

OFFICIAL REPORT OF PROCEEDINGS

Sitting of 8th January 1969

MR PRESIDENT in the Chair

PRESENT

HIS EXCELLENCY THE GOVERNOR (*PRESIDENT*)
SIR DAVID (CLIVE CROSBIE) TRENCH, GCMG, MC
THE HONOURABLE THE COLONIAL SECRETARY
SIR MICHAEL (DAVID IRVING) GASS, KCMG
THE HONOURABLE THE ATTORNEY GENERAL
MR DENYS TUDOR EMIL ROBERTS, OBE, QC
THE HONOURABLE THE SECRETARY FOR CHINESE AFFAIRS
MR DAVID RONALD HOLMES, CBE, MC, ED
THE HONOURABLE THE FINANCIAL SECRETARY
SIR JOHN (JAMES) COWPERTHWAITTE, KBE, CMG
DR THE HONOURABLE TENG PIN-HUI, CMG, OBE
DIRECTOR OF MEDICAL AND HEALTH SERVICES
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, CBE
DISTRICT COMMISSIONER, NEW TERRITORIES
THE HONOURABLE DAVID RICHARD WATSON ALEXANDER, MBE
DIRECTOR OF URBAN SERVICES
THE HONOURABLE GEORGE TIPPETT ROWE
DIRECTOR OF SOCIAL WELFARE
THE HONOURABLE KAN YUET-KEUNG, CBE
THE HONOURABLE FUNG HON-CHU, OBE
THE HONOURABLE TSE YU-CRUIEN, OBE
THE HONOURABLE KENNETH ALBERT WATSON, OBE
THE HONOURABLE WOO PAK-CHUEN, OBE
THE HONOURABLE WILFRED WONG SIEN-BING, OBE
THE HONOURABLE WILSON WANG TZE-SAM
DR THE HONOURABLE CHUNG SZE-YUEN, OBE
THE HONOURABLE MICHAEL ALEXANDER ROBERT HERRIES, OBE, MC
THE HONOURABLE LEE QUO-WEI
THE HONOURABLE OSWALD VICTOR CHEUNG, QC

ABSENT

THE HONOURABLE SZETO WAI, OBE
THE HONOURABLE ELLEN LI SHU-PUI, OBE

IN ATTENDANCE

THE DEPUTY CLERK OF COUNCILS
MR DONALD BARTON

PAPERS

THE ATTORNEY GENERAL: —I lay upon the table seven items of subsidiary legislation which have been published in the *Government Gazette* since the last sitting of the Council.

<i>Subject</i>	<i>LN No</i>
Subsidiary Legislation: —	
Carriage by Air Acts (Application of Provisions) (Over-seas Territories) Order 1967.	
Carriage by Air Acts (Application of Provisions) (Overseas Territories) (Hong Kong Dollar Equivalents) Order 1968	126
Carriage by Air (Overseas Territories) Order 1967.	
Carriage by Air (Overseas Territories) (Hong Kong Dollar Equivalents) Order 1968	127
Legal Practitioners Ordinance.	
Admission and Registration (Amendment) Rules 1968	128
Legal Practitioners Ordinance.	
Legal Practitioners (Fees) (Amendment) Rules 1968	129
Legal Practitioners Ordinance.	
Students (Amendment) Rules 1968	130
Telecommunication Ordinance.	
Telecommunication (Amendment) (No 2) Regulations 1968	131
The Matrimonial Causes Ordinance.	
The Matrimonial Causes Rules 1968	132

MR W. D. GREGG: —By Command of Your Excellency, I lay upon the table a paper listed under my name in the Order Paper.

Subject

Sessional Paper 1969: —

No 1—Annual Summary by the Director of Education for the year 1967-68.

QUESTIONS

Ferry queues at peak periods

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

Has a survey been conducted recently on the waiting times during rush hours and at weekends at the vehicular ferry? If not, will the Commissioner of Transport do so and publish the result for public information?

THE COLONIAL SECRETARY: —Sir, the last full-scale survey of waiting times at the vehicular ferries was conducted in 1966. A fresh survey is being carried out this week at the Jordan Road/Jubilee Street vehicular ferry concourses, and thereafter it is hoped to conduct a similar survey at the North Point/Kowloon City concourses. The results of both these surveys will be published.

MR KAN: —Thank you, Sir.

KMB franchise

2. MR KAN asked the following question: —

Has the Financial Secretary any further statement to make concerning KMB's request for review of their terms of franchise including royalty which, according to the Acting Financial Secretary in the Debate on Adjournment on the 25th September 1968*, were then under examination by Government?

THE FINANCIAL SECRETARY: —Sir, the present position is that we have made certain tentative proposals to the company but have not yet had their reply. These proposals have not yet been considered by the Transport Advisory Committee and would be subject to, in certain particulars, the approval of this Council or the Governor in Council.

Jaywalkers

3. MR KAN asked the following question: —

It is alleged that many road accidents were attributed to the fault of pedestrians. How many persons have been prosecuted for jaywalking during the past six months and with what results?

THE ATTORNEY GENERAL: —Sir, from 1st June to 30th November 1968, the latest date for which statistics are available, 427 summons were issued for offences which could be described as jaywalking.

* 1968 Hansard, pages 456-8.

[THE ATTORNEY GENERAL] **Questions**

Of this number, 232 were withdrawn, there were 51 convictions and 39 cases in which an absolute discharge was granted. The remainder are pending.

In the majority of cases where convictions were recorded, the defendant was granted an absolute discharge. In the remainder of such cases fines averaging about \$10 were imposed.

MR KAN: —Sir, can my honourable Friend the Attorney General explain why 232 summons were withdrawn?

THE ATTORNEY GENERAL: —There were a number of reasons for this, the most important single reason unfortunately being the giving of false names and addresses by defendants. Also a number were found to have left the Colony and, in a few cases, the Police recorded the wrong names or addresses. It is not customary to arrest persons for offences of this nature and I am sure honourable Members will agree that the power to do so should be used sparingly and not employed in traffic cases of this kind where carelessness rather than criminal intent is involved.

MR KAN: —Thank you, Sir.

New Territories medical facilities

4. MR FUNG HON-CHU asked the following question: —

According to recent press reports, it would appear that the medical facilities, particularly as regards the staffing position, in the outlying districts, such as Tung Chung, Silver Mine Bay and Peng Chau, are less satisfactory than in the urban areas. If so, can anything be done to improve the situation?

DR P. H. TENG: —Sir, medical facilities in outlying districts have been developed in accordance with the proposals laid out in the 1964 White Paper on Development of Medical Services in Hong Kong*, with location of standard rural clinics in all major centres of population while auxiliary services to smaller centres are determined by geographical and communication factors. It might be of interest to mention that a modern standard rural health centre with out-patients, maternal and child health, maternity and specialist clinic facilities is sited in the following big townships in the New Territories, namely: —

* 1964 Hansard, pages 21-2.

Sha Tin	Castle Peak
Tai Po	Tsuen Wan and
Shek Wu Hui	Tai O
Yuen Long	

In addition, one non standard rural clinic at Sai Kung, 5 maternity homes, 1 polyclinic and 1 hospital have been built in the rural areas during the post-war years. The present out-patient clinic at Cheung Chau Hospital will be replaced by a new building with expanded facilities and a health centre at Kwai Chung is also in the Public Works Programme.

It is, of course, impossible to provide full-time medical services in each and every village, but as regards the three places on Lantau Island mentioned by my honourable Friend, the facilities available are good. At Silver Mine Bay and on Peng Chau there are maternity homes staffed permanently and out-patient clinics are held six days a week at the former and five days a week at the latter; in addition certain specialized out-patient sessions are held. At Tung Chung, now only 15-20 minutes by an all-weather road from South Lantau Hospital, three out-patient sessions are held each week.

I am sure my honourable Friend will be interested to know the extent of the travelling medical facilities which are available to residents in the New Territories. The Chee Wan floating clinic visits each of the larger villages on the shores of Tolo Harbour and Mirs Bay at least once and in most cases twice a week, while the Chee Hong floating clinic renders a similar service to the south-western islands and Po Toi. Larger villages accessible by road are visited regularly by travelling dispensaries based at Tai Po, Shek Wu Hui and Sai Kung. Finally, very isolated villages not easily accessible by land or sea are visited in rotation by a helicopter service conducted in co-operation with the Hong Kong Auxiliary Air Force.

In cases of emergency, evacuation to hospital is undertaken by ambulance, fast launch or helicopter.

MR FUNG: —May I ask a supplementary question, Sir? Is it because of the shortage of doctors or because of finance that we have not been able to provide full time facilities for some of the clinics?

DR TENG: —Clinic facilities are provided in accordance with the needs and we feel that the services we at present provide are adequate.

MR FUNG: —Thank you.

Questions

MR KAN: —Sir, I still would like one clarification. I understand from my honourable Friend that, in the case of Tung Chung, there are only three days when the residents there could obtain out-patient clinic facilities. But what happens to the rest of the week, Sir, when they do require medical facilities?

DR TENG: —As I pointed out, Sir, Tung Chung is accessible by road and anybody who needs medical facilities of a non-urgent emergency nature could also go to South Lantau Island.

MR KAN: —If he has got a broken leg, how is it proposed to travel this distance?

DR TENG: —In that case the helicopter service will be available, Sir.

Doctors

5. MR FUNG asked the following question: —

Will Government let us know how favourable has been the response from the medical profession to its offer of 3-yearly contract terms as an inducement to get more doctors to join Government service?

DR P. H. TENG: —Insofar as my honourable Friend's second question is concerned, 3-year gratuity bearing contracts were first offered to local candidates in March 1968 but the response has not been particularly encouraging. Of the 82 medical officers appointed since that date, 16 opted for, and were given, the new type of contract while the remaining 66 were either appointed on probation to the permanent establishment or on temporary month-to-month terms. However, a further 10 applications for appointment on contract terms are at present being processed.

Of the 16 medical officers appointed on contract, 10 are over 50 years of age. None of the 44 new graduates joining my Department straight from Hong Kong University opted for a contract and all were appointed on probation. My honourable Friend may be interested to know that in the same period since March 1968, 68 doctors in the grades of medical officer and above, resigned or retired from the Service.

Some details of the amount of the gratuity earned by a medical officer accepting appointment on the new type of contract may also be of interest. For a doctor joining immediately on qualifying, the

lump sum earned at the end of 3 years would amount to roughly \$16,848. In the case of a doctor entering the scale at the mid-point, that is \$3,726, the gratuity would amount to \$23,727 while for one entering at the maximum, that is \$4,783, the gratuity would amount to \$30,249.

New Territories sanitation

6. MR P. C. WOO asked the following question: —

The sanitation of villages and small towns in the New Territories is of increasing importance to the people there. In the light of His Excellency the Governor's statement on 5th July of last year that "it remains Government's intention that the New Territories people should receive facilities for education, medical care, recreation and the other indispensable requisites of a full and healthy life to as far as possible the same standards as are provided elsewhere in Hong Kong", have any steps been taken by Government to meet the sanitation needs of these villages and small towns as the people are concerned that there should be adequate provision for aqua privies, incinerators and cleansing staff ?

MR D. R. W. ALEXANDER: —Sir, when in July last year Your Excellency made the statement referred to by my honourable Friend Mr Woo in his question, a Working Party consisting of representatives of the New Territories Administration, the Medical and Health Department and the Urban Services Department, was in the process of finalizing its recommendations for a phased programme for extending cleansing services into remote parts of the New Territories where they do not at present exist or are inadequate. These recommendations are now being studied by the Government.

The Working Party came to the conclusion that the best way of improving rural sanitation would be to continue to provide a simple public latrine (called an aqua privy) to those villages which did not already have one and also to provide staff to service these latrines. The staff so employed could then be used for additional cleansing work, such as sweeping lanes and collecting refuse and burning it (in simple incinerators, if necessary). Generally speaking, incinerators are required on the islands and in those villages to which there is no access for Urban Services Department's refuse collecting vehicles. Such a programme, if adopted, would provide a phased expansion of the cleansing services already provided by the Urban Services Department and the rural health service of the Medical and Health Department in the

[MR ALEXANDER] **Questions**

New Territories. These services are probably more extensive than most people realize and, of course, they are more sophisticated in the towns than in the villages.

Altogether, the Government employs a staff of almost a thousand for cleansing and sanitation work in the New Territories and provides a service to 30 townships and 450 villages. A glance at Appendices XXVII and XXVIII of my last Annual Departmental Report* will show that refuse collecting services were extended in 1967-68 to 25 additional places in the New Territories and that, during the same period, 35 more villages, islands and other localities were provided with aqua privies. The latter were built by the New Territories Administration.

MR WOO: —Thank you, Sir.

STATEMENT

The Matrimonial Causes Rules 1968

THE ATTORNEY GENERAL: —Sir, the Matrimonial Causes Rules 1968, which were laid on the table today, set out the practice and procedure to be followed in matrimonial suits under the Matrimonial Causes Ordinance⁺.

Section 10 of that Ordinance, which came into force in January, 1967, provided that the practice and procedure in matrimonial causes should follow that from time to time in force in the High Court in England, unless other provision was made by the Ordinance itself or by rules made by the Chief Justice under section 54 of the Ordinance.

The English Matrimonial Causes Rules 1957 to 1966 therefore applied to matrimonial proceedings in Hong Kong and worked well until April 1968, when the Matrimonial Causes Act 1967 came into force in England. This Act provided for jurisdiction in undefended matrimonial causes to be transferred to the County Courts in England and, as a result, extensive amendments were made in 1968 to the English Matrimonial Causes Rules. The amended rules were found to be unsuitable in many ways for Hong Kong and the Chief Justice therefore decided that it was advisable to make new rules which would restore the position as it was before the amendments made to the English Rules in 1968.

* 1966 Hansard, page 445 and 1967 Hansard, pages 12-15.

⁺ 1966 Hansard, pages 445-8 and 1967 Hansard, pages 12-15.

The Rules which have been laid before Council today, therefore, deal solely with practice and procedure in matrimonial proceedings, and contain no changes of substance from that followed before April 1968.

**SUPPLEMENTARY PROVISIONS FOR THE QUARTER ENDED
30TH SEPTEMBER 1968**

HIS EXCELLENCY THE PRESIDENT: —In accordance with Standing Order No 58(2) Council will now go into committee to consider the motion standing in the name of the Financial Secretary.

Council went into committee.

THE FINANCIAL SECRETARY moved that: —This Council approves the proposals set out in Paper No 7 / 1B.

He said: —Sir, the schedule for the second quarter of the 1968-69 financial year covers supplementary provision totalling \$25.2 million. Of this sum \$15.1 million was required for Public Works Non-Recurrent, \$1.9 million of which represented revotes of funds unexpended in the previous financial year; while \$8.6 million was required for new projects, and \$1.7 million for accelerated progress on a wide range of other projects. Under the Personal Emoluments subheads one major item which may be of particular interest is the provision of \$2.2 million for the Secretariat for Chinese Affairs to meet the additional cost of staff for the City District Officers scheme.

All the items in the schedule have been approved by Finance Committee and the covering approval of this Council is now sought.

Question put and agreed to.

Council then resumed.

THE FINANCIAL SECRETARY reported that the motion had been agreed to in committee without amendment.

Question agreed pursuant to Standing Order No 58(4).

**AGRICULTURAL PRODUCTS (MARKETING) (AMENDMENT) BILL
1969**

LAW REVISION (MISCELLANEOUS REPEALS) BILL 1969

MINING (AMENDMENT) BILL 1969

**FACTORIES AND INDUSTRIAL UNDERTAKINGS (AMENDMENT)
BILL 1969**

Bills read the first time and ordered to be set down for second reading pursuant to Standing Order No 41(3).

**AGRICULTURAL PRODUCTS (MARKETING)
(AMENDMENT) BILL 1969**

THE FINANCIAL SECRETARY moved the second reading of:—"A bill to amend the Agricultural Products (Marketing) Ordinance."

He said:—Sir, the Agricultural Products (Marketing) Ordinance (Chapter 277), which this bill seeks to amend, provides for a vegetable marketing scheme designed to stimulate the supply of agricultural products in a manner beneficial to both producer and consumer. It gives legal status to and confers certain powers, functions and responsibilities on, the Director of Marketing in respect of the control and administration of the marketing of vegetables. To this end he has set up an organization, known as the Vegetable Marketing Organization, to assist both growers and consumers of vegetables by providing a central marketing system. The Organization operates a wholesale market at Cheung Sha Wan through which the majority of Hong Kong grown vegetables are sold together with a smaller quantity of imported vegetables. The Organization is self-financing through a commission charged on vegetables marketed and its methods of operation are controlled by the Ordinance and Regulations made under it. The Director is advised by a Marketing Advisory Board appointed by the Governor.

In recent years the Organization's operating costs have risen more rapidly than its income from commission on vegetables sold. As a result deficits have been incurred on its operations in four of the last six years; these have been met out of past surpluses. Unless, therefore, the commission charges are to be raised—and this is considered undesirable—it has now become necessary to alter some of the present arrangements so as to improve the general efficiency of the Organization's operations. However, the Ordinance and the Regulations made under it lay down in considerable detail how the marketing scheme will operate and allows the Marketing Organization little scope for altering its operating methods so as to contain rising costs or to adapt to changing circumstances. The Bill now before members has therefore been prepared to give the Director of Marketing greater latitude and permit the necessary flexibility in the marketing scheme to enable the Marketing Organization to conduct its operations on sounder commercial lines with increased efficiency and consequent reduction in costs. Other amendments will extend the power of the Director to undertake work for the improvement of agriculture in general.

I should perhaps add that it is not intended to make sweeping changes immediately. Instead it is intended that any alterations should be introduced in phases over a period of time and it is expected that no increase in costs to consumers will result from the introduction of the proposed changes.

Question proposed.

Motion made (pursuant to Standing Order No 30). That the debate on the second reading of the bill be adjourned—THE COLONIAL SECRETARY.

Question put and agreed to.

Explanatory Memorandum

It is considered desirable that the Director of Marketing should be able to engage in such activities tending to the improvement of agriculture as circumstances may require from time to time. Clause 3(b) seeks to empower the Governor in Council to make regulations for this purpose.

2. Secondly, the bill seeks to provide for the introduction of a new method of charging the commission which is payable in respect of vegetables brought into a wholesale vegetable market, namely, by reference to the weight of the vegetables. This will be an alternative to the commission now charged by reference to the purchase price of the vegetables. At the same time, in order to introduce greater flexibility, the bill seeks to enable the Governor in Council to delegate to the Director of Marketing authority to fix the percentage of the purchase price and the amount of the fee to be charged on the weight of the vegetables. The Director of Marketing would exercise these powers only after consulting the Marketing Advisory Board.

3. Clause 4 amends section 12 of the principal Ordinance so as to provide that the commission payable on the sale of vegetables in a wholesale vegetable market may be deducted before the proceeds of the sale of vegetables disposed of under section 12 are paid to the owner of the vegetables in accordance with the magistrate's order.

LAW REVISION (MISCELLANEOUS REPEALS) BILL 1969

THE ATTORNEY GENERAL moved the second reading of: —"A bill to repeal certain Ordinances."

He said: —Sir, this bill seeks to repeal five Ordinances which have had their effect and are no longer needed.

[THE ATTORNEY GENERAL] **Law Revision (Miscellaneous Repeals) Bill—
second reading**

The first Ordinance is the Squatters Ordinance, which was enacted in 1890* to regularize the holding of land by certain classes of persons who had occupied it without title. The Ordinance provided for claims to a lease to be dealt with by a Board, which dealt with many cases in the early years of the century. The Ordinance has not, however, been used for over 50 years.

The Companies (Cessation of Emergency Status) Ordinance, which was passed in 1947⁺, provided for the restoration to the register of companies which had transferred their registered offices outside the Colony during the war period and wished to register here again. No application has been made under the Ordinance for more than ten years and it is no longer required.

The Debtor and Creditor (Occupation Period) Ordinance was enacted in 1948 to deal with the validity of debts incurred during the Japanese occupation[#] and this has now had its effect.

The Enemy Property Ordinance validated various acts done by the Administrator of Enemy Property during the war period which were in excess of his legal powers[§] and this has also had its effect.

The Rent Increases (Domestic Premises) Control Ordinance provided for temporary security of tenure and control of rent increases in domestic premises^l. It expired on 30th June 1966, save for transitional provisions which lasted for a further two years, till the end of June 1968.

The laws of Hong Kong are being carefully examined with a view to getting rid of Ordinances which have had their effect or which are no longer required and I expect that further bills of this nature will be brought before Council in due course.

Question put and agreed to.

Bill read the second time.

Bill committed to a committee of the whole Council pursuant to Standing Order No 43(1).

* 1890 Hansard, pages 7, 14, 28, 65-6 and 88.

⁺ 1947 Hansard, pages 175-7 and 186.

[#] 1948 Hansard, pages 148-154 and 175-195.

[§] 1956 Hansard, pages 259-60 and 271-2.

^l 1963 Hansard, pages 51-3 and 155-8 and 1965 Hansard, pages 336-9 and 404.

Explanatory Memorandum

The purpose of the bill is to repeal the Ordinances specified in the Schedule as they have expired or have become spent or have had their effect.

MINING (AMENDMENT) BILL 1969

MR R. M. HETHERINGTON moved the second reading of:—"A bill to amend further the Mining Ordinance."

He said:—Sir, the amending bill before Council is a simple bill. It has only two clauses. Clause 2 substitutes a new definition of a mineral for the existing definition in the Mining Ordinance. Clause 1 delays the introduction of this legislation to a convenient date to be appointed by the Governor by a notice published in the *Government Gazette*.

The present definition of a mineral excludes clay (other than kaolin or murrum), sand, limestone, granite, porphyry, or chalk or any stone or common mineral substances, declared not to be minerals by the Governor, from the provisions of the Ordinance except, first, from section 3 which vests the entire property in and control of all minerals and mineral oils in the Crown, second, from Part VIII which deals with accidents in mines, and, third, from the Mining (Safety) Regulations.

The new definition of a mineral in the amending bill excludes limestone, granite, and porphyry and sand and clay (other than kaolin) from the provisions of the Ordinance except in respect of section 3 which vests all minerals in the Crown. The new definition makes no reference to murrum or chalk because it is now known that these two substances are not found locally and reference to them is superfluous. Apart from these changes involving seven substances there are no other differences between the two definitions except that the opportunity is taken to redraft the present rather complicated text in a more easily-understand-able form.

The effect of clause 2 of the bill is that operations involving the extraction of clay (other than kaolin), sand, limestone, granite, and porphyry would no longer be subject to provisions of the Mining Ordinance with regard to safety requirements and the reporting of accidents and dangerous occurrences. It is considered unnecessary to make any special arrangements with regard to clay (other than kaolin) and sand and, consequently, no further action is contemplated. For limestone, granite, and porphyry which are obtained by quarrying operations I propose, later this afternoon, to introduce another bill for the

[MR HETHERINGTON] **Mining (Amendment) Bill—second reading**

purpose of bringing such quarrying operations within the scope of the Factories and Industrial Undertakings Ordinance. Subsequently, if this bill is passed by this Council, I intend to make appropriate regulations to provide again for the reporting of accidents and dangerous occurrences in quarries and to deal comprehensively with safety requirements in quarries for which the Mining (Safety) Regulations are not entirely appropriate.

Because such regulations cannot be made until appropriate amendments to the Factories and Industrial Undertakings Ordinance have been passed by this Council and because it is desirable that all the proposed changes in legislation should take effect simultaneously, it is necessary that the Mining (Amendment) Bill should not become effective immediately on enactment. For this reason, clause 1 delays the date of operation to a day to be appointed by the Governor by notice in the *Government Gazette*.

Question proposed.

Motion made (pursuant to Standing Order No 30). That the debate on the second reading of the bill be adjourned—THE COLONIAL SECRETARY.

Question put and agreed to.

Explanatory Memorandum

This bill seeks to amend the definition of "mineral" in the principal Ordinance by excluding clay (other than kaolin), granite, porphyry, limestone and sand for all purposes except section 3 of the Ordinance, which section vests property and control of all minerals found in Hong Kong in the Crown.

2. Granite, porphyry and limestone are obtained by quarrying operations. In Hong Kong, quarries present special safety problems and it is considered that the provisions of the Mining Ordinance, which were designed particularly for underground mining operations, are not entirely appropriate. In future, safety in quarries will be dealt with by new regulations made under the Factories and Industrial Undertakings Ordinance. The reporting of accidents and dangerous occurrences in quarries will be dealt with under the Factories and Industrial Undertakings Regulations.

3. In the case of operations for clay other than kaolin, and sand, the provisions of the Mining Ordinance are also considered to be inappropriate and except for section 3, the Ordinance will therefore no longer apply to these substances.

4. The opportunity has been taken to delete from the definition of "mineral" reference to murrum and chalk. Neither of these substances is found in Hong Kong.

**FACTORIES AND INDUSTRIAL UNDERTAKINGS
(AMENDMENT) BILL 1969**

MR R. M. HETHERINGTON moved the second reading of:—"A bill to amend further the Factories and Industrial Undertakings Ordinance."

He said:—Sir, several deficiencies and defects in the Factories and Industrial Undertakings Ordinance have come to light in recent years. This situation is neither surprising nor unwelcome. It arises from wider experience in enforcing the provisions of the Ordinance and from continuous developments in the field in which this Ordinance operates. Indeed, there would be some reason for concern if the question of amending this Ordinance did not arise from time to time. In common with other heads of department who are responsible for enforcing similar legislation, I keep a record of desirable amendments which come to my attention. This is a continuous process. A problem which arises periodically is to decide when an opportune moment has arrived to incorporate them in an amending bill. This involves balancing the inconvenience of delaying several desirable amendments until there are sufficient of them to include in one larger bill against the inconvenience of introducing a series of small amending bills. For other reasons, which I will shortly mention, it is necessary to amend the Factories and Industrial Undertakings Ordinance and a convenient opportunity is consequently presented to make several small but important changes in the existing provisions.

In February last year, I outlined the departmental legislative programme of the Labour Department and the Mines Department*. I referred then to two items concerned with the safety and health of workers. These were, first, "regulations for the safe operation of quarries involving supervision by competent persons, use of safety equipment, and observation of safe practices" and, second, "regulations covering precautions in processes involving blasting by abrasives". The main purpose of the bill before Council is to amend the principal Ordinance to enable me to make, if the bill is enacted, appropriate regulations along the lines indicated. I have just introduced a bill to amend the Mining Ordinance. The effect of that legislation would be to facilitate the transfer of statutory control over the operation of quarries to the Factories and Industrial Undertakings Ordinance and this bill

* 1968 Hansard, pages 32-38.

[MR HETHERINGTON] **Factories and Industrial Undertakings (Amendment) Bill—second reading**

would completed the transfer. I think that, at this stage, I should add that, until the Mining (Amendment) Bill and the Factories and Industrial Undertakings (Amendment) Bill become law, I can take no steps to introduce regulations which I propose to make relating to safety in quarries and to blasting by abrasives. For such regulations, I must seek the approval of this Council by resolution. If, as I hope the Mining (Amendment) Bill and the Factories and Industrial Undertakings (Amendment) Bill are enacted, it would be my intention to introduce appropriate resolutions, for the approval of this Council, towards the end of February.

With regard to the series of amendments which have accumulated over recent years, it is desirable that certain powers should be vested solely in the Commissioner of Labour. Where reference is made in the present text of the Ordinance to the Commissioner, a wide range of senior officers may exercise these powers by virtue of the definition of Commissioner in section 2. To reserve powers to the Commissioner of Labour in person, the Commissioner of Labour is substituted for the Commissioner in several sections. The substitution is made by clause 4(b)(i) in respect of the appointment of an officer to enter and inspect an industrial undertaking under subsection 2 of section 4, by clause 7(b)(i) in respect of the application for a certificate of registration or provisional registration under subsection 2 of section 9, by clause 7(c) in respect of the maintenance of registers of registrable workplaces under subsection 3 of section 9, by clause 7(d) in respect of the issue of a certificate of registration or provisional registration under subsection 5 of section 9 while, at the same time, permitting the Commissioner of Labour to retain the right to delegate these powers to selected officers, and by clause 7(e) in respect of the prescription of the form and currency of a certificate of registration or provisional registration under subsection 6 of section 9. On the other hand, it is also desirable that the Commissioner of Labour, for the effective discharge of his responsibilities, should be able to delegate in writing some of his powers to authorized officers. Power to delegate is extended to include the ordering of any special precautions to be adopted in an industrial undertaking. The expression, "or any officer authorized in writing by him", is added, by clause 6(b)(i), to the appropriate part of subsection 4 of section 7 and, by clause 7(f), to subsection 7 of section 9. These involve consequential changes resulting in the addition, by clause 7(f), of a new subsection 7(A) and amendments, by clause 7(g), to subsection 8 of section 9.

Because it is proposed to amend subsection 4 of section 7 to allow an officer authorized in writing by the Commissioner of Labour to order the adoption of special precautions in an industrial undertaking, it is no longer necessary to include the expression, "by the

Commissioner of Labour", wherever it occurs in subsection 2 of section 10 and this expression is deleted by clause 8(b).

It is considered desirable to extend the scope of subjects for which the Commissioner of Labour may make regulations under subsection I of section 7. The purpose of paragraph (h) is widened, by clause 6(a)(i), by substituting the more positive expression, "means of ensuring the safety of persons ", for the rather negative expression, "means of preventing accidents". The range of paragraph (n) is extended by clause 6(a)(ii) to permit medical inspections of those intended to be employed as well as those actually employed and to require the keeping of records of medical or health inspections.

Because a new appointment of Senior Industrial Health Officer has been created in the past two years, it is necessary to include this senior post in addition to that of Industrial Health Officer wherever the latter post occurs. This involves two amendments. Clause 2(a) widens the definition of Commissioner in section 2 to include this new senior post and clause 3 includes the new post in section 3.

It is considered reasonable that there should be some time limit on any appeal to the Governor in Council against any exemption of an industrial undertaking from any regulation or any order for the adoption of special precautions in an industrial undertaking made under subsection 4 of section 7. The proviso is accordingly amended, by clause 6(b)(ii), to introduce a time limit of 14 days. It is also considered reasonable that there should be a time limit on the period by which a certificate or provisional certificate must be renewed. Paragraph (b) of subsection 2 of section 9 is accordingly amended, by clause 7(b)(ii), to require renewal not later than one month before the date of expiry. On the other hand, subsection 1 of section 10 makes no provision for the protection of a proprietor of a registrable workplace against prosecution for not possessing a certificate of registration or provisional registration if he has made an application for registration and no final decision on the application has been made. A new subsection 1(A) to section 10 is added, by clause 8(a), to protect the proprietor in these circumstances.

Subsection 5 of section 10 is defective in that it does not permit a magistrate to rescind or to vary an order made by him to secure machinery or plant by seal or lock to prevent its operation. This defect is remedied, by clause 8(c), to empower a magistrate accordingly. A similar defect occurs in section 11 with regard to the powers of a magistrate to make orders to deal with dangerous conditions and practices. The defect is similarly remedied by clause 9.

[MR HETHERINGTON] **Factories and Industrial Undertakings
(Amendment) Bill—second reading**

There is some doubt about the syntax of subsection 2 of section 4. A slight re-arrangement of words is made, by clause 4(b)(ii), to make the meaning clear. Two textual errors are also corrected. Clause 4(a) provides for the correct spelling of "preceding" in paragraph (e) of subsection 1 of section 4. Clause 5 substitutes "employees" for "employers" in section 6.

The amendments which I have just explained dispose of the list of proposals to make minor changes in the principal Ordinance. A further group of amendments is necessary to bring quarries within the scope of the Ordinance consequent on the proposed changes in the Mining Ordinance. Clause 2(f) introduces a new definition of "quarry" in section 2. A consequential amendment is necessary to the definition of "mine" in this section and clause 2(d) deletes the reference to a quarry. Further consequential amendments, because of the separate definitions of "mine" and "quarry", are necessary in section 2 so that quarry is added after mine wherever mine occurs. These are made in the definition of "factory" by clause 2(b), in the definition of "industrial undertaking" by clause 2(c)(i), and in the definition of "registrable workplace" by clause 2(g). Clause 2(e) includes a new definition of "mineral" in section 2. This is identical with the new definition of "mineral" proposed in the Mining (Amendment) Bill. It is also necessary to add quarry after mine wherever mine occurs in later sections of the Ordinance. Amendments are made, by clause 7(a), to subsection 1 of section 9 and, by clause 7(d), to paragraphs (a) and (b) of subsection 5 of section 9.

Finally, for the avoidance of doubt concerning the scope of the principal Ordinance and to enable me, at a subsequent date, to introduce safety regulations relating to blasting by abrasives, the definition of an "industrial undertaking" in section 2 is further amended by clause 2(c)(ii). In paragraph (e) of the definition of "industrial undertaking" the text is changed to add, within brackets, after "maintenance" the words, "including redecoration and external cleaning".

Clause 1 of the amending bill provides that it shall come into operation on a day to be appointed by the Governor by notice in the *Government Gazette*. The purpose of this clause is to ensure that this bill, the Mining (Amendment) Bill, and regulations which I propose to make and to which I have briefly referred, all of which are inter-related, are brought into effect at appropriate times.

Sir, I apologize for presenting what must appear to those not familiar with the Factories and Industrial Undertakings Ordinance a complicated account of detailed changes in its provisions. Some of my honourable Colleagues who are more familiar with the Ordinance are

aware that I am already studying proposals involving further amendments to the Ordinance and the subsidiary regulations. As I said earlier it is necessary, at some stage, to take a decision on when to introduce amending legislation. Having taken the decision in this case, I wish to re-assure those unofficial Members who take a special interest in this subject that I hope, reasonably soon, to be able to formulate further proposals for amending this legislation.

Question proposed.

Motion made (pursuant to Standing Order No 30). That the debate on the second reading of the bill be adjourned—THE COLONIAL SECRETARY.

Question put and agreed to.

Explanatory Memorandum

Section 2 of the principal Ordinance at present defines "mine" to include quarries for stone. Clause 2 of the bill introduces a separate definition of "quarry" to mean any works for the extraction of granite, porphyry or limestone, which are the substances for which quarrying is carried on in Hong Kong. As a result of the separate definitions of "mine" and "quarry", consequential amendments are made to other definitions in section 2 of the principal Ordinance, and also to section 9(1) and (5).

2. Clause 2 also includes the post of Senior Industrial Health Officer in the definition of "Commissioner"; clause 3 amends section 3 to enable the Governor to appoint such an officer.

3. In addition, clause 2 amends the definition of "industrial undertaking" to include the redecoration and external cleaning of certain buildings, installations and undertakings. This will enable the Commissioner of Labour to make special regulations controlling blasting by abrasives.

4. Certain functions which at present may be exercised by "the Commissioner", a term which includes a wide range of officers of the Labour Department, will in future only be exercisable by the Commissioner of Labour personally. These amendments are contained in clauses 4 and 7.

5. Clause 7 also amends section 9 so as to require applications for registration or provisional registration of registrable workplaces to be made to the Commissioner of Labour personally, and to provide that certificates may be issued by the Commissioner of Labour or any officer authorized in writing by him.

Factories and Industrial Undertakings (Amendment) Bill—second reading

[Explanatory Memorandum]

6. Clauses 6 and 7 will allow for certain functions which at present are exercisable by the Commissioner of Labour personally to be exercisable by any other officers authorized in writing by him.

7. Clause 6 of the bill also amends the regulation-making powers of the Commissioner of Labour to enable him to make regulations requiring medical inspections of persons whom it is intended to employ in industrial undertakings and requiring records to be kept of all medical inspections of employees or intended employees. At the same time, the power to make regulations for safety in industrial undertakings is made clearer.

8. Clause 7 also amends section 9(2) of the principal Ordinance by requiring an application for a renewal of registration or provisional registration to be made at least one month before expiry of the existing certificate. There is at present no such time limit.

9. Clause 8 adds a new subsection (1A) to section 10 of the principal Ordinance to provide a defence for the proprietor of a registrable workplace whose certificate of registration or provisional registration has expired but who has applied for but not been refused a further certificate.

10. Clause 8 also amends section 10(5) to enable a magistrate to rescind or vary any order made by him under that subsection for the securing of any plant or machinery in a registrable workplace. Clause 9 makes a similar amendment to section 11(2), to enable a magistrate to rescind or vary an order made by him thereunder in respect of any process, work, plant or machinery.

REGISTRAR GENERAL (ESTABLISHMENT) BILL 1969

Committee stage

Council went into committee to consider the bill clause by clause.

Clauses 1 to 7 and the First, Second and Third Schedules were agreed to.

Council then resumed.

THE ATTORNEY GENERAL reported that the bill before Council had passed through committee without amendment.

HIS EXCELLENCY THE PRESIDENT: —The bill has now been reported from committee and the Council is deemed to have ordered it to be set down for third reading.

Bill accordingly set down for third reading pursuant to Standing Order No 47.

Third reading

THE ATTORNEY GENERAL moved the third reading of the bill.

Question put and agreed to.

Bill read the third time and passed.

ADJOURNMENT

Motion made, and question proposed. That this Council do now adjourn—
THE COLONIAL SECRETARY.

3.11 p.m.

MR Y. K. KAN: —My Unofficial Colleagues and I would wish to take this opportunity to offer our congratulations to you Sir, for the honour you have received from Her Majesty the Queen. May we also congratulate our honourable Friends the Colonial Secretary and Mr KINGHORN on the honours they received.

3.13 p.m.

HIS EXCELLENCY THE PRESIDENT: —Thank you very much Mr KAN. May I thank you on my own behalf and on behalf of Sir Michael, I am sure, and Mr KINGHORN for your kind remarks on behalf of Members. Thank you very much.

Question put and agreed to.

NEXT MEETING

HIS EXCELLENCY THE PRESIDENT: —Council will accordingly adjourn. The next meeting will be held on 22nd January.

Adjourned accordingly at fourteen minutes past Three o'clock.