OFFICIAL REPORT OF PROCEEDINGS

Meeting of 23rd August 1968

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 *(Acting)*
MR GRAHAM RUPERT SNEATH, QC
THE HONOURABLE THE SECRETARY FOR CHINESE AFFAIRS *(Acting)*
MR PAUL TSUI KA-CHEUNG, OBE
THE HONOURABLE THE FINANCIAL SECRETARY *(Acting)*
MR MICHAEL DENYS ARTHUR CLINTON, GM
THE HONOURABLE ALEC MICHAEL JOHN WRIGHT, CMG
DIRECTOR OF PUBLIC WORKS
THE HONOURABLE WILLIAM DAVID GREGG, CBE
DIRECTOR OF EDUCATION
THE HONOURABLE ROBERT MARSHALL HETHERINGTON, DFC
COMMISSIONER OF LABOUR
THE HONOURABLE TERENCE DARE SORBY
DIRECTOR OF COMMERCE AND INDUSTRY
THE HONOURABLE KENNETH STRATHMORE KINGHORN
DISTRICT COMMISSIONER, NEW TERRITORIES
THE HONOURABLE DAVID RICHARD WATSON ALEXANDER, MBE
DIRECTOR OF URBAN SERVICES
THE HONOURABLE ALASTAIR TREVOR CLARK
DIRECTOR OF SOCIAL WELFARE
THE HONOURABLE KAN YUET-KEUNG, CBE
THE HONOURABLE GEORGE RONALD ROSS, OBE
THE HONOURABLE KENNETH ALBERT WATSON, OBE
THE HONOURABLE HERBERT JOHN CHARLES BROWNE
THE HONOURABLE FUNG HON-CHU, OBE
THE HONOURABLE TSE YU-CHUEN, OBE
THE HONOURABLE WOO PAK-CHUEN, OBE
THE HONOURABLE SZETO WAI, OBE
THE HONOURABLE WILFRED WONG SIEN-BING, OBE
THE HONOURABLE ELLEN LI SHU-PUI, OBE
THE HONOURABLE WILSON WANG TZE-SAM
DR THE HONOURABLE CHUNG SZE-YUEN, OBE
THE HONOURABLE LEE QUO-WEI

ABSENT

DR THE HONOURABLE TENG PIN-HUI, CMG, OBE
DIRECTOR OF MEDICAL AND HEALTH SERVICES

IN ATTENDANCE

THE DEPUTY CLERK OF COUNCILS
MR DONALD BARTON

MINUTES

The minutes of the meeting of the Council held on 24th July were confirmed.

PAPERS

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

Subject	*LN No*
Subsidiary Legislation:—	
Abattoirs By-Laws 1968.	
Abattoirs By-Laws 1968 (Commencement) Notice 1968……	73
Stamp Ordinance.	
Stamping and Denoting of Documents (Amendment) Regulations 1968 ..…….....	75
Stamp Duties Management Ordinance.	
Stamp Duties Management (Franking Machines) (Amendment) Regulations 1968 …….....	76
Pharmacy and Poisons Ordinance.	
Poisons (Amendment) Regulations 1968 …….....	77
Pharmacy and Poisons Ordinance.	
Poisons List (Amendment) Regulations 1968 ..……....	78
Merchant Shipping Ordinance.	
Notification of Ports of the Colony .....…….	79
Exportation (Cotton Manufactures) Regulations.	
Exportation (Cotton Manufactures) (Amendment of Schedule) (No 3) Order 1968 …….....…	80
Commonwealth Countries and Republic of Ireland (Immunities and Privileges) Ordinance.	
Commonwealth Countries and Republic of Ireland (Immunities and Privileges) (Amendment of Schedules) Order 1968 …….....	82
Stamp Ordinance.	
Stamp (Bank Authorization) (No 1) Order 1968 …….....	83
Sessional Paper 1968:—	
No 18—Annual Report by the Chairman, Public Services Commission for the year 1967.	

Subject

Reports: —

Report of the Race Courses Committee.

Special Committee on Higher Education Second Interim Report 1968.

Statement of Accounts of the Immigration Service Welfare Fund for the year ended 31st March 1968.

Annual Report of the Hong Kong Export Credit Insurance Corporation 1967-68.

Report in accordance with Regulation 10(3) of the Hawker Control Force (Welfare Fund) Regulations 1962.

The Census and You 1966.

Report of the Board of Management of the Hong Kong Tourist Association 1967-68.

He said:—Sir, included among these is the **Report of the Race Courses Committee.** This Committee was appointed to consider both the feasibility of establishing a second race course in the New Territories and the feasibility of expanding the existing facilities of the race course at Happy Valley.

It will be observed that the Committee has concluded that it would be physically feasible to construct a satisfactory race course to accommodate initially 35,000 spectators on land which could be reclaimed at Sha Tin, at a total cost of about $125 million over a period of about five years. Additional expenditure of about $43 million would be required on improvements to road and rail facilities. Thus the whole project would cost about $168 million. It is possible that the Royal Hong Kong Jockey Club, if invited to construct and operate such a race course, would be financially able to do so but only at the expense over an eight year period of the various capital welfare projects to which the Jockey Club annually donates substantial funds. Consequently the community would have to accept either that such projects be deferred or that the Government would have to finance them itself, at a cost over the period of some $100 million. Even allowing that the course would provide much-needed additional public recreation facilities and that, when fully operational, the course should enable the Jockey Club to increase their contributions to charity and welfare projects, it is felt that the many other important commitments on public funds in the next few years preclude Government expenditure of this magnitude on a second race course. I am therefore authorised by you, Sir, to say that for the present at least it is not intended to proceed with the establishment of a second race course in the New Territories.

[THE COLONIAL SECRETARY]

As regards the expansion of the facilities at the Happy Valley course, the Royal Hong Kong Jockey Club has plans to increase the capacity of the course in three stages from its present limit of 30,000 spectators to 53,000 spectators. The first stage is already being implemented and should be completed by the start of this year's racing season; the other two stages are still under consideration. They will have certain implications for Government both as regards the use of the land and the improvements required to the dispersal facilities. We shall bear in mind these implications in future negotiations with the Jockey Club on their proposals.

QUESTIONS

Cross Harbour Tunnel

1. MR Y. K. KAN, pursuant to notice, asked the following question:—

> Will the Government make a statement on the progress of the Cross Harbour Tunnel project and, in particular, to what extent are public works held up pending a decision on whether or not to proceed with the project?

THE FINANCIAL SECRETARY replied as follows: —

Sir, in answer to the first part of Mr KAN'S question I can confirm what a spokesman for the Cross Harbour Tunnel is reported to have said on Tuesday, that is that negotiations between the Company and other interested parties, principally the Board of Trade, with whom the matter at present rests, are now actively proceeding in London.

It seems unlikely, however, that they will be concluded until later in September at the earliest, but at this stage we do not have enough information, since the Hong Kong Government is not a party to these negotiations, to speculate as to their outcome.

In answer to the second part I am informed by my honourable Friend the Director of Public Works that no public works are being held up pending a decision on whether or not to proceed with the Tunnel. Last year the calling of tenders for the Gascoigne Road/Princess Margaret Road/Chatham Road Flyover and the Canal Road Flyover were held up while they were being redesigned so that they could be used whether the Tunnel is built or not. The contracts for both these projects have been awarded and work is now in progress.

MR Y. K. KAN asked the following supplementary question:—

Sir, the matter of the Tunnel has been going on for a long time. As far as I know, the offer of the franchise to the Tunnel Company was

made as long as two years ago*. Would it not be time, Sir, that a definite time limit be fixed so that the Tunnel Company can say now, once and for all, whether it will proceed with the project.

THE FINANCIAL SECRETARY replied as follows: —

Yes, I agree with Mr KAN and I have no doubt that we will have to set a final time limit particularly if the present negotiations are inconclusive. But I think at this stage it would be unwise to set any date while the negotiations are in progress.

MR Y. K. KAN: —Thank you, Sir.

Vehicle Inspectors

2. MR Y. K. KAN, pursuant to notice, asked the following question: —

Will Government inform this Council how many persons are at present engaged as vehicle inspectors, how many of them are expatriates and how many are local recruits?

THE COLONIAL SECRETARY replied as follows: —

Five, Sir. They are all contract officers from overseas.

3. MR Y. K. KAN, pursuant to notice, asked the following question:—

Has any system been instituted for the training of local personnel to be qualified vehicle inspectors?

THE COLONIAL SECRETARY replied as follows:—

No, Sir. The Commissioner for Transport has, however, put forward proposals for a training scheme for this purpose and these are now being carefully considered.

Vehicle Inspection Centres

4. MR SZETO WAI, pursuant to notice, asked the following question: —

Will Government inform this Council of the latest situation regarding the establishment of the two Vehicle Inspection Centres on the Island and Kowloon as recommended by the Transport Advisory Committee some 20 months ago?

* 1965 Hansard, pages 451-465 & 487-520.

MR A. M. J. WRIGHT replied as follows:—

Sir, the contract for the construction of a Motor Vehicle Inspection Centre on the Island at So Kun Po was commenced on 15th July and is scheduled to be completed in the middle of November this year. In Kowloon there has been difficulty in finding a suitable site, but a site within the recently approved Ma Tau Kok Outline Zoning Plan has been allocated for this purpose. Working drawings are in hand and it is hoped to call for tenders early in October. Construction should start during November and the project should be completed in March next year.

There is a third Motor Vehicle Inspection Centre at Tsuen Wan. This Centre is being extended; work started on 2nd July and is due to be completed on 1st November.

Rapid Transit System

5. MR SZETO WAI, pursuant to notice, asked the following question: —

> It is understood that a Government Working Party is at present engaged in the study of the Supplementary Report of the Consultants on a modified Rapid Mass Transit System. Does Government propose to announce the result of this study and, if so, when?

MR A. M. J. WRIGHT replied as follows: —

Sir, in May this year a small committee was set up within the Public Works Department, on which an officer of the Transport Office also served, to consider in depth the Main* and Supplementary Reports of the Consultants with a view to assisting the Commissioner for Transport and myself in finalizing our recommendations on the Consultants' original and modified proposals. This departmental committee has completed its report and the contents are now being studied by the Commissioner for Transport and myself. Our recommendations, when ready, will be submitted to the Colonial Secretariat for a decision on the scope of the scheme which would then be put to the Transport Advisory Committee for its information, comments or advice.

Fireworks Ban

6. MR P. C. Woo, pursuant to notice, asked the following question: —

> Has the Government under consideration any proposals for relaxing the present ban on the discharge of fireworks and, if so, will they become effective before the next Lunar New Year?

* Pages 24-5.

THE COLONIAL SECRETARY replied as follows: —

Sir, the Government has no such proposals under consideration. The total ban on the discharge of fireworks, which has been in existence now for almost a full year, was widely welcomed in the circumstances in which it was imposed*. It was maintained with general popular approval over the period of the Lunar New Year Festivities last January and the absence of the heavy damage to life and limb and to property which resulted in former years from the indiscriminate discharge of fireworks was noted with special relief. The situation has recently been reviewed and the Government has decided that no relaxation of the ban would be justified either now or at the next Lunar New Year.

Fireworks: Compensation Claims

7. MR P. C. WOO, pursuant to notice, asked the following question: —

> Under the Emergency (Firework) Regulations made in 1967 compensation became payable to licensed dealers and members of the public who handed in fireworks. What progress has been made in the payment of claims for such compensation?

MR R. M. HETHERINGTON replied as follows: —

Sir, following the introduction of the Emergency (Firework) Regulations† in September of last year, the Mines Department recorded 2,752 separate collections of fireworks from licensed wholesalers and licensed retailers and from members of the public. These weighed nearly 116 tons.

Since October of last year, the Mines Department has been dealing with claims for compensation for those fireworks which were in the legal possession of the owners when they were surrendered. In many cases, members of the public and, in some cases, licensed retailers handed in fireworks in excess of the maximum quantities which they could lawfully possess. No compensation is payable for these excess quantities.

Individual letters, in Chinese and English, have been sent to every firm or person recorded as having handed in fireworks. These letters explained in detail the procedure for claiming compensation. To obtain compensation, a claimant must produce either the original receipt issued when the fireworks were surrendered or, if the receipt has been lost or mislaid, a letter of indemnity. When satisfactory evidence is produced and the amount of compensation determined, arrangements are made for payment at one of the three offices of the Treasury selected by the claimant as the most convenient.

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* 1967 Hansard, page 407.

† 1967 Hansard, page 406.

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By 12th August 1968, 1,528 claims had been examined and compensation totalling $339,308.04 authorized for payment at the three offices of the Treasury. In a small number of cases claimants have not yet collected their money. Notice had also been received that claims for compensation were not being made in respect of 34 collections. A further 107 claims involving compensation of about $15,000 were under examination.

The total number of claims authorized or waived or under examination is consequently 1,669. The total number of collections was 2,752. Thus, there still remain 1,083 collections for which no claims have yet been made.

In my capacity as Commissioner of Mines, I have on several occasions in the past issued statements to the press explaining the procedure for claiming compensation and seeking the co-operation of the public in expediting the disposal of outstanding claims. It is nearly twelve months since most of the fireworks were surrendered. It appears likely that a considerable number of persons do not now propose to make claims. It would assist me if these people would notify me that they propose to waive compensation. I believe that adequate publicity has been given to those who may still wish to make claims. Accordingly, it is my intention to recommend that no further claims should be entertained after 31st December 1968 and that appropriate legislation should be brought into effect to this end. If this recommendation is accepted, there remains more than four months during which time claims may still be made to the Mines Department. I appeal to members of the public either to make these claims as soon as possible or to notify me that they propose to waive them.

Female Shift Workers on Overtime

8. DR S. Y. CHUNG, pursuant to notice, asked the following question: —

> Referring to the promise made by the Honourable Commissioner of Labour in this Council on 29th November 1967 to examine the particular factories regulation which discriminates against the female shift workers on overtime, will my honourable Friend make a statement on the current status of this matter?

MR R. M. HETHERINGTON replied as follows: —

Sir, when my honourable Friend, Dr CHUNG, spoke in this Council on 29th November 1967* I said that I would take note of the points

* 1967 Hansard, pages 486-7.

which he had made in the context of the Factories and Industrial Undertakings (Amendment) Regulations 1967 and examine, in particular, the situation regarding overtime on shift work*. I required time to examine the relevant international labour conventions on the subject, to ascertain the extent of obligations undertaken on behalf of Hong Kong under these conventions, and to enquire in to the practices authorized by the United Kingdom Factories Act on which Hong Kong's Factories and Industrial Undertakings Ordinance is based.

I am rather surprised that my honourable Friend should now refer to the regulation as discriminating against female shift workers with regard to overtime. Regulation 12(2)*(d)* states that, in any scheme of shift work approved by the Commissioner of Labour in writing, no period of employment for a woman or young person shall exceed eight hours in any one day. This regulation has, in substance, remained unchanged since 14th January 1948† when this Council first approved regulations on the subject. During the past twenty years no complaints have previously been made about this restriction.

This regulation must be examined in the context of other regulations controlling the hours of work for women. Regulation 9(1)(*b*) prohibits the employment of women after 8 p.m. but regulation 11(2)(*b*) permits this time to be extended to 9 p.m. if overtime is worked. On the other hand, if a scheme of shift work has been approved under regulation 12(1), a woman may work until 11 p.m. It could be equally argued that the regulations relating to female workers who do not work on shifts are discriminatory compared with that dealing with female shift workers.

I do not wish merely to make debating points but I feel obliged to dispose of the implications in the question that there is something new or unfair in the regulation. It has been in existence for over twenty years and it allows women on shift work to work two or three hours later in the evening than those not on shift work.

Over the years, the number of women operating on shift work has steadily increased. This system is part of Hong Kong's industrial organization and I am conscious that it is more acceptable here than in other territories. I am informed that in the United Kingdom the shift system is by and large disliked and that there it is customary for allowances to be made to overcome this dislike. Under the United Kingdom Factories Act 1961, women may not be employed for more than an average of 44 hours in a week and overtime is not permitted. I realize that the prohibition on overtime on the day-time shift, which is usually from 7 a.m. to 3 p.m., may seem illogical when there is no such prohibition applicable to women not working on a shift system

* 1967 Hansard, page 487.

† 1948 Hansard, page 7.

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during these hours. On the other hand, women working on the evening shift, which is usually from 3 p.m. to 11 p.m., are permitted to work longer in to the hours of darkness than women not working on a shift system.

I am not willing, by permitting overtime, to allow an extension of the hours of work of women beyond 11 p.m. on the second shift. This would involve a further relaxation of the working period in to the night beyond the present limitations of 8 p.m. on normal work and 9 p.m. if overtime is worked. Nonetheless, I am prepared, as far as the first shift is concerned, to examine any proposals for permitting overtime beyond 3 p.m. in special cases in the context of existing regulations controlling overtime for women not working on shifts. It seems to me that it must be difficult for any management to organize any satisfactory scheme of overtime in a scheme of shift work while, at the same time, satisfying the general limitations on overtime. Nonetheless, if these problems can be surmounted by management and if it is practicable for officers of the labour inspectorate effectively to enforce the system proposed, I am willing sympathetically to examine any such scheme. I already possess the necessary powers to relax the strict requirement of regulation 12(2)*(d)*. As managements are required, in any case, to obtain my written approval to any scheme of shift work they are free to advance arguments for modifications of these schemes in the exceptional cases where overtime is considered necessary after the first shift of the day.

DR S. Y. CHUNG asked the following supplementary question:—

Sir, I am grateful to my honourable Friend for his statement and I am sure that both labour and management in industry will greatly welcome the removal of this Clause which I still consider discriminating in the Factories Regulations. Sir, with your permission, may I ask a supplementary question: Will my honourable Friend inform this Council whether he will immediately approve those pending applications on overtime for female shift workers?

MR R. M. HETHERINGTON replied as follows:—

Sir, at the moment, there is no application outstanding. There was in fact one application outstanding on Monday which I dealt with on that day in accordance with the policy which I have just described. My honourable Colleague may like to know that, in this case, I authorized overtime after 3 p.m. for women working on the first shift for a limited period of five days in order to help the management of a factory to meet a dead-line for shipping a valuable order at the end of this week.

DR S. Y. CHUNG:—Thank you, Sir.

FACTORIES AND INDUSTRIAL UNDERTAKINGS ORDINANCE

MR R. M. HETHERINGTON moved the following resolution: —

> Resolved, pursuant to section 7 of the Factories and Industrial Undertakings Ordinance, that the Factories and Industrial Undertakings (First Aid in Registrable Workplaces) Regulations 1968, made by the Commissioner of Labour on the 29th day of July 1968 under section 7 of that Ordinance, be approved.

He said:—Sir, the purpose of this resolution is to seek the approval of the Legislative Council for regulations made by me on 29th July 1968 and submitted to the Governor in accordance with section 7(3) of the Factories and Industrial Undertakings Ordinance. These regulations are called the Factories and Industrial Undertakings (First Aid in Registrable Workplaces) Regulations 1968. They are intended to replace regulation 41 of the Factories and Industrial Undertakings Regulations for the purpose of specifying in greater detail what is required in relation to the provision of first aid. They are simple and precise and have been adapted from similar requirements made under the United Kingdom Factories Act.

Regulation 41 of the Factories and Industrial Undertakings Regulations reads as follows:

> "In every registrable workplace an adequate supply of first aid equipment on a scale commensurate with the number of workers employed in the workplace together with simple instructions for the use of such equipment shall be provided and maintained."

This regulation is unsatisfactory because it gives no precise guide as to what is an adequate supply of first aid equipment or who should administer first aid treatment. It is desirable that appropriate facilities should be available so that people injured at work can be given prompt and skilled treatment in order to lessen pain and to guard against the risks of complications and permanent disabilities. Delay and inadequacy in the administration of treatment may adversely affect, either directly or indirectly, the individual worker, the employer, and the general welfare of the community.

The new regulations require the provision of at least one first aid box or cupboard containing certain items in every registrable workplace, however small, and, in larger establishments, the presence of at least one person properly trained in first aid during working hours.

The regulations relating to first aid boxes or cupboards are simple and precise. The boxes or cupboards must be plainly marked, readily-accessible, and of adequate capacity. They must contain nothing but

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appliances and requisites for first aid and they must be kept replenished. The minimum contents are prescribed in the schedule to the regulations. This schedule is divided in to three parts according to the size of the work force. A distinction is made between workplaces employing less than ten persons, from ten to less than fifty persons, and fifty persons or more. The Director of Medical and Health Services has been consulted and has advised on the items listed in the schedule. There must be one first aid box for every 100 workers or part of 100 workers. The location of the nearest box or cupboard must be given in English and Chinese in each workroom if there is none located there. The proprietor must place every box in the charge of a team of responsible persons. A notice, also in English and Chinese, specifying the names of the members of this team must be affixed to the box. One member must always be readily available during working hours.

In addition to first aid boxes or cupboards, regulation 3(3) authorizes the Commissioner of Labour to require the provision of some additional items such as waterproof dressings and adhesive plaster, eye baths, and a stretcher. It is my intention to exercise these powers for particular industries. For example, waterproof items would be desirable where workers are constantly immersing their hands in liquids, eye baths where there is a risk of incapacity from dust or grit, and stretchers where the danger of severe injury is more likely.

In registrable workplaces employing 100 persons or more, regulation 5 requires that the team in charge of the first aid boxes must include one person trained in first aid for each 100, or part of 100, employees additional to the first 100 employees. Regulation 2(1) lays down the qualifications required of a person trained in first aid. These are either a current certificate of competency in first aid issued by the St. John Ambulance Association or registration as a nurse under the Nurses Registration Ordinance.

Regulation 7(1) empowers the Commissioner of Labour to exempt, either partly or wholly from the regulations, any registrable workplace where there is a room provided for the sole purpose of providing first aid or medical treatment.

Precise figures of the number of additional trained first aiders who would be required under these regulations are not known. It is estimated that about 1,500 qualified persons are already employed in industry. Some undertakings will be exempted because they already have special first aid or medical facilities. It is probable that about 1,000 additional candidates will have to be trained. The St. John Ambulance Association has undertaken to increase, if necessary, the number of its classes to ensure that about 1,400 candidates could qualify during a period of twelve months provided that applicants come forward

fairly evenly throughout the year. This number is believed to be more than adequate to meet the likely demand.

To give adequate time for the training of sufficient first aiders for all larger workplaces, regulation 1(2) postpones the introduction of this requirement until 1st October 1969. Additionally, under regulation 2(1), a further period of nine months up to 1st July 1970 is allowed for those who have qualified in first aid since October 1959 to obtain a current certificate of competency. A certificate of competency is one which is not more than three years old.

These regulations have been examined by the Labour Advisory Board which unanimously approved of them.

Although the regulations apply only to registrable workplaces as defined under section 2(1) of the Factories and Industrial Undertakings Ordinance—the definition covers generally factories, mines, and certain other activities—I commend to managements of other organizations employing large numbers of employees the scales of supplies of first aid equipment and of trained first aiders prescribed in the regulations. I understand that several non-industrial organizations encourage their employees to qualify for a certificate of competency in first aid issued by the St. John Ambulance Association. I also understand that there is a surprisingly large number of persons eager and willing to give up 'their spare time to be trained as first aiders and I hope managements will encourage these people. Initially, preference in training will be given to the requirements of industry but it is likely that, later on, vacancies in classes will arise for other needs.

The practice in Government is to encourage those officers who, by the nature of their occupation, run the risk of accident at work or who work in situations where medi6al attention is not readily available to qualify as first aiders. Courses are arranged outside normal working hours. A successful candidate receives a bonus of $100 on obtaining a certificate from the St. John Ambulance Association and a similar bonus on each occasion the currency of the certificate is renewed. I understand that similar practices are followed by some other employers.

If these regulations are approved, I propose to issue a letter of guidance to every proprietor of a registrable workplace. Approximately 12,000 letters will be sent. This letter will invite a proprietor to seek guidance from the Industrial Health Division of the Labour Department. Similar guidance will also be freely available to the proprietors of all non-industrial organizations who may be interested in the provision of first aid facilities for their employees.

THE COLONIAL SECRETARY seconded.

DR S. Y. CHUNG addressed the Council:—

Your Excellency, responsible employers in industry are very much aware of the importance of industrial safety. The overwhelming response to the many repeated courses on industrial safety conducted during the last year by the Labour Department in conjunction with the Federation of Hong Kong Industries and the Chinese Manufacturers' Association respectively is a reflection of the progressive attitude of local industrialists.

However, there is no such a thing as perfect measure for industrial safety, and accidents do occur in workplaces from time to time. It is important, as my honourable Friend has pointed out, that appropriate first aid facilities should be readily available at the scene of accident.

Therefore, industry in general welcomes the proposal made by my honourable Friend for a new set of regulations to replace regulation 41 of the Factories and Industrial Undertakings Regulations for the purpose of giving specific and precise requirements with regard to first aid.

Nevertheless, concern must be expressed regarding the training facilities for the qualified first aid personnel required as a result of regulation 5. The Federation of Hong Kong Industries has recently conducted a random sample survey of its members on this matter and a copy of the statistical results and analysis has already been submitted to the Honourable Commissioner of Labour. The sample size is 92 factories comprising 54 establishments in textile industries, 21 in metal products, electrical and electronic industries and 17 in plastic, rubber, chemical and food industries. All these factories are employing more than one hundred persons and the size of labour force employed by them amounts to 47,719 persons which represent over 16% of the employees of the factories affected by regulation 5. This can therefore be considered to be a reasonable sampling.

Using the results of this survey, the estimated number of qualified persons in first aid already employed in registrable workplaces employing one hundred or more persons is around 1,200. This figure of 1,200 persons correlates quite well with my honourable Friend's estimation of 1,500 persons which I presume covers all industrial establishments irrespective of their size and not only those employing one hundred or more persons.

The survey also reveals that in order to meet the proposed regulation 5, the gross number of trained first aid personnel required is about 89 for every 10,000 industrial workers and that the net number of persons necessary to be trained is approximately 58 for every 10,000 employees.

According to the employment statistics supplied to me by the Labour Department there were 291,859 persons employed by 914 factories of one hundred or more employees as at 31st March 1968. Therefore the estimated net number of persons requiring training in first aid as at that date was approximately 1,700.

It must be assumed that each industrial undertaking will try to build in some factor of safety or margin of allowance in addition to the minimum requirement by legislation. Take for example, a factory employing 270 workers. Although legislation requires that particular factory to have two of its employees be trained to qualify as first aiders, the management will very likely provide at least one more, making the number three in order to guard against absenteeism and sudden resignation of one of the qualified persons. Hence the probable number of candidates requiring training in first aid as at 31st March 1968 would be the sum of 1,700 and 914, or a total of 2,614.

Since regulation 5 will not come into operation until the first day of October 1969, it is necessary to provide allowance for the growth both in the number of factories and in the number of employees during the interim period of 18 months. Employment statistics in industry published by the Labour Department indicate that at 31st March each year for the years 1965 to 1968 inclusive there are average annual growth rates of 6.6% for the number of factories with one hundred or more employees and 8.6% for the corresponding number of employees. Taking such growth potential into consideration, it is very probable that about 2,900 additional candidates will have to be trained during the forthcoming period of twelve months.

It is realized that some industrial establishments will be exempted because they already have special first aid or medical facilities. But on the other hand, I have not taken into account in the foregoing analysis wastage which is inevitable during the course of training and which will put a further burden on the training facilities. For the present purpose these two contrasting effects can be considered as cancelling each other.

Sir, I am given to understand by my honourable Friend that the St. John Ambulance Association has undertaken to increase the number of its classes for training first aiders to cater for about 1,400 candidates during the coming period of twelve months and on the assumption that applicants will come forward fairly evenly throughout the whole year. I must say that this number is far from adequate if we accept the results of the sample survey.

Your Excellency, I wish to reiterate the support of industry for this resolution but I anticipate that industry will have difficulty in

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observing regulation 5 unless the training facilities for first aiders is greatly expanded by about 100%. I therefore urge Government to take all steps necessary to ensure that it is physically possible for employers to meet the requirements and suggest that nearer to the effective date of regulation 5, the situation be reviewed to ascertain whether or not it is desirable to postpone its operational date.

Sir, with these comments I beg to support the Motion before Council.

MR R. M. HETHERINGTON replied as follows: —

Sir, I am grateful to my honourable Colleague Dr CHUNG for providing the results of the random sample survey carried out by the Federation of Hong Kong Industries on the number of trained first aiders likely to be required by industry under these regulations. His estimate of 2,900 is considerably different from my estimate of 1,000. He has made certain assumptions about the expansion of the industrial working force in larger factories and of the likelihood of managements training an excess of workers to guard against absenteeism and resignation. He also refers to those establishments likely to be exempted but sets them off against the wastage in training.

It remains to be seen if these assumptions are justified. Many of the largest establishments with most workers should qualify for exemption because they already provide special facilities for first aid or medical treatment. A trained first aider lost by one factory will probably be gained by another. I was careful to phrase the sentence in my earlier speech about the training capacity of the classes. I said that about 1,400 candidates could qualify. This figure in fact allows for a failure rate of 20%. Consequently, the wastage in training should not be off-set against the other factors.

In the end, both Dr CHUNG and I will probably have to revise our estimates. It is reasonable that the position should be kept constantly under review to see the progress made in training first aiders. I propose to do so because the experience of the Labour Department with regard to similar requirements for trained personnel suggests that, when advance notice is given of such requirements, there is an inevitable reluctance to arrange for training until the last possible moment. I trust that the Federation of Hong Kong Industries and other associations will persuade their members to spread training as evenly as possible over the next twelve months. I believe that, in about six months' time, we shall be in a better position to judge the response of managements and the outstanding demands for trained first aiders and I undertake to review the position then.

MR P. C. Woo addressed the Council:—

Sir, the Civil Aid Services also provide first aid training and instructions and I think this might help my honourable Friend with his difficulties.

HIS EXCELLENCY THE GOVERNOR:—May I**,** for the sake of us all keeping within the rules, remind you that after the proposer has replied I can't normally permit another speaker.

MR P. C. Woo:—I appreciate that, Sir, but I just wanted to say something about the Civil Aid Services.

HIS EXCELLENCY THE GOVERNOR:—That is perfectly all right, Mr WOO. This is just for the information of us all.

The question was put and agreed to.

FACTORIES AND INDUSTRIAL UNDERTAKINGS ORDINANCE

MR R. M. HETHERINGTON moved the following resolution: —

> Resolved, pursuant to section 7 of the Factories and Industrial Undertakings Ordinance, that the Factories and Industrial Undertakings (Amendment) Regulations 1968, made by the Commissioner of Labour on the 29th day of July 1968 under section 7 of that Ordinance, be approved.

He said:—Sir, the Factories and Industrial Undertakings (First Aid in Registrable Workplaces) Regulations 1968 have just been approved by a resolution of this Council.* As I said in my speech when moving this resolution, the effect of these regulations is to replace the requirements in regulation 41 of the Factories and Industrial Undertakings Regulations. Honourable Members may have noticed that, nonetheless, the new regulations just approved did not revoke regulation 41. I will now explain why such action was taken and why it was necessary for me to make, concurrently with the Factories and Industrial Undertakings (First Aid in Registrable Workplaces) Regulations 1968, the Factories and Industrial Undertakings (Amendment) Regulations.

Building and engineering construction sites are not at present registrable under the Factories and Industrial Undertakings Ordinance. Notwithstanding this position, several regulations made under this Ordinance which deal with matters of safety specifically apply to building and engineering construction sites by virtue of regulation 42. It is essential for the present to continue to apply these provisions in regulation 41 to such sites. To do so, it has been necessary, while revoking

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* Page 361.

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regulation 41 which is no longer required for its main purpose, to add a new regulation 42A restoring the previous requirements in respect of those sites only. A few consequential amendments are also required because the relevant regulations are re-numbered.

The Factories and Industrial Undertakings (Amendment) Regulations are a temporary measure to maintain the position with regard to building and engineering construction sites until such time as they can be dealt with by comprehensive legislation. Such legislation is in preparation as an item of the departmental legislative programme. I referred to it when I outlined this programme in this Council in February of this year*.

The regulations now before Council were unanimously endorsed by the Labour Advisory Board.

THE COLONIAL SECRETARY seconded.

The question was put and agreed to.

PUBLIC SERVICES COMMISSION (AMENDMENT) BILL 1968

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

He said:—Sir, the purpose of this Bill is to bring within the purview of the Public Services Commission appointments to certain offices which are at present not subject to the advice of the Commission.

When the Public Services Commission Ordinance was enacted in 1950†, certain senior offices in the Administration were specifically excluded from the operation of the Ordinance and appointments to these offices have been made without reference to the Commission. The offices are listed in the First Schedule to the Ordinance and include Administrative Officers Staff Grade 'A'; the Director of Medical and Health Services; the Director of Public Works; the Chairman of the Urban Council; the Director of Education; the Director of Marine; and the Director of Audit.

The reasons for exempting these particular posts from the provisions of the Ordinance are not now entirely clear. Possibly, it was considered that, since many of the holders of these offices were likely also to be appointed Official Members of this Council, it would be inappropriate for the advice of the Commission to be sought.

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* Pages 32-8.

† 1950 Hansard, pages 194-7 and pages 211-3.

The position has, however, recently been reviewed, in consultation with the Chairman of the Commission, and no good reason is now seen for the further exemption of any of the offices I have mentioned, with the single exception of the Director of Audit. This amending Bill accordingly provides that the Public Services Commission should be required to advise on all future appointments to these posts with the exception of the Director of Audit. The reason for continuing to exclude the Director of Audit is that appointments to this office are made by the Secretary of State from within the unified Overseas Audit Service.

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 First Schedule to the principal Ordinance specifies the offices and appointments which are, by virtue of paragraph *(e)* of section 6(2), exempted from the provisions of the Ordinance. The purpose of this Bill is to provide that all the offices and appointments set out in the First Schedule shall be brought within the purview of the principal Ordinance save for those of the Chairman, Urban Council and the Director of Audit. The post of Chairman, Urban Council no longer exists as a pensionable post; the Director of Urban Services is normally appointed concurrently as Chairman, Urban Council. The post of Director of Audit is in a special category, since such appointments are made by the Secretary of State within the Overseas Audit Service. Clause 2 provides accordingly.

2. Clauses 3, 4 and 5 make consequential amendments.

PREVENTION OF CORRUPTION (AMENDMENT) BILL 1968

THE ATTORNEY GENERAL moved the First reading of:—"A Bill to amend further the Prevention of Corruption Ordinance."

He said:—Sir, the purpose of this Bill is to cure a defect in section 3 of the Ordinance to which attention was directed in a judgment of the Full Court delivered in 1966. In that judgment, Sir, the Full Court held that, having regard to the language used in subsection (1) of that section, it is not an offence within the meaning of that subsection

[THE ATTORNEY GENERAL]

for an official to solicit money so that he will turn a blind eye to any infringements of the law which may be committed in the future by the person from whom the money is solicited.

Clause 2 of the Bill seeks to repeal and replace section 3 and to widen the scope of subsection (1) so that it will be applicable not only to soliciting or receiving some benefit corruptly in connexion with a definite transaction, but also in connexion with a transaction which is only a contingency and which may in fact never take place.

Honourable Members will be aware that subsection (2) of the same section deals with corruptly giving or offering a bribe as distinct from soliciting or receiving. The scope of this subsection is therefore being enlarged to the same extent as subsection (1).

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: —

In a judgment of the Full Court delivered in 1966, section 3 of the Prevention of Corruption Ordinance was considered and it was held that the section does not apply to a payment or reward in respect of a future contingency which may never happen.

The purpose of this Bill is to enlarge the scope of the section so that it will be applicable not only to a definite transaction but also to the case in which—

(a) a public servant receives a payment or reward so that he will forbear to enforce 'the law in relation to any matter or transaction which may take place;

(b) a person offers a public servant a payment or reward so that the public servant will forbear to enforce the law in relation to any matter or transaction which may take place.

SUPPLEMENTARY APPROPRIATION (1967-68) BILL 1968

THE FINANCIAL SECRETARY moved the First reading of: —"A Bill to authorize a supplementary appropriation to defray the charges of the financial year ended the 31st day of March 1968."

He said: —Sir, this Bill seeks to give final legislative authority, so far as that is necessary, for the supplementary expenditure already authorized by resolutions of this Council, and is the final stage in disposing of expenditure incurred during the last financial year.

The original estimates were given legislative form in the Appropriation (1967-68) Ordinance, 1967,* which authorized a specific sum under each Head of Expenditure. It is necessary to legislate further now in respect of those individual Heads of Expenditure where the net effect of supplementary provision, and of underspending if any, has resulted in an excess over the original sum authorized against these particular Heads in the Appropriation Ordinance. The total supplementary expenditure requiring this further authority is just over $46.1 million under fifteen Heads. This is more than offset by savings of nearly $202.7 million under other Heads.

THE COLONIAL SECRETARY seconded.

The question was put and agreed to.

The Bill was read a First time.

EMPLOYMENT BILL 1968

MR R. M. HETHERINGTON moved the First reading of: —"A Bill to repeal and re-enact with certain amendments the Employers and Servants Ordinance, to provide for the protection of the wages of employees, to regulate employment agencies, and for matters connected therewith; and to make consequential amendments to the Contracts for Overseas Employment Ordinance."

He said: —Sir, this Bill is a major piece of labour legislation which affects the security of employment of a large number of workers. When I outlined the items in the departmental programme of legislation in a speech in this Council on 14th February 1968†, I briefly described the scope of this Bill and said that it was a measure of the highest priority‡. At that time, I hoped that I would be able to introduce the Bill earlier than has proved possible but, as I said in my speech, I am unable to forecast with any degree of certainty the speed with which individual items in the departmental programme will come before this Council.

The Bill has three principal aims. The first is to lay down general provisions on the duration and termination of certain contracts of employment. The second is to provide for the protection of wages of employees. The third is to regulate the operation of fee-charging

* 1967 Hansard, page 274.

† Pages 32-8.

‡Pages 34-5.

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employment agencies. Some aspects of these subjects are at present dealt with by the Employers and Servants Ordinance, Chapter 57. Consequently, the Bill repeals and re-enacts in an amended and expanded form the provisions of that ordinance.

The Employers and Servants Ordinance applies to all contracts of employment where the cash remuneration does not exceed $700 a month. This wage limit is incorporated in several related ordinances administered by the Labour Department. It was first introduced into this type of legislation in 1953 when the Workmen's Compensation Ordinance was enacted*. Wages have risen considerably during the subsequent fifteen years. Generally, they have more than doubled in the past ten years in the industrial sector whereas increases in the non-industrial sector have varied considerably according to occupations. In order to restore comparable protection for non-manual workers at about the same level generally applicable in 1953 and to establish a wage limit more generally appropriate to present conditions, the coverage of the bill is extended to non-manual workers whose wages do not exceed $1,500 a month. In passing, I would like to mention that it is my intention to recommend the incorporation of this wage limit of $1,500 a month in other related ordinance when suitable opportunities occur. In so far as manual workers are concerned, the bill completely removes the existing limitation, in terms of wages, in the Employers and Servants Ordinance. By doing so, it complies with the provisions of International Labour Organization convention number 95 concerning the protection of wages. On the other hand, the Bill specifically excludes from its provisions employees who are members of the family of the proprietor of a business in which they are employed and who live in the same building as the proprietor, seamen serving under articles, workers covered by the Contracts for Overseas Employment Ordinance, Chapter 78, and apprentices serving under contracts attested by the Commissioner of Labour on or after 1st April 1965.

Part II and the schedule to the Bill deal with contracts of employment and prescribe for their duration and the manner in which they may be terminated. The Employers and Servants Ordinance, when first enacted in 1902† and when subsequently re-enacted in 1961‡, made the presumption that, until the contrary was proved, every contract of employment was a contract for one month and renewable from month to month, except in the case of the hire by the day, job, or journey, and provided that such contracts should be determined by giving one

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* 1953 Hansard, pages 253-60, 276-9 and 285-92.

† 1902 Hansard, pages 68, 69-70, 80 and 82.

‡ 1961 Hansard, pages 252-4 and 206.

month's notice or one month's wages in lieu of notice. The Bill preserves, with certain important modifications, these provisions which have been accepted for nearly seventy years. The modifications proposed seek, in part, to reduce the scope for misunderstandings and misinterpretations which, in the experience of the Labour Relations Service of the Labour Department, are known to arise from the law as it now stands.

The first important modification is to set out clearly the circumstances in which the presumption of a monthly contract can be rebutted. This may be done if there is an express agreement, not necessarily in writing, between the parties to the contrary effect which is capable of proof and is not merely implied or in accordance with custom. Clause 4(1) presumes the existence of a monthly contract "in the absence of any express agreement to the contrary". This qualification is substantially different from the existing qualification in the Employers and Servants Ordinance which presumes the existence of a monthly contract "until the contrary is proved". The revised wording establishes, in my opinion, a much more precise and practical requirement for the rebuttal of a monthly contract than the existing law. Another way to overcome the presumption of a monthly contract is to establish that employment has not, in fact, been continuous. Clause 11(2) places the onus of proving that a contract is not a continuous contract on the employer. The elements of the concept of continuous employment are set out in the Schedule to the Bill. Briefly, they are that an employee can not establish a claim to have been continuously employed unless he or she has worked for not less than six hours, not necessarily without a break, on at least three days in a week in each of the four previous weeks. The significance of this concept is that it takes no cognizance of the method of calculating wages or of wage periods. Many workers, especially those in industry, are engaged on piece-rates or on daily-rated wages although they are often paid two or three times a month. They may and generally do work continuously on these terms for many years. They are, in effect, regular employees. I consider that it is unjust that, if their services are terminated, they should be treated no better than casual workers. The Labour Department has records of many cases of workers of long service being dismissed and being given no notice or no wages in lieu of notice because of the uncertainties of the existing law. These cases have given rise to bitter and heated disputes. I hope that, in future, they will no longer occur. The Schedule to the Bill also deals with consequential problems arising from the definition of continuous employment. These include absence because of sickness or injury or in circumstances which by law, mutual arrangement, or custom of the trade or business do not constitute absence, or through strikes and lock-outs. The schedule also protects employees when a business changes hands.

[MR HETHERINGTON]

The second important modification is in respect of the termination of contracts, notice of which may be given either orally or in writing. Clause 5 makes it clear that, in the case of a monthly contract, not less than one month's notice must be given. In every case, notice, which has previously been agreed, should be given but, where there is a continuous contract, notice should be not less than seven days. The effect of this provision is to prevent either party to a contract from giving less than the prescribed notice although it does not prevent them from giving more if they wish to do so. 1 consider that, in the case of a continuous contract, the fixing of a minimum period of seven days is a fair and reasonable protection to both parties and desirable in order to prevent the denial of rights and the evasion of obligations established by the Bill. Special provision is made in clause 5(3) to deal with employees on probation. Where it is expressly agreed that an employee is on probation, the contract may be terminated by either party without notice or wages in lieu during the first month or by giving notice of not less than seven days during the second and third months of the probationary period.

The remaining clauses of part II deal with other matters connected with contracts of employment for which there is no legislative provision at present. Clause 6 covers various aspects of making payment in lieu of notice. Clause 7 makes it clear that either party may waive a right to notice or wages in lieu but that this waiver can be exercised only at the time when the notice is required to be given. It is not permissible for either party to a contract to waive right to notice or payment in lieu before such right accrues as, for example, at the time of initial engagement. Clauses 8 and 9 provide that a contract may be terminated without notice or payment in lieu in certain circumstances. These are set out in clause 8 with regard to employers and in clause 9 with regard to employees. Clause 10 permits the suspension of an employee without wages for a period of up to fourteen days in prescribed circumstances but allows an employee to terminate the contract without notice or payment in lieu during the period of suspension. The period of fourteen days may be extended where criminal proceedings arising out of his employment are pending against the employee.

Parts III, IV, V, and VI and the Bill deal with the protection of wages, a subject not at present covered by existing legislation. They seek to give general effect to International Labour Organization convention number 95 on this subject in so far as the provisions of the convention are relevant to Hong Kong. Clauses 12 to 15 stipulate the time in any given circumstances when wages or other payments fall due to an employee and the time within which they must be paid. Wages must be paid as soon as practicable after they become due and in

any case not later than seven days afterwards. Clauses 16 to 18 set out the conditions for the payment of wages. These include payment in legal tender, restrictions on remuneration in kind, and prohibitions on payment being made in certain places except to the employees working there. These are places of amusement, places where authorized betting or cash sweeps are organized, places where intoxicating liquor or dangerous drugs are sold, and shops or stores for the retail sale of merchandise. Clauses 19 and 20 safeguard the freedom of the employee to dispose of his earnings in whatever manner he chooses. Clause 21 restricts the types of deductions which an employer may make from the wages of an employee. The total amount of these deductions, unless they are in respect of absence from work, may not, without the approval in writing of the Commissioner of Labour, exceed one half of the wages. Deductions by an employer for damage to or loss of goods, equipment, or property, expressly entrusted to an employee for custdoy, or for loss of money for which an employee is required to account, where such damage or loss is directly attributable to his neglect or default, may not exceed one quarter of the wages payable in any one wage period or, in any one case, more than $300. Clauses 22 to 24 require that a prospective employee must be informed in an appropriate and easily-understandable manner of the conditions with regard to wages under which he is to be employed and at any subsequent time when these conditions are changed. The employee must also be informed of the particulars of his wages at the time of each payment in so far as they may be subject to change and the nature of and the reason for any deductions. At the written request of an employee his employer is obliged to give this information in writing. Clauses 25 to 27 empower the Commissioner of Labour to specify, in relation to any particular class or description of employer, the nature of the information about wages concerning which the employer must keep records and the forms of any notices which must be given to an employee or of any requests from an employee to an employer. The Commissioner of Labour may require an employer to make returns to him providing information about wages and deductions over a period not exceeding six months prior to the date of his request. I intend to use these powers only in circumstances where the normal communication on wages between employers and employees proves inadequate or unsatisfactory.

Part VII deals with fee-charging employment agencies in general conformity with International Labour Organization convention number 96 on this subject. Clauses 28 and 29 re-enact in a revised form the existing provision in the Employers and Servants Ordinance. Clause 30 gives new powers to the Governor in Council to make regulations concerning the procedure for registration and the conditions under which registration may be granted or withdrawn. It is my intention to recommend that appropriate regulations should be made under this

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clause to prevent malpractices known to take place whereby those seeking work through certain employment agencies appear to be exploited. The Labour Department has records of cases when a registration fee has been collected with no guarantee that the agency will endeavour to place an applicant and no provision for refund if an applicant is not placed. Clause 28 applies the provisions to employment agencies placing candidates both in Hong Kong and overseas. Related provisions in the Contracts for Overseas Employment Ordinance consequently become no longer necessary and they are amended by clause 38.

Part VIII deals with offences and penalties. Sub-clause 4 of clause 32 provides for a general penalty of a fine of $5,000 for the offences listed in the clause. Under sub-clause 1 of this clause an employer would commit an offence under clauses 13, 14, and 15 if, wilfully and without reasonable excuse, he fails or refuses to pay wages or other sums after they become due. This subclause relates to payments under clauses 13, 14, and 15 and, as I have said earlier, seven days' grace is given under each clause to make the payments. When an employer is unable to make payments, for example, because of a genuine dispute about the amount of wages due, he would not therefore be committing an offence. On the other hand, where there is a *prima facie* case of a contravention under subclause 1 of clause 32, no prosecution can commence unless the provisions of clause 33 have been complied with. Clause 33 requires that a prosecution may be commenced only with the consent of the Commissioner of Labour. Before the Commissioner of Labour can give his consent, he is required to hear the person against whom the allegation is made or to give him an opportunity of being heard. The purpose of these safeguards is to protect employers against unwarranted prosecutions arising out of frivolous or vexatious complaints. The residual authority granted to the Commissioner of Labour to initiate a prosecution as a last resort provides a very powerful weapon against unscrupulous employers who seek to withhold wages improperly. I am most conscious of my personal responsibility for exercising this statutory power and I trust that it will only be necessary in the most heinous cases where the law has been flagrantly violated. I am advised that the experience in other territories suggests that the mere possibility of such drastic action has a sufficient deterrent effect that resort to prosecutions is extremely rare. Sub-clause 1 of clause 34 provides that an employer convicted of an offence may be ordered by the court to pay, in addition to the penalty imposed, the wages or other payments due. Sub-clause 2 of clause 34 provides that, if an employer is acquitted of the offence of non-payment of wages on the grounds that the default was not wilful or not without reasonable cause, the court may order him to pay any wages or other payments due. These provisions will enable the courts expeditiously to dispose

of claims which would otherwise have to be pursued in subsequent proceedings. I consider that they will prove to be advantageous to both parties concerned.

Part IX deals with several miscellaneous matters. Clause 35 prohibits the attachment of wages by a court except for a civil debt due to the Crown under any enactment. Clause 36 preserves existing agreements and contracts but makes the parties subject to and entitled to the benefit of the provisions of the bill. It expressly declares that any conditions in such agreements or contracts which are contrary to the provisions of the Bill to be void.

Part II of the Bill relating to contracts of employment contains no punishable offences. It creates rights and obligations of parties to a contract of employment which may be enforced in a court of law. Nonetheless, the primary object of this part is to set out these rights and obligations sufficiently clearly to limit the scope for disputes. It is intended that the provisions of parts III to VI relating to the protection of wages should be enforced, as far as possible, by complaint of an agrieved person. Enforcement by a process of regular inspection would require a body of inspectors disproportionately large for the results likely to be achieved. Moreover, I believe that, in general, the provisions of these parts are reasonably well observed in practice and that the appropriate remedies in the Bill will be adequate to deal with the minority of unscrupulous persons. Complaints over wages can be effectively dealt with by the Labour Relations Service of the Labour Department and adequate powers are given to the Commissioner of Labour to investigate by calling for the relevant information and, if necessary, to institute proceedings. The primary object of this part is to enable me to obtain essential information which will enable my conciliation officers to advise quickly and to mediate conclusively in disputes with the object of avoiding unnecessary litigation.

The provisions of the Bill do not apply to Government as an employer and to Government officers. The current practices of Government are such that its employees already receive all the benefits conferred by the Bill with a few minor exceptions and are in fact provided with additional advantages not covered by the Bill. It is intended to review all relevant Government regulations to determine to what extent, if any, such regulations can be amended bearing in mind that Government must maintain a strict control over the conduct of its servants.

This Bill has been unanimously approved in principle by the Labour Advisory Board which includes the representatives of workers from trade unions and of employers. The board has also examined and discussed the provisions at length and in considerable detail. The principles underlying the Bill have received the general support of the

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four major employers' associations, the Chinese Manufacturers Association of Hong Kong, the Employers' Federation of Hong Kong, the Federation of Hong Kong Industries, and the Hong Kong General Chamber of Commerce, although they have not found it possible to endorse completely every detailed provision. It is only to be expected that a bill dealing with such vital subjects as contracts of employment and wages should arouse divergent views. I have attempted to explain at some length the main provisions of this Bill but I can not hope to encompass all aspects in this speech. I intend to prepare a guide to the bill if, as I hope, it becomes law. Before that happens, there is still time for members of the general public to consider what I have said to-day and to examine the text of the Bill. Despite the large numbers of persons who have been consulted during the preparation of these legislative proposals, I recognize that there are others who might have some useful contributions to offer. I would welcome any constructive criticism which would improve a measure which will affect the security of employment of a considerable number of persons in Hong Kong.

The Bill is neither easy to explain nor simple to understand. Employers, workers, and officers of the Labour Department will require time to digest the provisions and to ensure that they are observed. The process of adjustment will inevitably take time and I appeal to all concerned to show patience and mutual understanding. With good will on all sides and a willingness to comply with the spirit of the legislation, the purposes of the bill can be achieved without unnecessary friction. Officers of the Labour Department, especially those of the Labour Relations Service, will endeavour to the best of their abilities to help in this process.

Finally, Sir, I wish to make one important point. The Bill seeks to lay down minimum standards only. There is nothing to prevent employers from giving their employees better conditions of service and I know that there are many who do so. It is my sincere wish that none of these will now consider that they must reduce their standards to the minimum now prescribed in this Bill.

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: —

The main objects of this Bill are to repeal and re-enact with certain amendments the Employers and Servants Ordinance (Cap. 57) (hereinafter referred to as the Ordinance), to provide for the

protection of the wages of employees and to regulate the operation of employment agencies.

The Bill applies to every employee engaged under a contract of employment other than non-manual employees earning over $1,500 a month and certain other limited classes listed in clause 3(2). It also applies to an employer of such employees and to contracts of employment between such employer and employees (clause 3(1)). With certain exceptions, it will also regulate contracts of apprenticeship.

Part II prescribes the duration of contracts of employment and the manner in which they may be terminated. Clause 4 generally repeats section 4 of the Ordinance but introduces, in subclause (1), a new presumption and a continuous contract of employment, in the absence of an express agreement to the contrary, shall be deemed to be a contract from month to month. Whether or not a contract is a continuous contract is to be determined under clause 11(1) and by reference to the provisions of the Schedule. Clause 11(2) places the onus of proving that a contract is not a continuous contract on the employer. The effect of clause 4(3) is to convert all contracts of employment entered into by manual workers for a period of six months or more into monthly contracts.

Clauses 5 and 6 are based on section 5 of the Ordinance. Clause 5(1) allows a contract of employment to be terminated on notice at any time by either party to the contract; the length of notice required to be given is prescribed in clause 5(2). In the case of a newly engaged employee, where it is expressly agreed that the employment is on probation, the contract may be terminated by either party at any time during the first month without notice or payment in lieu but during the second and third months not less than seven days' notice is required to be given (clause 5(3)).

Clause 6 provides for the immediate termination of a contract by either party to the contract on payment of a sum in lieu of notice. This clause also deals with cases where notice has already been given by one party, who wishes to terminate the contract before the expiry of the notice on payment of a proportionate amount in lieu of the unexpired time of notice.

Clause 7 preserves the right of a party to a contract of employment to waive notice or payment in lieu and the right to terminate a contract without notice or payment in lieu under clause 8, 9 or 10. Clause 8 provides for the summary dismissal of an employee for any of the reasons set out therein; the right to dismiss for cause, which is in the proviso to section 5 of the Ordinance, is set out in detail. Clause 9, which is new, lists the

[*Objects and Reasons*]

grounds on which an employee may summarily terminate his contract.

Clause 10(1), which does not exist in the Ordinance, provides for the suspension of an employee on specified grounds for up to a maximum of 14 days, with an extension of this period where criminal proceedings are taken. Clause 10(2) enables an employee who is suspended to terminate his contract of employment without notice or payment in lieu during his suspension.

Parts III, IV, V and VI seek to give general effect to the International Labour Conference, Protection of Wages Convention (No. 95), and follow, as far as they are considered appropriate in the circumstances, the provisions of that Convention. These provisions do not exist in the Ordinance.

Part III deals with the payment of wages during the continuance of a contract of employment and on completion or termination thereof. It also prescribes the manner of payment (clause 16) and prohibits payment in certain specified places (clause 17). Generally, wages must be paid within seven days of the end of a wage period, or completion or termination of the contract (clauses 13 to 15).

Part IV prohibits deductions, other than those allowed under the Bill, being made by an employer from the wages of an employee (clause 21).

Part V deals with the information about wages and deductions made which an employer is required to give an employee.

Part VI provides for the keeping of records by an employer for the purposes of Part V and for the making of returns as and when required by the Commissioner of Labour.

Part VII regulates employment agencies, whether offering their services in respect of employment in the Colony or elsewhere. This repeats the provisions of section 8 of the Ordinance and of Part III of the Contracts for Overseas Employment Ordinance (Cap. 78) but enlarges their scope. Clause 30 gives power to the Governor in Council to make regulations in respect of employment agencies.

Part VIII lists the offences against the Bill and provides for a general penalty of a fine of $5,000. Under clause 32(1) an employer would commit an offence where he wilfully and without reasonable excuse contravenes any of the provisions of clause 13, 14 or 15. Clause 33 provides that the Commissioner of Labour has to give his consent to a prosecution under clause 32(1) and

gives an employer a statutory right to be heard by the Commissioner before such consent is given. Clause 34(1) provides that an employer convicted of an offence under clause 32 must, in addition to the penalty imposed, pay any wages or other sums due if the court before which he is convicted so orders. However, in proceedings for contraventions of clauses 13, 14 and 15, even if there is no conviction, the court is empowered to order the payment of wages or other sums due to an employee. This would avoid further delay which is likely to occur if civil proceedings are instituted.

Part IX provides for miscellaneous matters, including the repeal of the Ordinance and some consequential amendments to the Contracts for Overseas Employment Ordinance (Cap. 78).

PROTECTION OF WOMEN AND JUVENILES (AMENDMENT) BILL 1968

MR A. T. CLARK moved the Second reading of: —"A Bill to amend further the Protection of Women and Juveniles Ordinance."

THE COLONIAL SECRETARY seconded.

The question was put and agreed to.

The Bill was read the Second time.

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

Clauses 1 to 3 were agreed to.

Council then resumed.

MR A. T. CLARK 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.

Tourism

MR H. J. C. BROWNE addressed the Council: —

Sir, we are all delighted to see the expansion in Hong Kong's export trade that has taken place so far this year. Long may it continue. I would like to take this opportunity of saying something about tourism on the same day that the Annual Report of the Tourist Association was laid before this Council*. I think that everyone knows that tourism is the most important invisible export in Hong Kong and it plays a vital part in the economic viability of the Colony. Because it is invisible, it is, I think, perhaps more difficult to come to grips with the problems and to plan for the future. As you know our well established Tourist Association devotes its efforts to the growth of tourism in Hong Kong, and to coping with the changing patterns of tourism. It is of interest that the latest survey of tourist spending amounted to over $1,100 million in 1967.

We hope to have 600,000 tourists in 1968, and this in spite of the fall off last year due to disturbances and to travel restrictions imposed in some overseas countries, and although we can expect a million tourists in the early 70's we must never allow ourselves to become complacent and to take this expansion for granted. These statistics in themselves do not of course tell the whole story: the key is the length of time that the tourists spend in Hong Kong. If we can provide attractions that persuade people to stay five days instead of four then we have helped to increase tourist spending by up to 20%. We are now facing greatly increasing competition for the tourist $ from neighbouring Asian countries: and tourists themselves are becoming more cost conscious and will become increasingly so as more people from middle income backgrounds travel the Pacific in groups of a 100 or more.

Fortunately Hong Kong still stands high on the list of places that tourists want to visit but we must guard against a climate of opinion building up imperceptibly against us, as it has in some European countries in the last few years, and which gradually reduces the time that people spend in Hong Kong. Though our shops are still a major attraction, and a very important part of our tourism, they are not, perhaps, as important as they were as many tourists now come just to see Hong Kong. The things that attracted the more affluent tourist to Hong Kong in 1960 are not necessarily the same as will be needed in 1970 for a larger number of tourists from a different social background.

The problem of providing new attractions which will keep tourists here longer needs ingenuity and a new approach both by the Industry and, I suggest, by Government. There are a number of schemes and ideas that I feel should be looked at again, such as the oceanarium, a

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museum, resort areas, a golf course and facilities for tourists to tour the New Territories. Some of these have the added advantage of being of interest to our own people and would not just provide for overseas visitors. I am glad to see that our hotels have plans in hand to cope with anticipated expansion of tourists over the next few years.

Another point I would like to make is that almost all Government Departments can contribute something to help make Hong Kong attractive to tourists, be it the Urban Services with cleanliness, the Police in dealing with touts, the Agriculture Department with trees and flowers, the town planners, the Commissioner of Transport, the Immigration Department, and even the Finance Branch by forebearing to propose increases in duties and taxes.

There has been a good deal of discussion over the last few years about a convention centre so that we can accommodate some of the various organizations that hold large meetings in different parts of the world. I appreciate that a convention centre is expensive to build, and a multi-lingual convention is expensive to run, but this is an important part of today's international tourism and it is very noticeable the success that Japan has in this respect. I would like therefore to suggest that Government re-examines the possibility of incorporating or adding convention facilities to the stadium it is planned to build on Hung Hom, perhaps on a slightly different basis and hopefully at lower cost than previously envisaged. It does not matter what it is called but we need a centre that can be used for trade and other exhibitions, to take the pressure off the City Hall, for sport, and to handle the large meetings and conventions from overseas.

One of the most basic requirements for a healthy tourist industry is an adequate and efficient airport, and I am glad that approval has recently been given to go ahead with substantial alterations to the Terminal Building in order to cope with the increase in passengers expected over the next three years. It has been the experience here in the past, and in many other parts of the world, that these projections of passenger growth normally turn out to be under-estimates, and I am afraid we shall have to face the fact that no sooner have these alterations to the Terminal and other airport buildings been completed than we shall have to embark on further extensions.

Stretched jets carrying up to 199 passengers are already using Kai Tak, and airlines are planning to bring in the Jumbo jets carrying up to 450 passengers in 1970. The introduction of Jumbo jets is certain to substantially increase group travel and tourism across the Pacific.

We are of course in a peculiar position in Hong Kong in having an airfield so close to town, and a runway that cannot easily be extended without expensive and complicated engineering work. Our present

[MR BROWNE]

runway is 8,350 ft. long against the international ICAO recommendation of over 11,000 ft. and we have therefore one of the shortest runways of any major airport in Asia. I believe that an extension of about 2,500 ft. will cost something in the region of $90 million and take at least three years to complete. The operation of aircraft over the urban area requires continuous vigilance, and it was gratifying that a recent meeting of the International Federation of Airline Pilots which was held in Hong Kong voted Hong Kong the most efficient air traffic control centre in Asia. We have good navigational aids and we must keep them right up-to-date. Although the larger jets can safely use our existing runway, albeit with some payload restrictions, I hope that an early decision will be made to extend the runway in order to provide that extra margin of safety for the big jets that will be arriving in Hong Kong in increasing numbers over the next few years. We shall in any event need the additional runway length if Hong Kong is to be able to take supersonic aircraft in the 70's.

There have been press reports recently that Government have not yet been able to get a reply from HMG to their request for financial assistance for extending the runway at Kai Tak and I am sure that all my Unofficial Colleagues here today will support Government in the representations that they are making to the UK for financial assistance.

MR A. K. WATSON addressed the Council:—

Your Excellency, I would like to support the remarks of my honourable Friend. I hadn't intended speaking at this Debate today but last night's meeting of the Tourist Association had shown that there is very considerable frustration amongst its members due to ignorance of Government's attitude to many of the proposals which had been put forward in the past. One member said that he had been coming to these annual meetings for six years and every year he listened to the ideas and proposals which the Board had put forward to Government and every year he was assured that these were being pursued with considerable vigour. But he had yet to hear of any of them that had been accepted.

Now, I am quite sure that Government has good reasons for not accepting many of these proposals but these reasons aren't generally known and the impression is given that Government is antagonistic. It seems paradoxical that Government should pay the Tourist Association nearly $6 million to think of ways of encouraging tourists to come to Hong Kong and then seem reluctant to implement the recommendations which the Tourist Board makes.

May I suggest that at this stage it would be worth while having a small *ad hoc* committee consisting of representatives of the Tourist Association, the Colonial Secretariat, and perhaps the Finance Committee to look into these proposals to find out what is required and whether Government is prepared to accept them and, if not, whether they would consider a more modest scheme acceptable. I am quite sure that the report of this committee will clear the air. It will make clear what Government's attitude to them is and would relieve a great deal of the frustration which is now felt; and where Government feels that it cannot accept the various proposals, it will be shown that they have very good reasons which are in the public interest.

THE FINANCIAL SECRETARY addressed the Council:—

Sir, Mr BROWNE has ranged over a fairly wide area and I will therefore confine my remarks to his main points. I general, his message is, I think that neither in the tourist industry itself nor in Government can we afford to be complacent and that each must play its part in making the climate for luring more tourists to Hong Kong even more attractive. I fully endorse such sentiments though, of course, as with any business enterprise, Government on its part must take a balanced view as to whether additional expenditure of public funds in any particular field to attract tourists will produce the desired results.

Clearly, as my honourable Friend says, Government departments can help in many ways and I might add that if they are not by now aware of the tourist problem, if it is now a problem, they ought to be. Not only are tourists all around us but Government, as a whole, is not left without suggestions from the Tourist Association about things we ought to be doing.

Needless to say most of these things cost money, some a great deal, and it is not always too evident that they will in fact help the tourist industry to the extent that is claimed. To take one small example, my honourable Friend the Director of Urban Services informs me that many streets, especially those frequented by tourists, are swept up to seven times a day but they are still barely clean. Where do we stop?

There is another essential point about the encouragement of tourism which tends to be forgotten, and that is that the soundest policy is to try to maximise the attractions of any place which naturally draw the tourist there rather than to try to add attractions in which he is not basically interested. That is not to say that added attractions do not have some effect in pleasing tourists once here; but they have a limited value as a draw for tourists who would not otherwise come.

[THE FINANCIAL SECRETARY]

I think that Mr BROWNE is being a bit optimistic when he says that if a tourist can be persuaded to stay here five days instead of four his spending will increase by up to 20%. A survey commissioned by the Tourist Association indicated that the fifth day produced only about 13% extra expenditure. Nevertheless, his point is valid.

Increasing competition from other Asian countries does not necessarily mean less tourist spending in Hong Kong. In fact, if these countries are trying to attract more tourists into the region, a good many of them will also come to Hong Kong and vice-versa.

The present position of the indoor stadium is that, as honourable Members will recall, it is now in Category B of the Public Works programme having been put there on 10 July this year. This was on the understanding that the capital cost would be in the region of 10 million dollars. Perhaps convention facilities within this complex may prove feasible, and the possibility will be looked at, although I fear that the cost might turn out to be too high. It will be recalled that the original scheme envisaged expenditure of 60 million dollars, which is well out of proportion to Government's essential heavy commitments in other fields. Moreover, not all of us are convinced that very large-scale facilities are really needed. We seem to be able to manage to accommodate all but the largest conventions already: and the demand from the very largest groups is infrequent.

On the oceanarium, I understand that the Tourist Association is putting forward new proposals so, at this stage, I will refrain from comment.

Mr BROWNE also mentions the airport about which, as a member of the Air Advisory Board, he is rightly concerned. Government has not been dragging its feet—at least not much—but obviously it has to be satisfied that a contemplated expenditure of up to 250 million dollars is justified, and is what we can afford, because every dollar spent on the airport means less for something else. Already the airport has an accumulated deficit of 45.5 million dollars. Nonetheless, no less than ten projects for improving the airport are in the pipeline ranging from apron extensions to accommodate Jumbo jets to additional radar coverage which will further increase Kai Tak's already good safety record.

Unpalatable though it is, I must warn that revenue will probably have to be increased by raising certain fees.

The possible extension of the runway is not in the Public Works programme at the moment; certain further information has been requested and furnished to Her Majesty's Government in London and

we are hopeful, if not yet confident, that some financial assistance will be forthcoming if we decide to lengthen it.

The subject of the airport gives me a chance to say that one of the keys to the opening of a wider door to tourists is air fares. Government on its part can do a number of things which include a positive policy of attracting tourists by a taxation system which barely affects them. But business too must play its part and I hope that airlines in particular will be able soon to see their way to reducing fares which in this region are generally regarded as relatively high.

Mr WATSON'S idea for an *ad hoc* committee to examine the feasibility of the various proposals put up by the Tourist Association can certainly be examined and look, at first sight, to be quite a good idea.

Finally, Sir, may I say that I welcome Mr BROWNE'S constructive comments and also those of Mr WATSON'S on the tourist industry as a whole. We naturally also place importance on this industry, as is evidenced by the fact that the subvention to the Tourist Association has increased from 1.4 million dollars in 1960-61 to 5.85 million dollars this year. I think honourable Members will agree that the Association's Report which is tabled today indicates that the Association is making good use of this money.

The question was put and agreed to.

NEXT MEETING

HIS EXCELLENCY THE GOVERNOR:—Council will now adjourn. The next meeting will be held on 4th September.

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