

OFFICIAL REPORT OF PROCEEDINGS**Wednesday, 2nd August 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 (*Acting*)
MR MICHAEL DENYS ARTHUR CLINTON, CMG, GM*, JP
THE HONOURABLE THE ATTORNEY GENERAL (*Acting*)
MR GRAHAM RUPERT SNEATH, 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
DR THE HONOURABLE GERALD HUGH CHOA, CBE, JP
DIRECTOR OF MEDICAL AND HEALTH SERVICES
THE HONOURABLE JACK CATER, MBE, JP
DIRECTOR OF COMMERCE AND INDUSTRY
THE HONOURABLE DENIS CAMPBELL BRAY, JP
DISTRICT COMMISSIONER, NEW TERRITORIES
THE HONOURABLE PAUL TSUI KA-CHEUNG, OBE, JP
COMMISSIONER OF LABOUR
THE HONOURABLE GEORGE TIPPETT ROWE, CBE, JP
DIRECTOR OF SOCIAL WELFARE
THE HONOURABLE ARTHUR PATRICK RICHARDSON, JP
DIRECTOR OF URBAN SERVICES (*Acting*)
THE HONOURABLE CHARLES JOHN GRAFTON LOWE, JP
DIRECTOR OF EDUCATION (*Acting*)
THE HONOURABLE JOHN CHARLES CREASEY WALDEN, JP
COMMISSIONER FOR RESETTLEMENT (*Acting*)
THE HONOURABLE ALEXANDER STUART ROBERTSON, JP
DIRECTOR OF PUBLIC WORKS (*Acting*)
THE HONOURABLE WOO PAK-CHUEN, OBE, JP
THE HONOURABLE WILFRED WONG SIEN-BING, OBE, JP
THE HONOURABLE MRS ELLEN LI SHU-PUI, OBE, JP
THE HONOURABLE WILSON WANG TZE-SAM, OBE, JP
THE HONOURABLE HERBERT JOHN CHARLES BROWNE, OBE, JP
THE HONOURABLE LEE QUO-WEI, OBE, JP
THE HONOURABLE ANN TSE-KAI, OBE, JP
THE HONOURABLE ROGERIO HYNDMAN LOBO, OBE, JP
THE HONOURABLE MRS CATHERINE JOYCE SYMONS, OBE, JP
THE HONOURABLE JAMES WU MAN-HON, JP
THE HONOURABLE LI FOOK-WO, OBE, JP
THE HONOURABLE HUGH MOSS GERALD FORSGATE, JP

ABSENT

THE HONOURABLE SZETO WAI, OBE, JP
DR THE HONOURABLE CHUNG SZE-YUEN, OBE, JP

IN ATTENDANCE

THE CLERK TO THE LEGISLATIVE COUNCIL
MR RODERICK JOHN FRAMPTON

Affirmation

MR A. S. ROBERTSON made the Affirmation of Allegiance and assumed his seat as a Member of the Council.

HIS EXCELLENCY THE PRESIDENT: —I would like to welcome Mr ROBERTSON to this Council.

Papers

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

<i>Subject</i>	<i>LN No</i>
Subsidiary Legislation: —	
Prisons Ordinance.	
Prisons (Discontinuance of Use) Order 1972	142
Training Centres Ordinance.	
Victoria Training Centre Declaration 1972	143
Nurses Registration Ordinance.	
Nurses (Registration and Disciplinary Procedure) (Amendment) Regulations 1972	144
Nurses Registration Ordinance.	
Enrolled Assistant Nurses (Enrolment and Disciplinary Procedure) (Amendment) Regulation 1972	145
Dutiable Commodities Ordinance.	
Dutiable Commodities Ordinance (Amendment of First Schedule) Order 1972	146

Sessional Papers 1971-72: —

No 57—Annual Judicial Statistics by the Registrar, Supreme Court for the year 1969-70 (published on 2.8.72).

No 58—Annual Departmental Report by the Registrar, Supreme Court for the year 1970-71 (published on 2.8.72).

Oral answers to questions

Urban Council role in Government housing

1. MR H. M. G. FORSGATE asked: —

Will Government confirm that the Urban Council when re-organized on 1st April 1973 will continue to play a substantial part in low-cost housing and resettlement?

THE COLONIAL SECRETARY (ACTING) (MR M. D. A. CLINTON): —Sir, honourable Members will recall that the White Paper on the future of the Urban Council referred to its role in housing matters. While noting the view expressed in its 1969 report that all forms of public housing should be placed under one department controlled by the Council, the White Paper commented that “the size complexity and Colony-wide nature of the housing problem seem to be arguments in favour of severing the Council's present connection with housing matters rather than extending it”.

The present situation, with its diversity of organizations responsible for housing, clearly needs reviewing to see how we can best undertake the vast tasks which still lie ahead. Because there is little land available in the urban areas this mainly involves building in the New Territories especially at Tsuen Wan and Kwai Chung, and in the new towns at Castle Peak and Sha Tin.

As the proposals are still being worked out I cannot be more specific at this stage in answering my honourable Friend's question but, personally, I think that Urban Councillors should continue in one way or another to be involved fairly substantially in these matters.

Honourable Members of this Council will of course be concerned in the ultimate decision which will be taken sometime later this year.

Additional public swimming pools

2. MR FORSGATE asked: —

In view of the overcrowding of existing swimming pools and beaches will Government state how many more swimming pools have been proposed and are in the planning stage and will Government confirm its support of the necessary financial commitment?

MR A. P. RICHARDSON: —Sir, there are nine swimming pool projects now in the Public Works Programme. Although they are likely to be financed from various sources—the Royal Hong Kong Jockey Club is already financing three—Government attaches the greatest importance to these projects and will certainly provide necessary support in appropriate cases, if the Finance Committee of this Council agrees.

MR FORSGATE: —Sir, can my honourable Friend state how many swimming pools are intended for construction in the New Territories and where?

Oral Answers

MR RICHARDSON: —Sir, there are three at the moment in the Public Works Programme—one in Tsuen Wan under Category A, one in Yuen Long under Category B and the third in Fanling under Category C.

Control over nurseries

3. MRS JOYCE SYMONS asked: —

Will Government introduce legislation to provide for the inspection and control of all residential and day nurseries and creches?

MR G. T. ROWE: —Sir, consideration is now being given to the introduction of legislation which will require all residential and day nurseries and creches to register with the Social Welfare Department and also to comply with certain standards relating to accommodation, health and safety measures, as well as the qualifications of the staff concerned.

But I must stress that this is not a simple matter and, as indeed I think I have said before in this Council in response to similar queries by my Friend Mrs Ellen LI, that legislation by itself can achieve nothing. If it were otherwise, legislation would have been introduced years ago. But it is clearly necessary also to provide for the means of implementing any such legislation. In the first place, it will be necessary to provide a competent and qualified inspectorate to undertake regular inspection of all such nurseries and creches and to advise and assist in the maintenance of the necessary standards. In the second place, it will be necessary to provide for the training of nursery workers on a large scale, because it will be impossible to insist on standards for nursery workers if no such training facilities are available in the Colony. In the third place, such legislation will involve more departments than one, in relation to the maintenance of health and safety standards. I must therefore advise that the full implementation of any such measures may take some time. But I can assure my honourable Friend that all considerations are now being pursued as a matter of urgency.

MRS SYMONS: —Sir, may I have an assurance from my honourable Friend that, in the interval before legislation can be implemented, in co-operation with heads of other departments to be involved he will consider using the mass media to recommend to operators of such nurseries and creches, parents and, in fact, the general public, the aspects to be considered in the provision of adequate facilities for such of our 300,000 youngsters below the age of four who are sent to the creches and nurseries now in existence?

MR ROWE: —Sir, this is indeed a very good suggestion by my honourable Friend. I have in fact made preliminary enquiries along these lines to see how far it might be possible through the Government facilities and television and the answer is "Not yet". But I do share with her the thought that the use of mass media of this nature could prove of very great benefit in seeking to achieve better standards in day nurseries.

Staff in Buildings Ordinance Office

4. MR WILFRED S. B. WONG asked: —

Is Government satisfied that there are now sufficient staff in the Buildings Ordinance Office of the PWD?

MR ROBERTSON: —Sir, the short answer to my honourable Friend's question is "No".

Within the professional establishment of the Buildings Ordinance Office there are at present six vacancies for Building Surveyors and six vacancies for Structural Engineers, but we have had applications for the posts and I expect a number of these vacancies to be filled in the near future.

Furthermore, I have already made proposals for substantial increases in staff primarily to deal with the inspection of works in progress. I expect these proposals to be submitted to the Establishment Sub-Committee this month. If the posts are approved, recruitment will be energetically pursued and I would say that prospects for recruitment seem to be better now than they have been for some years.

There are, however, certain other aspects of the Buildings Ordinance Office work which are at present causing concern and in respect of which I expect to make further proposals in the very near future.

MR WONG: —Sir, may I have the assurance of the Director of Public Works that recruitment not only in technical but also in clerical staff will be expedited, if approved, because the Buildings Ordinance Office has such close relations with the progress of Hong Kong?

MR ROBERTSON: —Sir, I can certainly give the assurance that the staff will be increased in the proper proportions, including clerical staff.

Education for handicapped children

5. MR H. J. C. BROWNE asked: —

What plans does Government have for providing more facilities for special education for handicapped children?

Oral Answers

MR C. J. G. LOWE: —Sir, the draft of the second five year plan for the further development of special education in Hong Kong should be submitted to the Finance Committee of this Council very soon. I hope that details of further facilities for handicapped children can be announced immediately thereafter—that is before the beginning of the next academic year.

MR BROWNE: — Sir, while thanking my honourable Friend for the information, may I ask whether there is any news on the point mentioned by Mr CANNING on 19th March 1972 and 21st June 1972 regarding free education at subsidized special schools from September 1971?

MR LOWE: —Sir, the draft does include proposals for a greatly improved capitation grant which is intended to enable special schools under subsidy to dispense with the subscription now being charged. The fee proper has not been charged during the last academic year.

Development of HK Philharmonic Orchestra

6. MR WILSON T. S. WANG asked: —

Is Government aware of the widespread interest of our young people in music and the keenness of all music-lovers on the development of the Hong Kong Philharmonic Orchestra, and will Government say what assistance is contemplated?

MR RICHARDSON: — Sir, Government is aware of the widespread and growing interest of our young people in all kinds of music and is also aware that some music lovers would wish to see the further development of the Hong Kong Philharmonic Orchestra.

In the 1969 Annual Conventional Debate of the Urban Council the then Chairman of the City Hall Select Committee raised the question of a symphony orchestra for Hong Kong. The matter was subsequently considered in Committee and it was decided that as a first step the Urban Council should sponsor the Hong Kong Philharmonic Orchestra, which is a non-profit making society with both professional and amateur players.

The Orchestra now presents concerts every six or seven weeks and, although the City Hall Concert Hall seats 1,500 people, each performance must be repeated three times in order to satisfy demand. Almost all of these concerts are attended by a capacity audience and the vast majority of those who attend are young people.

All these concerts are "joint presentations" by the Hong Kong Philharmonic Society and the Urban Council. The Orchestra receives the entire box office receipts and, because all seats are pegged at popular prices, a nominal sum of \$1,000 for each concert to help meet any deficits. The Urban Council provides the City Hall Concert Hall and all business management free of charge.

Because of the popularity of the concerts and the great improvement in the standard of performance shown by the Orchestra over the past two years, the Urban Council is currently considering plans to assist the further development of the Orchestra and to increase the frequency of its performances.

These plans are still being considered by the Urban Council which may in due course seek Government assistance.

MR WANG: —Sir, I would like to take this opportunity to express my personal respect to the Urban Council for the active part it has played in helping the development of this Orchestra. Could my honourable Friend inform me whether it is in fact the rule rather than the exception that philharmonic orchestras in the UK are very heavily subsidized by the UK Government?

MR RICHARDSON: —Sir, I am not too sure that this question is related to the original question or to my reply. I would also query what my honourable Friend means by "very heavily subsidized". I understand that orchestras in the United Kingdom are supported from funds received from paying customers and local authorities, and through grants paid by the central Government through the Arts Council.

Reading very quickly through the latest report of the Arts Council, I saw that something like £ 9.3 million was given by the central Government to the Arts Council in 1970-71, which in turn made available in grants and subsidies something like £ 715,000 for orchestras and orchestral societies and a further £ 209,000 towards festivals and the like.

Community centres

7. MR WANG asked: —

Is Government planning to set up community centres and district halls in densely populated areas? When was the last one built and when will the next one be built?

MR ROWE: —Sir, the short reply to the first part of my honourable Friend's question is "Yes". Government is planning to meet the need for community centre facilities in densely populated areas by the provision

[MR ROWE] **Oral Answers**

of community centres, community halls and estate welfare buildings.

In reply to the second part of my honourable Friend's question, the last community centre in Tai Hang Tung Resettlement Estate was built in 1966, and the next community centre in Chai Wan is expected to be completed in 1974. I should stress that the intervening period between these two dates is being filled by the provision of the estate welfare buildings, community halls and social service centres which serve the same purpose.

Community Relief Trust Fund

8. MR Q. W. LEE asked: —

Will Government state how the funds subscribed by the general public following the recent rainstorm disasters have been or are to be utilized?

MR ROWE: —Sir, up to 29th July 1972 a total of approximately \$16,500,000 had been received in the Community Relief Trust Fund from funds subscribed by the general public and others, following the recent rainstorm disasters.

To date, approximately \$7,500,000 have been paid out to victims of these disasters. These funds have been applied to afford assistance to those in need as a result of loss of members of the family, serious damage or loss of domestic accommodation, and damage to crops and live-stock and other matters involving loss or damage. In addition to the above, \$2,000,000 have been set aside for a rehabilitation and orphans fund to provide long-term help for the families of victims, leaving an unallocated balance of approximately \$7,000,000.

The Management Committee of the Community Relief Trust Fund will meet next in the second part of August when it is hoped to finalize outstanding proposals for the use of the remaining \$7,000,000 and generally to bring the affairs of the Fund up to date. I would hope to publish a statement of account relating to the funds received as soon as it is reasonably possible to do so. Members will appreciate that claims are still coming in and payments are still being made.

Medical clinics

9. MR LI FOOK-wo asked: —

Will Government consider granting subventions to medical clinics run by approved non-profit making social welfare agencies?

DR G. H. CHOA: —Sir, although my honourable Friend refers only to medical clinics run by "approved non-profit making social welfare agencies", it would not be appropriate to consider assistance to them without considering at the same time the position of all other clinics registered or registration exempt under the Medical Clinics Ordinance. There are altogether 428 of them. Since the Ordinance came into effect in 1964, their accounts have been examined annually and in no case has there been any evidence of financial hardship. Moreover none has been closed as the result of loss in operating costs.

I must also point out that some of the agencies referred to do in fact receive subventions from Government for their other activities, and also other help—for instance, clinics situated in the welfare block of resettlement estates are being charged the nominal rental of only \$1.00 a month.

I do not in the circumstances consider that all medical clinics should in future be subvented from public funds, but if any are experiencing financial or other difficulties I should welcome details of them. Each case will then be considered and appropriate advice and assistance will be given to the sponsors.

MR LI: —Sir, is it therefore correct to say that Government feels the services provided by these medical clinics are necessary to the well-being of the people of Hong Kong? If this is so, will these services be interrupted if subvention is only considered when they fall into financial difficulty?

DR CHOA: —Sir, perhaps we might start from the beginning. None of these clinics actually has to ask for our advice or permission to start operating, and that's the reason why I say that if any one of them is in difficulty I will certainly examine the details. I may give positive advice by saying that the clinic needs to be continued and, therefore, I may try to find assistance for them. I may, of course, also give negative advice if I consider there is no need for that clinic to carry on in that locality; for instance if there is already a Government clinic in the vicinity.

Sterling guarantee

10. MR P. C. WOO: —Sir, I seek your permission under Standing Order No 17(4) to ask the following question:

“Has the Government any statement to make regarding the negotiation of Hong Kong's sterling guarantee arrangement with the UK?”

[Mr Woo] **Oral Answers**

In the interests of convenience a copy of the text of my question was placed before honourable Members immediately prior to the commencement of this sitting.

I seek to ask this question, Sir, because I feel that the sterling guarantee is a matter of urgent public importance; furthermore, I have already privately informed my honourable Friend the Financial Secretary in order that the question can be asked. Thus, Sir, the requirements of Standing Order No 17(4) are met.

HIS EXCELLENCY THE PRESIDENT: —The question is in order and may be asked.

THE FINANCIAL SECRETARY (MR C. P. HADDON-CAVE): —Sir, Hong Kong's Sterling Guarantee Agreement with the United Kingdom was negotiated in 1968 and runs for five years until 24th September 1973. It guarantees the US dollar value of about 90% of Hong Kong's officially held sterling reserves at an exchange rate of £ 1 sterling to US\$2.40. That is to say, if sterling falls below this rate by more than 1% for a continuous period of 30 days, the British Government will pay to the Hong Kong Government sufficient sterling to restore the US dollar value of the guaranteed proportion of our sterling reserves.

The floating of sterling and the subsequent establishment of a temporary link between the Hong Kong dollar and the US dollar has created two difficulties for Hong Kong in relation to the Sterling Guarantee Agreement. The first, which is purely technical, is that the agreement needs to be reinterpreted with regard to its applicability in a situation where sterling is floating rather than being aligned on a new fixed rate in relation to the US dollar.

The second difficulty, however, is more fundamental. It arises from the fact that, as a part of the package negotiated at the time of the realignment of major world currencies in December 1971, sterling retained its existing gold parity and thus revalued against the US dollar to a rate roughly equal to £ 1 sterling to US\$2.60. At the same time, the guarantee under the Sterling Guarantee Agreement remained in force at the rate of £ 1 sterling to US\$2.40. In other words, the pound sterling could then fall all the way down from US\$2.60 to US\$2.40 without any adjustment payments having to be made and such payments would only become due if and when sterling fell below a rate of US\$2.40 to £ 1 sterling.

This is, in effect, what has happened with the floating of sterling and the fixing of the Hong Kong dollar with the US dollar. Sterling has

now effectively floated down from US\$2.60 to about US\$2.45, involving a loss on Hong Kong's sterling reserves in terms of both foreign currencies and Hong Kong dollars. But, for the reasons I have just explained, we are not entitled to any guarantee payments under our existing agreement with the United Kingdom.

Sir, these were the problems which faced us on 6th July when, in order to avoid a forced and unnecessary devaluation of the Hong Kong dollar in line with the floating rate for sterling, we temporarily fixed a new central rate for the Hong Kong dollar in relation to the US dollar. At the time we were in close touch with the British Government and, at our request, they agreed that there should be very early talks on the future of our Sterling Guarantee Agreement in the light of the new circumstances then prevailing. As honourable Members are aware, two officials—one from the Treasury and one from the Bank of England—subsequently arrived in Hong Kong on the evening of 13th July; and over the following four days we held detailed discussions with them on all aspects of the situation created by the floating of sterling.

The British officials explained the events leading up to and the purpose of the float and the implication for Hong Kong of the extension of exchange control to Hong Kong and all other overseas sterling area countries. We for our part explained the thinking behind our decision to establish temporarily a link with the US dollar. We stressed earnestly that, while we had every intention of managing the rate in accordance with the rules of the International Monetary Fund, we hoped the floating of sterling would not be too prolonged for we wished to re-fix with sterling as soon as possible. The great bulk of our reserves are in sterling and our monetary system has been traditionally linked to sterling. At the same time, we were at pains to point out that, for the reasons I have just explained, as sterling floated down from US\$2.60 the value of our external reserves (which are of course largely in sterling) had fallen in relation to world currencies and in terms of the Hong Kong dollar; and we explained, in the frankest possible way, the fiscal implications of the losses involved in this unhappy sequence of events.

We put to the British officials certain ideas for protecting our position both during the remaining period of the float and after sterling had re-fixed with the US dollar, whilst they put to us certain ideas developed in London for the future of the sterling balances and the sterling guarantee agreements. These exchanges, Sir, naturally could not be expected to lead to firm conclusions for both sides had to listen very carefully to each other and then reflect, but we have kept in touch with London since the British officials departed.

As similar bilateral consultations have had to be conducted with a number of other countries with which the British Government signed

[THE FINANCIAL SECRETARY] **Oral Answers**

sterling guarantee agreements in 1968, we could not expect arrangements to be made for the resumption of talks with Hong Kong before these other consultations had been concluded. I understand that the six teams of officials conducting these consultations in various parts of the world have now all returned to London and that the situation is at this moment being reviewed. In our telegraphic exchanges with London we have emphasized most strongly that Hong Kong's position as a large holder of sterling balances, as well as our traditional links with sterling, deserve special consideration, and I hope that a further and conclusive round of talks will be held very soon now either here or in London.

Sir, I am sorry that I cannot at this stage be more forthcoming; but I am sure honourable Members will appreciate that the future of the Hong Kong dollar and the security of the exchange value of our external reserves are complicated and delicate questions and I hope they will be able to agree with me that it would not be in the public interest for me to speculate too freely on how these questions are likely to be ultimately resolved. But I can assure them that we are very conscious of the fundamental importance of arriving at the right answers to these questions. We shall do everything in our power to ensure that this is precisely what we do; and let us not forget that the Hong Kong economy being so heavily externally oriented has a built-in flexibility and is, therefore, in a better position than most to adjust to changing external circumstances.

Government business

Motion

LION ROCK AERIAL ROPEWAY

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

It is hereby resolved that approval be given in principle to the grant of a franchise to construct and operate an aerial ropeway system between Sha Tin Pass Road and a point adjacent to Lion Rock to such company as may be awarded the franchise by public tender procedure in accordance with the basic conditions set down in the Schedule.

SCHEDULE

1. The Company (hereinafter referred to as "the Company") to be granted an exclusive franchise to construct and operate an aerial ropeway system between Sha Tin Pass Road and a point adjacent to Lion Rock as more particularly delineated on the plan annexed hereto.

2. The franchise to bear no rights for the construction of an aerial ropeway system on any other route.

3. The Company to be granted a lease of one lot comprising one site of about 72,000 square feet to be used as the lower station and one site of about 64,000 square feet to be used as the upper station, together with such land as is necessary for the intermediate pylons, and a wayleave to construct and operate an aerial ropeway system between the two stations. (The station sites are shown on the plan). The principal terms of the grant of this lot and wayleave to be as follows: —

- (a) The term of the lease shall be the residue of 99 years less three days from 1st July 1898.
- (b) The Company shall be required to construct and complete the aerial ropeway within 36 months from the date on which possession of the lot is given, and shall spend on the upper and lower stations a total sum of not less than \$3,000,000, (such sum to exclude moneys spent on site formation foundations, access roads and other ancillary works).
- (c) The Company shall be permitted to use the portion of the lot designated as the lower station only for the purpose of an aerial ropeway station, car parking, restaurant, shopping and residential purposes.
- (d) The Company shall be permitted to use the portion of the lot designated as the upper station only for the purpose of an aerial ropeway station and restaurant with associated shops.
- (e) The Company shall not erect any buildings on the site designated for the upper station having a gross floor area in excess of 40,000 square feet, and the design, disposition and height shall be subject to the approval of the Director of Public Works so as not to detract from the environment. Not more than 30% of the area of the site shall be roofed-over.
- (f) The Company shall not erect any building on the site designated for the lower station having a gross floor area in excess of 108,000 square feet and the design, disposition and height of such buildings shall be subject to the approval of the Director of Public Works so as not to detract from the environment. Not more than 50% of the area of the site shall be roofed-over. The construction of car-parking spaces as required by (g) below may be permitted under the building, and the floor space thereby provided will not count against the maximum floor area stated above.
- (g) Parking shall be provided at the lower station to the satisfaction of the Director of Public Works.
- (h) An open area shall be provided at the upper station for a helicopter landing ground.
- (i) The Company shall pay a total of \$3 million premium for the lower terminal site, the upper terminal site, the intermediate sites required for the pylons which will carry the aerial ropeway between the upper and lower terminal sites along the alignment shown on the plan annexed, and the wayleave.
- (j) The premium shall be paid in a lump sum within one calendar month of the date of acceptance of the tender.

Lion Rock Aerial Ropeway

(k) A Crown rent of \$3,000 per annum shall be payable with effect from the date on which possession of the lot is given to the Company.

4. The franchise to run from the date on which possession of the lot is given to the Company and to be coterminous with the lease.

5. The Company to commence to operate an aerial ropeway system capable of carrying not less than 500 and not more than 700 passengers per hour in each direction between the lower and upper stations within 42 months of the date on which possession of the lot is given.

6. The annual fee to be paid in respect of the franchise to be the amount tendered by the Company.

7. The Company to pay a royalty of 10% of gross operating receipts including advertising. Such royalty shall be paid quarterly in arrears within one month of the quarter to which the receipts relate; "operating receipts" to include only the revenue received by the Company for the carriage of passengers on the ropeway and advertising. There shall be no free conveyance of passengers whatsoever other than Company employees.

8. Rates to be payable in respect of the lot by the Company in accordance with the provisions of the Rating Ordinance.

9. The Company to submit with its tender a proposed fare structure; any reductions thereafter to be approved by Governor in Council.

10. Government to have power: —

(a) to re-enter the lot, to terminate the franchise and take over the undertaking in the event of a serious default on the terms of the franchise by the Company, with such compensation for the assets as may be determined by arbitration less such penalties as the Governor in Council may deem appropriate; and

(b) to impose penalties for lesser infringements,

but this condition shall not affect any right of the Crown to re-enter the lot for breach of any condition of the lease under which the lot is held.

11. The Company, subject to the approval of the Governor in Council, to have power to make by-laws in respect of operating schedules, the conduct, order and safety of passengers, and the discipline and employment of personnel within the premises of the Company and in or on the carriages of the Company.

12. The Company to indemnify Government against all claims arising from the construction and operation of the aerial ropeway and from any other claims arising from the Company's tenure of the lot.

13. The Company to provide insurance cover to the extent of at least \$300,000 per claim in respect of claims against it from passengers and third parties.

14. The Company not to be permitted to assign the land or the franchise without the consent of the Governor in Council.

He said: —Sir, honourable Members will be aware that in the past year various schemes for cable car systems have been proposed for Lion Rock. In June 1971 the Government decided that the construction of a cable car system to Lion Rock from Sha Tin Pass Road was an acceptable idea subject to the basic terms being agreed by the Legislative Council.

Thus this resolution, Sir, sets out briefly the basic conditions for a tendered franchise for an aerial ropeway—the correct description of a suspended cable car system. Briefly, the proposal is to grant by tender a franchise to operate an aerial ropeway coupled with a private treaty grant of the terminal sites for which a market premium based on the estimated development value will be payable. In addition to the tendered annual premium and the premium on the terminal sites, a royalty of ten per cent is to be charged on the gross operating receipts of the aerial ropeway and on all advertising. In due course, it will be necessary to define the respective responsibilities of the operating company and the Government by legislation.

Question put and agreed to.

First reading

URBAN COUNCIL (AMENDMENT) BILL 1972

GUARDIANSHIP OF MINORS BILL 1972

IMMIGRATION (AMENDMENT) BILL 1972

POWERS OF ATTORNEY BILL 1972

PERJURY (AMENDMENT) BILL 1972

BIRTHS AND DEATHS REGISTRATION (AMENDMENT) BILL 1972

SUMMARY OFFENCES (AMENDMENT) 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

URBAN COUNCIL (AMENDMENT) BILL 1972

THE COLONIAL SECRETARY (ACTING) (MR CLINTON) moved the second reading of: —"A bill to amend the Urban Council Ordinance."

He said: —Sir, in May last year Government accepted a recommendation in the First Report of the Chinese Language Committee that simultaneous interpretation facilities should be made available in the Legislative and Urban Council Chambers.

[THE COLONIAL SECRETARY (ACTING)] **Urban Council (Amendment) Bill—
second reading**

On 3rd November last year this Council passed a resolution that Standing Order No 2 should be amended to enable Members to address the Council in either English or Chinese.

The main purpose of the bill before Members today is to achieve a similar position in the Urban Council. It is being introduced with that Council's support. Clause 2 will repeal section 45 of the Urban Council Ordinance which lays down that English only may be spoken at Urban Council meetings and the Urban Council will then be at liberty to amend its own Standing Orders to prescribe the languages which may be spoken at its public meetings.

At the same time, the bill will enable the Urban Council to alter its Standing Orders to permit the minutes of its public meetings to be translated into Chinese and, for this purpose, clause 3 of the bill will replace section 46 of the principal Ordinance.

Facilities for simultaneous interpretation in the Urban Council are now being installed and should be ready by the end of September.

MR JAMES WU: —Sir, I deem it my privilege and pleasure to speak in this Council in support of the Urban Council (Amendment) Bill 1972 that now lies before us.

I wish first of all to pay tribute to my colleagues in the Urban Council who as early as 1964 initiated that Chinese be another language permissible in Council meetings, and to the Chinese Language Committee for its First Report on 5th February 1971 that was able to command such universal acceptance and de-fuse so potentially explosive an issue. I am particularly impressed by its recommendations that aimed at involving as well non-English speaking citizens in committee, board and eventually council work, thereby helping to develop informed and responsible opinion that are so beneficial to any administration. Government must also be congratulated in having responded quickly and favourably, and the many measures concerning implementation have made good impression on even the most outspoken critics.

Sir, I had spoken on this subject in the annual Urban Council debate in 1970, and would repeat that politics and sentiments aside there are valid and practical reasons to extend the use and recognition of Chinese in official and other business. Contrary to misguided belief, the Chinese as written and spoken today is neither complex nor inadequate, and one does not have to look very far to be convinced of this point. Conversely, the limited use of the language in both government and business in a community overwhelmingly Chinese might be

the root of widespread indifference and apathy instead of a strong sense of community and belonging. In our industrial society of growing sophistication, Chinese must assume an even more important position in internal communication, and the skill of its use, in both the written and spoken way, must be sufficiently developed to an acceptable level at school-leaving. Unfortunately, the crammed syllabi and examination-oriented method of teaching in our schools due to severe competition have bred a generation of school-leavers whose power of expression, both in Chinese and English, leaves much to be desired, and whose sense of initiative and responsibility has likewise suffered inhibition in development. I was most surprised to have been told a few years back that translation was no longer taught in post-war years in Hong Kong at secondary or tertiary level, and felt that the situation should be remedied. In my humble opinion, this could well be the cause for the low standard of translation in some of the Government and commercial notices that could no longer be accepted in the modern concept of communication. If this present bill could help to arouse, as I hope it would, our young peoples' and our educationalists' interest in pursuits for competency in the world's two most used languages, this "spin-off" alone would be worth many thousand times the money and effort involved in our present exercise.

MR FORSGATE: —Sir, the legal phraseology in which the bill now before Council is couched does not spell out to the uninitiated the significance of the change it will bring into effect. The use of Cantonese in the Urban Council has been advocated for many years, and debated quite passionately at times, in order to allow broader participation in its affairs, especially by those who prefer to use Cantonese to express themselves, and also, hopefully, to stimulate a more direct interest in the workings of the Urban Council by the general non-English speaking public. It is to the credit of the Chinese Language Committee that it quickly realized the intense pressure building up behind this demand, and to Government for the speed with which it accepted the recommendations now being put into effect.

Although I understand there are many difficulties, both technical and human, in the introduction and successful operation of a simultaneous interpretation system, I trust these will soon be resolved in both this Chamber and in the Urban Council.

I should be happy to think that the success of the campaign for the use of Cantonese in public proceedings will not be accepted as a "*fait accompli*", but rather that those who supported the campaign so actively, particularly our younger generation who form so vital and integral a part of our population, will not rest on their laurels,

[MR FORSGATE] **Urban Council (Amendment) Bill—second reading**

but will now direct their efforts to other worthy causes, and there is a very important campaign coming up shortly; that they, and indeed every member of the community, be alerted through the medium of their native tongue to the urgent need for individual involvement in Hong Kong's social and economic development, and that of its environment.

Sir, I support the bill.

THE COLONIAL SECRETARY (ACTING) (MR CLINTON): —Sir, I am most grateful for my honourable Friends' interest and support of this bill and especially for their congratulatory remarks on the speed with which the Government has acted. This is a rare accolade indeed.

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 amends the Urban Council Ordinance.

2. Section 45, which requires proceedings of the Council to be conducted in the English language, is repealed.

3. Section 46 is repealed and re-enacted in part so as to provide that minutes of proceedings shall be kept in accordance with Standing Orders of the Council.

GUARDIANSHIP OF MINORS BILL 1972

THE ATTORNEY GENERAL (ACTING) (MR G. R. SNEATH) moved the second reading of: —"A bill to consolidate and amend the law relating to the guardianship of minors."

He said: —Sir, this bill deals with 3 related subjects; namely, the guardianship of minors, their custody and the provision of maintenance for them.

The existing law on this subject is to be found partly in the common law, partly in an English statute of 1660 and partly in our own Infants Custody Ordinance, which is to be repealed—and honourable

Members may recall a little while ago the Attorney General on the radio having some innocent fun with some of the incidents of the feudal tenure attaching to rights of guardianship—but today, Sir, instead of trying to summarize the present law, I will concentrate on explaining the proposals in the bill, which are based very largely on the Custody of Minors Act which passed into law in England last year.

At common law, guardianship was always thought of primarily as a matter of managing the property of a minor. Originally it was a source of profit but over the last 300 years, the office of guardian has been regarded as analogous to that of a trustee. This old principle is enshrined in clause 10(2) which states that a guardian shall account to a minor for any profits received by him out of the management of the minor's estate.

When it comes to the right to be a guardian or to appoint one, a new principle is being introduced in this bill. For now the mother is to have equal rights in this matter with the father and clause 4, Sir, states this new principle.

But there is a more fundamental and overriding principle governing these matters of guardianship, custody and maintenance; and this is spelt out in clause 3 which states that in deciding any question the court shall have regard to the welfare of the minor as the first and paramount consideration—I am quoting, Sir, the actual words used. To safeguard this principle, the bill provides that the courts are to exercise control in all these matters.

Now having stated the underlying principles, let me outline briefly how the bill deals with guardianship. We start with the proposition that a parent—whether the father or the mother—is the natural lawful guardian, and also has the right to appoint a guardian to act after his or her death. Thus on the death of say the father, clause 5 provides that the mother assumes the guardianship of any children either on her own or jointly with any guardian appointed under clause 6 for this purpose by the father before he died.

As I have said, Sir, the courts are to exercise control to ensure that the choice of guardian is really in the best interest of the children. Thus in clause 6 power is given to the court to ensure that this is so: it may permit the mother to remain the sole guardian notwithstanding the appointment of a guardian by the father; it may on the other hand insist that the mother acts jointly with the guardian appointed by the father; or in an extreme case it may make the guardian appointed by the father the sole guardian to the exclusion of the mother.

As one might expect, clause 7 provides that the court may appoint a guardian wherever a child becomes an orphan; and again

[THE ATTORNEY GENERAL (ACTING)] **Guardianship of Minors Bill — second reading**

it should come as no surprise to find that clause 8 empowers the court to remove any guardian and to appoint another in his place.

I should add perhaps, Sir, that this particular power is reserved to the Supreme Court whereas the District Court may exercise most of the other powers conferred by the bill.

Turning now, Sir, to the question of custody, a guardian has always had the responsibility for the care and control of his ward, and the right to custody is inherent in that responsibility. As I have said, there may be a joint guardianship exercisable by a surviving parent and a testamentary guardian, that is, one appointed by the other parent before death. Clause 11, which deals generally with custody, covers this situation. It provides that either parent may apply to the court for an order giving custody or the right of access to the child. This jurisdiction may be invoked either by one parent against the other, or by a surviving parent against a joint guardian.

Even where a sole guardian is appointed to the exclusion of the surviving parent, a court may still—under clause 12—make a custody order in favour of the surviving parent or else make an order giving right of access. It may, of course, select some person other than the surviving parent to have custody if that is what the best interests of the child require.

Clause 16 would permit an order to be made under clause 11 granting custody of an illegitimate child to its father. That clause goes on to provide for the important consequences which would flow from such an order. For a natural father granted custody of his illegitimate child becomes its guardian on the death of the mother, or may appoint a testamentary guardian to take on this responsibility on his own death. But in the latter case the appointment takes effect only if the natural father was still entitled to custody at the date of his death.

Finally, Sir, there is the question of maintenance. This really arises where custody is awarded to a mother and the father is still living, or where custody is awarded to some person other than the surviving parent under clause 12. In either case the court may make a further order requiring the father, in the first case, or the surviving parent in the second case, to contribute periodical sums for the maintenance of the child; and in determining the sum the court is required to have regard to the means of the father or the surviving parent.

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 which is intended to replace the Infants Custody Ordinance, lays down the general principles on which questions relating to the custody and the guardianship of minors are to be decided.

It provides that the rights of the mother in matters of custody and guardianship shall be equal to those of the father, but that in any dispute as to custody whether as between parents or as between parents and strangers the welfare of the minor is to be of paramount consideration.

It makes provision for the appointment of guardians by deed or will by either parent and for their appointment by the court. The court is also empowered to remove or replace any guardian and to settle disputes between joint guardians.

The Bill also provides for the making of orders for the custody of, and the rights of access to, minors and for their maintenance.

IMMIGRATION (AMENDMENT) BILL 1972

THE ATTORNEY GENERAL (ACTING) (MR SNEATH) moved the second reading of: —"A bill to amend the Immigration Ordinance."

He said: —Sir, a feature of the Immigration Ordinance which was enacted last year, and came into operation on the 1st April this year, was an elaborate allocation of statutory powers at different levels of official. It is possible to find within a single section different powers being exercisable at four separate levels: in section 11 for example, at the level of immigration officer; then at the level of the Director, who by definition includes a deputy or an assistant director; and then higher up at the level of the Director himself, exercising his power personally; and finally the power being exercisable by the Governor. One of the obvious drawbacks to such an elaborate system is that it may inhibit the efficient administration of the Ordinance.

Two examples of this have come to light. Since the system I have described is enshrined in the Ordinance, this amending bill is necessary. The first case concerns the power under section 11 to vary conditions under which persons are permitted to stay in Hong Kong. I am told at present over 6,000 applications are made every month by

[THE ATTORNEY GENERAL (ACTING)] **Immigration (Amendment) Bill—second reading**

persons seeking to extend their stay. To cope with this number the Director of Immigration considers such applications ought to be handled, and indeed must be handled, over the counter; but section 11 limits the exercise of this power to himself, his deputy and his assistant directors. The purpose of clause 4 is to allow these "over-the-counter" applications to be handled by immigration officers. It is worth commenting, perhaps, that under the old Ordinance such powers were delegated to officers of a similar seniority.

Then, Sir, there is a class of officer in the Immigration Department known as an immigration assistant, and his duties require him to exercise a range of powers which the Ordinance confers on immigration officers who are his superiors. These are routine powers such, for example, as the power to require a person who is being examined to produce relevant documents, the power to convey a person to a particular ship or aircraft where there is a direction in respect of that person requiring the master of that ship or aircraft to remove that person who is the subject of a deportation order, or finally then the power to arrest a person whose detention has been authorized under the Ordinance. Consequently, clauses 3, 5, 6, 7 and 8 make amendments for this purpose. Clauses 9 and 10 make consequential amendments; the first is to ensure the making of false statements to an immigration assistant is to be an offence as it is in the case of statements made to an immigration officer; and secondly to ensure that the Director of Immigration may exercise direct control under section 52 over the use of statutory powers by these immigration assistants.

Motion made. That the debate on the second reading of the bill be adjourned—THE ATTORNEY GENERAL (ACTING) (MR SNEATH).

Question put and agreed to.

Explanatory Memorandum

Clause 2 of this Bill inserts a definition of immigration assistant into the principal Ordinance.

Clause 3 amends sections 5(6) and 5(8) so as to enable an immigration assistant to exercise the powers and give the directions mentioned in those sections respectively.

Clause 4 amends section 11(5) so that any immigration officer may exercise the powers mentioned therein. At present only the Director, the Deputy Director and an Assistant Director of Immigration may do so.

Clauses 5, 6, 7 and 8 amend sections 24(2) and (4), 25(3) and (4), 33(1) and 35(3) and (4) by including an immigration assistant as one of the persons who may exercise and perform the various powers and functions mentioned in those sections.

Clauses 9 and 10 make consequential amendments to sections 42 and 52 of the principal Ordinance.

POWERS OF ATTORNEY BILL 1972

THE ATTORNEY GENERAL (ACTING) (MR SNEATH) moved the second reading of:—"A bill to make new provision in relation to powers of attorney and for matters connected therewith."

He said:—Sir, the Powers of Attorney Bill: the very name breathes "lawyers' law", and when the explanatory memorandum kicks off with the statement that the bill is based on a report of an English Law Commission on this subject, one must expect the general public to show something less than avid interest. But the fact is, Sir, that the attorney, from whom this bill takes its name, is not a lawyer but simply the agent who is duly authorized to conduct the affairs—whether business or private—of his principle, and I think, Sir, that it is a common experience to find that one is in need of the services of such an agent. The concern of this bill is to provide a uniform and recognized system for duly authorizing a person to act in this way. It is based on the English Act of the same name which passed into law last year, and it also gives a statutory basis for some of the old common law rules on this subject.

Clause 2 of the bill tells us that a power of attorney must be in writing, signed and sealed by the donor, that is the person who is giving the power of attorney. If he is not capable of doing this, somebody else may sign and seal at his direction. But he must be present when this is done, and so must two other persons who then sign as witnesses to his direction. The Schedule to the bill provides a simple form for giving a *general* power of attorney; and clause 7 states that the person to whom such a general power of attorney is given then has the authority to do anything which the donor himself could do through an attorney.

Clause 3 deals with the way in which one can prove the authenticity of a copy of an instrument creating a power of attorney. Such a copy which may be a photostat must have attached to it a certificate by the donor or a solicitor attesting that it is a true and complete copy.

[THE ATTORNEY GENERAL (ACTING)] **Powers of Attorney Bill — second reading**

One of the useful functions of a power of attorney is to provide a form of security. In such cases it is common to express the power of attorney as being irrevocable whilst the need for the security lasts. But such a security is of course of considerably greater value if it continues beyond the death or incapacity of the donor and remains truly irrevocable save with the consent of the person to whom it is given. Clause 4 imports such attributes into a power of attorney which is expressed to be irrevocable, and is given as a security in respect of some proprietary interest of the donee or to secure the performance of some obligation which is due to the donee.

Reverting to ordinary powers of attorney, it will be appreciated that they can be a source of risk should they be revoked without the knowledge of the donee or of third persons who have dealing with the donee. Clause 5 seeks to give protection against this risk. Thus, Sir, a donee who exercises his power without knowing that it has been revoked is freed from any liability which he would otherwise have incurred. Similarly, transactions entered into by the donee with third persons in such circumstances are given the same validity which they would have had if the power of attorney had not been revoked. There are further protections, Sir, of the same sort in the clause but I think I have said enough to indicate the general intention. In this connection however I would add that with the introduction of these safeguards it will no longer be necessary to provide such safeguards specifically for trustees for exercising delegated powers granted to them under powers of attorney. Consequently, section 31 of the Trustee Ordinance which gave that protection is being repealed.

Finally, Sir, I would like to mention how the bill will otherwise affect trustees. At present a trustee may only delegate his authority by way of powers of attorney where he proposes being out of Hong Kong. Clause 8 would re-enact in different form section 27 of the Trustee Ordinance, and it will permit delegation generally by granting a power of attorney subject to certain restrictions and certain safeguards. First the period of such delegation shall not exceed 12 months. Secondly, the trustee may not divest himself of responsibility and must remain liable for anything that is done by the delegate. Thirdly, he must within 7 days notify his co-trustees and also any person who has the power to appoint a new trustee. I should like to add, Sir, that these provisions will apply equally to personal representatives of a deceased person.

Question put and agreed to.

Bill read the second time.

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

Explanatory Memorandum

The Bill brings the law on powers of attorney into line with that of the United Kingdom, as contained in the Powers of Attorney Act 1971 (c. 27). The 1971 Act was based on a report in 1970 of the English Law Commission on Powers of Attorney (Law Com. No. 30).

The Bill, which follows the 1971 Act with minor modifications, contains some new provisions and also reproduces in statutory form the rules of common law, which apply where one person (the principal or donor) appoints another (the agent, attorney or donee) to act for him, by a formal power of attorney, in one or more specific transactions or generally in all his affairs.

Clause 2 provides that power of attorney must be signed and sealed by the donor of the power. Alternatively, the signing and sealing may be done by the direction and in the presence of the donor of the power. In the latter case the instrument must be attested by two witnesses. The provisions of other Ordinances as to attestation and the rules relating to execution by corporations are preserved.

Clause 3 provides for proof of the contents of a power of attorney by means of a copy made by a photographic or other device for reproducing documents in facsimile and certified by the donor of the power or by a solicitor in the manner prescribed. Other methods of proof authorized by law are preserved.

Clause 4 applies only to a power of attorney which is expressed to be irrevocable and has been granted to secure a proprietary interest or the performance of an obligation. Such a power can, so long as the interest of the donee of the power exists, be revoked only with his consent; it is not revoked by the death, incapacity or bankruptcy of the donor.

Clause 5 protects the donee of a power of attorney and a third-party, where a power of attorney is revoked.

Clause 6 authorizes the donee of a power to exercise it by executing any document with his own signature or seal and to do any other act in his own name. He may also execute documents in the name of the donor.

By clause 7, a power of attorney in the form (or in a form to the like effect) set out in the Schedule will confer authority to do anything which the donor could lawfully do by an attorney.

Powers of Attorney Bill—second reading*[Explanatory Memorandum]*

Clause 8 replaces section 27, and repeals section 31, of the Trustee Ordinance. The new section 27 will give to a trustee a general power to delegate his powers and duties; at present he can delegate only if he intends to remain out of the Colony for more than one month. However, the period of delegation must not exceed 12 months and the conditions set out in the section must be complied with. The power to delegate is available to sole as well as joint trustees. These provisions also apply to a personal representative.

PERJURY (AMENDMENT) BILL 1972

THE ATTORNEY GENERAL (ACTING) (MR SNEATH) moved the second reading of: —"A bill to amend the Perjury Ordinance."

He said: —Sir, I move the second reading of the Perjury (Amendment) Bill 1972 and will do so in a very few words.

The Perjury Ordinance makes it an offence to give false information, whether verbal or in a certificate or declaration, in connection with the registration of a birth or death. Experience has shown that sometimes the falsity of such a statement, and hence the commission of the offence, does not come to light until some years afterwards. But at present a prosecution for this offence may not be brought more than 3 years from the date when it was committed. The present bill, Sir, seeks to remove this restriction.

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

Under section 8(2) of the Perjury Ordinance a prosecution on indictment for the offence of giving a false statement in connexion with the registration of births or deaths cannot be brought after the expiration of three years from the commission of the offence. The falsity of statements and informations often does not come to light before the expiration of the period mentioned. The purpose of this Bill is to remove the time limit within which a prosecution may be brought under section 8.

**BIRTHS AND DEATHS REGISTRATION (AMENDMENT)
BILL 1972**

THE ATTORNEY GENERAL (ACTING) (MR SNEATH) moved the second reading of:—"A bill to amend the Births and Deaths Registration Ordinance."

He said:—Sir, I rise for the last time today to move a second reading (*laughter*) and I move the second reading of the Births and Deaths Registration (Amendment) Bill 1972.

Under this Ordinance a registration of birth may be entered late, with the consent of a registrar, being after 12 months from birth. This is done in what is called the post-register book. The Ordinance also provides that the registration of a birth in the ordinary registry shall be regarded as evidence without any further proof concerning the entry, but entries in a post-register book of births are specifically exempted from this provision.

Since the beginning of this year a system has been in operation which ensures, as far as is humanly possible, that these late entries are in fact correct. This involves consultation and checking with both the Director of Immigration and the Commissioner for Registration. In the light of this new system it is considered that entries in the post-register books should, together with entries in the ordinary register, be admissible in evidence without further proof, and clause 2 proposes the necessary charge.

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

Under section 24(2) of the Births and Deaths Registration Ordinance a certificate of an entry in the register of births and deaths may be received as evidence of the birth or death to which it relates without further proof of such entry. It is provided in paragraph (a) of the proviso to this subsection that an entry in a post register book will not prove the birth or death to which the entry relates without further evidence.

A revision in the procedure for dealing with post registration, which took effect on the 1st January 1972, justifies attaching the same evidential value to an entry in a post register book as to an entry in a normal register.

SUMMARY OFFENCES (AMENDMENT) BILL 1972

MR ROBERTSON moved the second reading of:—"A bill to amend the Summary Offences Ordinance."

He said:—Sir, the Summary Offences Ordinance is concerned with public nuisances of various kinds, and section 13 of that Ordinance relates to noise at night.

The five existing sub-clauses make it an offence to cause a nuisance by noise between the hours of 11 *p.m.* and 6 *a.m.*; the penalty for contravention of this section of the Ordinance may be a fine of \$500; there are provisions for making the proprietor or occupier of premises responsible for the acts of his servants; and finally there are provisions for the Governor in Council to exempt districts or areas from this section.

The proposed amendments firstly recognize that the noise of piledriving, which is often heard in Hong Kong, can be particularly trying. It is therefore proposed that piling should be forbidden on working days between the hours of 8 *p.m.* and 6 *a.m.*, as compared with 11 *p.m.* to 6 *a.m.* for other noises. No piling would be permitted on public holidays, which includes Sundays.

It is not considered that these restrictions will interfere unduly with building operations or that an unacceptable rise in building costs will result. However, it is proposed that these new restrictions on piling should not come into effect until 1st June 1973, to minimize the possibility of contractual problems on current works.

The second objective of the amendment is to enable the Governor in Council not only to exempt specified areas or districts, but to exempt specific activities within an area.

Thus, for example, it would be possible on a large civil engineering project to exempt tunnelling operations which are normally carried out 24 hours a day without exempting other activities within the same works area. This provision will give greater precision to the Ordinance.

Further, the amendment will permit the Director of Public Works to issue permits which will exempt the holder from the provisions of section 13 of the Ordinance, other than the provisions relating to piledriving. This proposal recognizes the practical need for the Director of Public Works to be able to authorize, at short notice, certain emergency works, or works of short duration best carried out in the public interest at night, without reference to the Governor in Council. It is intended that the regulations governing such permits

will restrict their validity to one month with the possibility of extension for a further month only.

Finally, Sir, the amendment will increase the maximum fine from \$500 to \$5,000. This proposed maximum fine takes account not only of the greater value attached by the community to the reasonable reduction of noise in the evenings, but also to the economic pressures which might lead to a breach of this section of the Ordinance.

Motion made. That the debate on the second reading of the bill be adjourned—MR ROBERTSON.

Question put and agreed to.

Explanatory Memorandum

Clause 2 of the Bill repeals and replaces section 13 of the principal Ordinance, which prohibits the making of noise at night.

Under the new section 13 it will be an offence after the 1st of June 1973 to operate a pile driver between the hours of 8 p.m. and 6 a.m. or on any public holiday.

The present subsection (5) of section 13 enables the Governor in Council to exempt specified districts or areas from the operation of the section; the proposed new section 13(4) will enable him to direct that the section does not apply for specified purposes or in specified circumstances.

The new subsection (5) also empowers the Governor in Council to impose conditions on the exemption and to make the exemption partial.

Under the new subsection (6) it will not constitute an offence under the section to carry out work under and in accordance with a permit from the Director of Public Works or the terms of an order made by the Governor in Council under subsection (4).

Clause 3 introduces into the principal Ordinance a new section 13A which will make it an offence to breach the conditions of a permit issued by the Director of Public Works or the terms and conditions of an order of the Governor in Council.

Clause 4 amends section 37 of the principal Ordinance to enable regulations to be made providing for the granting of permits by the Director of Public Works.

CROWN LAND BILL 1972

Resumption of debate on second reading (19th July 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.

CRIMES (AMENDMENT) BILL 1971

Clauses 1 to 4 and the Schedule were agreed to.

PUBLIC HEALTH AND URBAN SERVICES (AMENDMENT) (NO 3) BILL 1972

Clauses 1 to 4 were agreed to.

Council then resumed.

Third reading

THE ATTORNEY GENERAL (ACTING) (MR SNEATH) reported that the

Crimes (Amendment) Bill 1972

Public Health and Urban Services (Amendment) (No 3) Bill 1972

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

Question put on each bill and agreed to.

Bills read the third time and passed.

Adjournment and next sitting

MR WOO: —Your Excellency, before we rise, may I on behalf of all my colleagues take this opportunity of wishing you and Lady MACLEHOSE a very pleasant if brief holiday. We hope, Sir, you will take some rest after your intensely busy period of activity since becoming our Governor.

The impact which you have made upon our affairs is already visible, although you have been with us for such a short time. We look forward to a continuation both of your inherent understanding and of your strong leadership.

HIS EXCELLENCY THE PRESIDENT: —The Senior Unofficial Member is much too kind. I am indeed looking forward to a short break but I am looking forward much more to coming back in early September and meeting the Council again when the new session starts in October.

In accordance with Standing Orders I now adjourn the Council until 2.30 p.m. on Wednesday 16th August.

Adjourned accordingly at seventeen minutes to four o'clock.