

OFFICIAL REPORT OF PROCEEDINGS

Wednesday, 12th May 1971

The Council met at half past Two o'clock

[MR PRESIDENT in the Chair]

PRESENT

HIS EXCELLENCY THE GOVERNOR (*PRESIDENT*)
SIR DAVID CLIVE CROSSBIE TRENCH, GCMG, MC
THE HONOURABLE THE COLONIAL SECRETARY
SIR HUGH SELBY NORMAN-WALKER, KCMG, OBE, JP
THE HONOURABLE THE ATTORNEY GENERAL
MR DENYS TUDOR EMIL ROBERTS, CBE, QC, JP
THE HONOURABLE THE SECRETARY FOR HOME AFFAIRS
MR DAVID RONALD HOLMES, CMG, CBE, MC, ED, JP
THE HONOURABLE THE FINANCIAL SECRETARY
SIR JOHN JAMES COWPERTHWAITTE, KBE, CMG, JP
THE HONOURABLE ROBERT MARSHALL HETHERINGTON, DFC, JP
COMMISSIONER OF LABOUR
THE HONOURABLE DAVID RICHARD WATSON ALEXANDER, MBE, JP
DIRECTOR OF URBAN SERVICES
THE HONOURABLE JAMES JEAVONS ROBSON, JP
DIRECTOR OF PUBLIC WORKS
THE HONOURABLE JOHN CANNING, JP
DIRECTOR OF EDUCATION
DR THE HONOURABLE GERALD HUGH CHOA, JP
DIRECTOR OF MEDICAL AND HEALTH SERVICES
THE HONOURABLE PAUL TSUI KA-CHEUNG, OBE, JP
COMMISSIONER FOR RESETTLEMENT
THE HONOURABLE JACK CATER, MBE, JP
DIRECTOR OF COMMERCE AND INDUSTRY
THE HONOURABLE DENIS CAMPBELL BRAY, JP
DISTRICT COMMISSIONER, NEW TERRITORIES
THE HONOURABLE KAN YUET-KEUNG, CBE, JP
THE HONOURABLE WOO PAK-CHUEN, OBE, JP
THE HONOURABLE SZETO WAI, OBE, JP
THE HONOURABLE WILFRED WONG SIEN-BING, OBE, JP
THE HONOURABLE ELLEN LI SHU-PUI, OBE, JP
THE HONOURABLE WILSON WANG TZE-SAM, OBE, JP
THE HONOURABLE HERBERT JOHN CHARLES BROWNE, JP
DR THE HONOURABLE CHUNG SZE-YUEN, OBE, JP
THE HONOURABLE LEE QUO-WEI, OBE, JP
THE HONOURABLE OSWALD VICTOR CHEUNG, QC, JP
THE HONOURABLE ANN TSE-KAI, OBE, JP
THE HONOURABLE LO KWEE-SEONG, JP

ABSENT

THE HONOURABLE GERALD MORDAUNT BROOME SALMON, JP

IN ATTENDANCE

THE CLERK TO THE LEGISLATIVE COUNCIL
MR RODERICK JOHN FRAMPTON

Papers

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

	<i>Subject</i>	<i>LN No</i>
Subsidiary Legislation:—		
	Merchant Shipping Ordinance.	
	Merchant Shipping (Typhoon Shelters)	
	(Amendment) Regulations 1971	48
	Resettlement Ordinance.	
	Delegation of Powers.....	52
	Resettlement Ordinance.	
	Delegation of Powers.....	53
	Resettlement Ordinance.	
	Delegation of Powers.....	54
	Resettlement Ordinance.	
	Resettlement (Amendment) Regulations 1971	55
Sessional Papers 1970-71:—		
	No 54—Annual Report by the Director of Commerce and Industry for the year 1969-70 (published on 12.5.71).	
	No 55—Annual Report by the General Manager, Railway for the year 1969-70 (published on 12.5.71).	

Oral answers to questions

Communications for Lantau Island

1. MR H. J. C. BROWNE asked:—

Would Government say what plans they have for improving communications on Lantau Island by the construction of new roads, and when it is planned to introduce a vehicular ferry service?

MR D. C. BRAY:—Sir, the basic road structure on Lantau is a road from Mui Wo to Tai O running from one end to the other, along the south side of the main mountains, and one running from Tong Fuk to Tung Chung northwards over the centre of the Island. There

is no plan to extend this system which is, for the most part, a system of single lane roads ten foot wide suitable only for a limited volume of traffic. Two sections at either end of the South Lantau Road will take two way traffic. Present plans are to give priority to widening the road from Cheung Sha to Keung Shan to join the two existing sections of two way road before extending the system itself. To this end an item for widening and realignment of the road from Cheung Sha to Shui Hau, the next stage of the present road widening scheme, appears in the Public Works Programme. The item is in Category C which means that it is among those works which may be expected to reach the planning stage within three years. Widening of the whole route from Cheung Sha to Keung Shan would cost about \$12 million. Allowing for planning and construction time, present expectations are therefore that substantial improvements will not be completed before the late seventies.

It was in the light of the nature of this road system that a suggestion for a vehicle ferry service made by the Hong Kong & Yaumati Ferry Company was examined in the Transport Advisory Committee last October. Their advice, which has been accepted, was that the extra traffic that would be produced by such a service now would have made traffic conditions on Lantau dangerous. Since the ferry service depends on the capacity of the road system, present expectations must be that it too will not start before the late seventies.

MR BROWNE:—Sir, I wonder if I might ask whether, in view of the great demand for recreational facilities by the urban dwellers, whether the possibility of developing and opening up Lantau could be subject to special consideration or perhaps higher priority than it appears to be receiving at present?

MR BRAY:—Sir, the question of providing additional facilities for recreation for people from the urban area is being examined in the Countryside Committee which Your Excellency has appointed to advise me. We hope to have proposals for the main strategy for this type of development ready in the near future, but I regret I cannot say at this stage where Lantau would figure in that programme.

MR OSWALD CHEUNG:—Sir, is it not a fact that representations were made by the Commissioner of Police to the Traffic Advisory Committee that he could not advise allowing this vehicular service to Lantau to be initiated until he had recruited more traffic police for Lantau Island, and Finance Committee approved posts for these officers more than six months ago; and is it not a fact that the matter is due for reconsideration by the Traffic Advisory Committee as soon as the staff have been recruited for that purpose?

Oral Answers

MR BRAY:—Approval in principle has been given for the establishment of an Islands Division in the Marine District Command and office accommodation has been found. At present it has not yet been possible to find residential accommodation for the staff necessary, so that that Division has not yet been established.

MR Y. K. KAN:—Sir, I have a question. Would the District Commissioner consider the present road system in Lantau Island adequate and, from the point of view of safety, sufficiently safe having regard to the increasing volume of traffic, particularly with the increasing number of mini-buses that are running on these roads?

MR BRAY:—Sir, there are approximately 33 buses in operation on Lantau at present and I believe that the road system is adequate for weekday use. At the weekends naturally more traffic uses it—or the traffic uses it more intensely, I should say, since there is no vehicular ferry. But for weekday use I think the present system is such an advance over anything that has been known in Lantau that I think it will be sometime before it is used to full capacity.

Fire in Queen's Road East

2. MR SZETO WAI asked:—

With regard to the fire which occurred recently in the tenement houses in Queen's Road East, will Government say:—

- (a) What was the number of dead and injured as a result of it?
- (b) How many people all together lived in the buildings prior to the disaster?
- (c) What was the rate of occupancy of these buildings, *i.e.* floor area occupied by each occupant?

THE COLONIAL SECRETARY (SIR HUGH NORMAN-WALKER):—Sir, the fire to which my honourable Friend refers occurred on the evening of 21st April and it affected Nos 135 and 137 Queen's Road East. As a result of the fire it was found necessary to close an adjacent building, No 139 Queen's Road East, and the figures that I give in this reply include residents of all three buildings. Altogether seven persons died and three were injured in the fire; one of those who died was not a resident. All the casualties occurred in No 135.

A total of 218 persons from the three premises were registered by the Emergency Relief Unit of the Social Welfare Department after the fire and, including the fatal casualties, the total population of the three buildings was thus, prior to the fire, 224.

The buildings concerned were three-storey buildings. In the upper two floors of each, which were used for domestic purposes, the rate of occupation was reasonably consistent and, over the whole floor area, averaged about 43.5 square feet per person. The ground floor of 135 Queen's Road East was heavily occupied and the floor area per person was 27.4 square feet. The ground floor of No 137 was however less heavily occupied and the occupants had more than 100 square feet per head. Only one person was living in the ground floor of No 139.

Control on mutual funds

3. MR T. K. ANN asked:—

What control is Government contemplating on mutual funds?

THE FINANCIAL SECRETARY (SIR JOHN COWPERTHWAIT):—Sir, this question is being considered by the Companies Law Revision Committee but I do not know precisely what form of control the Committee proposes to recommend. I understand that the final draft of the section of the Committee's report dealing with this matter will be considered at its next meeting tomorrow.

Rent control

4. MR Q. W. LEE asked:—

With the re-introduction of rent control by the Rent Increases (Domestic Premises) Control Ordinance 1970, will Government inform this Council:—

- (a) How many applications for rent increases were received up to 31st March 1971?
- (b) How many of those applications have been approved for increase and what is the breakdown of the percentages of such approved increases?

THE COLONIAL SECRETARY (SIR HUGH NORMAN-WALKER):—Sir, from 5th June 1970, the date on which the Rent Increases (Domestic Premises) Control Ordinance came into force, up to 31st March this year, the Commissioner of Rating and Valuation had received a total

[THE COLONIAL SECRETARY] **Oral Answers**

of 14,055 applications for increases of rent. 10,688 of these applications were for increases not exceeding 15%, while the remaining 3,367 were for increases of more than 15%.

1,089 of all these applications were being processed on 31st March, while 12,966 certificates had been issued. In 342 cases, representing 2.6% of the total, no increase was awarded; in 6,908 cases, rather more than half or in fact 53.4%, the increase awarded was less than the landlord had applied for. In the remaining 5,716 cases, that is about 44% of the whole, the increase asked for by the landlord was awarded. The average increase awarded in cases where the landlord had applied for 15% or less was 11.8%, and in cases where more than 15% was applied for the average awarded was 18.4%.

Prevention of Bribery Ordinance

5. MR KAN asked:—

When will the Prevention of Bribery Ordinance come into operation?

THE ATTORNEY GENERAL (MR D. T. E. ROBERTS):—Sir, a notice will be published in the *Gazette* on Friday the 14th May, bringing the Ordinance into force on that date.

The interval between the enactment of the Ordinance and its commencement date is due mainly to the fact that it has been necessary to draft the regulations which set out those advantages which a Crown servant may properly accept without being guilty of an offence under the Ordinance. These regulations have had to be submitted to and approved by the Secretary of State.

It has also been necessary to amend Establishment Regulations on the subject of entertainment, the acceptance of which is excluded from the scope of the Ordinance.

I would like to take this opportunity to announce that two private citizens, Mr Kenneth LO Ching-kan and Mr W. H. HENDERSON have very kindly consented to serve on the Target Committee.

Water-skiing

6. MR K. S. LO asked:—

What steps does Government propose to take to safeguard those swimming off their boats anchored in bays against injury by unscrupulous water-skiers who choose to weave in and out of other people's craft?

THE COLONIAL SECRETARY (SIR HUGH NORMAN-WALKER):—Sir, when any mechanized pleasure vessel is under way the person in charge is required to be in possession of a valid certificate of competency as master issued by the Director of Marine in accordance with the Merchant Shipping (Pleasure Vessels) Regulations. If the person in charge is negligent in the performance of his duty or fails to comply with the International Regulations for Preventing Collisions at Sea, he is liable to have his certificate suspended or cancelled under section 100(3) of the Merchant Shipping Ordinance. If his behaviour is such as to cause a public nuisance he may be prosecuted under section 4 subsection 28 of the Summary Offences Ordinance and if convicted is liable to a fine or imprisonment.

To ensure, amongst other things, that speed boat operators do behave in a sensible, considerate and seamanlike manner, regular patrols are maintained by the Marine Department and the Marine Police. These patrols are stepped up during the swimming season and this year the additional patrols started on 9th May, last Sunday, and will be maintained throughout the summer season.

The Director of Marine is also concerned to educate boat owners and operators and to this end has produced a booklet entitled "Safety Afloat" which describes in detail how speed and ski boats should be operated. Notices advising persons in charge of launches and speed boats towing water skiers to keep well clear of mooring areas and anchorages where children and adults may be swimming are issued regularly. They are published in the local newspapers and broadcast over the two radio networks. In a further attempt to ensure that all concerned are aware of their responsibilities, appropriate letters have been sent to all yacht, boating and ski centres.

MR KAN:—Sir, will my honourable Friend have any information as to how many licences have been suspended or cancelled, or indeed how many prosecutions have taken place, say within the last 12 months?

THE COLONIAL SECRETARY (SIR HUGH NORMAN-WALKER):—I have no separate figures on prosecutions in respect of damage caused by water-skiers or the symbiotic combination of speed boat and water-skier, but to date neither fatalities nor serious injuries have been recorded following accidents involving water skiers and swimmers.

Closure of part of Robinson Road

7. MR KAN asked:—

Is the Director of Public Works aware that a portion of Robinson Road, near the junction of Park Road, has

Oral Answers

been closed for several months? What is the reason for the closure? When is it likely to be re-opened for vehicle traffic?

MR J. J. ROBSON:—Sir, yes, I am aware that a portion of Robinson Road near to its junction with Park Road has now been closed to vehicular traffic for over 2 months. On the 19th of February this year cracks were observed by a foreman of the Highways Office during a routine inspection and these were brought to my personal attention shortly afterwards by my honourable Friend, Mr P. C. WOO, who had also observed them. The cracks continued to widen and on the 22nd of February it was decided to close the road to traffic as there appeared to be a danger of a major collapse into the adjacent building site where excavation was in progress.

The movement causing these cracks was brought about by a minor landslide at the south-west corner of the excavation where the soil conditions appear to be different from the rest of the site. Remedial measures were agreed between the architect and the PWD early in March and are now in hand. These works are, however, extensive and difficult to carry out and it will be at least another 2 or 3 months before they can be completed. After this it will only take one or two weeks for the road to be reinstated.

Government business

First reading

PROBATE AND ADMINISTRATION BILL 1971

EXCHANGE FUND (AMENDMENT) BILL 1971

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

Second reading

PROBATE AND ADMINISTRATION BILL 1971

THE ATTORNEY GENERAL (MR ROBERTS) moved the second reading of:—"A bill to consolidate and amend the law relating to probate and letters of administration and to the administration of the estates of deceased persons."

He said:—Sir, in 1970, the Chief Justice established a Working Party, on which both the Hong Kong Law Society and the Hong Kong Bar Association were represented, under the chairmanship of a Supreme Court judge, to consider the law governing matters of probate and administration.

The present Ordinance on these subjects dates from 1897, though there have been a number of later amendments, and the Working Party recommended that it should be replaced by more modern provisions on the lines of those contained in the bill before Council, which closely follows the form suggested by the Working Party.

As honourable Members will have seen, from the Comparative Table which is attached to the bill, most of its clauses are based on the Administration of Estates Act 1925 and the Supreme Court of Judicature Act 1925 or reproduce provisions from the present Probate and Administration Ordinance, with a few modifications introduced from the law of other Commonwealth countries. This is a very technical subject and I shall, therefore, only deal with the contents of the bill in very general terms.

Part I confers jurisdiction in all matters relating to probate and to the administration of the estates on the Supreme Court and sets out its powers.

Part II, which follows closely the present Ordinance, deals with the powers of the Official Administrator, who is the Registrar of the Supreme Court. The property of a person who dies intestate, leaving property in Hong Kong, is vested in the Official Administrator, until administration is granted. Also, he may administer in a summary way any small estate of a value not exceeding \$10,000. Clause 16 sets out a number of other cases in which the Official Administrator will normally be granted administration by the court on his application.

Part III provides for the granting and revocation of probate. It is to be noted that the present practice of applying for probate by way of petition is to be discontinued. Such of this Part as is new is based mainly on the Administration of Estates Act 1925 and the Supreme Court of Judicature Act of the same year.

There is nothing new in Part IV, which exactly reproduces the present law. Part V sets out the powers, duties, rights and obligations of personal representatives in the administration of an estate. Part VI is concerned with the manner in which the property of a deceased is to be dealt with. In particular, clause 63 specifies that the order in which the debts of an estate shall be paid is that which is set out in the First Schedule. Part I of this Schedule contains rules for the payment of debts where the estate is insolvent and Part II where the

[THE ATTORNEY GENERAL] **Probate and Administration Bill— second reading**

estate is solvent. So far as an insolvent estate is concerned, the rules which govern the priorities of debts and liabilities of a bankrupt will continue to apply, as they do under the present Ordinance.

It is to be hoped that this bill, which closely follows the advice tendered by a Working Party with considerable practical experience of the problems of the administration of estates, will be of benefit to those whose task it is to deal with the property of deceased persons.

Question proposed.

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

Question put and agreed to.

Explanatory Memorandum

This Bill replaces and brings up to date the law governing matters of probate and administration. The new provisions are based largely on the Administration of Estates Act 1925 and the Supreme Court of Judicature (Consolidation) Act 1925.

2. Part I deals with the jurisdiction and powers of the court, which is the Supreme Court.

3. Clause 3(1) gives the court jurisdiction in all matters relating to probate and administration of deceased's estates, with power to grant probates and letters of administration and to alter or revoke such grants. Clause 3(2) gives the court power to make a grant notwithstanding that the deceased left no estate. This is necessary in some case, for example if a widow wishes to make a claim under the Fatal Accidents Ordinance (Cap. 22) or the Law Reform (Miscellaneous Provisions) Ordinance (Cap. 271). Clause 3(3) empowers the court to reseal probates and letters of administration granted by British courts outside Hong Kong.

4. Clause 4 provides for the sealing of documents with the seal of the court. Clauses 5 and 6 give the Registrar and any Deputy or Assistant Registrar of the Supreme Court power to grant probate and letters of administration in straightforward cases where there is no dispute as to the making of a grant. Clause 7 gives the court power to order the production of testamentary

writings. Clause 8 empowers the court to summon any person named as executor in a will to prove or renounce probate of the will.

5. Part II (clauses 9 to 23) provides for the appointment, powers and duties of the Official Administrator and is a reenactment of Part II of the existing Probate and Administration Ordinance (Cap. 10), with only minor modifications.

6. Part III deals with the granting and revocation of probates and other related matters. Clause 24(1) provides for the application for a grant or revocation of probate or letters of administration through the Registry of the Supreme Court. The practice of applying by way of petition, a method which has prevailed in Hong Kong for 125 years, is to be discontinued, and clause 24(2) puts the matter beyond doubt.

7. Clause 25 limits the grant of probate or administration to not more than four persons in respect of the same property and provides that a grant of administration shall, if there is a minority or if a life interest arises under the will or intestacy be granted either to a trust corporation, with or without an individual, or to not less than two individuals. Clause 26 provides that a grant of representation may be made to a trust corporation either solely or jointly with another person.

8. Clause 27 entitles the proving executors to exercise all powers which are by law conferred on personal representatives. Clause 28 specifies when the rights of an executor appointed by a will shall cease. By clause 29 a person entitled to representation may expressly renounce his right to such representation. Clause 30 provides for a constructive renunciation, whereby a person having or claiming any interest in the estate of a deceased person may cause a citation to issue directed to the executor and calling upon him to accept or renounce his executorship.

9. Clause 31 provides that the effect of a renunciation precludes the person so renouncing from applying thereafter for representation but that the court may in special circumstances allow the person renouncing to withdraw his renunciation. By clause 32, where renunciation has been withdrawn the subsequent probate shall be endorsed on the original probate or letters of administration and shall be without prejudice to previous acts, dealings and notices.

10. Clause 33 enables the court, on the application of an interested party, to revoke a grant if it is satisfied that it should not have been granted or contains an error. It also provides for the suspension or removal of an executor or administrator where

Probate and Administration Bill—second reading*[Explanatory Memorandum]*

it considers this necessary. Clause 34 sets out the chain of executorship and clause 35 specifies the circumstances in which letters of administration with the will annexed may be granted by the court.

11. Clause 36-44 deal with administration. Clauses 36, 37, 38, 40, 41 and 42 re-enact the provisions of sections 32, 33, 34, 37, 38 and 36 of the existing Probate and Administration Ordinance (Cap. 10). Clause 39 provides that where an infant is appointed sole executor of a will letters of administration with the will annexed will be granted to his guardian pending attainment of his majority.

12. Clause 43 provides that an administrator shall have the same rights and liabilities as an executor. Clause 44 provides for the continuance of legal proceedings after a grant of temporary administration has been revoked. Clause 45 provides for the lodging of caveats in the Registry. Clauses 46 and 47 provide for the giving of a bond by persons to whom a grant of administration is made and specifies the form and amount thereof.

13. Part IV of the Bill deals with the sealing of probates and letters of administration granted by British courts outside Hong Kong and is a re-enactment of sections 64-68 of the existing Probate and Administration Ordinance (Cap. 10).

14. Part V of the Bill specifies the powers, rights, duties and obligations of personal representatives. Clause 53 vests in a personal representative power to sue in respect of all causes of action that survive the deceased and the same power to recover debts as the deceased had when living. Clause 54 provides that before immovable property can be disposed of by a personal representative the concurrence of all the personal representatives must be obtained except executors who have not proved the will, unless the personal representative is acting in accordance with an order of the court. Clause 55 provides that a purchase by a personal representative of the deceased's property is voidable at the instance of any other interested party.

15. Clause 56 imposes a duty on the personal representative to exhibit an inventory of the deceased's property by means of an affidavit filed in court whenever he is lawfully called upon to do so. Clause 57 indemnifies persons making or permitting to be made any payment or disposition in good faith under probate or letters of administration. Clause 58 provides that any person

who fraudulently obtains or retains the estate of a deceased person shall be liable to the extent of the property received by him or the debt or liability released.

16. Clause 59 provides that where a personal representative wastes or converts to his own use any property of the deceased, and then dies his estate shall bear the cost of the waste or conversion in the same way that he would have done if living. Clause 60 is a re-enactment of section 56 of the present Probate and Administration Ordinance (Cap. 10) and provides for the remuneration of executors, administrators and attorneys.

17. Part VI of the Bill deals with the administration of the assets of a deceased person. Clause 61 states what property of the deceased constitutes assets for the payment of his debts and liabilities.

18. Clause 62 is concerned with the administration of the assets in cases of a total or partial intestacy and imposes on the personal representative the duty to sell immovable property and to convert any movable property which does not already consist of money into money. They are also required to pay funeral, testamentary administration expenses, debts and other liabilities out of the net money arising from the sale and conversion of the movable and immovable property.

19. Clause 63, which refers to the First Schedule, specifies the order for payment of debts where the estate is insolvent, and the order of the application of the assets where the estate is solvent. Clause 64 provides that unless the deceased has signified a contrary intention any property which at the time of his death is charged with the payment of money, shall be primarily liable for the payment of the charge.

20. Clause 65 provides that contracts entered into by a personal representative in the course of administering an estate shall be binding. Clause 66 gives a personal representative power to assent to the vesting in any person who may be entitled thereto of any immovable property which has devolved from the deceased to the personal representative. It sets out the form of an assent and states the effect.

21. Clause 67 preserves the rights of any person to follow the property to which the assent relates, and sets out the powers of the court in relation to such property where application is made to the court by a creditor or other person interested. Clause 68 specifies the powers which personal representatives have to appropriate any part of the deceased's property to satisfy any legacy or other interest or share in the deceased's estate. Clause

Probate and Administration Bill—second reading

[Explanatory Memorandum]

69 provides that where an infant becomes entitled to property under a will or intestacy and the will (if any) does not provide for the appointment of trustees personal representatives may appoint a trust corporation or two or more individuals not exceeding four to be trustees of the devise, legacy residue or share for the infant.

22. Clause 70 entitles a personal representative to permit a person to take possession of immovable property before giving an assent or making a conveyance in favour of that person. It also provides that such possession shall not prejudicially affect the right of the personal representative to resume possession. Sub-clause (2) provides for an application to court by any person claiming possession of immovable property as against the personal representative. Clause 71 states that the personal representative is not bound to distribute the estate of the deceased before the expiration of one year from the death.

23. Part VII of the Bill deals with various miscellaneous items. Clause 72 gives the Chief Justice power to make rules and orders regulating non-contentious or common form business and also provides that where no provision is made by the rules and orders aforesaid the practice currently in force in the Probate Registry in England shall be followed. Clause 73 provides for the preservation and inspection of wills and other documents. Clause 74 provides that copies of a will may be obtained from the Registry on payment of the appropriate fee. Clause 75 provides that certain land to which Part II of the New Territories Ordinance applies, the application of section 42 of the Police Force Ordinance and the application of the Administration of Estates by Consular Officers Ordinance shall not be affected by the Ordinance.

24. Clause 76 provides for the repeal of the Probate and Administration Ordinance (Chapter 10) and for the amendment of the Schedule to the Application of English Law Ordinance which is consequential upon other provisions in this Bill.

EXCHANGE FUND (AMENDMENT) BILL 1971

THE FINANCIAL SECRETARY (SIR JOHN COWPERTHWAIT) moved the second reading of:—"A bill to amend the Exchange Fund Ordinance."

He said:—Sir, the amended section 3(5) in the bill is designed to empower this Council to authorize, by resolution rather than by amending bill, variations in the limit of the amount the Financial

Secretary may borrow for the account of the Exchange Fund. Honourable Members will recall that a similar clause was included in the Exchange Fund (Amendment) (No 2) Bill 1968, but had to be deleted at the committee stage of the bill as a result of certain constitutional complications. These complications have now been resolved by providing that such a resolution may be proposed only by the Governor with the approval of the Secretary of State, thus avoiding any possible conflict with Articles XXIV and XXVI 3 of the Royal Instructions.

The present borrowing limit of \$4,000 million was set in October 1970. Since then there has been a substantial increase in the amount of sterling held by our commercial banks and the borrowing limit has almost been reached. A further increase in the borrowing powers of the Exchange Fund is therefore necessary soon if we are to be able to give the protection of the United Kingdom sterling guarantee arrangement to any further accruals of sterling in the hands of the banks. The new section 3(4) in the bill before honourable Members therefore raises the limit to \$4,500 million.

By virtue of paragraph XXVI 3 of the Royal Instructions, the Governor may not assent to this bill, if passed, unless previously authorized to do so by the Secretary of State. That authority has already been obtained.

MR LEE:—Sir, since the introduction of the Sterling Exchange Guarantee Scheme in the middle of 1968, the borrowing powers of the Financial Secretary for account of the Exchange Fund will have been increased threefold from the initial figure of \$1,500 million when the Scheme first came into effect to \$4,500 million should the bill now before Council be passed. This in a sense reflects the stability of the Hong Kong dollar and the steady increase of Hong Kong's assets resulting from continuous economic growth during the past two and a half years. The Hong Kong dollar is backed only by one reserve currency, with the Colony's reserves and the major part of all the banks' surplus assets kept in sterling. Thus it is of paramount importance to seek full protection for its capital assets from the effects of any change in the value of sterling. The Sterling Exchange Guarantee Scheme has certainly served our needs.

To cope with the increase in the Colony's sterling reserves in the banking system, the borrowing powers of the Financial Secretary for account of the Exchange Fund have had to be repeatedly raised so as to bring them within the cover of the Guarantee Scheme. While bank deposits have continued to increase we know that those in the habit of keeping their liquid funds in the Colony's banking system have remained untroubled by the anxieties which recently have swept the rest of the world, suspending temporarily the trading of certain currencies.

[MR LEE] Exchange Fund (Amendment) Bill—second reading

This known safety of the Hong Kong dollar and public confidence in its future is very much the result of our Financial Secretary's work in obtaining for us a guarantee against the loss on devaluation. While Hong Kong tends to take Sir John's competence and expertise for granted, certain quarters in some Commonwealth Governments have privately expressed their admiration of his efforts which led to guarantee against loss on its official assets from another devaluation of the pound.

The bill before us now seeks to further increase the Exchange Fund's borrowing powers by the Financial Secretary, this time by \$500 million. Since the borrowing powers were last raised in October 1970 to \$4,000 million, bank deposits in the Colony have increased during the five month period up to 31st March 1971 by \$1,633 million. The \$500 million increase now being sought represents only approximately 30% of the rise in total bank deposits. With the high level of liquidity in the whole banking system I think it would have been more appropriate if the borrowing powers now sought could have been increased to at least \$5,000 million. In any case, in view of the fact that the Hong Kong dollar is backed almost entirely by sterling and it is not practicable to make any significant diversification of our sterling assets into other currencies, I am sure when commencing negotiations with the UK Government for the renewal of the Sterling Exchange Guarantee Scheme before its expiry in September 1973, Government will seek the approval of the Secretary of State for the Exchange Fund's borrowing powers to be increased to a much higher renewal figure. This is not only desirable but also important to give flexibility commensurate with our rate of economic growth which we are confident will continue.

That approval given by the Secretary of State for the limit of the Financial Secretary's borrowing powers be varied by resolution proposed by the Governor and approved by the Secretary of State rather than by amending bill is procedurally convenient and should certainly be welcome.

Sir, I have pleasure in supporting the motion.

THE FINANCIAL SECRETARY (SIR JOHN COWPERTHWAIT):—Sir, I am grateful to my honourable Friend for his suggestion. I have been reluctant in the past to ask for more than a limited increase in borrowing powers because we are dealing with sums of such great magnitude, but I would agree that the increase in sterling held by our commercial banks has been so marked in recent months that there is a case for larger increments. As any change, however, in the limit

is subject to the approval of the Secretary of State, it is probably too late to increase the new limit to be set by the present bill above the figure already approved, but we shall bear in mind my honourable Friend's suggestion for the day when we have to propose a further addition.

Question put and agreed to.

Bill read the second time.

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

Explanatory Memorandum

This Bill seeks to amend section 3 of the Exchange Fund Ordinance by—

- (a) raising the limit of the amount which the Financial Secretary may borrow under the section for the account of the Exchange Fund from 4,000 to 4,500 million Hong Kong dollars (new subsection (4)); and
- (b) providing that the Legislative Council may from time to time by resolution proposed by the Governor with the approval of the Secretary of State determine some other amount as the amount which such borrowing may at any time not exceed (new subsection (5)).

Committee stage

Council went into Committee.

PROBATION OF OFFENDERS (AMENDMENT) BILL 1971

Clauses 1 to 3 were agreed to.

ARMY LEGAL SERVICES (AMENDMENT) BILL 1971

Clause 1 to 3 were agreed to.

MUSEUMS BILL 1971

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

Clauses 1 to 10 were agreed to.

BUILDINGS (AMENDMENT) BILL 1971

Clauses 1 to 6 were agreed to.

**PUBLIC HEALTH AND URBAN SERVICES (AMENDMENT)
(NO 2) BILL 1971**

Clauses 1 to 5 were agreed to.

Council then resumed.

Third reading

THE ATTORNEY GENERAL (MR ROBERTS) reported that the

Probation of Offenders (Amendment) Bill 1971

Army Legal Services (Amendment) Bill 1971

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

Question put on each bill and agreed to.

Bills read the third time and passed.

MR D. R. W. ALEXANDER reported that the Museums Bill 1971 had passed through Committee without amendment and moved the third reading of the bill.

Question put and agreed to.

Bill read the third time and passed.

MR ROBSON reported that the

Buildings (Amendment) Bill 1971

Public Health and Urban Services (Amendment) (No 2) Bill 1971 had passed through Committee without amendment and moved the third reading of each of the bills.

Question put on each bill and agreed to.

Bills read the third time and passed.

Tribute to Mr Holmes

HIS EXCELLENCY THE PRESIDENT:—Honourable Members, this is the last sitting at which we shall have Mr HOLMES with us, since he will be proceeding in a few days' time on leave prior to retirement.

He was first appointed substantively to this Council in 1955 when he was Director of Urban Services and Chairman of the Urban Council, serving until 1958. He became a member again in 1964 and has served on this Council ever since as Director of Commerce and Industry, as Secretary for Home Affairs, and during the occasions upon which he has acted as Colonial Secretary.

But apart from his services to this Council, Mr HOLMES' devotion to Hong Kong interests since he first joined the public service in 1938 are really so well known to honourable Members and to the public at large that I need scarcely refer to them in detail except to say this—which I would like to say—that since he arrived, and both during the war and after it, he has been called upon to undertake many duties of particular difficulty and complexity; and that his abilities were such that he was often asked to take them over when they were in their most difficult and complex state.

I am sure we shall all very greatly miss his skill and his fair-mindedness, as also the courteous and considerate way in which he has always dealt with everyone, and I am quite sure honourable Members will wish me to thank him for his outstanding services, and to say also how glad we shall be to welcome both Mr HOLMES and Mrs HOLMES, whom we all hold in equal affection, back to Hong Kong later this year when Mr HOLMES assumes his appointment as Chairman of the Public Services Commission. Thank you very much Mr HOLMES.

MR KAN:—Sir, my Unofficial colleagues and I wish to join you in paying a very warm and sincere tribute to Mr HOLMES for his long and valuable services to the community and to this Council. We are happy to know that Mr HOLMES' retirement does not mean that the community will lose his service. We would wish him and Mrs HOLMES a pleasant, well-earned leave, and wish him every success in the new office that he will be performing in his capacity as Chairman of the Public Services Commission.

MR D. R. HOLMES:—Sir, I very deeply appreciate Your Excellency's more than kind remarks and also the tribute paid by my honourable Unofficial colleague and old friend Mr Y. K. KAN. Thank you, Sir.

Adjournment and next sitting

HIS EXCELLENCY THE PRESIDENT:—Now in accordance with Standing Order No 8(5), I will adjourn the Council until 2.30 p.m. on Wednesday the 26th May 1971.

Adjourned accordingly at three minutes past Three o'clock.