

OFFICIAL REPORT OF PROCEEDINGS**Wednesday, 30th July 1969****The Council met at half-past Two o'clock**

[Mr PRESIDENT in the Chair]

PRESENT

HIS EXCELLENCY THE GOVERNOR (*PRESIDENT*)
SIR DAVID (CLIVE CROSBIE) TRENCH, GCMG, MC
THE HONOURABLE THE COLONIAL SECRETARY
SIR HUGH (SELBY) NORMAN-WALKER, KCMG, OBE, JP
THE HONOURABLE THE ATTORNEY GENERAL (*Acting*)
MR GRAHAM RUPERT SNEATH, QC, JP
THE HONOURABLE THE SECRETARY FOR HOME AFFAIRS (*Acting*)
MR PAUL TSUI KA-CHEUNG, OBE, JP
THE HONOURABLE THE FINANCIAL SECRETARY (*Acting*)
MR CHARLES PHILIP HADDON-CAVE, JP
DR THE HONOURABLE TENG PIN-HUI, CMG, OBE, JP
DIRECTOR OF MEDICAL AND HEALTH SERVICES
THE HONOURABLE JAMES JEAVONS ROBSON, JP
DIRECTOR OF PUBLIC WORKS
THE HONOURABLE DONALD COLLIN CUMYNN LUDDINGTON, JP
DISTRICT COMMISSIONER, NEW TERRITORIES
THE HONOURABLE JOHN CANNING, JP
DIRECTOR OF EDUCATION
THE HONOURABLE DAVID HAROLD JORDAN, MBE, JP
DIRECTOR OF COMMERCE AND INDUSTRY
THE HONOURABLE ARTHUR PATRICK RICHARDSON, JP
COMMISSIONER OF LABOUR
THE HONOURABLE BRIAN DENIS WILSON, JP
DIRECTOR OF URBAN SERVICES
THE HONOURABLE KAN YUET-KEUNG, CBE, JP
THE HONOURABLE FUNG HON-CHU, OBE, JP
THE HONOURABLE TSE YU-CHUEN, OBE, JP
THE HONOURABLE WOO PAK-CHUEN, OBE, JP
THE HONOURABLE SZETO WAI, OBE, JP
THE HONOURABLE WILFRED WONG SIEN-BING, OBE, JP
THE HONOURABLE ELLEN LI SHU-PUI, OBE, JP
THE HONOURABLE WILSON WANG T-LE-SAM, JP
THE HONOURABLE HERBERT JOHN CHARLES BROWNE, JP
DR THE HONOURABLE CHUNG SZE-YUEN, OBE, JP
THE HONOURABLE MICHAEL ALEXANDER ROBERT HERRIES, OBE, MC, JP
THE HONOURABLE LEE QUO-WEI, OBE, JP
THE HONOURABLE OSWALD VICTOR CHEUNG, QC, JP

ABSENT

THE HONOURABLE GEORGE TIPPET ROWE, JP
DIRECTOR OF SOCIAL WELFARE

IN ATTENDANCE

THE DEPUTY CLERK OF COUNCILS
MR DONALD BARTON

OATH

MR B. D. WILSON made the Oath of Allegiance and assumed his seat as a Member of the Council.

HIS EXCELLENCY THE PRESIDENT: —May I welcome Mr WILSON to this Council.

PAPERS

The following papers were laid pursuant to Standing Order No 14(2): —

<i>Subject</i>	<i>LN No</i>
Subsidiary Legislation: —	
Interpretation and General Clauses Ordinance and Registered Trustees Incorporation Ordinance.	
Delegation of Powers	91
Public Health and Urban Services Ordinance.	
Declaration of Market in the New Territories, and of Area served thereby, to which the Ordinance applies	92
Importation (Coffee) Regulations.	
Importation (Coffee) Regulations (Amendment of Second Schedule) Order 1969	93
Arms and Ammunition Ordinance.	
Arms and Ammunition Ordinance (Amendment of Second Schedule) Regulations 1969	94
Road Traffic Ordinance.	
Road Traffic (Construction and Use) (Amendment) Regulations 1969	95
Road Traffic Ordinance.	
Road Traffic (Driving Licences) (Amendment) Regulations 1969	96
Road Traffic Ordinance.	
Road Traffic (Parking and Waiting) (Amendment) Regulations 1969	97
Road Traffic Ordinance.	
Road Traffic (Public Omnibus and Public Car) (Amendment) Regulations 1969	98
Road Traffic Ordinance.	
Road Traffic (Registration and Licensing of Vehicles) (Amendment) Regulations 1969	99

<i>Subject</i>	<i>LN No</i>
Road Traffic Ordinance.	
Road Traffic (Roads and Signs) (Amendment)	
Regulations 1969	100
Road Traffic Ordinance.	
Road Traffic (Taxis, Public Omnibuses and Public Cars)	
(Amendment) Regulations 1969	101
Proclamation No 1 of 1969.	
Maintenance Orders (Facilities for Enforcement)	
Ordinance to extend to New Zealand	102
Boilers and Pressure Receivers Ordinance.	
Boilers and Pressure Receivers (Exemption) Order	
1969	103
Census Ordinance.	
Census Order 1969	104
Sessional Papers 1969: —	
No 16—Annual Report of the Hong Kong Export Credit Insurance Corporation 1968-69 (published on 30.7.69).	
No 17—Annual Report by the Director of Information Services for the year 1968-69 (published on 23.7.69).	
No 18—Report of the Board of Management of the Hong Kong Tourist Association 1968-69 (published on 17.7.69).	
No 19—Statement of Accounts of the Immigration Service Welfare Fund for the year ended 31.3.69.	
No 20—Annual Report by the Director of Commerce and Industry for the year 1968-69 (published on 23.7.69).	

QUESTIONS

Girls in liquor selling establishments

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

In view of the minimum age requirement of 18 years set on persons employed in public dance halls and dancing schools and recent public concern expressed over the

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employment of young girls in bars would Government clarify the position and inform this Council whether steps are being taken to provide a statutory minimum age governing the employment of girls in liquor selling establishments?

THE ACTING SECRETARY FOR HOME AFFAIRS (MR PAUL K. C. TSUI): —Sir, both the Boards of Licensing Justices and the Departments concerned are fully aware of this problem, and as a result of discussions which have been taking place for some time, draft regulations on the subject will shortly be submitted to the Executive Council as part of a general revision of the Dutiable Commodities Ordinance and Regulations.

It is at present a condition of all liquor licences that no person under the age of 14 may be employed on or about the premises during the hours which liquor may be sold. The object of the proposed new regulations is to prohibit the employment of boys under 14 and girls under 18 at any time on licensed premises other than *bona fide* restaurants; in addition, boys under 18 may not be employed on such premises after 8.00 p.m.

MR Y. K. KAN: —Sir, is there any reason why the law should not be brought in, in the same way as the section 127 of the Licensing Act 1953, which prohibits the employment of children, whether they be boys or girls—children under 18 to be employed in bars?

THE ACTING SECRETARY FOR HOME AFFAIRS: —Sir, the authority of the Board of Licensing Justices at the moment is derived from the provisions of the Dutiable Commodities Ordinance.

Rapid Transit System

2. MR M. A. R. HERRIES asked the following question: —

Will Government please inform this Council what progress has been made concerning the proposed Rapid Transit System and when it may be possible to reach a decision regarding this important project?

MR J. J. ROBSON: —Sir, honourable Members are aware that earlier this year the Governor in Council directed that subject to acceptance by the Finance Committee of the implications involved, the Consultants should be engaged to undertake a further study of the Mass Transport Scheme to provide the answers to the queries raised

on their original report, and to carry out a more detailed engineering investigation and costing of the scheme*.

Following this directive the Consultants, Messrs Freeman, Fox & Partners were invited to come to Hong Kong for discussions on the proposed further study. These discussions took place in May when the Consultants' brief was formulated and agreed.

The Consultants proposed alternative fee arrangements for the further study, which involved an overall saving of approximately \$1 million if Government would agree to the fees which the Consultants suggested should be paid to them if they were subsequently entrusted with the design and construction of the scheme.

The basis upon which the overall fees will be assessed has now been agreed with the Consultants and honourable Members are aware that, at its last meeting, Finance Committee approved the funds for the further study and the appointment of the necessary PWD staff.

The further study is expected to take eleven months to complete once the Consultants receive instructions to proceed and the additional PWD staff has been appointed.

MR HERRIES: —Sir, when will the Consultants receive instructions to proceed?

MR ROBSON: —I am hoping, Sir, it will not be too long—within the next week or so. As I have said, Finance Committee approved the staff required and this is yet a thing to be considered by the staff sub-Committee of Finance Committee.

Cholera

3. MR WILFRED WONG asked: —

In view of the recent outbreak of Cholera, what measures have Government taken to prevent food stalls from selling food which might contain Cholera Vibrio?

MR B. D. WILSON: —Sir, cholera vibrios can be present in any sort of contaminated food and drink. It's not possible to draw up a comprehensive list of safe and unsafe foods, but there are certain foods prohibited from sale by law because they're more likely to spread disease, including cholera. Prohibited foods include "Yu Sang", which is a dish of uncooked fish, and also shell fish collected from within the harbour limits and certain other places where the water may be polluted. The main precaution lies in making sure that cooked food stalls prepare and sell food under hygienic conditions in accordance

* Pages 190-1.

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with the special conditions of the licence. Staff of the Urban Services Department are required to ensure this.

Since the recent outbreak of cholera, hygiene staff and the Health Inspectorate have been instructed to pay more frequent visits to cooked food stalls, not only to check on compliance with health requirements but also to give specific advice to proprietors and food handlers on effective anti-cholera measures in respect of food storage and preparation. Particular emphasis is placed on immunization of food handlers, the use of sterilizers for utensils, methods of protecting food from fly contamination, for example, by the use of glass display cabinets. USD staff are on the look-out to see that food handlers prepare food on tables and not on the ground in side lanes.

In addition to these visits of inspection, health publicity has been disseminated through press releases, radio interviews and television appearances to enlist public co-operation on important anti-cholera measures with regard to food handling and food preparation.

There are at present 1,284 licensed cooked food stalls in the urban areas. As far as food hygiene is concerned, most of these stalls generally comply fairly well with their licensing conditions.

The main difficulty is, and always has been, with the many unlicensed cooked food hawkers, usually operating from sub-standard stalls without proper washing or sterilization facilities for dishes and utensils, and with little or nothing to protect food from contamination. Many of these unlicensed cooked food hawkers are itinerant, operating only at certain periods of the day. Generally, they cannot hope to comply with even the most rudimentary requirements for food hygiene.

MR WONG: —Sir, thank you for your comprehensive answer.

Illegal Food Stalls

4. MR WONG asked: —

In the interest of Public health, is Government considering a stricter policy concerning illegal food stalls which have no facilities for washing?

MR WILSON: —Sir, the Urban Council, which is the authority for licensing hawkers in the urban areas, has for some years declined to license any more new cooked food stalls, partly because acceptable stall sites are almost impossible to find, and in any case their on-road positions usually cause difficult traffic conditions. The upshot is that, under present policy, unlicensed cooked food stalls are not allowed to operate. Enforcing this policy has been far from effective in recent

years, because the Hawker Control Force is at present too small to operate in more than a few areas. The Police do what they can to help elsewhere, but they cannot be expected to devote a disproportionate amount of effort to this task. In the urban areas, the number of illegal cooked food hawkers prosecuted by the Hawker Control Force, within the very limited number of places where it operates, was 200 for the year ending 30th June. The number of prosecutions taken out for the same period by the Royal Hong Kong Police Force for this offence was 12,264, including the New Territories. During the recent outbreak of cholera, these prosecutions naturally increased. In the first fortnight of July, the quantity of prohibited food seized by the Hawker Control Force was double that for the whole of June. And Police figures are similar.

MR WONG: —Sir, is it true that the Hawker Control Force operate only in 28 designated areas in Hong Kong and, if there are illegal food stalls in areas outside of those designated areas, only the Police are in control?

MR WILSON: —Sir, I think I am right in saying that the Hawker Control Force operate in Hong Kong and Kowloon in 32 separate places, but I think it makes no difference whether it is 28 or 32. The point is exactly as my honourable Friend Mr WONG says, that outside those particular areas, only the Police take action against unlicensed cooked food stalls.

Doctors

5. MR H. J. C. BROWNE asked: —

Can Government say what progress has been made by the Committee to review the Doctor problem, that was set up in February, and what action is proposed?

THE COLONIAL SECRETARY (SIR HUGH NORMAN-WALKER): —Sir, the Committee appointed to review the doctor problem has completed its work, and indeed reported to you, Sir, some eight weeks ago, and I take this opportunity with your permission, Sir, of thanking Sir Charles HARTWELL and his colleagues on the Committee for the despatch with which they carried out their task and the hard work they have put into this extremely difficult problem.

The Committee made a large number of recommendations, which have called for very careful examination, in view of their substantial cost, direct and indirect.

This examination has now been completed and proposals will shortly be put to the Governor in Council. Subject to the decisions then taken it will be necessary to seek Finance Committee's approval

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where expenditure is involved. One simple recommendation that the emoluments of Interns be increased was approved by Finance Committee last Wednesday.

Hong Kong Society of Accountants

6. MR BROWNE asked: —

Will Government say what progress is being made with legislation necessary for setting up a Hong Kong Society of Accountants, or other suitable arrangements, to give the opportunity to Hong Kong residents to get a recognized accountancy qualification tailored to suit local conditions and laws?

THE ACTING FINANCIAL SECRETARY (MR C. P. HADDON-CAVE): —Sir, after extensive discussions in a Government working party, which has been in close touch with another working party of practising members of the profession, a third draft of an Accountants Bill has just been completed.

The bill proposes the establishment of a Hong Kong Society of Accountants and the registration and control of accountants in Hong Kong. One of the objects of the Society will be to conduct examinations with a view to the registration of successful candidates. Thereafter it would be open to those candidates to apply for practising certificates.

When agreement has been reached, Sir, on a number of points still under discussion with representatives of the profession, the bill will be referred to Executive Council for advice as to whether it should be introduced into this Council.

MR BROWNE: —Sir, might I ask when it is likely to be completed?

THE ACTING FINANCIAL SECRETARY: —I would hope, Sir, that the bill will be introduced into this Council early in the new session.

Crown Counsel

7. MR P. C. WOO asked: —

Several years ago when there was an acute shortage of Crown Counsel in the Legal Department the Public Services Commission agreed to the suggestion of the Attorney General to recruit Australian and New Zealand lawyers to the Legal Department. Such recruitments were purely for legal officers in the Legal Department. (a) Are

Australian and New Zealand lawyers being recruited to fill the posts in the Judiciary and/or the Registrar General's Department? and, (b) If so, have such recruitments been recommended by the Public Services Commission?

THE ACTING ATTORNEY GENERAL (MR G. R. SNEATH): —Sir, I can best answer this question by starting with a comment on the role of the Public Services Commission of which my honourable Friend is a one time member. When vacancies occur the Public Services Commission advise whether the situation in Hong Kong justifies and indeed requires that legal officers be recruited from overseas to fill those vacancies.

The recruitment of individuals from overseas is then undertaken on behalf of this Government by the Ministry of Overseas Development. The Public Services Commission was in fact consulted at the time it was decided to advertise for legal officers in Australia and in New Zealand, both with respect to the Legal Department and with respect to the Registrar General's Department. No lawyers acquiring their qualification in Australia or New Zealand have been recruited to any of the Registrars' posts in the Judiciary. The Public Services Commission, Sir, would not have been consulted about the recruitment of judicial officers since under section 6 of the Public Services Commission Ordinance judges and magistrates are specifically exempted from their purview.

Turning now, Sir, to the position today, one New Zealand lawyer and one Australian are at present working in the Registrar General's Department, while three Australian lawyers are holding posts as judicial officers and they, like their colleagues in the Registrar General's Department, have given valuable service. There being an insufficient number of suitable candidates in Hong Kong, a further six candidates from these countries are at present under consideration for appointment as magistrates.

MR WOO: —Sir, I understand that the Deputy Registrar of the Supreme Court is an Australian lawyer and the Attorney General has not mentioned the Registrar's Department of the Supreme Court which is under the purview of the Public Services Commission.

THE ACTING ATTORNEY GENERAL: —I did mention it, perhaps not sufficiently clearly. No lawyers acquiring a qualification in Australia or New Zealand have been recruited to any of the Registrars posts in the Judiciary. It may be, Sir, that my honourable Friend is talking of acting posts but I am not briefed on that since it didn't arise out of the question. I was only answering questions on recruitment in substantive posts but, if there are any other points my honourable Friend wishes to know, I will of course see that he is informed.

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Use of budgeted surplus funds

8. DR S. Y. CHUNG asked: —

How does Government propose to make use of the \$208 million surplus of 1968-69?

THE ACTING FINANCIAL SECRETARY (MR C. P. HADDON-CAVE): —The simple answer, Sir, to the honourable Member's question is that the surplus has been carried forward to the General Revenue Balance. The figure so carried forward is not in fact the figure of \$208 million mentioned in the honourable Member's question, but \$162 million, the difference of \$46 million being the net depreciation on investments which occurred during the year, an inevitable consequence of course of the prevailing high rates of interest in London. Thus our total reserves—taking the General Revenue Balance, the Revenue Equalization Fund, the Development Fund and the disposable surplus in the Exchange Fund together—our total reserves at the end of March of this year stood at \$1,190 million, which was only slightly better than a year ago when they stood at \$1,181 million and nearly \$126 million *less* than two years ago when they stood at \$1,307 million.

In other words, Sir, we have not yet recovered to our pre-devaluation position, despite the exceptionally favourable budgetary result in 1968-69. I should point out, moreover, that of the gross surplus of \$208 million in 1968-69, nearly half could be accounted for by under-expenditure, and some of this under-expenditure represents, of course, commitments yet to be met.

DR CHUNG: —Sir, why is it necessary or desirable to rebuild up our total reserves to the similar level before the devaluation in November 1967?

THE ACTING FINANCIAL SECRETARY: —Well, Sir, I think the short answer to that question is that the Government does not necessarily consider that our reserves should stand at their pre-devaluation level. There is nothing magic about that figure. On the other hand, I am sure my honourable Friend understands that our reserves must be maintained at some level consistent with the maintenance of confidence in the exchange value of the Hong Kong dollar; with our needs, in a period of stagnant revenue; and to enable us to meet unforeseen commitments of an emergency nature. Precisely what this level should be is, of course, a matter of judgment.

DR CHUNG: —Sir, where and in what form is this surplus of 1968-69 being kept?

THE ACTING FINANCIAL SECRETARY: —The surplus, Sir, after allowing for depreciation of investments, has been carried forward to the general revenue balance.

DR CHUNG: —Does it mean in cash, Sir?

THE ACTING FINANCIAL SECRETARY: —Our reserves are held, Sir, locally in current account and on deposit with our bankers and, of course, in London in short and long term securities.

DR CHUNG: —Thank you.

Foreign investments

9. DR CHUNG asked: —

What have been the number and size of new industrial projects involving foreign participation each year for the last five years?

MR D. H. JORDAN: —Sir, accurate information about industrial investment in Hong Kong is not readily available, but earlier this year the Commerce and Industry Department did undertake a survey of *direct* foreign investment in Hong Kong industry. We did not cover investment by existing local subsidiaries of overseas companies.

In 1964, 18 factories were established either as joint ventures or as wholly-owned subsidiaries of overseas companies not already operating here. In 1965 eleven more factories were set up, in 1966 thirteen, in 1967 nine, and in 1968 one.

I am sorry I do not have figures of annual investment but only figures for the total investment by the end of 1968. Some of these factories have expanded in the years since they were set up and the total investment in land, buildings and machinery of the eighteen factories set up in 1964 had by the end of 1968 reached eighty million dollars. The eleven set up in 1965 were worth twenty-four million dollars, the thirteen set up in 1966, eleven million, the ten set up in 1967 and 1968 were worth three and a half million.

Another indication of the size of these projects is the size of the labour force involved. Over the five years to the end of 1968 it increased from seventeen thousand to forty thousand.

MR WOO rose—

DR CHUNG: —May I ask a supplementary question, Sir?

HIS EXCELLENCY THE PRESIDENT: —I will allow it this time, Dr CHUNG.

DR CHUNG: —What are the reasons for this decline in foreign investments in Hong Kong and what steps is Government taking to

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revive the interest of the potential foreign investors in setting up new factories in Hong Kong?

HIS EXCELLENCY THE PRESIDENT: —I am sorry, Dr CHUNG. I have to rule you out of order. You are well away from your original question. You are asking a completely new question.

Crown rents, etc

10. MR P. C. WOO asked: —

In view of the fact that there are numerous owners of undivided shares in multi-storey buildings has Government considered charging Crown rents and premia direct to these owners so that defaults by some owners will not cause hardship and inconvenience to other owners to whom Government hitherto has looked for payment?

THE ACTING ATTORNEY GENERAL (MR G. R. SNEATH): —Sir, this question points to a problem which has indeed been exercising Government's attention for some considerable time. After very careful investigation by the Departments concerned, and after consultation with the Law Society, draft bills were submitted to Executive Council in April 1969. They were entitled the Crown Rent and Premium (Apportionment) Bill and the Crown Rights (Re-entry and Vesting Remedies) Bill. The main object if I can summarize it, of this proposed legislation is to enable Crown rent and premium to be apportioned on individual shops etc and, then if default should be made in payment, to enable the Crown to take action against the flat in respect of which default is made instead of re-entering on the whole lot or section.

Following consideration of the draft Apportionment Bill by Executive Council, further investigations have been made by the Departments concerned and the draft bill is in consequence expected to be amended in one respect. It is hoped, Sir, that it will be possible to consult the Law Society further within the next few weeks regarding the proposed amendment and then submit the draft bill again to Executive Council in September or October.

Assistance to Mrs Yuen

11. MRS ELLEN LI asked: —

What assistance has been rendered by Government to the family of the man who was recently convicted and sentenced to prison for illegally selling his three daughters?

THE ACTING SECRETARY FOR HOME AFFAIRS (MR PAUL K. C. TSUI): —Sir, I understand that the Social Welfare Department has investigated the circumstances of this case and has given the family food in the form of dry rations to help them to meet their immediate needs.

The Social Welfare Department has also been in touch with the Po Leung Kuk, which has offered Madam CHEUNG, the mother, employment as an amah in the Kuk. The terms of such employment include free board and lodging.

The Kuk has also agreed to admit her three daughters for board, lodging and appropriate schooling free of charge.

Madam CHEUNG has accepted these offers and proposes to take them up as soon as she has been able to sell her house at Sheung Shui.

Gambling Publicity

12. MRS LI asked: —

Having regard to Government's announced policy not to allow the introduction of greyhound racing in Hong Kong, will Government explain why it tolerates the widespread publication and broadcasting by our local newspapers, radio and television stations of programmes, tips and results of greyhound racing in Macau, which simulates and encourages gambling? Will Government consider taking steps to stop or discourage such undesirable publicity?

THE COLONIAL SECRETARY (SIR HUGH NORMAN-WALKER): —Sir, it is not an offence in Hong Kong Law to publish or broadcast information on greyhound racing or for that matter on any other form of sporting activity.

There does not seem to be a situation which would justify the Government interfering with the freedom of press, radio and television to the extent of stopping the publication or broadcasting of information on a particular form of sport.

Tariffs on cotton goods

13. MR Y. K. KAN asked: —

Does Government consider the announcement by the British Government of its intention to impose tariffs on cotton goods imported from Commonwealth countries beginning

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in 1972 with all its implications will have the most serious adverse effect on Hong Kong's economy and will Government make the strongest possible representations to the British Government reminding it of Hong Kong's special position, financially and economically as well as politically, in relation to the United Kingdom which demands special consideration, and that it is not in Britain's interest to endanger the economy of Hong Kong?

THE ACTING FINANCIAL SECRETARY (MR C. P. HADDON-CAVE): —Sir, the Government has made it clear in several public comments on the President of the Board of Trade's sudden statement of a week ago, that it *is* seriously concerned at the possible effects on Hong Kong's continuing prosperity of the new preferential rates of duty on imports into Britain of cotton textiles, effective from the beginning of January 1972. But we are not yet in a position, Sir, to quantify these effects.

Yesterday, my honourable Friend, the Director of Commerce and Industry, after consulting the Textiles Advisory Board, announced that he had decided to set up a representative group to study the ramifications of this really quite fundamental change in the conditions under which we shall be trading in cotton textiles in the 70's. We must, I suggest, Sir, await the results of this study. It will, however, take some time for it will have to be quite wide ranging. The group will have to consider the competitive position of the various sections of the industry *vis-à-vis* Lancashire and third country suppliers, the internal effects of dismantling the quota system, the loss of the British market as a *de facto* domestic market, the difficulties that may be encountered by those factories registered under the Commonwealth Preference rules, and so on, so forth. I've no doubt also, Sir, that the group will take into account the reference in the President's statement to the invocation, in certain circumstances, of the provisions of the GATT Cotton Textiles Arrangement; and later on it may be advisable to consider the references he made to the further changes in British policy which may be required if Britain joins the European Economic Community. If so, it may be necessary to widen the membership of the group.

In the second part of his question, Sir, my honourable Friend enquired whether the Government would be making "the strongest possible representations to the British Government". We shall be, Sir, on precisely the lines he has suggested, just as soon as we are in a position to do so. We shall give the most careful consideration, in addition, to the possibility of seeking mitigating arrangements.

MR KAN: —Is Government satisfied that not making representations now will in no way prejudice or worsen Hong Kong's position in future negotiations with the British Government?

THE ACTING FINANCIAL SECRETARY: —Yes, Sir.

MR KAN: —Sir, is it not so, despite the President's statement, that the decision will create a precedent for further departure from United Kingdom's traditional policy on Commonwealth trade, that in fact it must be regarded as only a first step in the process of abandonment of Commonwealth Preference and therefore has grave implications on the whole of Hong Kong's economy?

HIS EXCELLENCY THE PRESIDENT: —What is your question Mr KAN?

MR KAN: —The question, Sir, is whether the decision of the United Kingdom has or has not grave implications on Hong Kong's economy in that it is in effect a departure, an abandonment—abandonment is the word I use, Sir—abandonment of Commonwealth Preference?

THE ACTING FINANCIAL SECRETARY: —Well, Sir, it could be, in the event, a first step. It could be, but the President has made it quite clear that the new preferential rates were decided in the context of the international problem of trade in cotton textiles and so he argued that the new rates would not create a precedent for other departures from Britain's traditional policy on Commonwealth trade. This is how he argued but I do admit, Sir, and here I agree with my honourable Friend, that when he referred to the question of a precedent he was only referring to a precedent "in advance of any general change of system which may be required by our entry". The ultimate dismantling of the Commonwealth Preference system and its replacement by the common external tariff of the Community would have considerable—I would not myself, Sir, necessarily say grave—but certainly would have considerable implications for Hong Kong's economy, particularly when considered along side the Community's common commercial policy. For example, import policy has never been as liberal as that followed by Britain over many years.

Textile Council Report

14. DR S. Y. CHUNG asked: —

Will Government inform this Council whether it made any representation to the British Government on the Textile Council report prior to the Board of Trade announcement in Parliament on 22nd July and, if not, why not?

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MR D. H. JORDAN: —Yes, Sir, the Hong Kong Government did make representations to the British Government on the Textile Council's Report. I held two meetings of the Textile Advisory Board on 15 and 18 July. We had previously prepared in the Commerce and Industry Department a preliminary assessment of the effects of the tariff recommendation and had asked the members of the Board to consult the textile trade associations.

In the light of the comments put forward by the Board at these meetings the Government conveyed its representations on the matter to the Secretary of State for Foreign and Commonwealth Affairs immediately after the meeting of 18 July.

DR CHUNG: —Sir, why did we make the representation so late?

MR JORDAN: —Sir, we had been studying the Textile Council's Report—it is a fairly bulky document—for some time and we had sent some preliminary comments to the British Government. Our London Office had also taken every opportunity to draw attention to what we believe to be the gaps and weaknesses in the Textile Council's arguments but we did not expect that the decision would be made so suddenly.

STATEMENT

THE COLONIAL SECRETARY (SIR HUGH NORMAN-WALKER): —Sir, in answering a question in this Council on the 2nd July* I said that the Government had the question of immigration control under review. This was very much the truth, and in fact the review had got to a stage where the conclusion had been reached by the Governor in Council that it was necessary to introduce additional controls.

It is in such matters usually undesirable for obvious reasons that an administration should give long notice of its intention to impose restrictions, and I had not intended to make a public statement in the matter until the necessary amending bill was ready for presentation to this Council in a fortnight's time. However speculation on Government's intentions has appeared in the press, and inevitably in the absence of an authoritative statement Government's intentions may be exaggerated or their motives misunderstood. In these circumstances I have agreed with my Colleague, the Honourable Mr Y. K. KAN, that it would be appropriate for me to make a statement today.

* Page 403.

In answering the question to which I have already referred I said that the majority of Commonwealth countries require a visa or other equivalent document to cover entry for the purpose of residence or employment. It is now the view of this Government that the time has come for Hong Kong to follow their example. One of the principal reasons why other countries have introduced controls and restrictions on immigration is to limit the entry of unskilled workers who have nothing to contribute to the economy and who may indeed become a charge on the public revenues. The fact is that there has been in recent months a substantial build up of unskilled workers from the Commonwealth who are apparently prepared to work for very low wages, and in so far as they depreciate the standard of living of our own workers, make a negative rather than a positive contribution to our well-being.

It is proposed therefore that from a date still to be fixed, but which I will announce as soon as possible, immigrants from other Commonwealth countries and dependent territories will require a visa for entry into Hong Kong for the purposes of employment or residence.

It is the intention that the criteria to be used in deciding whether or no a given person would obtain a visa on first entry will be the same criteria as are at present applied to aliens.

Persons who possess some special skill or knowledge valuable to Hong Kong will of course be allowed entry and the importance of encouraging local investment will be kept very much in mind. There is no intention of keeping out anyone who has a contribution to make to the Colony's economy.

The new controls will not apply to tourists and visitors to the Colony including those who come here on business trips. Such visitors will be allowed to stay here for a period of up to three months without a visa.

The controls will also not apply to persons who belong to Hong Kong or to the United Kingdom, that is to say, persons holding Hong Kong passports or British passports unless they are endorsed to show that they have been issued on behalf of another British territory. Persons born, naturalized or registered as British subjects either in Hong Kong or in the United Kingdom will be able to continue to come here freely and without the need of a visa.

The new scheme will in no way affect the existing arrangements for the entry of people from China or from Macau. Nor will it affect in any way whatsoever the movement of Hong Kong residents holding travel documents issued by the Director of Immigration.

It is the intention that the position of Commonwealth citizens already living in Hong Kong would be safeguarded.

[THE COLONIAL SECRETARY] **Statement**

This is the outline of the change in policy which we propose to introduce. Detailed administrative arrangements are still being worked out, and it will be necessary for the instructions covering them to go to Executive Council, and for the bill to which I have already made reference to be considered in this Council; also for time to be given for the Secretary of State to promulgate the revised instructions to other British overseas posts.

I would not wish to be tied to a date by which these various processes can be completed, but I will as I have said announce it as soon as possible after this Council has made its decision on the necessary legislation.

PUBLIC HEALTH AND URBAN SERVICES ORDINANCE

MR B. D. WILSON moved the following resolution: —

Resolved, pursuant to section 144 of the Public Health and Urban Services Ordinance, that the Abattoirs (Amendment) By-laws 1969, made by the Urban Council on the 8th day of July 1969 under section 77 of that Ordinance, be approved.

He said: —Sir, the new abattoir at Cheung Sha Wan has been completed and it's proposed to start full-scale slaughtering of cattle on 1st August. Slaughtering of pigs will follow later. As the new abattoir is not covered by legislation at present, it's necessary to bring it within the scope of the Abattoirs By-laws, 1968*, by including it in the First Schedule to these By-laws. This is the purpose of the Abattoirs (Amendment) By-laws, 1969, made by the Urban Council on 8th July under section 77 of the Public Health and Urban Services Ordinance.

Question put and agreed to.

PHARMACY AND POISONS BILL 1969

PENICILLIN (AMENDMENT) BILL 1969

CORPORATE BODIES CONTRACTS BILL 1969

DISPOSAL OF UNCOLLECTED GOODS BILL 1969

MISREPRESENTATION BILL 1969

PUBLIC HEALTH AND URBAN SERVICES (AMENDMENT) BILL 1969

STAMP (AMENDMENT) (NO 2) BILL 1969

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

* 1968 Hansard, page 261.

PHARMACY AND POISONS BILL 1969

DR P. H. TENG moved the second reading of:—"A bill to consolidate and amend the law relating to pharmacy and poisons."

He said:—Sir, as the long title suggests, the main purpose of the bill is to consolidate and clarify legislation which has become confusing through frequent amendments since it was first enacted in 1938*. The following are some of the important changes that will result from the enactment of this bill.

The Pharmacy Board will be reconstituted as the Pharmacy and Poisons Board, its powers will be modified to some extent. The membership of the newly constituted Pharmacy and Poisons Board will include two registered medical practitioners, one of whom will be nominated by the Chinese Medical Association and the other the Hong Kong Branch of the British Medical Association.

These medical practitioners will also be members of the Poisons Committee which will consist of seven members of the Board, the other five being two of the three pharmacists nominated by the Pharmaceutical Society of Hong Kong and three others. The Poisons Committee will advise the Pharmacy and Poisons Board on the classification of poisons and the regulations which should be made for the control, classification, manufacture, import and export of poisons and pharmaceuticals in Hong Kong.

The disciplinary powers of the present Pharmacy Board will be transferred to a newly created Disciplinary Committee. Appeals against the decision of this Committee will be to the Supreme Court.

The power to make regulations will be vested in the Pharmacy and Poisons Board subject to the approval of the Legislative Council; the opportunity has also been taken to review and bring up to date the list of subjects in respect of which regulations may be made.

One significant addition which has been introduced into the present bill is the power to make regulations for the control of the manufacture of pharmaceutical products. This has become a matter of considerable importance as local drug manufacturing has become an established industry which is gaining in size and complexity and therefore some form of control is essential. Furthermore, there has been an important export industry in locally manufactured drugs and the regulations of importing countries with regard to certification require that the manufacturers should be subject to official inspection.

* 1938 Hansard, pages 179 and 188.

[DR TENG] **Pharmacy and Poisons Bill—second reading**

A detailed clause-by-clause explanation of the provisions of the bill is given in the "Explanatory Memorandum" appended to the bill, but I would like to draw the attention of honourable Members to clause 37 which provides that nothing in this bill shall apply to the sale, manufacturing, dispensing or compounding of Chinese traditional medicines as listed in the Chinese Herbal Materia Medica or those made from herbs customarily used by the Chinese people.

Honourable Members will recall that on 20th April 1966 I moved a similar bill to amend the Pharmacy and Poisons Ordinance*. The second and third readings of that bill were postponed following representations by certain professional bodies and others interested with regard to the provisions of the bill. These objections were mainly concerned with the composition of the Pharmacy Board, the effect of the bill on the Chinese herbalists and the question of control of the manufacture, import and export of poisons and pharmaceuticals. In order to consider these objections, a Committee was set up under the Chairmanship of my honourable Friend, Sir Albert RODRIGUES. The terms of reference of this Committee are "to study the proposed Pharmacy and Poisons Bill having regard to representations and suggestions which have been made or which may be made concerning the provisions and to make recommendations and amendments to the bill if such are considered necessary". The Committee submitted its report in February 1967 and with one slight modification all its proposals were accepted and incorporated into the present bill. Because of the substantial nature of the consequential amendments to incorporate the proposals of the "Rodrigues Committee" and because of further changes which were made and which Members have not had the opportunity to examine, it was decided that instead of proceeding with the Committee stage amendments a fresh bill agreed to by the Pharmacy Board, the Pharmaceutical Society of Hong Kong, the Professional Associations, the relevant Government Departments and as far as practicable in conformity with the wishes of those interested should be laid before this Council.

In conclusion, I would like to express my sincere appreciation of the sterling work of this *ad hoc* Committee under the able Chairmanship of my honourable Friend, Sir Albert RODRIGUES. Its careful analysis of the representations and suggestions made concerning the bill, its subsequent report incorporating the recommendations for amending the bill to include appropriate provisions to meet the requests of all the bodies which appeared before it, have made it possible to ensure that the bill that is before Council today will be acceptable to all concerned.

* 1966 Hansard, pages 269-73.

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

The purpose of this Bill is to repeal and replace, with modifications, the Pharmacy and Poisons Ordinance.

2. Clause 3 seeks to replace the Pharmacy Board established under the present Ordinance with a Board to be known as the Pharmacy and Poisons Board. The new Board will be constituted in much the same way as the present Board with the substitution of the Professor of Pharmacology at the University of Hong Kong for the Professor of Chemistry and the addition of two registered medical practitioners appointed by the Governor, one nominated by the Hong Kong Chinese Medical Association and one by the Hong Kong Branch of the British Medical Association.

3. Clause 4 makes provision for the chairmanship of the Board and the procedure at meetings.

4. Clauses 5 to 10 deal with the registration of pharmacists and matters connected therewith. In particular, the qualifications for registration are set out in clause 8.

5. Clause 11 provides for certain businesses to be authorized sellers of poisons provided that they are either owned by or have in their employ a registered pharmacist. Clause 12 further provides that each set of premises where an authorized seller of poisons keeps poisons for the purposes of sale shall be under the personal control of a registered pharmacist.

6. By clause 13 authorized sellers of poisons are required to register with the Pharmacy and Poisons Board the address of each set of premises at which poisons are sold and under clause 14 are required to submit an annual return concerning each such set of premises.

7. Clause 15 provides for the establishment by the Pharmacy and Poisons Board of a Disciplinary Committee composed of a medical officer of the Medical and Health Department and two registered pharmacists. This committee is given powers under clause 16 to hold inquiries into the conduct of registered pharmacists, authorized sellers of poisons and their employees and if

Pharmacy and Poisons Bill—second reading*[Explanatory Memorandum]*

necessary direct that they be censured or struck off the register. Clauses 17 to 19 provide for matters incidental to the proceedings and powers of a Disciplinary Committee.

8. Clause 20 provides for the restriction of the use of certain titles by persons or bodies other than registered pharmacists and authorized sellers of poisons. The object of this provision is to prevent unqualified persons from using titles such as "chemist" and similar titles calculated to suggest that the person using them is a duly registered pharmacist.

9. Clause 21 imposes certain conditions upon the sale of poisons included in Part I of the Poisons List.

10. Clause 22 limits the sale of Part I poisons to those who are fit and proper persons to receive them and who are either known to the seller or have a certificate as to their fitness to receive such poisons. All such sales are required to be recorded in a poisons book kept by the seller and signed by both parties to the transaction.

11. Clause 23 prohibits the possession of Part I poisons otherwise than in accordance with the provisions of this Bill.

12. By clause 24 any retailer, other than an authorized or listed seller of poisons, upon whose premises poisons are found, shall be presumed to have such poisons for the purposes of sale.

13. Clause 25 sets up a second category of persons entitled to conduct the retail sale of poisons. These persons, to be known as listed sellers of poisons, need not be registered pharmacists and will only be entitled to sell such class or classes of poisons in Part II of the Poisons List as the Pharmacy and Poisons Board may specify in a licence issued to them for this purpose. This clause also provides in detail for the licensing of such listed sellers of poisons and matters connected therewith.

14. Details that are required to be specified on the labels on poisons are set out in clause 27.

15. Clause 28 provides that certain provisions in this Bill as to the sale and labelling of poisons shall not apply to medicines which are supplied for the purpose of treatment by medical practitioners, registered dentists or duly qualified veterinary surgeons, or to medicines dispensed by authorized sellers of poisons on prescription. However this clause further provides for certain records to be kept in connexion with medicines so supplied or dispensed.

16. Clause 29 seeks to widen the scope of the regulation-making power of the Board to include such matters as providing for the licensing of retail sellers of pharmaceutical products who are not authorized or listed sellers of poisons and providing for the registration of pharmaceutical products imported into or manufactured in Hong Kong.

17. Clause 30 enables the Governor in Council to make regulations controlling the import, export, purchase, sale and possession of agricultural poisons which are defined as poisons specified in the Schedule to the Bill and any preparation of such poison. The Governor is empowered to amend the Schedule by order in the *Gazette*.

18. Clause 31 seeks to establish a new body to be known as the Poisons Committee. This committee will consist of seven members of the Pharmacy and Poisons Board, namely the two registered medical practitioners nominated by the medical associations and five other members appointed by the Board, at least two of whom shall be registered pharmacists. The main function of this committee will be to advise the Board on the classification and distribution of poisons in Parts I and II of the Poisons List. The criterion to be used in determining the distribution of poisons is the desirability of restricting to Part II such poisons as are, or are likely to be, in common use and in respect of which the public should have adequate facilities for obtaining them. The concept of this committee is a new one and it is felt that the matters within its jurisdiction could be better discussed in detail by a smaller body than the whole Board, however the function of the committee is purely advisory and the responsibility for the decisions will remain with the Board.

19. Clause 32 provides for exempting from the provisions of this Bill the sale of poisons in certain circumstances.

20. Clause 33 provides for certain offences and matters connected with proceedings under the Bill, whilst clause 34 provides for the penalties for such offences.

21. Clause 35 contains provisions relating to the inspection of premises and the enforcement of the Bill.

22. Clause 36 empowers a magistrate to order the forfeiture of any substance or article with respect to which an offence has been committed under this Bill.

23. Clause 37 contains a new provision whereby this Bill will not apply to the sale, manufacturing, dispensing or compounding of such traditional Chinese medicines as are listed in the Chinese

Pharmacy and Poisons Bill—second reading

[*Explanatory Memorandum*]

Herbal Materia Medica or are made from herbs customarily used by the Chinese people. The reason for this provision is that although many substances used by Chinese herbalists contain poisons, a combination of these herbs in accordance with traditional formulae would neutralize any possible harmful effects.

PENICILLIN (AMENDMENT) BILL 1969

DR P. H. TENG moved the second reading of: —"A bill to amend the Penicillin Ordinance."

He said: —Sir, when the Penicillin Ordinance was first enacted in 1948*, there were only two other antibiotic substances besides Penicillin available and the scope of the Ordinance was somewhat limited. Now we have over thirty antibiotic substances controlled by this legislation, most of which are derivatives of substances other than penicillin. It is considered, therefore, more appropriate to change the title of the Ordinance to "Antibiotics Ordinance".

In conjunction with the change of title, the opportunity has been taken to amend the law to provide that the obligation to keep records does not apply to persons using antibiotic substances by way of treatment, or to avoid unnecessary duplication of records by authorized sellers of poisons when these substances are dispensed on a prescription—provided that the prescriptions are retained for a period of two years or if the prescriptions are recorded in a records book for a prescription that has to be dispensed on more than one occasion.

Another important amendment, Sir, is to require all shops selling pharmaceutical goods on premises at which no registered pharmacist is employed to display a notice to the effect that scheduled antibiotics may not be sold on these premises.

A detailed explanation is contained in the "Explanatory Memorandum" appended to the bill.

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).

* 1948 Hansard, pages 141 and 160.

Explanatory Memorandum

Since more than thirty antibiotic substances apart from penicillin are now controlled under this Ordinance it is felt that "Antibiotics Ordinance" would be a more accurate short title.

Clause 4 seeks to amend the principal Ordinance in two ways. Firstly, to provide that the requirements as to keeping records of transactions in antibiotics shall not apply to persons receiving such substances by way of treatment; and secondly, to avoid unnecessary duplication of records by authorized sellers of poisons who are presently required to keep records of the supply of antibiotics on prescription under both section 4(4) and section 7(2).

Clause 5 seeks to add a new section requiring certain sellers of pharmaceutical goods to post notices to the effect that scheduled antibiotics may not be sold on their premises.

CORPORATE BODIES CONTRACTS BILL 1969

THE ACTING ATTORNEY GENERAL moved the second reading of:—"A bill to amend the law governing the making of contracts by or on behalf of bodies corporate, and for connected purposes."

He said:—This, Sir, like the other two bills whose second readings I shall be moving this afternoon, is a measure of law reform and this one introduces some changes which were made in the English law by an Act of 1960.

It was, Sir, an old common law rule that corporate bodies could only execute binding contracts by a formal process involving the use of their seal. Companies here registered under our Companies Ordinance, and its predecessors, may enter into verbal or written contracts through a person acting on their authority in much the same way as a private individual. This, Sir, is the position now sought to be achieved by this bill for all other corporate bodies.

I should perhaps add that only contracts entered into after the enactment of this legislation will be affected.

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).

Corporate Bodies Contracts Bill—second reading*Explanatory Memorandum*

This Bill amends the law governing the making of contracts by or on behalf of bodies corporate. It closely follows the English Corporate Bodies' Contracts Act 1960. (1960 c. 46).

2. Clause 2 abolishes the common law rule, to which there were numerous exceptions, that contracts entered into by a corporation are unenforceable unless they are executed under seal. The clause does not, however, apply to the making, variation or discharge of a contract before the commencement of the Bill (see clause 2(5)).

3. By clause 3, the Bill does not apply to any company formed and registered under the Companies Ordinance, Chapter 32, or to any existing company as defined in that Ordinance. Similar provisions applicable to such companies are contained in section 32 of the Companies Ordinance.

4. Clause 4 repeals section 13 of the Registered Trustees Ordinance, Cap. 306, which will become superfluous on the enactment of the Bill.

DISPOSAL OF UNCOLLECTED GOODS BILL 1969

THE ACTING ATTORNEY GENERAL moved the second reading of:—"A bill to authorize the disposal of goods accepted in the course of a business for repair or other treatment but not redelivered; and for purposes connected therewith."

He said:—Under the common law, Sir, a person in business doing repairs, say, for example a jeweller, might find himself saddled with a clock which had been left for repair and never collected. I say saddled because though the jeweller would be entitled to retain the clock until paid for its repair he would not have a right to sell it.

Such a right of sale was conferred in England by an Act in 1952 and will be conferred here if this bill is enacted. I will not, Sir, attempt to try and explain now the full scope of this bill; as for example, whether it extends to clothes left at a laundry—in fact it does, Sir—but I would like to emphasize that this power of sale is hedged about with safeguards to protect the person who hands over his goods for repair or for other treatment.

First, then where the goods are handed over after enactment of this bill there must be a conspicuous notice both in English and Chinese in the place of business where the goods are left, explaining the circumstances in which this power of sale may arise. Second, the power of

sale itself only arises where the customer has been notified that the goods are ready for collection and fails both to pay and to collect his goods. Even then, Sir, the goods may not be sold at once and the jeweller—if I may continue with the same example—has to wait at least twelve months, and must then serve another notice on the customer that he proposes to sell the clock after a further period of 14 days. Finally, this power of sale does not arise at all if there is an unresolved dispute between the jeweller and his customer concerning the clock.

This power of sale, Sir, is of course intended solely for the protection of those who find themselves in the position of this jeweller, and it does not enable him to make a profit. For it is provided in the bill that the customer is entitled to claim the balance between the cost of repairs and the proceeds of sale of the clock.

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).

Explanatory Memorandum

This Bill adopts the provisions of the Disposal of Uncollected Goods Act 1952 (1952, c. 43). The provisions of the Bill are designed to overcome what is considered to be a defect in the law whereby except in cases where it is conferred by custom, or where specific provision has been made by statute, or where it is provided in the term of the contract of bailment, a bailee with whom goods are deposited cannot dispose of them, if they are not collected, without the risk of legal liability. The Bill authorizes the disposal of goods accepted in the course of a business for repair or other treatment and not redelivered.

2. Clause 2 operates, subject to any special contract, where goods are accepted by a bailee, in the course of a business, for repair or other treatment on the terms (express or implied) that they will be redelivered to the bailor, or in accordance with his directions, when the repair or other treatment is carried out and payment of the agreed or reasonable charge therefor has been made. In such circumstances, if after the goods are ready for redelivery the bailor fails to pay the charge and to take delivery of the goods, or to give directions as to their delivery, the bailee may, subject to certain conditions set out in the Bill, sell the goods by public auction.

Disposal of Uncollected Goods Bill—second reading*[Explanatory Memorandum]*

3. Under clause 2(3) a bailee may not avail himself of the provisions of the Bill unless—

- (a) at the time he accepts the goods he has exhibited in all premises used or appropriated for accepting such goods a notice indicating that the acceptance by him of goods of that class for repair or treatment is subject to the provisions of the Bill and that the Bill confers upon the bailee a right to sell the goods in certain circumstances;
- (b) after the goods are ready for redelivery the bailee gives notice in the form required by subclause (7) that the goods are ready for redelivery; and
- (c) after the expiration of twelve months beginning with the date of the giving of the notice that the goods are ready for redelivery, and not less than fourteen days before the sale of the goods, the bailee gives to the bailor a notice in the form required under subclause (7) of his intention to sell the goods.

The Bill will apply to goods delivered before as well as after the commencement of the Bill but special provisions have been included for cases where the goods are delivered before the commencement of the Bill.

4. Clause 2(4) provides that where a dispute arises in respect of the amount of any charge made or the manner in which the repairs were carried out the right of sale is suspended until the dispute is determined. Under clause 2(5) without prejudice to any other mode of determining a dispute, it will be deemed to be determined for the purposes of the Bill if on the bailee giving to the bailor, in the required form, a notice to treat the dispute as determined the bailor does not within one month of the notice object thereto.

5. Under clause 2(6), where a dispute is determined, whether by virtue of clause 2(5) or otherwise, the notice under clause 2(3) that the goods are ready for delivery is dispensed with and a notice of intention to sell the goods prescribed thereunder is required to be given after twelve months of the date the dispute is determined.

6. Clause 3 sets out provisions relating to all notices under the Bill which may be in English or Chinese.

7. Clause 4(1) provides for the recovery by the bailor from the bailee of any amount by which the gross proceeds of the sale

exceed the charges of the bailee and for the recovery by the bailee from the bailor of any amount by which those charges exceed such gross proceeds.

8. Subclause 4(2) requires the bailee within seven days of the sale to prepare a record describing the goods sold and various other matters. This record, the copy of the notice of intention to sell and the certificate of posting of the letter in which the notice was sent, are required to be kept for six years and to be open to inspection by the bailor.

9. Clause 6 sets out special provisions applicable to certain cases of goods accepted before the commencement of the Bill. If the bailee does not know the address of the bailor, the bailee must within six months of the commencement of the Bill publish in a newspaper a notice which complies with subclause (4). The bailee must also display a notice indicating that the Bill confers on him a right of sale exercisable in certain circumstances after an interval of not less than eighteen months from its commencement.

MISREPRESENTATION BILL 1969

THE ACTING ATTORNEY GENERAL moved the second reading of:—"A bill to amend the law relating to innocent misrepresentations and the Sale of Goods Ordinance."

He said:—This bill, Sir, follows an Act of Parliament of the same name passed in 1967, which in turn gave effect to certain recommendations of the Law Reform Committee in England.

It is primarily concerned with the law of contract, and seeks to modify some of the intricate rules that have developed over the years as a result of the interplay of the rules of common law and equity on the subject of the effect of innocent misrepresentation on a contract.

First, may I deal with the equitable remedy of rescission. Where there is a fraudulent misrepresentation the common law has always allowed the other party to repudiate his contract. Equity recognizes that in some cases, and subject to certain limitations, the same right should be granted where there has been an innocent misrepresentation. One of the limitations was that the situation should be capable of being restored to the *status quo ante*, and each party being put back into the position which he occupied before entering into the contract. If the contract has been performed it was of course unlikely that this limitation could be observed; and hence the rule developed that no rescission of a contract would be permitted where the contract had been performed.

[THE ACTING ATTORNEY GENERAL] **Misrepresentation Bill—second reading**

Similarly, if the innocent misrepresentation had been written into the contract and become a term of it rescission was not permitted. These two limitations, Sir, are being removed by clause 2. I should add, perhaps, that the general rule still remains, namely, that rescission is only allowed where the parties can be put back into their original position, and it is this general rule which protects the rights of third parties.

The common law, Sir, also recognized that fraudulent misrepresentation entitled the other party to an action for damages; but there was no similar action for loss arising out of a contract which had been entered into after the making of an innocent misrepresentation. Clause 3 will give such a right in cases of innocent misrepresentation. But it would be open to the defendant to escape this liability by showing that he had reasonable grounds for believing the facts that he had represented were true. In other words, Sir, what I am dealing here is what I called negligent representation.

One of the problems of transposing equitable rules into hard and fast statutory provisions is that one may create the very hardship cases which the equitable rules were originally designed to prevent. For this reason, clause 3 gives a discretion to the court to refuse an application for rescission where it considers that it would not be equitable to allow rescission having regard to the nature of the misrepresentation and to the loss which would be suffered by the one party if the contract were upheld and by the other party if it were rescinded. The court is empowered to award damages where it refuses in these circumstances to grant a rescission.

Clause 4, Sir, recognizes the one-sidedness of many modern contracts. It provides that the terms in a contract—no matter how large or how small the print—will have no legal effect if it seeks to exclude or restrict the liabilities or remedies arising from misrepresentations. There is what might be called an exception to this in that the court may take note of such a term and hold that reliance on it was fair and reasonable in the particular circumstances of the case.

Clause 5, Sir, seeks to make two amendments to the Sale of Goods Ordinance, and I will summarize them very briefly.

The first is concerned with section 13 of that Ordinance. The general rule here is that where a term of a contract is so fundamental as to be what lawyers call a "condition", a breach of that term entitles the other party to repudiate the contract and to reject the goods he is contracting to purchase. Where, on the other hand, a term is less fundamental it becomes what we call a warranty, and breach of it does not entitle the purchaser to reject the goods. Subsection (3) of

this section imposes some limitations on this general rule; one of these was that where property passes, that is to say where ownership changes hands, the right to repudiate cannot thereafter be exercised. You will see, Sir, that this would not be consistent with the rule now being introduced by clause 2 of the bill—namely, that contracts may be rescinded for misrepresentation even where they have been performed, which in the case of a sale normally mean where the ownership has changed hands. This limitation is therefore being removed.

The other change, Sir, concerns section 37 of the Sale of Goods Ordinance, which deals with what constitutes acceptance of goods by the buyer for the purposes of the Ordinance. The previous section in that Ordinance lays down that a buyer must have reasonable opportunity for examining the goods he is purchasing. The amendment seeks to make it clear that he is to have this same opportunity before being deemed to have accepted the goods under section 37 where they have been delivered to him.

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 Ordinance brings the law of the Colony governing misrepresentation into line with English Law by reproducing the provisions of the Misrepresentation Act 1967 (1967 c. 7). It makes important amendments to the law relating to innocent misrepresentation.

2. Clause 2 provides—

- (a) for the abrogation of the rule that rescission of an executed contract concerning personal property can only be obtained where actual fraud is proved;
- (b) that rescission of a contract shall not be barred by the subsequent incorporation of a misrepresentation in the terms of the contract;
- (c) that a contract shall be capable of rescission even after execution on the ground of misrepresentation.

3. Clause 3. The present law has been criticized in that it does not give a right to damages for loss resulting from a misrepresentation unless it is incorporated as a term in the contract or was made fraudulently. Subclause (1) provides that a person who suffers loss by being induced to enter into a contract by a

Misrepresentation Bill—second reading*[Explanatory Memorandum]*

misrepresentation made by another party may recover damages, unless the other party proves that he reasonably believed that the facts represented were true. Subclause (2) gives the court or arbitrator a discretionary power to award damages instead of ordering rescission, if it considers this the more appropriate remedy. Subclause (3) enables the court or arbitrator to award damages against a person (whether or not he is liable to damages under subclause (1)) but any award under subclause (2) is to be taken into account in assessing the liability of a person under subclause (1).

4. By clause 4 any provision in a contract which would exclude or restrict liability for misrepresentation shall be of no effect, except to the extent that, in any proceedings arising out of the contract, the court or arbitrator may allow reliance on it as being fair and reasonable in the circumstances of the case.

5. Clause 5 makes consequential amendments to the Sale of Goods Ordinance, Chapter 26, to make the right to reject specific goods for breach of condition depend on whether the buyer has accepted the goods and not on whether the property has passed to him, and to ensure that the buyer shall not, by doing an act inconsistent with the seller's ownership, be deemed to have accepted goods until he has had an opportunity of examining them.

6. Clause 6 provides that nothing in the Bill shall effect any misrepresentation made before the commencement of the Ordinance.

7. Clause 7 provides for the application of the Ordinance to the Crown.

PUBLIC HEALTH AND URBAN SERVICES (AMENDMENT)**BILL 1969**

MR B. D. WILSON moved the second reading of: —"A bill to amend further the Public Health and Urban Services Ordinance, to remove doubt as to the validity of the Public Conveniences (Conduct and Behaviour) By-laws and to validate the Private Cemeteries Bylaws."

He said: —Sir, the Public Health and Urban Services (Amendment) Bill 1969, seeks to make a number of unconnected amendments to the principal Ordinance. It's not a particularly exciting ragbag, but they're all very necessary technical items.

In clause 2(a), the definition of "health officer" is deleted, because it's already defined under the Interpretation and General Clauses Ordinance.

Also under clause 2, the definition of "owner" is extended to cover certain persons who can be regarded as owners, and hence are required to discharge the duties imposed upon owners by the Ordinance.

To cover the case of an absentee owner, clause 3 alters regulation-making powers so that subsidiary legislation may apply to an owner's agent. There has been continual trouble in tracing absentee landlords of property with defective flushing water systems.

Clause 2(c) restricts Government's responsibility for a sewer to that part of it lying outside a lot boundary.

Clause 5 amends the principal Ordinance so as to enable regulations to be made relating to the fees to be paid for inspection of carcasses by Health Inspectors in private slaughterhouses in the New Territories. At present, there is no statutory provision for charging fees to cover the costs of this service.

Clause 7 adds a new section to the principal Ordinance whereby the Authority may, by notice in writing, require the human remains of any dead person to be buried or cremated within a stated period and, if the notice is not complied with or no one is available on whom to serve the notice, the Authority may take possession of the remains and dispose of them.

Clause 9 incorporates provision permanently in the principal Ordinance about disposal of unclaimed human remains from mortuaries. This provision is at present in the Ordinance by virtue of the Emergency (Public Health and Urban Services) (Amendment) Regulations 1967*.

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

The Bill seeks to make several unconnected amendments to the Public Health and Urban Services Ordinance.

2. Clause 2 amends section 2 of the principal Ordinance. The definition of "health officer" is deleted as the term is now defined in the Interpretation and General Clauses Ordinance

* 1967 Hansard, page 370.

Public Health and Urban Services (Amendment) Bill—second reading*[Explanatory Memorandum]*

(Chapter 1). The new definition of "owner" will extend the scope of the principal Ordinance and its subsidiary legislation to mortgagees in possession and persons who receive or are entitled to receive rents. Such mortgagees and other persons may, for practical purposes, be regarded as owners and will be required to discharge the duties imposed on owners by the Ordinance. The purpose of the proposed amendment to the definition of "sewer" is to relieve the Government of responsibility for any part of a sewer lying inside the boundary of a private lot.

3. Clause 3 tends the regulation-making power in section 15 so that subsidiary legislation may apply to an owner's agent where an owner of premises cannot be found or ascertained or is absent from the Colony or under disability. In the past, for example, enforcement of the provisions of the Conservancy By-laws has often proved impossible in the case of an absentee owner.

4. There is some doubt as to the validity of by-law 4 of the Public Conveniences (Conduct and Behaviour) By-laws which is intended to enable the Urban Council by order to specify certain latrines for the use of which it may charge a fee. To remove this doubt, clause 4 amends section 35 of the principal Ordinance so as to expressly confer power on the Council to make such an order, and clause 15 declares that the by-laws are deemed to have been made under section 35 as so amended.

5. Clause 5 amends section 77 of the principal Ordinance so as to enable regulations to be made relating to the fees or charges to be paid for the inspection of animals or carcasses in private slaughter-houses.

6. Clause 6 of the Bill amends section 94 of the principal Ordinance by providing that in respect of premises in which a ventilating system is installed which air-conditions the premises with positive pressure, the licensee is not required to send to the Authority a certificate specifying the nett area of the exhaust.

7. Clause 7 adds a new section 112A to the principal Ordinance to empower the Authority (which is the Urban Council in the urban areas including New Kowloon, and the Director of Urban Services in the New Territories) by notice in writing to require the human remains of any dead person to be buried or cremated within such period as it may specify. If the notice is not complied with, or if no person is available on whom to serve the notice, the Authority may take possession of the remains and

dispose of them. Clause 12 amends the Seventh Schedule by prescribing the form of notice to be used.

8. By-law 12 of the Private Cemeteries By-laws purports to prescribe a fee for the exhumation of human remains. However section 116 of the principal Ordinance does not confer any power to make regulations or by-laws prescribing such a fee. The purpose of clauses 8 and 16 is to confer this power and to validate by-law 12.

9. Clause 9 of the Bill seeks to incorporate permanently in section 124 of the principal Ordinance the provisions relating to the disposal of unclaimed human remains from mortuaries, which are at present inserted as section 124 by the Emergency (Public Health and Urban Services) (Amendment) Regulations 1967.

10. Clauses 10 and 13 make consequential amendments to the principal Ordinance arising out of the cancellation of the Public Latrines By-laws.

STAMP (AMENDMENT) (NO 2) BILL 1969

THE ACTING FINANCIAL SECRETARY moved the second reading of:—"A bill to amend further the Stamp Ordinance."

He said:—Sir, when I introduced the Stamp (Amendment) Bill 1969 in this Council in April* I informed honourable Members that another bill was in draft containing further amendments to the Stamp Ordinance. It is this bill which is now before Council.

The bill contains a number of proposals, four of which involve small modifications to stamp duty payable on some documents. The others are designed to correct or clarify the wording of certain sections of the principal Ordinance.

I would first like to refer to clause 9 of the bill. This clause amends subsection 4 of section 40 of the principal Ordinance to give a general exemption from stamp duty to all bills of exchange and promissory notes which constitute a gift to, or a payment from, certain institutions. These institutions are defined in clause 2 of the bill.

These institutions are at present already exempt from tax under the Inland Revenue Ordinance and from the provisions of the Business Registration Ordinance. It is now proposed also to exempt remittances to them from stamp duty. Payments made by them will be similarly exempted.

* Page 234.

[THE ACTING FINANCIAL SECRETARY] **Stamp (Amendment) (No 2) Bill—
second reading**

The second modification, Sir, affects stamp duty on travellers cheques. In his budget speech on 26th February last, Sir John COWPERTHWAITÉ proposed that the duty on travellers cheques should be changed from the present rate of 25 cents for every \$1,000 to a flat rate of 25 cents a cheque*. Clause 11(a) of the bill give effect to this and is a move towards simplicity. There will be no significant effect on the revenue.

The third modification concerns gifts of land and small conveyances on sale which are treated for stamp duty purposes as being gifts (or, in the language of the bill, voluntary dispositions *inter vivos*). A new Head 53 brings the stamp duty payable on these gifts into line with the duty payable on straightforward sales not exceeding \$40,000 under the present Head 19 on sales.

As with sales, there is to be a provision, which is in clause 3 of the bill, to prevent splitting; that is to say, to prevent people obtaining benefit of the lower stamp duty by transferring the property in a number of separate conveyances. Thus every conveyance of a gift or one operating as a gift must be certified to the effect that the transaction does not form part of a larger transaction.

At present, conveyances operating as gifts, that is, where the value of the land exceeds the amount of the consideration so as to confer a substantial benefit on the purchaser, are required to be charged to stamp duty as if they were ordinary sales, except that the value of the land is substituted for the value of the consideration. But such conveyances operating as gifts are not eligible for the lower concessionary rates applicable to straightforward small conveyances on sale. It is intended now to treat them in the same manner it is intended to treat outright gifts and, as I have said, they will be eligible for the lower concessionary rates provided for in the new Head 53. In order to obtain the advantage of these lower rates, the document transferring the gift of land must bear the certificate concerning splitting.

My honourable Friend, Mr P. C. Woo, Sir, has quite rightly pointed out that, as the bill is at present drafted, there could be two cases in which a person is unfairly deprived of the concessionary rates. The first case is where a conveyance is executed in good faith as a conveyance on sale and is accordingly certified under section 12A of the Ordinance; if in fact the value of the land exceeds the value of the consideration, so as to confer a substantial benefit on the purchaser, it must be treated as a conveyance operating as a gift. Since there would then be no certificate as to the value of the land as required under the proposed section 12B in clause 3 of the bill, the conveyance would not be eligible for

* Page 100.

stamping at the concessionary rates. Accordingly, Sir, I shall be moving an amendment to section 12B at the Committee Stage to provide that, in such circumstances, the appropriate certificate concerning the value of the land may be produced when the document is presented for stamping thus making it eligible for the concessionary rates.

The second case is where there is a conveyance of a gift or one operating as a gift with its certificate under section 12B to the effect that the transaction does not form part of a larger transaction in respect of which the aggregate value of the land exceeds \$20,000. If on presentation the Collector subsequently determines that the value of the land conveyed is nearer, say, \$30,000, it could be argued that the conveyance is not entitled to the concessionary rate appropriate to the value of \$30,000, because there is in existence no certificate to the effect that the value of the land does not exceed \$40,000 which is a requirement of the new Head 53(1)(b). It is not intended that such conveyances should be so deprived of the concessionary rate. With the concurrence of the Collector of Stamp Revenue I am now giving an undertaking that, in such a case as this, the concessionary rate appropriate to the actual value of the land will be applied. If this bill becomes law, Sir, the Collector will issue a circular to practising solicitors to this effect.

The fourth and last modification proposed in the bill concerns the Exchange Fund. The Fund buys sterling from note-issuing banks when there is an expansion of the note issue and sells it back when there is a contraction. Duty is, strictly speaking, payable on such transactions, but has never been charged. It is now proposed to exempt formally transactions from the requirement of an exchange contract cancellation note. Clause 6(a) of the bill provides accordingly.

The remaining clauses in the bill, Sir, are tidying up amendments, two of which deserve special mention.

There have been doubts for some time as to whether an exchange of one foreign currency for another in Hong Kong should be regarded as a barter of currency on which no stamp duty is payable, or two exchange transactions requiring two exchange contract cancellation notes both liable to stamp duty. In other words, the law can be interpreted in two ways, neither of which is satisfactory. Clause 6(b) of the bill adds a new sub-section to section 26 of the principal Ordinance to clarify the definition of an exchange contract so as to put it beyond doubt that when one foreign currency is exchanged for another foreign currency, an exchange contract cancellation note will be required, but only one such note will be necessary.

The other amendment concerns cashier orders which are cheques issued by a bank drawn on the bank itself and made payable to persons named in the orders. Under the Ordinance, as at present worded,

[THE ACTING FINANCIAL SECRETARY] **Stamp (Amendment) (No 2) Bill—second reading**

these orders only attract stamp duty if they are passed through a bank other than the bank of issue. The Exchange Banks' Association has recommended that, to eliminate the time-consuming practice of having to determine whether duty is payable, duty should be payable on all such orders including those passing through the bank of issue. Clause 11(d) of the bill gives effect to this recommendation.

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

The purpose of this Bill is to amend the Stamp Ordinance (hereinafter referred to as the Ordinance) in a number of respects.

2. *Clause 2* inserts a definition of "exempted institution" in section 3.

3. *Clause 3.* Section 12 of the Ordinance prohibits splitting a transaction for the purpose of obtaining a lower rate of duty. The proposed new section 12B imposes an obligation on a person who executes an instrument of voluntary disposition *inter vivos* of land, or a conveyance or transfer of land operating as a voluntary disposition *inter vivos*, to certify that the transaction effected by the instrument does not form part of a larger transaction or of a series of transactions on which duty will be payable at a higher rate. The proposed new section is intended to guard against attempts to defraud the revenue. A certificate given with intent to defraud the revenue will be an offence under section 10 of the Ordinance. The proposed section 12B is similar to section 12A, which relates to instruments of conveyance on sale.

4. *Clause 4* deletes unnecessary words in section 14.

5. *Clause 5.* The liability for stamping an instrument executed out of the Colony, which is imposed by section 21(2) on the person who registers the instrument in the Colony, is shifted to the person who presents the instrument for registration.

6. *Clause 6.* Section 26 is amended in two respects.

(a) An exchange contract made between a banker and the Government for the purpose of the Exchange Fund is

exempted from the requirement of an exchange contract cancellation note or the payment of stamp duty on such cancellation note.

- (b) It is provided that only one exchange contract cancellation note is required in respect of an exchange contract whereby foreign currency is exchanged for foreign currency.

7. *Clause 7.* Section 27(1) is replaced by a new subsection which provides that (apart from instruments relating to transfer of shares or marketable securities) any voluntary dispositions *inter vivos* and any conveyance or transfer operating as voluntary disposition *inter vivos* shall be chargeable with the stamp duty prescribed in new head 53 in paragraph (h) of clause 11.

8. *Clause 8* corrects an error in section 33A(3).

9. *Clause 9* inserts in section 40(4) a general exemption from duty in respect of all bills of exchange and promissory notes which constitute a gift to or a payment from an exempted institution.

10. *Clause 10.* Section 49(1) provides that no prosecution for an offence against the Ordinance shall be instituted except with the consent of the Collector of Stamp Revenue. The new subsection (2) in this clause preserves the overall control of the Attorney General in respect of the prosecution of criminal offences.

11. *Clause 11.* The attached Table gives details of the effect of the proposed amendments to the Schedule.

Committee stage

INLAND REVENUE (AMENDMENT) (NO 2) BILL 1969

HIS EXCELLENCY THE PRESIDENT: —With the concurrence of honourable Members we will take the clauses in blocks of not more than five.

Clauses 1 to 10 were agreed to.

THE ACTING FINANCIAL SECRETARY (MR HADDON-CAVE): —Sir, I rise on a point of personal explanation. When moving the second reading of this bill at the sitting of the Council held on 2nd July I gave notice that at the Committee Stage of the bill I would move an amendment to sub-section (1) of section 65 to provide for the Board of Inland Revenue to comprise sixty as opposed to the present forty members*. That amendment, Sir, will now be the subject of a separate

* Pages 410-1.

[THE ACTING FINANCIAL SECRETARY] **Inland Revenue (Amendment) (No 2) Bill—
committee stage**

amending bill, which I expect to bring before this Council at its next sitting.

Council then resumed.

Bill—Third reading

THE ACTING FINANCIAL SECRETARY (MR HADDON-CAVE) reported that the Inland Revenue (Amendment) (No 2) Bill 1969 had passed through committee without amendment and moved the third reading.

Question put and agreed to.

Bill read the third time and passed.

**HONG KONG SOCIETY FOR THE PROTECTION OF CHILDREN
INCORPORATION BILL 1969**

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

**HONG KONG SOCIETY FOR THE PROTECTION OF CHILDREN
INCORPORATION BILL 1969**

MR P. C. WOO moved the second reading of:—"A bill to provide for the incorporation of the Hong Kong Society for the Protection of Children."

He said:—Sir, the main purpose of this bill is to repeal and replace the Society for the Protection of Children Incorporation Ordinance (Chapter 1058)*.

By section 3 of the existing Ordinance the President, the Chairman of the Executive Council and the Honorary Treasurers for the time being of the Society were incorporated as a body corporate.

It is now considered expedient and desirable that the Society itself, instead of the said officials, shall become a body corporate and clause 3 of the bill so provides.

The other clauses of the bill follow the general pattern of bills of this nature, and require no comment or explanation.

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).

* 1951 Hansard, pages 67 and 97.

Explanatory Memorandum

The main purpose of this Bill is to incorporate the Hong Kong Society for the Protection of Children to replace and carry on the work and activities hitherto carried on by The Corporation of the Hong Kong Society for the Protection of Children which was incorporated by the Society for the Protection of Children Incorporation Ordinance (Chapter 1058).

2. By section 3 of the Society for the Protection of Children Incorporation Ordinance, the President, the Chairman of the Executive Council and the Honorary Treasurers for the time being of the Hong Kong Society for the Protection of Children were incorporated as a body corporate under the name of "The Corporation of the Hong Kong Society for the Protection of Children". It is now considered expedient and desirable that the Society itself, instead of the said officials of the Society, shall become a body corporate and clause 3 so provides.

3. Clause 4 provides for the powers of the Society as a body corporate.

4. Clause 5 provides for the vesting and transfer of properties and rights of The Corporation of the Hong Kong Society for the Protection of Children in and to the Society as a body corporate. Provision is also made for the Society as a body corporate to become liable for the debts and liabilities of The Corporation of the Hong Kong Society for the Protection of Children.

5. Clauses 6 and 7 respectively provide for the members and constitution of the Society as incorporated.

6. Clause 8 provides for the registration with the Registrar of Companies of certain documents and for their inspection.

7. Clause 9 makes provision for execution of documents and custody of the common seal.

8. Clause 10 contains provision saving the rights of the Crown as required in the case of private bills by Clause XXVII of the Royal Instructions.

9. Clause 11 provides for the repeal of the Society for the Protection of Children Incorporation Ordinance.

ADJOURNMENT

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

3.46 p.m.

Tourism

MR H. J. C. BROWNE: —Sir, the Annual Report of the Tourist Association has been laid on the table before Council today* and it therefore seems to be an appropriate moment to discuss some of the developments and problems which have arisen since we last debated tourism about a year ago.

Now in the first six months of this year we had about 350,000 tourists from overseas and this is a growth of about 24% about the same period last year, and in addition we should add the number of visiting Servicemen who come here on rest and recreation. Now we have a rough idea of what these visitors spend here—in 1968 it was something in the region of HK\$1,300 million. But what we don't know—what is impossible to estimate is the proportion of this tourist spending that goes out of Hong Kong again to pay for imported goods. But it is primarily a service industry, and one in which the \$ percolates right down through every sector of our economy and I reckon that a far larger proportion of this expenditure stays in Hong Kong than perhaps in our manufacturing industries. But perhaps the Financial Secretary can pick a figure out of the air.

Fortunately the staggering increase in tourists seems likely to continue and this is going to put a continual strain on our facilities. One of the unfortunate consequences of the hotel shortage that we read about in the past year or so has been that the time spent by tourists in Hong Kong has slightly reduced and this is a trend that we got to try and reverse.

I believe there are two or three or even more hotel projects in the pipe line, but the hotel position looks as though it will remain difficult for the next few years. I hope Government will try and see if they can find ways in which hotel developers might be assisted in getting their projects off the ground. I believe there are two main problems; firstly the payment terms for land and, secondly, the number of hotel rooms that are permitted on an individual site. I know this latter point is particularly complicated, but hope Government will reconsider the possibility of classing genuine hotel buildings differently from tenements and other dwellings.

I have two more points.

I would like to ask what happened to the Museum and Art Gallery scheme that was reported on in such detail in 1966 by the Urban Council? If Government thinks this scheme too ambitious, would it not be possible to start in a smaller way and develop gradually? The existing Museum in the City Hall is far too small and hardly begins to

* Page 433.

meet the demand from both tourists and our own people; and especially our young people. I am sure that Sir Paul CHATER, Sir Robert Ho Tung and other benefactors would have liked and even expected their valuable collections to be on permanent display. And I understand there are all sorts of interesting exhibits that are locked away because there is just not enough room to display them.

I don't expect to get an answer on this today—but can we have a new and urgent look at the problem. One idea occurred is that we might put a new floor on the top of the City Hall car park but no doubt there are a number of other possibilities.

Next, Sir, the perennial hardy, the Airport. About 90% of our tourists are now coming in by air and I am very glad that Stage III of the Terminal Building alterations are going ahead. But this is only going to take care of the expansion in passenger traffic until about the middle of 1972 and I hope therefore that a decision will soon be taken to put Stage IV of the Terminal alterations into Category A. This, I believe, will take care of the growth in passengers until about 1976-77 but I am afraid Hong Kong, like most other airports in the world, are going to have to go on extending and expanding the facilities of the airport.

On the question of the runway Government has always had the unanimous support of Unofficial Members of this Council in their request for a loan from the UK for the runway extension, but still there is no news. In the meantime Kai Tak is receiving an increasing number of "stretched" jets, some of them now carrying up to 250 people, and within 9 months we shall have the Boeing 747s here. I would once again like to stress the need for an extension to the runway in order to provide that extra margin of safety in the operation of these large jets into this difficult airport. We have good navigational aids; we have first-class air traffic control, but these in themselves do not solve the operational problems which arise from our having one of the shortest runways in Asia, and one which does not meet in full the ICAO standard.

Finally, Sir, I would like to take this opportunity of saying that, as a result of your decision to set up a small working committee to talk about tourist problems, liaison between the Tourist Association and Government has improved. The Industry is grateful for the interest Government takes in the various problems that crop up and we are certainly going to need continued Government interest and support.

MR WILFRED S. B. WONG: —Sir, I rise to support my honourable Friend, Mr BROWNE, in his plea for increased Government interest and support for the Tourist Industry in Hong Kong.

[MR WONG] **Tourism**

Next to textiles, tourism is second in export income for Hong Kong. Among the invisible exports which in some respect tourist income is, it rivals the estimated amount of personal remittances which are pure invisible exports.

While it is true that of the \$1,300,000,000 "spent" in Hong Kong, some took out of Hong Kong goods like imported watches and cameras but it is true to say that a greater portion of that amount is in exchange for local services and locally produced goods.

There are some who are not students of Alfred Marshal who are inclined to think that heavy industries are more important than light services. This view, as you know, is not economically true. Money which flows through local economy meets in varying degrees the essential factors of production, namely labour, capital, enterprise and land. Land in terms of tourist trade is related to the hotel aspect of tourism.

My honourable Friend, Mr BROWNE, has already mentioned the problems of the payment terms of land and the number of hotel rooms permitted on a given site. I would like to go a little further. Strange as it may seem, the Building Ordinance as it relates to hotels, is based on the same requirements as domestic premises as far as rooms are concerned. The plot ratio is much higher for non-domestic premises. From the view point of fire prevention, I should think that a hotel with staff regularly on duty at all times of day and night, should not be classified in the same category as domestic premises which normally do not come under the same degree of surveillance. From the view point of hygiene, a hotel is all air conditioned and the original and ancient problems of light and air should no longer be considered as criterion in plot ratio. This is an area in which a review could well be made, as classifying hotels in the same category of commercial buildings in order to encourage more hotels being built in Hong Kong to further tourism.

In passing, I may say that the Hong Kong Building Laws, before their revision a few years ago, were based on archaic codes which date back to 1884 and as an instance the factor of safety for structural design was something in the neighborhood of 8-1.

While I agree with Mr BROWNE on the desirability of a museum and art gallery, which project is beginning on a modest scale, I am of the opinion that the large indoor stadium should be given the first priority because of its availability for conventions. In fact my honourable Friend Mr Wilson WANG has been working hard on both the museum and art gallery and the indoor stadium. As the Urban

Council and Legislative Council's Public Works' Sub-Committee has had this item that is the indoor stadium under planning for the past several years, I hope that Government will give its approval of this project at first opportunity and without delay.

My last point concerns the airport. I would say while all Un-Officials agree in supporting the extension of the runway to provide a greater margin of safety in the operation of jumbo jets, I am not quite sure whether I agree in requesting a loan from the United Kingdom in the normal sense.

Normally a loan is asked by a party who has no cash and is prepared to pay interest as the price of waiting and to cover the risk in repayment. Such is not the case with Hong Kong. I, therefore, venture to suggest two premises.

The first premise is that a straight grant should be given to Hong Kong in as much as the United Kingdom is in control of landing rights.

The second premise is that if a straight grant is not available, Hong Kong should request an interest-free loan.

In conclusion, I endorse full support for tourism in Hong Kong as a top priority for Hong Kong's economy.

3.59 p.m.

MR J. J. ROBSON: —Sir, my honourable Friend Mr BROWNE has drawn attention to the present shortage of hotels in the Colony. In this respect it has been suggested that the number of hotel rooms which are permitted on a given site is one of the main problems which face Hotel Developers. I find this difficult to accept as even if the present Hong Kong Building Regulations were strictly applied developers can get more hotel rooms on a given site than would be permitted in most places in the world. This was further confirmed by a recent investigation into one hotel in Singapore, one in Bangkok and two in Manila described in the September 1968 issue of the Far East Builder. This investigation indicated that much bigger hotels could have been built on similar sites in Hong Kong.

However, to make hotel development in Hong Kong even more attractive it was announced last year and communicated to the Hong Kong Tourist Association that the Building Authority is prepared to grant valuable concessions in respect of *bona fide* hotel developments. These include: —

first, the use of non-domestic site coverage so that more hotel rooms can be built on each floor which provides a more economic and easily managed layout;

[MR ROBSON] **Tourism**

secondly, the exclusion of the space provided in basements when calculating the total floor area in the proposed building; and

thirdly, granting a generous increase in the permitted total floor area in respect of any space set aside on the ground floor for the setting down and picking up of hotel residents, for loading and unloading vehicles and for waiting vehicles.

I am sure that hotel developers are well aware that the Hong Kong Building Regulations are generous compared with those of any other place in this region and it is relevant, that the hotel projects, mentioned as being in the pipe line, actually number thirteen. Ignoring the two located in the New Territories if all the applications to the Buildings Ordinance Office are proceeded with there will be an additional 2,800 hotel rooms in Hong Kong and Kowloon and these could be built within two or three years.

But in addition to this, there could now be even greater incentive for hotel developments as I am pleased to announce that Government has approved the principle of offering more attractive payment terms for valuable sites in the central areas which are put up for auction. These terms are \$1 million on the fall of the hammer with the balance of 10% of the realized price to be paid within one month, 5% of the realized price to be paid on the first and second anniversaries of the sale, and 10% of the realized price to be paid on the next eight anniversaries of the sale. These terms will be applied in respect of the sale of the site at the junction of Nathan and Salisbury Roads and the site on the Central Reclamation; which incidentally are in Commercial/Residential zones and can therefore be used for hotels; and any other central sites where the upset price is more than \$10 million.

I do not feel therefore that there is either the need or the justification for any further special concessions or for any special classification for hotel buildings under the Buildings Ordinance.

I do not see why it is strange that hotels should comply with the building regulations for residential buildings. They are residential buildings and can be built in areas zoned exclusively for residential purposes and with due respect to my honourable Friend Mr WONG I feel that the light and air regulation devised for residential buildings must apply whether the building is air conditioned or not. However, I would like to link air conditioning to the fire risks which hotels present. Contrary to my honourable Friend's belief, Hotels present a greater fire risk than ordinary domestic premises as they are occupied by strangers who, not being intimately familiar with the layout of the building, tend to panic in a fire, especially if this occurs at night. And with the air conditioning ducts acting almost as forced-draft chimneys

a fire, once started, quickly spreads and is difficult to control. I think the Director of Fire Services will confirm that the terrible fire disasters involving heavy loss of life which have occurred in recent years in America and England have frequently been in hotels.

In respect of the honourable Members suggestion for the Museum and Art gallery a considerable amount of research has been made into the best way in which this need can be met and this investigation included the possibility of adding an extra floor to the City Hall Car Park. However, a possible scheme which seems more worthwhile than building an extra floor on the Car Park would be to extend the City Hall High Block to provide not only additional space for the Museum and Art Gallery but also, possibly, some additional convention facilities. This proposal is attractive and is being looked into. It will not however be cheap and whether it can be accorded any financial priority is another matter.

The alterations to Kai Tak Airport Terminal Building now in hand, while both extensive and expensive, may be insufficient if the air port traffic expands as predicted. However this work forms part of the master plan for the terminal building and the next stage, Stage IV, to which the honourable Member has referred, is an investigation into the form the final building should take. A great deal of work has already been done on this investigation and in order to ensure that advantage is taken of the experience gained in other countries, the project architect is, at the end of September, visiting certain major world airports. There is, therefore, still a great deal of work to be done and this has to be completed, and the financial implications considered, before there can be any question of the Public Works Department asking for the scheme to be upgraded to Category A in the Public Works Programme.

And finally in respect of the extension to the airport runway, the Consultants for this project are proceeding with their final designs and contract documents as quickly as possible. These should be ready by the end of the year.

MR B. D. WILSON: —Sir, my honourable Friend Mr BROWNE said he did not expect an answer on the Museum question. I am afraid that willy-nilly he is about to receive one. My honourable Friend enquired what has happened to the Report on Museum and Art Gallery Services produced by a Select Committee of the Urban Council in 1965. The answer is that Government was later asked whether it would be possible to provide enlarged premises for housing the increasing amount of material that the Museum and Art Gallery Section of the City Hall has acquired. Government suggested that the New Rodney Block in the former Dockyard area might be made available. But, on detailed examination, it was found that the premises wouldn't really suit the

[MR WILSON] **Tourism**

purpose. The idea was dropped, largely because it was not acceptable to the Urban Council and because the cost of the proposed alterations to the premises would have been more than that of the original building itself.

The Urban Council would prefer new premises that included all the special facilities needed for a worthwhile museum and art gallery. As the Director of Public Works has said, one possibility might lie in extending the City Hall complex. In case my honourable Friend, Mr Wilson WANG, is taken by surprise here, I hasten to add that should this proposal seem to be a starter then the views of the Urban Council will be sought.

As for the Ho Tung and CHATER collections of pictures, they're both stored entirely in the City Hall. Both have been displayed partly and in entirety on several occasions in the past few years in the Museum and Art Gallery, likewise the Law and Sayer collection. We should like to display them on permanent exhibition, along with a lot of other stored material, but this must wait till there's enough space available in an enlarged museum and art gallery.

THE ACTING FINANCIAL SECRETARY (MR C. P. HADDON-CAVE): —Sir, the Government is most grateful to the newly appointed Chairman of the Board of Management of the Tourist Association, my honourable Friend, Mr BROWNE, for initiating an adjournment debate on this important subject. We are also glad that he has drawn this Council's attention to the fact that the number of tourists in the first half of this year was up by 24% on the same period last year—an advance almost comparable with that achieved by domestic exports.

Using the results of a most useful Tourist Association research project, the honourable Member has estimated that tourist spending in 1968 was of the order of \$1,300 million. This figure, I understand, includes spending by visiting servicemen as well as ordinary tourists.

The honourable Member has challenged me to reach up into thin air and assess the meaning of this figure in terms of tourism's contribution to our economic well-being. Rather foolishly, I am willing to try and, whilst I can only offer some pretty heroic statistical generalizations, I believe they are sufficiently indicative to be interesting.

The problem is to establish what proportion of gross foreign exchange receipts from tourism generates income in Hong Kong (or what proportion, if you like, represents Hong Kong value added). In 1966, when the average length of a visitor's stay was 4.3 days the World Bank estimated this proportion at 60%. In 1968, the average stay was

down a little to 3.9 days, suggesting that shopping represented a somewhat higher proportion of the individual visitor's total spending; and so the World Bank's estimate may now be a little on the high side. However, at 60% the Hong Kong value added amounted to \$600 million in 1966, and nearly \$800 million in 1968; and thus I would answer my honourable Friend's challenge by saying that in my estimation the contribution of tourism to the national income was probably just under 5% in 1966, rising perhaps to about 5½% in 1968. The significance of this contribution may be underlined by comparing it with the manufacturing sector which probably contributed about 33% to the national income in 1966 and over 40% in 1968. Hong Kong value added in the manufacturing sector as a whole appears to be not far short of 70%, and rising, as we trade up into more sophisticated lines; and the rate of growth of this sector of our economy has been exceptionally high in the last three years, higher than the overall growth. But, nevertheless, tourism probably generates between 1/7th and 1/8th of the income generated by the manufacturing sector. The Government's annual subventions, Sir, to the Tourist Association and its substantial investments in the airport, for example, are a recognition of this contribution and I hope my honourable Friend, Mr WONG, will accept my assurance of the Government's continuing interest and support.

We are also mindful, Sir, of the importance of keeping in close touch with the Tourist Association and endorse my honourable Friend, Mr BROWNE'S, remarks about the usefulness, the very great usefulness, of the liaison committee set up by Your Excellency last year.

As for the runway extension, my honourable Friend, the Director of Public Works, has already explained that our consultants are preparing the necessary contract documents; and investigations are also proceeding into suitable borrow areas for the necessary fill. We still await, I am afraid, advice from London as to whether financial assistance will be forthcoming and, if so, in what form; but I accept that, whatever the outcome of these somewhat protracted negotiations, a decision on the extension cannot be postponed much beyond the end of this year.

It has been clear to us for some time that our capital commitments over the next 5 years and further on into the 70s for that matter, will be very heavy indeed, certainly in excess of the 2,700 million dollars spent on capital projects in the last 5 years and certainly in excess of the support that can be made available from annual recurrent revenue. It is obvious that we shall have to find perhaps quite substantial sums from other sources including our reserves and, within limits, this would be a perfectly legitimate use of our reserves. However, Sir, in coming to a decision about the airport runway extension perhaps

[THE ACTING FINANCIAL SECRETARY] **Tourism**

I should assure my honourable Friend that the Government will be particularly mindful of the safety standard.

NEXT SITTING

HIS EXCELLENCY THE PRESIDENT: —Council will accordingly adjourn. The next sitting will be held on 13th August 1969.

Adjourned accordingly at fourteen minutes past Four o'clock.