

OFFICIAL REPORT OF PROCEEDINGS**Wednesday, 3rd November 1971****The Council met at half-past Two o'clock**

[Mr PRESIDENT in the Chair]

PRESENT

HIS EXCELLENCY THE ACTING GOVERNOR (*PRESIDENT*)
SIR HUGH SELBY NORMAN-WALKER, KCMG, OBE, JP
THE HONOURABLE THE COLONIAL SECRETARY (*Acting*)
MR MICHAEL DENYS ARTHUR CLINTON, CMG, GM*, JP
THE HONOURABLE THE ATTORNEY GENERAL
MR DENYS TUDOR EMIL ROBERTS, CBE, 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 DAVID RICHARD WATSON ALEXANDER, MBE, JP
DIRECTOR OF URBAN SERVICES
THE HONOURABLE JAMES JEAVONS ROBSON, JP
DIRECTOR OF PUBLIC WORKS
THE HONOURABLE JOHN CANNING, JP
DIRECTOR OF EDUCATION
DR THE HONOURABLE GERALD HUGH CHOA, JP
DIRECTOR OF MEDICAL AND HEALTH SERVICES
THE HONOURABLE JACK CATER, MBE, JP
DIRECTOR OF COMMERCE AND INDUSTRY
THE HONOURABLE DENIS CAMPBELL BRAY, JP
DISTRICT COMMISSIONER, NEW TERRITORIES
THE HONOURABLE PAUL TSUI KA-CHEUNG, OBE, JP
COMMISSIONER OF LABOUR
THE HONOURABLE IAN MACDONALD LIGHTBODY, JP
COMMISSIONER FOR RESETTLEMENT
THE HONOURABLE KAN YUET-KEUNG, CBE, JP
THE HONOURABLE WOO PAK-CHUEN, OBE, JP
THE HONOURABLE SZETO WAI, OBE, JP
THE HONOURABLE WILFRED WONG SIEN-BING, OBE, JP
THE HONOURABLE ELLEN LI SHU-PUI, OBE, JP
THE HONOURABLE 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 ANN TSE-KAI, OBE, JP

ABSENT

THE HONOURABLE WILSON WANG TZE-SAM, OBE, JP
THE HONOURABLE LO KWEE-SEONG, 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: —	
Fixed Penalty (Traffic Contraventions) Ordinance.	
Fixed Penalty (Traffic Contraventions) (Amendment) (No 3) Regulations 1971	129
Marriage Reform Ordinance.	
Designation of Public Officers	130
Public Health and Urban Services Ordinance.	
Milk (New Territories) (Amendment) Regulations 1971	131
Resettlement Ordinance.	
Resettlement (Amendment) (No 2) Regulations 1971	132
Public Health and Urban, Services (Amendment) Ordinance 1971.	
Public Health and Urban, Services (Amendment) Ordinance 1971 (Commencement) Notice 1971	133
Slaughter-Houses (New Territories) (Amendment) Regulations 1971.	
Slaughter-Houses (New Territories) (Amendment) Regulations 1971 (Commencement) Notice 1971	134
Fugitive Offenders Act 1967.	
Fugitive Offenders (Designated Commonwealth Countries) (Amendment) Order 1971	135
Sessional Papers 1971-72: —	
No 13—Annual Report by the Commissioner of Mines for the year 1970-71 (published on 3.11.71).	
No 14—Annual Report by the Postmaster General for the year 1970-71 (published on 3.11.71).	
No 15—Annual Report by the Director of Royal Observatory for the year 1970-71 (published on 3.11.71).	
No 16—Annual Report by the Director of Government Supplies for the year 1970-71 (published on 3.11.71).	

Oral answers to questions**Royal Hong Kong Police Force**

1. MR G. M. B. SALMON asked: —

Would Government inform Council, for officers and rank and file separately: —

(a) to what extent the Royal Hong Kong Police Force is presently below strength; and

(b) the number of resignations from the Royal Hong Kong Police Force in the last 12 months.

THE COLONIAL SECRETARY (ACTING) (MR M. D. A. CLINTON): —Sir, the authorized establishment of the Royal Hong Kong Police Force, not including civilian staff, is currently 13,775, comprising 1,386 officers, that is inspectors and above, and 12,389 rank and file.

On 1st October 1971 the officers were 194, or nearly 14%, below strength, and the rank and file were 1,415, or about 11½%, below strength. This latter figure compares with an average of 5.3% over the last 5 years. In 1966 the figure was only 3.4% which is less than a third of the 1971 percentage. Significantly, though there may be other factors, 1966 was the year after a Salaries Commission which raised salaries by 16%.

The answer to the second part of the question is that during the 12 months ending on 30th September 1971 the total number of resignations of all ranks was 794, comprising 35 officers and 759 rank and file. Other forms of wastage, such as retirement, death, and dismissal, amounted to 273. The number of persons leaving the Force was, therefore, 1,067. During the same period recruitment totalled 828, giving a net loss to the Force of 239 of all ranks.

MR SALMON: —Sir, while appreciating that decisions on the new Salaries Commission's recommendations in a piecemeal fashion is probably not desirable, will my honourable Friend say, in view of the disturbing figures which he has just given and bearing in mind the importance of the full Police establishment, whether the Government can give some priority of decision so that salaries and conditions of service in the Police Force are sufficiently attractive to get men in and keep them in?

THE COLONIAL SECRETARY (ACTING) (MR CLINTON): —Yes, Sir, I think I can give this assurance to Mr SALMON. In fact both the Commissioner of Police and I are seriously concerned about the under-establishment of the Force and the wastage problem. Perhaps I should

[THE COLONIAL SECRETARY (ACTING)] **Oral Answers**

go on to say that the main reason is undoubtedly that pay has fallen behind what can be obtained in commerce and industry, although a contributory cause to the under-establishment is possibly the expansion in size of the Force this year. I can give this assurance that special priority is being given to dealing with the disciplined services, including the Police Force, in the context of the processing of the Salaries Commission's recommendations.

US quota on cutlery

2. DR S. Y. CHUNG asked: —

Will Government give an account of the tariff-quota import restriction recently imposed by the US Government on Hong Kong made cutlery and what action Government has taken and is taking to safeguard the interests of this section of our export trade?

MR J. CATER: —Sir, the United States Government has, with effect from 1st October 1971, established a tariff quota for the import of knives, forks and spoons (including sets) having stainless steel handles, valued under 25¢ (US) each and not over 10.2 inches in overall length. In effect this means that after a certain volume of imports in a given period, the duty payable is increased very substantially.

The tariff quota is divided between the main supplying countries and administered on a calendar quarter basis. Hong Kong's allocation in the quarter commencing 1st October is 1.5 million pieces or 6 million pieces a year. In any quarter in which there is a shortfall, a quantity not exceeding the shortfall or 10% of the quarterly allocation, whichever is the less, may be carried over to the next quarter.

The tariff quota is not a quantitative restriction, although the over-quota rates of duty are so high as to produce virtually the same effect. The present tariff quota arrangements are to last for 5 years, unless extended, and the quotas may be increased annually from 1972 by not more than 6%.

The 10% import surcharge recently announced by President NIXON will be applied to imports of stainless steel flatware within the tariff quota limit, but *not* to any imports in excess of it.

It is impossible to predict what effect the tariff quota will have on Hong Kong. This tariff quota of 6 million pieces for Hong Kong for 1971-72 is based on the average of US imports in 1968 and 1969. While this figure represents a cut-back of 65% on Hong Kong's exports

of all stainless steel cutlery to the United States in 1970, our export figures could include certain items outside the scope of this tariff quota arrangement. This possibility appears to be partially borne out by reference to US import figures, as our tariff quota of 6 million pieces compares with the US import figure of the affected items from Hong Kong for 1970 of 15 million pieces, or a cut back of 60%, which is still, of course, very serious.

According to a survey my Department carried out a few months ago, the cutlery affected is made in seven factories employing a total of 1,693 workers. This sector in 1970 represented about 75% of the total flatware industry in terms of labour employed and just over 70% in the value of their output. Of the total production of these seven factories, valued at about \$31 million, roughly \$9 million went to the USA. The proportion of sales to the USA market varied from factory to factory, from about 2.5% to 54%, so the impact of the tariff quota will be unevenly felt.

I would inform my honourable Friend that the Hong Kong Government has since the beginning of this year made representations to the US Government on a number of occasions on the details of operation of the proposed tariff quota; this has included personal representations to Ambassador David M. KENNEDY during his visits to Hong Kong in May and June of this year. Although these representations have not resulted in any improvement of Hong Kong's position, I have reason to believe that the US Government was preparing to introduce these measures from 1st July. Our representations through Ambassador KENNEDY may therefore, at least, have contributed to a delay in the starting date of this tariff quota arrangement. As the US Government has acted after negotiation with the leading supplier, Japan, in accordance with the provisions of the GATT, I have, on the advice of the Trade and Industry Advisory Board, decided not to pursue the matter further.

On the brighter side I have heard encouraging reports about Hong Kong manufacturers going into higher quality production which will not be affected by the tariff quota arrangement. Exports to other markets are also developing satisfactorily. Honourable Members will also have noted the remarks by Dr C. W. CHUANG, President of the Chinese Manufacturers' Association, and also a leading manufacturer of stainless steel cutlery, as reported in the South China Morning Post of 25th August 1971, that the US action should not be as harmful to Hong Kong as was once feared.

DR CHUNG: —Sir, will my honourable Friend inform this Council whether similar tariff quota restrictions are imposed by the US Government on stainless steel cutlery made in Japan, Korea and Taiwan and, if so, how their quota quantities compare with ours?

Oral Answers

MR CATER: —Sir, all three of the countries named by my honourable Friend have been allotted tariff quotas on the same basis as Hong Kong and they were substantially large suppliers. Comparing their quotas with US imports in 1970, Japan has been cut back by 51%, Taiwan by 57% and South Korea by 60%, the same relative reduction as was suffered by Hong Kong.

DR CHUNG: —Sir, is my honourable Friend aware that severe and unhealthy internal competition may happen as a result of such a huge cutback of 65% on our 1970 exports and has Government considered the introduction of some kind of export licensing based on past performance, similar to that for textiles, to minimize the adverse effects of unhealthy competition?

MR CATER: —Sir, I have consulted the Trade and Industry Advisory Board as to whether Hong Kong should seek to introduce an export control system such as we operate for textile restraints, which would involve the allocation of quota on the basis of past performance. The Board's advice was that it would be impracticable to seek export control in this case. First, the tariff quota is not a quantitative restriction and the Hong Kong Government has no legal power, nor would it wish, to refuse shipments in excess of the tariff quota if anyone finds this commercially feasible. Secondly, the lower rate of duty is applied to imports into the United States below tariff quota limits at the time of import; and without some complicated—very complicated—arrangement with the United States, it appears impracticable to operate an export control scheme of this type.

However I have, since this decision was taken, been given to understand that a system of export control has been implemented by Japan, presumably with US co-operation, and I am obtaining details with a view to assessing whether a similar scheme might be operated here in Hong Kong.

Dental inspection service for schools

3. MR WILFRED S. B. WONG asked: —

Has Government any plan to introduce a cheap dental inspection service for school children?

DR G. H. CHOA: —Sir, the short answer to my honourable Friend's question is "no".

However, my honourable Friend may wish to know that Government has under consideration a proposal to establish a School Dental Health Programme. The proposal, if accepted, would provide initially routine checks and simple conservative treatment for children entering primary one classes in a given year, and would gradually be extended to cover all children in the primary school age group. This proposal has considerable financial and staffing implications. I am therefore unable at this stage to say whether or not it will be found practicable.

Gold hall-marks

4. MR SALMON asked: —

Will Government make a statement with regard to its reported refusal to regulate the use of gold hall-marks?

THE ATTORNEY GENERAL (MR D. T. E. ROBERTS): —Sir, the Merchandise Marks Ordinance makes it an offence to apply a false trade description to goods or to sell goods to which a false trade description has been applied. It was considered that if an article, marked as containing a stated proportion of gold, in fact contained a lesser amount, those responsible could be prosecuted for offences against the Ordinance.

Unfortunately, it has now emerged that something in the nature of a trade custom has developed in Hong Kong whereby the carat marking on an article is not intended to guarantee that a particular percentage of gold is present in the article.

In these circumstances, a prosecution is unlikely to succeed and it is therefore the Government's intention to introduce amending legislation to ensure that the public will be able to rely on gold hall-marks being accurate in the future.

MR H. J. C. BROWNE: —Would my honourable Friend give an indication of when he expects to introduce this amending legislation?

THE ATTORNEY GENERAL (MR ROBERTS): —It will be done as quickly as possible. I don't think it should be a very difficult amendment to draft.

MR OSWALD CHEUNG: —Sir, has this custom been growing for some time or is it some recent innovation called a custom?

THE ATTORNEY GENERAL (MR ROBERTS): —I think from the statements which I have obtained from leading jewellers, it would appear that the custom is of fairly long standing.

Oral Answers**Textiles**

5. MR SALMON asked: —

Will the Director of Commerce and Industry make a statement on the recent textiles "agreement" with the USA, and the further restriction on the export of shirts imposed by Canada, and give his estimate of the implications of both for Hong Kong?

MR CATER: —Sir, I am very conscious of the fact that my honourable Friend's question reflects the considerable interest and concern which is widely felt regarding recent developments in the field of textiles. As the Memorandum of Understanding initialled in Washington is still being examined, I cannot disclose its contents at present.

There have been several official statements on this subject, including those by Sir David TRENCH, my honourable colleague, the Financial Secretary, and by me on my return from Washington. These have inevitably dealt more with the manner in which the provisional agreement was reached than with its content; although on each occasion the terms were described as unsatisfactory.

I do not think I need repeat at any length here the criticisms which have been made of the negotiation method employed, although perhaps I can be allowed to express the hope that the "ultimatum technique" of negotiation was indeed, as Sir David TRENCH thought it might be, an aberration; and that we shall not see it repeated in future dealings with the United States or any other of our trading partners.

My honourable Friend, Mr SALMON, has also asked about the proposed Canadian import restrictions on shirts. Before I describe them and offer some sort of evaluation, I must say, Sir, that I take a very serious view of this action by the Canadian Government. The reasons for my concern will be clearer if I describe the situation briefly.

First let me say that we already restrain the bulk of our shirt exports to Canada and have done so, to a greater or lesser extent, since 1962. To the best of my knowledge, the Canadian Government has never had cause to complain about the efficiency with which we operated these export restraints. Our latest agreement was negotiated only last August and covers the year ending 30th September 1972. By an ironic coincidence the Canadian Government's announcement was made on the 22nd October, the very day on which this agreement was formally signed in my office.

The Canadian Government has now announced that with effect from the 30th of November 1971, *import* restrictions will be placed on all shirts, other than casual tee shirts and the like, valued at under C\$30 a dozen in the case of woven shirts and C\$33 in the case of knitted shirts.

The total quota to be imposed will be the sum of existing restraints on woven—and I repeat, woven—fabric shirts. In other words, no allowance will be made for the existing and developing trade in knitted shirts.

Within the global quota there will be so-called reserves for major suppliers. In Hong Kong's case, as the second supplier after Japan, we shall have a reserve of just over 200,000 dozens; which represents only 77% of our present restraint limit. Beyond that figure we shall have the right to compete in a pool with all other suppliers.

The announced duration for these measures is three years and we have been formally asked to terminate our existing export restraint, which is only on woven shirts, from the 31st December of this year. We are told that shipments made under this restraint agreement will be freely admitted up to 29th February 1972.

These broadly are the facts. As I have said, Sir, I consider this Canadian action to be most serious. The trade involved was worth some \$24 million in 1970 and I estimate we could face a cutback of as much as \$6 million. This of itself would be a matter for regret, but there are a number of others. There is the arbitrary switch from a negotiated export restraint to a unilateral import control system. This is bound to create a situation of price disruption which will be detrimental to the interests of both the domestic Canadian and the external supplying industries.

Finally, the device of cutting off import restrictions at a certain unit value is an attempt at circumvention of the non-discrimination rules of the GATT and is discriminatory against the lower cost suppliers. In the Canadian market these are Japan, Hong Kong, China, Taiwan and South Korea, in descending order of magnitude of supply.

All in all, Sir, this is a highly unsatisfactory development. For our part we have been examining our position carefully in the light of the various international rules which govern trade and we are seeking early consultations with the Canadian Government. I cannot say more at this time other than to assure my honourable Friend that we shall be making a very considerable effort to persuade the Canadian Government that justifiable protection for their own industry need not be achieved by methods which clearly have damaging effects on the industries in economies much poorer than theirs.

Oral Answers

MR SALMON: —Sir, in view of the anxiety of many manufacturers and exporters as well as the general uncertainty because of Government's secrecy on what has been inflicted on Hong Kong's textile industry by the United States, would my honourable Friend assure Council that he will disclose the full details at the earliest possible opportunity and that, in the meantime, he will do what he can to assist the many manufacturers who may be in considerable difficulty, particularly until it is known what the terms are and what the effects will be?

MR CATER: —Sir, I am well aware of the anxiety which is felt within the trade and I hear, almost hourly, of these anxieties but I certainly will undertake to make a statement at the appropriate time; and of course everything will be done to ensure that as little damage as possible is done to the textile industry as a whole and of course to individuals, if that is possible.

DR CHUNG: —Sir, has Government sought an assurance from the UK Government that it will not, bearing in mind the grave consequences, impose similar import restrictions on Hong Kong's man-made fibre and woollen textiles?

MR CATER: —Sir, no specific approach has been made to the UK Government and I would sincerely hope that no such approach would be necessary.

Statement

Improvement of health and safety standards of Hong Kong's manufactured products

MR CATER: —Sir, at the meeting of this Council held on 26th May 1971 in response to a question from my honourable Friend, Dr CHUNG, I explained how my Department, in co-operation with other interested parties in Hong Kong, had tackled a number of problems relating to the inadequate health and safety standards of certain Hong Kong products exported overseas.

Dr CHUNG suggested at that meeting that one possible way of dealing with the problem might be to institute an awards scheme along the lines of the Underwriters Laboratory Mark or the Good Housekeeping Mark in America, and I undertook to consider this proposal further.

I subsequently raised the matter with the Trade and Industry Advisory Board and, on their advice, I established an *ad hoc* committee of the Board with the following terms of reference:

- (a) to consider and advise on the desirability of establishing some form of award scheme for
 - foodstuffs,
 - toys and children's playthings, and
 - electrical products powered by main supply—these products made in Hong Kong for export—with the objective of promoting higher standards of health and safety of such products, and
- (b) to consider, in respect of the same products, problems concerned with their general health and safety standards and to advise on other measures which should be taken to reduce those problems.

This Committee has now met five times and has submitted an interim report to the Trade and Industry Advisory Board.

Concerning the first of its terms of reference, the Committee concluded that the introduction of an awards scheme would not by itself be a complete solution to problems arising from inadequate health and safety standards of Hong Kong products sold abroad. It reached this conclusion on two main grounds: first, that to obtain wide recognition of a "Hong Kong mark" in our international markets would be a long and difficult process; and, second, that the problems which have arisen so far are largely created by very small manufacturers who have little knowledge of technical standards and up-to-date production methods, and who would be the very companies least likely to be attracted by such a scheme.

The Committee nevertheless suggested that such a scheme, while not providing a solution to safety and health complaints about Hong Kong products, could prove a useful means of promoting higher standards generally. The Committee believed that a voluntary scheme of this nature could best be administered by the major trade and industrial associations and recommended that I should forward the proposal to such associations for their consideration.

The Committee's Interim Report was subsequently considered by the Trade and Industry Advisory Board and, on the Board's advice, I have informed the leading trade and industrial associations of the Committee's recommendations on this aspect of their terms of reference. I have offered my advice and assistance in the establishment of a suitable awards scheme.

[MR CATER] **Statement**

Regarding the second of its terms of reference, the Committee proposes to continue considering in detail the health and safety standards of the products with which they are concerned. If it decides that a problem exists in this field it proposes to consider what other measures will be required to resolve it. Clearly, this is no easy task and I would not like at this stage to anticipate the Committee's recommendations. However, Sir, I can assure my honourable Friend that, whatever these recommendations may be, they will be carefully considered by me in consultation with the Trade and Industry Advisory Board. I would hope that this task could be completed within the next 3 months.

DR CHUNG: —Sir, may I ask a question . . .

HIS EXCELLENCY THE PRESIDENT: —I am afraid not, except on a point of clarification.

DR CHUNG: — . . . to clarify a point my honourable Friend made in his statement. Referring to the Committee's recommendation on the voluntary scheme for the award of quality marks by the trade and industrial associations, will my honourable Friend confirm that it is his intention to have one Hong Kong quality mark for use by all trade and industrial organizations and not one quality mark by each organization?

MR CATER: —Sir, in principle I would certainly think it desirable, if the trade associations consider the proposal attractive and feasible, that there should not be a multiplicity of marks and awards; in other words that, preferably, there should be one. But I would emphasize that this is, of course, very much a matter for the trade associations themselves to decide after discussion within their own organizations and possibly with each other, and I hope with the Commerce and Industry Department.

Government business

Motions

Amendments to Standing Orders

THE ATTORNEY GENERAL (MR ROBERTS) moved the following motion: —

It is hereby resolved that the Standing Orders of the Legislative Council of Hong Kong made by the said Council on the 9th day of October 1968, be amended, with effect from the 1st day of December 1971, in accordance with the Schedule to this Resolution.

SCHEDULE.

<i>Standing Order No.</i>	<i>Amendment.</i>	<i>Reasons for amendment.</i>
1(1)	<p><i>First amendment.</i></p> <p>In the third line leave out the words "before the Council".</p> <p><i>Second amendment.</i></p> <p>In the fourth line leave out the words "in the form prescribed by law" and insert in lieu the words "in accordance with the provisions of the Promissory Oaths Ordinance (Chapter 90)".</p>	To bring the Standing Orders into line with the provisions of the Promissory Oaths Ordinance.
2(1)	<p>Leave out the existing paragraph and insert in lieu the following—</p> <p style="padding-left: 40px;">"(1) A Member may address the Council in either the English or the Cantonese language. "</p>	To provide for proceedings to be conducted in either English or Cantonese.
2(3)	In the second and third lines leave out the words "the Member presenting the petition" and insert in lieu the words "a court translator".	At present, a Member presenting a petition in Chinese is obliged to certify the English translation as being correct. It would in future be so certified by a court translator.
2(4)	<p>Add the following to Standing Order No. 2 as paragraph (4)—</p> <p style="padding-left: 40px;">"(4) A petition in the English language shall be accompanied by a Chinese translation certified to be correct by a court translator. "</p>	Consequent upon the amendment to S. O. 2(1).

<i>Standing Order No.</i>	<i>Amendment.</i>	<i>Reasons for amendment.</i>
2(5)	Add the following to Standing Order No. 2 as paragraph (5)— "(5) This Standing Order shall come into effect on such date as the Governor may appoint by notice in the <i>Gazette</i> . "	To delay the coming into effect of S.O. 2 as amended until simultaneous interpreting facilities have been installed in the Council Chamber.
4(6)	In the third line leave out the words "speeches made" and insert in lieu the word "proceedings".	The official report covers all proceedings, not only speeches.
5(3)	Leave out the existing paragraph and insert in lieu the following— “(3) A session shall, subject to paragraph (2) of this Order, begin at such time as the Governor may appoint by notice published in the <i>Gazette</i> . ”.	To avoid the need for a formal proclamation.
6(1)	Leave out the existing paragraph.	To avoid the need for a proclamation to be read at the first sitting of a session.
6(2)	In the first line, before the word "Members", add the words "At the first sitting of a session".	In the interests of clarity.
6(3)	In the first and second lines leave out the words “deliver a speech to” and insert in lieu the word "address".	In the interests of more compact phraseology.
6(4)	In the first and second lines leave out the words "delivered such a speech" and insert in lieu the words "addressed the Council".	Consequent upon amendment to S.O. 6(3).

<i>Standing Order No.</i>	<i>Amendment.</i>	<i>Reasons for amendment.</i>
6(5)	In the last line leave out the word "speech" and insert in lieu the word "address".	Consequent upon amendment to S. OO. 6(3) and 6(4).
6(6)	Leave out the words after "form:" and insert in lieu ""That this Council thanks the Governor for his address.""	Less archaic phraseology, which avoids the need to present a formal address.
9(2)	Leave out the existing paragraph and insert in lieu the following— "(2) Such a motion shall not require notice and may be moved only between two items of business. It shall be moved by an <i>ex officio</i> Member, save that an Unofficial Member may move such a motion, with the permission of the President, if the President is satisfied that the adjournment is for the purpose of discussing a specific matter of urgent public importance. "	To enable an Unofficial Member to move the adjournment, in order to secure a debate on a "definite matter of urgent public importance".
9(5)	In the second line leave out the words ", who has obtained the right to do so,".	Phrase unrelated to any of the preceding Standing Orders.
9(6)	In the third line leave out the word "three" and insert in lieu the word "four".	Longer notice is needed of the subject of adjournment debates. This will bring the period of notice into line with that for notice of questions (S.O. 17(2)) and motions (S.O. 21(1)).
9(8)	In the fourth line after the word "question" add the words "provided that, with the permission of the President, valedictory speeches may be made without notice on the occasion of the retirement of a Member from the Council".	So that valedictory speeches can be made not counting as part of the 30 minutes allowed for the adjournment debate.

<i>Standing Order No.</i>	<i>Amendment.</i>	<i>Reasons for amendment.</i>
10(1)	In the second line leave out the word "excluding" and insert in lieu the word "including".	To accord with Royal Instruction XIX.
11(1)	<p><i>First amendment.</i></p> <p>Leave out sub-paragraph (d) and insert in lieu—</p> <p>"(d) Laying on the Table of papers and of reports of select committees."</p> <p><i>Second amendment.</i></p> <p>After sub-paragraph (i) add the following as sub-paragraph (j)—</p> <p>"(j) Proceedings on motion for the adjournment of Council under Standing Order No. 9(4) to (8)."</p>	<p>See S.O. 14 below.</p> <p>To reflect present practice.</p>
14	<p>Leave out the existing Standing Order and insert in lieu the following—</p> <p>"Presentation of Papers. 14. (1) A paper may be presented to the Council by an <i>ex officio</i> Member or an Official Member or, with the permission of the President, by an Unofficial Member.</p> <p>(2) Whenever a Member wishes to present a paper he shall send a copy of it to the Clerk, who shall distribute a copy to each Member and may also arrange for its publication. A copy of the paper shall be laid on the Table of the Council at the opening of the next sitting and the Clerk shall record its laying and the date of publication in the minutes of the proceedings of that sitting.</p>	<p>To enable an Unofficial Member, with the permission of the President, to present a paper to the Council and, if he wishes, to speak on it. The amendment also brings the Standing Order into line with present practice, whereby presentation of a paper to the Council may be effected by the distribution of a copy by the Clerk to each Member followed by publication of the report without awaiting its formal tabling at the next sitting of the Council.</p>

<i>Standing Order No.</i>	<i>Amendment.</i>	<i>Reasons for amendment.</i>
	(3) Whenever a paper has been laid on the Table of the Council, the Member presenting it may, with the permission of the President, address the Council thereon. "	
15(2)	Add the following new paragraph— "(2) A question shall specify whether an oral or a written reply is required. "	To provide for written answers to questions.
17(2)	In the second line delete the word "five" and insert in lieu the word "four".	To bring notice for questions into line with that for adjournment debates (S.O. 9(6)) and motions (S.O. 21(1)).
19(3)	In the second line after the word "shall" insert the words— "except in the case of a question for which a written answer has been sought".	Consequent upon amendment to S.O. 15(2).
19(7)	Add the following as new paragraph (7)— "(7) In the case of a question for which a written answer has been sought, a written answer shall be supplied to each Member and shall be printed in the Official Report. "	To provide for written answers to questions.
21(1)	In the third line leave out the word "three" and insert in lieu the word "four".	Longer notice is needed.

<i>Standing Order No.</i>	<i>Amendment.</i>	<i>Reasons for amendment.</i>
23	<p>Leave out the existing Standing Order and insert in lieu the following—</p> <p>"Motion and Amendments requiring Recommendation. 23. A motion or amendment, the object or effect of which may, in the opinion of the President or Chairman, be to dispose of or charge any part of the revenue or other funds of the Colony of Hong Kong, shall, unless moved by an <i>ex officio</i> Member or an Official Member, require the recommendation of the Governor, which shall be notified by the Unofficial Member when moving the motion or amendment. "</p>	To avoid the need to signify formally the Governor's recommendation to the moving of a motion imposing a charge or tax, when moved by an <i>ex officio</i> or Official Member.
25(1)	In the fourth line leave out the words ", stating its terms".	It is not the practice to do so.
25(3)	In the second and third lines leave out the words "on the amendment to the Council or committee;" and insert in lieu the words "that the amendment be made;".	Follows House of Commons Standing Order 32A. Furthermore, this is in fact the practice in the Hong Kong Legislative Council (see also S.O. 46(3)).
25(4)	Leave out sub-paragraphs (a), (b), (c) and (e).	Consequential upon the amendment to S.O. 25(3).
30(1)	In the second line delete the words "proposed by the President".	To permit a Member moving a motion to thereafter move that debate be adjourned.
38(7)	Leave out the existing paragraph.	It is not always practicable to comply with this requirement.

<i>Standing Order No.</i>	<i>Amendment.</i>	<i>Reasons for amendment.</i>
40	<p>Leave out the existing Standing Order and insert in lieu the following—</p> <p>"Presentation and Publication of Bills. 40. (1) The Clerk shall, after receipt of a bill for presentation to the Council, cause the text of the bill and its explanatory memorandum to be published in the <i>Gazette</i> unless—</p> <p>(a) the Governor directs that the bill shall not be published in the <i>Gazette</i> before it has been read the first time; or</p> <p>(b) the bill has already been published in the <i>Gazette</i> in accordance with paragraph (3) of Standing Order No. 39.</p> <p>(2) The Clerk shall, after receipt of a bill for presentation to the Council, cause a copy of the bill and its explanatory memorandum to be sent to every Member present within Hong Kong, whereupon the bill shall be deemed to have been presented to the Council. "</p>	<p>The revised S.O. 40 seeks to avoid a third publication in the <i>Gazette</i> of an Unofficial Member's bill and to afford the Governor discretion to direct that a bill shall not be gazetted prior to its introduction into the Council.</p>
41(1)	<p>Leave out the existing paragraph and insert in lieu the following—</p> <p>"(1) The short title of a bill presented to the Council in accordance with paragraph (2) of Standing Order No. 40 (Presentation and Publication of Bills) shall be placed on the Order Paper for first reading at such sitting as may be specified to the Clerk by the Member in charge of the bill. "</p>	<p>To provide for greater flexibility.</p>

<i>Standing Order No.</i>	<i>Amendment.</i>	<i>Reasons for amendment.</i>
45(6)	<p>Leave out the existing paragraph and insert in lieu the following—</p> <p>"(6) An amendment, the object or effect of which may, in the opinion of the Chairman, be to dispose of or charge any part of the revenue or other funds of the Colony of Hong Kong, shall, unless moved by an <i>ex officio</i> Member or an Official Member, require the recommendation of the Governor, which shall be notified by the Unofficial Member when moving the amendment. "</p>	Consequent upon the amendment to S.O. 23.
46(1)	<p>Leave out the existing paragraph and insert in lieu the following—</p> <p>"(1) The Chairman in Committee of the whole Council shall propose "That the following clauses stand part of the bill", and shall direct the Clerk to call the numbers of the clauses, singly or in groups of clauses. On the number or numbers of any clause or group of clauses being called, the question that that clause or group of clauses stand part of the bill shall be deemed to have been put. In the event of a clause being amended the number of the clause, as amended, shall be called again by the Clerk, and the question that the clause as amended stand part of the bill shall be deemed to have been put. "</p>	To bring Standing Orders into line with present practice.
46(11)	In the second and third lines leave out the words "the Member in charge of the bill" and insert in lieu "a Member".	To provide for greater flexibility in reporting bills from Committee.

<i>Standing Order No.</i>	<i>Amendment.</i>	<i>Reasons for amendment.</i>
51(3)	After the word "bill" wherever it appears in this paragraph insert the words "(or bills)".	To provide for third reading bills to be dealt with <i>en bloc</i> .
52	At the end of the second line after the word "withdraws" insert the words "or postpones".	To provide for the postponement of proceedings on a bill.
55(3)	<p>Leave out the existing paragraph and insert in lieu the following—</p> <p>"(3) On the consideration of a schedule, the Chairman shall propose "That the sums for the following heads stand part of the schedule", and shall direct the Clerk to call the numbers of the heads singly or in groups. On the number or numbers of any head or group of heads being called, the question that the sums in that head or group of heads stand part of the schedule shall be deemed to have been put. Unless an amendment is proposed under the provisions of the next succeeding order, a debate may take place on that question. Any such debate shall be confined to the policy of the service for which the money is to be provided and shall not deal with the details of any item or subhead but may refer to the details of revenue or funds for which that service is responsible. "</p>	To bring Standing Orders into line with present practice.
55(5)	<p>Leave out the existing paragraph and insert in lieu the following—</p> <p>"(5) When every schedule has been disposed of, the Chairman shall propose "That the following clauses stand part of the bill", and shall</p>	To bring Standing Orders into line with present practice.

<i>Standing Order No.</i>	<i>Amendment.</i>	<i>Reasons for amendment.</i>
	<p>direct the Clerk to call the numbers of the clauses. On the number of any clause being called, the question that the clause stand part of the bill shall be deemed to have been put. In the event of a clause being amended, the number of the clause, as amended, shall be called again by the Clerk, and the question that the clause as amended stand part of the bill shall be deemed to have been put. "</p>	
56(1)	<p>Leave out the existing paragraph and insert in lieu the following—</p> <p>"(1) An amendment which, in the opinion of the Chairman, would increase the sum allotted to any head of expenditure whether in respect of any item or sub-head or of the head itself shall, unless moved by an <i>ex officio</i> Member or an Official Member, require the recommendation of the Governor, which shall be notified by the Unofficial Member when moving the amendment. "</p>	To accord with the amendments to Standing Orders 23 and 45(6).
59	<p>Leave out first three lines and insert in lieu the words—</p> <p>"If a Supplementary Appropriation Bill is presented appropriating only sums of money which have been".</p>	To simplify the phraseology.

<i>Standing Order No.</i>	<i>Amendment.</i>	<i>Reasons for amendment.</i>
69	<p>Leave out the existing Standing Order and insert in lieu—</p> <p>“Procedure if Standing Orders do not provide. 69. In any matter not provided for in these Standing Orders, the practice and procedure to be followed in the Council shall be such as may be decided by the President who may, if he thinks fit, be guided by the practice and procedure of the House of Commons of the United Kingdom. ”.</p>	<p>The adoption of Commons practice as a whole is sometimes unsatisfactory. The extent of some of these practices is obscure and some of them are inappropriate to Hong Kong.</p>
70	<p>Leave out the existing Standing Order and insert in lieu—</p> <p>Interpretation. 70. In these Standing Orders, unless the context otherwise requires—</p> <p>(a) references to printing include references to all mechanical, electrical and photographic methods of reproducing words in visible form;</p> <p>(b) the expression "clear days" excludes the day of the giving of a notice, the day of a sitting and intervening public holidays.".</p>	<p>To add a definition of "clear days".</p>

[THE ATTORNEY GENERAL] **Amendments to Standing Orders**

He said: —Sir, I move the resolution for the amendment of the Standing Orders of this Council which stands in my name on the Order Paper. Honourable Members have already received copies of the schedule of proposed amendments.

The present Standing Orders were adopted by this Council in October 1968. Generally, I suggest, they have worked well. However, practical experience of them has revealed a number of minor defects and omissions and some respects in which our procedure could be improved.

The reasons for each proposed amendment are set out in the last column of the schedule which is before honourable Members. I shall therefore draw attention only to some of the more important changes which are proposed.

Standing Order 2 will provide that a Member may address the Council in either English or Cantonese. This follows the acceptance by the Government of the recommendation to this effect of the Chinese Language Committee, though I cannot say how soon the necessary facilities will be available to enable this new provision to be brought into effect, which will be done by means of a notice in the *Gazette* issued under the new Standing Order 2(5).

The amended Standing Order 9(2) will enable an Unofficial Member, with the permission of the President, to move the adjournment of Council without notice for the purpose of debating a matter of urgent public importance. This provision does not exist at present.

The amended Standing Order 14 will enable an Unofficial Member, as well as, an *ex-officio* or an Official Member, to present a paper to the Council and to speak on it. This is intended, of course, only to enable a Member to present a paper issued by a body with which he has a close connection. It is not meant in any way to be a substitute for a motion, which remains the usual method of ensuring discussion of a matter of public concern.

At present, Standing Orders only provide for oral answers to questions. The amended Standing Orders 15(2) and 19(3) will allow a Member to seek a written answer, which would be included in the following edition of Hansard. It will be for the Member asking the question to decide whether he requires an oral or a written answer.

Adoption of the revised Standing Orders 23, 45(6) and 56(1) will mean that a motion or amendment which would involve expenditure from public funds will no longer require a formal signification of the Governor's recommendation, if moved by an *ex-officio* or an Official

Member. In practice, of course, the Governor will continue to approve any such proposal, before it is moved by an *ex-officio* or Official Member. The amendment merely removes the need for an announcement to this effect to be made in this Council.

The revised Standing Order 40 will require an Unofficial Member's bill to be gazetted only twice, instead of three times, before its introduction into Council. This power would be useful when secrecy needs to be maintained, for instance if rates of taxation are to be changed or for the annual Appropriation Bill, or in cases of emergency. Previously, it has been necessary to move the suspension of Standing Orders to achieve this purpose.

The amended Standing Order 41(1) will allow more flexibility in the introduction of bills into the Council. It will no longer be mandatory for the first reading of a bill to be taken at the next sitting after the bill has been gazetted.

The reporting of bills from committee will be made simpler by the proposed amendments to Standing Orders 46(11) and 51(3) which will enable any one Member to report together all bills which have been considered in committee on the same day and to move their third readings together.

The changes to Standing Orders 46(1), 55(3) and 55(5) will bring our procedure into line with practice by giving recognition to the system of putting blocks of clauses to Members during the passage of a long bill.

By the present Standing Order 69, House of Commons practice is to be followed whenever Standing Orders do not provide for some matter. This practice is sometimes inappropriate and often difficult to determine. The new Standing Order 69 therefore provides for the President to decide what procedure to follow in a matter not dealt with by Standing Orders. In doing so, he may be guided by House of Commons practice, but is not bound by it.

A definition of the term "clear days" is introduced into Standing Order 70 to deal with the various periods of notice which are prescribed throughout the Standing Orders. The phrase will exclude the day on which the notice is given, the day of the sitting and any intervening Sunday or public holiday. With regard to notice, the proposed amendments to Standing Orders 9(6), 17(2) and 21(1) will standardize at four clear days the notice to be given by a Member for an adjournment debate, a question or a motion. At present the periods are three days, five days and three days respectively.

I hope that these amendments will prove to be acceptable to honourable Members and that they will be of some assistance to Council

[THE ATTORNEY GENERAL] **Amendments to Standing Orders**

in the future. I am grateful for the help which has been given by the honourable Mr KAN and the honourable Mr WOO in the preparation of them.

Question put and agreed to.

INLAND REVENUE ORDINANCE

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

It is hereby resolved that the following Rules, made by the Board of Inland Revenue on the 17th June 1971, be approved—

- (a) Inland Revenue (Amendment) Rules 1971; and
- (b) Inland Revenue (Retirement Scheme) (Amendment) Rules 1971

He said: —Sir, the Inland Revenue (Amendment) Rules seek to correct a technical inequity in the operation of rule 6 of the principal rules dealing with the apportionment of a purchased annuity between capital and income for interest tax purposes. This rule provides that an annuity payable in respect of valuable consideration given shall first be apportioned as between capital and income. The capital portion is ascertained by dividing the consideration by a figure taken from the table set out in paragraph 2 of this rule by reference to the age of the annuitant. The excess of the annual annuity over the capital portion thus computed is then chargeable to interest tax. It has been represented that this method is inequitable in that the apportionment continues only until the total apportionments to capital equal the purchase price of the annuity and that thereafter the whole amount of the annuity is treated as interest. The Inland Revenue Ordinance Review Committee came down in favour of this representation and recommended that the apportionment of a purchased annuity between capital and interest should remain constant throughout the life of the annuitant.

A further recommendation of the Committee, that the more up-to-date figures for life expectancy provided in the tables used by the United Kingdom Board of Inland Revenue, be adopted for the purpose of this rule has been taken up in this amendment. Whilst the life expectancy table at paragraph 2 of rule 6 has been deleted, the provision in paragraph 3 of the amended rule, which indicates the tables to be used, is adequate direction for the sole users of the rule, namely, the life insurance companies in Hong Kong.

The Inland Revenue (Retirement Scheme) (Amendment) Rules are intended to modify the requirements for approval of retirement schemes so as to enable payment of the benefits in a scheme approved for tax relief purposes to be made to employees who have reached the age of 60 but are continuing in service. The rules, as presently worded, are unreasonably restrictive in that an employee who has reached the specified age of retirement but wishes to serve on, may not receive the benefits afforded by the scheme until he actually retires.

Both the Inland Revenue (Amendment) Rules and the Inland Revenue (Retirement Scheme) (Amendment) Rules have been made by the Board of Inland Revenue, and the covering approval of this Council is now sought.

Question put and agreed to.

First reading

CRIMES BILL 1971

CRIMINAL PROCEDURE (AMENDMENT) (NO 3) BILL 1971

ADOPTION (AMENDMENT) BILL 1971

ANTIQUITIES AND MONUMENTS BILL 1971

WORKMEN'S COMPENSATION (AMENDMENT) BILL 1971

CLEAN AIR (AMENDMENT) 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

CRIMES BILL 1971

THE ATTORNEY GENERAL (MR ROBERTS) moved the second reading of:—"A bill to consolidate certain penal enactments and to make consequential amendments connected therewith."

He said:—Sir, the object of this bill is to consolidate into readily accessible form 20 old English Acts of Parliament, which are part of the law of Hong Kong by virtue of the Application of English Law Ordinance, and three Ordinances, dealing with various somewhat rare offences against the Crown and with piracy.

These enactments have been reproduced closely and no changes of substance have been made either to the ingredients of the various offences or to the maximum penalties which can be imposed for them.

[THE ATTORNEY GENERAL] **Crimes Bill—second reading**

However, the opportunity has been taken to delete a number of obsolete or unnecessary provisions and to modernize the older phraseology, some of which goes back to the 14th century. The table of repeals and replacements, which is annexed to the printed bill, indicates how the old enactments have been dealt with in the bill.

It may well be that in the future it will be possible to add further types of criminal offence to the framework provided by this bill so as to make our criminal law easier to find.

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 consolidates into one Ordinance a number of English penal enactments which are at present in force in Hong Kong.

The consolidation includes 20 Acts of Parliament, enacted prior to 1843, which apply to Hong Kong by virtue of the Application of English Law Ordinance, Cap. 88. It also includes the Incitement to Disaffection Ordinance, Cap. 200, the Suppression of Piracy Ordinance, Cap. 218, and the Treasonable Offences Ordinance, Cap. 219, all of which closely follow corresponding provisions in other English Acts.

All of these enactments have been reproduced as closely as possible and the existing penalties have been retained. Some obsolete or unnecessary provisions have been omitted, where the corresponding English enactments have been repealed. But there are no changes of substance, and the only amendments effected are such as to achieve drafting consistency and to avoid out-of-date or repetitive expressions.

A Table of Repeals and Replacements follows this memorandum. The Table sets out each section of every enactment to be repealed, and indicates how the section is replaced or whether it is otherwise dealt with. A comparative Table has also been prepared, showing the source of each new clause.

CRIMINAL PROCEDURE (AMENDMENT) (NO 3) BILL 1971

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

He said: —Sir, the object of this bill is to enable the Attorney General to apply to the Supreme Court for an order for the joint trial of two or more indictments if the persons charged in them are alleged to have committed an offence which appears in each indictment.

At present, if one accused person is awaiting trial on indictment and another is then arrested and charged with the same offence, two separate trials will be required to dispose of the matter, which entails a substantial wastage of judicial and police time and public money.

I should point out that the power of the Court to order a joint trial is a discretionary one. Thus it will be able to decline to make an order for a joint trial if it feels that this would result in prejudice to any of the accused.

The adoption of the proposed new section 24B would enable a joinder of charges to be made in similar circumstances in the District Court, by virtue of the operation of section 34 of the District Court Ordinance. This section provides that the practice and procedure of the Supreme Court in relation to criminal proceedings shall be followed as closely as possible in the District Court.

Question put and agreed to.

Bill read the second time.

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

Explanatory Memorandum

The object of this Bill is to enable the Attorney General to apply to the Supreme Court for an order directing the joint trial of two or more indictments where the persons charged on those indictments are alleged to have committed an offence which is common to each indictment.

At the present time, if where one or more accused persons are awaiting trial on indictment, another person is arrested and charged with participating in the commission of the same offence, two separate trials are required to dispose of a matter which, if joinder were permitted, could be disposed of in one. This entails considerable wastage of public time and money. The rights of all accused are protected in that the court may decline to make an order for the joint trial of particular indictments where it feels that a joinder would result in prejudice to any accused.

The introduction of the procedure embodied in this Bill will also enable a joinder of charges in similar circumstances in the

Criminal Procedure (Amendment) (No 3) Bill—second reading

[*Explanatory Memorandum*]

District Court as section 34 of the District Court Ordinance provides that the practice and procedure in force in the Supreme Court in relation to criminal proceedings shall be followed as nearly as may be in the District Court.

ADOPTION (AMENDMENT) BILL 1971

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

He said:—Sir, at present section 5 of the Adoption Ordinance provides that an adoption order may not be made unless several conditions are satisfied, one of which is that the applicant for an adoption order shall have lodged notice of his intention to apply for such an order at least 6 months before the date of the order.

It has been found in practice that this mandatory period of 6 months' notice has worked hardship. It is to be noted that the corresponding English law fixes the period of notice at only 3 months. In these circumstances, it is thought desirable to give power to the Court to shorten the length of notice which must be given in appropriate cases by an applicant for an adoption order.

MR P. C. WOO:—Sir, I support the amendment. As described by my honourable Friend the Attorney General it gives a discretion to the Courts in special circumstances where a six months' period need be reduced.

However, there is one matter to which I would like to draw the attention of this Council, that is the ancient Chinese law and custom relating to adoption.

Honourable Members will remember that ancient Chinese law of formal adoption was only permissible when the adopted son would become the successor of the deceased person not only in respect of his estate but also as his representative in the family line. It should be noted that the question of a person dying testate or intestate does not arise in Chinese law and custom. In this respect according to Chinese law and custom the male issue would automatically be entitled to succeed to the estate of the deceased person. In other words wills or testamentary dispositions as known to Anglo-American law had no place in ancient Chinese law and custom. As a logical consequence, therefore, if a man died without any male issue it was customary for the elders of the family to adopt a son posthumously to succeed the

deceased person whether he died with or without a will. Of course he could adopt one during his lifetime or appoint his successor by will provided the appointment was in accordance with the Chinese law and custom of adoption. However if he died without making an adoption or appointment by will, the elders of the family could adopt posthumously a son for him.

The Intestates' Estates Ordinance 1971 which came into force on the 7th of last month abrogates the Chinese law of succession and gives the children (whether male or female) of the intestate equal rights to share in his estate and it seems to me therefore that the peculiar Chinese law of adoption of a posthumous son for the intestate should no longer be applicable.

There is, however, one section at the end of the Adoption Ordinance which might have escaped the attention of honourable Members, namely section 25 of the Adoption Ordinance which provides:

"Nothing in this Ordinance shall affect any adoption undertaken or to be undertaken under Chinese law and custom but, where any person has been adopted both under such law and custom and under this Ordinance, the provisions of this Ordinance shall prevail."

This section preserves the ancient Chinese law of adoption. However, by virtue of the provisions of the Intestates' Estates Ordinance, posthumous adoption by Chinese law and custom cannot in my view be possible in view of section 2(2)(c) of the said Ordinance which defines a child to include

“a child adopted by that person—

- (i) in pursuance of an adoption order made under the Adoption Ordinance; or
- (ii) by an adoption to which section 17 of the Adoption Ordinance applies.”

This clearly excludes the adoption of a child under the Chinese law and custom, and I think that an amendment of section 25 by deleting the same should be made.

THE ATTORNEY GENERAL (MR ROBERTS): —Sir, the object of section 25 of the principal Ordinance, to which the honourable Member has drawn attention is, I believe, to make it clear that the two forms of adoption are possible and can exist in relation to the same individual.

As a result of the recent family law legislation, which came into force last month, persons adopted only by Chinese customary law ceased to have any right to succeed to property on the intestacy of the adopter, or to maintenance on his death.

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

However, a customary adoption is still possible in law and may well have other effects. For example, a child adopted by this method can benefit from an action brought under the Fatal Accidents Ordinance if an adoptive parent's death is caused by negligence. It is also possible that such a child would benefit from the estate of his natural parents, since he would remain their son for purposes of the law governing intestacy, unless he had been adopted under the Adoption Ordinance.

To repeal section 25 would have the effect of preventing a child adopted by the customary method from benefiting under the Fatal Accidents Ordinance, but would not remove legality from such an adoption.

It may be that the best solution would be to do away with such adoptions for the future, but to preserve, in relation to past customary adoptions, such rights as those adopted children had which do not conflict with our revised family law.

However, difficulties may emerge when this problem is more fully investigated. I would therefore prefer not to make an amendment to this bill at the committee stage, but instead to undertake to put my proposals for other amending legislation to deal with the problem to the honourable Member before the end of this year.

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 amends section 5 of the principal Ordinance to empower the Court to abridge the time for lodging notice of intention to adopt under subsection (7)(b) of that section.

ANTIQUITIES AND MONUMENTS BILL 1971

THE SECRETARY FOR HOME AFFAIRS (MR D. C. C. LUDDINGTON) moved the second reading of: —"A bill to provide for the preservation of objects of historical, archaeological and palaeontological interest and for matters ancillary thereto or connected therewith."

He said: —Sir, the purpose of this bill is to establish control over archaeological discoveries in Hong Kong and to ensure that items of particular historical interest are preserved for the enjoyment of the community. There has been a tendency in Hong Kong to concentrate on the needs of to-morrow rather than on preserving evidence of the past. Naturally this legislation will have to be very selective in its application so as to ensure that necessary developments are not held up for the preservation of antiquities of minor importance. We must however maintain a proper balance to ensure that future generations, while enjoying an improved environment, are able to learn something from worthy monuments of the past.

Clause 2 of the bill defines "relic" and "antiquity". Relics are defined as movable objects produced by human agency prior to the year 1800 A.D. and also fossils. Antiquities while including relics also mean structures and sites formed by human agency prior to 1800 A.D. (Incidentally, I am advised that in the absence of any date which is B.C. there is no need to include the letters A.D. in the bill). (*Laughter.*) The "Authority" is defined as the Secretary for Home Affairs in respect of the urban areas and the District Commissioner, New Territories in respect of the New Territories less New Kowloon.

Clause 3 will enable the appropriate Authority after consultation with the Antiquities Advisory Board and with the approval of the Governor to declare a place to be a monument by notice in the *Gazette*.

Clause 4 protects the rights and interests of owners and occupiers of any proposed monument situated on private land. It enables any such person to object to the proposal to declare the place a monument by petition to the Governor who may either accept the petition or refer it to the Governor in Council for decision.

Clauses 5 and 6 provide for the control and protection of monuments once declared but at the same time ensure that the lawful occupiers' interests are respected.

Clauses 7 to 9 provide for the grant of money for the preservation of monuments and for compensation to owners and occupiers.

Clause 10 deals with relics and makes every relic found after the commencement of the bill, the property of Government. This will enable those relics which are of considerable intrinsic or educational value to be preserved for the enjoyment of the public in, for instance, the City Museum. Government would disclaim ownership of any other relics.

Clauses 11 to 16 provide for the control of the search for antiquities by the grant of licences and that anyone who discovers an antiquity must forth-with report the discovery to the appropriate Authority.

[THE SECRETARY FOR HOME AFFAIRS] **Antiquities and Monuments Bill—
second reading**

Clause 17 provides for the appointment of an antiquities advisory board. This is an essential element of the legislation, as the Authorities will both require the assistance of experts in the fields of archaeology, palaeontology, history and architecture to mention only the most important. This board will be selected and appointed on a provisional basis as soon as possible after the bill is enacted to undertake the preparatory work necessary before the Ordinance is brought into operation.

Clauses 19 to 21 cover certain miscellaneous matters including provision for making regulations, subject again to the preservation of the rights of owners and occupiers.

Sir, this bill was published for general information in June this year and has given rise to no adverse comment other than that it was overdue. Constructive comments were received in particular from the Hong Kong Archaeological Society, which has shown a long standing interest in this legislation. It is clear that care and discretion will have to be shown in the detailed application of this legislation as this is a field in which Government has little previous experience and in which it may be difficult at present for interested members of the public to gain specific training or experience. However, I commend this bill as a necessary measure to ensure that the pressing needs of today do not deprive future generations of all record of their culture and antecedents.

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 (ACTING) (MR CLINTON).

Question put and agreed to.

Explanatory Memorandum

The object of this Bill is to preserve antiquities discovered and monuments situated in Hong Kong.

2. Clause 3 enables the Authority (subject to clause 4, which relates to declarations affecting private land) to declare places, buildings, sites and structures to be monuments. Plans of monuments are to be deposited by the Authority in the appropriate Land Offices.

3. Clause 5 provides for the control of monuments, and in particular gives the Authority and any authorized person powers

of entry, search etc. in connexion with monuments. Certain of these powers may only be exercised with the prior approval of the Governor. If a monument is on residential premises, the powers cannot be exercised unless either the occupier gives his written consent or at least 48 hours' prior notice of the intention to exercise the powers has been given to him.

4. Clause 6 restricts the excavation or demolition of monuments, and the doing of other harmful acts thereto, but provides also that any monument may be declared to be exempt from such restrictions.

5. Clause 7 enables the Authority to make grants to persons carrying out works in connexion with the preservation of monuments. By clause 8 compensation may be paid to the owner or lawful occupier of a monument for financial loss which is suffered or is likely to be suffered by reason of the exercise of the Authority's powers.

6. Clause 9 gives to a person aggrieved by a decision of the Authority under clause 8, as to the payment of compensation or as to the amount thereof, a right of appeal to the District Court.

7. Clause 10 vests the ownership of any relic discovered in Hong Kong after the commencement of the Ordinance in the Government.

8. Clause 11 provides for the reporting of discoveries of antiquities and their identification and protection. The Authority may, by subclause (4), pay rewards to persons reporting the discovery of antiquities. Subclause (6) empowers the Authority, and any authorized person, to enter and inspect the site of the discovery of an antiquity or supposed antiquity. If the site of the discovery is on residential premises, the prior written consent of the lawful occupier of the dwelling must be obtained, or he must be given at least 48 hours' prior notice in writing.

9. Clause 12 prohibits the excavation of or searching for antiquities, except in accordance with a licence granted by the Authority, and the removal of hitherto undiscovered relics from monuments or from the site of their discovery. Clause 13 enables the Authority to grant licences to excavate and search for antiquities and clause 15 provides for their cancellation. A right of appeal against a refusal to grant or renew a licence is provided to the Governor by clause 16.

10. Clause 14 sets out the rights of a licensee, who will not be entitled to enter private land unless he has the written consent of the owner and the lawful occupier.

Antiquities and Monuments Bill—second reading*[Explanatory Memorandum]*

11. Clause 17 establishes an Antiquities Advisory Board and clause 18 defines its functions.

12. Clause 19 makes it an offence knowingly to make false statements to the Authority or a designated person. The contravention of clause 6(1), 11(1) or 12 will also be an offence as will failure to comply with a request by the Authority or a designated person under clause 11(2), or the wilful obstruction of the Authority, or any designated person authorized by the Authority, in the exercise of powers conferred by clause 5(1) or clause 11(6). The penalty for these offences is a fine of \$5,000 and imprisonment for six months.

13. Clause 20 creates evidential presumptions as to the place and time of discovery of relics. A certificate, purporting to be signed by the Authority and stating that a particular thing is an antiquity, will be admissible as *prima facie* evidence of the facts stated therein.

14. By clause 21 grants and awards will be paid from money provided by the Legislative Council. Clause 22 enables the Governor in Council to make regulations.

WORKMEN'S COMPENSATION (AMENDMENT) BILL 1971

MR PAUL K. C. TSUI moved the second reading of: —“A bill to amend the Workmen's Compensation Ordinance.”

He said: —Sir, at present a workman who, as a result of an injury during his employment, requires an artificial limb or a surgical appliance to perform his essential actions of life normally pays for it from his own resources. If he is unable to afford it, he may apply to Government for assistance from public funds through the medical social worker. This, however, is considered unsatisfactory.

The bill before Council proposes to amend the principal Ordinance to enable a workman injured in the course of employment to be supplied and fitted with the necessary prostheses and surgical appliances at the expense of his employer. Clause 2 of the bill adds a new Part IIIA to the principal Ordinance to make employers liable for the initial cost of such aids.

The employer's liability is limited in a number of ways. First, the workman must be treated by a registered medical or dental practitioner. Second, the prosthesis or surgical appliance must be fitted to the

workman and certified by a Medical Assessment Board as necessary and reasonable in cost having regard to the nature and extent of the injury. Third, except where the artificial aid required by the workman is not manufactured or sold in Hong Kong and the approval of the Director of Medical and Health Services is obtained, the employer is not liable to pay for the cost of aids not manufactured or sold locally. Section 36C limits the employer's liability in any one accident to \$10,000 for any one workman.

Section 36D prescribes the manner in which a workman may make a claim against his employer for the cost of supplying and fitting of a prosthesis or surgical appliance. The request must be supported by a certificate issued by a Medical Assessment Board. Section 36E requires the employer to pay within fourteen days of receipt of the claim, unless he disputes the liability to pay or the necessity or cost of the prosthesis or surgical appliance. If he disputes the claim, he must deposit the amount claimed with the Director of Medical and Health Services and serve on the workman a notice setting out the grounds of dispute. Section 36F provides that any dispute shall be determined by the Court. The workman may, in accordance with section 36G, apply to the Court for enforcement of his claim or for determination of the dispute.

It is expected that in most cases the employer will not dispute the liability. However, if he does and subsequently is found not liable, the deposit will be refunded to him. In these circumstances, the workman will be required to pay, as at present, as much as he can as determined by the medical social worker, and the balance will be met from public funds.

If an employer disputes a claim but fails to deposit the amount claimed, he is deemed to have agreed to pay. However, if no deposit is made, for whatever reasons, and the cost of the prosthesis or surgical appliance has to be met initially, it is intended that the cost should be charged to public funds in the first instance. It will then be for Government to recover it from the injured workman, who will himself recover from the employer. Payment will not be demanded from the workman until he has obtained payment from the employer.

Section 36H allows for a claim to be made within five years from the occurrence of the accident giving rise to the injury. Although it is expected that most cases will be disposed of in a much shorter period, it is known from experience that cases may occasionally take as long as five years before they can be determined medically. These are generally very serious cases and it is desirable that workmen who are most in need of appliances should not be debarred from making claims by a statutory time limitation of too short a duration.

[MR TSUI] **Workmen's Compensation (Amendment) Bill—second reading**

Section 36I sets out the procedure to be followed by the Director of Medical and Health Services in appointing a Medical Assessment Board, prescribes its composition, determines its functions, and authorizes it to issue certificates.

Section 36J applies certain provisions of the principal Ordinance, otherwise not applicable, to claims under the new Part IIIA.

The bill, if passed, will take Hong Kong further towards fulfilling the International Labour Organization Convention No 17, which deals with the supply and normal renewal, by the employer or insurer, of such artificial limbs and surgical appliances as are recognized to be necessary for an injured workman. On 27th March 1950 the United Kingdom Government registered a declaration of "decision reserved" in respect of Hong Kong. The present bill will enable an improved declaration of "applied with modification". Although the bill falls short of full compliance to the extent that it does not provide for renewal of appliances, it goes beyond the ILO Convention by including false eyes, dentures and aids other than artificial limbs only.

The bill was unanimously endorsed by the Labour Advisory Board which, along with other organizations consulted, made certain points. The first of these was that the employer's liability should be restricted to a once-for-all payment for the supply and fitting of prosthesis of surgical appliances. I can confirm that this is the intention. It is accepted that they will eventually become worn and may have to be replaced but the rates at which replacement may be necessary will vary with the type of prosthesis or surgical appliance and with the individual characteristics of the injured person. No simple scheme can be devised in present circumstances to deal with such problems. It is considered preferable to limit the scope of the legislation to the initial supply and fitting when the workman is most in need of assistance in rehabilitation after his injury.

Another point was that a claim made after one year should be supported by a certificate from the Director of Medical and Health Services. This suggestion overlooks section 9(5) of the principal Ordinance which permits the payments of periodical payments for permanent partial incapacity for a period of up to twenty-four months. Even after a period of two years, an injured workman may not be ready to be fitted with a prosthesis or surgical appliance. Medical advice is that exceptional cases may take up to five years and this time limit has consequently been included in the new section 36H. The Accident Insurance Association of Hong Kong has no objection to this provision and has accepted an undertaking by me that satisfactory

administrative arrangements will be made so that insurance companies will be normally warned at an early date when there is a likelihood of a requirement for a prosthesis or surgical appliance and of the approximate cost, thereby enabling them to provide for possible contingent claims.

Finally, there was some comment regarding the clause by which an employer is required to make a deposit when there is a dispute over liability. I would draw attention to the fact that the prosthesis or surgical appliance will, in most cases, be supplied by Government through the Medical and Health Department, and the need and the cost will be certified by a Medical Assessment Board. I consider it undesirable that, because of a dispute over costs, an injured workman should suffer from delay in obtaining the required prosthesis or surgical appliance. The deposit is necessary, pending the determination of a dispute, to cover payments initially.

I have examined the economic implications of this item of legislation and am satisfied that, while the financial benefits to the individual workmen who have been injured will be relatively considerable, the economic consequences to the community will be negligible, if any. The Accident Insurance Association of Hong Kong has been continuously consulted throughout the preparation of the bill, and I have its written assurance that it does not envisage additional premia under existing policies being necessary on the introduction of the proposed legislation. Moreover, I have ascertained with the Director of Medical and Health Services that the number of industrial accidents in any one year requiring the provision of prosthesis and surgical appliances has been small and, with my plans for introducing further safety regulations and our programme of safety training courses, I hope to reduce yet further the frequency of such cases.

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 (ACTING) (MR CLINTON).

Question put and agreed to.

Explanatory Memorandum

The purpose of this Bill is to amend the principal Ordinance so as to enable a workman who, as a result of an injury caused to him during his employment, requires the aid of artificial limbs or other surgical appliances to perform his essential actions of life, to be supplied and fitted with such aids at the cost of his employer.

Workmen's Compensation (Amendment) Bill—second reading*[Explanatory Memorandum]*

Clause 2 which adds a new Part IIIA to the principal Ordinance provides for that purpose. The provisions of this Part are—

Section 36B provides for the liability of an employer to pay for the cost of supplying and fitting artificial aids to a workman injured by an accident during the employment and treated by a registered dentist or medical practitioner. This liability is in addition to the employer's liability for compensation. Except where the artificial aid required by the workman is not manufactured or sold in Hong Kong and the approval of the Director of Medical and Health Services is obtained, the employer is not liable to pay for the cost of aids which are not manufactured or sold in Hong Kong. Any aid supplied and fitted to an injured workman has to be certified by a Medical Assessment Board as necessary for the workman and reasonable in cost before the employer is liable to pay for it under this section.

Section 36C limits the liability of the employer under this Part in any one accident to ten thousand dollars in respect of any one workman.

Section 36D prescribes the manner in which a claim for the cost of supplying and fitting artificial aids may be made.

Section 36E requires the employer to pay the amount of the cost within fourteen days from the time of receipt of the claim and, if he disputes the claim, to deposit the amount of the cost with the Director of Medical and Health Services and inform the claimant of the ground of dispute.

Section 36F provides for the determination of disputes by the Court.

Section 36G provides for the application by the claimant to the Court for the determination of any dispute or the enforcement of any claim under this Part.

Section 36H prescribes the time limit during which a claim may be made.

Section 36I empowers the Director of Medical and Health Services to appoint a Medical Assessment Board to determine whether any artificial aid supplied and fitted to a workman is reasonable in cost and necessary for the workman and provides for the issue of a certificate by the Board.

Section 36J applies certain provisions of the principal Ordinance, otherwise not applicable, to a claim under this Part.

CLEAN AIR (AMENDMENT) BILL 1971

MR TSUI moved the second reading of: —"A bill to amend the Clean Air Ordinance."

He said: —Sir, the Clean Air Ordinance (Chapter 311) at present authorizes a competent authority or smoke abatement officers duly appointed under section 10 to inspect plant. To carry out their functions effectively, it is considered necessary for them to take samples and make measurements of smoke and also to take samples of fuel used. The main purpose of the amendment bill, now before Council, is to empower these officers to take such action. Clause 5 of the bill achieves this purpose by revising section 12(1) of the principal Ordinance.

Section 14(3) of the principal Ordinance currently allows for an appeal to the Governor or the Governor in Council by any person aggrieved by a notice from a competent authority requiring modification, repair, or replacement of plant which is considered to create a greater quantity of smoke than necessary. Clause 6 deletes section 14(3) but clause 7 adds a new section 14A, the effect of which is to allow a person aggrieved by any requirement of any notice served on him or by the withholding of any approval by a competent authority to appeal to the Governor. The new section thus broadens the circumstances in which an aggrieved person may appeal but makes the appeal to the Governor as the appropriate authority for dealing with petitions seeking a review of executive decisions made in the exercise of discretionary powers. It would also have the effect of simplifying the procedure, and thus help to speed up decisions required.

Clause 2(a) introduces two new definitions of "chimney" and "flue" which are identical with those used in the Building (Constructions) Regulations.

The principles underlying the bill have been unanimously supported by the Labour Advisory Board and by the four major employers' associations.

Subsequent to these consultations it was considered desirable to make a minor technical amendment with regard to the definition of the "Ringelmann Chart". This is effected by clause 2(b) which does not materially change the present position. Some consequential amendments have become necessary and clauses 2(a), 3 and 4 deal with these. The four employers' associations have been advised accordingly.

The Air Pollution Control Unit of the Labour Department was established in 1970. It operates under the guidance of the Smoke Abatement Adviser with an establishment of one Senior Smoke Inspector and six Smoke Inspectors. Its principal function is to advise proprietors, free of charge, on how to operate their plant efficiently with a

[MR TSUI] **Clean Air (Amendment) Bill—second reading**

view to reducing the amount of smoke entering the atmosphere. The bill, if passed, will assist the operation of the Air Pollution Control Unit in no small measure and will make its operation more effective.

DR CHUNG: —Your Excellency, the problems of pollution and particularly air pollution have in recent years aroused much interest and concern in the affluent countries of the world. In Hong Kong there is also some growing interest and concern about the various forms of pollution and I am sure many people would welcome a more effective control on environmental pollution.

Clause 5 of the amending bill seeks to widen the power of the competent authority and smoke abatement officers. These additional powers seem reasonable and have my support. However, there are two existing powers which, in my opinion, are rather excessive and unnecessary. One is the power given to any smoke abatement officer and his assistants to enter, if need be by force, any premises or place without warrant by day and by night as provided in section 12(2) of the principal Ordinance. Since the Ordinance is dealing mainly with the control of smoke, I really fail to see the need for such power to enter any premises by force and in any time of the day and night. The furnace, the chimney and the resultant dark smoke will be there the following day and if they are no longer there, the problem of air pollution will also no longer exist. One therefore can hardly appreciate the necessity for any smoke abatement officer to gain entry into the premises deep in the night and by force. I suggest that this section be suitably amended to limit the entry of any smoke abatement officer into any premises during daylight and without the use of force.

My other objection, which is endorsed by the Chinese Manufacturers Association, is the power given to any smoke abatement officer to seize, carry away and detain any article or thing which appears to him to provide evidence of any contravention of the provisions of this Ordinance. This power is contained in sub-paragraph (v) of clause 5 of the amending bill and is a direct copy of section 12(1)(c) of the principal Ordinance. Since any offence in this Ordinance is related to smoke coming out from any furnace, the obvious article or thing which would provide evidence of emitting black smoke is the burner of any furnace or the whole furnace, if practicable, apart from the black smoke itself. The seizure of the burner or the furnace will certainly cause stoppage of furnace operation and hence disruption on business activities and employment opportunities of the factory or undertaking concerned. With due respect, Sir, I do not believe such disruption of business activities and employment opportunities are justified. Therefore, I wish to see appropriate amendments be made in this sub-paragraph (v) of clause 5 during the committee stage.

Sir, I imagine Government will say that, since these two subsections have been in force for more than ten years now, why do we need to change them? If this is the argument I can say, Sir, that it is a very weak and unsatisfactory excuse.

Turning to smoke control area, I understand that there are at present five such areas in Hong Kong, namely Kwun Tong, Ngau Tau Kok and Sha Tin Valley in Kowloon and North Point and Shau Kei Wan on the Hong Kong Island. I believe Government has accepted in principle the recommendation of the Advisory Committee on Air Pollution to declare the whole Colony of Hong Kong to be a smoke control area as defined in section 8 of the principal Clean Air Ordinance 1959. Sir, I want to bring to the attention of Government at this juncture that, in implementing this recommendation, consideration must be taken *not* to extinguish certain established industries such as metal foundries, steel mills, glass and ceramics. These industries will find it difficult to comply with section 8 but some of these industries, particularly the metal foundries, are nevertheless basic industries essential to Hong Kong's industrial development.

MR TSUI: —Sir, I am grateful to my honourable Friend, Dr CHUNG, for his support to the amendment sought by the bill before the Council.

I take note of Dr CHUNG's point in respect of the power of entry as has been provided in subsection (2) of section 12 of the principal Ordinance. As Dr CHUNG has pointed out, such power has been in the existing law which was first enacted in 1959, and I am glad to say that it has so far given rise to no cause for complaint. As this particular subsection does not form part of the bill before Council, it would be inappropriate to accept the amendment suggested. Perhaps I should state at this stage that although I am convinced that statutory power of entry by night, with or without force, is necessary, I would however hasten to add that only in rare and exceptional circumstances would such power be exercised. May I assure this Council that appropriate administrative arrangements will be made so that the power will only be exercised as and when circumstances render it absolutely necessary, and only in accordance with the express consent of an officer not below the rank of an Assistant Commissioner.

As to the power of seizure to which my honourable Friend also referred, I am glad that Dr CHUNG acknowledged the fact that sub-paragraph (v) is no more than a direct copy of subsection (1)(c) of section 12 of the principal Ordinance which has been in our statute book for over ten years. The power is limited to articles which provide evidence of an offence and which are intended to be produced in court. Similar powers are provided in many other Ordinances, where seizure

[MR TSUI] **Clean Air (Amendment) Bill—second reading**

of evidence is necessary, for example under the Import and Export Ordinance, under the Factories and Industrial Undertakings Ordinance and the Pharmacy and Poisons Ordinance. I would not, therefore, advise that this provision be amended at the committee stage as Dr CHUNG has suggested.

I confirm that following a recommendation by the Committee on Air Pollution, Government made a public announcement to the effect that it intended to declare the whole of Hong Kong a smoke control area. It is the intention that a system be devised whereby genuine cases of hardship can be considered sympathetically. Cases such as those cited by my honourable Friend Dr CHUNG will be considered individually, according to merit.

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 5 will permit a competent authority or smoke abatement officer to enter premises to determine the position of a sampling point to be used for measuring smoke density. The amendment will also permit the authority or officer to enter premises and take samples of smoke and fuel.

Clause 2 amends the definition of "dark smoke" in section 2 so as to enable any device approved by the Governor to be used to ascertain the darkness of smoke. This clause also makes certain other amendments to section 2 in consequence of the proposed amendment to section 12.

Clause 3 adds a new section 2A empowering the Governor to approve devices which may be used to ascertain the darkness of smoke.

Clause 7 adds a new section 14A so as to enable an appeal to be made to the Governor by a person aggrieved by the requirements of a notice served on him or the refusal of approval by a competent authority under the principal Ordinance.

Committee stage

Council went into Committee.

CRIMINAL PROCEDURE (AMENDMENT) (NO 2) BILL 1971

Clauses 1 and 2 were agreed to.

CORONERS (AMENDMENT) (NO 2) BILL 1971

Clauses 1 to 3 were agreed to.

APPLICATION OF ENGLISH LAW (AMENDMENT) BILL 1971

Clauses 1 and 2 were agreed to.

LION ROCK TUNNEL (AMENDMENT) BILL 1971

Clauses 1 and 2 were agreed to.

Council then resumed.

Third reading

THE ATTORNEY GENERAL (MR ROBERTS) reported that the

Criminal Procedure (Amendment) (No 2) Bill 1971

Coroners (Amendment) (No 2) Bill 1971

Application of English Law (Amendment) (Bill 1971

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

Question put on each bill and agreed to.

Bills read the third time and passed.

MR J. J. ROBSON reported that the Lion Rock Tunnel (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.

Valedictory to Sir Charles Hartwell

HIS EXCELLENCY THE PRESIDENT: —I am taking the slightly unusual course, which I am advised is within the Standing Orders, of taking this opportunity of paying tribute to the services rendered to Hong Kong by Sir Charles HARTWELL, who is not tucked in his usual corner

[HIS EXCELLENCY THE PRESIDENT] **Valedictory to Sir Charles Hartwell**

(*laughter*) and will be shortly leaving us on completion of his term as Chairman of the Public Services Commission.

He brought with him to Hong Kong a wealth of experience which he placed unstintingly at Government's disposal. Under Sir Charles' chairmanship the Public Services Commission has helped in no small measure to maintain the standards we expect of the Public Service and its morale.

With the extension of the Public Services Commission's functions in 1967, it might have been expected that that duty alone would have been enough for Sir Charles and absorbed all his energy. Fortunately for us this has not been so; although his work on the Commission has been his main occupation, his energies have been directed to a number of other aspects of public life. In particular—and this is why I am mentioning this in this Council because we have considered his reports here—I would recall Sir Charles' chairmanship of the committee appointed to study the problems of recruiting and retaining doctors in Government service. He has also chaired committees, or reported individually, on such varied and difficult subjects as equal pay for nurses, a fixed penalty system for routine traffic offences, the setting up of an independent body for the public examinations system, and many other things.

I am sure that all Members will wish to join me in recording our sincere appreciation of the many services Sir Charles has rendered to Hong Kong and to convey to him and Lady Hartwell our best wishes for the future.

Adjournment and next sitting

HIS EXCELLENCY THE PRESIDENT: —In accordance with Standing Orders I now adjourn the Council until 2.30 p.m. on Wednesday the 17th November 1971.

Adjourned accordingly at three minutes to four o'clock.