

## OFFICIAL REPORT OF PROCEEDINGS

Meeting of 5th June 1968

### PRESENT

HIS EXCELLENCY THE GOVERNOR (*PRESIDENT*)  
SIR DAVID CLIVE CROSBIE TRENCH, KCMG, MC  
THE HONOURABLE THE COLONIAL SECRETARY  
MR MICHAEL DAVID IRVING GASS, CMG  
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, OBE  
THE HONOURABLE THE FINANCIAL SECRETARY  
MR JOHN JAMES COWPERTHWAITTE, CMG, OBE  
THE HONOURABLE ALEC MICHAEL JOHN WRIGHT, CMG  
DIRECTOR OF PUBLIC WORKS  
DR THE HONOURABLE TENG PIN-HUI, CMG, OBE  
DIRECTOR OF MEDICAL AND HEALTH SERVICES  
THE HONOURABLE WILLIAM DAVID GREGG, CBE  
DIRECTOR OF EDUCATION  
THE HONOURABLE ROBERT MARSHALL HETHERINGTON, DFC  
COMMISSIONER OF LABOUR  
THE HONOURABLE TERENCE DARE SORBY  
DIRECTOR OF COMMERCE AND INDUSTRY  
THE HONOURABLE KENNETH STRATHMORE KINGHORN  
DISTRICT COMMISSIONER, NEW TERRITORIES  
THE HONOURABLE DAVID RICHARD WATSON ALEXANDER, MBE  
DIRECTOR OF URBAN SERVICES  
THE HONOURABLE ALASTAIR TREVOR CLARK  
DIRECTOR OF SOCIAL WELFARE  
THE HONOURABLE DHUN JEHANGIR RUTTONJEE, CBE  
THE HONOURABLE LI FOOK-SHU, 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  
DR THE HONOURABLE CHUNG SZE-YUEN, OBE  
THE HONOURABLE WILSON WANG TZE-SAM  
THE HONOURABLE HERBERT JOHN CHARLES BROWNE  
THE HONOURABLE ANN TSE-KAI

### IN ATTENDANCE

THE DEPUTY CLERK OF COUNCILS  
MR DONALD BARTON

**MINUTES**

The minutes of the meeting of the Council held on 22nd May were confirmed.

**AFFIRMATION**

MR ANN TSE-KAI made an Affirmation of Allegiance and assumed his seat as a Member of the Council.

HIS EXCELLENCY THE GOVERNOR: —May I welcome Mr ANN to this Council.

**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: —	
Emergency (Principal) Regulations.	
Emergency (Principal) Regulations (Discontinuance) Order 1968 .....	42
Emergency Regulations Ordinance.	
Emergency Regulations (Repeal) Order 1968 .....	43
Education Ordinance.	
Subsidized Schools Provident Fund (Amendment) Rules 1968 .....	44
Proclamation No 1 of 1968.	
Maintenance Orders (Facilities for Enforcement) Ordinance to apply to Singapore as from the 22nd day of May 1968 .....	49
Proclamation No 2 of 1968.	
Maintenance Orders (Facilities for Enforcement) Ordinance to extend to Christmas Island as from the 22nd day of May 1968 .....	50
Public Health (Animals and Birds) Ordinance.	
Public Health (Animals and Birds) (Amendment) Regulations 1968 .....	51
Resettlement Ordinance.	
Resettlement (Amendment) (No 2) Regulations 1968	52
Public Health and Urban Services Ordinance.	
Slaughter-houses (New Territories) (Amendment) Regulations 1968 .....	53
Report:—	
Report of the Advisory Committee on Private Recreational Leases.	

He said:—Amongst these papers is the Report of the Advisory Committee on Private Recreational Leases, which is being published in both English and Chinese. A summary of the Committee's recommendations has been included in Annex D of (he Report.

The Advisory Committee, under the Chairmanship of Sir Albert RODRIGUES, was appointed in February 1966 to review policy on the granting of leases for private recreational purposes.

This is a most useful report on a difficult subject and I am glad to take this opportunity to express publicly the Government's thanks to the Committee for the valuable services which they have rendered.

I hope that the Committee's report will help to focus public attention on this important question of our future policy on Private Recreational Leases and I would welcome the comments of honourable Members and the public at large upon it.

### QUESTIONS

MR SZETO WAI, pursuant to notice, asked the following question: —

A recent newspaper report stated that a man had been convicted of failing to licence a wireless television set although he also had a Rediffusion set on the same premises. Would Government explain in what circumstances it is necessary to obtain a wireless television receiving licence?

THE ATTORNEY GENERAL replied as follows:—

He said: —Sir, a subscriber to the wired television service provided by Rediffusion (Hong Kong) Limited pays to the Company a rental which covers both the service provided and the licence fee for the subscriber's wired television set.

The Company pays to the Government, from this rental, an amount equal to the licence fee for a broadcast television receiving station, which is 36 dollars a year.

Because he is paying a licence fee indirectly through the Company, a subscriber to Rediffusion does not need to take out any licence for his Rediffusion television set, nor for a dual purpose television set, that is to say, a set which is capable of receiving both Rediffusion programmes and wireless television programmes.

However, the owner or renter of a wireless television set is obliged to take out a broadcast television receiving station licence, whether or not he is a subscriber to Rediffusion. One such licence will entitle

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the licensee to possess and operate any number of wireless television sets within the same domestic premises and any number of portable television sets inside or outside those premises.

To summarise the position therefore, a person who wishes to operate a Rediffusion or dual purpose set and also a wireless television set will, in effect, have to pay two licence fees, under the law as it now stands.

There has, I believe, been some misunderstanding as to the present position among many members of the public, who have assumed that the payment of one fee would cover all forms of television on one premises. In view of this, and of representations which have been received by the Government, the Government will now take the necessary steps to seek an amendment of the law so as to provide that the payment of one licence fee, whether this is paid directly to the Authority or indirectly through a Rediffusion Rental, will cover all sets on the licensee's premises, whether for wireless or wired television, and any portable sets owned by him.

In the meantime, there will be no further prosecutions of any person for possession of a television set without a licence, so long as he either has a licence under the Telecommunications Ordinance or he is a subscriber to Rediffusion.

MR SZETO WAI:—Thank you, Sir.

DR S. Y. CHUNG, pursuant to notice, asked the following question:—

If Government cannot at this stage dispense with the requirement of entry certificates for British Subjects visiting the United Kingdom with British passports issued in Hong Kong, will Government consider (1) to simplify the procedure of application by deleting the requirement of production of airline tickets and bank statements, (2) to shorten the processing time from a few days to a few hours and (3) to extend the validity period of the entry certificates from the usual 6 months to two years?

THE COLONIAL SECRETARY replied as follows:—

He said:—Mr President, it might be argued that parts (1) and (3) of this question are, strictly speaking, out of order, since they concern matters for which this Government is not directly responsible. However, in view of the public interest aroused by them, I will try to cover them in my reply.

It is Her Majesty's Government in the United Kingdom which is the responsible authority for the issue of entry certificates to British subjects holding Hong Kong passports who wish to enter the United Kingdom. The Director of Immigration issues them only on authority delegated by Her Majesty's Government and subject to the conditions laid down by it. These conditions apply equally to all Commonwealth territories, whether dependent or independent.

In parts (1) and (3) of his question the honourable Member asks whether this Government will consider simplifying the procedure for obtaining, and extending the validity of, entry certificates. These, I am afraid, are not matters over which we have control. They are requirements laid down by Her Majesty's Government as a condition of our being allowed to issue entry certificates on its behalf. The need to produce documentary proof of a potential visitor's *bona fides* is, I may add, a fairly general requirement for entry into any country.

Part (2) of the honourable Member's question, which deals with the speed of processing applications, is, on the other hand, a local responsibility. Entry certificates are issued with the minimum of delay, normally within forty-eight hours. I regret that it is not administratively practicable to ensure any general reduction in the time now taken in processing applications but I can assure the honourable Member that urgent and compassionate applications can be, and are, dealt with in a matter of minutes.

Finally, I may add that, although it is not essential for a person holding a Hong Kong passport to obtain an entry certificate in advance of his travelling, nevertheless, the United Kingdom authorities advise travellers to do so. Since without an entry certificate permission to land on arrival could be delayed or even refused, I strongly advise would-be travellers to obtain their entry certificates before leaving Hong Kong, despite any possible inconveniences.

DR CHUNG:—Thank you, Sir.

### COMMISSIONS OF INQUIRY BILL 1966

HIS EXCELLENCY THE GOVERNOR:—We will now resume the debate on the Second reading of the Commissions of Inquiry Bill 1966.

THE ATTORNEY GENERAL:—Sir, the First reading of the Commissions of Inquiry Bill 1966\*, was moved by the then Attorney General in this Council on the 24th February, 1966. Between that date and the Second reading of the Bill, which was moved by the Attorney General on the 25th March, 1966, representations about the Bill were received

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\* 1966 Hansard, page 85.

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from the Hong Kong Bar Association, and the Committee of the Law Society asked that further progress on the Bill should be halted so as to enable it to make detailed representations about the Bill.

As a result, the Honourable C. Y. KWAN moved that the Second reading of the Bill be adjourned sine die\*. This motion was seconded by the Honourable S. S. GORDON and duly passed by Council.

Within the following two months, letters containing detailed criticisms of the Bill and suggestions for its amendment were received from the Committee of the Law Society of Hong Kong and from the Committee of the Hong Kong Branch of Justice.

The Government decided, during 1966, that there might be advantage in waiting for the report of the Royal Commission on Tribunals of Inquiry which was established in the United Kingdom in 1966. This Commission reported towards the end of that year, proposing that legislation should be undertaken in England to give effect to some of its recommendations. The re-submission of this Bill to Council was delayed for some months in the hope that this legislation would be published and might be of assistance to us. We were informed, last year, that it was likely to be a considerable time before any such legislation could find a place in the United Kingdom legislative programme and it was therefore decided to bring this Bill back to Council for consideration, though preoccupation with more urgent matters delayed its reintroduction still further. If and when English legislation on the subject is introduced into the United Kingdom Parliament, it will be examined with great care to see whether any of its provisions would be suitable for adoption in Hong Kong, though I would like to point out that the main English Act, the Tribunals of Enquiry Act, 1921, is not in many respects satisfactory, even for English circumstances, as can be seen from the fact that many inquiries, of a kind which we would like to use this Bill for, are conducted outside the Act and without statutory backing in England.

As it is rather more than two years since the First and Second readings were moved, I think it would be appropriate for me to remind honourable Members of some of the main provisions of the Bill and to indicate those amendments which I propose to move at the Committee Stage, most of which arise from comments made by the three bodies to which I have referred, though several are the result of suggestions by the Honourable P. C. Woo, for whose careful scrutiny of the Bill I am indebted.

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\* 1967 Hansard, page 239.

Clause 2 of the Bill provides for the appointment of one or more Commissioners to enquire into matters in respect of which an inquiry would, in the opinion of the Governor in Council, be in the public interest.

It is, I think, important to remember that inquiries may cover a very wide range of subjects, from the investigation of allegations of misconduct by a single public officer to an examination of the structure, finance and operation of an industry. Some types of inquiry may be concerned with defence or security matters of great secrecy and some may involve a degree of personal danger to witnesses, whereas others can be conducted entirely openly and with no fear of personal risk or of danger to the Colony. It must not be thought, therefore, that all the powers which are conferred upon the Governor in Council or upon the Commissioners will be used on every occasion. Many of them will be sparingly employed.

One of these powers, which has given rise to some criticism, is the provision for the appointment of a single Commissioner, which is the position under the present Ordinance which this Bill seeks to replace. I do not suppose that it will become the normal practice to appoint a single Commissioner. Nevertheless, there may be occasions on which this is thought to be desirable. Under the English Tribunals of Enquiry Act, about fifteen Tribunals have been established, of which three or four have been one man tribunals. Furthermore, the appointment of a single person for extra-statutory inquiries is by no means uncommon in England, a recent well-known example being the Denning Enquiry. It is therefore proposed to retain the Bill to appoint a single Commissioner. I shall, however, move two amendments to clause 2 of the Bill. The first is to replace the words in subclause (1) "in respect of which an enquiry would, in his opinion, be in the public interest" and substitute "which is, in his opinion, of public importance". The substituted phrase follows more closely the wording of section 1 of the English Act to which I have referred. The other amendment is to delete from paragraph (d) of subclause (2) of clause 2 the restriction that a legal adviser to the Commission may be appointed only if no member of it holds judicial office, since there may be occasions where the Commission would value such assistance, even when one of the Commissioners does hold such an office.

Clause 3 gives the Governor in Council various powers of direction over the conduct and scope of an inquiry. I shall move the insertion at the beginning of paragraph (b) of the words "without prejudice to the powers of the Commission to receive and consider such other evidence as it may think fit". The object of this amendment is to show that the power of the Governor in Council under this paragraph is only a power to direct the Commission to receive and consider material and does not confer any power on the Governor in Council to prohibit the

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Commission from receiving and considering any other evidence which may be relevant to the Commission's terms of reference.

Similarly, I shall move that the words "without prejudice to the powers conferred upon the Commission by paragraph (i) of section 4" should be inserted at the beginning of paragraph (e) of clause 3, to make it clear that the Governor in Council's power to direct the hearing of an inquiry or parts of it in camera will not prevent the Commission itself ordering other parts of the inquiry to be held in camera if it considers this desirable.

Some criticism has been directed at other paragraphs of this clause. In relation to paragraph (c), by which the Governor in Council can direct what matters shall be outside the Commission's terms of reference, the point has been made that such a direction might give rise to conflict between it and the terms of reference given to a Commission. I agree that any direction by the Governor in Council under paragraph (c) would need the most careful drafting to avoid this. However, there will certainly be occasions on which Commissioners would greatly value some detailed guidance as to how far their terms of reference should extend. Inquiries of this nature, unless carefully controlled, become diffuse and tend to wander. Because 'there are usually no clear and narrow issues, as in civil actions, there is a tendency for them to continue too long. I therefore consider that this paragraph should be retained.

It has been argued that the power of the Governor in Council to direct the holding of the whole or part of an inquiry in camera, which is contained in paragraph (e) of clause 3, should be limited to cases where the defence or security of the Colony might be threatened, on the general ground that the interests of justice normally require that inquiries should be held in public.

I accept the principle that it is desirable that judicial or quasi-judicial proceedings should generally be held in public. However, I suggest that it is not only when defence and security matters are involved that the taking of evidence in camera may be desirable. An inquiry may involve the disclosure of confidential commercial practices or valuable trade secrets. Serious allegations may be made against an individual, with the inevitable wide publicity which follows public hearings, based on unjustifiable assertions, which are later disproved but which may nevertheless gravely affect his reputation.

Unless this paragraph is retained in the section therefore, the Governor in Council may well feel obliged not to appoint a Commission at all in circumstances where one would clearly otherwise be desirable.



Clause 4 sets out the main powers which may be exercised by a Commission in its conduct of an inquiry and I shall propose 3 amendments to this clause at the Committee Stage, two of them of a minor nature and one of some importance.

Firstly, I shall move that the words “on oath, affirmation or other wise” be inserted after the word “examine” in paragraph (g) and that the word “to” be added “after publication” in paragraph (j). These amendments are designed to clarify the meaning of the paragraphs concerned.

With regard to paragraph (i) of the clause, honourable Members will see, from the list of amendments before them that I had proposed to move, that it be deleted and replaced by a new paragraph (i) in the following terms:—

“(i) hold in camera, or exclude any person (including any person implicated or concerned therein and his legal representatives) from, the whole or any part of the inquiry:

Provided that any legal representative entitled to appear by virtue of the provisions of section 6 may only be excluded from such part of the inquiry as is held in camera;”.

In the present Bill, this paragraph empowers the Commission to exclude from the inquiry or any part thereof any person, including a person implicated or concerned in the inquiry and his legal representatives. The new paragraph which I have quoted would limit the Commission’s power to exclude a person’s legal representatives to that part of an inquiry which is held in camera. Tribunals in the United Kingdom exercise a similar power, which was frequently employed during the Vassal Enquiry when delicate security considerations were involved in much of the evidence which was heard in camera.

Since the list of amendments was circulated to honourable Members, I have received further representations from the Law Society, which has suggested that a legal representative should not be excluded from any part of an inquiry, even when held in camera, when his client is giving evidence. It was not the intention that this should happen, and I shall accordingly move a further amendment to paragraph (i) of clause 4 to put this beyond doubt.

Power to exclude persons concerned is given to the Commission on the analogy of civil proceedings, which a Commission of Inquiry more closely resembles than criminal proceedings. It is, for obvious reasons, the usual practice to exclude from civil proceedings in a court persons who are expected to give evidence at a later stage.

Furthermore, experience in the holding of Commissions, particularly in Hong Kong, has shown that many witnesses are willing to give

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evidence only if they are assured that this can be taken in camera and that nobody but their own counsel will be present. While they could be forced to give evidence, 'this is not the best way to reach the truth. I suggest, therefore, that the powers conferred on a Commission by the new paragraph (i) are essential to its full effectiveness.

Clause 5 gives the Commission power to determine the manner in which oral evidence shall be given and to decide the content and order of speeches which may be addressed to the Commission.

Subclause (1) of clause 6 aroused considerable criticism in its present form, which provides that a person or his legal representative may hear only such evidence and see only such articles or documents as the Commission shall decide. I intend to move its replacement by a new subclause which will give a person whose conduct is the subject of an inquiry, or who is implicated or concerned in it, the right to be represented by counsel or a solicitor at the inquiry, subject only to the provisions of clause 4, which will contain the limited power to exclude legal representatives to which I have just referred.

Subclause (3) of clause 6 was attacked on the ground that the power to exclude legal representatives under clause 4 did not apply to legal officers and other persons representing the Governor, a Government department or a public officer and was therefore unfairly weighted in favour of the Crown. I shall move an amendment to ensure that those representing the Governor, a Government Department or public officers may be excluded in the same way as counsel or solicitors representing other persons concerned in the inquiry.

It has been suggested that the proviso to clause 7 might be misleading. The general principle set out in clause 7 is that evidence given by a witness before the Commission is not to be admissible in any other proceedings (except for certain specified offences) against him. The proviso to the clause however, allowed such evidence to be used in other proceedings if the witness had been warned that he need not incriminate himself with respect to some particular matter. There seems to me to be some danger that the witness might be misled by such a warning, and consequently I propose to move that the proviso be deleted from clause 7.

I shall put forward three amendments to clause 8 of the Bill, two of which are designed to confer additional protection upon persons accused of offences under the Ordinance. The first is to insert the words "without reasonable excuse" at the beginning of paragraph (a) of subclause (1). The second, to insert the word "wilfully" at the beginning of paragraph (a) of subclause (2). I shall also move the

deletion of paragraphs (d) and (f) of subclause (1) and their replacement by a new paragraph which is, I think, more satisfactory in its wording and will make it an offence to wilfully interrupt the proceedings of the Commission or otherwise misbehave during any hearing of the Commission.

In subclauses (1) and (2) of clause 9 the phrase “where so directed under section 3” appears, I shall move that these words be replaced by “if so empowered under section 3” in each case, to remove any suggestion that the Commission is subject to direction by the Governor in Council when exercising its powers to deal with contempts.

Objection has been taken to the absence of any right of appeal against a sentence imposed for contempt by the Commission under clause 9. I agree that it would be desirable that one should be provided and accordingly propose to move the addition of a new clause 9(5) giving a person sentenced by the Commission for contempt the right to appeal to a judge of the Supreme Court in the same manner as if it were an appeal against a sentence imposed by a magistrate.

In subclause (2) of clause 11 I shall suggest that the words “if it were committed towards the Supreme Court or a judge as the case may be” should be inserted after the word “judge” where it first appears in order to make the meaning of that subclause clearer.

In clause 12 I shall move the addition of a new proviso to sub-clause (1) to ensure that the protection of members of the Commission for acts done by them as such is not construed so as to prevent the Supreme Court exercising its usual power to control inferior tribunals by means of the prerogative orders of mandamus, certiorari or prohibition, where these are inappropriate.

I shall also move the substitution in clause 15 of the words “suit or other proceedings” for “civil or criminal proceedings”. This does not involve any change of substance but is intended to achieve more consistency in drafting as the phrase “civil or criminal proceedings” is used in clause 7.

Clause 15 confers protection on anyone who publishes a true account of a report of the Commission published by order of the Governor. With regard to such publication, it has been argued that material received by a Commission in camera should not be published later, on two main grounds, firstly, because a witness who might be willing to give evidence in camera may refuse to do so if there is a chance that what he says may be published later and secondly, because a person may be damaged by statements made secretly to the Commission and subsequently published.

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I should draw attention to the fact that no publication is protected under clause 15 unless it is published with the authority of the Governor. The Commission will usually report to him and he will decide what to publish, and indeed whether or not to publish anything at all. If he decides to publish, he will be entitled to edit the report so as to exclude the publication of security matters and of any other material received in camera. One of the factors which he would no doubt consider would be the insistence of a witness that he would give evidence only in camera and this might incline him either to excise that part of the report which refers to such testimony, or so to disguise it as to protect the witnesses' anonymity.

There is, in an inquisitorial procedure, always a danger that a person's reputation may be damaged by allegations against him, though I suggest that this risk is greater when they are made in public rather than in camera. However, Commissions are alert to this. If such attacks are irrelevant, they should be stopped and would form no part of the report. If they are relevant, the Commission would surely give the person attacked an opportunity to reply.

The risk of injury to personal reputation is to an extent inherent in this kind of inquiry. A Commission is sometimes the most effective way of finding out the truth and truth is all too often damaging to someone. I do not, therefore, believe that it is necessary or desirable to insert a prohibition against the publication of evidence taken in camera, though the considerations raised are important ones which must not be lost sight of.

I must offer my apologies to honourable Members for speaking at such length. I considered that, in view of the history of this Bill, I ought to deal in some detail not only with those amendments which I shall move at the Committee Stage but also with some of the criticisms of the Bill with which the government does not agree.

I would like, in conclusion, to express my appreciation to the Committee of the Law Society, the Committee of the Bar Association and the Hong Kong Branch of Justice. These bodies devoted considerable time and care to an examination of the Bill and made a number of reasoned and helpful suggestions for its improvement, which will be found embodied in the list of amendments to be moved in Committee.

Sir, I give notice that the Committee Stage of this Bill will be taken at the next meeting of this Council.

The question was put and agreed to.

The Bill was read the Second time.

**SEPARATION AND MAINTENANCE ORDERS  
(AMENDMENT) BILL 1968**

THE ATTORNEY GENERAL moved the Second reading of:—"A Bill to amend the Separation and Maintenance Orders Ordinance."

THE COLONIAL SECRETARY seconded.

MR P. C. Woo addressed the Council.

He said:—I welcome the amendment of clause 2 to substitute the definition of "Christian marriage or its civil equivalent" by the definition of "monogamous marriage".

The existing definition of "wife" and "married woman" includes the "kit fat" or "tin fong" spouse of any Chinese man, married to him in accordance with the laws or customs of China. This definition has been interpreted by the Courts here to mean Chinese customary marriages and not Chinese Modern Marriages. Thus, it gives a doubt as expressed by the former Attorney General and the former Secretary for Chinese Affairs in their joint memorandum on "Chinese Marriages in Hong Kong" published on the 13th December 1960, that Chinese Modern Marriages as such have no validity in Hong Kong as they are not celebrated according to the personal law and religion of the parties.

As regards Chinese Modern Marriages which take place outside Hong Kong and are celebrated in accordance with the Chinese Civil Code they are monogamous marriages and covered by the case of Chan Shiu Sui Ping vs. Chan Din Tsang, reported in the 1958 Hong Kong Law Report at page 283, when the Supreme Court held that a Chinese Modern Marriage celebrated in accordance with the then Chinese Civil Code was a monogamous one.

But as regards Chinese Modern Marriages which take place in Hong Kong the wives who are separated from their husbands are not protected because such marriages are not Chinese customary marriages nor they are celebrated in accordance with the provisions of the Marriage Ordinance. However, I understand that Government is actively considering a complete and exhaustive review of the law on Chinese marriages in Hong Kong in accordance with the recommendations contained in the White Paper laid before this Council in July last year\*. I am sure the point now raised by me will not be overlooked by my honourable and learned Friend the Attorney General.

Sir, I support the Motion.

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\* 1967 Hansard, Page 301.

THE ATTORNEY GENERAL replied as follows:—

He said:—I am grateful to my honourable Friend for raising one difficult and important aspect of the problem of marriages in Hong Kong.

The object of the Separation and Maintenance Ordinance is, of course, to enable magistrates to make maintenance and other orders only in relation to the wife and children of those forms of marriage which were capable of dissolution or other relief either under the former Divorce Ordinance or under the Matrimonial Causes Ordinance\* which replaced it in 1967. The power to award maintenance under this Ordinance and the power to grant decrees and other relief under these Ordinances have always been linked.

As the honourable Member has said, that form of marriage which is known as the Chinese modern marriage is not, if it takes place in Hong Kong, capable of being dissolved under the Matrimonial Causes Ordinance, since it does not take place in accordance with the Marriage Ordinance and so it is not a monogamous marriage as defined in the Matrimonial Causes Ordinance. Consequently it follows the courts will have no jurisdiction under this Ordinance in relation to such a marriage, since this Bill will incorporate into the Separation and Maintenance Orders Ordinance the same definition of a monogamous marriage as appears in the Matrimonial Causes Ordinance.

As honourable Members may know, the drafting of Chinese marriages legislation, based on the 1967 Government White Paper on Chinese Marriages in Hong Kong†, is now in progress, and I can assure the honourable Member that the extent to which the court's should be given jurisdiction to award maintenance to the wife and children of a Chinese modern marriage will certainly not be overlooked in the preparation of that legislation.

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 3 were agreed to.

Council then resumed.

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

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\* 1966 Hansard, Page 445 and 1967 Hansard, Page 12.

† 1967 Hansard, Page 301.

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 26th June.