorial regulations which are not enforced in other parts of the British Empire. On the other hand if they are to apply to Chinese firms only, it would be a departure from that broad-minded liberal policy by which all British Colonies are governed, namely, that except for some very special reasons no distinction is made by the law of any class or nationality, a policy the wisdom of which is demonstrated by the prosperity of our Colony. That is one of the points that occurred to me while listening to the speeches of hon. members. It appears to me that not only is nothing to be gained by

agreeing to this motion, but also that not much is to be gained by a detailed discussion on the question. Both hon. members, more particularly the seconder, went into a good deal of detail and referred to the difficulty lying before us, and that being so it is only right for me to refer to some of the main facts as they occurred to me, speaking entirely as a commercial and not as a legal man. The hon. proposer of the motion spoke of Chinese law as it obtains in China, and I think remarks on the same subject were also made use of by the seconder. I do not know whether it is law in China, but certainly it is custom in the Southern Provinces of China, and I am told a very satisfactory custom in working, that no partner in a Chinese firm is liable for more than his proportion of the debt. He may be the most wealthy member but the smallest shareholder, but in the event of the firm becoming bankrupt he only pays his proportion of the debt on the proportion of capital he holds. That we have understood for some time past is the form of registration among the Chinese, and it would be accepted by them here. In fact, as your Excellency is aware, this is not a new question. When forwarding a petition from the Chinese merchants asking for registration of partners Sir Cecil Clementi Smith, the Registrar General, in his letter to the Colonial Secretary dated 28th August, 1874, distinctly lays down that the petition forwarded to the Government is based on that idea that partners are only liable for the actual proportion of debt based on their share in the firm. The hon. and learned member who proposed the motion spoke of the reluctance of the Chinese to register in Hongkong. It has been my business to consider the question, and I have naturally made inquiries among many classes and conditions of people in the place, and understand generally from leading Chinese merchants that what the Chinese are afraid of is the unlimited liabilities they incur if they own to being partners in a Chinese firm under British law. A Chinese merchant, doing business, say, in Canton, will have no particular difficulty in finding out who are partners of a firm, whereas they do experience that difficulty in Hongkong, the reason being that people register names of men of straw or record "tong" names because they are afraid of the bankruptcy law as it now exists. It is very probable, as the proposer was saying, that the only solution of the difficult question is to be found in limiting the liability of Chinese firms according to the Chinese customs that now obtain on the mainland. As we know, and I speak now from nearly 30 years personal experience, the average Chinese merchant is an honest upright man and willing in fair weather or foul to discharge his liabilities, and I believe if some satisfactory solution could be come to it will decrease the cases of fraudulent bankrupts absolutely avoiding their liability by

disappearing on the mainland. On finding exactly how the law stands, honest merchants in Hongkong, even during a crisis, will assist creditors in recovering debts and discovering absconding debtors though they may have shifted to China. As we know, difficulties against solving this complex question have occurred in the Straits Settlements and also in India. I believe I am correct in stating that the latest heard from the Bombay Presidency is that the Bombay Chamber of Commerce will have nothing to do with the matter at all, while in Bengal they are a little more hopeful and are still working away on a bill. Years ago Singapore passed the second reading of a bill, and then it died a natural death. At present a bill has passed its second reading there. This bill is of a most drastic nature; it compels the registration of all firms every twelve months, and altogether it appears to me to be of such a nature that it can only suffer the fate of its predecessors. I merely refer to these points as I think it is as well to point out how very great the difficulties are, and how very cautiously we should proceed to deal with the question. These remarks are only made to support my earlier remarks; that is, that I cannot see that the Council will gain anything by accepting this motion. I trust that the proposer and seconder will be satisfied with the discussion, and that they will not endeavour to press their motion to a division. I also express the hope that later on a draft bill will be before the Council which can be carefully considered, amended or rejected as the full consideration of the Council considers. I can only say in conclusion that the Chamber of Commerce will gladly welcome any proposed form of registration which points to a possible and satisfactory settlement of a very difficult question, and speaking on behalf of the Committee of that Chamber I can only assure your Excellency and hon. members who brought forward the motion that it will receive every possible assistance from the Chamber of Commerce.

THE ATTORNEY GENERAL—It is impossible, I take it, for this Council to pledge itself to anything in the shape of legislation by accepting a resolution such as this; because whether the legislation is for the purpose of making the registration of Chinese partnerships compulsory—and any legislation that is not compulsory cannot possibly be effective—or whether any such legislation is desirable or not depends altogether upon the objects that legislation has in view and the means the measure would adopt to give effect to them. Now, what would be the object of registering partnerships? There can only be two—one to protect the creditor as against the debtor, or to protect, as my learned friend opposite seemed to think should be done, the debtor against the creditor. He suggests that the law of C h i n a b e i n t r o d u c e d

into a British mercantile community such as this, by which apparently the persons who ought to be liable, the persons in faith of whose names credit is given to the firm, are according to that law only liable to the extent of the proportion of the interest which they possess in the firm. I take it that it would be difficult for the hon. members to persuade anybody that it was desirable for a British mercantile community to substitute any such law as that for the law already in existence. It would be impossible. The object of any such legislation must be either to protect the creditor or to give a certain protection to the debtor. We can free the person of the debtor to some extent, but we cannot protect the debtor against the creditor. It is the creditor who requires protection against the debtor. There is a certain kind of protection which my learned friend appears to have overlooked when considering this question. By the law of England there is such a thing as limiting *quo ad* third persons, the liability of persons sharing the profits of partnerships. There is no Act of Parliament expressly limiting partnerships, but there has grown up a custom based on the decisions of judges under which partners are limited in their liability. There are such things as sleeping partners. If any legislation that is brought forward to enforce registration of partnerships proceeds blindfold there is the greatest possible danger of doing wrong to the large body of persons known as sleeping partners. I venture to say there is hardly a business firm in Hongkong that does not pay out of its profits sums of money to widows and orphans and other persons who having at one time taken an active interest in the firm have now retired therefrom and whose names no longer appear as partners. This is one of the things well known in selling a goodwill. A partner retires, but instead of taking a lump sum paid down to him he takes a certain amount of the profits annually. He has no further liability for debts incurred after his retirement; but if you require that partnerships should be registered, it means that this man will also have to be registered. His name will appear on the register and if he is made liable someone might say—You knew he was a sleeping partner? And the answer to that would be— You are not entitled to say that to me. I saw his name on the register, and the register is the notice to the world that the man is a partner. By such legislation you would absolutely destroy the principle, the universally recognised principle of the sleeping partner, you would dislocate the law of partnership in this Colony. It would be impossible to introduce any such change without creating great hardships and there would be no compensating advantages. I don't propose to go into detail to show how impracticable and impossible such legislation would be. The hon. member opposite recalls that this has been discussed years ago. He himself sat on a committee, and after considering the question in all its aspects I think the opinion was unanimous that nothing

effective could be done. I agree with the hon. member representing the Chamber of Commerce that the only way to deal with this question is in the shape of a bill. If the hon. member on my left will bring forward a practicable scheme in the shape of a bill let him do it, and I will welcome it and assist him in every way I can. I read carefully the reports to which my friend refers, and among them a letter by Mr. Hallyer, a former Queen's Counsel in this Colony. I commend the arguments of that gentleman to the attention of my friend when he is drafting this bill for the registration of partners.

The Hon. Mr. POLLOCK—I have seen it.

The ATTORNEY GENERAL—I trust my friend will be guided by it. My view is that this Council, this Government, should not pledge itself to any legislation the effect of which it does not know.

The Hon. Mr. POLLOCK—I have listened with very great interest to the observations of the hon. member who seconded, and also the hon. member representing the Chamber of Commerce and the Attorney General. As I said when I made my opening speech, my object was to invite discussion. I think hon. members will agree that that object has at all events been partially attained, although no doubt there will be more said on this important subject. If there had been a bill drafted, the first body to whom I would have sent a copy would have been to the Chamber of Commerce, which the Hon. Mr. Hewett represents, but it seemed to me desirable to ascertain the opinion of the Council upon this subject. I am glad to learn from what fell from the lips of the hon. member who represents the Chamber of Commerce that he was in agreement with the views held by the senior member representing the Chinese and myself that if such a measure could be devised it would be a very good thing. I accept the views of Mr. Hewett and the Attorney General that it would not be advantageous to proceed further with this motion, and that being so, with your Excellency's permission, I will withdraw it. I am glad to know that any bill which the hon. member opposite and myself may draw up will receive attention. I beg to withdraw the motion.

The Hon. Dr. HO KAI consenting, the motion was withdrawn.

HIS EXCELLENCY—If the hon. and learned member who moved the resolution will submit a draft bill to the Government, it will be referred to the Chamber of Commerce, by whom, in such matters, the Government is always largely guided.

QUESTIONS.

The Hon. Mr. POLLOCK asked the following questions, the first being pro Mr. G. Stewart:—

1. Have the experiments in wood-paving proved sufficiently satisfactory to warrant an extension of this method of road-making being taken into consideration.

2. With reference to the leading article which appeared in the *South China Morning Post* of the 19th April, 1906, will the Government state why the notification as to dead rats therein referred to was not promptly attended to by the Sanitary Authorities, and will the Government also state what steps are being taken to prevent the recurrence of such delays in future?

3. Will the Government consider the advisability of granting to those Civil Servants who are drawing their pay on a sterling basis the privilege of drawing half of their pay at the rate of 1s. 8d. to the dollar, or will the Government grant some other relief by way of compensation to such Civil Servants?

The COLONIAL SECRETARY, in reply to No. 1, said— Though the experiments have not extended over a sufficiently long time to furnish reliable information as to the durability of wood paving in Hongkong, it is considered that a further and more extensive experiment would be justified, and it is proposed to provide in next year's estimates for paving Ice House Street with this material.

The COLONIAL SECRETARY, in reply to No. 2, said— On receipt of the first notification a ratcatcher was instructed to visit the premises, but forgot to go. The second notification was sent by the principal clerk to the wrong Sanitary Inspector and delay resulted. Both the principal clerk and the Sanitary Inspector concerned have been reprimanded.

The COLONIAL SECRETARY, in reply to No. 3, said— His Excellency the Governor has communicated with the Secretary of State on the subject.

MARRIED WOMEN'S PROPERTY ACT.

The ATTORNEY GENERAL moved the first reading of a Bill entitled "An Ordinance to amend the law relating to the property of married women", the object of which is to accord to married women in the Colony the like protection with regard to their property as is enjoyed by married women in England and elsewhere in the Empire.

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

REGISTRATION OF DENTISTS.

The ATTORNEY GENERAL moved the first reading of a Bill entitled "An Ordinance to regulate the qualifications and to provide for the Registration of Dentists."

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

SUMMARY OFFENCES (AMENDMENT) ORDINANCE.

The ATTORNEY -GENERAL moved that the Bill entitled "An Ordinance to amend the Summary Offences (Amendment) Ordinance, 1905," be now read a second time. He said— The Council will observe from the memorandum attached to the bill that the proposed legislation is necessary because of the necessity for defining the meaning of the words "public place" as used in the Ordinance of 1905. It is intended to confine the meaning of this expression "public place" to the purposes mentioned in Sections 3 and 4 of the Ordinance of 1905, viz. to the prevention of solicitation by prostitutes in a public place. This bill therefore provides that "public place" should have this meaning attached to it—any place, public or private, which is resorted to by prostitutes for the purpose of solicitation.

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

On the motion of the ATTORNEY -GENERAL, seconded by the COLONIAL SECRETARY, the Council resolved itself into Committee to consider the Bill.

On the Council resuming, His EXCELLENCY reported that the Bill had passed through committee without amendment.

AMENDMENT OF MAGISTRATES ORDINANCE.

The ATTORNEY -GENERAL moved the second reading of the Bill entitled "An Ordinance to amend the Magistrates Ordinance, 1890." He said —The reason of this Ordinance being brought before the Council is to be found in certain doubts exercising the minds of the magistrates as to their powers, and the object of the Bill is to remove these doubts. The principle is one, I think, which will commend itself to members. There is some doubt as to whether a magistrate has power to deal with a witness who has come before him voluntarily and who proves recalcitrant, either won't take the oath or having taken the oath won't answer the questions put to him. The point has been taken that under the Ordinance a magistrate could only deal with a man who has been summoned or brought up on warrant. Some take that view and some take the other, and the object of the Bill is to make it quite clear what jurisdiction they have. The Bill repeals Subsection 4 of Section 17 of the principal Ordinance and provides that if any person comes before a magistrate and refuses to be sworn or to give evidence he may be dealt with for his recalcitrancy. The Bill also by Section 3 gives the magistrate power to deal summarily with persons who commit certain offences against the bankruptcy laws. At present a magistrate cannot deal summarily with a person who commits an offence against the Bankruptcy Ordinance, such as a debtor who gets credit without disclosing that he is a bankrupt. It is one of the objects of this Bill to give the magistrate power to deal summarily

with such offences. The Bill also restores to Justices of the Peace the power to issue search warrants for stolen property. The necessity for this measure arises from the omission by the learned compilers of the Revised Edition of the Ordinances of the part of Ordinance No. 1 of 1845, by which the word magistrate was defined to include within its meaning a Justice of the Peace. In 1897 a further Act was passed in which the meaning of the word magistrate was confined to police magistrate. In 1900 Sir John Carrington was authorised to make a compilation of the Ordinance, and was expressly forbidden to make any alteration in the substance thereof. In the Ordinances as compiled he left out the section of the original Ordinance by which a magistrate was defined to include a Justice of the Peace. I take it that that was a mistake, because it was an omission which materially altered the Ordinance, which he had no power to do. The effect of this alteration was to deprive justices of their old-time jurisdiction to issue search warrants, etc. This omission was only recently discovered by one of our extremely good magistrates. I speak sincerely when I say we have good magistrates. My view is that the words, although omitted from the Revised Edition, still form part of the Ordinance, for its compiler had no power to make any alteration as to substance, but there comes the difficulty of the doubt in some magistrates' minds. The fact remains that the omitted words do not appear on the statute book, and to remedy that omission I move that the bill be read a second time.

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

The Council then went into Committee to consider the Bill in detail.

On the Council resuming, His EXCELLENCY reported that the Bill had passed through committee with one amendment.

BILL WITHDRAWN.

The ATTORNEY -GENERAL moved that the order relating to the second reading of the Lunatic Asylums Ordinance be withdrawn. He proposed to submit to the Council another Bill dealing with the same matter in another way.

The Colonial Secretary seconded and the motion was agreed to.

SUPREME COURT JURISDICTION.

The ATTORNEY -GENERAL moved that the Bill entitled "An Ordinance relating to the jurisdiction of the Supreme Court with respect to the care and commitment of the custody of the persons and estates of Lunatics" be read a second time. He said—This Ordinance is introduced at the instance of their Honours the Judges of the Supreme Court. We have an Ordinance which deals with the subject of the person and the property of lunatics in the Ordinance No. 3, I think, of 1856, the Imperial Enactments Extension Ordinance, which extended the Lunacy Act passed in England in 1853 to the Colony. The provisions of that Act, coupled with the powers given in general terms to the Supreme Court, under

the Supreme Court Ordinance, to control the persons and estates of lunatics is the law as it exists. In 1890 the Lunacy Act was passed and now at the suggestion of their Honours I propose to ask the Council to pass this Bill and adopt the latest Lunacy Act passed in England.

The COLONIAL SECRETARY seconded, and this was agreed to.

The Council went into Committee.

On the Council resuming,

His EXCELLENCY reported that the Bill passed through committee without amendment. His Excellency then adjourned the Council until Thursday, May 31st.

FINANCE COMMITTEE.

A meeting of the Finance Committee was held immediately after the Council, the Colonial Secretary presiding, when the following votes were passed:—

LIGHTHOUSE CHARGES.

The GOVERNOR recommended the Council to vote a sum of three thousand dollars (\$3,000) in aid of the vote Harbour Master's Department, G.—Lighthouses, for the following items:—

Gap Rock Lighthouse, Other Charges	
Gunpowder Charges and Tubes for Fog Signalling Guns	-----\$1,000
Waglan Island Lighthouse, Other Charges	
Gunpowder Charges and Tubes for Signalling Guns	-----2,000

Total	-----\$3,000

EDUCATIONAL EXPENSES.

The GOVERNOR recommended the Council to vote a sum of five hundred dollars (\$500) in aid of the vote Education, 4.—Department of Inspector of Schools, other charges, Visual Instruction Expenses.

PUBLIC WORKS EXTRAORDINARY.

The GOVERNOR recommended the Council to vote a sum of fifteen thousand two hundred dollars (\$15,200) in aid of the vote Public Works Extraordinary, Communications, Metallic Circuits, including New Route to North Point.

Mr. POLLOCK—I gather from the remarks of His Excellency that the \$15,200 was in connection with the vote which has been passed already. The first question to be considered is whether the Tramway Company are under any liability to this Council for this amount?

The COLONIAL SECRETARY—The question will be considered in due course after the metallic circuiting has been completed.

Mr. POLLOCK—What is this new route to North Point?

The HON DIRECTOR of PUBLIC WORKS—The reason for this is that previously the Government wires were carried on poles belonging to the Telegraph Company, by arrangement with that Company, but when it was decided to establish metallic circuits these poles could not carry the additional wires required, and it was consequently arranged to establish a Government route independent of the Telegraph Company's.

LANGUAGE ALLOWANCE.

The GOVERNOR recommended the Council to vote a sum of six hundred dollars (\$600) in aid of the vote Registrar General's Department — Other Charges, Language allowance to Mr. C. Clementi, Assistant General, who has passed the examination in the Pekingese Colloquial.

POST OFFICE EXPENSES.

The GOVERNOR recommended the Council to vote a sum of one hundred and twelve dollars (\$112) in aid of the vote Post Office, Postal Agencies in China—Other Charges, Hankow incidental expenses.

INFECTIOUS HOSPITALS EXPENDITURE.

The GOVERNOR recommended the Council to vote a sum of one thousand seven hundred and forty dollars (\$1,740) in aid of the vote Medical Departments, for the following:

Infectious Hospital.	
Hospital Hulk <i>Hygeia</i> :—	
Personal Emoluments.	
Temporary Staff, for 3 months	\$ 240
Other Charges.	
Provisions, &c.,	1,500

Total	\$1,740

REFUNDS OF REVENUE.

The GOVERNOR recommended the Council to vote a sum of sixteen thousand dollars (\$16,000) in aid of the vote Miscellaneous Services, Refunds of Revenue.

POST CHARGES.

The GOVERNOR recommended the Council to vote a sum of seventy dollars (\$70) in aid of the vote Post Office, B.—Postal Agencies in China —Other Charges, Shanghai, allowance for attendance on Sundays.

LIGHTHOUSE CHARGES.

The GOVERNOR recommended the Council to vote a sum of three thousand dollars (\$3,000) in aid of the vote Harbour Master's Department, G.—Lighthouses, for the following items:—

Gap Rock Lighthouse, other charges.	
Gunpowder charges and tubes for fog signalling guns	\$1,000
Waglan Island Lighthouse, other charges.	

Gunpowder charges and tubes for fog signalling guns	2,000

Total	\$3,000
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LAND REGISTRY OFFICE.

The GOVERNOR recommended the Council to vote a sum of four hundred and eight dollars (\$408) in aid of the vote Judicial and Legal Departments, D.—Land Registry Office —Other Charges, for New Territories, Conveyance and Hire of Coolies.

A NATIVE CEMETERY.

The GOVERNOR recommended the Council to vote a sum of four hundred and fifty dollars and sixty-six cents (\$450.66) in aid in the vote Public Works Extraordinary, Resumption of Land for the Sai U Shek Cemetery, near Kowloon City.

FORMING STREETS.

The GOVERNOR recommended the Council to vote a sum of forty-two thousand dollars (\$42,000) in aid of the vote Public Works Extraordinary, 19, Forming and Kerbing Streets.

CONNAUGHT RECEPTION.

The GOVERNOR recommended the Council to vote a further sum of four thousand four hundred. and fifty-five dollars and fifty-nine cents (\$4,455.59) in aid of the vote Miscellaneous Services, Connaught Reception.

TREASURY EXPENSES.

The GOVERNOR recommended the Council to vote a sum of one hundred and twenty dollars (\$120) in aid of the vote Treasury, A.—Treasurer's Office—Other Charges, New Territory, Conveyance Allowance to Clerk and Shroff.

POSTAL AGENCIES IN CHINA.

The GOVERNOR recommended the Council to vote a sum of one thousand eight hundred taels (Tael 1,800) in aid of the vote Post Office, B.—Postal Agencies in China, other charges, Shanghai, Rent of the British Post Office, Extension site from 1st July, 1905 to 31st December, 1906.

KOWLOON-CANTON RAILWAY.

The GOVERNOR recommended the Council to vote a sum of three hundred and fifty thousand dollars (\$350,000) in aid of the vote Public Works Extraordinary, Kowloon-canton Railway.

SUPREME COURT CHARGES.

The GOVERNOR recommended the Council to vote a sum of six hundred and eight-five dollars (\$685) in aid of the vote Judicial and Legal Departments, A.—Supreme Court, other Charges, Safe for Original Wills.

MEDICAL DEPARTMENTS.

The GOVERNOR recommended the Council to vote a sum of three hundred and seventy-two dollars and thirty cents (\$372.30) in aid of the vote Medical Departments—Other Charges, A.—Staff, Health Officer of Port, Repairs to Launch.

REVOTE.

The GOVERNOR recommended the Council to revote a sum of one hundred and seventy-two dollars and eighty cents (\$172.80 at 2s. 1d. = £18) in aid of the vote Military Expenditure B.—Volunteers—Other Charges, Contribution towards Sergeant Major's Army Pension.

POSTAL AND OTHER CHARGES.

The GOVERNOR recommended the Council to vote a sum of four hundred and fifty dollars (\$450) in aid of the vote Post Office, B.—Postal Agencies in China—Other Charges, Shanghai, Rates and Taxes.
