COMMERCIAL LAW AFFECTING CHINESE;

WITH SPECIAL REFERENCE TO

PARTNERSHIP REGISTRATION AND BANKRUPTCY LAWS IN HONGKONG.

(Reprinted from the "China Mail.")

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I.

FINANCIAL catastrophes, like the one which has lately overtaken the Chinese speculators and the Chinese banks of Hongkong, though bringing their evil effects to bear on trade in general and tending to involve the most prudent merchant, invariably bring with them their own remedy. Trade, like a staunch lifeboat, may be swamped for the nonce and capsize for a moment, but it is sure to right itself again, though the operation may happen to consume more time than human patience or financial means make bearable. In fact, such financial catastrophes, as they betray the errors in which they invariably originate, tend to cure or to avert for the future the evils which they cause, by making men not only sadder but wiser, by causing them to pause and consider what brought about their ruin, and by urging the whole public affected by it to set to work in earnest to rectify the errors committed. Thereby a healthier public spirit is invariably aroused, the atmosphere of commercial morality is purified, and as the slow pulse of commercial conscience resumes a healthier action, the veins and arteries of the commercial body find their vital blood, capital, running into its old channels and the equilibrium of credit is gradually and naturally restored.

This process of recuperation is now beginning to set in in the case of the Chinese trade of this Colony, paralysed as it partially has been for months past. Though the equilibrium of the forces at work in this process has not been restored yet, there are already signs of a healthy reaction. We learn on all sides that the leading Chinese merchants have come to the unanimous conclusion that the late swindle, manifested in the speculations in house property, was but a symptom of a commercial disease, the roots of which lie much deeper than they appear at first sight, and stretch back over many years of the past. We find that these Chinese merchants unanimously point to the abuse of the Bankruptcy and Partnership Ordinances, which in their unsuitability to Chinese ways of trade offered a temptation to over-speculation, and opened the door to reckless frauds, as the chief sources whence the present stagnation of capital and trade ultimately flowed. They point to the systematic and successful practice of entering bankruptcy fraudulently, and to the habitual registration of men of straw as pretended partners in Chinese hongs, as the most radical errors committed in the past.

This is by no means a new discovery, either to Chinese or European merchants. In 1874 the Chinese community

petitioned the Government very much in the same sense, but in vain. From 1874 down to 1881 members of the Legislative Council, members and witnesses of the Supreme Court Commission, and especially the Chamber of Commerce pointed more or less distinctly to the same cancer which they saw ruthlessly eating deeper and deeper into the vitals of Chinese commerce down to the very moment when Sir John Pope Hennessy trumpeted abroad, as loud as his lungs permitted, the purity of local Chinese commercial morality and the exuberant soundness of the native trade of Hongkong.

But though the discovery now acted on by the Chinese community is by no means a new one, the important point at the present juncture of events lies in this that the truth, though an old one, has now at last come home to the native community with redoubled force and with an intensity sure to lead to persistent action in the direction of purifying the commercial atmosphere and regaining the lost credit. The ideas which are now being earnestly and widely discussed in Chinese commercial circles, in connection with the question as to what could be done towards promoting a restoration of mutual confidence between capitalists and traders, between the foreign and native banks of the Colony, lie indeed at the root of the difficulty under which Chinese commerce is now labouring. We understand that the most intelligent and honest native merchants seek the fountain source of the evil in the deviation of local Chinese trade from the general principles of the commercial law and usage of China, in the widespread degeneracy of native commercial morality which ensued through the unsuitability and consequent abuse of the Bankruptcy Ordinance of 1864 and the Partnership Amendment Ordinance of 1867, a degeneracy and corruption which, they truly say, was brought to a head by Sir John Pope Hennessy's action in 1881, and the officious and official support he gave to reckless speculation in house property.

This view of the state of things, which has now taken possession of the minds of Sir John Pope Hennessy's "leading Chinese merchants and native bankers," opens up a vista of such importance for the future of this Colony, that we consider it our duty to the public weal, carefully to examine and to test it by detailed inquiry into the nature and soundness of the propositions on which the views of those practical men are built up. In following out this "interesting" inquiry, as Sir John would call it, we propose in the first instance to gather up the ideas afloat in the Chinese community relative to the deviation of the native trade of Hongkong from the leading characteristics of commercial law and usage in vogue in China. We will next proceed to compare the condition of the native trade of Hongkong previous to 1864 with the state of things which ensued consequent upon the passing of the Bankruptcy and Partnership Ordinances. If we then add to this a detailed inquiry into the history of the movement which brought about the uncalled-for application to Chinese trade of the Amended Partnership Law of 1865 (introduced in Hongkong by Ordinance in 1867), and sketch the attempts made since 1874 to cope with the growingly manifest evils arising in the case of Chinese commerce from the abuse made of both those Ordinances, we shall not only have completed our task of testing the soundness of the views deliberately propounded by the leading Chinese merchants as to the fountain source of the present paralysis of their trade, but we shall by such careful diagnosis be placed in a position to determine the line of treatment really required to assist nature in bringing about a radical and lasting cure.

II.

It is a common mistake to suppose that, as there is no published code of Chinese commercial law, the Chinese have no commercial law at all. We might as well suppose that there was no Common Law of England before our modern commentaries on it were written. Apart from the provisions of the Penal Code of the Ta-tsing and preceding dynasties,

there are numerous collections of Imperial decrees, and of decisions by provincial judges on questions of commercial law, in the hands of the law secretaries, of the Superintendencies of Trade and of all the inland Authorities. These collections afford a safe guide to the initiated, though the variation of trading customs in different provinces, which customs are always respected in applying the law, makes the present collections of legal decisions on questions of commercial law a bewildering maze to all but those who make a special study of the subject or who have grasped the fundamental principles on which the whole theory of Chinese commercial law is built up.

It is much to be regretted that hardly any sinologist, possessing the requisite legal training, has dived yet into these unexplored depths of legal lore, nor even collected and analysed the decisions of the Mixed Court of Shanghai, which provide a good deal of useful material bearing on the subject of Chinese commercial law. Mr. Alabaster once took up the subject very briefly in 1867, but unfortunately does not appear to have pursued these studies further. Mr Dulcken also touched, in a brief article published in the *China Review*, on a few points of Chinese commercial law, but stopped short there. In 1869, Sir Rutherford Alcock, in concluding with Prince Kung the Supplementary Convention to the Treaty of Tientsin, stipulated (Article IX), "that England and China shall in consultation draw up a commercial code." But nothing further came of it, so that this stipulation appears merely to have served the purpose of giving a Treaty clause authority to the principle of joint investigations in Customs cases.

Being thus left very much in the dark by the luminaries of sinology and diplomacy, though grateful especially to Mr Alabaster for the few rays of light shed on the subject by his notes, we find ourselves thrown back upon the resources of our own observations and the information freely placed at our disposal by well-informed native friends. Nor does it much matter. It is altogether foreign to our purpose to write a technically correct epitome of the leading features of Chinese commercial law. It is perfectly sufficient for the aim we have in view, if we analyse and systematize the conceptions our Chinese merchants have of the first principles on which trade is practically conducted and officially dealt with in China, both in conformity with Chinese commercial law, and in contradistinction from the altered conditions in which these same merchants find Chinese trade placed here in Hongkong under the different regime of English commercial law and usage.

It is generally a suggestive indication of the different way in which foreigners, other than Englishmen, look upon commerce, when we find that they constantly repeat, as a remarkable observation, that we are a nation of shop-keepers, that wealth gives with us higher social rank than intellect or culture, and that the foreign policy of our Government invariably sinks all moral considerations when the necessity of pushing our trade appears to demand a certain course. No foreigner, however, wonders more at our so-called strange infatuation for trade, and no foreigner despises us more for it than the Chinese literati and officials. They have been tutored in the notions, laid down by their writers on the theory of commerce (political economy) two thousand years ago, viz., that commerce exceeding the bare circulation of the necessaries of life is, in the long run, injurious to the welfare of the mass of the people and that accumulation of wealth on the part of merchants can succeed only in proportion to the impoverishment of the labouring classes which, after all, are the chief support of the State. Apart from the mere exchange and circulation of those commodities which are required to keep the mass of the people content with their lot, Chinese commercial law knows therefore no other legitimate *raison d'être* for commerce, but that commerce encourages agriculture and labour generally by facilitating the intercourse between consumers and producers. Accordingly we may say with truth that for Chinese commercial law the object of tender care is not the merchant, as we should suppose, but the producer. From this cardinal point of

difference flows a host of practical divergences in the development and direction which commercial legislation took in China and in England. The commercial code of England is designed to protect and facilitate trade as much as possible and the general tendency is to free it from all interference on the part of the Government as far as it is practicable. On the other hand, the chief aim of Chinese commercial law is to restrain trade within fixed limits, and it is a canon of Chinese political economy to give no encouragement to merchants in their desire to enrich themselves (unless it be at the expense of foreigners). It is the chief aim of Chinese commercial law to bind trade down to the traditional established grooves and to keep it under the constant supervision of the Government. The reason is a peculiar one. As it is the theory of English political economists that the absolutely free and unrestricted movement of capital from employment to employment results in a strong tendency to an equality of profits, so the Chinese theorist declares it necessary that the Government should step in between producer and consumer and lay down fixed rules for the conduct of trade in order to bring about this desirable equilibrium of profits. It is with this end in view that all conceivable branches of trade are fenced in by Chinese commercial law between immovable barriers, and that the Government prescribes for each its proper mode of procedure. An example or two will suffice. Thus the commercial law of China requires that under all forms of commerce business must be transacted through middlemen responsible to the Government, and that every distinct trade should be organized in the form of a guild. It is well worth considering these two significant features of Chinese commercial law in their practical application.

First, as to the system of middlemen. Chinese law requires the interference of licensed marketmen or brokers who fix the market rate and whose duty it is to mediate as responsible agents between producer and consumer, be the latter native or foreigner. Accordingly, to use the words of Mr Alabaster, "the producer is compelled to sell his produce through a licensed broker or marketman to the merchant, who again, on arrival at his destination, is forced to sell his goods to the consumer through another licensed broker or marketman." The object of the law is not, as Englishmen are only too apt to suppose, to enable the Government to tax trade, or, to use the term so commonly applied to every mode of Chinese taxation the procedure of which we do not understand, "to squeeze." The real aim of the law is to keep trade under the constant control of the Government with a view to protect the producer and the people generally against that form of trading which we consider smart but which Chinese commercial law calls unfair and treats accordingly as criminal. Those licensed marketmen or brokers, being officially authorized to fix the value of produce or merchandise passing through their hands, are also liable to be criminally proceeded against not merely in case of fraud but even in case they encourage unfair trading. In the latter case the merchant also, who, for instance, attempts to obtain the command of the market with a view to hold the whole stock and to refuse to sell except at exorbitant prices, will be criminally proceeded against on the ground of unfair trading. For, to quote Mr Alabaster once more, "unfair traders shall be punished with eighty blows, and if the profits be large they may be proceeded against as thieves."

Next, as to guilds. It is manifest from the foregoing that the individual merchant must find it a protection against abuse of the power which the laws against so-called unfair trading place in the hands of Government officers, a serious matter especially in a country like China where there is no distinction of civil and criminal proceedings and where judicial and executive functions are always combined, to act always in concert with other merchants in a co-operative capacity. Chinese law also, which, as a matter of principle, knows no person but treats each individual as a member of some organized body, encourages the formation of guilds, for every single trade. It must not be sup-

posed, however, that these guilds resemble the modern trades unions of England or even the guilds of mediæval Europe. A Chinese guild, as constituted under the commercial law of China, is an officially recognized corporation, the object of which is invariably defined in the opening sentence of its statutes as being the endeavour to encourage fellowship between those engaged in a specific trade and to "tranquillize the minds of the traders." In other words, the object of the institution of guilds is, as far as the Government is concerned, to keep trade under control, and as far as the merchants are concerned, to ensure safe and yet profitable trade. The official character of a guild consists in this, that the rules made by a guild for the conduct of trade within its particular sphere are sanctioned and supported by the Government as being in accordance with the commercial law of China; that the guild, through its officers, may act as official arbitrators in commercial disputes; that the guild may stand security for any member accused of a breach of commercial law; but that the guild also undertakes, when called upon, to arrest and hand over to the Government any member whose guilt is *primâ facie* established. Each guild has special premises, generally consisting of a meeting hall, a shrine for worship, a theatrical stage, and a few rooms for entertaining travelling graduates or officials. The officers of a guild are a committee annually elected by ballot, a secretary to conduct the official correspondence, an accountant to look after the subscriptions and securities given by and the advances made to members, business managers for each branch of the trade conducted by the guild (native or foreign trade, wholesale or retail trade, &c.), a priest to conduct the religious services, and some servants. Each guild meets from time to time, in concert with its brokers, to discuss the market rates and to regulate the operations of the guild on special occasions. As the laws against unfair trading are specially devised for the protection of the native producer and the people of China, they do not apply to the trade between Chinese and Foreigners. Consequently tea and silk guilds are under no restrictions as to unfair trading with foreigners, and meet during the season every day with the distinct object to keep entire command of the market. A limit is appointed by each guild, in concert with its brokers, for the quantity and quality to be placed on the market, and a rate is fixed below which no sale can be effected, whilst the members of the guild are bound under heavy penalties, sanctioned and upheld by the Government, to obey the laws and resolutions of the guild.

It is easy to see what a power these guilds possess and how different they are from European trades unions. Whilst the latter are hotbeds of temptation for ambitious demagogues, hurrying labour into a destructive war with capital, the guilds of China are conservative bodies, acting the part of a commercial police, and worked by the Government for the purpose of keeping a due mean between the interests of the native producer and the native consumer. European trades unions constitute an elaborate attempt to handicap ability and industry and to exclude competition, and produce on the one hand a selfish antagonism of classes and on the other an artificial equality among privileged workmen. Chinese guilds are co-operative associations of traders and brokers, of capitalists and employers, combining the interests of the Government and the people, of capital and labour, in common dependence within any given trade.

Our readers will pardon us for this lengthy digression if they but remember that our aim is just now to point out how different the position assigned to a Chinese merchant in China is from that which he occupies here in Hongkong.

III.

HAVING in our proceeding observations roughly sketched the position which the merchant occupies in China, and the attitude which the Chinese law and Government assume towards him and towards trade in general, we may now proceed to consider the position of a

Chinese merchant more particularly with reference to questions of partnership and bankruptcy.

Partnership is a medium of commerce known to the Chinese from time immemorial. Owing to the general subdivision of property there are few great capitalists in China. As the rights connected with property are comparatively vague and ill-defined, it is but natural that what floating capital there is does not run much in the direction of investments in land or by means of landed securities. Larger portions of such capital are invested in Government farms and monopolies, in banks which undertake financial operations or collection of revenue on behalf of local Authorities, in pawnshops which lend money on pledges at a rate of interest fixed by Government, and in the various branches of trade and industry. The inborn business capacities of the Chinese, and their marvellous co-operative instincts, led to the employment of such floating capital on the basis of partnership and joint-stock associations at a time when our ancestors were still squatting in the bush. It is the more to be wondered at, however, that, whilst there are so many opportunities in China for the investment of larger portions of capital in business undertakings of more or less magnitude, and whilst the thrifty, saving habits of the working classes constantly accumulate in the hands of working men and women small sums which they immediately seek to invest profitably, there are no savings banks in China for the investment of such small sums. As there is, moreover, no gold in ordinary circulation, no silver coinage even, and the only currency consists in bulky copper cash, the proverbial resource of the old stocking of the saving classes in Europe is manifestly out of the question in China. Hence it is that the innate desire to re-invest even small savings forthwith in a profitable way, led, in the absence of savings banks, to the practice now universal throughout all the larger cities of China, to invest money in shops and trading concerns of all descriptions with the understanding that the lender receives a certain percentage on the annual net profits of the business, as shown by the annual balance sheet made out by general custom, after stock-taking, at the end of every year. Domestic servants, male and female, employés in Government offices or houses of business, artisans and small farmers, men and women of all classes are thus most commonly dormant partners to a gradually increasing extent in business or industrial undertakings. Business men, also, find it affording useful information or help, to invest surplus funds of their own business, on the basis of dormant partnership, in parallel or competing shops or firms. Persons who thus invest their savings frequently also arrange, when the amount at stake is large, to get a trusty relative employed in the business in which they are dormant partners, so that he, whilst earning his own wages as servant, salesman or accountant, may keep the dormant partner informed as to the stability or solvency of the concern, or check the correctness of the annual dividend allotted. Another precaution taken by such small investors consists in this, that they generally select for their investments business concerns the responsible partners of which belong to families or clans well known and accessible to the investor, so that, in cases of fraud, the latter may fall back for compensation on the families or clans concerned. On the other hand, persons so investing their money in any legitimate business undertaking are not held responsible by Chinese commercial law for liabilities incurred by the firm to which they lend their funds, nor are they known to outsiders or held responsible by the law in case of insolvency except merely to the extent of their funds actually invested, for the recovery of which they have a right to sue the actual partners. The Chinese law, in fact, treats as responsible partners only those partners of a firm who *are* the actual unpaid managers, or those in whose name or under whose orders the business is conducted. But such general partners, who actually, either in person or by their agents, manage a business, are held by Chinese law

jointly and severally responsible, with their property, person and life, for all the liabilities of their business concern.

So far, therefore, it would seem that, apart from the registration of partners, which is not required by Chinese commercial law, the law and usage regarding partnership in Chinese bear a considerable resemblance to the French system of partnership *en commandite* which, like the Chinese system, distinguishes those partners who are actual responsible partners from those irresponsible dormant partners who merely furnish a particular fund or capital or stock, and exempts these *commandataires* from liability to any loss beyond the extent of the funds of capital furnished by them. But the analogy holds good only in part. For there is a most essential and unique characteristic feature in Chinese law which materially distinguishes the extent of responsibility involved in Chinese partnership from that attributed to partnership under the French or any other European system. According to Chinese law the responsibility of a general active partner in a firm does not end with the extent of the personal assets, nor is there any distinction of a man's property from that of his wife or sons, but the responsibility extends, if a partner's personal property or that of his immediate family is insufficient to cover his liabilities, to the property and persons of his father, of his brothers, of his uncles and if necessary even farther. All the members of a class are, in theory and in practice, solidarily responsible with their persons and goods for the liabilities of any one of them. The creditors of a partnership concern need not rest satisfied with prosecuting the actual managing partner but may even set him aside if he has no wealthy clan behind him and proceed, on the ground of this law of mutual solidarity, against several or all of the other general partners and their clans. This terrible power being exercised in the form of the harshest criminal proceedings, it is manifest that the consciousness of eventually bringing whole families or clans into the clutches of the criminal law makes the position of a partner in China a far more serious concern than anywhere else in the world.

This brings us to the question of bankruptcy.

IV.

If the term "bankruptcy law" implies, as it justly may be taken to imply, the idea of protection afforded by the law, under certain conditions, to an insolvent debtor, we may at once say that there is no bankruptcy law in China at all. Chinese law knows nothing of that distinction between insolvent non-traders and bankrupt traders which was in force in England up to the year 1861. The idea of giving a debtor, whose assets are insufficient to cover his liabilities, a certificate of discharge, even after he has been stripped of his property or assets, and to free him thereby not only from imprisonment but even from the liability to pay the balance, still due to his creditors, at any future time, even should he afterwards become rich, is entirely opposed to the first principles of Chinese commercial law and usage. Such a whitewashing process, sanctioned by law, appears to every Chinese business man a piece of incomprehensible folly, the inevitable effect of which must, in his opinion, be the demoralisation of the trading classes. Chinese law makes no distinction between bankruptcy caused by reckless speculation and bankruptcy caused by misfortune, and extends no leniency to any insolvent debtor whatsoever.

The only provisions of Chinese law which might possibly be construed as coming near to the idea of shewing leniency, if not a measure of protection, to an insolvent debtor, are those statutes which were enacted to prevent creditors from taking the law into their own hands and using illegal force against a debtor or his family. With the evident purpose of maintaining the sovereignty of the law rather than affording any protection to insolvent debtors, Chinese statute law has enacted the following stringent provisions.

If a creditor, whose debtor has failed to fulfil his agreements, instead of applying to the proper Authorities

(District Magistrate), arbitrarily seizes the debtor's cattle, furniture, or other property, he shall be punished with 80 blows (redeemable by payment of the established fine), provided he has not seized more than was actually due. If the property seized exceeds in value the amount due, the creditor is liable to a further number of blows in proportion to the excess, and the excess is to be restored to the debtor. If a creditor accepts the wife, or wives, and children of his debtor in pledge for eventual payment, he shall be punished with 100 blows, and if he is found to have had criminal intercourse with them, he is liable to further punishment. If a creditor seizes and carries off, by force, his debtor's wives or children, he is liable to increased punishment, and if he has criminal intercourse with the females, he is liable to be strangled to death after the usual period of imprisonment. Such females or children are to be returned and the debt due shall not be recoverable.

That these enactments against arbitrary and and criminal proceedings of creditors are not prompted by any merciful consideration which the law might be supposed to extend to unfortunate bankrupts, will at once appear from the rigorous enactments, also made by statute, against debtors of all descriptions.

If a debtor fails to fulfil his agreements with a creditor, either regarding payment of principal or interest, he is liable to 10-60 blows for debts from 5 to 50 Taels, with an increase of 10 blows every succeeding month, according to the time and amount regarding which he is in default and his responsibility continues until discharged. For debts of 50-100 Taels, the penalty is 20 blows with a monthly increase of 10 blows up to 50 blows. For debts of over 100 Taels the penalties begin with 30 blows and continue with a monthly increase of 10 blows up to 60 blows with the heavy bamboo. In cases of heavier indebtedness or defalcations, penal servitude (including transportation) may be added if bambooing produces no result. Finally, if a debtor absconds, the heads of his family or clan are subject to the same penalties until the debtor is surrendered or payment made.

Apart from the cruelty of such treatment in the case of unfortunate debtors, it is easy to see the convenient effects which a law must have that applies corporal punishment to the person of the debtor with remorseless increasing force from month to month, until the debt is paid or the debtor succumbs, and which substitutes, if need be, his nearest relatives in his place. Chinese law regarding insolvent debtors causes, in the first instance, a salutary dread of over-speculation and bankruptcy; it makes, in the second instance, absconding comparatively rare, and finally prevents the prisons from being filled with small debtors.

It is no doubt owing to these rigorous and merciless provisions of Chinese law which, through the extortionate avarice of the subordinate executive officers, become in practice even more appalling than they appear in theory, that as a matter of fact bankruptcy proceedings in the Courts of China are of rare occurrence, and are only resorted to by creditors who have become so enraged by fraudulent proceedings of a bankrupt as to sink all other considerations in their desire for revenge. In such a case the creditors, having taken possession by force of the debtor's books and —supposing him to have absconded— having placed some one in charge of his premises, proceed to the District Magistrate, state their complaint to a clerk who, after receiving payment of a fee corresponding with the amount of property at stake, drafts for them a petition in due form, a copy of which the creditors retain, whilst another copy signed by them is, after further payment of fees, in due course laid before the Magistrate on his next sitting day, or, if the fees are not forthcoming with alacrity, after some corresponding delay. The Magistrate then issues a summons for the bankrupt to appear and delivers it to one of his police officers, who, receiving no salary, must look to the fees they can exact in the serving of summonses and in the execution of warrants for appropriate compensation for their own and their subordinates' services

which at all times are at the disposal of the Magistrate. The fortunate police officer, in possession of the summons, dispatches some of his hungry runners to the bankrupt's premises to be fed and lodged, there, till further orders, out of the estate or at the expense of the creditors. Meanwhile the police officer sends for the creditors, informs them that he has a summons, but hints that to expedite its being served his expenses must be prepaid. Having received the amount he expected, he authorizes one or two of his runners to serve the summons. If the distance to be traversed be great, these runners sell the monopoly of serving the summons to the highest bidder among the hangers-on of the Yamên. The one who obtains the summons proceeds at his own expense to the residence of the bankrupt's father, where he instals himself and is kept in food and drink whilst haggling for a sufficient money payment to induce him to return to the Yamên with the summons unserved, whereby the bankrupt's family obtain time to negotiate with their own clan and with the creditors. If these negotiations fail, the creditors press the police officer in question once more to serve the summons, and after receiving a heavier fee than before, the officer in question authorizes one of his subordinates to serve the summons in earnest. He proceeds in a sedan chair, with half a dozen runners who also ride in sedan chairs, and the whole party instal themselves at the bankrupt's family residence, live upon the fat of the land, feast and carouse at the expense of the family, until a large fee satisfies every member of the party that the summons has been duly served, whereupon they return with their spoils, portion of which goes to their superior, to the Yamen, reporting that the summons has been served. Meanwhile the negotiations between the bankrupt's family and the creditors continue under the superintendence of the heads of the clan, who put pressure upon the bankrupt's family and nearest relatives to provide funds for the satisfaction of the claims of both creditors and Yamen officials, according to the amount now required to stay proceedings. The first thing is to sell or pledge the bankrupt's daughters, then to mortgage or sell what private property the bankrupt, his father, or his brothers possess, to keep the clan property untouched. If all this fails to satisfy the demands of the Yamên officials and the creditors, the Magistrate is moved, after further fees paid by the creditors to the clerks in the Yamên, to issue a warrant of apprehension against the bankrupt. This is handed to a Police officer in the Yamên, and he goes through the same process with the warrant, as previously was done with the summons, until he and his subordinates have had their share, when, after a new fee by the creditors, a petition is presented to the Magistrate complaining, on the part of the creditors, that the Police officers do not exercise due energy in their attempts to arrest the bankrupt. Thereupon a warrant is issued stating that the officers charged with it shall receive 30 blows if the bankrupt is not brought into Court on a certain day, the date of which is placed sufficiently remote to enable the Police officers and their runners, who now proceed in earnest to the bankrupt's residence to obtain as much as can be got out of the clan by way of fees. The period so fixed is usually further prolonged by a report that the bankrupt *non est inventus*. Thereupon, after renewed fees by the creditors, the Magistrate is moved to issue a notice to the gentry and clan heads concerned, that they will be deprived of their buttons or literary degrees if they do not surrender the bankrupt or his nearest relative by a certain date. Meanwhile the Police officers, having exhausted the resources of the bankrupt's family, live on the property of the clan, until the bankrupt or his substitute are surrendered or until the Police officers are bought off or the Magistrate is bribed to drop proceedings, or an arrangement is made between the clan and the creditors. But if all these means should fail to stay proceedings, the bankrupt or his substitute is conveyed to the prison of the Yamên, when it is the turn of the gaoler and his subordinates to exact fees from the prisoner's relatives for supplying the prisoner with food

and medicine. At every hearing of the case before the Magistrate, torture is applied, for whenever the bankrupt gives an answer appearing to be evasive or untrue, he receives a number of strokes on the lips or on the cheeks or he is made to kneel on chains, quite apart from the regulation blows administered with the bamboo in accordance with the degrees of punishment prescribed, as above stated, by the Penal Code. As it is in the hands of the underlings of the Yamên to administer these various forms of torture and bambooing with more or less severity as they please, it gives these men also a chance to exact fees from the bankrupt's relatives.

We spare our readers any further enumeration of these harrowing details, which are perfectly sufficient to shew that, though the harshness and cruelty of the penal statutes concerning bankrupts are somewhat mitigated by the delays and the system of bribery which pervades their practical application, a bankrupt coming into the clutches of this Chinese law is really a person to be pitied. No wonder therefore that bankruptcies are very rare in China, and that in ninety-nine out of a hundred cases of insolvency the estate is wound up and an arrangement made between the creditors and the bankrupt's family and clan to pay a certain percentage in satisfaction of all claims, whereupon the bankrupt, having become the debtor of his clan, has to work the rest of his life to clear off his liabilities to his clan till its members are satisfied.

A consideration, however, grows out of the above description of bankruptcy proceedings in Chinese Courts, which, though not directly connected with the purpose we have before us, we may point out *en passant*. The fact that vicarious punishment and torture are inseparably connected with this Chinese procedure in bankruptcy, lays it open to question whether the Hongkong Government, which always stipulated the omission of torture before extraditing a Chinese criminal, should have recourse to Treaty stipulations in demanding, through H. M. Consul in Canton, that the Chinese authorities procure the apprehension and punishment of a Chinese debtor absconding from Hongkong into Chinese territory, and the repayment of the amount for which he may be in default. We can quite understand that Sir John Pope Hennessy set this terrible law and its more terrible mode of procedure in motion, through the Consul, whenever a Chinese banker or Nampak Hong merchant petitioned him to do so. For did he not proclaim that torture in China was but rarely applied and of the mildest description, and that the laws of China were the most paternally merciful and kind laws to be imagined? In the face of the above facts, however, we think that the least the Hongkong Government should do in the case of petitions tending to invoke the help of the Chinese bankruptcy law with a view to recover debts due in Hongkong by a runaway Chinese debtor in China is this, that the Government should insist upon the creditors proving their claims first in Summary Jurisdiction in Hongkong, and transmit the claims, if proved, to H.M. Consul in Canton for settlement only on the distinct understanding that no vicarious punishment or torture be employed in the process of recovering the debts. Should it be proved, on the other hand, as we think it to be the case (similarly with torture), that it is *ultra vires* of the Cantonese Authorities to dispense with the process of vicarious punishment and torture if the Chinese law is to be set in motion at all, there is a clear necessity for the Hongkong Government suspending the operation of the Treaty Clauses bearing on this subject and demanding a revision of the Treaty without any delay.

V.

We have seen from our preceding inquiries what the position of a Chinese merchant is in his own country, how he is perpetually controlled and vexatiously interfered with by his Government, how he is hemmed in by traditional barriers and a Governmental system of middlemen, and how he is driven to seek protection in co-operative guilds and trades-unions which again are compelled to work under Governmental control

and are made the tools of the Government for executive purposes. There is no registration, because there is no need for it. The Chinese merchant is practically, at every step and turn, held fast in the leading strings of a paternal Government, which are more effective than any system of registration possibly could be, but also more burdensome. As to the legal status and liabilities of a Chinese merchant, we have further seen that Chinese law knows no limitation of responsibility as regards partnership such as our Partnership Ordinance introduced in Hongkong. Nor does Chinese law know bankruptcy in the sense of entertaining any idea of affording "relief" to insolvent debtors. Legally speaking, the position which Chinese law assigns to a native merchant in China is, to a great extent, similar to the position which an English merchant occupied in England before the statute (34 & 35) of Henry VIII (c. 4) took the jurisdiction in matters of bankruptcy out of the hands of the common law, and before the statute of Anne (4th, c. 17) introduced into English law that novel expedient of whitewashing a bankrupt and discharging him from all further liabilities for debts contracted previous to his surrendering his whole effects and conforming to the law of bankruptcy. We have finally seen that the Chinese law makes no distinction between traders and non-traders in its provisions regarding debtors, and that the mode of procedure against insolvent debtors in China, based as it is on the principle of unlimited vicarious responsibility, and involving corporal punishment and torture, makes the position of an insolvent debtor, and thereby of merchants generally, so truly terrible, that bankruptcy is practically eschewed with fear and trembling and that cases of insolvency are by all but universal practice settled out of Court by liquidation or composition through arrangement with the most importunate of the creditors.

Such has been the practical position of a Chinese merchant, and such the commercial law and usage of China for the last six centuries (since the Yuen Dynasty), and virtually for the last two thousand years. The effect of it has been, in the course of centuries, to mould the character and instincts of Chinese merchants accordingly and to imbue them with habits the net result of which has been to keep commercial morality in China on a comparatively high level.

In proceeding now to sketch the position which the Chinese merchant occupied in Hongkong, previous to the passing of our local Partnership and Bankruptcy Ordinances of 1864 and 1866, we must not forget that it lies in the nature of things that the heirloom of centuries, the inherited instincts, the ingrained habits which form the commercial character, remain little affected by the transfer of a Chinese merchant from China to Hongkong. That loyalty to Queen Victoria, those Anglo-Chinese notions which Sir John Pope Hennessy found it politic to ascribe to the Chinese merchants, traders and shop-keepers of Hongkong, are pure fictions and have no reality, and what expressions of such feelings were some years ago embodied in addresses to the Governor and to the Queen were, as we all know, dictated to them and obediently signed by them, as they would have done it by order of their Mandarins, without meaning anything. The Chinese merchant of Hongkong was, and is, and ever will be Chinese in his loyalty to the Chinese Government and to his country, though he does not object to make what profits he can make out of the double status he occupies as a Chinese subject and as a resident of a British Colony.

In the first instance Chinese merchants brought with them to Hongkong that inherited national love for commercial combination, which developed, accordingly, trades unions and guilds here in Hongkong on essentially the same pattern on which these institutions are built up in China. As the local Government could not be expected to recognize these institutions officially, nor assume the same central guidance of them as the Chinese Government undertakes in China, the innate instinct of the Chinese merchants of Hongkong supplied, within a few years after the establishment of the Colony, and ever since maintained

the supply of this deficiency of a central organ by the appointment of a General Committee in which each guild and trades union has its representative, annually elected by ballot. This Central Committee, which by its casual assumption of the management, in addition to its other functions, of a general Chinese Hospital, came eventually to the surface in 1870, when it was officially recognized and constituted by Ordinance as a corporation, under the name "Tungwah Hospital Committee," existed all along unknown to the Government, and exists to the present day, as a representative Vigilance Committee of all the Chinese guilds and trades unions in the Colony, carrying on official correspondence with the Chinese Government direct on questions connected with the Chinese Imperial Maritime Customs, or regarding matters affecting Chinese emigration, Chinese paupers, orphans, kidnappers and other subjects, like a Chinese Consulate without an Exequatur, and organizing branch Committees in San Francisco, Bangkok, Singapore and elsewhere. We have no violent objection to this organisation, provided it is kept by our Government in due check and not encouraged, as was constantly done by Sir John Pope Hennessy, to meddle with local politics. On the contrary, we gladly recognize what we think is a fact, namely that we owe it to the existence of this mouthpiece and safety valve of the feelings of an ignorant Chinese community, that our Colony has ever remained free from that curse of Chinese communal life in the Straits Settlements, the existence of conflicting Secret Societies. We especially recognize with pleasure that this Central Committee of the Chinese persistently hang back whenever Sir John Pope Hennessy attempted to utilize its organization for his private political manœuvres, that it was this body which so long ago as 1874 petitioned the Government to introduce an Ordinance making the registration of partners in Chinese firms compulsory, that it was this same Committee which in summer 1881 in vain entreated Sir John Pope Hennessy to stop his disastrous encouragement of speculation in Chinese house property, and which, within the last few weeks, canvassed the whole Chinese commercial community with a view to reform, and has now laid before the Government, in eight propositions, definite recommendations to revise and modify our Partnership Law and our mode of procedure in Bankruptcy as affecting Chinese commerce.

But we are digressing and must come back to our present subject, the position of a Chinese merchant in Hongkong as compared with that assigned to him in his own country.

We remarked above that Chinese merchants and tradesmen naturally brought with them to Hongkong the trade instincts and habits of China and quietly transplanted to English soil, unhindered, their national institutions of guilds and and trades unions. We must add now that they not merely brought with them their national system of employing middlemen for all mercantile operations, but successfully compelled, in the quietest possible manner, even foreign merchants to employ middlemen likewise. These middlemen have become known, on the Chinese side, in the commercial intercourse between Chinese and foreigners, under the hybrid name "Macheen" (a Chinese corruption of the, to them unpronounceable, term "Merchant") as the designation of the representatives of Chinese firms dealing with foreigners, and on the European side, under the name "Compradore" (a term borrowed from the Portuguese language) as the Chinese representative servants of foreign firms dealing with Chinese. Now it is important to note that the Chinese middleman or broker, as represented by the Macheen of Hongkong, has a different position here from that which he occupies in China. In China he is simply a broker, responsible at every moment to a paternal but cruel government, and occupies a position analogous, in some respects, to that of a sworn broker of London, but liable to criminal proceedings, involving corporal punishment, even for acts coming under that vague and doubtful category of "encouraging unfair trade," which makes his position one of extreme personal risk. The Hongkong Macheen, on the other

hand, is the private representative of one or more native firms; he may or may not be a broker; he may be a principal or merely an agent and servant; but he certainly is like a wily, slippery serpent as far as responsibility is concerned and at the same time like a harmless dove to all outward appearance. Every Chinese firm in the Colony, that has large dealings with foreigners, employs one or more of these Macheens, who, by a more or less imperfect knowledge of the slang called *pidgin* English, combined with an intimate acquaintance with English modes of trade, with the markets and local financing, have made themselves the indispensable intermediaries between Chinese and English in commerce in Hongkong. The real principals of the largest Chinese firms of Hongkong remain personally as inaccessible to the foreign merchant in Hongkong as the prime movers of Chinese politics remain inaccessible to the foreign diplomatist in Peking. The mischief of the Macheen system lies in this, that in the course of time each of these Macheens becomes, in the consciousness of the foreign merchants with whom he regularly deals, identified with the Chinese hongs or shops which he represents and in which he commonly has a share interest. Things work smoothly and pleasantly enough as long as there is no hitch in the solvency of the concerns represented by a Macheen, but the moment one of these Chinese firms becomes hopelessly insolvent, let the foreign merchant attempt to fasten any responsibility on the Macheen, and he is met by a blank smile on the part of the latter and the assurance, which on inquiry is proved by abundant Chinese evidence, that he never held himself out as, and in fact, never was, anything else but a paid agent and uninterested employé. Many of these Macheens transact a large amount of brokerage business without assuming the title or reputation of regular brokers, but to the eye of the foreign merchant the whole position of a Chinese Macheen is studiously veiled in such a haze of obscurity that in 1866, when the question arose of introducing here the system of sworn European brokers, there was a conflict of opinion among the most experienced English merchants of Hongkong as to the question whether there were any Chinese brokers in this Colony or not. At a meeting of the Chamber of Commerce, the head of one English firm said there was no such class as Chinese brokers, that he knew of dealers who bought goods, but, as these same dealers both cleared and paid for their purchases and claimed no brokerage, they could not be regarded as anything but principals. The head of another English firm concurred in this remark, adding that, although he was in the habit of selling to the Chinese, he had never yet paid brokerage on such sales. But the head of a third English firm contended that Chinese brokers did exist, that he had had transactions with them, and moreover that Messrs Jardine, Matheson & Co. did business through Chinese brokers.

The position of a "Compradore" is different from that of a Macheen, and yet analogous to it, as but another link in the chain of thraldom with which the foreign merchant is environed and as offering equal facilities to evade personal responsibility. The position and functions of a Compradore are of a rather complex nature. He is in the first instance the paid servant and confidential agent of the foreign merchant, but he is occasionally mixed up by his employer in special contracts made by the firm for special operations, which makes him for the occasion a principal, and yet, if it suits him, he may easily throw off even then the responsibility he incurs, owing to the great responsibility English law attaches to masters in respect to their servants. But, whilst being a servant of his foreign employer, the Compradore is also an independent merchant on his own account or in partnership with native firms, and, may be, a member of native guilds which he occasionally supplies with all-important information as to the limit of what the foreign markets can pay and the extent of the necessities of the foreign firms for buying. Again, the Compradore is frequently also acting the part of broker and commonly receives, unknown to his employer, a share in the profits which

the native dealer, introduced by the Compradore to his employer, makes on transactions with the latter. The Compradore system is a convenient and indispensable institution, the growth of time and sustained by the force of circumstances, but at the same time it is a system fraught with danger to the foreign merchant and banker. The Compradore's services are convenient, because he is guaranteed by the native merchants as to his own honesty, because he guarantees the honesty of all the native employés of the foreign firm whose trusted confidential servant he is, and because he stands security for the solvency of the firm's native customers introduced by him. What makes the Compradore, however, indispensable to the foreign merchant and banker, is the abyss which, studiously maintained by all native merchants, separates the latter in language, social intercourse and ways of thought, from all foreigners whatever. For it is this native exclusiveness as regards foreigners which secures, on the side of the foreign merchant and banker, to the Compradore the monopoly of intimate acquaintance with the native markets and with the solvency or insolvency of native dealers and banks, an amount of knowledge which he, as a native and as a partner in native firms and a member of native guilds, can collect and keep *au courant*, but which, as long as this exclusiveness of native merchants continues, will ever remain inaccessible to the foreign merchant, be he ever so good a Chinese linguist. But the danger which lurks in the whole Compradoric system to the foreign merchants will be found in two circumstances, first that, while it pretends to take, in many cases at least, a considerable amount of responsibility off the foreign merchant's shoulders, the functions of a Compradore are so complex, and his position accordingly so many-sided, that it affords him far more loopholes to evade responsibility, when his own interests demand it, and secondly, that the Compradoric system is virtually the means by which the native trader, with his inborn adeptness in commercial intrigues, is enabled to conspire with the Compradore in order to play fast and loose with the capital of the foreign merchant. If it is true, as some theorists have maintained again and again,—a theory which Sir John Pope Hennessy adopted with eminent gusto and proclaimed as a fact with rejoicing,—that there is a tendency in Chinese trade, as at present conducted, to convert the great export and import houses of foreign trade into mere agencies of the native merchant, it is the Macheen and Compradore system which most strongly supports the alleged tendency.

Apart from the system of trades unions and guilds, which have all along flourished securely in Hongkong, and side by side with the system of middlemen, exemplified by the Macheens and Compradores, the Chinese who settled in Hongkong brought with them also and maintained here all along their national forms of partnership, as referred to above. To begin with, that Chinese form of partnership, *en commandite*, to which we alluded in a former article, is widely spread throughout the Chinese community of Hongkong. It is a matter of common occurrence that a foreign merchant's table-boy, cook, house-coolie and amah, may each be a dormant partner in one or more local shops or hongs, just as the foreign merchant's Compradore, whilst serving him as the employé of the foreign firm, may at the same time also be a dormant partner in several native shops or hongs, and an active partner in one or two others, besides carrying on a regular business or special occasional ventures on his own account.

Among Chinese unconnected with foreigners there has likewise been at all times a most extraordinary network of investments, for which there is hardly a parallel among corresponding classes of any other nation, except perhaps the Jewish people. There are, in the first instance, so-called money-loan associations, most common among the non-trading classes and specially patronized by domestic servants, most especially however by women. These associations are based on general well-understood principles and guided by unwritten but generally accepted rules, into which we

cannot enter here in detail. Most commonly they are formed on the following scheme. Some ten or more individuals agree, at the proposal of a middleman or female broker, to take shares and bind themselves, orally or by signing articles of association written on the first few leaves of the association's account book, to pay, during a period of as many months as the association counts members, on a fixed day of each month a stipulated nominal sum. On the first of these call-days each shareholder meets with the others in person or by proxy, frequently combining with the occasion a sort of dinner party, and each presents a closed tender offering a certain amount of interest for the loan of the whole subscribed capital of the association that is payable on that day and for the time fixed by the articles of association. The share contributions of each shareholder are then paid in, and the tenders publicly opened, whereupon the person found to be the highest successful bidder receives the sum total minus the interest, which is at once deducted, and, though he has henceforth to pay his call every month like the others, he is henceforth excluded from the option of tendering for a loan. On the next call-day the other shareholders put in their tenders as before and are dealt with in the same way. The same process is repeated every month till every member of the association has had his turn, whereupon the association meets for the final passing of the accounts and is thereby wound up, the manager and collector of the association having received special remuneration out of the common fund. The convenience of this financial operation is obvious. But as many private individuals are thus at the same time managers or shareholders in several different money-loan associations, this network of engagements, if disturbed by the death, temporary absence, insolvency or absconding of a manager or shareholder, leads to an entanglement of conflicting interests, and to a complication of accounts, which forms a fruitful source of disputes wasting much of the time and severely trying the patience of the Judge in Summary Jurisdiction, who, strange to say, has no Court Accountant acquainted with the Chinese language to assist him in any question of Chinese accounts coming before the Court.

The same classes of natives amongst which these money-loan associations flourish are also very much given to investing their small savings in shops and industrial undertakings on the principle of partnership *en commandite* as above mentioned. It may in truth be said that there is hardly any distinction among the Chinese population in Hongkong between traders and non-traders, for the national passion for trade in some form or other is as ingrained in everybody, man, woman and child, and as freely and generally indulged in as the national passion for gambling, which, in the view of the better classes at least, is indeed morally reprehensible, but after all merely a more speculative form of trading. An instance of this will be found in the late mania for speculations in house property, in which domestic employés, clerks and schoolmasters, and persons of all descriptions were mixed up more than professional merchants. The only distinction that can be made with reference to the Chinese residents of Hongkong in this regard is this that we may distinguish open and professed traders from underhand and amateur traders, for with rare exceptions they are almost all participating in trade operations, directly or indirectly, in one way or other.

As among these nondescript trading spirits of the Chinese community of Hongkong the network of investments is of an extremely complex nature, thus also the professed trading classes of our Chinese residents ever move in an equally puzzling entanglement of partnership engagements. The typical Chinese shopkeeper or merchant who finds himself confronted by an opposition business competing with him in his particular sphere, feels no temptation, as a European would, to fly into a rage and try to undersell his competitors by lowering his prices, but his first endeavour will be, in all good humour, to manage, directly or indirectly, to obtain a partnership share, whether dormant (to begin with) or

active, in the opposing concern, with a view to eventual amalgamation, if the latter is successful, or, if it is found unsuccessful, with a view to withdraw from it again and to proceed in his own line unconcernedly. It is this cool-headed gregarious instinct, and the predominance of that passion for combination and association, which distinguishes the Chinaman in Hongkong and abroad from the trading classes of all other nations, and which gives him naturally a considerable advantage to start with. Accordingly, there is hardly a Chinese firm or Chinese merchant in this Colony that has not partnership connections with other firms or other merchants in one and the same line of business or in several kindred lines. Side by side with this permanent warp and woof connection between different Chinese firms and merchants, there are constantly special partnership agreements made between different firms or persons for temporary and individual ventures. It is likewise a common practice among Chinese shopkeepers and merchants in Hongkong to carry on business in several distinct localities at the same time, and to use in each of these localities a different firm name, although these different firms may really consist of the same individuals. The advantage to be derived from this common device need not be discussed here, but it is well to point out that this practice, though not exactly illegal, is devised with the intention to deceive, and acts injuriously, not so much to the Chinese consumers as to the foreign merchant and banker who may be induced to entrust goods, give credit or advance money to these seemingly different firms under the belief that they have different resources and different bases of credit. There is no means, short of registration, to protect the foreign merchant and banker against the mischief with which this common device of Chinese trade is fraught.

In connection with this network of partnership connections which is so characteristic a feature of Chinese commerce, we must draw attention to this remarkable point in it, namely, that with all this innate love for and cleverness in intricate commercial organization and combination, the Chinese community of Hongkong have ever scrupulously abstained from joining in partnership with foreigners. Here lies, in our opinion, the principal reason why the Chinese trade of Hongkong requires exceptional legislation, different legislation, we mean, from that evolved by the necessities of the trading communities of England. But herein lies also the main strength which Chinese trade possesses in its competition with foreign trade. If Chinese would freely and confidently amalgamate their interests —and there has been no lack of willingness on the foreign side—by joining in partnership for commercial purposes with English and other foreign merchants of Hongkong, the great differences which now exist between them in the mode of conducting trade would gradually disappear by mutual assimilation, uniform legislation for both Chinese and foreigners here would become a possibility, and, last but not least, the Macheen and Compradore system would be finally doomed, though it is indeed proof against any other device to remove the yoke it has placed on the foreign commerce of this Colony.

Along with their systems of trades unions, middlemen and partnership combinations, the Chinese brought with them to Hongkong also their national and inherited code of commercial morality. We remarked above on the causes, chiefly of a penal and restrictive nature, which contributed to keep the commercial morality of Chinese merchants in their own country on a comparatively high level. For years the Chinese merchant of Hongkong continued to distinguish himself by general honesty and promptness in his dealings with Foreigners as with his countrymen. For years he continued to look upon a promise or guarantee given by him as of equally binding force whether given verbally or in writing. For years he abstained, as a general rule, from rash speculations and though there were always individuals gambling in opium and quicksilver time bargains, the general body of the Chinese merchants of Hongkong condemned these practices as vicious and injurious. Most of all,

however, it is to be noted, that for years the Chinese merchant of Hongkong preserved that wholesome inherited dread of bankruptcy which distinguished his *confrère* in China. On this point we have the testimony of one of the most experienced local English bankers, who said before the Supreme Court Commission some years ago, "formerly there were no failures amongst respectable Chinese," and who on the same occasion observed, "the respectable Chinese do not want bankruptcy laws at all; their system is, if you have money, you must pay, sell everything you have and your earnings for the future." These remarks are perfectly true as an historical observation applying to the whole course Chinese trade ran from the foundation of this Colony in 1842, down to the time 1864-1867, when the Bankruptcy and Partnership Ordinances began to exercise their baneful effects on the commercial morality of the native merchants of Hongkong. The same experienced English banker, who stated that "formerly" there were no failures amongst respectable Chinese, points to the Bankruptcy Ordinance of 1864 as one of the sources whence the altered state of Chinese commercial morals flowed in later years. For he referred pointedly to the abuses connected with the working of the Bankruptcy Ordinance, when speaking before the Supreme Court Commission. "The trickery, (he said) that is going on in connection with Chinese bankruptcies is dreadful. The bankruptcy laws are playing havoc with the morals of the people. Men are making it a profession to go round and advise people to fail. . . . Now they are beginning to realize that they can get off scot free, and their respectability is not standing proof against the temptation. I know bankruptcies in which nearly a lac of dollars' worth of property has been made away with to bankrupts' friends and then he gets it back when he comes out of Court." This was said in 1879. But the harvest that was then being reaped in the bitter experience of foreign merchants in Hongkong, was really sown during the years 1864-1867 to which we referred. There was indeed insolvency law in force in Hongkong even before 1864, when the Imperial Bankruptcy Act of 1861 was made operative in this Colony. But the baneful effects of that Act, which were as strongly felt in England, and there led to the substitution of a new Bankruptcy Act in 1869—never introduced in Hongkong,—were not set in motion in Hongkong to the damage of Chinese commercial morality until the Partnership Ordinance of 1867 limited the responsibility of partners in Chinese as well as in foreign firms, and thereby held out to the Chinese, unaccustomed to such liberty and unrestrained by the English custom of advertizing in the public papers the partners of each firm, a terrible temptation. The temptation consisted in this, that the Chinese who previously understood it to be a matter of course that all the partners of a firm would, without exception, be held responsible for the firm's liabilities, now learned, from the practical application of the Partnership Ordinance of 1867, that by the simple process of representing the paid manager or the poorest of the partners of each firm as the sole active partner, and by entering in their books the funds contributed by each active partner as mere loans given to the firm on condition of receiving a certain percentage of the firm's annual net profits, they could not only make use of the Bankruptcy Ordinance to shake off troublesome debts, when involved, but even come in, though in a secondary position, as creditors of their own quasi-bankrupt estates, and recover a portion of their assets out of the hands of the real creditors. In this proceeding they were specially sheltered by the absence of that custom of previously advertizing the names of partners in their firms, and by the general obscurity in which all partnership connections regarding Chinese firms were studiously veiled, especially to the eyes of foreign merchants. A further temptation and encouragement in such proceedings was provided by the fact that most Chinese firms in Hongkong have branch-offices in Canton or elsewhere in China, or have partners residing there. Taking advantage of this proximity of their

own country, it was an easy step to transfer part of their available assets out of the jurisdiction of the Bankruptcy Court of Hongkong, before sending that man of straw, their manager or indigent partner, to declare himself bankrupt on behalf of the firm as alleged sole partner. To all this must be added the general reluctance of Chinese creditors to sue in Court and throw good money after bad, the specific indolence which ever characterized the official management of bankrupt estates in England as well as in Hongkong where it generally took some 15 or more years to wind up an estate if it had once got into the Registrar's hands, and especially the ignorance of the specific features of Chinese commerce and Chinese accounts which naturally hampers an English Bankruptcy Court in the absence of Chinese Commercial Assessors and Accountants. On this latter point a startling light was thrown by the evidence of a professional English Accountant, who had had special experience in the manner in which the Bankruptcy Court dealt with bankrupt Chinese estates, and who described before the Supreme Court Commission the general practice which prevailed, in these terse words, "a Chinese bankrupt brings his books and no one looks at them." Under these circumstances it cannot be a matter of surprise to any one, that the noble plant called Chinese commercial morality, though it had continued to flourish for many years after it was transplanted into the British soil of Hongkong, began to fade after the years 1864-1867 and gradually withered and died away under such sinister influences. Thus it came about that, whilst the Chinese merchant of Hongkong brought with him from China and maintained here all along his native commercial instincts and institutions and developed here undisturbedly his trades unions, his middlemen and partnership systems, working pretty much in the same grooves as in China, his commercial morality gradually decayed under the influence of inappropriate legislation and through the absence of any substitute for the accustomed trade restraints of his own country.

To complete the above sketch of the general features which commerce assumed in the hands of Chinese merchants in Hongkong, we add, though it is a subject foreign to our present inquiries, that neither the traditional code of Chinese commercial morality nor the characteristic patriotism of Chinese merchants in Hongkong ever had any objection whatever to smuggling transactions or to underhand arrangements with subordinate native Customs stations with a view to compound the tariff duties. The temptation offered by the high duties on opium, and by the salt, sulphur, tin, copper and other monopolies of the Chinese Government, coupled with the peculiar facilities which the topographical situation of a free port like Hongkong offered for smuggling operations, brought it about that the Chinese trade of Hongkong, as carried on by our Chinese merchants exclusively, ever was to a great extent based on direct or indirect smuggling operations.

VI.

Having stated the reasons for our conviction that the Chinese merchants of Hongkong, who recently petitioned the Government with reference to certain amendments they propose in the law regarding partnership in Chinese firms and in the mode of procedure in Chinese bankruptcies, are perfectly justified in tracing back the decay of commercial morality which they demonstrate to have taken place of late in the case of the Chinese community of Hongkong, to the inappropriate and inadequate character of the provisions of our local laws regarding bankruptcy and partnership, it is well, before we proceed further in our inquiry, to pause for a moment and to consider the history of these laws.

The bankruptcy law of England was, ever since the beginning of the reign of Queen Victoria, when Courts for the relief of insolvent debtors were first established, a source of chronic dissatisfaction. It underwent, accordingly, periodical revolutions which have finally landed us in such a chaos of conflicting opinions as to the merits of the latest draft bill of revision, now for years past

on the table of the House of Commons, that in view of the six Government bills we have had on the subject and the thirteen amendments now proposed, it is not to be wondered at that the idea is coming to the front, it would perhaps be better for all parties concerned to have no bankruptcy law at all. When the Act of 1861 removed all distinctions between traders and non-traders, abolished also imprisonment for debt and threw the portals of the bankruptcy Court open to all, it was supposed the troublesome problem had been satisfactorily solved. But it was soon found that the evils removed had but been substituted by others equally potent, that debtors became more reckless and that creditors, seeing the ruinous perfection with which money paid into bankruptcy Courts disappeared under the hands of the official assignees, preferred to remain inactive and complained more than ever. The Act of 1869 accordingly renewed the terrors of imprisonment for debt, threw the duty of looking after the assets of a bankrupt upon the creditors themselves, and, instead of allowing a bankrupt a complete clearance of his liabilities, compelled him to pay off within three years of his bankruptcy, out of his future earnings, 50 per cent. of the amount due, under penalty of not obtaining his discharge, any such sum that remained unsatisfied assuming the nature of a judgment debt recoverable by execution on his then property. But it was soon found that this Act rather tended to encourage fraudulent bankruptcies, that the creditors would not take upon themselves the duties imposed on them, and that the official machinery of the comptroller in bankruptcy was working with exasperating dilatoriness. New bills accordingly were brought out and withdrawn again, and the latest expedient now proposed is to place the Board of Trade on the stage of bankruptcy law, as a *Deus ex machina*, and to bring about the desirable millennium by placing the comptroller in bankruptcy with his staff under the direction of the Board of Trade.

Such is briefly the course bankruptcy law has run in England since the beginning of our present reign. We will now turn and see how this bankruptcy law affected the Chinese merchants of Hongkong during the same period.

Up to the year 1864 there was, strictly speaking, no bankruptcy law operative in Hongkong at all. There was Ordinance 3 of 1846 for the relief of insolvent debtors, but it entitled only prisoners in actual custody within the walls of the prison to petition the Court for relief. Ordinance 5 of 1846 added to it an unimportant clause regarding power to give notices under the previous Ordinance, and Ordinance 6 of 1846 added a further clause investing the Judge at Chambers with powers of Court. This was the only law regarding insolvency in force in Hongkong until the end of the year 1863. It is noteworthy that up to this time, that is for 20 years, the Colony of Hongkong got along very well, prospered and flourished, without bankruptcy law, and that during this time, as we have stated in our preceding article, bankruptcies among respectable Chinese were few and far between, and Chinese commercial morality continued unchecked at a comparatively high level.

When, however, the Bankruptcy Act of 1861 became law in England, it occurred to Mr (now Sir) John Smale, then Attorney General of Hongkong, to adapt it to the peculiar needs of Hongkong. He accordingly drafted an Ordinance embodying the leading ideas of the Imperial Act with such alterations as he thought advisable. This draft was submitted to the Colonial Office, but for some reason or other it was set aside. We are not in a position to judge of the merits of Mr Smale's draft, but considering the local experience he possessed, it is possible, if not probable, that his scheme would have answered the requirements of the Colony better than the Ordinance soon after introduced. Most probably, however, it would have been better to do nothing at all than to introduce the Imperial Act wholesale as was done subsequently. For some time the matter rested, but in 1863 some Indian opium merchants of Hongkong became defaulters to an enormous amount, on the first notice of which fact a local Bank, acting promptly and opportunely, took

possession of a large sum belonging to the defaulters, and in spite of all the efforts made by the other, less energetic, creditors to have that amount included in the assets of the insolvent estate, it was found that the law of Hongkong, as it then stood, favoured the most importune and most energetic creditor at the expense of the others. Personally we are inclined to think that this is precisely as in the nature of things it should be, but, however that may be, the foreign community of Hongkong was of a different opinion, and as the *China Mail* then put it "the enormous opium fraud which is likely to be for many years without a parallel led to the want of a bankruptcy Ordinance being felt." The fact that this want was not sooner felt in Hongkong speaks volumes for the commercial morality of Chinese merchants of Hongkong previous to this time and has a significant bearing on the demoralisation which subsequently ensued.

To proceed, however, with our inquiry, it was consequent upon this assumed want of a bankruptcy Ordinance, felt by the foreign merchants of Hongkong in 1863, that the Authorities at Downing Street entrusted a Mr Burke with the preparation of a bankruptcy Ordinance for Hongkong on the model of the Imperial Act of 1861. This Ordinance, which was facetiously known, from the fee which the Colonial Office paid for it, as the "Hundred Guinea Ordinance," was characteristically described by the Duke of Newcastle as having taken three weeks to print. It was laid before the Legislative Council in November 1863, when the Governor referred to this new bankruptcy Ordinance as one "sent from home," though neither he nor any Member of Council, Mr. Smale perhaps excepted, appears to have had a clear conception of its inappropriateness in view of the peculiar circumstances of the Colony and the mischief it was likely to work. Mr. Smale, indeed, relieved his mind by detailing the circumstances under which he had framed the bill which had been set aside by the Downing Street Authorities, but though he solemnly washed his hands of the new Ordinance by saying he felt relieved from the responsibility of answering for the consequences that might ensue from its adoption, he did not oppose it or seek to modify it in any material point. A communication from Chief Justice Adams was read at the same meeting, in which the absent Chief Justice expressed his approval of the tenor of Mr. Smale's rejected bill. Nevertheless the Ordinance "sent from home" prevailed, and a Committee was appointed "to give the present Ordinance a suitable form." But this Committee did not modify the Ordinance as sent out in any essential. Thus it became the law of the Colony and remained so to this day, even when the evils caused by it had become as glaring in England as in Hongkong.

When these evils were sought to be rectified in England, and the Act of 1869 was substituted for that of 1861, it occurred to many in Hongkong to apply the same remedy here. The remarks made, in 1873, on this subject by the public press clearly show how different the state of commercial morality had become since the introduction of bankruptcy law in the Colony. For the same paper, the *China Mail*, which in 1863 stated that for a score of years the Colony of Hongkong had been able to get along without bankruptcy law, and which in 1863 with reference to the fraud committed by Indian merchants said that the want of a bankruptcy Ordinance was now being felt, referred in 1873 to a rumoured intention of the Government to introduce in this Colony the bankruptcy Act of 1869, in the following words:—"Should the proposition to make the Act of 1869 operative here be carried out, it will go far to check another form of fraudulent bankruptcy in which Chinese and people of Indian nationality are disgracefully adept. With many of these the bankruptcy Court has degenerated into an easily-availed-of means of unadulterated swindling." These remarks clearly indicate that in the opinion of the writer Chinese commercial morality had degenerated in Hongkong through the influence of bankruptcy law. However, much as this law has to answer for, it was not the

only, and in our opinion, not the first source of the moral degeneracy which invaded Chinese commerce in Hongkong, as the partnership law had as much if not more to do with it.

In proceeding now to follow up the history of our local partnership law from its fountain source in England to its incorporation in the Hongkong Ordinance No. 7, of 1867, in the way in which we sketched it out in the case of our bankruptcy law, we have to go back to the year 1837.

Practical difficulties which constantly occurred in England, in connection with the application of partnership law, especially also the trouble then involved in legal proceedings against firms the partners of which were numerous, and the great difference between the then existing English and Continental laws of partnership, had aroused public attention in 1837 so much that the Board of Trade was moved to take the matter up. With laudable caution, however, the Board of Trade confined its action to the ordering of a formal inquiry into the state of the law of partnership. It is remarkable also that in directing this investigation the Board of Trade required special attention to be given to the question "whether it would be expedient to introduce a law authorizing persons to become partners in trade with a limited responsibility similar to the French law of partnership *en commandite*." The reason was that this French partnership law, based on the public registration of partners, and exempting from responsibility dormant partners, though receiving a fixed proportion of the profits of a firm, was at the time strongly recommended by the public press for introduction in England. The report of Mr Bellenden Kerr, to whom the Board of Trade had entrusted the conduct of the inquiry, was however unfavourable to the introduction of this French system, though it quoted, in favour of it, the opinions of men like Lord Ashburton, Mr G. W. Norman and the Hon. Francis Baring.

Herewith the matter rested for the next thirteen years, though meanwhile (in 1844) the principle of registration, with the distinct aim to afford a check against fraud, had been favourably reported on by a Committee of the House of Commons, and was accordingly embodied in the Joint-stock Companies Act (7 & 8 Vict., c. 110), which gave power to all registered companies to sue and to be sued in the name of their officers. The other principle, also represented by the French system, that of limited responsibility, was, on the motion of Mr Slaney, taken up by two successive Committees of the House of Commons in 1850 and 1851, and the result was that a royal commission, appointed in 1852, was finally (in 1853) instructed to inquire and report on the question whether any and what alterations and amendments should be made in the law of partnership as regards the subject of limited or unlimited responsibility of partners. Co-operative industrial undertakings were then the rage of the day. Whilst reporting, with reference to large trading concerns, possessed of marketable shares, that the proposed limitation of responsibility was not called for by any want of sufficient capital for the requirements of trade, and that it would not operate beneficially on the general trading interests of the country as it would encourage speculation, the royal commission reported at the same time that it was desirable to encourage smaller business undertakings of a more limited character, from which benefit to the humbler classes of society might accrue, by limiting the liability of those who embark in them. A minority of the same commission, however, headed by Mr James Anderson Q.C., and Mr (since Baron) Bramwell, dissented even from the former of these two propositions, and urged the experience of other countries as well as the inconvenience that arose from our law being different from that of all other commercial countries.

These views were accordingly taken up by Mr (now Sir) Robert P. Collier, who, in 1854, moved a resolution in the House of Commons to the effect that "the law of partnership, which renders every person, who, though not an ostensible partner, shares the profits of a trading concern, liable to the whole of its debts, is unsatisfactory and should be so far

modified as to permit persons to contribute to the capital of such concerns on terms of sharing their profits without incurring liability beyond a limited amount." The interests of co-operative industrial societies being strongly represented in the House, the above resolution was warmly supported on all sides, and only withdrawn with the understanding that the Government would introduce a bill in the sense of that resolution. This was done in 1855, but the bill had eventually to be withdrawn, though another bill, limiting the liability of members of certain joint-stock companies, was passed, and the principle of it was henceforth generally admitted as sound. It was not, however, till ten years later, when the celebrated case of Cox *v.* Hickmann was decided by the House of Lords, in 1865, by the application of this principle of limited responsibility to questions of partnership, that the subject of Sir Robert P. Collier's motion came to be embodied in our present Partnership Amendment Act (28 and 29 Vict., c. 86) of 1865.

This Act, almost literally transcribed in our local Ordinance 7 of 1867, lays down that the advance of money on contract to receive a share of profits does not of itself constitute the lender a partner and that the remuneration of agents or servants, by share of profits, does not of itself make them partners. The only difference, a purely verbal one, between our local Ordinance and the Imperial Act consists in the former substituting, for the words "taking the benefit of any Act for the relief of insolvent debtors or entering into an arrangement to pay his creditors less than twenty shillings in the pound," the following words, "entering into an arrangement to pay his creditors less than the full amount of their respective claims." Thus the Imperial Act, whose introduction had not been called for by any necessities felt in this Colony, and which had simply arisen out of the peculiar wants felt in England through the extraordinary spread of co-operative industrial and mercantile undertakings, was made operative in Hongkong. That it would be useful to the foreign commerce of Hongkong, in bringing more capital into the Colony, was of course foreseen here, but we searched in vain among the papers of the time for a trace of any consideration given to the question how this Act, in being made operative in Hongkong, would affect Chinese trade and Chinese commercial morality, by exposing the Chinese to the temptation, referred to in the report of the royal commission, of indulging in reckless speculation. Previous to the introduction of this Act, the fact that almost every local Chinese concern had a considerable number of partners *en commandite*, who were all responsible for its liabilities, and who, being mostly residents and settlers in the Colony, could easily be got at in case of insolvency, gave special security to commercial dealings between Chinese and Foreigners and made the Chinese more cautious. Yet it does not appear to have occurred to any one at the time that the necessary effect of this Ordinance, especially in connection with the provisions of the preceding bankruptcy Ordinance, would be, through limiting the responsibility under which the Chinese previously knew themselves, to encourage speculation amongst the Chinese traders and *commandite* partners, and to minimise the security afforded to Foreigners in their dealings with Chinese against such reckless speculation on the part of the latter. What was even more unfortunate than this oversight, was, however, the omission of an original feature in this limited liability system, as borrowed from the French code. In France and on the Continent generally this system is worked, and works well, on the basis of compulsory official registration of all partners. In England, and even as regards English and other foreign merchants of Hongkong, it was practically unnecessary to enforce this registration in connection with that Act, because as a matter of fact all English and foreign firms invariably advertise in the public papers the names of their partners and all changes occurring in partnership connections. But the omission of any provision for advertizing or registering partners naturally vitiated the good effects of the Act so far as it was applied to a trading

community like the Chinese here, who do not advertise their partners but systematically conceal their existence.

When introducing the partnership Ordinance in the Legislative Council of Hongkong, in June 1867, the Governor, Sir Richard G. MacDonnell, said he expected the Chief Justice to hold forth thereupon, and added that it was "a purely Imperial Ordinance," having been transcribed from the Imperial Statute. It would, he expected, be of great service to the Colony and would draw a great addition of capital towards Hongkong, but as its provisions seemed likely to affect the property of subjects at home, he would suggest to add a suspending clause and await its approval by the Home Authorities. The Chief Justice, Sir John Smale, thereupon remarked that he had thought over the Ordinance the provisions of which certainly did affect the rights and interests of property at home, but that he fully approved of the measure and was glad to disappoint His Excellency by not holding forth any further upon it. The Ordinance was then passed without any further discussion, and soon after became law in the Colony.

When we consider that, as Sir Richard Graves MacDonnell a few months afterwards (July 30, 1867) put it, "the commercial depression of the previous year had been aggravated and the tradal interests of the Colony were passing through a crisis such as had never before occurred in the history of Hongkong," we can well understand that the non-official members of Council, and the foreign community in general, were so wrapt up in their own affairs and so apprehensive of the good results to be derived from the new Ordinance that they omitted to consider the probable effect it would have on Chinese commercial morality, unused as it was to the tempting liberties of limited liability. Had Sir Richard G. MacDonnell, however, foreseen it and accordingly imposed compulsory registration of partners on Chinese trade, the old philanthropic bugbear of class legislation would no doubt have thrown impediments in the way of a measure which the peculiar circumstances of this Colony actually demanded.

VII.

If our readers have followed the argument of our preceding inquiries, they will have seen, that Chinese commercial morality and Chinese trade usages remained, on the whole, unaffected by transference to Hongkong and the consequent contact with foreign laws, until the time, 1864-1867, when the bankruptcy and partnership Ordinances opened the flood-gates of speculation and fraudulent declarations of bankruptcy to such an extent, that, whilst in 1863 Chinese commerce was still distinguished by general probity and soundness, and by an almost total absence of failures, the newly-opened bankruptcy Court had, ten years later, degenerated into "an easily-availed-of means of unadulterated swindling." Our readers will have further seen from our detailed inquiry into the history of those Ordinances, that both of them were simply the outgrowth of the peculiar circumstances of England, and that in both cases the Imperial Act was introduced wholesale into this Colony without any further consideration, but that the Act would have a beneficial effect on the foreign commerce of Hongkong. The idea that one man's food might be another man's poison, and that these well-meant pieces of English legislation might, in view of the peculiar circumstances of the Chinese commercial community, be the source of serious mischief in Hongkong, does not appear, as far as our information goes, to have occurred at the time to any one in authority. But the eyes of all were soon opened to the serious character of the evils which resulted from this commercial legislation. In 1873 the whole community, including native and foreign merchants, the Bench and the Press, were unanimous in deploring the sudden demoralisation of Chinese commerce, and began to cast about for remedies.

It is noteworthy that the Chinese were the first to propose a remedy, and that the remedy they proposed in 1873 (and 1874) is identically the same with that which they now urge upon the Government in 1882, viz., the compulsory registration of partners in Chinese Hongs. Under date of 10th March,

1873, the Editor of the *China Mail* mentions the fact in the following words: —"A recommendation made to us—and which, we may add, comes from a native, not a foreign, source—suggests that all Chinese Hongs be required to register, at the Registrar General's office, the full names of their partners and employés." The writer, who concurs in their suggestion, then continues to make some remarks which deserve repeating as they, no doubt, expressed the views held at the time by at least a large section of the foreign community. "Doubtless," he says, "an Ordinance compelling this action would be 'class legislation,' but it would be so because the foreign community voluntarily furnish in several different ways the information such an Ordinance would be designed to obtain. We do not in reality see any very strong reason why foreign firms should not equally register themselves, except that all legislation not designed to meet a known want or to provide against a known abuse is objectionable. Whatever be the view taken regarding foreigners, however, the desirability of native registration cannot be gainsaid."

These words were penned, in March 1873, by Dr. Dennys, then Editor of the *China Mail*. The Editor of the *Daily Press*, Mr. Dulcken, also referred, in October 1873, in writing his "Notes on Commercial Law," to the general obscurity existing as to the Chinese laws and modes of partnership, in the following words:—"So much inconvenience has resulted from this cause, that Mr Smale, Chief Justice of Hongkong, recently called attention to the subject, and it is understood that an attempt will be made in this Colony to introduce an Ordinance providing for the registration of the partners in Chinese firms, under some system analogous to that which exists in France at the present day."

Here we have therefore a remarkable consensus of both the public Press and the Bench regarding the proposition which first emanated from the Chinese community, to make the registration of partners in Chinese firms compulsory. As to the particular mode to be followed in introducing this registration of partners, the opinion of the foreign community would seem to have been divided at the time, some advocating the introduction of a new registration Ordinance, whilst others thought all that was required was to extend the provisions of the Companies' Ordinance (No. 1 of 1865) to all private firms having partners. In referring to this subject the *China Mail* of 12th December 1873 says, "Europeans publish the names of all responsible parties in a House, as a matter of course, while the Chinese keep them as secret as possible; to meet the latter fact, legislation of some sort seems to be urgently required."

The Government also appears to have shared the views of the community and the Bench regarding the need for fresh legislation, for in January 1874 the *China Mail* announces, that "the provisions of a proposed Ordinance for the registration of partners in Chinese firms are now under consideration." Correspondence with Downing Street, as usual, delayed matters and it was not till the close of the year that the draft of the proposed Ordinance was made publicly known.

Meanwhile, however, the Chinese Community bestirred themselves in the matter, and the very same men who, in 1866, objected to all interference, by way of registration of householders and servants, with Chinese affairs, and argued their views before Sir Richard MacDonnell on the occasion of the passing of the Victoria Registration Ordinance (No. 7 of 1866), the incorrect Chinese version of which had misled them, came forward now, in autumn 1874, of their own accord. They declared that they had practically seen the good effects of the principle of registration, and expressed themselves convinced that the registration of partners, if made compulsory, would go a long way to check the existiug abuses of the bankruptcy Ordinance. A most influentially-signed petition of the whole Chinese mercantile community was presented to the Government. It described the lax state of trade morality into which their countrymen had drifted in Hongkong, and referred specially to the prevalence of fraudulent declarations of bankruptcy, to the trick of denying partnership

liability and to the unrestrained spirit of overtrading which had taken possession of Chinese traders. The prayer of the petition was to the effect that the Government should endeavour to mend the mischief and to check the abuses which existed and which were facilitated, if not caused, by legislation utterly inappropriate and foreign to Chinese ways and thoughts, by requiring, under compulsion of penalties, the public disclosure of the names of all active partners in Chinese trading firms. This was, indeed, the only practical way the Chinese could think of, in which something like the restraint which the Chinese Government systematically puts on trade, might be secured on the part of the English Government for a mercantile community like that of the Chinese here, which had, for centuries past, thriven and flourished amid and by dint of similar restraints.

Whether this sensible and manly action of the Chinese Community had any effect or not, we cannot say; but under date of 12th December 1874 the Government, at last, published in the *Gazette* a draft bill "for the better registration of householders and Chinese traders and servants in the Colony." It was, in fact, a new Chinese Registration Ordinance, intended to be substituted for that of 1866. The following sections of this draft bill refer more particularly to our subject and we bespeak the attention of our readers for these important provisions, which we think necessary to quote in full.

Section XXII. A register of all Chinese shops, hongs, and other places of business in the Colony shall be kept at the Registrar General's office in such manner as the Registrar General shall think most convenient for easy reference.

Section XXIII. Within thirty days after the commencement of this Ordinance, the master or manager of every Chinese shop, hong or place of business in the Colony shall furnish to the Registrar General the following particulars for entry in the register :—

(1) The name under which the business is to be conducted.

(2) The locality, with the name of the street and number of the house where the business is to be conducted.

(3) The full names and native places of all partners in the business, with their several places of residence in the Colony and elsewhere.

(4) The full names and native place of the manager, if any, of the business and his place of residence.

Upon any new Chinese shop, hong, or place of business being opened, and upon the re-opening of any shop, hong or place of business by a new firm or partnership, the master or manager of the business shall, within thirty days thereafter, furnish to the Registrar General the foregoing particulars for entry in the register.

Section XXIV. Upon any change taking place in the partners or their residence, or in the manager or his residence, or in any other of the foregoing matters, the master or manager of the business shall, within fourteen days thereafter, furnish the Registrar General with full particulars of such change for entry in the register.

Section XXVI. The register shall be open for inspection to the public on payment of the fees specified in the second Schedule.

The fees referred to are as follow :—

Registration fee for shop, hong, or place of business, $3 (not to be paid if the registered householder is sole owner of the business.)

Fees for inspection of Trade Register, to be paid :—

By any person desiring to see the entry relating to his own place of business,—nil.

By any person desiring to see the entry relating to one particular place of business,—$1.

By any person desiring to make a general search,—$5.

This new-born babe of the Colonial Legislature, though long looked for and promising as it appeared, expired, however, contrary to all expectations, almost as soon as it had seen the light of day. The new draft bill, though published in the Government *Gazette*, was not even brought before the Legislative Council for public discussion, but the whole subject was quietly buried by the Government out

of sight, as if they had been ashamed of it, for no other reason, as far as we could learn, but that a local barrister addressed a smartly-written, scathing letter to the Colonial Secretary, in which he, whilst admitting the existence of the evil with which the proposed Ordinance was intended to cope, drove the proverbial coach-and-four through the provisions of this bill as published in the *Gazette*, and pointed out that the root of the evil was to be found in the mischievous character of our Bankruptcy Ordinance and not in the absence of registration enactments.

The letter, which had such a remarkable effect in putting almost instantaneously the extinguisher on the well-meant proposal of the Chinese community to make registration of partners in Chinese firms compulsory, deserves the patient attention of our readers, and we give it therefore a careful analysis.

The letter was published in pamphlet form and bears the following title, "Letter to the Hon. J. Gardiner Austin, Colonial Secretary, upon the subject of the Victoria Registration Ordinance, 1874." It is dated Hongkong, December 1874, and signed by Thos. C. Hayllar. The author, who has since then had the honour of Q.C. conferred on him, addresses here the Colonial Secretary "as a practising lawyer, having a professional interest in the subject." Unfortunately, however, he appears to have been unable to rid his mind of the professional notion that, having taken one side regarding the subject, it was now his business only to present the matter from that point of view, *i.e.* to say the worst he could say of the other side of the question, and to leave it to the advocates of that side to make the best they could of whatever good points the other side of the question might really have. As the Chinese had no practising lawyer to speak up for them, and no one on the side of the general public took up the cudgels for the draft Ordinance published in the *Gazette*, the Government naturally concluded that the Colony was not yet ripe for the proposed legislation, and Mr Hayllar walked over the course in unchallenged triumph.

That this pamphlet does take a one-sided view of the question then at issue, appears from its own statements, but at the same time we give the author full credit for his honest conviction that his view of the case was the right one, a conviction which he subsequently also (in 1878) displayed in the Legislative Council when he advocated reform in the direction of the bankruptcy law only. One quotation will suffice to show that the point of view from which Mr Hayllar approached his subject was the foregone conclusion that, as the evil really existing had chiefly been caused by our bankruptcy law, the remedy, required by the state of affairs under which Chinese trade was apparently suffering, consisted in an amendment of the bankruptcy law and not in the registration of partners in Chinese firms. "Now, it may sound somewhat strange," Mr Hayllar writes (p. 15), "but I think it might be easily shown that if there be any factor among others likely to have been specially active in producing this state of things, it should be sought for in a measure of English legislation. I allude to the application of the bankruptcy laws to Chinese traders. Their trade had not reached a stage of development suitable to such application, and these laws thus proved mischievous, not only directly as regards the interests of creditors, but indirectly by offering temptations to over-speculation. If any legislative remedy were then required, it would perhaps be better to seek it rather in the direction of some modification of these laws than in this (Registration) Bill."

It seems to us perfectly clear from these words of Mr Hayllar, that he had before his mind only one alternative, viz. registration or bankruptcy law amendment, and that he took up the discussion of the value of the Registration Bill precisely as if he held a retainer against it in the case of Bankruptcy Amendment *versus* Registration Ordinance, dealing with it, not as an impartial judge summing up and weighing the evidence of both sides, but as a prejudiced advocate engaged in demolishing one side of the question. Let any one impartially but carefully read

through this extremely well written pamphlet, and he will find many more instances proving the truth of our statement as regards the one-sidedness of this only too successful onslaught on the Victoria Registration Ordinance of 1874.

Mr Hayllar divides his subject under three heads. His first point is that the Legislature, before passing the Ordinance concerning the registration of partners in Chinese firms, should be satisfied "that sufficient need for it has been made manifest."

This is the weakest portion of the whole pamphlet, though this section refers to a really most essential feature of the question at issue. But let the reader observe how neatly the point of the question is blunted for the special purpose of the advocate. What was obviously essential for the Legislature, in the first instance, was to be satisfied whether or not any need existed to legislate in the direction proposed. But instead of saying this, the adroit advocate puts it that the first question is whether any such need had been "made manifest." Thereby he turned the question, avoided the difficulty which would have told against his views and convictions, and gave the matter an aspect favourable to his side. In other words, he tacitly and covertly throws the *onus probandi* on the other side which was represented, according to his statement, by a Chinese petition. Very deftly also he dwells but briefly on this first question and dismisses the whole subject in three short sentences, in which he says (p. 2), that certain influential Chinese presented a petition the representations of which refer to "the lax state of trade morality into which their countrymen have drifted"; that he has perused the petition but scarcely thinks that the petitioners have either made out a case for the exceptional legislation they demand or that they would have asked for it had they fully understood its probable effects; and finally that he does not think that, even if an exceptional remedy is necessary, the right one has been adopted.

It is manifest that in these words we hear but the special pleader arguing for his own side and not the impartial judge or onlooker. The question before him was not whether the Chinese petitioners had been able to make out a case for the draft Ordinance published in the *Gazette*, which was prepared and considered by the Government long before the Chinese drafted or presented their petition. The question was altogether not a purely Chinese question, but one concerning the whole mercantile community, foreign merchants and bankers as well as Chinese hongs. Had the question been taken up from this point of view, the need for legislation would have asserted itself.

There is, however, yet another subtlety of argument underlying this portion of the pamphlet, and indeed the whole document, and it is one which tended to prejudice, against the proposed legislation, the mind of every careless or superficial reader. The first of the above-quoted three sentences slips in the assumption, though it does not actually express it here but later on, that the chief concern of that Chinese petition and of the legislation assumed to be based thereon, was "the lax state of trade morality" (p. 4) and "the unrestrained spirit of over-trading" (p. 15). Indeed the whole pamphlet tacitly imbues the reader's mind with this most unwarranted notion that the proposed Ordinance was intended to cope with and to improve the depraved condition of Chinese commercial morality. By this subtlety the author placed the whole question on a false and rotten foundation, being one which was laid down with the, no doubt unconscious, intent to demolish it again with a flourish calculated to blind the eyes of the reader with the dust of its downfall and to prejudice his mind against any legislation in the direction proposed, for any attempt to improve public morals by registration or legislation would indeed be manifestly absurd. But that we are justified in the foregoing assertion regarding this subtle tendency of the pamphlet, to make out that the proposed Ordinance had for its main object an improvement of Chinese morality, the following quotation, being the concluding sentences of Mr Hayllar's

pamphlet, will sufficiently show: "No statute," he writes (p. 15), "can form a substitute for business prudence and foresight on the one side, or on the other do much that is effectual to stem the current of fraudulent ingenuity. But it is only a truism to say, that legislation may do a great deal to produce confusion and unforeseen mischiefs. Had I not, after consideration, seen too much reason to fear that such would be the probable result of the present Bill, if passed into law, I would not have troubled you with this letter, which has indeed reached an undue length."

The second portion of Mr Hayllar's argument against partnership registration is formulated in these words, that the Legislature should first be amply justified that there is a reasonable prospect of the proposed law fulfilling its object.

Under this head he argues (p. 6), that "if the evidence of the register is meant to be only *primâ facie, i.e.* susceptible of contradiction, the main object of registration must fail," and that on the other hand, "to make such evidence conclusive is to place it within the power of any 'master or manager' fraudulently or mistakenly to register persons as partners without giving them any opportunity of being heard in their defence." This raises a difficulty, which the pamphlet designates "an enormous injustice," but which might easily and would naturally be obviated by the Registrar General communicating with the partners registered in their absence to test the value of the information given. Mr Hayllar next points out an alleged "inherent weakness" of the scheme (p. 7), consisting in this that "in carrying it out, you have to rely on the integrity of some at least of the very persons against whose assumed lack of integrity the Ordinance is directed," and that "in other words, you must needs assume that persons will faithfully register themselves or allow themselves to be faithfully registered, who, if not so registered, might hereafter fraudulently seek to evade their liabilities." There is no reason why the Registrar General could not meet this objection by inquiries instituted by him regarding all details registered in his books. Finally Mr Hayllar suggests (p. 8) that, as the register must be subject to perpetual changes impairing the trustworthiness of the record and requiring frequent consultation, registration fails to fulfil its object. This is, however, an objection which obviously applies to all registration whatsoever.

The main strength of Mr Hayllar's argumentation is devoted to the discussion of his third point, viz. that the Legislature should first be amply satisfied that the proposed law does not in itself tend to originate mischiefs. Mr Hayllar here labours to show that both in its application to the law of partnership and by its criminal aspect the proposed Ordinance is likely to produce serious mischief.

As to the mischief which Mr Hayllar sees lurking in the application of the proposed Ordinance to the law of partnership, he manages to make mischief visible only by quietly ignoring here the fact that the term "partners" stands sufficiently defined, for all practical purposes, by our Local Partnership Ordinance No. 7 of 1867. But the author of this pamphlet assumes that the term "partners," as used in the proposed Ordinance, is doubtful; and he raises the question (p. 9), whether the Colonial Courts, in construing the word "partners" should assume that it is rigidly used in its English sense, or, in view of the complication of Chinese partnership forms, in accordance with the reasonable rules laid down by the Privy Council in a decision given in an appeal case (Mollers and March *v.* the Courts of Awards, Law Reports, 4, Privy Council, 433) which arose in India in 1872, and in which their Lordships ruled that, in the absence of any law or well-established custom existing in India on the subject, English law may properly be resorted to in mercantile affairs for principles and rules to guide the Courts, but that, in applying them, the usages of trade and habits of business of the people of India, so far as they may be peculiar, and differ from those of England, ought

to be borne in mind." We must confess we do not see the relevancy of this quotation from the Privy Council decision, which makes the distinct reservation of "the absence of any law." The uncertainty of which Mr Hayllar complains, might have been settled by the proposed law, and might have been settled in harmony with any "well-established custom" existing among the Chinese who unanimously petitioned for the passing of such a law. But instead of considering that in the case before him the natives themselves, after having had for eight years practical experience of English registration of householders, applied of their own free will for registration of partners, and that the indeed peculiar status and privileges of Chinese dormant or *commandite* partnerships are already defined and guaranteed by Ordinance 7 of 1867, Mr Hayllar needlessly argues further (p. 10) that "compelling those who are drawing profits from a firm, but who would not but for publication of their names be ranked as partners, to register themselves," would, by reason of the general subdivision of shares in Chinese firms, be "incautious registration" (p. 11), and "obviously lead to immense injustice."

As to the penal aspect of the proposed Ordinance and the alleged mischief arising from it, Mr Hayllar argues (p. 12), that in the case of the proposed Ordinance "for the purpose of detecting and punishing a small fraudulent minority, it is intended to bring the whole body of Chinese traders within the grasp of the Criminal Law for conduct which in itself is neither criminal nor vicious;" that the Ordinance further lies open to the charge of great inequality in its possible pressure upon poor and rich; that (p. 13) it is compelled to resort to the harsh expedient of vicarious responsibility by enacting that "upon non-payment of the fine inflicted, it may be recovered by distress and sale of the goods and chattels of the partnership as well as o. the person convicted." These objections, whatever value they may have, are such as might have been easily remedied by some modification of the proposed Ordinance, and do not concern the essential principle in question. As regards the further objection (p. 13) that the Ordinance opens a new door to extortion by the lower Government employés, and that an issue of "partnership or not" is scarcely a fit one for trial in a Police Court, we leave the cogency of this argument to our readers to judge of.

But, although we have thus shown up many weak points and a general one-sidedness pervading the whole line of argument embodied in this letter, we must confess that on a first perusal of this captivating plea we were fairly taken in and in a maze, and it was only after studying the history of the whole movement in which it originated and after scrutinizing its detailed allegations, that we came to see the weakness of this *ex parte* statement of the case. We specially mention this to warn our readers against the misleading character of the pamphlet. For the special plea against registration of partners, which this pamphlet contains, is so neatly concealed and its open argumentation so plausibly conducted and so deftly worded, with a truly artistic conception of effect, whilst the author secretly poses in the attitude of a practising lawyer giving his opinion gratis to a benighted Colonial Secretary for the benefit of an ignorant community, that it is not to be wondered at that he succeeded to his heart's content. Neither the public press nor the Chamber of Commerce cared to enter the lists against such an able advocate who, in his admission of the necessity of legislation in the direction of the bankruptcy law, anyhow had much truth on his side, and thereupon the Government quietly withdrew the Bill.

The Government having, early in 1875, abandoned all intention to move any further for the present in the direction of making the registration of partners in Chinese firms compulsory, it was generally supposed that an attempt would be made by the Government to counteract the evils regarding the seriousness of which the general mercantile public was unanimous, by modifying, in some form or other, the existing bankruptcy law. But nothing was done in the matter by the Government. The

evils which had attracted public attention for many years past were allowed free course and became more and more rampant from year to year, manifesting themselves in a growing taste for overtrading, in a gradually widening sphere of speculations in quicksilver, opium and house property, in a mania for gambling in public lotteries, and finally in an annually increasing crop of bankruptcies which were evidently fraudulent but arranged with such a knowledge of the defects of our bankruptcy law and of the loopholes left by our Supreme Court organization, that the fraud, though patent, could not be brought home to the perpetrators of it.

At last, aroused in 1877 to a sense of the impending danger by the general want of security and confidence which now pervaded all dealings with Chinese firms, the Hongkong General Chamber of Commerce moved in the matter. In a letter addressed to the Government under date of 2nd November 1877, the Chairman, Mr W. Keswick, with characteristic precision, states the grievance in a few words, and sweeps away at the same time the arguments which Mr Hayllar had elaborated against the proposed remedy by way of registration of partners in Chinese firms. Without entering into any arguments, Mr Keswick here briefly states, in a succinct business-like manner, and in the name of the Committee of the Chamber, that the registration of the members of Chinese firms trading in Hongkong is a want which has long been felt by the European mercantile community, that if this want were supplied, general security and confidence would result therefrom, and that in the opinion of the Committee there do not appear to be any valid objections to the Ordinance being promulgated compelling all Chinese firms to register the names of their partners. The weight which should have attached, in view of the whole history of this movement, to this deliberate expression of opinion on the part of a Chamber of Commerce composed of experienced merchants and bankers, was utterly disregarded by the Government, then unhappily administered by Mr Pope Hennessy, who took no notice of this weighty suggestion nor of the note of warning it contained. The whole subject was accordingly shelved for another year.

Under date of 26th August 1878, the Chamber of Commerce moved once more in the matter and pressed for a decision on the suggestion, made by the Chamber regarding the registration of partners in Chinese firms. The official reply which was thereby elicited simply amounts to the announcement of the previous decision of the Governor to leave the whole question shelved for the present. This letter, dated 28th August 1878, contains however two noteworthy statements. In the first instance it contains the allegation—whether true or false, we cannot tell—that "Sir Arthur Kennedy had given the matter careful consideration, but thought it would be very inexpedient to carry out such registration." In the second instance, it was stated in this official letter, that "Governor Pope Hennessy is disposed to take the same view of the matter," but that he wishes first of all to have "some further opportunity of studying the details of Chinese trade in the Colony." As the Governor was then already possessed of the fixed idea that English commerce in Hongkong was doomed to be driven out of the field by Chinese enterprise, an idea which he thenceforth embodied in almost every speech he delivered in public, as in his two Blue Book Reports on the trade of the Colony, the probability is that he meant simply to give a hint to the Chamber of Commerce that their advice was wasted on him and that the question of registration of Chinese partnerships must remain shelved during his term of administration. The Governor was, indeed, ever since that time as pertinacious in his perorations and vaticinations against the English commerce of the Colony, as Cato was in the Senate of Rome who closed every speech of his with the standing refrain, *caeterum censeo Carthaginem esse delendam.* Substitute the words "English commerce of Hongkong" for the word *Carthago* and you have the burden of every public speech alluding to commercial affairs, of the redoubtable Sir John Pope Hennessy, who even in his

histrionic attitude on such occasions imitated the exact way in which the famous Roman orator put his hand under his gown in the direction of his heart to give tragic force and character to his denunciations.

Nothing daunted by this rebuff, the Committee of the Chamber of Commerce returned to the charge once more in 1878, being stimulated also by the general wish of the members of the Chamber, expressed at the annual meeting. A letter was accordingly addressed to the Government under date of 23rd September 1878, on the previous subject. But a slight concession was now made to the known antipathy of the Governor by suggesting that the names of the members of Chinese hongs in the Colony should at least be published—as those of foreign firms are published—if not registered. At the same time this letter of the Chamber of Commerce plainly though briefly intimates that the interests of the mercantile public generally are involved in this question, and that a feeling of security would be the result if the desired information were given by "publication or registration" of the names of partners in Chinese hongs. In this action the Chamber of Commerce was manifestly prompted by a desire to avert the catastrophe which every clear-headed business man then saw impending over the local trade of the Chinese, inflated as it was with the passion of reckless speculation and general gambling. But, unfortunately for the Chinese, the Governor fancied that the Chamber of Commerce, tottering on its last leg as he supposed, was by this action vainly attempting to interfere with Chinese modes of partnership in order to avert the catastrophe which he had persuaded himself was impending over the trade of all English and other foreign merchants of Hongkong. Consequently his mythical "studies in the details of Chinese trade" amounted to no more than that he, with fatal perverseness, lent all his power and influence, officially and socially, to discountenance every enterprise of the doomed British trader to whom he loved to ascribe anti-Chinese proclivities which had no existence, whilst he used the same means to encourage and bolster up, publicly and privately, the leading Chinese gamblers in house-property whom it pleased him to adorn with the enigmatic title of "leading Chinese bankers and others."

Nevertheless, public feeling, both among the Chinese and the European communities, was too uneasy in view of the accumulating evils of Chinese overtrading and collateral decay of Chinese commercial morality, to be blinded by these tirades of the Governor. At a meeting of the Legislative Council, on 11th November 1878, the feelings of the European community, found some expression. Mr Hayllar, then the Governor's own protegé, found himself impelled to take the liberty to thwart the Governor's roseate policy regarding Chinese affairs, and boldly supplemented at last the negative position he had in 1874 taken in his pamphlet by a positive statement to the effect that "some reform is necessary in the bankruptcy Ordinance." He proposed accordingly that "there should be some special inquiry into the circumstances of the Colony and how far the English law (of bankruptcy) is adapted to them." The words which Mr Hayllar then added in support of his recommendation are well worth quoting. "The bankruptcy laws," Mr Hayllar said, "are totally unfitted to meet the case of the Chinese. They have nothing of the kind themselves. It is quite a revelation to them. Chinese traders who fall into difficulties never think of going into bankruptcy (in China); they wind up their estates themselves, and (in Hongkong) very few respectable traders take the trouble to prove in bankruptcies at all. The consequence is that the estates that have come into our Courts have really been estates in which there has been nothing or very little to administer and where it has been for the purpose of something very like fraud. When persons intend to evade their debts, they very carefully remove everything they have from this Colony, and when the estate comes to be wound up, although they have a great deal of property in their own country, the

Court cannot touch it." The Acting Chief Justice, Mr Snowden, supported Mr Hayllar's proposition by saying, that "the bankruptcy Ordinance was entirely unsuited to the requirements of the Colony," and he proposed, "that His Excellency should suspend the Ordinance until one more suited to the requirements of the Colony could be introduced."

But, although here the representatives of both the Bench and the Bar publicly pointed out and attacked, from but another *point d'appui*, the same evil which formerly the Press and lately the Chamber of Commerce had resolutely attacked, the Governor was so full of his own conception of the mercantile situation and so triumphant in his prophetic vision of the speedy downfall of all English commerce in Hongkong, that he turned a deaf ear to these accumulating voices of warning. The proposed inquiry into the situation of affairs was not held, and the proposed suspension of the bankruptcy Ordinance was scouted by him as madness. Thus it came about that things were left to take their course, and the evils which existed had to work out their own cure which they did with a vengeance and which they will effect, in time, through the present ruin which has overtaken the local commerce of the Chinese.

Before this happened, however, the Governor received yet one more warning. The Report of the Commissioners, appointed by Sir John Pope Hennessy, through an order from Downing Street, to inquire into certain offices of the Supreme Court, was presented to him in 1879, pervaded by allusions to the depraved state of Chinese commercial morality. We have above quoted the words of one of the Commissioners, a leading English banker, referring to the havoc the bankruptcy laws had caused in Chinese morals. Speaking of the state of things in 1879, the same Commissioner says (Evidence, p. 18), "Things are very bad. If rice falls twenty cents a picul, they (the Chinese) either compound with their creditors or go through the Court. Certainly, since we came to Hongkong, things have not been so bad as they are now. They (the Chinese) are just beginning to realize that they can slip through (the Bankruptcy Court)."

This last warning, however, our infatuated Governor left likewise unheeded, and the whole question of reform, whether in the direction of registration of partners or in the direction of amending the bankruptcy Ordinance, was sunk by the Government in intentional oblivion and studiously avoided for nearly two years. At last, in June 1881, the tragic irony of fate prompted the Governor, within a few months before the crash commenced with the downfall of credit and solvency in Chinese commerce, to bestride the stage of the Legislative Council with the following peroration, to which the lie has now been given—since the curtain has dropped over the political tragedian retiring amid the hisses of the audience—by the facts of the present position of Chinese commerce, as well as by the petition lately presented by the Chinese mercantile comunity.

"I also," said Sir J. Pope Hennessy at the Legislative Council meeting of 3rd June, 1881, "had the opportunity of consulting the Chinese on another proposal. There came to me a resolution from the Chamber of Commerce, in which the Chamber proposed that the Government should adopt a system of registering all the sleeping partners in Chinese houses of business. They showed that it was exceedingly difficult to find out who had money in a Chinese trading concern, and recommended that the natives should be compelled by law, and under adequate penalties, to register every person who had a share, no matter how small, in a Chinese business. The Chamber of Commerce added that they had no desire to apply this system to the European houses, but wished it to be confined solely to the Chinese. Acting on my usual principle, I mentioned it to some of the leading Chinese bankers and others, but they pointed out that the Chinese system of trading would be completely upset by it—that there is an extraordinary net-work of investments in this Colony, as in any other community of Chinese, and that it would interfere seriously with Chi-

nese trade, and, in fact; tend to prevent the influx of Chinese into the Colony. Accordingly, I declined to accede to the proposal of the Chamber of Commerce."

At the time when the Governor delivered this oration, the principal aim of which was to make people here and abroad believe that the Chinese commerce of Hongkong was in the most healthy and flourishing condition and that the notorious gambling in house-property was no gambling at all, it was really immaterial whether or not the Governor favoured the remedy, proposed in previous years, in the form of registration of partners. It was already too late for any merely remedial measures. The Governor left the Colony in March 1882, when the crash, which the support he lent to the leading Chinese gamblers had imperfectly served to stave off for a while, had already commenced. The ruin is now complete, and the only question for the community and the Government of Hongkong now is, in this respect, to draw the lessons of the past whilst looking hopefully to the future.

VIII.

In bringing our researches into the commercial law affecting the Chinese, and especially into the partnership registration and bankruptcy laws of Hongkong to a conclusion, we may state that we do not claim to have brought to light anything fresh or new to those who have had practical experience of the course which the Chinese commerce of Hongkong has run during the last fifteen or twenty years. Nevertheless we think that the above sketch of the various features of Chinese commerce, from the point of view of the commercial law, brings together many points frequently overlooked. Even those of our readers who by personal experience are well acquainted with the subject which we took some pains to investigate in detail, will have had their memory refreshed on sundry points and their mental grasp of the whole situation of affairs strengthened by the above systematic combination of their own scattered experiences. But whatever be the merits or demerits of our treatment of the vast and important subject which we have been studying, we believe to have established to the satisfaction of our readers this much, that there are certain historical facts in connection with the development of Chinese trade in Hongkong, which, incontrovertible as facts, have a peculiar significance in view of the present commercial crisis in which our local Chinese trade is now struggling. We will briefly recapitulate them.

It is, in the first instance, historically certain, that the Chinese commerce of Hongkong prospered and flourished, during the first twenty years of the history of our Colony, without any bankruptcy law whatsoever. Next, it is equally certain that during these twenty years, whilst the Chinese here knew neither bankruptcy law nor exemption of *commandite* partners from full liability, Chinese trade and Chinese commercial morality preserved in Hongkong all the leading features which characterize trade as conducted in the Empire of China, where it is placed under a system of severe restraints and where commercial morality is kept at a high level by laws about the really deterrent character of which there can be no doubt. Further, although *post hoc* is not necessarily *propter hoc*, it is an indisputable fact, that the time when the Bankruptcy Ordinance (1864) and the Partnership Amendment Ordinance (1867) were introduced in Hongkong, significantly coincides with the time from which date the principal factors of the present commercial crisis, viz. that manifest decay of Chinese commercial morality, that general passion for speculation and over-trading now so rampant among the Chinese here, and finally that ruinous loss of credit and confidence which, having at last come to a head at the present time, has paralysed the circulation of capital in the commercial intercourse between Chinese and Foreigners. Again, there can be no doubt but that our bankruptcy law has practically proved itself unsuited in principle to the inherited tendencies and usages of the commerce of the Chinese people residing in this Colony, that the machinery of our Bankruptcy Court

has shown itself lamentably defective and quite unable to cope with fraudulent declarations of bankruptcy on the part of Chinese defaulters, and that practical experience has demonstrated that creditors, as a rule, cannot be depended on to exert themselves, in the case of doubtful assets, to assist the Court in recovering for them what generally proves to be a small percentage of a great loss. Next, as to our Partnership Amendment Ordinance (1867), it is undeniable that, owing to the omission of compulsory registration of partners, this Ordinance has operated unequally as between Chinese, who studiously conceal their partnership arrangements, and Foreigners who invariably publish the names of their partners. Finally, we think it is a fact beyond all controversy, that ever since 1873 public opinion, expressed by the Chinese Community, the Press, the Bench, the Bar and the General Chamber of Commerce, has pointed, with gradually increasing clearness and decision, to radical defects of our bankruptcy law and to the absence of registration or publication of partners in Chinese firms as the chief sources from which the ruin has sprung which at the present day has overtaken the Chinese commerce of Hongkong.

So far, we think, all practical men acquainted with the past history of the Chinese commerce of Hongkong are agreed. Proceeding, however, now from this firm basis on to the debatable ground of lessons to be drawn from the past and of remedies which would assist the vital forces of commerce in eliminating the evils under which Chinese trade is suffering at the present moment, we are at once confronted by the preliminary question, what are the real causes which generated those evils. This is a crucial question, for the nature of the remedies which we may have to suggest must necessarily depend upon our solution of that question. Now we think we have above given abundant reason for the opinion, which has forced itself upon us in the course of our inquiries, that the primary cause of the evils under which the Chinese trade of Hongkong has been suffering for years past is to be found in our commercial legislation, in the fact that we applied to Chinese commerce in Hongkong laws which were devised for the peculiar circumstances of English commerce as it is in England. The same incongruity which marks the supposition, which we ask our readers to ponder over for a moment, that bankruptcy law like that of the Act of 1861 had been introduced in England in the time of Henry VIII, marks also the actual introduction of the same Act in Hongkong and its application to modern Chinese trade. This law would not have been any more incongruous and mischievous in England at the time of Henry VIII than it now is in Hongkong. What made things even worse in Hongkong was the introduction of the amended partnership law of England and most especially the omission to compel registration of partners in Chinese firms when we introduced that law. Hence flowed the present degeneracy of Chinese commerce as a natural consequence.

Returning now to the question of remedies to be applied in order to check the mischief caused by our commercial legislation, we assume that our readers observed that remedies were suggested at various times, and no doubt other remedial measures suggested themselves to our readers. We would, however, point out that, before advocating any attempt to mend the evil effects of legislation confessedly bad by fresh legislation, necessarily liable to lay the foundation of new troubles, it would be but prudent to consider first of all what measures might be set on foot at once, calculated to check the worst of the existing evils without the need of legislation and to resort to the latter expedient only if the former is found ineffectual.

In reply, then, to the question what can be done, without immediate legislation, to improve matters under our present laws, there are three suggestions which may deserve consideration.

We would suggest, in the first instance, that the Chinese mercantile community who petitioned the Government to make the registration of partners in Chinese firms compulsory, should first of all endeavour to come to a general

resolution voluntarily, and without waiting for compulsory legislation, to adopt the practice of English merchants by advertising in the public papers the names of the active partners of every Chinese firm in the Colony dealing with Foreigners. Such a measure would tend to improve matters somewhat as regards the present want of confidence in the honesty of Chinese merchants.

In the second instance we would suggest that the defective organization and working of the Bankruptcy Court be amended without delay in the direction indicated by the Commissioners who reported on Supreme Court affairs in 1879. This might be done without any legislation by simply carrying into effect the suggestions contained in the following passage, which we literally extract from the published Report (Evid. p. 70 and 71) :—

The Attorney General.—In British Guiana, which is a comparatively small colony, they had an Accountant in the Court and an Official Administrator as well, with a regular staff of about eight clerks. As soon as a bankruptcy was declared, one of the clerks was placed in possession of the stock immediately. He took possession of the books and sealed up everything. There was not five minutes lost.

The Chairman.—That would astonish some of our bankrupts.

The Attorney General.—I know one man sent in his petition hoping the Official Administrator would not get wind of it till next day, but he went in and took possession actually of his household effects, and in a bureau in his bedroom he found actually more cash than would have paid all his creditors in full.

The Chairman.—I think any sudden movement of that kind would be beneficial.

The Attorney General.—It would surprise some of the Chinamen.

The Chairman.—Nothing of that kind is done here?

Mr. Wotton.—No; often the books are not brought in for weeks afterwards.

The Attorney General.—Then the Accountant's business was to keep the books and generally report on all accounts. It was most useful.

Mr. Toller.—Yes; for the Judges to have power to refer to the Accountant on matters of account.

The Attorney General.—Lots of things used to be settled by the Accountant. He made his report, and if the solicitors on either side objected to his report, the matter would go to Court. In that way he had a lot of work.

Mr. Wotton.—I am quite sure of this, that if you had a proper Accountant, his work would increase rapidly until all his time would be occupied.

The Chairman.—Well, there is the advantage the Government would see of getting all they ought to get, and they are certainly very reluctant to part with one cash that ought to be in the Government Treasury. I think also, by the bye, that if it was necessary the Accountant should have one or two bull dogs at his heels, he ought to have men of capacity.

The Attorney General.—I think in every case a man ought to be put in charge and all receipts and payments made by the Official Administrator immediately.

Mr Toller.—At present there is no protection whatever.

Mr Jackson.—No ; it is dreadful, and by the time you come to deal with bankrupt estates there is a counter there ; everything else has all gone. They make away with everything they have in the world. If a Chinese hong here, perfectly solvent, loses a quarter of its capital, it becomes insolvent, and by the time the Court takes possession, there won't be $10.

The Attorney General.—What is the result? There is not a single case in which a man is not made a bankrupt on his own petition. If any one else applies and he is inclined to be dishonest, he has every opportunity.

Mr Jackson refers to a certain Chinese bankruptcy, giving particulars, and says that if the man were put in gaol for twelve hours, his friends would pay all the creditors out of his own money.

The Attorney General.—Unless the Accountant has a Chinese Accountant able to take the accounts under his supervision, I don't see how you are to do that.

The Chairman.—You have the shroff, but I think the Registrar ought to have one or two officers at his command to take possession at once of shops and books, and everything else.

The Attorney General.—Well, certainly in British Guiana no office was better administered than that. He took possession of all insolvent and unrepresented estates. It paid remarkably well. He had to deal with Chinese and Portuguese, all small shopkeepers, *and the only way in which he could deal with them was to go at once and take the things.*

Mr Jackson.—If the Government get a first-rate man to act here, under the advice of the Chief Justice, he will have to be allowed a certain amount of latitude.

The Attorney General.—The result was that the Administrator was appointed in wills to be Executor, and where an estate was not working well, they used to allow judgment to go against them in order to allow him to work it, and he would return it to them in a few years free from debt.

One could hardly imagine a more complete exposé, and a more thorough condemnation of the defective organization and working of our Bankruptcy Court, than the above extract reveals, which, moreover, not only points out the defects but at the same time suggests the remedy. Nevertheless nearly three years have passed since the above was written, printed and published, and yet the Executive has left the Bankruptcy Court to the present day without a professional Accountant, without a Chinese Assistant Accountant, without, in short, a proper staff, and things are therefore now in 1882 pretty much as they were in 1879. It was hardly to be expected, indeed, of Sir John Pope Hennessy, to move in the direction indicated in the above extract, but under the present administration and with Sir George Phillippo as Chief Justice, it may be hoped that the views which the latter expressed when he was, as Attorney General, a member of the Supreme Court Commission, may at last be carried out.

There is a third suggestion which might be carried out, if it be thought necessary, previous to attempting any fresh legislation. We refer to the proposal made by Mr Hayllar, when a member of the Legislative Council, in 1878, viz., that there should be some special inquiry into the circumstances of the Colony and how far the English law is adapted to them.

Assuming, however, that the above measures were carried out, that the Chinese resolved voluntarily to publish the names of their partners as Chinese do in California, in Saigon and elsewhere, and that the organisation and working of the Bankruptcy Court were perfected by the Executive in the direction indicated above, we think it would, most probably, be found that even these important measures, though no doubt having some good effect, could do no more than touch the surface of the evils. For if it be true that the real source of those evils lies in our laws, as above stated, these laws would naturally, in spite of those remedial measures, continue to breed evil until the laws themselves are amended or revoked.

It appears, therefore, to us necessary to supplement those preliminary measures by legislative action. Such action would naturally refer to bankruptcy law and to partnership registration. On these subjects there are various suggestions ready at hand.

As regards legislative action in the direction of bankruptcy law amendment, there is, as our readers will remember, the suggestion made by the Acting Chief Justice, Mr Snowden, at the Legislative meeting of 11th November 1878, when he recommended to suspend the Bankruptcy Ordinance until one more suited to the requirements of the Colony could be framed and introduced. This seems, at first sight, an extreme measure, but it is evidently a suggestion prompted by personal insight into the serious character of the evils caused by our present bankruptcy law in its application to Chinese commerce. Whatever temporary inconveniences might arise from such decisive action, they would usefully serve as stimulants to keep the Legislature alive to the necessity of prompt action in dealing with the defects of our bankruptcy law.

The question would naturally arise, in this connection, whether it would not be better, under all the surrounding circumstances, to have no bankruptcy law at all. This is a subject which will most likely be discussed in Parliament, when the present Bankruptcy Bill is at last taken in hand. Meanwhile we would recommend to the attention of our readers the weighty arguments which Lord Sherbrooke has advanced (see *Nineteenth Century*, August 1881) in support of his proposition to abolish the Bankruptcy Court altogether.

As regards legislative action in the direction of partnership registration, our readers will remember that the Chinese Community twice petitioned the Government for such a measure; that the Government, in 1874, actually

published the draft of an Ordinance embodying the principle of compulsory registration of partners in Chinese firms; and that the General Chamber of Commerce in 1877 and 1878 strongly supported the principle of that draft Ordinance. This remarkable consensus of the Chinese and English mercantile communities of Hongkong ought to have its weight in considering the advisability of such a measure. We would, in this connection, also draw the attention of our readers to the significant fact, that, parallel with the dissatisfaction felt in Hongkong with our partnership amendment law as applied to the Chinese without its being supplemented by publication or registration of partners in Chinese firms, the amended partnership law has aroused in England also considerable dissatisfaction in mercantile circles. Among the resolutions of the Associated Chambers of Commerce we find the following two resolutions, which deserve the fullest consideration of our Legislature. The Associated Chambers of Commerce resolved, some years ago, "that the Act 28 and 29 Vict. c. 86, be amended, so as to remove the existing uncertainty as to the liabilities incurred and rights acquired by a law which enacts 'that a participation in the profits of a trading concern in remuneration of capital advanced or services rendered shall *not of itself* be deemed to constitute partnership,' and that, in the opinion of the Association, the evident intention of the Legislature, in framing that Act, will be attained, while the interests of the public will be secured, by the enactment of a law enforcing perfect publicity as to the terms on which such capital shall be advanced, or such services rendered, and by provisions for the different liabilities of acting or unlimited partners and those of limited or *commandite* partners."

If the above suggestions help to arouse public attention to the necessity of some action to be taken by the Executive and the Legislature with a view to remedy the injuries inflicted on Chinese commerce by inappropriate and imperfect legislation, and if we have contributed, by our preceding inquiries, a mite towards ventilating this most important subject, our aim will have been fully attained, though the subject may yet be found to have further bearings which escaped our attention.

PETITION OF CHINESE MERCHANTS IN FAVOUR OF COMPULSORY REGISTRATION OF PARTNERS.

We give below a translation of a Petition sent in to the local Government some days ago, in favour of the compulsory registration of partners in Chinese firms. The petition was signed, we believe, by a very large number of bankers, merchants and compradores, embracing nearly all, if not all, of those whom it has been the custom of late to style "the leading Chinese." As we are now discussing in these columns the very important question here raised by the Chinese merchants themselves, it will be unnecessary to do more than to remark that the Chinese appear to be thoroughly convinced of the necessity for some definite action being taken by the Government to meet their wishes. Some eight suggestions to the Government, in the form of an Appendix, accompanied the Petition; but we have not as yet obtained a translation of this portion of the document. The Petition is as follows:—

"The petition of the undersigned merchants, being subjects of the Government of Hongkong, with reference to the practice of joining in partnership under false names, and to the injury which trade and commerce suffer in consequence, conjointly presented with the humble prayer for the issue of a stringent prohibition whereby the minds of merchants and traders would be set at rest, to wit:—

Among the various hongs and shops in this Colony which do business by joint partnership, there are many which fictitiously use the designation of associations, or the names or literary style of individuals. If such persons, being rich and prosperous, fear and seek to avoid being involved and implicated thereby, they forthwith use the name of some elder or younger uncle, or of some elder or younger brother, son or nephew, and so forth, in making a (partnership) agreement, which they get recorded in the official register. But in communicating or conversing with outsiders, or in dealing with any hong, or in any market, they put themselves openly forward without concealment, with a view to produce mutual confidence. When, however, losses and failures occur, then, in the event of bankruptcy, they use forth-

with their (partnership) agreement and registration certificate, and fall back upon that in order to place themselves beyond personal responsibility in the matter. But the most serious thing is this, that they manage beforehand to draw out their shares, substituting a dummy in such a manner that outsiders cannot find any clue to take up in investigating the case. A hundred crafty weapons are devised and beforehand arranged in order to assume a safe position, whereby at any future day they might shift off from themselves all personal responsibility. Thus it is that the reason why we see of late so many cases of bankruptcy cropping up, is really to be found in the above practices. The evil effect of these and certain other circumstances has been to cause the most disastrous injury to the main portion of the trade of the whole Colony. Business has of late become daily more and more critical, for the reason that such mischievous hoodwinking and stabbing in the dark caused the irretrievable loss of hard-earned capital in cases too numerous to recount.

The undersigned merchants, having with their own eyes observed this state of things, which is *the* hardship of the present day, and feeling bound to help and save, held meetings, at which they discussed the matter again and again, but found that nothing could be done, except conjointly to petition (the Government) to devise some means in order to prohibit and abolish those practices, and thereby to protect the interests of trade. For it occurred (to the undersigned) that, whenever a hong or shop is first opened, (the Registration) Ordinance requires the registration of certain particulars which are kept on record with a view to facilitate inquiry and search. But the various shops use, in many cases, false names; which it is impossible to depend on for any inquiry or investigation.

The undersigned, therefore, venture to pray (the Government) that instructions be given to the subordinate Registration Office to issue an official notification to the effect that, within a certain fixed period of time, all hongs and shops be ordered and enjoined to make haste and register the real and true surname, name, domicile and lineage of their masters (chief partners), and to forward these details for record, whereby (the previous entries) may be examined, compared, and carefully revised, and that, if henceforth, on the opening of any new hong or shop, any false names are reported for registry, such persons will forthwith be prosecuted and punished by law, in order that people may learn to fear and obey prohibitions and injunctions which shall be maintained for ever.

Such a measure would be a real boon to commerce. It would prevent influential and wealthy men, whether Chinese or Foreigners, being occasionally involved (by those practices), for henceforth, if any of them, wishing to do business with any one hong or shop, desires to know the real and true surname and name of the masters (chief-partners) concerned, he might, perhaps on payment of a more or less trifling fee, be permitted to search and inquire at the registry office, and the fees so collected might be paid into the public exchequer to prevent purposeless worry and trouble. The effect of this would be that the general credit would be consolidated and mutual confidence restored, and commerce in general would then work harmoniously. Let any business then prosper or fail, both pain and pleasure will then be borne equitably.

For the above reasons the undersigned urgently appeal to His Excellency who may be pleased to take steps accordingly in the matter of this petition."

Referring to this subject—which, as we have said, is greatly exercising the minds of the Chinese at the present time—it is curious to note the tremendous and almost inconceivable change which must have come over "the leading Chinese bankers and others" since last year, concerning this important question. In Governor Hennessy's celebrated statement "on the Census Returns and the Progress of the Colony," delivered on 3rd June 1881—a document which was translated into Chinese, printed separately, circulated far and wide, and even sold for so much per copy—these "leading bankers and others" were represented as utterly opposed to any measure of the kind to obtain which they have now petitioned the Executive. The European Chamber of Commerce was arrayed against the "leading Chinese bankers and others" by the Governor who feigned such a horror of class distinctions; and the cause of the down-trodden Chinese was once more triumphantly advocated against the cruel and crafty European. As the Governor said, "The Chamber of Commerce added that they had no desire to apply this system to the European houses, but wished it to be confined solely to the Chinese," therefore, the European proposal was not acceded to. The paragraph in Governor Hennessy's speech referring to this matter is as follows :—

"I also had the opportunity of consulting the Chinese on another proposal. There came to me a resolution from the Chamber of Commerce, in which the Chamber proposed that the Government should adopt a system of registering all the sleeping part-

ners in Chinese houses of business. They showed that it was exceedingly difficult to find out who had money in a Chinese trading concern, and recommended that the natives should be compelled by law, and under adequate penalties, to register every person who had a share, no matter how small, in a Chinese business. The Chamber of Commerce added that they had no desire to apply this system to the European houses, but wished it to be confined solely to the Chinese. Acting on my usual principle, I mentioned it to some of the leading Chinese bankers and others, but they pointed out that the Chinese system of trading would be completely upset by it—that there is an extraordinary net-work of investments in this Colony, as in any other community of Chinese, and that it would interfere seriously with Chinese trade, and, in fact, tend to prevent the influx of Chinese into the Colony. Accordingly, I declined to accede to the proposal of the Chamber of Commerce."

He who runs may read, but let him peruse the Petition and the above paragraph together, and then pronounce upon Sir John Pope Hennessy's deliberate attempts to set class against class.

REGISTRATION OF PARTNERS IN CHINESE HONGS.

We have already published the Petition presented to the Government by the Chinese bankers, merchants and others, in favour of compulsory registration of partners in Chinese hongs, shops, &c.; and we now reproduce a translation of the eight propositions or suggestions appended by the petitioners to the memorial referred to. These suggestions enter pretty fully into the modes of dealing among Chinese merchants and tradesmen; but it will doubtless require careful and serious consideration, whether these native usages can be dealt with in the manner suggested, however desirable it may be locally to arrive at some reform in this connection. We shall remark more fully upon these eight propositions later on. In the meantime we may say that every right-thinking man must be pleased to see the strong protest which is there contained against dishonest trading, and fraudulent bankruptcy. The eight suggestions are as follow :—

The subjoined propositions consisting of eight articles have been written out and are herewith most respectfully presented.

1. Chinese partnership concerns in the interior always use the real names of each person in drawing up their partnership agreements. Now whereas according to Chinese usage, whenever a shop becomes insolvent, in all cases the full amount of deficit has to be made good *pro ratâ* by the partners according to the amount of capital represented by their shares, there is therefore (in the interior) no such practice as employing fictitious names. But as in this Colony the regulations, paying no regard to the number of shares held in each shop, throw, the moment when bankruptcy occurs, the blame invariably on those who are men of substance and require them to make full reparation on behalf of the whole (of the partners), the consequence is that many use the name of some association or the personal name or literary style of an uncle or nephew or any other individual in signing the partnership agreement with a view to prevent being involved themselves. In case (the Government) desire that each party should report the true surnames and personal names of their chief-partners, the undersigned pray that the matter be dealt with by an alteration of the laws now in force. If there is a case of real insolvency, the amount of liabilities should be required to be made good by the partners of the shop concerned distributing the amount *pro ratâ* according to the amount of capital represented by their respective shares and thus repaying the creditors. In that case each party would be glad to supply and report their true and real surnames and personal names.

2. The various hongs and shops having once reported and registered the true and real surnames and personal names of their partners, the persons (so registered) should then be considered the chief-partners in each case of the business in question, and if then bankruptcy occurs, they should be bound to repay and make good the amount of its liabilities. If any of such chief-partners have no real property in this Colony, in that case, whether (the creditors) be foreign or Chinese merchants, the Government should consent to send an official communication to the Chinese Authorities requesting that the family property, which the persons concerned may have in the country, be ascertained, sequestrated and sold, to provide the due portion of the amount to be repaid. By this means the deceitful schemes of reckless and crafty men will be foiled.

3. The law of this Colony permits people to declare themselves bankrupt. Therefore wicked and deceitful fellows, as soon as they know their business to be insolvent, transfer in advance what chattels and property they had acquired to other names or take their goods and remove them beforehand to some other place, and after having done so, they go into Court and file a declara-

tion of bankruptcy. The consequence is that the creditors, having no clue to take up for any inquiry or prosecution, lose the whole of their hard-earned capital. This is the most serious impediment in the arena of commercial life. The undersigned earnestly beg that henceforth, in the event of any case of bankruptcy arising, a Committee be selected and appointed, consisting of respectable foreign and Chinese merchants to the total number of 32, and that in the case of each person declaring himself henceforth as bankrupt eight members of that Committee be selected to report and inquire minutely into the matter, and if it is really ascertained that it is a case of genuine insolvency, then he should be permitted to file a declaration of bankruptcy. By such a measure the evils of false and fictitious pretences could be avoided.

4. As regards those hongs or shops in this Colony, which may not yet have registered the true and real surnames and personal names of their partners, it should be arranged that, within a period of 3 months or 5 months after the issue of a notification to that effect, those concerned should be required to come in person to the registration office to alter the entries and rectify them completely, recording their true surname, domicile, lineage and home, and if the partner in question resides in the country or has gone to some other port and has no time to come to Hongkong, it should be required that he write a letter with his own hand and authorize some respectable and trustworthy relative or friend to act for him, his original letter being filed in the Registrar General's office to be held in proof. As to those who may have formerly registered under fictitious names, the Government should in all such cases forego prosecution. By such a measure the unpleasant consequences arising from the fact that those who have to alter the register are afraid of being punished, will probably be avoided.

5. If any of the chief-partners of each shop draw out their shares, they should be required to come in person to the registry office to cancel their names. If such persons have no time to come in person, they should be required to send a letter in their own hand-writing and authorize a respectable and trustworthy relative or friend to sign for them, the original letter being likewise filed in the Registrar General's office to afford proof in time hereafter. Further, on the day when the shares are drawn out, an advertisement should be inserted in the daily papers to inform the public with a view to prevent any misplacement of confidence. If any person thus cancels his registration certificate, but omits to insert an advertisement in the papers, he shall, in the event of bankruptcy, not be allowed to be treated as if he had retired from the partnership. The reason is that in the arena of commercial life there is buying and selling going on from day to day, and if such a matter is not clearly announced on the very day, it is impossible to avoid subsequent mutual recriminations.

6. If any of the share-partners of any shop then wishes to retire from the concern, it should be required that an agreement be come to with the person who takes his place, and that both parties sign a document on the strength of which the advertisement can be inserted in the papers. As regards any debts incurred by any shop before inserting the advertisement, it is requisite that the creditor should consent to transfer the responsibility to the person taking the outgoing partner's place, and then only shall the change be considered final as regards the whole of the past. If no such agreement can be come to, the outgoing partner shall remain liable to prosecution and not be allowed to use the fact of an advertisement having been inserted in order to place himself beyond personal responsibility in the matter. It should be requisite that the advertisement be inserted for 3 months running, so that all near and far may become aware of it.

7. In the case of any hongs or shops in this Colony having an Agent of some outside firm lodging or residing on their premises, the manager of such hong or shop should also be required to come in person to the registry office to report in detail regarding the Agent in question, stating of which concern he is the chief-partner, and to which ports he sends goods in a business way. If then it happens that that Agent suspends business, he should again come to the registry office and cancel his registration.

8. If any person wishes to ascertain regarding any hong or shop who the chief partners are and who the manager is, he should be permitted to apply to the registry office and make the needful search and inquiry, a charge of 20 cents or 25 cents being made for each search, and this fee might be paid into the public exchequer so that perchance purposeless worry and trouble be prevented. Also, each person who comes to make a search should be required to present a petition stating in detail the address of the person or firm on whose behalf he wishes to ascertain any given shop's chief-partners, and this petition should be stamped with the chop of the applicant's firm to afford proof.