

OFFICIAL REPORT OF PROCEEDINGS

Wednesday, 21st July 1971

The Council met at half past Two o'clock

[MR PRESIDENT in the Chair]

PRESENT

HIS EXCELLENCY THE GOVERNOR (*PRESIDENT*)
SIR DAVID CLIVE CROSBIE TRENCH, GCMG, MC
THE HONOURABLE THE COLONIAL SECRETARY
SIR HUGH SELBY NORMAN-WALKER, KCMG, OBE, JP
THE HONOURABLE THE ATTORNEY GENERAL (*Acting*)
MR GRAHAM RUPERT SNEATH, QC, JP
THE HONOURABLE THE SECRETARY FOR HOME AFFAIRS
MR DONALD COLLIN CUMYNN LUDDINGTON, JP
THE HONOURABLE THE FINANCIAL SECRETARY
MR CHARLES PHILIP HADDON-CAVE, JP
THE HONOURABLE ROBERT MARSHALL HETHERINGTON, DFC, JP
COMMISSIONER OF LABOUR
THE HONOURABLE JAMES JEAVONS ROBSON, JP
DIRECTOR OF PUBLIC WORKS
THE HONOURABLE JOHN CANNING, JP
DIRECTOR OF EDUCATION
DR THE HONOURABLE GERALD HUGH CHOA, JP
DIRECTOR OF MEDICAL AND HEALTH SERVICES
THE HONOURABLE JACK CATER, MBE, JP
DIRECTOR OF COMMERCE AND INDUSTRY
THE HONOURABLE DENIS CAMPBELL BRAY, JP
DISTRICT COMMISSIONER, NEW TERRITORIES
THE HONOURABLE JOHN CHARLES CREASEY WALDEN, JP
COMMISSIONER FOR RESETTLEMENT (*Acting*)
THE HONOURABLE ALASTAIR TREVOR CLARK, JP
DIRECTOR OF URBAN SERVICES (*Acting*)
THE HONOURABLE KAN YUET-KEUNG, CBE, JP
THE HONOURABLE WOO PAK-CHUEN, OBE, JP
THE HONOURABLE WILFRED WONG SIEN-BING, OBE, JP
THE HONOURABLE ELLEN LI SHU-PUI, OBE, JP
THE HONOURABLE WILSON WANG TZE-SAM, OBE, JP
THE HONOURABLE HERBERT JOHN CHARLES BROWNE, JP
DR THE HONOURABLE CHUNG SZE-YUEN, OBE, JP
THE HONOURABLE LEE QUO-WEI, OBE, JP
THE HONOURABLE OSWALD VICTOR CHEUNG, QC, JP
THE HONOURABLE GERALD MORDAUNT BROOME SALMON, JP
THE HONOURABLE LO KWEE-SEONG, OBE, JP
THE HONOURABLE LI FOOK-WO, OBE, JP

ABSENT

THE HONOURABLE SZETO WAI, OBE, JP

IN ATTENDANCE

THE CLERK TO THE LEGISLATIVE COUNCIL
MR RODERICK JOHN FRAMPTON

Papers

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

<i>Subject</i>	<i>LN No</i>
Subsidiary Legislation:—	
Medical Registration Ordinance.	
Medical Practitioners (Registration and Disciplinary Procedure) (Amendment) (No 2) Regulations 1971	81
Merchant Shipping Ordinance.	
Merchant Shipping (Control of Ports) (Amendment) Regulations 1971	82
Companies Ordinance.	
Recognized Stock Exchanges (No 2) Order 1971	83
Medical Registration (Amendment) Ordinance 1971.	
Medical Registration (Amendment) Ordinance 1971 (Commencement) Notice 1971	85
Census Ordinance.	
Census (No 3) Order 1971	86
Colonial Air Navigation Orders 1961 to 1968	87

Sessional Papers 1970-71:—

No 62—Report on the Public Service 1970 (published on 21.7.71).

No 63—Annual Report of the Hong Kong War Memorial Fund Committee for the year 1970 (published on 21.7.71).

Oral answers to questions

Licences for taxis

1. MR G. M. B. SALMON asked:—

Will Government advise how many taxis are presently licensed in Hong Kong and Kowloon respectively, and whether it is the intention to issue further licences prior to the opening of the cross-harbour tunnel?

THE FINANCIAL SECRETARY (MR C. P. HADDON-CAVE):—Sir, there are at present 1,171 taxis licensed to operate on Hong Kong Island and 2,235 licensed to operate in Kowloon.

The organization and efficiency of the taxi trade as well as its adequacy in terms of numbers have been the subject of a recent detailed study by the Transport Department and by the Transport Advisory Committee. As a result of this study the Commissioner for Transport, as the licensing authority, is preparing proposals for a further issue of licences. The exact number to be issued and the method by which they are to be allocated will be decided shortly. The question of issuing further licences before the opening of the cross-harbour tunnel—or after for that matter—raises a number of difficult issues of policy which are now being studied. I might add, Sir, that taxis are only one aspect of the problem of traffic movement following the opening of the cross-harbour tunnel.

MR Y. K. KAN:—Sir, in 1965 and 1966 when Government issued 550 licences on the recommendation of the Transport Advisory Committee, it was Government's announced policy that more licences would be issued continuously until the premium reaches nil. Has that policy been changed?

THE FINANCIAL SECRETARY (MR HADDON-CAVE):—Sir, my honourable Friend is quite correct. Some years ago it was decided that taxi licences should be issued until the premium offered fell away not necessarily to zero but until at least it flattened out. But in coming to that policy, it was not perhaps at the time fully realized that if the policy was pursued to its ultimate conclusion—in other words until the premium fell to zero or somewhere very close to zero—then it might lead to quite unacceptable congestion on the roads. The reason for this is that the premium only measures the private benefit to taxi owners and is hardly a measure of the social cost to the community of the increased congestion and relative inefficient use of road space by taxis. But I can assure my honourable Friend that the issue of additional licences is kept under constant review by the Commissioner of Transport and the Transport Advisory Committee. This is illustrated by the fact that since late 1965, when the tender policy was introduced, an additional 1,514 licences have been issued; this represents something of the order of 80% over 5½ years.

MR KAN:—Sir, as I recollect, a second batch of taxi licences was issued the following year, I think something like 250. Subsequent to that, from 1966 onwards until now, no further taxi licences have been issued. Is that not the correct position?

Oral Answers

THE FINANCIAL SECRETARY (MR HADDON-CAVE):—Not quite, Sir. I think I am right in saying the last batch of licences issued was in September 1968 when 250 were issued.

Space for open air orators

2. MR K. S. LO asked:—

Has Government any intention of designating an open space to be used as a "Hyde Park Corner" for the general public to air their views?

THE COLONIAL SECRETARY (SIR HUGH NORMAN-WALKER):—The City Hall, Sir, is of course already used for this purpose. Government would in principle like to arrange that individual members of the general public have at this time a similar opportunity to air their views in some suitable open space. Enquiries have therefore been made about the precise practice at what is so always incorrectly described as Hyde Park Corner but is in fact the open space near the Marble Arch in London; and the Director of Urban Services has been invited to consult the Urban Council about whether an area under its control could be made available.

I should however like to make it very clear that a Hyde Park Corner concept is used by individual speakers without previous organization or advertisement. Large scale organized meetings, rallies, demonstrations are quite a different matter and whilst Government attaches urgency and importance in the present circumstances to finding agreed sites where these may take place—subject on each occasion to the usual permission—the selection of such sites is an entirely different exercise from the designation of a local Hyde Park Corner. The select committee of the Urban Council, I am informed, are well aware of the fact that the two exercises are different in kind but it is apparent from the correspondence columns of the daily press that there is a danger of the two issues being confused in the public mind.

Companies Ordinance amendments

3. MR WILFRED S. B. WONG asked:—

What progress has been made on the drafting of legislation on amendments to the Companies Ordinance?

THE FINANCIAL SECRETARY (MR HADDON-CAVE):—Sir, the Companies Law Revision Committee is due to submit a report on the modernization of company law in Hong Kong early in 1972. This report will have regard, in particular, to postwar developments in English company law.

But I am glad, Sir, of this opportunity of informing honourable Members that the Committee has just submitted a most comprehensive report on the protection of investors and the prevention of fraud in relation to investments. This report has been prepared in advance of the more general report covering the whole range of matters covered by the Companies Ordinance because of the Committee's, and the Government's, general concern about the greater scope for questionable practices as a result of the proliferation of investment media in recent years. The report is now being printed by the Government Printer and will be on sale in about three weeks' time. It is, as I have said, Sir, a most comprehensive report containing a large number of recommendations. It is also full of very sound advice and deserves a careful reading by investment companies and investors alike. As each group of recommendations is processed and a view taken, the Law Draftsman will be asked to prepare appropriate draft legislation: in some cases amendments to existing Ordinances will be all that is required. In others, entirely new legislation may be necessary. My honourable Friend, the Attorney General, has told me that a certain amount of preliminary thought has already been given in his Chambers to the legislative implications of the Committee's recommendations. But, understandably, he cannot arrange for actual drafting to proceed until instructions have been received. I would hope that early action is possible on the more urgent recommendations though some are, perhaps, a little contentious and will require careful study: I say this notwithstanding the very representative membership of the Committee, and the painstaking effort put into the preparation of the report.

International games facilities

4. MR WILSON T. S. WANG asked:—

Can Government say that Hong Kong will have adequate facilities to hold international games, such as the Commonwealth games, after 1975?

THE COLONIAL SECRETARY (SIR HUGH NORMAN-WALKER):—Sir, I am grateful to my honourable Friend for asking this question. But I am afraid there is no simple and direct answer to it.

[THE COLONIAL SECRETARY] **Oral Answers**

To stage international competitions we must have stadia with facilities constructed to recognized international standards, capable of seating many tens of thousands of spectators. With regard to track, field and indoor events at this moment of time, our existing facilities are either not constructed to present day international standards—which I may say have a habit of changing from time to time—or do not have large enough seating capacity. On the other hand, our swimming pools, which have been built or are under construction to world standards, would enable swimming and diving and aquatic events of international standard to be held.

As my honourable Friend will know, there are at present items in the Public Works Programme for the construction of an indoor stadium at Hung Hom and an outdoor stadium at Ho Man Tin. If these two stadia are built according to plan and the running track at So Kon Po brought up to international standard, then from the point of view of games facilities alone it would be possible to stage games of an international character by the end of 1975. However, although both the indoor and outdoor stadia are in the Public Works Programme, I must sound a note of warning, surrounded as I am by Members of the Finance Committee. The estimated costs of both of these projects have increased very considerably since they were first planned and funds have yet to be provided for their construction, so that I cannot guarantee the programme or the timing.

Finally, I would like to remind honourable Members of something that is often forgotten in this context. In staging generalized games at an international level, the most difficult problem is not the provision of actual sports facilities. It lies in the logistics of the exercise. Specialized housing and specialized facilities have to be provided for perhaps some 4,000 or more participants and the officials accompanying them. Accommodation on this scale is not at present available, save in hotels, and our hotels not only have their own continuous and continuing commitments to the ordinary tourist traffic, but would at the time of such an international event have to cater for those who wish to come from overseas to attend such an occasion. It is, therefore, usually necessary to construct, or utilize, specialized accommodation, and one must be sure that the very great expenditure involved in this exercise is not nugatory. In most cases elsewhere in recent years where what has often been referred to as an "Olympic Village" has been constructed, it has been planned and timed to accord with some other more permanent project which enables permanent and fruitful use to be made of the buildings.

Openings in the public service for University graduates

5 MR WANG asked:—

What efforts are being made by Government to interest our University graduates to join the public service and what are the number of posts available and the number of applications received from them this summer?

THE COLONIAL SECRETARY (SIR HUGH NORMAN-WALKER):—Sir, my honourable Friend has a genius for asking questions which are difficult to answer precisely. (*Laughter*). Government participates on request in career activities organized by the Universities such as careers weeks and pre-employment workshops. Visits are also made to the Universities cities by Government officers to give talks on career opportunities and individual advice to interested undergraduates.

A close liaison is maintained between the Establishment Branch of the Colonial Secretariat and the appointments services of the Universities.

In addition, appreciable numbers of undergraduates of the Universities are given temporary paid employment with Government during the Summer and Christmas vacations. This arrangement enables them to familiarize themselves with Government business and opportunities and to see whether they like that kind of life, and also enables us to have a look at them.

Statistics are maintained showing the number of University graduates in Government service but this information is only readily available by calendar years. In 1968, 144 graduates from the two Universities were appointed; in 1969 the figure was 233, and in 1970 it was 302.

MR WANG:—Sir, to give my honourable Friend an easier question to answer, does Government consider that the numbers of graduates enlisted during the last 3 years, as has been stated, show that graduates are interested in joining the public service?

THE COLONIAL SECRETARY (SIR HUGH NORMAN-WALKER):—I agree with my honourable Friend's conclusion, and indeed the progression and prolation of the figures I have given show that he is correct; it is very desirable that this situation should continue.

Oral Answers

Enquiries on technical and vocational education

6. DR S. Y. CHUNG asked:—

It is reported that in the month of May this year there were in all the City District Offices 135,000 counter enquiries, of which some 50,000 were in connexion with technical and vocational education. Will Government give a summary analysis on the nature and scope of these enquiries on technical and vocational education and similar information for June 1971, May and June 1970 and 1969?

THE SECRETARY FOR HOME AFFAIRS (MR D. C. C. LUDDINGTON):—Sir, the number of cases handled by the CDO enquiry service counters for the month of May 1971 totalled over 165,000, some 30,000 more than the figure quoted by my honourable Friend. I confirm that the total number of enquiries for May 1971 on technical education totalled just under 49,000. Out of this total, some 55% concerned the Hung Hom Technical College and 45% the Morrison Hill Technical Institute. The reason for this large number of enquiries was that in May the counters distributed application forms for evening classes at these two institutions and inevitably people who collected forms tended to ask some questions about them. By comparison in June 1971 under 2,000 enquiries were received about technical education. This marked decrease from the previous month is simply explained; the dead-lines for receiving applications for evening classes at the Technical College and the Morrison Hill Technical Institute were in the latter part of May.

The enquiries were mainly concerned with the entrance requirements, fees charged and details of the syllabus for the various courses offered as well as the job prospects students might have upon graduation. The enquirers were mostly students who were about to leave school and who had begun to look for higher education opportunities.

I regret that no statistics on this particular subject are available before June 1970, as it is only since then that we have attempted a more sophisticated analysis of the enquiries received. However, in June 1970 the total number of enquiries concerning the Technical College and the Morrison Hill Technical Institute was only 904.

The CDO enquiry service counters do receive a number of enquiries on vocational education and in May this year this number was approximately 400, the majority of enquiries being concerned with applications for admission to various non-Government institutes.

Encephalitis

7. MRS ELLEN LI asked:—

Will the DMHS state whether there is any danger of the disease encephalitis spreading to human beings and, if so, what preventive steps are being taken?

DR G. H. CHOA:—Sir, I assume that my honourable Friend has in mind the recent report of an outbreak of Japanese B encephalitis among horses in the Royal Hong Kong Jockey Club stables at Beas River.

On the 6th of this month the Department was informed of this incident in which several horses were affected, with 2 deaths.

Horses may be naturally infected by the virus of encephalitis, usually the Japanese B Type, in this part of the world. Certain species of mosquitoes such as *Culex tritaeniorhynchus*, are capable of transmitting the disease to human beings.

The situation was investigated on the spot by health officers on the day following the report. Mosquito-control measures which are applied as a matter of routine throughout Hong Kong by the Urban Services Department, have been stepped up in the area of Beas River following a mosquito survey. As a precautionary measure the Department further advised that the Club House should be closed to guests while these investigations and control measures were being undertaken.

There is little danger of this disease affecting human beings provided personal anti-mosquito measures are re-enforced, such as avoiding exposure after dusk in view of the night feeding habit of the mosquito, and using mosquito-nets and screens. The resident population has been so advised.

Yesterday it was reported that another horse was affected by Japanese B encephalitis which was contracted at Beas River before the animal was transferred to the Shan Kwong Road stables. In the absence of the particular natural mosquito-vector in the Happy Valley area, this does not pose a threat to public health on the Island.

No human cases of Japanese B encephalitis have currently been reported. Confirmed cases of this disease in human beings occurred last time in Hong Kong in 1967 when 2 cases were diagnosed. Other different types of encephalitis however are occasionally encountered, as a complication of such virus infections as measles, chicken-pox and mumps.

As a matter of interest the disease involving horses in the Tampico area in Mexico reported in the press is known as Venezuelan equine

[DR CHOA] **Oral Answers**

encephalitis. This disease is caused by a different virus and is not the same as Japanese B encephalitis. It does not occur in this part of the world.

MRS LI:—Sir, may I ask the Director of Medical and Health Services whether this special type of mosquito was ever found in Hong Kong Island?

DR CHOA:—Rarely, Sir. There are one or two breeding spots around particular areas in the New Territories but not on the Island.

MRS LI:—Sir, is it not possible for the Government to undertake another overall campaign against mosquitoes around the Happy Valley area?

DR CHOA:—I am sure, Sir, that the Urban Services Department will have taken care of this.

MR KAN:—Sir, is it the case that animals infected with this disease could be a medium for the spread of the disease and, if so, was it wise to have allowed these horses to be transported from the New Territories to Hong Kong?

DR CHOA:—Sir, the right mosquito has to strike the right horse at the right time (*laughter*) before the disease can be passed at the right time to human beings. We have got to have the *Culex tritaeniorhynchus* infected by a horse in the viraemic stage before it then can transmit the disease to human beings. In other words, after the incubation period is over the horses or other animals can be taken as already non-infectious; and in fact the strange thing is that while the disease is affecting the horse it is no longer infective, and it is only during those two or three days at the end of the incubation period that it is infective.

MR KAN:—Sir, do I understand from my Friend's answer to my last question that, with this particular horse which is now in Happy Valley, there is no danger of this type of disease spreading from that particular horse or indeed from any horse that has been similarly affected?

DR CHOA:—The disease, Sir, suffered by this particular horse can be infective to another horse if there is the right mosquito around. Without this mosquito—and I have been assured that it has not been

found—it is not likely that now, presently, in Shan Kwong Road stables there is still a danger of the epidemic spreading among the horses and certainly not to human beings living in that area.

Public Assistance Scheme

8. MR Q. W. LEE asked:—

Will the Government inform this Council how many applications have been (a) received and (b) approved since the introduction of the Public Assistance Scheme in April 1971? And how does the present position compare with the anticipated level of expenditure?

THE COLONIAL SECRETARY (SIR HUGH NORMAN-WALKER):—Sir, from the inception of the new Public Assistance Scheme up to the end of June 1971, some 2,900 applications for public assistance were received, of which 2,650 were successful. When we add these to the 6,750 assistance cases approved under the previous scheme, the total cases up to the end of June is some 9,400. A further 600 applications have been received in the first two weeks of July.

The present level of monthly expenditure on public assistance payments is approaching the \$1 million a month mark as against a budgeted provision of about \$1.4 million a month over the year as a whole and an estimated expenditure of about \$1.7 million a month when the scheme is in full operation at the end of this financial year. The monthly expenditure is expected to rise steadily for the rest of the financial year, as the caseload rises, in accordance with the forward estimates of cost which appear to have been pretty accurate.

Government business

Motions

ESTABLISHMENT OF A SUSPENSE ACCOUNT (DEPENDENT TERRITORIES REGULATION 228)

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

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

It is hereby resolved that this Council approves the establishment of a suspense account, to be known as "The Colonial Treasurer Incorporated Suspense Account",

[THE FINANCIAL SECRETARY] **Establishment of a suspense account
(Dependent Territories Regulation 228)**

which shall be employed to enable the Colonial Treasurer Incorporated to deal with the regrant or renewal of Crown Leases and manage the properties comprised therein and such account shall not at any time be in debt to an amount exceeding \$20,000,000.00.

He said:—Sir, the purpose of the motion is to seek approval for the establishment of a suspense account to enable the Colonial Treasurer Incorporated to deal with the regrant or renewal of certain Crown leases and manage the properties concerned. The account will be known as "The Colonial Treasurer Incorporated Suspense Account" and will not at any time be in debt to an amount exceeding \$20 million without the further authority of this Council being obtained.

By means of this account, it will be possible to deal with those cases where regrant or renewal of Crown leases has not been possible due to failure of the co-owners to agree unanimously to the conditions of regrant or renewal. In such cases, it is proposed that the property shall be assigned to the Colonial Treasurer Incorporated who will become the legal owner and be responsible for eventual disposal of the individual shares in the property and for its management in the meantime. Re-assignments of individual shares will then be made to any former registered owners who are prepared to accept the conditions laid down for regrant or renewal. The Colonial Treasurer Incorporated will retain the remaining shares until they can be otherwise disposed of. All receipts and payments arising from these transactions will be charged initially to a suspense account. It is difficult to assess the total value of the payments to be made by the Colonial Treasurer Incorporated under this system but, taking into account the regrant premia and re-assessed crown rents and maintenance costs, on the one hand, and the receipts from re-assignments of individual shares, on the other, a limit of indebtedness of \$20 million should be adequate.

Under Dependent Territories Regulation 228, when any commercial or industrial enterprise is administered on behalf of Government, receipts and payments may, with the approval of the Legislative Council, be accounted for through a suspense account. My honourable Friend, the Attorney General, has agreed that the management of properties vested in the Colonial Treasurer Incorporated may be properly described as commercial.

For the record, Sir, I should conclude by mentioning that, at their meeting on 7th July 1971 Members of the Finance Committee of this

Council accepted the financial commitment that may arise in the event of a debit remaining in the account on conclusion of an assignment.

Question put and agreed to.

PUBLIC HEALTH AND URBAN SERVICES ORDINANCE

MR A. T. CLARK moved the following resolution:—

It is hereby resolved that the Pleasure Grounds (Amendment) By-laws 1971, made by the Urban Council on the 6th July 1971, be approved.

He said:—Your Excellency, the Pleasure Grounds (Amendment) By-laws 1971 were made by the Urban Council on 6th July this year, and it is now for this Council to consider approving them.

The amendment to by-law 20 prohibits anyone from depositing any erections, structures or building materials in any public pleasure ground without the Urban Council's permission. It also empowers the Urban Council to remove, at the owner's expense, any such structure or materials left in any public pleasure ground, whether before or after the period of time prescribed in any permit that may have been issued.

The addition of Item 10 to Part II of the Schedule to the Pleasure Grounds By-laws is to provide a separate charge for the use of obstacle golf courses. It used to be thought that these were covered by the provision for putting greens, but experienced golfers and lawyers alike are able to distinguish these facilities.

Question put and agreed to.

First reading

CONSULAR RELATIONS (AMENDMENT) BILL 1971

IMMIGRATION BILL 1971

FIXED PENALTY (TRAFFIC CONTRAVENTIONS) (AMENDMENT) BILL 1971

**WILD BIRDS AND WILD MAMMALS PROTECTION (AMENDMENT) BILL
1971**

QUARANTINE AND PREVENTION OF DISEASE (AMENDMENT) BILL 1971

EMPLOYMENT (AMENDMENT) BILL 1971

EDUCATION BILL 1971

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

Second reading**CONSULAR RELATIONS (AMENDMENT) BILL 1971**

THE ATTORNEY GENERAL (ACTING) (MR G. R. SNEATH) moved the second reading of:—"A bill to amend the Consular Relations Ordinance."

He said:—Sir, for the purposes of this Ordinance it is necessary for orders to be made specifying the privileges and immunities to be enjoyed by consular officials in Hong Kong and also by certain officers of Commonwealth countries who are serving here. Whilst, Sir, the Government is now in a position to make such orders in respect of consular officials, it has not yet received advice from Her Majesty's Government as to what orders should be made in respect of Commonwealth officers. Accordingly, it has become desirable to bring in the Ordinance piecemeal so as to be able to delay those parts which are concerned with Commonwealth officers.

This bill, Sir, seeks to achieve this by providing that the Governor may appoint different dates for the commencement of different provisions of the Ordinance.

Question put and agreed to.

Bill read the second time.

Bill committed to a committee of the whole Council pursuant to Standing Order No 43(1).

Explanatory Memorandum

This Bill seeks to enable different provisions of the Consular Relations Ordinance to be brought into effect on different dates.

IMMIGRATION BILL 1971

THE ATTORNEY GENERAL (ACTING) (MR SNEATH) moved the second reading of:—"A bill to consolidate and amend the law relating to immigration and deportation."

He said:—Honourable Members will, I hope, bear with me if what I have to say on this bill this afternoon comes through occasionally through a barrage of coughs. I seem to have been visited by a virus which has made good its claim to be a Hong Kong believer and has resisted all our efforts to deny it entry into Hong Kong or to deport it.

Sir, in introducing this bill to Council, and to the public, special care has been taken to summarize in the explanatory memorandum attached to the bill the various changes which it is proposing and honourable Members will have noticed that the changes are dealt with by subject matter rather than the more usual clause by clause. It is not proposed therefore that I should this afternoon go over these matters in moving the second reading. Rather, Sir, do I need perhaps to stress how much of the law remains unchanged.

By consolidating the three existing ordinances into one the bill recognizes that the law on immigration and the law on deportation is really dealing with one and the same subject. From the individual's point of view it is simply his right to enter into Hong Kong and to stay here as long as he chooses. From Hong Kong's point of view it is the right that we think we ought to have to keep out those whom Hong Kong does not wish to have, nor perhaps can afford to have, and to send on their way those who do not belong to Hong Kong, and whom we would not again admit if they came knocking at the door.

The explanatory memorandum, Sir, uses the term "Hong Kong belongers". The bill, of course, speaks of and deals with immigrants: for the purposes of the proposed code of immigration everybody is either one or the other. The believer can come into Hong Kong when he wants to; and once in he may stay here as long as he wishes. This, Sir, is as it has always been. The only difference is that the class of believer has been enlarged. In addition to persons born in Hong Kong, it will include persons who, here in Hong Kong, have become naturalized British subjects and it will also include the wives and children of believers: there is also included a much smaller group who have, whilst in Hong Kong, had the status of British subject conferred specially on them by registration with the consent of the Secretary of State.

In speaking of the right of a believer to come in and to stay here as long as he likes I said, Sir, that this was as it had always been. I would like to emphasize that the same is true of the restrictions on entry applicable to immigrants, and it follows from what I have just been saying that I am speaking here not only of aliens but also of British subjects who cannot claim to be believers. There is no change in the law in this respect; no right to enter Hong Kong is being taken away: no such right exists in the law today except for the believer. In practice, of course, Sir, British subjects daily enter Hong Kong without any visa or with one which is granted automatically on their arrival. But such entry is by permission not as of right.

This power to refuse entry, Sir, is not exercised arbitrarily at the whim of the Immigration Officer on duty; nor even according to policies

[THE ATTORNEY GENERAL (ACTING)] **Immigration Bill—second reading**

which may seem good to the Director of Immigration himself. The immigration policies of Hong Kong are determined by the Governor in Council and indeed the present ordinance recognizes this by requiring the Director and his staff to comply with all directives which the Governor may issue on this subject.

Although there are only these two classes—immigrants and belongers—there is one group of immigrants who are to be accorded a special standing. This group consists of those citizens of the United Kingdom and Colonies who have been ordinarily resident here for at least 10 years. They, like all other immigrants, have no right to enter Hong Kong; but once they are in, they may stay here free of all conditions of stay which can be imposed on all immigrants and also without risk of deportation. Thus, Sir, though such a person's stay in Hong Kong may be limited under the present power to impose conditions on entry, that limitation falls away once he has achieved his 10 year's residence. In respect of all other immigrants this power to limit his stay will continue to be exercised, and there is a new power, Sir, which the bill would vest in the Governor which will enable him to curtail the period of stay originally granted.

In considering the law on immigration it is I suggest, Sir, important to keep in mind two matters. First, it has always been accepted that every country has an absolute right to refuse admission and to expel any alien; and to do so completely arbitrarily. As recently as 1969 the present Master of the Rolls in England, Lord Denning, in delivering judgment in a case drew attention to the fact that neither an alien nor a Commonwealth citizen has any right to enter England except by leave and that statement, Sir, brings me to the other matter which we should perhaps remember, namely, that over the past decade we have seen a consistent tightening up of the rules concerning entry and stay of Commonwealth citizens into the United Kingdom. I feel sure that honourable Members would agree that we should be failing in our duty to ourselves if we did not see to it that our law enabled Hong Kong to have a similar measure of protection.

But, Sir, if this protection is to be effective adequate powers must be given by this legislation. For example, it is no good putting up a case to the Governor in Council to consider whether somebody ought to be deported if, while that case is being considered, that person disappears into our teeming city. Consequently, the bill confers powers similar to those now in existence to detain persons whilst decisions are being taken as to whether they should be ordered to be removed or deported. I mention this power in particular, Sir, not because it is

anything novel in the bill, but because I shall be moving two amendments at the Committee Stage in respect of it. Whereas the power of the Governor—under clause 25—to order detention of a person whose deportation is being considered is limited initially to 14 days and then to 7 days at a time, the power to detain under clauses 27 and 29 is not circumscribed with such precise limitations. This was not an oversight, Sir, rather it was assumed that neither the Governor nor his Executive Council would delay in the consideration of the cases being brought before them under these two clauses—an order for removal in the first case and an order for the rescission of the suspension of a deportation order in the second. However, Sir, we prefer to introduce definite limits to the periods during which a person may be detained in these as in all other circumstances.

Finally, Sir, I would like to touch briefly on some changes to be made which concern aircraft, ships and vehicles which transport immigrants. At present the Director of Immigration is empowered to exact a penalty of \$1,000 from an airline where any passenger it brings into the Colony arrives without valid travel documents. Clause 36 would create an offence in the owner of the aircraft in which such a passenger travels, and in this way there is conferred on the courts a discretion as to whether or not a penalty should be imposed following that conviction. I should perhaps comment in passing, Sir, that the price has not risen, the maximum penalty remains at \$1,000. Similarly, clause 44 which deals with the forfeiture of ships and vehicles which are used in the commission of certain offences under the proposed ordinance would give to the courts a discretion as to whether to order forfeiture: and this, Sir, is in contrast to the existing provisions for forfeiture which are mandatory and leave the courts no choice.

Where a traveller is refused permission to enter Hong Kong, clause 20 provides that an immigration officer may require that he be removed in any one of a number of ways at the expense of the owners of the ship or aircraft in which he arrived, or the immigration officer may require that the traveller be removed, at the public expense, in another company's ship or aircraft. This, I am informed, Sir, is in line with the law in the United Kingdom, and accords with the practice of most countries. Where however a person is removed under clause 17 or deported a shipping company or airline may be required to take him as a passenger, but in those circumstances they will receive normal payment for his passage.

With a final reference to the explanatory memorandum, which I would commend to those who seek a summary of the changes proposed, I would, Sir, beg to move.

Question proposed.

Immigration Bill—second reading

Motion made (pursuant to Standing Order No 30). That the debate on the second reading of the bill be adjourned—THE COLONIAL SECRETARY (SIR HUGH NORMAN-WALKER).

Question put and agreed to.

Explanatory Memorandum

This Bill consolidates and revises the immigration and deportation laws. It replaces the Immigration (Control and Offences) Ordinance, the Deportation (British Subjects) Ordinance and the Deportation of Aliens Ordinance by a single code.

REGULATION OF ENTRY TO AND STAY IN HONG KONG.

The following changes of substance have been made in the system of immigration control and in the control of immigrants living in Hong Kong.

- (a) The only persons recognized by the existing law as Hong Kong belongers (and who thereby have the right to live in Hong Kong and to come and go at will) are those who possess documentary proof of birth here. In practice, however, British subjects by naturalization in Hong Kong are accepted as belongers, as are British subjects by registration in special circumstances under section 7(2) of the British Nationality Act 1948, and the Bill accords them that status in Law. It also treats as a Hong Kong belonger the wife and child of a person who is himself a belonger.
- (b) Every person, whether a British subject or an alien, who is not a Hong Kong belonger will continue to be subject to immigration control, and the Bill confers on immigration officers a general discretion with respect to the giving or refusal of permission to land in Hong Kong, as is usual in most countries (clause 5(1)).
- (c) The existing powers with respect to the imposition of conditions of stay are also retained, and this means in particular that the stay of anyone other than a Hong Kong belonger may be limited (clause 5(2)). A new power is vested in the Governor to curtail the limited stay of an immigrant (clause 5(6)), and the Governor is also given power to cancel or vary conditions of stay and to impose new conditions (other than a limit of

stay) by order applying to individual immigrants or to immigrants of any specified class or description (clause 5(7)).

An exception to the general rule that permission to land in Hong Kong may be subject to conditions of stay is made in favour of citizens of the United Kingdom and Colonies who have been ordinarily resident in Hong Kong for a continuous period of ten years (clause 19). Though such persons may be refused permission to land in Hong Kong on their return from abroad in the same way as aliens and other British subjects (paragraph (b) above), they will not be subject to conditions of stay if they are permitted to land. Since they are also not liable to deportation (paragraph (f) below), the effect is that any such person who is admitted to Hong Kong will have a right to remain as long as he wishes.

Since conditions of stay regulating the taking of employment and certain other matters are invariably imposed in the case of most immigrants, the Bill further provides that the Governor in Council may prescribe such conditions by regulation and deems permission to land in Hong Kong to be subject to the prescribed conditions.

- (d) A new control on resident immigrants who have been in Hong Kong for less than three years is introduced by clause 17(1)(c), under which the Governor may order the removal of any such immigrant whom he considers to be an undesirable person.
- (e) The Governor's power to order the removal of illegal immigrants and those in breach of conditions of stay is retained (clause 17(1)(b)), but a conviction will no longer be a pre-requisite to the making of an order. At present it is often necessary to bring a prosecution for the sole purpose of enabling the Governor to order removal, when the public interest would not otherwise require that the offender be prosecuted.
- (f) British subjects in general will no longer enjoy a special position with respect to deportation and, with the exception of citizens of the United Kingdom and Colonies who have been ordinarily resident in Hong Kong for a continuous period of ten years (clause 19), will be liable to deportation on either of the grounds specified in clause 18(1) in the same way as aliens.

Immigration Bill—second reading

[*Explanatory Memorandum*]

REMOVAL PROCEDURE.

The existing provisions with respect to the removal by sea or air of persons who are refused permission to land are too limited in that the Director of Immigration may require removal only in the ship or aircraft in which such person arrived. Removal otherwise than in that ship or aircraft has to be at the public expense. Clause 20 makes new provision in this respect and enables an immigration officer to require the owners or agents of the ship or aircraft in which the immigrant arrived to remove him at their expense in another ship or aircraft. An immigration officer will also be able to require the owners of any ship or aircraft to remove an immigrant who is refused permission to land, but in such a case the Government will have to meet the cost of his removal.

DETENTION.

The existing law authorizes detention for up to 4 days for immigration inquiries. Experience has shown that the detailed inquiries which are sometimes necessary cannot always be completed satisfactorily within that period and the Bill permits detention for that purpose for not more than seven days.

The power to detain in connexion with immigration examinations and removal or deportation from Hong Kong are not changed in substance, though the Bill makes some procedural changes and clarifies the law.

Additional powers to detain are introduced by clauses 24 and 27(2). Objections to the Governor in Council against decisions of the Director of Immigration are an important feature of the immigration law. It is, however, also important that the lodging of an objection should not provide an opportunity for the objector to evade the Director's decision if it is confirmed. Accordingly, clause 24 empowers the Director to detain an objector pending the decision on an objection.

The other new power will enable the Colonial Secretary to detain a person while the question of his removal by order of the Governor is being considered. The absence of such a power at present has caused difficulty in some cases and the difficulties might increase now that a conviction is not a pre-requisite to the removal of an illegal immigrant or a person who is in breach of conditions of stay. Furthermore, a power to detain pending

consideration of the question of removal under the Governor's new power is essential.

Provision is also made for the detention for the purpose of police inquiries, in special cases affecting the security of Hong Kong, of persons who have returned to Hong Kong in breach of a deportation order (clause 26).

SUSPENSION OF DEPORTATION ORDERS.

As the law stands, a deportation, order must either continue in force or be rescinded altogether. This is unsatisfactory, particularly in the case of persons whose deportation is for the time being impracticable, and clause 50 empowers the Governor to suspend a deportation order as an alternative to rescission. The power to suspend is not limited to cases where deportation is impracticable since this course may be appropriate in other circumstances.

Power to rescind the suspension of a deportation order is vested in the Governor in Council since revocation is tantamount to deportation. These new provisions require additional powers of arrest and detention (clauses 29 and 50(3)).

OFFENCES.

Some improvements in detail are made. The major changes are as follows.

The serious offences under clauses 33(4) and 34, which are a continuation of existing summary offences, will also be triable on indictment.

Under section 23 of the Immigration (Control and Offences) Ordinance, the Director of Immigration is empowered to impose a civil penalty in a fixed sum of one thousand dollars on the owner of any aircraft in which a person who does not have a valid travel document is brought to Hong Kong. The fixed penalty is not altogether desirable and clause 36 now makes it an offence to bring to Hong Kong a passenger who does not have a travel document, so that a court will have discretion as to the penalty to be imposed.

Clause 38 introduces new offences in relation to false statements made to immigration officers and others acting under the legislation or in documents furnished for the purposes of the legislation. Clause 38(2), in addition to re-enacting the existing law relating to forgery of travel documents and possession of forged or false travel documents, will make it an offence to alter

Immigration Bill—second reading

[*Explanatory Memorandum*]

a travel document and to use or possess an unlawfully altered travel document. It will also be an offence to possess a travel document if a false statement was made in connexion with an application for its issue.

FORFEITURE OF VEHICLES AND SHIPS.

The provisions for the forfeiture of vehicles and ships have been revised considerably and follow substantially the corresponding modern provisions of the Import and Export Ordinance 1970. In particular, a court is given a discretion with respect to forfeiture.

POWERS OF OFFICERS OF HER MAJESTY'S SHIPS.

For many years, officers of Her Majesty's ships have been authorized by emergency regulations to exercise powers under the immigration law. Clause 54 confers on them such powers as they require and so permits the revocation of the emergency regulations.

PROOF OF CERTAIN MATTERS.

Clause 60 places on a person who claims any of the specified matters the burden of establishing the same. All these matters are peculiarly within the knowledge of a claimant.

MINOR AMENDMENTS.

The Bill also makes numerous amendments of a minor nature.

**FIXED PENALTY (TRAFFIC CONTRAVENTIONS)
(AMENDMENT) BILL 1971**

THE ATTORNEY GENERAL (ACTING) (MR SNEATH) moved the second reading of:—
"A bill to amend the Fixed Penalty (Traffic Contraventions) Ordinance."

He said:—Sir, the scheme for administering the fixed penalty system for minor traffic contraventions provides that where necessary the penalty shall be recovered as a civil debt before a magistrate. In such proceedings certain matters may be proved in evidence by the production of statutory certificates.

This bill seeks to provide that such certificates shall be admitted in evidence without any accompanying evidence as to the circumstances in which the certificate came into being and as to whether it was in fact signed by the person purporting to have signed it.

One of the matters to be proved in this fashion is the name of the person who was the registered owner of a vehicle on any particular day. The bill seeks to add to this what was the registered address of that person at that time.

Question put and agreed to.

Bill read the second time.

Bill committed to a committee of the whole Council pursuant to Standing Order No 43(1).

Explanatory Memorandum

Clauses 2 and 3 amend sections 15(6) and 17(2) of the principal Ordinance in order to remove any doubt as to the admissibility in evidence of certificates of posting which are produced under these sections in proceedings for the recovery of the fixed penalty. Such a certificate will be admitted in evidence without further proof if it purports to be signed by or for the Commissioner of Police.

2. Clauses 4 and 5 make consequential amendments to sections 19 and 20 respectively since, under section 21(1) as amended by clause 6, only one certificate will be issued for the purposes of section 21, instead of two as was previously the case.

3. Clause 6 amends section 21(1) to enable evidence of the registered address of the registered owner of a motor vehicle to be given in writing in civil proceedings for the recovery of the fixed penalty. Section 21(1) at present only enables written evidence to be given as to the name of the registered owner of a motor vehicle and as to non-payment of the fixed penalty. This evidence will be given by certificate, which will be admissible without further proof if it purports to be signed by or for the Commissioner of Police. Any facts stated in such certificate may be put in issue by the defendant.

WILD BIRDS AND WILD MAMMALS PROTECTION (AMENDMENT) BILL 1971

THE FINANCIAL SECRETARY (MR HADDON-CAVE) moved the second reading of:—"A bill to amend the Wild Birds and Wild Mammals Protection Ordinance."

Wild Birds and Wild Mammals Protection (Amendment)**Bill—second reading**

He said:—Sir, the main object of this bill is to provide additional protection for those species of our wildlife which have been declining sharply in numbers in recent years, due partly to an increase in illegal hunting and trapping and partly to the spread of urban development in the New Territories.

To this end a number of amendments are proposed to the principal Ordinance to which several deserve particular mention.

Clause 2 of the bill prohibits the use of live decoys and tape-recordings to prevent this method of attracting birds for shooting becoming more widespread and causing a further decline in their numbers.

Clause 5 prohibits hunting or the carrying of firearms in certain specified areas.

Clause 7 prohibits entry into any area designated in a new schedule (the Seventh Schedule) without a permit. This should afford more protection to birds and wildlife in their natural habitats and breeding grounds. The first area to be so designated is the egretty at Starling Inlet during the nesting season, in other words the months of April to September inclusive.

Clause 8 is designed to ensure that all applicants for game licences under the principal Ordinance are familiar with the contents of the schedules.

Clause 10 raises the maximum penalties for the trapping or maltreatment of protected creatures.

Clause 14 reclassifies the grey plover and golden plover as protected birds as it has become apparent that, as game birds, they are declining in numbers.

Clause 16 repeals the Fourth and Fifth Schedules to the principal Ordinance designating certain areas as protected areas and replaces them with schedules in which the areas in which hunting is prohibited are more precisely defined with reference to plans deposited in the Land Office and District Offices in the New Territories.

All these proposals have been received favourably by organizations concerned with the conservation of wildlife and by private individuals with an interest in conserving our remaining indigenous species, many of which are of considerable scientific interest.

There is, however, one proposal which has not found favour with these societies. I refer to clauses 3 and 4 of the bill which are intended to have the effect of legalizing imports into Hong Kong of live Chinese francolins and civet cats. As honourable Members are aware, the trade in Chinese francolins and civet cats—both considered as delicacies by Hong Kong residents—has been going on for many years. By an amendment to the principal Ordinance in 1964 possession of live game and scheduled mammals, whether imported or of local origin, was made an offence, but it is now the Government's view that this legislation should be concerned specifically with the protection of local fauna only. I know it has been suggested that as civet cats, in particular, are facing extinction wherever they are to be found in their natural state they should be protected by all possible means: in this case by Hong Kong continuing to prohibit their importation by law. But I am assured that the civet cats (and francolins) imported into Hong Kong for food purposes are mostly bred in captivity in Southern China and that this trade does not itself represent a threat to the survival of the species.

In the last day or so, Sir, certain suggestions have been made in the press to the effect that these clauses would in fact increase the risk of rabies being imported into Hong Kong. I can assure honourable Members that this is simply not so; rabies control is outside the scope of the Wild Birds and Wild Mammals Protection Ordinance and is a public health matter dealt with elsewhere under the Dogs and Cats Ordinance and the Public Health (Animals and Birds) Ordinance. These clauses do no more than recognize a *de facto* state of affairs which has existed for many years now and in no way affects the law concerned with the health of animals on importation.

It has also been alleged that civet cats are symptomless carriers of rabies. I am advised that there is considerable dispute in fact among world health authorities as to which animals, if any, are symptomless carriers of rabies *and* no proof has yet been advanced that civet cats are in this class of animal. After careful consideration of all the evidence on the incidence of rabies in the country from which civet cats are imported and the manner in which they are reared and marketed, there would seem to be, in fact, very little risk of an out-break of rabies originating from these animals; and, in any case, as I have just mentioned, Sir, the amendments to the Ordinance proposed in clauses 3 and 4 of this bill will in no way alter the status of rabies control in Hong Kong.

In all these circumstances, it is the Government's view that this traditional trade should once again be legalized and may I repeat that this is to be done without affecting, in any way, the position of civet cats and francolins found locally in Hong Kong. They will continue to be, as now, protected creatures under the law.

**Wild Birds and Wild Mammals Protection (Amendment)
Bill—second reading**

Question proposed.

Motion made (pursuant to Standing Order No 30). That the debate on the second reading of the bill be adjourned—THE COLONIAL SECRETARY (SIR HUGH NORMAN-WALKER).

Question put and agreed to.

Explanatory Memorandum

Clause 2 inserts a new section 4A, which makes it an offence to use live decoys for hunting birds.

2. Clause 3 amends section 8 to allow the possession of Chinese Francolin and live scheduled mammals, provided they were not taken in the Colony. Clause 4 amends section 9. As all protected mammals in Hong Kong are scheduled mammals, paragraph (b) of section 9 is deleted and paragraph (a) is revised to correct the anomaly existing in that section.

3. Clause 5 repeals and replaces section 10 of the principal Ordinance. Under the revised provision, no person is permitted to hunt in the area specified in the Fourth Schedule and only military, police and Preventive Service personnel are permitted to carry a firearm in such areas, except along a public road.

4. Following upon the revision of the Fifth Schedule to the principal Ordinance (clause 16 refers) whereby hunting in Kowloon and New Kowloon is prohibited, subsection (1) of section 12 is redundant. Clause 6 repeals section 12 and replaces it with a provision prohibiting generally the shooting of any bird or mammal in close proximity to an inhabited house or a motor road.

5. Clause 7 adds a new section 12A, which requires a permit to be obtained from the Director for entry into the areas described in the Seventh Schedule during specified periods. This restricts access to these areas in order to conserve wild life.

6. Clause 8 amends section 13 to enable the licensing authority to require an applicant for a game licence to undergo tests not only as to his ability to identify game and protected birds and mammals but also as to his knowledge of the provisions of specified Schedules to the principal Ordinance. Clause 9 amends section 17 so that the special permits issued under that section will be issued by the Director of Agriculture and Fisheries.

7. Clause 10 increases the fines for offences under the Ordinance.

8. As claims for compensation for damage caused to crops are no longer determined by District Officers, the reference to them in section 19 of the principal Ordinance is deleted by clause 11. The opportunity has been taken also to remove the limit of \$250 compensation which may be awarded by a magistrate under that section. Clause 12 repeals and replaces section 20 in amended form.

9. Clause 14 deletes certain birds from the list of birds set out in the First Schedule. Clause 15 deletes Orang Utans, which are now protected under the provisions of the Animals and Birds (Restriction of Importation and Possession) Ordinance (Cap. 187), from the Second Schedule.

10. Clause 16 deletes and substitutes the Fourth and Fifth Schedules. The areas specified in these Schedules are more precisely defined with reference to a plan deposited in the Land Office. Clause 17 amends Forms 1 and 2 of the Sixth Schedule consequential upon the amendments effected by clauses 8 and 14 above. Clause 18 adds a new Seventh Schedule, which is referred to in the new section 12A (clause 7 above).

QUARANTINE AND PREVENTION OF DISEASE (AMENDMENT) BILL 1971

THE FINANCIAL SECRETARY (MR HADDON-CAVE) moved the second reading of:—"A bill to amend the Quarantine and Prevention of Disease Ordinance."

He said:—Sir, as a result of the World Administrative Radio Conference held in 1968, a revised International Code of Signals was brought into operation on the 1st April 1969. The purpose of the bill is, quite simply, to bring the signals used in Hong Kong into line with this revised code. If this bill is passed, it will be brought into effect simultaneously with sections 3 and 49 of the Merchant Shipping (Amendment) Ordinance 1971 passed by this Council on 10th March 1971 and the Merchant Shipping (Control of Ports) (Amendment) Regulations 1971 laid today. These two pieces of legislation likewise amend all references in the Merchant Shipping Ordinance and regulations to code flags to bring them into line with the revised International Code of Signals.

Question put and agreed to.

Bill read the second time.

**Quarantine and Prevention of Disease (Amendment)
Bill—second reading**

Bill committed to a committee of the whole Council pursuant to Standing Order No 43(1).

Explanatory Memorandum

This Bill amends section 35 of the principal Ordinance so as to bring the signals used in Hong Kong into line with the revised International Code of Signals.

EMPLOYMENT (AMENDMENT) BILL 1971

MR R. M. HETHERINGTON moved the second reading of:—"A bill to amend the Employment Ordinance."

He said:—Sir, the Employment Ordinance was enacted and came in to effect in September 1968. Some problems of interpretation have subsequently arisen in its administration and the amending bill now before Council seeks to eliminate them.

Section 5(2)(a) of the principal Ordinance stipulates that the length of notice required to terminate a contract, deemed to be a contract for one month renewable from month to month, shall be not less than one month. This was intended to apply only if the contract did not provide for any period of notice. It was not intended to prevent the parties from agreeing on some other period for the termination of the contract. To make the position quite clear, clause 2(a) of the proposed bill amends section 5(2) by limiting the application of section 5(2)(a) to those contracts which make no provision for the length of notice required to terminated the contract and by adding a new paragraph (aa) to ensure that the agreed length of notice shall not be less than seven days.

Section 5(3) states that, where in any contract it has been expressly agreed that the employment is on probation, the contract may be terminated by either party during the probation period without notice or payment in lieu during the first month of probation and by the giving of seven days' notice during the second and third months. Clause 2(b) limits the application of section 5(3) to those contracts which make no provision for the length of notice required for termination, leaving it open to the parties to agree on any period of notice during each of the first three months of the probation period provided that no period so agreed shall be less than seven days. This amendment fulfils an undertaking, given by me in this Council on 17th December 1969, to review this provision in response to a suggestion by my honourable Friend, Dr CHUNG.

Under section 6(1), either party of a contract may terminate it without notice by paying to the other party a sum equivalent to the wages which would have accrued during the period of notice required under section 5. Section 15(1) requires an employer, who terminates a contract by payment in lieu of notice, to pay the sum due as soon as practicable or not later than seven days after such termination. It was always intended that the sum payable under section 6(1) might be paid at any time within seven days after the employment has come to an end. Clause 3 amends section 6 so as to remove any doubt as to whether or not that section permits employment to be terminated without notice unless payment in lieu is made at the time of termination. Clause 4(a) proposes a minor amendment consequential on clause 3.

Clause 4(b) clarifies section 15(3) to ensure that, when an employee terminates his employment without giving notice or agreeing to pay in lieu of notice, the employer may deduct from any sum payable to the employee the amount which the employee would have been liable to pay under section 6 if employment had been terminated in accordance with that section. No new principle is introduced.

Section 34A deals with the apprehension of absconding employers and refers to certain forms contained in the Second Schedule. It does not, however, provide for amendment of forms so that any amendment would have to be made by amending bill. Clause 5 adds a new section 34B to empower the Governor to amend any form in Part II of the Second Schedule by publication of an order in the *Government Gazette*.

The bill, as originally drafted, was unanimously approved by the Labour Advisory Board but it did suggest that clause 2 might be re-cast to clear all possible doubts over the interpretation of the proposed amendments. The clause was subsequently re-drafted to meet this suggestion.

DR CHUNG:—Your Excellency, I welcome the introduction of this bill as it will clear up the controversial interpretation of some sections in the Employment Ordinance 1968 and in particular of section 5 dealing with period of notice when a contract of employment is terminated.

The principal Ordinance, as it now stands, does not permit both employers and employees to mutually contract out from the Ordinance for any particular period of notice other than nil during the first month of probational employment. Clause 2 of the proposed bill seeks to remove this anomaly. However, in so doing, it introduces a new principle, in which section 5(3)(a) of the principal Ordinance

[DR CHUNG] **Employment (Amendment) Bill—second reading**

after amendment will be applicable only to those employment contracts without any provision for any period of notice on termination.

I believe that at present many employers, particularly those employing hourly-rated industrial workers, have employment contracts with their employees in which either party can terminate employment without notice at any time during the first month of probational employment. This new principle will no doubt affect these employers and employees. Whilst I do not object to the introduction of this new principle, I nevertheless would like to take this opportunity to call their attention to this basic change. Perhaps my honourable Friend, the Commissioner of Labour, could also arrange to bring at some appropriate stage this main change to the notice of all industrial employers and employees.

Sir, whilst we are reviewing the Employment Ordinance it seems appropriate for me to mention an important aspect of labour legislation. Some honourable Members are already aware that a large proportion of labour-management disputes in recent years are on severance pay due to redundancy. Other honourable Members may be interested to know that the Labour Relations Division of the Labour Department had dealt with 2,954 labour-management disputes in 1968, 3,085 in 1969 and 2,792 in 1970 and that redundancy was one of the four main factors contributing to those major disputes during the past three years.

An employee may have been working for his or her employer for 5, 10 or even 20 years and suddenly his or her employment could be terminated by the employer for no fault of the employee's own but for reasons of redundancy. The existing labour legislation gives the employee no more protection or compensation than a period of notice, ranging generally from seven days to one month, from the employer prior to termination. Any compensation for such loss of employment due to redundancy is left to both the employer and the employee concerned to make their own bargains, which in the past has often attracted much adverse publicity.

I am sure honourable Members will agree with me that this state of affairs is not satisfactory and this area of labour legislation needs more cogent attention. Recently, my unofficial Colleagues on this Council have had a discussion on this important matter and it is our unanimous view that the Government should give a higher priority to the consideration of enacting legislation for severance pay on redundancy which in our view should greatly help reduce the number and gravity of labour-management disputes in Hong Kong.

Sir, I support the motion.

MR HETHERINGTON:—Sir, I am pleased to hear that my honourable Friend, Dr CHUNG, welcomes the introduction of this amending bill. Honourable Members will recall, as I said earlier, that the principal Ordinance was enacted in September 1968. Since then, three amending bills have been approved by this Council. The present bill is the fourth. As is customary, the Labour Department issued guides to the four previous ordinances. These have now been combined in a new publication called "A Concise Guide to the Employment Ordinance". At the moment, 20,000 copies of this booklet, which is in both Chinese and English, are in the process of being distributed. Meanwhile, a comprehensive guide which will run to about 50 printed pages has also been prepared but I have delayed the final steps pending consideration of the present bill by this Council. Now that I know that the bill will be supported by Unofficial Members, I will go ahead with this comprehensive guide to the Employment Ordinance which will cover all the amending legislation to the principal Ordinance since it was first enacted three years ago.

Turning to the second half of Dr CHUNG'S speech, I would like to recall a statement which I made in this Council in 1968 on proposals for labour legislation with particular reference to an item which eventually became the Employment Ordinance:

"It is intended so to frame the Bill that other parts may be conveniently added in future with the objective of compiling in due course a comprehensive ordinance dealing with the main problems of employment. ... I hope to be able to recommend statutory entitlements for redundancy payments based on length of service and other relevant considerations."*

Since then, the Labour Department has carried out a thorough investigation of the practices of other territories regarding redundancy payments and, last year, I prepared proposals for including in the Employment Ordinance a new part dealing with this subject. These proposals were forwarded to Government at the beginning of this year and are under active consideration.

I am of course unable at this stage to commit Government to these proposals. However, at the beginning of this year, I gave instructions to the conciliation officers of the Labour Relations Service to attempt to apply these proposals, as far as practicable, to such disputes involving severance pay on redundancy which came to them for settlement. The experience of these officers is such that I believe that they would be suitable for application in Hong Kong. I am pleased to learn of and am encouraged by the interest which Unofficial Members of this Council have now shown in this subject and their unanimous view that Government should give high priority to the consideration of legislation to deal with it.

* 1968 Hansard, pages 34-5.

Employment (Amendment) Bill—second reading

Question put and agreed to.

Bill read the second time.

Bill committed to a committee of the whole Council pursuant to Standing Order No 43(1).

Explanatory Memorandum

Clause 2 amends section 5 of the principal Ordinance so as to provide that one month's notice is required to terminate a contract for one month renewable from month to month only if the contract does not provide for the length of notice of termination (clause 2(a)). If the contract does provide for the length of notice of termination, then the agreed period must be not less than seven days. Clause 2 also amends subsection (3), which specifies the length of notice required to terminate a contract of probationary employment, by making it clear that the subsection only applies where the contract is silent as to notice (clause 2(b)).

It was always intended that the sum payable under section 6 of the principal Ordinance where employment is terminated without notice might be paid at any time within seven days after the employment comes to an end. Accordingly, section 15(2) of the principal Ordinance refers to that sum as being included within the moneys payable to an employee within seven days. However, some doubt have arisen as to whether section 6 of the principal Ordinance permits employment to be terminated without notice unless the payment in lieu thereof is made at the time. Clause 3 makes it clear that employment may be terminated without notice by an agreement to pay wages in lieu thereof.

Clause 4 amends section 15 so as to provide that where an employee terminates his employment without giving notice or agreeing to pay in lieu of notice, the employer may deduct from any sum payable to the employee such sum as the employee would have been liable to pay under section 6 if the employment had been terminated in accordance with that section.

Clause 5 adds a new section 34B, empowering the Governor to amend any form in Part II of the Second Schedule.

EDUCATION BILL 1971

MR J. CANNING moved the second reading of:—"A bill to repeal and replace the Education Ordinance."

He said:—Sir, this bill revises the law governing education and the supervision and control of schools and teaching in the light of experience since the Education Ordinance was last revised in 1966. Although it is based largely on the present Education Ordinance which will be repealed if this bill is enacted, there are several new features in the bill to which I will refer in some detail.

The principal changes introduced by the bill have three objects:—

First, to revise the procedure for the registration of schools, so as to provide a more logical sequence of steps and, in particular, to institute a stage of provisional registration.

Second, to give to the Director of Education wider powers to ensure that schools are managed satisfactorily and the education of the pupils promoted in a proper manner.

Third, to overcome the problem of existing illegal schools, by enabling them to obtain for a limited period of time a status under which they will be exempt from the requirements of the Education Ordinance, it being understood that such limited period of time will be utilized by the operators of the school to conform with the requirements of the Education Ordinance.

One particular difficulty of the existing procedure for the registration of schools is that all the details required for registration are often not in fact available until after the school has opened and "shaken down". Because of this, the practice has been followed of allowing schools to open before registration has been effected, and an undesirably lenient attitude has had to be adopted towards schools which have already come into operation but are still awaiting registration. Many such schools were established at a time when there was a shortage of school places, and the policy has been to take action to close them only when they constitute a serious danger on account of fire risk or other hazard. The provision of school places, particularly in the primary sector, has improved and the time has come to establish a situation in which no new school will be allowed to operate unless fully within the requirements of the law. In order to facilitate the opening of new schools, so that there will be no excuse for any new school to operate before registration, it is now proposed to introduce provisional registration of schools and to provide for intending managers to be approved prior to registration.

The purpose of provisional registration is to enable new schools to operate legally once such essential requirements as the safety of the premises have been certified, and while the process of dealing with the other aspects of registration is proceeding. Clause 15(1) provides for the Director of Education to register a school provisionally at any time after an application for registration has been received and before the

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application for full registration is determined. The school may be provisionally registered for periods up to twelve months at a time (clause 15(2)), but if a school which is provisionally registered is refused full registration, this refusal will not in itself cause the provisional registration to cease to have effect immediately (clause 16(2)). This is necessary to enable a school in such circumstances to continue in operation until the end of the academic year, or until such time as it is convenient for its pupils to find places in some other school.

At present the registration of the managers of a school is an integral part of the registration of the school. It may happen that in the last resort the sole obstacle to a school's registration lies in the unsuitability of a proposed manager, resulting in delay in the registration of the school. The bill therefore provides for managers to be approved in advance as fit and proper persons to be managers, and only approved managers may apply to be registered as managers of a specific school (clause 28). Further, the bill provides that an application for registration of a school may be made only by an approved manager (clause 11(a))—this will ensure that an application for the registration of a school will not be delayed solely because of the unsuitability of the applicant.

The opportunity has been taken to clarify certain definitions used in the Education Ordinance (clause 3). In particular, the term "school" is re-defined as an institution, organization or establishment which provides education for twenty or more persons during any one day. This will exclude from the provisions of the Ordinance small institutions catering for ten or more, but less than twenty, persons which at the present time are covered by the Ordinance. Confusion has also arisen in the past because of the absence of a clear distinction between a school and the premises in which the school is operating. The new definition makes it clear that the school is distinct from the school premises, to facilitate control of both the organization and the premises.

At the present time, the Director of Education may refuse to register a school if it appears to him that the proposed management committee is not such as to ensure that the school will be efficiently administered or that the qualifications and experience of the proposed teachers are not adequate to ensure the efficient conduct of the school. However, clause 14(i) gives the Director of Education a new power to refuse to register a school if he is not satisfied that the teaching staff is such that the education of the pupils will be promoted in a proper manner.

Clause 14(j) introduces a new provision to enable the Director of Education to refuse registration of a school where the composition of

the management committee or teaching staff is essentially the same as that of any school which has previously been refused registration, or which has previously had its registration cancelled. This provision is required to stop any such school from applying for registration as a new school under a different name.

The Director's power to direct the supervisor, and other managers of a school, to take remedial measures to correct unsatisfactory management has been retained, but clause 76(1) re-defines the circumstances in which the Director may exercise this power, and allows him to direct remedial measures if it appears to him that the pupils are not being properly taught. The bill also retains those provisions of the present Education Ordinance which empower the Director of Education, if he is of the opinion that there is any danger to persons in any school premises, or that the conduct of the managers, teachers or pupils of a school is or has been unsatisfactory, to close the school premises or prohibit the use of any place for the purposes of the school (clause 77).

The bill prohibits any person or school from issuing degrees or documents resembling degrees (clause 80). This corresponds to a similar provision in the Post Secondary Colleges Ordinance (Chapter 320).

Under the bill, a person adversely affected by a decision of the Director of Education, and on whom a notice of such decision has been served, retains as under the present Education Ordinance the right of appeal to the Appeals Board. Procedure on appeal remains as under the present Education Ordinance. Both the Director of Education and the appellant retain the right of appeal to the Governor in Council against a decision of the Appeals Board (clause 65).

Under the existing Ordinance, teachers and pupils of a school which has had its registration cancelled are prohibited from entering, without permission, the premises which were used by that school. Under the bill, former managers will likewise be prohibited (clause 72(1)). However, this prohibition will only apply if the premises are still being used as a school. In addition, managers, teachers, supervisors and principals whose registration, permits or approvals have been refused, cancelled or withdrawn, or who are suspended, are prohibited from entering any school premises without the permission of the Director.

By clause 26(1)(c) the Director may withdraw approval of a manager who has been an office bearer of a society which has been de-registered or dissolved under the Societies Ordinance. Clause 36 of the bill revises the provisions of the law as to the tenure of office of the supervisor of a school. The existing Ordinance provides that, if a supervisor is no longer acceptable as such to the majority of the

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management committee, he shall cease to be supervisor. This provision has been deleted, in order to avoid the capricious removal of a supervisor by a management committee. Under clause 37 the Director is no longer bound to withdraw his approval of a supervisor at the committee's demand.

The bill seeks to establish a new category of "recorded schools". Such unregistered schools as were operating on the 9th July 1971, the day on which the bill was first published, and also on the day on which the bill comes into effect, are given the opportunity of "recording" them-selves and obtaining from the Director of Education a document formally attesting that they are so recorded (clause 88). Recorded schools and their managers, teachers and pupils will be temporarily exempted from the provisions of the Education Ordinance. The exemption will last until 1st August 1974, by which time a decision will have been taken in the majority of cases regarding their future, that is to register or to close. The bill, however, enables the Director of Education to extend the period of exemption in respect of a record school for such further period as he may specify (clause 91(2)). It is proposed that the period of time given for existing illegal schools to come forward and be recorded will expire on the 1st March 1972. The physical safety of the pupils of recorded schools will be secured by enabling the Director of Education to prohibit the use by a recorded school of premises notified by the Director of Fire Services or the Building Authority as being dangerous. A school will cease to be recorded if it alters its mode of operation. Furthermore, the exemption of a recorded school will cease if the Director of Education is of the opinion that the school is not being managed satisfactorily or that the education of the pupils is not being promoted in a proper manner.

The status of recorded school affords existing illegal unregistered schools an opportunity to bring themselves into conformity with the requirements of the Education Ordinance without fear of prosecution for non-registration during the period for which the status of recorded school is accorded to them. During this period of exemption, these schools will be advised and assisted by the Education Department to take such steps as may enable them to fulfil the requirements for registration or provisional registration. At the same time, by bringing existing illegal unregistered schools into the open, these provisions will enable the Director of Education to bring the problem under an effective degree of containment.

I now turn to a matter which was raised by you, Sir, in the course of the speech you made to this Council at the opening of the present session. I refer to your proposal that we should take power to enforce

school attendance where parents appear to be unnecessarily withholding their children from primary school.

I am now in a position to inform this Council that I propose to move amendments to the bill at the committee stage so as to provide the necessary powers. The proposed provisions will be published in the *Gazette* shortly. It is intended that these powers will be exercised by the Director of Education only after a careful investigation of the family's circumstances and the needs of the child. If an attendance order is made, parents will have a right of appeal to a specially constituted board of review.

It is my belief, Sir, that this bill together with the provisions for compulsory attendance at primary school which have the approval of the Board of Education will if enacted provide not only a sound and sure basis for the supervision and control of schools and teaching but also adequate provision to ensure that children are not being withheld from primary school by their parents.

Question proposed.

Motion made (pursuant to Standing Order No 30). That the debate on the second reading of the bill be adjourned—THE COLONIAL SECRETARY (SIR HUGH NORMAN-WALKER).

Question put and agreed to.

Explanatory Memorandum

This Bill revises the law governing education and the supervision and control of schools and teaching. The Bill is based on the present Education Ordinance (Chapter 279) which will be repealed.

2. Part I of the Bill (clauses 1 to 9) deals with preliminary matters.

3. Clause 2 deals with the application of the Bill, which will not apply to either of the universities or to the Hong Kong Polytechnic or any post secondary college.

4. Clause 3 contains definitions of words and expressions used in the Bill. A major change from the existing Ordinance is that "school" is defined as the institution, organization or establishment which provides education, without reference to the premises which it may use for such purposes. This distinction is maintained throughout the Bill. Another important change is that an organization is not a "school" for the purposes of the Bill unless it provides education for at least twenty people each day, instead of ten as required by Chapter 279.

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5. Clause 4 and 5 deal with the functions of the Director of Education and the delegation of his powers to other officers of the Education Department.

6. Clause 6 empowers the Governor to give directions to public officers (except judges and magistrates) as to the exercise of their powers under the Bill. Under section 3 of Chapter 279, the Governor already has power to give directions to the Director.

7. Clauses 7, 8 and 9 deal with the constitution of the Board of Education, the maintaining of registers and exemptions from the Ordinance.

8. Part II (clauses 10 to 22) deals with registration of schools.

9. As is the case at present, every school must be registered (clause 10).

10. Clause 11 to 13 provide for applications for registration which can only be made by persons who are approved to be managers. Clause 14 sets out grounds on which the Director can refuse to register a school. With certain changes, these follow the existing grounds for refusal contained in Chapter 279. New grounds for refusal are that the composition of the teaching staff is such that the education of the pupils is unlikely to be promoted properly, and that the composition of the management committee or teaching staff is substantially the same as that of a school which has previously been refused registration or has previously had its registration cancelled. The Director may also refuse to register a school in an unsuitable name or in a name which is the same as or similar to that of another registered school or a school whose registration has been cancelled.

11. Clause 15 is new and enables the Director to register a school provisionally for a limited period of time even though it has not satisfied the requirements for full registration. However, the Director will not be able to register a school provisionally unless the premises are safe. Provisional registration will be in the absolute discretion of the Director. Applications may be made only for full registration, but at any time after receipt of an application and before it is finally determined, the Director will be able to grant provisional registration. If the application for full registration is eventually refused, the provisional registration of the school will nevertheless continue in force until expiry (clause 16). The Director will also have power to extend provisional

registration for specified periods of not more than twelve months at a time (clause 15).

12. Clause 17 prohibits the registration or provisional registration of a school in any name which includes the word "university" or the Chinese characters "大學" or "學院". It also prohibits without the consent of the Governor the registration or provisional registration of any school providing post secondary education.

13. Clause 19, which is new, prohibits the operation of a school in any premises which are not specified in the certificate of registration or provisional registration. By clause 20, which is also new, an application may be made to the Director to amend the certificate by specifying new premises or deleting existing premises.

14. By clause 21, the Director of Fire Services may inform the Director of Education of any provision which he considers should be made to eliminate any undue fire hazard caused by a change in the design or use of any premises in which a school is operated. The Director of Education may then require the school to make such provision.

15. Clause 22 lists the grounds on which registration or provisional registration of a school may be cancelled and is similar to the corresponding provision in the present Ordinance.

16. Part III (clause 23 to 41) deals with managers of schools.

17. A new status of approved manager is introduced. Approval will not in itself authorize a person to be a manager of a school, but only an approved manager may apply for registration of a school or for registration as a manager. Clause 23 to 26 deal with applications for approval to be a manager and grounds for refusal and withdrawal of approval by the Director.

18. Provisions relating to the registration of managers, and grounds for refusal and cancellation of registration of managers, are contained in clauses 27 to 31. No person may be a manager of a school unless he is registered as such. There will, however, be no limitation on the number of schools of which a person who is approved to be a manager can be registered as a manager.

19. Clauses 32 and 33 deal with management committees which will consist of the registered managers of each school. The management committee is responsible for the management of a school, the proper promotion of the education of the pupils, and for compliance with the provisions of the Bill by the school.

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20. Clauses 34 to 40 provide for supervisors of schools. A management committee must recommend one of its members for approval as the supervisor by the Director. The supervisor has certain specific duties in respect of the administration of the school and is the manager responsible for corresponding with the Director of Education. If at any time there is no supervisor of a school, the management committee will be required to perform his duties.

21. Clause 41 enables the Director to appoint additional managers if a school is not being managed satisfactorily. Such managers will be subject to the directions of the Director and will not share in the profits or be financially liable.

22. Part IV (clauses 42 to 58) deals with teachers.

23. No person may teach in a school unless he is a registered or permitted teacher (clause 42). By clause 43, the Director can require a prospective teacher to undergo a medical examination. Clauses 44 to 47 deal with the registration of teachers and grounds for refusal or cancellation of registration. Clauses 48 to 52 provide for the issuing of permits to employ as teachers persons who are not registered teachers. These provisions follow, with some modifications, corresponding provisions in Chapter 279.

24. Clauses 53 to 58 deal with principals of schools. The management committee must recommend for the approval of the Director one of the teachers to be the principal. The principal is responsible, subject to the directions of the management committee, for teaching and discipline in the school.

25. Part V (clauses 59 to 66) deals with appeals. The Appeals Board is constituted under clause 59. Persons adversely affected by the Director's refusal to grant approval, registration or a permit, or by his cancellation of the same, have a right of appeal to the Appeals Board in accordance with clause 61. The procedure on an appeal is set out in clause 62, and clauses 63 and 64 deal with the taking of evidence and the decision of the Board. A further right of appeal to the Governor in Council is available under clause 65.

26. Part VI (clauses 67 to 72) contains additional provisions relating to registration, approvals, and permits to teach.

27. Clause 67 enables the Director to require an interview with or further information from an applicant. Clause 68 deals with additional powers of the Director in respect of teachers, and

clauses 69 and 70 deal with the special powers of the Governor in Council in respect of schools. These provisions generally follow the existing Ordinance. Clause 71 provides for the return of cancelled certificates and permits. Clause 72 restricts entry into school premises by supervisors, managers, principals and teachers whose approvals, registration or permits to teach have been cancelled or suspended, and also restricts entry into the premises of schools whose registration or provisional registration has been cancelled or suspended.

28. Part VII (clauses 73 to 77) provides for the inspection of schools. Clause 76 deals with the power of the Director to direct remedial measures to be taken by a school for its satisfactory operation, and clause 77 empowers the Director to close school premise, to prohibit the use of any place as a school and to give directions in cases of danger or misconduct.

29. Part VIII (clause 78 to 85) contains general provisions.

30. Clause 78 provides for the making of regulations by the Governor in Council. The penalties which may be provided for in the regulations will be increased from the present limit of a two thousand dollar fine or one year imprisonment to a fine of five thousand dollars and two years imprisonment. Clause 79 enables the Governor in Council to make rules for the maintenance of a provident fund for teachers employed in Government aided schools.

31. Clause 80 is new and prohibits the granting of degrees or documents resembling degrees. As the Bill will not apply to the universities, their powers to award degrees are not affected by this clause.

32. Clause 81 deals with offences and penalties. These are divided into three categories, and heavier penalties than those contained in Chapter 279 are provided for offences coming within the first two categories. The penalties at present provided are a fine of five thousand dollars and imprisonment for two years. The maximum fine in the case of the new first category of offences is increased to twenty-five thousand dollars, and in the case of the new second category to ten thousand dollars. A manager who is charged with an offence, in his capacity as a member of a management committee, will not be guilty if he establishes that the other members of the management committee committed the offence without his knowledge or consent, or that he took all reasonable steps to prevent the other members from committing the offence.

33. Clause 82 contains evidentiary presumptions in respect of offences under the Bill. Clause 83 deals with the liability of

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landlords and tenants of premises in which a school is being operated unlawfully. Clause 84 sets out the powers of police officers to enter premises and remove suspected persons. Clause 85 provides for the services of notices under the Bill.

34. Part IX (clauses 86 to 92) is new and provides for the recording by the Director of Education of the existence of certain unregistered schools.

35. A school the existence of which is duly recorded will be exempt from the substantive provisions of the Bill until the 1st day of August 1974, and will be deemed to have been so exempted at all times prior to the date of its recording (clauses 90 and 91). The Director may continue the exemption of any recorded school after the 1st day of August 1974 for such period and on such conditions as he may specify (clause 91).

36. An application to be recorded may only be made by a school which is in operation on the 9th day of July 1971 and on the date of commencement of the Bill, and which has not previously been registered or provisionally registered, or refused such registration or granted exemption (clause 86). Applications for recording must be made before the 1st day of March 1972 (clause 88). On receipt of an application in the prescribed form, the Director will be obliged to record the school (clause 89). The statement that the school is recorded must be displayed conspicuously in the school premises.

37. A recorded school will cease to be exempted from the Bill if, in the opinion of the Director, any change is made in the management or method of operation of the school without his permission, or the school is not being managed satisfactorily or the education of the pupils is not being promoted in a proper manner. Exemption will in any event cease if the school is registered or provisionally registered (clause 91).

38. Notwithstanding the exemption granted to a recorded school, the Director will be empowered to require the school to close down any of its premises if their condition is such as to endanger the lives of persons using them (clause 92).

39. Part X (clauses 93 and 94) deals with miscellaneous matters. Clause 93 will repeal Chapter 279 but appointments under that Ordinance will continue in effect as if made under the Bill. Under clause 94, applications and appeals which are pending under the Education Ordinance at the date of commencement of this Bill will continue to be dealt with under that Ordinance.

Clause 94 also provides that a person who has been registered as a manager of a school under Chapter 279 or under the Education Ordinance 1913 (26 of 1913) shall be deemed to have been approved as a manager under clause 24 of this Bill.

Committee stage

Council went into Committee.

MATRIMONIAL CAUSES (AMENDMENT) BILL 1971

Clause 1 was agreed to.

Clause 2.

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

Proposed Amendment

Clause

- 2 That the proposed definition of "matrimonial cause" be amended—
- (a) in paragraph (e), by deleting "or";
 - (b) in paragraph (f), by inserting after the semicolon the following—
"or"; and
 - (c) by inserting after paragraph (f) the following new paragraph—
"(g) damages only under section 50;".

The amendment was agreed to.

Clause 2, as amended, was agreed to.

Clause 3.

MR CHEUNG:—Sir, I move that clause 3 be amended as set forth in the paper before honourable Members.

Matrimonial Causes (Amendment) Bill—committee stage*Proposed Amendment**Clause*

- 3 That the proposed section 10B be amended by deleting "The" and substituting the following—
 "Subject to section 10E, the".

The amendment was agreed to.

Clause 3, as amended, was agreed to.

Clause 4.

MR CHEUNG:—Sir, I move that clause 4 be amended as set forth in the paper before honourable Members.

*Proposed Amendment**Clause*

- 4 That clause 4 be deleted and the following substituted—
- | | |
|---------------------------|---|
| "Amendment of section 54. | 4. Section 54 of the principal Ordinance is amended— |
| | (a) in subsection (1) by— |
| | <ul style="list-style-type: none"> (i) deleting the full stop at the end of paragraph (c) and substituting a semicolon; and (ii) inserting, after paragraph (c), the following— |
| | <ul style="list-style-type: none"> "(d) providing for the enforcement in the Supreme Court of orders made under this Ordinance in the District Court."; and |
| | (b) by inserting, after subsection (2), the following— |
| | <ul style="list-style-type: none"> "(3) Any rules made for the purposes of Part IIA shall be subject to the approval by resolution of the Legislative Council.". |

The amendment was agreed to.

Clause 4, as amended, was agreed to.

**HONGKONG AND KOWLOON WHARF AND GODOWN
COMPANY LIMITED (BY-LAWS) (AMENDMENT)
BILL 1971**

Clause 1 was agreed to.

Clause 2.

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

Proposed Amendment

Clause

- 2 That the proposed definition of "car park" be amended by inserting after "parking" the following—
"or driving".

The amendment was agreed to.

Clause 2, as amended, was agreed to.

Clauses 3 and 4 were agreed to.

**CONTRACTS FOR OVERSEAS EMPLOYMENT
(AMENDMENT) BILL 1971**

Clauses 1 to 5 were agreed to.

HONG KONG POLYTECHNIC BILL 1971

HIS EXCELLENCY THE PRESIDENT:—With the concurrence of honourable Members we will take the clauses in blocks of not more than five.

Clauses 1 to 19 were agreed to.

Council then resumed.

Third reading

THE ATTORNEY GENERAL (ACTING) (MR SNEATH) reported that the Matrimonial Causes (Amendment) Bill 1971 Hongkong and Kowloon Wharf and Godown Company Limited (By-laws) (Amendment) Bill 1971

had passed through Committee with certain amendments and moved the third reading of each of the bills.

Question put on each bill and agreed to.

Bills read the third time and passed.

MR HETHERINGTON reported that the Contracts for Overseas Employment (Amendment) Bill 1971 had passed through Committee without amendment and moved the third reading of the bill.

Question put and agreed to.

Bill read the third time and passed.

MR CANNING reported that the Hong Kong Polytechnic Bill 1971 had passed through Committee without amendment and moved the third reading of the bill.

Question put and agreed to.

Bill read the third time and passed.

Adjournment and next sitting

HIS EXCELLENCY THE PRESIDENT:—In accordance with Standing Order No 8(5) I will now adjourn the Council until 2.30 p.m. on Wednesday the 4th August 1971.

Adjourned accordingly at five minutes past four o'clock.