

2ND DECEMBER, 1909.

PRESENT:—

HIS EXCELLENCY THE GOVERNOR, SIR FREDERICK JOHN DEALTRY LUGARD, K.C.M.G., C.B., D.S.O.

HIS EXCELLENCY MAJOR-GENERAL R. G. BROADWOOD, C.B., A.D.C. (General Officer Commanding).

HON. SIR F. H. MAY, K.C.M.G. (Colonial Secretary).

HON. MR. F. A. HAZELAND (Attorney-General).

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

HON. MR. P. N. H. JONES (Director of Public Works).

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

HON. MR. F. J. BADELEY (Capt. Superintendent of Police).

HON. DR. HO KAI, M.B., C.M., C.M.G.

HON. MR. E. OSBORNE.

HON. MR. E. A. HEWETT.

HON. MR. MURRAY STEWART.

HON. MR. W. J. GRESSON.

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

MR. C. CLEMENTI (Clerk of Councils).

Minutes

The minutes of the last meeting were read and confirmed.

Financial Minutes

THE COLONIAL SECRETARY, by command of His Excellency the Governor, laid on the table Financial Minutes (Nos. 52 to 54), and moved that they be referred to the Finance Committee.

Financial

THE COLONIAL SECRETARY, by command of His Excellency the Governor, laid on the table the report of the Finance Committee (No. 18) and moved its adoption.

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

Paper

THE COLONIAL SECRETARY, by command of H. E. the Governor, laid on the table a memorandum on the Licensing of Public Houses in Hongkong.

Byelaws

THE COLONIAL SECRETARY moved the approval of the Council to the byelaws under the Public Health and Buildings Ordinances, 1903-09: (a) Depôts for Cattle, Pigs, Sheep and Goats; (b) Cemetery Byelaws Nos. 6, 10 and 11, (c) Cemetery Byelaw No. 12. In doing so, he said:— The only alteration in the first Byelaw is an alteration of fees—rendered necessary by opening the Matakok depôt. The only material alterations in the Cemetery Byelaws were Nos. 10 and 11, which were new and which explained themselves. Cemetery Byelaw No. 12 is the result of recent legislation in connection with the Cemetery for Christian religion.

THE DIRECTOR OF PUBLIC WORKS seconded, and the resolution was carried.

Liquors Ordinance Resolution

THE COLONIAL SECRETARY—Sir, I rise to move the resolution under section 3 (1) of the Liquors Ordinance, 1909. The duties on native wines and spirits, as set out in this resolution, have been arrived at after careful consideration, and with the advice on the subject of the senior unofficial member and his Chinese colleague, and I understand that these duties are acceptable to the Chinese persons engaged in the trade. The last paragraph of the resolution, sir, refers to an increased duty upon all spirits with the exception of arrack, spirits of wine, native wine and spirits if they are overproof. This innovation, sir, is partly to protect the revenue, and partly to preclude undue preference to those engaged in the local trade of bottling spirits, as against those engaged in importing spirits in bottle.

THE COLONIAL TREASURER seconded.

HON. MR. STEWART—Is it contemplated that cases of whisky should be broken into and the whisky examined to see what proof it is?

THE COLONIAL SECRETARY—I don't think, sir, that any extensive system of examination of bottles imported will be necessary. It will be occasionally necessary to examine a sample of a consignment, but it is not considered that trade will be interfered with, or that an additional staff will be necessary to carry out the work.

HON. MR. HEWETT—I understand, sir, that overproof spirits are never imported from Europe, except in cask. It is not a question of opening cases.

THE COLONIAL SECRETARY—That is so.

HON. MR. HEWETT—That, I think, meets the objection raised by the hon. member who represents the Justices of the Peace.

THE COLONIAL SECRETARY—Spirits might be imported overproof in bottles.

HON. MR. HEWETT—That is so.

The resolution was as follows:—

Resolved that the duties on all native wines and spirits referred to in Section 3 of the said Ordinance be repealed and the duties following be substituted therefor:—

" 1. \$0.15 cents a gallon on the native liquors known as Liu Pun and Sheung Ching and on the following sweetened, prepared and medicated wines:—

No Mai Tsau, Hak No Mai, Mau Kan, Yuk Lau, Ning Mun Tsau, Tsing Mui, Muk Kwa, Sun Fung, Wu Tau, Shüt Li Tsau, Sam Kat, Lung San Tsau, Tei Kuk, Sam Pin, Tit Ta, Fung Shap and Wai Shang.

All such liquor shall contain not more than 25 per cent. of alcohol by weight.

2. \$0.20 cents a gallon on the native liquor known as Sam Ching, containing not more than 35 per cent. of alcohol by weight.

3. \$0.25 a gallon on the native liquor known as Fa Tsau and on the following sweetened, prepared

or medicated wines:—

Ng Ka Pei, Mui Kwai Lo, Sz Kwok Kung, Fu Kwat Muk Fa, Yan Chan Lo, and Ko Leung Kon.

All such liquor shall contain not more than 45 per cent. of alcohol by weight.

4. \$0.35 a gallon on the native liquor known as Fan Tsau, if containing 50 per cent. or under of alcohol by weight, with the addition of two cents for every one per centum between 50 per cent. and 55 per cent. of alcohol by weight.

5. \$0.50 cents a gallon with the addition of eight cents for every one per centum above 55 per cent. of alcohol by weight on any native liquor containing above 55 per cent. of alcohol by weight.

6. \$0.05 per gallon on all native liquor distilled in the New Territories, not including New Kowloon, for consumption in the said Territories."

Further resolved that on native wines and spirits declared or labelled as belonging to any of the above divisions the appropriate duty therein laid down shall be paid except that on any native liquor however declared or labelled found by the Government Analyst or such person as the Governor may from time to time appoint in that behalf to contain more alcohol than is permitted in the division to which it is declared or labelled as belonging, there shall be paid the appropriate duty of the division in which the amount of alcohol found has placed it; each division in such case shall represent native liquor of the limit of strength in alcohol therein stated and irrespective of any definition or description of such liquor, and on any native wines and spirits not declared or labelled as belonging to any division there shall be paid the duty appropriate to the division in which the amount of alcohol found by the Government Analyst or such person as the Governor may from time to time appoint on that behalf has placed it.

Further resolved that stills in the New Territories (not including New Kowloon) shall be prohibited from sending liquor produced in these stills to Hongkong or to New Kowloon: provided that any licensee of a distillery who desires to send such liquor to Hongkong or New Kowloon may be granted a permit to do so, upon payment of the duties charged in Hongkong or New Kowloon.

Further resolved that on intoxicating liquors, other than spirits of wine, arrack and native wines and spirits, imported into, distilled, made or prepared in the Colony above proof strength there shall be paid an additional duty of 4 cents for every degree above proof in the case of brandy, 3 cents for every degree above proof in the case of whisky, and 2 cents for every degree above in the case of any other liquor.

Unsightly Government Land.

HON. MR. MURRAY STEWART—I rise to move that "in the opinion of this Council immediate steps should be taken to abate the nuisance created by the condition of the plot of Government land between the new Law Courts and the Praya." Perhaps the best way to realise the nuisance referred to is to put oneself in the position of a stranger. Any observant and interested stranger landing on the Praya, opposite Queen Victoria's statue, and looking first to his right front and then to his left would mark a striking contrast. On his right he would note with pleasure a well-kept grass plot bordered with flowers and enclosed by a handsome railing. On his left he would see an unsightly conglomeration of ramshackle and tattered matsheds, piles of rotting poles, odds and ends of old timbers, untidy heaps of granite chippings, weed-grown stacks of bricks; cook-houses— other outhouses—all the stagnant squalor which collects in a builder's yard. The fact that the tattered matsheds are in the occupation of a certain Chinese contractor is advertised in large letters over the entrance to them, and the observant stranger, noticing this, might imagine that here was a flagrant case of private ownership in land resulting in public wrong. "Here," he might say, "is a case where it would obviously be right for the State to step in and to force the owner of this prominently situated plot either to put it to some less unseemly use or submit to a forced sale." He might contend, without going all the way with the Chancellor of the Exchequer, that no rights of private ownership should carry with them such an utter want of consideration for the proprieties of city government, and so imperfect a sense of the fitness of things, as to lease out for such a purpose land adjoining a public square. If the stranger, as well as being observant and interested, happened also to be distinguished, and had been met and taken charge of on landing by an emissary of the Government, say, by the Hon. the Director of Public Works, how could it be satisfactorily explained that these well-kept gardens were the outward and visible sign of public spirit, displayed by private citizens, and that the hideous spectacle of disorder lying to the left was created and maintained by the governing powers? The Government apologist, recalling certain answers to recent questions, would say that the nuisance was necessary to the work on

the new Post Office, which building would be pointed out in the distance, possibly with pride, as one whose four storeys it had taken five years to raise. Passing along the Praya towards the Club the stranger would first note a squat bungalow. He would be told that it is a special drawing office for new Post Office plans, the building being now up. He would make a mental note that such an ugly structure ought never to have been erected in a prominent position on the sea front. Next his curiosity would be aroused by the sight of four lean and rusty iron chimneys sticking up at varying angles, one out of each of the four corners of a small enclosure immediately in rear of the ugly bungalow. He would look in and see that each of these chimneys rose out of a brick oven. He would see sand lying about and small stones in heaps. He would smell coal tar. He might even taste it. He would, if we imagine him to have landed before notice of this resolution was given. Two simmering cauldrons stood out in the roadway smoking over the passer-by. Our stranger might have recognised the process of tarring macadam and wondered what this had to do with the work on the Post Office. It would have had to be explained that this macadam factory is the Public Works Department's separate contribution to the chaos, for which it cannot be claimed that it is covered by any sort of necessity whatever. I do not see how any apologist of the Government can even excuse it. I suppose it will be said that, as the Post Office contractor had already made an unsightly mess, there was no particular harm in making it worse. But surely the officials of the Public Works Department should restrain, not lead, disorder. They owe this duty to the public. To their immediate superiors they recognise a duty well enough. They would realise the impropriety of making a tar macadam factory opposite the entrance to Government House. Why, then, upon the threshold of the Colony? This is a glaring instance of that want of a proper sense of the fitness of things concerning which there is justifiable public complaint. The Praya opposite Royal Square is the city's front doorstep. It should be kept clean and swept clear. It is no more suitable for such purposes than is

the front doorstep of a private house suitable for cooking the dinner. Walking on round that part of the plot enclosed by a palisade the stranger would wonder why the lessee is allowed to leave about, outside on the sidewalk, old cart wheels, and stone road-rollers, drain pipes and logs of wood. And from what he saw on turning to the right, he might reasonably suppose that not only was an industry in connection with road-making being carried on from the enclosure, but also the business of a laundry. He would have noticed dangling on bamboos above the weed-grown heaps of bricks, which top the palisade on the east, numbers of old coats and pants, and when he came round to the west, another assortment of similar rags flaunting behind the statue of His Majesty the King. If he had been with me one day recently he would have seen the crew of a junk, evidently mistaking the land on which the statue stands for waste land, using it as a place to spread and mend their sails. If he had been with me a day later, he would have seen the Monarch's effigy closely invested, up to the steps of the pedestal, by ramparts of large iron pipes. Often he might have seen, since the beginning of the N.E. monsoon, smoke from the coal-tar factory pouring over it, or perhaps from the kitchen chimneys in rear. The stranger might have questioned the propriety of erecting this statue until it could be treated with proper respect. He might ask—How did this state of matters begin? His cicerone might not be able to tell him. Only an old resident could give him an idea. Here I might come in. My recollection would be that the Public Works Department did not start the nuisance now complained of. They have only increased and intensified it of late years. Higher powers in the Government began it. I can't remember exact dates, but I recall the circumstances. I remember as one who can recall local events far longer than I care to realise. But one need not confess to having taken a continuous interest in this particular matter for more than a decade. Only then did the question arise—What is to be done with the plot of Government land between the site fixed for the new Law Courts and the Praya? In those days Hongkong was prosperous. She occupied a dominating position as a docking centre. She still held her own as a mart and distributing centre. We were all filled with pride and vain glory. And when we discussed the question of what ought to be done with the

plot in question, some of us maintained that the Government should here erect a building to serve the purposes of a Town Hall, a noble granite building in the classic style, worthy of the most beautifully situated city in the King's Dominions. That dream will some day, I hope, come true, though it seems further off now than then. But even then, in the days of prosperity, we saw that it could not be realised until the new Law Courts and Post Office had been built and the claims of waterworks satisfied. And consequently it was hoped and expected that, in the meantime, the Government would clear and maintain as an open space the plot in question, as well as the 75 feet to the west of it. This last, the Government, filled with emulation by the example set on the other side of Queen Victoria's Statue, actually proposed to do, just eight years ago. But this Colony suffers from lack of continuity, the word which Lord Kitchener left as a legacy to the Indian Army. A new ruler—the plea of necessity alleged by a Director of Public Works, able as an engineer, but apparently lacking in artistic perception, and so, instead of a garden, a drawing office, and a matshed for some Indian police whose quarters had to be re-built. Then, when these were completed, the rebuilding of the Volunteer Headquarters was decided upon, and the matsheds vacated by the police were utilised as temporary headquarters. The public indulged a hope that it would not be for long. But upon the completion of the Volunteer Headquarters a new reason was found for delay. The contractor who had undertaken the building of the Post Office induced the Government to let the plot to him. There was then little realisation of the length of time it would take to erect the edifice, and no notion that for five or six years these matsheds would be an alleged necessity of its eventual existence. Had there been, dissatisfaction would have been more widespread and more outspoken. Ever since then the condition of the plot has been an eyesore. At first there was no surrounding palisade. The Hongkong public owes the improvement due to the erection of these palisades to the Garter Mission—to the visit paid to the Colony by His Royal Highness Prince Arthur of Connaught. I re-

member the zeal displayed by the Public Works Department in tidying things up on the eve of his arrival. The same zeal was once again displayed when His Royal Highness the Duke of Connaught subsequently spent a day or two in the Colony. As Hongkong has not since then been favoured by a visit from Royalty the condition of the plot in question has been uninterruptedly declining from bad to worse. Are we faced with the prospect of this process continuing until the Post Office is completed? This question was asked at our last meeting. My aim in asking it was to ascertain, if possible, whether the Government realised the extent of, and recognised reasons for, a growing impatience over the long continued use of this particular piece of public land for the purposes of a contractor's yard. The Hon. the Director of Public Works said that the question—the third of a series—was disposed of by the answer vouchsafed to the second. I am unable to see that the answer to the second question had any relation to the third at all. The Hon. the Director of Public Works did not catch the drift of the latter question. If he had he would have foreseen that it could not be so easily disposed of, that it was certain to crop up again, as it has done in the resolution. The fact that he understood the question to refer only to the improper occupation of these worksheds as tenements argued an imperfect realisation of the far larger aspect of the nuisance, and I have therefore felt constrained to refer to it again, and to indicate the hope, which underlay the original question, of finding the Government willing to admit that the time has now arrived to improve matters. It does not seem to me to be unreasonable to expect this. I have no desire to be unreasonable, I have no wish to add unnecessarily to the work and worries of any hard-pressed official. To a man overwhelmed with the numbers of files that heap themselves upon his office desk, awaiting minutes, it may seem hard to be made responsible for what is happening on the Praya. But it is not the public's fault if the system on which the Department is worked calls for improvements which would enable the Hon. the Director of Public Works to use his pen less and his eyes more. But this opens a larger question. I desire to confine the discussion to the plot in question. Surely, now it might be possible to abate the nuisance created by its present condition. The Post Office is built up to the

top storey. The edifice awaits only its roof and the tower which is to crown it. If, as I understand, the only work, connected with the building of the Post Office, now being carried on in the yard is the sawing by hand of timber—a method somewhat antiquated in these days of bandsaws cutting teak like butter—surely there is no necessity for renewing the lease? The contractor will say there is no other place to saw it. But if he were to receive to-morrow three months' notice to quit, in that time I think he could find a way. Where there's a will there's always one. And if the Public Works Department had the will they could find a way to do without the drawing office and the tar factory on the sea front. The erasure of the drawing office, the removal of the road surface factory, and an issue of marching orders to the woodyard, these are the immediate steps called for under the circumstances, and this is the meaning of the word abate—the meaning which it carries in law when coupled with the word nuisance. Thus strengthened it is the equivalent of abolish; and thus I intend it to be read in the resolution which I now move. In speaking to it I have endeavoured as far as possible to repress feelings of irritation pent up for years. They are not directed against any particular office holder, during those years, or now. I attack no individual. I combat an idea—the idea that the Hon. the Director of Public Works is a law unto himself, and that his subordinates and contractors in carrying out Government work are free to display indifference towards considerations which it should be their pride to advance I appeal to powers in the Government overruling this department to put an end, on the plot of ground in question, to a condition of things which has grown to be discreditable to the Administration as a whole.

HON. MR. OSBORNE—I beg to second this resolution. It will no doubt be contended by those who are responsible for the retention of these unsightly structures that they are necessary for construction work on the new Post Office. That the site in question is a convenient and economical one for the contractors, Messrs. Sang Lee & Co., is no doubt correct, but to contend that work for the Post Office can be done no-

where else than in Royal Square is an absurdity; for there is not a vestige of material prepared there, nor an atom of material stored upon the ground, which could not equally well be accommodated on any piece of waste land outside the City limits. If the Government, sir, is bent upon continuing this nuisance, to the disregard of public sentiment, then let it at least mitigate the offence by interposing a suitable screen so that we may be spared the indignity of beholding the statue of our King embroidered as it is by workmen's shanties, by a lumber yard, and by a tarred macadam factory.

HON. MR. HEWETT—Your Excellency, the proposer of this resolution spoke of himself as an old resident here and that he had given something like a decade to the consideration of this nuisance of which this resolution forms the basis. I have given consideration to Hongkong for three decades. For over two decades we know perfectly well the whole sea frontage of Hongkong has been more or less of a workshop from the time of the commencement of that valuable work, the Praya Reclamation scheme, until now, but there is no reason why the confusion and inartistic effect should be carried on unduly. In order to show you how the Government of that day considered that the work of the Post Office and presumably the Law Courts should be more promptly completed your Excellency's predecessor, Sir Matthew Nathan, four years ago asked me to make a three years' contract for a piece of ground, in which I was interested, for the purpose of piling and storing the material required for the Post Office, because it was believed the Post Office would be completed in that time. Those three years have passed, and we have yet to learn that the Post Office will be completed within the next twelve months. I merely mention this to show that in my opinion it justifies the resolution brought forward to-day that this public work has been unduly prolonged and that the ground has been improperly used for other purposes than those for which it was originally set aside, namely, to facilitate the work of the contractor and to accelerate completion of the structure. It is of vital importance, affecting seriously the financial state of the Colony. I would go further than the mover of the resolution, who has referred to the tar factory. On at least two different occasions, spreading over many weeks during the last eighteen months, practically the whole section of the bund—not only the block of which we are

complaining now, but the bund itself—has been turned into a tar factory. What the connection between the Law Courts and the Post Office is with a manufactory of tar macadam I do not know. Anyway, the work is not confined to the area set aside for that purpose by the Government, but has been extended into the street. I saw two, three, and at one time four tar boilers, not on the sidewalk, but on the bund itself, with heaps of stone macadam out on the road, and practically the whole of that section from Queen's Statue to the road running in front of the Club almost blocked to traffic for weeks at a time. The whole thing had no doubt been a gross abuse. The Government, in order to facilitate public work, allowed the contractor to make use of a piece of land for public work, and either the contractor or the Public Works Department imposed upon the Government and created a gross nuisance which need not have existed. The Hongkong and Shanghai Bank—in which I hold a share or two, and I am slightly interested in their finance—set aside two very valuable blocks of land worth lakhs of dollars, which might have been covered by valuable buildings, to the advantage of the financial position of the bank, adding thereby considerably to the revenue of the shareholders. That land was permanently set aside for the public use and for beautifying our city, which ought to be one of the most beautiful in the world, as wonderful effects can be obtained with very slight trouble with the semitropical vegetation which flourishes here. These two valuable blocks of land were set aside on the distinct understanding that at the earliest possible moment the Hongkong Government would make a garden on the other side of the square, so that Statue Square should become not only one of the sights of the Colony, but one of the sights of the Empire, for as your Excellency, in the speech which you made the other day, stated, there is probably no British colony which can show such magnificent works of art representing our Royal Family as we have in Hongkong to-day. If there had been a little delay in laying out this land, one could have said
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it goes on year after year. One excuse is made after another. I think the time has now arrived when the community at large should call upon the Government to redeem the promise it made and to lay out the square as a proper centre for the magnificent works placed there by the private enterprise of this Colony. I have only to add, sir, that I think the use of this ground has been abused, and it is only reasonable now to ask your Excellency to be good enough to take the matter into your personal consideration and to see that the land promised us, to match the sacrifice made by the Bank, may become a reality.

THE COLONIAL SECRETARY — Sir, I think we all sympathise with the mover of the resolution and those who have supported him in desiring that the plot of land to which reference has been made should be tidied up, but I think, sir, that the hon. members who have spoken have not realised the difficulties which arise in a rapidly-growing Colony like this and in a city where there is so very little unbuilt-on space left available for providing for the necessities of carrying on works in connection with, not the Post Office only, but, let me remind them, Law Courts also. These two buildings are by far the largest buildings the construction of which this Government has ever undertaken. The contractor for the Post Office when he entered into his contract endeavoured to rent a piece of ground upon which to carry on the necessary work in connection with the building and to store some of his material. He tried to rent a piece of ground belonging to the P. & O Coy.

HON. MR. HEWETT—Quite true.

THE COLONIAL SECRETARY—He did not succeed in coming to an arrangement with them, and then turned to the Government, and asked them if they would rent him a piece of land. It is necessary for every contractor to have some area as close to the building as possible available for such work as is being carried on on this side. I may instance the offices recently put up by Messrs. Jardine, Matheson and Company. Their contractor succeeded in coming to terms with the P. & O. Coy., and he rented the very piece of land which the Government contractor offered to rent from them to carry on his work.

HON. MR. HEWETT—He paid a sum double the price the Government contractor was willing to offer.

THE COLONIAL SECRETARY—The point of my remarks, sir, is to show that some area is absolutely necessary. One hon. member suggested that it was quite an easy thing to relegate the contractor to areas of waste land outside the city. Of course you can do that, sir, but it means a very large increase in the cost of your building if you do. The mover of the resolution complained of tar being boiled on the site. It was for the construction of the tar road on Kennedy Road, and there was no other place available unless the tar should be boiled on the road itself, which would have created a greater nuisance and obstruction than on the premises where it was boiled. The occupation of this lot otherwise than as a garden has been complained of by hon. members. Let me just trace, sir, the objects for which it has been so occupied. In the first place, there was the Praya Reclamation, a stupendous work for which it was necessary to have separate offices. That is the reason for the Praya Reclamation Office being put on that site. And I am afraid the Praya Reclamation Office will have to remain there till the officers who use it can be removed to the buildings which are being prepared for them as an adjunct to the P. W. D. offices. That can now be done, as the buildings are completed, but it could not be done before, because there was no room in the P. W. D. Then the portion of the plot nearest the Club was used to house the police while an extra storey was being put on the Central Police Station. I know of no other site where the police could possibly have been accommodated, as it was necessary for them to be in a central position in the city. Then the lot was used by the Volunteers while their Headquarters were being reconstructed. I also don't know where the Volunteers could have been conveniently placed except on that site. One hon. member has made the usual insinuation about the delay in the construction of the Post Office. I think some misunderstanding has arisen in connection with this, for I find that the contract for the superstructure was let in August, 1905, and

that it was a contract of four years from that date. It ought, therefore, to be completed by the end of this year; it will probably be a year late, but you have to take into account, sir, that arrangements were made for adding to it a clock tower. I would also like to say, sir, in defence of the Public Works Department, that in connection with this building the Government made a new departure, very often advocated in this Council Chamber and outside, and put up for public competition the design of the building, the successful architects being afterwards responsible for providing the working drawings for the use of the contractor. Now hon. members complain of the delay. I assert that the delay in this case is not attributable to any deficiencies on the part of the Public Works Department. One hon. member, sir, complained of want of continuity in the policy of this Government in connection with setting apart the areas corresponding to what are known as the Bank Gardens. I say, sir, there has been no want of continuity. Those areas will, with the sanction of the Secretary of State, be set apart and converted into gardens as soon as ever the Law Courts are finished and that area can be tidied up; and as soon as the Praya Reclamation Office is vacated and that area can be tidied up. I have no doubt, sir, that the time will not be so very long distant now. (Hear, hear.) Regarding the plot itself, sir, which was the subject of the question put by the hon. member, the interpretation of which he complained of, I can only say that with the progress of work in the Post Office and as the material of carpentry and joinery is put into place it will be possible to decrease the size of the matsheds on the lot in question. (Hear, hear.) In fact, it is proposed at the present time to move them back fifteen feet from Chater Road, and as regards the bricks on the strip next the Club required in connection with the Law Courts, it is proposed to tidy them so that they shall not appear above the level of the fence, and to remove the poles complained of. More than that cannot be done without interfering with the contractor and increasing the cost of the work until the Post Office and Law Courts are completed. When it and the Law Courts are completed there does not seem any immediate prospect of the Government requiring the plot of land for the purpose for which it has hitherto been used. No doubt, sir, the plot of land will be made as tidy as possible then, pending the further

disposal of it by the Government. I don't think, sir, that the Government can undertake absolutely that no nuisance as defined by the hon. members shall ever occur again, because apparently they call anything a nuisance that is unsightly. But I think the Government can undertake to bear in mind and to have due regard for the feelings of the community in this connection. (Hear, hear.) I cannot, sir, sit down without turning the tables in a small manner upon the mover and seconder of the resolution. The mover in his usual elegant style made reference to the particular spot where this so-called nuisance stands and described its present use as a desecration of one of the gateways of the Colony. Now, sir, there is a gateway of this city of no small importance. It is the pier of the Star Ferry Company. I travelled over the other day with a globe-trotter from a mail steamer on one of the Star Ferry steamers, and as we approached that pier we saw in enormous letters the word Powell. Having some acquaintance, sir, with the Far East generally and with Hongkong in particular, I thought this was an advertisement of a new brand of what might be called by euphemism whisky; but on getting closer I found from other words on the placard that it did not refer to anything so pernicious, but to something perhaps more dangerous, "millinery and underwear." (Laughter.) On landing at the stage we found a ramshackle matshed which flies into the air on the occasion of every gale. Now, sir, I would ask the hon. mover of the resolution to endeavour, if he is anxious for the good appearance of this gateway of the Colony, to move his hon. seconder, who has some concern with the management of the Star Ferry Company, to at anyrate remove that horrible advertisement. (Hear, hear, and laughter.) It cannot be worth more than ten cents a month to them, and I might add that he should do something to beautify the matshed. (Hear, hear.) It can very easily be done, *vide* the matsheds erected for Chinese theatres which are quite ornamental. (Applause.)

HON. MR. OSBORNE—Am I in order, sir?

HIS EXCELLENCY—You are only in order if your remarks are confined to making any personal correction.

HON. MR. OSBORNE—The hon. Colonial Secretary referred to the matshed at the Star Ferry wharf and its general untidy aspect and called upon the mover of this resolution to move me to get that nuisance remedied. I can only say, sir, that as soon as the Government will move, the Star Ferry Company will move. The Star Ferry Company asked the Government's permission some years ago to do the very thing spoken of, and they have not yet got an answer. (Laughter.)

HON. MR. STEWART—Your Excellency, I have nothing material to add to what I have already said on the subject. I am very glad indeed that the hon. Colonial Secretary has committed himself to sympathy with the hope underlying this resolution. There is one point he made against the unofficial members which I think can be turned. He said we did not realise the difficulties in which the Government were placed by the necessities of those great public works which they had been called upon to undertake. Well, I think there can be no better proof of the public's realisation of those difficulties than the fact that those who represent the public in this Council have sat so long under the nuisance complained of. It was only when answers to certain questions which I asked gave me the impression that the yard was only required for the Post Office that I felt justified in giving expression to those feelings as I have done today. I pointed out that the nuisance is not altogether to be explained by that necessity. Part of it is admittedly devoted to other purposes. If sawing wood is the only thing to be carried on there I do not see any reason for the existence of those matsheds at all. If nobody lives there, as we were given to understand at the last meeting, except watchmen, who could live in very small hovels, the matsheds could be removed and the sawing of timber done where it is done—out in the open. If there were none of those tattered and ramshackle matsheds there, but only wood, the yard would not be half so objectionable as it now is. I appeal to your Excellency to intervene in this matter and to exert your influence to have removed, at any rate, the matsheds that are complained of.

THE COLONIAL SECRETARY — I would like to explain—I did not make it quite as clear as I ought to have—that the whole of the joinery and carpentry for the Post Office, which is a building covering nearly half an acre of ground and three times as large as Jardine's, is done in those matsheds. I don't think it reasonable to ask that the work should be done in the open in all sorts of weather.

HON. MR. STEWART—Does it need two storeys?

HON. MR. OSBORNE—It can be done in the Post Office itself.

THE COLONIAL SECRETARY—Not the whole of the work. Part of it is being done at present.

HIS EXCELLENCY—I presume the hon. member who brought forward this resolution does not wish to press it to a division. The Government are fully in sympathy with the object he has in view, and I myself am very fully in sympathy with it, but I take some exception to one term which is used in the resolution. The word "nuisance" is one which I think may carry a wrong construction in this connection. Building operations when carried on in such localities as those occupied by the Law Courts and Post Office, and the repair of roads in the city which involve the use of tar, naturally are nuisances in the ordinary conversational acceptance of the term, and I am most anxious that such nuisances should be abolished as soon as they possibly can be. I will give my own personal attention to the matter, and whatever can be removed will be removed. I therefore feel that there is no real point of difference between the Government and the mover of the resolution. Do you wish, sir, to put your motion to a division?

HON. MR. STEWART—I have no particular wish to.

Steam Boiler Rules

THE COLONIAL SECRETARY—Sir, I beg to lay on the table draft rules under the Steam Boilers' Ordinance, 1909 (Ordinance No. 32 of 1909). Under section 10 of the

Ordinance the rules must be laid on the table of the Legislative Council, and any rule which is disapproved must be by resolution of this honourable Council within six weeks after such laying. Hon. members have, therefore, six weeks to object by resolution to any of these rules.

Trade Marks Amendment Ordinance

Council resolved itself into Committee to consider the Bill intitled, "An Ordinance to amend the Law relating to Trade Marks."

On clause 21,

HIS EXCELLENCY said that in deference to the views of the Chamber of Commerce and China Association it was proposed to strike out this clause. The main object with which it had been introduced was in order that the Bill might be as far as possible identical with the Home Act, so that the Colony might obtain whatever benefits should accrue from any treaty or convention regarding Trade Marks which the Home Government might conclude with Japan or other Powers in the East. He recognised, however, the strength of the argument against "Concurrent User" in Hongkong.

HON. MR. HEWETT said that as they had not seen the text of the Treaty between Great Britain and Japan they did not know how it would affect trade marks here. When they did get it they might very well agree with his Excellency that it might be advisable to modify the clause.

HIS EXCELLENCY — I propose when submitting the Ordinance to the Secretary of State to attach a memorandum giving the full reasons which have prompted us to leave out this section and to introduce any other important divergencies from the Home Act.

THE ATTORNEY-GENERAL moved that section 22 be struck out, and the following substituted and re-numbered section 21:—

The Registrar may refuse to register any trade mark if it is proved to his satisfaction by the person opposing the application for registration that such mark is identical with, or so nearly resembles as to be calculated to deceive, any trade mark which is already registered (in respect of goods of the same description as those in respect of which registration in Hongkong is applied for) in a country or place from which goods of that

description originate.

Provided always that no application to register shall be refused under this section in the following cases:

(A) If the applicant proves that he or his predecessors in business have in Hongkong, in connection with such goods as aforesaid, continuously used the trade mark, the registration of which is applied for from a date anterior to the date of the registration of the other trade mark in such country or place of origin, or unless the opponent gives an understanding to the satisfaction of the Registrar that he will, within three months from the giving notice of opposition, apply for registration in Hongkong of the trade mark so registered in the country or place of origin, and will take all necessary steps to complete such registration.

HON. MR. HEWETT—The amended clause, as read by the Attorney-General, is the corrected clause sent by the Colonial Secretary on November 19th to the Chamber of Commerce, and has met with the approval of the Chamber of Commerce and the China Association. We accept the resolution as it is now read.

HON. MR. STEWART—Do I understand that this resolution has been shown to Mr. Cousland?

THE ATTORNEY-GENERAL—Yes.

HON. MR. STEWART—And he saw no objection?

THE ATTORNEY-GENERAL—No.

HON. MR. STEWART—He is the man who knows more about it than anyone else in the Colony.

The section was agreed to.

On Clause 28 being read,

THE ATTORNEY-GENERAL moved that the words "Registrar or Court" be deleted, and the word "Tribunal" substituted. The word tribunal should mean Governor, Court or Registrar.

The amendment was agreed to.

For section 44, re-numbered 43, the ATTORNEY-GENERAL moved that the following be substituted:—

(1) The Court may, on the application in writing made within seven years from the registration of a trade mark in Hongkong, by any person aggrieved by such registration, remove such trade mark from the register if it is proved to the satisfaction of the Court that such trade mark is identical with, or so nearly resembles as to be calculated to deceive, any trade mark which was, prior to the registration in Hongkong of the first mentioned trade mark registered (in respect of goods of the same description as those in respect of which the first mentioned trade mark is registered in Hongkong) in a country or place from which goods of that description originate.

Provided always that no trade mark shall be removed from the register under this section in the following cases:

(A) If the proprietor of the other trade mark consented to the registration in Hongkong of the first mentioned trade mark; or,

(B) If the proprietor of the trade mark registered in Hongkong proves that he or his predecessors in business have continuously used such trade mark in Hongkong, in connection with such goods as aforesaid from a date anterior to the date of the registration of the other trade mark in the country or place of origin; or,

(C) Unless the applicant proves either that within the five years immediately preceding the making of the application under this section there has been *bonâ fide* user in connection with such goods as aforesaid in Hongkong of the trade mark registered in the country or place of origin, or that the special circumstances of the trade account for such a known user, or that the trade mark so registered in the country or place of origin was first registered there within the like period of five years, and in either event gives an undertaking to the satisfaction of the Registrar that he will within three months from the making of the application under the section apply for registration in Hongkong of the trade mark so registered in the country or place of origin, and will take all necessary steps to complete such registration.

(2) All applications under this section shall be heard in open Court in original jurisdiction.

THE ATTORNEY-GENERAL — A person can apply for an injunction, but he is not entitled to bring an action for damages.

HON. MR. HEWETT—That was the point, your Excellency: Whether a person not registered should be allowed to apply for an injunction, but not for damages.

HIS EXCELLENCY thought that the clause as re-drafted met the views of members.

HON. MR. HEWETT said the only other point was the question of inserting the words

"Governor-in-Council" instead of "Governor."

THE COLONIAL SECRETARY stated that under the existing law the matter was left in the hands of the Governor, and there was no reason why a change should be made to the Governor-in-Council.

HON. MR. STEWART said the Governor meant the Attorney-General.

HIS EXCELLENCY—No, the Governor can and does use his own discretion. The matter of the appeal would be largely one of common-sense and is not a legal question in which the opinion of the Attorney-General would predominate.

HON. MR. STEWART stated that in any case he would be advised by the Attorney-General, and would not have the advice, suggested as being useful, at his disposal. The popular notion would be, at anyrate, that the Attorney-General decided the matter. There were some people who disapproved of the Governor-in-Council being set up as a tribunal. He thought some of the lawyers were against it, but as far as the mercantile community were concerned, they wanted it.

HON. MR. HEWETT said the idea of suggesting the Governor-in-Council instead of the Governor was to have a sort of wider board to discuss complex questions of this kind, and they based their proposal very largely on the Home Act. There they had not only the Courts of Law, but the Board of Trade, which was very much the same as the Governor-in-Council would be here. The Home Act provided an arbitration board, which was not so cumbersome or lengthy as Courts of Law, and was at the same time formed of experts. The Governor himself would be advised by only one or two of his officials. That was the point of the Chamber of Commerce.

HIS EXCELLENCY said that the point to be referred to the Governor was whether the mark for which application to register

was made was or was not sufficiently like another as to be calculated to deceive. That was a question on which the Governor, with any advice he might seek, was as competent to decide as anyone else. He was strongly averse to constituting the Executive Council as a tribunal, for in his view such duties were outside its proper functions.

THE COLONIAL SECRETARY stated that in the original drafts of the Bill the Government had never contemplated substituting the Governor-in-Council for the Governor. There was no mention of the Governor-in-Council at all. The Trade Marks Ordinance had worked very satisfactorily, and there were no complaints from anybody, except lawyers complained because it did not bring enough grist to the mill.

HON. MR. HEWETT stated that after further consideration the unofficial members certainly thought it would be better to insert the words "Governor-in-Council."

THE COLONIAL SECRETARY stated that under the existing law the refusal to register a trade mark lay absolutely at the discretion of His Excellency the Governor. He submitted that the Governor was as well qualified as the Council to decide whether a mark should be registered or not.

HON. MR. HEWETT—Do I understand there is a question depending entirely on appreciation of the similarity between two marks?

THE COLONIAL SECRETARY—That is so.

HON. MR. STEWART—I should think the more people we have to decide that question the better.

THE COLONIAL SECRETARY—I should think it would be much worse.

HON. MR. STEWART said he would always want moral support in such a case.

HIS EXCELLENCY stated that in judging of similarity and deciding on the granting of trade marks it was necessary to look through a

number of huge volumes of registered trade marks to see how near the mark in question resembled others already registered. It would be difficult and tedious for the Executive Council to go through such volumes. He had had many cases to decide since he came to the Colony, and he was of opinion that the existing system had worked well and should be adhered to.

HON. MR. HEWETT stated that they would not press the point, but might perhaps find it necessary to bring the matter up again. They would now take his Excellency's decision.

Council then resumed.

Stamp Ordinance Amendment.

THE ATTORNEY-GENERAL moved the first reading of a Bill entitled, "An Ordinance to amend the Stamp Ordinance, 1901."

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

The Code of Civil Procedure.

THE ATTORNEY-GENERAL moved the first reading of a Bill entitled, "An Ordinance to amend the Code of Civil Procedure."

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

Squatters' Ordinance Amendment.

THE ATTORNEY-GENERAL moved the first reading of a Bill entitled "An Ordinance to amend the Squatters' Ordinance, 1890."

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

Exemption of Crown Leases.

THE ATTORNEY-GENERAL moved the first reading of a Bill entitled, "An Ordinance to exempt Crown Leases granted in respect of Foreshore and submerged land in the New Territories from a certain condition imposed under the Foreshores and Sea Bed Ordinance, 1901."

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

Wireless Telegraphy Ordinance Amendment

THE ATTORNEY-GENERAL moved the first reading of a Bill entitled, "An Ordinance to amend the Wireless Telegraphy Ordinance, 1903, and the Wireless Telegraphy Ordinance, 1909."

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

Order and Cleanliness Ordinance

THE ATTORNEY-GENERAL moved the first reading of a Bill entitled, "An Ordinance to amend the Order and Cleanliness Ordinance, 1867."

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

Liquor Licences Ordinances Amendment

THE ATTORNEY-GENERAL moved the withdrawal of the previous Bill, and the substitution of a new Bill, which had been circulated to members. He then moved the first reading of this new Bill, which was entitled, "An Ordinance to amend the Liquor Licences Ordinance, 1898, and the Liquor Licences Extension, Ordinance, 1908, and to repeal the Liquor Licences Amendment Ordinance, 1902."

THE COLONIAL SECRETARY seconded.

HIS EXCELLENCY—Gentlemen, when speaking to the resolution which was before the Council on 13th August last, and on other occasions, I promised that we should bring in a consolidated liquor bill at an early date. There are, however, such a number of difficult questions in connection with this subject that it was suggested to me that it would be advisable to defer the consolidating bill, and to bring in this Amending Ordinance in the meantime.

A l t e r a t i o n s i n t h e

existing Ordinance have been rendered necessary by the amendment of the schedule which now replaces the resolution of August 13, and some other matters have been included which were contained in the previous amending Bill, which has now been withdrawn. It is not proposed to bring in a consolidated bill for twelve months, by which time we hope that we shall be able to incorporate all the Ordinances dealing with liquor—both licences and duties—in one bill, with some hope of at least partial finality

The Bill was read a first time.

HIS EXCELLENCY then adjourned the Council until Thursday next.

FINANCE COMMITTEE.

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

Miscellaneous Services.

The Governor recommended the Council to vote a sum of Seven thousand five hundred Dollars (\$7,500), in aid of the vote, Miscellaneous Services, Printing and Building Miscellaneous Papers.

Imports and Exports Office

The Governor recommended the Council to vote a sum of Nineteen thousand three hundred and fifty dollars (\$19,350) in aid of the vote, Harbour Master's Department, C—Imports and Exports Office, Salaries and Expenses of Customs and Excise Staff.

Judicial and Legal

The Governor recommended the Council to vote a sum of Three hundred and twenty-five Dollars (\$325) in aid of the vote, Judicial and Legal Department, B. — Magistracy, Other Charges, Allowance of \$5.00 a day to the District Officer, New Territories, acting as First Police Magistrate in Hongkong.