

**OFFICIAL REPORT OF PROCEEDINGS****Meeting of 15th November 1967****PRESENT**

HIS EXCELLENCY THE GOVERNOR (*PRESIDENT*)  
SIR DAVID CLIVE CROSBIE TRENCH, KCMG, MC  
THE HONOURABLE THE COLONIAL SECRETARY (*Acting*)  
MR DAVID RONALD HOLMES, CBE, MC, ED  
THE HONOURABLE THE ATTORNEY GENERAL  
MR DENYS TUDOR EMIL ROBERTS, OBE, QC  
THE HONOURABLE THE SECRETARY FOR CHINESE AFFAIRS (*Acting*)  
MR PAUL TSUI KA-CHEUNG, MBE  
THE HONOURABLE THE FINANCIAL SECRETARY  
MR JOHN JAMES COWPERTHWAITTE, CMG, OBE  
THE HONOURABLE ALEC MICHAEL JOHN WRIGHT, CMG  
DIRECTOR OP PUBLIC WORKS  
DR THE HONOURABLE TENG PIN<sup>^</sup>HUI, CMG, OBE  
DIRECTOR OF MEDICAL AND HEALTH SERVICES  
THE HONOURABLE WILLIAM DAVID GREGG  
DIRECTOR OF EDUCATION  
THE HONOURABLE ROBERT MARSHALL HETHERINGTON, DFC  
COMMISSIONER OF LABOUR  
THE HONOURABLE ALASTAIR TODD  
DIRECTOR OP SOCIAL WELFARE  
THE HONOURABLE GEOFFREY MARSH TINGLE  
DIRECTOR OP URBAN SERVICES  
THE HONOURABLE DHUN JEHA1NGIR RUTTONJEE, CBE  
THE HONOURABLE KAN YUET-KEUNG, CBE  
THE HONOURABLE PUNG HON-CHU, OBE  
THE HONOURABLE TANG PING-YUAN, OBE  
THE HONOURABLE TSE YU-CHUEN, OBE  
THE HONOURABLE KENNETH ALBERT WATSON, OBE  
THE HONOURABLE WOO PAK-CHUEN, OBE  
THE HONOURABLE GEORGE RONALD ROSS  
THE HONOURABLE SZETO WAI, OBE  
THE HONOURABLE WILFRED WONG SIEN-BING, OBE  
THE HONOURABLE ELLEN LI SHU-PUI, OBE  
THE HONOURABLE JAMES DICKSON LEACH, OBE  
DR THE HONOURABLE CHUNG SZE-YUEN

**ABSENT**

THE HONOURABLE TERENCE DARE SORBY  
DIRECTOR OP COMMERCE AND INDUSTRY  
THE HONOURABLE KENNETH STRATHMORE KINGHORN  
DISTRICT COMMISSIONER, NEW TERRITORIES

**IN ATTENDANCE**

THE DEPUTY CLERK OF COUNCILS  
MR DONALD BARTON

**MINUTES**

The minutes of the meeting of the Council held on 1st November 1967 were confirmed.

**PAPERS**

THE COLONIAL SECRETARY, by Command of His Excellency the Governor, laid upon the table the following papers:—

<i>Subject</i>	<i>LN No</i>
Subsidiary Legislation:—	
Pensions Ordinance.	
Pensionable Offices Order 1967 .....	172
Sessional Papers 1967:—	
No 23—Annual Report by the Accountant General with the accounts of the Colony for the year 1966-67.	
No 24—Annual Report by the Commissioner of Prisons for the year 1966-67.	
No 25—Annual Report by the Registrar of Trade Unions for the year 1966-67.	

**LION ROCK TUNNEL BILL 1967**

THE COLONIAL SECRETARY moved the First reading of:—“A Bill to provide for the control and regulation of vehicular and pedestrian traffic in die Lion Rock Tunnel and for matters connected therewith.”

He said: —Sir, although the tunnel will be a road for the purposes of the Road Traffic Ordinance certain restrictions which would not normally apply on an ordinary public road are, in the interests of public safety, necessary in this tunnel.

This Bill provides for such restrictions and defines the powers of officers appointed by the Commissioner for Transport, to regulate and to control the traffic through the tunnel. It also confers on Your Excellency in Council powers to make regulations for the management of the tunnel, the regulation of traffic and the collection of fees.

The additional restrictions, which in the interests of safety it is intended to impose upon drivers, are necessarily somewhat rather complex, and leaflets are therefore being produced which will explain briefly and concisely to motorists what these restrictions are.

THE ATTORNEY GENERAL seconded.

The question was put and agreed to.

The Bill was read a First time.

*Objects and Reasons*

The “Objects and Reasons” for the Bill were stated as follows: —

The purpose of this Bill is to provide for the regulation and control of road traffic through the Lion Rock Tunnel.

**POLICE CHILDREN’S EDUCATION TRUST BILL 1967**

THE COLONIAL SECRETARY moved the First reading of:—“A Bill to establish a trust fund for providing assistance in, and facilities for, the higher education of the children of junior police officers of the Hong Kong Police Force and for the due administration of such fund and for purposes connected with the matters aforesaid.”

He said:—Sir, it will I think be convenient if I should refer also in these remarks to the Police Education and Welfare Trust Bill, which forms the subject of the next motion on the Order Paper today.

It gives me great pleasure, Sir, to be able to move the first reading of these two connected Bills for it affords me the opportunity to pay a further tribute to the loyalty and resolution shown by all ranks of the Police Force during the past few months. During this period, they have all undergone a good deal of strain, but at all times they have remained calm and steadfast in their duty. A Fund was set up, as Members will recall, and opened to subscription by the public soon after the commencement of the disturbances in May this year. Donations came in in a very satisfactory volume from the public and this proved a clear demonstration for all to see that the overwhelming majority of the Colony appreciated the efforts of the Police Force at those times. But it was more than that, for it was also a public expression of faith in the future of the Colony since the Fund was expressly for the long-term education of the children of Police officers. Money was not given to be spent immediately, to encourage the Police to maintain law and order during the first few months; the public had such faith in the Police as to make this quite unnecessary. The money given was to be devoted to the education of Police officers children in the years to come.

When the donations from the public reached the one million dollar mark, as Members will recall, the Royal Hong Kong Jockey Club most generously donated a further one million dollars.

Turning to the Bills themselves, Sir, it should be noted that the purposes for which the public donations can be spent are not quite the same as those to which the donations from the Jockey Club can be devoted. The original fund is for the education of the children of junior police officers. The Jockey Club's donation may also be used for the children of all ranks of the force, and for wider welfare benefits

to the regular and also to the auxiliary forces. It has, therefore, been necessary to prepare two Bills; but with only a few changes concerning the composition of the management committees, the provisions of both Bills are virtually identical.

The Bills will establish permanent management committees for the Funds, but in the meantime, in order that assistance could be given to the education of Police children from the start of this academic year in September, a provisional management committee was appointed and has already recommended to the present Trustee, the Director of Commerce and Industry, a substantial number of awards. The Trustee has put these initial recommendations into effect and the awards have been made. The Bills, if enacted, will validate these awards and also the other actions of the Trustee concerning the investment of the Funds, as well as appointing the Commissioner of Police as the new and permanent Trustee for both Funds.

THE ATTORNEY GENERAL seconded.

The question was put and agreed to.

The Bill was read a First time.

#### *Objects and Reasons*

The "Objects and Reasons" for the Bill were stated as follows: —

This Bill seeks to establish a trust fund to be known as the Police Children's Education Trust. The fund will consist of the balance of the moneys donated by the public to a fund set up and opened to subscription on the 19th day of May 1967 for the objects mentioned in clause 5, such assets as may have been acquired through the use of such moneys since that date and such further moneys and assets as may be donated to or acquired for the benefit of the fund after the enactment of this Bill.

The Commissioner of Police will be incorporated as trustee of the fund which will be managed by the committee to be established under clause 6.

The moneys of the fund may be invested as the committee advises, subject to the prior approval of the Financial Secretary where the investments concerned are not trust investments (clause 9).

The committee will be also empowered to employ servants and professional advisers to assist in the management of the fund, and all salaries and fees thereby involved are to be paid out of the fund (clause 8). Subject to a small supervision fee which may be charged against the fund, all other costs of administering the fund will be a charge on the general revenue of the Colony (clause 11).

Under clause 10 the trustee will be required to keep accounts of all transactions concerning the fund and to prepare an annual statement of such accounts. An audited statement of the accounts is required to be laid before the Legislative Council once in each year.

### **POLICE EDUCATION AND WELFARE TRUST BILL 1967**

THE COLONIAL SECRETARY moved the First reading of:—"A Bill to establish a trust fund for providing assistance in, and facilities for, the general education of the children of police officers of all ranks, including auxiliary police, and for welfare purposes of general benefit to all such police officers, and for the due administration of such fund and for purposes connected with the matters aforesaid."

He said: —I have already explained, Sir, why two Bills are needed and I think in introducing this motion I need add nothing to what I said on the previous motion.

THE ATTORNEY GENERAL seconded.

The question was put and agreed to.

The Bill was read a First time.

#### *Objects and Reasons*

The "Objects and Reasons" for the Bill were stated as follows: —

This Bill seeks to establish a trust fund to be known as the Police Education and Welfare Trust. The fund will consist of the balance of the moneys donated by the Royal Hong Kong Jockey Club on the 27th day of May 1967 for the objects mentioned in clause 5, such assets as may have been acquired through the use of such moneys since that date and such further moneys and assets as may be donated to or acquired for the benefit of the fund after the enactment of this Bill.

The Commissioner of Police will be incorporated as trustee of the fund which will be managed by the committee to be established under clause 6.

The moneys of the fund may be invested as the committee advises, subject to the prior approval of the Financial Secretary where the investments concerned are not trust investments (clause 9).

The committee will be also empowered to employ servants and professional advisers to assist in the management of the fund, and all salaries and fees thereby involved are to be paid out of the fund (clause 8). Subject to a small supervision fee which may

be charged against the fund, all other costs of administering the fund will be a charge on the general revenue of the Colony (clause 11).

Under clause 10 the trustee will be required to keep accounts of all transactions concerning the fund and to prepare an annual statement of such accounts. An audited statement of the accounts is required to be laid before the Legislative Council once in each year.

### **CRIMINAL PROCEDURE (AMENDMENT) BILL 1967**

THE COLONIAL SECRETARY moved the First reading of:—"A Bill to amend further the Criminal Procedure Ordinance and to make consequential amendment to the Magistrates Ordinance."

He said:—This Bill deals, Sir, with two separate and different matters, namely the powers of arrest of the ordinary citizen, and the authority of the Courts to dispose of property which is connected with the commission of an offence.

If I may take the second point first, Sir, that is to say the point relating to the disposal of property by the Courts, I think there is nothing I can usefully add to the Objects and Reasons attached to the Bill. There is nothing new or drastic here, and the main object is to tidy up the law, which is at present contained in two different Ordinances partly covering the same ground, with the result that the law varies at present as between different Courts.

I think I should however speak at somewhat greater length, Sir, about the other part of the Bill, that is to say about the part which seeks to clarify and codify the powers of arrest of the ordinary citizen, the man in the street. This is not an emergency measure, and I hope Members will agree that quite apart from the events of recent months the amendments proposed are suitable and helpful. But they are nevertheless not unrelated to recent events and I shall try if I may to set them in the context of the present situation.

But first I should describe, Sir, the effect which this amending Bill will have if it is passed. As the law stands at present a citizen may arrest another person if he reasonably suspects that person to have committed a felony provided that a felony proves in fact to have been committed. This is the common law position. The citizen may also under our existing statutory provisions arrest any person whom he finds committing an indictable offence or who has been charged with committing such an offence, provided that such an offence has in fact been committed or alternatively if there is a hue and cry. That is the present law.

We believe, Sir, that even the most public-spirited citizen might be liable to be daunted by the complexity of this present legal position which I have described. What is proposed instead is that a private person should have the right to arrest another person whom he reasonably suspects to have committed an offence which is punishable with a sentence of more than twelve months' imprisonment. This would cover all crimes of violence with the exception of assaults of a minor nature, and it would cover also for example robbery and house breaking and all forms of theft, and in the context of current events it covers all offences concerning explosives or bombs, whether genuine or false. In short, if as a layman I may try to sum the matter up, it covers all serious crime.

Now I would like to make it clear at this point, Sir, that this Bill is not being introduced in the hope or expectation that untrained civilians should necessarily try to tackle the criminals who are continuing to carry out the indiscriminate planting of explosives in our streets. These men are now more and more being accompanied by small gangs of hired thugs, and so far as citizens' arrests are concerned there is an over-riding need for caution and good judgment and common sense. But on the other hand the security forces stand in need of help from the public at large, not least because random and senseless crimes are amongst the most difficult to prevent, or to detect. Members of the public who witness the planting of bombs, whether they be real or fake, will be well advised to follow the suspects at a safe distance and report to the first Police Officer they encounter.

However, many of our people have already shown their willingness to help the Police in this kind of way, and have displayed considerable courage and resolution in doing so. I hope, Sir, that I shall not be straying too far outside the context of the present Bill if I refer briefly to some of the ways in which I think the public could give additional help to the Police at this time, quite apart from the citizens' powers of arrest.

The public at large have left us in no doubt on the question what they think of the random and criminal use of explosives, bringing as it does sporadic disruption of our highly sophisticated and complex city life, punctuated all too often with tragedies. These vicious and depraved acts must surely make all of us determined to avenge if we can the innocent lives that have been lost, and the injuries that have been caused to innocent by-standers and passers-by, but above all to prevent, if human effort and resolution can do so, the occurrence of further such tragic events.

Citizens' arrest, with which this Bill deals, is one method, and I hope the present Bill will go far to clarify and simplify the powers the man in the street enjoys in this respect. But there are other ways also. As I see it we could and should have on our side millions of pairs of

eyes, alert and vigilant, all of us watching as we go about our daily occasions for any evidence that could lead to the apprehension of the wicked men who believe that senseless violence can intimidate us. Vigilance in the streets, in the tenements, in the blocks of flats, in the countryside; and alertness to observe anything unusual or suspicious, and to report it.

For information is the main thing that is needed, and especially prompt information. The Police have enjoyed considerable success in their campaign against those who are engaged in the use of explosives against the community. This success is undoubtedly growing. Tens of thousands of dollars have been paid out to the public for useful information in this field. Provision has been made for the hearing *in camera* of the evidence of any witness who has cause to fear intimidation or reprisals. I am convinced, Sir, that now is the time when a really wholehearted effort by the public at large could lead us to very substantial progress and success. And information, Sir, prompt information, is the key.

I should apologize, I think, for taking up so much of Council's time; and also for departing in my remarks to some extent from the strict and immediate context of the Bill; but I think these matters are all closely interconnected, and I believe that there are now very many people in Hong Kong who are seeking ways and means to help the security forces in their present tasks. If I have sought to give them some guidance, Sir, I trust my motives will be understood.

THE ATTORNEY GENERAL seconded.

The question was put and agreed to.

The Bill was read a First time.

#### *Objects and Reasons*

The "Objects and Reasons" for the Bill were stated as follows: —

By clause 2 of this Bill it is sought to clarify the law in relation to the power of a private citizen to arrest another person. The provision is based upon the Criminal Law Act 1967.

By the remaining clauses it is sought to effect a consolidation of the laws which provide for the disposal generally by the courts of property connected with or related to the commission of offences.

These clauses will repeal section 102 of the Criminal Procedure Ordinance and section 49 of the Magistrates Ordinance. The repealed provisions will be replaced by a new section 102 of the Criminal Procedure Ordinance (clause 4). The new section is

intended to empower any court to make orders for the disposal of property in the possession of the court or the police where—

- (a) the property has come into such possession in connexion with any offence, or
- (b) it appears that an offence has been committed in respect of such property, or
- (c) it appears that the property has been used in the commission of an offence (new section 102(1)).

In respect of property to which sub-paragraph (a) above applies, the court may order that it be delivered to the person entitled or, if such person is unknown or cannot be found, that it be sold or retained by the court or the police (new section 102(2)(a)).

In respect of property to which sub-paragraph (b) or (c) above applies, the court may deal with the property in the same manner as property to which sub-paragraph (a) above applies or order that the property be forfeited (new section 102(2)(b)).

Provision is made in respect of property required as an exhibit in any court (new section 102(3)).

Provision is also made in respect of claims to property which has been ordered by a court to be sold or retained (new section 102(4)).

The power to order the forfeiture of property will not apply to immovable property, aircraft, motor vehicles or ships (new section 102(7)).

Allowance is made for appeals against orders made under the new section, and existing legislation (other than that repealed or amended) relating to the disposal of property is to remain unaffected (new section 102(5) and (6)).

Consequential amendments to sections 103 and 104 of the Criminal Procedure Ordinance are included.

## **OFFENCES AGAINST THE PERSON (AMENDMENT) BILL 1967**

THE ATTORNEY GENERAL moved the First reading of:—"A Bill to amend the Offences against the Person Ordinance."

He said:—Sir, this Bill reproduces the provisions of the United Kingdom Suicide Act of 1961.

Its main object is to abrogate the rule of law whereby suicide was a crime. It is now generally agreed that persons who attempt suicide should be dealt with by care and treatment rather than by punishment.

However, by the new section 33B, which clause 2 would insert in the Offences against the Person Ordinance, complicity in a suicide will remain an offence, punishable by up to fourteen years imprisonment. The new section would also empower a jury, on a trial for murder or manslaughter, to find an accused guilty of an offence under the new section.

THE COLONIAL SECRETARY seconded.

The question was put and agreed to.

The Bill was read a First time.

#### *Objects and Reasons*

The “Objects and Reasons” for the Bill were stated as follows:—

This Bill seeks to abolish the crime of suicide. The new section 33B, which makes it an offence if a person aids, abets, counsels or procures another's suicide, is designed to preserve the existing law that complicity in another's suicide is an offence. Proceedings for an offence under the new section may be brought only with the consent of the Attorney General.

The Bill also provides that upon a charge of murder or manslaughter the accused may be found guilty of an offence under the new section.

The Bill follows the Suicide Act 1961 of the United Kingdom.

#### **WIDOWS AND ORPHANS PENSION (AMENDMENT) (NO 2) BILL 1967**

THE FINANCIAL SECRETARY moved the First reading of:—“A Bill to amend further the Widows and Orphans Pension Ordinance.”

He said:—Sir, I am afraid that this is not a very easy subject but I will do my best to explain the reasons for, and effects of, the Bill as simply as the subject, and my own understanding of it, will allow.

Benefits from our present Widows and Orphans Pension Scheme are distributed on actuarial principles, that is, on the basis of the probability of certain events happening. Both public officers and public funds contribute to the scheme. The officer's contribution is 4% of pensionable emoluments; while the contribution from public funds takes the form of making up the difference between the actual market rate of interest from time to time and the theoretical long-term rate of interest assumed in calculating benefits. The present tables were introduced in 1928 on the basis of life experience then. The assumed rate of interest was 8% but it is not known what long-term rate was assumed then and, therefore, what level of subsidy was then aimed at.

The main purpose of the present Bill is to introduce new benefit tables and to change the method of their application. It reflects changed circumstances in three respects.

Firstly, changes in life experience since 1928 mean that total benefits are no longer distributed between beneficiaries on a proper actuarial basis. The new tables which the Bill proposes to introduce redistribute benefits on the basis of present experience.

Secondly, an actuarial valuation of the Scheme undertaken by the Government Actuary in 1955 showed that, on the assumption of a long-term rate of interest of  $3\frac{1}{4}\%$  (the rate then recommended by the Government Actuary), the contribution from public funds by way of making up the theoretical 8% rate of interest was approximately equivalent to a contribution of 2% of an officer's pensionable emoluments. It is proposed that, in future, benefits should be calculated by adding 50% to the officer's contribution (that is, 2% to his 4% of pensionable emoluments) and then applying the contribution so enhanced to a set of tables based on a realistic long-term rate of interest, and not as now on an inflated rate, this making clearer the fact that it is a contribution from the public funds and the intended level of that contribution.

Thirdly, actuarial advice is that the assumed long-term rate of interest should be increased from  $3\frac{1}{4}\%$  to  $3\frac{1}{2}\%$  and the new tables have been constructed on this basis. The increased rate of interest will increase both the amount of, and the cost to public funds of, future pensions. But this increase is clearly a matter of equity in the light of the general trend of interest rates since 1955. At present market rates, indeed, the real cost of the scheme to public funds is well below the theoretical contribution of 2% of pensionable emoluments; but, of course, present rates cannot be assumed to remain in force over the long term.

The benefits which are derived from the new tables will be higher for all but a few potential beneficiaries, mostly fairly unusual cases unduly favoured by the present scheme, such as officers marrying late. To prevent any reduction in the rights of existing members of the scheme the Bill provides that in the case of those who were contributors both before and after 1st July, 1959, the pension will be the pension purchased by payments up to 30th June, 1959, *plus*, in respect of payments after that date, the higher of the two benefits calculated on the old and the new tables. This is given effect by Note 2 of Part II of the Schedule attached to the Bill.

The proposal to back-date the application of the new tables to 1st July, 1959, arises from the fact that they have long been recognized as unsatisfactory and their revision has been under discussion for many years. The actual date chosen is the effective date of the 1959 Salaries

Revision; to go further back would seriously complicate the computation of pensions.

It is not possible to say what the theoretical extra cost of these proposals is but it is clearly not, in my view, of such magnitude as to outweigh considerations of equity.

The cost of recalculating pension cards is estimated to be \$63,000. The Finance Committee of this Council has already approved the provision of funds for this purpose in the event that the Bill is passed.

It is proposed also to take the opportunity afforded by this Bill to propose certain other amendments of which two are worthy of special mention.

Firstly, under the present law, officers must contribute either for 35 years or until their 65th birthday, whichever is earlier. This can involve contributing for many years after retirement although the burden on the retired officer can be reduced by his opting to contribute at the rate of 4% of his pension instead of 4% of his final pensionable emoluments—although, of course, this reduces potential benefits also. It is now proposed that there should be an option to cease altogether to contribute on retirement although the exercise of this option reduces the potential pension still further. This option is provided by clause 5.

Secondly, it is proposed to include as beneficiaries all legitimated children and up to two adopted children. These categories are at present wholly excluded from benefit.

The Bill has the concurrence of the main Civil Service Staff Associations.

I should add that Widows and Orphans Pension Schemes of the present actuarial type are now regarded as unsuitable for the public service and have been superseded in Britain and elsewhere by pensions related to an officer's own earned pension, known as a final salary scheme. We are giving consideration to the introduction of such a scheme at some time in the future but I can give no indication of when proposals are likely to be ready.

THE COLONIAL SECRETARY seconded.

The question was put and agreed to.

The Bill was read a First time.

#### *Objects and Reasons*

The "Objects and Reasons" for the Bill were stated as follows:—

The object of this Bill is to replace the actuarial Tables and Rules by which the pensions of officers' widows and orphans are calculated, to permit officers, who so wish, to cease contributing to the Widows and Orphans Pension Scheme earlier than at

present permitted, to bring within the Scheme, as potential beneficiaries, children adopted by officers in certain circumstances and any legitimated children of officers, and to deal with certain miscellaneous matters.

*Replacement of Tables and Rules*

2. Basically, the pension secured by an officer for his wife (if he is married when he commences contributing) is the product of his annual contribution multiplied by whichever actuarial figure in the appropriate section of the Pension Table B is applicable in the particular circumstances of the case, assuming the contributions do not vary. A variation in contribution produces a corresponding variation in the potential pension, the amount of which being ascertained by a similar method. An officer who contributes while a bachelor secures, on marriage, a pension similarly ascertained although, in respect of the total of contributions while a bachelor, the actuarial figures in Table A are used. Where an officer re-marries and his second (or subsequent) wife is older or younger than his previous wife, the actuarial figure in both Tables C and A are used to determine the second (or subsequent) wife's pension.

3. The present Tables A, B and C were introduced in 1928, and the actuarial figures contained in these Tables are based, *inter alia*, on the then mortality experience. With the great change since then in life expectation these figures are now considerably out of date, and the introduction of revised Tables based on up-to-date mortality experience is long overdue. Accordingly, clause 13(1) of this Bill adds to the Widows and Orphans Pension Ordinance a new Schedule which, in Part I, contains revised Tables prepared by the Government Actuary's Department of the United Kingdom.

4. Part II of the new Schedule sets out the Instructions governing the calculation of pensions and variations and the use of the revised Tables. They are substantially the same as the present Rules, although the examples given have been brought up-to-date. These Instructions do not change the basic method of calculating pensions and variations in pensions described above.

5. Comparison between the figures in the revised Tables A and B and the corresponding figures in the 1928 Tables will show that the revised figures are lower than the corresponding 1928 figures. The explanation for this is that the 1928 figures were based on the then current mortality experience and an artificially high rate of interest. The difference between the 8% rate of interest assumed in preparing the benefit tables and the prevailing market rate represented an additional but variable contribution from the Government. It was estimated in 1955 that, assuming

a long-term interest rate of  $3\frac{1}{4}\%$ , the interest subsidy was equivalent to a contribution from public funds of 2% of an officer's pensionable emoluments or half his own contribution. On the advice of the Government Actuary a long-term interest rate of  $3\frac{1}{2}\%$  has now been assumed. The revised Tables have accordingly been based on  $3\frac{1}{2}\%$  interest; while an assumed Government contribution of 2% of an officer's pensionable emoluments has been introduced to take the place of the previous interest subsidy.

6. The method proposed for determining the pension purchased by officer's pre-marriage contributions is to increase the contributions (at Government expense) by 50% as in the case of the contributions of married officers, then to accumulate the contributions (so increased) at  $3\frac{1}{2}\%$  compound interest, before applying the revised Table A figures. This is in lieu of accumulating the contributions at 8% which is the method under the 1928 Rules.

*Retrospectivity and Application of Tables and Instructions.*

7. The revised Tables and Instructions have retrospective effect under clause 13(3) from 1st July 1959, the operative date of the 1959 Salaries Revision. Clause 13(2) seeks to remove the 1928 Tables and Rules from the statute book, though these Tables and Rules will continue to have effect in some instances in view of various provisions in the Instructions.

8. The revised Tables and Instructions, since they are to be applied from the 1st July 1959, will not affect any pension, or part of any pension, purchased by contributions (other than bachelors' contributions) which fell due before that date. These will continue to be governed by the 1928 Tables and Rules. The revised Tables and Instructions will apply to every pension purchased by the contributions of officers who commenced to contribute on or after that date. They will also apply to the pensions purchased by bachelors who marry on or after the 1st July 1959, irrespective of when they commenced to contribute.

9. With regard to married officers and widowers who commenced to contribute before, and continued to contribute after, the 1st July 1959, the part of the pension purchased by contributions which fell due earlier than that date will continue to be governed by the 1928 Tables and Rules. Note 2 and Section G of the Instructions provide that the part of the pension purchased by contributions falling due on or after 1st July 1959 will be governed by the 1928 Tables and Rules or the revised Tables and Instructions, whichever produces the greater sum. This is because, although the revised Tables and Instructions will in most cases produce greater benefits, there are some cases where

a pension would be greater if the 1928 Tables and Rules applied throughout.

10. Variations of pensions produced by changes in the amount of contributions or by re-marriage will, if they arose before 1st July 1959, be calculated on the 1928 Tables and Rules, or, if arising since then, be calculated on the revised Tables and Instructions.

*Early Cessation of Contributions.*

11. Notwithstanding that the normal age of retirement is 55, under the present legislation officers are and always have been required to contribute until they have contributed for 35 years or until they reach 65 years of age, whichever occurs first. It is recognized that the cost of providing for his widow and orphans in the event of his death is best met by an officer during his working life and it is undesirable that he be required to continue to contribute after retirement. Clause 5 provides a new section giving an officer the right to cease contributing on or at any time after retirement. Since the actuarial figures are based on the standard period of contribution, an officer who elects to cease contributing earlier under this clause will be treated as having reduced his contributions, and this will operate to reduce the pension payable.

*Adopted and Legitimated Children.*

12. As the law stands, neither adopted children nor legitimated children of an officer rank as potential beneficiaries. The new subsection (2) in clause 2(c) will permit not more than two adopted children to rank as potential beneficiaries of an officer. In order to qualify, an adopted child must be adopted by an officer and his wife before they have a child of their own. This limitation has been imposed because, actuarially, the Tables take into account natural children only. The inclusion of adopted children involves an additional commitment and it is desirable to limit that commitment. The new subsection (3) in clause 2(c) will permit any child of an officer and his wife, being a child legitimated by their marriage, to rank as a potential beneficiary. There is no limit on the number. Both these new subsections will apply both to past and to future adoptions and legitimations; but pensions already being paid or payable at the time of the enactment of this Bill will not, to the prejudice of those to whom the pension is already being paid or payable, be redivided so as to give a share to any such adopted or legitimated child (*new subsection (4)*).

13. Subsection (5) in clause 2(c) deals with the converse situation. An officer's child will cease to rank as a potential

beneficiary of the officer if he is adopted by someone else. However, a child so adopted who is already in receipt of a pension as a beneficiary will continue to be eligible to receive that pension.

*Miscellaneous Matters.*

14. Clause 3 is intended to remove any doubts regarding the liability to contribute to the Hong Kong Scheme of officers who have previously contributed to certain other schemes. It has always been necessary, both in Hong Kong and in other territories operating similar schemes, to make contributions to the Scheme generally compulsory in order to ensure an adequate spread of risk. As under other comparable schemes, however, there is under the Hong Kong Scheme an exception to this rule designed to cater for the situation that arises in the case of officers who transfer to Hong Kong from another territory which operates a Widows and Orphans Pension Scheme. Such officers may elect not to contribute to the Hong Kong Scheme, if they have completed their full period of contribution to, or for so long as they continue to contribute to, the scheme of the transferring territory. This is basically a matter of reciprocity in that similar provisions apply in respect of officers transferring from Hong Kong. Difficulties have arisen, however, by the introduction in recent years in some territories of widows and orphans pensions schemes based on different principles from those governing the Hong Kong Scheme. Under the type of scheme operated by Hong Kong, pensions are determined by the amount of the contributions, and an officer can continue to pay contributions and so purchase a pension whether or not he is still in the service of the territory operating the scheme. The other type of scheme which is operated in some territories determines the benefits by the length of the contributor's pensionable service and his final pensionable emoluments; the pension is therefore determined once and for all at the time of the officer's transfer from the territory. It would be undesirable to allow ex-contributors to such schemes to claim exemption from the Hong Kong Scheme as the pension purchased prior to transfer to Hong Kong could be inadequate for the maintenance of widow and orphans. Clause 3 provides that such a person may not claim exemption; and this will be deemed to have been in effect at all times since some officers, for the reasons underlying this amendment, have in the past been refused exemption.

15. The amendment in clause 6(b) and (c) to section 10(2) and (3) is intended to clarify a matter which is in doubt. It arises in the case of officers who, when they leave the public service, are, or subsequently become, widowers with pensionable children and thereafter re-marry before the last of those children cease to be pensionable. A strict interpretation excludes from benefits the second wife and any child she may have by the officer, but this

does not seem consistent with the underlying purposes of the Ordinance. A less strict interpretation would permit the second wife and any children she may have by the officer to benefit. The amendment proposed to these two subsections will clarify the matter in favour of the less strict interpretation.

16. Clause 9 will replace the section of the Ordinance under which officers are required to provide all necessary information. In so far as information will be required as to adopted and legitimated children, this is consequential upon clause 2(c). Information as to the sex of a child will also be required, as male and female children cease to be beneficiaries at different ages. Further, the present powers of the Directors of the Scheme to call for verification of information is extended to all information provided by an officer under the section; and where information as to any event is to be verified, the event will be disregarded until so verified. Clause 10 is closely connected, in that it specifically extends the default provisions of section 16 to officers who fail, neglect or refuse within a reasonable time to verify their statements when called upon to do so by the Directors.

17. Clause 12 will give legal effect to the practice of deducting, from the pension payable to the widow or children of a deceased officer, any contribution due under the Ordinance from the officer.

#### **DOGS AND CATS (AMENDMENT) BILL 1967**

THE COLONIAL SECRETARY moved the Second reading of:—"A Bill to amend the Dogs and Cats Ordinance."

THE ATTORNEY GENERAL seconded.

MR Y. K. KAN addressed the Council.

He said: —Sir, in moving the first reading of the Bill my honourable Friend the Colonial Secretary indicated that it was Government's intention to abolish the fees for inoculation of dogs against rabies in the near future. I believe this step will be most welcomed by the general public. It is common knowledge that large numbers of dogs both in the urban and rural areas are not inoculated against this much dreaded disease. One reason is of course expense. Another reason is the inconvenience of having to take the dogs to the depots of which there are only few and they are widely scattered. I should like to suggest to Government that a mobile unit be set up which will provide the facilities on the spot and, if possible, from door to door at stated periods throughout the year. I believe there is such a unit in existence at present but it operates only when there is an outbreak of rabies and only in the

affected areas. In the interest of public safety I should like these facilities extended in the manner I have stated. The proposal that I have suggested may or may not mean additional expense, but in any case I think it will be generally agreed that every step should be taken to encourage people to have their dogs immunized against rabies.

Sir, I support the motion.

HIS EXCELLENCY THE GOVERNOR said:—Does any Member wish to reply?

THE COLONIAL SECRETARY replied as follows:—

He said:—Well, Sir, my honourable Friend Mr KAN was good enough to give me notice this morning of the points he wished to raise but I have not, of course, had sufficient time to go very fully into present arrangements. However, I am informed that the Director of Agriculture and Fisheries at present has four mobile dog units in operation in the Colony. Now these are not entirely confined to the task of inoculation. They carry out the task of issuing dog licences and also of picking up stray dogs. These functions go together conveniently for they serve as an encouragement to the public to take out the licences which the law requires. I think it is not true to say, if I may say so, that these units operate only when there is an outbreak of rabies, which is extremely rare in this Colony. They are, I understand, operating more or less on a full time basis but what they do not do—they do not operate on a schedule or an itinerary so that the public may necessarily know where they are, and I think perhaps one thing which I might undertake to do to try and meet Mr KAN'S point is to look into the question whether a more formal routing and timetable might be of convenience to the public.

This is the only information, Sir, which I have been able to acquire in the short time since I had notice of this point, and I would like to give my full assurance that we can go more fully into it and keep Mr KAN informed of what progress we can make.

The question was put and agreed to.

The Bill was read the Second time.

Council then went into Committee to consider the Bill clause by clause.

Clauses 1 to 5 were agreed to.

Council then resumed.

THE COLONIAL SECRETARY reported that the Bill before Council had passed through Committee without amendment and moved the Third reading.

THE ATTORNEY GENERAL seconded.

The question was put and agreed to.

The Bill was read the Third time and passed.

### **ROAD TRAFFIC (AMENDMENT) (NO 3) BILL 1967**

THE COLONIAL SECRETARY moved the Second reading of:—“A Bill to amend the Road Traffic Ordinance to provide for the making of regulations in connexion with the use in Hong Kong of international road traffic circulation licences and permits granted outside of Hong Kong and in connexion with the issue of such licences in Hong Kong for use outside of Hong Kong.”

THE ATTORNEY GENERAL seconded.

The question was put and agreed to.

The Bill was read the Second time.

Council then went into Committee to consider the Bill clause by clause.

Clauses 1 and 2 were agreed to.

Council then resumed.

THE COLONIAL SECRETARY reported that the Bill before Council had passed through Committee without amendment and moved the Third reading.

THE ATTORNEY GENERAL seconded.

The question was put and agreed to.

The Bill was read the Third time and passed.

### **ROAD TRAFFIC (INTERNATIONAL CIRCULATION) REGULATIONS (VALIDATION) BILL 1967**

THE COLONIAL SECRETARY moved the Second reading of:—“A Bill to validate certain regulations purporting to have been made in exercise of powers conferred by the Road Traffic Ordinance.”

THE ATTORNEY GENERAL seconded.

The question was put and agreed to.

The Bill was read the Second time.

Council then went into Committee to consider the Bill clause by clause.

Clauses 1 and 2 were agreed to.

Council then resumed.

THE COLONIAL SECRETARY reported that the Bill before Council had passed through Committee without amendment and moved the Third reading.

THE ATTORNEY GENERAL seconded.

The question was put and agreed to.

The Bill was read the Third time and passed.

### **PUBLIC ORDER BILL 1967**

THE ATTORNEY GENERAL moved the Second reading of:—"A Bill to consolidate and amend the law relating to the maintenance of public order, the control of organizations, meetings, places, vessels and aircraft, unlawful assemblies and riots and matters incidental thereto or connected therewith."

He said:—Sir, since the first publication of this Bill on the 6th October, there has been a certain amount of comment in the press on its provisions and I should like to take this opportunity to deal with some of the arguments which have been advanced and to try to correct misconceptions which appear to have been formed by some readers of the Bill.

There is, it appears, a widespread belief that this Bill is a hasty measure, which has been hurriedly compiled and is the product of the disturbances which have affected Hong Kong during 1967.

In fact, active work on the preparation of a Bill of this nature has been in progress for at least two years. Certainly, there have been alterations to the Bill to take into account the experience of the past few months, but the bulk of it is composed of provisions which are necessary in any country at any time.

One commentator, who described the Bill as a backward piece of colonialism drawn from the former Colonies of Africa, has perhaps been misled by the comparative table attached to the Bill into thinking that clauses which are attributed to African countries are not to be found elsewhere. The majority of those clauses, however, are based upon similar provisions taken from English Acts or from the common law. It is merely because the wording of the Bill follows that of an African Ordinance more closely than the original English provision, which was often couched in archaic language, that the reference in the comparative table has been to the Ordinance.

I should also like to make it clear, to those who might feel that other opinions should have been sought before its introduction, that the entire Bill has been referred to the Secretary of State on two separate occasions in the past two years and has been approved by him in its present form.

To say that the principles of the Bill have received long and careful thought, however, does not necessarily mean that it is free from imperfections of drafting.

I have seen a short report of remarks which are attributed to a spokesman for the Reform Club. As no representations about the Bill have been received from this body by the Government, I must assume that the report is accurate and represents its considered views.

This spokesman asserts that the Bill will catch small fishes in its net and leave gaping holes through which big fish can escape. If this is so, and the drafting is unsatisfactory, it is a pity that the spokesman, instead of confining himself to generalities, did not specify the provisions which justified his assertion.

He is reported to have said that the Bill makes every peace loving resident of Hong Kong a potential criminal. In one sense, of course, this is an unchallengeable statement, since every resident of Hong Kong, peace loving or otherwise, is potentially an offender under every law which creates any criminal offence.

The Reform Club spokesman appears to rest his main objection to the Bill on the contention that people who can afford a lawyer need not fear the Bill, but that innocent persons who were charged with offences against it would be in grave danger of conviction, if they were undefended. Nobody, I suggest, with the least experience of the working of our criminal courts, could seriously assert that the unrepresented accused stands in jeopardy in a way which he would not if he were defended.

It is part of the tradition of our courts, and one which judges and magistrates go to very great pains to maintain, that no accused shall suffer "because he cannot afford the services of a solicitor or counsel, and I have no hesitation in refuting any suggestion to the contrary.

One local organization has expressed in a letter to the press its interest in the Bill and its intention to make representations about it. The Government does not feel, however, that the possibility that such representations may be made is a sufficient reason for postponing a Bill which was first published nearly six weeks ago, which is surely an adequate time within which members of the public or interested bodies could make their submissions. This does not mean, of course, that any representation which may be made in the future by this, or any other, reputable organization will not be fully and carefully considered.

In a long and thoughtful article which appeared yesterday in a leading newspaper, the writer made the point that some sections could be interpreted in such a way as to bring within their ambit persons who ought not to be liable to prosecution under them. He cites, as examples, the likelihood that a news vendor who sells a paper containing intimidating matter may be offending against clause 28, and that a group of people, who threaten to (punch someone's nose will offend against clause 28.

It is difficult to devise a form of words which will effectively prevent the really objectionable forms of conduct, at which a law is aimed, without at the same time theoretically covering also much less reprehensible behaviour. For example, it is, strictly, sedition for the news vendor to sell a paper containing seditious matter; it is unlawful wounding, punishable by imprisonment for three years, to puncture a man with a pin so as to draw blood; it is an assault punishable by twelve months imprisonment to clap someone on the shoulder. In practice, prosecutions are not launched for technical breaches of this nature, and nor will they be with regard to offences under this Bill.

The same newspaper has expressed the hope that out of discussion on the Bill will come law which met reasonable contingencies and yet involved a minimum infringement of popular liberties. It is a problem as old as the law itself, to find the proper point of balance between citizen and state. This point, as the history of any country will show, changes from time to time. It is to be hoped that this Bill has found the right balance, taking into account, as must be done, our circumstances at the present time. If these change, or experience of the working of the Bill discloses gaps, or provisions which prove unfair or oppressive, then the Government will be ready and willing to consider suitable amendment.

THE COLONIAL SECRETARY seconded.

The question was put and agreed to.

The Bill was read the Second time.

Council then went into Committee to consider the Bill clause by clause.

HIS EXCELLENCY THE GOVERNOR:—With your concurrence, we will take the clauses in blocks of not less than ten.

Clauses 1 to 12 were agreed to.

Clause 13.

THE ATTORNEY GENERAL:—Sir, I move that clause 13 of the Bill be amended by deleting the words “in any public place” in sub-clause 2. Section 19 of the Summary Offences Ordinance which sub-clause 2 is

intended to replace is not limited to public places and the amendment proposed would have the effect of making it an offence to behave in the manner specified in the sub-clause, whether such conduct takes place in a public place or not.

*Proposed Amendment.*

Clause

13 In subclause (2), leave out the words “in any public place”.

Clause 13, as amended, was agreed to.

Clauses 14 to 56 were agreed to.

Council then resumed.

THE ATTORNEY GENERAL reported that the Bill before Council had passed through Committee with one amendment and moved the Third reading.

THE COLONIAL SECRETARY seconded.

The question was put and agreed to.

The Bill was read the Third time and passed.

**DRUG ADDICTS TREATMENT AND REHABILITATION  
(AMENDMENT) BILL 1967**

DR TENG PIN-HUI moved the Second reading of:—“A Bill to amend further the Drug Addicts Treatment and Rehabilitation Ordinance.”

THE COLONIAL SECRETARY seconded.

The question was put and agreed to.

The Bill was read the Second time.

Council then went into Committee to consider the Bill clause by clause.

Clauses 1 to 6 were agreed to.

Council then resumed.

DR TENG PIN-HUI reported that the Bill before Council had passed through Committee without amendment and moved the Third reading.

THE COLONIAL SECRETARY seconded.

The question was put and agreed to.

The Bill was read the Third time and passed.

**YOUNG OFFENDERS (MISCELLANEOUS  
PROVISIONS) BILL 1967**

MR A. TODD moved the Second reading of: —“A Bill to amend the Criminal Procedure Ordinance, the Industrial and Reformatory Schools Ordinance and the Juvenile Offenders Ordinance.”

THE COLONIAL SECRETARY seconded.

The question was put and agreed to.

The Bill was read the Second time.

Council then went into Committee to consider the Bill clause by clause.

Clauses 1 and 2 were agreed to.

Council then resumed.

MR A. TODD reported that the Bill before Council had passed through Committee without amendment and moved the Third reading.

THE COLONIAL SECRETARY seconded.

The question was put and agreed to.

The Bill was read the Third time and passed.

**ADJOURNMENT**

THE COLONIAL SECRETARY moved the adjournment.

THE ATTORNEY GENERAL seconded.

The question was put and agreed to.

**NEXT MEETING**

HIS EXCELLENCY THE GOVERNOR:—Council will now adjourn. The next meeting will be held on 29th November.