

OFFICIAL REPORT OF PROCEEDINGS**Meeting of 28th July 1965****PRESENT**

HIS EXCELLENCY THE GOVERNOR (*PRESIDENT*)
SIR DAVID CLIVE CROSBIE TRENCH, KCMG, MC
HIS EXCELLENCY LIEUTENANT-GENERAL SIR DENIS STUART SCOTT
O'CONNOR, KBE, CB
COMMANDER BRITISH FORCES
THE HONOURABLE GEOFFREY CADZOW HAMILTON
ACTING COLONIAL SECRETARY
THE HONOURABLE MAURICE HEENAN, QC
ATTORNEY GENERAL
THE HONOURABLE DAVID WHINFIELD BARCLAY BARON,
ACTING SECRETARY FOR CHINESE AFFAIRS
THE HONOURABLE JOHN JAMES COWPERTHWAITES CMG, OBE
FINANCIAL SECRETARY
THE HONOURABLE KENNETH STRATHMORE KINGHORN,
DIRECTOR OF URBAN SERVICES
THE HONOURABLE ALEC MICHAEL JOHN WRIGHT
DIRECTOR OF PUBLIC WORKS
DR THE HONOURABLE TENG PIN-HUI, OBE
DIRECTOR OF MEDICAL AND HEALTH SERVICES
THE HONOURABLE WILLIAM DAVID GREGG
DIRECTOR OF EDUCATION
THE HONOURABLE JOHN PHILIP ASERAPPA
DISTRICT COMMISSIONER, NEW TERRITORIES
THE HONOURABLE ROBERT MARSHALL HETHERINGTON, DFC
DEPUTY ECONOMIC SECRETARY
THE HONOURABLE DHUN JEHANGIR RUTTONJEE, CBE
THE HONOURABLE KAN YUET-KEUNG, OBE
THE HONOURABLE LI FOOK-SHU, OBE
THE HONOURABLE TANG PING-YUAN
THE HONOURABLE TSE YU-CHUEN, OBE
THE HONOURABLE WOO PAK-CHUEN, OBE
THE HONOURABLE GEORGE RONALD ROSS
THE HONOURABLE SZETO WAI
THE HONOURABLE WILFRED WONG SIEN-BING
THE HONOURABLE MRS ELLEN LI SHU-PUI, OBE
THE HONOURABLE CHUNG SZE-YUEN
MR ANDREW McDONALD CHAPMAN (*Deputy Clerk of Councils*)

ABSENT

THE HONOURABLE DAVID RONALD HOLMES, CBE, MC, ED
DIRECTOR OF COMMERCE AND INDUSTRY
THE HONOURABLE KWAN CHO-YIU, CBE
HONOURABLE SIDNEY SAMUEL GORDON, OBE

MINUTES

The Minutes of the meeting of the Council held on 7th July 1965, were confirmed.

AFFIRMATION

DR CHUNG SZE-YUEN made an Affirmation of Allegiance and assumed his seat as a member of the Council.

HIS EXCELLENCY THE GOVERNOR: —May I welcome Dr CHUNG to this Council.

PAPERS

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

<i>Subject</i>	<i>LN No</i>
Sessional Paper, 1965: —	
No 19—Annual Report by the Government Printer for the year 1963-64.	
No 20—Annual Report by the Director of Social Welfare for the year 1964-65.	
No 21—Fourth Annual Report by the Social Work Training Fund Trustee for the period ending on 31st March 1965.	
Report to the Governor in Council of the Working Party set up to advise on the adequacy of the law in relation to crimes of violence committed by young persons.	
Annual Report of the Medical Development Plan Standing Committee for the period 21st March 1964 to 31st March 1965.	
Report of the Advisory Committee on Gambling Policy.	
University Ordinance 1958.	
Statutes of the University (Amendment) Statutes 1965.....	96
Stamp Ordinance.	
Stamp (Bank Authorization) (No 3) Order 1965	97
He said:—Sir, amongst these papers are two Reports of particular interest.	
One of these is the report of the Advisory Committee on Gambling Policy, under the Chairmanship of my honourable Friend Mr C. Y. KWAN. This Report is now being studied and no decisions have	

yet been taken on it. I take this opportunity of expressing the Government's thanks to Mr KWAN and his Committee for the careful consideration they have given to this important and difficult problem.

The other report is the Report of a Working Party appointed to advise whether present legislation, with particular reference to the ages of young offenders, enables the Courts to deal adequately with crimes of violence by young persons.

This Report contains a lot of information and statistics which will, I am sure, be of general interest. It deals mainly with persons under the age of 21, but includes also statistics in respect of crimes committed by persons up to the age of 25. There is a summary of findings and recommendations in paragraph 45 of the Report.

Since receipt of the Report the views of the Chief Justice and of the Government Departments affected by its proposals have been sought and considered. In general, Departments have welcomed the Report and agreed with most of its recommendations, though they have reported that, in order to implement it, certain additional staff and institutions would be required. For example, additional remand facilities would be required for persons under the age of twenty-one; there may be a need for an additional Training Centre and for an additional Reformatory School; and additional probation officers would be required.

This Working Party was set up, not to consider the wider problem of juvenile delinquency as a whole, but simply to advise on the specific question of the adequacy of the law in relation to crimes of violence committed by young persons. In paragraph 45(i) of their Report, however, the Working Party expresses the view that the question of punishment is but one among many inter-related problems in the control and prevention of juvenile crime and that all aspects need the constant and sympathetic consideration of the many and varied authorities concerned with these problems. Government is fully in agreement with this view. Paragraph 19 of the Report records the Committee's view that there is a need for further research into the causes and effects of juvenile crime in Hong Kong. Again, Government accepts this view, though it will be necessary to give further consideration to the best means of carrying out such research. Whatever form it may take, there will also be a need for close and continuous liaison between the Government Departments concerned, and the appropriate non-Government organizations.

To return to the question of the adequacy of existing deterrents, paragraph 45(vii) of the Report states that the law does not appear to require any substantial amendment to enable the Courts to impose adequately severe punishments on young offenders found guilty of crimes of violence. However, paragraph 45(x) states that the law does

require minor amendment in several respects in order to ensure that all young persons under the age of twenty-one who commit offences are properly dealt with in a constructive manner.

Government accepts in principle the recommendations of the Working Party, subject to two reservations. Firstly, those recommendations in paragraph 45(x)(d), (e) and (f) relating to corporal punishment and capital punishment are being held over for separate consideration. Secondly, the requests of Departments for additional facilities and staff have not yet been subjected to examination, and this will have to be done before any application for funds is made to Finance Committee.

QUESTIONS

MR KAN YUET-KEUNG, pursuant to notice, asked the following questions:

Sir, what is Government's present policy regarding the imposition of penalties for delay in (a) compliance with Exclusion Orders and (b) fulfilment of building covenants under Government grants generally?

THE COLONIAL SECRETARY replied as follows:

Sir, this is a wide question and I am afraid my reply will be rather lengthy

Due, Sir, to the shortage of land in Hong Kong, it has always been Government's policy to ensure that all developable land is satisfactorily developed. Unless therefore adequate grounds are produced for an extension of time to comply with an Exclusion Order or Building Covenant in Conditions of Sale, etc. it is Government's policy to insist upon compliance with or fulfilment of the time limits laid down.

However, since the beginning of 1965 and strictly without retrospective effect beyond that date, the Governor in Council has been prepared in certain cases to consider application for free extensions of the time for the commencement or the completion of building works laid down in the original *Exclusion Order* under which premises have been excluded from control under the Landlord and Tenant Ordinance. These free extensions are only granted where the applicant has satisfied the Colonial Secretary that he genuinely intends to complete the redevelopment scheme originally approved or proposes to seek approval to vary the scheme in order to redevelop the site jointly with other adjoining property, which may or may not

require to be made the subject of a separate Exclusion Order. Should there be any evidence of a deliberate default in fulfilment of the terms of an Exclusion Order, Government would consider re-entry upon the property for a breach of the Exclusion Order, the conditions of which form part of the lease conditions. Extensions granted in this way for the commencement of building works are in addition to the powers exercised by the Building Authority to grant free monthly extensions for delays due to circumstances beyond the developers' own control.

When this change in policy was introduced, it was on the basis that it would in no way impugn the normal policy of requiring purchasers of Crown land subject to a *Building Covenant* to pay a modification premium if an extension of time was genuinely required to fulfil that covenant and could be granted without prejudice to the public interest.

The two types of extension, that is, for Exclusion Orders and building covenants, can be clearly distinguished for the following reasons:

Firstly, the time allowed for completion in an *Exclusion Order* is normally that recommended by a Tenancy Tribunal, based on an estimate by the applicant's architect for the specific redevelopment scheme proposed. If this time proves to be unrealistic, this may well be due, for example, to an unintentional underestimate on the part of the architect rather than to any deliberate delay on the part of the developer. A *Building Covenant* period under Conditions of Sale, etc., on the other hand, is based on an estimate made by Government itself of a reasonable period within which it should be possible to complete development on the site in question to the value laid down in the Building Covenant. Every effort is made to ensure at the outset that a realistic estimate of this period has been made, and it would only be if this estimate could be shown to be incorrect or if unforeseeable physical obstacles arose quite beyond the developer's own control that any free extension would be granted.

Secondly, the *Building Covenant* period is known in advance to a purchaser of Crown land, and he enters freely into a contract with Government to complete development within that period; a breach of this contract by failure to complete on time entitles Government

as it would any other landlord, to lay down its own terms for a modification of lease conditions to extend the date for completion of work. Government may indeed, after due warning, refuse any extension and re-enter upon the land if it is satisfied that this would be in the public interest. An *Exclusion Order*, on the other hand, although its conditions become part of the lease covenants of the land affected, is applied to land already in private ownership, the owner of which may well plan, for example, a better form of redevelopment, possibly jointly with other adjoining property, after the original plan has been endorsed by the Tenancy Tribunal and included in the *Exclusion Order*. In such circumstances Government feels that it is not less in the public interest to be prepared to give the developer time to plan or complete the new development scheme and to extend the commencement or completion date of the building period required for this purpose, particularly bearing in mind the fact that the original protected tenants have normally already been compensated and have left the building long ago.

I should emphasize that in *Building Covenant* cases Government does not accept the fact that a developer who has freely entered into a contract with Government, possibly after competition by tender or auction sale with other persons equally prepared to fulfil the lease conditions, may unilaterally break his contract simply because he is no longer able to fulfil his obligations, due perhaps to a change in his financial circumstances, or unwilling to fulfil his obligations because he no longer expects to receive so remunerative a return on his outlay. In the same way in *Exclusion Order* cases Government regards a developer as being bound by the statutory order for the redevelopment of his property. This situation is primarily a problem for the developer himself to solve. No general relaxation in the enforcement of *Exclusion Orders* or *Building Covenants* can be looked for in such circumstances since every case must be considered on its individual merits.

As regards *Exclusion Orders*, I would also add that these are normally granted on the basis that the redevelopment scheme is in the public interest in that more accommodation is to be provided. While I cannot anticipate what decisions will be taken by the Governor in Council in

such cases, it seems to me most unlikely that Government would ever accept a position that, once the old property had been vacated or demolished, the site should remain vacant or under-used for an extended or even indefinite period. I consider therefore that in cases of financial difficulty, or unwillingness to complete the building scheme, developers could not normally expect to be granted extensions of time and would have only the alternative of selling the lot or of surrendering the property.

MR KAN YUET-KEUNG:—I am most grateful to my honourable Friend for his very comprehensive reply. May I ask my next question?

Sir, in his speech at the Budget Debate last March, the Commissioner of Labour stated that the smoke problem caused by the power station of the China Light and Power Company in Kowloon was under active discussion between the Company and various Government departments concerned.

Is Government now in a position to state—

- (a) what are the results of these discussions; and
- (b) whether any effective measures have been devised for the abatement of this smoke nuisance?

MR R.M. HETHERINGTON replied as follows: —

Sir, I understand that the honourable Member would have no objection if I replied to the second part of his question first.

As the Commissioner of Labour said in his speech in the Budget Debate four months ago there is no simple solution to the discharge of flue gases containing sulphur dioxide from the power station of China Light and Power Company Limited in Kowloon. In many other countries the unpleasant effects of sulphur dioxide have been mitigated by concentrating emission in a single very high chimney. Such a solution would present an unacceptable hazard to aircraft using Kai Tak airport. I am informed that China Light and Power Company Limited proposes, in connexion with the installation of two new boilers, to operate special high-speed fans capable of pushing flue gases through one single chimney. It is hoped, by this method, to lift the plume higher in the air and thereby produce the same effect as a higher chimney.

Regarding the first part of the question, consultations and discussions have continued between various departments of Government concerned on possible ways of tackling the problem. I regret to say that these have not so far encouraged the hope of any other positive solution which would be likely to produce immediate results. A proposal is under consideration to enlist the services of expert advice from outside Hong Kong. Possible terms of reference for such experts would be discussed in advance with China Light and Power Company Limited.

MR KAN YUET-KEUNG:—Thank you, Sir. May I now ask my third question?

- (a) Sir, will Government inform this Council what is its attitude towards the discriminatory treatment by the Philippine Government towards Hong Kong residents of Chinese origin in requiring finger-printing upon entry into the Philippines?
- (b) Why does Government consider it inappropriate or unnecessary to take counter-measures in regard to entry of Philippine nationals into Hong Kong?

THE COLONIAL SECRETARY replied as follows: —

Sir, Government regrets that the Philippine Government has found it necessary to impose an immigration control of this nature and hopes that steps may be taken to remove it. H.M. Embassy in Manila has already expressed its concern at the decision to the Philippine Department of Foreign Affairs.

Government considers that the desired result, which is the removal of this control, is less likely to be achieved if reciprocal measures are taken here in respect of Philippine nationals.

MR KAN YUET-KEUNG: —Thank you, Sir.

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

Sir, is Government aware of the fears which have arisen from the recent accidental drowning of four schoolboys at the Hung Horn reclamation and of another young person in

a disused quarry pit, and will Government investigate what steps can be taken to prevent future occurrences of this nature?

MR A. M. J. WRIGHT replied as follows:—

Your Excellency, the tragic accident which occurred at Hung Horn has focused attention on the potential danger which exists at all sites where reclamation is in hand. Hundreds of lorries dump earth each day on these reclamation sites and access must be easily available. Even if it were possible to fence off the areas without seriously hindering the operation of the lorries children could, as they do now, get access via the seawall.

The danger is not so much for those who swim from the seawall, but rather for those who do not realize that the edge of the dumped earth, not yet contained behind the seawall, drops rapidly into deep water. To draw attention to the danger which exists we have erected signs at Hung Horn and other reclamation sites carrying a warning that swimming is dangerous. Public Works Department staff working on the sites have also been instructed to advise children of the danger of swimming in reclamation areas.

In regard to quarries, steps were taken immediately after the tragedy at Morrison Hill to prevent the accumulation of water in quarries wherever this is practicable; where it is not, quarry operators have been requested to put up notices to give warning of the danger.

MR SZETO WAI:—Thank you, Sir. I would like to ask my second question.

- (a) Does Government agree that the protection in typhoon weather of the increasing number of small craft in local waters is becoming a problem through congestion of the existing sheltering facilities, especially in the harbour, and that this problem may become aggravated in one case by the possible development of a cross-harbour road link with its attendant landfall development?
- (b) What plans does Government have to alleviate these conditions both for the present and in the future?

MR A. M. J. WRIGHT replied as follows: —

Sir, the present Public Works Programme for the construction of typhoon shelters is based on the policy set out in a report prepared by a Working Party under the chairman-

ship of the Director of Marine, and approved by Executive Council in 1961. In addition to the construction of certain small typhoon shelters in the New Territories and the dredging of others, the report recommended the construction of a new typhoon shelter at Aberdeen as part of the plan for the Harbour and Island district.

Progress has been made on the dredging of some of the New Territories shelters, work on a new shelter near Tai Po has started, and a new shelter at Rambler Channel, just within the harbour limits with an area of 27 acres, is under construction and is due for completion before the 1966 typhoon season. The western breakwater at Aberdeen is virtually complete, and provides a fair measure of protection. The effect of this should be to draw off part of the demand for shelter in Hong Kong harbour. Work on the southern breakwater at Aberdeen has started.

Since the report was completed in 1961 the situation has changed in several respects, and early this year a further report on typhoon shelters was prepared by the Director of Marine, approved by the Port Executive Committee and Port Committee, and submitted to the Secretariat. This report is still under consideration. Meanwhile, of the possible new shelters referred to in the report Aldrich Bay (Shau Kei Wan) was upgraded to Category B of the Public Works Programme at the 1st Review of 1965-66, and considerable preliminary design work has now been completed.

In regard to the reference to the possible landfall of a cross-harbour tunnel, present plans suggest that an area of about 3.2 acres at Causeway Bay Anchorage will be lost, but this will be more than made up by an extension at the south-west corner of the shelter and an additional cargo handling basin to be constructed as part of the Wan Chai Reclamation, immediately west of Kellett Island.

I am informed by the Director of Marine that at the beginning of 1965 it was estimated that there were 5,300 squatter boats containing 37,500 persons in Colony waters. Of these, 1,300 are in Yau Ma Tei and Causeway Bay typhoon shelters occupying some 13 acres of space. Since 1961, 26,809 persons from 3,831 boats have been resettled and consideration is being given as to the best way to clear the boats from Yau Ma Tei and Causeway Bay with a view to making the much needed space available for use by harbour craft.

MR G. R. ROSS:—Sir, I wonder if my honourable Friend, the Director of Public Works, is aware that on the 14th—15th July when Typhoon Freda presented a threat to the Colony, the Star Ferry Company could make use of only three of their six moorings at Yau Ma Tei shelter and the Yaumati Ferry Company was closed out altogether. These vessels had to anchor in the south-west entrance of the shelter and if we had had gale force winds in the harbour very severe damage would have been done to the ferry fleet. Everyone will agree that it is absolutely essential to continue operating the ferries up to the last moment and to start as soon as the danger is over, but this can only be done as long as these moorings are not cluttered up by other craft. In his reply the Director of Public Works has said that consideration is being given to the best way to clear vessels from the shelter and I wonder if he can give me an assurance that energetic measures would be taken to move unessential craft and that steps will be taken to resettle boat squatters.

MR A. M. J. WRIGHT:—Your Excellency, I have discussed this both with the Director of Marine and the Commissioner for Resettlement and they are in consultation as to how to get these boat squatters out of the two typhoon shelters to which I have referred. As to my honourable Friend's question about resettlement, this is, I think largely a matter of priorities and, if I remember correctly, boat squatters are not included in the priorities listed in the recent White Paper. This, I have no doubt, is a matter that will be taken up by the Director of Marine.

MR G. R. ROSS: —Sir, the situation will be further aggravated when the....

HIS EXCELLENCY THE GOVERNOR:—Mr Ross, may I remind you that you are asking questions. Please do not give us an argument or a debate.

MR G. R. ROSS: —Sorry, Sir. May I ask, Sir, if the Honourable Director of Public Works would let us have a progress report on the Cheung Sha Wan Stonecutters scheme? It seems that this area is a long term solution to shelters in the harbour.

MR A. M. J. WRIGHT: —I am afraid, Sir, that I would need notice of that question.

SUPPLEMENTARY PROVISIONS FOR THE QUARTER ENDED 31ST MARCH 1965

THE FINANCIAL SECRETARY moved the following resolution:—

Resolved that the Supplementary Provisions for the Quarter ended 31st March 1965, as set out in Schedule No 4 of 1964-65 be approved.

He said: —Your Excellency, the Schedule before Council is the fourth list of supplementary provisions on the 1964-65 account. The fifth and last schedule will be presented to Council in the near future.

The total supplementary provision listed in this fourth schedule amounts to a little over \$66.5 million. Of this figure more than \$27 million relates to personal emoluments and is a consequence of the revision in salary scales for minor staff in December and the interim salary award in July last year; a further \$24 million is accounted for by Public Works Non-recurrent.

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

THE COLONIAL SECRETARY seconded.

The question was put and agreed to.

INLAND REVENUE ORDINANCE, CHAPTER 112

THE FINANCIAL SECRETARY moved the following resolution:—

Resolved, pursuant to section 85 of the Inland Revenue Ordinance, that the Inland Revenue (Amendment) Rules 1965, made by the Board of Inland Revenue on the 9th day of July 1965 under section 85 of that Ordinance, be approved.

He said: —Sir, the Inland Revenue (Amendment) Ordinance 1965, which was passed three weeks ago made certain changes in the provisions for depreciation. When I introduced that Bill I said that there were some other proposals for increases in depreciation rates on machinery and plant but that these fell within the province of the Board of Inland Revenue and had been referred to it. These additional changes are embodied in the rules made by the Board which are today before Council for confirmation.

THE COLONIAL SECRETARY seconded.

The question was put and agreed to.

FROZEN CONFECTIONS (AMENDMENT) BY-LAWS 1965

MR K. S. KINGHORN moved the following resolution:—

Resolved, pursuant to section 144 of the Public Health and Urban Services Ordinance 1960, that the Frozen Confections (Amendment) By-laws 1965, made by the Urban Council under section 56 of the said Ordinance on the 6th day of July 1965, be approved.

He said:—Your Excellency, the Frozen Confections By-laws 1960, provide that one of two methods should be used in the heat treatment of frozen confections. By-law 21(2)(c) requires all apparatus to be thermostatically controlled and fitted with an automatic flow diversion valve; unfortunately this is not only unnecessary but is physically impossible in one of the two methods mentioned.

The Frozen Confections (Amendment) By-laws 1965, approval of which is now sought, will dispense with this requirement in the case in question and will thus remove an anomaly from the principal by-laws.

THE COLONIAL SECRETARY seconded.

The question was put and agreed to.

VENTILATION (AMENDMENT) BY-LAWS 1965

MR. K. S. KINGHORN moved the following resolution: —

Resolved, pursuant to section 144 of the Public Health and Urban Services Ordinance 1960, that the Ventilation (Amendment) By-laws 1965, made by the Urban Council under section 88 of the said Ordinance on the 6th day of July 1965, be approved.

He said: —Your Excellency, at present it is an offence under the Ventilation By-laws 1961, to erect obstructions to light and ventilation in respect of domestic premises, workplaces and hair-dressing establishments. The Ventilation (Amendment) By-laws 1965, now before honourable Members for approval, will enable action to be taken against persons maintaining obstructions to light and ventilation in shops or offices. They were made by the Urban Council on 6th July.

THE COLONIAL SECRETARY seconded.

The question was put and agreed to.

CROSS-HARBOUR TUNNEL

MR A. M. J. WRIGHT moved the following resolution: —

Resolved that this Council approves in principle the grant of a franchise to construct and operate a tunnel across the harbour between Wan Chai and Hung Horn in accordance with the basic conditions set down in the Schedule.

SCHEDULE

- (1) The Victoria City Development Company (or such other company as may with the approval of the Company and Government be substituted for it) (hereinafter referred to as “the Company”) to be granted an exclusive franchise to construct and operate a four-lane vehicular tunnel between Wan Chai and Hung Hom.
- (2) The franchise to bear no rights for the construction of a second tunnel on the same or any other route.
- (3) The franchise to run for 30 years from the date (hereinafter referred to as the “start of construction”) on which permission is given by Government to commence physical construction works on the tunnel site. There is to be no right of renewal thereafter.
- (4)
 - (a) A royalty of 12½% on gross operating receipts to be payable for the period of the franchise provided that on application by the Company the annual cash payment during the first ten years of operation of the tunnel, may be reduced so that it is less than 12½%, but not less than 7½%. Any arrangements for reduced royalty are to be reviewed annually. The difference between the amount due at 12½% and the actual cash payment at the reduced rate to be credited to Government in the accounts of the Company and the balance to earn compound interest at 7% per annum compounded quarterly. This account to be liquidated not less than 5 years before the end of the franchise.
 - (b) Royalty payments to be paid quarterly in arrears within one month of the quarter to which the operating receipts relate.
 - (c) “Operating receipts” to include all revenue received by the Company in consideration of goods and services offered but to exclude income earned on investments and interest received on current assets.
- (5)
 - (a) Government is to assume liability for any compensation which it may be decided to pay to the ferry companies arising from the 1956 Government statement.

- (b) The Hong Kong and Yaumati Ferry Company Limited and the Star Ferry Company Limited to be given the option of taking up to 5% each of the equity capital of the Company. In the event that either ferry company does not take up the option in full the difference may be offered to the other ferry company. All options are to be kept open for one month from the date of offer.
- (6) The Company to pay from the start of construction an annual rent of \$75,000 to Government for way-leave over the Crown land (including sea-bed) occupied by the tunnel itself and its approaches as determined under sub-paragraph (25) below, subject to Government retaining full development rights over the land in question to the extent that such development does not interfere with traffic using the tunnel and excluding the site of any building for which a lease may be granted as set out in sub-paragraph (7) below.
- (7) The Company to be granted for a period conterminous with the franchise a lease of, and to pay a premium at the rate of \$250 per square foot in respect of, land for the erection of such buildings as may be agreed between the Director of Public Works and the Company as being necessary for the efficient operation of the franchise (other than toll booths, which, it is assumed, would be of simple one or two storey construction). Such premium to be payable, at the Company's option, by equal annual instalments over the period of the franchise, less the last year, with interest at 5%. Zone Crown Rent at \$5,000 per acre per annum to be charged for the land on which the toll booths stand, and Government to be entitled if it so desired in connexion with the exercise of its development rights under sub-paragraph (6) to relocate the existing toll booths either separately or as part of a building erected in the exercise of its development rights.
- (8) The Company to pay to Government the sum of \$12 million as a contribution towards the cost of constructing roads and other engineering works which would not otherwise be required or would cost less if the tunnel were not built. This sum to be paid in 2 equal consecutive biennial instalments without interest commencing 24 months from the start of

construction. Government undertakes to complete sufficient road works to enable the tunnel to operate as soon as it is complete and hopes to complete all ancillary works by this time.

- (9) The Company to raise not less than 25% of the capital cost of the tunnel in the form of equity capital exclusive of any equity capital that may be contributed by Government.
- (10) Government to be given the option of taking up to 25% of any equity capital of the Company and, if Government takes up not less than 10% thereof, to be allocated seats on the Board of Directors of the Company in the same ratio as the amount taken up bears to the total issued equity capital (fractions of a seat not to count) but in any case not less than two seats.
- (11) (a) The Company to apply for and take all reasonable steps to obtain a quotation of its shares on the Hong Kong Stock Exchange before the second anniversary of the opening of the tunnel for traffic or such longer period as may be agreed by the Governor in Council.

(b) The public to be given an opportunity to participate in not less than 25% of the equity capital of the Company which shall be provided pro rata by all shareholders if called upon.
- (12) Rates to be payable by the Company in accordance with the provisions of the Rating Ordinance.
- (13) The Company to furnish to Government before any major contract is let or commitments are entered into for construction, a complete statement of its financing arrangements.
- (14) The Governor in Council to have power to approve or disapprove the fare structure but not so as to deny the Company a reasonable return on its capital. The initial basic fare structure shall be: \$2.50 for a private car, \$5.00 for a double-decker bus and \$7.50 for a lorry.
- (15) Government to have powers to take over the undertaking in the event of serious default on the terms of the franchise with such compensation for the assets as may be determined by arbitration less such penalty

as the Governor in Council may deem appropriate, and to impose penalties by way of fines for lesser infringements.

- (16) On termination of the franchise the physical assets of the Company to revert to Government without compensation, except that the cost of any machinery and equipment purchased in the final 5 years with the agreement of Government to be reimbursed at the depreciated value for Inland Revenue purposes.
- (17) Government to have powers to impose safety requirements and to enable the Police to control traffic provided that within the tunnel the Company would be required to provide its own policing arrangements for which by-laws would be enacted.
- (18) The tunnel to be completed within 5 years from the date on which the offer of a franchise by the Government is accepted by the Company or such extended period as the Governor in Council may allow, failing which the franchise to terminate without compensation.
- (19) The Company to permit on request electric power cables, telephone and other communication cables, water, and other pipes to be run through the tunnel if technically possible, provided the capital cost of installation is borne by the owners. The Company to be entitled to charge a reasonable fee for providing such facilities, such fee to be determined in the absence of agreement by arbitration. Government does not guarantee any wayleave for any public utility to or from the tunnel.
- (20) The Company, on request by the Colonial Secretary and if necessary, to give priority to Crown vehicles i.e. vehicles on His Excellency the Governor's establishment, vehicles of H.M. Armed Forces and those of the Police and Fire Services including ambulances and such other vehicles as the Colonial Secretary may from time to time consider warrant priority, and no other priority shall be given.
- (21) *(a)* The Company to be permitted, subject to the agreement of Government, to advertise on the tunnel structure and toll booths.
(b) The Company to be permitted, subject to the agreement of Government, to advertise on the approaches of the tunnel i.e. the areas for which

the Company is responsible for construction as defined in sub-paragraph (25) below but excluding any development carried out by Government in exercise of Government's development rights as stated in sub-paragraph (6).

- (c) Permission to advertise may be refused where this would interfere with safety requirements or where in the opinion of the Colonial Secretary it may be unsightly or unsuitable.
- (22) During construction of the tunnel the Company to take all reasonable steps to minimize interference with shipping and harbour traffic and to comply with such safety precautions as may be required by the Director of Marine. Any spoil which is dredged to be disposed of as approved by the Director of Public Works and after the tunnel construction is complete the sea bed including any protective mound or backfilling shall be restored so as to be at least 40 feet below Mean Low Water Ordinary Spring Tide where the sea bed is now 40 feet or more below Mean Low Water Ordinary Spring Tide and elsewhere shall generally be in accordance with the profile shown in drawing T. 2 in Volume II of the Joint Consulting Engineers Report of April 1961.
- (23) Any ancillary land which may temporarily be made available for the construction of the tunnel to attract permit fees or rents at the standard rates prevailing at the time or at such rents as the Government may determine. The manner in which such land is used to be subject to such conditions as the Director of Public Works may determine and to be restored to its original state on termination of use.
- (24) The tunnel and its approaches to be regarded as a road within the meaning of the Road Traffic Ordinance 1957 except insofar as this is incompatible with the legislation governing the franchise.
- (25) The Company to be responsible for constructing at their expense all that portion from and including the toll plaza on the Kowloon side to a line where the tunnel rises to general ground level on the Hong Kong side. Once road lines at the tunnel extremities have been finalized a plan will be prepared to define the portion referred to.

- (26) The Company will not be entitled to assign (except by way of mortgage for the purpose of financing the construction of the tunnel), under let, sub-grant or otherwise dispose of any rights granted to it.

He said:—Your Excellency, the effect of this resolution will be to indicate Council's approval in principle for the grant of a franchise for a cross-harbour tunnel under the twenty-six basic conditions listed in the Schedule.

The first recorded proposal for a cross-harbour tunnel was in 1902, and was made by the Harbour Master. Since then the subject has been brought up from time to time, and in his Preliminary Planning Report of 1948, Sir Patrick ABERCROMBIE, referred to the need for a cross-harbour road link. In 1954 Government appointed a firm of Consulting Engineers to report on the possibilities of a cross-harbour tunnel, and subsequently an inter-departmental Committee, reporting on the implications of a tunnel concluded that Government should not itself build one. While this report was being considered a private company announced that it considered a bridge would be a better facility, and suggested that one could be built by private enterprise. In an announcement issued in July 1956, Government accepted the recommendation of the Working Party, but added that it was prepared to consider privately sponsored schemes, whether for a bridge or a tunnel. As this announcement also contains the original statement on ferry compensation I think it would be useful if I quoted in full the relevant paragraph which reads:

“As regards the construction of a tunnel by commercial interests, Government would be prepared, of course, to consider any schemes that might be submitted to it, provided that the interests of the travelling public were safeguarded. It is already common knowledge that the capital development of the Ferry Companies has been adversely affected by the delay in a decision on the tunnel. It would have to be a condition of any approval of a tunnel project that the existing franchise holders should not suffer financially by fulfilling their obligations under the franchises and that they should not be inhibited from further appropriate development.”

In 1957 and again in 1959 Government agreed to delay development in a part of the Morrison Hill area, where a bridge might have terminated, while investigations for a bridge went ahead. In 1961 the Victoria City Development Company submitted very full reports and traffic analyses of the scheme on which the Company had been working. These were examined at great length, and in 1963 Government came to the conclusion that while a bridge was unacceptable a tunnel was unobjectionable. At the same time the question as to whether the scheme should be put to tender or not was considered. For seven years the

Government offer to consider such schemes had been open, and no other scheme had been taken to a stage where there were any sponsors prepared to undertake it.

Under these circumstances Your Excellency's predecessor, with the advice of Executive Council, decided in 1963 that the scheme should not be put to tender, but that Government should be prepared to negotiate a franchise with the Victoria City Development Company, and that the sponsors should have up to 31st March 1964 to decide whether to proceed.

Today the circumstances are much the same as in 1963. The complete lack of interest shown in such a franchise, between 1956 when Government announced it was open for offers and 1963 when it was decided not to go to tender, taken with the inordinate delay that would now occur if an attempt was made to call for tenders, is ample justification for not doing so.

The response of the Victoria City Development Company to the offer to negotiate the grant of a franchise was to suggest a two lane tunnel. Such a tunnel would have been congested at the rush hour almost as soon as it was open. One might think that the fact that ferries would still be available would have been sufficient justification for accepting such a situation, and that criticism of short sightedness could be answered. Human nature is not so tolerant. If a tunnel were built completely new standards would be expected. Drivers who today think themselves fortunate to drive straight onto a vehicle ferry would be severely critical of a tunnel which involved a traffic hold-up which would only delay them at rush hours, and then for less time than the best possible ferry service. From the traffic view therefore a two lane tunnel was undesirable. It would encourage extra cross-harbour travel without being able to accommodate all that would wish to use it. Fortunately, it has been possible to produce practical proposals for a four lane tunnel without making it necessary to provide a Government subsidy.

A great deal of apprehension has been expressed over the traffic problem which will undoubtedly result from the building of a tunnel, the severest critics pointing out that the tunnel is bound to cause a great increase in vehicle movement, and as all this will converge on the tunnel portals it will cause serious and unprecedented congestion and confusion.

This is, indeed, a danger. There is always a danger that isolated road improvements simply remove old frustrations to make way for new; and this danger is greater in urban areas where improvements must often be piecemeal. I would be the first to criticize and withdraw my support for the tunnel scheme if I thought that we were authorizing

the discharge of an enormous volume of traffic into narrow streets quite incapable of absorbing it. This is not the case. We are fortunate in having new reclamations at each extremity of the tunnel, and the tunnel itself will fit into the network of major roads which we have in mind for both Island and Mainland.

We have, in collaboration with the Victoria City Development Company and their Consultants, designed a comprehensive system of high capacity roads incorporating not only connexions to the tunnel but also great increases in the capacities of road links between east and west, north and south, on both Island and Mainland.

On the Island there will be a major road running as an extension of Harcourt Road, along the line of Gloucester Road and continuing across the north of Victoria Park to North Point. At Canal Road there will be a complex of flyovers linking this road to Canal Road with an underpass for traffic wishing to enter the tunnel. About two-thirds of the peak tunnel traffic, estimated at rather less than 1,500 vehicles per hour in one direction in 1970, and 2,000 per hour when the tunnel is full, will use this road which will itself have a capacity of about 4,500 vehicles per hour in one direction. We plan to have this new road, running from Arsenal Street in the West to King's Road and North Point in the East, as well as the Canal Road flyover, completed by the time the cross-harbour tunnel is completed, and dispersal of cross-harbour traffic should present no problem.

Besides this, we in the Public Works Department have recently re-examined the whole question of traffic requirements in the Central Area of Hong Kong and in so doing we have had very much in our minds the probable effect of the tunnel. Critical portions of the plan are the junction of Pedder Street and Connaught Road, and the capacity of Connaught Road itself. Connaught Road will be a six lane limited access highway, and at the Pedder Street junction we propose a very large rotary. These improvements too, if approved by Government, should be completed by 1970. For the more distant future, to anticipate the time when the road systems which I have just described will show signs of reaching saturation, we propose that in reconstructing Connaught Road and planning the Waterfront Road, provision should be made for a high-level road which could, if necessary, run from Des Voeux Road West to the tunnel itself.

In Kowloon the tunnel will merge into a six lane highway and continue on into Nairn Road. The present junction of Gascoigne, Chatham and Nairn Roads will form part of another flyover complex where traffic can travel in all directions without crossing other streams of traffic. Nairn Road itself will take two-thirds of the tunnel traffic, while the remainder will be split between Gascoigne Road and Chatham Road. Nairn Road is planned to be widened to have six lanes and

it will then be capable of carrying 4,000 vehicles per hour in one direction, but a peak of only 1,500 per hour is expected to travel to or from the tunnel in 1970.

Here again we plan to have these improvements completed within 5 years of the granting of the franchise. Honourable Members are aware of the many other road improvements for Kowloon which are already included in the Public Works Programme. I refer in particular to the Nairn Road/Waterloo Road flyover, the Lion Rock Tunnel and the new roadway across Cheung Sha Wan Reclamation and Lai Chi Kok Bay. These, together with the flyover complex at the tunnel landfall which I have just described, will be completed within the next 5 years. However, as in Hong Kong we are trying to look well beyond 1970, and new roadways as well as major improvements to existing roads are envisaged for Kowloon Peninsula.

We shall need a new urban motorway system whether we have a tunnel or not, and only part of what I have described is directly attributable to the tunnel. Funds for all these schemes have not yet been approved by honourable Members, and in this connexion I would like to draw their attention to Condition No. 8 of the Schedule whereby the Company will make a contribution of \$12 million towards the cost of constructing roads and other engineering works which would not otherwise be required, or would cost less if the tunnel were not built.

Clearly an improved road system will not solve all the problems which will be presented by the tunnel. Depending on the way in which bus traffic will make use of the tunnel we shall have to plan for, and provide, bus stations or other facilities, and here the advice of the Advisory Committee on Public Transport will be invaluable. Car parking too must be looked at afresh in the light of any decision that may be taken to proceed with the construction of a tunnel.

Government's parking policy is at present under review, and if this tunnel is approved I can assure honourable Members that plans for implementing the policy which emerges will not ignore the tunnel. The sensible plan would seem to me to place new car parks on the fringes of the City Centre—the area bounded by Kapok Drive and Garden Road in the East, and, say, the Central Market in the West—rather than within the City Centre. I suggest, too, that at least some of these car parks merit the attention of private enterprise.

Honourable Members are aware of Government's intention to appoint Consultants to investigate and report on the engineering feasibility of various systems of mass transport. We have written to the Consultants asking them to send their Project Director to Hong Kong. He is due to arrive this afternoon with a view to starting the investigation on 1st August. I may well be asked why we do not await their

report—they hope to let us have an interim report nine months after starting work—before taking the decisive step which is before Council today.

I would remind honourable Members that a very thorough traffic survey to determine the economic feasibility of a cross-harbour bridge or tunnel was carried out by the Road Research Laboratory in 1960 on behalf of the Victoria City Development Company and their report was submitted to Government in 1961. This is a very comprehensive report and its findings generally are still valid. I can see no justification at all for further delay pending the receipt of another report on the more general issue of mass transport systems. Indeed, in my opinion, it is most desirable that a decision on the tunnel should be taken before the Mass Transport Consultants start work in Hong Kong. They will have one less unknown quantity to contend with, and can also take into account the potential improvement in road communications between Hong Kong and Kowloon. In my view a decision to build a tunnel would not in any way prejudice the construction of an underground railway, or a cross-harbour rail tunnel, if it were found that a need existed.

Sir, I have not always been a staunch supporter of a cross-harbour road link, but it is apparent that within a few years—by 1970, if not before—demand for cross-harbour vehicle movement may be such that we shall need to open a new vehicle ferry route each year if demand is to be met. To meet this demand by means of ferries is, I suggest, likely to prove impractical for several reasons, not the least of which is the multiplicity of cross-harbour vehicle services which would be needed, and the resultant increases in harbour congestion. Experience in other countries shows that the demand for vehicle crossing would continue to grow—albeit at a slower rate—even if a cross-harbour underground railway were constructed.

In 1959 when waiting conditions were bad, and the single existing ferry route was running to capacity, it carried 4,135 vehicles per day in both directions. Since then the ferries have been increased in size, waiting times have been reduced, and there are now three cross-harbour routes, which carry between them just over 11,000 vehicles per day in both directions. To meet continually growing demand we are being offered a tunnel, which requires no waiting concourse and whose maximum capacity in a single direction will be at least 2,000 vehicles per hour. The tunnel will not run at full capacity in both directions simultaneously, or throughout the 24 hours of the day, and it would be unreasonable to calculate its daily throughput on a purely arithmetic basis. After making full allowance for hourly variations in traffic flow the capacity of the tunnel may be taken as 60,000 vehicles per day

in both directions—some 12 times the capacity of a fully utilized vehicle ferry route, and over 5 times the use being made of the three vehicle ferry routes now operating.

Looking forward to 1970 and beyond I am confident that the construction of a cross-harbour tunnel will make a significant contribution to the full and effective development of the road system which we are reviewing by various surveys and studies. Time is short, but if there are no unexpected or unnecessary delays I am confident that the engineering works involved on the construction of the ancillary road works which are so vital to the practical success of the tunnel can be completed within five years of acceptance of the franchise.

THE FINANCIAL SECRETARY:—Sir, I rise to second the resolution and in doing so would like to say a few words about the proposed financial arrangements for the franchise and the reasoning which has led us to them.

When there is so much uncertainty about costs and about the rate of utilization of the tunnel over the twenty-five years of the franchise, it is a very difficult matter to devise arrangements which are fair to every party, users of the tunnel, the taxpayer in general and the franchise holders. But we have to give the promoters as much certainty as we can about these arrangements, while at the same time protecting adequately the interests of the other two parties, who, of course, partly coincide with each other.

In devising these arrangements, we have looked at the approaches of the tunnel and ancillary works connected with them in two logically separate lights; first, as sections of an ordinary road which is part of our ordinary road system and, second, as sections of a specialized method of transportation with some specially costly features, some of which will fall in the first place on the community as a whole. So far as it is an ordinary road, it is something which requires the raising of no special financial contribution either from the users of the tunnel or from the franchise holder, towards meeting that part of the cost which falls upon the whole community, either in the form of public expenditure or of allocation of Crown land; on the other hand, so far as it is a specialized method of transportation for a limited class of users, we have to ensure that the community as a whole gets adequate compensation for the contribution it makes, whatever form that contribution may take, and that there is no subsidy either for the users or for the franchise holder; and, furthermore, we have to ensure that the financial relationship between users and franchise holder is a reasonable one.

The extra public costs attributable to the proposed tunnel arise from two factors. One is the unusually extensive and complicated network of flyovers, underpasses, etc., which is required to get traffic on and off this single artery without causing congestion, either in the tunnel itself or in the road systems on either side of the harbour. For this we have taken the view that a direct capital contribution by the franchise holder towards the cost of the additional facilities required over and above a normal road system was most appropriate. This has been assessed at \$12 million. It is difficult to estimate the cost of the other associated roadworks which will fall on public funds because, as I have explained, they are to be regarded as part of our normal roadworks and are integrated into this system; and one cannot say exactly where the tunnel or its effects on traffic stop or begin. A rough estimate, however, of the ordinary roadworks which will have to be undertaken to enable the tunnel to operate efficiently is about \$40 million. These are all roads which we would have had to build in any event although the tunnel may make it necessary to complete them rather sooner than if there were no tunnel, so that the extra cost is limited to the interest charges arising from accelerated completion. They include the main waterfront road from Arsenal Street to King's Road and the complicated intersection at Chatham Road where the main north-south and east-west arteries cross. I should make it clear that, although considerable thought has already been given to these road systems, they remain subject to the approval of this Council and the provision of funds. They will be submitted in the first place to the Public Works Subcommittee at an appropriate time.

The second factor is the land required, both for these additional roadworks and for the toll plaza which must be made available for the collection of charges. The cost to the community of making this land available is being reduced to some extent by reserving for Government the development rights over the tunnel exits and all other areas suitable for building over. In addition it has been possible to integrate the tunnel exits very economically with the main road arteries to which I have already referred.

The company will pay the full market value of land needed for any buildings required in connexion with the operation of the tunnel. The company will also pay a nominal annual sum of \$75,000 for its way-leave over Crown land (including the sea-bed) occupied by the tunnel and its approaches. But the main financial consideration for the sterilization of land, so far as this results from the tunnel, is the royalty. This is closely analogous with the arrangements for the public transport companies which are not charged directly for the concourses and similar areas made available for their operations, but are regarded as paying for them through their royalty payments. (I am not however suggesting that this is the sole purpose of this royalty in these cases).

The value of land sterilized by the tunnel has been estimated at \$20 million and I am confident that the return to Government from the royalty, taking into account all the other purposes of the royalty, will adequately cover this over the term of the franchise.

The next big financial issue we have to consider is compensation to the ferry companies. In 1956 Government said that it would have to be a condition of any approval of a tunnel project that the existing franchise holders should not suffer financially by continuing to fulfil their obligations under their franchises and that they should not be inhibited from further appropriate development. The franchise holders have continued to develop their services since that time and Government is under at least a moral obligation to ensure that they are compensated for any loss arising from their having done so. It was originally our intention to require the tunnel company to pay any such compensation direct but they very naturally wished to know within reasonable limits what their liability would be. This we could not tell them, for this reason, amongst others, that no one can say in advance what the exact effect of a tunnel on the ferry companies will be in practice. The solution to the problem was for Government to assume these obligations and to adjust the royalty so as to ensure that it adequately covered this liability as well. One advantage of this approach to the problem is that there is likely to be a direct relationship between the loss to the ferry companies and the yield from royalty.

A further element which is also to be regarded as covered by the royalty is compensation for any loss to Government arising from decreased use or abandonment of the many ferry piers which have been built in recent years; revenue derives from these in the shape both of pier rents and of ferry royalties.

I should add that the provision requiring the tunnel company to offer 5% of its equity capital to the ferry companies is not directly connected with the question of compensation to which I have already referred. Compensation can in no circumstances include loss of profits as the ferry companies have no exclusive right to cross-harbour transport services. The 5% provision gives them the opportunity of an alternative investment in cross-harbour transport, should they wish to take it.

In fixing the royalty then, we have had to make provision for the value of land sterilized and for possible compensation to ferry companies. We also have had to consider the charges to be made, the probable revenue of the tunnel over the period of franchise at these charges and the rate of return to the company on its investment. This is a very difficult exercise in forecasting; and, of course, the economics of the tunnel are unlikely to be static; it is likely to be more profitable in its later than its earlier years. The royalty proposed then is 12½%

on gross receipts. On the charges proposed, which are lower than vehicular ferry charges, this should be ample to cover Government's liabilities, even on the lowest estimates of traffic. So far as the company is concerned, the arrangements have been estimated, on the basis of probable traffic and capital cost estimates, to provide an average yield of 16% on net capital investment (before taking into account interest on borrowed money) over the whole twenty-five year life of the franchise, although I think it will probably be lower than this; by the worst estimates from the company's point of view it could be 8%; on the best it could be 22%. These are wide fluctuations and in order to protect both the company and the public we intend to include in the Bill provisions similar to those in the bus company ordinances for variations in charges and royalty should future circumstances make this appropriate.

There is one further complication about the royalty. The company has represented that, because a substantial part of the capital cost will be met from borrowed money which will have to be repaid in the earlier years, and because of the fact that the tunnel is likely to be more profitable in later than in earlier years, the royalty should be at a lower rate during an initial period. We have proposed, instead of a straight reduction in earlier years, that we should agree, on application by the company, to reduce the royalty to not less than 7½% during the first ten years, provided that the difference between 12½% and the reduced rate is credited to Government in the accounts of the company, where it will earn 7% interest, and is fully liquidated by not less than five years before the end of the franchise. This is parallel to the arrangement with the China Light and Power Company Limited and Esso for the treatment of profits over a certain level which the power company ploughs back into the enterprise.

There is just one other feature of the proposed terms I should mention in case there is any misunderstanding. Government is requiring the company to give it an option to take up 25% of the equity capital. This should not be taken as implying that Government intends to make this investment. It is intended merely to give Government the right to do so should it later come to the conclusion that it is desirable that it should do so.

MR DHUN RUTTONJEE: —Your Excellency, I rise to move, under Standing Order 13(3) that the debate on the resolution before Council be adjourned until the next meeting of Council.

MR KAN YUET-KEUNG seconded.

The question was put and agreed to.

MAGISTRATES (AMENDMENT) BILL 1965

THE ATTORNEY GENERAL moved the First reading of a Bill intituled "An Ordinance further to amend the Magistrates Ordinance."

He said:—Sir, this Bill deals with several unconnected matters affecting criminal procedure in magistrates' courts, two of which are of major importance. I propose to explain these two first, before dealing with the others.

Clause 14 contains two new sections—sections 80A and 80B. Section 80A will enable the statements of prosecution witnesses to be admitted in evidence at committal proceedings, in place of the time-consuming necessity of calling the witness himself to give his evidence orally. This procedure will only be permissible in committal proceedings. If the magistrate commits the accused to the Supreme Court, the witness will still be required to give his evidence orally in the Supreme Court trial. For a statement to be admissible under this new section, it must be tendered by the prosecution, purport to have been read out to and signed by the person who made it, and be accompanied by an English translation (if necessary); and copies must have been served on the accused and delivered to the magistrate not less than 10 days before the date fixed for the hearing of the case (or such reduced period as the magistrate may allow). When any statement is admitted in evidence, it must be read out to the accused unless he waives this right. The accused may object to the admissibility of the statement as a whole or to any part of it, in which event the magistrate will rule on the objection. The magistrate may, if he sees fit, and the prosecutor or the accused may by notice require the magistrate to, order the person who made the statement to attend and give oral evidence. This new section 80A gives effect to the principal recommendation of the Committal Proceedings Committee appointed by the Chief Justice in 1959 to consider, *inter alia*, "what, if any, modification should be made in the present committal procedure with a view to removing those features which are open to criticism, in particular by—

- (a) reducing the amount of time consumed by witnesses' attendance in court; and
- (b) avoiding any expenditure of time and effort not essential for the proper administration of justice."

The committee was presided over by Mr. Justice SCHOLLES, and was representative of the magistrates, the Legal Department, the Bar Association and the Law Society.

The proposed new section 80B (also contained in clause 14) will permit an accused, if he so chooses, to plead guilty before a magistrate to an offence (other than one punishable with death) which is triable

only in the Supreme Court. At present, although an accused may wish to plead guilty he cannot do so until committal proceedings have been conducted and he appears before the Supreme Court for trial. This procedure is time-consuming and involves the expense and all-round inconvenience of calling witnesses and adducing and recording their evidence unnecessarily. Under the proposed new section 80B, the magistrate will have the discretion to reject the plea of guilty, but if he accepts it, he must record an outline of the alleged facts and any statement made by the accused, before committing the accused to the Supreme Court for conviction and sentence. This section, Sir, is modelled on a similar section in the New South Wales Justices Act and was recommended by the magistrates in their quarterly meetings and approved by the Chief Justice. An accused will not be prejudiced, as the magistrate is required to explain the ingredients of the offence to the accused before any plea of guilty is accepted. In addition, when the case comes up before the Supreme Court and before the accused is convicted or sentenced, he may require the judge to remit the case to the magistrate so that committal proceedings may continue as if he had not pleaded guilty.

Sir, what I have just said covers the two matters of major importance, but also worthy of special mention are the amendments proposed by *clauses 3(a) and 19* of the Bill. At present, a person who commits more than three offences of the same or similar character can be tried at the same time for only 3 of those offences. The remaining offences must be left over for a separate trial, which in practice would generally be before another magistrate, but whether before another magistrate or not, evidence common to all the offences has to be given again. Apart from the cost aspect, this situation involves duplication and leads to inconvenience, not only to the magistrates but also to witnesses and probably even to the defendant himself who may well prefer to have all his alleged transgressions tried at the one time. The limit of three is, therefore, unnecessarily restrictive. *Clause 3* seeks to remove this unnecessary restrictive limitation and to allow a greater number of offences to be tried at the same time, provided they are all “of the same or similar character” and provided, further, that the magistrate does not consider that the defendant will be prejudiced or embarrassed in his defence by reason of the joinder of more than one offence. If the magistrate does so conclude, then he can order separate trials.

Turning now to *clause 19*, this amendment seeks to confer on a judge who is hearing an appeal from a magistrate's decision, the same power as is possessed by the Full Court to substitute an alternative verdict for the verdict given by the magistrate. This new power, however, is limited to substituting, for the magistrate's conviction, a conviction for another offence of which the magistrate himself could have found the appellant guilty. At present, a judge can only confirm,

reverse or vary the magistrate's decision, which does not enable him to substitute a conviction for another offence notwithstanding that the evidence clearly indicates that such other conviction is the proper one. The result of this present situation has been that judges have had to send cases back to the magistrate to be dealt with further.

Sir, in addition to the amendments I have mentioned, this Bill also deals with the following less important matters.

- (1) *Clause 2* will dispense with the necessity, in every case where a person does not appear in answer to a summons, of calling evidence on oath of due service of the summons, before the magistrate can issue a second summons. It is considered that the inconvenience and time consumed in calling evidence on oath is not justified, and that mere non-attendance is reason enough for the issue of a fresh summons.
- (2) *Clauses 3(b) and 8(b)* will require all criminal accusations to be in writing. At present, they may be purely verbal, but as some accusations may well be very complicated, and as, in any case, the magistrate's jurisdiction is founded on the accusation, it is desirable that such accusations should be evidenced in writing.
- (3) *Clause 4* will amend the provisions dealing with those cases in which a person may plead guilty in writing. At present, the summons in such cases is required to contain an endorsement in the words laid down in section 18(6). These words, however, go into quite unnecessary detail, and it is proposed, therefore, to delete them and substitute a simple requirement that the defendant's attention should be drawn in the summons to the fact that he may plead guilty in writing if he so chooses.
- (4) *Clause 5* deals with the procedure to be followed by the magistrate in particular, it will require that where the defendant admits the truth of the complaint or information, his admission shall be recorded as nearly as possible in the words used by him. The words he uses may well assume importance, as, for example, if he appeals on the grounds that what he said did not amount to a plea of guilty, and it is therefore desirable to have them recorded in full.
- (5) *Clause 7* will increase from \$50 to \$500 the maximum costs which a magistrate may order the defendant to pay to the complainant or informant in a case where the magistrate convicts or makes an order on the basis of the complaint or information and which a magistrate may order the complainant

or informant to pay to the defendant in a case where he dismisses the complaint or information. The present maximum of \$50 was fixed 16 years ago (1949) and it is now unrealistic.

- (6) *Clause 18* arises from the fact that, at present, the magistrates may themselves assume jurisdiction to try summarily certain indictable offences rather than to hold committal proceedings. It is considered that at the commencement of the proceedings before a magistrate the prosecution is in a better position than the magistrate, who at that stage has no knowledge of the circumstances of the case and is therefore unable to assess the seriousness of the offence alleged, to ascertain whether the circumstances are sufficiently grave as to warrant trial by jury in the Supreme Court. Accordingly, this amendment will require the consent of the prosecution before an indictable offence can be tried summarily.
- (7) *Clause 20* will add to those indictable offences which may be tried by the District Court, the category of offences commonly known as “demanding with menaces”. At present, these offences are triable only in the Supreme Court but in many cases the circumstances are not sufficiently serious as to warrant trial before the Supreme Court.

Sir, the clauses to which I have not expressly referred are consequential upon the matters and amendments I have explained, and they are more particularly indicated in the Objects and Reasons to the Bill before Council.

THE COLONIAL SECRETARY seconded.

The question was put and agreed to.

The Bill was read a First time.

Objects and Reasons

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

This Bill seeks to amend the Magistrates Ordinance in eight ways.

First, it amends section 10(2)(a) so that more than three offences may be tried together summarily. The present limit is considered unnecessarily restrictive. (Clause 3(a)).

Secondly, it requires all criminal accusations before a magistrate to be in writing, as recommended by the Supreme Court in Criminal Appeal No. 267 of 1963. (Clauses 3(b) and 8(b)). This necessitates other consequential amendments. (Clauses 8(a) and 9-13).

Thirdly, it gives effect to certain recommendations by the judiciary, designed to make minor improvements in procedure. (Clauses 2, 4-6 and 20).

Fourthly, it raises the maximum amount of costs that may be awarded from \$50 to \$500. (Clause 7).

Fifthly, it enables statements of prosecution witnesses to be admitted in evidence at committal proceedings. This gives effect to the principal recommendations of the Committal Proceedings Committee presided over by Mr. Justice SCHOLLES in 1960. It is not intended to be applied to key witnesses, and its purpose is to dispense with bringing formal witnesses to Court before the main trial and thus save their time and the time of the committing court. The witnesses' statements will be served in advance on an accused person, and he and the court will have the right to require a witness to give verbal evidence. (Clause 14, new section 80A). This necessitates other consequential amendments. (Clauses 15, 16 and 17).

Sixthly, it provides for a plea of guilty to be recorded by a magistrate at committal proceedings and for the accused then to be committed to the Supreme Court for conviction and sentence. The purpose of this is to save the time of the committing court and of all the witnesses concerned. At present the evidence in such a case has to be recorded in full, although it may be known all along that the accused will plead guilty before the Supreme Court. The provision now proposed follows very closely a similar provision in the New South Wales Justices Act 1902-1958. Special provision has been added for the prosecution to outline its case in the presence of the accused, before a plea can be accepted, in order to avoid possible prejudice to the accused through difficulties in interpretation. (Clause 14, new section 80B).

Seventhly, it requires the consent of the prosecution before an indictable offence is tried summarily. This is on the lines of the similar but narrower provisions in section 19(7) of the U. K. Magistrates' Courts Act 1952. (Clause 18).

Eighthly, it gives a judge on an appeal from a magistrate's court the same power to substitute an alternative verdict as the Full Court at present enjoys in respect of appeals against verdicts of juries and district court judges under section 82(5)(b) of the Criminal Procedure Ordinance. (Clause 19).

DISTRICT COURT (AMENDMENT) BILL 1965

THE ATTORNEY GENERAL moved the First reading of a Bill intituled "An Ordinance further to amend the District Court Ordinance 1953".

He said: —Your Excellency, eligibility for appointment as a District Judge is restricted by the District Court Ordinance to persons who possess a prescribed legal qualification and, in addition, have at least five years practical legal experience. Practice as an advocate or solicitor outside the Government (commonly called private practice) counts for this purpose, but legal practice within the Government Service is also intended to count. Accordingly, the District Court Ordinance presently refers to membership of the Colonial Legal Service, which, up until October 1954, was the name by which legal and judicial officers in the Colonial Service were collectively known. On the 1st October 1954, however, the Colonial Legal Service, as such, ceased to exist, and the legal and judicial officers in the Colonial Service have, since then, been known as members of the Legal Branch of Her Majesty's Overseas Civil Service and members of Her Majesty's Overseas Judiciary, respectively. To avoid any possibility of doubt arising from this change in description, as to whether the service of such officers still counts, this Bill, in clause 2, makes it clear that such service does still count. The amendment is given retrospective effect to the 1st October 1954—the date of the change.

Sir, at the same time the opportunity has been taken to deal with other legally qualified persons serving the Government. In 1953, when the District Court Ordinance was enacted, reference to the Colonial Legal Service might well have been all-embracing as regards legally qualified persons serving the Government in a legal capacity. This, however, is not so now. The present position is that not every such person is necessarily eligible for membership of either the Legal Branch of Her Majesty's Overseas Civil Service or of Her Majesty's Overseas Judiciary, eligibility for which is determined by reference to the manner of recruitment and terms of service. Thus, for example, locally recruited officers and contract or temporary officers are not eligible. It is considered, however, that there is no reason why their legal service in the Government should not count towards the practical experience necessary for appointment to the District Court Bench, and clause 2 will ensure that it does. Such officers may be in the Judiciary, the Legal Department or the Registrar General's Department.

Finally, Sir, this Bill, by clause 3 (which is more fully explained in paragraph 2 of the Objects and Reasons), enables the appointment of District Court assistant registrars, and permits Supreme Court assistant registrars to act in relation to the District Court.

THE COLONIAL SECRETARY seconded.

The question was put and agreed to.

The Bill was read a First time.

Objects and Reasons

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

One of the existing qualifications for appointment as a District Judge is not less than five years prior membership of the Colonial Legal Service. This Service, which until the 1st October 1954 was one of the unified branches of Her Majesty's Colonial Service and comprised both legal and judicial officers, ceased to exist as such on that date, and legal and judicial officers are now known as members of the Legal Branch of Her Majesty's Overseas Civil Service and members of Her Majesty's Overseas Judiciary, respectively; thus, persons originally intended to be qualified for appointment as District Judges may no longer be so qualified. Clause 2 of this Bill, if enacted, will remove these doubts, and, being backdated to the 1st October 1954, will avoid any possible doubts arising on this particular ground as to the validity of any appointment made since that date. At the same time, this clause will qualify for appointment as District Judges those persons who, although holding identical appointments, are not, by reason of the manner of their recruitment, members of the Legal Branch of Her Majesty's Overseas Civil Service or members of Her Majesty's Overseas Judiciary, such, for example, as locally recruited officers; and will also so qualify those members of the Registrar General's Department holding offices for which legal qualifications are required.

2. Following amendments made to the Supreme Court Ordinance in 1963 to provide for the appointment to that Court of assistant registrars, clause 3 of this Bill similarly amends the District Court Ordinance 1953 to enable assistant registrars to be appointed to the District Court. At present only a registrar, deputy registrars and bailiffs may be appointed. At the same time, amendments are proposed in clause 3 to enable assistant registrars of the Supreme Court to act in relation to the District Court as well, in the same way as the Registrar and deputy registrars of the Supreme Court may, and the reference in section 10(3) of the District Court Ordinance 1953 to the exercise by the Deputy Registrar General of the powers of the Registrar of the District Court will be deleted, if clause 3 is enacted, since this is no longer necessary.

HOTEL ACCOMMODATION TAX BILL 1965

THE FINANCIAL SECRETARY moved the First reading of a Bill intituled “An Ordinance to impose a tax on hotel accommodation charges.”

He said: —Sir, the proposed tax on hotel accommodation has been the subject of public discussion since it was first suggested in 1962.

As to its general justification, I think I can do no better than repeat what I said in the Budget Debate as long ago as 1963. I spoke as follows in connexion with proposals to increase the subvention to the Tourist Association.

“Although I would like to pay a tribute here to the work done by the Board in the promotion of tourism and in particular to that of their indefatigable chairman, I myself regard this increase with some misgivings. These misgivings may be partly influenced by the fact that it is never possible to demonstrate a clear cause and effect relationship between trade promotion and expansion of sales, and Financial Secretaries are inclined to look for clear cause and effect relationships. But my main reason is a feeling that the tourist industry should itself be providing a greater direct financial contribution to the Association than the \$72,500 received this year. I am fully conscious that the economic and financial benefits of tourism extend almost throughout our economy and that the case for a substantial contribution from general revenue is therefore conclusive; indeed I am partly responsible for the exposition of this doctrine in the report of the 1956 Working Party on Tourism. But there are certain sectors of the economy intimately concerned with tourism which stand to gain in special degree from its growth. I feel therefore that there is a strong case for raising a fair proportion of the promotional funds required by the Association by a special tax or levy raised through the industry. It is done in many of the older and more popular tourist countries, in the form of a tax on hotel bills, a *taxe de sejour*, etc. It is done in Switzerland, in Italy and in Japan. A levy, for example, equal to 50 cents per hotel room per night would raise over a million dollars next year. It has been argued that this would be a serious discouragement to tourism and we would lose more than we would gain, but I cannot see why we are so different from other tourist centres in this respect.”

I may perhaps add a brief quotation from what I said on the same subject the following year:—

“It seems unlikely that in present circumstances the incidence of such a tax would fall on the hotels themselves. It may be argued that it would be anomalous that it should fall on the tourists, but it is surely on the consumer that the cost of most advertising falls?”

The proposal for a hotel accommodation tax was endorsed by a majority of the Select Committee on the 1964/65 Estimates; and at about this time the Tourist Association itself advised that while such a tax would be a serious matter for the hotel industry it would not be so serious as any cutting back of the Association's budgeted expenditure.

When presenting this year's estimates I said that the Bill was in an advanced stage of drafting and that the rate proposed was 2% which should at present yield \$1,350,000 in a full year.

The Bill which is now before members has been referred during the drafting process to the two hotel associations and to the Tourist Association for their views on the details of its provisions—but not, of course, on the general principle of such a tax to which they are understandably opposed. We have been able to meet many of the representations they have made and I do not propose to go into the provisions of the Bill in any great detail to-day.

It is proposed that the Bill should come into effect on 1st October this year. This may perhaps appear on the face of it rather short notice for an industry which makes bookings many months in advance, but I think that I gave adequate notice of its coming into effect and of the rate of tax at the time of this year's Budget in February; particularly when this is taken in conjunction with the assurance I gave last year, in order to avoid dislocation in the industry, that the tax would not take effect before 1st January 1965, and that the rate would not exceed 2½%.

I might mention one clause on which there has been considerable argument, that is, Clause 6 which exempts hotels which charge less than \$15 a day or have less than ten rooms. It has been represented that in equity all hotels, irrespective of size or room charge, should bear the tax. But I think the present proposals cover adequately the type of hotel patronized by tourists and therefore likely to benefit from expenditure on tourist promotion. Furthermore, to widen the scope of the tax would probably increase the cost of collection out of proportion to the gain in revenue. Provision has, however, been made for variation of these limits by resolution of this Council should experience suggest that it is desirable.

The question arises whether the proceeds of the tax should be paid into a special fund such as we have now arranged for the Government Lotteries. I do not think this is necessary. The purpose of the tax is simple and straightforward so that it will at all times be possible to demonstrate unequivocally that the proceeds have been used for that declared purpose and for none other; and in any case, unfortunately, there is little likelihood in the foreseeable future of our not having to provide a substantial sum from general revenue for tourist promotion over and above the proceeds of the tax. This year's subvention is \$4,350,000 and the annual yield of the tax is estimated at only \$1,350,000 at present.

This takes me to my last point—the proper relationship between the tax and future funds for tourist promotion. In the Budget Debate this year I said that I would be making proposals about this. I had it in mind to relate the future growth of funds provided for tourist promotion to the growth of the proceeds from the tax. But I have had second thoughts both about this actual proposal and about the question of fixing now some automatic formula for the future. We do not yet know how the tax will work or what its actual yield will be; even if it may be desirable at a future date to fix a formula (and I have some doubts about that too), I think we might postpone a decision until we see better how things go.

THE COLONIAL SECRETARY seconded.

The question was put and agreed to.

The Bill was read a First time.

Objects and Reasons

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

The object of this Bill is to impose a tax on charges made for accommodation in hotels. Provision is made for the making of refunds of tax where the Collector is satisfied that accommodation charges have not been paid to a hotel proprietor (clause 9).

2. Clause 2 defines certain terms used in the Bill, the most important of which are “accommodation” and “hotel”.
3. Clause 4 empowers the Collector of Stamp Revenue to assess the amount of hotel accommodation charges in accounts which do not set out the amount of such charges separately.
4. Clause 5 provides for the payment of tax and the periodical making of returns showing the accommodation charges made. The Collector may require a hotel proprietor to give security for the payment of tax.
5. Clause 6 exempts certain accommodation charges from liability to taxation. These are where the charge is less than fifteen dollars per day, where accommodation is provided by a non-profit making organization and where a hotel contains less than ten rooms for lodging guests. The limits on the charge and number of rooms in a hotel may be varied by resolution of the Legislative Council.
6. Clause 7 grants rights of appeal to any person aggrieved by a decision of the Collector under clause 4 or 6.
7. Clauses 5(3) and 8(5) create offences for non-compliance with certain provisions of the Bill.

BUILDINGS (AMENDMENT) BILL 1965

MR A M. J. WRIGHT moved the First reading of a Bill intituled "An Ordinance further to amend the Buildings Ordinance 1955."

He said:—Your Excellency, the Buildings (Amendment) (No 2) Ordinance 1964 was passed in September last year. Under this Ordinance the Building Authority was given power to prohibit building works which in his opinion could not be undertaken without endangering the stability of other buildings in the vicinity. As a result, the Building Authority found it necessary in a substantial number of cases either to refuse to allow building works to proceed, or to impose stringent, and sometimes costly, conditions before allowing work to proceed.

At the end of 1964 the situation was causing considerable concern, for work had been stopped, or was unable to proceed, on some 283 sites. Discussions were held with the representatives of several bodies, and as a result certain new departmental procedures were introduced. The position now is that work has commenced on 173 of the 283 sites to which I have just referred. On only 12 of these sites has there been an outright refusal to permit work to proceed, and on the remaining sites work is expected to start as soon as certain conditions relating to shoring or foundation works have been met.

Since the beginning of this year the Building Authority has received a further 330 applications for demolition and 797 submissions for new building works. Of these—totalling 1,127—exactly 100 sites are affected by the 1964 legislation and permission to proceed has been refused unconditionally in only 13 cases.

I quote these figures because, though I have no wish to minimize the difficulties caused by the 1964 legislation, honourable Members and the public should know that the effects have not been so serious as has sometimes been suggested.

That the Building (Amendment) (No 2) Ordinance 1964 was justified, there can be no question. Cease Works Orders and Closure Orders resulting directly from building and piling works in the vicinity of old buildings have dropped significantly—from an average of 21 per month before the passing of the new legislation to an average of 8 per month in the subsequent 10 months. Nevertheless, experience over the last 10 months has indicated that improvements are necessary to further simplify procedure, and to assist developers and their professional advisers.

The decision that the Building Authority must take in regard to the possible effect of demolition, piling or building works on adjoining buildings is never an easy one, and is often most difficult. These are

matters of opinion, based on professional knowledge backed by experience, and cannot be predicted with scientific accuracy. There have been occasions when the developer and his architect have thought that the Building Authority has been over-cautious, but they have been unwilling to make use of the existing, somewhat formal and lengthy procedure for a hearing by the Statutory Appeal Tribunal.

It is felt by all the parties concerned that some simpler procedure is necessary, and Clause 10 of the Bill makes provision for the appointment of a panel of authorized architects to hear appeals from developers prejudiced by the Building Authority's exercise of the new powers given him by the 1964 Ordinance. A committee of review, consisting of three members of the panel, would be appointed to hear each appeal, and, to make the proceedings as brief and informal as possible, none of the parties would be allowed legal representation.

A committee of review will be able to overrule a negative decision of the Building Authority and direct that work be allowed to proceed, subject to any conditions that the committee may think necessary. Nevertheless, notwithstanding the decision of the committee of review, if the Building Authority considers that a neighbouring building is being endangered by the carrying out of building works in accordance with its directions he may—and indeed, should,—exercise the powers vested in him by section 14 of the principal Ordinance, and require work to cease. This is a matter of great importance, demanding a high degree of judgment and integrity on the part of the Building Authority and the officers to whom his authority is delegated. I would like to assure honourable Members that this authority will be delegated only to senior and experienced officers in the Buildings Ordinance Office.

When the Buildings (Amendment) (No 2) Ordinance 1964 was enacted it was thought that its provisions would be sufficient to enable a developer to obtain entry to adjoining premises for the purpose of erecting shoring. This has not proved to be the case, and in a number of instances developers have been refused access, or have only obtained access after payment of exorbitant sums. At present the only course open to developers in these circumstances is to obtain a court injunction to enforce their rights; this takes time, and in order to eliminate the delay Clause 3 of the Bill permits developers, who are obstructed in this way, to apply for a Magistrate's Warrant which can be enforced, if necessary, by Police action.

Occupants of shored buildings are, of course, eligible for reasonable compensation. This was provided for in the 1964 legislation, and if there is a dispute as to the amount of compensation it is determined by arbitration. Unfortunately it is impractical for many of the tenants affected to embark on the full procedure of the Arbitration Ordinance 1963, and this may place them at a disadvantage in negotiations with

developers. I hope that the staff of the Secretariat for Chinese Affairs can continue to act informally with a view to settling as many as possible of these cases without the need for formal arbitration.

Clause 5 of the Bill strengthens the provisions of the principal Ordinance regarding entry to premises which are subject to a Closure Order. The opportunity has also been taken to make certain minor amendments to the principal Ordinance in regard to Street Works and the misuse of buildings. Experience has shown that these minor amendments are desirable.

The major provisions of this Bill have been discussed with the Hong Kong Society of Architects and have their support.

THE COLONIAL SECRETARY seconded.

The question was put and agreed to.

The Bill was read a First time.

Objects and Reasons

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

In a substantial number of cases, the Building Authority has found it necessary, in exercise of the powers conferred upon him under the Buildings (Amendment) (No. 2) Ordinance 1964, either to refuse to allow building works to proceed, or to impose stringent and perhaps costly conditions before allowing them to proceed, because of the danger to adjoining and other buildings that he considers would otherwise arise. The decision that the Building Authority has to take in these cases is, broadly speaking, one of two kinds—

- (a) whether demolition works or building works will cause, or will be likely to cause, a total or partial collapse of an adjoining or other building, or will or may endanger such a building, and if so whether the collapse or the danger to adjoining buildings can be avoided; or
- (b) whether adequate precautions have been taken for the safety of buildings adjoining a building that is to be demolished.

The decision is never an easy one and is usually most difficult. It is, for example, not possible to predict with scientific accuracy the effect of the demolition of a building on the stability of an adjoining building or the effect of percussion or other piling on neighbouring buildings. These are very much matters of opinion, based on professional knowledge backed by experience. Whilst the Government has every confidence in the Building Authority and his staff and in the manner in

which they have discharged the very onerous burden cast upon them in exercising these powers, there have been suggestions that in some instances at least the Building Authority has been too cautious. In these circumstances, it has been decided that provision should be made enabling an independent committee to review, at the instance of the developer, the Building Authority's decision refusing to approve plans, or to consent to the commencement of building works, under section 9B(1)(k) or (l) or section 9B(4) or (5) of the Buildings Ordinance 1955 (the principal Ordinance), or imposing conditions under item 7 in the table to section 9C. Each committee of review will consist of three members, who will be nominated from a panel of suitably qualified and experienced architects and engineers appointed by the Governor. The Government intends that the proceedings of a committee of review should be as simple and expeditious as is possible consistently with ensuring that those concerned have a full opportunity of presenting their case. Accordingly, subject to statutory provisions conferring upon the developer and any other affected property owner and the Building Authority a right to make representations and to call witnesses, the procedure of a committee of review will be such as the committee considers will best suit each particular appeal coming before it; and in particular there will be a specific prohibition of representation by counsel or a solicitor. Upon an appeal, a committee of review may confirm the Building Authority's decision or, if the committee does not share the Building Authority's opinion, may give to the Building Authority such directions as to the exercise of his powers under the principal Ordinance as may be necessary to give effect to its decision and may direct him to impose such conditions as it considers necessary for the purpose of ensuring that the building works are carried out safely. It will be the duty of the Building Authority to comply with those directions, so far as the powers conferred by the Ordinance enable him to do 'so, notwithstanding that he does not agree with the decision of the committee of review. Members of a committee of review will be remunerated at a rate to be determined by the Governor, and liability for the payment of their remuneration will be a liability of the developer regardless of the outcome of his appeal.

2. Although a committee of review will thus be able to overrule the Building Authority's decision and direct that work be allowed to proceed (subject to any conditions that the committee may consider necessary), this will not mean that the Building Authority will no longer have any control over the building works. If, notwithstanding the decision of the committee of review, the Building Authority considers at any time that a neighbouring building is being endangered in consequence of the carrying out of the building works, he may exercise the power vested in him by section 14 of the principal Ordinance to require work to cease.

3. At the time the Buildings (Amendment) (No. 2) Ordinance 1964 was enacted, it was hoped that the authorization from the Building Authority provided for in subsection (6) of the new section 9D added to the principal Ordinance by section 4 of that Ordinance would be sufficient to enable a developer to obtain entry to premises for the purpose of fixing or maintaining the shoring required to make the premises safe whilst demolition works or building works are carried out on an adjoining or nearby site. These hopes have not been realized and in a number of instances developers have been refused access to premises altogether or payment of exorbitant sums by way of compensation has been demanded before access is permitted. It has, therefore, become urgently necessary to provide machinery for the enforcement of a developer's right to enter premises for these purposes. It is proposed that a developer whose entry to premises pursuant to the Building Authority's authorization is obstructed should be able to apply *ex parte* to a magistrate for the issue of a warrant authorizing the developer and police officers to enter the premises. Police officers will be empowered to use such force as may be necessary for the due execution of the magistrate's warrant. Furthermore, it will be an offence to obstruct any police officer or other person authorized by such a warrant to enter the premises.

4. The opportunity is taken to strengthen the provisions of the principal Ordinance with respect to entry to buildings in respect of which a Closure Order is in force so as to prohibit any person from entering or being in such a building without the permission of the Building Authority and so as to empower police officers to remove from such a building any person who is in the building without permission. As an additional safeguard, the Building Authority will be empowered to board-up the entrances to and exits from a closed building.

5. The opportunity is also taken to amend section 20 of the principal Ordinance so as to authorize the Building Authority to carry out emergency street works in a private street or access road which has in his opinion been rendered dangerous or liable to become dangerous.

6. This Bill also seeks to make two minor amendments to the principal Ordinance. Firstly, since building works or street works are not always carried out by a registered contractor, the revised section 14 will empower the Building Authority to serve a cease works order on the person by whom building works or street works are being carried out, as an alternative to service on a registered contractor. Secondly, a daily penalty not exceeding one hundred dollars will be provided for failure to comply with an order under section 16(2) of the Ordinance prohibiting an intended use of a building, or requiring the discontinuance of the present use of a building, where the building is unsuited by reason of its construction for such use.

IMMIGRATION (CONTROL AND OFFENCES)**(AMENDMENT) BILL 1965**

THE ATTORNEY GENERAL moved the Second reading of a Bill intituled "An Ordinance further to amend the Immigration (Control and Offences) Ordinance 1958."

THE COLONIAL SECRETARY seconded.

The question was put and agreed to.

The Bill was read a Second time.

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

Clauses 1 and 2 were agreed to.

Council then resumed.

THE ATTORNEY GENERAL reported that the Immigration (Control and Offences) (Amendment) Bill 1965, had passed through Committee without amendment and moved the Third reading.

THE COLONIAL SECRETARY seconded.

The question was put and agreed to.

The Bill was read a Third time and passed into law.

TENANCY (NOTICE OF TERMINATION)**(AMENDMENT) BILL 1965**

THE ATTORNEY GENERAL moved the Second reading of a Bill intituled "An Ordinance further to amend the Tenancy (Notice of Termination) Ordinance 1962."

THE COLONIAL SECRETARY seconded.

The question was put and agreed to.

The Bill was read a Second time.

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

Clauses 1 to 3 were agreed to.

Council then resumed.

THE ATTORNEY GENERAL reported that the Tenancy (Notice of Termination) (Amendment) Bill 1965, had passed through Committee without amendment and moved the Third reading.

THE COLONIAL SECRETARY seconded.

The question was put and agreed to.

The Bill was read a Third time and passed into law.

ADJOURNMENT

HIS EXCELLENCY THE GOVERNOR: —That concludes the business for today. The next meeting of Council will be held on 11th August.