

OFFICIAL REPORT OF PROCEEDINGS

Sitting of 20th November 1968

MR PRESIDENT in the Chair

PRESENT

HIS EXCELLENCY THE ACTING GOVERNOR (*PRESIDENT*)
MR MICHAEL DAVID IRVING GASS, CMG
THE HONOURABLE THE COLONIAL SECRETARY (*Acting*)
MR GEOFFREY CADZOW HAMILTON
THE HONOURABLE THE ATTORNEY GENERAL
MR DENYS TUDOR EMIL ROBERTS, OBE, QC
THE HONOURABLE THE SECRETARY FOR CHINESE AFFAIRS
MR DAVID RONALD HOLMES, CBE, MC, ED
THE HONOURABLE THE FINANCIAL SECRETARY
SIR JOHN COWPERTHWAIT, KBE, CMG
DR THE HONOURABLE TENG PIN-HUI, CMG, OBE
DIRECTOR OF MEDICAL AND HEALTH SERVICES
THE HONOURABLE ALEC MICHAEL JOHN WRIGHT, CMG
DIRECTOR OF PUBLIC WORKS
THE HONOURABLE WILLIAM DAVID GREGG, CBE
DIRECTOR OF EDUCATION
THE HONOURABLE ROBERT MARSHALL HETHERINGTON, DFC
COMMISSIONER OF LABOUR
THE HONOURABLE TERENCE DARE SORBY
DIRECTOR OF COMMERCE AND INDUSTRY
THE HONOURABLE KENNETH STRATHMORE KINGHORN
DISTRICT COMMISSIONER, NEW TERRITORIES
THE HONOURABLE DAVID RICHARD WATSON ALEXANDER, MBE
DIRECTOR OF URBAN SERVICES
THE HONOURABLE GEORGE TIPPETT ROWE
DIRECTOR OF SOCIAL WELFARE
THE HONOURABLE KAN YUET-KEUNG, CBE
THE HONOURABLE FUNG HON-CHU, OBE
THE HONOURABLE KENNETH ALBERT WATSON, OBE
THE HONOURABLE WOO PAK-CHUEN, OBE
THE HONOURABLE SZETO WAI, OBE
THE HONOURABLE WILFRED WONG SIEN-BING, OBE
THE HONOURABLE ELLEN LI SHU-PUI, OBE
THE HONOURABLE WILSON WANG TZE-SAM
THE HONOURABLE HERBERT JOHN CHARLES BROWNE
THE HONOURABLE MICHAEL ALEXANDER ROBERT HERRIES, OBE, MC
THE HONOURABLE LEE QUO-WEI
THE HONOURABLE OSWALD VICTOR CHEUNG, QC

ABSENT

THE HONOURABLE TSE YU-CHUEN, OBE

IN ATTENDANCE

THE CLERK OF COUNCILS
MR ROBERT WILLIAM PRIMROSE

PAPERS

THE ACTING COLONIAL SECRETARY, by Command of His Excellency the Acting Governor, laid upon the table the following paper:—

Subject

Sessional Paper 1968:—

No 38—Annual Report by the Commissioner of Rating and Valuation for the year 1967-68.

THE ATTORNEY GENERAL, by Command of His Excellency the Acting Governor, laid upon the table the following paper:—

Subject

LN No

Subsidiary Legislation:—

Dangerous Drugs Ordinance 1968.

Dangerous Drugs Regulations 1968 113

QUESTIONS

Trade Development Council

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

Will Government inform this Council whether there are any other reasons for the continued exclusion of the Exporters Association from *ex officio* membership of the Trade Development Council than those given by my honourable Friend, the Director of Commerce and Industry at the last Budget Debate?

MR T. D. SORBY:—Sir, the question that I am down to answer today, No 1 in the Order Paper, seems to be in the nature of a hardy annual, becoming almost a very strong perennial. You will perhaps excuse me if I take rather more of honourable Members' time than has perhaps been done in the past in this matter, and I hope that I am not to be accused of putting too much fertilizer in the pot. The fact of the matter is that on 27th March in this Council I gave the main reasons why the Government had not seen fit to accord *ex officio* representation to the Exporters Association on the Trade Development Council.* These reasons may be put more explicitly as follows:—

1. The Council is about the right size at present for its purpose as a policy making board.
2. Its composition *ex officio* and nominated provides balanced representation of exporting and manufacturing interests,

* Pages 167-8.

Government and other organizations who have a particular part to play in trade development and associated publicity measures.

3. The Exporters Association's claim to *ex officio* representation is in reality no better, and in some respects rather worse, than that of a number of other commercial or industrial organizations whose activities are geared to exports, whose advice is available to the Trade Development Council and its Executive in one way or another, and who have not sought *ex officio* representation on the Council.

In many ways the experience of the Exporters Association is duplicated in the Hong Kong General Chamber of Commerce. To the best of my knowledge there are now 83 members of the Association; 76 are members of the Chamber, ten of whom are also members of the Federation of Hong Kong Industries, both of which are represented *ex officio* on the Council. Seven member firms are not members of either of these organizations, and they include the enterprises of the present and immediate past chairman.

Two senior executive of member firms of the Association are at present on the Council, one nominated *ad personam* by Your Excellency, and one nominated by the Chinese Manufacturers Association.

Government is reluctant at present to broaden *ex officio* representation of manufacturing and exporting interests on the Council beyond those organizations which already encompass the great majority of such interest; which between them account for the greater part of Hong Kong's domestic exports; and which themselves have already made substantial contributions to developing Hong Kong's trade or associated infrastructure.

The Exporters Association certainly set out to make a contribution when first established in 1955 with 35 members, its objectives then being publicly stated to be: "to work closely with all those interested in the export trade of this British Crown Colony in order to develop overseas markets, disseminate information, eliminate malpractices, arrange for arbitration, solve trading problems and take all appropriate action to ensure that buyers are happy with, and the Colony can be proud of, any merchandise bearing the label 'Made in Hong Kong'". The legal objects of the Association are in one sense broader and in another more restrictive, as honourable Member can note from the objects of the Association as set out in its Memorandum of Association which, because they are too lengthy to quote in full, I have available for the information of honourable Members if they wish.

[MR SORBY] **Questions**

The Association has since its inception been particularly concerned with “the improvement of the quality of Hong Kong products and the proper implementation of contracts both local and overseas” (to quote a letter from the Chairman in 1960) but it has been difficult, until recently, to identify any distinctive efforts in this direction during the first ten years of its existence other than some degree of concentration on object (e) of its Memorandum of Association, which reads: “To promote the interests of members by prescribing conditions of trade with a view to avoiding unhealthy competition and uneconomic prices and to enter into agreements with manufactures and other persons or bodies corporate for this purpose”. The other objects of the Exporters Association do not differ materially from those of the Hong Kong General Chamber of Commerce, except that they confine its activities to matters connected with trade in exports.

In the last four years, more positive interest in these other objects has been hampered by the Association’s lack of an adequate permanent executive, which any organization claiming to make a distinctive contribution to the community must surely have. Otherwise its contributions are essentially those of the individuals who make up the organization, rather than the organization itself. This, I may say, was pointed out quite forcibly by my predecessor in 1966 to the then Chairman of the Association. The Association is under a misapprehension if it believes that *ex officio* membership of the Trade Development Council is an adequate substitute for its own permanent executive as the Chairman’s Statement included in the last annual report of the Association in some sense seems to imply.

I should like to add, Sir, that some circles seem to believe that Government actions indicate some lack of interest in, even animosity towards, the Association. This is not so. Since 1965, a member of the Association has been on the Cotton Advisory Board, but he is there, like all other members, in a personal capacity. A similar situation exists on the Trade Development Council, which is glad to see that a partnership in the execution of projects has already begun. Government believes that, for the time being at least, this is the most appropriate manner for the Association to be represented on the Council.

Indoor Stadium

2. MR WILSON T. S. WANG asked the following question:—

What progress has been made in planning for the construction of the indoor stadium and can Government now indicate a target date for its completion?

MR A. M. J. WRIGHT:—Sir, in July of this year after the inclusion of a suitable item in the Public Works Programme, the Government Architect investigated the feasibility of constructing an indoor stadium within a financial limit of about \$10 million.

On completion of the study it was presented to the relevant Select Committee of the Urban Council and accepted in principle. The preliminary sketch plans which formed part of the feasibility study are now being drawn up in greater detail so that more refined estimates of cost can be prepared and the final schedule of accommodation agreed.

I hope that this phase of the work will be completed by the end of the year after which, subject to acceptance of the final sketch plans by the Urban Council and Government, and thereafter upgrading the project by the Public Works Sub-Committee, we shall get on with working drawings and contract documents.

It is too early for me to forecast, with any certainty, when the project is likely to be completed.

Fire Service installations

3. MR SZETO WAI asked the following question:—

In view of the several serious fires occurring recently, will Government consider increasing the minimum fire-service installations and equipment at present prescribed for multi-storeyed buildings especially those for commercial and industrial uses?

THE ACTING COLONIAL SECRETARY:—Sir, I am advised by the Director of Fire Services that, with one reservation, our regulations governing fire installations and equipment are adequate and are similar to those prescribed in other comparable cities.

The reservation is that the Director considers that the Fire Services Department should be empowered to exercise a greater measure of control over the standards and maintenance of installations and equipment. Legislation to this end is currently being drafted.

The safety requirements are kept constantly under review and are modified in accordance with modern developments. For example, since 1964 multi-storey buildings must have lifts for firemen which operate on independent electric circuits, and must have special hydrant systems with water tanks and booster pumps linked to an internal alarm system. A sprinkler system may be prescribed if it is considered

[THE ACTING COLONIAL SECRETARY] **Questions**

to be justified. In addition the department is working on plans for the voluntary installation of what are known as “automatic fire annunciator boards”; this is a system whereby a fire in a building would automatically raise an alarm in a fire station.

I should add, Sir, that these various regulations are appropriate when a building is being used for the purpose for which it is designed. The improper or illegal use of buildings, or the irresponsible blocking of stairways, constitutes an additional fire risk. Members will be aware that the Director of Fire Services, in consultation with other departments, has been giving increasing attention to this problem.

Legal Aid

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

What was the total amount of legal fees payable to the 9 counsel and the 9 firms of solicitors in the recent murder case in which 9 youths were charged with the murder of another youth in a gang fight? Why was it necessary to employ 9 counsel and 9 separate firms of solicitors in that case?

THE ATTORNEY GENERAL:—Sir, the total amount of legal fees was \$239,400. It was necessary to assign 9 separate solicitors and 9 separate barristers because it was considered that the defence of each accused was likely to conflict with the defences of his co-accused.

MR P. C. Woo:—One supplementary question, Sir, who is responsible to decide whether there is any conflict between the 9 accused?

THE ATTORNEY GENERAL:—In this particular case the following procedure was followed. First of all the Director of Legal Aid read the depositions which had been taken in the Magistrates’ Court and statements made by the accused and formed the opinion that there were conflicts of interests and that as a result of these seven of the nine should be separately represented but that the other two could be properly represented by one counsel and one solicitor.

However, in view of the complicated nature of the case, the Director of Legal Aid instructed a solicitor in private practice to examine the papers, to take instructions from all the nine accused, and to advise him (that is to say advise the Director of Legal Aid) about the conflicting interests which might arise as a result of these additional instructions which the solicitor had obtained. The solicitor also advised that in his view there would be conflicts of interests to

such an extent that seven should be separately represented but that the other two could be adequately represented by one counsel and solicitor, and on the basis of this advice the Chief Justice assigned eight counsel and eight solicitors. However, the counsel who had been assigned to represent the two accused himself came to the Director of Legal Aid at a later stage and said that he had now taken further instructions from his two clients and that, as a result, he was satisfied that there would be a conflict of interest between those two as well and, in these circumstances, the Chief Justice appointed a ninth solicitor and counsel to represent one of those two accused.

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

Referring to my speech during the debate on the second reading of the Legal Aid Bill in 1966, will Government invite an official from the Law Society in England who has experience of legal aid to come to Hong Kong on contract for a short period of, say, 2 or 3 years to act as adviser in helping to set up the machinery for the administration of legal aid in Hong Kong? Will Government consider the employment of an experienced officer on contract from England to be the Director of Legal Aid?

THE ATTORNEY GENERAL:—No, sir. With the approval of the Secretary of State, an announcement will shortly be made of an appointment to this post.

Restricted areas in the Airport

6. MRS ELLEN LI asked the following question: —

What precautionary measures are there to prevent stray animals and unauthorized persons from getting into the restricted areas in the airport?

THE ACTING COLONIAL SECRETARY:—Sir, unauthorized access to the Airport is prevented generally by a perimeter fence. During the past year an additional coiled barbed wire fence has been constructed inside the perimeter fence as an added precaution.

Within the Airport there are various restricted areas which only authorized persons may enter, on production of a pass. In recent months several improvements have been made to the entrances, fences and other physical security arrangements in these areas.

[THE ACTING COLONIAL SECRETARY] **Questions**

My honourable Friend's reference to stray animals is perhaps prompted by the recent unauthorized entry of a buffalo into the Airport. This large animal presented itself at the entrance to the Fire Services airport establishment on Sung Wong Toi Road, and insisted on gaining admission through the gate provided for fire appliances. The fireman on duty at the gate was understandably unable to frustrate the animal's designs. But immediate action was taken by the Fire Services staff who sent vehicles to head the buffalo away from the runway. They were successful and the animal was killed near the Far East Flying Training School without having caused damage to people or property.

Traffic congestion: North-east Kowloon

7. MRS ELLEN LI asked the following question:—

Is there any plan in view to improve the traffic flow around the roundabout opposite the airport where vehicles crisscross one another in such chaotic conditions?

MR A. M. J. WRIGHT:—Sir, on the 11th September in reply* to a question from my honourable Friend, Dr S. Y. CHUNG, I gave a detailed description of our proposals for a new road network in north-east Kowloon. I described how at Kowloon City roundabout we propose to build three fly-overs in order to eliminate the "criss-crossing" of vehicles to which my honourable Friend Mrs LI refers. I do not think that I need repeat the details which were given to honourable Members a little over two months ago.

Interim measures to improve traffic conditions at both the Kowloon City and San Po Kong roundabouts have been taken. At Kowloon City, police control was introduced in mid-August and three police constables are on traffic duty from 7 a.m. to 7 p.m. daily. At San Po Kong police control was introduced in mid-September and two constables are on traffic duty each day. I am informed that the Police have found that with this control traffic movements are generally satisfactory.

Training/vocational facilities for girls

8. MRS ELLEN LI asked the following question:—

Is there any plan in sight for establishment of training/vocational facilities to prepare girls for employment in industries and is Government prepared to assist voluntary agencies financially to increase such facilities?

MR R. M. HETHERINGTON:—Sir, I found some difficulty in giving a helpful answer to this question because the subject of training facilities

* Pages 392-3.

for persons, irrespective of sex, entering industrial employment covers a wide range of qualifications. I would like to draw the attention of my honourable Colleague to paragraphs 29 to 39 of the annual departmental report of the Labour Department for 1966-67 which provide considerable information on the subject of industrial training at various levels. I would like to refer her in particular to paragraph 32 which sets out Government's declared policy on training at each of the four principal levels, technological, technician, craftsman, and operative. This policy makes no distinction between the sexes.

As far as women in industrial employment are concerned, whether adult women or girls, there are very few employed at the technological level and only a small number at the technician level confined mainly to laboratory or design work. There are probably none at the craftsman level. Most women, who are not engaged in managerial or secretarial work or who are not unskilled, are employed at the operative level.

Government's declared policy, to which I have just referred, is that operative training is the responsibility of industry which should provide on-the-job training. Government has offered to assist group training schemes or training schemes of single companies by making land grants free of premium for the erection of training establishments or by granting loans from the Development Loan Fund for the purchase of flatted factory space for training purposes. I recalled this offer in the debate on the budget in March of this year and reported that only one grant of land had been made up to date*. This still remains the figure. No applications of any sort under this offer have been received since then.

Institutional training of technicians and craftsmen is provided by the Hong Kong Technical College in a variety of courses. These are open to both girls and boys who possess the necessary entry qualifications. No discrimination between the sexes is made among applicants for entry to these courses. In practice, only a few girls take technician courses. I am informed that only one girl applied some years ago for a craft course although opportunities have always been available. This one applicant was accepted.

Reverting to my honourable Colleague's question regarding a plan for training facilities for girls entering industrial employment, the answer is that a planned division of responsibilities for various levels of training has been laid down and that facilities already exist at the universities, at the Hong Kong Technical College, and in factories.

On the question of vocational training for industry, I doubt if any voluntary agency provides institutional facilities for technologists, technicians, and craftsmen of the type available at the universities or

* Page 178.

[MR HETHERINGTON] **Questions**

the Hong Kong Technical College. The question of aid to voluntary agencies has, consequently, not arisen. If an approach was made to Government by a capable and reputable voluntary agency for the provision of financial assistance for providing such facilities, I believe that it would be given sympathetic consideration. There are of course, training centres run by the Social Welfare Department and voluntary agencies for non-industrial trades but these, I suggest, fall outside the scope of the question.

Fire prevention requirements

9. MR Q. W. LEE asked the following question: —

Since I am informed that the maximum effective height of the turn-table ladders used by our Fire Brigade is only 90 feet, what are the effective means of fighting fires that break out in premises of higher levels? As there are so many multi-storey commercial and residential buildings in the Colony, will the Government please comment on this matter as regards public safety as well as on the adequacy of the existing fire prevention installation requirements to cope with fire in the upper part of high buildings?

THE ACTING COLONIAL SECRETARY:—Sir, I am advised that ladders with a maximum height of 90 feet are standard equipment in most parts of the world, including the cities of the United States. It is true that higher ladders are used in a very few cities in Europe, and we have considered obtaining a 200 ft ladder for Hong Kong. But the technical problems of operating such lofty ladders and of maintaining their stability have not yet been solved to the satisfaction of the Director of Fire Services for the special conditions and gradients of Hong Kong. The Director is of course in constant touch with the latest developments in this field.

It must be recognized, Sir, that some buildings will always exceed the height of the tallest ladder which human ingenuity can devise, or even the height of the water jet that can be fired from the top of such ladders.

Consequently, Regulations and Codes of Practice prescribe that such buildings should be so designed that fires can be fought by an attack from the lower floors. These Regulations and Codes govern means of escape for the occupants; means of access for firemen; materials and design of construction intended to confine the fire within a limited area; and apparatus and equipment within the building. In the recent fire in the Hang Seng Bank building, in which a gallant

fireman tragically lost his life, the fire was attacked from below (as well as from outside) and was successfully contained within one floor.

As regards the second part of the question, I have already described the policy and practice in my reply to my honourable Friend Mr SZETO Wai.

It will never be possible, Sir, to reach perfection in fire prevention and control, but I am confident that the Director of Fire Services keeps a watchful eye on developments throughout the world with a view to their adoption, where appropriate, in Hong Kong.

MR Q. W. LEE:—Thank you.

STATEMENT

Cost of Legal Aid

THE ATTORNEY GENERAL:—Sir, may I invite the attention of honourable Members to Question Number Four on the Order Paper of the meeting of this Council on 23rd October 1968* when the Honourable Mr P. C. Woo asked: “What is the administrative cost to date to Government in civil legal aid cases?”

I much regret that the total of \$639,000, which I gave in my answer, was wrong.

Separate figures are not in fact kept for the administrative costs of civil and criminal legal aid but the combined cost of both from 1st January 1967 to the 30th September of this year was \$395,100.00, which includes \$76,800 in respect of 4 officers of the Social Welfare Department, who were engaged full-time during that period in investigating the means of applicants for legal aid in civil cases.

Honourable Members may wish to know that the administrative costs of civil legal aid cover all the preliminary work which is done in considering applications for legal aid, including, of course, the work done on those applications where a certificate is not granted. This involves an investigation into the means of the applicant and the collection of statements from witnesses and of relevant documents so that a merit test may be conducted. The staff of the Director of Legal Aid also collects contributions, when assessed, from aided persons and deal with the taxation of costs and payment to counsel and solicitors assigned.

* Page 505.

[THE ATTORNEY GENERAL] **Statement**

When an assignment is made, as a result of the preliminary work which has been done by the Director of Legal Aid, a considerable amount of material is made available to the assigned solicitor, which would otherwise have to be obtained by the solicitor himself.

I offer my apologies to honourable Members for having misled them on the 23rd October.

**REGISTERED TRUSTEES INCORPORATION ORDINANCE
(AMENDMENT OF SECOND SCHEDULE) ORDER 1968**

THE ATTORNEY GENERAL moved the following resolution: —

Resolved, pursuant to subsection (2) of section 15 of the Registered Trustees Incorporation Ordinance, that the Registered Trustees Incorporation Ordinance (Amendment of Second Schedule) Order 1968, made by the Governor in Council on the 12th day of November 1968 under subsection (2) of section 15 of that Ordinance, be approved.

He said:—Sir, the fee for the granting of a certificate of incorporation to a charity or body of persons under this Ordinance is at present fixed by the Second Schedule to the Ordinance at \$100. This charge was imposed when the Ordinance was passed in 1958 and has not been altered since then. It has been found that a fee of \$100 is quite insufficient to cover the administrative costs involved in processing applications for incorporation and accordingly it is proposed to raise the fee to \$200.

This has been done by the order made by the Governor in Council under section 15(2) of the Ordinance, and a copy of this Order is now before honourable Members. However, by the proviso to section 15(2) such an order can come into operation only when it has been approved by resolution of this Council.

Accordingly, sir, I move that the Registered Trustees Incorporation (Amendment of Second Schedule) Order 1968 be approved.

Question put and agreed to.

EXCHANGE FUND (AMENDMENT) (NO 2) BILL 1968

Bill read the first time and ordered to be set down for second reading.

EXCHANGE FUND (AMENDMENT) (NO 2) BILL 1968

THE FINANCIAL SECRETARY moved the second reading of:—“A bill to amend further the Exchange Fund Ordinance.”

He said:—Sir, it was just five months ago that I introduced a bill* to raise the borrowing power of the Exchange Fund from \$30 million to \$1,500 million. This was necessary to enable us to take full advantage of the Hong Kong dollar bond scheme which had recently been agreed and which required the taking into official hands of the sterling assets of the banks if these were to be included within the scheme. The sterling guarantee arrangement which has replaced the Hong Kong dollar bond scheme also covers only officially held reserves and therefore also involves borrowing by the Exchange Fund of the sterling assets of the banks if full use is to be made of the arrangement. The new sterling guarantee scheme is simpler and cheaper and provides a higher degree of cover and it seems probable that a higher proportion of bank assets will be transferred to the Fund than was likely under the previous scheme. Hence the proposed increase in the Fund's borrowing power.

The present bill also proposes that alteration of the limit of the Fund's borrowing power should be possible in future by a resolution of this Council rather than by the more complicated and lengthier procedure of an amending bill. Even if the proposed \$2,000 million is enough to cope with present requirements, these may well change—indeed, reserves appear to be increasing at present—and prompt action may be desirable.

I should add that, by virtue of Royal Instructions XXVI(3), the Governor may not assent to this bill, if passed by this Council, unless previously authorized by the Secretary of State. Authority has been received for the increase in borrowing powers to \$2,000 million but there may be legal complications in the way of the provision permitting subsequent changes to be made by resolution of this Council. I hope to be able to say more on this latter point at committee stage.

I should also add that the general lines of a scheme for extending the guarantee to cover the sterling assets of the banks has already been worked out and agreed with the Exchange Fund Advisory Committee. It is designed so that the Fund operations do not interfere with our internal interest rate structure and permit the banks to continue to manage the sterling assets they at present hold. The detailed application of the scheme is still being worked out but I hope to be able soon to give details of it to the banks and to have it operating shortly.

If Members will bear with me a little longer, I should like to take this opportunity to reveal further details of the superseded Hong Kong dollar bond scheme than has been possible to do so far and also to say more about the new sterling guarantee.

* Pages 326 and 347.

[THE FINANCIAL SECRETARY] **Exchange Fund (Amendment) (No 2) Bill—second reading**

Members will recall that the earlier scheme, which was negotiated in late April and early May, enabled the switch of £100 million or 50% of our official reserves, whichever was greater, from sterling into special seven year British Treasury bonds designated in Hong Kong dollars, up to a maximum holding of £150 million. The point of this arrangement was that, in the event of a further devaluation of sterling, these bonds would protect the value of our reserves, to the extent we held them, so long as, and here was the potential weakness, so long as we were not forced, for example for competitive trading reasons, to devalue the Hong Kong dollar also. One of the most unattractive features of this was that these were seven year bonds and, while we secured the right to redeem them prematurely for reasons of liquidity, we were unable to secure the right to do so in the event of a sterling devaluation and might therefore have had to hold them for up to seven years before consolidating the guarantee they offered.

A second point of which we were unable to make full disclosure at the time was the price we had to pay for this protection. We were originally asked to accept a rate of interest on these bonds which was 1½% below the current rate of interest on seven year public borrowing in London. We were able in the end, however, to have this differential reduced to ¼% on the condition that, on premature redemption, the rate of interest would be adjusted downwards on a sliding scale starting at a ~~7% reduction~~ reduction of 1/16% on the condition that, on premature redemption, the rate of interest would be adjusted downwards on a sliding scale starting at a ~~7% reduction~~ reduction of 1/16% each half year we held them. These arrangements were, I think, reasonable in the circumstances.

On other unsatisfactory feature of this arrangement was its rigidity in terms of investment of reserves—a substantial part of our sterling assets had to be held in seven year bonds and there was no opportunity for managing the investment of these assets to our best advantage. Another difficulty was that of linking this bond system with a guarantee scheme for our own banks; it would have been a complicated procedure involving the Exchange Fund in substantial risks which would have had to be paid for by levying fairly heavy charges on the banks and through them on commerce.

It will be seen therefore that, while the scheme was substantially better than what we had before, and was substantially cheaper than was supposed by most critics, it had serious defects and posed not inconsiderable practical problems.

We did proceed, however, in June to switch £62 million's worth of our short term and medium term sterling assets into these new bonds, leaving an adequate liquid reserve in sterling for day to day purposes. We were reluctant, however, to liquidate our longer term sterling securities

for investment in seven year bonds in the circumstances of that time, as we were likely to lose substantially both in the short and longer terms. We had, however, made preliminary and provisional arrangements to borrow short-term sterling assets from the note-issuing banks to make our holdings of bonds up to just over £100 million, when the new sterling guarantee proposals were communicated to us early in July. It suited neither Britain nor ourselves that we should proceed to purchase further bonds at that stage and instead we secured from Britain a temporary guarantee, also in terms of Hong Kong dollars, for three months or until the new arrangements were in force, whichever was earlier, at a cost of $\frac{3}{4}\%$ per annum. There was one improvement on the bond in that this guarantee was to be implemented thirty days after any change in the exchange value of sterling and did not have to await a seven year maturity.

In July we were offered a choice of the proposed new sterling guarantee or a continuation of the Hong Kong dollar bond arrangement or a combination of both, but it was clear from the beginning that there was substantial advantage in joining the new scheme, should it come into effect; and later, when the final terms had been negotiated on a “most favoured nation” basis between Britain and the various sterling area countries, there could be no doubt at all about this.

‘Most features of the scheme are already public knowledge. Briefly, there is a guarantee, valid for five years, of the US dollar value of most forms of official sterling assets to the extent that these exceed 10% of total official foreign assets; that is, 10% of each participating countries’ reserves are to be held in non-guaranteed sterling, the remainder being either in guaranteed sterling or in non-sterling assets. The guarantee is free and would be implemented, in the event of a future sterling devaluation, by a payment in sterling thirty days thereafter to restore the US dollar value of the guaranteed part of the sterling reserves.

These principles apply to all sterling countries, the only difference of substance between countries being in the proportion of sterling and non-sterling assets within the 90% of total reserves affected. Here comes in the *quid pro quo* by sterling area countries, by way of an undertaking by them to maintain a minimum proportion of their total official reserves at all times in the form of sterling. These proportions are intended to reflect broadly the proportion held at the time negotiations began. That being so, they reflect the actual degree of diversification of exchange reserves in each country at that date and this is the only part of the arrangement which might be criticized as discriminatory in practice as it continues existing disparities; but at least during the course of the arrangement this is no great disadvantage and possibly even a benefit in terms of interest. In our case, our non-sterling foreign

[THE FINANCIAL SECRETARY] **Exchange Fund (Amendment) (No 2)
Bill—second reading**

assets being virtually limited to small holdings of Malaysian securities, the proportion is 99% which virtually precludes any significant further diversification even if total reserves increase.

One substantial advantage of this scheme over the Hong Kong dollar bond scheme, apart from its being free of cost and covering 90% instead of 50% of reserves, is that it leaves existing sterling investments untouched and allows free scope for their further management. These features make it very much simpler to devise a scheme for bringing bank sterling into official hands and so bringing it into the scope of the guarantee. As I said earlier, a general scheme for achieving this for banks “ready” assets has already been worked out. I must confess, however, that the sterling guarantee provides no help towards solution of the very difficult problem of providing forward cover for banks. We must rely on ourselves for this and we are still working on it. But I feel that the most important thing is to get our existing assets under cover of the guarantee as soon as possible.

I might complete the story of the Hong Kong dollar bonds by saying that the £62 million worth which we had bought were redeemed without interest penalty on the day the new arrangement went into force, i.e. 25th September, and the proceeds have been appropriately reinvested in sterling securities.

Question proposed.

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

Question put and agreed to.

Explanatory Memorandum

This bill raises the limit of the amount which the Financial Secretary may borrow for the account of the Exchange Fund from fifteen hundred million Hong Kong dollars to two thousand million dollars and empowers the Legislative Council by resolution to vary that amount.

TRUSTEE (AMENDMENT) BILL 1968

Resumption of debate on second reading (6th November 1968)

Question again proposed.

Question put and agreed to.

Bill read the second time.

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

BUILDINGS (AMENDMENT) BILL 1968

Committee stage

Council went into committee to consider the bill clause by clause.

Clause 1 was agreed to.

Clause 2.

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

Proposed Amendment

Clause

- 2 (i) That a new paragraph (a) be inserted as follows—
“(a) in subsection (1), by inserting the words “and thereafter removed” after the word “necessary” where it last occurs therein;
- (ii) That the present paragraphs (a) and (b) be renumbered as (b) and (c) respectively.

The amendments were agreed to.

Clause 2, as amended, was agreed to.

Clause 3.

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

Proposed Amendment.

Clause

- 3 In the proposed new section 18A(2), that “six months” be deleted and “three years” substituted therefor.

The amendment was agreed to.

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

Buildings (Amendment) Bill—committee stage

Proposed Amendment.

Clause

3 In subsection (3) of the new section 18A that the following words be inserted after the words “a tenancy tribunal”:—

“consisting of a president and one or more other members”.

The amendment was agreed to.

Clause 3, as amended, was agreed to.

Clause 4 was agreed to.

Council then resumed.

THE ATTORNEY GENERAL reported that the bill before Council had passed through committee with certain amendments.

HIS EXCELLENCY THE PRESIDENT: —The bill has now been reported from committee and the Council is deemed to have ordered it to be set down for third reading.

Third reading

THE ATTORNEY GENERAL moved the third reading of the bill.

Question put and agreed to.

Bill read the third time and passed.

ADJOURNMENT

Motion made, and question proposed. That this Council do now adjourn—THE ACTING COLONIAL SECRETARY.

3.10 p.m.

Transport and Traffic Policy

MR K. A. WATSON:—Sir, at the end of the month a new Transport Advisory Committee is to be appointed and the Transport Office is to become a separate department instead of being part of the Colonial Secretariat. This change will be welcomed as evidence of Government's growing awareness of the importance of transport and traffic.

This would also appear to be an appropriate time to consider the relative duties and functions of the TAC 'and the Commissioner for Transport, where a certain amount of overlapping appears to be taking place.

Our form of Government, in which the man in the street has little direct say, nevertheless enjoys a large measure of popular support. It does appear to have, as its primary object, the welfare of the people and makes strenuous efforts to find out what is needed. It does this through a large number of unofficial advisers, consisting of various Councils, Boards and Committees, on which serve both Government officials and members of the public with special knowledge and interests. I know that my Unofficial Colleagues are strongly convinced of the value of these bodies, and would wish to see them given as much authority and standing as possible. And Government has frequently indicated how much it values this form of partnership.

Amongst them were the Advisory Committee on Public Transport and its successor, the Transport Advisory Committee, or TAC. The latter is not, as some people appear to think, a group of private citizens whose recommendations are put before Government experts for evaluation and decision. All Government's transport and traffic experts are already on it, including the Commissioner for Transport, the Director of Public Works, the Commissioner of Police, the Director of Marine and, to make sure that finance is not overlooked, the Deputy Economic Secretary.

Unfortunately in recent months there have been indications that this valuable Committee is being downgraded. The Commissioner for Transport seems to be taking over, either with or without Government approval, some of the functions previously belonging to the Committee, and this has made many people ask, if power is to be transferred to the Commissioner, why bother to have a Committee?

Now my honourable Friend the Colonial Secretary has assured us that it is not Government's intention to downgrade the TAC and that the relationship between it and the Commissioner remains the same as before. Certainly the terms of reference sets out their duties quite clearly. The Commissioner is charged with the general co-ordination of all internal transport matters, the provision of a secretariat for the TAC, the responsibility for making sure that its views and decisions are properly considered and (though this is not specifically mentioned) the exercise of his duties as the statutory authority for certain matters.

The duties of the TAC are to advise His Excellency the Governor generally on broad aspects of policy relating to internal transport and its co-ordination, development, control and administration, to examine

[MR WATSON] Transport and Traffic Policy

any complaints and suggestions from the public, and to keep under continuous scrutiny and to report its views to the Governor on a wide range of subjects, such as all aspects of public transport services, the control and use of roads, carparks, piers, transport vehicles and ferries, and proposals for new transport facilities.

I think it is clear from this that the TAC is intended to be Government's major adviser on all internal transport matters, with the Commissioner advising the Committee and assisting it in its duties.

One stumbling block in the terms of reference is the explanation that although a statutory authority may seek and receive advice from the Committee, he is required to exercise his authority solely in accordance with his own judgement. There is nothing new in this, though a new interpretation has appeared. Statutory authorities were in existence before the TAC was formed. In the time of the ACPT the Commissioner of Police was the statutory authority for licensing, registration of vehicles, the designation of parking places, and the closure of roads, all of which have now been transferred to the Commissioner for Transport.

In the past it was thought that this referred only to the routine duties of issuing licences and registering vehicles and the rest, and that when matters of important policy arose, the TAC would make its recommendations to the Governor in the usual way. Certainly when the ACPT discussed the licensing of taxis, it advised the Governor, and its recommendations were accepted by the Governor in Council. At no time, as far as I can remember, was it suggested that it was advising the Commissioner of Police as the Statutory Authority.

Now these four fields may not seem at first sight very important. But if the interpretation of the powers of statutory authorities includes making major policy decisions, without any obligation to accept any advice, a very serious situation could arise. The Commissioner could, for example, decide that as from next Monday, no more private cars would be licensed, that all parking spaces in the Central District would be cancelled, or that all roads in Wan Chai were to be closed to private cars in order to force people to use buses. And even if he asked the advice of the TAC, Government's highest transport policy making body, who would be under no obligation to take it, however mistaken his proposals might be.

If it got known that anybody wanting special privileges only had to persuade one man, who may then ignore any advice he might get, that man could be subjected to considerable pressure, including bribery, blackmail or even intimidation. I hasten to say I am sure that the present Commissioner would not succumb, but it seems to me that this is a situation which should not be allowed to occur.

If this interpretation remains unchanged, I am afraid that there is going to be continuing friction between the Committee and the Commissioner. It is sensible to give one man wide powers in the carrying out of routine duties, but in matters of major policy it is difficult to see the logic of one member asking the advice of an expert committee, of which he is a member and then to assume that his sole judgement is superior to the collective wisdom and experience of that committee. I feel that rule was intended for other circumstances and is now out-of-date.

There are two ways in which this difficulty could be overcome. The first would be to agree that if the Commissioner accepted the Committee's advice, well and good. But if he were unable to do so, instead of rejecting it, he would forward it and his reasons for being unwilling to accept it to you Sir, who would then direct the Commissioner what to do, under Section 36 of the Road Traffic Ordinance.

The other, much more logical solution would be for the Committee to be made the statutory authority, delegating the day-to-day application to the Commissioner, and only concerning itself with major matters of policy. It is perhaps reasonable to suppose that the judgement of a Committee which includes Hong Kong's main traffic experts would perhaps be sounder than that of just one of them.

Sir, I am not asking Government to give detailed replies today to the fears I have expressed and the suggestions I have made. May I ask only that the assurance given by my honourable Friend the Colonial Secretary that no downgrading of the TAC is intended, be repeated publicly in order to reassure my Unofficial Colleagues and to emphasize the importance which Government places on the advice of that Committee.

MR Y. K. KAN:—Sir, I realize I am in a delicate position, as the past Chairman of the ACPT and the TCA, to enter into the controversy over the functions and duties of the TAC and the Commissioner for Transport; and I do not propose to do so. But I do want to give support to my honourable Friend's second proposal and urge Government to seriously consider the early establishment of a transport board with clearly defined duties and functions and powers over all matters relating to internal transport. I believe that the present set-up is unable to deal with many of the important and urgent matters relating to internal transport. I do not know of any overriding reasons against the setting up of such a board. If there are such overriding reasons I for one would be glad to hear of them and if necessary to have a debate on them.

Transport and Traffic Policy

3.20 p.m.

THE ACTING COLONIAL SECRETARY:—Sir, my honourable Friend Mr WATSON has raised certain questions concerning the Transport Advisory Committee.

First, Sir, a minor correction. There is a proposal that the Transport Office should become a separate department; but the decision has not yet been taken by the Finance Committee of this Council.

I can confirm quite definitely that Government has no intention whatsoever of down-grading the Transport Advisory Committee. This is an import committee. Full weight is given to its advice, and I am glad to echo the tribute paid to it recently in this Chamber by the acting Financial Secretary.

Mr WATSON has enquired about the relationship between the Committee and the Commissioner for Transport. This relationship was described in some detail in a paper considered by the Committee earlier this week. But it may be helpful if I describe the position again.

The Committee was appointed “to advise the Governor on the co-ordination, improvement and development of internal transport facilities”. A Guidance Note attached to the terms of reference set out the Committee’s responsibilities in more detail and referred in particular to the position of statutory authorities. It was made clear that, while the committee may *advise* a statutory authority (for example the Commissioner for Transport) the final decision must remain with him. This is important, first because the statutory authority bears full responsibility for the decision, and second because the authority’s decision might be successfully challenged in the Courts if it could be established that he was accepting instructions from the Committee. It is very helpful to the Commissioner for Transport to receive advice from this experienced body. Naturally he will give great weight to the advice of the committee, and one would expect that in most cases there would be no divergence of opinion on the policy to be adopted. But in rare cases, and I know only of the one case which Mr WATSON mentioned, the Commissioner may not feel able to accept the Committee’s advice. Like Mr WATSON, I would then expect the Commissioner to explain his reasons to the ‘Committee, and it may be that, after further discussion, the Committee may succeed in convincing him. If not, the statutory authority’s decision must prevail.

This is the relationship between any statutory authority and an advisory committee. As Mr WATSON says, there is nothing new in it, and the system normally works satisfactorily.

There is an additional factor in that the Governor under section 36 of the Road Traffic Ordinance is empowered to give directions to the Commissioner for Transport with respect to the exercise of his powers. Thus, if the Committee remains unconvinced by the Commissioner's explanation, and is unable to convince him, it may decide to advise the Governor to over-rule the Commissioner. The Chairman of the Transport Advisory Committee has direct access to the Governor and consequently has full opportunity to put forward his views if the Committee feels very strongly on some important matter. In such a matter the final decision would of course rest with the Governor.

I don't think that there are any real grounds for fearing that a Commissioner for Transport would abuse his authority in the manner envisaged by my honourable Friend. On these matters of major policy he would be obliged to seek advice from the committee or from other departments. Powers are delegated to a statutory authority on the assumption that they are exercised responsibly; and there are means of controlling any government officer who acts irresponsibly. Moreover the Governor could always intervene, with his over-riding authority, if it were necessary.

It certainly would be possible, as Mr WATSON and Mr KAN suggest, for the Transport Advisory Committee to be turned into a statutory executive body. But such committees are uncommon here and I do not at present see any advantages in such a system. But we can give this suggestion further consideration.

Sir, the TAC is an important advisory committee, and the Commissioner has important, difficult and controversial responsibilities. In my opinion the present system can be made to work satisfactorily with mutual tolerance and co-operation.

Question put and agreed to.

NEXT MEETING

HIS EXCELLENCY THE PRESIDENT:—Council will accordingly adjourn. The next meeting will be held on 4th December.

*Adjourned accordingly at twenty-seven minutes
before Four o'clock.*