

OFFICIAL REPORT OF PROCEEDINGS**Wednesday, 12th April 1972****The Council met at half-past Two o'clock**

[Mr PRESIDENT in the Chair]

PRESENT

HIS EXCELLENCY THE GOVERNOR (*PRESIDENT*)
SIR CRAWFORD MURRAY MACLEHOSE, KCMG, MBE
THE HONOURABLE THE COLONIAL SECRETARY
SIR HUGH SELBY NORMAN-WALKER, KCMG, OBE, JP
THE HONOURABLE THE ATTORNEY GENERAL
MR DENYS TUDOR EMIL ROBERTS, CBE, QC, JP
THE HONOURABLE THE SECRETARY FOR HOME AFFAIRS
MR DONALD COLLIN CUMYN LUDDINGTON, JP
THE HONOURABLE THE FINANCIAL SECRETARY
MR CHARLES PHILIP HADDON-CAVE, JP
THE HONOURABLE DAVID RICHARD WATSON ALEXANDER, CBE, JP
DIRECTOR OF URBAN SERVICES
THE HONOURABLE JAMES JEAVONS ROBSON, JP
DIRECTOR OF PUBLIC WORKS
THE HONOURABLE JOHN CANNING, JP
DIRECTOR OF EDUCATION
DR THE HONOURABLE GERALD HUGH CHOA, JP
DIRECTOR OF MEDICAL AND HEALTH SERVICES
THE HONOURABLE DENIS CAMPBELL BRAY, JP
DISTRICT COMMISSIONER, NEW TERRITORIES
THE HONOURABLE PAUL TSUI KA-CHEUNG, OBE, JP
COMMISSIONER OF LABOUR
THE HONOURABLE IAN MACDONALD LIGHTBODY, JP
COMMISSIONER FOR RESETTLEMENT
THE HONOURABLE ERNEST IRFON LEE, JP
DIRECTOR OF COMMERCE AND INDUSTRY
THE HONOURABLE SIR YUET-KEUNG KAN, CBE, 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, OBE, JP
THE HONOURABLE HERBERT JOHN CHARLES BROWNE, OBE, JP
THE HONOURABLE LEE QUO-WEI, OBE, JP
THE HONOURABLE OSWALD VICTOR CHEUNG, OBE, QC, JP
THE HONOURABLE GERALD MORDAUNT BROOME SALMON, JP
THE HONOURABLE ANN TSE-KAI, OBE, JP
THE HONOURABLE LO KWEE-SEONG, OBE, JP

ABSENT

DR THE HONOURABLE CHUNG SZE-YUEN, OBE, JP

IN ATTENDANCETHE CLERK TO THE LEGISLATIVE COUNCIL
MR RODERICK JOHN FRAMPTON

Papers

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

<i>Subject</i>	<i>LN No</i>
Subsidiary Legislation: —	
Detention Centres Ordinance 1972.	
Detention Centres Regulations 1972	71
Telecommunication Ordinance.	
Telecommunication (Amendment) Regulations 1972	72
Telecommunication Ordinance.	
Telecommunication Exemption (Cancellation) Order 1972	73
Gasholders Examination Ordinance.	
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Interpretation and General Clauses Ordinance.	
Change of Title of Office	75
Public Health and Urban Services Ordinance.	
Declaration of Markets in Urban Areas to which the Ordinance Applies	76
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Food Business (New Territories) (Amendment) Regulations 1972	78
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Offensive Trades (New Territories) (Amendment) Regulations 1972	79
Rating Ordinance.	
Rating (Miscellaneous Exemptions) (Amendment) Order 1972	80

Sessional Paper 1971-72: —

No 52—Annual Report by the Commissioner of Police for the year 1970-71
(published on 12.4.72).

Oral answers to questions

Correspondence in Chinese from Inland Revenue Department

1. MR P. C. WOO asked: —

Will Government say whether Chinese versions are attached to letters and forms sent to the public by the Inland Revenue Department? If not, when can this practice be introduced?

THE SECRETARY FOR HOME AFFAIRS (MR D. C. C. LUDDINGTON): —Sir, taking the question of letters first, the position in the Inland Revenue Department is that case letters are still only sent out in English with a standard invitation printed in Chinese to the addressee to call on the department to discuss personally in case an oral explanation in Chinese is required to be given. This is as far as the department has gone so far because translation work in this field is of a highly technical nature and considerable research is required before further implementation.

Taking the question of forms, the position is that the great majority, but still not of all, the forms sent to the public are already bilingual and members of the public can complete, and indeed have completed, such forms in the Chinese language. The remaining untranslated forms in use with persons other than corporations are scheduled for translation when they are next re-printed.

The Chinese Language Committee recommended in its Second Report that letters to Chinese-speaking members of the public as well as replies to Chinese letters should be in Chinese with, if legal or technical difficulties are anticipated, an English translation and the proviso that the latter should prevail in case of a dispute. As honourable Members are aware, this recommendation was accepted as a general rule by Government in January 1972. The Commissioner of Inland Revenue is fully conscious of what has to be done to implement this new policy of Government. As a first step, an exercise is now in hand between his department on the one hand and my department as the Chinese Language Authority on the other. The aim of this exercise is to have all the necessary forms rendered bilingual. At the same time the Commissioner for Chinese Language, who was appointed on 13th March 1972, is now formulating his proposals for staff and other resources for the Chinese Language Authority to implement the policy of Government on the use of the Chinese Language. As soon as the staff and other resources are available the Commissioner for Chinese Language will go further into the issue of sending letters to the public in Chinese with the Commissioner of Inland Revenue.

Oral Answers

MR WOO: —Sir, the point I had intended to ask is the question that the public is required to attend personally at the Inland Revenue Department for any explanations. If the public were to think it is really a requirement they would have to go, and when they go there they find that they have to wait for a long time. I would like to ask, Sir, that the Inland Revenue Department would send these letters in Chinese as soon as possible, if it can be done.

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

MR WOO: —My question is the last point, Sir, that the Inland Revenue Department be asked to have these letters sent in Chinese—in bilingual form—as soon as possible.

Road speed limits

2. MR G. M. B. SALMON asked: —

Will Government introduce a 40 m.p.h. speed limit where 30 m.p.h. or unrestricted speed is inappropriate?

THE FINANCIAL SECRETARY (MR C. P. HADDON-CAVE): —Sir, Government is now actively considering the question of introducing speed limits other than the present 30 m.p.h. applicable on certain roads or unrestricted speeds on all other roads. This review is being linked to the completion of the new limited access roads in the urban areas which are now under construction, that is to say, roads access to which can only be obtained by specially constructed merging roads and where pedestrians are segregated. When these roadworks are completed, detailed surveys of traffic movements on them will be conducted to determine appropriate speed limits—appropriate, that is to say, in terms of road use, on the one hand, and safety, on the other.

Preliminary surveys are also being carried out to determine whether, with the increase in the volume of traffic, some roads at present unrestricted should be subject to a speed limit, which would not necessarily need to be as low as 30 m.p.h. The three departments most directly concerned, namely Transport, Public Works and the Police, are working very closely together on these surveys and the evaluation of the data.

SIR YUET-KEUNG KAN: —Sir, in the meantime would it be too much to ask that the Police be directed to lean slightly backwards and not to pick people up for driving at slightly over 30 miles per hour along

Harcourt Road; or will the honourable Attorney General consider this proposal a monstrous one?

THE COLONIAL SECRETARY (SIR HUGH NORMAN-WALKER): —The answer to the last part of the question is I am sure "yes", Sir. The answer to the first part of the question is I think it would be too much to ask.

Proposal for Hong Kong Youth Volunteer Service

3. MR SALMON asked: —

Will Government take steps to form a Hong Kong Youth Volunteer Service to make greater use of young people in giving various forms of unpaid community service such as cleaning up the countryside?

THE COLONIAL SECRETARY (SIR HUGH NORMAN-WALKER): —Sir, I confess that I am not altogether clear just what the honourable Member has in mind, though I am sure our minds do jump together on what he and we both desire to achieve. If his suggestion is that there should be a single regimented overall Hong Kong Youth Volunteer Service, then I am afraid I am against it. It has been for some time the policy of both the Government and the voluntary agencies to provide the means for young people to volunteer their services in various ways to assist the community, and also to enrich their own lives and diversify their environment.

It is also obvious that people's tastes and interests differ, and it is the experience both of the Government and the voluntary agencies that the best results are achieved by providing a diversification of forms of activity in which young people can contribute to the community and to the enrichment of their own lives. The thoughts of some, for instance, turn to the mountains and to rescuing people who get lost there or stranded there. Others turn to the sea and rescuing people who get into trouble on the beaches or take to the sea itself in small boats. Others turn to first-aiding in various forms.

I think I can say that this policy of proliferating forms of youth activity has been successful. In 1968 the number of young people who volunteered to organize the Summer Programme was just over 6,000. In 1971—last year, 3 years later—there were more than 18,000, and I may say they looked after some 800,000 kids. To take the same period, in 1968 there were 26,000 young members of the various uniformed organizations—the Junior Leaders, the CAS Cadets, the Boy Scouts and the Girl Guides, and many others—and by the end of 1971

[THE COLONIAL SECRETARY] **Oral Answers**

their numbers had risen to over 36,000. The membership of the Youth Service Groups run by the Social Welfare Department rose in the same period from 180 to 1,700. The Association of Volunteers for Service started off its first year of existence in 1971 with an enrolment of 3,500.

I do not see amalgamation of the very various and varied bodies concerned as either desirable or necessary, but I would be willing to be convinced outside the Chamber by the honourable Member. The groups that we already have bring together young people of differing objectives and differing characteristics, and I think it better myself to encourage their natural growth by making use of the spirit and enthusiasm and initiatives which led to their original formation.

A number of volunteers have already set a good example in cleaning up our beaches, and have made some inroads into the problems of litter and pollution. The latter problem has however, in my opinion, reached such proportions that it would be living in cloud cuckoo land to hope that a sole reliance on unpaid volunteer labour would solve the problem. All the assistance that voluntary effort can give is valued and welcome. And more is needed. Indeed, directly you, Sir, adjourn this Council, Finance Committee will meet and among other proposals presented to it will be those for the forthcoming "Keep Hong Kong Clean" campaign, and I hope Members will feel able to endorse those proposals.

But I can assure the honourable Member that the need to harness the energies and initiative of our young people to the common good and their own advantage is the aim of this Government.

MR SALMON: —Sir, would my honourable Friend consider that voluntary service, such as building a concrete footpath which the Shaukeiwan Technical School did over the Easter weekend, would be more effective if schools, organizations and even individuals registered for such service at some central headquarters and their activities were co-ordinated and directed where co-ordination is most needed?

THE COLONIAL SECRETARY (SIR HUGH NORMAN-WALKER): —Co-ordination and direction are of course desirable and are, I think, furnished adequately by existing organizations. But I would be very glad to hear from my honourable Friend details of any instance which has come to his notice where a lack of co-ordination or direction has led to delay or even the abandonment of a project. I can only say that no such instance has come to my notice.

Proposal for KCR extension to Castle Peak

4. MR T. K. ANN asked: —

Would Government consider the feasibility of an extension of the existing railway to Castle Peak so as to encourage people and industries to move into that area?

THE FINANCIAL SECRETARY (MR HADDON-CAVE): —Sir, when the statutory plan for Castle Peak was being prepared the Government looked into the possibility of extending the present railway to cover Yuen Long and Castle Peak. However, after a very careful examination it was concluded that this proposal was neither advisable nor practical.

First, as regards passengers: it is clear that more passengers living in Castle Peak would wish to go direct to the urban areas in Kowloon and Hong Kong Island by way of Tsuen Wan than by way of Fanling and then travel by the more roundabout route of the existing railway to the future terminus at Hung Hom. The Mass Transit Railway would, if it is built, terminate at Tsuen Wan, but it could be extended to Castle Peak at a later stage, in which case it would better meet the needs of potential passengers than would an extension of the KCR line. Such an extension would be considered when passenger demand justified the construction costs involved; and I should add that demand at the present time would be a long way short of justifying extending the present railway.

Secondly, as regards freight: it is not our view that an extension of the railway would be of much help in moving goods between Castle Peak and the rest of the Colony. To use the railway for this purpose would involve double or triple handling and lorry transport on roads is more efficient for the internal movement of goods.

For these reasons and the time it would take to build and extend the Mass Transit Railway, it is clear that, for a long time to come, communications with Castle Peak will have to be by road. In this connection, I should remind honourable Members, Sir, that there is an item in the Public Works Programme for the construction of a new dual carriageway road from Tsuen Wan to Castle Peak as well as improvements to the existing road between these points. My honourable Friend the Director of Public Works explained the present position on this new road at some length in his speech in the budget debate in this Council on 29th March last.

Oral Answers

Drug abuse

5. MR WILFRED S. B. WONG asked: —

Will Government take stronger measures to co-ordinate all types of activities, including publicity, against drug abuse in Hong Kong, in order to make greater headway in combating the local use of all types of narcotics?

THE SECRETARY FOR HOME AFFAIRS (MR LUDDINGTON): —Sir, the simple answer to my honourable Friend's question is "Yes". However, I think that I should explain that we propose to strengthen our activities rather than the "measures to co-ordinate" them.

The present situation is that the Action Committee Against Narcotics under the chairmanship of Dr the Honourable Sir Albert RODRIGUES is responsible under its terms of reference "to ensure co-ordination and co-operation between all Government and voluntary agencies working towards the elimination of the narcotic and other illicit drug traffic in Hong Kong and the cure and rehabilitation of drug dependents, and to enlist public support for these aims and objects". Besides the Chairman there are eighteen members on this Committee, ten representing different Government departments and eight representing professional and voluntary agencies.

The main committee has appointed four sub-committees, recently reduced from five, dealing with different aspects of its work, deterrents, education and publicity, research, and treatment and rehabilitation, each with representation from appropriate departments and agencies.

Thus machinery for co-ordination has been well established since 1965. This machinery obviously requires review from time to time and may well need to be changed. However, what I have been more concerned about since I have had the opportunity in this post to study the problem of drug abuse is the adequacy of official personnel devoting exclusive attention to different aspects of what is an alarming challenge to the Government and the community of Hong Kong. Alarming because we do not know enough about drug abuse and because it represents a particular threat to the young people on whom the future of Hong Kong depends. I have learned, from attendance at international conferences at Ottawa and Canberra, the difficulties which other and more advanced countries are having with drug abuse and what effort and investment are required to deal with it despite many advantages which we do not enjoy here in Hong Kong. In my view this Government is inevitably going to have to devote more funds and effort to meet this challenge so that we have adequate research, preventive, educational and treatment facilities.

I do not wish to give the impression that ACAN and the departments have been static. Both the Narcotics Bureau of the Royal Hong Kong Police Force and the Preventive Service have had successes with seizures and arrests. During 1971, 151 pounds of heroin, 12,446 pounds of opium and 779 pounds of morphine were seized. These are large seizures, but I am afraid, not enough to disrupt the local market. The Commissioner of Prisons has recently established at Ma Po Ping on Lantau Island a new treatment centre for 600 inmates, thus virtually doubling the capacity of his treatment centres. Much work has been done to prepare for the establishment of pilot schemes to test the suitability in the local context of methadone, a synthetic narcotic given under a controlled programme to stabilize and rehabilitate heroin addicts who have not responded to withdrawal treatments. This Council will, I hope, shortly be asked to approve the necessary funds.

In the field of publicity and education ACAN, with the assistance of the Government Information Services, has sponsored and continues to sponsor co-ordinated publicity campaigns, which include films, publications, posters, cartoons, exhibitions and seminars designed to bring home to people the risks inherent in experimentation with narcotics and what treatment is available. A film has just recently been made specifically aimed at young people. I am pleased to learn that this has been well received by both commercial cinemas and by groups conducting anti-narcotics studies. Preparatory work has been done with a view to the publication of a comprehensive handbook in Chinese and English versions dealing objectively with all aspects of drug abuse which threaten our community and the measures taken to deal with them. In addition, kaifongs, societies and mass media have taken the initiative to organize exhibitions, discussions and articles dealing with drug abuse.

My department has just established a central registry of drug addicts and dependents where we hope eventually to collect vital information about individual addicts and any treatment they have undergone so that we can gradually assess more accurately the patterns of addiction and dependence and the effectiveness of different forms of treatment and maintenance.

I must emphasize that while Government must obviously give a lead in the fight against drug abuse it will never be possible for this or any Government to control every drug or substance liable to be the subject of abuse leading to dependence. The final decision whether or not to retreat behind a shield of drugs and thus to risk the prison of addiction must eventually rest with the individual.

Sir, I apologize for having started with a one word answer and then gone on with a long elaboration. But this is a subject which demands study in great depth and I am determined to see that all

[THE SECRETARY FOR HOME AFFAIRS] **Oral Answers**

relevant departments of Government shall have adequate staff who can devote their full time to the implementation of Government's policy "to do its utmost to suppress drug addiction in Hong Kong". I trust that this Council will support these endeavours and so convince our community that we can, and will, succeed in that policy.

Sports in schools

6. MR K. S. LO asked: —

Would Government actively encourage the formation of school leagues to develop and promote sports and games?

MR J. CANNING: — Sir, my honourable Friend has asked whether Government will actively encourage the formation of school "leagues" to promote sports and games.

By "leagues" I assume he means the system in which football is organized both here and abroad and in which a constant public interest is maintained as teams ascend or descend the league table.

I am pleased to inform honourable Members that this system applies also to our school sports and games here. The Hong Kong School Sports Association and, in the New Territories, the New Territories Schools' Sports Association, actively organize such competitions for 14 major sports for boys and girls in secondary schools, and about 6 for primary schools. All of these sports are organized in a grading system and, in the more popular sports like soccer and basket ball, into ability divisions also. Results of these matches and competitions together with the positions of teams in these leagues can be seen in the Colony's newspapers.

Each of these associations is assisted by officers of my Physical Education Section and financially by a Government subvention of \$30,000. It is my policy to give such encouragement and assistance, as may be possible, to both of these organizations to promote sports and games in our schools.

MR LO: —Sir, I would like to ask my honourable Friend whether he is satisfied with the number of schools now participating and, if not, will his department endeavour to encourage more schools to participate; and to this end would he consider the sum of \$30,000 allocated sufficient?

MR CANNING: —Sir, the evidence is that more and more schools are joining in these competitions and, of course, the associations I mentioned are doing their best to encourage schools to join. As the activities of the associations expand and develop, no doubt they will be asking for more funds and these requests for funds will, I think, be processed in the usual channels.

Antiseptics containing hexachlorophene

7. MR WONG asked: —

Will the Director of Medical and Health Services explain whether or not it is considered necessary to issue a warning against the injurious effects of the use of certain antiseptics containing hexachlorophene?

DR G. H. CHOA: —Sir, hexachlorophane is a constituent in a wide range of medical products, disinfectants, toiletries and cosmetics.

With regard to the medical products containing hexachlorophane it has been decided to follow the action taken by the United Kingdom Government, that they should be used only on medical advice. Doctors of the Department have been advised regarding the use of such products, especially for infants. The Medical Associations have also been kept informed of available information on the subject.

It is, however, not considered necessary to ban other preparations containing hexachlorophane for general use. It should be noted that experience of the human use of hexachlorophane extends for over 22 years, but the Committee on Safety of Medicines in the United Kingdom is unaware of any evidence that preparations containing hexachlorophane are harmful to human adults or infants when used in accordance with the manufacturer's instructions.

MR WONG: —Sir, is there any possibility of brain damage if a child were to lick ointment containing hexachlorophane?

DR CHOA: —Sir, evidence of brain damage has only been demonstrated in animal experimental studies; and I am also glad to be able to assure the honourable Member that under these circumstances brain damage has been shown to be reversible after stopping the use of hexachlorophane.

Government business**Motion (in Committee)****SUPPLEMENTARY PROVISIONS FOR THE PERIOD FROM
16TH SEPTEMBER 1971 TO 31ST DECEMBER 1971**

Council went into committee, *pursuant to Standing Order No 58(2)*, to consider the motion standing in the name of THE FINANCIAL SECRETARY (MR HADDON-CAVE).

THE FINANCIAL SECRETARY (MR HADDON-CAVE) moved: —

That this Council approves the supplementary provisions for the period from 16th September 1971 to 31st December 1971, as set out in Paper No 3 of 1971-72.

He said: — Sir, the schedule for the period 16th September to 31st December 1971 covers supplementary provisions totalling \$116 million. Of this sum, Public Works Non-Recurrent accounts for \$47.9 million, made up largely of \$17.5 million required to meet the cost of new projects upgraded to Category A of the Public Works Programme, \$15.7 million required as a result to faster progress on existing projects and \$7.7 million due generally to increased costs.

Another sum of \$27.3 million is required to meet contributions under the terms of the new Defence Costs Agreement for the five years 1971-72 to 1975-76. Of this sum, \$20 million is to finance capital works for the Services and \$7.3 million is for maintenance of Services buildings and new minor works. The provision required is partly offset by savings of \$15.9 million in respect of major capital works, maintenance and minor works, the costs of which were to be reimbursed by Her Majesty's Government under the terms of the old agreement. Under the terms of the new agreement, the Hong Kong Government has accepted a commitment to pay for all capital works within the approved ceiling for such work, and to pay for all maintenance and new minor works for the Services.

There are two items in the schedule, Sir, to meet payments to the Kowloon Motor Bus Company. The first concerns payment of \$5.2 million to compensate the Company for the effects of the regularization of public light buses on the Company's profitability in its financial year 1971-72. The second payment of \$6.3 million is to implement, with effect from 1st October 1971, a subsidized student monthly ticket scheme for secondary students travelling on KMB's buses. Briefly, Government pays the Company a subsidy of \$9 for each student monthly ticket issued and also reimburses the Company the second half of the fare incurred by students travelling on New Territories routes.

The Finance Committee has approved all the items in the schedule and the purpose of this resolution is to seek the covering authority of honourable Members of this Council.

Question put and agreed to.

Council then resumed.

THE FINANCIAL SECRETARY (MR HADDON-CAVE) reported that the motion had been agreed to in committee without amendment.

Question agreed by the whole Council pursuant to Standing Order No 58(4).

Motion

DUTIABLE COMMODITIES ORDINANCE

THE FINANCIAL SECRETARY (MR HADDON-CAVE) moved the following motion: —

It is hereby resolved, in exercise of the power conferred by section 4 of the Dutiable Commodities Ordinance, as follows—

- (a) that, with effect from 6 p.m. on Wednesday, the 1st day of March 1972, that part of the Resolution of the Legislative Council published as Legal Notice No 123 in the *Gazette* on the 11th October 1963, which imposed duty on methyl alcohol, be revoked;
- (b) that, with effect from 6 p.m. on Wednesday, the 1st day of March 1972, the Resolution of the Legislative Council published as Legal Notice No 102 in the *Gazette* on the 30th June 1967, which imposed duties on hydrocarbon oils, as amended by the Resolution of the Legislative Council published as Legal Notice No 48 in the *Gazette* on the 10th April 1970, be revoked and that thereafter duty shall be payable on hydrocarbon oils at the rates set out hereunder—

DUTIES ON HYDROCARBON OILS

Duty shall be payable on hydrocarbon oils at the following rates—

- (a) Light oils—
 - Motor spirit and aircraft spirit \$1.80 per gallon
- (b) Heavy oils—
 - Diesel oil for road vehicles \$1.30 per gallon

Dutiable Commodities Ordinance

(c) Any hydrocarbon oil (other than lubricating oil) used for the production of electricity or gas by—

The Hong Kong Electric Company,
Limited;

China Light and Power Company,
Limited;

Peninsula Electric Power Company
Limited;

Cheung Chau Electric Company
Limited; and

The Hong Kong and China Gas
Company, Limited 10¢ per gallon.

He said: —Sir, this resolution was published in the schedule to the Order made by the Governor under the Public Revenue Protection Ordinance and it seeks to give legislative effect to two tax concessions proposed in my budget speech on 1st March last.

That resolution is in two parts: the first concerns methyl alcohol and the second hydrocarbon oils. I have already explained at length to honourable Members the reasons for, and the financial implications of, these proposals and I shall confine myself now to a slight amendment to that part of the resolution which deals with hydrocarbon oils.

As it was worded, paragraph (b)(ii) of the resolution would have had the effect of imposing a duty of 10 cents per gallon on heavy oil used by the electric and gas companies for any purpose. Thus, kerosene, lubricants and industrial diesel used by these companies other than for the production of gas or electricity would have been subject to duty. But the intention is that only hydrocarbon oils used by these companies for the actual production of electricity or gas should be subject to duty. Accordingly the resolution has been amended by deleting paragraph (b)(ii) and substituting paragraph (c) to give effect to the intention I have just stated.

Question put and agreed to.

First reading

DISTRICT COURT (AMENDMENT) BILL 1972

ESTATE DUTY (AMENDMENT) BILL 1972

HONG KONG TOURIST ASSOCIATION (AMENDMENT) BILL 1972

MATRIMONIAL CAUSES (AMENDMENT) (NO 2) BILL 1972**POLICE FORCE (AMENDMENT) BILL 1972****PUBLIC ORDER (AMENDMENT) BILL 1972****CHIT-FUND BUSINESSES (PROHIBITION) BILL 1972**

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

Second reading**DISTRICT COURT (AMENDMENT) BILL 1972**

THE ATTORNEY GENERAL (MR D. T. E. ROBERTS) moved the second reading of: —"A bill to amend the District Court Ordinance and to make other consequential amendments."

He said: —Sir, some years ago the Chief Justice appointed a committee to consider and advise on the revision of the District Court Ordinance. The third report of this committee dealt with the criminal jurisdiction and procedure of the District Court.

A number of the proposals which were contained in that report have already been carried into effect. The present bill gives effect to some of the other recommendations which were made by the Working Party.

Clause 2 extends the maximum period for which a person may be committed to prison by a District Judge for contempt of court from 14 days to 3 months. As perhaps honourable Members have already noted, a magistrate is empowered to imprison for contempt for up to 2 months.

The object of the amendment proposed by clause 3 is to enable the Attorney General, when a charge is transferred from the magistrate's court to the District Court for trial, to include in the charge sheet offences additional to or in lieu of those which have been included in the order of transfer drawn up by the magistrate. Clause 4 will enable the District Court to take into account, when passing sentence on an accused person, any indictable offence which the District Court has jurisdiction to try and also any offence which is triable summarily.

Clause 5 provides that a period of imprisonment imposed in default of payment of a fine may be in addition to the maximum period of 5 years' imprisonment which the District Court may normally impose.

Clause 6 repeals section 41, which confers on a District Judge the powers of a magistrate. District Judges are now Justices of the Peace

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

by virtue of section 8(c) of the principal Ordinance so that section 41 has become unnecessary.

Clause 7 removes a doubt as to whether or not the Indictment Rules, which govern trials in the Supreme Court, apply also in the District Court, and clause 8 includes in the Indictment Rules themselves a provision, which follows an equivalent English rule, that offences founded on the same facts or forming part of a series of offences of the same or similar character may be joined together in the same indictment.

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 makes amendments to those provisions of the District Court Ordinance which deal with criminal proceedings. These amendments follow recommendations of a Working Party established by the Chief Justice.

2. Clause 2 increases the period for which a person may be committed for contempt of court from fourteen days to three months. A magistrate may commit for up to two months.

3. Clause 3 makes it clear that, when a charge is ordered to be transferred from the Magistrates Court to the District Court, under Part IV of the Magistrates Ordinance, the Attorney General may include in the charge sheet offences additional to or in lieu of any included in the order of transfer.

4. Clause 4 provides that the Court may, on the application of the accused person and with the consent of the prosecution, take into consideration when passing sentence any indictable offence not included in Part III of the Second Schedule to the Magistrates Ordinance and any offence triable summarily.

5. Clause 5 provides that a period of imprisonment in default of payment of a fine may be in addition to the maximum period of five years' imprisonment which the Court may impose under section 36(2). This clause also removes the reference to hard labour from section 36.

6. Section 41, which conferred on a District Judge all the powers of a magistrate, is repealed by clause 6. Section 41 is

considered to be unnecessary having regard to the number of magistrates now available and to the fact that District Judges are justices of the peace by virtue of section 8C.

7. Clause 7 makes it clear that the Indictment Rules apply in criminal proceedings in the District Court.

8. Clause 8, following rule 3 of the English Indictment Rules, includes in the Hong Kong Indictment Rules provision that charges for offences may be joined in the same indictment if they are founded on the same facts or form part of a series of offences of the same or similar character.

ESTATE DUTY (AMENDMENT) BILL 1972

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

He said: —Sir, the object of this bill is to enable the Commissioner of Estate Duty to deal with small estates in a summary way so that legal personal representatives can obtain the grant of representation with a minimum of delay or formality if the total assets of the estate do not exceed \$100,000.

There are various formalities which must be complied with before the estate of a deceased person can be distributed. The legal personal representative files an affidavit and pays the estate duty as provisionally assessed. The Estate Duty Commissioner examines the affidavit and prepares an amending certificate of assessment or certifies that no further duty is payable. On payment of any further estate duty which is due, the Commissioner issues a schedule of property, listing each item in the estate. This is sent by the legal personal representative to the Probate Registrar, with a certificate of payment of estate duty or of non-liability pay to estate duty. The Probate Registrar then deals with the application and issues a grant of probate or of letters of administration.

The effect of this procedure is to protect the revenue by freezing the estate of a deceased person until the estate duty has been paid. It has to be followed in all cases, even though the majority of estates are not dutiable at all. Until these formalities have been completed, it is not possible for the personal representative to distribute funds to beneficiaries and relatives. The delays which are involved cause inconvenience and sometimes hardship. The system also involves the Estate Duty Office in a considerable amount of unproductive work.

The bill before honourable Members therefore amends the principal Ordinance in such a way as to enable the Commissioner of Estate Duty to dispense with the filing of an estate duty affidavit if the value of the

[THE ATTORNEY GENERAL] **Estate Duty (Amendment) Bill—second reading**

estate is expressed to be less than \$100,000 and to issue a certificate of exemption instead of the usual detailed schedule of property. This will enable the personal representative to deal with the estate forthwith.

I think this measure should be welcome to those whose task it is to administer small estates.

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 3 adds section 3A, which is based on a similar provision in the Inland Revenue Ordinance (Chapter 112), to the principal Ordinance. It enables the Commissioner to delegate his powers and duties under the Ordinance.

2. Clause 5 adds a new section (section 14A) to the principal Ordinance. The effect of the new provision is to enable the Commissioner to exempt the executors of certain small estates on which no estate duty is payable from complying with the formal requirements of subsection (6) of section 14 and to issue to such executors certificates of exemption.

3. Clause 6 amends section 23 of the Ordinance to provide that the penalties prescribed in that section shall not apply to an executor dealing with a deceased person's estate in accordance with a certificate of exemption granted to him under the new section 14A.

4. Clause 7 amends section 24 of the Ordinance by providing that the prohibitions prescribed in subsections (1), (2) and (3) of that section shall not apply in any case where the Commissioner has granted exemption under section 14A in respect of a deceased person's estate.

**HONG KONG TOURIST ASSOCIATION (AMENDMENT)
BILL 1972**

THE ATTORNEY GENERAL (MR ROBERTS) moved the second reading of: —"A bill to amend the Hong Kong Tourist Association Ordinance."

He said: —Sir, section 24 of the principal Ordinance prohibits the use of badges or emblems adopted by the Hong Kong Tourist Association without its authority. The badges which are used by the Association are set out in the Schedule to the Ordinance.

The Hong Kong Tourist Association has designed a new badge which is intended to be used in its official publications and also in the production of souvenirs of Hong Kong. In order that the Association can control its use, the new badge needs to be included in the Schedule to the Ordinance and the bill provides accordingly.

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

The object of this Bill is to make provision for another association badge in addition to the existing two badges.

MATRIMONIAL CAUSES (AMENDMENT) (NO 2) BILL 1972

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

He said: —Sir, the law governing matrimonial causes in Hong Kong has in the past closely followed English law on this subject, though there has usually been an interval between the enactment of major changes in England and their adoption in Hong Kong, so that any difficulties which may emerge in the practical working of a new English Act can be taken into account before its provisions are adopted for use here.

The English law on the subject of divorce was substantially changed by the Divorce Reform Act 1969 and the law governing nullity was codified by the Nullity of Marriage Act 1971. The bill before honourable Members amends the Matrimonial Causes Ordinance so as to adopt the provisions of these two English Acts, with such modifications as are necessary to meet the circumstances of Hong Kong.

The most important provision is contained in the new section 11, which is to be found in clause 3. This provides that in future the sole ground for divorce will be that the marriage has broken down irretrievably. If the court is so satisfied, then it must dissolve the marriage.

[THE ATTORNEY GENERAL] **Matrimonial Causes (Amendment) (No 2) Bill—
second reading**

The relative culpability of the spouses will become less important than the viability of the marriage itself, though it will still be relevant in deciding which of the parties should provide support for the other and to what extent.

By the new section 11A, which is also in clause 3, the Court can only hold that a marriage has broken down irretrievably if the petitioner satisfies it of one of the five factual situations which are set out in section 11A.

The first of these is that the respondent has committed adultery and the petitioner finds it intolerable to live with the respondent. This differs somewhat from the present law, by which a single isolated act of adultery normally entitles a petitioner to a divorce. Under the bill, however, it would not if it had in reality not affected the relationship of the parties.

The second is that the respondent has behaved in such a way that the petitioner cannot be reasonably expected to live with him. This is similar to the former ground of cruelty, though it will no longer be necessary to show that the respondents' behaviour has caused the petitioner to suffer a breakdown in health. This second basis will also wholly or partly cover the former grounds for divorce of sodomy, bestiality, rape, constructive desertion and the insanity of the respondent.

The third is that the respondent has deserted the petitioner for at least 2 years, instead of the 3 year period required at present where divorce has been founded on the ground of desertion.

The fourth is that the parties have lived apart for two years and that the respondent consents to the divorce. This introduces for the first time, though in a limited way, the concept of divorce by consent, if the parties satisfy the court that they have lived apart for not less than 2 years. It is, I think, likely that, in practice, a substantial proportion of divorces in the future will be obtained on this ground, which allows a marriage which has failed to be resolved with dignity and without the rancour and controversy which can cause such unhappy repercussions both on the parties and on their children. In New Zealand, where a similar provision has been in force for some years, about half of all divorces are now based on this particular ground.

The fifth is that the parties have lived apart for 5 years. This will enable the party who has actually been guilty of desertion to obtain a divorce after a 5 year period of separation. However, it should be noted that the new section 15B allows the respondent to a petition which is based on the 5 year separation ground to oppose the granting

of a divorce on the ground that dissolution of the marriage would result in grave financial or other hardship.

By clause 6 the court is obliged to grant a decree if it is satisfied that the ground for divorce has been established. As a result, the old grounds of connivance, collusion and condonation, which constitute at present bars to a divorce, will disappear.

The new section 15A, contained in clause 7, is intended to encourage reconciliation of the parties, in an effort to save marriages where this is possible.

Thus a court may adjourn proceedings for divorce at any time if it considers that there are reasonable grounds for hoping for a reconciliation. Also, it is provided that, if the parties live together for up to six months, this shall be generally disregarded if one of the parties seeks a divorce. At present, if spouses live together after a matrimonial offence, this amounts to a condonation of that offence and disentitles the injured party to seek relief, a situation which has discouraged many parties from making a further effort to shore up a marriage which is collapsing.

Clause 12 replaces section 20 with a new section which sets out the grounds on which a marriage may be declared void. This section substantially reproduce the present law.

Clause 16 provides that a decree of judicial separation may be granted if any of those factual situations, which must be established to show the irretrievable breakdown of a marriage, is proved.

The new provisions, as far as divorce is concerned, will have effect in relation to all marriages, whether they were entered into before or after the date of commencement, except those in relation to which a petition was presented to the court before that date. Clause 1 makes the date of commencement the 1st of July 1972. This delay is necessary in order that another bill, dealing with the powers of the courts to make separation and maintenance orders, may be put before this Council. There will also need to be some substantial alterations to the present Matrimonial Causes Rules.

Perhaps the most important aspect of this bill is that it seeks to escape from the concept of the matrimonial offence and of the guilt of the parties and recognizes that many marriages breakdown through no identifiable fault of one party or the other.

I suggest that there should be two main objectives to a good divorce law. Firstly, that marriages with a fair chance of survival should be supported. Secondly, that those which have clearly failed should be decently interred, with a minimum of embarrassment, bitterness and

[THE ATTORNEY GENERAL] **Matrimonial Causes (Amendment) (No 2) Bill—
second reading**

humiliation. I believe that this bill goes far to meet both these objectives and that it will be generally welcomed in Hong Kong.

Question proposed.

Motion made. 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 amends the principal Ordinance so as to adopt the provisions of the Divorce Reform Act 1969 and the Nullity of Marriage Act 1971 for the purposes of certain matrimonial proceedings in Hong Kong, with effect from 1st July 1972.

Clause 3 repeals section 11 of the principal Ordinance replacing it with a new section 11 which provides that the only ground for divorce is that the marriage has broken down irretrievably. The existing grounds of divorce namely, adultery, cruelty, desertion, insanity and in the case of a petition by the wife, that the husband has committed rape, sodomy or bestiality are abolished. Clause 3 also adds a new section 11A to the principal Ordinance. New section 11A(1) sets out the facts required to be proved in order to satisfy the court that the marriage has broken down irretrievably. These follow the corresponding English provisions.

Clause 6 replaces section 15 of the principal Ordinance with a new section 15. Under new section 15, connivance, collusion and condonation etc. are no longer bars to divorce. The court is obliged to grant a decree *nisi* if it is satisfied that the ground for divorce is proved. However, the court has the power to dismiss a petition or to refuse an application to make absolute a decree, if leave to petition under section 12 is obtained by misrepresentation or concealment of material facts, and the power to grant relief to a respondent.

Clause 7 introduces three new sections.

New section 15A gives the court the power to adjourn the proceedings if reconciliation is probable. This new section also provides that any one or more periods together not exceeding six months during which the parties have resumed cohabitation will not be taken into account for the purposes of ascertaining—

- (a) whether the petitioner finds it intolerable to live with the respondent, if adultery is relied on as proof of the ground of divorce;

- (b) whether the respondent has deserted the petitioner, if desertion is relied on as proof of the ground of divorce; and
- (c) whether the period for which the parties to the marriage have lived apart has been continuous if the petitioner alleges that the parties have lived apart continuously.

If the petitioner alleges adultery, and has nevertheless resumed cohabitation with the respondent for a period or periods together exceeding six months, after he has known of the adultery committed by the respondent, the petitioner is not allowed to rely on that adultery as proof of his ground of divorce.

New section 15B empowers the court to refuse a decree where the respondent opposes the petition on the ground of hardship and the court is satisfied that dissolution of the marriage would result in grave hardship to the respondent.

New section 15C empowers the court to refuse to make absolute a decree *nisi* granted in respect of a petition which alleges that the respondent has given his consent to the divorce if the court, on application by the respondent, is satisfied that the respondent has been misled in arriving in his decision as to whether to give his consent.

Clause 8 amends section 16 of the principal Ordinance so as to make it no longer possible for the Proctor to intervene on the ground of collusion in a petition for divorce.

Clause 10 adds a new section to the principal Ordinance so as to provide for consideration by the court before a decree *nisi* is made absolute of financial provisions to be made by the petitioner for the respondent.

Clause 11 adds new sections 18A and 18B to the principal Ordinance. New section 18A provides that the court may not dismiss a petition or application to make absolute a decree *nisi* of divorce on grounds of collusion or misconduct of the petitioner. New section 18B enables rules to be made by the Chief Justice. These rules will ensure that all necessary information which will assist the respondent in deciding whether to give his consent to a divorce will be given to the respondent. The rules will also require the solicitor acting for the petitioner to assist the latter to achieve a reconciliation if possible. Rules may also be made for any agreement or arrangement made between the parties before or after the petition to be referred to the court for consideration.

Clause 12 replaces section 20 of the principal Ordinance with a new section 20 which sets out the grounds on which a marriage may be declared null and void. These correspond to those set out under the Nullity of Marriage Act 1971. This new section

Matrimonial Causes (Amendment) (No 2) Bill—second reading*[Explanatory Memorandum]*

only applies to a marriage which takes place after the commencement of this Bill. The grounds set out under the repealed section 20 still apply to a marriage which took place before the commencement of this Bill.

Clause 13 introduces new sections 20A and 20B to the principal Ordinance which adopt sections 4 and 5 of the Nullity of Marriage Act 1971. New section 20A provides that section 20 shall not affect the determination of any matter relating to the validity of a marriage in accordance with the rules of private international law or the determination in accordance with the Foreign Marriages Acts 1892 to 1947 of the validity of a marriage which has taken place outside Hong Kong. Under new section 20B, a decree of nullity granted after the commencement of this Bill shall have effect after the decree has been made absolute and for the period before this, the marriage shall be treated as still in existence.

Clause 14 adds a new section to the principal Ordinance so as to provide expressly that collusion is no longer a bar to proceedings in nullity of a marriage irrespective of whether the marriage took place before or after the commencement of this Bill.

Clause 16 deals with the ground for a petition for judicial separation. Section 24 of the principal Ordinance is amended by this clause so as to make the ground and the proof thereof for judicial separation the same as that for divorce. Clause 17 which amends section 26 expressly abolishes collusion and any other conduct of the petitioner which constitutes a bar to relief in matrimonial proceedings as a bar to proceedings for presumption of death and dissolution of marriage.

Clauses 18, 19, 20, 21, 22 and 23 amend sections 27, 28, 29, 32, 42 and 46 of the principal Ordinance respectively. These amendments are consequential upon insanity being abolished as a ground for divorce and judicial separation.

Clause 24 repeals and replaces section 51 with a new section. Since condonation is no longer applicable for the purposes of proceedings under the principal Ordinance, but for the purposes of the Separation and Maintenance Orders Ordinance, condonation is still relevant, new section 51 preserves condonation for the purposes of that Ordinance.

By clause 25 proceedings for nullity of a marriage which took place before the commencement of this Bill, will continue to be based on the old grounds. The new grounds for nullity will apply only to marriages entered after 30th June 1972.

POLICE FORCE (AMENDMENT) BILL 1972

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

He said:—Sir, section 8 of the Police Force Ordinance prohibits a police officer from being a member of a trade union. An officer who contravenes this section is automatically disqualified from being a member of the Force.

However, it has been suggested that staff associations composed solely of members of the Police Force are in law trade unions.

It is, however, desirable that police officers should be able to form associations in order to enable them to present their views on welfare and conditions of service of police officers to the Commissioner of Police.

Consequently the object of this bill is to provide that such police associations as may be established or recognized by the Commissioner of Police shall not be regarded as trade unions for the purposes of any law.

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

At present section 8 of the Police Force ordinance prohibits a police officer from being a member of a trade union; a police officer who contravenes this provision is automatically disqualified from continuing to be a member of the Force.

It has been suggested that staff associations, composed solely of members of the Police Force, which tender advice to the Commissioner about the conditions of service of members of the Force, are technically trade unions.

The object of this Bill is to enable the Commissioner to establish or recognize associations which are composed solely of members of the Force. When so established or recognized, they will not be regarded as trade unions for the purposes of section 8 or of any other law.

PUBLIC ORDER (AMENDMENT) BILL 1972

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

He said:—Sir, the principal purpose of this bill is to create a new offence of public mischief. As honourable Members will be aware, there have been several cases recently where false reports of bombs having been placed on aircraft have been made to the Police or to airline offices.

As a result of these reports, aircraft services have been seriously disrupted and grave inconvenience has been caused to passengers, to airport officials and to the Police Force.

Unfortunately, the sanctions available against persons carrying out bomb hoaxes of this nature are unsatisfactory at present.

If a false report of a bomb is made in conjunction with a demand for money, then a prosecution for blackmail could be instituted. The maximum punishment for this offence is 14 years' imprisonment. However, many reports merely allege that a bomb is on board an aircraft and do not seek any money payment.

There are technical difficulties about the common law offence of causing a public mischief and it would probably therefore be necessary to prosecute for causing wasteful employment of the police, for which the maximum penalty is only 6 months' imprisonment and a fine of \$1,000, or for sending a false report by telephone, for which the maximum penalty is a month's imprisonment and a fine of \$100.

The proposed new section, which is contained in clause 3, makes it an offence to give false information which tends to show that an offence has been committed or to give rise to apprehension for the safety of any person or property. The maximum penalties proposed are 5 years and a fine of \$50,000 on conviction on indictment and 2 years and a fine of \$20,000 on summary conviction.

Subsection (2) of the new section 30 provides that, once the prosecution has established that the information given was in fact false, the accused is presumed to have known that it was false, though it will remain open to him to rebut this presumption by showing that he had reasonable grounds for believing that the information was true.

The main difficulty, of course, in dealing with the kind of offence is that of catching the offenders. This is a difficult matter, as false reports of bombs are usually given by telephone. However, it is hoped that the increased penalties which are provided by this section will show that this kind of activity is taken seriously by the Government

and may perhaps provide some deterrent to people who might otherwise be tempted to behave in this dangerously anti-social way.

The opportunity has been taken to include clause 4, which adds to the list of persons who are exempt from curfew orders made under the Public Order Ordinance, members of the Essential Services Corps, members of the Immigration Service and the employees of the Ministry of Defence, all of whom are likely to have functions to perform in the kind of emergency situation under which curfew orders made.

MR OSWALD CHEUNG: —Sir, clause 3 of this bill will be widely welcomed.

As drafted, however, I would suggest it is wider than necessary; the whole tenor of my learned Friend's speech is that we need to create a new statutory offence to deal with persons who engage in the very dangerous anti-social activities he has described in his speech just now. What I suggest we do not need is new legislation to deal with persons who make merely a false report that an offence of some kind has been committed. The words which are too wide are, if I may quote them, "to show that an offence has been committed". False information, for example, that a motor car is illegally parked, or that some female has been soliciting for immoral purposes from a verandah in Temple Street, or that a fortune teller has been soliciting business outside this building, at the time of preparation of the annual estimates, whilst reprehensible, won't raise anybody's rate of palpitation, and offences of that kind can be adequately dealt with under existing legislation. Leaving those words out will not detract from the effectiveness of the section against persons of the kind my learned Friend has described. It will, in fact, I believe, by concentrating on the desired target make the section more effective.

My Friend the Attorney General has taken the point and has informed me he will support an amendment to delete those words, which I will move at the committee stage.

I also venture to suggest to my Friend that another name might be given to this offence because, as he has told honourable Members, there is a common law offence known certainly in popular lawyers' parlance as "Public mischief", and it has occurred to me that minds less acute than Mr Justice MOULT's might be confused by the statutory and the common law offence. I have drawn from my learned Friend the same enthusiasm that many husbands have drawn from their wives when suggesting names for their children which they thought appropriate. He has invited me, if I can, to think of a better name for this statutory

[MR CHEUNG] **Public Order (Amendment) Bill—second reading**

offence, which invitation I gladly pass on to all honourable Members and indeed to all public spirited citizens.

Sir, with those words I support the motion.

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 3 amends the Public Order Ordinance so as to provide a new section which creates the offence of "public mischief". It is primarily designed to deal with persons responsible for "bomb hoaxes", the penalties for which, at present, are inadequate.

Clause 4 exempts members of the Essential Services Corps and the Immigration Service and some employees of the Ministry of Defence from curfew orders made under section 31.

CHIT-FUND BUSINESSES (PROHIBITION) BILL 1972

THE FINANCIAL SECRETARY (MR HADDON-CAVE) moved the second reading of:—"A bill to prohibit chit-fund businesses and to make provision for other connected purposes."

He said:—Sir, honourable Members are familiar with the concept of chit-funds, which have existed in Hong Kong and elsewhere for many years, and with the types of irregularity which have arisen from time to time in their operation. The running of chit-funds by registered companies as a profit-making business is, however, a comparatively recent development in Hong Kong, the first such company having been registered in October 1970. In general, any person may become a member of a chit-fund company by paying a small registration fee or by subscribing for a share of the company's capital. Membership carries with it a right to participate in any of the chit-funds organized by the company. Funds are organized in groups consisting of a predetermined number of members, each of whom undertakes to contribute a certain amount on a regular basis (weekly, fortnightly, and so on). The total amount of these contributions, after deduction of a 5% commission by the company, is at the same intervals of time put up for "auction" to all members of the group. The member bidding

the highest interest obtains the "pool", less the interest he has offered which is distributed equally among all other participants in the group. Once a member has succeeded at an auction, he is not permitted to bid again during the life of the fund, but will receive a share of the interest offered by subsequent successful bidders. As I explained to honourable Members on 17th November last year, the scope for irresponsible behaviour and abuses is greater in the case of funds organized by registered companies and, therefore, open to general subscription by the public than in the case of funds organized on a purely private basis. Because participants in commercially operated chit-funds are normally unknown to one another, it is, for example, relatively easy for an operator to include fictitious participants, to employ "insiders" to push up interest bids at auctions of the fund, or to indulge in similar malpractices. I am not necessarily suggesting that such malpractices are actually in existence in Hong Kong: I am citing them merely as examples of what could happen if the operation of chit-funds were to fall into the hands of the unscrupulous. But the very fact that these possibilities are there is a danger from which the public should be protected.

It has been argued by some, particularly those who stand to gain from the operation of chit-fund businesses, that protection of the public should be achieved through the imposition of controls rather than complete prohibition. Chit-funds would not be impossible to control, but the effective control of chit-fund businesses would require the employment of large trained staff. I feel bound to say that Government is not convinced that commercial chit-funds meet a sufficiently useful public purpose to justify the expenditure of funds and, more important, the administrative effort involved in the establishment of a controlling authority. Any such effort would be better directed at other more important aspects of protection of investors. There is, at best, very little which chit-fund companies can offer to the public that existing, well established and well known institutions such as banks, hire-purchase companies, credit unions and traditional private chit-funds cannot; and there is little or no evidence that the public does not understand or trust banks. Branches of licensed banks are spread throughout Hong Kong and savings accounts, which earn interest, can be opened with as little as \$1.

Sir, although the bill seeks to prohibit the operation of chit-fund businesses, companies which had already started to operate chit-funds on or before 1st December 1971 are to be permitted under this bill to fulfil their obligations. The bill allows the operators of such funds to continue to operate them until their scheduled date of completion, or until 31st December 1973, whichever is the earlier, provided they comply with the administrative requirements laid down in clause 4 of the bill. Funds started after 1st December 1971 will not be

[THE FINANCIAL SECRETARY] **Chit-fund Businesses (Prohibition) Bill—second reading**

allowed to continue, but I do not imagine that any such funds are in existence since notice was given publicly on 1st December 1971 that funds started after that date would not be allowed any extension of time.

I should make, Sir, one other point: it is not the Government's intention to prohibit the operation of *private* chit-funds. By clause (5)2 of the bill such funds will be allowed to exist provided, in each case, that four specified conditions are met. These are that there are not more than 30 participants; that the operator is not at the same time operating another chit-fund; that the common fund put up for sale or payment to the participants does not exceed ten thousand dollars; and that no benefit accrues to the operator other than a right to receive the first subscription free of interest. In other words, chit-funds may continue to be operated privately in the manner in which they have traditionally been organized.

Question proposed.

Motion made. 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

The purpose of this Bill is to prohibit the operation of chit-fund businesses which have flourished in the Colony since the ban imposed on them in Malaysia and the threat of legislative control in Singapore.

The prohibition will not however affect the operation of small privately-run chit-funds nor that of chit-funds which were in operation on the 1st December 1971. The latter will be allowed to run their course provided particulars of them are filed with the Registrar, though they must in any event be wound up by 31st December 1973.

The Bill also prohibits the registration of a company having as its object the promotion of chit-funds. A chit-fund company, if already registered must either amend its objects or be wound up.

Committee stage

Council went into Committee.

CRIMINAL PROCEDURE (AMENDMENT) BILL 1972

Clause 1 was agreed to.

Clause 2.

THE ATTORNEY GENERAL (MR ROBERTS): —Sir, I move that clause 2 of the bill be amended as set forth in the paper before honourable Members.

The first amendment is intended to make it clear that the Attorney General may not apply for the review of a sentence imposed by the Full Court itself. In its present form, section 81A(1) could have been construed in this manner.

The second amendment is to achieve consistency in wording. The new section 81A(1) entitles the Attorney General to make an application on the ground that "the sentence is not authorized by law, wrong in principle or manifestly excessive or manifestly inadequate". On the other hand, the new section 81B(1), as now drafted, enables the Full Court to quash a sentence if it thinks that "a different sentence should have been passed".

Clearly, the Full Court's power to pass a different sentence should only be exercised in the same circumstances as give right to the original power of the Attorney General to apply for a review. Consequently, it is proposed to amend section 81B(1) so that the Full Court can quash a sentence only if satisfied that this was not authorized by law, was wrong in principle or was manifestly excessive or manifestly inadequate.

The third amendment gives effect to the argument of honourable Members that in the first instance there should be a trial period for the operation of these provisions, and this amendment suggests that the relevant sections should remain in effect until the end of April 1975, a period of 3 years, unless this Council extends their life by resolution.

*Proposed Amendments**Clause*

2 That clause 2 be amended as follows—

(a) in the proposed new section 81A(1) by inserting after the word "court" the following—

", other than the Full Court,";

(b) in the proposed new section 81B(1) by deleting "a different sentence should have been passed," and substituting the following—

[THE ATTORNEY GENERAL] **Criminal Procedure (Amendment)
Bill—committee stage**

“the sentence was not authorized by law, was wrong in principle or was manifestly excessive or manifestly inadequate.”;

- (c) by adding at the end of the proposed new section 81C the following new subsection—

"(3) This section, and sections 81A and 81B, shall expire on the 30th day of April, 1975 or on such other date as the Legislative Council may determine by resolution. "

The amendments were agreed to.

MR CHEUNG: —Sir, I move that clause 2, as amended, be further amended as set forth in the paper before honourable Members.

There is some doubt whether a person whom the Full Court has ordered to be detained, after hearing only the Crown, has a right to apply for bail whilst waiting for the application for review of sentence to be heard, which may take some time. I think it right, and the honourable the Attorney General agrees with me, that he should be expressly given an opportunity to apply to the Court to be released on bail, which will be considered and dealt with in the usual way in the Court's discretion. That is the purpose of the amendment.

Proposed Further Amendment

Clause

- 2 That clause 2 be amended in the proposed new section 81A by inserting after subsection (3) the following new subsection—

"(3A) The Full Court may, if it seems fit, on the application of a respondent, admit the respondent to bail pending the hearing of the application. "

The further amendment was agreed to.

**DRUG ADDICTS TREATMENT AND REHABILITATION
(AMENDMENT) BILL 1972**

Clauses 1 to 7 were agreed to.

Council then resumed.

Third reading

THE ATTORNEY GENERAL (MR ROBERTS) reported that the

Criminal Procedure (Amendment) Bill 1972

had passed through Committee with amendment and that the

Drug Addicts Treatment and Rehabilitation (Amendment) Bill 1972

had passed through Committee without amendment and moved the third reading of each of the bills.

Question put on each bill and agreed to.

Bills read the third time and passed.

Adjournment and next sitting

HIS EXCELLENCY THE PRESIDENT: —In accordance with Standing Orders I now adjourn the Council until 2.30 p.m. on Wednesday 26th April 1972.

Accordingly adjourned at seventeen minutes to four o'clock.