

**OFFICIAL REPORT OF PROCEEDINGS****Meeting of 25th September 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, QBE, QC  
THE HONOURABLE THE SECRETARY FOR CHINESE AFFAIRS  
MR DAVID RONALD HOLMES, CBE, MC, ED  
THE HONOURABLE THE FINANCIAL SECRETARY (*Acting*)  
MR MICHAEL DENYS ARTHUR CLINTON, GM AND BAR  
THE HONOURABLE ALEC MICHAEL JOHN WRIGHT, CMG  
DIRECTOR OF PUBLIC WORKS  
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 GEORGE TIPPETT ROWE  
DIRECTOR OF SOCIAL WELFARE  
THE HONOURABLE KAN YUET-KEUNG, CBE  
THE HONOURABLE PUNG HON-CHU, OBE  
THE HONOURABLE TSE YU-CHUEN, OBE  
THE HONOURABLE KENNETH ALBERT WATSON, OBE  
THE HONOURABLE WOO PAK-CHUEN, OBE  
THE HONOURABLE SZETO WAI, OBE  
THE HONOURABLE WILFRED WONG SIEN-BING, OBE  
THE HONOURABLE ELLEN LI SHU-PUI, OBE  
THE HONOURABLE WILSON WANG TZE-SAM  
THE HONOURABLE HERBERT JOHN CHARLES BROWNE  
DR THE HONOURABLE CHUNG SZE-YUEN, OBE  
THE HONOURABLE MICHAEL ALEXANDER ROBERT HERRIES, OBE, MC  
THE HONOURABLE ANN TSE-KAI

**ABSENT**

DR THE HONOURABLE TENG PIN-HUI, CMG, OBE  
DIRECTOR OF MEDICAL AND HEALTH SERVICES

**IN ATTENDANCE**

THE DEPUTY CLERK OF COUNCILS  
MR DONALD BARTON

**MINUTES**

The minutes of the meeting of the Council held on 11th September were confirmed.

**OATH**

MR G. T. ROWE took the Oath of Allegiance and assumed his seat as a Member of the Council.

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

MR ROWE:—Thank you, Sir.

**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: —	
Quarantine and Prevention of Disease Ordinance. Prevention of the Spread of Infectious Diseases (Amendment) Regulations 1968 .....	96
Sessional Papers 1968:—	
No 23—Annual Report by the Postmaster General for the year 1967-68.	
No 25—Annual Report by the Accountant General with the Accounts of the Colony for the year 1967-68.	
No 26—Seventh Annual Report by the Social Work Training Fund Trustee for the period ending on 31st March 1968.	
Standing Orders of the Legislative Council.	
Reports: —	
Annual Report of the Sir Robert Black Trust Fund Committee for the year 1st April 1967—31st March 1968.	
Reports and Statements of Accounts by:	
(i) The Trustee of the Police Children's Education Fund from 19th May to 30th November 1967, and	
(ii) The Trustee of the Police Children's Education Trust and the Police Education and Welfare Trust from 1st December 1967 to 31st March 1968.	

He said:—Sir, among these Papers is a draft of the revised **Standing Orders** proposed for consideration of this Council. It is my intention to move a motion at the next meeting for the making of these Standing Orders in substitution for the existing Standing Orders. These latter orders, which were made in 1929\*, contain a number of provisions which are no longer followed and are deficient in others which are now thought to be desirable. In general, it is felt that the time has come when they should be replaced.

For their invaluable help in the preparation of the revised draft I would like, in particular, to thank my honourable Friends the Attorney General and Mr P. C. Woo as well as the Clerk and Deputy Clerk of Councils.

With your permission, Sir, I would like to explain some of the more important provisions of the draft itself. I hope that its division into Parts by subjects will be of assistance to honourable Members. In addition to the table of contents there will also be included an index for ease of reference.

Part A contains very little that is new. Order No 3 follows the provisions of the Royal Instructions with regard to the presidency of the Council. Order No 4 lays down the duties of the Clerk and contains one or two new provisions. Under paragraph (2) the formal confirmation of minutes in the Council will no longer be necessary. The Clerk will in future enter into an Order Book all items of business as notice of them is received and this Book will be open to inspection by Members.

Part B contains some of the most important new provisions. Orders No 5 provides for an annual session of the Council. Each session will end on 30th September and the next session will open within six weeks of that date. Order No 6 deals with the opening sitting of the new session and makes it an occasion for a speech by the Governor. Thereafter a debate can be held on a motion to thank the Governor for his speech, the debate, if necessary, continuing over more than one day. Under our present practice the Governor's annual speech reviewing the state of the Colony and the Financial Secretary's budget speech are both given on the same day and these are followed at intervals by long and wide-ranging speeches by all Unofficial and most Official Members. I believe that there is a general feeling among honourable Members that with the complexity of modern Hong Kong the fare provided by this marathon annual debate is becoming too much to digest at any one time; and that there would be advantage in spreading the load. These new provisions are designed to do this and will give an opportunity for this Council, during October in each year, to debate the Government's general policies in connection with the Governor's Speech, as it were, from the Throne and, during March in each year, to discuss more particularly economic policy and the annual Estimates.

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\* 1929 Hansard, pages 296 & 313-5.

[THE COLONIAL SECRETARY] **Standing Orders**

This procedure is, of course, experimental but I hope honourable Members will consider it worth being given a trial.

Standing Order No 7 deals with the sittings of the Council. While I expect the present fortnightly sittings to continue to be the normal practice, provision is included for a recess of up to six weeks at any one time. Order No 9 provides for two kinds of adjournment debate. Paragraphs (1) to (3) permit an *ex officio* Member to initiate a debate on a subject which the Government wishes to raise; while paragraphs (4) to (8) permit an Unofficial Member to raise some matter of public interest for which the Government is responsible. These latter paragraphs will regularize our present informal procedure for adjournment debates. The significance of these two types of debate is that the vote, if any, is taken on a motion to adjourn and not on the subject matter of the debate. If a substantive decision on the subject matter is required, then a formal motion under Standing Order No 21 will be necessary.

Order No 10 increases the quorum from four to ten Members (excluding the President) in view of the greater size of the present Council and lays down the procedure to be followed in the absence of a quorum.

Part C sets out the order in which business shall be taken at any sitting; states where notice is required; and gives priority to Government business over private business.

Part D deals with the procedure for presenting petitions and laying papers. A petition may be referred to a select committee if at least ten Members support such a reference.

Part E covers the asking of questions by Unofficial Members and will no doubt be of particular interest to them. Two new limitations have been included: first, except in cases of special urgency, not more than ten questions may be set down for any one sitting and, secondly, no individual Member may ask more than three questions at one sitting. Order No 15 indicates the nature of the questions which may be asked and Order No 18 the things which may not be included in questions. Order No 17 sets out the notice required and Order No 19 the procedure for asking and answering questions and supplementary questions. Every effort has been made in this Part to set out clearly what every Member wants to know in connection with the procedure for asking questions.

Part F covers the making of official statements on Government policy. Such statements can be made, for example, to draw attention to important papers which have been laid or as a preliminary to a formal debate at a later date.

Part G deals with the moving and debating of motions and amendments to motions. The only changes of importance from the current

### Standing Orders

practice of the Council is that the need for motions to be formally seconded has been removed and I, for one, shall be released from a lot of unnecessary exercise. In connection with paragraph (2) of Order No 22 (and the same applies to the text of questions under Order No 18(2)), I would like to say that it is intended that the Clerk should consult personally with the Member wishing to move a motion, or ask a question, where it appears that the text requires amendment to comply with Standing Orders, in order to obtain agreement on the revised text before it is submitted to the President. There is no intention to reject or make arbitrary amendments to motions or questions without consulting the Member concerned.

Order No 23 requires the consent of the Governor before any motion may be moved which proposes an increase in taxation or in the financial commitments of the Colony. This provision is necessary to comply with Article XXIV of the Royal Instructions and will be found elsewhere in these Standing Orders in connection, for example, with petitions, bills, amendments to bills and amendments to the Estimates. Where this consent is given, and I think I can safely say that it will not often be withheld, it will be my duty to state the fact in the Council for record in the minutes.

Parts H and I deal with the rules of debate and the rules of order. They follow standard practice in other democratic legislatures and prescribe rules of conduct which I am sure are fully acceptable to honourable Members, who may wonder why it has been necessary to include them. Much is of course included for the sake of completeness but this Part does also include certain matters which may not be generally known and which may be helpful to Members. For example, Order No 28 sets out the occasions when a Member may speak more than once on a question; Order No 29 deals with the two kinds of permitted interruptions; and Order No 30 provides for the adjournment of debates before a vote is taken.

Part J deals with voting and the procedure for taking divisions. The normal method for taking a vote is by the collection of voices. If, however, the President is in doubt as to where the weight of voices lies or if a Member challenges his assessment, a formal division may be ordered. There must, however, be a genuine doubt as to the weight of voices on either side. Where there are obviously only one or two dissentients, they cannot claim a division as of right in order to get their names recorded in the minutes. In such circumstances, the President may, in accordance with House of Commons practice, apply paragraph (5) of Order No 36 and ask the supporters and challengers of the motion to stand up and be counted, without calling a formal division.

[THE COLONIAL SECRETARY] **Standing Orders**

Part K, dealing with Bills, is not surprisingly the longest Part of these Orders. Order No 38 is straightforward but introduces one new provision in paragraph (7). This requires that the Objects and Reasons of a Bill should, where practicable, include a reference to their financial implications. Orders Nos 39 and 40 cover the notice required of the introduction of a Bill and its publication.

Order No 41 provides that the first reading of a Bill should be purely formal. This accords again with House of Commons practice but is new in this Council, where the procedure has hitherto been for the Member in charge of a Bill to make an introductory speech and then for a motion for a first reading to be voted upon without any debate. This has led to misunderstandings and difficulties for Members. Under the proposed revised Standing Orders, there will be two principal alternatives open to Members in charge of Bills, following their publication in the *Gazette* and their formal first reading in the Council. First, and this is likely only to apply to minor, uncontroversial Bills, the second reading can be taken and completed on the same day as the first reading; the committee stage and third reading being deferred to a later meeting. Alternatively, the Member in charge of the Bill can move the second reading with an introductory speech on the same day as the formal first reading and then arrange for the debate on the second reading to be adjourned to a later date. In this case, the committee stage and third reading can either be taken immediately after the second reading or deferred again to another later meeting of the Council. It is felt that this procedure provides more flexibility and that it will enlarge rather than curtail honourable Members' opportunities to consider Bills. In particular, it avoids a vote on a Bill before it has been debated.

Order No 42 deals with the second reading of Bills, which is the main occasion for a debate on principles. As I have said, this debate can, if desired, be adjourned from one meeting to a later one before a vote is taken. After the second reading is completed. Order No 43 provides that the Bill can either be referred to the committee of the whole Council for the committee stage or be referred to a select committee. This is the stage when Bills are examined in detail and amendments can be made in accordance with Orders Nos 44 and 45. Orders Nos 46 and 47 deal with the procedure for handling and reporting a Bill in committee of the whole Council, which is very much as it is at present. Orders Nos 48 and 49 deal, on the other hand, with the procedure for handling a Bill in a select committee and for reporting it back to the Council, while Order No 50 allows a Bill reported from a select committee to be further considered, in whole or in part, in the whole Council. The third reading, apart from the correction of minor errors, is again purely formal in accordance with Order No 51.

### Standing Orders

Part L, dealing with Financial Procedure, introduces a number of changes. Under these, the Financial Secretary will make his budget speech on the second reading of the Appropriation Bill. The debate will then be adjourned for at least a week to give Members an opportunity to study the speech, after which there will follow a general debate on the economic and financial policy of the Government in the context of the budget speech and the Estimates itself. The committee stage of the Appropriation Bill then follows, when the main discussions can centre around the Schedule to the Bill and the amounts voted under each head of the Estimates. This is the opportunity for Members to question departmental policies under Order No 55 and, if desired, to propose amendments in accordance with Order No 56. In view of the large number of different heads, however, in the Estimates it may be the wish of honourable Members to select each year certain heads for special, more detailed consideration in this Council. In addition to this public examination of the Estimates, there is provision in Order No 60 paragraph (8) for the Finance Committee to study the Estimates and to call before them the head of any department whom they may wish to question.

Order No 58 deals with the Council's approval of supplementary provision and Order No 59 with Supplementary Appropriation Bills. These closely follow our existing procedures.

Part M, concerns committees. The only Standing Committee proposed is the Finance Committee, which is covered by Order No 60. This Order, while setting out the functions more clearly, leaves our present procedures largely unchanged. Although no specific reference is made to the informal sub-committees of Finance Committee which deal with Public Works and Establishment matters, there is nothing to stop them continuing, and I hope they will. These sub-committees perform a most useful function but, since they are in effect advisory to the Finance Committee and have no independent authority, it is not necessary to set them up under Standing Order. The Public Works Committee and the Law Committee of this Council which our present Standing Orders requires will no longer exist under the revised Orders. They have not in fact met within anyone's memory, so far as I know.

Power is, nevertheless, given in Order No 61 for the Council to appoint a select committee at any time for any special purpose, for example, to examine a particularly controversial or complicated Bill or to examine a petition. Order No 62 sets out the procedure to be adopted in select committees and Order No 63 prevents the premature publication of the proceedings of such committees before they are reported to the Council.

The final Part N of these Standing Orders covers a number of miscellaneous matters which introduce nothing new of substance and

[THE COLONIAL SECRETARY] **Standing Orders**

call for little comment. Orders Nos 64 and 65 deal with professional practice and the declaration of pecuniary interest by Members. Orders Nos 66 and 67 deal with the admission of the public and the press to the sittings of the Council, while the last three orders deal with motions for suspending Standing Orders and with their interpretation.

Sir, I hope that these draft Standing Orders will prove acceptable to honourable Members. Although they may appear long and perhaps complicated at first sight, I do not think that this is really so. They try to set out in a logical order and in as clear and simple a form as possible all the main procedural points which are likely to arise in this Council. With the index and cross-references, I hope that Members will have no difficulty in finding the information they need and I am confident that they will quickly become familiar with the comparatively small number of changes which will affect them in actual practice. I also feel sure that you, Sir, will show indulgence to any of us who inadvertently slip into procedural errors in the early stages.

MR R. M. HETHERINGTON, by Command of His Excellency the Governor, laid upon the table the following paper:—

*Subject*

Sessional Paper 1968:—

No 24—Annual Report by the Commissioner of Mines for the year 1967-68.

He said:—The Mines Department, which consists of a Mines Section and an Explosives Section, is one of the smallest departments of Government with an establishment of about twenty officers. Its activities arouse little interest in the community and many persons, otherwise well-informed, are unaware of its existence or its activities. This is indicated by the sales of the annual report which in the past five years have averaged about forty copies a year. With your approval, Sir, I take this opportunity, in my capacity as Commissioner of Mines, to mention very briefly a few items in the latest report which may be of general public interest.

The total area alienated to mining is about one two-hundredth of the land surface of Hong Kong. This is about half the area devoted to mining ten years ago. Nonetheless, the annual production and value of mineral produce have been maintained at the same general level during the period. The principal mineral deposits of iron ore, kaolin, and wolframite were all discovered before the second world war and will eventually be completely worked out. Prospecting in recent years has not resulted in the discovery of any new deposits which can be mined. The general geological mapping at present being undertaken by the

**Mines Report**

Overseas Division of the Institute of Geological Sciences of the United Kingdom will eventually add considerably to existing information but it is very doubtful if, as a result, further substantial development of mineral resources will necessarily follow. The small surface area of Hong Kong is put to intense and varied usage but, notwithstanding the many demands on the land, it is my policy to permit prospecting and mining wherever I am satisfied that they can co-exist harmoniously with surrounding interests.

The Explosives Section of the department was established late in 1962. Because explosives can by their very nature endanger life and property officers of this section must rigidly enforce legislative and administrative controls over them. In addition, this section runs training courses free of charge for persons employed in blasting operations in order to promote safe practices. In the summer of 1967, exceptional demands were made on the officers of the section when operations were undertaken with the assistance of officers from the Police Force, the Civil Aid Services, the Marine Department, and the Labour Department to withdraw blasting explosives and fireworks from private storage generally. The public gave its ready co-operation in these exercises and I have expressed my appreciation of this help in my report. Since then, possession and discharge of fireworks have remained illegal and blasting explosives have been held in Government-controlled stores and issued and used under strict security arrangements. Amendments to legislation on the control of explosives are under consideration as I have previously mentioned in this Council\*. Regulations dealing with safety in quarries are now in an advanced stage of preparation.

**QUESTIONS****Oil Pollution**

1. MR H. J. C. BROWNE asked the following question:—

Although various departments of Government were able to deal efficiently with the limited oil pollution from the ship “Columbia Trader”, I would like to ask if Government are satisfied that they have adequate facilities and equipment for dealing with a casualty that may result in more serious oil pollution to our beaches and the harbour.

MR D. R. W. ALEXANDER:—Sir, my honourable Friend Mr BROWNE has asked whether Government is satisfied that it has adequate facilities and equipment for dealing with further oil pollution of our

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\* Page 37.

**[MR ALEXANDER] Questions**

beaches and harbour. He will be reassured to learn that the Director of Marine had anticipated the problem of oil pollution before the recent grounding of the "Columbia Trader" and that his recommendations, which were made after consulting the Dangerous Goods Standing Committee and the Port Executive Committee, now rest with Government. They envisage the delineation of routes for oil tankers, the provision of booms and emulsifiers to contain and disperse oil spillage, the demarcation of the Colony's waters into zones for storage purposes, and the introduction of the VHF plan for ship/shore, shore/ship and inter-ship radio communication at short ranges.

The recent incident lent urgency to the proposals relating to the acquisition of booms and emulsifiers and, as some of my honourable Colleagues will be aware. Finance Committee will be asked later this afternoon to consider a request for funds to provide such equipment. Serious problems could arise, of course, if Hong Kong were faced with massive oil pollution but, if the funds to be sought today are forthcoming, Government should be in a position to contain a spillage of up to 1,500 tons of fuel oil.

The Director of Marine is, moreover, continuing his discussions with other Government departments involved to ensure that the most effective co-ordination is achieved and to determine ways in which further supplies of stores and equipment may be acquired with the least possible delay in the event of an oil spillage greater than that for which provision is now being made.

Further, I understand that the Director of Fire Services is satisfied that he has sufficient stocks of foam compound on hand to deal with any reasonable situation which may arise from a fire resulting from oil spillage.

**Immigration Policy**

2. MR FUNG HON-CHU asked the following question: —

Will Government inform this Council whether a revision of the existing Immigration policy is contemplated following the admission into Hong Kong of a number of illegal immigrants in recent weeks?

THE COLONIAL SECRETARY:—No, Sir. The policy of the Government remains unchanged; namely, to discourage and prevent illegal immigration into Hong Kong as far as possible. Where persons succeed in entering illegally and are subsequently arrested, each case is examined on its merits. Where such persons have close connections with the

**Questions**

Colony or other humanitarian considerations apply, they may be permitted permanent stay. The recent cases to which the honourable Member refers were decided in accordance with this policy.

**Steel Industry**

3. DR S. Y. CHUNG asked the following question: —

A year ago Government undertook to look into the possibility of helping to solve the difficulties of the local steel industry. Will Government state what steps have been taken and are contemplated in this regard?

MR T. D. SORBY:—Sir, in this Council on the second of August, 1967\*, I said that the steel industry in Hong Kong was then facing a number of difficulties, but special treatment for a particular industry would run counter to Government's well tested economic policies and would have to be justified by quite special circumstances. I said that the evidence of such circumstances was less than complete, but I proposed to pursue the matter with the industry. I have done so.

My department has also considered, sympathetically and exhaustively in conjunction with other departments, in particular with the Director of Public Works, the methods of assistance available to the Government. We reached the conclusion that none of them are likely to have more than a temporarily palliative effect, and that the advantages to be gained by the steel rolling industry would be more than offset by the possible consequential disadvantages to the economy as a whole. This was the concensus of opinion of the Trade and Industry Advisory Board, which I consulted; and of the Executive Council whose advice you, Sir, have accepted.

I believe that all who have been concerned with these matters are satisfied that the capacity of the industry as a whole considerably exceeds existing and foreseeable future demand, both domestic and overseas and that the industry must contract substantially as a prerequisite to economic viability.

The industry has been so informed; I have also indicated that if there is any way I or my staff can assist with the solution of this problem, we are ready to do so.

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\* 1967 Hansard, pages 372-3.

**[MR SORBY] Questions**

I should add that the steel rolling industry is by no means homogeneous. Among about 17 mills, five groups, pursuing differing production and sales policies and of varying future potential, can be distinguished.

DR S. Y. CHUNG:—Sir, I would like to ask a supplementary question. Cannot Government take a more positive attitude and, instead of encouraging the steel rolling industry to contract, take steps in assisting the industry to develop and expand its export markets?

MR T. D. SORBY:—Sir, the expansion of export markets for the products of this industry would largely fall to the Trade Development Council and the Council may indeed be able to help to some limited extent in this respect. I understand that the Council has been in touch with some members of the industry, but I should add that the longer term prospects in export markets for the steel rolling industry cannot be regarded as particularly cheerful. I am afraid that they are more likely to contract in the longer term than to expand. This is almost inevitable because production of mild steel bars is a fairly simple operation and is the kind of thing that is very readily taken up in developing countries. So I think it would be unrealistic to encourage the expansion of the industry in order to meet an export demand which is at best likely to be static and at worst perhaps to contract and not to remain steady, possibly allowing only for the occasional opportunity contract which of course one would be glad to pick up but cannot really rely upon.

DR S. Y. CHUNG:—Thank you, Sir.

**Postal Clerks**

4. MR Y. K. KAN asked the following question:—

Will Government explain why postal clerks are required to work a forty eight hour week instead of the normal forty four hours?

THE COLONIAL SECRETARY:—Sir, not all Postal Clerks work a 48 hour week but the operational requirements of the Post Office are such that in order to provide a full service to the public about 85 per cent of all Postal Clerks in practice do so. The work is normally carried out on the basis of a double eight-hour shift system operating six days a week. It has been recognized for some time that in certain respects this is not altogether satisfactory and a number of alternative proposals have been

**Questions**

examined for meeting the understandable objections of the Postal Clerks to the present system while at the same time maintaining the very high standard of service provided by the Post Office. A satisfactory solution has not yet been found but a working party has recently been set up to examine working hours and the problems of overtime generally but with instructions to give priority to these matters as they affect the Post Office.

**Beaconsfield Arcade Fountain**

5. MR SZETO WAI asked the following question:—

In view of the public interest shown recently, will Government inform this Council the reasons behind the decision to replace the existing fountain outside Beaconsfield House by a new one and what is the estimated cost of the project?

MR D. R. W. ALEXANDER:—Sir, in answering the query from my honourable Friend on the reasons leading to the decision to improve the site in front of the Hilton Hotel, I must first refer back to 1961 when plans were made to develop the general area which now includes Beaconsfield Arcade, the Garden Road multi-storey car park, and the Hilton Hotel.

In these plans, a pedestrian way leading to the car park was shown between Beaconsfield Arcade and the Hotel. This was to be developed as part of the Beaconsfield scheme and it was thought that a fountain would be an attractive feature. The fountain was built in 1963, supplied with salt water from the Hotel's air-conditioning plant and the now much publicized camphor tree was left on site.

Towards the end of 1964, however, the Hilton Hotel wrote to the Superintendent of Crown Lands drawing attention to the untidy appearance of the fountain, the area of which, as honourable Members will perhaps remember, appeared to act on occasion as a dust bowl, largely owing to the somewhat uneven operation of the fountain's water supply, and as a receptacle for litter. The Hotel management also maintained that the salt water was damaging hotel property, and they expressed willingness to pay for any improvements which might be deemed necessary. The Urban Services Department was brought into this matter, and sympathetically considered the points made by the Hotel management, particularly as it was subsequently learned that the salt spray from the fountain, sometimes inconvenienced passers-by. The department decided that some improvements were justified, including the installation of an independent fresh water supply for the fountain.

Eventually, the site was allocated to the Urban Council for development, and plans were prepared by Government architects which

**[MR ALEXANDER] Questions**

envisaged replacing the fountain by one served by a fresh water system, which would send low jets of water cascading through a series of bowls, thus avoiding any inconvenience to the public from spray. However, the design best calculated to create a small and attractive rest garden—with the new fountain and the area suitably laid out with trees and plants—involved the removal of the camphor tree.

This design was accepted by the Recreation and Amenities Select Committee of the Urban Council, on the understanding that the Hotel would pay for the work (as the management had generously offered to do, in the first place). But, as honourable Members are aware, when the plan was made public, it provoked a good deal of criticism directed principally against the proposed felling of the camphor tree. In view of this response, the Select Committee reconsidered the matter at a meeting held last Friday and revised plans are now to be prepared for the area retaining the tree but, at the same time, endeavouring to improve the high and unattractive concrete surround at its base.

The scheme which involved the removal of the tree, was estimated to cost about \$55,000 but, until plans are prepared for the new scheme, I regret that I cannot provide honourable Members with a revised estimate of cost.

**Grade-separated Pedestrian Crossings**

6. MR SZETO WAI asked the following question:—

Will Government inform this Council what progress has been made in the preparation of a programme for the construction of grade-separated pedestrian crossings at busy road junctions?

MR A. M. J. WRIGHT: —Your Excellency, following a recommendation of the Transport Advisory Committee, the Traffic and Transport Survey Unit of the Civil Engineering Office is undertaking a survey of vehicular and pedestrian movements at various locations in the Colony with a view to preparing a priority list for the construction of grade-separated pedestrian crossings.

Altogether 64 sites on Hong Kong Island, Kowloon and the New Territories are being surveyed. The work consists of: —

- (a) Sample counts over a 16-hour day to establish the peak hour;
- (b) Counts lasting two hours embracing the peak hour of pedestrian movement, including directional counts of pedestrian

**Questions**

and vehicular movements. The results are summarised in terms of the maximum activity in any one hour of the 2-hour period;

- (c) The tabulation of all sites in order, based upon the number of pedestrians crossing the complete intersection during the peak one-hour period.

As regards progress, 20 sites on Hong Kong Island have been surveyed and classified in order, as also have 32 sites in Kowloon and New Kowloon. The remaining 12 sites are in the New Territories; the pilot surveys to establish the peak hour have been completed and the 2-hour counts are now in hand. We expect that the whole task will be completed before the end of this year.

In regard to actual construction of grade-separated pedestrian crossings, honourable Members will be interested to know that in addition to two footbridges across Caine Road which I hope will be completed during 1969, we have included as part of our plans for the Garden Road Complex, the Waterfront Road, Connaught Road widening, and the North-East Corridor scheme, over 20 footbridges and subways and several of there are already under construction.

MR SZETO WAI:—Thank you, Sir.

**Castle Peak Road**

7. MR C. P. Woo asked the following question:—

Government Notice No 1839 of the 13th September 1968 indicates that work is being put in hand for the improvement of the road from Castle Peak to Ping Shan. Are there plans for improving the road between Tsuen Wan and Castle Peak?

MR A. M. J. WRIGHT:—Sir, plans have been prepared for a new highway between Tsuen Wan and Castle Peak which, if built, will be quite separate from the existing road.

The new population forecast based on the 1966 By-Census indicates that Castle Peak will not grow at the rate previously envisaged and the full extent of the road improvements from Tsuen Wan will not therefore be required as soon as was previously thought. The project, which is in Category B of the Public Works Programme, has therefore been planned so that it can be constructed in sections which will be linked with the existing road. This is likely to prove more economical than the letting of one very big contract and will also enable us to bring sections into service as they are completed.

**[MR WRIGHT] Questions**

In the first instance the road will be constructed to provide for two lanes with a third uphill lane where the gradient requires. It has, however, been planned in such a way that it can be widened, when demand warrants such widening, to a full 6-lane dual carriageway road with hard shoulders, thus ensuring that the 6-lane running track is kept free of stopping or broken-down vehicles.

**New Territories: Mains Water Supplies**

8. MR P. C. Woo asked the following question:—

What is being done to improve the supply of mains water to villages and towns in the New Territories?

MR A. M. J. WRIGHT:—Sir, there are 10 projects at present in Category A of the Public Works Programme concerned with the provision of fully treated water supplies in the New Territories.

Five of these concern Tai Po, Yuen Long and Castle Peak. At Tai Po work on a new filter capable of supplying 6 million gallons a day to the Tai Po, Fanling and Sheung Shui areas was completed earlier this year; at Yuen Long the capacity of the existing filters is being increased from 2 million gallons to 4 million gallons a day and this should be completed by mid-1969. Improvements for increasing pressures in Yuen Long are also in hand. At Castle Peak a tunnel, which will enable adequate Tai Lam Chung raw water to be supplied to the Castle Peak and Yuen Long areas, is nearing completion, while a plant, capable of filtering 6 million gallons of water a day, is scheduled for completion in 1970 to provide fully treated supplies to the first stage of the Castle Peak Development and the surrounding villages.

Three major main laying schemes are in hand at Sha Tin, Lantau and Tai Po. That at Sha Tin will enable a fully treated supply to be given to the existing town, The Chinese University and villages on the trunk main route. It will be of sufficient capacity to cater for other foreseeable demands. A main is being laid at Lantau to enable Cheung Chau Island to enjoy a fully treated supply from the Silver Mine Bay Treatment Works; while main laying at Tai Po will make it possible to give a fully treated supply from the newly completed Tai Po Tau Treatment Works to villages between Tai Po and Ting Kok.

The remaining two projects in Category A are, first, the continuing work at Tsuen Wan to cope with the increasing demand from development in the Tsuen Wan/Kwai Chung area, and second, extension of the

**Questions**

Yuen Long distribution system to provide fully treated supplies to villages in the Pat Heung area.

The Waterworks Office has also been investigating a number of possible distribution schemes so that fully treated supplies in the New Territories can be still further extended. The investigations cover the Yuen Long, Castle Peak, Tai Po and Sha Tin systems. The proposals at Yuen Long and Castle Peak would enable supplies to be extended to villages in the Shap Pat Heung plain, along the roadways between Au Tau and Wang Toi Shan, around Ping Shan and Wang Chau, as well as the villages in the Tuen Mun Ha Tsuen area. The proposals at Tai Po would enable supplies to be extended to villages in the Lam Chuen valley, in the Fanling/Sheung Shui area not at present enjoying a Waterworks supply, along Sha Tau Kok Road and villages in Laffans Plain. The proposals at Sha Tin will cover villages in the Sha Tin valley and along the shore of Tide Cove to Siu Lek Yuen. I hope to submit proposals in respect of these extensions shortly. If funds are approved for the work, extensions will have to be carried out on a programmed basis over a period of two to three years in accordance with priorities to be agreed with the New Territories Administration.

Other schemes which have also been the subject of investigation by Waterworks Office are the provision of fully treated supplies to Sai Kung and Tai O. Here again I hope to be in a position to submit proposals shortly.

**New Territories: Secondary School Places**

9. MR P. C. Woo asked the following question:—

What is the availability of secondary school places in the New Territories as compared with the urban areas? What plans are there to make good any deficiency which may exist?

MR W. D. GREGG: —Sir, the simplest answer I can give to the first half of this question is to say that the number of secondary schools places in the New Territories as a proportion of children living in the New Territories is roughly half that of the urban areas. If one bases the comparison on the total number of secondary places as a proportion of the estimated population in the twelve to sixteen age group it is rather less than half. If, however, it is based on Form I places as a proportion of Primary 6 leavers it is rather more than half.

I should like to remind honourable Members that we do not have a strict zoning system which determines the secondary schools which pupils shall attend. Thus whilst many New Territories pupils have to

**[MR GREGG] Questions**

come into the urban areas for secondary education many choose to do so in preference to attending a school nearer their homes. Similarly, many Kowloon pupils cross the harbour each day to attend the school of their first choice in preference perhaps to a long bus journey on the mainland. There is admittedly an imbalance at present which is due mainly to the very high proportion of secondary schools, many of them established many years ago, on Hong Kong Island. There is no appreciable difference in the public sector between the over-all provision rates for Kowloon, where half the population lives, and the New Territories.

The need to provide the rural population with facilities for secondary education, in accordance with approved policy, is fully appreciated by Government and every effort is made by my Department to bring this need to the attention of all bodies seeking land or financial assistance for schools.

To this end seven government and subsidized secondary projects are already approved for Tsuen Wan, Kwai Chung and Tai Po; six others are planned, but not yet approved, for Castle Peak, Sha Tin, Sai Kung, Tai O and Sha Tau Kok. These projects, together with one private school extension at Sheung Shui, are expected to add approximately 10,000 places to the 16,000 now existing.

**SUPPLEMENTARY PROVISIONS FOR THE QUARTER  
ENDED 30TH JUNE 1968**

THE ACTING FINANCIAL SECRETARY moved the following resolution:—

Resolved that the Supplementary Provisions for the Quarter ended 30th June 1968, as set out in Schedule No 1 of 1968-69, be approved.

He said:—Sir, the schedule for the first quarter of the 1968-69 financial year covers supplementary provision totalling \$10.9 million. Of this sum \$5 million was required for Public Works Non-Recurrent. \$700,000 of which represented revotes of funds unexpended in the previous financial year. \$1 million was needed for the supply of textbooks and stationery to Primary School children occupying free places in Government and aided schools, \$400,000 was voted for repairs to Mount Kellet Hospital and \$300,000 was needed to meet the cost of various provisions for the newly established City District Office Scheme.

All the items in the schedule have been approved by Finance Committee and the covering approval of this Council is now sought.

THE COLONIAL SECRETARY seconded.

The question was put and agreed to.

**CRIMINAL PROCEDURE (AMENDMENT) (NO 2) BILL 1968**

THE ATTORNEY GENERAL moved the Second reading of:—"A Bill to amend further the Criminal Procedure Ordinance."

He said: —Sir, since the First reading of this Bill\*, I have received a letter from the Hong Kong Bar Association, containing criticisms of some of its provisions and a number of comments on it have appeared in the press.

These criticisms and comments have been carefully studied and, as a result of them, and of other opinions which have been expressed, I shall be moving a number of amendments to the Bill at the Committee Stage.

Before referring in detail to these amendments, I would like to mention two aspects of the Bill which appear to have given rise to some misunderstanding.

Section 122 proposed in the Bill does not entitle a court to sit in camera. Although the public can be excluded under its provisions, the press cannot, and proceedings will continue with full publicity.

The proposed section 123, on the other hand, does provide for sittings in camera. I would, however, like to point out that there is nothing original in this provision. The position under the section, if it is amended in the manner which I shall shortly propose, will not be very different from that at common law, under which a criminal court in England has an inherent power to sit in camera if it considers that the administration of justice so requires.

Honourable Members will see, on the notice of amendments paper, which has been circulated, that I shall move five amendments to clause 2 of the Bill, three of them to the new section 122 and two to the new section 123, at the Committee Stage.

Section 122 subsection (1) at present provides that where a judge makes an order closing a court, members of the public may only be present with the permission of a police officer. It has been represented that this may seem to place the control of the courts and the court buildings in the hands of police officers, and that this would be undesirable. It has also been argued that there may be occasions on which the control of members of the public can be more appropriately carried out by court officials than by police officers.

I shall therefore propose that the word "police officer" should be deleted from the new section 122(1) and replaced by the words "public

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\* Pages 325-6.

[THE ATTORNEY GENERAL] **Criminal Procedure Bill—Second reading**

officer acting under his direction”. An identical amendment would be necessary to the new section 122(2). These alterations will make it clear that control of the courts and court buildings remains solely in the hands of the Judiciary.

The Hong Kong Bar Association have asked that it should be made clear that members of the Bar and solicitors are exempt from the provisions of section 122. As I indicated at the First Reading of the Bill, it was my opinion that subsection (3) is in wide enough terms to ensure that lawyers are not excluded from a court under that section. However, to remove any possible doubt about it, I shall move that the words “or profession” be added after the word “office” in the third line of the new subsection (3).

The Bar Association have also raised an objection to the present wording of paragraph (a) of the new section 123(1). They have argued that the presence of the words “or for any other reason” at the end of that paragraph makes the special circumstances listed in that paragraph meaningless and confers an unfettered discretion on a court to hear criminal proceedings in camera in any circumstances whatsoever.

I think that this is a valid objection and I will therefore propose the deletion of the words “or for any other reason” from paragraph (a). The removal of this phrase would limit the powers of a court to sit in camera to the circumstances listed in paragraph (a). However, it could be argued that this paragraph, without that phrase, would not be in wide enough terms to empower a court to sit in camera if it were satisfied that there was a danger to the safety of persons other than witnesses. To ensure that a court should have this power, I propose that the words “a witness or any other person” be substituted for the words “any witness or for any other reason”.

It has been suggested that the provisions of section 123(2) should not be limited to those occasions on which a court is sitting in camera and that a court should be able to accord to a witness protection under that subsection on any occasion on which it thinks this desirable. To meet this point, I shall move that the words “Notwithstanding that” at the beginning of subsection (2) be replaced by the words “In any case, whether or not”.

These amendments will, I believe, improve the Bill, by removing certain doubts and making it more precise.

THE COLONIAL SECRETARY seconded.

The question was put and agreed to.

The Bill was read the Second time.

**Criminal Procedure Bill—Committee stage**

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

Clause 1 was agreed to.

Clause 2.

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

Sir, in moving this amendment I would, first of all, like to say that I agree with what my honourable Friend, the Attorney General has just said concerning the new section 122. Nonetheless I feel that the discretion, the power to exclude public from criminal courts, should be restricted to a case where the judge or the magistrate considers it necessary in the interests of justice or public order or security to do so and I understand the proposed amendment would, I think, be acceptable to my honourable Friend, the Attorney General.

HIS EXCELLENCY THE GOVERNOR:—On the point of clarification may I ask the honourable Member whether he only mentioned section 122 . . . .

MR Y. K. KAN:—Section 122(1) and (2), Sir.

HIS EXCELLENCY THE GOVERNOR:—Is it not your intention to proceed with the amendment of section 123 which is also on the Order Paper?

MR Y. K. YAN : —No Sir, I do not propose to make an amendment to section 123.

HIS EXCELLENCY THE GOVERNOR:—Thank you. That is just for clarification.

MR Y. K. KAN:—Thank you, Sir

THE ATTORNEY GENERAL:—Perhaps I might say that while I do not think the practical effect of section 122 will be very greatly changed by the amendments proposed by the honourable Member, I appreciate the force of his argument that the powers conferred by this section should be more closely confined in the manner suggested by him. These amendments are acceptable to the Government and I therefore ask honourable Members to support them.

*Proposed Amendment.**Clause*

2 In the new section 122—

(a) in subsection (1), insert after “may”—

“, if he considers it necessary in the interests of justice or public order or security,”;

[THE ATTORNEY GENERAL] **Criminal Procedure Bill—Committee stage***Proposed Amendment,**Clause*

2 (b) in subsection (2), insert after “may”—

“, if he considers it necessary in the interests of justice or public order or security.”.

The question was put and agreed to.

THE ATTORNEY GENERAL:—Sir, I move that clause 2 be amended as set forth in the paper before honourable Members containing the 5 listed amendments, the reasons for which I have already explained to honourable Members during the Second reading.

*Proposed Amendment.**Clause*

2 (1) In the new section 122—

(a) in subsection (1), delete “police officer” and substitute the following—

“public officer acting under his direction”;

(b) in subsection (2), delete “police officer” and substitute the following—

“public officer acting under his direction”;

(c) in subsection (3), insert the following after “by virtue of his office”—

“or profession”.

(2) In paragraph (a) of subsection (1) of the new section 123, delete “any witness or for any other reason” and substitute the following—

“a witness or any other person”.

(3) In subsection (2) of the new section 123, delete “Notwithstanding that” and substitute therefor—

“In any case, whether or not”.

Clause 2 as amended was agreed to.

Council then resumed.

THE ATTORNEY GENERAL reported that the Bill before Council had passed through Committee with certain amendments 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.

### EMPLOYMENT BILL 1968

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

HIS EXCELLENCY THE GOVERNOR:—With the concurrence of honourable Members, I propose that we take the clauses in blocks of not more than 5.

Clauses 1 and 2 were agreed to.

Clause 3.

MR R. M. HETHERINGTON: —Sir, I propose to move an amendment to clause 3 as set out in the paper before honourable Members but this amendment is consequential on amendments which I propose to move to clauses 29 and 31 at a later stage. In these circumstances, I suggest that it would be appropriate, in accordance with section 10 of Standing Order 27 of this Council, to postpone consideration of clause 3 until immediately after clauses 29 and 31 have been dealt with.

The question was put and agreed to.

Clause 3 was accordingly postponed.

Clause 4 was agreed to.

Clause 5.

MR R. M. HETHERINGTON:—Sir, I move that subclause 1 of clause 5 should be amended as set out in the paper before honourable Members. The subclause is merely reworded to state the right to terminate a contract in a positive form.

*Proposed Amendment.*

*Clause*

5 Leave out subclause (1) and substitute therefor the following—

“(1) Subject to subsections (2) and (3), either party to a contract of employment may at any time terminate the contract by giving to the other party notice, orally or in writing, of his intention to do so.”.

[MR HETHERINGTON] **Employment Bill—Committee stage**

Clause 5 as amended was agreed to.

Clauses 6 and 7 were agreed to.

Clause 8

MR R. M. HETHERINGTON:—Sir, I move that clause 8 should be amended on two occasions as set out in the paper before honourable Members. The first amendment involves the deletion of the words “In the absence of any written agreement to the contrary”. The second amendment involves the addition of the words “without notice”, after the word, “contract”, in paragraph (b). The purpose of these amendments is to make it clear that a contract may be terminated by an employer without notice or payment in lieu only on the grounds set out in the clause.

*Proposed Amendment.**Clause*

- 8 (1) Leave out the words “In the absence of any written agreement to the contrary, an” and substitute therefor the following—

“An”.

- (2) In paragraph (b), add after the word “contract” the following—

“without notice”.

Clause 8 as amended was agreed to.

Clause 9.

MR R. M. HETHERINGTON:—Sir, I move that, in paragraph (c) of clause 9, the words, “without notice”, should be added after the word, “contract”. A similar amendment to clause 8 has just been approved. The purpose is to make it clear what are the other grounds for the summary termination of a contract by an employee.

*Proposed Amendment.**Clause*

- 9 In paragraph (c), add after the word “contract” the following—

“without notice”.

Clause 9 as amended was agreed to.

Clause 10.

**Employment Bill—Committee stage**

MR R. M. HETHERINGTON:—Sir, I move that, in paragraph (c) of subclause 1 of clause 10, the words, “or connected with”, should be added after the words, “arising out of”. This amendment seeks to make it clear that criminal proceedings must bear relation to or be connected with the employment.

*Proposed Amendment.*

*Clause*

10 (1) In paragraph (c) of subclause (1), add after the words “arising out of” the following—

“or connected with”.

The question was put and agreed to.

DR S. Y. CHUNG:—Sir, I move that a new subclause 3 be added to clause 10 as set forth in the paper before honourable Members. I had already explained when speaking in support of the motion in the Second reading the need for this additional subclause relating to lay-off.

MR R. M. HETHERINGTON:—Sir, this clause, clause 10, has probably caused more discussion than any other clause. During the debate on the Second reading\* I said that the clause as drafted did not exclude the possibility of contractual agreement otherwise subject to certain limitations. Dr CHUNG now proposes to add a further subclause to put the matter beyond doubt and, in these circumstances, I support his amendment.

*Proposed Amendment.*

*Clause*

10 (2) Add the following new subclause after subclause (2)—

“(3) Without prejudice to the provisions of subsection (1), an employer may lay-off an employee for such periods as are expressly agreed in, or may be implied from, the contract of employment:

Provided that the period of lay-off shall in no case exceed three normal working days in any one calendar week.”.

Clause 10 as amended was agreed to.

Clauses 11-15 were agreed to.

Clause 16.

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\* Pages 399-408.

**Employment Bill—Committee stage**

MR SZETO WAI:—Sir, I move that clause 16 be amended as set forth in the paper before honourable Members.

Sir, it has been the practice for many years in Hong Kong for a large number of firms, business firms and industrial undertakings, to pay the wages of their employees by cheques or pay into their bank accounts for reason of convenience and security. The requirement of a written consent of an employee would involve considerable work which I consider unnecessary and superfluous.

MR R. M. HETHERINGTON:—Sir, the inclusion or exclusion of the word, “written”, in subclause (2) of clause 16 was a subject of some debate when the subclause was drafted. It was finally decided to retain it because it was deemed more satisfactory to have an employee’s consent given in writing. I accept the reasons for its deletion advanced by my honourable Friend, Mr SZETO, and I support the amendment which he proposes. Nonetheless, I hope that, whenever practicable, the consent of an employee required by subclause (2) of clause 16 should be in writing for the avoidance of any doubt.

*Proposed Amendment.**Clause*

16 In subclause (2), leave out the word “written”.

Clause 16 as amended was agreed to.

Clauses 17-20 were agreed to.

Clause 21.

MR R. M. HETHERINGTON:—Sir, I move that clause 21 should be amended on four occasions as set out in the paper before honourable Members.

The first amendment involves a deletion from subclause (1) to make it clear that the restriction on deductions from wages is not confined only to wages payable on the completion or the termination of a contract.

The second amendment involves an addition to paragraph (b) of subclause (2) to provide for deductions in respect of property or equipment belonging to or in the possession or control of an employer.

**Employment Bill—Committee stage**

The third amendment adds a new paragraph (*i*) to subclause (2) to allow for other deductions, not at present permitted under clause 21 but which are now known to be made by employers at the request of employees, to be continued to be made. I indicated in my speech, when moving the second reading of the bill, that I proposed to repair this defect by an appropriate amendment.

The fourth amendment is a consequential change in punctuation following the inclusion of a new paragraph (*i*).

*Proposed Amendment.**Clause*

- 21 (1) In subclause (1), leave out the words “on the completion or termination of his contract of employment”.
- (2) In paragraph (*b*) of subclause (2), add after the words “equipment or property” the following—
- “belonging to or in the possession or control of the employer or”.
- (3) Add the following new paragraph (*i*) after paragraph (*h*) of subclause (2)—
- “(i) other deductions made at the request in writing of the employee and with the approval of the Commissioner, which may be signified in respect of any particular case in writing or in general by notice in the *Gazette*”.
- (4) Substitute a semicolon for the full stop at the end of paragraph (*h*) of subclause (2).

Clause 21 as amended was agreed to.

Clauses 22 - 26 were agreed to.

Clause 27—Form of notices, records, etc. was agreed to.

Clause 28.

MR R. M. HETHERINGTON:—Sir, I move that clause 28 should be amended as set out in the paper before honourable Members. The clause is merely reworded for greater clarity. There is no change in substance.

[MR HETHERINGTON] **Employment Bill—Committee stage***Proposed Amendment.**Clause*

28 Leave out the clause and substitute therefor the following—

<p>“Obtaining or supplying labour.</p>	<p><b>28.</b> No person, other than an employment agency registered with the Commissioner, shall procure, obtain or supply, or purport to procure, obtain or supply, the labour of persons, manual or otherwise, for or on behalf of any employer, actual or prospective, other than himself, for employment within the Colony or under an overseas contract.”.</p>
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Clause 28 as amended was agreed to.

Clause 29.

MR R. M. HETHERINGTON: —Sir, I previously said that I propose to move an amendment to clause 31 which, if approved, would make clause 29 unnecessary. I suggest that, in accordance with section 10 of Standing Order 27, consideration of this clause should be postponed. I also suggest that clause 29 should be considered immediately after clause 31 and immediately before clause 3 which has also been postponed. In this way the consequential changes in these two clauses will be considered in their correct sequence.

The question was put and agreed to.

Clause 29 was accordingly postponed.

Clause 30 was agreed to. Clause 31.

MR R. M. HETHERINGTON: —Sir, I move an amendment to clause 31 as set out in the paper before honourable Members.

This amendment provides for a new definition of “employment agency”. The new definition ensures that part VII of the bill applies to all agencies, including newspapers which act as employment agencies, whether or not they derive any pecuniary or other advantage. I gave notice of my intention to introduce such an amendment when I spoke on the second reading. I propose to recommend that regulations should be made in respect of employment agencies and these regulations will provide appropriate exemptions for certain non-profit-making

**Employment Bill—Committee stage**

agencies and for newspapers and other publications which merely carry advertisements of vacancies for employment. In consequence, clause 29 becomes no longer necessary and I intend to move its deletion.

*Proposed Amendment.**Clause*

31 Leave out the definition of “employment agency” and substitute therefor the following—

““employment agency” means any person who acts as an intermediary for the purpose of procuring or obtaining employment for another person or supplying the labour of another person, manual or otherwise, to an employer whether or not with a view to deriving either directly or indirectly any pecuniary or other material advantage from either the employer or any such other person, but does not mean a contractor who employs any person on work for another person;”.

Clause 31 as amended was agreed to.

Clause 29.

MR R. M. HETHERINGTON : —Sir, I now move that clause 29 should be left out. As I have just mentioned, the clause is no longer necessary consequent on the change in the definition of “employment agency” in clause 31 as it has now been amended.

The deletion of clause 29 will result in the re-numbering of clauses 30 to 38 as clauses 29 to 37.

*Proposed Amendment.**Clause*

29 Leave out the clause.

The question was put and agreed to.

Clause 29 was accordingly left out.

Clause 3.

MR R. M. HETHERINGTON:—Sir, I move that, in subclause (1) of clause 3, the figures 35 should be substituted for the figures 36. This amendment is necessary because of the re-numbering of clauses which I have just explained.

[MR HETHERINGTON] **Employment Bill—Committee stage***Proposed Amendment.**Clause*

- 3 In subclause (1), leave out the figures “36” and substitute therefor the following—

“35”.

Clause 3 as amended was agreed to.

Clause 32 was agreed to.

Clause 33.

MR R. M. HETHERINGTON:—Sir, I move that, in subclause (1) and subclause (3) of clause 33, the figures 31 should be substituted for the figures 32. These changes are necessary consequential on the deletion of clause 29 and the re-numbering of subsequent clauses.

*Proposed Amendment.**Clause*

- 33 (1) In subclause (1), leave out the figures “32” and substitute therefor the following—

“31”.

- (2) In subclause (3), leave out the figures “32” and substitute therefor the following—

“31”.

Clause 33 as amended was agreed to.

Clause 34.

MR R. M. HETHERINGTON:—Sir, I move that the, in subclause (1) and subclause (2) of clause 34, the figures 31 should be substituted for the figures 32. These changes are also necessary consequential on the deletion of clause 29 and the re-numbering of subsequent clauses.

*Proposed Amendment.**Clause*

- 34 (1) In subclause (1), leave out the figures “32” and substitute therefor the following—

“31”.

**Employment Bill—Committee stage***Proposed Amendment.**Clause*

- 34 (2) In subclause (2), leave out the figures “32” and substitute therefor the following—  
“31”.

Clause 34 as amended was agreed to.

Clauses 35 - 38 were agreed to.

*Proposed Amendment.**Clause*

Clauses 30, 31, 32, 33, 34, 35, 36, 37 and 38 were accordingly renumbered as clauses 29, 30, 31, 32, 33, 34, 35, 36 and 37 respectively.

Schedule.

DR S. Y. CHUNG:—I move that paragraph 1 of the Schedule be amended as set forth in the paper before honourable Members. This amendment is to remove doubts as to the purpose of the schedule.

*Proposed Amendment.*

Schedule (1) Leave out paragraph 1 and substitute therefor the following—

- “1. (a) The provisions of this Schedule are to ascertain whether or not any contract of employment is a “continuous contract” for the purposes of Part II.
- (b) In the case of a contract of employment existing at the commencement of this Ordinance, such period of employment next preceding the date of commencement of the Ordinance as may be necessary shall be taken into account in order to ascertain whether or not the contract of employment is a continuous contract.”.

MR R. M. HETHERINGTON:—Sir, I support the amendment proposed by my honourable Friend, Dr CHUNG. The revised text satisfactorily removes doubts, previously expressed by him, as to the purpose of the schedule and accords with the intentions when the schedule was originally drafted.

The question was put and agreed to.

**Employment Bill—Committee stage**

MR R. M. HETHERINGTON : —Sir, I move that, in subparagraph 2(b) of paragraph 3, the words, “trade or business”, should be deleted and the words, “trade, business or undertaking” should be substituted. This amendment will ensure consistency of wording with similar references in paragraph 5.

*Proposed Amendment.*

Schedule (2) In sub-paragraph (2)(b) of paragraph 3, leave out the words “trade or business” and substitute therefor the following—

“trade, business or undertaking”.

The question was put and agreed to.

DR S. Y. CHUNG: —Sir, I move that subparagraph (a) of paragraph 4 of the schedule be amended as set forth in the paper before honourable Members. This amendment is to make it clear that an employee who takes part in an illegal strike will break the continuity of employment.

*Proposed Amendment.*

Schedule (3) Leave out sub-paragraph (a) of paragraph 4 and substitute therefor the following—

“(a) because of a strike (which is not illegal) in which he takes part; or”.

MR R. M. HETHERINGTON:—Sir, I support the amendment proposed by my honourable Friend, Dr CHUNG. The effect is to provide that an employee who takes part in an illegal strike would break continuity of employment.

Dr CHUNG raised this point during the debate on the Second reading and I undertook to consider an appropriate amendment\*. He has now moved an amendment which meets his point in a satisfactory way but he has, very rightly, refused my invitation to accept the logic of extending the amendment to a lockout. I must confess that the logic was false logic. I realized my error as soon as I applied myself to considering how to amend the paragraph.

The question was put and agreed to.

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\* Pages 399-408.

**Employment Bill—Committee stage and Third reading**

MR R. M. HETHERINGTON:—Sir, I move that, in paragraph 6, the brackets and the words, “but not for any other purpose” within these brackets should be deleted. They were originally inserted to emphasize that paragraph 6 had relevance only to the schedule. Paragraph 6 begins with the words, “For the purpose of this Schedule”. This portion of the next could be construed as a tautology. On reflexion, I consider that the brackets and the words within them are superfluous and, hence, I propose their deletion.

*Proposed Amendment.*

Schedule (4) Leave out the brackets and words “(but not for any other purpose)” in paragraph 6.

The schedule as amended was agreed to.

Council then resumed.

MR R. M. HETHERINGTON:—I wish to report that the Bill before Council has passed through committee. Several amendments have been incorporated. I have been advised that no material amendment of the bill has been made in committee as a result of these changes. If this is your opinion. Sir, I propose that the remaining stage of the bill should now be taken.

HIS EXCELLENCY THE GOVERNOR:—I am of that opinion.

MR R. M. HETHERINGTON moved the Third reading of the Employment Bill 1968.

He said:—Many people have been concerned with this Bill. I feel that it would not be inappropriate if I took the unusual step of thanking them publicly in this Council. I am grateful for the help of Unofficial Members, both past and present, of Executive and Legislative Councils who have co-operated in its preparation, especially those who have made a special and deep study of its provisions. Representatives of workers from trade unions and representatives of employers serving on the Labour Advisory Board were particularly helpful in offering practical advice based on their personal knowledge and experience. I am indebted to the officers, representatives, and advisers of organizations which have been consulted during the past seven months. I should also like to mention those members of the public who took an interest in the Bill and who offered useful suggestions. A small group of public

[MR HETHERINGTON]

officers from the Colonial Secretariat, the Legal Department, and the Labour Department have been assiduous in their assistance. I would particularly like to thank the legal draftsmen who have patiently and sympathetically refined the text of the Bill especially during the past three months and less than a handful of senior officers from the Labour Department without whose unflagging support it would have been impossible to deal with the volume of correspondence and the frequency of discussions.

Finally, if this Bill is passed, I hope, if I may say so with respect, that, when the time comes for you to consider giving your assent to it, you will derive some personal satisfaction in making a decision. As all officers who have served in the Labour Department well know, the seeds from which some of the fruits appear in this Bill were planted by you, Sir, when you held the post which I now occupy. That was in 1957.

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.

#### Bus services

MR Y. K. KAN: —Sir, I am raising the subject of bus services today in view of the recent public concern regarding over-crowding on buses.

Yesterday, the KMB announced that it wished to purchase a large number of buses and that it is negotiating with the Government for revision of its franchise. Some such announcement was made in 1965 when the Company put out an expansion programme and applied to Government for fare increase and adjustment of royalty, but soon afterwards it withdrew the application and as far as I know the expansion programme was not pursued. I have reason to believe that there was little or no increase in the number of buses not only last year but also in the two years preceding last year's disturbances. It would be most interesting to know how many additional buses were in fact put on the roads during the years 1965, 1966, 1967 and 1968 as compared with the previous years, 1962 to 1964. However, I am more concerned with the present and the future than the past and I therefore welcome the news that the Company plans to buy a large number of buses.

**Bus services**

During the budget debate in 1965\* both Mr GORDON and I spoke at length on the subject of bus royalties. I do not propose to raise the whole issue again today in this short debate, but I would summarize the position as follows.

I believe it is Government's responsibility to ensure that the two bus companies provide and maintain adequate and efficient services throughout the term of their franchises. To do this the companies must expand, and continue to expand, to keep pace with demands. Such expansion has to be largely financed either by increase in fares or reduction in royalties. Whilst I am of the opinion that there is no case for a general increase in fares, I do feel that there is a strong case for Government to review the whole question of royalties. This is not designed to enhance the bus companies' profits, but to enable them to improve their services.

In conclusion, I would quote Mr GORDON's remark in the course of the 1965 debate. He said: "When maintenance of a very rapid rate of expansion is essential, as will be the case in Hong Kong for many years to come, the effect of royalties based on an unduly high percentage of profits is particularly serious and can only end in either hamstringing the operator or forcing up fares." This statement holds good today.

MR SZETO WAI:—Your Excellency, my honourable Friend, Mr KAN has expressed his concern on the conditions of our bus services especially with the recent public complaint of over-crowding on buses. Although transport experts have compared favourably our public transport services with those of other parts of the world, our own special conditions impose much more stringent demands. This is especially true in the newly developed areas of the Mainland where franchised public transport facilities have failed to keep pace with development and given rise to over-crowding. This situation was aggravated by events of last year and even to-day the Kowloon Motor Bus Company has not recovered its full strength. Over-crowding (so long as it is within safety limits) has been tolerated as a practical compromise between KMB's incapability to keep in step with the tempo of development on the one hand and the social disadvantage of leaving large number of people without transport on the other. Over-crowding exceeding the legal permissible number of passengers does not necessarily mean overloading in the strict interpretation of the bus manufacturers' specifications. Over-crowding is unacceptable in terms of riding comfort in any form of public transport, while overloading beyond the manufacturers' specified gross vehicle weight would become a danger on the road and must not be

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\* 1965 Hansard, pages 118-123 & 124-125.

**[MR SZETO] Bus services**

tolerated. In the interim period before more buses are available, perhaps there is a case to re-assess the legal capacity of a bus in respect of its permissible number of passengers, sacrificing slightly travelling comfort, and calculating on passenger-weight as specified in the Road Traffic Ordinance and not on vehicle area. However, there still remains the problem of effectively preventing the large number of passengers trying to cram themselves into the first available bus at intermediate stops.

My honourable Friend will be pleased to hear that despite last year's disruption, KMB has improved greatly in efficiency in terms of bus utilization through improved scheduling as a result of the assistance and advice of the bus-operation expert of the Transport Office who has been working very closely with the Company since last summer. The Company has also implemented a new preventive maintenance programme which is of great importance to bus operation in Hong Kong where there are no significant off-peak periods in which to carry out effective and thorough maintenance work.

My honourable Friend will also be pleased to know that earlier this year, the KMB has submitted to Government an expansion programme which entails the purchase of 465 new buses over the next three years, of which 200 would be replacements and 265 would be additions. The scheme will increase the strength of the Company's fleet from 840 to 1100 buses; but the carrying capacity will be increased by 52% as many of the existing buses will be replaced by double-deckers. The Transport Advisory Committee has endorsed the programme, and it is understood that the Company is now negotiating with the Government for an adjustment in royalty to enable it to implement the scheme.

Finally, Sir, my honourable Friend's appeal to Government to review bus royalties to enable the franchised operators to improve their services has my full support. Royalty is undeniably an indirect tax on bus users, and further, in the case of KMB, there exists an anomaly since amongst all public transport royalties it is the only one that is assessed on gross receipts. With rising wages and expenditure, such crippling royalty inhibits expansion of the services, and in the light of the continuing tremendous tempo of development on the Mainland, it renders the company incapable of fulfilling its obligations to provide adequate services.

THE ACTING FINANCIAL SECRETARY:—Sir, I welcome my honourable Friend Mr KAN'S statement as a chance to indicate that Government is not oblivious of the problems confronting the bus companies.

**Bus services**

First, let me give some figures in respect of the Kowloon Motor Bus Company. In 1962 there were 769 buses on the road; comparative figures for 1963, 1964, 1965, 1966, 1967 and 1968 were 858, 939, 998, 1,055, 1,051, 1,050. These included larger single deckers and more double deckers so that the carrying capacity increased from 47,147 to 79,349 or an increase of 68% in six years. Although carrying capacity has increased by only 1,083 passenger units in the last two years and has actually dropped slightly this year, I understand that utilization has much improved due to better scheduling.

As honourable Members are aware, both bus companies and KMB in particular, last year lost a considerable proportion of their staff following confrontation. The fact that they managed to carry on despite these difficulties and are now virtually back to pre-disturbance levels shows how well the management and the loyal members of its staff have coped with the situation. But the effect has been that plans for expansion of services have been set back by at least a year.

My honourable Friend Mr SZETO Wai has stated that KMB plans to increase their carrying capacity by 52% over the next three years. I understand that the capital cost will be in the region of \$50 million. This is a formidable figure and the Company has made representations to Government for a revision of the terms of their franchise.

Mr KAN has suggested that the royalty should be reviewed but I should first point out that the Company by virtue of its monopoly concession obtains various indirect subsidies. For example, the rate of duty on diesel fuel for buses is only 50 cents per gallon which compares with 1 dollar 30 cents for other diesel vehicles and 1 dollar 80 cents for petrol engined vehicles. The difference between the diesel fuel rates represents a subsidy of \$5 million dollars per annum to KMB. In addition, Government, that is the general taxpayer, builds bus concourses and bus lay-bys and does not charge the Company either for the land or the surfacing.

Nonetheless, as the Company is apparently at present unable to generate enough cash to finance its expansion, I can assure my honourable Friends Mr KAN and Mr SZETO that Government is sympathetic to KMB's request and is currently examining the terms of their franchise, including the royalty, to see what can be done to facilitate the Company's expansion. Clearly any alterations require very close scrutiny of the Company's accounts and I need hardly add its efficiency. At this stage I do not want to say more as we are in the middle of negotiations with the Company, and any recommendations will have to be put to the Governor in Council and to honourable Members of this Council and of course, the views of the Transport Advisory Committee

[THE ACTING FINANCIAL SECRETARY] **Bus services**

will be taken into account. Meanwhile I am informed that the Company proposes to order immediately about 80 double deckers.

My honourable Friend Mr SZETO has referred to the over-crowding of buses and the possible risk of overloading. I agree with his remarks that these terms are not necessarily synonymous. These aspects will be alleviated if the expansion plans go through but in the meantime I have no doubt that they will be looked into by the Commissioner for Transport and the Transport Advisory Committee of which Mr SZETO is Chairman. I should perhaps add that Government is indebted to the advice of this important committee and if Government, on rare occasions, does not follow its advice it is usually because there are criteria other than transport matters which are predominant.

Finally, Sir, to prove that Government intends to take a more positive role in public transport affairs I would like to inform honourable Members that your Excellency yesterday, on the advice of Executive Council, approved, subject to Finance Committee concurrence, the setting up of the Transport Office as a separate Government Department instead of a branch of the Colonial Secretariat. I feel sure that my honourable Friends Mr KAN and Mr. SZETO will endorse this proposal to enhance the status of the Transport Office.

The question was put and agreed to.

**NEXT MEETING**

HIS EXCELLENCY THE GOVERNOR:—That concludes the business for today, Gentlemen. Council will now adjourn. The next meeting will be held on 9th October.

*Adjourned accordingly at six minutes past Four o'clock.*