

OFFICIAL REPORT OF PROCEEDINGS

Wednesday, 3rd December 1969

The Council met at half past Two o'clock

[Mr PRESIDENT in the Chair]

PRESENT

HIS EXCELLENCY THE ACTING GOVERNOR (*PRESIDENT*)
SIR HUGH (SELBY) NORMAN-WALKER, KCMG, OBE, JP
THE HONOURABLE THE COLONIAL SECRETARY (*ACTING*)
MR DAVID RONALD HOLMES, CMG, CBE, MC, ED, JP
THE HONOURABLE THE ATTORNEY GENERAL
MR DENYS TUDOR EMIL ROBERTS, OBE, QC, JP
THE HONOURABLE THE SECRETARY FOR HOME AFFAIRS (*ACTING*)
MR PAUL TSUI KA-CHEUNG, OBE, JP
THE HONOURABLE THE FINANCIAL SECRETARY
SIR JOHN (JAMES) COWPERTHWAITHE, KBE, CMG, JP
DR THE HONOURABLE TENG PIN-HUI, CMG, OBE, JP
DIRECTOR OF MEDICAL AND HEALTH SERVICES
THE HONOURABLE ROBERT MARSHALL HETHERINGTON, DFC, JP
COMMISSIONER OF LABOUR
THE HONOURABLE TERENCE DARE SORBY, JP
DIRECTOR OF COMMERCE AND INDUSTRY
THE HONOURABLE DAVID RICHARD WATSON ALEXANDER, MBE, JP
DIRECTOR OF URBAN SERVICES
THE HONOURABLE GEORGE TIPPETT ROWE, JP
DIRECTOR OF SOCIAL WELFARE
THE HONOURABLE JAMES JEAVONS ROBSON, JP
DIRECTOR OF PUBLIC WORKS
THE HONOURABLE DONALD COLLIN CUMYN LUDDINGTON, JP
DISTRICT COMMISSIONER, NEW TERRITORIES
THE HONOURABLE JOHN CANNING, JP
DIRECTOR OF EDUCATION
THE HONOURABLE KAN YUET-KEUNG, CBE, JP
THE HONOURABLE FUNG HON-CHU, OBE, JP
THE HONOURABLE TSE YU-CHUEN, OBE, JP
THE HONOURABLE KENNETH ALBERT WATSON, 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 TZE-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

IN ATTENDANCE

THE DEPUTY CLERK OF COUNCILS
MR DONALD BARTON

PAPERS

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

<i>Subject</i>	<i>LN No</i>
Subsidiary Legislation: —	

Proclamation No 3 of 1969.

Maintenance Orders (Facilities for Enforcement)

Ordinance to apply to Sabah	167
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Sessional Paper 1969-70: —

No 25—Annual Report by the Commissioner of Inland Revenue for the year 1968-69 (published 3.12.69).

ORAL ANSWERS TO QUESTIONS**Gross National Product**

1. DR S. Y. CHUNG asked: —

The 1969 Pick's Currency Yearbook gives an estimate of HK\$3,000 for Hong Kong's per capita gross national product in 1968 at current prices. Would Government say whether, on the information available to it, this is an accurate estimate and, if it is not, what a reasonable estimate would be?

THE FINANCIAL SECRETARY (SIR JOHN COWPERTHWAIT): —Sir, national income statistics are, at best, approximations with a fairly wide margin of error. On what evidence is available to us (and in our free economy provides we have less evidence than more regulated ones), we would put Hong Kong's 1968 per capita gross national product at something of the order of \$3,600 rather than \$3,000.

DR CHUNG: —Sir, I believe the Pick's Currency Yearbook has a world-wide circulation and it is important that the Hong Kong GNP statistics should be accurately reported. Will Government undertake to supply sufficient information to Dr PICK to enable him to assess Hong Kong's GNP more accurately in the future?

THE FINANCIAL SECRETARY (SIR JOHN COWPERTHWAIT): —I don't think so nor do I wish to do so. I have given an approximation with a very wide margin of error. I don't think we have the information which can give Dr PICK a basis on which he can calculate or assess more accurately.

MR Y. K. KAN: —Sir, does my honourable Friend know how Dr PICK get his information to arrive at this conclusion?

THE FINANCIAL SECRETARY (SIR JOHN COWPERTHWAITTE): —I have no information on that question.

Public light bus licences

2. MR P. C. WOO asked: —

How many Public Light Bus licences have been granted to date?

THE FINANCIAL SECRETARY (SIR JOHN COWPERTHWAITTE): —Sir, up to and including the 30th November 1969, 2,991 Public Light Bus licences had been issued.

MR WOO: —Sir, I understand that the intention of Government is to issue only 4,000 licences in respect of this public light bus licence?

THE FINANCIAL SECRETARY (SIR JOHN COWPERTHWAITTE): —The present position is that the Governor in Council has ordered that a ceiling of 5,000 should be placed on the number of public light bus licences issued.

Pak Pai cars

3. MR WOO asked: —

Is it true that Government intends to legalize Pak Pai cars which have been running illegally as taxis in the Colony?

THE FINANCIAL SECRETARY (SIR JOHN COWPERTHWAITTE): —Sir, a survey of the operations of "pak pai" cars to determine the number of this type of car at present operating and the types of transport operation in which they are engaged is at present being undertaken by the Transport Department, with a view to seeking the advice of the Transport Advisory Committee on what, if any, action should be taken by Government in respect of them.

Grants and loans to University students

4. MR M. A. R. HERRIES asked: —

Will Government inform this Council whether the scheme for additional grants and loans to University students has been implemented and what progress has been made to date?

Oral Answers

THE ACTING COLONIAL SECRETARY (MR D. R. HOLMES): —Yes, Sir, the scheme has been put into force. For the present academic year most of the applications have already been dealt with and determined, although there is a residue of cases still under examination by the Joint Universities' Committee. When these have been dealt with about 1,900 grants will have been paid and about 1,600 loans negotiated.

The scheme provides for the payment of *grants* to cover some or all of the tuition fees, and in some cases some additional items such as books and instruments. The *loans* are primarily intended to cover living expenses. The smallest amount of grant approved so far for the current year is \$110 and the largest is the maximum of \$2,000. The total amount of grants awarded for the current academic year is roughly \$2½ millions. The loans range from \$500 up to the maximum of \$4,000 and the total amount of loans negotiated for the current year is just under \$3 millions.

I would like to take this opportunity, Sir, of congratulating the Joint Universities Committee and all the others concerned on the speed and thoroughness with which they have brought this quite complicated scheme into operation.

MR HERRIES: —Sir, could I ask—is it correct to say that financial need is the main basis for assessing this grant?

THE ACTING COLONIAL SECRETARY (MR HOLMES): —Yes, Sir, this is correct both in respect of loans and with grants. The applicant of course has to have the standard to satisfy the minimum academic qualification to be eligible at all. But, having done so, all are considered purely on the basis of need.

Cyclamates

5. MR FUNG HON-CHU asked: —

In view of the recent press report that the US Government is considering modification of its restrictions on the use of cyclamates, will Government indicate whether Hong Kong is contemplating similar action?

DR P. H. TENG: —Sir, the answer to the question raised by my honourable Friend is that any decisions in USA to modify complete ban on cyclamates will not affect the decision to introduce legislation locally to deal with the current problem of banning cyclamates and ensuring that every container of food or beverage with a permitted artificial sweetener in it will be marked with the name and quantity of the sweetener. This is the policy of the United Kingdom Government

and it will not be prudent to adopt any other course of action for Hong Kong. Prohibition in the United Kingdom will be general and as cyclamates are classified as foodstuffs, and not drugs, the ban covers those sold for dietary and diabetic purposes.

I would however like to take this opportunity to state that there is no evidence whatsoever that cyclamates have caused cancer in human beings and therefore there is no cause for alarm.

Extensive tests have continuously been carried out in the United Kingdom by the Food Additives and Contaminants Committee and the Pharmacology Sub-Committee since cyclamates were first permitted in food in 1965 and pending the results of further intensive investigations which are being carried out in the United Kingdom and elsewhere of the toxicology of cyclamates, it has been considered advisable to ban its use until the experts have had the opportunity to review the whole field and to take account of the results of any further research.

DDT

6. MR FUNG asked: —

Is Government aware of reports from overseas on the harmful effects of certain insecticides commonly referred to as DDT and of the measures taken to discourage or prohibit their use? If the answer is in the affirmative, could this Council be informed what action has been initiated or is being contemplated in the interest of public health?

DR TENG: —Sir, Government is aware of reports from overseas countries regarding the harmful effects of DDT, but I can assure my honourable Friend that DDT is not widely used in Hong Kong because other insecticides are used in our pest control programmes both in the urban area and in the rural community. Although one thousand million pounds weight of DDT has been used in all the countries in the world for the past 20 years as an insecticide of choice and as the principal insecticide for vector control programmes against human diseases such as malaria, typhus and other insect-borne diseases, the development of DDT resistance in a large number of species of flies, mosquitoes, lice and fleas has prompted public health workers to substitute DDT by other insecticides of lower toxicity and more potent knock-down and residual effects. But, in view of the widespread fears of the harmful effects of DDT, this matter is being kept under the very close attention of Government departments concerned and as soon as the British Government and other official reports on the dangers associated with the use of DDT, other insecticides and pesticides, are received, then appropriate action will be immediately instituted here.

MAGISTRATES ORDINANCE

THE ATTORNEY GENERAL (MR D. T. E. ROBERTS) moved the following resolution: —

Resolved, pursuant to section 133 of the Magistrates Ordinance, that the Magistrates (Forms) (Amendment) Rules 1969, made by the Chief Justice on the 20th day of November 1969 under section 133 of that Ordinance, be approved.

He said: —Sir, the Magistrates (Forms) (Amendment) Rules 1969 are made under section 133 of the Magistrates Ordinance by the Chief Justice but require the approval of this Council.

These rules add to the Schedule contained in the principal Ordinance a new form which will be used for applications under section 114A of the Magistrates Ordinance for an extension of the time allowed for giving notice of appeal to the Supreme Court against a conviction or other order of a magistrate.

Question put and agreed to.

LAW REVISION (MISCELLANEOUS REPEALS) (NO 2) BILL 1969**TOWN PLANNING (AMENDMENT) BILL 1969****DUTIABLE COMMODITIES (AMENDMENT) BILL 1969****MIDWIVES REGISTRATION (AMENDMENT) BILL 1969****MEDICAL CLINICS (AMENDMENT) BILL 1969****EMPLOYMENT (AMENDMENT) BILL 1970**

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

**LAW REVISION (MISCELLANEOUS REPEALS)
(NO 2) BILL 1969**

THE ATTORNEY GENERAL (MR ROBERTS) moved the second reading of: —"A bill to repeal certain Ordinances and to make provisions incidental thereto."

He said: —Sir, this bill seeks to repeal nine Ordinances which are listed in the Schedule of the bill and which are obsolete or unnecessary, or which have had their effect and are no longer required.

However, one section from Item 1 in the Schedule, which is the Female Domestic Service Ordinance, is thought to be required and is inserted in the Protection of Women and Juveniles Ordinance by clause 3 of the bill.

This proposed new section 26 makes it an offence to employ any female domestic servant under the age of twelve years and this merely preserves the existing law, pending an examination by the Government of the wider question of the age of employment of young persons generally.

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 repeals nine Ordinances which have become obsolete, spent, or unnecessary, or have had their effect. Clause 3, however, re-enacts section 6 of the Female Domestic Service Ordinance (Cap. 60) as a provision of the Protection of Women and Juveniles Ordinance (Cap. 213) as this section is still thought to be necessary.

TOWN PLANNING (AMENDMENT) BILL 1969

MR J. J. ROBSON moved the second reading of: —"A bill to amend further the Town Planning Ordinance."

He said: —Sir, all the amendments to the Town Planning Ordinance contained in the bill now before Council have been designed to simplify and expedite the work of the Town Planning Board.

The amendment at clause 2 is to simplify the Board's task when preparing the draft plan and will permit areas to be zoned for undetermined use. At present all uses must be specified which is not always desirable if there is some doubt what is the best use for a particular area of land or what the future needs will be. Greater flexibility will be provided by zoning such areas for undetermined uses and re-exhibiting these portions of the plan for public objection when a specific use has been decided upon.

The amendment at clause 3, if approved, will permit the Board to publish a draft plan for public inspection before it finally decides that

[MR ROBSON] **Town Planning (Amendment) Bill—second reading**

it is suitable for approval by Governor in Council. Clause 5 will then permit the Board to amend this plan because, even though there may have been no objections to it, on further reconsideration, the Board considers this desirable. The revised plan must then be re-exhibited and further objections invited.

Clause 4 enables the Board to frame preliminary amendments to a plan before hearing objections but protects the rights of the public by the requirement for the Board to notify objectors of any preliminary amendments which the Board has designed to meet their objections, and similarly to advise the owners of any land which the Board feels may be affected by these amendments. All objectors or their authorized representatives and, similarly, the owners of land affected by the proposed amendments, have the right to appear before the Board for a hearing if they so desire.

The effect of these latter amendments will be that only those plans which the Board recommends for approval will be submitted to the Governor in Council. At the present moment all plans published and exhibited by the Board must be referred to the Governor in Council although in a number of cases, due to change of circumstances and passage of time, the Board cannot recommend them for approval and simply submits them with a request that they be referred back to the Board for reconsideration.

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 seeks to amend the principal Ordinance in various respects.

2. Clause 2 amends section 4 so as to enable the Board to make provision in draft plans for zones or districts set apart for undetermined uses. At present all uses must be specified which is not always practicable.

3. Clause 4 amends section 6 relating to the consideration of objections so as to enable the Board to consider an objection in the absence of the objector and to propose amendments to meet the objection. Notice of a proposed amendment is given to the objector who may notify the Board that his objection is

withdrawn on condition that the amendment is made. Unless an objection is withdrawn, the objector receives notice of, and has the right to be heard at, the meeting of the Board at which his objection is considered again.

4. Clause 5 inserts a new section to enable a draft plan to be amended by the Board, although not pursuant to an objection, provided that the amendment is advertised for three weeks to allow objections to be made.

DUTIABLE COMMODITIES (AMENDMENT) BILL 1969

MR T. D. SORBY moved the second reading of: —"A bill to amend further the Dutiable Commodities Ordinance."

He said: —Sir, the Dutiable Commodities Ordinance, which was enacted in 1963*, provides the legal framework under which the Government collects duties on hydrocarbon oils, alcoholic liquor, tobacco, table waters and methyl alcohol. It is therefore primarily a revenue measure. But it is also concerned in some degree with social and public health matters because of the nature of certain items which attract duty, the places in which they are processed or consumed, and so on. Inevitably this makes for a somewhat complex principal Ordinance, the effective operation of which is primarily the concern of the Director of Commerce and Industry (who is concurrently Commissioner of the Preventive Service), but other Government departments have a specific and sometimes overriding interest in certain aspects.

The Dutiable Commodities (Amendment) Bill which I introduce today has three principal purposes. The first purpose is to amend several definitions and some wording with the object of clarifying meaning or intent or bringing up to date, and also to make adjustments to procedures with the object of simplification or making them more effective. I do not propose to weary honourable Members with explanations of these changes of form rather than substance, because they are numerous and relatively unimportant.

The second purpose of the bill is to permit the Governor in Council to make regulations concerning premises on which liquor may be sold, including restaurants, hotels, bars, etc. Thus, clause 4 proposes to widen the scope of section 6 of the principal Ordinance to enable the Governor in Council to make liquor licensing regulations similar to those sections of the 1931 Dutiable Commodities Ordinance which have continuing validity by virtue of their retention in the Second Schedule to the current Ordinance.

* 1963 Hansard, pages 192 and 247.

[MR SORBY] **Dutiable Commodities (Amendment) Bill—second reading**

The third purpose of the bill is to make a number of minor changes of some substance in the principal Ordinance. Some of these are mentioned in the Explanatory Memorandum to the bill. Others not. I single out for mention four particular changes which seem to me to merit the attention of honourable Members.

At present, if duty-paid industrial or marine diesel oil, —that is to say oil which has been treated by the addition of chemical and colour markers to distinguish it from other diesel oil on which a higher duty is payable, —if duty-paid oil is subsequently detreated with the object of being used illicitly for other than industrial or marine purposes, it is not clear, from the wording of the Ordinance, that the detreated diesel oil is to be regarded as a dutiable commodity on which the full duty prescribed by law has not been paid or that there is a legal right to collect the difference in duty. The bill proposes that section 2 be amended to provide for a clearer interpretation of the phrase "full duty prescribed by law" and to permit recovery of any unpaid duty.

The effect of clause 19(a) of the bill is to make relanding of dutiable goods embarked for export, failure to observe restrictions on import and export, illegal removal of dutiable goods from ships, vehicles or aircraft and the distilling of adulterated liquor to make all these offences punishable by a maximum fine of \$100,000 and two years imprisonment, that is to say, to attract the same penalties as a number of other offences. Clause 19(b) creates a penalty of \$10,000 and imprisonment for one year for failing to observe licence and permit conditions. At present the only penalty in all these cases is forfeiture.

Also at present, a licensee is not by law responsible for the acts of his servant. The bill in clause 20 seeks to make him responsible for the same offence as his servant may commit, but excludes him from liability to imprisonment. The bill also provides certain safeguards for the licensee.

The opportunity is being taken to strengthen the law relating to the control of methyl alcohol, —a commodity which, in its raw form, was shown in 1956 to have a lethal potential that far outweighs its commercial significance, —the law is to be strengthened by providing that not only must importers or exporters of methyl alcohol have a licence, but also any person who deals in the substance. On the other hand the bill provides that when the Government Chemist has certified that methyl alcohol cannot be extracted from any substance in a potable form then that substance will no longer be liable to duty in respect of its methyl alcohol content.

The amendments referred to relate directly to the work of my department only. They have in some cases been suggested by interested parties or in the trades affected. In other cases they arise from difficulties encountered in the interpretation and enforcement of the principal Ordinance. But the amendment proposed to section 6 of the Ordinance, which I mentioned earlier as the second purpose of the bill, is of a different nature. It is concerned with legal tidying up, as it were, of the existing liquor licensing legislation, which the bill would empower the Governor in Council to replace by regulations of a similar nature under the principal Ordinance. The existing liquor licensing legislation will continue in force until the Second Schedule to the current Ordinance is replaced by new regulations.

Question proposed.

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

Question put and agreed to.

Explanatory Memorandum

Although many of the proposed amendments are of a minor nature some are of substance. The more important are as follows.

Clause 3 inserts a new subsection (3) in section 2, providing that industrial oil, on which duty has been paid but which is later used for some other purpose which would have attracted a higher rate of duty, will be deemed to be goods on which the full duty has not been paid.

The new section 46A (clause 20) provides that where a licensee's servant commits an offence, the licensee will be guilty of the same offence as the servant, but will not be liable to any term of imprisonment. It will be a defence to the licensee to show that he took all practicable steps to prevent the commission of the offence or, in certain cases, that he exercised appropriate control over the servant.

The amendment to section 48 (clause 21) provides that notice of any moral claim under the section must be given within six weeks to the Clerk of Councils.

The new definition of "denatured spirits" (clause 23) empowers the Government Chemist to certify as denatured spirits any liquor which cannot practicably be converted to intoxicating liquor by dilution, distillation, flavouring or any other process.

Dutiable Commodities (Amendment) Bill—second reading*[Explanatory Memorandum]*

The amendment to section 75 (clause 33) provides that methyl alcohol will not be dutiable if it is mixed with some other substance and cannot practicably be separated from it in a potable form.

The Bill repeals the provisions of the principal Ordinance relating to liquor licences; it is intended to replace them by regulations, in substantially the same form, under the principal Ordinance. Among consequential amendments clause 2 amends the definition "licence" so as to bring within the scope of the principal Ordinance liquor licences issued under the Dutiable Commodities Ordinance 1931. Liquor will then become subject to the provisions of the principal Ordinance in the same manner as other dutiable commodities, removing the need to keep the "retained" provisions of the 1931 Ordinance which are at present set out in the Second Schedule to the principal Ordinance.

MIDWIVES REGISTRATION (AMENDMENT) BILL 1969

DR TENG moved the second reading of: —"A bill to amend the Midwives Registration Ordinance."

He said: —Sir, the principal purpose of the bill is to amend the provisions of section 23 for making regulations concerning the establishment of a Preliminary Investigation Committee and the procedure to be followed by that Committee. This will bring these provisions into line with similar provisions in the Medical Registration Ordinance. In addition, various other minor amendments are introduced, for example, section 3 is amended to provide for the establishment of a panel from which registered midwives may be appointed to membership of the Midwives Board, and a new subsection (2A) is included to prohibit a registered midwife in respect of whom the Board has previously made an order for a disciplinary offence from being eligible for appointment to the Midwives Board.

Section 6 is enlarged so that in future a midwife may, by submitting a notice in writing to the Secretary, have her name removed from the Midwives Register if she so wishes.

Consequential upon the amendment to section 23, there is a minor amendment to section 10 to clarify the basis on which the Board may take action under that section. Section 22 is amended to exempt not

only midwives employed in the service of Government, but also midwives employed in the service of certain institutions approved by the Midwives Board and prescribed in the Midwives (Registration and Disciplinary Procedure) Regulations from the payment of the annual practising fee which is at present \$5.00.

A detailed explanation of the provisions of the bill is given 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).

Explanatory Memorandum

This Bill seeks to amend sections 3, 6, 10, 22 and 23 of the principal Ordinance.

The principal purpose of the Bill is to bring the principal Ordinance into line with similar provisions in the Medical Registration Ordinance. Clause 2 amends section 3 of the principal Ordinance to provide that three registered midwives shall be appointed to the Board from a panel of at least six such midwives nominated by the Hong Kong Midwives Association and to provide that a registered midwife who has been subject to disciplinary action following upon an inquiry by the Board shall not be eligible for appointment to the Board. Clause 5 amends section 22 of the principal Ordinance to provide that the provisions of that section shall apply neither to midwives employed in the service of the Government nor to midwives employed in the service of certain institutions to be prescribed by the Midwives (Registration and Disciplinary Procedure) Regulations. Clause 6 confers on the Governor in Council power to establish a Preliminary Investigation Committee which shall be empowered to investigate complaints against midwives and to decide whether or not there should be an inquiry by the Midwives Board.

MEDICAL CLINICS (AMENDMENT) BILL 1969

DR TENG moved the second reading of: —"A bill to amend further the Medical Clinics Ordinance."

He said: —Sir, honourable Members will recall that on the 23rd November 1966*, when I moved the first reading of a bill further to

* 1966 Hansard, pages 288 & 326.

[DR TENG] Medical Clinics (Amendment) Bill—second reading

amend the Medical Clinics Ordinance 1963, I stated at the conclusion of my speech on that occasion by a statement, and I quote: —

"Both the clinics and unregistrable medical practitioners will be with us for some time and they certainly have a part to play in the provision of low-cost medical care for those who are in need. The problem has to my mind been tackled in the best and most practical manner, and in the interests of the community as a whole."

Although the provision of medical services for the Colony since that date has been considerably expanded as shown by the figure of 8.64 million for 1968 compared with the figure of 7.34 million for 1965 for out-patient attendances at Government and Government assisted hospitals and clinics, there is still a continuing need to permit the existence of the 354 clinics registered with exemption (i.e. the clinics operated by unregistered doctors). Section 7 of the Medical Clinics Ordinance requires every person registered in respect of a clinic to appoint and maintain a registered medical practitioner who shall be responsible for the medical management of that clinic, and section 8 of the Ordinance empowers the Registrar of Clinics to exempt certain clinics from the requirements of section 7. The power conferred on the Registrar of Clinics under section 8 of the Ordinance is of a limited duration and ceases to be exercisable on the 31st December 1969. Should this happen then all the clinics in question would need to employ registered medical practitioners in place of the 347 unregistered doctors at present working in them. However, the shortage of registered medical practitioners is such that many of these clinics will not be able to employ these practitioners and would therefore have to close. It is therefore proposed by means of the Medical Clinics (Amendment) Ordinance 1969 to extend by resolution the period during which the Registrar of Clinics may exempt clinics in existence on 5th September 1963, from the requirements imposed by section 7 of the principal Ordinance.

Clause 2 of this bill intends to amend section 8 of the principal Ordinance in subsection 9 by inserting after the words "this Ordinance" the following: —

"or such further period as the Legislative Council may from time to time by resolution determine".

If the Medical Clinics (Amendment) Ordinance 1969 is enacted, it is proposed at the next meeting of this honourable Council to pass a Resolution to empower the Registrar of Clinics to exempt clinics for a further period of two years with effect from January 1st 1970, in the first instance. The position can then be reviewed in the light of circumstances existing at that time, to ascertain how many clinics have still not complied with the requirement of section 7 of the Ordinance.

Question put and agreed to.

Bill read the second time.

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

Explanatory Memorandum

The purpose of this Bill is to empower the Legislative Council to extend by resolution the period during which the Registrar may exercise his powers to exempt clinics in existence on 5th September 1963 from the requirement imposed by section 7 of the principal Ordinance that a registered medical practitioner be appointed in a supervisory capacity in respect of the clinic.

EMPLOYMENT (AMENDMENT) BILL 1970

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

He said:—Sir, the purpose of this bill is to introduce in to the principal Ordinance a new Part IIA dealing with some aspects of maternity protection for female employees. This new part and some consequential changes elsewhere in the principal Ordinance seek, in respect of those female employees falling within the scope of the Employment Ordinance, to provide for the grant of maternity leave and to give a measure of protection against dismissal during such leave. Female employees falling within the scope of the Ordinance are, generally, all manual workers and those non-manual workers whose wages do not exceed \$1,500 a month.

The main principle underlying the bill is that a female employee, who so qualifies, has the right to abstain from work during a period of maternity leave beginning not more than four weeks prior to the expected date of confinement and ending not more than six weeks after the actual date of confinement. This period may be extended for a further period not exceeding four weeks if certified necessary for reasons of illness or disability arising out pregnancy or confinement. New section 11(1) provides that the minimum qualification for the exercise of this right is continuous employment, as defined in the schedule to the ordinance, over a period of 26 weeks up to the commencement of maternity leave.

A female employee is required to give to her employer notice, supported, if required by her employer, by a medical certificate, of impending confinement within a period of eight weeks before her

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

expected date of confinement unless the confinement is premature. Various subsections of new section 11 specify the contents of this notice and of any medical certificates which an employer may require and the procedures to be followed when the confinement is premature or when a female employee intends to take the additional four weeks permitted on grounds of illness or disability arising from the pregnancy or confinement. New section 11A requires that any medical certificates must be issued by a registered medical practitioner except in the case of a certificate, certifying pregnancy or confinement or specifying the expected or actual date of confinement, which may be issued by a registered midwife.

New section 11(9) requires a female employee, if so required by her employer, to give notice of not less than eight days of the date on which she proposes to return to work.

An employer is prohibited, by new section 11C(1), from terminating a contract of employment, either by giving notice or by making a payment in lieu of notice, during the period from the date on which the female employee gives notice of her intention to take maternity leave until the date on which she is due to return to work on the expiration of her leave. An employer who terminates employment in contravention of this provision is liable, under new section 11C(2), to pay a sum representing payment in lieu of notice, in accordance with section 6 of the principal Ordinance, and a further sum representing seven days' wages. New section 11C(3) prescribes how this additional sum shall be calculated.

Apart from some consequential changes to the Employment Ordinance which are adequately described in the explanatory memorandum attached to the bill, the remaining important provisions are in new section 11B. Subsection 2 provides that the continuity of employment shall not be broken by maternity leave. Subsection I provides that, unless the contract of employment provides otherwise, an employer is not required to pay wages during a period of maternity leave.

Legislation on the subject of maternity protection is found in a great many territories. These include, in Asia, Singapore, Malaysia, the Philippines, Taiwan, Japan, South Korea, Fiji, Ceylon, India, and Pakistan. Most comply with the provisions of International Labour Organization convention number 3, known as the Maternity Protection Convention which was adopted in 1919. The bill before Council deals only with the grant of maternity leave and protection from dismissal during this leave. It does not provide for the payment of maternity benefits. The Hong Kong Government pays such benefits to those

female employees who are not in receipt of equal pay with men. Many firms and organizations also pay benefits in one form or another and the tendency is for others to do so. I would not like to think that the effect of this bill, which seeks only to prescribe minimum rights and obligations in this field, would be to discourage employers from continuing or from introducing more favourable conditions of employment to female workers. It is widely accepted that the obligation to provide cash benefits is more properly the responsibility of the community or the employers in general and should not be imposed on a particular employer. It is probable that there may be about 400,000 women employed in Hong Kong who could be affected by this bill but they are distributed unevenly among various trades and occupations. The incidence of female employment is such that it would be unreasonable to impose an obligation to pay maternity benefits on individual employers and the decision whether or not to do so will remain in their discretion.

The principles underlying the bill have been unanimously approved by the Labour Advisory Board.

As is customary, a guide to the provisions of this bill would, if it is enacted, be prepared, in both Chinese and English, by the Labour Department.

Question proposed.

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

Question put and agreed to.

Explanatory Memorandum

The principal object of this Bill is to amend the Employment Ordinance to provide for the grant of maternity leave.

Clause 4. The proposed section 2A is the same as section 11 of the Ordinance except that the meaning of "continuous contract" is applied to the whole Ordinance, instead of to Part II alone, since it appears in the proposed new Part IIA.

Clause 5 makes an amendment to section 5 of the Ordinance which is consequential to the proposed section 11C.

Clause 6 repeals section 11, which is embodied in the proposed new section 2A.

Clause 7 introduces a new Part IIA, the object of which is to give female employees a right to maternity leave.

Employment (Amendment) Bill—second reading*[Explanatory Memorandum]*

Section 11 entitles a female employee, who has been in the continuous employment of the same employer for not less than 26 weeks, to take maternity leave up to 4 weeks before and 6 weeks after confinement. This leave may be extended on medical grounds by another 4 weeks. Provision is also made for adequate notice to be given of intention to take maternity leave and to resume work after confinement.

Section 11A makes provision for the production of a medical certificate if one is required by an employer.

Section 11B provides that maternity leave is without pay unless the contract of employment in any particular case provides otherwise. The continuity of employment is not broken by maternity leave.

Section 11C prohibits an employer from terminating the employment of a female employee from the date on which notice of intention to take maternity leave is given until she resumes work after confinement. Where employment is terminated in contravention of this provision the employer would be liable to pay the employee a sum representing a payment in lieu of notice under section 6 of the Ordinance and a sum representing 7 days' wages.

Clause 8. The proposed section 35A prohibits contracting out of any right, benefit or protection given to employees under the Ordinance.

Clause 9. The amendment to the Schedule to the Ordinance is consequential upon section 2A.

**ANIMAL AND BIRDS (RESTRICTION OF IMPORTATION
AND POSSESSION) BILL 1969**

Resumption of debate on second reading (19th November 1969)

Question again proposed.

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.

Committee stage

MEDICAL CLINICS (AMENDMENT) BILL 1969

Clauses 1 and 2 were agreed to.

Council then resumed.

Third reading

DR TENG reported that the Medical Clinics (Amendment) Bill 1969 had passed through committee without amendment and moved the third reading of the bill.

Question put and agreed to.

Bill read the third time and passed.

HIS EXCELLENCY THE PRESIDENT: —I take the opportunity before adjourning the Council to thank honourable Members for the courtesy and co-operation which I have received during the short time that it has been my privilege to preside over the Council.

ADJOURNMENT

Council adjourned *pursuant to Standing Order No 8(5)*.

NEXT SITTING

HIS EXCELLENCY THE PRESIDENT: —Council will accordingly adjourn. The next sitting will be held on 17th December 1969.

Adjourned accordingly at ten minutes past Three o'clock.