

**OFFICIAL REPORT OF PROCEEDINGS****Wednesday, 9th February 1972****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, CBE, 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 ERNEST IRFON LEE, JP  
DIRECTOR OF COMMERCE AND INDUSTRY  
THE HONOURABLE SIR YUET-KEUNG KAN, CBE, JP  
THE HONOURABLE WOO PAK-CHUEN, OBE, JP  
THE HONOURABLE SZETO WAI, OBE, JP  
THE HONOURABLE WILFRED WONG SIEN-BING, OBE, JP  
THE HONOURABLE ELLEN LI SHU-PUI, OBE, JP  
THE HONOURABLE WILSON WANG TZE-SAM, OBE, JP  
THE HONOURABLE HERBERT JOHN CHARLES BROWNE, OBE, JP  
DR THE HONOURABLE CHUNG SZE-YUEN, OBE, JP  
THE HONOURABLE LEE QUO-WEI, OBE, JP  
THE HONOURABLE OSWALD VICTOR CHEUNG, OBE, QC, JP  
THE HONOURABLE GERALD MORDAUNT BROOME SALMON, JP  
THE HONOURABLE ANN TSE-KAI, OBE, JP  
THE HONOURABLE LO KWEE-SEONG, OBE,

**IN ATTENDANCE**

THE CLERK TO THE LEGISLATIVE COUNCIL  
MR RODERICK JOHN FRAMPTON

### Papers

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

| <i>Subject</i>   | <i>LN No</i> |
|--|--------------|
| Subsidiary Legislation—  |              |
| Trade Union Registration (Amendment) Ordinance 1971.   |              |
| Trade Union Registration (Amendment) Ordinance<br>1971 (Commencement) Notice 1972 .....          | 7            |
| Criminal Procedure (Amendment) (No 4) Ordinance 1971.  |              |
| Criminal Procedure (Amendment) (No 4) Ordinance<br>1971 (Commencement) Notice 1972 .....         | 8            |
| Consular Relations Ordinance.  |              |
| Consular Relations Ordinance (Commencement)<br>Notice 1972 .....                                 | 9            |
| Consular Relations Ordinance.  |              |
| Consular Relations (Privileges and Immunities)<br>(Republic of Austria) Order 1972 .....         | 10           |
| Consular Relations Ordinance.  |              |
| Consular Relations (Privileges and Immunities)<br>(Kingdom of Belgium) Order 1972 .....          | 11           |
| Consular Relations Ordinance.  |              |
| Consular Relations (Privileges and Immunities)<br>(Kingdom of Denmark) Order 1972 .....          | 12           |
| Consular Relations Ordinance.  |              |
| Consular Relations (Privileges and Immunities)<br>(French Republic) Order 1972 .....             | 13           |
| Consular Relations Ordinance.  |              |
| Consular Relations (Privileges and Immunities)<br>(Federal Republic of Germany) Order 1972 ..... | 14           |
| Consular Relations Ordinance.  |              |
| Consular Relations (Privileges and Immunities)<br>(Kingdom of Greece) Order 1972 .....           | 15           |
| Consular Relations Ordinance.  |              |
| Consular Relations (Privileges and Immunities)<br>(Italian Republic Order 1972 .....             | 16           |
| Consular Relations Ordinance.  |              |
| Consular Relations (Privileges and Immunities)<br>(Japan) Order 1972 .....                       | 17           |

| <i>Subject</i>   | <i>LN No</i> |
|--|--------------|
| Consular Relations Ordinance.  |              |
| Consular Relations (Privileges and Immunities)<br>(United States of Mexico) Order 1972 .....                           | 18           |
| Consular Relations Ordinance.  |              |
| Consular Relations (Privileges and Immunities)<br>(Kingdom of the Netherlands) Order 1972 .....                        | 19           |
| Consular Relations Ordinance.  |              |
| Consular Relations (Privileges and Immunities)<br>(Kingdom of Norway) Order 1972 .....                                 | 20           |
| Consular Relations Ordinance.  |              |
| Consular Relations (Privileges and Immunities)<br>(Spanish State) Order 1972 .....                                     | 21           |
| Consular Relations Ordinance.  |              |
| Consular Relations (Privileges and Immunities)<br>(Kingdom of Sweden) Order 1972 .....                                 | 22           |
| Consular Relations Ordinance.  |              |
| Consular Relations (Privileges and Immunities)<br>(United States of America) Order 1972 .....                          | 23           |
| Consular Relations Ordinance.  |              |
| Consular Relations (Privileges and Immunities)<br>(Commonwealth Countries and Republic of<br>Ireland) Order 1972 ..... | 24           |
| Consular Relations Ordinance.  |              |
| Consular Relations (Merchant Shipping) (Republic<br>of Austria) Order 1972 .....                                       | 25           |
| Consular Relations Ordinance.  |              |
| Consular Relations (Merchant Shipping) (Kingdom<br>of Belgium) Order 1972 .....  | 26           |
| Consular Relations Ordinance.  |              |
| Consular Relations (Merchant Shipping) (Kingdom<br>of Denmark) Order 1972 .....  | 27           |
| Consular Relations Ordinance.  |              |
| Consular Relations (Merchant Shipping) (French<br>Republic) Order 1972 .....   | 28           |
| Consular Relations Ordinance.  |              |
| Consular Relations (Merchant Shipping) (Federal<br>Republic of Germany) Order 1972 .....                               | 29           |

**Papers**

| <i>Subject</i>   | <i>LN No</i> |
|--|--------------|
| Consular Relations Ordinance.<br>Consular Relations (Merchant Shipping) (Kingdom<br>of Greece) Order 1972 .....                    | 30           |
| Consular Relations Ordinance.<br>Consular Relations (Merchant Shipping) (Italian<br>Republic) Order 1972 .....                     | 31           |
| Consular Relations Ordinance.<br>Consular Relations (Merchant Shipping) (Japan)<br>Order 1972 .....                                | 32           |
| Consular Relations Ordinance.<br>Consular Relations (Merchant Shipping) (United<br>States of Mexico) Order 1972 .....              | 33           |
| Consular Relations Ordinance.<br>Consular Relations (Merchant Shipping) (Kingdom<br>of Norway) Order 1972 .....                    | 34           |
| Consular Relations Ordinance.<br>Consular Relations (Merchant Shipping) (Spanish<br>State) Order 1972 .....                        | 35           |
| Consular Relations Ordinance.<br>Consular Relations (Merchant Shipping) (Kingdom<br>of Sweden) Order 1972 .....                    | 36           |
| Consular Relations Ordinance.<br>Consular Relations (Merchant Shipping) (United<br>States of America) Order 1972 .....             | 37           |
| Public Health and Urban Services Ordinance.<br>Public Health and Urban Services (Amendment of<br>Fourth Schedule) Order 1972 ..... | 38           |
| Proclamation No 1 of 1972.<br>Sittings of the Supreme Court .....  | 39           |

## Sessional Papers 1971-72: —

- No 37—Annual Report by the Commissioner of Labour for the year 1970-71 (published on 9.2.72).
- No 38—Annual Report by the Director of Public Works for the year 1970-71 (published on 9.2.72).
- No 39—Annual Report by the Accountant General for the year 1970-71 (published on 9.2.72).

*Subject*

No 40—Director of Audit's Report and Certificate on the Accounts of the Hong Kong Government for the year ended 31st March 1971 (published on 9.2.72).

No 41—Despatch No 90 of 1972 to the Secretary of State on the Report by the Director of Audit for the year ended 31st March 1971 (published on 9.2.72).

**Oral answers to questions****Textile talks in London**

1. MR G. M. B. SALMON asked: —

Will Government make a statement on the recent textile talks in London?

THE FINANCIAL SECRETARY (MR C. P. HADDON-CAVE): —Sir, as I explained in this Council on 15th December last, arrangements for the recent talks in London were made when I visited London on 6th and 7th December last year. This was very soon after we were informed of the decision taken by Her Majesty's Government to continue the present quota arrangements on imports of cotton yams and cotton woven textiles as well as apply the new Commonwealth tariff of 85% of the General Rate. At the December talks an agenda was drawn up for the further round of talks held last month, when I was accompanied by several members of the Textiles Advisory Board including my honourable Friend, Sir Yuet-keung KAN.

We had two objectives: *first* to secure additional yardage outside the Hong Kong country quota to enable the Commerce and Industry Department to meet hardship claims lodged by non-quota holders who had written orders in the expectation that the quotas on exports of cotton textiles to the United Kingdom would be abolished as previously announced; and to meet claims from companies which had booked orders in excess of their previous quota rights. *Secondly*, we sought changes in the structure of our restraint arrangement with the United Kingdom because it has now been in operation for a number of years and is in any case in need of an overhaul and because, now that we have no longer duty free entry, a new situation exists in the United Kingdom market. Without such changes we might find it difficult profitably to utilize our quota rights particularly for fabrics. We proposed either modernization of the arrangement or, in view of

[THE FINANCIAL SECRETARY] **Oral Answers**

the United Kingdom's forthcoming accession to the European Economic Community, a new arrangement aligned with the more up-to-date bilateral agreement we entered into with the European Economic Community as from the beginning of 1971.

The talks were detailed and closely argued by both sides. We discussed all aspects of the British decision to retain quotas as well as impose a tariff with particular reference to the two objectives I have just mentioned. I kept the members of the Textiles Advisory Board who were with me in London in close touch with the discussions as they proceeded. At the end of five days we had reached a position where both sides were moving towards a measure of agreement but, from Hong Kong's point of view, not sufficiently so to meet our objectives. The British side, therefore, recorded in a letter addressed to me the position reached and each side agreed to report back to their respective Governments. Meanwhile, exports of cotton textiles to the United Kingdom are being restrained on the same basis as previously.

Since my return from London, the Textiles Advisory Board and the Governor in Council have studied the position and given further anxious consideration to the various issues involved; and we have remained in correspondence with Her Majesty's Government. I can assure my honourable Friend that the Hong Kong Government is fully aware of the need to reach an early agreement in order to remove the uncertainty which at present hangs over the trade.

MR SALMON: —Sir, would my honourable Friend say whether there is a possibility of making quicker progress with the first objective, that is the additional yardage for hardship cases, which is the more urgent of the two objectives as we are now into February, the second objective for later?

THE FINANCIAL SECRETARY (MR HADDON-CAVE): —I entirely understand my honourable Friend's point, Sir. Unfortunately, in some respects the first objective is more difficult to attain because the British Government must have regard to the total amount of hardship yardage which potentially hangs over the market and, until they have made a decision about how to handle this question generally, it is difficult for them to suggest what our fair share of available hardship might be.

SIR YUET-KEUNG KAN: —Sir, I personally regard the second objective as a much more important one and one which I believe vitally affects Hong Kong. With that in mind, may I ask whether Government would continue to press the UK Government to give very serious and earnest consideration to this to meet our second objective?

THE FINANCIAL SECRETARY (MR HADDON-CAVE): —We certainly believe, Sir, that a loosening up of the present arrangement to enable us to cope with the new tariff situation, despite the fact that we have still limited access rights in the quantitative sense, is a vital objective in the longer term.

### Cotton textiles

2. DR S. Y. CHUNG asked: —

Since the allocation of cotton textile quotas for export to the United Kingdom is based on performance achieved more than ten years ago, has Government considered the need for and desirability of making a new allocation based on a more recent performance?

MR E. I. LEE: —Sir, I should first explain that company quotas in respect of any market to which our exports of textiles are restrained are generally issued, initially, on the basis of shipment performance by that company during a period immediately preceding the commencement of restraint—usually the preceding year. Thereafter, quotas for a subsequent year are allocated on the basis of performance against the quota for the immediately preceding year. For example, in 1971 company quotas were issued on the basis of a company's performance against its quota for 1970; in 1970 company quotas were issued on performance against quotas for 1969, and so on. Thus it is possible that companies which were in the trade at the commencement of a particular restraint will have continued to receive allocations over a period of years; and it is, to this extent, true to say that companies are given allocations on the basis of their performance in the trade several years previously. However, I must point out that strict rules are applied to quota allocations, designed to encourage companies to use their quotas fully—albeit that transfers of quotas are permitted and shipments against such temporarily transferred quota count as performance by the quota holder. If quota holders do not fully utilize their quotas, they forfeit them according to the percentage which has not been shipped.

The forfeited quotas are then distributed to other companies by a variety of systems, some of them open to all comers, some of them involving bonus issues to those who have used their allocations to the full. Thus the quota allocation pattern is far from static, or is static only insofar as companies which continually use their quotas in full continue to receive allocations—a system which seems to me to be reasonable on the grounds that the people who developed the trade and who continue to use their quotas fully should be allowed to remain as quota holders.

**[MR LEE] Oral Answers**

I am well aware that our present system is not perfect in that it tends to freeze the pattern of supply and does not necessarily ensure that those who are currently the most competitive are in the trade. But to date no other allocation system which we have examined has satisfactorily overcome these imperfections without, in turn, giving rise to worse anomalies. However, my department, in conjunction with the Textiles Advisory Board, will be considering in detail the need for, and desirability of, making company quota allocations on the basis of a more recent shipment performance period in the United Kingdom market. We are, of course, somewhat inhibited at the moment, because until we know precisely the arrangements which will apply to exports of cotton textiles to the United Kingdom this year, we cannot say in respect of which products, or which groups of products, company quotas will need to be allocated this year. My honourable Friend, the Financial Secretary, has already spoken on this aspect today.

DR CHUNG: —Sir, my honourable Friend said "if quota holders do not fully utilize their quotas they forfeit them according to the percentage which has not been shipped". Am I correct to say that if a quota holder has only shipped 95% of his quota he will forfeit his unshipped portion, that is 5%?

MR LEE: —Sir, I should add, in respect of what my honourable Friend has just said, that in order to maintain flexibility the Textiles Advisory Board—or, at least, I on the advice of the Textiles Advisory Board—over the years decided that if any quota holder ships 95% of his quota he will receive his full allocation the following year.

DR CHUNG: —Sir, I would like to quote again my honourable Friend who said that transfers of quotas are permitted and shipments against such temporary transferred quota count as performance by the quota holder. Does it mean, Sir, a quota holder can enjoy his quota and make money on it for ever even if he does not export nor manufacture?

MR LEE: —Sir, if I may read into my honourable Friend's question more than is perhaps there, I believe that he possibly has in mind as well allocations to companies of quotas which they then transfer to other companies. Let me say at once that I see nothing wrong with the quota transfer system per se. It provides an essential degree of flexibility within a restraint agreement and helps to prevent the fossilization of the trade to which my honourable Friend by implication objects. It may be true, however, that some companies have over the years concentrated on the sale of quotas rather than the goods to which the quotas relate. My department maintains detailed records of the transfers which



are made and examines each year the extent to which sales of quota rather than of textiles are made. Certainly, up to the end of 1970, there was no evidence to suggest that the volume of quota sales was such as to warrant, as would be necessary, a large scale revision of the quota allocation and transfer system. My staff are currently processing the information relating to transfers in 1971 which, with the advent of restrictions on non-cotton textile exports to the United States and the proposed abandonment then continuation of quotas to the United Kingdom, was something of an unusual year—at least I sincerely hope it was unusual. When this information is to hand, as I have mentioned in my original reply, my department in conjunction with the Textiles Advisory Board will be considering in detail the need for and desirability of making company quota allocations on the basis of a more recent shipment performance period in the United Kingdom market.

DR CHUNG: —Sir, may I ask a final supplementary question? When a quota holder has to forfeit the unshipped portion of his quota, may I ask my honourable Friend how Government re-allocates that particular portion? Would it go to quota holders, to non-quota holders or to the highest bid in auction?

MR LEE: —It depends entirely, Sir, on the particular quota. In some cases it is allocated to existing quota holders; in others it is a combination of allocation to existing quota holders and then allocation to those who have recent performance but who hitherto have not had quotas. We try to maintain, as I have tried to stress previously, complete flexibility in these matters.

### **Used car dealers and derelict vehicles**

3. MR WILSON T. S. WANG asked: —

Will Government take steps to ensure that used car dealers provide their own parking spaces instead of monopolizing public spaces and are there any areas earmarked for such facilities as "car graveyards" where derelict vehicles can be disposed of?

MR J. J. ROBSON: —Sir, it is unfortunately true that second hand car dealers park vehicles for sale in public parking spaces in the absence of adequate parking provision—indeed if any—within their own premises. This in itself is not an offence provided they pay the prescribed parking charges in the case of metered spaces and also provided the vehicle is not in any case parked for a period in excess of 2 days, after which time the police have powers to tow it away. Honourable

**[MR ROBSON] Oral Answers**

Members will however appreciate the difficulties of enforcing this latter regulation, unless the vehicle is kept under constant observation over the whole 2 days. Until such time as the legislation is strengthened, say by introducing a complete ban on meter feeding, coupled with strict control measures by the police, or until meter charges are revised, there is little incentive for second hand car dealers to obtain premises which are sufficiently large to accommodate all the vehicles handled by them. In the meantime, the matter will be brought to the notice of the Transport Advisory Committee to see whether other measures are necessary and feasible.

Mr WANG has also asked whether any areas have been earmarked as "car graveyards" where derelict vehicles may be disposed of. I understand that on average some 13 motor vehicles are scrapped in Hong Kong everyday and these normally find their way to scrap metal dealers. Unfortunately, parts of the vehicles do remain and it is this accumulation of waste which could become a problem in time. Investigations are being made into the use of crushing machines for this purpose but it is questionable whether this system of disposal would be economic in Hong Kong. It may be cheaper simply to load scrapped vehicles onto lighters for dumping at sea in deep water but this also will not really be cheap and there could be objections to it—especially from fishermen. But earmarking land areas as "graveyards" for derelict cars is certainly a luxury which Hong Kong cannot afford since it is essentially a ground level activity. However, certain areas awaiting development might be allocated for this purpose on a temporary basis if the ultimate disposal of the materials dumped there was certain.

**Sub-standard concrete in buildings**

4. MR SZETO WAI asked: —

Will Government amend the Buildings Ordinance to provide more realistic penalties for contractors who use substandard concrete in buildings?

THE ATTORNEY GENERAL (MR D. T. E. ROBERTS): —Yes, Sir.

**Soft drugs**

5. MR WANG asked: —

Will Government introduce as a matter of urgency sterner penalties for trafficking in soft drugs?

DR G. H. CHOA: —Sir, by "soft drugs" I presume my honourable Friend means substances such as amphetamines, certain barbiturates and other non-narcotic drugs which are not classified under the Dangerous Drugs Ordinance but as scheduled poisons under the Pharmacy and Poisons Ordinance. Pharmacologically speaking, these substances can be habit-forming and harmful to the user if taken in excess and therefore I deprecate the use of the term "soft drugs" and would prefer to see them referred to as scheduled poisons, since this description dispels any misapprehensions that "soft drugs" are not harmful.

Consideration has been given for some time to a complete revision of the Pharmacy and Poisons Regulations including the question of introducing more severe penalties for offences related to scheduled poisons. However, in view of the urgent need for stronger measures to deal with the misuse of scheduled poisons, separate agreement has been reached on certain proposed amendments to the Pharmacy and Poisons Ordinance. These amendments will be presented to honourable Members of this Council at the earliest possible opportunity and, if approved, will considerably increase the powers of the Magistrates to impose much higher fines and also to order the imprisonment of persons found guilty of offences under the Pharmacy and Poisons Ordinance.

### **Promotion prospects for teachers**

6. MR K. S. LO asked: —

Is it true that teachers of art, domestic science, music and physical education are not eligible for promotion beyond Teacher Class II? If so, will Government reconsider the position of such teachers in view of the importance of the subjects which they teach?

MR J. CANNING: —Sir, the short answer to the first part of my honourable Friend's question is "no".

Under the proposed new grade and salaries structure for the teaching profession in government and aided schools the Conditions of Appointment for the grades of Teacher Class II and Teacher Class I allow for the promotion of all teachers in the Teacher Class II grade, no matter what their subject may be, to Teacher Class I on being appointed as a Headmaster or Headmistress of a primary school.

The Conditions of Appointment also allow for the promotion from Teacher Class II to Teacher Class I of all Teachers Class II who are regularly teaching Certificate of Education subjects in Form V.

[MR CANNING]     **Oral Answers**

Teachers of art and domestic science in this position are therefore eligible for consideration for promotion to Teacher Class I.

In addition, in the Government sector of education, Teachers Class II of the four subjects mentioned are eligible for promotion to posts of Teacher Class I and Senior Teacher in the Colleges of Education and the Inspectorate. There are, in fact, some 33 promotion posts available in the Colleges and the Inspectorate for the 49 officers teaching music and physical education on a full-time or part-time basis in government secondary schools.

It is nevertheless true that as the Conditions of Appointment stand at present teachers of music and physical education cannot gain promotion to Class I if they choose to remain in secondary schools as these subjects are not offered by schools in the Certificate of Education examination. However, as this matter forms part of the proposed grade and salaries structure which, so far as Government teachers are concerned, is still under discussion in the Senior Civil Service Council, I trust that I shall have my honourable Friend's understanding if I forebear to comment in reply to his second question.

### **GPO bridge over Connaught Road**

7.   MR SALMON asked: —

Will Government state what is being done with regard to the extension of the bridge from the GPO over Connaught Road and the provision of a two-way bag conveyor system?

MR ROBSON: —Sir, as honourable Members are aware the extension of the bridge from the General Post Office over Connaught Road Central is required because of the reconstruction and widening of this road to 8-lane dual carriageway standards. The present GPO bridge terminates in what is now a central island in the road system and the mail bags are having to be conveyed by trolley across the east bound carriageway of Connaught Road into the Post Office temporary buildings on the Central Reclamation.

It is intended to extend the bridge to the temporary buildings and a contract for the fabrication and erection of the necessary steel structure has been signed and fabrication has already commenced. Completion of the whole structure is expected within 4 months and a contract for the supply and installation of a new conveyor system necessitated by the extension of the bridge has already been let. Completion of

this conveyor system is expected to take six months, but delay in delivery from overseas could extend this period.

Meanwhile, however, traffic signals have been installed to enable Post Office personnel to convey the mail bags safely across the east bound carriageway. While at present these signals are not causing significant delays to traffic it is of course important to terminate as soon as possible the practice of moving mails at ground level.

### **Hydrofoil terminal**

8. DR CHUNG asked: —

In view of the fact that a large proportion of Macau hydrofoil passengers are from Kowloon, will Government consider the need for and desirability of building a second hydrofoil terminal to be sited in Kowloon?

MR ROBSON: — Sir, in 1964 the Director of Marine was authorized to investigate the feasibility of establishing a hydrofoil terminal in Kowloon and whether this was desirable. Discussions took place with the departments concerned and with the hydrofoil operators. The matter was also considered in the Transport Advisory Committee and the Port Executive Committee.

Generally, all those consulted favoured the proposal but difficulties were encountered in finding a suitable site. Such a terminal would also have involved duplication of the Marine Department, immigration, security, Preventive Service and port health staff. In the light of these difficulties the proposal was abandoned in favour of improved cross harbour services.

The matter was again briefly examined in 1969 and the same decision reached.

As honourable Members will be aware, cross harbour communications will be significantly improved later this year with the opening of the Cross Harbour Tunnel and there will thus be even less justification for constructing a second hydrofoil terminal, involving as it would the costly duplication of staff and the use of valuable waterfront area. Government does not, therefore, intend to re-examine the building of a second hydrofoil terminal.

However, the departments concerned are at present examining the practicability of building a new terminal with improved facilities including steamer, hydrofoil, hovercraft and helicopter operations. Whether this will be sited in Kowloon or on the Island, and when it will be built, has yet to be decided but I hope to be in a position to make an announcement on this matter within the next 12 months.

### Oral Answers

MR OSWALD CHEUNG: —Sir, is it really true that the establishment of a new hydrofoil station in Kowloon would involve a duplication of staff? Would not some passengers be drawn away from the present terminal, so that some of the present staff could be used in Kowloon? Is there not a fallacy in the thinking of the Government departments concerned?

MR ROBSON: —I don't think there is any fallacy, Sir. Duplication does not necessarily mean doubled in that sense. (*Laughter*). In other words, if you have a station which has one man operating it and then you have a second station, you require one other man which is doubling the number. This could be followed through in other patterns, because I don't think it is right to say that if you double the number of stations half the number of people can look after each of the stations. So I don't think there is a fallacy. I do agree though that you do not require perhaps twice the number of staff at each station.

MR CHEUNG: —If it is not a fallacy, Sir, is it a further development of Parkinson's Law? (*Laughter*).

MR ROBSON: —I am afraid I would require notice of that question, Sir! (*More laughter*).

### Government business

#### Motions

#### WHITE PAPER ON THE URBAN COUNCIL

THE COLONIAL SECRETARY (SIR HUGH NORMAN-WALKER) moved the following motion: —

That this Council welcomes the White Paper on the Urban Council which was tabled on 13th October 1971.

He said: —Sir, the White Paper on the future of the Urban Council was laid on the table of this Council on the 13th of October last year and was published for general information at that time. Since then I have noted a certain lack of any very clearly defined or generalized reaction to the proposals in the White Paper. However, the members of the Urban Council have considered the Paper in detail and their chairman has been good enough to forward to me their comments. I understand, too, that both the elected and the appointed members of

the Urban Council have had discussions on the White Paper with the Unofficial Members of this Council, whose views I look forward to hearing today.

MR P. C. Woo: —Sir, in December of last year the Unofficial Members of this Council set up a working group to study the White Paper dealing with the reform of the Urban Council. The members of that group, of which I was the convenor, first of all met among themselves to discuss the White Paper in the light of public comments which had been made since its publication in October 1971. More recently there have been meetings between Unofficial Members of this Council and representatives both of the elected and of the appointed members of the Urban Council. We are grateful to the members of that Council for agreeing to come along and give us the benefit of their own views, for in this way we have obtained a greater insight into the problems presented by the White Paper and also into the divergent views on some of the proposals held by the various shades of opinion within the Urban Council itself. Notwithstanding these differences of opinion one salient factor that has stood out is the substantial degree of acceptance of the proposals in the White Paper by the members of the Urban Council. I believe it is true to say that they do, on the whole, welcome the proposals and regard them as a challenge and as a step forward. The elected members do have one substantial point of dissent, namely, they all feel that there should be a majority of elected members. The appointed members feel equally strongly that there should not be an elected majority. The view of the Unofficial Members of this Council is that the equal balance of twelve elected and twelve appointed members proposed in the White Paper is just about right at the present point of time. Hence the overwhelming majority of us support the proposed revised composition of the Urban Council including the withdrawal from it of all the official members and the selection of a chairman by the Council itself, who might be either an unofficial or a co-opted official or an eminent citizen from outside the Council.

We also agree with the proposed functions of the Urban Council and with the general principles of the other changes proposed in the White Paper including the very important changes in the sphere of finance. We note that the functions as set out in the White Paper are largely acceptable to the Urban Councillors themselves, provided that the resettlement and housing functions which are at present within the sphere of the Urban Council and the Housing Authority in its present guise are not removed from them and provided also that acceptable detailed arrangements can be made in relation to finance and staff. My colleagues will make further comments on these points. I would like to make one general point here, and indeed it is a point made in the White Paper itself. I quote from paragraph 35:

[MR WOO]     **White Paper on the Urban Council**

“It must be recognized that even to put the present proposals into full effect will involve the resolution of many complex points of detail and difficult adjustments”.

During this process of resolution I would ask that Government should at all times consult with the members of the Urban Council so that the legislation and administrative instructions which ultimately emerge from this important exercise will be largely acceptable to those who will have the job of making them work in the years ahead.

There is one particular point of detail which I wish to deal with, and that is the proposal in paragraph 16 of the White Paper that the Council's Standing Orders should be subject to approval of this Council. This proposal, Sir, is repugnant to all shades of opinion in the Urban Council. The Urban Councillors feel that it is entirely inappropriate that their internal rules of procedure should be subject to the approval of the Legislature. The Unofficial Members of this Council agree that there is no need to do so, subject to two provisos. The first proviso is that any essential controls over the proceedings of the Urban Council should be incorporated into the Ordinance itself. Specifically, the inclusion of a provision forbidding *ultra vires* questions and debates will achieve the effect of ensuring that the Council confines itself to its proper functions. The second proviso (one which I hope it will never be necessary to use) is to reserve the right of this Council to enact special legislation in the event of any failure by the Urban Council properly to provide for or observe regulations for its own proceedings.

Finally, Sir, I wish to echo the words of paragraph 35 of the White Paper, which seem to me to sum up in a nutshell what is the best policy for Hong Kong in matters relating to changes in the composition and functions of the Urban Council:

"It is clearly only prudent to proceed in a cautious and orderly manner, one step at a time".

Subject to these observations, Sir, I support the motion for the adoption of the White Paper.

MR WILFRED S. B. WONG: —Sir, like a number of my colleagues, I am an old boy of the Urban Council and, having served on it for 8 years, I speak with some knowledge of and feeling for it.

As my senior colleague, Mr Woo, has already dealt with the salient points under review in the White Paper, I will comment briefly.



Regarding the franchise, I believe that to arouse public interest in local affairs the enlargement of franchise is essential. Therefore, not only should the categories for qualifications be increased but additional voting stations should be established in the proper localities for the convenience of the residents of the area.

On Standing Orders I believe, subject to the provisions of the scope of the Urban Council, that the Urban Council should be allowed to make their own Standing Orders, just as commercial firms are allowed to make their own by-laws.

On the question of functions, it is noted that there has been no appreciable increase except for some new licensing duties which are environmental in character, such as liquor licensing, cinemas, bowling alleys, skating rinks, billiard saloons, barber shops and pingpong saloons.

However, in this connection I would take this opportunity to say that the Urban Council, notwithstanding the criticism made against it, has done well in the recreational and public amenities fields, especially in the establishment of playgrounds, improved markets and the cultural services. A fair achievement is made in health matters.

On cleansing, the Urban Council is faced with a shortage of personnel and I look forward to the day when the 4 anti-litter squads will soon be increased to 48 anti-litter squads.

It is in the field of finance that the White Paper on the Urban Council has made the most contribution. It is an essential feature that for organizations which spend money they must also receive their own revenue, thereby establishing a co-relation between revenue and expenditure. The attainment of substantial financial autonomy will be in a form of a separate rate to be given to the Council and will be offset by a corresponding reduction in the present general rate. It is to be recalled that the rate has a historical origin in being related to police and I believe it was originally 15% in most British administered territories. In fact in Chinese the general rate is called police tax. In Hong Kong an additional 2% is added for water, making a total general rate of 17%. This general rate is now empirical and it is logical that a rate could be related to urban services as well. As an additional measure of financial autonomy and discretion, the Council will be authorized to borrow from the public and a Government guarantee could be provided to meet capital expenditure.

On hawkers, it is in this field where the Urban Council is able to exercise the least control—this is because this involves a subject on which the heart clashes most with the head. It is hoped that a hard-headed decision will soon be made so that Hong Kong streets,

[MR WONG]     **White Paper on the Urban Council**

which are bursting at the seams, will once again be thoroughfares which is the *raison d'être* of their existence.

I support the motion for the adoption of the White Paper.

MRS ELLEN LI: —Sir, as one of the alumni of the Urban Council, it is only natural that I am deeply interested and concerned about the work of the Urban Council and the intended "reform" of the Council outlined in the White Paper before us this afternoon.

The White Paper in its present form can not be described or considered as anything "soul shattering", because the only major changes recommended are the complete withdrawal of Official Members from the Council and a limited extension of financial autonomy. The additional licensing duties are accepted as something that would have been done a long time ago. The four additional seats are needed to share the responsibilities of the numerous select committees, and will mean a wider choice of candidates for Government and the public during election time when and if the bi-lingual system is brought into practice.

However, inspite of its limited scope, the White Paper has been accepted in general as a practical proposition under our present economic and political atmosphere. It is at least one step forward in the right direction although it is but one tiny step. Caution is the key-note of our stability and we have not done too badly so far by being a little cautious. The words "dramatic", "drastic" and "revolutionary" are not words we can find in our Hong Kong dictionary.

Having said all that about the White Paper as a whole, I would like to comment on two specific subjects: namely, the franchise and housing.

The White Paper recommends that the present franchise be retained. It is felt that, since only about 10% of the qualified voters actually registered and only a few thousand turned out at the polls, the present franchise is adequate for the purpose at the present moment. Personally, I am more concerned about the principles behind it, *i.e.* the categories of persons qualified for voting and the educational standard necessary for the qualification.

I am sure many of us agree that, for the time being, secondary school standard of education is perhaps the right level of requirement for any intellectual or intelligent election to the 10 or 12 elected seats. The present limitation to certain specific certificate holders, such as the School Certificate, the Certificate of Education, Technical School, etc.,

and matriculants of the two universities in Hong Kong, is too restrictive. Thousands of graduates from Chinese schools who did not sit for certificates examinations and post-secondary colleges in Hong Kong as well as graduates of secondary schools and universities in Taiwan and the Mainland, who are just as qualified as those taking the certificates examinations, are excluded from voting. This franchise should be reviewed soon and periodically thereafter. Perhaps, in time to come, we can even remove this educational restriction when every youngster in Hong Kong is presumed to have at least a primary school education.

Some members of this Council may be of the opinion that Government should set up a Housing Department to look after all types of housing in Hong Kong. Personally, I do not agree with this view, because I feel confident that members of the Urban Council can do the job as well, if not better. In fact, the low cost housing projects under the Urban Council have earned world-wide acclaim for good management and design on world standards, and it is one branch of service under the Urban Council that all of us can be very proud of.

With these observations, Sir, I support the motion.

MR WANG: —Sir, it would almost seem unnecessary for me to affirm my support of the motion before Council today since it has already been made obvious by my honourable Friend, Mr Woo, who, moreover, has also covered most of the points that I had intended to make.

However, I tender no apology for showing my eagerness to share the spotlight of the day since I too had the privilege to serve in Urban Council for nine years, and was also a member of both committees that prepared the reports referred to in this White Paper. I am sure many will share my view that this motion is in a way an expression of Government's recognition of the past achievements of the Council when it proposes not only to grant the Urban Council substantial financial autonomy but also to have it composed entirely of unofficial members—a recognition of which all the present and past members of the Urban Council have good reasons to feel proud.

The motion in effect is one that calls for a vote of confidence in the Urban Council. As has been revealed by Mr Woo, a unanimous vote will be cast in its favour—an obvious outcome indeed when it is known that the special group of Unofficial Members was wholly composed of "alumni" of the Urban Council and its convenor was formerly an elected member.

Sir, we are glad to learn that the Urban Councillors have also expressed their warm support of the principal proposals embodied

[MR WANG] **White Paper on the Urban Council**

in this White Paper. I wish here to tender my apology to my friends, the elected members in the Urban Council, for not being able to win the support of the appointed members of that Council nor of my colleagues in this Council for their expressed desire for an elected majority. I hope they will not be too disappointed over this issue. I like to place my confidence in a bigger turn-up at the poll on future election days. When this happens, none will argue against an elected majority or indeed a fully elected membership in the Urban Council.

With my best wishes for the future success of the Urban Council, I gladly support the motion.

MR LO: —Sir, the White Paper on Urban Council under debate is supposed to be the blueprint for the future development of the Urban Council. After an introduction and some background considerations, it came to certain conclusions and arising from them a number of proposals were made.

However, after reading it, I myself am not sure as to what sort of creature the Government wants it to be. Does it want it to be a fish or a bird? In other words, does the Government want its future Urban Council to remain as an advisory body to the Urban Services Department, or does it want it to be developed into a full-fledged local government? This is the doubt that leaves in one's mind and, until this is being resolved, I suggest that there is not much point in the proposed reform.

Under paragraph 3 of the introduction it says "Government is aware that apart from considerations of administrative efficiency, there is a need to encourage the development of the community spirit and a sense of belonging". Then it went on to say that both of these aims, *i.e.* administrative efficiency and greater participation in the management of public affairs, have already been achieved through a network of advisory bodies.

From this one might be pardoned to assume that the Government is not interested to see the existing Urban Council being developed into a separate and well defined statutory local government, but is more interested in keeping it as an advisory body.

If that be the case, then it must be said openly so that its present Council members shall not raise questions or engage in debates on subjects which are beyond their terms of reference. At the same time they should not be asked to shoulder any financial responsibility whatsoever, as this will be inconsistent with the duties of an advisory body.

On the other hand, if it is the Government's intention that the present Urban Council should be eventually developed into a responsible and autonomous local government, then it should be given a fair chance to succeed right from the start.

There are several indications in the White Paper which lead one to believe that that is the intention. For example, it says that the Council will be given its share in the rates to be collected, and will be authorized to raise capital funds in the market. It even went as far to say that in due course it would be expected to set up its own architectural section. Furthermore, that in future the Council will be free to select its own chairman; that all present official members will be withdrawn; that proceedings will be conducted in Cantonese and English.

I suggest that there is no need for such changes, unless it is the Government's intention to develop the Council into a local government.

If that be the case, then surely it must be vested with the authority to exercise control over its own staff. For I personally cannot see how it can be held responsible for the performance of its statutory functions unless it can also exercise control over its own staff.

But in the White Paper under paragraph 20 it says "The Urban Council will continue to work through its present executive arm, the Urban Services Department, and the staff of this will continue to be answerable to the Director of Urban Services . . ." The question I would like to ask is, to whom is the Director of Urban Services answerable?

I realize that in the initial and during the transitional stage, the Council must work with the present staff in the Urban Services Department. But the White Paper must make it plain that within a specified period of time it is the intention of the Government to transfer the staff in the Urban Services Department to be part and parcel of the Council's own staff.

After weighing the pros and cons, I am of the opinion that it would be of greater service to the community if the Council were developed into an autonomous local government and I would like to see it proceed along the following lines:

- (a) that legislation should be drawn up to make the Urban Council into a statutory local government with well defined scopes and functions as listed in paragraphs 7 and 8 of the White Paper;
- (b) that detailed financial arrangements should be worked out in advance between the central government and the Council on the sharing of rates and the annual grants for capital works;

[MR LO] **White Paper on the Urban Council**

- (c) that during the initial and transitional stage, the Director of Urban Services should be made answerable to the Council, until such time when the transfer of staff from the Department to the Council has been completed. For this reason, he should remain as a member of the Council, though not necessary its chairman;
- (d) that the new chairman, or one of its Council members, should be appointed to sit on the Legislative Council. This is necessary in order to maintain a better understanding and to promote a smoother working between the two Councils;
- (e) that the composition of the Council should, for the time being, consist of equal numbers of appointed and elected members. But the ultimate aim is to have all elected members sitting on the Council. This can be achieved by replacing two appointed members at a time as and when their term of appointment comes to an end. There is, however, nothing to prevent them from running for election, and I think most of the present appointed members will stand to be elected if they are willing to run.

I have two very strong reasons for suggesting a totally elected body. Firstly, I doubt that the present system of balancing between the appointed and elected on a 50/50 basis will work in the manner that the authorities envisage. Even at the present time those who are appointed do not necessarily toe the Government line. So with the complete withdrawal of the official members, there shall be no more official line for them to toe. For this reason, it would appear irrelevant to even retain the appointed members. At best it will leave two opposing parties in the Council, without any hope of either side gaining an upper hand and thus assume the full responsibility for the Council's administration. Since neither side can be held fully responsible for the consequences and results of the work performed by the Council, it will either hamstring the work or produce irresponsible actions. It is, therefore, desirable to give one side a majority in order to produce a responsible body, who can be held accountable for its action to the community.

My second point is that as more than 50% of our population are local born, they are entitled to have a say at least in the management of local affairs. And as they are being better and better educated in years to come, they will be expected to press for this right, whether we like it or not. Therefore a truly representative body in the form of a local government

will provide a platform for their political aspiration and a training ground in public administration. It will instil some sense of belonging and community spirit into them; a hope which the White Paper voiced right from the start. It will further provide a challenge and a test as to whether our younger generation are capable of managing their own affairs in a businesslike and responsible manner;

- (f) that the area within which the Urban Council operates should be divided into a number of electoral districts, so that in future each elected member will represent his own district. There is much to be said in favour of this system of election. After all the whole essence of having a local government is to ensure that a Councillor who is elected to serve his district will get to know his people, their needs, desires and fears. This knowledge will enable him to make sure that his priorities are right, and the wishes of the people are properly conveyed to the Government.

I am afraid, Sir, that I cannot agree with the White Paper that satisfactory arrangements already exist for particular services needed by various districts to be provided. I recall that it took me 9 years to get a playground for Aberdeen. Two years ago I brought to the attention of this Council the tremendous needs of Kwun Tong for better rubbish collection points, better control of hawkers and more open space and recreational facilities. I have yet to see any visible progress in any of these directions;

- (g) that once the Council has been constituted as a statutory local government, then it can be represented in various public bodies and committees where it has an interest. Its members may sit as representatives of the Council, instead of on a personal basis.

Sir, I give my support to the White Paper on the above qualifications.

SIR YUET-KEUNG KAN: —Sir, I had not intended to speak at all although I am also one of the alumni of the Urban Council but, nonetheless, as usual I cannot keep my mouth shut! (*Laughter*).

May I first of all correct something which the honourable Mr Lo has just said which could create some erroneous impression on the part of some of our critics. He said, I think, that all appointed Members do not necessarily toe the official line. Sir, this implies that either some of the appointed Members toe the official line or that all the Unofficial Members sometimes toe the official line. I have sat in

[SIR YUET-KEUNG KAN]      **White Paper on the Urban Council**

this Council for eleven years and I do not remember having to toe an official line and I can certainly vouch for the fact that there has never been any Government line for me to toe. I am sure that I speak for the other Unofficial Members of this Council. I think it may be unfortunate if people feel that the appointed members, whether they be in the Urban Council or in this Council, have an official line to toe.

Sir, having said that may I go to the matter which is the subject of this debate, one aspect of today's proceedings—something which the honourable Mr Woo has referred to—the importance of which may escape the attention of this Council. The White Paper is undoubtedly an important one and some of the proposals in that White Paper are undoubtedly controversial, not only among Urban Councillors themselves but even among Members of this Council; as we have just heard from Mr Lo, we do have differences of opinion. Realizing the importance of this White Paper and realizing the controversial nature of it, Unofficial Members of this Council have formed a group to study the White Paper in the course of which, as the honourable Mr Woo has mentioned, we have had the benefit of discussions with both the elected and the appointed members of the Urban Council, listened to their rather divergent views on various aspects of the White Paper and, as a result of these discussions and also of discussions among ourselves, we have been able to present to Government today, through the speeches made by previous speakers, what we think to be the general view not only of Members of this Council—with perhaps the exception of the honourable Mr Lo—but also the views of the Urban Council.

This is, Sir, an aspect of the matter which to my mind offers Unofficial Members of this Council a distinct opportunity to make a contribution—to be able to assess the views of the general public, particularly those who are initially affected, and be able to present not only just our views but the views of those others who are affected by it.

I think this is a very important step, one which I hope in years to come in all matters of this importance we should be able to continue to make. I regard it as a useful and a valuable contribution and I would like to take this opportunity to thank those Unofficial Members of this Council, headed by Mr Woo, who were members of this group and who have in fact spent many painstaking hours in considering this Paper and thus being able, as I have said, to present their views in this Council today.

*Question proposed.*



*Motion made (pursuant to Standing Order No 30).* That the debate on the motion be adjourned—THE ATTORNEY GENERAL (MR ROBERTS).

*Question put and agreed to.*

### DELEGATION OF FINANCIAL POWERS

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

It is hereby resolved—

- (1) that, in accordance with Colonial Regulation 223(2)(a), the Governor may sanction additional provision (on his own responsibility pending covering approval of the Finance Committee of this Council) where the total of such additional provision under any individual subhead does not exceed such sum as is specified in the second column of the Schedule to this Resolution, and subject to such conditions, exceptions and qualifications as are set forth in the said column of the Schedule,
- (2) that, in accordance with Colonial Regulation 223(2)(c), authority is conferred upon the Governor to delegate the exercise of the powers conferred upon him by Colonial Regulation 223(2)(a) and by this Resolution, to the extent specified in the second column of the Schedule, to the public officers specified in the third column thereof and subject to such conditions, exceptions and qualifications as the Governor may prescribe,
- (3) that, in accordance with Colonial Regulation 223(2)(c), authority is conferred upon the Governor to delegate the exercise of the power conferred on him by Colonial Regulation 223(2)(b) to the Financial Secretary and the Deputy Financial Secretary—
  - (a) subject to such conditions, exceptions and qualifications as the Governor may prescribe; and
  - (b) provided that the additional provision authorized under any subhead in any financial year does not exceed \$150,000 in the case of the Financial Secretary or half that amount in the case of the Deputy Financial Secretary,
- (4) that the Resolution passed by this Council on the 10th day of March 1971 be cancelled with effect from 9th February 1972.

## Delegation of Financial Powers

### SCHEDULE

| (1)<br><i>Class of expenditure</i>                  | (2)<br><i>Additional provision</i>  | (3)<br><i>Authorized delegate</i>   |
|---|---|---|
|   | Such sum as may be required—  |   |
| I. ANNUALLY<br>RECURRENT:<br>PERSONAL<br>EMOLUMENTS |   |   |
| A. Supernumerary posts (1)                          | in respect of an additional supernumerary post—   |   |
|   | (a) for a replacement for a woman officer on maternity leave, for the approved period of such leave;  | Establishment Secretary and Assistant Colonial Secretaries                                  |
|   | (b) for a replacement for an officer on prolonged sick leave, for the period of such leave;   | Establishment Secretary and Assistant Colonial Secretaries                                  |
|   | (c) for a replacement, in the same or lower grade, for an officer on no-pay leave;  | Establishment Secretary and Assistant Colonial Secretaries                                  |
|   | (d) for a replacement for an officer on leave prior to retirement; such a post may be created from the date of commencement of the officer's pre-retirement leave in the case of a superscale post, but there shall be an interval of at least six months in all other cases, provided that a shorter interval may be authorized in individual cases where the Establishment Secretary considers that recruiting difficulties would be eased substantially thereby; | Establishment Secretary only  |
|   | (e) in respect of any rank within a grade subject to the overall establishment of the grade not being exceeded, arising from a temporary need to over-establish that rank for a specific purpose (e.g. as a result of a handover of officers of equal rank, in service training courses or secondment to special duties), provided such post shall not be created for longer than two months;   | Establishment Secretary only  |
|   | (f) in a lower rank held against a vacant post in a higher rank in the same grade;  | Heads of Departments  |
|   | (g) in one grade held against a vacant post in another grade which has a similar or higher salary scale;  | Establishment Secretary, Assistant Colonial Secretaries and Assistant Financial Secretaries |
|   | (h) in respect of a grade common to several departments (e.g. Administrative Officer, Executive Officer, Stores Officer, Clerk, Clerical Assistant), for a period not exceeding one year, arising from the promotion or transfer of an officer in such grade, subject to the approved overall establishment in the rank to which the officer is promoted or transferred, not being exceeded.  | Establishment Secretary   |

| (1)<br><i>Class of expenditure</i>                      | (2)<br><i>Additional provision</i>   | (3)<br><i>Authorized delegate</i>                  |
|---|--|--|
| B. Salaries based on rates applied by other Governments | (2) to cover a change in salary scale where rates of another administration are applied, when such rates alter, provided that Finance Committee have initially approved the application of such rates.   | Financial Secretary and Deputy Financial Secretary |
| C. Arrears and adjustments                              | (3) for payment of arrears or adjustment of salary and of allowances where no change in policy or principle is involved or where such change has already been approved by Finance Committee.   | Financial Secretary and Deputy Financial Secretary |
| D. Approved posts                                       | (4) where provision of funds is insufficient to meet expenditure arising from approved posts.  | Financial Secretary and Deputy Financial Secretary |
| E. Honoraria  | (5) for payment of honoraria not exceeding \$2,000 in any particular case and not involving new policy.  | Financial Secretary                                |
| F. Overtime   | (6) for payment of overtime provided that—<br>(i) no increase in rates is involved;<br>(ii) such expenditure in respect of overtime does not exceed 10% of the vote or \$50,000 whichever is the less;<br>(iii) in any case where it appears likely that there will be a continuing need for excess overtime, covering approval is obtained from Finance Committee at the earliest opportunity.  | Financial Secretary and Deputy Financial Secretary |
| G. Allowances   | (7) for payment of allowances where Financial Secretary and no change in policy or principle is involved and Finance Committee have agreed the terms.  | Financial Secretary and Deputy Financial Secretary |
| H. New posts  | (8) in respect of posts for staff remunerated from Model Salary Scales 1 and 2 additional to those established in the Estimates provided that—<br>(i) the need for such posts is urgent;<br>(ii) the increase shall not exceed 2½% of the establishment in each grade or 10 posts in each grade whichever is the less;<br>(iii) covering approval is obtained from Finance Committee at the earliest opportunity;<br>(iv) no over-commitment of the Personal Emoluments subhead under which the posts are created is involved. | Financial Secretary                                |
| II. ANNUALLY RECURRENT: OTHER CHARGES                   |  |  |
| A. Supplementary provision                              | (a) for supplementary provision provided that—<br>(i) where the original provision in the subhead is \$50,000 or less, the additional sum may not exceed \$15,000;<br>(jj) where the original provision in the subhead is \$50,001—\$1,000,000, the additional sum may not exceed 30% of the original provision;   | Financial Secretary                                |

## Delegation of Financial Powers

| (1)<br><i>Class of expenditure</i>                     | (2)<br><i>Additional provision</i>  | (3)<br><i>Authorized delegate</i> |
|--|---|-----------------------------------|
|  | (iii) where the original provision in the subhead is more than \$1,000,000, the additional sum may not exceed \$300,000.  |                                   |
|  | (b) up to half the percentages and amounts stated in sub-paragraph (a).   | Deputy Financial Secretary        |
| B. Virement  | (a) for virement between subheads, provided that the total additional provision in the subhead to which funds are to be transferred shall not exceed 20% of the original provision under that subhead; and that the additional provision involves no new principle;   | Financial Secretary               |
|  | (b) up to half the percentages in sub-paragraph (a).  | Deputy Financial Secretary        |
| III. SPECIAL EXPENDITURE and PUBLIC WORKS NONRECURRENT |   |                                   |
| A. Supplementary provision                             | (a) for Supplementary provision provided that—<br>(i) where the original provision in the subhead is \$50,000 or less, the additional sum may not exceed \$15,000;<br>(ii) where the original provision in the subhead is \$50,001—\$1,000,000, the additional sum may not exceed 30% of the original provision;<br>(iii) where the original provision in the subhead is more than \$1,000,000, the additional sum may not exceed \$300,000.                      | Financial Secretary               |
|  | (b) up to half the percentages and amounts stated in sub-paragraph (a).   | Deputy Financial Secretary        |
| B. Revotes   | (a) for a revote, provided such sum shall not exceed the amount voted but unspent in the previous year in respect of the item of equipment or services required.  | Financial Secretary               |
|  | (b) as in sub-paragraph (a), up to \$500,000.   | Deputy Financial Secretary        |
| C. Subheads with approved project estimates            | (a) for a subhead having an approved project estimate, up to the total of such estimate.  | Financial Secretary               |
|  | (b) for a subhead having an approved project estimate, within such estimate up to \$500,000.  | Deputy Financial Secretary        |
| D. Approved project estimates                          | (a) for an approved project estimate provided that—<br>(i) where the original estimate is \$50,000 or less, the additional sum may not exceed \$15,000;<br>(ii) where the original estimate is \$50,001—\$1,000,000, the additional sum may not exceed 30% of the original estimate;<br>(iii) where the original estimate is more than \$1,000,000, the additional sum may not exceed \$300,000, and where no point of principle or change of policy is involved. | Financial Secretary               |
|  | (b) up to half the percentages and amounts stated in sub-paragraph (a).   | Deputy Financial Secretary        |

He said:—Sir, in May 1966 this Council passed a resolution concerning the exercise of certain limited powers relating to supplementary provision. In this resolution, the limits to the additional expenditure the Governor might sanction on his responsibility pending covering approval of this Council were determined, as were the public officers to whom he might delegate such powers.

Although the wording of the resolution was changed to conform with Colonial Regulations by a further resolution of this Council on 13th August 1969, the limits to the powers have remained unchanged since 1966. Following the resolution of 1966, the number of items referred to Finance Committee for approval of supplementary provision fell sharply. Since then, as the volume of Government business has grown—in fact doubled in terms of expenditure—the number of matters referred to Finance Committee has increased sharply. This trend has been accentuated by price increases which have caused the limits set in 1966 no longer to give the same degree of delegation as they did at that time. The number of items put to Finance Committee is now nearly at the pre-1966 level in spite of the introduction of certain administrative changes through the Estimates designed to reduce it.

Last October, in replying to a suggestion made in this Council by my honourable Friend, Mr Q. W. LEE, I expressed the view that the ceilings should now be raised to levels higher than was necessary simply to meet rising prices. The resolution before Council will have this effect.

The revised levels are set out in the schedule to this resolution; and, as members of Finance Committee have already seen them in draft and approved the introduction of the resolution into this Council, I do not propose to rehearse the changes at length. The most important change is to the delegated powers the Financial Secretary may exercise to sanction supplementary provision for annually recurrent other charges and special expenditure subheads, and for approved project estimates relating to subheads in public works non-recurrent heads of expenditure. The *present* powers are basically 15% of the original provision in a subhead, but with an absolute limit of \$75,000 for subheads with provision over \$500,000. There are higher percentages for subheads with less than \$150,000 with alternative absolute limits to avoid anomalies. What is *now* proposed is that for the basic powers the percentage should be raised to 30% and applied to subheads with provision varying from \$50,000 to \$1 million. This will have the effect of increasing the limits substantially. For example, the limits for subheads with provision of \$1 million will be quadrupled from \$75,000 to \$300,000. Above \$1 million where the application of a percentage would produce limits of some significance in budgetary terms, it is proposed that the ceiling should be an absolute one of

[THE FINANCIAL SECRETARY]     **Delegation of Financial Powers**

\$300,000. Below \$50,000 where the application of a percentage produces results that are insignificant in absolute terms, it is proposed to dispense with the percentage limit and to replace it with an absolute one of \$15,000.

There are five other proposals worth mentioning: first, the limit on the powers delegated to the Financial Secretary for sanctioning honoraria is to be raised from \$1,000 to \$2,000. Secondly, the limit for the additional provision that may be sanctioned for overtime is to be raised from \$25,000 to \$50,000. Thirdly, a new section has been included to give the Financial Secretary powers to sanction the payment of allowances provided no change in policy or principle is involved and Finance Committee has agreed the terms. Fourthly, the percentage limits to virement are to be raised from 10% to 20% of the original provision in the subhead to which funds are being transferred. Finally, we have also taken the opportunity to remove the restriction that delegated powers may be exercised in respect of special expenditure subheads only once in any financial year.

In addition to the changes to the delegated powers included in the schedule to the resolution, certain administrative changes which should further reduce the number of items that need to be referred to Finance Committee are being introduced for the 1972-73 Estimates; but it would be inappropriate for me to describe these now.

Finally, Sir, I would make two points. First, in no case do the revised powers extend to the sanctioning of expenditure outside existing policy or where a new principle is involved. And, secondly, in every case the covering approval of Finance Committee will continue to be sought quarterly.

*Question put and agreed to.*

### **REVENUE EQUALISATION FUND**

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

It is hereby resolved that the sum of \$138,024,760.94 now standing to the credit of the Revenue Equalisation Fund be transferred to the General Revenue Balance and the Revenue Equalisation Fund be closed.

He said: —Sir, on 26th March 1953, a resolution was passed by this Council setting up a Revenue Equalisation Fund and appropriating to

the Fund \$110 million from the general revenues of the Colony. At the same meeting a resolution was passed to close the Waterworks Renewals and Improvement Fund and to transfer its balance amounting to \$1,414,760.94 to the new fund. Between 1953 and 1960 another \$26,610,000 was charged to expenditure and added to the Fund; the total assets of the Fund now stand at \$138,024,760.94. The purpose of the Fund was to meet any serious shortage of revenue for a particular year, or to meet any unusual non-recurrent increase in expenditure in any particular year, so that the Colony's credit would not be affected by any temporary deficit, and normal activities need not be curtailed. The Fund was not separately invested and has never been used.

My predecessor speaking in this Council on 24th February 1971 said:

"But, whatever the situation may have been in 1953, I do not think that an accounting device of this kind can influence in any way the effect on our credit of temporary deficits. What will influence it in these circumstances is our overall reserve position, whatever we may call the fund in which the assets are held. With financial reserves of the present size and with our comparatively large reserves of taxable capacity, deficit years, within limits, would have no effect on our credit. Indeed, deficit budgets are now commonplace, if not fashionable. I propose, therefore, that the Fund be wound up and its assets transferred back to the General Revenue Balance. This will require a resolution of this Council."

The resolution now before this Council seeks to achieve this object and, if passed, will enable the Accountant General to prepare the Colony's statement of assets and liabilities at 31st March 1972 accordingly.

*Question put and agreed to.*

### **GOVERNMENT LOTTERIES ORDINANCE**

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

It is hereby resolved that approval be given to the appropriation, by way of grant under section 6(4) of the Government Lotteries Ordinance, of the amounts specified in the first column of the Schedule, to the organizations specified in the second column to the Schedule, for the purposes specified in the third column of the Schedule.

**Government Lotteries Ordinance**

## SCHEDULE

| <i>Amount</i> | <i>Organization</i>                             | <i>Purpose</i>  |
|---------------|---|---|
| 1. \$62,000   | Social Welfare Department                       | To replace bus for physically handicapped children.           |
| 2. \$53,470   | Hong Kong Federation of Youth Groups            | To erect an assembly hut at Hung Hom Youth Centre.            |
| 3. \$24,000   | Association of Volunteers for Service           | For feasibility study of long-term volunteer service.         |
| 4. \$72,600   | Boy Scouts Association                          | Towards Tai Tam Bay project.                                  |
| 5. \$62,800   | Heep Hong Club                                  | New club house—additional costs and equipment.                |
| 6. \$36,609   | St. James Settlement                            | Establishment of a library—adaptations and equipment.         |
| 7. \$37,122   | Social Welfare Department                       | Aberdeen Rehabilitation Centre—new and replacement equipment. |
| 8. \$96,000   | Ebenezer School and Home for the Blind          | Renovation of gymnasium.                                      |
| 9. \$86,362   | Boys' and Girls' Club Association               | Trial project—evening study centres scheme.                   |
| 10. \$277,910 | Boys' and Girls' Club Association               | Trial project—playleadership in parks project.                |
| 11. \$35,680  | Hong Kong Federation of Youth Groups            | Trial project—youth counselling service.                      |
| 12. \$110,000 | New Life Psychiatric Rehabilitation Association | Half-way home for women.                                      |
| 13. \$130,500 | St. John Ambulance Association and Brigade      | Three replacement ambulances.                                 |
| 14. \$900,000 | Po Leung Kuk                                    | Multi-purpose welfare centre (approval in principle).         |
| 15. \$86,000  | St. Simon's Welfare Centre                      | Day nursery.  |

He said: —Sir, the purpose of this resolution is to seek approval for the allocation of 15 grants from the Lotteries Fund. These grants have been recommended by the Social Welfare Advisory Committee, the total sum of money involved being \$2,071,053. Under section 6(5) of the



Government Lotteries Ordinance, the prior approval by resolution of this Council is required for the allocation of grants from the Lotteries Fund.

Before the Government Lotteries Ordinance was amended in 1967, there existed a resolution, made in 1965, by which the Legislative Council delegated authority for approving allocations from the Fund to the Finance Committee of this Council. The amendment to the Ordinance in 1967 superseded this resolution, inasmuch as section 6(5) of the Ordinance requires the prior approval *by resolution* of this Council for each allocation. I regret to say that this provision was later overlooked and until recently allocations continued to be approved by Finance Committee. Steps are now being taken to validate all such allocations which have *not* been approved by resolution. It is also proposed that the Government Lotteries Ordinance should be amended so as to vest again in the Finance Committee of this Council authority to approve allocations.

Turning back now to the 15 items specified in the schedule to the resolution, items (3), (9), (10) and (11) deal with experimental projects of a limited duration; items (1), (5), (6), (7), (13) and (15) are for purchases and replacement of equipment; the remaining items are for capital works. All therefore come within the scope of section 6 of the Lotteries Ordinance which defines the purposes for which allocations from the Fund may be made; and the Governor has, under section 6(4) of the Ordinance, approved the social welfare services and projects concerned as being worthy of assistance from the Lotteries Fund.

If this resolution is passed the balance remaining in the Lotteries Fund will be approximately \$7.53 million.

*Question put and agreed to.*

## **PUBLIC HEALTH AND URBAN SERVICES ORDINANCE**

MR D. R. W. ALEXANDER moved the following motion: —

It is hereby resolved that the Public Swimming Pools (Amendment) By-laws 1972, made by the Urban Council on the 4th January 1972, be approved.

He said: —Sir, the purpose of this amendment to the Public Swimming Pools By-laws is twofold. Firstly, pieces of plastic foam regularly break off equipment used by swimmers at the swimming pools: these can block the intakes to the filtration systems. Secondly, some swimmers use glass goggles: pieces of broken glass have been found in and around the pools, and it is believed that these come from goggles which have been broken.

[MR ALEXANDER]     **Public Health and Urban Services Ordinance**

The Urban Council has therefore decided to prohibit the use of both plastic foam equipment and glass goggles at its pools. The amendment by-laws now before honourable Members were made by the Urban Council on 4th January 1972 to achieve this purpose.

*Question put and agreed to.*

**MATRIMONIAL CAUSES ORDINANCE**

**Resumption of debate on motion (17th November 1971)**

*Question again proposed.*

MR CHEUNG: —Sir, I move that the Matrimonial Causes Rules 1972 be amended as set forth in the paper before honourable Members.

As the honourable Attorney General said when he first moved the motion, the rules have been made to enable the District Court to hear undefended matrimonial causes but in the process the Chief Justice has made rules which cover 66 closely printed pages.

I am proposing what must seem an unconscionable number of amendments, but in fact there are only 4 to substance. I will deal briefly with these in the order in which they appear in the schedule of amendments before honourable Members.

In paragraph 2 of the schedule I have proposed an amendment to the definition of "Registrar" which is designed to ensure that certain applications to the Registrar of the District Court, which are not purely administrative, should be decided by a legally qualified Registrar.

In paragraph 6 I have proposed an amendment to rule 19 which is put there to ensure that a party who is contesting a claim should put down on paper what his case is, to enable his opponent to know what he has to meet and the Court to see what the issues are. Unless he complies with that rule, a further amendment proposed to rule 49 enjoins the Court not to hear him. But so that no party is completely shut out if he has failed to comply with a rule of procedure, an amended paragraph 4 to rule 49 gives the Court a discretion to permit an answer to be filed late, on terms that may be just, which in most cases would mean that he would have to pay all the costs wasted as a result of his default. This is in accordance with the normal practice in the Divorce Courts.

Paragraph 7 deals with perhaps an unusual matter. A husband who is a petitioner in a divorce or in a matrimonial cause has to disclose

to the Court the existence of any child born during the marriage of whom he alleges he is not the father. Chivalrously, the rules do not oblige a wife who is petitioner to disclose the existence of any such child, but I think it is essential that the Court should know of such child's existence, and I propose by an amendment to rule 21 to put this obligation on the respondent husband.

In paragraph 9 I have proposed that we put in a new rule 37 which gives the Court power to order that a husband provide security for his wife's costs. This power Divorce Courts normally have.

Honourable Members will also remember that the Matrimonial Causes (Amendment) Ordinance of 1971, while conferring on the District Court jurisdiction in undefended cases, preserved the Supreme Court's jurisdiction where a claim is contested. So while all matrimonial causes start or will start in the District Court, a contested one is to be transferred to the Supreme Court. A new paragraph 6 to rule 80 defines a defended cause as one where an answer has been filed, and an amendment to paragraph 1 of that rule provides for transfer of defended causes.

Form 2, printed after the end of the rules, is the acknowledgment of service of the petition and of other documents. This has been redrafted and slightly expanded, so that the respondent at an early stage may indicate with particularity what claim he is contesting if any.

The other amendments which I have proposed are either to correct typographical errors or to route proceedings to the appropriate judicial officer, or in the interests of terminological exactitude.

*Proposed Amendments*

1. In *rule 1*, delete the figures "1971" in the first place where they occur and substitute the figures "1972".
2. In *rule 2(2)*, in paragraph (a) of the definition of "registrar", delete the words "the registrar of that court" and substitute the following—

"the registrar of the Supreme Court exercising his jurisdiction as the registrar of the district court by virtue of section 11(4) of the District Court Ordinance".
3. In *rule 9(4)(b)*, in the last line after the words "so far" insert the word "as".
4. In *rule 17(2)*, delete the word "petition" in the first place where it occurs and substitute the word "petitioner".
5. In *rule 18(5)*, delete the words " , unless in a case to which paragraph (4) applies the respondent has not given such a notice as is mentioned in that paragraph".

**Matrimonial Causes Ordinance—resumption of debate on motion (17.11.71)**

6. In *rule 19*, delete paragraphs (1) and (2) and substitute the following—

"(1) Where an answer contains counter-charges and a prayer for relief the petitioner if he wishes to contest those charges or any relief claimed in the prayer shall file a reply within 14 days after he has received a copy of an answer pursuant to rule 23.

(2) In all other cases the petitioner may file a reply within 14 days after he has received a copy of the answer pursuant to rule 23 but if he does not he shall be deemed on making a request for directions for trial to have denied every material allegation of fact made in the answer. "

7. In *rule 21*, add the following new paragraph—

"(8) An answer by a husband shall contain the information required in the case of a petition by paragraph (10) of Form 2. "

8. In *rule 32(3)*, delete the word "court" in the last line and substitute the word "judge".

9. Add the following new rule after *rule 36*—

"Security for costs **37.** (1) After directions for trial have been given or with leave at an earlier stage of the cause a wife who is a petitioner or who has filed an answer may apply for security for her costs up to the trial and of and incidental to the trial or for any part of such costs.

(2) Where an application for security has been made under paragraph (1) the registrar shall ascertain what is a sufficient sum of money to cover the costs to which the application relates and if after taking all the circumstances into account (including the means of the husband and the wife) the registrar considers that the husband should provide security for all or some of such costs, he may order the husband to pay the sum so ascertained, or some part of it, into court or to give security within such time as he may fix and may direct a stay of the proceedings until the order is complied with.

(3) The bond taken to secure a wife's costs under this rule shall be given to the registrar by the name of the registrar and shall be filed and shall not be delivered out or sued upon without the leave of the registrar.

(4) Where the wife is the petitioner an application by her for the removal of a stay of the proceedings may be made to the registrar *ex parte* if the husband has not given notice of intention to defend. "

10. In *rule 44*—

(a) delete paragraph (1);

(b) delete the word "a" in the second place where it occurs in paragraph (2) and substitute the word "the".

11. In *rule 49*—
- (a) delete the marginal note and substitute the following—
- "Answer to be filed if ancillary relief contested. ";
- (b) in paragraph (1), delete the words "spouse may" and substitute the words "co-respondent or party cited shall not";
- (c) delete paragraph (4) and substitute the following—
- “(4) Where a respondent, co-respondent or party cited has failed to file an answer within the time prescribed by rules 18(1) and (2) and 22(2), the court may permit him to file an answer on such terms as may be just. ”.
12. In *rule 71*, delete the words "of a magistrate's court".
13. In *rule 80*—
- (a) in paragraph (1), insert after "desirable," the following—
- “and shall if the application is defended,”;
- (b) in paragraph (2), delete the word "a" in the first place where it occurs and substitute the word "the";
- (c) in paragraph (2), delete the word "court" in the last line and substitute the word "judge";
- (d) in paragraph (5), delete the semi-colon in the sixth line and the rest of the paragraph thereafter and substitute a full stop;
- (e) add the following new paragraph—
- “(6) For the purposes of this rule, an application shall not be deemed to be defended unless an answer thereto has been filed, notwithstanding that a party has stated in the acknowledgment of service that he wishes to defend the claim or be heard. ”.
14. In *rule 103(1)*, after the words "shall be made" insert the words "to the Supreme Court".
15. In *rule 122*, delete the words "of the Supreme Court".
16. In *Form 1*, delete "In the District Court" and substitute "In the District Court of Hong Kong holden at. ”.
17. In *Form 2*, delete "In the District Court" and substitute "In the District Court of Hong Kong holden at. ”.
18. In *Form 3*, delete "In the District Court" and substitute "In the District Court of Hong Kong holden at. ”.
19. Delete *Form 4* and substitute the following—

"FORM 4

[Rule 14(4)]

*Acknowledgment of Service*

If you intend to instruct a solicitor to act for you give him this form immediately.

[Heading as in *Form 3*]

1. Have you received the originating application [or summons] [and copy of the supporting affidavit] [or the petition for [divorce]<sup>1</sup>] delivered with this form?



I am [We are] acting for the respondent [or the abovenamed ] in this matter.

Signed

Address for service: ]

1. Or as the case may be.
2. Delete Question 5 except in the case of a petition.
3. Insert whichever of the following items is applicable.
4. Delete Question 6 except in the case of a respondent spouse in proceedings begun by petition. "

20. In *Form 14*, delete "In the District Court" and substitute "In the District Court of Hong Kong holden at. ".

21. In *Form 16*, delete "In the District Court" and substitute "In the District Court of Hong Kong holden at. ".

THE ATTORNEY GENERAL (MR ROBERTS): —Sir, I am grateful to the honourable Member and to other members of the Hong Kong Bar who are experienced in divorce practice, who have given much careful thought and study to these rules and have suggested the various changes which are set out in the schedule.

I have discussed the amendments which are listed in the schedule with the honourable Member and with the representative of the Chief Justice, and we are all agreed that they are desirable and will substantially improve the rules.

*Question put on subsidiary motion and agreed to.*

*Question put on main motion, with Rules as amended, and agreed to.*

### **First reading**

**FATAL ACCIDENTS (AMENDMENT) BILL 1972**

**LABOUR TRIBUNAL BILL 1972**

**DETENTION CENTRES BILL 1972**

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

### **Second reading**

**FATAL ACCIDENTS (AMENDMENT) BILL 1972**

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

**Fatal Accidents (Amendment) Bill—second reading**

He said: —Sir, by virtue of the Fatal Accidents Ordinance, it is open to a widow to bring an action for damages against a person whose negligence has been responsible for the death of her husband.

In accordance with the general principle which governs the award of damages, it has been the duty of the Court to put the widow as nearly as possible in the same position financially as if her husband were still alive.

Unfortunately, in recent years, the courts have developed the doctrine that, in assessing the damages payable to a widow, there should be taken into account the fact or chance of her remarriage. If her prospect of remarriage is thought to be high, then her damages are to be reduced. If it is considered unlikely that she will marry again, then she will receive a higher award.

This has been said to impose an intolerable task on judges, most of whom have attained an age when they are no longer as skilled in assessing the nubility of a woman . . . (*laughter*) . . . as they were when this was a pressing personal problem rather than merely an exercise of the intellect. (*More laughter*).

How is a judge to gauge the prospects of remarriage of a widow? Is he to make a wholly visual assessment, remembering that in most witness boxes you cannot see the widow below the waist? (*More laughter*). Or is he to receive evidence of her skills in the kitchen, the bedroom or the hunting field? Mr Justice MOULT, in the case referred to in the Explanatory Memorandum, believed that a properly shaken frying pan is a less important selling point in the marriage market than a cleverly supported bosom. And who indeed is to say that he is wrong, or either that he is right?

If a judge awards heavy damages, does this not mean that he finds her ill-favoured and unattractive? If he gives her little, has he not penalized her for her attractiveness?

A further dilemma awaits the judge. If he decides that her remarriage is likely, he ought then to make an estimate of the amount of financial benefit which she is likely to derive from it. And how shall he do this? Let us assume for example that the first husband of Lady CHATTERLEY was crushed to death in his wheelchair by a negligent steamroller driver. To whom shall the judge, in his imagination, link the aggrieved widow? Must he assume that she will marry another impotent but prosperous aristocrat, or that she will hurry to the altar a vigorous but impecunious gamekeeper?



This bill will relieve our judges of these unwelcome and invidious tasks and remove from our law a collector's example of the manner in which, at its worst, the common law closely resembles a rogue elephant. (*Laughter*).

MR CHEUNG: —My honourable Friend has already so thoroughly and so skillfully demolished the rule that certain remarks which I had intended to make can largely be left unsaid and I can confine myself to two bland and one other observation.

As one who enjoys simple home cooking . . . (*laughter*) . . . I was intrigued to read in the exploratory—explanatory—memorandum . . . (*more laughter*) . . . that the bill would have the effect of reversing the decision Mr Justice MOULT is reported to have made, so that culinary skill would once more be the more important test as to the prospects of remarriage. I was in fact sufficiently intrigued to want to read the whole judgement—or misjudgement, depending on one's point of view—for myself, and I have looked for the case in the Law Reports and the All England Reports, and even in Lloyds Lists Reports, on the off-chance that it might be reported in that series, as the case would have been of interest to insurers; I have even looked in the Misleading Cases in the Common Law, but so far the report of the case has eluded me. Finally my diligence forsook me and I acknowledged to myself that my honourable Friend must have better access to judicial wisdom than I.

I need only add that I have forborne to consult the works of that distinguished jurist, who in this Council I need only identify by his propensity to dispense with lawyers only, because no text writer is considered a living authority until he is dead.

But as I listened with great pleasure to my honourable Friend, as other Members doubtless did, it dawned upon me that the effect of the bill is not to reverse the decision of Mr Justice MOULT but to make the prospect of remarriage wholly irrelevant on the question of damages.

Secondly, I wish to point out, in case there are any waverers amongst honourable Members, that the bill is a startling example of discrimination against women. A man who has been dependent upon his wife for support can, under the Ordinance, claim damages for his loss brought about by her death but it has never been suggested that his damages ought to be reduced on account of his prospects of remarrying another woman willing to support him. (*Laughter*). Nor, so far as I am aware, has a man's damages been increased to take into account the more likely prospect of his remarrying a woman who this time would depend on him for support. (*More laughter*).

[MR CHEUNG]      **Fatal Accidents (Amendment) Bill—second reading**

I am not sorry to see the rule go; its origins, to put it kindly, are obscure, and its paternity is not known, even by repute. It ought to do good for the male ego, for "after all," said one distinguished judge "whatever men may like to think, women do not always want to remarry". (*More laughter*).

THE ATTORNEY GENERAL (MR ROBERTS): —Sir, I am grateful to the honourable Member for giving his support to this measure in such felicitous terms. I could perhaps have saved him some research by warning him that the case to which he refers is to be found only in the relatively unknown series of reports compiled by those two distinguished Scottish research workers BURKE and HARE. (*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*

This Bill provides that, in assessing the amount to be awarded to a widow in an action for damages brought in respect of her husband's death, the court shall disregard her remarriage or the prospect of her remarriage.

The Bill will have the effect of reversing the decision in *Foulenough v. Cramp*, in which Moulton J. held that a widow's chance of remarriage depended less upon her culinary skill than upon the dimensions of her bust.

**LABOUR TRIBUNAL BILL 1972**

THE ATTORNEY GENERAL (MR ROBERTS) moved the second reading of: —"A bill to establish a tribunal having limited civil jurisdiction, to be known as the Labour Tribunal, and to make provision for the jurisdiction, procedure, and practice thereof and for matters connected therewith."

He said: —Sir, many people have believed, for some time, that there should be a quick, simple, cheap and informal method of settling some of the more common types of dispute which arise between employers and individual employees.

The ordinary courts, however quick and efficient, cannot avoid developing some degree of formality, which can be daunting to a simple and unrepresented litigant. Furthermore, the presence of lawyers inevitably brings with it increased complexity of procedures and adds substantially to the expense of settling claims and to the time needed to dispose of them.

However, I should like to make it clear that the establishment of this new type of Tribunal, as is proposed by this bill, should in no sense be interpreted as a criticism of the District Court, which has, if I may say so, performed a splendid service to the community in dealing with minor civil disputes since it was established in 1953.

The new Labour Tribunal, which it is proposed to establish by this bill, will be presided over by a single presiding officer, to be appointed by the Governor under clause 4. Initially, it should only be necessary to appoint one presiding officer, but others will be appointed in the future if the amount of work which comes to the Tribunal makes this necessary. The presiding officer, who should preferably be bilingual, will, if Finance Committee approves the necessary post, be a senior judicial officer of substantial experience.

The Tribunal will deal only with the types of dispute set out in the schedule to the bill, that is to say claims for money arising out of the breach of a contract of employment or of the failure of a person to comply with the provisions of the Employment Ordinance, or with some other similar and ancillary matters listed in the schedule. No doubt the bulk of the work of the Tribunal will consist of claims for wages or wages in lieu of notice by workers against their employers. I should like to emphasize the fact that the Tribunal is limited to dealing with individual claims for wages said to be due or owed. It will not be dealing with industrial or trade disputes about general conditions of service or wages.

Clause 8 empowers this Council to amend the schedule by resolution so as to alter the jurisdiction of the Tribunal if this proves to be desirable in the future. Honourable Members will notice that if a case is of the kind listed by the schedule there is no monetary limit on the amount of a claim on which the Tribunal may adjudicate.

Part IV of the bill deals with the method by which proceedings are instituted in the Tribunal. Briefly, what will happen is as follows, taking as an example the case of a workman claiming that his employer owes him a month's wages in lieu of notice.

The worker will go to the office of the Tribunal, though he may start proceedings by letter if he prefers. When he gets to the office of the Tribunal he will make his complaint, either orally or in writing, in

[THE ATTORNEY GENERAL]     **Labour Tribunal Bill—second reading**

whatever language he chooses to use. If he makes the claim orally, the Registrar of the Tribunal will reduce it to writing and supply a copy to the worker who will then be asked to sign it.

It is only necessary by clause 12 for the claim to contain the name and address of the claimant and the defendant, the sum of money claimed and sufficient particulars as to how the claim arose to enable the defendant to know the nature of the claim which is being made against him.

The Registrar will then fix a place and date for the hearing of the claim not less than 10 days ahead and send a copy of the claim and a notice of the date and place of the hearing to the employer.

As soon as a claim is filed with the Tribunal the Registrar will send a copy to a Tribunal Officer in order that he may undertake his two main tasks, which are to prepare a summary of the facts relating to the claim and to attempt to persuade the parties to reach a settlement of it. In the task of trying to secure a settlement, the Tribunal Officer may be assisted by an authorized officer, who will be a public officer appointed for this purpose by the Commissioner of Labour. The Tribunal Officer must complete his enquiries and report to the presiding officer within 10 days, unless he tells the presiding officer that he needs further time and the latter allows him an additional period to complete his work. The Tribunal Officer will provide a summary of facts for the presiding officer which will set out those matters which are agreed between the parties and those matters which are still in dispute. Any statements taken by the Tribunal Officer in the course of his enquiries will be admissible in evidence before the Tribunal if the claim is later heard.

As I have said, during these enquiries it will be the duty of the Tribunal Officer or an authorized officer to attempt to persuade the parties to take part in conciliation in order to reach an agreed settlement of the claim. If conciliation is refused, or if it is tried and is unsuccessful, then the Tribunal Officer must furnish a certificate to the Tribunal in accordance with clause 15(1).

Part V deals with the practice and procedure to be followed in the Tribunal. Clause 16 makes it clear that the Tribunal must do its best to ensure that all claims are decided with the least possible delay. By clause 17 the Tribunal may sit at any place and time as the presiding officer may determine, having regard to the interests of the parties concerned. It is contemplated that, subject to suitable premises being available, the Labour Tribunal will sit in various places in the Colony as its business requires. The hearing of a claim will normally take place in public, unless the presiding officer considers that

it should be in private, in which case he may order accordingly. It will be conducted in such language as the Tribunal may decide in each particular case having regard to that spoken by the parties. In practice this will no doubt mean that Cantonese will be the normal language of the Tribunal and that English will very seldom be used.

Clause 20 emphasizes the fact that the hearing of a claim is to be conducted in an informal manner. By clause 21 a claim may be determined by a tribunal in the absence of a defendant, if he has been duly served with a copy of the claim and a notice of the date and place of hearing. This provision is to prevent defendants from delaying proceedings by failing to attend. Clause 22 obliges the presiding officer to deliver his decision as soon as possible after the conclusion of the hearing of the claim.

Clause 23 limits the right of audience before the Tribunal to parties, tribunal officers, officers authorized by the Commissioner of Labour and employees of companies or partnerships and office-bearers of trade unions and employers' associations.

It should be noted that clause 24 enables the Tribunal to join two or more claims which arise out of the same facts and that clause 25 empowers it to deal with representative claims. This means that where a number of persons have claims against the same defendant, their claims can be brought in the name of one of them as representative of all the others and dealt with at the same time by the Tribunal.

Clause 27 allows evidence to be given on oath or unsworn and makes it clear that the rules of evidence will not apply and that a tribunal may receive any evidence which it considers material to the claim before it.

Clause 28 empowers the Tribunal to award costs and expenses to a party. These will mainly consist of travelling expenses and loss of wages of the party and his witnesses but will not, of course, include lawyers' fees.

Part VI deals with review and appeals. By clause 31 a presiding officer may review his own award or order within 14 days after giving it. Clauses 32 and 33 provide for an appeal to the District Court on a question of law or on the ground that the Tribunal's determination was the result of perjured evidence. Clause 34 enables the District Court to transfer an appeal to the Full Court if it considers that the appeal raises matters of great importance. It should be noted, of course, that legal aid would be available and legal representation provided for those who qualified for it in any appeal to the District Court or the Full Court under this Part.

[THE ATTORNEY GENERAL] **Labour Tribunal Bill—second reading**

The remainder of the bill contains supplementary provisions which, I think, are adequately explained in the explanatory memorandum. I would however like to draw attention to clause 44 which limits the life of the Ordinance to the end of 1975. It will take some months before it is possible to bring the new Tribunal into operation, since premises must be found and the necessary staff recruited before it can begin its work. However, it is thought that it should be operating during the second half of this year and would therefore have been running for rather more than 3 years before the Ordinance is due to expire. This will have been a sufficiently long period for the Government to be able to judge whether the experiment has been worthwhile and should be continued or whether it has not been a success and the Ordinance should be allowed to lapse.

I believe that this new Tribunal will fulfil a genuine need and that it will prove to be a real help in the difficult task of settling the kinds of dispute between employers and workers which are within its jurisdiction as simply, cheaply and effectively as possible.

*Question proposed.*

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

*Question put and agreed to.*

*Explanatory Memorandum*

This Bill establishes a tribunal, to be known as the Labour Tribunal, the jurisdiction of which is at present restricted to claims in respect of liquidated sums arising out of a breach of contract of employment, though there is provision for its jurisdiction to be changed by resolution of the Legislative Council. The procedure followed by the tribunal in hearing claims is intended to be as simple and informal as possible, and the rules of procedure and evidence which are followed in a court of law will not apply. Any award made by the tribunal may be enforced by District Court process as if it were a judgment given in that court.

2. Part II sets up the tribunal and prescribes its constitution. The tribunal is to be a court of record, presided over by a presiding officer to be appointed by the Governor. The presiding officer will be assisted by tribunal officers and other staff who will generally have the same powers as equivalent officers of the Supreme Court (clause 6).

3. Part III deals with the jurisdiction of the tribunal. Clause 7 confers on the tribunal the jurisdiction set out in the Schedule. This is limited to claims for money arising out of a breach of contract of employment or statutory duty under the Employment Ordinance and under the Industrial Employment (Holidays with Pay and Sickness Allowance) Ordinance. The tribunal will have no jurisdiction in respect of any claim arising out of an action in tort. The Legislative Council is empowered to vary the jurisdiction of the tribunal by resolution.

4. A claim must be made to the tribunal within six months of the date when the cause of action arose, unless both parties agree in writing to a claim being heard in respect of a cause of action which arose earlier than that. A claim in respect of a cause of action arising outside the period of six months is not barred from relief in the District Court (clause 9). The tribunal may decline to hear a claim, or transfer it to the District Court or the Supreme Court (clause 10).

5. Part IV prescribes the manner in which proceedings are to be started. Clause 11 requires a claim to be made in writing, either in English or Chinese, signed by the claimant and filed with the registrar. However, the registrar has a discretion to allow a claim to be made orally, but will then reduce it to writing. A claim may be made jointly by a number of claimants or by a number of persons representing other persons. Clause 12 sets out the matters which a claim must contain. Clause 13 deals with the manner of service of process.

6. By clause 14, a tribunal officer is to be provided with a copy of a claim. He must then inquire into the case and prepare a summary of the facts for the presiding officer within 10 days of the filing of the claim. If he cannot complete the inquiries in this time, he must report to the presiding officer and seek his direction. The tribunal officer, in order to make his inquiries, is given power to interview any person, to enter and inspect premises and to require the production of documents. A statement given to him may be admitted in evidence in proceedings before the tribunal if certain conditions are satisfied.

7. A claim will not be heard until the tribunal has received a certificate, from a tribunal officer or an authorized officer, that conciliation has failed. The tribunal may, during the hearing of a claim, adjourn the hearing for the purpose of reaching conciliation through the Commissioner of Labour. Any settlement reached must be reduced to writing and signed by the parties; it will then be treated as an award by the tribunal.

8. Part V deals with the practice and procedure to be followed by the tribunal. Clause 16 emphasizes the principle

**Labour Tribunal Bill—second reading***[Explanatory Memorandum]*

that the tribunal must ensure that there is no avoidable delay. By clause 17, the place and time of hearing and the language of the proceedings will be determined by the tribunal having regard to the convenience and language of the parties and witnesses. Hearings will be in public, unless the presiding officer otherwise orders (clause 18). Clause 20 provides that a hearing is to be informal; the presiding officer may call any evidence which he thinks relevant. Clause 21 enables the tribunal to decide a claim in the absence of a defendant. Clause 22 obliges the presiding officer to announce his decision as soon as possible after the hearing; he must reduce the decision and his reasons for it to writing within fourteen days after the decision.

9. Clause 23 limits the right of audience to persons specified therein, who do not include legal representatives. Clause 24 deals with the joinder of claims. Clause 25 enables the claims of two or more persons to be brought in the name of one or more persons. This clause also specifies the powers of a person authorized to represent others. Clause 26 deals with joint defendants. Clause 27 provides for the manner in which evidence may be taken and dispenses with the general rules of evidence. The tribunal is empowered by clause 28 to award costs. Clause 30 is concerned with adjournments.

10. Part VI provides for review and appeal. The presiding officer may review an award or order made by him, either on his own initiative or on the application of a party. A review does not constitute a bar to an appeal (clause 31). An appeal on a point of law to the District Court is provided by clause 32; the decision of the District Court on such an appeal will be final. Clause 33 provides for an appeal on the ground that the determination of the tribunal was based on perjured evidence. Clause 34 empowers the District Court in exceptional cases to transfer an appeal to the Full Court. The powers of the District Court and the Full Court on appeals under clauses 32 and 33 are set out in clause 35. A review of, or appeal against, an award or order will not stay the execution of the award or order, unless the presiding officer orders otherwise (clause 37).

11. Part VII deals with miscellaneous matters, among which are the registration of an award in the District Court for the purpose of enforcement under the District Court Ordinance (clause 38) and payments to joint or represented claimants (clause 40). Clause 41 makes it an offence for any person to induce a witness or a party not to give evidence before a tribunal.



The presiding officer is empowered under this clause to order a person who commits an offence under clause 41, or who gives perjured evidence, to appear before a District Judge to be dealt with by him. Clause 42 confers power to make rules on the Chief Justice. Clause 43 enables the presiding officer to decide on the procedure to be followed in any matter not covered by the Bill or rules made under it.

12. Clause 44 limits the life of the Ordinance, which will expire on the 31st December 1975. It is, however, the intention to review the working of the Tribunal about six months before the expiry date. A decision will then be taken as to whether or not it has proved to be of such value that its life should be continued.

13. A comparative table, showing the sources of most of the provisions of the Bill, is annexed.

4.18 p.m.

HIS EXCELLENCY THE PRESIDENT: —Perhaps at this point honourable Members would like a break. I accordingly adjourn Council for a quarter of an hour.

4.32 p.m.

HIS EXCELLENCY THE PRESIDENT: —Council will resume.

### **DETENTION CENTRES BILL 1972**

THE ATTORNEY GENERAL (MR ROBERTS) move the second reading of: —"A bill to provide for the detention of young offenders and for matters incidental thereto or connected therewith."

He said: —Sir, honourable Members will recall that, during an adjournment debate initiated by the honourable Mr CHEUNG on the 6th January 1971, the Acting Attorney General stated that the Government was carefully considering a proposal, which had been put forward by the Chief Justice, for the introduction into Hong Kong of detention centres for young offenders.

Two weeks later, during the debate on the second reading of the Criminal Procedure (Amendment) Bill 1971, I welcomed the support which had been expressed by the same honourable Member for the proposal to establish detention centres to which young offenders could be sent for short periods under rigorous conditions of detention and supervision.

[THE ATTORNEY GENERAL]     **Detention Centres Bill—second reading**

On the 13th October of last year, the honourable Colonial Secretary, during his reply to the debate on the address to the Governor, expressed the hope that the first detention centre designed to give a short sharp shock to first offenders would be ready this year. He added that if the treatment provided in the centre proved to be effective and if the courts found it necessary to make increased use of this kind of detention, then other similar institutions might follow.

The bill which is before honourable Members today provides the necessary legislative framework for the introduction of this new method of treatment of young offenders. It is hoped that this institution will significantly help in reforming those who are sent to it and in deterring them and other youngsters from criminal activity.

Clause 3 empowers the Governor to appoint any place of building as a detention centre in which young offenders may be detained. Initially it is intended only to establish one such centre, but if the experiment is a success consideration will be given to opening others.

Detention orders will be made only against offenders who have reached the age of 14 and are under the age of 21. It is appreciated that such a wide age bracket may cause administrative and disciplinary problems for the Commissioner of Prisons. Consequently, he may find it necessary to limit the initial entry to a rather smaller age bracket or to sub-divide the detention centre into different areas catering for the needs of different groups within the 14-21 age limits.

Since it is considered that this new form of treatment would be most effective against those who have not been in serious trouble before, persons who previously served a sentence of imprisonment or detention in a training centre or detention centre will not be eligible to be sent to a detention centre.

A young offender who is found guilty of any offence punishable by imprisonment (otherwise than for non-payment of a fine or where the sentence is fixed by law) can be subjected to a detention order by the court which convicts him, if the court feels that it is in the interest of the offender and of the public that he should undergo a period of detention.

By virtue of clause 4, a detention order may not be made against an offender unless the Commissioner of Prisons informs the court that in his view the offender is suitable for detention and that room is available for him in a detention centre. To enable the Commissioner to form an opinion as to the suitability of an offender for detention, the court may remand him into the custody of the Commissioner for this purpose for up to 3 weeks.

When a detention order is made against an offender, he will be kept in a centre for not less than one nor more than six months, at the discretion of the Commissioner of Prisons, who will be guided by the health and behaviour of the young offender in deciding what is the appropriate period of detention for him.

Clause 5 provides for a supervision order to be made against a detainee on his release from a detention centre. A supervision order will contain a condition that the person released should be subject to supervision by an organization or person named in the order for up to 6 months after his release and also that he shall comply with any conditions which are contained in the supervision order.

A supervision order is intended to provide a method whereby a detainee may be kept under surveillance and control for a substantial period after his release. A supervision order might, for instance, contain conditions controlling his place of residence, the company he keeps and the activities in which he takes part.

At this stage, therefore, it can be said that guidance, rather than punishment, becomes the principal objective. A person under supervision is guilty of an offence if he fails to comply with any condition contained in the supervision order. In addition, clause 6 empowers the Commissioner to recall a detainee, who has been released, if he breaks any condition of a supervision order to which he is subject. Where a recall order is made the detainee is returned to the detention centre and may be kept there until 6 months from the date of the original order or 3 months from the date of his arrest under the recall order, whichever is the later.

Clause 7 provides that if a detainee is sentenced to imprisonment or detention in a training centre, then the detention order will automatically lapse.

The remainder of the bill deals with supplementary matters, with the details of which I need not trouble honourable Members.

In due course, if this bill is enacted, regulations will have to be made under clause 11, dealing in detail with the administration and discipline of detention centres. I can assure honourable Members that it is the intention of the Commissioner of Prisons to submit to the Governor in Council recommendations for a Spartan regime, under which the detainee will be subjected to rigorous discipline and required to perform hard physical work, consistent with his age and state of health, and will be sharply dealt with for any breaches of discipline.

It is, as I am sure honourable Members will agree, essential that a separate penal establishment should be set up, not only because its running demands special qualities from prison staff but also to ensure

[THE ATTORNEY GENERAL]     **Detention Centres Bill—second reading**

that the youngsters are not in any danger of contact with older and more hardened criminals.

It is intended to convert the present Shek Pik Training Centre for this purpose and it is hoped that the initial modifications which are needed can be completed in the next few months. It will also, of course, be necessary to provide specially trained staff to run the detention centre. The Commissioner is giving the highest priority to preparations for it and it is his aim to be in a position to open it within the next 6 months.

I should warn honourable Members and the public generally that sudden and dramatic results cannot be hoped for within a short time from the opening of the first of these centres. A considerable period must elapse before it is possible to assess the degree of success which this new form of penal treatment has achieved. Nevertheless, I feel confident that such a centre has an important part to play in combatting the disturbing spread of crime among young people.

The Government realizes that there is wide-spread anxiety in the community about the increase in the amount of crime, and in particular the growth of violent crime committed by young persons. The Government shares this concern and is anxious to take any reasonable steps which may help to alleviate the problem. I hope that this bill will be seen as a useful, and indeed imaginative, method of dealing with young offenders and as an indication of the Government's genuine desire to take vigorous measures to combat crime.

*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*

The purpose of this Bill is to introduce an entirely new method of dealing with young offenders who are under 21 years of age.

Apart from binding over and probation, young offenders may at present be sentenced to (1) a lengthy period of training and rehabilitation in a Training Centre (2) a fine or corporal punishment and (3) a period of imprisonment.

The new method, for which the Bill makes provisions, will enable young offenders to be detained for a short period of hard work and strict discipline, in order to deter them from committing further offences.

Clause 3 confers on the Governor power to appoint places to be detention centres.

Clause 4 empowers a court to order that a young offender aged more than 13 and less than 21, who is found guilty of any crime punishable with imprisonment, should be detained in a detention centre. The period of detention will be from one to six months, and will be determined by the Commissioner of Prisons according to the conduct of the offender. In order that unsuitable offenders are not sent to detention centres, an order may not be made in respect of an offender who has previously been to prison or been detained in a training or detention centre. Furthermore, an offender may not be sent to a detention centre unless the Commissioner of Prisons states that the offender is suitable for detention.

Clause 5 empowers the Commissioner of Prisons to require a person, who is discharged from a detention centre, to submit to supervision for a period of six months. Clause 6 enables the Commissioner to recall any person who fails to comply with a supervision order.

Clause 9 provides for the appointment of special visitors, and requires two of them to visit a centre at least once a month.

Clauses 7, 8, 10 and 12 make ancillary provisions, and clause 11 provides for the making of regulations.

## **PUBLIC TRANSPORT SERVICES (HONG KONG ISLAND) (AMENDMENT) BILL 1972**

### **Resumption of debate on second reading (19th January 1972)**

*Question again proposed.*

MR SZETO: —Sir, this bill was expected and should have been introduced several months earlier when similar measures were offered, in September last year, to the Kowloon Motor Bus Company in a package deal involving fare increase, compensation against loss due to regularization of the public light buses and abolition of concessionary fares both statutory and non-statutory. In my view, it is indefensible to retain an anomaly on the Island where bus and tram users have to continue to subsidize the travels of the armed forces of the Crown and

[MR SZETO] **Public Transport Services (Hong Kong Island) (Amendment) Bill—resumption of debate on second reading (19.1.72)**

policemen and postmen on duty. At a time of rising costs and when fares remain at low levels, the lifting of such anachronistic concessions will help the present financial difficulties of our public transport companies.

When KMB's concessions were dealt with last year, it was estimated that their abolition, which covered the whole range, would bring in extra revenue of \$14.5 million to the Company of which \$13 million was to be accounted for from adult and student monthly tickets. This represents a substantial proportion of that company's estimated 1971/72 revenue of \$100 million and would help considerably to set right its deteriorating finances. Although CMB's operation is about one third that of KMBs, the removal of its concessions would likewise benefit the Company in time of rising expenditure and dwindling profits. Therefore, for equity reasons, CMB should be given as soon as possible a similar treatment to the full extent of that accorded to KMB.

Sir, the next bill on the Order Paper today, that is the Tramway (Amendment) Bill 1972, is introduced for a similar purpose and with your permission, Sir, I would apply my remarks on CMB's concessions to those of the Tramway Company, though the latter's scope is more limited. Notwithstanding the fact that the Company has not in recent years encountered financial difficulties as serious as those of the two bus companies, an equitable principle on concessions should nevertheless be also applied to it.

Sir, I would support both motions.

THE FINANCIAL SECRETARY (MR HADDON-CAVE): —Sir, I am afraid I must absolve the Government from any blame for any delay in introducing this bill into the Council. The China Motor Bus Company was invited to apply to Government for the abolition of statutory concessions as soon as the question of the Kowloon Motor Bus Company's concessions had been dealt with. It was not possible to introduce this bill, I am afraid, into this Council until certain discussions with the China Motor Bus Company had been completed on certain related matters. These discussions were more protracted than we had expected and have only just been completed; indeed in one sense they have not yet been completed. This bill has been introduced as soon as it could be.

*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).*

### **TRAMWAY (AMENDMENT) BILL 1972**

#### **Resumption of debate on second reading (19th January 1972)**

*Question again proposed.*

*Question put and agreed to.*

Bill read the second time.

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

#### **Committee stage**

Council went into Committee.

### **RENT INCREASES (DOMESTIC PREMISES) CONTROL (AMENDMENT) BILL 1972**

Clauses 1 to 5 were agreed to.

### **PUBLIC TRANSPORT SERVICES (HONG KONG ISLAND) (AMENDMENT) BILL 1972**

Clauses 1 and 2 were agreed to.

### **TRAMWAY (AMENDMENT) BILL 1972**

Clauses 1 and 2 were agreed to.

Council then resumed.

#### **Third reading**

THE ATTORNEY GENERAL (MR ROBERTS) reported that the

Rent Increases (Domestic Premises) Control (Amendment) Bill 1972

Public Transport Services (Hong Kong Island) (Amendment) Bill 1972

Tramway (Amendment) Bill 1972

had passed through Committee without amendment and that, in accordance with Standing Order No 59, the Supplementary Appropriation (1970-71) Bill 1972 having been read the second time was not subject to Committee Stage proceedings. He then moved the third reading of each of the four bills.

*Question put on each bill and agreed to.*

Bills read the third time and passed.

### Adjournment

*Motion made, and question proposed.* That this Council do now adjourn—  
THE COLONIAL SECRETARY (SIR HUGH NORMAN-WALKER).

4.52 p.m.

### Technical Institutes

DR CHUNG: —Sir, on 24th January Government announced that Hong Kong would have two new technical institutes to meet the increasing need for technicians and craftsmen in industry. The first institute, to be located in Kwai Chung, will start operating in 1975 and the second one, to be sited in Kwun Tong, is to be ready by 1976. Each of the two new institutes will have the same size as the existing Morrison Hill Institute at Wan Chai, that is a total enrolment of about 1,200 students at any one time.

Whilst I welcome the addition of the two new technical institutes, I fail to understand the wisdom for such a decision and must ask Government to state its reasons for not, and I repeat not, accepting the total recommendation of the ITAC Functional Committee on Technical Institutes made in August 1969 (almost 2½ years ago) to establish four more technical institutes in Kowloon to be ready for operation by 1974.

The recommendation of the Functional Committee was based on the survey on the annual requirements of ten major industries during the period from 1967 to 1969 and covering a total work force of about 410,000 persons. The Committee was already quite conservative as it did not attempt to include any growth factor in its recommendation. The total work force of these ten major industries has today already grown to nearly ½ million people and, if the same growth rate continues, will probably be in the region of 700,000 by 1976 when the second new technical institute opens its doors for receiving students. By that time, the annual requirement in technical education and in-plant



training would be increased by approximately 70% and the annual demand for technicians and craftsmen would be around 20,000. Accordingly, there should be a total of eight, and not five, technical institutes in order to cope with the rising demand.

I am sure Government is aware that the demand for technicians and craftsmen in industry increases in two dimensions. The first is the dimension of scale which is proportional to the size of labour force as I have just mentioned. The other dimension is the degree of technological sophistication and mechanized production. In other words, the greater sophisticated and higher mechanised industry becomes, the larger will be the demand for technicians and craftsmen.

According to the survey of manpower in the ten major industries, the manpower structure of technicians, craftsmen and labour was, on the average, in the ratio of 1: 3.3: 13. In the more technologically-advanced industries, such as machine shop and mechanical engineering, the manpower structure ratio was 1:5.7:10 which showed a higher than average proportion of technicians and craftsmen. On the other hand, in those less sophisticated industries, like clothing manufacture, the ratio was 1: 0.6: 21 which indicated a less rich mixture of technicians and craftsmen in the manpower structure.

For a given industry the degree of mechanization is, generally speaking, a direct function of labour wages. When wages rise, the degree of mechanization will also rise with them. As a result, the manpower structure of that particular industry will change and call for more technicians and craftsmen. Last week I had the honour of accompanying you, Sir, to visit the Low Cost Automation Unit of the Hong Kong Productivity Centre and showing you, Sir, the work of technologists and technicians in raising labour productivity through low cost mechanization techniques. A few weeks ago, I was touring a factory with my honourable Friend, Mr LEE (the Director of Commerce and Industry) and had an opportunity of demonstrating to him this very important, but often overlooked, dimension of increasing demand for technicians and craftsmen.

Sir, the Final Report of the Industrial Training Advisory Committee has painfully described the shortage of teaching staff presently experienced by both the Hong Kong Technical College and the Morrison Hill Technical Institute as well as by a number of training centres. This is, indeed, a very cogent issue. Strictly speaking, the physical facilities (the concrete and the equipment) can be acquired, if really necessary, within a short period of time but it can not equally be said for the provision of technical teachers. I strongly urge that Government should give prompt and serious consideration to the various recommendations, as contained in the ITAC's Final Report, to

[DR CHUNG]     **Technical Institutes**

combat the lack of qualified teaching staff. This must be done now before it is too late.

Hong Kong in the past 15 years or so has been living mainly on its export-oriented manufacturing industry and will, no doubt, continue to depend on its industrial development in the future. In the light of ever-increasing competition in world markets on the one hand and of fast-rising wages and costs domestically on the other, there is no alternative for us, if we want to continue to prosper, but to improve industrial productivity and technological sophistication through adequate provision of qualified technical manpower at all levels. Sir, in my humble opinion, I consider Government would be failing its duties if Hong Kong industry and hence Hong Kong economy could not go forward fast enough to meet the rising expectations of the people in Hong Kong due to lack of technical manpower. This is more so when many industries are now increasingly contributing to the in-plant training of technicians and craftsmen.

MR SALMON: —Sir, I rise to support my Friend, Dr CHUNG, on the urgent need for Technical Institutes. The story so far is roughly told as follows. In August 1969, that is 2½ years ago, ITAC recommended to Government the establishment of four technical institutes in Kowloon, and a year later made recommendations on courses to be offered. The final report of ITAC was submitted in March 1971, following six years of hard and thorough work by the many people involved, and while for reasons unknown the report took a long time to be published, although admittedly it was a big report to translate into Chinese, your predecessor, Sir, in October last year announced that it had been decided to proceed initially on the construction of two technical institutes as soon as possible. It has now been confirmed that these have been included in the Public Works programme for completion at the end of 1975 and 1976. We have to accept that this is the best my honourable Friend, the Director of Public Works, can do except that to me it seems strange that two institutes cannot be built more or less together from the same blueprint, even though the nature of the sites may vary to some degree. Be that as it may, 1975 and 1976 are reasonably acceptable; but what is not acceptable is that the programme ends there, and there are no plans, not even in Category C, meaningless as this Category often seems to be, for further institutes to be built in 1977 and beyond. Perhaps Government has some doubt that these will be needed? But let us see what ITAC says, it is concerned "over Government's lack of decision for the establishment of four more technical institutes. The statistical information at present available

indicates that, even with four additional technical institutes, there will not be sufficient places to meet the eventual requirement for technical education facilities". This was not only reported a year ago but, as Dr CHUNG has said, ITAC's sums were done on a manpower survey based on the period 1967 to 1969, and thus with the growth of the industrial labour force not only up to today but projected forward in the years ahead, it must be as clear as daylight that two more institutes by the end of 1976 will be entirely inadequate, and it is essential that a decision is taken very soon to extend the programme.

But a further worry, and a very real one, is the provision of teaching staff. It was indeed sad to learn from the ITAC report that even now some classes at the Technical College and the Morrison Hill Technical Institute have had to be dropped because there are no suitable staff. It was mainly in connection with the problems of qualified training staff that I wished to ask the question at the last sitting of Council (Mr BROWNE kindly doing this for me in my absence) as to when a Deputy Director of Education (Technical) would be appointed. I believe it is about a year now since Government first tried to find a man, and I do hope it will be possible to fill this vacancy soon, because it is clear, as my Friend Dr CHUNG says, that while buildings can be put up in a comparatively short space of time, it will take all the time we have and more to set up programmes that will turn out top class technical teachers. Whether something is being done now to combat the present and future lack of qualified training staff, I don't know; but if this awaits the appointment of a technical Deputy Director, then it is even more important to get the right man very quickly indeed.

Finally, Sir, I must say that I see little or no evidence that Government is coming to grips with the whole issue of technical education in any sense of urgency. I for one have been disappointed over the apparent slow progress in setting up a Polytechnic, even though the Polytechnic Bill was passed in this Council last July. I have little doubt that the Polytechnic too will have staff problems. But we are talking today of Technical Institutes and I hope Government will now say that the programme for more Institutes beyond 1976 will be decided early so that the momentum is maintained; that the problems of training teaching staff will be tackled without delay; and finally that ITAC will be turned into a training council as they themselves recommended. I said in the Polytechnic debate last July that in the whole field of technical training there is certainly a lot of planning ahead for someone. I repeat this today, and would go further and say that technical training, and I am not forgetting the part that industry itself must play, is one of the major issues at the present time for the community and thus for Government to tackle.

### Technical Institutes

MR H. J. C. BROWNE: —Sir, I rise to support my Friends, Dr S. Y. CHUNG and Mr SALMON on this subject. As Dr CHUNG has said, there can surely be no argument but that the economic survival of Hong Kong depends on the expansion, development and improvement of our exports and, as other countries in Asia develop technically and produce more sophisticated goods, so must we. We simply cannot afford to be left behind in these technical skills. But that this is accepted by Government is evidenced by the expansion in the technical schools and institutes and in the plans for enlarging the Technical College into a Polytechnic. But there is nevertheless serious concern in the industrial sector about the delay in expanding our facilities for technical education. Sir, I have been asking myself why there has been this delay; firstly, in publishing the report of the ITAC; secondly, in the announcement for the two new technical institutes, and in the making of decisions on its other recommendations, and also keeping up to date and refining the surveys that were done by ITAC.

With respect to my Official colleagues, it has occurred to me that this vital, complicated and indeed expensive subject has perhaps fallen between two, or even three stools or rather departments—that is perhaps between the Commissioner of Labour, who is the Chairman of ITAC, and the Director of Education, who is responsible for technical education, and the hard-pressed Social Services Branch in the Secretariat.

Sir, we are still trying to recruit, I understand, a Deputy Director of Education (Technical) but, even if we get him this summer, it will take him up to 6 months or a year to get a grasp of the technical problems involved in education, and I would like to suggest that consideration might be given to appointing a senior Administrative Officer, say for 6 months, to concentrate on the co-ordination and pushing ahead with the whole question of technical education in the hope that we can make up lost ground and to see that we get the right spread of technical education that is required by our local industry over the next few years.

5.05 p.m.

MR CANNING: —Sir, I am grateful to my honourable Friends, Dr S. Y. CHUNG, Mr SALMON and Mr BROWNE for their continuing interest in technical education.

Members will recall that in May 1970 Dr S. Y. CHUNG asked what action had been taken to implement the recommendation made in August 1969 by the Industrial Training Advisory Committee in its interim report that Government should construct four technical institutes,

two to be opened by September 1971 and two to be opened by September 1972. I said then, in answer to the question, that the Building Priorities Committee considered these proposals in October 1969 and that sites had been earmarked. I then went on to say that a comprehensive paper on the proposed Technical Institutes had been worked out and that policy regarding expansion in this field was being given the closest consideration by Government. I stressed that the capital and recurrent costs of these institutes were considerable and that it was only proper that the expansion proposed should be considered with some care. This examination has proceeded and has led to the announcement in January of this year that two new institutes are to be built. As the planning of these two technical institutes proceeds the way ahead will become clearer and the need for and the timing of the further two institutes recommended by the Industrial Training Advisory Committee will be kept under review. I might also add in this connection that the consideration of the need for expansion of technical institutes was part of a complete review of the whole field of Government's post-primary expansion which included expansion at the polytechnic level.

I appreciate that the Industrial Training Advisory Committee were anxious that their recommendation in August 1969 that the first two technical institutes they recommended should be opened by September 1971 and the next two by September 1972 but with projects as complex as these it was simply not possible to meet such a timetable. While I am very conscious of the immense effort that was put into the production of the ITAC report, including a major contribution by my honourable Friend, Dr S. Y. CHUNG, its members would be the first to concede that the resources at its disposal for investigating the problem were limited, and in many cases it was not possible to check the accuracy of the information supplied to it. While fully appreciating the immense value of the ITAC report, therefore, it would be wrong to suppose that our basic sums have been done once and for all, and that all we need to do, to up-date them periodically, is to apply various multiplying factors. Indeed, the Industrial Training Advisory Committee itself has called attention to the difficulties in paragraph 3.45 of its report, which reads in part "So far, the recommendations made by the various industrial committees have been of a general nature. In most cases, information on costing and detailed methods of implementation were lacking. Thus, when recommendations were received, Government found itself called upon to exercise judgment on matters without some basic background information".

I should like at this point to emphasize that the decision taken was essentially forward-looking. The decision was to increase the number of technical institutes to three while investigating what further need may exist now or in the future for more. In view of the rapid

[MR CANNING]     **Technical Institutes**

pace of change, both in Hong Kong and in the world at large, it is safe to say that in fact this matter will have to be kept under more or less continuous review throughout the foreseeable future. Mr SALMON has commented that it seems strange that two institutes cannot be built more or less from the same blueprint. The answer to that is that the two institutes we are going to build are not identical. I have recommended that the institute proposed for Tsuen Wan should provide courses in textile studies (with special reference to cotton spinning), garment-making, mechanical engineering, electrical engineering and business studies. For the institute in Kwai Chung, I have recommended that there should be courses in textile studies (with special reference to knitted garments), mechanical engineering, electrical engineering and printing.

If I might now turn to a very important point made by my honourable Friends, namely the provision of technical teachers. The position regarding the recruitment and retention of technical teaching staff has moved against us since I last spoke on this subject in this Council. It is true, as my honourable Friend, Mr SALMON, has said, that certain courses have had to be dropped or curtailed at the Technical College and at the Technical Institute because of staffing difficulties. During the calendar year 1971, 10 officers resigned or retired from the Technical College and the unfilled vacancies at the end of the year, including new posts created during the year, totalled 34 out of a total establishment of 178. Of this number 26 were vacancies at the graduate level. In the Technical Institute no one left during 1971 but the unfilled vacancies including new posts at the end of the year totalled 8 out of a total establishment of 82. This total included 1 post at the graduate level.

It is possible, if the recruits are forthcoming, to make good shortages at the non-graduate level by the teacher training facilities at the Morrison Hill Technical Institute but we are vulnerable at the graduate level as suitably qualified candidates locally and overseas are not offering themselves for appointment in any great numbers.

As Members are aware, new salary structures for the Technical College and the Technical Institutes are currently under consideration and I hope that these will improve matters. The position is however one of considerable concern and will need to be watched closely.

As far as recruitment to the post of Deputy Director of Education (Technical) is concerned, Government has been in close and continuous touch with TETOC, the recruiting agency of the Overseas Development Administration. The latest position is that I received a cable from London last week saying that the interviewing of candidates had been

completed and that detailed recommendations would arrive by airmail. I hope it will be possible to finalize appointment to this post very soon.

I share Mr SALMON's hope that it will be possible soon to bring into being a permanent body to carry on the work which the Industrial Training Advisory Committee have started so ably.

As far as Mr BROWNE's point is concerned, I would say that institutional training is clearly a responsibility of the Education Department. Training inside industry by industry itself would, I think, fall within the orbit of my colleague, the Commissioner of Labour, rather than mine. The kind of co-ordination he has in mind is already, I think, supplied by the Social Services Branch of the Colonial Secretariat, although it appears that Mr BROWNE does not agree with me there.

I would like to assure this Council that Government is fully aware of the urgency of meeting the needs of technical education. It is not the fact that forward planning is awaiting the appointment of the Deputy Director of Education (Technical), helpful as that would be. The complexities of this field are, however, very great and it is not possible to proceed at the pace that has been proposed if worthwhile results are to be obtained.

*Question put and agreed to.*

### **Next sitting**

HIS EXCELLENCY THE PRESIDENT: —Accordingly I now adjourn the Council until 2.30 p.m. on Wednesday 1st March 1972.

*Adjourned accordingly at sixteen minutes past five o'clock.*