

OFFICIAL REPORT OF PROCEEDINGS**Wednesday, 29th November 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 CUMYRN 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, CBE, JP
DIRECTOR OF PUBLIC WORKS
THE HONOURABLE JOHN CANNING, JP
DIRECTOR OF EDUCATION
DR THE HONOURABLE GERALD HUGH CHOA, CBE, JP
DIRECTOR OF MEDICAL AND HEALTH SERVICES
THE HONOURABLE JACK CATER, MBE, JP
SECRETARY FOR INFORMATION
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 DAVID HAROLD JORDAN, MBE, JP
DIRECTOR OF COMMERCE AND INDUSTRY
THE HONOURABLE LI FOOK-KOW, JP
DIRECTOR OF SOCIAL WELFARE
THE HONOURABLE WOO PAK-CHUEN, OBE, JP
THE HONOURABLE SZETO WAT, 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
DR THE HONOURABLE CHUNG SZE-YUEN, OBE, JP
THE HONOURABLE LEE QUO-WEL, OBE, JP
THE HONOURABLE OSWALD VICTOR CHEUNG, OBE, QC, 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 PETER GORDON WILLIAMS, JP
THE HONOURABLE JAMES WU MAN-HON, JP
THE HONOURABLE MRS MARY WONG WING-CHEUNG, MBE, JP

IN ATTENDANCE

THE CLERK TO THE LEGISLATIVE COUNCIL
MR RODERICK JOHN FRAMPTON

Papers

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

| <i>Subject</i> | <i>LN No</i> |
|--|--------------|
| Subsidiary Legislation: — | |
| Buildings Ordinance (Application to the New Territories) Ordinance. | |
| Buildings Ordinance (Application to the New Territories) (Amendment) Regulations 1972 | 235 |
| Electricity Supply Ordinance. | |
| Electricity Supply (Amendment) Regulations 1972 | 236 |
| Boilers and Pressure Receivers Ordinance. | |
| Boilers and Pressure Receivers (Exemption) Order 1972 | 239 |
| Prisons Ordinance. | |
| Prisons (Prisons Department Psychiatric Centre) Order 1972 | 240 |
| Public Health (Animals and Birds) Ordinance. | |
| Dairies (Amendment) Regulations 1972 | 241 |
| Urban Council Ordinance. | |
| Urban Council Elections (Procedure) (Amendment) Regulations 1972 | 242 |
| Public Health and Urban Services Ordinance. | |
| Pleasure Grounds (New Territories) Regulations 1971 (Commencement) Notice 1972 | 243 |
| Interpretation and General Clauses Ordinance. | |
| Rectification of Errors Order 1972 | 244 |
| Bills of Exchange (Amendment) Ordinance 1972. | |
| Bills of Exchange (Amendment) Ordinance 1972 (Commencement) Notice 1972 | 245 |

Sessional Papers 1972-73: —

No 19—Eleventh Annual Report by the Social Work Training Fund Trustee
for the year ending 31st March 1972 (published on 29.11.72).

No 20—Annual Report by the Registrar General for the year 1971-72
(published on 29.11.72).

Subject

No 21—Annual Report and Accounts of the Hong Kong Trade Development Council for the year 1971-72 (published on 29.11.72).

No 22—Annual Report by the Chairman, Urban Council and Director of Urban Services for the year 1971-72 (published on 29.11.72).

Reports: —

Annual Report of the Fish Marketing Organization for the year 1970-71 (published on 29.11.72).

Annual Report of the Fish Marketing Organization for the year 1971-72 (published on 29.11.72).

Annual Report of the Vegetable Marketing Organization for the year 1970-71 (published on 29.11.72).

Annual Report of the Vegetable Marketing Organization for the year 1971-72 (published on 29.11.72).

Oral answers to questions**Traffic wardens**

1. MR WOO asked: —

Has any conclusion been reached on the setting up of a cadre of traffic wardens to perform some of the duties now undertaken by traffic policemen? If not, when can a decision be expected?

THE COLONIAL SECRETARY (SIR HUGH NORMAN-WALKER): —As I informed Council in May, Sir, the Commissioner of Police has had a working party continuously considering the greater use which might be made of civilian personnel in the Police Force. That working party has just submitted a massive report which I received exactly a week ago and it will take some time to process.

It has not yet been submitted to you, Sir, in Council, and I cannot anticipate your decision.

I have however issued directions that the report should be dealt with with the greatest expedition, and from a preliminary examination I hope that it will result in a substantial relief of the position in which the Police find themselves—short of effective manpower engaged on the prevention and detection of crime—a matter which is very much in all our minds at the present.

Oral answers

MR WOO: —Sir, in the last session I suggested to my honourable Friend that Government should consider employing ex-police officers to do the job of traffic wardens. I wonder whether this has been included in the submission to you?

THE COLONIAL SECRETARY (SIR HUGH NORMAN-WALKER): —Yes, Sir.

Refuse disposal in multi-storey buildings

2. MR ANN asked: —

Will Government introduce legislation to make it a requirement for refuse chambers to be provided in all new multi-storey buildings?

MR ROBSON: —Sir, there are many practical difficulties about providing refuse chambers in some buildings: for instance, they may be so narrow as to make provision virtually impossible. Moreover, refuse chambers would be a nuisance unless standards of management were high.

For these reasons, it has not yet been thought appropriate to do as my honourable Friend contemplated. The value of proper refuse disposal arrangements is nevertheless fully recognized, and refuse chambers have thus been provided in all Government housing estates for the past eight years. I hope that more can be done on these lines in private buildings and am continuing to seek a solution to the problems I have mentioned. If one can be found, I assure my honourable Friend that I will seek to introduce suitable covering legislation.

Identity card amendments

3. MR WOO asked: —

In view of the importance to those concerned of a speedy procedure for amending particulars on identity cards, such as dates of birth and changes of nationality, will Government confirm that adequate experienced staff will be provided to deal promptly with such requests? Is there any backlog and, if so, what steps can be taken to deal with it?

THE COLONIAL SECRETARY (SIR HUGH NORMAN-WALKER): —Sir, I hope my honourable Friend will believe me when I say that Government has very much in mind the need to deal promptly with the applications

to amend particulars on identity cards. You may be surprised to learn, Sir, that the applications so far received this year for amendments are 21,500, and of these the average number outstanding over the year, and the average number outstanding at this present moment, is 3% which I think is a fairly good record for the Office. On a very large number further action, on which further particulars have been asked, rests with the applicants themselves.

These are generally the complicated cases, whose investigation inevitably takes time, but most cases are straightforward and can be dealt with in a day or two.

Following approval applicants have however to wait at the moment six weeks for new identity cards, when these are necessary. As my honourable Friend is aware, this problem was recognized and the Finance Committee of this Council have already approved additional staff sufficient, we hope, to reduce the waiting time to half that—that is to say to 21 days. Moreover, pending the issue of cards, certificates of registered particulars can now be provided within a week and, in cases of urgency, immediately.

Consumer protection

4. DR CHUNG asked: —

Is Government aware of the increasing consumer protection enforced by Governments in other territories and, if so, will Government consider for the protection of the local population imposing some measure of control on safety and health standards for goods, particularly imported toys and electrical appliances, selling in Hong Kong?

MR JORDAN: —Sir, as my honourable Friend has indicated, there has been in recent years increased public pressure in many countries for action to protect consumers against accidents arising from the sale of faulty products, particularly those which are sold for children.

The general imposition in Hong Kong of safety and health standards would involve detailed consumer protection legislation and an organization of inspectors, testing facilities and so forth to give practical effect to the provisions of the legislation. Quite apart from the very heavy cost likely to be involved in such a system, there would be substantial difficulty in determining what the standards of health and safety ought to be for the many products which would have to be brought under control. The commercial problems could also be severe. It is obviously not just a matter of import surveillance; that is perhaps the easier aspect of control. Standards would have to be applied whether the goods were imported or made here.

[MR JORDAN] **Oral answers**

Even in the countries where interest in consumer protection has grown in recent years, very few national standards have been given legislative authority and this is especially true in regard to toys and electrical products. In Britain, for instance, most complaints are investigated at the local authority level, and the standards applied may differ between these authorities.

There is in Hong Kong, I think, already adequate protection provided by the law in regard to food and drugs and certain other items. Very few complaints are received from the public about such goods. The extension of controls, however, to toys and electrical goods and then into other fields would be much more difficult to administer than any existing domestic control and, as I have said, would involve substantial expenditure of public funds.

DR CHUNG: —Sir, my honourable Friend said that there is already in Hong Kong adequate protection provided by law in regard to food and drugs. Do we have adequate legislation with regard to other items, other than food and drugs, for example products such as toys and electrical appliances?

MR JORDAN: —I am afraid, Sir, I don't feel very well qualified to deal with this subject, since these standards are a matter in many cases for other departments. On electrical appliances, I don't think we have this yet, though of course there is a good deal of safety requirements met by the electric companies in their insistence on the requirements for electrical installations being met before they will supply power.

Recruitment of auxiliary police

5. DR CHUNG asked: —

Will Government explain why the recruitment of auxiliary police, unlike that of regular police, is confined to constables only but does not include inspectors?

THE COLONIAL SECRETARY (SIR HUGH NORMAN-WALKER): —Sir, Auxiliary Police recruitment at Inspector level is not ruled out, is possible, and has taken place in the past. But experience has shown that the present practice of appointing to the inspectorate from the lower ranks within the Force is in fact normally the best and is preferred by the auxiliary force itself.

DR CHUNG: —Sir, is Government aware that its present policy has a great discouraging effect for those citizens who have high qualifications and status to join the Auxiliary Police Force, which in turn is very much in need of this type of personnel?

THE COLONIAL SECRETARY (SIR HUGH NORMAN-WALKER): —Government has at the moment no lack of fully qualified and very high standard recruits to the Auxiliary Police Force. The recent drive for recruits has been extremely successful and the standard has astonished me, as has the number of volunteers. I would not like to interfere with this position which is healthy for us and for Hong Kong.

Collection of Waterworks revenue

6. MR WILLIAMS asked: —

Will Government state whether the Waterworks Offices can be authorized to collect water revenue, possibly by Treasury staff being posted to the accounts sections of those offices, to enable members of the public to pay their bills on the spot?

MR ROBSON: —Sir, water revenue is at present collected at the Treasury main office in Ice House Street, the Sub-Treasury at Causeway Bay Magistracy and the Sub-Treasury in the new Post Office Building at 405, Nathan Road, Kowloon; at the District Offices at Tai Po, Ytien Long and Tsuen Wan; and at Resettlement Estate cash offices. Bills may also be paid by post but this method is, of course, of little value to the bulk of the population.

In certain outlying places, the Tai Po District Office also arranges to set up temporary collection centres for short periods immediately following notification by the Waterworks Office that bills in that particular area are to be issued, and the public is informed by notices inserted in the press.

Collection at the Treasury and Sub-Treasuries is not always satisfactory to the consumer, although every effort is made to avoid payments for water charges falling due at the same time as those for rates, taxes and the like when overcrowding results.

Collection at Resettlement Estate cash offices is also unsatisfactory to the consumer because the times available for collection of water charges are restricted by the times required for the cash officers to fulfil their primary function of collecting rents.

[MR ROBSON] **Oral answers**

A consumer complaints service is operated at the Waterworks Head Office in Murray Building and at the branch office in Argyle Street, Kowloon, and instances often arise when a complainant, after receiving a satisfactory answer to a query about his water charges, is not then able to pay his bill on the spot. It is believed that a better service can be given to consumers if, in addition to the above facilities, water revenue could be collected at these locations. This proposal is under consideration in collaboration with the Accountant General. The Census and Statistics Department has also recently completed a survey to discover whether additional Treasury cash collection offices are required in Kowloon and their report is awaited.

Construction of multi-storey car parks

7. MR SZETO asked: —

Would Government provide details of the multi-storey car park projects which are now under consideration:

- (a) to be constructed with public funds, and
- (b) to be constructed by private developers?

MR ROBSON: —Sir, my honourable Friend is probably aware that existing public car parks built by Government provide approximately 3,600 parking spaces and those built privately 2,530 spaces.

To supplement these, there are already under construction a Government multi-storey car park to provide 900 spaces at Murray Road which should be completed in August 1973 and a private multi-storey car park to provide 800 spaces at Great George Street as part of the Plaza Hotel project which should be completed in approximately 2 years.

In addition it is hoped that work can start shortly on Stage II of the Government Yau Ma Tei Car Park to provide an additional 400 parking spaces in Kowloon by the end of 1974. It is also hoped that, in conjunction with the Cheung Sha Wan Wholesale Market, multi-storey car parking can be provided for both lorries and cars. On Hong Kong Island 2,000 spaces are planned for construction with the office block known as Murray Building II, which will be built between Garden Road and Cotton Tree Drive.

Other Government projects providing multi-storey car parking, which it is hoped will be approved by Finance Committee of this

Council later this afternoon for inclusion in the Public Works Programme, are:

- (a) Causeway Bay Magistracy—900 spaces;
- (b) Kwun Tong Ferry Pier—900 spaces;
- (c) Tsuen Wan Ferry Pier—900 spaces; and
- (d) a combined market and car park at Mong Kok Road/Fa Yuen Street in Kowloon.

Further multi-storey car parks to be constructed by private developers outside the main commuter areas are:

- (a) Oi Kwan Road, Wan Chai—site sold and should provide 500 spaces in 2 years' time;
- (b) junction of Canton Road and Bute Street—site sold and will provide approximately 900 spaces;
- (c) Dundas Street—site sold and will provide 450 spaces;
- (d) Junction Road—site sold and for a combined super market and multi-storey car park with a minimum of 200 spaces.

There are also a number of tentative proposals under consideration for the development of multi-storey car parks either by Government or private developers. These take a variety of forms ranging from independent parking buildings to combined market/car parks and combined petrol filling stations /garages /car parks. The situation is continuously under review and it seems likely that two further sites for private multi-storey car parks will be sold in the course of the next 18 months, one at Hip Woh Street at Kwun Tong and the other at Cheung Sha Wan Road.

MR SZETO: —Sir, my honourable Friend mentioned that there are four projects to be built by Government outside the main commuter areas. Does he imply that Government has already reviewed the existing policy of only building car parks in the main commuter areas?

MR ROBSON: —Sir, I imagine on this occasion the Public Works Department, as has not perhaps infrequently happened, has anticipated Government to change its policy and has reserved the sites. (*Laughter*).

Disposal of derelict vehicles

8. MR SZETO asked: —

Will Government say what measures have been taken, as part of the programme of the "Clean Hong Kong" Campaign, in disposing of derelict vehicles abandoned on roadsides and Crown land, and what results have been achieved?

Oral answers

MR ALEXANDER: —Sir, as part of the "Keep Hong Kong Clean" Campaign, action has been taken—

firstly, under section 22(2) of the Public Health and Urban Services Ordinance to remove derelict or apparently derelict vehicles causing obstruction to the cleansing of roads and streets; and

secondly, under section 6 of the Crown Land Ordinance 1972 to remove such vehicles illegally dumped on Crown land.

Up to and including the 28th of November, 404 vehicles had been so removed.

These vehicles are taken to detention compounds to await either claims for their return from owners, or their disposal or destruction by Government.

MR SZETO: —Sir, can my honourable Friend tell us how does he intend to destroy those vehicles, by manual labour or by machines, and would he influence Government to establish a crushing machine as soon as possible as part of the "Keep Hong Kong Clean" Campaign?

MR ALEXANDER: —Sir, we have already destroyed 20 by using a bulldozer at Gin Drinkers Bay and others will follow in that manner. The Commissioner for Transport and ourselves have been pressing for a long time for Government to acquire a crushing machine and we hope that this will be expedited.

MR CHEUNG: —Sir, would Government continue to carry out these measures for destroying derelict vehicles when the enthusiasm for the "Keep Hong Kong Clean" Campaign has dissipated?

MR ALEXANDER: —Certainly, Sir, my information is that there are not now too many on the roadsides or streets but there are quite a number elsewhere, but they are rather in another category. They haven't been abandoned; they have been collected either by car repairers or car wreckers and no doubt will be dealt with by Crown Lands Office in due course.

THE COLONIAL SECRETARY (SIR HUGH NORMAN-WALKER): —Sir, may I add to the answer by my honourable Friend. In his submission on the acquisition of a crushing machine I made one amendment; to the word "crushing machine" I added an "s" at the end. (*Laughter*).

Statements

Exhaust discharge from vehicles

THE COLONIAL SECRETARY (SIR HUGH NORMAN-WALKER): —Sir, I have to apologize to this Council for having unintentionally misled them in the last meeting, and I have already apologized to my honourable Friend Mr Woo in this connection. I misunderstood his supplementary to a question he asked two weeks ago concerning vehicles emitting excessive exhaust smoke. I understood him to have asked how many prosecutions had been registered from the 77 notices issued and I replied, as I understood the question correctly, the whole number 77.

Immediately after the meeting, however, an efficient Clerk at the Table pointed out to me that the honourable Member had in fact asked how many successful prosecutions had been achieved. At that point of time, the correct answer to that question would have been nil, but since then the position has advanced. In none of those prosecutions at that moment in time had the moment of truth arrived. Since that time the position has developed; out of the 77 prosecutions launched 28 cases have now been completed and all of them have resulted in convictions with an average fine of approximately \$90 in each case. In eight cases it has since been decided not to proceed with the prosecution because of insufficient evidence, and there are 41 cases still before the courts.

Buildings Ordinance (Application to the New Territories) (Amendment) Regulations 1972

MR BRAY: —Sir, among the papers tabled before Council today are the Buildings Ordinance (Application to the New Territories) (Amendment) Regulations 1972 which delete fifteen words from the laws of Hong Kong.

The regulations are however just the statutory part of the implementation of a major review of policy and practice on the control of small houses, or village houses, as they are known, in the New Territories. The review was started last year at the request of the Heung Yee Kuk and I should like to record here my appreciation to the members of the Kuk for their assistance and advice on this matter. Agreement in principle was reached in March this year since when we have been translating the general sense of these agreements into detailed departmental instructions and various legal documents.

There are several benefits from the new policy, of which I should like to mention the most important ones here.

[MR BRAY] Statements

First, applications from villagers to build a new house in their own village should be processed much more quickly. It should generally speaking be possible for District Officers to approve an application within six weeks of its receipt. This will be achieved by delegating authority to approve such applications to District Officers, by doing away with the necessity to submit individual building plans and by abolishing the so called restricted auctions and allowing Private Treaty Grants of sites within villages instead.

Second, more sophisticated health standards will be required in the future in these small houses. In the past they have been rather rudimentary and seldom enforced. In the future they will be much more in keeping with modern practice and it is the intention of my honourable Friend the Director of Urban Services to enforce them much more positively than in the past but in a manner suited to each individual house. The regulations themselves, which are tabled today, constitute a minor extension of the class of buildings exempt from many of the provisions of the Buildings Ordinance by allowing the use of reinforced concrete in two storey buildings covering less than 700 sq. ft. as well as in single storey buildings. My honourable Friend the Director of Public Works in his capacity as Building Authority is satisfied that this extension is acceptable now. With the law as it stands all we can do is exempt buildings from the Buildings Ordinance or part of it but not substitute a simpler form of control. Some simple statutory control will be necessary but, for the time being, these controls will be included in the lease conditions. The controls refer to such matters as defining a cockloft and a stairhood and are intended to keep small houses small.

Thirdly, virtually no more permits for so called temporary structures will be issued. In the past, anyone who was not a villager of the New Territories and who needed to build himself a house in the countryside could in general only obtain permission to put up a temporary structure and then only in certain rather ill-defined areas. In future anyone who needs to build himself a house in the rural parts of the New Territories will, provided certain requirements are met, be able to erect for his family a proper building of up to 700 sq. ft. and two storeys as permanent as any small house can be in this changing world. Not only will this give the individual concerned a decent, permanent and safe house to live in but it will also enable him to claim full compensation for the structure should it ever have to be cleared for development in the future. The siting of the houses will be subject to a set of planning controls so that they do not prejudice impending urban development or disfigure unspoilt parts of the countryside, but the controls will not be unnecessarily restrictive.

Fourthly, I turn to the owners of existing domestic temporary structures on private agricultural land and to the permittees of domestic structures which have been authorized by Crown land permit or licence for at least 10 years. Again subject to certain criteria being satisfied, they will be allowed to redevelop their structures up to the maximum size permitted for a small house. They will at the same time be able to acquire greater security of tenure for the land on which their buildings stand. These houses are with us to stay. The only effect of preserving their theoretically temporary nature is to destroy the incentive to house owners to put in improvements and build themselves decent places to live in.

Finally, the areas in which new small houses in the New Territories may be erected will be defined on a more logical basis and will be based on uniform criteria throughout the New Territories. The main factors affecting the zoning will be future permanent development plans, the location of roads and other public works and areas of recreational potential. The zone boundaries will be reviewed annually. We thought the Tuen Ng Festival was an appropriate occasion for this so that revisions to the zone boundaries will take place each year from the day of the Dragon Boat Festival. The plans are drawn up with the interests of the country people in mind. Town dwellers looking for weekend bungalow sites or a way into the new towns will be disappointed in this policy. Their needs will have to be dealt with separately in proper development plans. This policy is for people who need to live in the country now.

I should take this opportunity to deal with two criticisms that have been made of the regulations tabled today. The first critic was concerned that people would be allowed to build without conforming to the Buildings Ordinance and, of course, the purpose of the regulations is to exempt small houses from many of the provisions of Buildings Ordinance. The reason for this is that neither the architectural profession nor the authorized contractors are able to deal with numerous small buildings in outlying areas. To attempt to apply the Buildings Ordinance in full to all such buildings might look nice on paper but would be quite unrealistic in practice. Necessary controls must be much simpler.

The second critic feared that these policies would hamper more conventional permanent development. I am afraid it is precisely this sort of attitude which has prevented us from dealing more realistically with small houses in outlying areas in the past. Centres for large scale permanent development are limited and well defined. We cannot expect everybody else to hold their breath until full permanent development reaches them. Many temporary structures have been up for ten or twenty years. A similar period will elapse before many more will be incorporated in urban development. It is quite unreasonable to

[MR BRAY] Statements

prevent people living in these areas from building decent small houses in the meantime.

These policies and practices refer only to single applications to erect small houses. Multiple applications will be treated differently for they must be built in a proper village formation. I should emphasize that I do not see these measures as anything more than interim measures which will complement the major job of producing a comprehensive development plan for the rural New Territories. This is a much more ambitious task but until proper permanent planned development comes we must deal with the day-to-day needs of the people now living in the country. The policies dealt with today probably affect over 90% of the dwellings in the rural New Territories today—that is to say the 35% which are traditional village houses, the 30% which are lawful temporary structures and the 28% which are unlawful temporary structures. The need for some such policies becomes obvious when we reflect that probably only 7% of the dwellings in the rural New Territories are proper permanent houses and flats.

**Annual Report and Accounts of the Hong Kong Trade
Development Council for the year 1971-72**

MR WILLIAMS:—Sir, as a member of the Trade Development Council, I have pleasure in referring to the Council's annual report for 1971-72 which has been tabled today.

The report has been in the hands of the Government since September, but it has now been printed and published. It is designed to point up the distribution of expenditure and to show progress made in the building of a truly effective export promotion organization to serve industry and commerce.

I draw honourable Members' attention in particular to the summary of the work of the Council on page 12, the information on publications on pages 16, 17 and 18 and the breakdown of expenditure on special promotions totalling nearly \$7 million in the first appendix.

The Council in April this year had a stall of 160 in Hong Kong and 74 overseas. Its expenditure last year increased by \$5 million to about \$23 million gross, or \$20 million net of income from publications, advertising and so on.

The Council is now within sight of having the staff capacity and flexibility to relate expenditure effectively to need. In the current year it has deliberately stepped up its promotional activities to offset adverse trends in world trade, and this will be carried through into next year.

Government business**Motions****CRIMINAL PROCEDURE ORDINANCE**

THE ATTORNEY GENERAL (MR ROBERTS) moved the following motion: —

It is hereby resolved that the Third Schedule to the Criminal Procedure Ordinance be amended by adding the following additional item—

"9. Any offence against section 33 of the Public Order Ordinance."

He said: —Sir, honourable Members will recall that the Criminal Procedure Ordinance was amended in 1971, at the insistence of the Unofficial Members of this Council, so as to exclude a number of offences, mainly those with an element of physical violence, from the scope of two important provisions of the Criminal Procedure Ordinance.

The first of these was section 109A, which provides that a court shall not sentence a person over 15 and under 21 to imprisonment unless it is of the opinion that there is no suitable method of dealing with him in another way. The second is section 109B, whereby a court which passes a sentence of imprisonment for a term of not more than 2 years can order that the sentence shall be suspended.

Neither of these sections operates in relation to any offence listed in the Schedule to the Ordinance.

The resolution before Council will add the offence of being in possession of an offensive weapon in a public place, contrary to section 33 of the Public Order Ordinance to that Schedule.

This amendment will also ensure that there is no conflict between the Criminal Procedure Ordinance and the provision in the Public Order (Amendment) (No 2) Bill 1972, which is to come before Council later this afternoon, providing for a mandatory minimum sentence of imprisonment or a detention order on conviction of an offence against section 33 of the Public Order Ordinance.

Question put and agreed to.

PUBLIC HEALTH AND URBAN SERVICES ORDINANCE

MR ALEXANDER moved the following motion: —

It is hereby resolved that the Food Business (Amendment) By-laws 1972, made by the Urban Council on the 10th October 1972, be approved.

Public Health and Urban Services Ordinance

He said: —Sir, the purpose of the Food Business (Amendment) By-laws 1972, now before honourable Members, is very simple and straightforward. It is to prohibit the presence, on all food premises, of non-permitted industrial dyes which may be harmful to health in order to prevent their use in food being prepared for consumption by the public.

Question put and agreed to.

First reading of bills

**LAW AMENDMENT AND REFORM (CONSOLIDATION)
(AMENDMENT) BILL 1972**

LAW REVISION (MISCELLANEOUS AMENDMENTS) BILL 1972

**PROTECTION OF WOMEN AND JUVENILES (AMENDMENT) BILL
1972**

PUBLIC ORDER (AMENDMENT) (NO 2) BILL 1972

**WILD BIRDS AND WILD MAMMALS PROTECTION (AMENDMENT)
BILL 1972**

SUPPLEMENTARY APPROPRIATION (1971-72) 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 of bills

**LAW AMENDMENT AND REFORM (CONSOLIDATION)
(AMENDMENT) BILL 1972**

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

He said: —Sir, this bill has two objects.

This first of them is to repeal section 12 of the principal Ordinance whereby no action can be brought to enforce certain types of contract unless there is a note or memorandum in writing signed by the person against whom the contract is to be enforced.

This requirement, which was originally enacted in the Statute of Frauds in 1677, is limited to actions on four types of contract, a special

promise by an executor or administrator to answer damages out of his own estate, a special promise to answer for the debt, default or miscarriage of another, an agreement made in consideration of marriage and an agreement not to be performed within a year of the making thereof.

The strict requirements as to form have been steadily relaxed in many branches of the law during this century and it is now possible to prove the majority of contracts by various kinds of evidence. The retention of the requirement of writing, which renders the four rather unusual types of contract mentioned above unenforceable in the absence of writing, has been criticized in a cogent and convincing article in a recent issue of the Hong Kong Law Journal. With the exception of promises to answer for the debt of another, the need for writing was abolished some years ago in England, and it is thought that it is no longer necessary in Hong Kong.

Clause 3 inserts a new section 13A, whereby the court will have power to award damages if a contract has been partly performed, but the circumstances of the case make it impossible for the court to decree specific performance of the contract. At present the court can only award damages if specific performance could also be ordered, a limitation which can sometimes cause hardship. This amendment was suggested by the honourable Mr Oswald CHEUNG during the Second Reading of the Law Amendment (Miscellaneous Provisions) (Amendment) Ordinance 1971 last year.

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

Question put and agreed to.

Explanatory Memorandum

Clause 2 seeks to repeal section 12 of the principal Ordinance which is a re-enactment of the remaining provisions of section 4 of the Statute of Frauds 1677. The section provides that no action may be brought to enforce certain types of contract unless there is a note or memorandum in writing evidencing the agreement signed by the person to be charged thereby.

Over the years formal requirements of proof have been relaxed in many branches of the law and now most contract may be proved by a variety of types of evidence. The retention of this section in the law of Hong Kong, which imposes formal requirements on four dissimilar types of contract, is thus no longer necessary. The comparable provisions were repealed in England some years ago.

**Law Amendment and Reform (Consolidation) (Amendment) Bill—
second reading**

[Explanatory Memorandum]

Clause 3 is new and seeks to give the court power to award damages where a contract has been part performed but the circumstances of the case render it impossible for the court to decree specific performance. At the present time the court can only award damages in a case where specific performance could also be ordered.

LAW REVISION (MISCELLANEOUS AMENDMENTS) BILL 1972

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

He said:—Sir, this modest contribution to the "Keep Hong Kong Clean" Campaign seeks to clear away two items of legal refuse and to correct a number of minor errors. (*Laughter*).

It is proposed to repeal the two Ordinances which are listed in the First Schedule of the bill. The first of these, the Ships (Prohibition of Sale of Liquor) Ordinance, was enacted in 1886 to prevent the sale of spirituous or fermented liquor on board any ships, including Her Majesty's Ships, in the harbour. To prevent this evil trade, powers were conferred on naval and military personnel and ship masters to search vessels in the port.

It appears that the menace of the hovering bum boat is now contained within acceptable limits. No longer does the Commodore-in-Charge, Hong Kong, toss restlessly in his hammock as he pictures his rum-crazed tars discharging their muskets into the floating pleasure houses of Yau Ma Tei. (*Laughter*).

The second Ordinance was enacted in 1946 to remove doubt as to the legal status of bank notes which had been issued during the Japanese occupation. I am told that the Ordinance has now had its effect and can safely be repealed.

The minor amendments in the Second Schedule to the bill correct small errors or alter references which have to be changed as a result of the repeals in the First Schedule.

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

Question put and agreed to.

Explanatory Memorandum

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

Clause 3 makes consequential amendments to enactments affected by the repeals in clause 2 and new legislation enacted during the year.

PROTECTION OF WOMEN AND JUVENILES (AMENDMENT)
BILL 1972

THE ATTORNEY GENERAL (MR ROBERTS) moved the second reading of:—"A bill to amend the Protection of Women and Juveniles Ordinance."

He said:—Sir, section 34A of the Protection of Women and Juveniles Ordinance confers power on police officers of the rank of inspector or above, as well as other public officers, to take a child or young person to a place of refuge if the child or young person is suspected of having committed any of the serious offences listed in the Schedule to the Ordinance.

The intention of this bill is to give this power to police officers of the rank of station sergeant. This is necessary for practical reasons, since the introduction of the new rank of station sergeant has reduced the number of inspector posts.

Both the Commissioner of Police and the Director of Social Welfare are satisfied that station sergeants are capable of performing this duty satisfactorily.

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

Question put and agreed to.

Explanatory Memorandum

Section 34A(1) of the principal Ordinance confers upon police officers of the rank of inspector or above (as well as upon probation and social welfare officers) the power to take to a place of refuge children and young persons against whom there has been or is believed to have been committed certain offences specified in the Schedule to that Ordinance.

2. This Bill will confer the like powers upon police officers of the rank of station sergeant.

PUBLIC ORDER (AMENDMENT) (NO 2) BILL 1972

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

He said:—Sir, honourable Members will recall that I intimated, during my reply in the debate on the Governor's address, that a bill to amend the Public Order Ordinance would be submitted to the Governor in Council for approval before introduction into this Council, with the principal object of providing for mandatory minimum sentences for the offence of possession of an offensive weapon in a public place.

This bill has 3 objects. Firstly, it provides for a minimum sentence of 6 months' imprisonment to be imposed, or a detention order to be made, against a person convicted of this offence.

Secondly, the maximum punishment for the offence of possession of an offensive weapon in a public place is raised from 2 to 3 years.

Thirdly, it confers on a police officer a general power to search any member of the public in a public place in order to ascertain whether or not this offence has been committed.

At present, a police officer may properly stop and search a person in a public place if that person is acting in a suspicious manner or if the police officer suspects that person of having committed, or being about to commit, any offence. The amendment proposed, therefore, will relieve the police officer of having to form a reasonable suspicion in each individual case before he carries out a search of a member of the public and will enable areas to be cordoned off and anybody in the area searched for offensive weapons.

While the public has generally supported what have been called "stop and search" operations in the past, I am aware that some misgivings have been expressed about this new wider power, which may cause some inconvenience to innocent members of the public going about their ordinary business. I accept the view that this power must be used with discretion and I can assure honourable Members that the Commissioner of Police fully agrees that it must not be employed indiscriminately and he will do his best to ensure that this will not occur.

The imposition of a mandatory minimum sentence is a departure from tradition. Nevertheless, I suggest that it is fully justified in our present circumstances in Hong Kong, where we are faced with a growing menace from gangs of young men carrying offensive weapons for use in gang attacks and with a serious increase in the number of robberies in which weapons are used to threaten or attack.

I very much hope that the certainty of a custodial sentence will significantly reduce the practice of carrying offensive weapons.

The announcement that the Government was considering a measure of this nature has been widely welcomed by the press and public, the great majority of which appears to give it strong support, not only as evidence that the Government is determined to tackle crime effectively but also because it accords with the general belief that the situation demands tougher measures.

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

Question put and agreed to.

Explanatory Memorandum

This Bill has three objects—

- (a) To provide for a minimum sentence of 6 months' imprisonment or a detention order for persons convicted of the offence of possession of an offensive weapon in a public place;
- (b) To raise the maximum punishment for this offence from two years to three years; and
- (c) To confer a general power on a police officer to search any member of the public in a public place in order to ascertain whether or not this offence has been committed.

WILD BIRDS AND WILD MAMMALS PROTECTION (AMENDMENT) BILL 1972

THE ATTORNEY GENERAL (MR ROBERTS) moved the second reading of:—"A bill to amend the Wild Birds and Wild Mammals Protection Ordinance."

He said:—Sir, the object of this bill is to extend, in the interests of the conservation of wild life, the protection of the principal Ordinance, which prohibits the hunting or trapping of specified animals, to those mammals which are listed in clause 5 of the bill.

The protection of the porcupine will have a further beneficial effect in that there will then be no animals, except rodents, which it is legal to trap. This should cause a reduction in the number of dangerous gin traps, which are a serious hazard to walkers in some parts of the New Territories. It is at present legal to set them for the porcupine, but this will no longer be so.

In order to improve the enforcement of the Ordinance, the opportunity has been taken in clauses 3 and 4 to give police officers, as well

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(Amendment) Bill—second reading**

as Justices of the Peace and game wardens, power to inspect game licences, to arrest offenders, and to seize nets, gins and snares which are used to trap or kill wild birds or animals.

It will not surprise honourable Members to learn that the Chinese porcupine, which is better known to them as the *hystrix hodgsoni*, is declining in numbers. This is partly because it is frequently trapped for human consumption, and partly because the sharp pointed quills on the female are so arranged that only the most resolute and insensitive male is likely to contribute to the renewal of the species. (*Laughter*).

The dugong, which is listed in clause 5, is more commonly referred to as the "mermaid", which is the marine equivalent of the topless barmaid. (*More laughter*).

It will be recalled that the prosperity of one of our leading hongts was founded in the last century on the stuffed mermaid trade, and it is said that sometimes there can be heard in the godowns of this company the plaintive cries of spectral mermaids being crimped (to use the jargon of the trade) before despatch to the shipwrights of the world for attachment to the prows of their vessels.

For those of you who might wonder whether the presence of the mermaid in Hong Kong waters can be turned to economic advantage, I have to disclose that this earlier commerce has driven them from our shores. But this does not mean that the Government will, in this or in any other case, shrink from its duty to give the maximum protection of the law to any species which has become extinct. (*Continuing laughter*).

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

Question put and agreed to.

Explanatory Memorandum

The main purpose of this Bill is to extend the protection of the Ordinance to the Chinese porcupine. As rodents are not protected, a new definition of "rodent" excluding the Chinese porcupine is added to section 2 of the Ordinance.

The opportunity is taken to—

- (a) amend sections 16 and 18 of the Ordinance, since doubt has arisen as to whether a police officer may exercise

the powers of inspection, arrest and seizure conferred by section 16; (clauses 3 and 4);

- (b) add to the list of protected mammals in the Second Schedule (clause 5).

SUPPLEMENTARY APPROPRIATION (1971-72) BILL 1972

THE FINANCIAL SECRETARY (MR HADDON-CAVE) moved the second reading of: —“A bill to authorize a supplementary appropriation to defray the charges of the financial year ended the 31st day of March 1972.”

He said: —Sir, this bill seeks to give final legislative authority for the supplementary expenditure authorized by resolutions of this Council, and is the final stage in disposing of expenditure incurred during the financial year 1971-72.

The original estimates were given legislative form in the Appropriation Ordinance 1971, which authorized a specific sum under each Head of Expenditure. It is necessary now to legislate further in respect of those Heads of Expenditure where the net effect of supplementary provision, and of under spending, if any, has resulted in an excess over the original sum authorized against each of those particular Heads in the Appropriation Ordinance 1971. The total supplementary expenditure requiring this further legislative authority is over \$152 million under 28 Heads. This expenditure is partially offset by savings of \$113 million under other Head.

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

Question put and agreed to.

COMPANIES (AMENDMENT) BILL 1972

Resumption of debate on second reading (1st November 1972)

Question again proposed.

MR WOO: —Sir, I support this bill and I note that it is the first of a series of legislation proposed by Government with a view to protecting the general public in investment in shares in public companies as recommended by the Companies Law Revision Committee.

Objection has been raised in some quarters in respect of the provision in clause 5 which requires every prospectus to contain a Chinese

[Mr Woo] **Companies (Amendment) Bill—resumption of debate on second reading (1.11.72)**

translation. The objectors' arguments are that they believe such a requirement will create substantial practical difficulties. They express doubt as to the availability of a sufficient number of competent translators who can render a completely accurate Chinese translation, especially in the translation of technical legal terms. They also foresee considerable difficulty in the timing of new issues in that every draft prospectus is bound to go through numerous revisions and that the final version cannot readily be prepared until shortly before the issue date. They are very much concerned about the liability of directors both civilly under the new section 40 and criminally under the new section 40A in respect of untrue statements contained in the Chinese translation, which a non-Chinese speaking director cannot himself read or understand. In answer to these points raised I can inform this Council that recently several public companies have had their prospectuses translated into Chinese and I think that the difficulty in making a Chinese translation has been exaggerated. Furthermore, I am grateful to my honourable Friend the Secretary for Home Affairs for sending me a list of Chinese translations of technical legal terms and I am now getting in touch with the Commissioner for Chinese Language with a view to standardizing such translation. Taking therefore into consideration the additional time and labour required in preparing a Chinese translation of a prospectus, I suggest that if this bill is passed the effective date for such requirement should not be earlier than the 1st February 1973.

Since the publication of this bill and despite the clarification given by my honourable Friend the Financial Secretary in his speech on the second reading, there is still some misapprehension of the role which the Registrar of Companies will play in the exercise of his discretion to refuse to register a prospectus. The public should again be reminded that the Registrar is only concerned to see that a prospectus on the face of it contains all the statutory information and that such information is not prima facie misleading in the form and context in which it is included. His acceptance of a prospectus for registration is no guarantee that it contains no misleading or inaccurate statements, much less that the shares to be issued or offered for sale are regarded in any way as a sound investment. In the last resort the public should heed the warning which has now been included as a statutory requirement and which my honourable Friend the Financial Secretary specifically emphasized in his said speech that "If you are in any doubt about the prospectus you should consult your stockbroker, bank manager, solicitor, qualified accountant or other professional advisers".

MR LEE: —Sir, the activities of Hong Kong's stock market in recent years have been the admiration, envy, concern and worry of many overseas and local people. Admiration and envy, because its rising share prices and volume have outperformed those of most other world markets. Concern and worry, because its high price-earnings ratio and low dividend yield are considered to have reached a highly speculative stage, being out of proportion to what is generally regarded as a reasonable level even in the most promising economy in other countries. It is due to this concern and worry that public opinion has recently often been expressed to urge Government to enact legislation to control or regulate the operation of the market in order to protect the investors. The bill before Council, as the Financial Secretary said when introducing it on the 1st of November, was the first of several bills designed to give such effect in accordance with the recommendations of the Companies Law Revision Committee on the protection of investors.

Before commenting on the bill, I would like to say a few words on the functions and effects of the stock market and why, in my personal opinion, our stock market has such outstanding performance both in price and volume.

As we all know, the functions of a stock market are twofold. First, it serves as a medium for members of the public to buy shares as an investment and trade in shares as a business and, secondly, for commerce and industry to obtain long-term capital for the development of their business. For this year, up to the 28th of November 1972, the total volume of business transaction in the stock exchanges amounted to \$36,477 million. A total of \$1,550 million has been raised by 73 newly listed companies and \$1,030 million by 15 existing listed companies. Thus a combined total of \$2,585 million was raised by these companies, the greater part of which was made available to finance their operations.

As to why our stock market outperforms most other markets, I share the same view as the Financial Secretary: that Hong Kong's financial sector is essentially healthy, buoyed up by the strength of our economy as a whole and the confidence it engenders in both local and overseas investors. The Hang Seng Index rose from 340 at the beginning of the year to 637 at the close of business yesterday. The buoyancy of our stock market in many respects is a sign of strength and not weakness. This is evidenced by the fact that notwithstanding as substantial a sum as \$2,585 million having been raised in the stock market in the last 11 months, bank deposits still rose by \$4,356 million to \$23,141 million for the past 9 months ending in October 1972. This is a great increase. It is quite clear, therefore, that it is the increase of money supply, the strength of our economy and confidence it generates that has pushed up our stock market. I am quite sure we would prefer to have a high P/E ratio and low yield share market in a booming

[MR LEE] **Companies (Amendment) Bill—resumption of debate on second reading (1.11.72)**

economy rather than one with low P/E ratio and high yield in a recession economy. What looks high now may well be reasonable or even cheap later in a developing economy like Hong Kong.

When the public invest their money in the stock market, they should naturally choose with great care those shares that promise good capital appreciation and high dividend yield. But no matter how careful their choice is, the performance of the companies are necessarily subject to many uncertainties in their business operations. Therefore, it must be accepted in every investment that there is an element of risk and it is not easy to draw a distinction between investment and speculation, except of course those who invest with borrowed money. The more money is borrowed for investment, the higher is the element of speculation in such investment and this applies more so in the case of the smaller investors.

Now on the bill before Council, my honourable Friend has already explained every important clause in detail and I can only echo its support. The main feature in it is the requirement of Chinese translations of prospectuses. I would like to call to the attention of the investing public that if they are to have the benefit of protection designed for them in the bill, they must do their part to read and understand them clearly. It is their own judgment based on the information given to them in the prospectuses—and only on their judgment alone—that they should finally rely to make an investment. The registration of prospectuses by the Government is not a hallmark for the quality of the companies for investment purposes.

The honourable Financial Secretary also disclosed that there will be further bills to follow in due course to deal with securities which will include unit trusts, mutual funds and take-over bids. Although it is premature to comment, not knowing the details, I must say that even though these bills may bring about the stock market and the stock exchanges in improved and better-organized operation, they are certainly not designed for the purpose of guiding the public to invest in companies whose shares would never come down. Experience tells us even the biggest company may have setbacks and the smallest may succeed beyond expectation.

In order to have a sound and organized market, it is essential to have the concerted efforts of bankers, underwriters, professional accountants, lawyers, valuers, the press, radio, television, the stock exchanges and their broker-members all working together in the best of their professional and moral ethics. I appeal to them to give their contribution for a healthy stock market in Hong Kong in the best mutual interest of all concerned.

MR WANG: —Sir, if I may say a few words on the point raised by my honourable colleague Mr. Woo on the difficulty of translation suggested. I would hope that this would not be a cause for delay in enforcing an early requirement for Chinese translations. I think it is time now that a company should expect its shares to be traded in a market where a good number of investors can only rely on the Chinese language as their direct source of information.

I think it is long overdue that many have to rely on interpretations of all kinds of standards and on all kinds of ways to make their judgments on the purchase or sale of shares. The directors of each company should have long felt that it is indeed their first duty to pass this information directly to the dealers in their own language—in the language that they can understand.

I do feel rather uneasy at any suggestion that enforcement should be delayed or postponed until as late as February. I would wish that it should be done as early as possible.

THE FINANCIAL SECRETARY (MR HADDON-CAVE): —Sir, I would like to thank my honourable Friends not only for their support of this bill but also for their constructive suggestions.

I can assure both my honourable Friends Mr Woo and Mr Wang that their suggestion regarding the effective date for implementing the requirement for a Chinese translation of a prospectus is being very carefully considered, and my own personal view at the moment is that the effective date is unlikely to be before, and unlikely to be after, the 1st February next. (*Laughter*).

I would also like to take this opportunity, Sir, of re-emphasizing the point made by both my honourable Friends Mr Woo and Mr Lee that the Registrar General is not in any way responsible for assessing the status and quality of a company whose prospectus is being registered. He is solely concerned with ensuring that the prospectus meets the legal requirements as set forth in the bill.

In conclusion, Sir, I would echo Mr Lee's sentiments that legislation by itself is not sufficient, and cannot be fully effective without the willing co-operation of all sectors of the business and financial communities and the exercise of commonsense by the investing public.

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).

BUILDINGS (AMENDMENT) (NO 2) BILL 1972**Resumption of debate on second reading (1st November 1972)**

Question again proposed.

MR SZETO: —Sir, when the bill was introduced in this Council, the general public was gratified that Government has at last viewed with serious concern the use of substandard materials in some of our recently completed buildings.

With the memory of the condemned building in Western district and the landslide disasters in June still fresh in people's minds. It is understandable that some section of the public considers that the increased penalties as now proposed are still inadequate.

The bill also seeks to extend the statutory period after which approval to building plans may be deemed to have been given. But as some of my Unofficial colleagues will be speaking on that aspect, I will confine myself to dealing with the substandard materials and workmanship in building works.

Whilst I agree, Sir, that increased penalties will have some deterrent effect on defrauding contractors and irresponsible architects, in my view the problem is not being attacked at its roots. The maximum fine of \$2,000 which the Registered Contractors Disciplinary Board can impose at present is, of course, unrealistic and no doubt is responsible for the flagrant violation of building regulations. As for the irresponsible architects, the rather mild punishment as meted out by the Authorized Architects Disciplinary Board in the past likewise had very little deterrent value. My honourable Friend the Director of Public Works will probably agree with me that the performance of the majority of the building contractors in Hong Kong is below a satisfactory level both in respect of technical ability and organizational capacity. The remedy, in addition to heavier penalties, in my view lies in raising their standards.

The principal Ordinance and regulations, while laying great stress on the qualifications and disciplines of authorized architects, do not appear to have the same regard to registered contractors who are allowed to get away frequently with site conditions that, in addition to contributing to environmental pollution, endanger the safety of their own workmen as well as the public, quite apart from carrying out sub-standard building works.

The functions and responsibility of an authorized architect are to prepare plans of buildings, to obtain Building Authority approval for the same and thereafter to supervise construction of the buildings, ensuring

that the right materials and acceptable workmanship are employed by the contractor. The latter's responsibility is therefore not any lighter than that of the architect, and he or his agent must be technically qualified to do the work he is appointed to do. He must be capable, efficient and, above all, honest. It will be relevant to point out that existing legislation only requires an architect to provide periodical supervision and inspection of the building works as may be necessary to ensure that the works are being carried out in general accordance with the provisions of the building regulations, whereas a contractor is required to give continuous supervision. In a building contract, the architect therefore plays the role of a watch-dog and is bound by section 40 of the Ordinance to notify the Building Authority of any contravention of building regulations or malpractice committed by the contractor. The danger, however, lies in situations where a building owner or developer is also the builder. Furthermore, it is not uncommon in such situations that the architect is employed merely as a tool and a cover to process the developer's own plans through the Building Authority and therefore plays no part, and has no authority, in supervision. Much of the substandard construction in recent years has been the work of this developer-builder-architect collaboration. To protect public safety, effective legislation is needed to stop this malpractice.

Sir, present day buildings are of great height and their construction involves the use of high grade materials. This is particularly true with more sophisticated forms of construction employing major constructional materials almost twice their strength used hitherto. For such structures, improved construction methods and technical supervision are necessary and these can only be achieved by greatly improving the performance of our building industry.

It is clear that in any building work the architect and the contractor have equal responsibility in respect of compliance with approved plans. However, in the registrations of the profession and the industry, there is a vast difference in the provisions in the existing legislation. Whilst very stringent requirements are laid down for the qualifications of an authorized architect, hardly anything in the way of technical experience, equipment and organization is required of a registered contractor, save his bank account. This attitude explains the mushrooming of building contractors in recent years, and no less than 37 firms were registered in the last quarter alone according to the latest quarterly report of the Public Works Sub-Committee. In the light of what has happened last year and in this year in defective concrete and landslides, Government should have another look urgently at the existing legislation governing the registration of building contractors. In my view, more stringent requirements and disciplines should be imposed on a registered contractor. He should be required

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to provide to the Building Authority's approval technically qualified supervising personnel on each building site compatible with the nature, complexity and magnitude of each project and that such personnel should be held, together with the architect, responsible for the faithful execution of the works and the contractor, particularly, for the orderly maintenance of the work-sites including such paraphernalia as scaffoldings, hoisting machinery, hoardings, *etc.*, to ensure the safety of the workmen and the public.

Sir, there appears to be widespread public concern caused by the substandard concrete in some completed buildings. This concern will grow with the increasing trend of purchasing one's own flat and Government should rectify the situation to remove this concern. Perhaps I should explain for the information of the public that two classes of concrete are currently used in building works in Hong Kong—the ordinary grade concrete of lower strength and the grade "A" concrete of higher strength. When the latter is used (invariably in tall buildings and sophisticated construction), Building Regulations require the architect to submit certificates of crushing tests of concrete cubes prepared from the concrete during actual casting of the various structural elements of every floor to ensure that the concrete used is of required strength. But similar obligation is not imposed when ordinary grade concrete is used. However, it must be recognized that with the general standard of our local contractors and workmen, it is not easy to ensure that the concrete actually cast conforms to the quality of the test cubes which are generally prepared with care. With a developer-builder-architect job, the situation becomes more uncertain. This is another area which merits my honourable Friend's serious consideration.

A constant source of danger at building sites arises from excavation to form tall hill cuttings. Up to the present the Building Authority's requirements are more by the rule of thumb than based on rational site investigations and geological studies. Some contractors, being ignorant or unfamiliar with the behaviour of soil, frequently take risks in excessive excavation to save costs in precautionary measures resulting in collapses and loss of lives and property. Such accidents also occur not infrequently in the construction of tall retaining walls when over excavation causes landslides before the retaining wall is built. Developers are apt to be influenced by high land cost and aim at intensive development not realizing the fact that the forces of nature cannot be tampered with without serious consequences. It is therefore my submission, Sir, that this is another aspect of construction for which our existing legislation merits an early review to protect lives and property.

MR LEE: —Sir, the bill before Council is of considerable importance because it will have a far reaching effect on the building programme in the private sector of the Colony and will affect Your Excellency's declared policy of providing a home of a reasonable standard for everyone who needs it.

I support the bill but would like to comment on clause 6. The main purpose of this proposed amendment is to allow the Building Authority a longer period within which building plans are to be approved. The need for this particular amendment no doubt arises from the intensive and continuing building activities taking place throughout the Colony in the recent few years and the unexpected demand of work on the staff of the Building Authority as a result of the landslides in June which have accumulated a substantial backlog of building plans awaiting approval. Subsequently it is difficult, if not impossible, for the present 28-day limit laid down in the main ordinance after which plans submitted to the Building Authority are deemed to have been approved by default.

I have considerable sympathy with the situation the Public Works Department is facing because of the various persistent demands on it from our expanding industrial, economic and public developments. I am sure we would all like to pay a tribute to the devotion of duty shown by my honourable Friend the Director of Public Works and his staff, particularly those in the Buildings Ordinance Office, for having carried out the already very heavy load of work which has now been aggravated by the June disasters. But I must also show great concern over any further delay in the process and approval of building plans. Such delay will have a multiple adverse effect on our economy. In the last few years, the supply of housing had not been able to catch up demand due to the slow-down in activities between 1965 and 1968 and, more importantly, to the scarcity of land available. Any further delay in plans being approved can only result in higher cost of accommodation. The chain reaction will be higher cost of living and higher cost of labour, which will add to the cost of our export products as well as creating further social problems. This is a point which I cannot emphasize in stranger terms. It is therefore of great importance for Government to ensure that every effort is being made to reduce the time taken for a building plan to be approved to an absolute minimum. I am aware that this is not the sole responsibility of the Public Works Department as there are factors often beyond its control, for example, the recruitment of the urgently required staff. In this connection, I am addressing myself to the Establishment Branch and would like to know what urgent steps have been, or are being, taken to recruit at the soonest possible date the extra professional staff for whom posts have already been approved by the Finance Committee of this Council. This is a

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situation which demands urgent measures to be taken and not a day should be wasted.

I understand that there is a large number of plans which have been with the Building Authority for some considerable time and have not yet been approved. Meanwhile, new plans are coming in. In the circumstances, I would be grateful if my honourable Friend the Director of Public Works would tell this Council the number of plans which have been with the Building Authority for more than 28 days and have not been approved, and the number of plans which have been received but have not been dealt with by the Building Authority for a period longer than the stipulated period in which they are deemed to have been approved by default. In particular, and most important of all, I would like to know what plans are in hand to improve the situation and how soon he would be able to clear the backlog and bring the situation within tolerable limits. If there are any difficulties, what are they and can they be surmounted? When facts and difficulties are presented I hope it will be possible for this Council, in the light of public reactions from the professional and property development industry, to conceive remedial measures.

MR CHEUNG: —Sir, I also support the bill and I also wish to confine my remarks to clause 6 which has been dealt with, and explained already, by my honourable Friend Mr SZETO and Mr LEE.

Professional architects who are concerned with the submission of plans and getting approval from the Buildings Ordinance Office have represented to Unofficial Members that the extension of time from 28 to 60 days would unnecessarily delay the development of their clients' sites and have requested that this proposal be reconsidered. They have urged that, whilst it might be justified to extend the time in the case of plans which are submitted for the first time, they feel that a period of 60 days would generally be too long on a resubmission of those plans which corrects the faults in the design that led to their being disapproved in the first place.

As Mr LEE has already said, my Unofficial colleagues consider that there is a valid case for reconsidering this proposal, and it is for that reason that at the Committee Stage I shall move that the clause be deleted.

The architects and ourselves are mindful of the burden which has been put on the Buildings Ordinance Office, and we have great sympathy with it in having to deal with the backlog that has built up. I am therefore authorized by my Unofficial colleagues to say that, should

Government wish to have the moratorium extended until 31st March 1973, they would have no objection to such an extension. They hope that in the meantime an acceptable solution would be found.

MR ROBSON: —Sir, I am grateful to the honourable Members who have spoken on this bill and who, in general, have indicated support for those measures aimed at controlling the activities of irresponsible contractors, architects and developers.

The honourable SZETO Wai feels that even stronger measures are needed to obtain an acceptable minimum standard of both conduct and performance of our building contractors. I do not disagree with him but the measures he has suggested, that is the laying down of technical qualifications and experience for contractors staff and supervisory personnel, will take some time to become effective. In the meantime it will be necessary to contain the situation with the means at our disposal.

Experience in recent years has indicated that our building legislation requires strengthening and enlarging—especially to control the activities of those enterprising gentlemen who carry out wholesale modifications to buildings immediately after an occupation certificate is issued. No doubt honourable Members will have read in this morning's press the joint inspection which was carried out into conditions at Nos 1026-1048 King's Road where the scale of alterations since an occupation certificate was issued for these buildings in August is incredible—and that is an understatement.

In due course the Buildings Ordinance has to be rewritten to metric standards and I am therefore making a recommendation that work starts immediately on a comprehensive redrafting of all our building legislation to cover not only the needs of metrication but also to remedy the many defects and deficiencies which are now apparent. I trust honourable Members will support this move. In the meantime, in respect of the King's Road building, legal opinion is being taken on the measures which can be adopted to remedy the situation including, if necessary, re-entry of each and every flat which contains illegal work.

But far more site inspections by Government staff are required while building work is in progress and extra staff for this purpose was approved following the publication of the Liu Chong Hing Bank Building Report. Recruitment of the necessary building surveyors is proving difficult although requests for recruitment have been put in the hands of agencies in Australia, New Zealand and the United Kingdom. It has therefore been agreed that Mr DONNITHORNE, the Director of Building Development, will go to England next week and see if he can obtain staff on secondment from the Ministry of the Environment or other

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UK bodies. He will at the same time take up the possible employment of structural engineers in the UK for processing structural calculations submitted to the Building Authority and the use of computers for this purpose.

But these measures will have no immediate impact on the backlog of building plans awaiting approval. On the 1st of November there were 967 submissions of plans which had been with the Building Authority for more than 28 days and the number has remained at around the 1,000 mark since the 1st of July as compared with 350 for the first 5 months of the year. New plans have been submitted at the rate of over 1,000 a month except for the months of February and July when they were a little less, and there is no indication at all of any recession.

While I understand honourable Members' concern about clause 6 of the draft bill, which would extend to 60 days the statutory period of 28 days within which the Building Authority can disapprove plans, from the figures I have quoted they will understand that it is simply not possible to even commence examining the mass of the plans within this period, that is the 28-day period. Thus, while I am not opposing the proposal that clause 6 of the bill be deleted, it will be obvious that I can only do so on the understanding that this is accompanied by an extension of the operation of section 30A(2) of the Buildings Ordinance to the 31st of March 1973. This means that until that time there will be no statutory period within which the Building Authority has to disapprove plans.

It will also, I think, be obvious that there can be no real improvement in the situation unless there is either an increase in the strength of the staff of the Buildings Ordinance Office or a reduction in the number of plans submitted for approval.

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 of bill

Council went into Committee.

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Clauses 1 to 5 were agreed to.

Clause 6.

MR CHEUNG: —Sir, I move that clause 6 be deleted from the bill.

Question put and agreed to.

Council then resumed.

Third reading of bill

THE ATTORNEY GENERAL (MR ROBERTS) reported that the Buildings (Amendment) (No 2) Bill 1972 had passed through Committee with amendment and moved the third reading of the bill.

Question put and agreed to.

Bill read the third time and passed.

Adjournment and next sitting

HIS EXCELLENCY THE PRESIDENT: —In accordance with Standing Orders I now adjourn the Council until half past two on Wednesday, the 13th December.

Adjourned accordingly at nine minutes past four o'clock.