

OFFICIAL REPORT OF PROCEEDINGS

Meeting of 18th January 1967

PRESENT

HIS EXCELLENCY THE GOVERNOR (*PRESIDENT*)
SIR DAVID CLIVE CROSBIE TRENCH, KCMG, MC
THE HONOURABLE THE COLONIAL SECRETARY
MR MICHAEL DAVID IRVING GASS, CMG
THE HONOURABLE THE ATTORNEY GENERAL
MR DENYS TUDOR EMIL ROBERTS, OBE, QC
THE HONOURABLE THE SECRETARY FOR CHINESE AFFAIRS
MR DAVID RONALD HOLMES, CBE, MC, ED
THE HONOURABLE THE FINANCIAL SECRETARY
MR JOHN JAMES COWPERTHWAITTE, CMG, OBE
THE HONOURABLE ALEC MICHAEL JOHN WRIGHT, CMG
DIRECTOR OF PUBLIC WORKS
DR THE HONOURABLE TENG PIN-HUI, CMG, OBE
DIRECTOR OF MEDICAL AND HEALTH SERVICES
THE HONOURABLE ROBERT MARSHALL HETHERINGTON, DFC
COMMISSIONER OF LABOUR
THE HONOURABLE ALASTAIR TODD
DIRECTOR OF SOCIAL WELFARE
THE HONOURABLE IAN MACDONALD LIGHTBODY
DISTRICT COMMISSIONER, NEW TERRITORIES
THE HONOURABLE TERENCE DARE SORBY
DIRECTOR OF COMMERCE AND INDUSTRY
THE HONOURABLE GEOFFREY MARSH TINGLE
DIRECTOR OF URBAN SERVICES
THE HONOURABLE KENNETH JOHN ATTWELL
ACTING DIRECTOR OF EDUCATION
THE HONOURABLE DHUN JEHANGIR RUTTONJEE, CBE
THE HONOURABLE KAN YUET-KEUNG, OBE
THE HONOURABLE LI FOOK-SHU, OBE
THE HONOURABLE FUNG HON-CHU, OBE
THE HONOURABLE TANG PING-YUAN
THE HONOURABLE TSE YU-CHUEN, OBE
THE HONOURABLE KENNETH ALBERT WATSON, OBE
THE HONOURABLE WOO PAK-CHUEN, OBE
THE HONOURABLE GEORGE RONALD ROSS
THE HONOURABLE SZETO WAI
THE HONOURABLE WILFRED WONG SIEN-BING OBE
THE HONOURABLE ELLEN LI SHU-PUI, OBE
THE HONOURABLE JAMES DICKSON LEACH, OBE

IN ATTENDANCE

THE CLERK OF COUNCILS
MR ROBERT WILLIAM PRIMROSE

MINUTES

The minutes of the meeting of the Council held on 21st December 1966, were confirmed.

ANNOUNCEMENT

COLONIAL SECRETARY:—Sir, by Your Excellency's direction I rise to announce the appointment of the Standing Law Committee for 1967. The following members have been appointed and have agreed to serve:—

The Honourable the Attorney General (*Chairman*)

The Honourable Dhun J. RUTTONJEE

The Honourable Y. K. KAN

The Honourable P. C. Woo

The Honourable G. R. Ross

PAPERS

THE COLONIAL SECRETARY, by Command of His Excellency the Governor, laid upon the table the following papers:—

<i>Subject</i>	<i>LN No</i>
Subsidiary Legislation:—	
Proclamation No 6 of 1966.	
District Court (Civil Jurisdiction and Procedure)	
(Amendment) Ordinance 1966 to come into operation on 12th day of January 1967.....	87
Proclamation No 7 of 1966.	
Interpretation and General Clauses Ordinance 1966 to come into operation on 31st day of December 1966	88
Legal Aid Ordinance 1966.	
Legal Aid Regulations 1966	89
Legal Aid Ordinance 1966.	
Legal Aid (Assessment of Contributions) Regulations 1966	90
Legal Aid Ordinance 1966.	
Legal Aid (Scale of Fees) Regulations 1966	91
Public Services Commission Ordinance.	
Public Services Commission (Amendment) Regulations 1966	92

<i>Subject</i>	<i>LN No</i>
Interpretation and General Clauses Ordinance 1966. Definition of “British Territory”	97
Interpretation and General Clauses Ordinance 1966. Definition of “Commonwealth”	98
Interpretation and General Clauses Ordinance 1966. Fees for Official Signatures	99
Stamp Ordinance. Stamp (Bank Authorization) (No 2) Order 1966	100
Dangerous Drugs Ordinance. Notice by the Director of Medical and Health Services	101
Legal Officers Ordinance. Legal Officers Ordinance (Amendment of Schedule) Order 1966	102
Interpretation and General Clauses Ordinance 1966. Specification of Public Offices	103
Proclamation No 1 of 1967. Legal Aid Ordinance 1966 to come into operation on the 12th day of January 1967	1
Public Health (Animals and Birds) Ordinance. Public Health (Animals and Birds) (Animal Dealers) (Amendment) Regulations 1967	2
Sessional Papers 1967:—	
No 1—Annual Report by the Director of Broadcasting for the year 1965-66.	
No 2—Annual Report by the Commissioner of Prisons for the year 1965-66.	
No 3—Annual Report by the District Commissioner, New Territories for the year 1965-66.	
No 4—Annual Report by the Director of Information Services for the year 1965-66.	
No 5—Annual Summary by the Director of Education for the year 1965-66.	
No 6—Annual Report by the Commissioner of Police for the year 1965-66.	

Subject

No 7—Annual Report by the Director of Fire Services for the year 1965-66.

No 8—Annual Report by the Director of Agriculture and Fisheries for the year 1965-66.

PUBLIC SERVICES COMMISSION (AMENDMENT) BILL 1967

THE COLONIAL SECRETARY moved the First reading of: “A Bill to amend further the Public Services Commission Ordinance.”

He said:—Sir, this is a short and simple Bill. Its principal purpose is to enable the Governor to appoint additional members of the Public Services Commission up to a maximum of eight. As the Ordinance stands at present the membership of the Commission is restricted to two members only, plus the Chairman.

The background to the Bill, however, is not quite so short or so simple. In the sixteen years or so since the Public Services Commission was set up the Chairman and both members have been part-time, unpaid volunteers, giving up much of their own valuable time in the tradition of public service which is such a marked feature of Hong Kong. The Government deeply appreciates the outstanding services which the present Chairman and members and all their predecessors on the Commission have rendered in the interests of the Public Service and also of the public good. We owe them a great debt and I, for one, would be sorry to see the Commission lose the benefits of this form of voluntary public service altogether.

Nevertheless, Sir, we must face facts and the facts are that, with the steady increase and expansion in the Public Service over the years and with the increasing volume of work that this has involved for the Commission, it is becoming more and more difficult for the Chairman and members to find the necessary time without detriment to the management of their own affairs. Some means have to be found not only to provide some relief to the members from the existing burden of work but also to enable the Commission to assume at the appropriate time additional functions, such as perhaps a duty to advise the Governor on disciplinary matters, which in present circumstances it could not be reasonably asked to undertake.

After a careful examination of the problem, and in consultation with the present Chairman, it has been decided that a full-time, salaried Chairman should be appointed under the provisions of section 3 of the Ordinance. The Finance Committee of this Council has already approved in principle the necessary expenditure on the basis of a three

year contract appointment. Recruitment of an appropriately experienced Chairman is proceeding and I hope to be in a position to make an announcement before very long.

The corollary of a full-time Chairman is either that there should also be full-time members or that there should be a larger number of part-time members, operating as a panel and sharing the work between them under the directions of the Chairman. We have chosen the latter course and this Bill accordingly provides for the appointment of such additional members. No change is proposed in the present quorum provisions and it is envisaged that the Chairman will preside over a number of committees, each, say, of two members, dealing with different aspects of the Commission's work; the whole Commission meeting together only for discussion of matters of major policy.

However, exactly how the Commission will work will, of course, largely be a matter for the new Chairman when he is appointed. Indeed, one of his principal tasks will be to review and advise on the functions and organization of the Commission.

There is, Sir, in this Bill a second amendment, proposed in clause 3. This merely substitutes the term "Regulations" for the now obsolete term "General Orders".

THE ATTORNEY GENERAL seconded.

The question was put and agreed to.

The Bill was read a First time.

Objects and Reasons

The "Objects and Reasons" for the Bill were stated as follows:—

The Public Services Commission at present consists of a Chairman and two members, and the purpose of this Bill is to provide for an increase in the membership by permitting the appointment of not more than eight members to reduce the burden upon individual members (clause 2).

The opportunity is also taken to amend a reference in section 7 of the principal Ordinance (clause 3). The General Orders of the Hong Kong Government have now been superseded by Regulations.

PUBLIC HEALTH (ANIMALS AND BIRDS) (AMENDMENT) BILL 1967

THE COLONIAL SECRETARY moved the First reading of: "A Bill to amend further the Public Health (Animals and Birds) Ordinance."

He said:—Sir, this Bill seeks to provide for the protection and safety of the public at places where wild animals and birds are exhibited. The need for such a provision became apparent as a result of an unfortunate incident some years ago when a boy was injured by a bear.

Clause 6 of the Bill, which would add two new sections, 10A and 10B, to the principal Ordinance, seeks to achieve this protection. These sections would give the Director of Agriculture and Fisheries the power to serve on any person exhibiting, or intending to exhibit, wild animals or birds to the public a statutory notice requiring him to take such steps for the protection, safety and well-being of the public as may be specified in the notice. Clause 3 of the Bill provides for definitions of “wild animals” and “wild birds”.

But since the Ordinance at present relates only to the prevention of disease among animals and birds, it is also necessary to amend the long title so as to include reference to public safety. This is effected by clause 2 of the Bill.

Finally, Sir the opportunity has been taken to repeal the omnibus penalty provisions in section 11(1) and instead to include specific penalty provisions in sections 5 and 6. This is the effect of clauses 4, 5 and 7 of the Bill.

There is one other matter which I wish to mention in connexion with this Bill. It will be noted that the amendments do not oblige persons keeping a wild animal or bird in premises not for exhibition in public to notify the Director. The desirability or otherwise of legislating for such circumstances is now being examined but I cannot at this stage say whether or not such legislation is practicable.

THE ATTORNEY GENERAL seconded.

The question was put and agreed to.

The Bill was read a First time.

Objects and Reasons

The “Objects and Reasons” for the Bill were stated as follows: —

Clause 2 of this Bill, which amends the long title to the Public Health (Animals and Birds) Ordinance explains the purpose of the Bill.

2. Clause 3 adds definitions of “wild animals” and “wild birds”, the intention being to exclude from the “public safety” provisions of the Bill domestic animals and domestic birds.

3. Opportunity is taken to repeal the omnibus penalty provision contained in section 11(1) of the Public Health (Animals

and Birds) Ordinance and clauses 4 and 5 provide for specific penalty provisions to sections 5 and 6 of the principal Ordinance.

4. Clause 6 adds two new sections to the principal Ordinance. The new section 10A will make it mandatory for a person intending to exhibit wild animals or wild birds to first notify the Director of Agriculture and Fisheries. Section 10B empowers the Director to serve a notice on an exhibitor or the owner and occupier of premises where it is intended to hold the exhibition, requiring any of such persons to carry out safety work or take any other steps which the Director may think necessary for the protection and safety of the public. If the Director thinks necessary, he may stop an exhibition until such work is carried out or such steps are taken.

PENSIONS (AMENDMENT) BILL 1967

THE COLONIAL SECRETARY moved the First reading of: "A Bill to amend further the Pensions Ordinance".

He said:—As so often in the case of pensions legislation, I am afraid it is not easy to see from the terms of the amendments in clause 2 of the Bill exactly what the effects will be. I will try to explain, so far as I can, in simple and rather general terms.

An officer's pension is calculated in relation to his final substantive salary. Until 1959 his full substantive salary was taken—100% of it—and he was awarded, as a pension, one fiftieth of that salary for every year of service. This means that after $33\frac{1}{3}$ years service an officer would get a pension equal to two-thirds of his final salary and this is the maximum pension that is allowed under the Ordinance.

In 1959, however, it was decided, on the recommendation of the Salaries Commission of that year, that in future only 90% of the officer's final substantive salary on retirement should be taken in calculating his pension. This of course meant a 10% cut on all pensions. The change was made because, as a result of the Salaries Commission, there was a very considerable consolidation with the substantive salary of most officers of previously non-pensionable cost of living allowances. But as may be imagined. Sir, this cut in pensions has always been unpopular with the Public Service.

The 1965 Salaries Commission, on the other hand, recommended that the pre-1959 position should be restored and the full 100% of substantive final salary should again be used in the calculation of pensions and other retirement benefits. The Government was prepared to accept this recommendation, provided that some savings could be found elsewhere in the costs of the Public Service to offset, to a significant

extent, the additional costs of restoring what has come to be referred to as “100% pensionability”.

Since the Salaries Commission had also advised that it considered that the leave rates in ‘the Public Service were generally generous, in comparison with the rates earned outside the Public Service, the Government believed that the fairest way of achieving this saving in costs would be an overall reduction in the vacation leave earning rates of 25%. The savings in such a reduction were estimated at 6.9 million dollars and the three main Associations of Civil Servants were told that any alternative proposal to this reduction in leave rates which might be more acceptable to them would be sympathetically considered, provided it produced equivalent savings. Prolonged consultations were held with these main Associations, but it was not, in the event, possible to find such an alternative.

It is, accordingly, proposed to re-introduce “100% pensionability” combined with a 25% reduction in vacation leave earning rates. This will be achieved, as regards pensionability, by clause 2 of the Bill now before this Council and, as regards the leave rates, by an amendment to Establishment Regulations if the Bill is passed. Thenceforward the new provisions will apply to all new entrants to the Public Service. In the case of officers who are now serving, however, they will be offered an opportunity of electing between the higher pension with lower vacation leave rates and the present position of “90% pensionability” and unreduced leave rates. The unusual course of publishing this option in the *Gazette* as a Legal Notification has been taken because of the desirability of giving it some statutory recognition and because it is referred to in the Bill itself. The option is a once-for-all option and, with certain exceptions for officers on leave, must be exercised by the 7th February. If no election is made, the new terms will apply.

Although the Salaries Commission recommended that the restoration of “100% pensionability” should be made with effect from 1963, it is considered that 1st April, 1965, which is the effective date of the general revision of salaries, is more appropriate and this therefore is the date provided in clause 1(2) of the Bill.

The opportunity of this Bill has also been taken to include clause 3. This is unrelated to the main purpose of the Bill and is aimed at removing an anomaly. The amendment is explained in paragraph 2 of the Objects and Reasons and although it is rather technical and complicated it is of limited application, and it is felt desirable that it should be made.

THE ATTORNEY GENERAL seconded.

The question was put and agreed to.

The Bill was read a First time.

Objects and Reasons

The “Objects and Reasons” for the Bill were stated as follows: —

The amendments which clause 2 of this Bill seeks to make to the Pensions Ordinance (hereinafter referred to as the principal Ordinance) are consequent upon Government’s implementation of the recommendation of the Hong Kong Salaries Commission 1965 that in future pensions in Government service should be computed on the basis of one hundred *per cent* of substantive salary. Officers appointed prior to the enactment of this Bill whose terms of service provide that ninety *per cent* only of substantive salary and fifty *per cent* only of expatriation pay shall be taken for the purpose of computing their pensions, and officers who, though appointed after the enactment of this Bill, have before that date received offers of appointment on similar terms as to pension will be given an opportunity of electing to remain on such terms. Clause 1(2) of the Bill provides that these amendments shall have retrospective effect to 1st April 1965.

2. Section 16(2) of the principal Ordinance provides that, where an officer dies after retirement having been granted or having become eligible for a pension under the principal Ordinance and the sums paid or payable to him at the date of his death are less in total than the amount of his annual pensionable emoluments or his commuted pension gratuity, he may be granted a gratuity equal to the deficiency. Under section 16(2), any additional pension granted to an officer under regulation 22(b) of the Pensions Regulations is to be excluded when calculating the sums paid or payable to the officer on account of pension. Clause 3 of this Bill seeks to amend section 16(2) so as to provide that such additional pension shall no longer be excluded. Clause 3 further seeks to amend the definition of “annual pensionable emoluments” in paragraph (a) of subsection (5) of section 16 so as to provide for the definition to apply with the same effect in both subsection (1) and subsection (2).

**WIDOWS AND ORPHANS PENSION (AMENDMENT)
BILL 1967**

THE COLONIAL SECRETARY moved the First reading of: “A Bill to amend further the Widows and Orphans Pension Ordinance.”

He said:—This Bill is related to the Pensions (Amendment) Bill, which has just been read a first time and on which I spoke at some length. This amendment to the Widows and Orphans Pension Ordinance reflects the proposal to restore “100% pensionability”. The amendment is necessary because the substantive salary upon which

Widows and Orphans Pension contributions are calculated is the same as that used for the calculation of pensions and other retirement benefits under the Pensions Ordinance. The provisions of this Bill merely bring the two Ordinances into line in this respect.

THE ATTORNEY GENERAL seconded.

The question was put and agreed to.

The Bill was read a First time.

Objects and Reasons

The “Objects and Reasons” for the Bill were stated as follows:—

Consequent upon Government’s implementation of the recommendation of the Hong Kong Salaries Commission 1965 that pensions in Government service should be based on one hundred *per cent* of an officer’s substantive salary, it is necessary to amend the Widows and Orphans Pension Ordinance (the principal Ordinance) to provide a new definition of “salary” in respect of service after the 31st day of March 1965 in the case of all officers, other than serving officers and certain newly appointed officers who elect that only ninety *per cent* of substantive salary and fifty *per cent* of expatriation pay (where applicable) shall be taken in computing their pensions and gratuities under the principal Ordinance.

2. It has been found convenient to transfer the definition of “salary” to a separate section and, accordingly, clause 3 of this Bill seeks to amend the principal Ordinance by the addition of a new section 2A providing for the determination of an officer’s salary for the purposes of the principal Ordinance. By virtue of subsections (2) and (3) of the new section 2A the definitions of salary now in section 2 of the principal Ordinance will continue to apply in respect of service prior to the 1st day of April 1965. Subsection (4) of the new section 2A introduces the new definition of salary in respect of service after the 31st day of March 1965.

MERCANTILE BANK NOTE ISSUE (AMENDMENT) BILL 1967

THE FINANCIAL SECRETARY moved the First reading of: “A Bill to amend further the Mercantile Bank Note Issue Ordinance.”

He said:—Sir, under the present legislation the three banks which have powers of note issue under the Bank Notes Issue Ordinance, Chapter 65, may issue notes in two ways—

Firstly, against the deposit of securities owned by the bank to the face value of the notes issued, subject to certain limits; this is known loosely as their “fiduciary” issue.

Secondly, against Certificates of Indebtedness issued under the Exchange Fund Ordinance, Chapter 66; these certificates are issued by the Financial Secretary against payment of an equivalent amount into the Exchange Fund. In practice payment is made in sterling.

In the case of the first category—the fiduciary issue—interest on the deposited securities accrues to the issuing bank (less a duty of 1½% imposed under the Stamp Ordinance). In the case of the second category, however, interest accrues to the Exchange Fund, any surplus from which is available, in certain circumstances, for transfer to the general revenue of the Colony. It is therefore in the financial interest of a bank to be empowered to issue notes under the first category rather than the second.

The Mercantile Bank Note Issue Ordinance, Chapter 71, empowers the Bank to issue notes by the first method, i.e., against deposited securities, up to the face value of its paid-up capital. In recent years there have been a number of increases in the Bank's paid-up capital. Which now stands at £2,940,000 or about \$47 million, so that its fiduciary issue is at present potentially \$47 million, and could be increased further by further increases in paid-up capital.

The fiduciary issue of the Hongkong and Shanghai Banking Corporation is limited by the terms of its Ordinance to \$30 million; that of the Chartered Bank by the terms of its charter to \$35 million. The Mercantile Bank would therefore enjoy an advantage over the other two note-issuing banks if it were to exercise its power to issue notes up to the full amount of \$47 million. Its note-issue at present amounts to approximately \$24 million. In the circumstances the Bank has agreed that its fiduciary issue should be limited to \$30 million and clauses 3 and 4 of the Bill effect the necessary amendment.

Two other minor amendments to the Ordinance are also proposed. The first, which is covered by clause 2, results from the transfer of the Bank's head office to Hong Kong in April 1966, thus making it necessary for the reference to the "head office" in London to be replaced by "registered office". Secondly, since 1948 it has not been the practice to publish details of securities deposited against notes in circulation and clause 5 seeks to give statutory effect to this.

THE COLONIAL SECRETARY seconded.

MR J. DICKSON LEACH declared an interest and abstained from voting.

The question was put and agreed to.

The Bill was read a First time.

Objects and Reasons

The “Objects and Reasons” for the Bill were stated as follows:—

This Bill amends the limit to the note issue which may be made by the company against securities deposited with the Crown Agents, which is at present based on the paid up capital of the company. In recent years there has been a number of increases in the company’s paid up share capital and if the company were to exercise its power to issue notes against securities deposited with the Crown Agents to the full extent of its present paid up capital it would enjoy an advantage over the two other note issuing banks the limits of whose note issue, against securities deposited with the Crown Agents, are set at fixed terms. The company has consented to the proposed amendment.

2. Clause 5 seeks to give statutory effect to the practice of not publishing details of securities deposited against notes in circulation which has existed since 1948.

MATRIMONIAL CAUSES BILL 1966

THE ATTORNEY GENERAL moved the Second reading of a Bill intituled “An Ordinance to make further and better provision in respect of the law governing matrimonial causes and for matters incidental thereto or connected therewith.”

THE COLONIAL SECRETARY seconded.

MR P. C. Woo addressed the Council.

He said: —Your Excellency, the Bill before Council as stated in its Objects and Reasons is to replace the existing Divorce Ordinance and to bring up to date the law concerning divorce as in England closely following the Matrimonial Causes Act, 1965. Thus, the general law relating to matrimonial matters in Hong Kong will be brought up to date when this Bill becomes law.

My honourable Friend the Attorney General, however, made the remark in introducing this Bill in its First reading that “Customary marriages and what are sometimes called Chinese modern marriages which take place in Hong Kong do not fall within the jurisdiction of courts at all under this Bill. This is, indeed, the present situation in law and the Bill will not alter it”.*

The courts here have no jurisdiction to entertain any matrimonial matters where the parties are Chinese and married in accordance with

* 1966 Hansard, Page 445.

Chinese law and custom or in accordance with the simplified form of customary marriages generally known as Chinese modern marriages. This is regrettable as it is obvious that many unhappy differences will arise among people who are married under the Chinese law and custom and these marriages do not come within the definition in the Divorce Bill as “monogamous marriages” and the parties are therefore deprived of any redress in the courts. The only recourse they have is to compromise their differences by mutual negotiations and that is obviously most unsatisfactory and time consuming.

Indeed, these defects were fully realized by Government and a Committee was appointed in 1948 to consider and make recommendations as to how far Chinese law and custom as existed in 1843 was applicable to the Chinese domiciled in Hong Kong. The Committee submitted its Report to Government in February 1953 with certain recommendations but unfortunately these were not implemented and the position remains exactly the same as regards marriages in accordance with Chinese law and custom among the Chinese community in Hong Kong as in 1843.

As far as personal law applicable to the Chinese community in Hong Kong is concerned such as marriages, divorces and succession, they are still governed by Chinese law and custom sometimes wrongly described as the “Ta Ching Lu Li”. Such state of affairs was not oblivious to the predecessor of my honourable Friend the Secretary for Chinese Affairs and he and the then Attorney General in 1960 laid before this Council a White Paper on “Chinese Modern Marriages in Hong Kong” in which it recommended that “before Government determines on any action in connexion with Chinese law and custom, it should seek further advice from the public”. Indeed, he had discussions with the Chinese Unofficial Members of this Council on many occasions before his departure from Hong Kong on retirement and the Chinese Unofficial Members had given him certain views on this matter including the controversial subject of concubinage.

It can be said without contradiction that this important matter is under constant consideration by Government but the general public has no knowledge as to what steps are being taken in this respect and I should be grateful if my honourable Friend the Secretary for Chinese Affairs is able to give us an authoritative statement concerning the same.

I must point out that the position is acute in that not only, as I have said before, the parties under these forms of marriages as above mentioned have no redress in the courts of law in Hong Kong, but also many unhappy differences will arise and their problems will not be solved so long as such harsh and antiquated Chinese law and custom are applicable to the Chinese community. The female members of the Chinese community are being deprived of their rights to succession of

their husbands' or their fathers' estates if the latter die intestate as the existing law only recognizes the male descendants to be the only rightful heirs to succeed to the properties of a Chinese intestate. I, for one, admire the patience of the female sex of the Chinese community for not pressing harder for legislation to rectify these unjustifiable discriminations.

Sir, it is my earnest hope that Government will pursue with vigour the reform of the Chinese law and custom by replacing it with modern legislation and to bring it up to date to conform with the modern laws of marriage, divorce and succession, and thus provide the Chinese community with the same rights and duties under this important branch of the law as other sections of the community in Hong Kong.

THE SECRETARY FOR CHINESE AFFAIRS replied as follows:—

Sir, with reference to the remarks just made by my Friend Mr P. C. Woo, I would like to say this, that I hope no one regards the introduction of this present Bill as an indication that the Government gives a higher priority to the correction of relatively minor defects in the law relating to monogamous marriages than to the solving of the long-standing and very intractable problems connected with Chinese customary marriages. This is very far from being the case and I welcome this opportunity of correcting such an impression, if it exists.

The fact is, Sir, that the matters dealt with in the Bill before us today are comparatively simple, whereas the wider questions affecting Chinese marriages and connected matters are Very complicated indeed.

However, as the honourable Member has mentioned, a very great deal of work has already been done on this subject by my predecessor, Mr, MCDOUALL, and by the former Attorney General, Mr HEENAN. The position now is that the Government has decided to issue a White Paper setting out in reasonably simple terms a Statement of Policy on the subject of customary marriages. This statement will indicate in general terms the legislative and other changes which the Government has been advised to consider, and the immediate purpose will be to invite public comment in depth.

Thus the only immediate problems at this stage are problems of presentation and I am sure that it will be possible to present the proposed White Paper to this Council in the reasonably near future.

The question was put and agreed to.

The Bill was read a Second time.

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

HIS EXCELLENCY THE GOVERNOR: —With your concurrence, we will take the clauses in blocks of not more than five.

Clause 1.

THE ATTORNEY GENERAL:—I move that clause 1 be amended as set forth in the paper before honourable Members.

Proposed Amendment.

Clause

1. Leave out “1966” and substitute therefor the following—
“1967”.

Clause 1, as amended, was agreed to.

Clauses 2 to 25 were agreed to.

Clause 26.

THE ATTORNEY GENERAL:—I move that clause 26 be amended as set forth in the paper before honourable Members.

Clause

26. Leave out subclause (4).

Clause 26, as amended, was agreed to.

Clauses 27 to 55 were agreed to.

Council then resumed.

THE ATTORNEY GENERAL reported that the Matrimonial Causes Bill 1966 had passed through Committee with certain amendments and moved the Third reading.

THE COLONIAL SECRETARY seconded.

The question was put and agreed to.

The Bill was read a Third time and passed.

HONG KONG PRODUCTIVITY COUNCIL BILL 1966

MR T. D. SORBY moved the Second reading of a Bill intituled “An Ordinance to provide for the establishment of the Hong Kong Productivity Council and to define its powers and functions.”

THE COLONIAL SECRETARY seconded.

The question was put and agreed to.

The Bill was read a Second time.

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

HIS EXCELLENCY THE GOVERNOR:—With your concurrence, we will take the clauses in blocks of not more than five.

Clause 1.

THE ATTORNEY GENERAL:—I move that clause 1 be amended as set forth in the paper before honourable Members.

Proposed Amendment

Clause

1. Leave out “1966” and substitute therefor the following—

“1967”

Clause 1, as amended, was agreed to.

Clauses 2 to 20 were agreed to

Council then resumed.

MR T. D. SORBY reported that the Hong Kong Productivity Council Bill 1966 had passed through Committee with one amendment and moved the Third reading.

THE COLONIAL SECRETARY seconded.

The question was put and agreed to.

The Bill was read a Third time and passed.

HONG KONG ANTI-TUBERCULOSIS AND THORACIC DISEASES ASSOCIATION INCORPORATION BILL 1967

MR DHUN J. RUTTONJEE moved the First reading of: “A Bill to incorporate the Hong Kong Anti-Tuberculosis and Thoracic Diseases Association.”

He said: —Your Excellency, just before the outbreak of the Second World War, a group of dedicated people in Hong Kong got together and formed the Hong Kong Anti-Tuberculosis Association. This group did excellent work and planted the seeds from which has flowered the present tuberculosis programme.

As with almost every other form of constructive activity, the Association’s work had to lie dormant during the war years but shortly

after Liberation, the Association was resuscitated under the leadership of the then Dr SELWYN-CLARKE, Director of Medical Services in those days.

With the heavy influx of refugees, the gross overcrowding and general poor living conditions which were prevalent in the late 1940's and early 1950's, it was inevitable that the problem of tuberculosis should have been an extremely serious one and tended to aggravate all other social problems.

In the year 1951, 20% of the total number of deaths were attributable to tuberculosis and 34% of all deaths in children under the age of five had tuberculosis as their cause.

Government had its hands more than fully occupied in trying to cope with the manifold community problems and the changing situation created in those days, and the problem of tuberculosis, although extremely serious, could only be dealt with fragmentarily.

The Association, therefore, had a very important role to play in developing a Tuberculosis programme. The Association was formally incorporated in 1948 and in that year, the first of its hospitals— the Ruttonjee Sanatorium—was opened, being the first and then, only institution devoted wholly 'to the treatment of T.B. patients. This hospital has been followed by others and with the advent of new drugs, new and more effective ways of survey, diagnosis and treatment, and the introduction of BCG, I am happy to say that Tuberculosis is no longer the menace to the community that it once was.

In all of its work the Association has worked closely with, and had the full support and encouragement of, my honourable Friend, the Director of Medical and Health Services.

As is indicated in the Objects and Reasons attached to the Bill, the progress of the Association's work has been in parallel with that of similar organizations all over the world, and it now feels it is able to expand its activities to cover also the treatment and prevention of all diseases of the chest and heart, as is being done elsewhere in the world by similar bodies. The Hong Kong association, therefore, now wishes to change its name to "The Hong Kong Anti-Tuberculosis and Thoracic Diseases Association", and in this new capacity I am confident that it will prove of still increasing benefit to the community.

MR Y. K. KAN seconded.

The question was put and agreed to.

The Bill was read a First time.

Objects and Reasons

The “Objects and Reasons” for the Bill were stated as follows: —

The Hong Kong Anti-Tuberculosis Association was incorporated on the 22nd October, 1948 by The Hong Kong Anti-Tuberculosis Association Incorporation Ordinance. Since that date, the work of Anti-Tuberculosis Associations all over the world has been extending to cover the treatment and prevention of all diseases of the chest and heart in addition to tuberculosis alone. The Hong Kong Association wishes to follow the lead of other international organizations in extending its field of activities to the treatment and prevention of all diseases of the chest and heart as its facilities permit although its work will continue to be centred on the treatment and prevention of tuberculosis. The proposed new name “The Hong Kong Anti-Tuberculosis and Thoracic Diseases Association” reflects the proposed extension of activities and, at the same time, preserves much of the name under which the Association has been known to the public over the past years.

At the same time, the opportunity is taken to revise the corporate structure of the Association to bring it up to date and in line with the practical requirements of its operations.

ENGLISH SCHOOLS FOUNDATION BILL 1967

MR DHUN J. RUTTONJEE moved the First reading of: “A Bill to establish the English Schools Foundation, to provide for its incorporation, constitution, functions and matters connected therewith.”

He said:—Honourable Members will recall that Government, in its 1965 White Paper on Education,* recommended that any further English type schools in Hong Kong should not be owned and operated by Government but should be owned and operated by a separate, but Government-aided body. It was felt that no existing incorporated body was suitable to fulfil this role and, accordingly, it has been decided that a foundation, to be known as the English Schools Foundation, should be set up by Ordinance to own and operate any further English type of schools in Hong Kong and this is the purpose of the present Bill.

I have nothing further to add to the objects and reasons published with the Bill.

MR J. DICKSON LBACH seconded.

The question was put and agreed to.

The Bill was read a First time.

* 1965 Hansard, page 270 et seq.

Objects and Reasons

The “Objects and Reasons” for the Bill were stated as follows: —

1. The object of this Bill is to incorporate The English Schools Foundation, which has been jointly sponsored by the Bishop of Victoria, Hong Kong, the Roman Catholic Bishop of Hong Kong, the Ministers of the Free Churches in Hong Kong, the Vice-Chancellors of both Hong Kong Universities, the Council of Parent Teacher Associations of English Schools and numerous business and professional interests in the Colony. Its incorporation will ensure perpetual succession and make it easier to deal with the property and funds of the Foundation.

2. The English Schools Foundation was first proposed in 1965 with the object of—

- (a) improving and expanding the facilities available in Hong Kong for an English type of education;
- (b) concentrating the material resources and educational efforts of schools providing this kind of education; and
- (c) providing a suitable organization for the establishment of English type schools in the Colony.

3. The provisions of the Bill may be summarized as follows—

- (a) Clause 3 incorporates the Foundation.
- (b) Clause 4 sets out the Foundation’s powers. These include the power to hold and deal with land subject to the Charities (Land Acquisition) Ordinance 1958 and power to own administer and operate schools in the Colony providing for boys and girls who might benefit thereby a modern liberal education through the medium of the English language.
- (c) Clause 5 prohibits dividends or gifts to members of the Foundation or to the staff of its schools.
- (d) Under clause 6 the Foundation will be registered as the Manager and Supervisor of its schools for the purposes of the Education Ordinance 1952 and the Principal of each school will act on the Foundation’s behalf in the day to day administration of the schools.
- (e) Clauses 7 and 8 provide for the establishment of an Executive Committee, School Councils and other committees.
- (f) Clause 9 sets out the officers of the Foundation, their duties and functions.
- (g) Clause 10 enables the Foundation to make regulations.
- (h) Clause 11 sets out the first members of the Foundation and makes provision for additional members.

- (i) Clause 12 presences the formalities necessary for contracts made by the Foundation.
- (j) Clause 13 requires the registration of certain particulars and of the regulations with the Registrar of Companies.
- (k) Clause 14 is a normal provision saving the rights of the Crown.

ADJOURNMENT

THE COLONIAL SECRETARY moved the adjournment.

THE ATTORNEY GENERAL seconded.

MR SZETO WAI addressed the Council.

He said:—Your Excellency, the question of obstruction to traffic by road works is a thorny one. Repairs to existing roads, road widening schemes, and the replacement of old buildings by new and larger ones, all require work on services and utilities, and thus involve road works. So far, official comment has been that machinery exists for coordinating the activities of the utilities affected, and efforts are made to keep obstruction to the minimum. Nevertheless, we continue to be plagued with road-up signs, and many road works appear to take much too long, either due to the bad performance of the contractors or perhaps the lack of liaison between Public Works Department and the utilities. Nathan Road has been a classic example, but its place has now been usurped by Waterloo Road. Soon after its fly-over was completed after 18 months of traffic disorder, its junctions with Boundary Street and Prince Edward Road were thrown into chaos, and for almost 9 months work on the mere 400-foot stretch of this road between Boundary Street and Prince Edward Road has caused considerable inconvenience to road users, especially the large number of school children in this area. While appreciating that this roadwork involved a large amount of utilities and services including a big water main, it should have been possible to reduce the time with greater efficiency and better co-ordination. There have been many complaints from the public that often only a handful of workers were seen on the job and that advantage was not taken of the light Summer evenings. I hope that the Contractor was not experiencing financial difficulties and still being allowed to drag on with his contract. I understand that this chaos will end soon, and completion is expected next month when order will be restored again, though unfortunately not for long, because Prince Edward Road—that all important East-West artery—is due to be widened and improved, which will mean road barriers and digging up for another 9-12 months.

Sir, it is, of course, unavoidable that the public must suffer if our roads are to be improved, as most of them were not designed to take the heavy traffic of today and many have not been re-surfaced since

their inception. But what the public needs is greater efficiency and speed of execution, which calls for careful programming of construction, closer supervision, and above all, planned co-ordination of all elements. This latter question could be made easier by adopting a common concrete conduit underground to house the various utilities, especially for new road works.

In view of the future heavy programme of road construction and the anxiety of the public, the time has come when the costing of road works and contract procedures require to be reviewed. There should be a careful examination made of the additional costs involved in minimizing obstructions and inconvenience, and the value of having the obstructions reduced. I believe most projects could be completed much more quickly if higher costs were accepted. When Queen's Road East was the only low level link between Wan Chai and the Central District, the section between Hennessy Road and Murray Road was constructed rapidly because of its great importance. The question is when less important road works are undertaken, how is it decided how much it is worth spending to obtain speed. Is this problem ever considered or is all the effort confined to getting the physical work done at the lowest cost, regardless of the time taken and the inconvenience and obstruction caused? I should like to see the wider use of incentives to speed up contracts, which would mean mechanization as far as possible. Better construction planning coupled with stricter supervision should result in less time and working space, both contributing to reduced obstruction.

The cost of road works comprises not only the contractor's bill but also frustrating delays, general nuisance and often loss of income to the public. How many shops have suffered a serious loss of business because the road or footpath outside had been dug up for an overlong period? The aim should be to achieve the lowest total social cost and not just the minimum contract cost. Every proposal should be examined closely in respect of the minimum reasonable time required for its completion involving overtime if necessary, as well as the use of suitable equipment. All this must be specified and not left to the convenience of the tenderers. I am aware that a lower contract cost may be obtained if the tenderer is left to state his own time and way of working. I am also conscious that my Friend, the Hon. Financial Secretary, is always anxious to cut costs, or the Honourable Director of Public Works may be concerned with complaints from the public, caused by efficient construction work outside normal working hours. But I am convinced that the public will prefer a little more noise for a shorter duration, knowing that Government has made every effort to minimize delay. In this connexion, I may mention that the Ministry of Transport in the United Kingdom established in 1965 a Working Party to study the costs, efficiency and productivity of road construction and has

evolved modified contract procedures and a new system of calculating time allowed for roadwork contracts.

Finally, Sir, I consider that a review is called for of the present list of Public Works Department approved contractors eligible for road work contracts. The organization, capability and attitude of some of our local contractors leave much to be desired, and it will be imprudent to entrust these firms with roadworks of any urgency and magnitude. Obstruction and inconvenience caused by incapable and irresponsible road contractors should not be tolerated. I therefore propose that the new Technical Audit Unit in the Public Work Department established two years ago should look into the matter.

MR Y. K. KAN addressed the Council:—

He said:—Sir, on the question of traffic obstruction, may I take this opportunity of pointing out another cause, and, to my mind, more equally important, serious cause of traffic obstruction—and that is, the number of heavily laden and slow-moving goods vehicles and, especially, out-of-date buses which grind their way up some of our steep roads. Those of us, Sir, who have the misfortune of going back to our homes on the upper levels can testify to this condition. These vehicles, Sir, not only constitute a danger to public safety but, in my submission, they are a very serious contributing cause to traffic congestion, and if I may pass the ball back to Mr SZETO'S court, as it were, I suggest that he and members of the Traffic Advisory Committee in their deliberations might well consider how far it is possible to see to it that these slow buses could be replaced by more speedier and efficient vehicles.

MR A. M. J. WRIGHT addressed the Council.

He said:—Your Excellency, my honourable Friend Mr SZETO paints a picture of incompetent contractors; poor or non-existent preplanning; and serious lack of liaison between the Public Works Department and the Public Utility Companies. To illustrate his points he takes as an example the work now nearing completion in Waterloo Road, at its acrossing with Prince Edward Road.

First, I would like to speak of liaison. One each side of the harbour we have an Engineer whose primary job is to liaise with the Public Utility Companies and co-ordinate work on road openings. Each of these two engineers holds a monthly meeting with representatives of the Public Utilities, as well as the Tramway Company, the two Bus Companies, the Army, the Waterworks and the Police. At these meetings the need for road openings is discussed, programmes are coordinated, and plans are made to reduce inconvenience to a minimum.

When a major road reconstruction is being planned the project engineer holds similar meetings. The meetings continue throughout the contract period and at Waterloo Road they have been held at fortnightly intervals. After consultation with the Utility Companies and the Police the engineer prepares either a critical path analysis or a bar chart, setting out in detail the timing of the operations at all stages of the work. The chart is agreed with the Public Utilities and issued to the General Contractor when the road reconstruction contract is let.

Liaison between the Police and the Public Works Department has always been close, but at the end of last year, in order to further improve liaison and co-ordination between the two departments, a Police Officer of the rank of Superintendent was seconded for continuous duty in the Civil Engineering Office.

So much for liaison and pre-planning. I now turn to the question of contractors.

Mr SZETO seems to be under the impression that a single contractor has been responsible for all the work at Waterloo Road. I wish this were so—our job would be much easier; and so would the contractor's. I am surprised that my honourable Friend has made this incorrect assumption for it should be obvious that the laying and jointing of water mains, gas mains, electric cables and telephone cables all require the services of specialists, working for and under the direction of the Utility Companies. Such work cannot be undertaken by the general contractor employed by the Public Works Department for road reconstruction. The multiplicity of contractors, and the specialist work that each must undertake, dictates the time required to complete a project. The work is always exacting and sometimes dangerous; it cannot be rushed, and this gives rise to accusations of delay or slow working. At Waterloo Road one of the gas mains exploded and on another occasion on the same project two workers employed by the Telephone Company were suffocated in a telephone manhole. These incidents are indicative of the ever present dangers and illustrate the need for careful working; they also highlight the difficulties and dangers of putting all services in a single large duct as suggested by Mr SZETO.

Details of the work undertaken by the Public Utilities on the Waterloo Road project are worth putting on record—and they may be of interest of honourable Members. They are:—

Telephone Company. Twenty-two 4" diameter ducts for the entire length of the works, and thirty-two 4" diameter ducts across the roadway.

China Light & Power Twenty cable ducts across the roadway.

<i>Gas Company.</i>	Two mains, one 8 " and one 6" diameter each for the whole length of the works.
<i>Ministry of Public Buildings & Works.</i>	One cable for the entire length and one cable across the road.
<i>Rediffusion.</i>	One cable for the entire length.
<i>Waterworks.</i>	One 48" trunk main and one 12 " salt water main.

Besides this, in accordance with our usual practice, associated drainage works were carried out by the general contractor; thus reducing the number of separate contractors by one.

Each of these Utilities had to employ its own specialist contractors or direct labour; so, far from having a single contractor on the site, there were seven. My honourable Friend will appreciate, from his own experience, the problems which arise on a project where seven different contractors are working in a restricted space. On building contracts, with which Mr. SZETO is familiar, this problem is to some extent solved by making each specialist contractor the nominated subcontractor of the general contractor. But this is not possible on road works where the specialist contractors—with the exception of those employed on laying water mains or on drainage works—are each working for different employers, completely independent of the Public Works Department.

In regard to contractors, we do choose our contractors with care and we regularly review past performance, and remove the incompetent ones from our list. It is true that contracts are normally awarded to the lowest tenderer, but we have a restricted list and a contractor is only permitted to tender if the standard of his work and organization is acceptable; if it is not he is removed from the list. Even so occasions arise when for one reason or another we do not accept the lowest tender. To quote an example relevant to the subject of this debate, only recently the lowest tender for the annual contract for the laying of water mains was not accepted.

Other points raised by Mr SZETO which I would like to touch on briefly are: the use of underground ducts or conduits to house the utilities; mechanization; and shift work.

The idea of a common underground duct is attractive and is not a new one, but the more one looks at it the greater the practical objections which emerge. It can work if there are no crossings and no cross connexions—the Lion Rock tunnel provides a good example and it will carry many services besides the road. But within a densely developed urban area, with an urban street pattern having cross connexions to buildings on each side of the street, and cross roads every

few hundred feet, it simply isn't practical. Small ducts are provided during reconstruction, and in new roads, so (hat in the future telephone and other cables can be inserted or replaced without digging up the road. And in the Central Reclamation a series of large diameter pipes have been laid to meet future demand for salt water for air conditioning plants.

So far as the surfacing of roads is concerned we are highly mechanized. But we cannot use mechanical plant for excavating trenches in ground encumbered with utility services; hand excavation — and very careful hand excavation—is essential if we are to avoid accidents, blackouts, and damage to telephone cables.

I agree with my honourable Friend that we should consider, wherever possible, making greater use of shift work, even if costs go up as a result. The additional cost is considerable, and it should be restricted to main arteries where traffic intensity is high. Also we must remember that night work in residential areas, however, advantageous it may be to the motorist, causes a large measure of discomfort to the residents. While it may be possible to evaluate the cost of delays due to road works, I am not aware that anyone has yet evolved a system of similarly evaluating the mental stress and disturbance caused to residents by night work on roads. I do not think that the comfort of residents in our highly developed urban areas can be lightly disregarded.

Your Excellency, the time at my disposal is limited and does not allow me to go into further detail. In the future we shall have to reconstruct many roads and improve many junctions by building flyovers. This work, coupled with the associated work on underground services, is bound to interfere with traffic movements. In order to reduce inconvenience and delay we shall continue to keep abreast of modern techniques and procedures, and apply them to Hong Kong whenever they are suitable or practical.

The question was put and agreed to.

NEXT MEETING

HIS EXCELLENCY THE GOVERNOR:—Council will now adjourn. The next meeting will be held on 1st February.