

19TH JUNE, 1891.

PRESENT :—

HIS EXCELLENCY THE ACTING GOVERNOR,
Major-General G. DIGBY BARKER, C.B.

Hon. W. M. GOODMAN, Acting Colonial Secretary

Hon. A. J. LEACH, Acting Attorney-General.

Hon. W. M. DEANE, C.M.G., Captain-Superintendent
of Police.

Hon. J. H. STEWART-LOCKHART, Registrar-General.

Hon. N. G. MITCHELL-INNES, Colonial Treasurer.

Hon. S. BROWN, Surveyor-General.

Hon. P. RYRIE.

Hon. HO KAI.

Hon. J. J. KESWICK.

Hon. T. H. WHITEHEAD.

Mr. A. M. THOMSON, Acting Clerk of Councils.

MINUTES.

The minutes of the last meeting were read and confirmed.

PAPERS.

The following papers were laid on the table :—Report on the Blue Book and Departmental Reports for 1890, the Educational Report for 1890, and despatches respecting the increase of salaries of public officers. The latter had been asked for by the Hon. T. H. Whitehead.

WATER SUPPLY FOR MAGAZINE GAP.

A minute by the Acting Governor recommending the Council to vote the sum of \$3,000 to provide for the cost of extending the Peak water supply to Magazine Gap was referred to the Finance Committee.

THE CHINESE AUTHORITIES AND THE "NAMOA" PIRATES;
GAMBLING AT KOWLOON.

Hon. T. H. WHITEHEAD gave notice that at the next meeting he would move the following resolutions:—

(1.)—That the services rendered by the Chinese Admiral (Fong) and his officers in tracking and bringing to trial and condign punishment the *Namoa* pirates are deserving of every acknowledgment and that the Government be requested to convey to Admiral Fong and his officers through the customary channels the hearty thanks of the community and of this Council for the exertions.

(2.)—That the existence of gambling houses in Chinese Kowloon and the toleration of gambling by the authorities there is and has been for some time past a very serious cause of annoyance and injury to the inhabitants of this Colony and tends to render inoperative recent legislation in Hongkong against gambling.

(3.)—That the Government be requested to move the Chinese authorities with a view to the

entire suppression of public gambling and gambling houses at Kowloon.

HIS EXCELLENCY—I may mention with reference to the notice that has been given by the hon. member that as regards the first subject the Government has already some time ago taken the action which he suggests they should do; the thanks of the Hongkong Government have already been tendered through the proper channel to these Chinese authorities who assisted so well in punishing the *Namoa* piracy. As regards the second subject, it has already been under the consideration of the Government, and although no action has been taken—I won't say no action, because steps have been taken; the Consul at Canton has been communicated with as to the best means of bringing the question of the gambling at Kowloon City forward. The matter is exercising the serious attention of the Government and therefore the hon. member's resolution seems hardly necessary.

Hon. T. H. WHITEHEAD—Will your Excellency lay a copy of the papers on the table?

HIS EXCELLENCY—Notice must be given of that question in order that it may be considered. In fact I may say that in its present stage I think it is perhaps inadvisable that the papers should be published. The question is a very delicate one and I think it undesirable it should be published at present.

UNOFFICIAL MEMBERS OF COUNCIL AND THE SANITARY
BOARD.

Hon. J. J. KESWICK—Your Excellency, pursuant to notice I beg to ask the following question:—Whether it is a fact that members of the Legislative Council are precluded from either voting for or nominating any candidate for election to the Sanitary Board, although such members are ratepayers? It is not a matter of very serious importance. I know it is a fact that a member of the Legislative Council cannot so vote even although he be a ratepayer. It is probably an oversight, but it is right it should be altered.

The ACTING COLONIAL SECRETARY—In answer to the question of the hon. member I have to state that His Excellency the Officer Administering the Government is advised that members of Council who are exempt from serving on juries on account of being members and not on account of their professional avocations are precluded in the present state of the law from either voting for or nominating candidates for the Sanitary Board although such members are ratepayers.

BILLS READ A FIRST TIME.

The following Bills were read a first time:—A Bill entitled An Ordinance to license the present Church of the Immaculate Conception for

the celebration of marriages from the time of its opening; and a Bill entitled An Ordinance to amend the Women and Girls' Protection Ordinance, 1890.

BILLS PASSED.

The following Bills were read a third time and passed: —The Bill entitled An Ordinance to give the same validity to Ordinances Nos. 18 and 19 of 1884 as if they had been proclaimed to come into force on the 23rd day of September, 1884; the Bill entitled The Forts Protection Ordinance, 1891; the Bill entitled An Ordinance to provide against abuses connected with the erection of Public Latrines; and the Bill entitled An Ordinance to further amend the Public Health Ordinance, 1887.

THE SALE OF SHARES REGULATION BILL.

HIS EXCELLENCY—The next order is the second reading of the Bill entitled An Ordinance to amend the law in respect of the sale of shares in companies registered under the Companies Ordinances 1865 to 1886 and in other Joint Stock Companies.

Hon. T. H. WHITEHEAD—I rise to move that Counsel be heard on the Bill.

Hon. HO KAI seconded.

Carried.

Mr. J. J. FRANCIS, Q.C. —May it please your Excellency and this hon. Council, I appear, instructed by the Share brokers Association, to present to this hon. Council certain arguments which in their opinion, as persons largely interested in share-dealing in this Colony, are of very great weight as opposed to this Bill and which they believe will, if fairly presented before this Council, induce the Council to refuse to give it a second reading. I have in the first place to tender their hearty thanks to your Excellency and to this Council for permitting them to be heard here to-day by Counsel. The Bill before the Council is entitled "An Ordinance to amend the Law in respect of the Sale of Shares in Companies registered under the Companies Ordinances 1865 to 1886 and in other Joint Stock Companies," and the preamble is as follows: —"Whereas it is expedient to make provision for the prevention of contracts for the sale and purchase of shares and stock in Joint Stock Companies of which the sellers are not possessed or over which they have no control, be it enacted as follows." The object therefore of the Bill as stated in the preamble is to prevent the sale of shares of which the vendor is not in possession at the time he enters into a contract or which he has not under his control, and the means by which it is proposed in the Bill to give effect to this object are very simple, namely, first to compel the vendor to enter on the face of any contract he may enter into for the sale of shares and stock the numbers or other marks by which the shares are to be identified in the registers of the respective companies and secondly in default of his doing so to render the contract null and void; thirdly to render

any person liable as a criminal who shall insert in any such contract false numbers or false marks; It is a rule always acted upon by legislative bodies when dealing with new measures that they take into consideration, first the state of the law they propose to amend, secondly the evil which exists and which is proposed to be remedied, and thirdly to consider the means by which it is proposed that that evil may be remedied. Now in the first place, the state of the law in this Colony and in England at the present moment leaves it perfectly lawful for any man to enter into a contract for the sale of any property, whether he possesses it or not, and the only penalty imposed upon him by the present law is this, that it when the time comes and he is unable to carry out his contract because he has not been able to procure that which he undertook to procure, he is subject to an action at law and may be made to pay whatever damages, if any, have been suffered by the other party. In most cases the ascertainment of the amount is very simple and easy. If the vendor fails to deliver when the time comes the purchaser goes into the market, buys what was contracted to be delivered, and claims from the vendor the difference in the price if he has to pay more. If the buyer fails to take delivery the vendor takes the article he has for sale into the market, sells it, and if there is a loss on the transaction claims it from the man who failed to take delivery. Of course there are extraordinary cases when that rule cannot be applied, of which we had one recently in the Colony, when it was left to a jury to say what were the damages and assess them. That is the state of the law here and it is the same in England and has been for many years past. There was formerly an act of George II. called the Stock Jobbing Act, the preamble of which recited that "Whereas great inconveniences have arisen and do daily arise by the wicked, pernicious, and destructive practice of stock jobbing, whereby many of His Majesty's good subjects have been and are diverted from pushing and exercising their lawful trades and vocations, to the utter ruin of themselves and families, to the great discouragement of industry, and to the manifest detriment of trade and commerce." And of the many sections which that Act contained there was one, the eighth, which was specially directed to the particular mischief aimed at by the Bill now before this Council : —"And whereas it is a frequent and mischievous practice for persons to sell and dispose of stocks or other securities of which they are not possessed, be it enacted," &c. Now, sir, in the twenty-third year of her present Majesty this was found practically so inconvenient and to hamper so exceedingly dealings on the Stock Exchange and dealings in shares that that Act was repealed in its entirety, and the 23 Victoria c. 28, by which that repeal was effected, recites that "Whereas an Act was

passed, 7 George II., to prevent stock jobbing, and was made perpetual by another Act, 10 George II., and whereas such Acts impose unnecessary restrictions on the sale and transfer of stocks and shares, and it is expedient to repeal the same," therefore it is enacted in one line that that Stock Jobbing Act and the Act making it perpetual should be repealed. I submit with some confidence it is a very strong argument in itself to present to this Council that legislation did exist in England for many years to precisely the same effect as the Bill now before this Council, to prevent the same mischief and applying the same among other remedies and that in the twenty-third year of the present reign that Act was deliberately repealed, and in the recital to the repealing Act the reason given was that it unnecessarily impeded the free transfer and sale of stocks and shares. Briefly that is the argument I have to lay before this Council to-day, that if this Bill is passed, and if it has any effect, the only effect it can and will have will be to seriously impede the sale and transfer of stocks and shares and in so far to impair the operation of the Companies Acts, which have been of the greatest use throughout the world and without which many great enterprises could not have been commenced and carried out. But beyond the argument of inconvenience it seems to me I have a much stronger argument, and one the share brokers are clearly entitled to put before this Council. They admit that very great evils do exist in this colony and that those evils arise out of transactions in shares and stocks, and, to put it plainly, out of excessive speculation and gambling in shares and stocks; and they are perfectly willing to admit before this hon. Council by me that if any effective measures can be taken to stop this gambling in shares and stocks it would be not only immensely to the advantage of the Colony but also to their particular advantage as an association and as individuals that they should be taken. Their complaint in reference to this Ordinance is that it will not in the least degree check, much less stop, the evils of which complaint is made by the hon. member who has introduced this Bill and the other persons who, either within or without this Council, support it. The evil it is desired to stop is what is commonly known as selling short, that is, a man going into the market and selling shares he has not in his possession and has not under his control at the moment, and which when the time comes he must go into the market and buy. We are quite willing to admit that this Bill as it stands will probably do a great deal to prevent selling short. But is that the evil that is really complained of? The evil that is complained of is that gambling and speculation are rife in the Colony and that many are deceived and ruined by it. With your Excellency's

permission I will read what has been published, although I think it was scarcely intended to be published, the memorandum written by the Acting Attorney-General at the time the Bill was introduced : — "This Bill, which is based on Leeman's Act (30 Vict. Ch. 2??), was introduced by the Honourable J. J. Keswick in order to check, and if possible to stop for the future, the great gambling in shares which took place last year in Hongkong and which led to great abuses and evils and to the ruin of many. This gambling exists to a certain extent now and may be renewed at any moment. Two or three large operators and monied men having sold largely for delivery at future dates can no doubt in Hongkong rule the market; and by continuing to sell they lower considerably the price of the stock they are dealing in, thereby either ruining or causing heavy losses to those who have bought, and injuring the stock by depreciating it without any good reason to the prejudice of *bon(E49) fide* shareholders; and this is done by unscrupulous speculators who have no interest in the stock. If only the regular or what I would call professional gamblers or speculators were ruined, it would not be such a public matter as it has become, but a great many young men and others who have some money to risk are induced to buy shares for future dates on fair promises, trusting that they will be fairly dealt with, and afterwards find that they are exposed to acts which are not far removed from being criminal. There is no doubt that the evil is very great and that it should be stopped if possible—the recent cases of embezzlement by bank clerks and others which have been unravelled at the Criminal Sessions had no doubt their origin in excessive and rash speculations in shares. The proposed law would not in any way interfere with legitimate business or speculation and would be welcomed by all except a few jobbers, speculators, and brokers. On the other hand it is urged against the Bill that it is a serious interference with the freedom of contract, which should not be restricted unless public interests required it; that there are no public interests involved, but only the relief and protection of private individuals who freely enter into these contracts; that no such law has been passed in England and no sufficient reason has been shown why such an exceptional measure should be introduced here; that even if the law was passed it would be evaded as the English Act has been set at nought there. From what I have seen and learnt as Official Assignee, I can state that there is a very great amount of selling and buying shares which is not *bonâ fide* or legitimate speculation but rash and extravagant gambling, and I should be glad to see a stop put to this. The argument that because the law does not exist in England it should

"not be enacted here cannot, I submit, be seriously maintained, as the circumstances and extent of the local market differ so greatly from that of "England and afford scope and opportunity for practices which it would perhaps be useless to "attempt on a larger field. At the same time I admit that the objection that it is a restriction "on the freedom of contract is one which deserves consideration. It is in my opinion the only serious objection against this Bill." Now we are perfectly willing to admit that the evils which the late Acting Attorney-General points out in this memorandum do exist and exist to a serious extent, that a great many young men have been seriously injured and ruined by share speculations, and that there has been a great deal of rash speculation and what might even be called gambling. But the question arises, and it is the main question I wish to submit for your consideration, can it be shown that all that ruin all that rash speculation, all that gambling, or any portion of it, has been caused by short selling? Can the supporters of this Bill point to any clause in the Bill which will interfere in the least degree with this gambling and rash speculation or tend to stop it? There is no man who knows anything about the share market here or what goes out there who could say positively that there had been any great amount of short selling, or that any man has been selling to any very great extent stock which was not in his possession, or which he had not entered into contracts for, or which he had not under his control. One man possibly, and only one so far as I know, has suffered and been ruined by short selling, a man whose case is now in the Bankruptcy Court. The bulk of the transactions that go on here do not involve short sales, and it is not the short sellers who are ruined themselves or who cause the ruin of others. The mischief is not caused by bearing operations; it is caused by bulling operations. The persons who are ruined are not those who are selling their shares for the fall, calculating they can go into the market by and by and buy them back at a lower price. That is hardly done at all. The persons who are ruined are persons who have bought shares for the rise. Any one acquainted with the business of the colony could enumerate hundreds of cases of young men who have suffered loss. Why? Because they have entered into a contract to buy shares forward, delivery in one month, or two months it may be, or three months, at a price nearly always in advance of the market rate at the moment, but of course bearing some proportion to it. They bought these shares not having the means to take them up and pay for them or they may be able to take them up and yet be in such a position that to do so will seriously hamper them. They may have been in such a position as to be able to say, "Yes, when the time comes we have our credit at the Bank, or we can sell some property and get enough to fulfil

our contracts." Such men are seriously crippled. Other men have bought knowing they could not possibly take up the shares and that they would have to sell them and pay the difference or give a promissory note for it. These are the class of cases, and the only cases to which the hon. mover of this Bill can point in support of it. I cannot say there may not have been a few cases in which persons have been ruined by selling short. I don't think there are many such, I question whether one could be shown, but hundreds of men could be pointed to who have been ruined by buying for the rise and because when the day came on which they were bound to take delivery of the shares and pay for them those shares had fallen in price instead of going up, and they either had to take them up at a price far in excess of their market value or else have had to allow the shares to be sold on the market for whatever they would fetch and go into debt for the difference. Will the passing of this Bill interfere in the least with that class of business? Why did those gentlemen go into that speculation? Is it speculation or legitimate business? It is very hard to draw the line and say what is legitimate business and what speculation or gambling. Strictly speaking legitimate business would be when a man is buying shares for the purpose of investment. If a man buys with the idea of selling again within a short time and pocketing the profits it is not investment, it is speculation. It is impossible to draw the line, and say where that speculation becomes rash speculation and gambling. It varies for every man according to the length of his purse and the strength of his backing. What might be perfectly fair speculation for one man would be rash for another. Can the legislature do anything to stop that? Can it do anything to prevent a man, if he thinks he sees his way to make a profit by a little gambling in shares, signing a contract to take up the shares three months hence at extravagant prices? Can it prevent the shares falling in value? That man will do precisely the same thing even though the numbers of the shares are mentioned in the contract he signs. It has been suggested that he would at least have a guarantee that the shares existed and that the vendor was in a position to deliver them. Perfectly true; but no mischief has arisen from the non-existence of that guarantee. There have been very few cases of men who have failed to deliver the shares they have sold, or if they have, it is because some one failed behind them; because there are so many ramifications, so many men interested, that the failure of any man to make good his contract prevents others from fulfilling their contracts. Those men who have suffered during the last three years would have suffered equally if this Ordinance had been in force. It has been pointed out in the public newspapers, and I think I am entitled to refer to it for the purposes

of argument, that there are two or three big speculators in the Colony, extremely wealthy men, who carry on bearing operations, lowering the price of shares. Let us think of any one of these men. Will the passing of this Ordinance interfere in the least with his operations? He is supposed to be extremely wealthy and to be in possession, or capable of getting possession to-morrow, of thousands of shares of any company he thinks fit to deal in. He goes into the market to-morrow and buys as many as he can lay hands on, let us say 3,000. He enters into contracts after the passing of this Ordinance, for the sale of 2,000 of them, to be delivered three months hence, at largely enhanced prices. By his own operations in buying and any other means at his disposal he has raised the price of the stock, and in every one of the contracts he enters into he specifies the numbers of the shares. He has them, they are lying in his safe. And these shares, in lots of 25 or 50, are sold to the same class of men as before, who will be just as eager after this Bill is passed to make a little profit as they are now. And when the day comes what will be their position? It depends upon this big operator. It may have suited his purpose to allow the market to continue to rise and the buyers may have been able to sell in advance and pocket their profits or it may not have suited his purpose in which case he has this 1,000 shares in reserve which he sells out in lots of 25 at a time, each time at a dollar under the market rate, and in the course of a month or two the market has dropped sixty or seventy points. He has done it, not by playing with loaded dice, not by selling short. To sacrifice a portion of his property and lose a dollar or two on each of his 1,000 shares in the hope of making twenty or thirty dollars on each of the other 2,000, does that deserve to be stigmatised as playing with loaded dice? Is it not a perfectly legitimate use to make of his wealth, his position, and his credit? The man who undertakes bearing operations must be a wealthy man; no man does it who is not; and nothing in this Bill will stop that man or any man in his position from doing what has been done in the past. Nothing in the Bill will prevent those, whether young or old, who are infected with the gambling spirit and who are inclined to deal in shares in the hope of making a profit on the result, from entering into contracts. Therefore the arguments we put before the Council are these. Admitting that there has been a great evil in the past, that the principle of rash speculation and gambling is and has been rife in the Colony, admitting it is most desirable in the interests of the general trade of the place and of individual prosperity to put an end to that gambling and rash speculation, our contention to the Council is this that this Bill will not in the least interfere with it, that gambling and speculation will

go on the same, and any man who calmly and dispassionately looks, not at the general results but at the details of share speculation in Hongkong will see that in ninety-nine cases out of every hundred that occur this Bill if it were law to-day would not have any operation whatever and would not interfere in the slightest degree to stop speculation. There is only one evil it strikes at, short selling, and it is contrary to all experience that the selling of what a man has not got has been the cause of all this gambling, speculation, and serious loss. That we respectfully deny. No man acquainted with share and stock dealing can assert it to be true in the vast majority of cases, and our submission to this hon. Council is this that the Bill can do no possible good, cannot in any way prevent or remedy the evil at which it is aimed. If it cannot remedy the evil that alone is sufficient, I should think to disincline this hon. Council to pass it. But there is another argument, and we submit it for the consideration of the Council that not only will the Bill do no good, not only will it not interfere with the spirit of speculation and gambling, not only will it not deprive the gamblers of their implements, but it will do mischief. Without providing the necessary means to remedy the evil, it will do substantial mischief by tying the hands of many honest and respectable dealers in shares. It will place an impediment in the way of honest and straightforward business, which I think I am entitled to assume it is not the wish or intention of this Council to place. I must apologise for the indefiniteness of the language I am using because in one sense it is almost impossible to define what is legitimate dealing in shares, what is legitimate speculation in shares, and where you are to draw the line between such speculation and gambling. But may I be permitted to remind this hon. Council of the character of companies limited and their shares. Since the institution of those companies enormous works have been begun and carried out, enormous aggregates of capital collected for industrial purposes which under the old system of private partnerships would never have been brought together. There were certain inconveniences under the old law which this limited liability has enabled the company to obviate. One great difficulty was that there could only be a few partners. Each partner was supposed to take an active part in the business; they entered into partnership because they had knowledge of each other and confidence in each other, and if one partner went out the firm had to be wound up and reconstituted. If that had continued none of the great works of modern times could have been carried out. Therefore the Company Law was introduced and after all these companies are partnerships people were invited to put their money in them and take shares, one, a hundred or half a million, according to the magnitude

of the company and his own means. Every man could have a share in the profits of these great enterprises and one of the greatest inducements to a poor man was the knowledge that he could at any moment sell these shares and get back the money and possibly more than the money which he had invested. It was that very freedom conferred by law on these shares that enabled these companies to do as much as they have done. Now a free market for the sale of shares is essential to the maintenance of this system of companies and companies law, and anything that interferes with that freedom is a disadvantage and will interfere to a greater or lesser extent with the prosperity of these companies, and it is a consideration where you are proposing to legislate for the protection of shareholders that you should do nothing that shall interfere with or depreciate the value of the property of the holders of these shares. I think I need hardly say that the tendency of this Bill now before Council is very seriously to interfere with the market for shares in Hongkong and that it has gone a long way already to dull that market by rendering people unwilling to enter into transactions and purchase shares which they do not know whether they will be able to sell or not. It has had a certain effect while it has been here before the Council, and it will have a very grave effect on the market if it is passed. It will involve a considerable amount of trouble, extra trouble, on every dealer in shares, every broker and bank clerk. If this Bill is passed, a man wanting to sell his shares must send to the Bank and find out the numbers, then these must be inserted in the contract, and perhaps by this time he has lost the chance of selling. Or he may have a lot of shares in the Bank and have sold a number of them on orders for delivery, but through some carelessness the wrong shares are delivered and when a contract comes to be fulfilled, he finds the shares to fulfil it are gone and he must go and purchase particular shares to fulfil this contract. Or again, a man has plenty of capital, he remits home and buys shares on the London market. A good market for them occurs here and he wants to sell those shares, but he cannot do so until he has got hold of the numbers of them, to put them in the contract, and in the interval he loses the market, With regard to legitimate share dealing and legitimate share transactions it will be the cause of additional delay, of additional and many times of very serious loss. It will prevent many legitimate transactions which would in the absence of the Bill be put through and carried out. No man, as I have said before, who is acquainted with the details and methods in which the share market is carried on will deny that it will involve additional trouble and additional expense to every person concerned in the transaction. It will interfere seriously with

business, as any man with experience will tell you, It is an absolute fact that in the Banks and other institutions of business here, so great is the pressure on their time, that many important precautions which should be taken in the transaction of business are not taken. I have brought to me nearly every day, I may say, cases in which when the facts are laid before me I say, "If you had done so-and-so this could not have occurred." "We have no time" they say, "business is so brisk, we have to risk it." Well, I can only tell them, "You have taken the risk and you must bear the loss." Every one knows that many of the most ordinary precautions are neglected because the pressure is so great in these banks and offices. It is precisely the same in the share business. There is no doubt, small as it may appear in detail, in the aggregate the amount of trouble, confusion, and delay that will be caused to legitimate share business, define that legitimate share business how you please, will be very great if this Ordinance is passed. If the Ordinance would prevent or seriously impede share speculation if it could prevent a man buying for the rise or provide him with money to meet a loss when it occurs, no one could complain, but all that difficulty is put on him and yet this Ordinance could effect no good in stopping rash or hazardous speculation in shares. It may be said and probably will be said that short selling causes very violent fluctuations in the value of shares, that no man can know accurately what he is doing. Again I say it is not short selling. Short selling cannot be proved to exist here. Selling on time shares that a man possesses or has control of, although he may not be able to give the numbers of the shares, does exist, plenty of it, but selling what a man does not possess or has not control of or has not abundant means of getting, there is very little of that. The evil arises not from short selling but from the spirit of gambling which exists in almost every breast to some extent and induces men to buy for the rise. Supposing this Ordinance is passed the state of the market will simply be unnatural. There are two classes of operations going on in the market, speculative operations if you will, or gambling—bulling and bearing, men deliberately operating with a view to a rise, men deliberately operating with a view to a fall. What remedy will you introduce to prevent bulling, to prevent a man going into the market for his own purposes and buying shares at a little advance on the market rate, buying again to-morrow at a little further advance, and doing the same again the next day? That man does as much mischief in his way as the greatest bear that ever figured on the stock market. It is the undue appreciation of shares that does the mischief and the inducement to men to buy for the rise in the hope that they may be able to sell out before the day

for settlement comes and pocket a small profit. If this Ordinance is passed the market will be left without its natural protection. The very principle of free trade is that one evil corrects another. Bulling is an evil, bearing is an evil, but the one counteracts the other, and the result is that though individuals may suffer still there is no general appreciation or depreciation, and taking the year round shares maintain their value. Your Excellency sees that briefly the position taken up by the sharebrokers and the case they wish to put forward is this, they admit the evil, but they do not admit that it is caused by short selling. The evil is exposed in Mr. Ackroyd's memorandum. It is gambling and rash speculation. There is one suggestion I am instructed to make and that is this, that probably one of the causes which has operated must in promoting gambling and rash speculation in the Colony, that gambling and rash speculation which the hon. member who introduced the Bill is most anxious to stop and which the greater proportion of the residents of the Colony want stopped, has been the want of any law regulating sharebrokers. One of the greatest evils is that many men who call themselves brokers are not only brokers but also jobbers and dealers, and that perhaps as much as anything else, a thing wrong in itself, has given rise to a very great deal of the gambling and rash speculation that has gone on in the Colony in shares. The Brokers' Association are most anxious the Government should assist them in purifying the profession of brokers in this Colony, and so far as they can see the only way in which that can be done is by licensing brokers, compelling every broker to take out a licence and pay a fee for it and refusing to license any broker who is not a member of an Association with rules and regulations approved by the Government and which provide that he shall undertake, on oath possibly, not to act as a jobber but to confine him self to his legitimate business as a broker. If this Bill would interfere to prevent that excessive speculation and gambling from which the brokers in common with others have suffered, they would be glad to be heard in support of it instead of against it, but with their knowledge of share dealing in this colony, believing if it had been in operation during the last three years it would not have prevented the ruin of one man, they come here to endeavour by my mouth to put that state of the case before the Council and ask you not to pass the Bill. If any Bill is introduced which will fairly remedy these evils the sharebrokers will be most happy to cooperate, and they offer that one suggestion to the Legislative Council. They are most anxious that some Ordinance should be passed to regulate brokers and to restrain them from acting both as brokers and jobbers, for they firmly believe some of the evil has arisen from the fact that there

are many men who in violation of their duty as brokers, acting as agents between principals, convert themselves into principals and buy and sell shares without informing their principals. In that way a door has been opened for what may be called fraudulent dealing and rash and speculative dealing of the most barefaced character. I thank your Excellency and the Council for the patience and kindness with which you have listened to me, and I thank you again on behalf of the Sharebrokers' Association for permitting them to be heard to-day

Hon. J. J. KESWICK—Your Excellency, in rising to propose the second reading of the Bill to amend the law in respect to the sale of shares, I would like in the first place to offer a few remarks upon the very able address made by the learned Counsel who has just sat down. I feel the greatest satisfaction as the promoter of this Bill with the free discussion it has given rise to in the Colony, and I am particularly glad that the Sharebrokers' Association has been heard by Counsel before this Council, as in the event of the Bill being passed it will at all events be clear that the opinions of all concerned have been fully represented. It is a remarkable thing to me in connection with all the discussion that has taken place on the subject of this Bill that in no instance have I heard of any one who dissents from the principle which is involved in it. It appears to be admitted by the learned Counsel and by every one whom I have heard that a blight exists in Hongkong, a blight which has done great injury to a large proportion of the community, and I think it must be generally admitted that all parties are very anxious that some remedial measure should be passed which will remove the very unsatisfactory state of affairs at present existing as regards dealing in stocks in this Colony. I have been very much struck, while listening to the gentleman who has just sat down, with the fact that he repeatedly stated that this Bill if passed would have no effect at all, and naturally the question is suggested to one's mind that if the Bill will have no effect, why should there be such serious opposition to it more especially when it is admitted that its design is worthy of commendation? I must say that I believe that the opposition shown to this Bill is chiefly because of the restrictive character it would have on the sale of shares by those persons who do not possess them, and I am satisfied that I am right, I am convinced I am right, in saying that the unlimited sale of shares without any numbers or marks upon them has had the effect of ruining a very large percentage of men in this Colony. I am unable to call to mind the precise words used by the learned Counsel, but he said something to the effect that no harm had been done by the short selling of shares but that all the harm had been done by persons who bought for the rise. I would beg to point out to the

learned Counsel that when a Company, as I will suppose, has 50,000 shares, it is outrageous that it should be legal for any person, one single person, to sell 150,000 of those shares. In principle that is done every day. I have exaggerated, perhaps. I will be more moderate and say a Company of 5,000 shares, and it is possible for an operator to sell, without holding a single one, to the extent of 15,000 shares three times the number in existence in the Colony. Such a thing is perfectly possible and is done in principle every day. I observe also that the learned Counsel stated that the evil chiefly existed in the fact that people bought for a rise, but as I pointed out when speaking before on the same subject the man who buys for a rise who hopes that a rise will take place three months after he has bought—his hope is vain his hour never comes. The learned counsel says the seller has the shares and that it is the buyer who is the bull. Not at all. It is the seller who bulls the shares, and he plants them here, there, and everywhere and waits till the time comes for them to be taken up, then down go the shares and the man who sold them buys back at a depreciated price the identical shares he sold three months previously, without parting with a single dollar. That is what I call commercial immorality and that at the present moment is a recognised system in this Colony. The learned counsel referred to an Act of George II. I trust that not being a lawyer I may be excused if I display a little ignorance on the question. I should like to know if that Bill, which I think the learned gentleman stated existed for 120 years or thereabouts as the law of England and was not repealed till the 23rd year of the reign of her present Majesty, I should like to know whether when that Bill was repealed in England it was repealed because some other enactment rendered it more or less unnecessary and I should like to ask the Acting Attorney General whether when that Bill was repealed the Act repealing was made operative in this Colony. I should not be surprised to find that the Act of Repeal never applied to the Colony and that at the present moment these transactions in shares which I desire to put a stop to by this exceedingly modest Bill are after all illegal and the people who make them liable to prosecution. I have not received any reply to that question. I believe the Bill which was repealed in England in 1859 was called "An Act to prevent the infamous practice of stock jobbing." That was the title applied to the Bill for which I have substituted this very modest Ordinance. The learned Counsel said the law provided for damages but it is a remarkable thing that you very seldom hear of a case here of any claim for damages. Almost invariably the matter is settled privately by payment of the difference or giving a promissory note, or as the learned Counsel said going into debt for the amount. I do not think it is a desirable

state of things that there should exist a law which will enable persons while carrying on a business that ruins about 90 per cent of the persons who engage in it to settle by private arrangement between the parties themselves. This is to a great extent how the ruin takes place. The learned Counsel also made the remark that many great enterprises could not be undertaken and carried out if these limited liability companies could not be formed, but by means of these companies many persons were enabled to invest their money and take shares, and thus great enterprises were enabled to be carried out with profit, and he pointed out that it would be a very serious matter if the disposal of these shares should happen to be interfered with and restrictions placed on freedom of contract and free operation in these shares. I dissent entirely from that view as regards this Bill, because it is not my wish to see any restriction placed on the free sale of shares. It is my desire solely to benefit share dealing by causing the numbers to be affixed so that the sale can only take place of shares which exist and to place a restriction on disposing of shares which are not represented in the company. I believe the suggestion made with regard to share brokers' licences might do a very great deal of good, and I think such an additional measure to the Bill now submitted to the Council and which it is proposed to read a second time would have a very excellent effect. I should be very pleased to see the Government endeavour to enact such a measure as would be likely to give effect to the suggestion of the Association. I was rather surprised at the remark made by the learned Counsel that one great objection to this Bill would be that the simple process of filling in numbers might cause a man, probably a buyer, to lose the market. I must say I cannot concur in that view. Before proposing the second reading I would like to repeat that I am satisfied a very serious evil exists in this Colony, and the learned Counsel and every one I have heard speak on the matter seems fully to recognise the fact that such an evil does exist. If that be so I trust that this Council and the Government will not hesitate at once to pass this Bill and give effect to it in order that we may as far as possible give some protection to those persons who apparently are given up to gambling, to protect them as far as we can from those men who have them at their mercy by selling on time. I appeal to the unofficial members and the gentleman who will second my motion to give full support to the Bill, and I have to express my regret at the absence of the gentleman who seconded the Bill on its first reading. I appeal to the unofficial member who represents the Chinese community and to the unofficial member who is the representative of an honourable banking institution, which I am satisfied would have no sympathy

with any transactions of a gambling nature. I will not detain the Council longer, but I trust that this Bill will become law, as I am satisfied that it would do an immense amount of good and I would express the hope that in its operation, as regards sharebrokers, it will have a very much less harsh effect than it has been supposed it will. I would repeat what I have said elsewhere with reference to this Bill, that nothing would cause me more regret than that it should operate harshly on any single individual.

Hon. P. RYRIE—I rise to second the motion for the second reading of the Bill. I think there is no doubt that its object is a good one, but as to the Bill itself I am bound to say that I think it will require modifying in Committee, and I think it may be so modified as to meet the objections made to it by those gentlemen who conduct the share business of this colony. I have heard a great many opinions on the subject of the Bill, and I think it will want a good deal of alteration to make it effective. I think the general view in the colony is that the hon. member is perfectly right in attempting to check rash speculation. I think the Ordinance might be added to by engrafting on it some regulations as to the licensing of brokers. I think probably some regulations of that kind might do more good than the Bill itself.

Hon. HO KAI—The Bill has been duly proposed and seconded to pass its second reading. So far as the principle of the Bill is concerned I think hon. members will agree to it, but the question is whether the present Bill is desirable or not. It has been distinctly stated by the learned counsel representing the Brokers' Association that all the evil which has been caused to a large number of persons in this Colony by share speculation is not entirely due in fact is not due at all, to short selling, which this Bill has been introduced purposely to stop. The mover of this Bill on the other hand seems to think that is the whole cause of the evil. If that were so. I am sure every member of this Council would like to see this Bill passed this very day. It is represented by the opposers of the Bill that if this Bill is passed speculation will exist to the same extent and the same evil will be produced in the future. Now which side is right? I am sorry on one account but I am glad on another that I am not a share dealer, nor have I entered into the field of share speculation. Consequently I have no particular or peculiar knowledge and I should like for my own satisfaction to have the evidence of persons taken who have a special knowledge of this subject. I certainly think it a waste of time to discuss the *pro* and *con.* of this Bill until this question is clear. It is all very well to have medicine, but if you don't know what your disease is you can't apply the right remedy. I think therefore the

wisest plan for us, as I do not believe there is any immediate hurry for passing this Bill, is to take evidence on this one particular point. I am certain that once it is clear what is the real cause we shall all be ready to support any reasonable measure for putting down the evil. If the evil has been caused by speculation in shares, independent of short selling, by which I understand persons selling shares not in their possession or under their control, then I quite agree with the learned counsel who represents the Sharebrokers' Association that it would be useless to have an Ordinance of this kind. I will now move that this Bill be referred to a commission with a view to ascertaining the real cause of the evil, that the commission report to this Council, and on that report we can take further action.

Hon. T. H. WHITEHEAD—I rise to second the motion the hon. member has just made. The mover of the second reading of this Bill has referred to myself as the representative of a banking company in the Colony. Your Excellency is no doubt aware that I am the duly elected representative of the Chamber of Commerce, and I hope the Chamber have forwarded to Your Excellency the result of the general meeting held yesterday afternoon. Certain resolutions were brought before the Chamber of Commerce and the Chamber by a very overwhelming majority expressed themselves decidedly opposed to the Bill now before this Council. With the exception of two members, one of whom did not vote either for or against, every member on the Committee opposed the Bill. I myself am not in favour of it. It is an advance on home legislation, and I think it would be a most dangerous proceeding to anticipate the legislation which emanates from the Imperial Parliament I am opposed to the Bill on general grounds and because I do not believe that it would put a stop to or restrict the evils complained of. I have listened with a great deal of attention and interest to the able address by the Counsel for the Sharebrokers' Association and think it would be very desirable to have more time to consider the measure before us. I regard the Bill as altogether too stringent and too sweeping. It is a very revolutionary measure and we require, I think, more proof than has been adduced to show that it is necessary. The hon. member, the promoter of the Bill, referred to a company being possessed of 5,000 shares and stated that a great many more than the actual number of shares in the company were in many instances sold on this market. I regret that the hon. member did not give one or two instances or cases which have happened, As far as my knowledge goes I do not know of any such and I have never heard of it before. Leeman's Act, on which this Bill is said to be framed, is a dead letter in England and is absolutely and entirely ignored by the London Stock Exchange. Some years ago I was very much in favour of the introduction of Leeman's Act in the

Colony, but other managers of Banks who had been here longer than I had were as much opposed to its introduction as I was in favour of it. Other bank managers are to-day still opposed to Leeman's Act and I question if Leeman's Act had been introduced whether it would have had the desired effect. I quite sympathise with the mover of the Bill in his efforts to remove the blight which we all agree exists, and I think the suggestion made to us through the Counsel of the Sharebrokers' Association would go a long way towards bringing about a better state of affairs than now exists. It seems to me as it does to the leading financial authority in India, the *Bombay Gazette*, that this measure aims at the effort to re-establish the age of innocence in a very wicked world, and I am sure all will readily appreciate the endeavours of the mover of this Bill. It differs from the Leeman's Act of 1867 passed after the panic created by the collapse of Overend, Gurney and Co in 1866 which is directed exclusively to restricting time bargains in Bank shares, the Banks in London having then demanded protection, which I understand they have not done here, simply because the necessity has fortunately not arisen. From the authority I previously referred to I may be allowed to quote certain interesting information pertaining to the Leeman's Act. "During "that time of excitement and disaster." the *Bombay Gazette* says, "the prices of many "classes of Bank shares were artificially kept up by 'bulling' operations on a large scale, in which it was understood some of the Banks themselves took part. After inflation came collapse. Purchases made under these conditions being mostly made, not to hold, but to realize an early profit, there was a rush to sell. Then came the reaction, and a reaction in Bank shares soon affects the nerves of (London) depositors. Undoubtedly time bargains were a potent contributory cause of the financial disasters of 1866, and Parliament recognized this by passing in the following year a Bill which made them illegal when the shares dealt in were bank shares. In Hongkong they have had no 'Black Friday' to prompt them to action against bargaining in differences The English Parliament, in passing Leeman's Act, drew a clear distinction in principle between time bargains in bank shares and in the stock of other companies—a distinction which the Hongkong Bill, for reasons which it is of course easier to appreciate in Hongkong than it is in Bombay, does not recognise. Where the credit of land companies and of other limited liability concerns is as much endangered by speculative transactions of this kind as that of Banking companies there may be good reason for legislating on broader lines than those laid down in Leeman's Act. It is difficult, however, to believe that such can be the case anywhere, for there is no sense in which the credit of say,

a cotton mill, can be deemed to be as sensitive as that of a Bank. The credit of a mill may be temporarily depreciated by bearing transactions, as well as by the reaction which follows a rush to realize profits. But this is quite a different matter from a withdrawal of deposits like that which, in 1866, attended upon the depreciation of certain Bank stocks that had been too freely dealt in by speculators. In theory there may be no difference between time bargains of one kind and another, but there is a clear difference between the practical results, and it was upon this difference that Parliament proceeded in passing Leeman's Act. The Act against time bargains in Bank shares has not yet been applied outside the United Kingdom, and even at home it is not, we believe, by any means rigorously applied, though it has resulted in practically putting an end to speculative dealings in Bank shares. The first retort with which any attempt at a general prohibition of the practice would be met, would be that if time bargains in shares are to be stopped the Legislature will not be logical if it tolerates time bargains in exchange, and in produce, a declaration which could of course only be acted upon by sending half of us about our business." As representative of the Chamber of Commerce I would again state that I am opposed to this Bill and that a very large majority of the members present at yesterday's general meeting expressed their disapproval of it.

The ACTING COLONIAL SECRETARY—The motion before the Council at the present time is that the Bill be read a second time and that motion has been proposed and seconded. This is not a Government measure. It is a public measure introduced by a private member. The Government were very anxious, and your Excellency was very anxious, to hear all that could be said to throw light on the question in order to enable the Government to come to a right and proper conclusion as to what position they should take up with regard the Bill. The Sharebrokers' Association have been represented by counsel and we have had the advantage of hearing the able speech he has addressed to us. He has laid before us facts and arguments well worthy consideration. We have also had the advantage of hearing the opinion of all the unofficial members at present in the Colony. There is absent Mr. Chater, but he was the seconder of the Bill when it was brought in for the first time.

Hon. T. H. WHITEHEAD—May I explain that he only did so because there was no other unofficial member present.

The ACTING COLONIAL SECRETARY—I do not want to enter into any controversy as to the reason of his seconding it? I only know the hon. member seconded it.

Hon. J. J. KESWICK—That is correct. His reason for so doing I am not aware of.

The ACTING COLONIAL SECRETARY—I would suggest that the Council, instead of proceeding

to a division at once, adjourn the motion until the next meeting of Council, which I presume will take place next Friday, in order that we may carefully consider the arguments and opinions we have been put in possession of and that official members may decide what attitude they will take up in regard to this Bill, whether they will support the Bill in its entirety, whether they will approve of it to such an extent as will bring it into conformity with the English law at the present time, or whether modifications shall be made to the Bill. We are now in possession of all the light that can be thrown upon the matter by the learned counsel and the unofficial members, and I think the wisest thing to do now would be to adjourn. I therefore move that the consideration of the Bill be adjourned to next Friday.

Hon. HO KAI—I rise to order; The question before the meeting is for the second reading. I have moved an amendment to that to have the Bill referred to a commission.

The ACTING ATTORNEY-GENERAL—I must rise to order. The hon. member's motion was not seconded.

Hon. HO KAI—Yes, by Mr. Whitehead.

The ACTING ATTORNEY-GENERAL—I beg your pardon. I did not hear him.

The ACTING COLONIAL SECRETARY—I have no objection to the hon. member's amendment being put to the Council if he presses it, but I would suggest to him whether it would not be more desirable to adjourn the consideration. I also think after the Bill has been read a second time that on the motion that the Council resolve itself into Committee it would be a more appropriate time to move any resolution of this kind.

Hon. T. H. WHITEHEAD—The object of the mover of the last resolution was to refer the Bill to a Commission to take evidence before proceeding further with it.

The ACTING ATTORNEY-GENERAL—I am afraid that motion is out of order; it is one of those of which notice must be given. If you look at the standing orders you will see certain motions which can be made without notice, but this is not one of those.

The REGISTRAR-GENERAL—I understood from the despatch of the Secretary of State with regard to the Bill that it was laid down that the Bill should not be brought forward unless there was a general agreement concerning it among the unofficial members. As there appears to be no general agreement, I think it would be as well to postpone the Bill. I would therefore move that this Bill be postponed to this day six months. At present there appears to be only disagreement among the unofficial members, and therefore to go on with the Bill now does not appear to be in accordance with the Secretary of State's despatch.

HIS EXCELLENCY—The Secretary of State's instructions were simply that he did not object to the Bill being passed and brought into force if the unofficial members agreed. There was no statement that the unofficial members must be unanimous, nor any statement that the Bill must not be discussed here with a view of bringing round the members to it. There was no order that it should not be introduced and that we should not hear arguments for and against it. I think we are quite in order in proceeding with it.

Hon. T. H. WHITEHEAD—There is no reference in the rules for notice of motion for referring a Bill to a Committee.

The ACTING COLONIAL SECRETARY—The hon. member moved to refer the Bill to a Commission, not to a Committee.

Hon. T. H. WHITEHEAD—Is there any difference between a Commission and a Committee?

The ACTING COLONIAL SECRETARY—Certainly there is. I beg to propose that the consideration of the Bill be adjourned to next Friday.

The ACTING ATTORNEY-GENERAL seconded Carried.
The Council then adjourned.

FINANCE COMMITTEE.

At the conclusion of the Council meeting there was a meeting of the Finance Committee. The Acting Colonial Secretary presided.

The CHAIRMAN said the only vote before the Committee was one of \$3,000 for the extension of the Peak water supply to Magazine Gap. Mr. Cooper had sent in his report and said that he was prepared to go on with the work at once. This extension was included in Mr. Chadwick's scheme.

The SURVEYOR-GENERAL—Was not this work included in the original vote for the Peak water supply?

Hon. P. RYRIE—I certainly thought it was voted in the original vote for the whole supply at the Peak.

The CHAIRMAN—If of course the money has been voted already it will not be spent a second time. The vote was recommended on the report of a responsible officer, the Water Authority. I have his report here.

Hon. T. H. WHITEHEAD—It will have to be confirmed at the next meeting of Council so that we might vote it now and in the meantime the matter might be looked into.

The CHAIRMAN said he found that he had overlooked the concluding paragraph of Mr. Cooper's report in which it was stated that the money was required for extra pipes and material from England.

The vote was agreed to and the Committee adjourned.