

**OFFICIAL REPORT OF PROCEEDINGS****Wednesday, 17th December 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  
MR DENYS TUDOR EMIL ROBERTS, OBE, QC, JP  
THE HONOURABLE THE SECRETARY FOR HOME AFFAIRS  
MR DAVID RONALD HOLMES, CMG, CBE, MC, ED, 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 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 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  
THE HONOURABLE OSWALD VICTOR CHEUNG, QC, JP

**ABSENT**

THE HONOURABLE DAVID RICHARD WATSON ALEXANDER, MBE, JP  
DIRECTOR OF URBAN SERVICES

**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: —	
Merchant Shipping Ordinance.	
Merchant Shipping (Minimum Passenger Space) Regulations 1969 .....	171
Merchant Shipping Ordinance.	
Merchant Shipping (Miscellaneous Cancellations) Order 1969 .....	172
Dangerous Goods Ordinance.	
Dangerous Goods (General) (Amendment) Regulations 1969 .....	175
Legal Aid in Criminal Cases Rules 1969.	
Legal Aid in Criminal Cases Rules 1969 (Commencement) Notice 1969 .....	176

Sessional Papers 1969-70: —

No 26—Report of the Brewin Trust Fund Committee on the Administration of the Fund for the year ended 30.6.69 (published on 17.12.69).

No 29—Accounts and Statements of the Grantham Scholarships Fund for the year ended 31.9.69 (published on 17.12.69).

**ORAL ANSWERS TO QUESTIONS****Tai Hang Tung fire victims**

1. MR WILFRED S. B. WONG asked: —

To what extent is Government playing its part in the relief of the victims of the recent squatter fire at Tai Hang Tung?

MR G. T. ROWE: —Sir, this was the fire at the Tai Hang Sai squatter area which broke out at 12.05 *p.m.* on the 2nd of December and was effectively extinguished at 6.40 *p.m.* on the same day. It affected some 900 families comprising over 4,700 persons.

Shortly after the fire broke out at noon on 2nd December staff of the Social Welfare Department proceeded to the Tai Hang Tung Community Centre where they immediately started registering fire victims and organizing emergency relief. By working up to about 2.00 *a.m.* the following morning they were able to distribute to the fire victims a sufficient quantity of eating and cooking utensils, as well as blankets, bedding and clothing made available to the Department by voluntary welfare agencies. Hot meals were served by the Department's emergency relief teams at 6.00 *p.m.* on the day of the fire and have continued to be supplied to those in need of them twice a day.

A majority of the fire victims managed to find temporary shelter with friends and relatives, but for more than 1,100 persons who had nowhere to go temporary accommodation was provided at the Salvation Army Building and the Social Welfare Department's community centre, both at Tai Hang Tung, the Resettlement Department's Yan Oi Transit Camp at Wong Tai Sin and the Tai Wo Hau Resettlement Factory Estate in Tsuen Wan.

The Resettlement Department's screening of fire victims was completed by 5th December, and letters of allocation for resettlement, either at the Shek Lei Resettlement Estate in Tsuen Wan or at the Sau Mau Ping Resettlement Estate in New Kowloon, were issued within three days of the fire.

These measures of relief were further reinforced by assistance in the form of cash grants from the Community Relief Trust Fund. On 9th December the Community Relief Trust Fund Committee authorized the payment of *ex gratia* cash grants at a standard rate of \$20 to each fire victim, regardless of age, who had been offered immediate resettlement. These payments were made through the Social Welfare Department on 10th, 11th and 12th December to assist families in taking up their new accommodation in the Resettlement Estates, and their total amounted to \$88,740. Other grants and measures of assistance were provided by the Tung Wah Group of Hospitals, the Community Chest, the Salvation Army, and many other organizations and individuals.

The City District Officers, operating mainly from the City District Office, Sham Shui Po, provided the necessary co-ordination of information and effort, both official and voluntary, and supervised the disbursement of grants amounting to \$100,000 from the Sing Tao/Hong Kong Standard Fat Choy Fund, the organization of an all-Kaifong Association Emergency Relief Committee which operated in Sham Shui Po, and the mobilization of more than 1,000 student volunteers to help in the distribution of various articles of emergency relief.

**[MR ROWE] Oral Answers**

These various measures of relief will not end with the distribution of material and cash assistance. There is no doubt that many victims of the fire have sustained considerable losses, and may require further assistance on a fairly regular basis before they can be restored to financial and social independence. The staff of the Social Welfare Department have been making visits to give such advice as the fire victims may need, and to inform them that they may apply to the Department's District Offices and Family Services Centres for further assistance, which may be given under Public Assistance if required.

Finally Sir, I am informed that actual resettlement has already started and that up to 5 *p.m.* yesterday some 110 families comprising about 670 persons had already moved into new resettlement accommodation.

MR WONG: —Thank you.

MR Y. K. KAN: —Sir, would my honourable Friend convey to his department and indeed to all Government departments and voluntary organizations the appreciation and satisfaction of the excellent work which they did in this particular episode.

MR ROWE: —I should be delighted to do so, Sir.

**Airport safety**

2. DR S. Y. CHUNG asked: —

Kowloon City near the roundabout is a heavily populated area and if an aeroplane fails to take off at the northern end of the runway there will be serious consequences particularly with larger airliners such as the jumbo-jets. Is Government aware of such accidents occurring from time to time in other airports and what safety measures such as arrestors is Government taking to minimize losses should such an accident occur?

THE FINANCIAL SECRETARY (SIR JOHN COWPERTHWAITTE): —Sir, Government is aware that over-run accidents do occur occasionally at airports. The risk of such accidents is very low; to put it in perspective, the probability of an aircraft over-running the north-west boundary fence at Kai Tak has been calculated at 1 in 14 million or once in 350 years on the basis of present frequencies of movement.

Nevertheless, we have been seeking some means of reducing or eliminating this danger for some years. In 1967 an item was included in the Public Works Programme for a soft-ground type of arrester at a cost of \$500,000. The cost, however, rose on investigation to \$2 million and, in view of this, and of the fact that such arresters had not been proven for large transport aircraft and introduced certain other hazards, this line of approach was abandoned.

Investigations into alternative types of arresters are continuing and the Director of Civil Aviation has recently discussed the problem with the United Kingdom Board of Trade and Ministry of Technology and requested their advice and assistance. We await their advice.

If the runway is extended, that in itself will significantly improve safety in this respect in that a greater distance would be placed between an aircraft travelling towards Kowloon City and the built-up area there.

In the meantime, standing instructions for dealing with an over-run have been issued and all Government departments and other organizations likely to be involved are regularly exercised in rescue and salvage proceedings.

### **Motor insurance bureau**

3. MR Y. K. KAN asked: —

At the Budget Debate in March this year I raised the question of setting up a Motor Insurance Bureau for the purpose of compensating victims of motor car accidents who are unable to legally claim compensation from the insurers\*. Has my honourable Friend the Financial Secretary given this matter further thought and is he in a position to say whether such a scheme can be implemented at an early date?

THE FINANCIAL SECRETARY (SIR JOHN COWPERTHWAIT): —Sir, since my honourable Friend made the suggestion, we have been looking into the provision made elsewhere for this and examining the extent and nature of the problem in Hong Kong, and we have had some preliminary discussions with the industry. We have not yet reached a conclusion as to the case for or the practicability of such a scheme in Hong Kong. I am afraid that I am not in a position to promise any very early action.

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\* 1969 Hansard, page 121.

**Oral Answers****RAF helicopters**

4. MR KAN asked: —

In a recent question in the House of Commons it was alleged that the helicopters used by the Royal Air Force now stationed in Hong Kong are very old and that the RAF has great difficulty in keeping them flying regularly\*. Will Government remind the UK Government that since Hong Kong makes an annual Defence Contribution of £ 5 million we have a right to expect that in the interest of our internal security these helicopters should be maintained at their maximum serviceability and efficiency at all time?

THE COLONIAL SECRETARY (SIR HUGH NORMAN-WALKER): —Sir, the Whirlwind Mk 10 which is in service with No 28 Squadron in Hong Kong is in world-wide service and is indeed the mainstay of the inshore Search and Rescue Service in the United Kingdom. The serviceability rate of the Whirlwind in Hong Kong is comparable with that anywhere else where Whirlwinds are operating. In fact the temporary serviceability problems encountered earlier this year and mentioned by the Minister of Defence for Equipment recently in the House of Commons provided an illustration of the care taken to maintain a high level of serviceability. A team from Rolls Royce was sent to the Colony specifically to solve the problems which arose because of local weather conditions, and modifications to the helicopters have now been made in consequence of this visit. In his statement the Minister said that there was no general dissatisfaction with these helicopters in the Royal Air Force.

Both the Hong Kong Government and the Armed Services are very conscious of the important role played by helicopters in Hong Kong, both in Police and Military operations, and in saving life, and are therefore always looking for an opportunity to improve our capability in this respect.

The honourable Member has referred to the annual defence contribution; I would like to point out that at the time this was fixed no Royal Air Force helicopters were stationed in Hong Kong and there was no plan to station any. 28 Squadron has been added to the garrison since that time, and a very welcome addition it is.

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\* House of Commons Hansard of 3.12.69, page 1481.

MR KAN: —Sir, I hope the last few remarks by my honourable Friend does not mean that he anticipates further demands made on us for increased defence contributions, or does he?

THE COLONIAL SECRETARY: —I try, Sir, always to avoid anticipating demands of any kind. (*Laughter*).

### **SOCIETIES ORDINANCE**

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

Resolved, pursuant to section 42 of the Societies Ordinance, Chapter 151, that the duration of the said Ordinance be extended for the term of one year with effect from 1st January 1970.

He said: —Sir, this Ordinance confers upon the Commissioner of Police general powers of control and supervision of societies of all kinds. It has proved of great value in curbing the activities of triad and other unlawful or undesirable societies.

It is the Government's view that this Ordinance is essential to the maintenance of order and accordingly I move this resolution.

*Question put and agreed to.*

### **COMPANIES (PREVENTION OF EVASION OF THE SOCIETIES ORDINANCE) ORDINANCE**

THE ATTORNEY GENERAL (MR ROBERTS) moved the following resolution: —

Resolved, pursuant to section 16 of the Companies (Prevention of Evasion of the Societies Ordinance) Ordinance, Chapter 312, that the duration of the said Ordinance be extended for the term of one year with effect from 1st January 1970.

He said: —Sir, this Ordinance prevents persons who associate together for undesirable purposes from evading the provisions of the Societies Ordinance by registering themselves under the Companies Ordinance. This Ordinance is required for as long as the Societies Ordinance is needed, and I therefore move that its life also should be extended.

*Question put and agreed to.*

**DEFENCE REGULATIONS (CONTINUATION) ORDINANCE**

THE ATTORNEY GENERAL (MR ROBERTS) moved the following resolution: —

Resolved, pursuant to section 6 of the Defence Regulations (Continuation) Ordinance, Chapter 309, that the duration of the said Ordinance be extended for the term of one year with effect from 1st January 1970.

He said: —Sir, this Ordinance keeps in force a number of defence and finance regulations, which are still considered to be necessary, particularly for exchange control and import and export licensing and I therefore move accordingly.

*Question put and agreed to.*

**ILLEGAL STRIKES AND LOCK-OUTS ORDINANCE**

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

Resolved, pursuant to section 8 of the Illegal Strikes and Lock-outs Ordinance, Chapter 61, that the duration of the said Ordinance be extended for the term of one year with effect from 1st January 1970.

He said: —Sir, because we are still awaiting the views of the Secretary of State for Foreign and Commonwealth Affairs on certain matters relating to proposals for amending the Illegal Strikes and Lock-outs Ordinance, it is necessary for me to seek the extension of the duration of this Ordinance. Accordingly, I move the resolution standing in my name on the Order Paper. The effect of this resolution will be to keep the Ordinance in force until 31st December 1970.

*Question put and agreed to.*

**MEDICAL CLINICS ORDINANCE**

DR P. H. TENG moved the following resolution: —

Resolved, pursuant to subsection (9) of section 8 of the Medical Clinics Ordinance that the powers conferred on the Registrar of Clinics by section 8 of that Ordinance shall cease to be exercisable on the 31st December 1971.



He said: —Sir, at the last meeting of this Council I indicated that I would move a resolution pursuant to subsection (9) of section 8 of the Medical Clinics Ordinance that the powers conferred on the Registrar of Clinics by section 8 of that Ordinance be extended for two years in the first instance\*. I pointed out then that this was done because it was felt that the clinics registered with exemption should be permitted to continue to function as it has been performing a useful role in view of the shortage of doctors. I gave my assurance to this Council that the position would 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.

MR WILFRED S. B. WONG: —Sir, in speaking on the resolution, I wonder if Government has gone far enough for the case of unregistrable doctors. The term "unregistrable doctors" as applied to the situation in Hong Kong means those doctors who do not possess a degree from the British Commonwealth of Nations. They are in fact in possession of degrees or diplomas in medicine. Not being registrable I believe the Government has made arrangements for them to be examined under a panel of doctors and they have been medically screened on the basic theory and practice of medicine.

In Hong Kong where there are four million people there are so many illnesses and so few healers. The medical facilities afforded by Hong Kong Government are necessarily limited and the cost of going to most private practitioners is prohibitively high for the ordinary men and women in the street therefore a few million cases go through the low cost clinics which are staffed by these unregistrable doctors. In this way tens of thousands of people are benefited by a medical service which would otherwise be non-existent. On the whole I am convinced that these unregistrable doctors who have passed the examination are fulfilling a vital social need and performing a most useful service to the people of Hong Kong. Therefore I wonder whether the two years extension for the period which they can practise is not too short. I nevertheless support the present resolution as it is in the right direction.

DR TENG: —Sir, when the two years is about to be up the matter will be reviewed and every consideration will be given to extend if the need is there.

*Question put and agreed to.*

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\* Pages 183-5.

**SUPPLEMENTARY PROVISIONS FOR THE QUARTER  
ENDED 30TH SEPTEMBER 1969**

Council went into committee *pursuant to Standing Order No 58(2)*, to consider the motion standing in the name of the Financial Secretary (SIR JOHN COWPERTHWAITTE).

The Governor's recommendation signified by the Financial Secretary *pursuant to Standing Order No 23(1)*.

THE FINANCIAL SECRETARY moved: —"That this Council approves the supplementary provisions for the quarter ended 30th September 1969, as set out in Paper No 2 of 1969-70."

He said: —Sir, the schedule for the second quarter of the 1969-70 financial year covers supplementary provision totalling \$46.1 million. \$30.4 million was required for Public Works Non-Recurrent of which \$2.3 million represented revotes of funds unexpended in the last financial year. \$13.9 million was required as a result of accelerated progress on existing projects and \$13.4 million was to meet the cost of new projects. Under the Universities Grants (Recurrent) vote \$3.4 million was provided to meet payments arising from the salaries revision for the academic and administrative staff at the Universities with effect from 1st April 1968.

Finance Committee has approved all the items in the schedule. The covering approval of this Council is now sought.

*Question put and agreed to.*

Council then resumed.

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

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

**SUPREME COURT (AMENDMENT) BILL 1970**

**FULL COURT (AMENDMENT) BILL 1970**

**DISTRICT COURT (AMENDMENT) BILL 1970**

**PROMISSORY OATHS (AMENDMENT) BILL 1970**

**CORPORAL PUNISHMENT (AMENDMENT) BILL 1970**

**URBAN COUNCIL (AMENDMENT) BILL 1970**

**LAW REFORM (INTEREST ON CLAIMS AND JUDGMENTS) BILL  
1970**

**PLACES OF PUBLIC ENTERTAINMENT (AMENDMENT) BILL 1970**

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

**SUPREME COURT (AMENDMENT) BILL 1970**

THE ATTORNEY GENERAL (MR ROBERTS) moved the second reading of:—"A bill to amend further the Supreme Court Ordinance."

He said:—Sir, the Full Court of Hong Kong, which deals with the appellate work of the Supreme Court, is composed at present of Supreme Court Judges who are assigned from time to time to sit as members of the Full Court. It is felt that the volume of appellate work is now such that the time has come to give the Full Court a more distinctive and permanent character by the creation of an office of Appeal Judge.

It is intended that the Chief Justice should normally continue to preside over the Full Court as he does at present, the Appeal Judge sitting with him. When the Chief Justice is not available, the Appeal Judge would preside. As a member of the Supreme Court bench, the Appeal Judge would also be available, if required, to sit as a trial judge in the Supreme Court.

It may be that, in time, the amount of appellate work in Hong Kong will justify the creation of a separate Court of Appeal. The appointment of an Appeal Judge could be said to be a step in this direction, without in any way committing the Government to establishing such a court.

Honourable Members will notice that those parts of the bill which relate to the appointment of an Appeal Judge will not come into operation until a date to be appointed by the Governor by a notice in the *Gazette*. I should, perhaps, also mention that the appointment of an Appeal Judge does not of itself involve the creation of an additional post of Supreme Court Judge.

Clause 4 of the bill introduces new provisions dealing with the temporary appointments of Supreme Court Judges. At present, the Ordinance provides for the appointment of an acting judge where there is a vacancy on the Court or if a substantive judge is temporarily absent and also for the appointment of temporary additional Judges. Instead, it is proposed in future that the Chief Justice should be empowered to appoint Commissioners of the Supreme Court, in the circumstances in which either acting or temporary additional judges are now appointed.

The term "Commissioner" has long been in use in England to describe a person appointed to act as the High Court Judge and its use here will help the public to distinguish clearly between substantive and temporary appointments to the Supreme Court.

Clause 4 of the bill also replaces section 15 of the Ordinance, which prescribes the minimum professional qualifications of a Supreme

[THE ATTORNEY GENERAL] **Supreme Court (Amendment) Bill—second reading**

Court Judge. At present, the section requires only that a Supreme Court Judge shall have been qualified to practise in a Commonwealth court of unlimited jurisdiction for at least 5 years, but does not oblige him to have any actual experience of the practice of law in any sphere.

The new section 15, which closely follows section 5 of the District Court Ordinance, will prescribe a minimum of ten years actual experience, of one of the various kinds which are set out in paragraph (b) of the proposed new section 15(1). Perhaps I should point out, to avoid any possible misunderstanding, that anybody who would be qualified for appointment under the new provisions would also have been eligible under the present ones.

Clause 4 also deletes references in the Ordinance to the Chief Justice of Singapore, sitting as a member of the Full Court and to the Chief Justice of Hong Kong sitting as a member of the Court of Appeal in Singapore, since these provisions for reciprocal exchange have not been used for many years.

Clause 6 of the bill provides for judges to be Justices of the Peace by virtue of their office, which will enable them in appropriate cases to bind a person over to be of good behaviour and to keep the peace.

Clause 8 repeals and replaces section 29 of the Ordinance with the object of setting out more clearly and comprehensively the circumstances in which appeals will lie to the Full Court in civil matters.

Clause 10 replaces the definition of "judge" in the Interpretation and General Clauses Ordinance so as to include a reference to the proposed Appeal Judge.

*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 (SIR HUGH NORMAN-WALKER).

*Question put and agreed to.*

*Explanatory Memorandum*

This Bill makes several amendments to the principal Ordinance.

2. Clause 3 provides for the appointment of an Appeal Judge, who will take precedence after the Chief Justice.

3. Clause 4 introduces new provisions for temporary appointments to the Supreme Court bench. The principal Ordinance at present provides for the appointment of a person to act temporarily if a judge is temporarily ill or absent or if there is a vacancy for a judge; it also provides for the appointment of temporary additional judges. In future, with the exception of an acting Chief Justice, Appeal Judge or Senior Puisne Judge, temporary judges will be appointed as Commissioners of the Supreme Court. A Commissioner may be appointed for a specified case or class of case only, or for a specified period only. A Commissioner whose appointment has expired or has been terminated may nevertheless continue to act for the purposes of disposing of any part-heard proceedings before him.

4. Clause 4 also alters the requirements of the principal Ordinance as to the professional qualifications of judges. A person will not be eligible for appointment as a judge unless he is qualified to practise as an advocate in a court in the Commonwealth or Ireland which has unlimited criminal or civil jurisdiction, and he has not less than ten years cumulative experience as a qualified advocate or solicitor in such a court, or in certain judicial or legal posts.

5. Clause 4 also deletes references in the principal Ordinance to the Chief Justice of Singapore sitting as a member of the Full Court and to the Chief Justice of Hong Kong sitting as a member of the Court of Appeal or Court of Criminal Appeal of Singapore. This practice has not been followed for many years.

6. Provision is made in clause 6 for judges to be justices of the peace *ex officio*.

7. Clause 8 repeals section 29 of the principal Ordinance, dealing with appeals to the Full Court, and substitutes new provisions which set out comprehensively the circumstances in which appeals will lie.

8. The provisions of the Bill relating to the Appeal Judge will come into operation on a day to be appointed by the Governor by notice in the *Gazette*. The other provisions of the Bill will come into operation when the Bill becomes law.

### **FULL COURT (AMENDMENT) BILL 1970**

THE ATTORNEY GENERAL (MR ROBERTS) moved the second reading of:—"A bill to amend further the Full Court Ordinance."

He said:—Sir, this bill contains a number of amendments to the principal Ordinance which are consequential upon the changes

[THE ATTORNEY GENERAL] **Full Court (Amendment) Bill—second reading**

introduced by the Supreme Court (Amendment) Bill 1970\*, which honourable Members have just considered.

Clause 2 of the bill repeals the definition of "judge", which will now be unnecessary in view of the new definition of this word which is to be included in the Interpretation and General Clauses Ordinance by virtue of clause 10 of the Supreme Court (Amendment) Bill.

Clause 3 of this bill sets out the precedence of judges sitting in the Full Court. The previous reference to the Chief Justice of Singapore has been deleted and references to the Appeal Judge and to Commissioners of the Supreme Court are included.

Clause 4 adds two new sections to the Ordinance. The first of these makes it clear that in dealing with an appeal the Full Court shall have all the powers, authority and jurisdiction of the Supreme Court.

The proposed new section 6 makes provision for interim orders and interlocutory matters to be dealt with by a single judge of the Full Court, sitting either in court or in Chambers. This will enable urgent matters to be dealt with more quickly than is possible if an entire Full Court has to be assembled for the purpose.

*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 (SIR HUGH NORMAN-WALKER).

*Question put and agreed to.*

*Explanatory Memorandum*

Clause 2 of this Bill repeals section 2 of the principal Ordinance, which is unnecessary in view of the definition of "judge" now included in Cap. 1.

2. Clause 3 amends section 3 of the principal Ordinance, dealing with precedence of judges, by deleting reference to the Chief Justice of Singapore and by replacing the reference to temporary judges by a reference to Commissioners of the Supreme Court. A reference to the Appeal Judge is also included. He will take precedence after the Chief Justice.

3. Clause 4 adds two new sections to the principal Ordinance. When hearing appeals the Full Court shall have the power

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\* Page 201.

and jurisdiction of the Supreme Court, subject to the specific provisions of the Criminal Procedure Ordinance governing criminal cases. In addition, judges of the Full Court may make interim orders including orders to prevent prejudice to the claims of any parties pending the determination of appeals in civil cases.

4. The provisions of the Bill relating to the Appeal Judge will come into operation on a day to be appointed by the Governor by notice in the *Gazette*. The remaining provisions will come into operation when the Bill becomes law.

### **DISTRICT COURT (AMENDMENT) BILL 1970**

THE ATTORNEY GENERAL (MR ROBERTS) moved the second reading of:—"A bill to amend further the District Court Ordinance."

He said:—Sir, clause 3 of the bill re-enacts section 8(4) of the Ordinance as a new section 8A and includes a new section 8B.

The new section 8A will enable a magistrate who is appointed permanently or temporarily as a District Judge to complete, in his former capacity of magistrate, any proceedings which were begun before him in that capacity.

The new section 8B makes similar provision, empowering a permanent or acting District Judge to complete proceedings begun before him in that capacity after he has been appointed as a judge or Commissioner of the Supreme Court.

The proposed new section 8C will make judges of the District Court Justices of the Peace by virtue of their office, thus enabling them to bind persons over to be of good behaviour and to keep the peace in appropriate cases.

*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 (SIR HUGH NORMAN-WALKER).

*Question put and agreed to.*

#### *Explanatory Memorandum*

Clause 3 of this Bill provides that where a judge of the District Court is appointed as a Supreme Court judge, whether permanently or temporarily, he may nevertheless continue to

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

exercise jurisdiction in the District Court for the purpose of disposing of any proceedings which were commenced before him in that court prior to his appointment to the Supreme Court.

2. This follows section 8(4) of the principal Ordinance which provides a magistrate appointed to be a District Court judge may dispose of proceedings already commenced before him as a magistrate.

3. Section 8(4) of the principal Ordinance is itself repealed and its provisions are re-enacted in a new section 8A.

4. The Bill also provides that judges of the District Court shall be justices of the peace *ex officio*.

**PROMISSORY OATHS (AMENDMENT) BILL 1970**

THE ATTORNEY GENERAL (MR ROBERTS) moved the second reading of:—"A bill to amend further the Promissory Oaths Ordinance."

He said:—Sir, this bill provides that Commissioners of the Supreme Court should take both the Oath of Allegiance and the Judicial Oath, to be administered by a judge of the Supreme Court.

*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 (SIR HUGH NORMAN-WALKER).

*Question put and agreed to.*

*Explanatory Memorandum*

This Bill provides that Commissioners of the Supreme Court shall take the oath of allegiance and the judicial oath, which shall be administered by a Judge of the Supreme Court.

**CORPORAL PUNISHMENT (AMENDMENT) BILL 1970**

THE ATTORNEY GENERAL (MR ROBERTS) moved the second reading of:—"A bill to amend further the Corporal Punishment Ordinance and to make other consequential amendments."



He said: —Sir, the main purpose of this bill is to overcome a procedural difficulty which has arisen in the law governing the carrying out of sentences of corporal punishment.

Some years ago, the Supreme Court ruled that, where a sentence of caning is ordered, it could not be carried out until after the 14 days allowed for an appeal against the conviction or sentence had elapsed. As a result of this decision, the courts adopted the practice of remanding the offender in custody during the 14 days allowed for an appeal, to ensure that he would appear to receive his punishment at the end of that time.

Late in 1967, however, it was decided in another case that a court had no power to make an order of committal in these circumstances. The absence of any power to remand offenders in custody pending the carrying out of the sentence is thought to have been the main reason why the courts have awarded corporal punishment only in a few cases since 1967.

Clause 2 of the bill, therefore, seeks to remove these practical difficulties by adding to the Corporal Punishment Ordinance a new section 3A, to enable a court to ensure that an offender, on whom a sentence of caning has been imposed, will attend to receive it by committing him to custody during the time allowed for appeal, or by ordering him to enter into a recognizance to attend at a stated time and place, or by ordering him to be caned forthwith if the offender elects to abandon his right of appeal.

Clause 2 of the bill consolidates the existing provisions relating to the award of corporal punishment, which at present appear partly in the Corporal Punishment Ordinance and partly in two different sections of the Magistrates Ordinance. This clause reproduces the existing law, subject to one change of substance, namely, that in the case of those offences for which a male person of 16 years or more may be caned, such a sentence may in future be imposed either in addition to or in lieu of any other punishment awarded for the same offence. At present a sentence of caning can only be imposed on male adults in addition to some other punishment awarded for the same offence. This amendment will enable a court to award corporal punishment alone in those cases where it thinks this is appropriate.

*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 (SIR HUGH NORMAN-WALKER).

*Question put and agreed to.*

**Corporal Punishment (Amendment) Bill—second reading***Explanatory Memorandum*

The principal purpose of this Bill is to consolidate the law relating to corporal punishment at present contained in differing provisions of the principal Ordinance and of Part VI of the Magistrates Ordinance.

There is a minor change of substance in subsection (1) of the new section 3 which provides that a person of 16 or more may be caned, upon conviction of any offence specified in Part I of the Schedule to the principal Ordinance, in lieu of or in addition to other punishment. Under the existing section 3 caning for a scheduled offence must be additional to other punishment. Otherwise the new section restates the existing law on corporal punishment.

The Bill also seeks to confer certain ancillary powers on a Court which imposes a sentence of caning where the convicted person will not be in custody at the time when the sentence of caning is due to be carried out. The new section 3A provides that his attendance may be secured by a recognizance or by remanding him in prison custody or to a training centre or other appropriate place of detention. Also, if the offender abandons his right of appeal, the sentence may be carried out forthwith.

Clause 6 makes appropriate consequential amendments to the Magistrates Ordinance.

**URBAN COUNCIL (AMENDMENT) BILL 1970**

THE ATTORNEY GENERAL (MR ROBERTS) moved the second reading of: —“A bill to amend further the Urban Council Ordinance.”

He said: —Sir, honourable Members will recall that those provisions of the Urban Council Ordinance which prescribe the qualifications for registration as an elector were extensively amended in 1966\*, following recommendations of the Report of the Working Party on the Urban Council Franchise and Electoral Procedure which was published in 1965. Experience since 1966 has shown that further minor amendments to the Ordinance are required to overcome certain difficulties experienced in its operation, to recognize changes in the Secondary School Examination system and to include certain additional professional bodies in the list of those organizations, members of which are entitled to be registered as electors.

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\* 1966 Hansard, pages 246 and 289.

It is intended, if this bill is enacted, to introduce these changes before the next registration cycle, which begins on the 15th February next year.

Clause 2 of the bill replaces section 11 of the Ordinance, which at present provides that a notice of resignation by an Unofficial Member of the Urban Council will take effect on the date of its receipt by the Chairman. The proposed new section 11 will enable an Unofficial Member to give a notice of resignation taking effect on a date specified by him in his notice and only on receipt of the notice by the Chairman if a Member does not specify a date himself.

Clause 3 of the bill extends the class of persons entitled to be registered as electors so as to include graduates of an approved postsecondary college, persons holding the Hong Kong Certificate of Education in certain grades and certain subjects and persons who have passed the General Certificate of Education or of the Advanced Level Examination of the University of Hong Kong at specified levels.

A new subsection (2A) is added to section 15 of the Ordinance so as to permit a person to have his name included in the Register of Electors if, in the opinion of the Registration Officer, that person has educational qualifications which are equivalent to those which are set out in paragraph (w) of section 15 of the Ordinance.

Section 24 of the Ordinance requires at present that a Returning Officer shall be appointed in December of every year, failing which the person last appointed is required to continue to perform these duties. This might cause difficulties if the Returning Officer were absent from the Colony for a substantial time during the year. Clause 4 of the bill therefore introduces a more flexible provision, which will enable the Governor to appoint or replace Returning Officers from time to time as occasion demands.

Clause 5 extends the list of professional institutions, which is contained in the Second Schedule to the Ordinance, membership of which entitles a person to be registered as an elector. Members of the three institutions which are listed in clause 5 will consequently in future be entitled by virtue of that membership to be registered as electors.

*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).*

**Urban Council (Amendment) Bill—second reading***Explanatory Memorandum*

Clause 2 of the Bill repeals and replaces section 11 of the principal Ordinance. Under the new section 11, a notice of resignation given by an ordinary member will take effect either upon the date specified in the notice, or, if no date is specified, then upon receipt of the notice by the Chairman of the Urban Council.

2. Clause 3 amends section 15 of the principal Ordinance, and has the effect of extending the class of persons entitled to be registered as electors. In particular, persons awarded a College diploma or certificate by an approved Post Secondary College will be entitled to be registered as electors as also will persons holding the Hong Kong Certificate of Education (English) or (Chinese), with certain grades and numbers of subjects. In order to be qualified for registration as electors, holders of the General Certificate of Education at 'A' level or higher will now only require passes in two subjects, not three as formerly. A new subsection (2A) is added to permit a person who has educational qualifications which, in the opinion of the registration officer, are equivalent to those specified in paragraph (w) of subsection (2) of section 15, to have his name included in the register of electors.

3. Clause 4 repeals and replaces subsection (1) of section 24 of the principal Ordinance. The new subsection (1) provides for the appointment by the Governor of a returning officer, who will continue to hold office until his appointment is revoked.

4. Clause 5 extends the list of professional institutions, contained in the Second Schedule, membership of which will entitle a person to be registered as an elector by including the Institute of Public Cleansing, the Royal Society for the Promotion of Health and the Institution of Fire Engineers.

**LAW REFORM (INTEREST ON CLAIMS AND  
JUDGMENTS) BILL 1970**

THE ATTORNEY GENERAL (MR ROBERTS) moved the second reading of:—"A bill to provide for the award of interest on claims and judgments."

He said:—Sir, the Supreme Court Rules confer on the Supreme Court power to order interest only on claims brought for a specific sum of money in that Court. There is no power to award interest on any claims in the District Court at present.

Clause 2 of the bill, read with the Schedule, inserts a new section 30A in the Supreme Court Ordinance and a new section 19A in the District Court (Civil Jurisdiction and Procedure) Ordinance, in order to bring our law in this respect into line with that in force in the United Kingdom. The new sections provide that interest, at such rate as the Court thinks fit, may be awarded in any proceedings brought for the recovery of any debt or damages, either in the Supreme Court or in the District Court.

Such interest will normally run from the date when the cause of action arose until the date of the judgment, though it will not apply in relation to a debt upon which interest is payable or authorize the award of interest upon interest.

The new sections 30B of the Supreme Court Ordinance and section 19B of the District Court (Civil Jurisdiction and Procedure) Ordinance which are also inserted by clause 2 and the Schedule, provide that interest, at the rate of 8%, or such other rate as is prescribed by rules of court, shall be payable on any judgment debt from the date of the judgment until the debt is fully satisfied. This is new to our law, but such a provision has long been in force in the United Kingdom.

*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 Schedule to the Bill inserts new sections in the Supreme Court Ordinance and the District Court (Civil Jurisdiction and Procedure) Ordinance to provide for interest to be awarded on claims and judgments in the Supreme Court and District Court. A consequential amendment is made to the Law Amendment (Miscellaneous Provisions) Ordinance.

The power to award interest will apply to liquidated and unliquidated claims and interest will run from the date the cause of action arose until the date of judgment or for such lesser period as the court orders. These provisions are modelled on section 3 of the Law Reform (Miscellaneous Provisions) Act 1934 (U.K.).

The new sections also provide that judgments will bear interest at eight *per cent* or at such other rate as is prescribed by rules of court.

**PLACES OF PUBLIC ENTERTAINMENT  
(AMENDMENT) BILL 1970**

THE ATTORNEY GENERAL (MR ROBERTS) moved the second reading of:—"A bill to amend further the Places of Public Entertainment Ordinance."

He said:—Sir, honourable Members will recall that a Commission of Inquiry was established by the Governor in Council to investigate the collapse of the stand at a tattoo held in Sek Kong in November of last year. The Commission of Inquiry's Report, which was published in April 1969\*, made a number of recommendations. Among the most important of these were that the procedure prescribed in the Places of Public Entertainment Regulations for obtaining a licence for a place of public entertainment should be clarified, that the Licensing Authority's arrangements for giving effect to that procedure should be made more simple and a standard form of application brought into use and that consideration should be given to prescribing minimum requirements for the construction and arrangement of open stands at public entertainments.

A careful study of the Places of Public Entertainment Ordinance and Regulations has been carried out, to determine what amendments are desirable, in order to give effect to the recommendations of the Commission of Inquiry. The majority of the necessary changes will be effected by amending regulations, but this bill makes a number of alterations, mainly of a minor character, to the Ordinance.

The present definition in the Ordinance of a "place of public entertainment", for which a licence is required, is wide enough to include a place on which there is no structure capable of accommodating the public, for example, a field which is set aside for a gymkhana. It is felt that this is unnecessary, since the object of the Ordinance, and of the regulations which are made under it, is to apply appropriate safety standards to buildings and structures used by members of the public attending public entertainments. Clause 2 therefore narrows the definition of a "place of public entertainment" which will in future only include places where a building of some kind, capable of accommodating the public, is erected and also vessels.

Clause 3 inserts a new section empowering the Governor to grant exemptions from any of the provisions of the Ordinance or from any of the conditions of a licence granted under it. This power is at present contained in regulation 177 of the Places of Public Entertainment Regulations but it is considered that its importance is such that it should be contained in the Ordinance rather than in subsidiary legislation.

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\* 1969 Hansard, page 222.

This power would no doubt be used where strict compliance with the regulations might impose restrictions which would interfere unnecessarily with local traditions or methods, particularly in the New Territories, provided always of course that the safety of the public could still be assured.

Section 5 of the Ordinance at present makes it an offence to alter in any way a poster exhibited in connexion with a film, after the poster has been approved for exhibition by the Film Censor. Clause 4 of the bill widens this provision to make it an offence to alter any picture, figure or text in any advertisement connected with a film, once the advertisement has been approved by the Censor. The object of this amendment is to ensure that lurid or undersirable advertisements for films are not publicly displayed.

Clause 5 cures a number of minor defects which have appeared in the section under which regulations are made and widens the power to make them in one or two minor respects, to cover provisions which are to be included in the proposed amending regulations.

Clause 6 replaces a subsection, which was drafted in an outmoded form, by a simpler provision without any alteration of substance.

Clause 7 amends the Buildings Ordinance so as to exclude from its provisions any temporary building which is to be used as a place of public entertainment under this Ordinance, since it is thought to be unnecessary for a person obtaining a licence under this Ordinance to be required also to get another one under the Buildings Ordinance.

Important changes in the law, designed to give effect to the recommendations of the Commission of Inquiry and to improve safety standards in temporary buildings put up for public entertainments will be contained in amendments to the Places of Public Entertainment Regulations. These amending regulations will be submitted to the Governor in Council as soon as this bill has been passed, since they depend to some extent upon the amendments to the regulation making power which are effected by clause 5 of this 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*

Clause 2 replaces the existing definition of "place of public entertainment". The new definition includes and place on

**Places of Public Entertainment (Amendment) Bill—second reading**

*[Explanatory Memorandum]*

which there is a structure, whether temporary or permanent, capable of accommodating the public, such as a tent or a grandstand, and any vessel.

2. Clause 3 adds a new section 3A, enabling the Governor to grant exemptions; this provision is at present contained in regulations made under the Ordinance.

3. Clause 4 amends section 5(2) by providing that any picture, figure or text of any advertisement exhibited in connexion with a film and altered after being approved under subsection (1) shall be deemed not to have been so approved.

4. Clause 5 widens the regulation-making power contained in section 7 by providing that regulations may be made providing for the transfer of licences. Paragraph (g) of section 7 confers powers of entry on the Director of Fire Services and the Director of Marine.

5. Clause 6 amends subsection (3) of section 9 to make it clear that the section shall not apply to the Film Censorship Regulations, which contain a separate appeal procedure.

6. Part III of the Places of Public Entertainment Regulations relates to applications for, and the conditions attaching to, licences in respect of temporary buildings. It is considered unnecessary for a person who obtains a licence in respect of a temporary building under Part III also to be required to obtain a permit for it under the Buildings Ordinance. Therefore clause 7 excludes from the provisions of the Buildings Ordinance any temporary building which is to be kept or used as a place of public entertainment.

**MARINE STORES PROTECTION (AMENDMENT) BILL 1969****Resumption of debate on second reading (5th 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.*



**PAWNBROKERS (AMENDMENT) BILL 1969****Resumption of debate on second reading (5th November 1969)**

*Question again proposed.*

THE ATTORNEY GENERAL (MR ROBERTS): —Sir, honourable Members will recall that, when moving the adjournment of the Second Reading on the 5th November, the Colonial Secretary stated that this adjournment was proposed in order that the Hong Kong and Kowloon Pawnbrokers Association Limited should have an opportunity to put forward for consideration by the Government various criticisms and suggestions for the improvement of the bill\*.

The Government has now had an opportunity to consider the representations which were put forward on behalf of the Association and it is proposed to move a number of amendments at the Committee Stage to meet some of the points put forward.

Since there has been an interval of 6 weeks between the First and Second Readings of this bill, it is proposed to amend the commencement date from the 1st February to the 1st April 1970, to enable the necessary alterations to be made to pawnbrokers' books before the bill comes into operation.

The Association suggested that the new section 8A should be deleted from the bill, arguing that, as drafted, it is unduly severe, since it enables a court to suspend or cancel a licence on the conviction of the licensee of any offence under the Pawnbrokers Ordinance, however trivial. The Government accepts that there is considerable substance in this argument and I therefore propose to move at the Committee Stage that the words "any offence under this Ordinance" be deleted from the second and third lines of the proposed new section 8A which is to be found on page 2 of the bill. If this amendment is accepted, it will mean that the power to cancel, suspend or disqualify under section 8A will only be available where a pawnbroker has been convicted of an offence involving dishonesty and punishable by imprisonment for not less than 12 months.

The Association also argued that the Ordinance should include some provision whereby, if an order of suspension or cancellation were made, the pawnbroker should still be allowed to carry on his business so far as the redemption of pledges already made was concerned. I am grateful to the Association for drawing my attention to this gap in the bill and I propose to move at the Committee Stage that a new subsection (4) be added to the new section 8A so as to allow a pawnbroker to wind up his business if an order of suspension or cancellation is made against him.

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\* Page 135.

[THE ATTORNEY GENERAL] **Pawnbrokers (Amendment) Bill—resumption of debate on second reading (5.11.69)**

With regard to clause 4 of the bill, the Association asked that a pawnbroker should be entitled to receive goods in pawn from a person over the age of 17 years instead of 18 and an amendment to effect this will also be moved at the Committee Stage.

The Association urged that section 28 of the main Ordinance should be amended, in order to oblige the owner of goods to pay to the pawnbroker the amount advanced plus interest, before the owner could obtain possession of goods which had been stolen or unlawfully obtained, provided that the pawnbroker had taken certain precautions, which the Association suggested should be listed in the section.

However, I suggest that the existing section 28 does provide an adequate protection to a pawnbroker who has acted in good faith and taken reasonable precautions, since the section gives the court power to order goods to be restored to the rightful owner, with or without payment by the owner to the pawnbroker of the amount of the loan, according to the conduct of the owner and the pawnbroker and the other circumstances of the case. It is, I believe, better to leave the courts with this discretion than to attempt to list in detail all the circumstances which must be satisfied before relief can be given to a pawnbroker.

The Association also asked that consideration should be given to extending the hours during which pawning is permitted on special occasions, such as Lunar New Year's Eve. The Governor in Council already has power under the Ordinance to extend permitted hours by regulation and the Association has been asked to put forward for consideration by the Governor in Council any suggestions which it may have for such extensions.

I would like in conclusion to express my appreciation of the comments made by the Association, which have helped to improve the bill.

MR Y. K. KAN: —I am not in entire agreement with my honourable Friend the Attorney General on the proposed amendment of section 8A which is dealing with conviction of an offence involving dishonesty and punishable by imprisonment of not less than 12 months. Perhaps it will be more convenient when the bill goes to committee stage when the amendments are proposed that I shall address my remarks further.

*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.*

### **DUTIABLE COMMODITIES (AMENDMENT) BILL 1969**

#### **Resumption of debate on second reading (3rd December 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.*

### **EMPLOYMENT (AMENDMENT) BILL 1970**

#### **Resumption of debate on second reading (3rd December 1969)**

*Question again proposed.*

DR S. Y. CHUNG: —Your Excellency, I believe it is generally accepted that there should be equal pay for equal work. Industries, in particular manufacturing industries, generally do not discriminate against women and the same piece rates for payment by results, as far as I am aware, are applicable to both male and female employees. It is therefore proper that the proposed Employment (Amendment) Bill should provide only the right of female employees for taking maternity leave but without pay.

It should however be realized that legislation only specifies the legal minimum and employers should be encouraged to offer to their employees more benefits than that of the legal minimum. Some employers are already providing paid maternity leave and, in view of the increasing shortage of labour, it is likely that more employers will offer better conditions of employment than that specified by legislation in order to attract labour to work for them.

Talking about the legal minimum provided by the Employment Ordinance, I would like to refer, with your permission, Sir, to subsection (3) of section 5 of the principal Ordinance 1968. This

[DR CHUNG] **Employment (Amendment) Bill—resumption of debate on second reading (3.12.69)**

subsection prescribes the minimum period of notice to be given to and by employees for termination of services during the probational period.

Recently a case was brought to my attention in a quasi-governmental organization involving the interpretation of this subsection 5(3). A written contract of employment entered into between that organization and one of its employees specified firstly, a three-months probationary period for the employee and secondly, that while the employee was on probation either party might terminate the contract by giving to the other party not less than one month's notice, or payment in lieu of notice.

The employee concerned resigned during his probationary period without giving the employer either one month's notice or payment in lieu of the notice. The employer sought legal opinion from advisors both within and outside government, but was told that the periods of notice specified in subsection (3) of section 5 of the principal Ordinance are mandatory and cannot be varied even with the consent of the employee and even where such variation would represent an increased benefit to, or additional protection for, the employee.

My honourable Friend, the Commissioner of Labour, will no doubt recall the events that occurred during consultation with the various employers' associations prior to the enactment of the principal Employment Ordinance, as a result of which the proposed period of notice in paragraph (b) of subsection (3) of section 5 of the principal Ordinance was reduced from one month to seven days—at the request of the employers' associations.

Now I think it is obvious that the longer the period of notice that an employer must give an employee, the greater the degree of job protection conferred upon that employee; and I believe, therefore, that it was the intention of the Employment Ordinance (though not apparently the wording of that Ordinance) that employers and employees should be permitted to mutually contract out of the mandatory minimum provisions of the Ordinance if it was in the employee's own interests to do so; by offering and accepting, for example, a period of one month's notice instead of seven days notice only during any probationary period of service.

Sir, I now come back to the Employment (Amendment) Bill 1970. The proposed new section 35A under clause 8 prohibits contracting out of the provisions of the Ordinance only where this would result in

a *reduced* benefit or protection being conferred upon the employee. I submit, Sir, that a longer period of notice for termination of contract likewise represents an increased benefit and an additional protection for the employee *not* a reduced benefit; and since the period of notice required for the termination of a contract is a major condition of employment, I feel strongly that consideration should be given to amending subsection 5(3) of the principal Ordinance so that longer periods of notice than those now specified in the Ordinance could be offered to and accepted by those categories of employees who fall within the provisions of the Ordinance.

With these remarks, Sir, I beg to support the motion before Council.

MR R. M. HETHERINGTON: —Sir, I am grateful to my honourable Friend, Dr CHUNG, for the support which he has given, on behalf of the Unofficial Members of this Council, to this bill.

It is correct to say that, in general, labour legislation prescribes minimum statutory requirements. I have said many times in this Council that I hope that, where more favourable conditions of employment can be offered, the parties concerned would not be inhibited from providing them.

Dr CHUNG draws special attention to subsection 3 of section 5 of the principal Ordinance which deals with the question of the period of notice while an employee is on probation. The formulation of this particular subsection presented considerable difficulties because of the divergent views on what constituted reasonable notice for an employee on probation. Some argued that no notice should be required during the first six months. My personal view was that it was reasonable to require no notice only during the first month of probation. This was accepted and it was also decided to require notice of not less than seven days during the second and third months.

There is nothing in the Ordinance which prevents either party during the first three months of probation from giving, either voluntary or in accordance with an agreement, longer notice of termination than this particular subsection provides. However, it is open to either party to fall back on the statutory requirements in the provision despite agreement to the contrary. This is substantially the advice which Dr CHUNG has received.

It is not easy to assess the balance of advantages in all the variety of circumstances which may arise in terminating employment during probation. I admit that the provisions of section 5(3) are something of a compromise but as far as I am aware, it has worked

[MR HETHERINGTON] **Employment (Amendment) Bill—resumption of debate on second reading (3.12.69)**

reasonably well. Nonetheless, I am quite willing to give further consideration to Dr CHUNG's suggestion and I will take the appropriate steps to consult those whose interests may 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.*

**Committee stage**

**ANIMALS AND BIRDS (RESTRICTION OF IMPORTATION AND POSSESSION) 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.

**TOWN PLANNING (AMENDMENT) BILL 1969**

Clauses 1 to 6 were agreed to.

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

Clauses 1 to 3 were agreed to.

**MIDWIVES REGISTRATION (AMENDMENT) BILL 1969**

Clauses 1 to 6 were agreed to.

Council then resumed.

**Third reading**

THE FINANCIAL SECRETARY (SIR JOHN COWPERTHWAIT) reported that the Animals and Birds (Restriction of Importation and Possession) 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.

MR J. J. ROBSON reported that the Town Planning (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.

THE ATTORNEY GENERAL (MR ROBERTS) reported that the Law Revision (Miscellaneous Repeals.) (No 2) 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.

DR P. H. TENG reported that the Midwives Registration (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.

### ADJOURNMENT

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

3.34 p.m.

### NEXT SITTING

HIS EXCELLENCY THE PRESIDENT: —Council will accordingly adjourn. The next sitting will be held on 7th January 1970.

*Adjourned accordingly at twenty-five minutes to Four o'clock.*