

OFFICIAL REPORT OF PROCEEDINGS**Wednesday, 1st December 1971****The Council met at half-past Two o'clock**

[Mr PRESIDENT in the Chair]

PRESENT

HIS EXCELLENCY THE GOVERNOR (*PRESIDENT*)
SIR CRAWFORD MURRAY MACLEHOSE, KCMG, MBE
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 DONALD COLLIN CUMYN LUDDINGTON, JP
THE HONOURABLE THE FINANCIAL SECRETARY
MR CHARLES PHILIP HADDON-CAVE, JP
THE HONOURABLE DAVID RICHARD WATSON ALEXANDER, MBE, JP
DIRECTOR OF URBAN SERVICES
THE HONOURABLE JAMES JEAVONS ROBSON, JP
DIRECTOR OF PUBLIC WORKS
THE HONOURABLE JOHN CANNING, JP
DIRECTOR OF EDUCATION
DR THE HONOURABLE GERALD HUGH CHOA, JP
DIRECTOR OF MEDICAL AND HEALTH SERVICES
THE HONOURABLE DENIS CAMPBELL BRAY, JP
DISTRICT COMMISSIONER, NEW TERRITORIES
THE HONOURABLE PAUL TSUI KA-CHEUNG, OBE, JP
COMMISSIONER OF LABOUR
THE HONOURABLE IAN MACDONALD LIGHTBODY, JP
COMMISSIONER FOR RESETTLEMENT
THE HONOURABLE KAN YUET-KEUNG, CBE, JP
THE HONOURABLE WOO PAK-CHUEN, OBE, JP
THE HONOURABLE SZETO WAI, OBE, JP
THE HONOURABLE WILFRED WONG SIEN-BING, OBE, JP
THE HONOURABLE ELLEN LI SHU-PUI, OBE, JP
THE HONOURABLE WILSON WANG TZE-SAM, OBE, JP
DR THE HONOURABLE CHUNG SZE-YUEN, OBE, JP
THE HONOURABLE LEE QUO-WEI, OBE, JP
THE HONOURABLE OSWALD VICTOR CHEUNG, QC, JP
THE HONOURABLE GERALD MORDAUNT BROOME SALMON, JP
THE HONOURABLE ANN TSE-KAI, OBE, JP
THE HONOURABLE LO KWEE-SEONG, OBE, JP

ABSENT

THE HONOURABLE JACK CATER, MBE, JP
DIRECTOR OF COMMERCE AND INDUSTRY
THE HONOURABLE HERBERT JOHN CHARLES BROWNE, JP

IN ATTENDANCE

THE CLERK TO THE LEGISLATIVE COUNCIL
MR RODERICK JOHN FRAMPTON

Address by the President

HIS EXCELLENCY THE PRESIDENT: —This is the first occasion on which I have presided over this Council, and I would like to say that I consider it a privilege of my office to be able to participate with you in the work of the Council. I feel, as it were, as if I had crossed the bar of the House; but I would like to take this opportunity to make a point which perhaps is very obvious to people like you, who have lived so much of your lives in Hong Kong, but strikes me very forcibly. It is simply this—the amount of time that you and people like you give to the community.

It is a feature of Government in Hong Kong that it works through a series of advisory, consultative and constitutional bodies. Many of these do vital work, but it seems to me that the major burden falls on the Members of the Executive and Legislative Councils. Membership of UMELCO, Finance Committee, the Public Works Sub-Committee, the Establishment Sub-Committee all amount to a very great deal of work, much time in committee and perhaps even more in field work and preparation.

I would like, therefore, to begin my term of office by thanking you for what you do for Hong Kong. We shall no doubt have our share of problems in the years ahead, but I am sure that, with your assistance and advice, we shall surmount them. So I look forward to participating in the Council's deliberations; I am sure they will be constructive, and if sometimes they are lively so much the better.

MR Y. K. KAN: —Sir, may I on this very special and auspicious occasion be allowed to say a few words. My Unofficial colleagues and I wish to extend to you and Lady MACLEHOSE—whom I see is sitting among us today—a very warm welcome to Hong Kong and to this Council.

The people of Hong Kong are greatly enlightened, heartened and encouraged by your call for continuing prosperity and social progress. Under your wise guidance we are confident that this shall be achieved, and to that end my colleagues and I pledge our full and wholehearted support. Thank you.

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 (Marine Courts) (Amendment) Regulations 1971	144
Merchant Shipping Ordinance.	
Merchant Shipping (Typhoon Shelters) (Amendment) (No 2) Regulations 1971	145
Coroners Ordinance.	
Medical Practitioners (Fees) (Amendment) Order 1971	151

Sessional Papers 1971-72: —

No 24—Annual Report by the Commissioner for Resettlement for the year 1970-71 (published on 1.12.71).

No 25—Annual Report and Accounts of Hong Kong Trade Development Council for the year 1970-71 (published on 1.12.71).

No 26—Annual Report of the Hong Kong Productivity Council for the year 1970-71 (published on 1.12.71).

No 27—Annual Report by the Commissioner of Prisons for the year 1970-71 (published on 1.12.71).

Oral answers to questions

Urban Renewal Outline Zoning Plan

1. MR G. M. B. SALMON asked: —

Will Government state when a decision will be taken on the Urban Renewal Outline Zoning Plan for the Western District?

MR J. J. ROBSON: —Sir, in reply to a similar question by my honourable Friend in the recent debate on the motion of thanks for the Governor's address, I said, on the 13th of October, that it was hoped that the draft Urban Renewal Outline Zoning Plan and the

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many objections to it could be submitted for consideration by Executive Council shortly. I regret that this has not yet been possible but I am assured that every effort will be made to have this done either before the end of the year or very early next year.

Legislation for no-fault motor insurance

2. MR OSWALD CHEUNG asked: —

Is Government in a position to make a statement, further to the answer the honourable Financial Secretary gave me on 23rd June 1971, regarding proposals for no-fault motor insurance?

THE FINANCIAL SECRETARY (MR C. P. HADDON-CAVE): —Sir, the Working Party on Traffic Accident Victims submitted an interim report in October this year and this is now being examined. If the conclusions and recommendations in the report are acceptable the Working Party will be asked to examine the proposed scheme in more detail and in consultation with the Accident Insurance Association, with whom I understand the Chairman of the Working Party has already been in contact informally. I cannot say, Sir, how long this will take, but my honourable Friend can rest assured that we shall proceed as fast as possible for I am well aware that there is a need for wider and less cumbersome arrangements than at present for compensating traffic accident victims in the circumstances of Hong Kong.

Commonwealth Preferential Tariff

3. DR S. Y. CHUNG asked: —

Is Government in a position to clarify the situation of the Commonwealth Preferential Tariff granted by the UK and some other Commonwealth Governments to Hong Kong products in the event that the UK Government will join the European Economic Community in January 1973? If not, will Government undertake to initiate discussion with the UK and other relevant Governments and to make an early announcement on this matter?

THE FINANCIAL SECRETARY (MR HADDON-CAVE): —Sir, on the assumption stated by my honourable Friend, namely that Britain enters the European Economic Community in January 1973, the preferential rates of duty accorded to Commonwealth countries in the British

market (other than those who have been offered association) will be phased out by the gradual imposition of the EEC common external tariff. The first stage in this process will take place on the 1st of January 1974, namely one-year after entry, when tariffs on Commonwealth products will be increased by 40% of the difference between their previous levels and those of the common external tariff. There will be a further increase to 60% on the 1st of January 1975 and to 80% on the 1st of January 1976. The full common external tariff will be applied to Commonwealth products from and after the 1st of July 1977, that is four and a half years after British entry.

To give an example, if the common external tariff on a Hong Kong product now enjoying duty-free entry into the United Kingdom is 10%, the rate of duty actually imposed will be 4% in 1974, 6% in 1975, 8% in 1976, and 10% from the 1st of July 1977.

This gradual build-up of the tariff gives our manufacturers some four and a half years in which to adapt to the new level of duties and the new situation. The timetable involved has been one of the many subjects covered in the very full and continuing discussions which have taken place between this Government and Her Majesty's Government on the whole question of the implications for Hong Kong of British entry.

A further point I should add, Sir, is that, although Commonwealth preference in Britain will be phased out in the manner I have just described, both the existing EEC and Britain have included Hong Kong as a beneficiary in their schemes of generalized preferences for developing countries. After British entry the two schemes will be harmonized and Hong Kong should continue to be a beneficiary for these preferences throughout the enlarged Community. This is, I think, one offsetting benefit which Hong Kong has gained as a result of the negotiations for British entry.

As regards preferences granted to Hong Kong by Commonwealth countries other than the United Kingdom, their future is something for Commonwealth countries themselves to decide. There is no requirement on these countries to abolish such preferences as a consequence of British entry into the European Economic Community. At the present time Hong Kong enjoys preferential entry in only a few Commonwealth countries other than Britain of which the most important is New Zealand. The Commonwealth preference system has been reduced in scope over the years as a result of various rounds of multilateral tariff negotiations under the GATT, and I think my honourable Friend, Sir, will be interested to know that exports under Commonwealth Preference Certificates to Britain and other Commonwealth countries in 1970-71 were valued at \$1,341 million, or about 11% of our total domestic exports.

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DR CHUNG: —Sir, as my honourable Friend is aware, there are certain restrictive requirements for qualifying for Commonwealth Preference. Will my honourable Friend say whether these restrictive requirements will also be reduced when the Commonwealth Preference Scheme is being phased out in the next 5 years?

THE FINANCIAL SECRETARY (MR HADDON-CAVE): —The requirements, Sir, for preferential entry are an essential feature of preferential entry itself, and obviously if the system is being phased out, so these restrictive requirements will themselves fade away.

Explosives depot

4. MR CHEUNG asked: —

Why has a decision been made to move the explosives depot from Green Island at all; if there is a necessity for moving it, has Stonecutters Island been considered; and, if considered, why will the new depot not be sited there?

MR PAUL K. C. TSUI: —Sir, it is necessary to move the depot from Green Island

- (a) because of the large quantities of explosives which have to be stored there in close proximity to the new intensively developed western district of Hong Kong Island, and
- (b) because of its potential danger to shipping in the now very busy harbour.

Due to the increase in construction projects employing explosives over the past 15 years, the Green Island depot has been required to store quantities of explosives in excess of the quantity it was designed to hold and in excess of internationally acknowledged safety standards in respect of distances from occupied property. Over the same period there has been an increase in the amount of shipping using the port of Hong Kong. In the interest of the safety of this shipping it is also important to keep to a minimum the movement of explosives carrying lighters within the harbour limits, and in this interest it is necessary to have a new explosives depot sited outside the harbour limits. For these reasons Stonecutters Island could not be considered at all.

Both the Dangerous Goods Standing Committee (in 1951 and in 1964) and the Port Committee (in 1964) have in the past strongly recommended the removal of the depot from Green Island for the reasons

mentioned. The depot was first constructed in 1906 and it is not unreasonable that it should be considered as no longer suitable by 1971. An explosives depot should be so sited and so designed that any explosion could cause the smallest possible number of casualties and the minimum amount of damage to property both ashore and afloat. The sole criterion in deciding to move the depot has been the safety of persons and their property both ashore and afloat. There can be no better criterion than this to justify the movement of an explosives depot to a new site and, in particular, the movement of the existing explosives depot from Green Island to a site where vessels are able to discharge explosives outside the port area.

MR CHEUNG: —May I ask a supplementary question, Sir? Is Stonecutters Island not storing far more dangerous high explosives on behalf of the army and, if it is safe to handle that, why is it not safe to move the ordinary high explosives to Stonecutters Island?

MR TSUI: —I would not know the actual position in Stonecutters Island, Sir, because it is, I presume, a military secret.

MR CHEUNG: —But my Friend says it is for the reasons he gives to keep the minimum of explosives in the harbour that Stonecutters Island has not been considered. Now, it seems it is because of a military secret—it seems that there is a divergence of reason between storing army explosive and civilian explosives?

MR TSUI: —I have nothing to add, Sir.

MR CHEUNG: —I would like to ask another supplementary, Sir. Has any explosion been known to occur in the Green Island Depot except in time of war?

MR TSUI: —In the year 1867, Sir, gunpowder was in fact stored in a privately owned junk off Green Island. It blew up in that year with a schooner alongside, causing considerable loss of life.

Industrial Training Advisory Committee

5. MR KAN asked: —

When will the report of the Industrial Training Advisory Committee be published?

MR TSUI: —Sir, the report of the Industrial Training Advisory Committee was published and put on sale separately in English and in Chinese on Monday, the 29th November 1971.

Oral Answers**Polytechnic Planning Committee**

6. MR KAN asked: —

When will Government publish the report of the Polytechnic Planning Committee: and when will Government's decisions on the recommendations of the committee be announced?

MR J. CANNING: — Sir, the Final Report of the Polytechnic Planning Committee was submitted to Government on the 30th of July and was subsequently circulated to Members on the 4th of September. It was the original intention of Government to print and publish this report in both English and Chinese at the same time. The translation is now in hand and is expected to be completed by mid-January. However in view of the public interest in this report, Government has decided to publish the English version in advance and the necessary arrangements are in hand.

As to the second part of my honourable Friend's question, I can give an assurance that active consideration is being given to the Committee's recommendations. The most important aspect being examined at the present time is the manner in which the Polytechnic will be financed. Once this has been agreed detailed proposals based on the Final Report will be submitted to the Executive Council.

DR CHUNG: — Sir, we are grateful to my honourable Friend for his assurance that active consideration is being given to the Committee's recommendations but, with due respect, Sir, I don't think my honourable Friend has answered the second part of Mr KAN's question. Will my honourable Friend give an approximate date as to when Government will be in a position to announce its decisions on the Committee's recommendations?

MR CANNING: — I thought, Sir, that I made it clear that before Government makes any announcements it is your intention to seek the advice of the Executive Council. I regret that it is not possible for me to anticipate when that will be done.

Water storage

7. MR P. C. WOO asked: —

Will Government make a statement concerning the present water storage in Hong Kong?

MR ROBSON: —Sir, rainfall so far this year over the Waterworks catchments has been 26 inches, or more than 30%, below average—I should like to correct those figures, Sir, the latest this week is 27 inches, or 32%, below average. As a result the total amount of water in storage on the 19th of November 1971 was 38,800 million gallons as compared with 50,800 million gallons at the same date in 1970, and over this same period demand has risen by more than 8%.

Nevertheless the storage position is still such that unrestricted supplies can be given this winter, but obviously the situation will have to be kept under review.

Water consumption

8. MR WOO asked: —

Since the increase in water charges last year, has the rate of consumption of water been reduced as regards

(a) domestic premises, and

(b) industrial undertakings?

MR ROBSON: —Sir, bills for water are issued quarterly and retrospectively and although the change in the price of water came into effect on the 1st of April this year it was agreed by Government that no bill would be issued based on the new price if the meter reading on which the bill for the previous quarter was calculated was prior to the 1st of April. Consequently the first bills at the new rate were not issued until July and it was not until September that *all* consumers felt the effect of the new prices as meters are read and bills issued continuously over the quarter.

Thus it is too early yet to examine consumption data to try to detect the effect of the price changes and, in fact, since the process of detailed analysis is time-consuming, it is only done once a year. Analysis for the consumption period April 1971 to April 1972 will be carried out after July 1972 when all water accounts for the first 12-month period will have been prepared and issued and this analysis will show whether the change in the price of water has had any effect on consumption.

The price of water consumed in non-domestic premises will be further increased with effect from the 1st of April 1972 but again the impact will be deferred for 3 to 5 months. An analysis of the consumption for the period April 1972 to April 1973 will not therefore be carried out until after July 1973 which should reveal any change in consumption caused by the further "non-domestic" price changes.

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However, it is not expected that there will be any change in the trend of consumption due to these price changes and it should be noted that the total demand for water this year continues to grow at a slightly larger rate than 8% per annum.

Road accidents

9. MR WOO asked: —

Will Government say whether there has been a high increase in fatal and serious road accidents over recent months and, if there has, would it outline the causes contributory to the increase?

THE COLONIAL SECRETARY (SIR HUGH NORMAN-WALKER): — Sir, I suppose the proper parliamentary answer to my honourable Friend's question would be "No, Sir"—so the second part of the question doesn't arise; but in fact Mr Woo has raised a matter which is causing Government concern and I would like to deal with it in rather more detail than that.

During the first ten months of this year there were 309 fatal accidents and 3,602 accidents causing serious injury. This represents an increase over the same period in 1970, when there were 306 fatal accidents and 3,381 serious accidents. This is not a high increase; in fact percentage-wise it is a great deal lower than the increase in the number of vehicles. Thus, in the first ten months of 1970 there was one fatal accident for each 460 vehicles licensed as compared to one for each 521 vehicles licensed in 1971. Similarly, in respect of accidents causing serious injury, there was one accident for each 42 vehicles licensed in the first 10 months of 1970 compared to one for each 45 vehicles in 1971. I will let my honourable Friend have these rather difficult figures separately.

I would wish to underline one point. An analysis of the figures has revealed a significant increase in the number of fatal and serious injury accidents this year involving motor cyclists. Fatal accidents of this type have almost doubled from 6.5% of all fatal traffic accidents in the first ten months of 1970 to 12.3% of all the accidents during the corresponding period in 1971, and the serious injury figures are not dissimilar. These increases in accidents involving motor cyclists are out of all proportion to the increase in the number of motor cycles registered this year, and although it is believed that greater use is being made of motor cycles, it is apparent that in some cases at least they are being ridden more recklessly than before.

Clearly the very high increase of 14.4% in the number of motor vehicles, of all types, registered in the Colony this year and the consequent more crowded conditions on the roads, has been a factor in the rise in accidents even though accidents have not increased in proportion to the number of vehicles. Other causes which have been singled out and analysed are speeding, carelessness on the part of pedestrians when crossing roads, particularly from behind parked vehicles and in some cases even standing or walking on the roadway regardless of traffic; also careless and inattentive driving resulting in errors of judgement and, in particular, the misjudgement of clearance room. So far as fatal and serious motor cycle accidents are concerned, the absence of the crash helmet in many instances is a major factor. The police have on a number of occasions issued advice regarding the desirability of motor cyclists and their pillion passengers wearing crash helmets but this has, I am afraid, been largely ignored. Both I and the Attorney General are proposing regulations to you, Sir, in Council to make the wearing of crash helmets compulsory for motor cyclists and their passengers.

Parking facilities in Central area

10. MR SZETO WAI asked: —

Due to construction of the Government car-park building east of Murray Road and other roadworks on the waterfront, the number of available open parking spaces in Central District has been considerably curtailed. Would Government consider the early demolition of the derelict structures in the area east of Cotton Tree Drive to provide for more parking facilities?

MR ROBSON: —Sir, in replying to my honourable Friend, Mr SALMON, in this Council on 6th January 1971 I gave figures for the loss in car parking spaces in the Central District during 1971 and 1972. Some 200 spaces have been lost recently to make way for the construction of the Murray Road/Queen's Road car park which will in due course provide accommodation for some 913 cars, that is, a net gain of 713. In addition 532 spaces in the remainder of the open air car park at Murray Road will be lost as a result of land sales. The first sale is due to take place next month but possession of the land is not being given immediately, and thus the car parking spaces will not be lost until September 1972. To offset this loss and to help meet the increased demands which are expected to arise following the opening of the Cross-Harbour Tunnel, arrangements have been made to surface an area of 130,000 square feet of land east of Cotton Tree Drive fronting Harcourt Road. Work on this area will start next month and

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when completed in about 3 months' time will provide additional space for some 540 cars and 18 motor cycles.

To sum up, it will not be possible to maintain the number of parking spaces provided in this particular area at the present level but I am in agreement with my honourable Friend that early demolition of the remaining structures in this area is desirable and that if these could be cleared and the space made available they would form very suitable temporary parking facilities pending completion of the Murray Road car park and other multi-storey car parks being planned in the Central District. In reply to my honourable Friend, Mr SALMON, in January I undertook to make enquiries concerning the removal of these buildings and this I have done. They are however not derelict, but are for the most part occupied by Government departments, particularly accommodating the Auxiliary Police and providing the Resettlement Department with an emergency transit centre. I regret to say that up to now it has not been possible to find acceptable alternative accommodation and I cannot therefore say when it will be possible to demolish the structures in question.

MR SZETO: —Sir, my honourable Friend mentioned that there will be a land sale next month. Can he tell us whether the conditions of the land sale include parking provision within the building or within the lot area?

MR ROBSON: —The conditions make reference to parking within the lot, but they are not compulsory conditions, because we are prepared to give concessions if the developer makes provision for parking within the lot. We haven't specified parking—or made a compulsory requirement of parking—because the Murray Road car park, the new one with 900 spaces, is just opposite this site. We thought it unnecessary to make further provision particularly in this area. In addition, of course, on the other side of the road, that is in the present open air car park at Garden Road, plans there are for 1,500 car parks. This, of course, is in the longer term, possibly getting into the 1973 era.

Re-alignment of Queensway

11. MR SZETO asked: —

In view of the frequent road accidents which have occurred in the curved section of Queensway, will Government effect early improvement to the alignment of this road?

MR ROBSON: —Sir, the accidents which have occurred on this stretch of Queensway are in most cases almost certainly due to vehicles being driven at excessive speed, notwithstanding the fact that there are large warning signs advising drivers of the dangerous bends. It is significant to note that in the case of the two most recent accidents involving a double-decker bus and a public light bus, both vehicles regularly travel this route and the drivers should have been well aware of the danger which exists.

As honourable Members are no doubt aware, a scheme for the improvements to this section of Queensway has been prepared and an item was included in the Public Works Programme as early as 1964. Implementation of this scheme, however, involves the demolition and clearance of a large number of ex-Naval Dockyard buildings at present temporarily occupied by various Government departments. Action is in hand to rehouse those affected in alternative accommodation, and subject to the necessary clearances being effected it is hoped to commence work on the improvements towards the end of 1972.

MR SZETO: —Sir, would my honourable Friend say whether this improvement scheme includes the demolition of the existing building now housing the Headquarters of the Transport Department, because it seems to me quite ironical that the Transport Department should stand in the way of road safety? (*Laughter*).

MR ROBSON: —I am afraid, Sir, . . . (*continued laughter*) . . . that part of that building may have to be demolished, but the other building—Rodney Block—which housed the Civil Engineering Office in the old days will still stand and forms part of the open space.

Appointment of a Special Commission on crimes and violence

12. MR WILSON T. S. WANG asked: —

Is Government considering setting up a Special Commission to enquire into the real causes of the present upsurge of crimes and violence and the appropriate way to curb it?

THE COLONIAL SECRETARY (SIR HUGH NORMAN-WALKER): —I am most grateful, Sir, to my honourable Friend for asking this question, but he has chosen to phrase it, quite understandably, "the present upsurge of crimes and violence" and I would like first of all to try and put the question in perspective. The increase in what I might describe as routine crime is neither alarming nor dramatic, and the detection rate remains satisfactorily high. What has attracted public attention, and which gives me and you, Sir, and the Government and

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this Council the greatest cause for concern, is the increase in robberies, accompanied often by violence and, perhaps even more disturbing, the readiness of people, particularly young people, to use violence on any provocation and even without provocation.

This is, I am afraid, a trend and tendency not confined to Hong Kong alone. It is a world wide problem. In the United States the incidence of violent crime is three times that in Hong Kong and, although Britain is, in the crime “league table”, reckoned to be a law abiding country, the number of criminal convictions in Hong Kong per one thousand of the population is still below that of Britain, but it is rising and this should, and does, worry us.

The emergence of these tendencies in Hong Kong, as I have said, must cause us grave concern but I do not think that the appointment of a commission is the solution to them.

To some degree at least I am bound to say that these developments relate to our increased prosperity. The ordinary man or woman walking along the street is now a worthwhile target for robbers. They have about them ready money and other things in sufficient quantity to be worth stealing.

The Government is not at present considering the setting up of a crime commission. The circumstances attendant on an increase in crime to which such a commission could draw attention are in broad outline well known not only here but elsewhere. The international nature of this problem also warns us that there is no textbook solution. We are, however, very far from being complacent; what is required is a detailed examination of the many everyday facets of the situation with a view to putting them right: I mean such matters as improved living conditions and eradication of the narcotics problem. (I told this Council not very long ago that over 80% of the convicts in our prisons are, in a greater or lesser degree, addicted to drugs). It is difficult to escape the conclusion that a great deal of crime and violent crime must be due to desire to obtain the wherewithal to obtain drugs. Other possible causes and possible solutions are opportunities for higher paid employment, adequate facilities for decent leisure time, pursuits for our young people, particularly in the public housing estates, and a host of other matters; they are all matters of practical administration. The Secretary for Home Affairs (and his Secretariat) has now for sometime been assembling, and is continuing to assemble, in conjunction with his colleagues the facts from which practical recommendations will emerge, which I hope can be put into effect both in the short term and the long term.

Another consideration in the combatting of crime is the operational capacity of our Police Force. Early last month the Acting Colonial Secretary in reply to a question asked by my honourable Friend—Mr SALMON, I think—referred to the concern generally felt about the under-establishment of the Police Force and the wastage problem.

The position, I am afraid, is at the moment virtually the same; the force is 14% below strength in its officer establishment, and over 11% in the case of the rank and file. The unsatisfactory recruitment rate combined with wastage, which has given rise to this shortfall, could be attributed to the fact that police pay is no longer attractive enough to attract recruits. This serious situation is being given full weight in the consideration urgently being given to the recommendations of the Salaries Commission in regard to police pay and, indeed, the pay of all disciplined services; indeed, Sir, it is our highest priority.

MR WANG: —Sir, does my honourable Friend by his reply insinuate that Government knows all the real causes of the upsurge in the amount of crime already?

THE COLONIAL SECRETARY (SIR HUGH NORMAN-WALKER): —No, Sir. I do not claim to be omniscient on this or, indeed, on any other subject.

Possible oil refinery on Lamma Island

13. MR K. S. LO asked: —

In connection with the announced possibility of the siting of an oil refinery on Lamma Island will Government give an assurance that, before a final decision is taken in the matter, the utmost attention will be given to such considerations as the ecological effects, and the pollution of air, sea and surrounding shorelines resulting from such an installation?

MR D. C. BRAY: —Yes, Sir, I can unhesitatingly give this assurance sought by the honourable Member. These were among the first matters to be thought when we were informed that there might be a possibility that such a refinery would be built in Hong Kong. Other environmental aspects we have in mind are visual amenity and noise control. In the event of a firm intention to go ahead by the company the Government would not give its approval until it was satisfied that the refinery would be constructed and operated in such a way as to take full account of its impact on the environment in which it would be found.

My deputy returned from London some ten days ago where he had been engaged in consultation on government control of refineries at

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the Department of the Environment and the Department of Trade and Industry. He is now leading a small Government delegation on a study tour of refineries in Singapore and Australia. During this tour the officials will not only inspect the refineries but will also have discussions with government officials on legislation and other controls, procedures, and staffing organization required by the Government when examining the company's plan for the construction and the operation of a refinery.

Sir, I can understand the public concern over these aspects of the proposed development: this concern is shared by the Government. I should also say that the company, too, is keenly aware of possible harmful effects of such an installation, but it gives us the impression of being well informed and conscientious about precautionary measures it should take at both the design stage and in operation.

MR LO: —Sir, I would like to ask two supplementary questions. My first question is, would I be correct to say that, once a permit for an oil refinery is granted on Lamma Island, Government is obliged to consider other similar applications?

MR BRAY: —Sir, the Government will consider applications at any time but this does not mean to say that to consider applications will necessarily be to grant them. We have already leased land for one refinery on Tsing Yi Island.

MR LO: —My second question is, in view of the proximity of Lamma to the central city district as well as the residential areas on the south side of Hong Kong Island, has Government given any thought of reserving it for housing, recreation and other communal uses?

MR BRAY: —Yes, Sir, these are alternative uses. I don't know about housing, but certainly recreation is a use that the island could be put to. The position at the moment is that we have been informed that there may be a firm application to use the island or part of the island for a refinery, and we are considering our position should such an application be definitely made.

Textiles

14. MR SALMON asked: —

Will the Director of Commerce and Industry make a statement on recent developments on the export of shirts to Canada and has he anything further to say on the present position of the export of textiles to America?

THE FINANCIAL SECRETARY (MR HADDON-CAVE): —Sir, I am glad to be able to say, on behalf of my honourable Friend, the Director of Commerce and Industry, that, following consultations in Ottawa from 8th to 10th November, an amicable settlement has been reached with the Canadian Government regarding Hong Kong exports of certain shirts to Canada. An important feature of this settlement is that the principle of export restraint by Hong Kong has been maintained. In addition, while the scope of our restraint has been widened to cover certain shirts made from knitted as well as woven fabrics, the Canadian Government has agreed to the exclusion from any restriction of all higher priced shirts, that is to say woven shirts which cost, ex factory, C\$30 or more per dozen, and shirts made from knitted fabrics costing C\$33 or more per dozen. I think, Sir, it would be appropriate if I placed on record our appreciation of the Canadian Government's prompt response to our request for consultations and for the cordial and constructive manner in which these consultations took place.

As regards the recent negotiations with the United States on manmade fibre and wool textiles, the results of which were incorporated in a Memorandum of Understanding initialled *ad referendum* by representatives of the Hong Kong and United States Governments on the 15th October, the question of signature of a formal agreement is still under consideration.

“Chit fund” companies

15. MR CHEUNG asked: —

Could Government say what progress is being made with drafting legislation on "chit fund," companies and indicate what is intended to be the position of "chit fund" companies formed between now and the date of enactment of such legislation?

THE FINANCIAL SECRETARY (MR HADDON-CAVE): —Sir, the drafting of legislation to give effect to the Companies Law Revision Committee's recommendations that "chit funds" organized by companies be prohibited is already well advanced. A second draft of the bill is expected to be ready before the end of this week. The bill will provide time for companies already in business to complete those funds which are in operation as of today, but will contain no such saving provision in respect of funds, if any, commenced after today.

The intention not to permit extensions of time in respect of funds commenced after today can, I realize, Sir, be held to be contrary to the indication I gave in this Council on 17th November when, in reply to a supplementary question from my honourable Friend, Dr CHUNG, I said

[THE FINANCIAL SECRETARY] **Oral Answers**

I imagined that any company in operation at the time the bill was enacted would be given time to complete funds in operation. However, I did confess that Government had not given that particular question very much thought. I have now come to the conclusion that it is undesirable, pending a policy decision by the Governor in Council and the possible enactment of legislation by this Council, to see more such funds being commenced by either existing companies or, of course, new companies which may be registered. A further 22 companies were registered in November, making no less than 50 in all as of today, compared with 28 at the end of October, 17 at the end of September, seven at the end of August and one at the end of November 1970.

MR CHEUNG: —I wonder if my Friend could tell us whether, in drafting this legislation, he has given consideration to representations made by the other side, in other words the “chit fund” companies, whom I am told have made representations to Government on their being extinguished?

THE FINANCIAL SECRETARY (MR HADDON-CAVE): —Sir, I confirm that a joint petition has been received from a group of “chit fund” companies. Representatives of these companies have also visited the Colonial Secretariat to hand over a supplementary memorandum and to give an oral explanation of their case, which is, I think, that “chit fund” companies should be controlled rather than banned. These representations, together with certain representations which we have received from members of the public, will be taken fully into account when we are preparing the memorandum for Executive Council covering the draft bill providing for the banning of “chit fund” companies.

Statements

Annual Report and Accounts of the Hong Kong Trade Development Council for the year 1970-71

MR KAN: —Your Excellency, I welcome the opportunity afforded to me under the newly amended Standing Orders to make a brief statement on the annual report of the Hong Kong Trade Development Council for 1970-71 which has just been tabled in this Council.

Honourable Members will find from the Report a very full and detailed account of the work of the Council during the year 1970-71. It will be seen that the Council has had another busy and active year.

During the year the Council opened up four new representative offices overseas, in Vienna, Chicago, Los Angeles and Tokyo. By

early summer next year we hope to have four more offices in operation overseas, making fourteen in all.

But overseas offices are only one part of our trade development effort, and the Report highlights the 22 special projects undertaken; expansion of the trade enquiries service; and, most significantly, the increased circulation of the promotional journal "Enterprise" from 10,000 a month to 33,000. This journal in conjunction with overseas offices is the principal stimulant of the trade enquiries which constitutes the bread and butter of our promotional effort.

Expenditure during 1970 to 1971 amounted to 17.7 million dollars. The Government grant was 18.1 million dollars; and revenue generated by the Council itself from advertisements and other sources amounted to 2.3 million dollars.

Sir, it has been freely stated that 1972 will be a year of particular difficulty for our traders, and there are undoubtedly many uncertainties and some foreseeable restrictions ahead. It is right that the Trade Development Council should redouble its efforts to promote our export trade in new products and, as far as practicable, in new markets. We are well placed to do this. The project programme being planned for next year is a very heavy one, and includes 43 specific promotions in Europe, North America, Japan and elsewhere.

I am quite certain that in the coming year the Council will continue to make a substantial contribution to the expansion of our overseas trade.

Annual Report of the Hong Kong Productivity Council for the year 1970-71

DR CHUNG: —Your Excellency, among the various papers laid today is the Annual Report of the Hong Kong Productivity Council for the fiscal year 1970-71. Like my honourable colleague Mr KAN I welcome the introduction of the new Standing Order under which I am permitted to say a few words about the Hong Kong Productivity Council.

The Productivity Council was established by Ordinance and with Government financing in 1967 and has now completed four years of its first 5-year plan as outlined in the report of the working committee on productivity which was tabled in this Council on 18th November 1964. The 5-year plan anticipated that the Council, for the first four years, would incur a total expenditure of \$9.37 million and derive a gradually rising revenue from its activities equivalent to 1% of expenditure in the first year, 3% in the second year, 6% in the third year, 10% in the fourth year and 15% in the fifth year.

[DR CHUNG] Statements

During the past four years, the total expenditure of the Council amounted to \$9.64 million or about 3% higher than the budget estimated in 1964. On the income side, the earnings of the Council in the second year of its existence almost doubled and in the third year trebled the target percentages set by the working committee. And in the last fiscal year 1970-71, gross income from the Council's own operations amounted to \$873,000, which showed an increase of \$400,000 over the previous year and represented some 25% of the total expenditure. During the year under review the Productivity Council through its executive arm, the Productivity Centre, has conducted 69 productivity training courses in both technology and management for 2,003 persons as compared with 29 training courses for 1,033 persons in the fiscal year 1969-70. I want to congratulate the Executive Director of the Centre, Mr W. M. NEWTON, and his team for such fruitful efforts.

Sir, these statistics, I believe, speak as convincingly as any words of the increasing need for and growing acceptance of the work of the Productivity Council by both the commercial and the industrial community as well as its fast expanding services in manpower training, technical assistance, management consultancy and research. No one knowing the situation of Hong Kong can agree more with you, Sir, when you said on your arrival in Hong Kong on 19th November that economic prosperity provides the only foundation on which all our hopes for the future can be built. No doubt Hong Kong's economic prosperity depends very much on our unrestricted access to the world markets on the one hand and the good design, high quality and competitive price of our manufactured products on the other. The Hong Kong Trade Development Council, of which my honourable colleague, Mr KAN, has just spoken, helps the development of our external markets whereas the Hong Kong Productivity Council assists our manufacturers to make the optimum utilization of available human and material resources. The need for higher productivity in our export-orientated manufacturing industries is today greater than ever before in view of the tight labour situation with fast rising wages (last year the average wage increase was 18%) and the rapid price inflation of some major commodities (for example, rents and foodstuffs).

Last year has been a year of significance for Asia and for Hong Kong as far as the productivity movement is concerned. The year 1970 was observed as the Asian Productivity Year in all the 14 member countries of the Asian Productivity Organization, of which Hong Kong is a member since 1963, as part of the regional effort to increase productivity consciousness in this part of the world. We are most grateful to His Excellency Sir David TRENCH, who graciously consented to become a patron of the Asian Productivity Year activities in this region. Hong

Kong was further honoured by providing the chairmanship of the Asian Productivity Organization during the Asian Productivity Year.

One of the major regional events during the Asian Productivity Year was the Asian Productivity Congress held in Tokyo with an objective of focussing attention in the region on the dynamic action necessary for productivity promotion as a means of accelerating economic growth. The 18-member Hong Kong delegation, led by the Director of Commerce and Industry, participated very actively in the Congress and was a signatory to the Declaration on Productivity.

Sir, my statement would not be complete if I did not record our appreciation to Mr T. D. SORBY for his outstanding leadership during the formative years of the Council. He was the Chairman of the provisional Productivity Council in 1966 and then of the Productivity Council since 1967 until July last year when he was succeeded first by Mr D. H. JORDAN and then by Sir Sik-nin CHAU in September 1970. Thank you, Sir.

Government business

First reading

**RENT INCREASES (DOMESTIC PREMISES) CONTROL
(AMENDMENT) BILL 1971**

LAW REFORM (UNCLAIMED MONEYS) BILL 1971

LAW REVISION (MISCELLANEOUS AMENDMENTS) BILL 1971

MARRIAGE REFORM (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

**RENT INCREASES (DOMESTIC PREMISES) CONTROL
(AMENDMENT) BILL 1971**

THE COLONIAL SECRETARY (SIR HUGH NORMAN-WALKER) moved the second reading of:—"A bill to amend the Rent Increases (Domestic Premises) Control Ordinance."

He said:—Sir, this bill extends the life of the Rent Increases (Domestic Premises) Control Ordinance 1970 by two years. As honourable Members will recall, this Ordinance came into force in June 1970, replacing interim legislation providing for security of tenure only, which had been enacted in January of that year, at a time when rents for private domestic accommodation were rising rapidly.

[THE COLONIAL SECRETARY] **Rent Increases (Domestic Premises)
Control (Amendment) Bill—second reading**

Up to the end of September this year, the Rating and Valuation Department had endorsed some 6,200 rent increases which had been agreed between landlords and tenants, and had issued about 15,400 certificates authorizing increases in rents. On the whole the legislation has worked well and has achieved its purpose of limiting rent increases to reasonable amounts.

The Ordinance is due to expire on 31st May 1972. From that date, unless its life is extended, those tenants who have not had their rents increased under its provisions would cease to enjoy security of tenure. Those tenants whose rents have been increased, would continue to have security of tenure until two years after the increase took effect. We have no means of knowing exactly how many tenancies would become exposed to market forces when the Ordinance expires, but it would certainly be a substantial proportion of the 240,000 domestic units which were in existence in the urban areas (including Tsuen Wan) when controls were first imposed in January 1970, and with this in mind we have carried out a review of the likely effects of the removal of the controls on 31st May.

When I moved the second reading of the Ordinance in this Council in May 1970, I said that all the evidence then available indicated that, by the time the legislation was due to expire, private building and the programme of Government and Government-aided housing should have produced enough new domestic accommodation to meet the demand. The statistics which we now have indicate that the production of new private housing during 1971 will be slightly lower than was expected and while the estimate for 1972 is almost as precisely as forecast, about 70% of next year's production will not be ready for occupation until the second half of next year. This results not from any slackening in the rate at which buildings are being planned or are put under construction but from a slowing down in the rate at which buildings are completed, mainly because of the very heavy demands being made on the building industry. At the same time increasing prosperity in its turn has led to an increase in demand for accommodation of the type which is covered by our present legislation.

Comparison of the rents charged for premises controlled by the Ordinance with those for premises outside it suggest that, if the Ordinance is allowed to lapse in May 1972, tenants might be faced with rent increases of about 20-25% for tenement floors, 40-45% for small flats and as high as 70-75% for medium and large flats. Some tenants might also be faced with eviction.

In these circumstances, we have come to the conclusion that because of the continuing shortage of accommodation and the likelihood of hardship to many tenants if the controls were allowed to lapse next May, the life of the Ordinance should be extended for another two years up to 31st May 1974.

The bill which is now before Council provides only for the extension of the life of the present Ordinance but, if it is passed, it is intended to introduce as soon as possible a second amending bill which will provide for further increases of rent during the period of the extension.

I should perhaps explain at this point that it is necessary to deal with this matter in two stages because the six months' notice of termination of tenancies, which is required by the Tenancy (Notice of Termination) Ordinance, could be given at any time from today to take effect on or after 1st June 1972, if the life of the legislation were not to be extended. Hence the urgency of the bill which is at present before Council.

We have given very careful consideration to the level of increases which would be appropriate during the extension period. As honourable Members will be aware, the Rating and Valuation Department is committed to a full revaluation of tenements for rating purposes during 1972 and therefore could not undertake any substantial amount of rent increase certification work under the Ordinance before April 1973. It is therefore proposed that landlords should be allowed further modest increases during the extended life of the Ordinance, subject only to a fixed maximum percentage.

It has not been easy to decide what increases would be appropriate. It is clear from both the agreed increases endorsed by the Rating and Valuation Department and those authorized by certificates issued under the Ordinance that the rise in rents over the last eighteen months has varied widely between the different classes of accommodation; average increases vary from 14% for tenements to over 30% for some medium-sized flats. We have considered the possibility of adopting different percentages applicable to different classes of premises but have decided against this because of the difficulty of defining the classes in question.

Having had regard to all the various factors, it is our intention to propose that a landlord should be entitled to impose two further increases of rent, each not exceeding 5%. The first increase may not take effect until at least two years after an increase allowable under the present Ordinance has taken effect. The second 5% may only take effect 12 months after the first 5%. The tenant will then gain security of tenure for a further year from the date of each further increase. A tenant of premises within the scope of the Ordinance would in any

[THE COLONIAL SECRETARY] **Rent Increases (Domestic Premises) Control
(Amendment) Bill—second reading**

case have security of tenure during the two-year extension period, whether or not his rent is increased.

I believe, Sir, that these proposals would not inflict undue hardship upon tenants, but they will provide some measure of increased return to landlords at a time of rising property values.

There are of course some tenants whose rents have not so far been increased under the existing Ordinance. In these cases, the landlords will be able to apply for certificates from the Rating and Valuation Department as at present. Such increases will not be limited to 5%, and the resulting security of tenure will be for two years from the date the increase takes effect.

A bill to make provision for these increases is now being drafted, and will be introduced into Council as soon as practicable if the Council passes the bill now before it.

Question proposed.

Motion made (pursuant to Standing Order No 30). That the debate on the second reading of the bill be adjourned—THE ATTORNEY GENERAL (MR D. T. E. ROBERTS).

Question put and agreed to.

Explanatory Memorandum

The object of this Bill is to extend the duration of the Rent Increases (Domestic Premises) Control Ordinance for a period of two years from 31st May 1972, when it will otherwise expire.

LAW REFORM (UNCLAIMED MONEYS) BILL 1971

THE ATTORNEY GENERAL (MR ROBERTS) moved the second reading of:—"A bill to repeal the Unclaimed Balances Ordinance and to make consequential amendments to other Ordinances."

He said:—Sir, the Unclaimed Balances Ordinance deals with the transfer to the general revenue of unclaimed balances which are held either in the courts or by public officers and also with the refund of such moneys to claimants.

The Ordinance has been found, in practice, to be somewhat unsatisfactory in its working, since it obliges a public officer in whose

hands any sum of money remains to hold on to it for 5 years before paying it into general revenue.

It is considered that it would be better for the Ordinance to be repealed, so that any public officer holding a sum of money can transfer it to the general revenue at any convenient time. This will in no way affect the rights of any individual to bring an action against the Crown for the return of any money to which he regards himself as legally entitled. Nor will it inhibit the bringing of moral claims by way of petition to the Governor for the return of any moneys which come into the hands of a public officer.

It is proposed by virtue of the schedule to the bill to transfer those parts of the Unclaimed Balances Ordinance which deal with sums of money in courts to the different Ordinances which deal with the administration of funds in court. It seems to be more convenient for those provisions to be found in the individual Ordinances which deal with the disposal of money in the custody of courts rather than for them to be located in a separate Ordinance of this kind as at present.

Question put and agreed to.

Bill read the second time.

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

Explanatory Memorandum

The purpose of this Bill is to repeal the Unclaimed Balances Ordinance and to make provision in various Ordinances for moneys held by the Official Receiver, the Official Administrator, the Official Trustee and other public officers which have remained unclaimed for five years to be transferred to the general revenue of the Colony. Any person who can establish a claim to any moneys before the period of five years has elapsed will continue to be able to make application to and receive payment from the appropriate public officer.

The repeal of the Unclaimed Balances Ordinance will not extinguish the legal or moral claims of any person to any moneys which have been transferred into the general revenue.

Sections 9 and 10 of the Unclaimed Balances Ordinance are merely declaratory of the general law and a claimant with a legal right will continue to be able to have recourse to the Courts under the Crown Proceedings Ordinance to prove his claim. Similarly a person with a moral claim to unclaimed moneys transferred into the general revenue will continue to be able to pray for relief from the Governor by way of petition.

LAW REVISION (MISCELLANEOUS AMENDMENTS) BILL 1971

THE ATTORNEY GENERAL (MR ROBERTS) moved the second reading of:—"A bill to repeal certain Ordinances and to make provision incidental thereto."

He said:—Sir, the main purpose of this bill is to repeal 3 obsolete Ordinances. The first of these is the Chinese Partnerships Ordinance, which was enacted about 60 years ago. This form of partnership differs from those which are registered under the Limited Partnerships Ordinance or under the Partnerships Ordinance in that the liability of a registered partner in a Chinese partnership is limited to the same proportion of the partnership debts as his interest in the registered partnership bears to the total interest of all partners.

Only one such partnership appears to have been registered in the last 35 years and none is still in existence. In view of the fact that the Limited Partnerships Ordinance provides an adequate framework for those who want to form a body of this nature, it is considered that the Chinese Partnerships Ordinance can safely be repealed.

The second Ordinance, the British Cinematograph Films Ordinance, was enacted in 1947 to ensure that local cinemas screened a reasonable proportion of British films. At that time the market was effectively cornered by distributors of American films, who were operating a system of advance block-bookings. No such protection is now necessary and the Secretary of State indicates that he sees no objection to the repeal of this Ordinance.

The Imperial Enactments Extension Ordinance, the third Ordinance in the schedule was passed in 1857, and applied a number of English Acts to Hong Kong. Only one of these still remains in force, namely, the Settled Estates Act 1856. This contains archaic provisions enabling a court to grant leases of freehold land which is the subject of a strict settlement. It is difficult to understand how this Act was ever applied to Hong Kong in the first place and impossible to understand why it has survived for so long. (*Laughter*).

The Second Schedule makes a number of minor amendments which are consequential upon Ordinances enacted during the past year. None of these amendments is of substance and I think that the Second Schedule can fairly be described as the brushing off of legislative dandruff from our shoulders. (*More laughter*).

Question put and agreed to.

Bill read the second time.

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

Explanatory Memorandum

Clause 2 repeals three Ordinances which have become obsolete or unnecessary.

Clause 3 makes consequential amendments to legislation affected by recent repeals and new Ordinances enacted during the past year.

MARRIAGE REFORM (AMENDMENT) BILL 1971

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

He said:—Sir, this bill seeks to validate dissolutions of marriage by consent which were carried out in Hong Kong between persons who were married in China between 1931 and 1950 in accordance with the law which was then in force in that country.

As honourable Members will be aware, many people went through ceremonies of marriage in Hong Kong after 1950 as if the pre-1950 marriage law of China were in force here. These were generally referred to as modern marriages and were at that time of no legal validity. From this it followed that a purported dissolution of a modern marriage also had no effect on the status of the parties who were in law not married at all.

However, sections 8 and 14 of the Marriage Reform Ordinance, which was enacted in 1970 and came into force on the 7th October this year, validated modern marriages which were contracted in Hong Kong and also validated their dissolution, since it was thought desirable to regularize the position.

However, a marriage which was celebrated in China between 1931 and 1950 in accordance with the law which was then in force in that country was a valid marriage and has always been recognized as such by the courts of Hong Kong. From this it followed that such marriages could only properly be dissolved by a decree of a competent court, either in Hong Kong or in some other country.

Unfortunately, between 1950 and 1968 many couples, married in China between 1931 and 1950, purported to dissolve their marriages in Hong Kong by mutual consent, as would have been permissible under the Chinese marriage law which was in force in China between 1931 and 1950. Some of these consensual dissolutions were entered into in the presence of officers of the Secretariat of Home Affairs and were widely regarded as valid. This belief was supported by the fact that the Government itself recognized them to the extent that persons whose marriages were dissolved in this manner were permitted to re-marry

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

under the Marriage Ordinance and were accepted for various purposes under the Widows and Orphans Pensions Ordinance and the Establishment Regulations.

Although these dissolutions have not been effected through the Secretariat for Home Affairs for some years, as a result of legal advice that they were invalid, it is believed that such dissolutions have continued to take place until now.

It follows from the fact that the purported consensual dissolution of these marriages was ineffective, that a subsequent marriage by either of the parties would be invalid and the children of the latter union would be illegitimate, which might have important and unfortunate consequences particularly with regard to succession of property and to nationality.

In these circumstances, it is thought desirable to validate these dissolutions and the proposed new section 22A which is contained in clause 2 of the bill provides accordingly.

It is also possible that in some cases the parties, having dissolved their marriage by mutual consent, were later informed that the dissolution was invalid and that they were still married. They may then have lived together again and produced children. The proposed new section 22A(3) is designed to cover this situation and to provide that a child born to the parties to a marriage of this kind before or after the date of the purported dissolution will be regarded as legitimate for all purposes.

A marriage of the kind to which this new section applies will only be able to be dissolved under the Matrimonial Causes Ordinance after the 7th October 1971.

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

It is known that many persons have purported to dissolve by mutual consent marriages to which this Bill applies believing this means of dissolution to be legally effective. However, the Supreme Court has held that such marriages are monogamous and

thus capable of dissolution only in accordance with the Matrimonial Causes Ordinance.

The purpose of this Bill is therefore to amend the principal Ordinance to validate dissolutions prior to the 7th October 1971, (the appointed date under the principal Ordinance) of marriages celebrated in China between the 5th May 1931 and the 30th April 1950, by mutual consent of the parties, provided that at the time of dissolution both parties to the marriage were domiciled in, or either party had a substantial connexion with, Hong Kong. Subclause (3) of the proposed new section 22A safeguards the legitimacy of children born to the parties after the date of the purported dissolution, since it is thought that some couples, on discovering that their purported dissolutions were invalid in law, may have cohabited again in the belief that they were still married.

PILOTAGE BILL 1971

Resumption of debate on second reading (17th November 1971)

Question again proposed.

MR SALMON: —Sir, the Pilotage Bill has been in the making for no less than nine years and is long overdue. It is an important bill because for the shipping industry an adequate and efficient pilotage service is vital.

My honourable Friend, the Financial Secretary, referred to the continual growth of ship operations in the Port, but I should also emphasize that the type of ship using the Port of Hong Kong is also changing. From the second half of 1972, Hong Kong will be served by an increasing number of container ships of upwards of 50,000 deadweight tons, which will gradually replace in certain trades the smaller conventional cargo ship; and this is also the era of the supertanker, which means that as time goes by supertankers calling at Hong Kong may become the rule rather than the exception. To handle ships of increasing tonnage and size, pilots of the highest professional competence and with the widest experience will be required, and I hope that proper emphasis will continue to be placed on a licenced pilot's qualifications, as well as his physical and mental fitness, and that a comprehensive training scheme can be set up for apprentice pilots.

I wonder whether for certain classes of vessels there is not a case for the engagement of a pilot to be compulsory, although I believe it is normal now for most masters of ocean-going vessels to take a pilot both on arrival and departure. Because accidents in respect of large vessels, and particularly laden tankers, can have severe consequences, I am inclined to think a pilot should be mandatory, unless dispensation

[MR SALMON] **Pilotage Bill—resumption of debate on second reading
(17.11.71)**

in particular circumstances has been obtained from the Authority, and perhaps the Pilotage Advisory Committee will give this their consideration.

Finally, Sir, may I make a comment on clause 2 of the bill where a pilot is defined as "a person who controls, or is in charge of, the navigation of a ship of which he is not the master". I suggest this definition might be improved because it is the master who is always in final control and has the ultimate responsibility both for the navigation and safety of his ship. The pilot is more of an adviser, though in practice masters do not interfere with pilots' navigation unless they have to, and it is perhaps desirable for the bill to leave no doubt of the limit of a pilot's responsibility.

Sir, I support the motion.

THE FINANCIAL SECRETARY (MR HADDON-CAVE): —Sir, I think my honourable Friend is perhaps in error in saying that this bill has been in the making for the past nine years. My own interpretation of the file is that the replacement of the Pilots Ordinance by a new ordinance has been under consideration, if not in the making, for the past 26 years come this Christmas! (*Laughter*).

I share the view expressed by my honourable Friend, Mr SALMON, that an efficient pilotage service is of the utmost importance to the shipping industry. The purpose of this bill is, I think, quite clear: it is to improve the standard of pilotage through training and a system of classification of licensed pilots. Under clause 8 of the bill a pilot's licence will specify the class of pilotage which the holder is entitled to undertake. Under clause 22(c), (e), (i) and (j) the Authority is empowered to make orders to provide for the selection, training and examination of apprentice pilots and the further training and examination of licensed pilots. It is clear, and I am glad to be able to reassure my honourable Friend, that due emphasis will be placed on securing and maintaining a high standard of competence within this profession.

My honourable Friend has suggested that perhaps the engagement of a licensed pilot should, be mandatory. Pilotage has never been compulsory in Hong Kong but it is, nevertheless, customary for large ships and infrequent callers to the port to engage the services of a licensed pilot. In the Government's view, there are no grounds for removing the discretionary authority from the master who, in the final analysis, is responsible for the safety of his ship. Furthermore, it would be an unnecessary charge and impose some inconvenience on a master's experience in conning his own ship in and out of the port of

Hong Kong. The bill has been endorsed by both the Executive Port Committee and the Port Committee, and neither committee advocated the introduction of compulsory pilotage.

Finally, Sir, I do not think that the definition of a pilot in clause 2 of the bill can be improved upon. This definition deals with the control of the navigation of a ship, and not the overall responsibility for a ship. It is common knowledge that the latter rests with the master, and the Law Draftsman's advice is that it is not necessary to state this in the definition.

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).

4.01 p.m.

HIS EXCELLENCY THE PRESIDENT: —Honourable Members may perhaps welcome a short suspension at this stage. Council will accordingly resume in fifteen minutes.

4.17 p.m.

HIS EXCELLENCY THE PRESIDENT: —Council will now resume.

Committee stage

Council went into Committee.

CRIMINAL PROCEDURE (AMENDMENT) (NO 4) 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 and 2 were agreed to.

Clause 3.

THE ATTORNEY GENERAL (MR ROBERTS): —Sir, I move that clause 3 be amended as set forth in the paper before honourable Members.

The object of this amendment and the one which I shall shortly propose to clause 11 is to delete section 6 of the principal Ordinance. This section obliges the Commissioner of Prisons to deliver on the first

[THE ATTORNEY GENERAL] **Criminal Procedure (Amendment) (No 4) Bill—
committee stage**

day of each session of the court a list of all persons in custody for any indictable offence who have not been tried or sentenced. It has been suggested that this section probably originated in the days when all persons charged with indictable offences were committed to the Supreme Court for trial. In practice, the section has not been observed for many years since the Commissioner of Prisons has merely submitted to the Supreme Court at the start of each session a list of those who have been committed for trial to the Supreme Court and the enactment of this bill abolishing formal sessions affords an opportunity to get rid of this archaic provision.

Proposed Amendment

Clause

3. That clause 3 be deleted and the following substituted—

"Amend-
ment of
section 7. 3. Section 7 of the principal Ordinance is amended by
deleting "sections 5 and 6" and substituting the following—
"section 5".".

The amendment was agreed to.

Clause 3, as amended, was agreed to.

Clauses 4 to 10 were agreed to.

Clause 11.

THE ATTORNEY GENERAL (MR ROBERTS): —Sir, I move that clause 11 be amended as set forth in the paper before honourable Members.

Proposed Amendment

Clause

11 That clause 11 be amended by inserting after "4," the following—
"6, ".

The amendment was agreed to.

Clause 11, as amended, was agreed to.

Clauses 12 and 13 were agreed to.

The schedule was agreed to.

ANTIQUITIES AND MONUMENTS 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 and 2 were agreed to.

Clause 3.

THE SECRETARY FOR HOME AFFAIRS (MR D. C. C. LUDDINGTON): —Sir, I move that subclause (4) of clause 3 be deleted and replaced by the new subclause set out in the paper already distributed to honourable Members.

The purpose of the amendment is to protect the buyer of any land from inadvertently purchasing land which is included in a monument. A buyer may not have seen the notice in the *Gazette* and the seller may not have brought it to his attention. The registration of the declaration will ensure that a normal search of the land registry will reveal the encumbrance to any prospective buyer.

*Proposed Amendment**Clause*

3 That subclause (4) of clause 3 be deleted and the following substituted—

"(4) The Authority shall, before publication of a declaration under subsection (1) —

- (a) sign and deposit in the appropriate Land Office a plan clearly showing the situation of the proposed monument; and
- (b) if the declaration relates to a monument within private land, register the declaration in the Land Office."

The amendment was agreed to.

Clause 3, as amended, was agreed to.

Clauses 4 to 7 were agreed to.

Clause 8.

THE SECRETARY FOR HOME AFFAIRS (MR LUDDINGTON): —Sir, I move that clause 8 of the bill be deleted and replaced by the new clause as set out in the paper already distributed to honourable Members.

[THE SECRETARY FOR HOME AFFAIRS] **Antiquities and Monuments Bill—
committee stage**

At the second reading of the bill my honourable Friend, Mr CHEUNG, criticized certain defects in clauses 8 and 9 of the bill in that they made the Authority responsible for the award of compensation to owners and occupiers who only had a right of appeal to the District Court against his decision. Provision is now made for the Authority and the owner or lawful occupier to come to an agreement on compensation. If it is not possible to reach agreement the owner or occupier can apply to the District Court for its assessment of what is reasonable compensation in the circumstances. The redrafted clauses 8 and 9 have been discussed with the honourable Member and do, I understand, meet the valid criticisms he made.

Proposed Amendment

Clause

8 That clause 8 be deleted and the following substituted—

"Compen- **8.** (1) Subject to this section, the Authority may, with the
sation. prior approval of the Governor, pay to the owner or lawful
occupier of a monument compensation in respect of financial
loss suffered or likely to be suffered by him by reason of—

(a) the exercise by the Authority, or by a designated person authorized by him, of the powers specified in section 5(1); or

(b) a refusal to grant a permit or any conditions imposed in a permit.

(2) The compensation shall be such amount as may be—

(a) agreed between the Authority and the owner or lawful occupier of the monument; or

(b) assessed by the District Court under section 9.

(3) No compensation shall be awarded under this section in respect of financial loss which has been or may be suffered in connexion with a contract made or anything done by the owner or lawful occupier of the proposed monument after the service of a notice under section 4(2). "

The amendment was agreed to.

Clause 8, as amended, was agreed to.

Clause 9.

THE SECRETARY FOR HOME AFFAIRS (MR LUDDINGTON): —Sir, I move that clause 9 be deleted and replaced by the new clause as set out in the paper distributed to honourable Members.

Proposed Amendment

Clause

9 That clause 9 be deleted and the following substituted—

"Assessment of compensation by District Court.	<p>9. (1) In default of agreement under section 8(2)(a), the owner or lawful occupier may apply to the District Court to assess the amount of compensation payable under section 8.</p> <p>(2) The District Court may, on such application, award to the applicant such compensation as it thinks reasonable in the circumstances. "</p>
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The amendment was agreed to.

Clause 9, as amended, was agreed to.

Clauses 10 to 22 were agreed to.

BANKING (AMENDMENT) BILL 1971

Clauses 1 to 4 were agreed to.

AUDIT 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 17 were agreed to.

WORKMEN'S COMPENSATION (AMENDMENT) BILL 1971

Clauses 1 and 2 were agreed to.

CLEAN AIR (AMENDMENT) BILL 1971

Clauses 1 to 3 were agreed to.

Clause 4.

MR CHEUNG: —Sir, I would not have spoken on this bill and at such a late stage but for the fact that the honourable Commissioner of Labour said, at the end of the debate on the second reading, that it is intended to declare the whole of Hong Kong a smoke control area.

I am a little perplexed as to why this should be done. Adequate power is already given to abate actual smoke nuisances without such a declaration. The difference that such a declaration will make is that it would make it illegal to operate any furnace, oven or chimney, unless it complies with the stringent requirements of section 8, which this clause is to amend, even if no actual smoke nuisance is created, or the safety of aircraft involved.

It would appear that Government has been persuaded to entertain this idea by a recommendation of the Committee on Air Pollution which was published in June 1970.

Apart from Hung Hom, where a smoke nuisance and air pollution problem did exist some time ago, and which has been rectified, to the credit of all concerned, the Committee in their very careful survey and report point to nothing which suggests there is any smoke nuisance, or the likelihood of any smoke nuisance, over Lan Tau or any part of the New Territories to the north of Tsuen Wan or the east of Kwun Tong, or on the south side of the Island of Hong Kong, not even on Ap Lei Chau or Aberdeen. The evidence they publish suggests that there might be localized pockets of smoke nuisance, for example at street level where diesel engined traffic is heavy, and in the vicinity of areas like Central Market. Those areas which have to be more strictly controlled, namely Kwun Tong, North Point, Shau Kei Wan and Chai Wan, have already been declared smoke control areas. Less understandably, so has Sha Tin. The truth is that there are few large sources of emission of smoke, and that thanks to the easterly winds and the configuration of the harbour, pollutants and smoke are effectively dispersed.

The Committee say they had considered the possibility of delineating additional smoke control areas but, without saying what those areas they had in mind were, they then ventured the somewhat staggering thought that it would be most appropriate to declare the entire colony a smoke control area and, with the utmost respect to them, they did so without giving any reasons, or pointing to any evidence that there is any necessity for doing so.

I hope that my honourable Friend, the Colonial Secretary, would reconsider it before he embarks on such a course. I strongly support what my Friend, Dr CHUNG, said on the second reading, that we must be careful not to extinguish certain established and basic industries, who would find it difficult to comply with section 8, but who do not contribute to any real smoke nuisance and, if they did, could be dealt with effectively under other sections of the Ordinance. I would add that we live by our industries, and I would be slow to inhibit their growth, especially out of some vague apprehension that the countryside may be despoiled, which can scarcely be a reason for smoke control of this kind. Industrialization will inevitably mean putting down concrete where green fields once were and doubtless will irk conservationists, but industrialization does not inevitably lead to smoke in such quantities that smoke control areas have to be declared.

It will be a very long time in any event before Lan Tau and the major part of the New Territories become industrialized and, happily, by then industry may be able to use power generated by nuclear power stations used in conjunction with the large desalting plants: the spectre of dark satanic mills may never materialize. It would also be right, in the meantime, to keep a proper sense of proportion, which we will by remembering that the Ordinance does not apply to ships nor, so far as I can see, to jet aircraft: I was reminded of this because one day last week, in the company of several honourable Members of this Council, I crossed the harbour and, to my untutored eye, one ship and the aircraft which landed and took off from the airport within the space of half an hour spewed out more smoke than the power stations, the incinerators, and the whole industrial area of Kwun Tong put together. I would therefore respectfully suggest that to declare the whole of Hong Kong a smoke control area is too much, too soon. We must not make the prospects of industry darker than shade 2 on the Ringelmann Chart. (*Laughter*).

Leaving that thought with my honourable Friend, the Colonial Secretary, I support the motion.

THE COLONIAL SECRETARY (SIR HUGH NORMAN-WALKER): —Sir, I will promise the honourable Member that I will bear in mind what he has said before exercising my powers under section 7 of the principal Ordinance and I am sure you, Sir, in Council will also bear in mind what he has said when considering appeals against any unconsidered decision I might make.

Clause 4 was agreed to.

Clause 5.

DR CHUNG: —Sir, I move that clause 5 be amended as set forth in the paper before honourable Members.

[DR CHUNG] **Clean Air (Amendment) Bill—committee stage**

The amendments are in three parts, First, I wish to deal with part (c), which amends subsection (2) of section 12 so to limit the entry of any smoke abatement officer into any premises during daylight and without the use of force. During the second reading I questioned the necessity for any smoke abatement officer to gain entry into the premises deep in the night and by force. After all, we are concerned with the control of smoke which is only a sophisticated problem in an affluent society, and not with the arrest of any crime or the maintenance of public order. I appreciate the assurance given by the Commissioner of Labour that entry at night, with or without force, will only be made with the expressed consent of an officer not below the rank of an Assistant Commissioner.

However, in the first instance, I have yet to be convinced by my honourable Friend of any matter relating to smoke control that cannot be carried out in day time or that cannot be delayed or deferred from night time until the following morning. I see absolutely no need for the use of force in gaining entry into any premises for the purpose of smoke control. Furthermore, there is already a provision in subsection (3) of section 12 of the principal Ordinance to penalize any person who resists or obstructs any competent authority or any smoke abatement officer or any assistant in the exercise of his duties.

My honourable Friend said in the second reading that as my proposed amendment in subsection (2) of section 12 of the principal Ordinance did not form part of the bill before Council, it would be inappropriate for him to accept my suggestion. Sir, I would like to draw the attention of honourable Members to sub-paragraph (4)(a) of Standing Order No 45 with regard to amendments to bills. This sub-paragraph reads: —

"An amendment must be relevant to the subject matter of the bill and to the subject matter of the clause to which it relates."

Since clause 5 of the bill seeks to amend section 12 of the principal Ordinance, with due respect, Sir, I therefore submit that my proposed amendment of section 12 is relevant to the subject matter both of the bill and of the clause.

I now come to part (b) of the amendment which is to delete the power given to any smoke abatement officer to seize and detain any article or thing. As honourable Members will recall, the Commissioner of Labour said in defence during the second reading that similar powers are provided in many other ordinances such as the Pharmacy and Poisons Ordinance and the Import and Export Ordinance. There is a basic difference between the Clean Air Ordinance and the other two Ordinances cited. The possession of certain poisons in the Pharmacy and Poisons Ordinance and the import or export of certain

prohibited articles in the Import and Export Ordinance are offences and therefore there is a need for the power to seize and detain articles for production as evidence in court. In the Clean Air Ordinance the possession of a furnace or a burner, however, does not constitute an offence and it is an offence only when a furnace emits dark smoke for more than six minutes in any period of four hours or for more than three minutes continuously at any one time. As a chartered engineer, Sir, I can assure you that there is no furnace or burner which, if one really wants, cannot make and emit dark smoke.

Additional powers are now being sought and will be given to the competent authority and smoke abatement officers to inspect any furnace, to take samples and make measurements of smoke, and to take samples of fuel. These new powers will, I am sure, enable any smoke abatement officer to collect sufficient evidence of an offence. The power to seize, carry away and detain any article or thing such as a furnace, a burner or any essential component of a furnace plant will only cause unnecessary hardship to the employer and the loss of employment for the employees concerned. And in the case of smoke control, I fail to see any justification for these economic disruptions.

Finally, Sir, part (a) of the amendment is consequential to that made in part (c) and needs no further explanation.

Proposed Amendment

Clause

- 5 That clause 5 be amended—
- (a) by deleting "amended by deleting subsection (1) and substituting the following—" and substituting the following—
"amended—
 - (a) by deleting subsection (1) and substituting the following—";
 - (b) in the proposed new subsection (1)(v), by deleting "any article or thing, or"; and
 - (c) by adding the following paragraph—
"(b) in subsection (2), by—
 - (i) deleting “, if need be by force,”; and
 - (ii) deleting “or by night”.”.

The amendments were agreed to.

Clause 5, as amended, was agreed to.

Clauses 6 and 7 were agreed to.

Council then resumed.

Third reading

THE ATTORNEY GENERAL (MR ROBERTS) reported that the

Banking (Amendment) Bill 1971

Audit Bill 1971

Workmen's Compensation (Amendment) Bill 1971

had passed through Committee without amendment and that the

Criminal Procedure (Amendment) (No 4) Bill 1971

Antiquities and Monuments Bill 1971

Clean Air (Amendment) Bill 1971

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

Question put on each bill and agreed to.

Bills read the third time and passed.

Unofficial Member's motion

Appointment of a Select Committee

MR KAN moved the following motion: —

That a select committee be appointed to enquire into the costs of running English-speaking schools and to make a report to this Council not later than 31st March 1972.

He said: —Your Excellency, I last spoke in this Council on 9th June of this year on the subject of fees for English-speaking schools. I said at that time that the Unofficial Members of this Council understood and sympathized with the great concern felt by the parents of children attending these schools at the sudden rise of 100 to 150 per cent in school fees which it was then intended to introduce. I went on to say: —

"Government, I know, is giving urgent consideration to the review of the present fee remission system to assist parents in general who find themselves in difficulty in paying these fees and the Finance Committee of this Council hopes to receive early proposals from Government in this regard.

Meanwhile, it is understood that the Salaries Commission is considering what assistance can be given to members of the Civil Service who are facing hardship in this connexion."

Later, in July of this year Government announced the postponement of the introduction of the proposed increases until 1st January

1972. The purpose of the postponement was to afford time for a review of the remission system. I do not doubt that long and earnest consideration has been given to the matter by the Government departments concerned but the fact is that it was not until two weeks ago, on the 19th of November, that Members of the Finance Committee received copies of papers containing proposals both for a revised system of fee remission and also for a scheme of local education allowances for civil servants.

A special meeting of the Finance Committee of this Council was held a week ago on 24th November when it immediately became apparent that the proposals for changes were so far reaching and their financial implications so considerable, that it was not possible to take any immediate decision. A number of matters of principle were also raised and there were many details which need further consideration.

The Unofficial Members also asked for details of costs of the English-speaking schools. These likewise were received as recently as 19th November and they did not contain sufficient information for a full appraisal to be made of the justification for expenditure on the present scale. It is for that reason that the Unofficial Members proposed the appointment of a select committee of this Council to examine the details of the costs in greater detail.

Sir, it is hardly necessary for me to point out that these three related matters, of fee remission, a possible scheme of local education allowances, and the need for expenditure on the present scale for running English-speaking schools are important matters which need to be gone into in considerably more detail than would be possible during the very short period of time between 19th November, when the papers first reached the Members of the Finance Committee, and 1st January 1972, when the new fees were due to come into force. Finance Committee therefore agreed to a further postponement of the proposed rise in fees until 1st September 1972. This postponement was announced by Government on 25th November 1971. As was stated by the Government spokesman, this further deferment of the introduction of the new fees for English language schools did not mean that there was any change in the policy of parity of subsidies.

In agreeing to the postponement of the increase for as long as a further eight months, Finance Committee felt that it was only fair to let parents know where they stand as regards fees for a reasonable future period. The danger is that, even with this further postponement, decisions affecting future fees are likely to be left over until the last moment. I trust that this will not, in fact, happen and that the matter can be resolved well in advance of the school year commencing in September 1972. To this end the motion requires the select committee to submit its report to this Council not later than 31st March

[MR KAN] **Appointment of a Select Committee**

1972, by which time I also trust that the proposals for fee remission and local education allowances will have been further examined by the Government departments concerned and be ready for consideration by the Finance Committee.

It is, of course, for Your Excellency to decide on the composition of the select committee in accordance with Standing Order No 61(2). I now formally move that such a committee be appointed with the following terms of reference:

“To enquire into the costs of running English-speaking schools and to make a report to this Council not later than 31st March 1972.”

THE COLONIAL SECRETARY (SIR HUGH NORMAN-WALKER): —Sir, I have no hesitation in supporting the motion in the terms moved by my honourable Friend, Mr KAN. He has explained the background to this motion, and I have little to add to what he has said. As he himself has reminded you, the question of the size of the committee and the nomination of a Chairman and Members is a matter for you, Sir, but before I advise you on this question I would like the opportunity to consult honourable Members of this Council, which I will fortunately have the opportunity to do this afternoon after the meeting of Finance Committee.

Question put and agreed to.

Adjournment and next sitting

HIS EXCELLENCY THE PRESIDENT: —In accordance with Standing Orders I now adjourn the Council until 2.30 p.m. on Wednesday the 15th December 1971.

Adjourned accordingly at fifteen minutes to five o'clock.