

OFFICIAL REPORT OF PROCEEDINGS**Meeting of 1st October 1967****PRESENT**

HIS EXCELLENCY THE GOVERNOR (*PRESIDENT*)
SIR DAVID CLIVE CROSBIE TRENCH, KCMG, MC
THE HONOURABLE THE COLONIAL SECRETARY (*Acting*)
MR DAVID RONALD HOLMES, CBE, MC, ED
THE HONOURABLE THE ATTORNEY GENERAL
MR DENYS TUDOR EMIL ROBERTS, OBE, QC
THE HONOURABLE THE SECRETARY FOR CHINESE AFFAIRS (*Acting*)
MR PAUL TSUI KA-CHEUNG, MBE
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 WILLIAM DAVID GREGG
DIRECTOR OF EDUCATION
THE HONOURABLE ROBERT MARSHALL HETHERINGTON, DFC
COMMISSIONER OF LABOUR
THE HONOURABLE ALASTAIR TODD
DIRECTOR OF SOCIAL WELFARE
THE HONOURABLE TERENCE DARE SORBY
DIRECTOR OF COMMERCE AND INDUSTRY
THE HONOURABLE GEOFFREY MARSH TINGLE
DIRECTOR OF URBAN SERVICES
THE HONOURABLE DHUN JEANGIR RUTTONJEE, CBE
THE HONOURABLE KAN YUET-KEUNG, CBE
THE HONOURABLE LI FOOK-SHU, OBE
THE HONOURABLE FUNG HON-CHU, OBE
THE HONOURABLE TANG PING-YUAN, OBE
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, OBE
THE HONOURABLE WILFRED WONG SIEN-BING, OBE
THE HONOURABLE ELLEN LI SHU-PUI, OBE
THE HONOURABLE JAMES DICKSON LEACH, OBE
DR THE HONORABLE CHUNG SZE-YUEN

ABSENT

THE HONOURABLE KENNETH STRATHMORE KINGHORN
DISTRICT COMMISSIONER, NEW TERRITORIES

IN ATTENDANCE

THE DEPUTY CLERK OF COUNCILS
MR DONALD BARTON

MINUTES

The minutes of (he meeting of the Council held on 18th October 1967 were confirmed.

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:—	
Drug Addicts Treatment and Rehabilitation Ordinance.	
Drug Addicts Treatment and Rehabilitation (Amendment) Regulations 1967	162
Ferries Ordinance.	
Excluded Ferries (Ma On Shan and Ho Tung Lau) (Amendment) Regulations 1967	163
Road Traffic Ordinance.	
Road Traffic (Registraitdon and Licensing of Vehicles) (Amendment) Regulations 1967	164
Emergency Regulations Ordinance.	
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Emergency Regulations Ordinance.	
Emergency (Principal) (Amendment) (No 4) Regulations 1967	166
Emergency (Principal) Regulations.	
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Hong Kong and Yaumati Ferry Company (Services) Ordinance.	
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Sessional Papers 1967:—

No 21—Annual Report by the Director of Social Welfare
for the year 1966-67.

No 22—Annual Report by the Chairman, Urban Council
and Director of Urban Services for the year
1966-67.

QUESTIONS

MR G. R. ROSS, pursuant to notice, asked the following questions: —

- (1) How many doctors in the Medical establishment have specialized in surgery, and of these how many can perform hole-in-the-heart operations?
- (2) How many open heart operations have been done here and how many have been sent abroad, and what is the reason?
- (3) Have we sufficient open heart specialists with practical experience in this field?

DR P. H. TENG replied as follows:—

He said:—Your Excellency, with reference to the questions asked by my honourable Friend Mr Ross, I beg to provide the following answers. There are 30 doctors in the Medical and Health Department who are in possession of post graduate specialist qualifications in surgery. In addition there are 7 in the University's Surgical and Orthopaedic Units who hold similar specialist qualifications and who are also members of the Hospitals' working team. As open heart surgery can only be undertaken by a team, two groups involving 5 surgical specialists have ventured into this specialized field. I would, however, add that for the past 11 years 1,000 patients with a variety of heart conditions treatable with closed heart surgery have been successfully operated on in the Government Hospitals on both sides of the harbour.

I would like to point out, Sir, that open heart surgery under hypothermia and using the heart lung machine, which is so essential to ensure good results, is a comparatively new development even in advanced countries, but open heart surgery without the use of the heart lung machine, although with surface cooling, is not recommended because only very simple hole-in-the-heart lesions can be done by this method and because of the very narrow margin of safety. Altogether 9 cases of open heart operations of varying degrees of complexity have been performed in the Government Hospitals in Hong Kong and Kowloon. And as far as I can ascertain 6 have been sent overseas for surgery as the unit with the heart lung machine had not been set up

then. In order to explain the reasons for not having dealt with these cases locally, it is necessary to speak at some length on the subject. Cases of congenital and acquired heart disease must be subject to very thorough investigations by heart specialists and hematologists before they can be considered suitable for surgery. To achieve this, additional and more elaborate equipment must be available at the Lewis Laboratory at the Queen Mary Hospital. An "open heart" team must have a surgeon who has received special training in this type of surgery, a specialist cardiologist, a hematologist, a radiologist, a biochemist, technicians and specially trained nursing staff. Additional operating theatre facilities which are already considered barely adequate to meet present needs to cope with the load of acute and emergency cases now handled by the Queen Mary Hospital must also be found. Furthermore, the results of the post graduate training programmes of Government and the University must be directed, many years ahead, towards the provisions of specialist skills for open heart surgery. All these problems which had previously prevented the establishment of an open heart surgery unit have now been overcome in the following ways:

Firstly, with the recent completion of the University Clinical Departments' Laboratories, associated with the extension of the Queen Mary Hospital, the problem of accommodation to house the sophisticated equipment required for the extensive investigations to be done before cases could be considered for surgery has now been solved;

Secondly, a Specialist Surgeon from the University Surgical Unit who has received special training in the latest technique in open heart surgery is now available;

Thirdly, the bottle neck of operating time in the Government Hospitals will be solved by the use of the Grantham Hospital Operating Theatre. Suitable ward units for the care of these patients have been set up in the Grantham Hospital, which also has nurses specially trained to look after the cases post operatively.

I must add that much thought has been given to the administrative problems associated with open heart surgery by Government. These have been solved by utilising the expertise of the University's Departments of Medicine and Surgery, by making use of the diagnostic and investigative potentials of the Lewis Laboratory, and by accepting the facilities provided by the Grantham Hospital, such as the Heart Lung machine and other special equipment, operating theatre, and the specially trained medical and nursing personnel. Furthermore, this newly established unit will in the very early stages of its operation, have the personal services of a visiting overseas specialist of international repute who has devoted his entire time to the development and practice of open heart surgery by special arrangement with the Grantham Hospital.

This joint project undertaken by Government, the University and the Grantham Hospital will lessen the already overburdened demands made on all the Government Hospitals which can continue to cope with other acute and emergency cases. I hope that my honourable Friend will accept my reasons for not having established the unit much sooner, so that the cases sent overseas could have been operated on in Hong Kong.

My answer to my honourable Friend's third question is that for the present, the working team is adequately staffed, because open heart surgery is not only the sole responsibility of the surgeon, but it also requires the services of a consortium consisting of other experts all of whom must have practical experience and training in this field. The need to train more personnel to set up a second open heart surgery unit will be kept under constant review, and although open heart surgery will always be given every consideration in the list of priorities, other equally important areas of the work of the Medical and Health Department must not be lost sight of.

Reference has been made in the Press as to the departure of a highly qualified doctor in this field. I have explained the availability of others in this specialty but I would like to turn to the position of this particular doctor.

He is an overseas officer who holds the rank of specialist and his contract is coming to an end in the normal course of events. In accordance with established Government policy, consideration is always given at this juncture to whether there is a local candidate to replace him when he goes; I confidently expect that it will be possible to recommend a fully qualified and suitable local officer for promotion and thus I cannot justify the retention of the overseas officer. If he were to stay, the local officer would be denied advancement.

Here I would wish to emphasize that we are talking about doctors on a specialized plane and not at the normal professional level. The retention of this overseas specialist would not of course help to solve our difficulties in staffing at the normal professional level.

I am deeply grateful to my honourable Friend, Mr Ross, for giving me this opportunity to speak on this occasion.

MR Ross:—Thank you.

DOGS AND CATS (AMENDMENT) BILL 1967

THE COLONIAL SECRETARY moved the First reading of: —“A Bill to amend the Dogs and Cats Ordinance.”

He said: —Sir, as set out in the Objects and Reasons attached to the Bill, the proposed legislation seeks to clarify the powers of police officers and other public officers under the Dogs and Cats Ordinance and

provides that premises used solely for dwelling purposes may not be entered or searched except pursuant to a magistrate's warrant.

The Bill also seeks to streamline the existing procedure relating to the fixing of fees for the maintenance of dogs and cats in observation kennels, quarantine stations and other places, and for the inoculation of dogs against rabies. It is proposed that the Governor should in future fix fees under the principal Ordinance rather than, as at present, under the Dogs and Cats Regulations, which have first of all to be made by the Governor in Council. I should mention that it is intended that the present fees payable in respect of inoculation of dogs against rabies should shortly be eliminated.

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: —

This Bill seeks to clarify the powers of police officers and other public officers under the Dogs and Cats Ordinance. It also provides that premises used solely for dwelling purposes may not be entered or searched under the new section 5(1)(a)(iv) except pursuant to a magistrate's warrant.

2. The authority to search premises, vessels or aircraft in which there is reason to believe there is evidence of a contravention of the provisions of the Dogs and Cats Regulations relating to licensing is omitted.

3. The Bill also seeks to amend the principal Ordinance by adding a new section empowering the Governor to fix inoculation fees and fees payable in respect of the maintenance of dogs and cats detained in observation kennels, quarantine stations or other places. These fees are at present fixed by the Governor pursuant to powers conferred by the Dogs and Cats Regulations. The new section also contains certain ancillary provisions which are at present in the Dogs and Cats Regulations. The new provisions follow, except in matters of detail, those in the Dogs and Cats Regulations.

ROAD TRAFFIC (AMENDMENT) (NO 3) BILL 1967

THE COLONIAL SECRETARY moved the First reading of:—"A Bill to amend the Road Traffic Ordinance to provide for the making of regulations in connexion with the use in Hong Kong of international road traffic circulation licences and permits granted outside of Hong Kong

and in connexion with the issue of such licences in Hong Kong for use outside of Hong Kong.”

He said:—Sir, the need for this Bill arises from the fact that on 3rd May 1960, the Governor in Council made the existing Road Traffic (International Circulation) Regulations in exercise of powers which were believed to have been conferred under the Road Traffic Ordinance. It has recently however come to light (that such powers were not in fact conferred. For that reason the existing Road Traffic (International Circulation) Regulations are technically invalid.

The purpose of this Bill is therefore to confer on the Governor in Council powers to make regulations to enable effect to be given to any international agreements in force in respect of this Colony relating to International Circulation of vehicles and drivers, with retrospective effect to 3rd May 1960.

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 purpose of this Bill is to add to the principal Ordinance a new section conferring upon the Governor in Council, with retrospective effect to the 3rd day of May 1960, power to make the Road Traffic (International Circulation) Regulations.

ROAD TRAFFIC (INTERNATIONAL CIRCULATION) REGULATIONS (VALIDATION) BILL 1967

THE COLONIAL SECRETARY moved the First reading of: —“A Bill to validate certain regulations purporting to have been made in exercise of powers conferred by the Road Traffic Ordinance.”

He said:—Sir, this Bill is closely related to the Road Traffic (Amendment) (No 3) Bill which has just been read a first time and I think the remarks I made upon moving that reading gave a fair indication of the reason why this additional Bill is needed.

The purpose of this Bill is to validate the Road Traffic (International Circulation) Regulations made by the Governor in Council on the 3rd May 1960 to which I referred in my previous address.

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 purpose of this Bill is to validate the Road Traffic (International Circulation) Regulations made by the Governor in Council on the 3rd day of May 1960.

PUBLIC ORDER BILL 1967

THE ATTORNEY GENERAL moved the First reading of:—“A Bill to consolidate and amend the law relating to the maintenance of public order, the control of organizations, meetings, places, vessels and aircraft, unlawful assemblies and riots and matters incidental thereto or connected therewith.”

He said:—Sir, as honourable Members are aware, the law in Hong Kong on the maintenance of public order, the control of meetings and allied matters is contained partly in English Common Law and partly in a number of Ordinances dealing with different aspects of the subject, for example, the Summary Offences Ordinance, the Public Order Ordinance and (he Peace Preservation Ordinance.

It has for some years been the intention to codify the various provisions into a single Ordinance, so that the law on these matters would be more readily available and more easily understood by the general public and by those responsible for enforcing the law. The Bill in the hands of honourable Members is thus intended to be a comprehensive piece of legislation dealing with all aspects of public order. It is more than a mere consolidation of existing law and the opportunity has been taken to expand certain provisions and to fill in some gaps which experience has revealed in it. The Comparative Table annexed to the printed Bill shows that, with few exceptions, all the clauses are based either upon legislation which is already in force in Hong Kong or on provisions taken from the law of some other Commonwealth country.

Part I of the Bill is introductory. Part II re-enacts sections of the present Public Order Ordinance in clauses 4 and 5. Clause 3, which is new, empowers police officers of the rank of inspector or above to prohibit the display of flags, banners or emblems if such a display is likely to cause or lead to a breach of the peace.

One of the most important features of the Bill is Part III, which deals with control of public meetings and processions, which phrases are defined in clause 2. I should like to emphasize the fact that the Summary Offences Ordinance already provides that public meetings and processions must be licensed by the Commissioner of Police, though nothing is said in that Ordinance about the conditions on which a licence may be issued or withheld. Consequently the grant or refusal

of a licence is at resent wholly at the discretion of the Commissioner. Part III of the Bill sets out in much greater detail the circumstances in which licences may be granted to hold public meetings, the way in which they are to be applied for and the terms and conditions on which they may be issued.

Clause 6 gives the Commissioner a general power to issue orders controlling the use of music, broadcasting and amplifiers at public meetings and their conduct generally. Clause 7(2) specifies matters to which the Commissioner must direct his attention when considering an application for a licence to hold a public meeting, which application must be made at least seven days before the meeting is to be held. If satisfied that the meeting is not likely to prejudice the maintenance of public order or to be used for any unlawful or immoral purpose the Commissioner is obliged to issue a licence for the holding of the meeting, though he may refuse to grant it if there has been a contravention of the law by the applicant or persons associated with the application in relation to previous meetings or the meeting for which a licence is being sought.

Where a licence is issued under clause 7(2), certain conditions are implied in it by virtue of clause 9, which imposes obligations upon the licensee. Also, the Commissioner may attach conditions to a licence in accordance with clause 7(3).

Clause 7(5) excludes from the necessity for a licence under this Bill religious meetings and other forms of public meeting taking place in accordance with licences issued under the Places of Public Entertainment Ordinance.

Clause 10 confers on aggrieved applicants or licensees a new right, which is not available at present, to appeal to the Governor against the refusal or cancellation of a licence by the Commissioner or against any of the conditions attached to a licence.

Clauses 11 to 17 are concerned generally with the control of public meetings and gatherings. The present law is deficient in that it makes little provision for the proper conduct of meetings and does not specify to what extent or in what manner they may be controlled or dispersed. Clause 11 provides for control of the conduct of meetings in the following ways—firstly, by clause 11(1), any police officer may stop and disperse an unlicensed public meeting—secondly, by clause 11(2), a police officer of the rank of inspector or above may stop and disperse any public meeting if it is causing or is likely to cause or lead to a breach of the peace. This power extends to a public gathering, which is defined in clause 2 as meaning any assembly of ten or more persons, whether or not it amounts to a meeting or procession. It may be argued by persons who are unfamiliar with the particular circumstances of Hong Kong that this is a wide power. However, I would suggest

that those who have personal knowledge of our crowded conditions of living and of the ease with which gatherings of persons can be whipped up into a riotous mob will see the need to confer upon responsible police officers adequate powers to halt and disperse unruly crowds at an early stage.

Clauses 11(3) to 11(6) give the necessary authority to police officers to enforce orders, for the stopping or dispersing of meetings, which they have issued under powers given by clauses 11(1) and 11(2).

Clause 12 of the Bill lists various offences connected with licences under clause 7 and orders under clause 11. It also specifies that where an unlicensed meeting takes place or where an order issued by the Commissioner under clause 6 is disobeyed or where three or more persons taking part in a public meeting refuse to obey orders issued under clause 11(3), the public meeting thereupon becomes an unlawful assembly and those persons who take part in it will be liable to the penalties which may be imposed for this offence under clause 18.

Clauses 13 and 14 are penal provisions dealing with disorder and the carrying of offensive weapons in public places and at public meetings. These are common provisions, although they do not at present exist in our law. Clauses 15 and 16 give overall powers of control to the Commissioner of Police or the Governor in Council in relation to the prohibition of public gatherings. Clause 15 gives power to the Commissioner of Police, in the interests of public order, to prohibit a public gathering in any particular area or on any particular day. This power is intended to be used sparingly in cases where he believes that the holding of any meeting at some special time or place would be likely to lead to trouble. Clause 16 empowers the Governor in Council to prohibit the holding of any public gatherings for a specified time not exceeding three months. This power can only be exercised if the Governor in Council is satisfied that such a prohibition is necessary to prevent serious disorder.

Part IV of the Bill is largely new to the law of Hong Kong in statutory form, though much of it is based on the common law. The common law on the subject of unlawful assembly and riot has developed little in the past 100 years, during which time this kind of civil disorder has almost disappeared in the United Kingdom. Some of the requirements of the common law in relation to these offences were rather technical and ill-adapted to modern conditions. Although the basic principles of unlawful assembly and riot have been retained therefore certain modifications have been made.

Clause 18 has been re-drafted since the Bill was published for general information in such a way as to greatly reduce the risk that innocent persons caught up in an unlawful assembly might find themselves guilty of the offence. The clause now provides that if three or more persons assembled together conduct themselves in a manner intended

or likely to cause anybody reasonably to fear a breach of the peace then they are an unlawful assembly.

By clause 19 an unlawful assembly becomes a riot as soon as any person taking part in it commits a breach of the peace.

The remaining clauses of this part of the Bill deal with forms of violent conduct by rioters and various offences in public places which contain an element of physical force or incitement to violence.

Experience has shown that one of the most unpleasant forms of conduct which needs to be guarded against in Hong Kong is intimidation, which has been particularly prevalent against workers who have sought to do their duty in recent months. Part V of the Bill, therefore, introduces into the permanent law the provisions of the recently made Emergency Regulations on intimidation. However, clause 28 modifies those regulations to the extent that to become an intimidating assembly an assembly must first be an unlawful one.

Part VI of the Bill clarifies and considerably expands the present provisions for the imposition of a curfew. Clauses 32 and 33 make it an offence to carry offensive weapons without lawful authority or excuse during curfews or in public places. The powers of control over the movement of ships and aircraft in clauses 34 and 35 have been contained in emergency regulations in force since 1950 and 1958 respectively.

Parts VII and VIII repeat the existing parts of the Public Order Ordinance and the Peace Preservation Ordinance with regard to closed areas and special constables, save that the Governor's previous power to direct persons to serve as special constables has been withdrawn and service as such will in future be on a wholly voluntary basis.

Part IX contains a number of general provisions. Clauses 43 and 44 reproduce those sections of the Peace Preservation Ordinance which authorize a magistrate to require persons in certain circumstances to enter bonds to be of good behaviour.

Clauses 45 and 46 provide for the use in the carrying out of the Ordinance of such force as may be necessary but make it clear that no more force may be used than is reasonably necessary in the circumstances. This is, in effect, a restatement of the common law position.

Clause 49 confers on police officers of or above the rank of inspector power to enter and search premises if they know or have reason to suspect that an offence under the Ordinance is being or has been committed on the premises or that evidence of the commission of such an offence can be found therein. This clause is based on similar powers to be found at present in the Peace Preservation and Public Order Ordinances.

Clause 50 clarifies the position of Auxiliary Police, members of the Royal Hong Kong Defence Force and members of the regular forces. In general, the Auxiliary Police, when on duty, will have the same duties, powers, protection and immunities as apply to a police officer of equivalent rank. A member of the Royal Hong Kong Defence Force, when on duty, will have only the normal powers of arrest of a police officer, unless the Governor directs that he shall have the same powers as a police officer of equivalent rank. Members of Her Majesty's Forces acting in aid of the civil power would have the same powers as are conferred by law on a police officer. Clause 55 makes a number of amendments to other Ordinances, which are made necessary by virtue of the repeals effected by Clause 54.

As honourable Members have seen, the new Bill contains several new and important provisions, though it is primarily a consolidating measure. The Bill seeks to confer adequate powers for the prevention and control of disorders at all stages, with particular emphasis upon dealing with them as early as possible, without taking powers which may be unreasonable or oppressive in their effect. If the criticism is made that the Bill errs on the side of safety, this can be attributed to our experiences in the past few months, which have reinforced the Government's view that in our circumstances the type of control proposed in this Bill is unavoidable.

We would all, I know, hope that this Bill, save for its licensing provisions which will always be applicable, will seldom be needed. But if it is, I commend it to honourable Members as containing provisions which should be of considerable help to those whose task it is to maintain order in our streets.

THE COLONIAL SECRETARY 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: —

At present, the law dealing with public order is to be found in the Public Order Ordinance, the Peace Preservation Ordinance and the Summary Offences Ordinance, and in the common law.

2. The object of this Bill is to consolidate into one Ordinance the various provisions dealing with public order and to strengthen the law where experience shows that to be desirable.

3. Clause 3, in Part II of the Bill, is new and empowers a police officer of or above the rank of inspector to prohibit the display of flags, banners or emblems if their display is in his opinion likely to lead to a breach of the peace.

4. Part III of the Bill is concerned with the control of meetings, processions and gatherings. Clauses 7, 8, 9 and 10 introduce comprehensive provisions dealing with the licensing of public meetings and processions and replace the inadequate provisions in section 4(16) and (20) of the Summary Offences Ordinance. Clause 7 reproduces the existing law prohibiting the convening or holding of a public meeting or public procession without a licence. Under clause 7(2), the Commissioner of Police will be obliged to issue a licence if he is satisfied that the meeting or procession is not likely to prejudice law and order or be used for any unlawful or immoral purpose. A licence may be granted subject to conditions (clause 7(3)) and clause 8 empowers the Commissioner of Police to cancel or amend a licence already issued. The licensee will be required to be present throughout the meeting or procession (clause 9). Clause 10 provides an appeal to the Governor against the refusal or cancellation of a licence and against the conditions to which a licence is subject.

5. Control of meetings, processions and gatherings of people will be exercised under clause 11. Any police officer will be able to prevent the holding of, stop or disperse an unlicensed public meeting or public procession. Other meetings, processions or gatherings will be subject to control by a police officer of or above the rank of inspector if the meeting, procession or gathering is causing or is in his opinion likely to cause or lead to a breach of the peace. The position will be that any such police officer may prevent the holding of, stop or disperse, or vary the place or route of, any public meeting, public procession or public gathering (other than a meeting exclusively for religious purposes) in those circumstances. The control over public meetings for religious purposes and private meetings or gatherings is rather more limited in that there will be no power to prevent their being held initially. In the circumstances specified above, a police officer of or above the rank of inspector will, however, have power to stop or disperse the meeting or gathering.

6. Clause 11(3), (4), (5) and (6) confers various ancillary powers which may be required in order to enable police officers to exercise in an effective manner the control of meetings, processions and gatherings referred to above. In particular, they may issue such orders as may be necessary and use force to prevent the holding of, stop or disperse a meeting, procession or gathering.

7. Clause 12 deals with offences under Part III of the Bill. The provisions in clause 12(2) and (3) are of special importance. An unlicensed public meeting or public procession, and any meeting, procession or gathering whatsoever in which three or more persons neglect to obey an order under clause 11(3), will be an

unlawful assembly (clause 12(2)) and penalties will be provided by clause 12(3).

8. A new power is afforded to the Commissioner of Police by clause 15 to prohibit the holding or continuance of any public gathering in any particular area or premises or on any particular day if he considers it necessary or expedient in the interests of public order to do so. Under clause 16, the Governor in Council will be empowered to ban all public gatherings for up to three months if he considers it necessary to do so in order to prevent serious public disorder.

9. Clauses 18 and 19 introduce provisions dealing with unlawful assemblies and riots and replace the common law in this respect. The proposed statutory provisions are not identical with the common law, which is not adequate in certain respects for local circumstances. Firstly, there will no longer be the necessary element of common purpose before a crowd is an unlawful assembly or a riot. Secondly, an unlawful assembly will become a riot if any person taking part in the assembly commits a breach of the peace.

10. Part V of the Bill introduces into the permanent law the substance of the Emergency (Prevention of Intimidation) Regulations 1967.

11. Clauses 34 and 35 seek to empower the Governor to control the movement of or to detain aircraft or vessels. These provisions are not new and are at present in the Public Order Ordinance or the Emergency (Principal) Regulations.

12. Part VIII reproduces the provisions of the Peace Preservation Ordinance dealing with special constables, save that the new provisions omit the power to compel persons to serve as special constables.

13. Clause 46 seeks to define the amount of force which may be used wherever the Bill permits the use of force in the exercise of the powers which it confers. The clause reproduces the common law.

14. Power to enter and search premises without warrant will be conferred on police officers of or above the rank of inspector by clause 49. This clause also authorizes the searching of persons found in premises which may be searched, and the stopping and searching of vessels and vehicles in which such a police officer knows or has reason to suspect that there is evidence of an offence under the Bill.

15. Clause 50(1) confers on members of the Hong Kong Auxiliary Police Force when called out greater powers than they have hitherto had. At present, they have the powers conferred by sections 50-59 of the Police Force Ordinance on a regular police

officer of equivalent rank. In future, they will have the powers of a police officer of equivalent rank under any law whatsoever. Clause 50(2)(a) confers a power of arrest on officers and members of the Royal Hong Kong Defence Force when called out, and clause 50(2)(b) empowers the Governor to direct that they shall have all the powers of a police officer of equivalent rank. Clause 50(3) will confer on members of Her Majesty's forces acting in aid of the civil power the powers of a police constable and clause 50(4) vests in commissioned officers additional powers to control meetings, processions and gatherings and to enter and search premises.

16. The indemnity at present afforded by the Peace Preservation Ordinance is reproduced by clause 53.

DRUGS ADDICTS TREATMENT AND REHABILITATION (AMENDMENT) BILL 1967

DR TBNG PIN-HUI moved the First reading of:—"A Bill to amend further the Drug Addicts Treatment and Rehabilitation Ordinance."

He said:—Your Excellency, this Bill seeks to remove some of the provisions which have been found in practice to be unnecessary and undesirable from the Drug Addicts Treatment and Rehabilitation Ordinance and to effect some other minor amendments thereto.

I would like to point out, Sir, that the principal Ordinance makes special provisions for the voluntary treatment of drug addicts whereby the addict enters into an agreement with the Medical Superintendent of an Addiction Treatment Centre to submit himself to detention in the Centre for the purpose of treatment by a regimen of controlled and graded withdrawal of the drug and physical and mental rehabilitation including occupational and diversional therapy for a period of up to 6 months from the date of his first admission.

Clause 2 removes the reference to "an order" in section 5(3) of the Ordinance as there exists no order other than a transfer order relating to the admission of a patient to an Addiction Treatment Centre.

Section 13(1) of the Ordinance provides that the Superintendent in his absolute discretion may discharge any patient from a Centre and section 13(2) of the Ordinance provides that when a patient is discharged from the Centre, he is required to depart within 48 hours from the time he receives the notice of discharge. I must mention, Sir, that the commonest cause for such a discharge is for reasons of misconduct. Offenders will often take the opportunity of stirring up further trouble during the 48 hour period of grace. Clause 5 of the Bill proposes to remove reference to the 48 hour period of grace in respect of unruly persons of 16 years of age and above as such persons should be discharged from the Centre without delay in order to preserve good order and to maintain discipline in the Centre.

A consequential amendment to section 7(2)(a) is also provided in Clause 3(a)(2).

Section 7(2) of the Ordinance relating to leave of absence has often been taken by many patients to mean that they have a right to leave of absence. In fact the Superintendent will only grant leave of absence in very special circumstances. By clause 3(a)(2) and (b), it is proposed to remove the references concerned and it is sought by clause 4 to amend section 9 of the Ordinance to facilitate the granting of leave of absence to patients for a period of trial or for any other reason the Superintendent may consider necessary.

By clause 6 of the Bill, section 17 of the Ordinance and regulation 11 of the Drug Addicts Treatment and Rehabilitation regulations are combined. This will ensure that the supply or introduction of unauthorized dangerous drugs, alcoholic liquor, tobacco or tool can be prohibited absolutely. It is also considered preferable that the powers of confiscation and search presently provided in the regulations be included in the Ordinance.

THE COLONIAL SECRETARY 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:—

This Bill seeks to remove some provisions which have been found in practice to be unnecessary or undesirable from the Drug Addicts Treatment and Rehabilitation Ordinance and to effect some other minor amendments thereto.

2. By clause 2 it is sought to remove the reference to an order in section 5(3) of the Ordinance, as there exists no order, other than a transfer order, relating to the admission of a patient to an addiction treatment centre.

3. Section 13(2) of the Ordinance provides that when a patient is discharged from a centre he is required to depart within forty-eight hours from the receipt of notice of discharge. The misconduct of a patient is the commonest cause for his discharge and often he will endeavour to stir up trouble amongst the other patients during the forty-eight hour period presently allowed. By clause 5 of the Bill, therefore, it is proposed to remove the reference to the forty-eight hour period of grace in respect of persons of sixteen years of age and above, such persons being required to leave the centre forthwith. A consequential amendment to section 7(2)(a) is also provided (clause 3(a)(ii))

4. It has also been found that the references in section 7(2) of the Ordinance to leave of absence has been taken by many patients to mean that they have a right to leave of absence. In fact, leave of absence is only given in very special circumstances. By clause 3(a)(ii) and 3(b) it is proposed to remove the references concerned; and it is sought by clause 4 to amend section 9 of the Ordinance to facilitate the granting of leave of absence to patients for a period of trial or for any other reason the superintendent may consider necessary.

5. It is felt that section 17 of the Ordinance should be strengthened in order to prohibit absolutely the supply or introduction of unauthorized articles to or into a centre. By clause 6, therefore, it is proposed to combine section 17 of the Ordinance and regulation 11 of the Drug Addicts Treatment and Rehabilitation Regulations. It is also considered preferable that the powers of confiscation and search presently provided in the Regulations. (regulations 11(2) and (3) refer) be included in the Ordinance.

YOUNG OFFENDERS (MISCELLANEOUS PROVISIONS) BILL 1967

MR A. TODD moved the First reading of:—"A Bill to amend the Criminal Procedure Ordinance, the Industrial and Reformatory Schools Ordinance and the Juvenile Offenders Ordinance."

He said:—Sir, this Bill, if enacted, will amend three Ordinances, each of which has a bearing on the manner in which young offenders are dealt with by the courts or as a result of orders made by the courts. It has its origin in a report made in 1965 by a working party which was set up to advise on the adequacy of the law in relation to crimes of violence committed by young persons; details of the amendments are set out in the Schedule to the Bill.

The first amendment adds a new section 109A to the Criminal Procedure Ordinance, the effect of which will be to provide that no offender between the age of 16 and 21 may be sentenced to a term of imprisonment, unless the court is satisfied that there is no other appropriate method of dealing with him. It further prescribes that, before imposing a sentence of imprisonment on such a person, the court must obtain and consider information about the circumstances and take into account information relevant to the character and physical and mental condition of the offender. Reports of a similar kind are, in fact, already prescribed before a young offender is sent to a training centre or a reformatory school, but are not at present required before sentence of imprisonment is pronounced.

The new provision follows generally a provision made in the United Kingdom Criminal Justice Act, and its simple purpose is to secure, without unduly fettering the discretion of the court, that imprisonment is used in relation to such young persons only where it is absolutely necessary to do so. We are not, however, proposing this amendment simply because there is a precedent for it in the legislation of the United Kingdom; but because we believe—and our belief is backed by experience—that it is true for Hong Kong that young offenders, involved even in serious crime, may be more effectively rescued from embarking upon a lifetime of crime if contact with hardened criminals through imprisonment is avoided, and if, in association with such curtailment of their liberty as is necessary, constructive measures are taken to help them to adjust to the requirements of society. Whether the young person is sent to a training centre or to a reformatory school, or is placed under the supervision of a probation officer his liberty is in a greater or lesser degree curtailed and it is on this basis of discipline that the constructive element of rehabilitation through training, counselling and education is founded.

Despite the events of recent months I believe that this provision is essentially sound, and that its enactment will be beneficial and may be approached without fear of untoward consequences. The Bill does not fetter the discretion of the court to deal with the offender in whatever manner the information provided for it and the circumstances seem to require. Presumably if imprisonment is indicated as the only appropriate course this will be resorted to; if another course of action is decided upon it will be because it seems to offer the best prospect of being effective. To the extent that such information may comprise reports from training centres, reformatory schools or probation officers it is, I think, reasonable to suppose that the officers concerned will not make a practice of recommending to the court in individual cases forms of treatment which seem likely to be so unsuitable as to be certain to lead to failure.

The Bill also seeks to amend the Industrial and Reformatory Schools Ordinance; in this case the amendments relate to the period during which a person may be detained in a reformatory school and to provisions for his discharge. At present the minimum period of detention in a reformatory school is two years and the maximum five. It is proposed to reduce the minimum to one year. This does not mean that the general practice will be for offenders committed to such establishments to remain there for only one year; but it does provide a greater degree of flexibility in suiting the treatment to the individual in the light of experience. It recognizes that different offenders will react differently to the treatment they are receiving; if a youngster does in fact show signs of stability after a period of one year it is obviously better not to detain him further but to give him the opportunity, under suitable guidance, of returning to his normal place in society.

The new section 20 empowers the Governor to discharge an offender from a reformatory school at any time, even 'before the minimum period prescribed in section 17. This power will be very sparingly used, but it is designed to provide for the rare cases where inability to discharge a boy would cause genuine hardship; such cases might for instance arise for medical reasons or where a family was anxious to migrate and in a position to do so, but would be unable to do so because a member of the family was detained in a reformatory school.

The new section 20A will give power to the Director of Social Welfare to discharge an offender at any time after he has served the minimum period of one year either unconditionally or on licence, and to attach conditions to such licence, and also where necessary to revoke the licence. Such power is at present vested in the Governor but has been delegated to the Director of Social Welfare since 1960.

Finally the Bill seeks to amend section 15 of the Juvenile Offenders Ordinance. This section lists thirteen ways in which a court may dispose of a case against a child or young person. The purpose of the amendment is to clarify that these methods of disposing of the case are not necessarily mutually exclusive, and that more than one of them may be applied to a case, provided that to do so does not otherwise offend against the law.

THE COLONIAL SECRETARY 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:—

By this Bill it is sought to implement certain recommendations made by the Working Party set up to advise whether present legislation, with particular reference to the ages of young offenders, enables the courts to deal adequately with crimes of violence by young persons. As there are three Ordinances affected, the proposed amendments are set out in a Schedule to the Bill.

2. The new section to be inserted in the Criminal Procedure Ordinance (Cap. 221) provides that a person over sixteen but under twenty-one shall not be sent to prison unless the court considers that no other method of dealing with that person is appropriate. For this purpose the court will be required to obtain and consider information about the circumstances of the case, and to take into account any information before the court relevant to the character of such person and his physical and mental condition.

3. By the other provisions contained in the Schedule to this Bill it is sought to effect the following amendments in further implementation of recommendations of the Working Party—

- (a) To reduce the minimum period of detention in reformatory schools from two years to one year; section 17 of the Industrial and Reformatory Schools Ordinance (Cap. 225) to be amended accordingly.
- (b) To provide that the Governor may at any time discharge a detained person from the custody of a reformatory school. And further to provide that, when such a person has served one year under detention, the Director of Social Welfare may discharge him unconditionally from the reformatory school or may discharge him on licence subject to conditions. Power is given to the Director to revoke the licence or vary the conditions thereof. The proposed new sections 20 and 20A of the Industrial and Reformatory Schools Ordinance are intended to give effect to these recommendations.
- (c) To amend section 15 of the Juvenile Offenders Ordinance (Cap. 226) to make it clear that the various methods, enumerated in that section, in which children and young persons may be dealt with by the juvenile court are not necessarily alternative, but that, subject to the law, more than one of such methods may be adopted.

DIPLOMATIC PRIVILEGES (AMENDMENT) BILL 1967

THE COLONIAL SECRETARY moved the Second reading of: —“A Bill to amend the Diplomatic Privileges Ordinance.”

THE ATTORNEY GENERAL seconded.

The question was put and agreed to.

The Bill was read the Second time.

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

Clauses 1 and 2 were agreed to.

Council then resumed.

THE COLONIAL SECRETARY reported that the Diplomatic Privileges (Amendment) Bill 1967 had passed through Committee without amendment and moved the Third reading.

THE ATTORNEY GENERAL seconded.

The question was put and agreed to.

The Bill was read the Third time and passed.

CORONERS BILL 1967

THE ATTORNEY GENERAL moved the Second reading of:—"A Bill to make provision for the appointment and duties of a coroner, for the duties of medical officers in connexion with dead bodies and for matters relating to coroners inquiries, and to make consequential amendments to other enactments."

THE COLONIAL SECRETARY seconded.

The question was put and agreed to.

The Bill was read the 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 less than five.

Clauses 1 to 25 and the Schedule were agreed to.

Council then resumed.

THE ATTORNEY GENERAL reported that the Bill before Council had passed through Committee without amendment and moved the Third reading.

THE COLONIAL SECRETARY seconded.

The question was put and agreed to.

The Bill was read the Third time and passed.

MAGISTRATES (AMENDMENT) BILL 1967

THE ATTORNEY GENERAL moved the Second reading of:—"A Bill to amend further the Magistrates Ordinance."

THE COLONIAL SECRETARY seconded.

The question was put and agreed to.

The Bill was read the Second time.

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

Clauses 1 to 5 were agreed to.

Council then resumed.

THE ATTORNEY GENERAL reported that the Bill before Council had passed through Committee without amendment and moved the Third reading.

THE COLONIAL SECRETARY seconded.

The question was put and agreed to.

The Bill was read the Third time and passed.

SUPPLEMENTARY APPROPRIATION (1966-67) BILL 1967

THE FINANCIAL SECRETARY moved the Second reading of: —“A Bill to authorize a supplementary appropriation to defray the charges of the financial year ended the 31st day of March 1967.”

THE COLONIAL SECRETARY seconded.

The question was put and agreed to.

The Bill was read the Second time.

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

Clauses 1 and 2, the Schedule and the Preamble were agreed to.

Council then resumed.

THE FINANCIAL SECRETARY reported that the Bill before Council had passed through Committee without amendment and moved the Third reading.

THE COLONIAL SECRETARY seconded.

The question was put and agreed to.

The Bill was read the Third time and passed.

BOILERS AND PRESSURE RECEIVERS (AMENDMENT) BILL 1967

MR R. M. HETHERINGTON addressed the Council under Standing Order 16(7) and moved the Second reading of:—“A Bill to amend the Boilers and Pressure Receivers Ordinance.”

He said: —Sir, there was a report in the press recently that several industrialists had stated that some of the provisions of the amending Bill now before Council were impractical and unnecessary. It was also suggested that air conditioners and refrigerators would fall within the scope of the Ordinance. I wish to take the opportunity of clarifying the position on these two matters.

I have received only one representation about the amending Bill from an industrialist. His concern was about the amendments to sections 16 and 20 which will require the registration number to be engraved on equipment in future. He considered that this requirement may impair the strength of the equipment, result in manufacturers refusing to guarantee performance and safety, and cause insurance companies to deny responsibility in case of accident or explosion. The Principal Surveyor of Boilers and Pressure Receivers visited the factory of the writer and called on him in person to discuss these matters.

The professional advice which I have received is that, in nearly all cases, engraving of the registration number on a boiler or pressure receiver carried out at a suitable place by a skilled technician using appropriate tools will in no way impair safety, jeopardize any guarantee, or affect insurability. Nevertheless, it is recognized that there are some special types of pressure plant on which it might be impracticable or undesirable to engrave registration numbers because of the nature of their composition or of the thinness of the material used. There are adequate powers under section 9 of the Ordinance for the Principal Surveyor, on application in writing, to exempt, subject to such conditions as he may impose, a particular piece of equipment from any provisions, including, of course, the method of identification now proposed, if he is satisfied that a particular provision can not reasonably be applied. It seems unnecessary for me to add, but I will do so, that the main duties of the Principal Surveyor, who is a professionally-qualified officer, are to take steps to ensure the safe operation of boilers, pressure receivers, steam containers, and pressure vessels. It would be contrary to his professional code of conduct to insist on a course of action which would in any way endanger the equipment as to either its performance or its operation. Where necessary, he will exercise the powers of exemption under section 9 if, in his opinion, engraving would endanger a particular type of equipment and, if appropriate, will stipulate an alternative method of identification.

Regarding the suggestion that air conditioners and refrigerators fall within the provisions of the Ordinance, I am advised that this is incorrect. The provisions apply solely to boilers, pressure receivers, and steam containers, the definitions of which are clearly laid down in section 2. None of this type of equipment is used in refrigeration or air conditioning plant. The suggestion is consequently ill-founded.

Sir, I hope these remarks will allay the concern which has been expressed about the Bill before Council. I now move the Second reading of a Bill to amend the Boiler and Pressure Receivers Ordinance.

THE COLONIAL SECRETARY seconded.

The question was put and agreed to.

The Bill was read the Second time.

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

Clauses 1 to 6 were agreed to.

Council then resumed.

MR R. M. HETHERINGTON reported that the Bill before Council had passed through Committee without amendment and moved the Third reading.

THE COLONIAL SECRETARY seconded

The question was put and agreed to.

The Bill was read the Third time and passed.

ADJOURNMENT

THE COLONIAL SECRETARY moved the adjournment.

THE ATTORNEY GENERAL seconded.

The question was put and agreed to.

NEXT MEETING

HIS EXCELLENCY THE GOVERNOR:—Council will now adjourn.
The next meeting will be held on 15th November.