

5TH FEBRUARY, 1914.

PRESENT:—

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

HON. MR. CLAUD SEVERN (Colonial Secretary).

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

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

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

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

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

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

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

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

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

HON. MR. D. LANDALE.

HON. MR. E. SHELLIM.

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

Minutes

The minutes of the last meeting were confirmed.

Financial Minutes

THE COLONIAL SECRETARY, by command of H.E. the Governor, laid on the table Financial Minutes Nos. 3 and 4, and moved that they be referred to the Finance Committee.

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 the half-yearly report on the Typhoon Refuge with a statement as to the 31st December, 1913, and a diagram showing the condition of the work at that date.

The Tai-Tam-Tuk Reservoir

HON. MR. POLLOCK, pursuant to notice, asked the following questions:—

- 1.— Has the excavation for the foundation of the main dam of the new Tai Tam Tuk Reservoir been commenced yet? If so, when was it begun, and how far has such excavation proceeded?
- 2.— What is the contract date for the completion of that Reservoir? What is the contract penalty for delay in completion?
- 3.— Has any half-yearly return of the work done on that Reservoir been furnished to members of Council, as promised by His Excellency the Governor, at the meeting of this Council held on the 24th October, 1912? If not, why not?
- 4.— With reference to the following statement of the Director of Public Works made at the said meeting of Council:—
"I trust that within two years from the present time the work will have reached such a stage as to enable us to derive some benefit from it in the way of an increased supply of water" does the Honourable Member desire now to qualify that statement, and, if so, to what extent and for what reason?
- 5.— Has the village in the prospective bed of the said Reservoir been removed? If so, when? If not, why not? When will it be moved?
- 6.— With reference to the additional service reservoir and filter-beds at West Point, when is it anticipated that the construction of these works, for which \$150,000 has been provided in the estimates for 1914, will be commenced?

THE COLONIAL SECRETARY replied:—

- 1.— There is only one dam. Excavations for the foundations of it were begun on the 7th December, 1912, and have been proceeded with over a length of 380 feet. They have been completed for a length of 80 feet.

- 2.— Date of completion 22nd October, 1917. Penalty \$150 per day.
- 3.— No. It is regretted that by an over-sight instructions were not given to the Director of Public Works in the matter.
- 4.— It is still anticipated that some benefit may be derived from the works in the way of an additional supply of water within the period mentioned.
- 5.— The village has not yet been removed. Negotiations have been in progress with the villagers for a considerable time past with a view to their removal to some other locality but without success. Steps are now being taken to require their removal. It is anticipated that this can be effected within 4 months from the present time.
- 6.— It was not possible to commence the construction of the additional service reservoir and filter beds referred to until arrangements had been made for the transfer of land belonging to the Military Authorities which was required for these works. The transfer was finally arranged on the 31st January, and work will be commenced forthwith.

The Cremation Ordinance

THE ATTORNEY-GENERAL moved the first reading of a Bill entitled, "An Ordinance to provide for the regulation of the burning of Human Remains and to enable Crematoria to be established."

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

The Objects and Reasons attached to the Bill state:—

The disposal of human remains by cremation is a practice which is already by no means unknown in the Colony.

The cremation of the dead is an essential feature of some religious communities whilst, apart from this fact, this method of dealing with human remains appears to be growing in favour amongst other sections of the public.

The attention of Government having been drawn, owing *inter alia* to applications for permission to erect crematoria, to the absence of satisfactory local legislation dealing with the question of the regulation of this practice, the present Bill has been introduced in order to provide for the proper regulation of the burning of human remains and to enable the establishment of crematoria under

suitable supervision and control. Whilst on the one hand it seems very important that the total destruction of any human body should not be capable of being conducted without such proper checks as may reasonably ensure that there have existed no irregular motives in the disposal of a corpse, on the other hand it is equally desirable that the wish of any deceased person, testamentarily or otherwise expressed, that his remains should be cremated should be capable of being respected and carried out in a proper and seemly manner.

It is with these objects that the present Bill is introduced. It provides that the powers of any burial authority shall include the provision and maintenance of crematoria of a character to be approved by proper authority. The Bill gives power to the Governor-in-Council to make regulations as to the maintenance and inspection of these crematoria and the conditions under which cremation may take place.

It prohibits the construction of such edifices near human habitation, highways or any consecrated ground and it prescribes penalties for breach of any regulations made under the provisions of the Ordinance.

Foreign Silver and Nickel Coin (Amendment) Ordinance

THE ATTORNEY-GENERAL moved the first reading of a Bill entitled, "An Ordinance to amend the Foreign Silver and Nickel Coin Ordinance, 1913."

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

According to the Objects and Reasons, the object of this Bill is to give power to the Governor-in-Council to suspend temporarily any of the provisions of sections 4 and 6 of the Foreign Silver and Nickel Coin Ordinance, 1913.

Section 4 of that Ordinance refers to the importation into the Colony of Foreign Silver or Nickel Coin and section 6 relates to the being in possession of such coinage.

THE ATTORNEY-GENERAL—I beg to move the suspension of the Standing Orders in order that we may proceed to the remaining stages of this Bill.

THE COLONIAL SECRETARY seconded, and motion was agreed to.

THE ATTORNEY-GENERAL — Sir, in moving the second reading of this Bill I think it is unnecessary for me to say very much. Section 4 and Section 6 of the Ordinance deal respectively with the importation and with the being in possession of foreign silver coin. It seemed desirable that it should be possible—although it is not necessary that it should be carried out—that the Government should have power to suspend the operation of one or both of these sections, and accordingly this Bill has been introduced for the purpose of giving the Governor-in-Council power to suspend the operation of either or both of these sections. The original Bill itself is not materially affected in any way, except that power is given to stop, temporarily or permanently, as the case may be, the penalties which would accrue against any person who, after the passage of the Bill, was found in possession of, or found importing foreign silver and nickel coin in contravention of the Ordinance.

HIS EXCELLENCY—I would just like to add a word to what the Attorney-General has said. It will be within the recollection of hon. members that when the original Bill was before the Council a good deal of discussion took place as to how the importation of silver and nickel coins would be regulated, and hon. members were then informed that it was the intention of the Government to regulate it by means of permit. The hon. senior unofficial member raised some question at the time as to whether it would be possible to deal effectively by means of permit seeing that exportation, owing to the exigencies of trade, was necessarily at the time very large. This Bill, which confers power to suspend a particular section of the Ordinance dealing with importation, is an attempt to see whether Government can effect the object with which the original legislation was passed without the permit system. If it can do so it will be very much more convenient to the public and everybody concerned, but it must be clearly understood that if it is found that the object with which the original legislation was passed is not attained under any suspension which may take place under this Bill, then the Government will have to consider other measures. One thing is perfectly certain, that it is the fixed determination of the Government to rid the Colony of foreign silver and nickel coin.

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

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

On resuming,

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

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

Chinese Emigration Ordinance

THE ATTORNEY-GENERAL moved the second reading of the Bill entitled, "An Ordinance to amend and consolidate the Law relating to 'Chinese Passengers Ships' as defined by the Chinese Passengers Act, 1855, and concerning Asiatic Emigrants generally." In doing so he said—Sir, This Bill is one in the preparation of which there has been a great deal of difficulty and a great deal of toil. It might be, I think, really said that the preparation of this Bill dates back for some years; at any rate it dates back to a period considerably antecedent to the time when I came to this Colony. The history of this Bill and the history of the Ordinance which preceded it is very interesting, but I do not propose, subject to your approval, to go into very great detail with regard to it. To put it before the Council at full length would involve dilating upon the conditions which existed before the abolition of the slave trade, and would bring one back to the first and mother Act which was passed in England dealing with the subject, a piece of Imperial legislation applicable particularly to Hongkong and to British ships which ply within certain distances of Hongkong. The Chinese Passengers Act of 1855 was passed in England at the time when circumstances were totally, or very largely, different to what they are now. I believe that at that time it was undoubtedly the fact that the conditions under which Chinese were taken to labour abroad as so-called emigrants were, in certain cases, very far from satisfactory. The Chinese Passengers Act was passed to try to bring

the conditions under which these emigrants were embarked into a better state. The course which was adopted under that Act was to lay down certain very broad fundamental principles in regard to what was to be defined as a Chinese passenger, and what was to be defined as an emigrant ship. It gave various powers to officers with regard to the arrest of ships which were contravening the law, and, in addition to that, it gave certain powers to the Legislature of Hongkong to modify, from time to time, certain parts of the Act particularly dealing with the treatment of the emigrants in the Colony, and whilst they were on board the ships which were taking them from the Colony and from ports near the colony. In 1889 an Ordinance was passed here which was based on the Chinese Passengers Act of 1855. It was a very long Ordinance, and it materially modified some of the provisions of the Chinese Passengers Act. Circumstances, as I have mentioned, have changed since 1855, and perhaps they have changed even more since 1889, and during the twenty odd years which have elapsed since 1889, a variety of causes have led from time to time to suggestions for alteration and amendment of the 1889 Ordinance. Some years ago an attempt was made to start on a re-arrangement and reconstruction of the 1889 Ordinance, and the upshot of this attempt has been the production of this present Bill, which, in the main, has the complete approval of the authorities in England. Now, Sir, the principal difference which exists between the Bill which is now before the Council and the previous Ordinance is twofold. Firstly, the whole of the procedure is very greatly simplified, and, secondly, many sections of the old Ordinance which are now out of date have been completely swept away. I do not want, Sir, to weary members of the Council by going too much into the details of this Bill, but I think it is necessary to some slight extent that I should do so. The principal idea of the present Bill with regard to the ships which carry emigrants is that any ship which is properly classed as an emigrant ship can only carry emigrants under one of three sorts of licences. These three sorts of licences are what are called in this Ordinance, a general, a special and an outport licence. A "special licence" is a licence which is granted to ships of what one might call the first-class type—mail steamers and any other ship which the Governor may consider to be a ship to which a special licence may properly be granted. The "outport licence" is a licence granted by an emigration officer, usually the Consul, at some port outside Hongkong, and can only be granted under

certain restrictions laid down in the Ordinance and also in the Chinese Passenger Act itself. The "general licence" is the ordinary, licence granted to a ship specially chartered for carrying emigrants. In considering the changes which have taken place since 1889 up to the present time, one has to consider the differences which have taken place with regard to the terms under which emigrants were taken from here from outports. After the Act of 1889, and perhaps before that, emigrants were carried on what were known as contract labour conditions. That contract labour has been practically done away with altogether. Contract labourers were persons who were recruited on certain definite terms. They entered into an agreement here to carry out labour in another place. Now, that system of contract labour has been completely deleted, and is not allowed to be carried out at all; in other words, no contract labourers can be carried on British ships. The second class of emigrants is what is known as assisted emigrants. An assisted emigrant is a person, a labourer, who intends to work for hire, and although under no definite contract, he has received some form of assistance to enable him to get to the place where he expects to obtain work in which he will engage. There are refinements, perhaps, of that class of assisted labour, and in the definition of that class of assisted emigrant, but I do not think, Sir, it would be in place for me now to go into all that. The third class is what are known as free emigrants. The free emigrant is a person who goes without assistance, on his own account, to some other place in order to labour for hire. Now, Sir, it is known to all members of the Council that the emigration business which passes through here, and which is embarked here, is very great indeed; in fact, I may say that many, many thousands depart directly or indirectly—mostly indirectly—from Hongkong to places abroad. Therefore, one of the most important parts in this Ordinance, apart from the question of the licences which are granted to ships, is the conditions under which emigrants are to be allowed to go, and perhaps the major part of the Bill deals with these conditions. Now, for the purpose of considering the conditions, and the treatment which must, according to the law, be accorded to emigrants, one has to consider first

of all what will be the length of the voyage on which they are engaged. This Ordinance provides for voyages of all sorts, long and short. The treatment which these emigrants have to be accorded on these voyages depends primarily upon whether these voyages are long or short, and the conditions of the ship, and the conditions of the food, and the conditions of medical comfort which must be at the disposal of the emigrants are, of course, stricter in the case of a ship carrying them a long voyage than in the case of a ship carrying them on a short one. If hon. members will look at the three schedules which set out clearly and in detail the conditions and comforts which have to be provided for emigrants they will see that they differ in detail, and differ in quality and in quantity according to whether the voyage is long or short. There are also special arrangements for steamers classed as first class steamers, and which are under special licences. The subject seems, if I may say so, a highly technical one, although it does not perhaps appear to be so at first sight. The importance of preventing the improper recruitment of labour and the herding of Chinese in such a manner that they may be not properly treated on a voyage, or that they may be recruited under misrepresentation or fraud, or under circumstances which are obviously irregular is so great that considerable safeguards have to be introduced when they pass through here. This Bill provides, so far as this Government can reasonably be expected to carry it out, that it shall be seen that no person is forcibly or fraudulently taken away from this Colony, and carried off as an emigrant against his will or under misapprehension. This Bill also provides that emigrants are to travel under reasonable and proper conditions of comfort on the ships on which they are carried. It may be that there are still some portions of the Bill which require amending, and therefore I do not propose, Sir, to ask the Council to proceed beyond the second reading to-day. A considerable portion of the Bill is taken up with explaining in detail the relationship which the present Bill bears to the Chinese Passengers Act, and this is necessary perhaps, not so much because it should appear in a local Ordinance, but because it is informative, and gives necessary information to the public as to what is the position of these emigrants under the Chinese Passengers Act. I do not think there is anything more I need say in moving

the second reading, except that there are some provisions of the old Act which are obsolete and have been omitted. Apart from that there is not very much departure in principle from the Act as it originally stood, although, as I said in my opening remarks, the details have been wisely simplified, and I have tried to place the matter upon a better and clearer basis.

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

The Pharmacy Ordinance

THE ATTORNEY-GENERAL moved the second reading of the Bill entitled, "An Ordinance to amend Ordinance No. 9 of 1910 as incorporated in the Pharmacy Ordinance, 1908." In doing so he said—Sir, The long title of this Bill appears to be somewhat unusual, but it is due to the fact that the Ordinance, No. 9 of 1910, is incorporated in rather a remarkable way with the Ordinance of 1908. Therefore, in order to avoid a technical difficulty, the title has had to be put in the way it is. The object of this Bill is explained by the fact that owing to the exclusion of the chapter in the old Opium Ordinance dealing with morphine and compounds of opium it has been necessary to provide in some other way for the arrangements dealing with these substances, and, Sir, it is proposed, and this Ordinance carries out the proposal, to place in the ambit of the Pharmacy laws, morphine and compounds of morphine. There is a definition which will have to be inserted by resolution of the Executive and Legislative Councils as to what these poisons are. The first thing, therefore, that will have to be done after the passage of this Bill will be to include morphine and compounds of morphine by resolution of the Executive Council in section A of the Pharmacy Ordinance, 1908, and subsequently to include those substances by resolution of the Legislative Council in Ordinance No. 12 of 1908. The only poisons at present contained in the schedule are coca, preparations of coca, cocaine and various other derivations. The Ordinance itself contains very little besides the details which are necessary to carry out the main object, which will be carried out by the resolutions of the Executive and Legislative Councils. The Ordinance in itself as it

stands is only a detail Ordinance to insert in the provisions of Ordinance No. 9 of 1910 certain administrative details which will be necessary when one is dealing with poisons of this class. The first and most important of these is to give power for a search without warrant to European police or revenue officers for poisons which there is any reason to suppose are illegally in the possession of any person. The second is with regard to the penalty, and here again the penalty is in very much the same phraseology as is adopted in the Opium Bill. Just in the same way as a clause for search without warrant is inserted in the Opium Bill, so it is inserted in this Bill, and just in the same way as the penalty has been raised to ten times the market value, so it is here. Lastly, Sir, as in the case of the Opium Bill the market value of the opium is determined by a certificate from the Government Analyst, so in this case, too, the market value of cocaine and morphine are to be determined by a certificate from the Government Analyst.

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

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

On Clause 4,

HON. SIR KAI HO KAI said—I wish to move an amendment to this clause. My objection is the same as I expressed in connection with the Opium Ordinance.

THE ATTORNEY-GENERAL — You would like the same amendment inserted?

HON. SIR KAI HO KAI—Slightly different. I propose to amend it in this way: Such power should not be given to any European policeman below the rank of sergeant, or one especially appointed by the Superintendent for the purpose of carrying out the provisions of this section. If they have great power like this for entering the dwelling houses of the people, it is well that the power should be exercised by someone who is in the higher rank, and also has had experience in the Colony. It should not be entrusted to some recruit just arrived from Europe, and knowing nothing of conditions in the Colony, but should be entrusted only to officers authorised by the Superintendent.

THE ATTORNEY-GENERAL — Would it meet your objection that when such powers are given to any European officer not below the rank of sergeant, or revenue officer, they should be generally authorised in writing?

HON. SIR KAI HO KAI—In the event of a police officer below the rank of sergeant who was considered reliable, he could be specially authorised by the Superintendent.

THE ATTORNEY-GENERAL — I suggest it be generally or specially authorised in writing.

HON. SIR KAI HO KAI — That will meet my point.

HON. MR. HEWETT—That would not allow the Captain Superintendent to authorise any police officer below the rank of sergeant. He ought to have power to authorise an officer below the rank of sergeant if he is satisfied he is to be trusted and is competent to have authority.

The clause as approved was as follows: "Whenever it appears to any European police officer not below the rank of sergeant, or to any European police or revenue officer generally or specially authorised in writing by the Captain Superintendent of Police or the Superintendent of Exports and Imports respectively, etc."

On council resuming,

THE ATTORNEY-GENERAL reported that the Bill had passed through Committee with slight amendment, and moved that the Bill be read a third time.

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

Arms and Ammunition Amendment Ordinance

THE ATTORNEY-GENERAL moved the second reading of the Bill entitled, "An Ordinance to amend the Arms and Ammunition Ordinance, 1900." In doing so he said—Sir, I do not think, on moving the second reading of this Bill, I can do better than refer hon. members to the Objects and Reasons printed at the foot of the Bill. Every day, almost, one reads

in the papers of seizures by the police of arms and ammunition, and whatever may be their destination it certainly increases the dangers and decreases the amenities of life to think that numerous people are carrying implements of this sort. Whether the effect of the increase of the penalty is likely to be sufficient to deter the traffic it is difficult to say. At any rate, it seems to be worth trying.

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

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

On resuming,

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

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

The Opium Amendment Ordinance

THE ATTORNEY-GENERAL — I beg to move that the Committee stage on the Bill entitled, "An Ordinance to amend and consolidate the laws relating to Opium" be resumed.

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

On Clause 5,

THE ATTORNEY-GENERAL said— I have had under consideration what was said on Clause 5, and tried to do something with it. I might tell hon. members that there is no alteration at all in the provisions of the previous Ordinance, but it has been customary to work under Section 5 in the case of any required transshipment, and to work under resolution of the Legislative Council. Hon. members may remember that when there was a resolution of the Legislative Council prohibiting the importation of raw Indian opium an exemption was made in the case, first of all, of Indian opium certified for the market in China, and, secondly, in the case of Indian opium to go to the Macao farm under the provisions of the agreement between Great Britain and the Portuguese Government. Well, Sir, I think it is a good thing and a wise thing to continue that practice, that is to say, to keep

exceptions in this Council, and not to make any general rule allowing transshipments; thus making it necessary, if there is any transshipment, that it should be practically in the control of this Government. I have altered subsection (2) of Section 5 to make it clearer. Now, the conditions are divided into three sections. If there is no transshipment when a ship comes in she shows her manifest to the Superintendent and there is no difficulty. If there is a necessity for transshipment at all, subsection (c) comes in, and in that case, if the transshipment is to take place, a resolution of the Legislative Council must have been passed allowing that transshipment and importation and exportation to take place. I think, Sir, the probability is that every transshipment of raw opium has been already covered by resolution which can be repeated when this Bill comes into operation on March 1st. There are three exceptions I know of, Formosa, Macao and the Indian market. It is quite true that the Ordinance as drafted, and the previous law, did not provide very adequately for the procedure under which transshipment was to take place, but now, by slight alterations, I have made Sections 8, 9 and 12 apply, and every movement will have to be carried out under permit; so, if there is any transshipment a permit will have to be obtained for the movement, either from one ship to the other, or from one ship to a general warehouse, and then from the general warehouse to the other ship on which it is going to be exported.

HON. MR. HEWETT—I think the Bill, as amended by the Attorney-General, meets the point I raised at the last meeting.

The amendment was then put and agreed to.

On Clause 8,

THE ATTORNEY-GENERAL said—I must ask permission to re-commit this clause to make amendments as shown in the marginal note, and to move that the amendments therein shown in print in the margin and the body of the Section be adopted.

The motion was agreed to.

Sections 9, 12, 15, 32, 41 and 45 as amended were approved.

On Clause 57,

THE ATTORNEY-GENERAL said — I have thought over this, and there is no doubt that as the clause stands the only person who is criminally liable at all is under sub-sections (b) and (c) the person in whose name the opium is stored and whose name is on the storage permit. The main part of the section is taken from Section 20 of the old Ordinance of 1909, and there is no difference, no new principle and no departure from the old Ordinance. It is exactly the same as it was, although put in a little different language. The alteration of the penalty to one of a fine of ten times the market value is taken from Section 12 of the Straits Settlements Ordinance, so there is no difference except in the form of the penalty. I think that in the event of any storehouse or warehouse keeper losing opium which is entrusted to him, it is extremely probable that the person named in the permit might, under certain circumstances, have a perfectly good right of action for damages against the godown keeper, and I do not suppose the godown keeper or warehouse keeper, provided that there was any ground for recovery against him, would be able to say very much from a legal point of view, as he is not a voluntary keeper, the keeper of opium being paid. With regard to the question raised by Sir Kai Ho Kai about its being hard upon the permit owner if he knew nothing about the loss, that he should be fined, I can only say that the answer to that is, that if he knew nothing about it the Magistrate probably would be very lenient. Then, with regard to the Hon. Mr. Hewett's point that the proprietor of the place should also be made criminally liable, I think it is very difficult to do, and for two or three reasons. Firstly, because I think the proprietor would be civilly liable; secondly, because I think the proprietor of the opium is the person primarily responsible; and, thirdly, I think it might be extremely awkward if there is any criminal liability so to be put upon the opium warehouse keeper, as it is very likely a great many of the opium warehouse keepers then would not take charge of it at all unless they charged an enormously high premium to store it, which would practically amount to substantial insurance. Therefore, I think on the whole, as there is no departure from the existing law, we should be rather averse to introducing one into the new.

HON. MR. HEWETT—I do not know how

you use the words criminally liable. My suggestion in making the warehouse keeper liable was that he should be fined. I did not propose to make him criminally liable, although he would be imprisoned if he could not pay, but that would be contempt of court.

THE ATTORNEY-GENERAL—There is not a very great difference. Here he would be penally liable.

HON. MR. HEWETT—I still think, in spite of what the Attorney-General has said, that the godown keeper should be made liable, as he is more guilty than the owner, who has nothing to do with the opium after it has been put in charge of some other person.

THE COLONIAL TREASURER—As the Attorney-General says, he will have to pay if the other man brings an action against him.

HON. MR. HEWETT—I personally have known of more than one case in late years of robberies of opium, and one in the firm of the hon. member on my right (Hon. Mr. Shellim) at Shanghai. We were both there at the time. The opium disappeared in bulk from a chest which was found to be filled with brickbats and coal, and there was nothing to show where the opium was robbed, but it was found in the possession of some people and the owner was fined.

HON. MR. SHELLIM—That occurs even now.

HON. MR. HEWETT—More frequently than people believe.

HIS EXCELLENCY—We are fully aware of the fact that it does happen. That is the very reason that we want to bind down the responsibility to one person. In very many instances I am afraid that the owner of the opium is the person who has probably done away with the opium.

HON. MR. HEWETT—That may be in some cases, but in other cases it is clearly probable that the opium has been taken by other people, and the owner has not only lost his opium, but is fined by the Government very heavily.

HON. MR. SHELLIM—A robbery may occur on board, and may not be detected until the opium has been taken delivery of months afterwards.

THE ATTORNEY-GENERAL—If that was so it would be still worse to make the godown keeper responsible.

HIS EXCELLENCY—In such a case it would be surely the duty of the owner to find out before he stores the opium whether his chests contained opium, or whether they did not.

HON. MR. SHELLIM—It is not the usual practice to open the chests. Chinese buyers want opium in sealed cases, and very often, when cases have been opened, one can hardly detect it.

HIS EXCELLENCY—The point is that the owner is the only person who can open the chests. It is his opium and he can do what he likes, but you cannot expect a godown keeper to open up the opium, as he would not be allowed to do so. The difficulty in the case is that it is still very necessary to have a stringent law. We are not making the law more stringent than it has been in the past, but are re-enacting the old law.

HON. MR. HEWETT—It must have been an oversight on my part that I did not raise this question when the old Ordinance was passed.

THE ATTORNEY-GENERAL—What the Hon. Mr. Shellim says I do not think is any ground for making the godown keeper liable, but I think it is rather, if anything, the other way. He has gone back to the point of the question of liability of anybody. One can only say with regard to that again, that if a storekeeper could actually show and satisfy the Magistrate that he did not know anything about the loss, the Magistrate would let him off extremely lightly. He would have to take the circumstances into consideration in coming to the idea of what he should fine him, or whether he should punish him at all.

HON. SIR KAI HO KAI—Even if he deals very leniently with him, there is a conviction. What I say is, that when a person is not responsible for the loss, and unhappily is unfortunate enough to be robbed, the

Magistrate will convict him and impose as lenient a fine as possible. You are simply adding insult to injury. I think leniency by the Magistrate does not meet the point, and I propose that at the end of the clause should be added the provision, "Provided always that no person shall be convicted under sub-sections (b) or (c), if he proves to the satisfaction of the Magistrate that the removal of the raw opium was not incurred with his knowledge and connivance, or was not due to his carelessness or neglect." I think that is a perfectly just and fair amendment, because the onus of proof is thrown on the owner that the loss of the opium was not his fault, and that he exercised due care in the custody of it.

THE COLONIAL TREASURER—Part of the due care would be in my opinion to ask him if he opened the chest, and saw there was opium in it when it came to the Colony.

HON. SIR KAI HO KAI—If it is proved beyond doubt to not only the Magistrate but everybody else, why should a man be convicted and a light penalty imposed, or why should he even be given a warning to be more careful, or to be more fortunate? That is what it amounts to.

THE ATTORNEY-GENERAL—I think the hon. member forgets that we are not dealing with raisins and those sort of things. We are dealing with something which we are extremely lucky to be allowed to deal with it at all. It is very lucky that we are allowed to deal with opium in any shape or form, and for very little the whole trade might be stopped altogether.

HON. SIR KAI HO KAI—I wish it would stop.

THE ATTORNEY-GENERAL—There are many cases of legislation all over the world where, when you are dealing with a substance which is very valuable, and against which there is a very strong feeling, very often you would get no punishment if it was in the discretion of the Magistrate, but nevertheless a minimum punishment has always to be inflicted. For instance, in South Africa, anyone found in possession of a diamond uncut would get six months on the break-

water, of necessity, but this section throws the whole question of punishment on the discretion of the Magistrate. There are many other forms of legislation where a man may commit a technical offence and be let off lightly; for instance, he might be riding a bicycle after dark with his lamp out, and for this technical offence he might be let off lightly.

THE COLONIAL TREASURER — Most respectable individuals at home are convicted every day.

HIS EXCELLENCY—This section does not say a man will be fined or convicted. It simply says that he shall be liable, and, as in many other cases, you must allow something to the discretion and common sense of the Magistrate.

HON. SIR KAI HO KAI — I am not questioning the common sense and discretion of the Magistrate.

HIS EXCELLENCY—Then we need not put it in the Ordinance.

HON. SIR KAI HO KAI—The Magistrate would have to convict.

HIS EXCELLENCY — No, he wouldn't. Under this very section the other day the Magistrate told a defendant that if he had not a strong conviction that he was a rogue he would have discharged him, but because he thought he was a rogue he would not discharge him. (Laughter.) I think the Government is not doing anything unreasonable. We are only reenacting what, as I say, is the existing law. I will put the motion that this Section stand part of the Bill.

HON. SIR KAI HO KAI — Will your Excellency put my amendment?

HIS EXCELLENCY—It is not seconded.

HON. MR. WEI YUK seconded the amendment.

On a show of hands His Excellency declared the amendment lost, and the Hon. Sir Kai Ho Kai asked for a division, which resulted as follows:—

Ayes:—Hon. Mr. Shellim, Hon. Mr. Hewett, Hon. Mr. Wei Yuk and Hon. Sir Kai Ho Kai.

Noes:—Hon. Mr. Landale, Hon. Mr. Pollock, the Capain Superintendent of Police, the Secretary for Chinese Affairs, the Director of Public Works, the Colonial Treasurer, the Attorney-General, the Colonial Secretary

HON. MR. HEWETT—Are the Government prepared to accept an amendment if I move one with regard to making the godown keeper responsible equally with the owner of opium?

HIS EXCELLENCY—I am afraid we cannot. We have considered that suggestion.

The motion that the clause stand part of the Bill was then put and agreed to.

On Council resuming,

THE ATTORNEY-GENERAL moved the third reading of the Bill.

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

The Dentistry Ordinance

THE ATTORNEY-GENERAL — Owing to numerous amendments which have been submitted, I propose to ask for the discharge of the committee stage of the Bill entitled, "An Ordinance to provide for the Registration of qualified dental surgeons and otherwise to regulate the practice of dentistry."

Members agreed.

HIS EXCELLENCY — Council stands adjourned till the 26th February.

FINANCE COMMITTEE.

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

Scavengers' Quarters

The Governor recommended the Council to vote a sum of \$1,000 in aid of the vote Public Works, Extraordinary, Hongkong, Buildings, Temporary Quarters for Scavengers.

THE DIRECTOR OF PUBLIC WORKS —

This is for the provision of temporary quarters to house 200 scavenging coolies. Last year a vote was taken of \$3,900, which was sufficient only to cover the erection of matsheds. In addition to that, sundry expenditure was incurred in erecting kitchens of an unflammable material, and this additional vote is required now to meet expenditure on the structures.

HON. MR. HEWETT—Is it proposed later on to erect permanent buildings for these men?

THE DIRECTOR OF PUBLIC WORKS —
Yes.

The Gaol Printing Works

The Governor recommended the Council to vote a sum of \$900 in aid of the vote Public Works, Extraordinary, Hongkong, Buildings, Addition to Printing Office, Victoria Gaol.

THE DIRECTOR OF PUBLIC WORKS —
There was a financial minute taken last year of \$2,500. The amount actually expended during the year was \$1,794, leaving a balance of nearly \$706. The amount now asked for is \$900, an excess of about \$200 over the balance on the estimates. The excess is due to certain alterations in the original proposition, and the cost of diverting a storm-water drain which crossed the side of the extension.