

**OFFICIAL REPORT OF PROCEEDINGS****Wednesday, 3rd January 1973****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 CUMYNN 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, CBE, JP  
COMMISSIONER OF LABOUR  
THE HONOURABLE IAN MACDONALD LIGHTBODY, JP  
SECRETARY FOR HOUSING  
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 WAI, 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-WEI, 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 JAMES WU MAN-HON, JP  
THE HONOURABLE MRS MARY WONG WING-CHEUNG, MBE, JP

**ABSENT**

THE HONOURABLE PETER GORDON WILLIAMS, 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: —	
Clean Air Ordinance.	
Clean Air (Furnaces, Ovens and Chimneys) (Installation and Alteration) Regulations 1972 .....	258
Legal Practitioners Ordinance.	
Practising Certificate (Amendment) Rules 1972 .....	262
Hong Kong Letters Patent 1917 to 1970.	
Authorization by the Governor .....	263
Boilers and Pressure Receivers Ordinance.	
Boilers and Pressure Receivers (Exemption) (No 2) Order 1972 .....	264
Professional Accountants Ordinance 1972.	
Professional Accountants By-laws 1972 .....	266
Professional Accountants Ordinance 1972.	
Professional Accountants Ordinance 1972 (Commencement) Notice 1972 .....	267
Public Health and Urban Services (Amendment) (No 3) Ordinance 1972.	
Public Health and Urban Services (Amendment) (No 3) Ordinance 1972 (Commencement) Notice 1972	268
Telecommunication Ordinance.	
Rediffusion (Hong Kong) Limited (Amendment of Licence) Order 1972 .....	269

Sessional Paper 1972 -73: —

No 32—Accounts of the Lotteries Fund for 1971-72 (published on 3.1.73).

Report: —

Report on Marine Investigation into Sewage Discharges (published on 3.1.73).

## Oral answers to questions

### Fires in multi-storey buildings

1. DR CHUNG asked: —

Will Government (a) give the total number of major fires in multi-storey buildings each calendar year during 1969 to 1972 inclusive and (b) among these major fires state how many each year were from industries and from different types of industrial operations?

THE COLONIAL SECRETARY (SIR HUGH NORMAN-WALKER): —Sir, taking "major fires" to mean a third alarm fire or above, the number of fires in multi-storey buildings for the four years 1969 to 1972 inclusive were respectively 91, 76, 98 and 108. Of these the number of fires involving industries were 47, 41, 65 and 78 respectively. The Director of Fire Services has provided a detailed breakdown of the number of fires affecting particular industries during this period and I shall circulate this for the information of honourable Members and the honourable questioner in particular.

### Macau Ferry Terminal

2. DR CHUNG asked: —

Is Government now in a position to make an announcement on the practicability of, firstly, improving existing facilities and, secondly, building a new terminal with improved facilities for steamer, hydrofoil and hovercraft operations between Hong Kong and Macau and whether a site has been decided?

THE FINANCIAL SECRETARY (MR HADDON-CAVE): —Sir, on the 10th of May last, in response to a question from my honourable Friend Mr BROWNE, I explained that at its meeting on the 8th of March the Public Works Sub-Committee had approved plans for improvements to the Macau Ferry Wharf.

These improvements will be carried out in two stages. Stage I will include an extension to the covered way from the Arrival/Departure Hall to the hydrofoil waiting area and the removal of various offices on the landward side of the Arrival/Departure Hall. This will give a total covered area of approximately 16,000 square feet for passengers waiting to enter the terminal. A wall on the seaward side of the Arrival/Departure Hall will also be removed to facilitate passenger access to the Immigration Department processing

[THE FINANCIAL SECRETARY]     **Oral answers**

desks. The plans for Stage I also include the re-arrangement of various offices and the provision of additional office space in order to facilitate a more rapid flow of passengers throughout the terminal. Actual work on this first stage of the programme of improvements is now expected to begin in July 1973 and to be completed early in 1974.

Stage II generally provides for a further expansion of office accommodation, as well as changing and toilet facilities and the establishment of a canteen in the premises now occupied by the Transport Department.

As regards the second part of the question, Sir, I am afraid I am not at present in a position to say whether, and if so when, a new Macau terminal will be built to handle conventional steamers, hydrofoils and hovercraft. But I *can* assure my honourable Friend that the possible need for such a new terminal is being actively considered by the departments concerned. From a marine point of view a site at the western end of Hong Kong Island would be preferable. But this would involve reclamation and a greatly expanded road system, which again would require extensive reclamation. Yet re-provisioning at the present site would present major problems because space is limited and existing ferry activities would be disrupted. If we are to proceed, therefore, the first step will be to seek the inclusion of an item in Category B of the Public Works Programme to allow for a detailed and comprehensive feasibility study to be carried out.

DR CHUNG: —Sir, in February last year the Director of Public Works disclosed in this Council that a probable site for the new terminal would be on the Kowloon peninsula. Will my honourable Friend give some details of the investigation about the probable site in Kowloon which he did not mention in his reply?

THE FINANCIAL SECRETARY (MR HADDON-CAVE): —Sir, I said that, from a marine point of view, the most preferable site would be one at the western end of Hong Kong Island. I made no reference to other possible sites.

MR BROWNE: —Sir, in respect of the first part of the honourable Financial Secretary's reply, could I ask whether Stage II is in the Public Works Programme and secondly, if it is, when the arrangements will be completed? Will the facilities in Stage II be for the benefit of the travelling public or will they be just for the staff of the hydrofoil companies, Immigration Department and so on?

THE FINANCIAL SECRETARY (MR HADDON-CAVE): —Stage II is in the Public Works Programme, Sir, but I must apologize to my honourable Friend. I am afraid I don't know the scheduled date for completion, but I shall certainly check and let him know.

It is true, as he implied, that the works envisaged in Stage II are primarily to enable the companies to handle their business more efficiently rather than for the comfort of the travelling public.

### **Pollution in typhoon shelters**

3. MR BROWNE asked: —

Will Government make a statement on the problem of dealing with pollution in typhoon shelters?

THE COLONIAL SECRETARY (SIR HUGH NORMAN-WALKER): —Sir, the honourable Member has raised a very real problem. Pollution in typhoon shelters is associated in varying degrees with littoral trade activities such as sawmills, shipyards and markets in the densely populated surrounding areas, with the activities of small craft using the shelters, and with drainage outfalls.

The Marine Department's efforts to deal with it so far have been concentrated on the two main harbour shelters at Yau Ma Tei and Causeway Bay, and in the Aberdeen typhoon shelter. Last July a limited beach-to-beach refuse collection and general scavenging service in Yau Ma Tei and Causeway Bay typhoon shelters was introduced, as well as a general scavenging service at Aberdeen. The intention was to try not only to prevent refuse drifting into the harbour and on to beaches, but also to reduce health hazards and damage to propellers and engine intakes of small craft.

In the Yau Ma Tei shelter, ten gallon refuse containers on large stationary vessels are soon to be provided at strategic locations on a trial basis. It is hoped that smaller vessels will use these and thus assist the collection service.

To deal with the problem in other typhoon shelters, and with known "black spots" in the harbour area, the harbour scavenging fleet's present strength is being doubled to 24 sampans and 8 mechanized cargo boats. This increase, which has been approved, will take place this month, and refuse collection in shelters such as Aldrich Bay and the North Kowloon Camber will henceforth receive more concentrated attention.

In addition to providing the services mentioned, the Government is making every effort to educate the floating population, and those

[THE COLONIAL SECRETARY]     **Oral answers**

involved in trade activities near the waterfront, about pollution prevention. It is clearly essential that they should be dissuaded from dumping rubbish indiscriminately into the waters of the Colony; but anyone who has dealt with small boats will know that the temptations are considerable. The Director of Marine and some of his senior officers have obtained useful co-operation and assistance in this task from local associations visited during the Clean Hong Kong Campaign.

Much still remains to be done; and I am thus sure that we must continue to tackle the problem with vigour and determination.

### **Driving tests for goods vehicles and omnibuses**

4. MRS LI asked: —

Will Government state when driving tests for goods vehicles and certain categories of public and private omnibuses will be resumed? In order to avoid a complete stoppage of such tests, will Government ensure that at least a proportion of the available driving test examiners are allocated to these tests instead of to private car tests?

THE FINANCIAL SECRETARY (MR HADDON-CAVE): —Sir, driving tests for all categories of vehicle except private cars, motor cycles and franchised buses were suspended on the 9th of October 1972 as a further measure by the Transport Department to concentrate its efforts on an accelerated programme of testing for licences to drive private cars. The other two measures taken by the Department as from the 11th of September were the employment of volunteer civil servants to conduct tests in the evenings, at week-ends and on public holidays and the combination of the intermediate and final road tests into one.

It was hoped that these measures would, within a limited period of time, eliminate the enormous backlog of tests for licences to drive private cars which had resulted in applicants having to wait for more than a year to take their final road tests, that is to say, the gap between an applicant passing his written test and taking his final road test was more than a year. Indeed, as a result of the accelerated programme, the number of appointments for road tests per day has risen from some 350 to about 900, whilst the waiting time between the written test and the combined road test has fallen from a year to less than 3 months, although the *actual* number of aspirant drivers waiting to take their road tests is about the same as before at 60,000 and so is the number of tests which have to be conducted. I should

add here that an average of 40% of candidates get through on their first attempt and so, in order to arrive at the number of driving tests, one has to multiply the number of bodies by a factor of two and a half.

It had been intended, once the backlog of applicants for licences to drive private cars had been dealt with, to start testing applicants again for other categories of vehicle. But, in the event, Sir, things have not turned out quite as we had hoped. The crash programme of tests has, indeed, enabled most of those in the original backlog to be cleared. But it has also encouraged so many applicants to come forward for the *written* test that there is now a backlog of applicants for *this* test of no less than 75,000 compared with 54,000 at the end of August. As a result, there is a delay of 10 months in Hong Kong and 14 months in Kowloon for the written test.

In view of this situation, plans are now being put in hand to run down the emergency testing programme for licences to drive private cars and, subsequently, to resume limited testing for the categories of vehicle which have been halted since the 9th of October last. It is hoped that tests for these types of vehicle can be started again within the next four weeks.

Since it has proved impossible to meet the unhindered demand for driving tests, urgent consideration is now being given to measures designed to reduce the numbers of applicants for such tests.

### **Army camp areas**

5. MR WANG asked: —

Will Government state whether a report on urban Army camp areas has been received from the Army Works Study Team and, if so, whether plans are being formulated to consolidate the various facilities in order that some sites may be released for other use?

MR ROBSON: —Sir, an Army Works Study Team are here in Hong Kong to advise Headquarters Land Forces on reprovisioning some present Service facilities. They are working in close consultation with the Government. We all have very much in mind the desirability of consolidating facilities in order to release valuable land in the urban areas for other use. I hope that agreed decisions will soon be reached.

### **New Board of Education**

6. MR BROWNE asked: —

When do Government expect to announce the appointment of the new Board of Education?

### Oral answers

MR CANNING: —Sir, I am pleased to say that Government should be in a position to make an announcement about the appointment of the new Board of Education within the next ten days.

### Multi-storey car park at Aberdeen

7. MR WONG asked: —

Will Government indicate whether a decision has been made to proceed with plans for a multi-storey car park at Aberdeen?

MR ROBSON: —Sir, my honourable Friend will be aware that at the meeting of this Council on the 29th of November last I answered a question on the construction of car parks. I did not, however, include any information on the possible construction of a multi-storey car park at Aberdeen because its future was uncertain.

A site at Aberdeen was originally earmarked for the building of a market and it was hoped that several floors of parking could have been economically incorporated within the building. It was found, however, that the site was too small for this purpose and since tentative plans have now been submitted for the redevelopment of a very large lot in the same vicinity by a private developer I am now looking into the possibility of incorporating a suitable site for a car park within this development. It is, however, too early to say whether negotiations can be successfully concluded with the developer so that about 1,000 parking spaces can be provided.

MR WONG: —Sir, in the event of failure in negotiation with the private developer, will Government consider again a smaller site for a car park on the grounds that something is better than nothing?

MR ROBSON: —Yes, Sir, but I would hope I can find a bigger site.

### Stamp duty for property transactions

8. MR LEE asked: —

Is the Government now in a position to consider raising the limit for concessionary rates of stamp duty for property transactions so as not to defeat the original purposes of encouraging house ownership? If not, will the Government give its reasons?

THE FINANCIAL SECRETARY (MR HADDON-CAVE): —Sir, although I do not altogether take the logic of my honourable Friend's proposal, the answer to the first part of his question is "yes", which at least means that I don't have to answer the second part. (*Laughter.*)

MR LEE: —Sir, I am grateful to my honourable Friend for his simple and straightforward "yes" answer. Using his own words, this means at least I, or both of us, do not have to deal with the logic of the proposal any further. But may I ask if he can give another simple straightforward indication of how soon—for instance, within how many days—he can announce the decision with details?

THE FINANCIAL SECRETARY (MR HADDON-CAVE): —Soon is soon, Sir; in 56 days time. (*Laughter.*)

### **Resettlement from Hong Ning Road licensed area**

9. MR LOBO asked: —

In view of the information given to the residents of sections 4, 5 and 6 of the Hong Ning Road licensed area that they would be resettled last month, will Government state when these persons will, in fact, be moved into a resettlement estate?

MR LIGHTBODY: —Sir, an assurance was indeed given in July last year that the intention was to clear sections 4, 5 and 6 of the Hong Ning Road licensed area, which housed some 2,400 people, towards the end of this year for its development as a playground. Unfortunately, this clearance has had to be delayed on two counts. Firstly, the accommodation earmarked for these people had to be allocated to over 2,000 fire victims from Tai Hom Village recently; such disaster victims are of course at the top of our housing priority list. Secondly, the completion dates of a number of estate blocks have fallen behind schedule, and they will not be now available until February.

However I am glad to say that we now intend to begin moving the licensees of sections 4, 5 and 6 to Lam Tin Estate in mid-February, and this whole move should be completed by the end of March. But, as always, Sir, this intention could again be frustrated if we are faced with any more unforeseen emergencies, such as squatter area fires, in the meantime. The immediately homeless must be given top priority.

**Oral answers****Bonus scheme for urgent public works contracts**

10. MR WONG asked: —

Has Government considered, or will Government consider, the adoption of a bonus scheme for (a) public works for urgent nature in general or for (b) Hing Wah Estate, Phase Two, the need of which is acute for the resettlement of Aldrich Bay Squatters, in particular?

MR ROBSON: —Sir, dealing first with the particular question of Hing Wah Estate, when tenders are called for large housing schemes tenderers are invited to include in their tenders any reduction in completion time that they might wish to offer. This tender and offer is then considered in competition with the other tenders received by reducing the tendered sum by the savings (or income) arising to Government from the early completion.

The contract for the Hing Wah Estate was awarded on this basis and the lowest tenderer offered to complete the works in 34 months, or 8 months earlier than the time for completion stipulated in the tender documents. The shortest time required for completion of the work quoted in any of the tenders received was 30 months, that is a reduction of a further 4 months, but this tender was based upon the use of prefabrication techniques. The accepted time for completion of 34 months was the second best time offered and can therefore, I think, be taken as the shortest possible time which the contractor can complete the full project in practice. This will, however, Sir, be checked with the contractor.

Dealing now with the general question of offering bonuses for the early completion of public works of an urgent nature, this procedure is of course adopted in special cases but it will be appreciated that acceptance of such an offer does not guarantee that the contractor will, in fact, complete the work any earlier—although there may be an incentive for him to do so if the size of the bonus is found to be greater than the actual cost to the contractor for early completion. But bonus offers do lead to endless arguments with the contractor who usually claims that he would have finished the scheme by the required time or even earlier except for certain contingencies arising which no one could have foreseen. It will be appreciated therefore that for this reason, and the fact that payment of a bonus does not often bring the benefits visualized, bonus schemes are only proposed when there is an obvious and urgent need for them.

**Industrial sites in Sha Tin and Castle Peak**

11. MR ANN asked: —

Will Government provide details of the industrial sites in Sha Tin and Castle Peak which can be made available soon?

MR BRAY: —Sir, Tuen Mun (or Castle Peak) and Sha Tin are not the principal areas for industrial development in the New Territories at present but the position at Tuen Mun is that there is available now some 200,000 square feet of industrial land. The tentative sales programme for the period 1st April 1973 to 30th September 1973 includes some 5 industrial sites in Area 12 of Tuen Mun New Town of between 10 and 15,000 square feet, with the possibility of one site of over 100,000 square feet being made available. We are not at present under pressure to supply land in Castle Peak but if this developed we could offer more.

The position in Sha Tin is not so good in that the earliest date at which industrial land can be made available is about March 1975, when it is anticipated that some 13 acres, or say 570,000 square feet, of land will be ready.

MR ANN: —Sir, in building satellite towns, does Government take into consideration the employment problem for the population to be moved, especially in so far as commutation between their homes and places of employment is concerned?

MR BRAY: —Yes, Sir. The plans for the new towns are drawn up in the hope that the industry to be provided in the town will give employment to all people living there; but there must be some movement in and out.

MR BROWNE: —Sir, in respect of the first part of my honourable Friend's answer, may I ask what are the principal areas available for industrial development in the New Territories?

MR BRAY: —I think I should require notice to give a full answer to that question, Sir. But the largest area of land available now is in Kwai Chung, where there is a total of about a million square feet coming forward quite soon—about 600,000 square feet in area 29B and about 370,000 square feet in the offensive trades area (area 26A); and on Tsing Yi there will be a large lot going forward, at present intended for special industries.

**Oral answers****Trade exhibition site**

12. MR WOO asked: —

Will Government state whether a permanent exhibition site is to be made available for trade exhibitions such as the Chinese Manufacturers Association's annual exhibition of Hong Kong products?

MR ROBSON: —Sir, Government has no plans at present to provide a permanent exhibition site solely for trade exhibitions, although I understand that there have been some discussions with the Chinese Manufacturers Association about possible sites in the New Territories. I am sure honourable Members will appreciate that in the light of the dire shortage of land in Hong Kong it may be difficult to justify the permanent sterilization of a large open area for this purpose.

However, the indoor stadium to be built at Hung Horn by 1976 will provide a suitable venue at which such exhibitions may from time to time be held on payment, of course, of an appropriate fee.

MR WOO: —Sir, is it Government's intention to permit the Chinese Manufacturers Association to use the existing site for its annual exhibition until 1976?

MR ROBSON: —I should hate to give such an assurance, Sir.

**Space in Central for additional meal facilities**

13. MR WU asked: —

In view of the acute shortage of restaurants and eating places in the Central area, would Government consider providing space (in the re-development of Central market or in any available location such as Government car parks) for economy cafeterias and brought-out meals as a basic solution to the illegal caterers problem and to help the many thousands of office workers?

MR ALEXANDER: —Sir, the acute shortage to which my honourable Friend refers is one of eating places which provide cheap and possibly quick meals. The suggestion that Government should provide space for "brought-out" meals and economy cafés can, of course, be considered. But other aspects of this whole problem are still being

examined by the Urban Council and I should not like to prejudice the outcome of its examination. Nor would I myself be prepared to say that this is the basic solution to the problem. More decentralization of business activity, more self-service type cafés and restaurants and the provision by employers of canteens and, possibly, lunch vouchers all seem perhaps to offer better solutions.

MR WU: —Sir, in view of the most unlikely event that the office worker population in the Central district is going to decrease by decentralization, the fact that the provision of canteens in office buildings by individual employers is impracticable, lunch vouchers are no good if there are no places to eat and empty stomachs of youths can make most noise, would my honourable Friend not agree that this is an important problem deserving urgent attention?

MR ALEXANDER: —Indeed it is, Sir, and the Urban Council is about to reconsider the whole matter, but I couldn't accept that there aren't places for people to eat; there are places but they are more expensive than they can possibly meet themselves and that is why I suggest luncheon vouchers given by employers.

MR WU: —Sir, I think my honourable Friend has answered my question.

### **Gas appliance safety standards**

14. MRS SYMONS asked: —

Will Government take steps to impose minimum safety standards before gas appliances may be sold in the Colony? Will Government also mount a propaganda campaign to advise citizens that bathrooms equipped with gas water heaters should be adequately ventilated?

MR CATER: —Sir, no doubt when framing the question, my honourable Friend had in mind the five tragic and fatal accidents this winter connected with people using gas water heaters in bathrooms which were not properly ventilated.

The Hong Kong and China Gas Company is naturally very concerned over these serious incidents, but it has emphasized that, usually in such cases, accidents occur because of lack of proper ventilation and not because of faults in the appliances themselves. The Company has run campaigns in the press, has issued warning notices with consumers' accounts, and has attached warning plaques to heaters which

[MR CATER]     **Oral answers**

use town gas. I understand, however, that of the estimated 150,000 gas water heaters in use only about one half are town gas appliances, the remainder being LPG heaters.

My honourable Friend has asked whether Government has imposed minimum safety standards for gas appliances. But it seems to me that this is only part, albeit an important part, of a much larger problem. There are many dangers in the home; from open fires, from kerosene stoves, from electrical equipment, and other household appliances, and regrettably as Hong Kong's householders become more affluent and more mechanized these dangers may well increase. Elsewhere much difficulty has been found in legislating for, and policing, safety standards for household equipment and appliances. But the Government is, nevertheless, currently considering the matter.

Whatever the outcome of these deliberations, I believe that public education in such matters is important. Some years ago we issued some useful pamphlets about safety in the home; these are now being revised and improved and will include advice on the safe use of home appliances.

These pamphlets will be issued in conjunction with appropriate warning announcements over the Government's broadcasting services.

I can assure my honourable Friend that warnings on the misuse of gas water heaters will form an important part of this campaign.

### **Proposed community centre at Southern Playground**

15. MRS LI asked: —

Will Government inform this Council of any progress being made regarding the possibility of redeveloping the War Memorial and other buildings in Southern Playground into a Community Centre?

MR LI: —Sir, in May last year, the President of the Children's Playground Association proposed to Government a scheme for the construction of a Community Centre complex by redeveloping the site consisting of the War Memorial and other buildings in Southern Playground. This preliminary plan envisages the construction of a high block to accommodate youth and welfare organizations and a low block for a stadium; the costs are estimated at \$10 million and \$13 million respectively.

The proposed scheme would affect the buildings presently occupied by the Family Planning Association, the Violet Peel Polyclinic, and a public latrine and bath house. Both the Medical and Health Department and Urban Services Department have indicated their willingness to co-operate, while the Family Planning Association have asked for more details to enable the matter to be considered more fully by their council.

Some six weeks ago, the Colonial Secretariat informed the Association of the Government's support in principle of the proposed project subject to the examination of certain details including the financial arrangements to meet both the capital and recurrent costs. Meanwhile, the Association has formed an *ad hoc* committee to examine the proposed redevelopment scheme in greater detail. This committee has already met twice.

MRS LI: —Sir, has Government further examined this problem since then and can Government now perhaps give an indication as to when any possible financial arrangement for both capital and recurrent costs can be envisaged?

MR LI: —Sir, this will largely depend on the speed with which the *ad hoc* committee can deliberate because there are various things involved, such as what sorts of provisions they should have; and at one stage the Association did think of having shops or car parks but they don't seem to have made up their mind finally yet.

## Statement

### Securities Advisory Council

THE FINANCIAL SECRETARY (MR HADDON-CAVE): —Sir, honourable Members will recall that, in reply to a question from my honourable Friend Mr P. C. Woo on the 15th of November last, I announced that the Government had no intention of recognizing further stock exchanges other than possibly the one unrecognized exchange already in existence at that time. That exchange has subsequently been recognized. Effectively, therefore, a monopoly has been conferred on the four recognized exchanges now operating. At the same time, I made it clear to honourable Members that, in the Government's view, there was scope for improvement in the organizational arrangements and procedures of these exchanges.

Over the last twelve months both turnover and prices have risen to new and unprecedented heights. But, perhaps partly as a result of this very high level of activity, various undesirable practices have

[THE FINANCIAL SECRETARY]     **Statement**

grown up. These relate, for example, to the frequent use of placements of securities on the exchanges instead of public offers, listing procedures, undue influencing of prices and non-recording of transactions. None of these practices is in the general interest of the investing public and cannot, therefore, be viewed with equanimity. Most members of the business community are, I am quite sure, anxious to see such practices controlled without delay and would welcome the establishment of a properly constituted body which can work towards this end. And those involved in the operations of the stock exchanges should also be glad of the support of an authoritative and impartial body to assist them in taking action themselves to curb questionable practices.

Now, Sir, as I explained in this Council on the 1st of November, when I moved the second reading of the Companies (Amendment) Bill 1972, further legislation arising from the recommendations of the Companies Law Revision Committee is now being drafted. One of the bills involved—the Securities Bill—will cover all aspects of trading in securities and will provide for the establishment of a supervisory body, to be called the Securities Council, and for the creation of a post in the public service to be known as the Commissioner for Securities.

The main purpose of the Securities Council will be to supervise the implementation of all parts of the Securities Bill, should it be enacted by this Council. This will include the creation of a Federation of Stock Exchanges, the registration of dealers and investment advisers, trading in securities outside the stock exchanges, the prevention of false markets, and the keeping and auditing of accounts. The Council will also be empowered to take up with the stock exchanges, with underwriters, financial institutions acting as issuing houses and other organizations and persons involved in trading in securities, any matters which, in its view, appear to give rise to concern and which call for authoritative rulings. In addition, the Council will deal with a range of problems arising from the implementation of other bills which are now being drafted dealing with takeover bids and the regulation of mutual funds and unit trusts which are on sale within Hong Kong.

I am glad to be able to inform honourable Members that the preparation of the Securities Bill is well in hand. But some of the legal drafting involved is very complicated and, for some parts of the bill, there are few helpful precedents elsewhere to draw upon. It is unlikely that the bill can be finalized before the end of March at the earliest. However, in present conditions, it would not be prudent to wait until the enactment of the bill before taking action to provide

some more authoritative guidance and help to those responsible for managing the stock exchanges and other institutions in the field of trading in securities. The Government has decided, therefore, to anticipate the enactment of legislation providing for a statutory Securities Council and Commissioner for Securities by establishing now, on an administrative basis, a body to be known as the Securities *Advisory* Council and to create now a post of Commissioner for Securities, subject of course to the voting of the necessary funds by the Finance Committee of this Council. As neither the Securities Advisory Council nor the Commissioner for Securities will have any statutory powers until and unless the Securities Bill is enacted, formal terms of reference are not proposed. But, even so, I am convinced that the knowledge that the introduction of statutory powers is envisaged will give the Securities Advisory Council considerable influence from the outset. And I doubt whether anyone concerned will wish to treat its advice lightly. The immediate establishment of a Securities Advisory Council and the appointment of a Commissioner for Securities will also mean that useful experience will be acquired and a working organization created before the Securities Bill is enacted. The Securities Advisory Council's successor body, the Securities Council, itself should thus be enabled to be fully effective in the exercise of its powers almost as soon as the bill is enacted.

Finally, Sir, I should explain that the Securities Advisory Council will consist of seven members, of whom one will be an independent chairman, four will be unofficial members representing various sectors of the business community and the other two will be members of the public service, namely, the Commissioner for Securities and the Registrar General. When the statutory Securities Council is set up, the proposed Federation of Stock Exchanges will probably be represented on it, either directly or through one or more of its subcommittees. The appointments to the Securities Advisory Council will shortly be made by you, Sir, and I hope that the names of those who have been offered and have accepted appointment can be announced within the next few days.

### **Government business**

#### **First reading of bills**

**URBAN COUNCIL (AMENDMENT) BILL 1973**

**COPYRIGHT BILL 1973**

**TELEVISION (AMENDMENT) BILL 1973**

**INLAND REVENUE (AMENDMENT) BILL 1973**

**RATING BILL 1973****ROAD TRAFFIC (AMENDMENT) (NO 2) BILL 1973****IMPORT AND EXPORT (AMENDMENT) BILL 1973**

*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****URBAN COUNCIL (AMENDMENT) BILL 1973**

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

He said:—Sir, this is the first of a number of bills which will come before this Council in the next few weeks and which are intended to give effect to the proposals contained in the White Paper on the Urban Council.

Honourable Members will recall that this White Paper, providing for a substantial reorganization of the Urban Council, was laid on the table of this Council in October 1971 and was welcomed by honourable Members during the subsequent debate which took place on the 9th of February and the 1st of March last year.

Paragraph 14 of the White Paper recommended that the membership of the Council should be changed from 6 official, 10 elected and 10 appointed members to 12 elected and 12 appointed members.

The removal of the Official Members will be effected by another bill which will be introduced into this Council in the near future. It is, however, necessary to alter the number of elected and appointed members now, so that elections can take place before the end of March.

Clause 2 of the bill increases the number of Unofficial Members from 20 to 24, consisting of 12 elected and 12 appointed members.

The election of members of the Council is so arranged that half of the present 10 elected members retire every two years and an election for 5 new elected members then takes place. The terms of office of half of the appointed members expire in alternate years, but not the same years as those in which elections are held. This means that 5 of the 20 Unofficial Members retire each year.

It is intended that this four year cycle shall be retained in the reconstituted Urban Council, though the enlarged membership will mean that 6, instead of 5, members will retire annually.

It is intended that an Urban Council election should be held on the 7th of March of this year to fill the seven vacancies caused by the expiry of the terms of office of 5 existing elected members on the 31st March and the creation of two additional elected seats by clause 2 of the bill.

In order that the four year cycle to which I have referred may be achieved, clause 3 provides for 6 of the 7 councillors who are elected in March to serve for a term of 4 years. The remaining one, who will be the person elected with the smallest number of votes, will hold office only until the 31st of March 1975, when there will be an election for 6 members.

Sub-paragraphs (b)(ii) and (b)(iii) anticipate the unlikely situation of 7, or less than 7, candidates standing for election in March of this year.

The opportunity has been taken by clause 4 to allow the Governor to appoint an appointed member for any period up to 4 years. At present, he can appoint only for a fixed term of 4 years, which is thought to be unduly restrictive.

The Urban Council has expressed its support for this bill.

*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*

On the 31st day of March 1973 the term of office of five of the elected members of the Urban Council will expire. At present there are ten elected members but in accordance with the recommendation contained in the White Paper "The Urban Council" the elected membership of the Council is to be increased to twelve.

Clause 2 amends section 3 of the principal Ordinance to increase the number of unofficial members of the Council to twenty-four. Twelve of whom will be elected members and twelve appointed members.

Clause 3 amends section 4 of the principal Ordinance to enable elections to take place in March 1973 to fill the five vacancies that will arise in the usual way and the two new vacancies. Provision is made for six members so elected to serve the full four year term of office while the seventh will serve for two years when there will be an election for six members.

**Urban Council (Amendment) Bill—second reading***[Explanatory Memorandum]*

Clause 4 amends section 5 of the principal Ordinance to enable the Governor to appoint an appointed member for any period up to a maximum of four years. At present an appointed member can only be appointed for a fixed term of four years.

**COPYRIGHT BILL 1973**

THE ATTORNEY GENERAL (MR ROBERTS) moved the second reading of:—"A bill to modify the Copyright Act 1956 as amended by the Design Copyright Act 1968, in its application to Hong Kong and to make further provision with respect to copyright law in Hong Kong."

He said:—Sir, at present copyright law in Hong Kong is based on the English Copyright Act of 1911, which was applied here by Order in Council.

This Act became obsolete as a result of the emergence of new kinds of works, such as radio and television, which required a better copyright protection. This was provided in the UK by the Copyright Act of 1956, the main provisions of which were applied to Hong Kong by the Copyright (Hong Kong) Order 1972, which came into effect on the 12th of December last. There are, however, various ways in which the Act, as applied, does not meet the needs of Hong Kong and the object of this bill is to make such supplementary provisions as are necessary to make the Act fully effective for our purposes.

Copyright protection for sound and television broadcasts was afforded by the 1956 Act only to the BBC and the Independent Television Authority in Britain. For Hong Kong's purposes it is therefore necessary to apply the Act to local broadcasters, namely, Radio Hong Kong, Hong Kong Commercial Radio and TVB. This is effected by clause 3 of the bill.

At present there is no diffusion service of sound or television broadcasts, since RTV originates all its own television programmes. For this reason, the Order in Council did not apply to Hong Kong a provision in the 1956 Act which dealt with the position of a person who relays material which originated in another sound or television broadcast. Since it is possible that such a diffusion service may be introduced into Hong Kong at sometime, clause 4 reproduces that provision of the English Act. Its effect is that the person diffusing the programme is deemed to have a licence to do so from the owner of the copyright in the work which is being broadcast.

Clauses 5, 9 and 10 modify the Copyright Act in relation to prosecutions for infringements of copyright and other offences under the Act. The Act obliges the prosecution to prove that a person charged with possession of an infringing copy of a work for the purpose of trade knew that the article was an infringing copy. However, copyright infringement is unfortunately so widespread in Hong Kong that it is often virtually impossible to prove such knowledge. Clause 5 therefore provides where a person has an infringing copy of a work in his possession for the purpose of trade, the burden of showing that he did not know that it was an infringing copy will lie upon him. It should not, I suggest, be difficult for an innocent person to establish this and I am sure that honourable Members will agree that it is necessary for us to take vigorous action to stamp out the trade in pirated records and books which could be so damaging to our commercial reputation abroad.

Clause 9 requires courts to receive in evidence affidavits as to the ownership of copyright in a work. This should make it easier to prosecute successfully where the copyright owner is not in Hong Kong.

Clause 11 extends the time within which a prosecution may be undertaken, since experience has shown that such offences are often not detected until long after they are committed. Consequently, whereas in England it would have to be started within 6 months, clause 11 extends the time limit to 3 years from the date of the offence, or one year from its discovery, whichever is the later.

Clauses 6, 7 and 8 confer powers to investigate suspected pirating of copyright. These powers are no wider than powers conferred by other Ordinances for similar purposes. In keeping with other legislation of this nature, a search of domestic premises will only be permitted under a search warrant issued by a magistrate or by an Assistant Director of Commerce and Industry.

I am sure that the 1956 Copyright Act, with the supplementary provisions contained in this bill, will give a better protection to owners of copyright in literary, musical and dramatic works.

*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 Bill seeks to modify the Copyright Act 1956 as amended by the Design Copyright Act 1968, in its application to Hong Kong and to make further provision for aspects of copyright law peculiar to the circumstances existing in Hong Kong.

**Copyright Bill—second reading***[Explanatory Memorandum]*

2. Clause 3 applies the Act to television and sound broadcasts made by each of the organizations specified in the Schedule from a place within Hong Kong.

3. Clause 4 relates to the transmission of a sound or television broadcast by means of a diffusion service where the broadcast is made by one of the organizations specified in the Schedule from a place within Hong Kong and the programme being broadcast includes a sound recording, literary, dramatic or musical work or a cinematograph film. The clause provides that the person transmitting the broadcast by means of the diffusion service shall be in the same position in respect of the copyright in the sound recording, literary, dramatic or musical work or cinematograph film included in the programme being broadcast as if he were granted a licence by the person holding the copyright in the sound recording, literary, dramatic or musical work or cinematograph film.

4. Clause 5 makes it an offence for a person to have in his possession for the purposes of trade or business any article that is an infringing copy of a work in which copyright subsists under the Act or under the Bill.

5. Clause 6 gives senior police officers and public officers authorized by the Director of Commerce and Industry wide powers of investigation of suspected offences under the Act and the Ordinance. Clause 7 imposes restrictions upon the powers of the police and authorized public officers to enter and search domestic premises. Clause 8 makes it an offence to obstruct police officers or authorized public officers in the performance of their duties.

6. Because the copyright in many articles traded or used in Hong Kong is owned by persons resident outside Hong Kong it is considered desirable to provide a method of establishing ownership of the copyright in an article that does not require the owner to appear in person to establish his ownership. Clause 9 seeks to provide such a method by the use of affidavits. This procedure is in addition to the procedure prescribed in section 21 of the Act. Clause 10 prescribes the time within which prosecutions for offences under the Act or the Ordinance may be brought.

7. Clause 11 empowers the Governor to amend the Schedule by notice in the *Gazette*. Clause 12 repeals the existing Copyright Ordinance and the Fine Arts Copyright Ordinance (Chapters 39 and 40, respectively) and revokes the regulations made under the existing Copyright Ordinance.

**TELEVISION (AMENDMENT) BILL 1973**

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

He said:—Sir, as honourable Members know, a Working Party, established by the Governor, made detailed recommendations as to the future pattern and development of television in Hong Kong. These recommendations have generally been accepted by the Government and this bill provides the legislative framework necessary to carry them out.

The Television Ordinance conferred a monopoly of wireless television broadcasting on the first licensee, Television Broadcasts Ltd, better known as TVB. This monopoly, which should have ended in November 1972, was extended by the Television (Amendment) Ordinance 1972, which was enacted in that month, until such time as it was possible to issue further television licences and to renew TVB's licence on the same terms as those applicable to the new licensees.

The Government has adopted the policy that there should be competitive wireless television, with three stations, and believes that this is the best way of facilitating the development of the full potential of this important medium. The advent of further stations makes it necessary to revise the Ordinance to allow for this development. The opportunity has also been taken to make some other alterations, which experience of the working of the Ordinance since 1967 has shown to be desirable.

In 1967 a Television Advisory Board was established. Its functions were to advise the Television Authority, to make recommendations to the Governor in Council, and, where necessary, to conduct inquiries into matters referred to it. It is composed of a public officer (at present the Commissioner for Television and Films) as chairman, two other public officers and two members of the public. Clause 3 of the bill increases the number of members of the public to three.

By clause 4, the Board will be required to table a report before the Legislative Council on the progress of television at least once in every 18 months. At present, it is not obliged to submit reports at any particular times nor to table them before this Council, though it is obliged to publish such reports as it may make from time to time.

Clause 7 replaces 3 existing sections by five new ones. The new section 10 expands the conditions which must be fulfilled by an applicant for a licence and which are designed to ensure that a television licensee shall be a locally controlled company. 25% of the voting shares in the company will have, at the date when the licence

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

is issued, to be owned by firms or persons who are locally resident; and within 4 years of being licensed, the company must have increased this local holding to at least 51%.

These new sections state the principle that the business of a television company is television and nothing else. Thus the new section 10 limits the business of a licensee to the operation of a broadcasting service and to such associated telecommunication services as are necessary to broadcasting. The new section 11(1)(d) prohibits a television company from acquiring a controlling interest in, or owning more than 49% of, the voting shares in any business or company not directly connected with the television service operated by the licensee. The intention is to prevent the broadening of the interests of a television company to such an extent that it might become subject to extraneous pressures, reducing its independence to the detriment of the standards of its programmes. The underlying principle is that within a television company there should be no conflict of interests.

Clause 8 replaces section 16, which deals with the renewal of licences. It is thought to be desirable for the licences under which television companies operate to be in a common form. For this reason, the new section 13 provides that renewal may be by way of the grant of a new licence, a procedure which will be followed when TVB's existing licence is renewed.

In the new and the old sections 9 and 13 there are references to licences being granted for a period of 15 years, but subject to renewal within that period. I acknowledge that it is somewhat odd to provide for the renewal after 5 years of a licence which is stated to be valid for 15 years. I hope, however, that the object of this formula will not be misunderstood. A licensee should be able to plan and to organize his business on the basis of a 15-year franchise. But this should not mean that, however bad the service which he provides, he should have an absolute right to inflict it on the public for 15 years. The requirement that he must seek a renewal of his licence, after such period as may be specified therein, gives the public protection against a really unsatisfactory service. If it should ever be found necessary not to renew a licence, section 16 provides that the licensee shall be given 18 months' notice, during which time he may wind up his business.

Clauses 10 to 13 deal with technical matters such as transmission requirements, Codes of Practice transmission facilities and the inspection of equipment.

Television advertising is at present limited to 10% of the total time during which the station is on the air. Within that limitation, advertising may be transmitted for a maximum of 7 minutes in any one hour. Clause 14 will raise this limit to 10 minutes in any one hour. This increase is thought to be more realistic, taking into account past experience of commercial television and the likely development of competitive broadcasting in the future.

Educational Television for schools is provided for by the new section 24 contained in clause 15, which imposes on a licensee the obligation to broadcast such school programmes as are supplied by the Government and required to be broadcast by the Television Authority.

At present the royalty to be paid by a licensee is calculated on the gross takings of the company. Clause 20 will provide for a royalty instead of 25% of the net profits of a licensee. The method of calculating royalty is intended to prevent too onerous a financial burden being imposed on licensees, especially during the initial stages of the development of competitive wireless television. It is considered that a rate based on net profits should prove more equitable, in view of the possibility of considerable fluctuations in profits during this period, than a royalty based on gross takings.

Clause 22 introduces a new section 46 designed to ensure that confidential information supplied by a licensee to the Television Authority, the Television Advisory Board or the Telecommunications Authority shall not be divulged to the prejudice of the licensee.

These proposed changes are intended to apply to all licensees equally with effect from the date when a second television station begins to operate. The transitional provisions to be found in clause 23 make it clear that, until then, the existing licensee will continue to operate under the present law.

Television is an important factor in the life of the community, and the Government has given the most careful thought as to the way in which it should develop. The 1964 Television Ordinance enabled TVB to be established and was the first step in the orderly development of wireless television in Hong Kong. It is to be hoped that this bill will assist in the continuation of this process and will help to ensure that Hong Kong will receive television of the highest standards in the future.

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

*Question put and agreed to.*

**Television (Amendment) Bill—second reading***Explanatory Memorandum*

Clause 2 amends section 2 of the principal Ordinance. It transposes to the interpretation section the definitions of "ordinarily resident", "disqualified person", "exercises control in a company" formerly enacted in sections 10 and 11, respectively, of the principal Ordinance. Some changes have been made in these definitions.

2. Clause 3 amends section 5 of the principal Ordinance. Provision is made in this clause to increase the number of members of the public sitting on the Television Advisory Board from 2 to 3 and, consequentially, to increase the quorum for a meeting of the Board from 3 to 4.

3. Clause 4 amends section 6(d) of the principal Ordinance. This amendment requires the Television Advisory Board to submit reports on the progress of television broadcasting to the Governor at intervals of not more than 18 months and provides that these reports shall be tabled before the Legislative Council.

4. Clause 5 repeals and replaces section 7 of the principal Ordinance. The new clause specifies the method of applications for licences to broadcast. Clause 6 amends section 8 of the principal Ordinance, which relates to the granting of licences. It is intended to clarify that where a licence to broadcast is granted under the principal Ordinance the licensee is not required to obtain separate licences under the Telecommunication Ordinance (Chapter 106) to operate ancillary associated telecommunication services which are authorized by the Telecommunications Authority.

5. Clause 7 repeals and replaces sections 9, 10 and 11 of the principal Ordinance. New section 9 sets out the period of validity of licences and provides for renewal dates within that period. New section 10 omits reference to entrenched clauses and, in substitution therefor, sets out the requirements with which a company must comply in order to be competent to apply for a licence to broadcast. These requirements are more detailed and, in some cases, more stringent than the requirements and conditions formerly set out in sections 10 and 11 of the principal Ordinance. New section 11 sets out special conditions under which a licence to broadcast shall be issued. The exceptions to these special conditions are set out in the new section 11A. Also included in the latter clause are special conditions which shall apply to Television Broadcasts Limited on the renewal of its current licence. New section 11B requires a licensee company

to state clearly the effect of the new sections 10, 11 and 11A in any prospectus which it may issue at any time.

6. Clause 8 repeals and replaces section 13 of the principal Ordinance in modified form to provide for the renewal of licences. Clause 9 amends section 14(3) of the principal Ordinance. This amendment empowers the Governor in Council to revoke a licence in the event of a licensee company going into liquidation or making an assignment to, or composition with its creditors.

7. Clause 10 repeals and replaces sections 18 and 19 of the principal Ordinance. These provisions are recast to set out the transmission requirements to be imposed on licensees and to enable the Television Authority to give directions to any licensee in respect of the transmission of its broadcasts.

8. Clause 11 amends section 20 of the principal Ordinance. The purpose of this amendment is to clarify the power of the Television Authority, to issue on the advice of the Telecommunications Authority, codes of practice relating to the technical standards of broadcasts required to be maintained by licensees.

9. Clause 12 adds a new section (section 20A) to the principal Ordinance after section 20. The new provision empowers the Television Authority, on the advice of the Television Advisory Board, to direct any licensee to provide any specified transmission facility and to co-operate with any other licensee or other specified person in the joint use of any specified transmission facility.

10. Clause 13 repeals and replaces sections 21 and 22 of the principal Ordinance. New section 21 vests in the Telecommunications Authority wide powers in respect of the inspection and testing of technical equipment used or intended to be used by licensees. New section 22 requires a licensee to broadcast its programmes in such language or languages as may be specified in its licence.

11. Clause 14 amends section 23 of the principal Ordinance. Under this amendment the permissible amount of advertising per hour is increased from 7 minutes to 10 minutes. The Television Authority is empowered under the existing section to extend this prescribed amount on the application of a licensee in exceptional circumstances.

12. Clause 15 repeals and replaces sections 24 and 25 of the principal Ordinance. New section 24 provides for the broadcast by licensees of programmes for schools. New section 25 provides for the broadcast by licensees of Government programmes other than programmes for schools. New section 25A prescribes the

**Television (Amendment) Bill—second reading***[Explanatory Memorandum]*

Government's general requirements in respect of programmes which it requires licensees to broadcast.

13. Clause 16 amends section 30(c) of the principal Ordinance. This minor amendment relates to limitations which may be imposed by the Governor in Council by regulation on the types and maximum value of prizes which may be awarded in contests organized by licensees as part of their programmes. Clause 17 amends section 33 of the principal Ordinance by inserting therein a new provision empowering the Television Authority to require the licensee to pre-record and submit to him for approval before it is broadcast, any programme which, in the opinion of the Television Authority, may affect the peace and good order of Hong Kong.

14. Clause 18 amends section 37(2) of the principal Ordinance. The effect of the amendments of this subsection is to broaden the grounds on which the Television Authority may, on the advice of the Television Advisory Board, require the payment from a licensee of a specified financial penalty. In effect, a financial penalty may be imposed if any licensee fails to comply with any provision of the Ordinance or any regulation made there-under or any direction or order issued or made by the Television Authority under the principal Ordinance.

15. Clause 19 amends section 40 of the principal Ordinance. This amendment requires particulars of the domestic residences of the directors, office holders of a licensee company and the owners or the beneficial owners of the voting shares thereof to be submitted annually to the Television Authority in addition to the names of such persons.

16. Clause 20 repeals and replaces section 41 of the principal Ordinance, which provides for the calculation of royalty payable by a licensee. New section 41 sets out the new method of calculation of royalty payable by licensees. New section 41A provides for quarterly payments of such royalty.

17. Clause 21 amends section 45 of the principal Ordinance. This amendment widens the powers of the Television Authority to investigate, in prescribed circumstances, any licensee's business records, etc. Clause 22 provides for the safeguard of confidential material furnished by licensees under the principal Ordinance to the Television Advisory Board, the Television Authority, the Telecommunications Authority, etc. Clause 23 sets out transitional provisions affecting the existing licensee.

**INLAND REVENUE (AMENDMENT) BILL 1973**

THE FINANCIAL SECRETARY (MR HADDON-CAVE) moved the second reading of:—"A bill to amend the Inland Revenue Ordinance."

He said:—Sir, in the context of tax proposals for the future, I announced in my budget speech last year that a bill to change the basis of assessment of salaries tax from "preceding year" to "current year" would be drafted and introduced into this Council.

In my budget speech, I explained in some detail the reasoning behind this move. Briefly, the present practice of assessing salaries tax for a current year on what taxpayers earned in a preceding year is both inexact and artificial; and it offends a fundamental principle of direct taxation on income, which is that tax payments should be kept in step with income being earned year by year. The main effect of the bill now before this Council is to change over to an assessment of what taxpayers actually earned in the year of assessment itself.

As the effective date for the change-over will be the 1st of April 1973, the year 1972-73 will be the last year of final assessment on the "preceding year" basis. But, even after that date, income in a preceding year will continue to be used to calculate *provisional* salaries tax due in a particular year. The provisional tax paid will be set off later against the tax finally assessed for the year concerned when the actual income of the taxpayer for that year is known. But if a taxpayer is able to show that, for certain specified reasons, his chargeable income has been considerably reduced during a year, on application by him the Commissioner may hold over payment of all or part of his provisional tax.

In my budget speech, I referred to the fact that, in introducing these arrangements, the income of the year ended the 31st of March 1973 for those salaries taxpayers assessed on a preceding year basis for 1972-73 would drop out of charge. But, as I anticipated, to avoid making these arrangements too costly in terms of possible loss of revenue, the bill now before this Council provides that an additional assessment for 1972-73 will be made if, and to the extent that, actual income for that year is more than 115% of the assessed income based on 1971-72.

The bill also provides for relief to be given to those taxpayers who have taken a long period of unpaid leave in the years 1971-72 and 1972-73 and who could, under the present Ordinance, have expected a low assessment which will not now be possible. There is provision for this category of taxpayer to get a reduction in respect of the period of no-pay leave in an appropriate year of assessment.

[THE FINANCIAL SECRETARY]     **Inland Revenue (Amendment) Bill—second reading**

We have also taken the opportunity to bring property tax in line with the proposals in the Rating Bill 1973 to charge half-rates for vacant premises, and to strengthen and to up-date certain administrative procedures in the existing Ordinance.

*Motion made.* That the debate on the second reading of the bill be adjourned—THE FINANCIAL SECRETARY (MR HADDON-CAVE).

*Question put and agreed to.*

*Explanatory Memorandum*

This Bill implements the proposals made by the Financial Secretary in his Budget speech to change the basis of assessment for salaries tax and to introduce the payment of provisional salaries tax.

2. The change in the basis of assessment from the existing preceding year basis to current year basis is contained in clauses 4 and 5. At present section 11(2) of the Inland Revenue Ordinance provides that the assessable income of a person for the year of assessment shall be the amount of income accruing to him during the year preceding the year of assessment. Clause 4 amends section 11 so that the preceding year basis applies only in respect of year of assessment up to and including 1972/73. Clause 5 adds a new section 11B, which states that the assessable income of a person chargeable to salaries tax for a year of assessment shall be the aggregate amount of his assessable income in that year.

3. In his Budget speech, the Financial Secretary proposed that where a taxpayer's actual income for the year ending 31st March 1973 did not exceed by more than 15% his income for the year ending 31st March 1972, then that excess would not be taxable. This proposal is implemented by the addition of new section 11A (clause 5).

4. Clause 5 also adds new sections 11C and 11D, which contain provisions formerly set out in subsections (7), (8) and (9) of section 11. These provisions remain common to both bases of assessment. New section 11C also contains provisions to give relief to those taxpayers who have taken a long period of unpaid leave in the years 1971/72 and 1972/73 who could, because of the change in the basis of assessment, be at a distinct disadvantage compared with other taxpayers by becoming liable to pay a greater amount of tax in a year of assessment than they

would normally have been liable to pay had the preceding year provisions continued. This clause permits them to get a reduction because of the period of "no-pay" leave in the appropriate year of assessment.

5. Clause 13 adds a new Part XA to the Ordinance, which contains five new sections dealing with provisional salaries tax. The effect of these sections is as follows—

- (a) *Section 63B* This provides that every person who is chargeable to salaries tax in any year of assessment, starting with the year of assessment 1973/74, shall be liable to pay provisional salaries tax;
- (b) *Section 63C* Provisional salaries tax is to be charged on the net chargeable income of the taxpayer for the year preceding the year of assessment. Where, however, a taxpayer commences or ceases to be chargeable to salaries tax, an assessor may estimate the amount in respect of which that taxpayer is chargeable to provisional salaries tax;
- (c) *Section 63D* Demands for provisional salaries tax may be issued separately or included in notices of assessment to final salaries tax. A person who receives a demand for provisional salaries tax can only object to the demand if his objection concerns the assessment of his net chargeable income for the previous year of assessment on which the provisional salaries tax is based;
- (d) *Section 63E* A person assessed to provisional salaries tax may apply to have the payment thereof held over until he is due to pay salaries tax for the year of assessment. The grounds for applying for a hold over are—
  - (i) that the taxpayer has become entitled to an additional personal allowance since being assessed to provisional salaries tax;
  - (ii) that the taxpayer's net chargeable income in the year of assessment is, or is likely to be, less than 80% of his net chargeable income on which the provisional salaries tax is charged;
  - (iii) that the taxpayer had ceased to become chargeable to salaries tax during the year of assessment;
- (e) *Section 63F* Provisional salaries tax paid in any year of assessment is to be applied against salaries tax for that year of assessment and against provisional salaries tax in the year following the year of assessment. Any amount left over after application is to be refunded to

**Inland Revenue (Amendment) Bill—second reading***[Explanatory Memorandum]*

the taxpayer. If a couple marry and the wife's income becomes the income of the husband, then any provisional salaries tax paid by the wife on her income for the period from the date of her marriage to the end of the year of assessment shall be applied against the salaries tax payable by the husband for the year of assessment in which the marriage took place.

6. Clause 10 amends section 42B (which deals with personal allowances) so as to make provision for the change in the basis of assessment.

7. Clauses 2, 8, 9, 11 and 12 make a number of small consequential amendments.

8. Clause 3 amends section 7 so as to provide that where property is unoccupied the reduction in property tax shall be 1/24th of the tax payable for each entire month the property is unoccupied and not, as at present, a proportionate reduction.

9. Clauses 6 and 7 make two small amendments to sections 13 and 29 respectively.

10. Clause 14 is a transitional provision relating to the amount on which provisional salaries tax for the year of assessment 1973/74 is to be computed.

**RATING BILL 1973**

THE FINANCIAL SECRETARY (MR HADDON-CAVE) moved the second reading of:—"A bill to repeal and replace the Rating Ordinance."

He said:—Sir, it may well surprise honourable Members that the Rating Bill 1973, which is to repeal and to replace the present Ordinance is, in the main, unrelated to the recent review of rateable values carried out by the Commissioner of Rating and Valuation. The present Ordinance was enacted in 1901 and the last major revision, to facilitate the extension of rating on valuation principles to apart of the New Territories and to bring into assessment various schools and other institutions previously exempted, was carried out as long ago as 1954. On this occasion, as the Commissioner of Rating and Valuation and the law draftsman have been concerned to relate legislation to modern practices and to simplify and to streamline administrative procedures, it has been found preferable to draft a brand new Ordinance rather than attempt to amend the present

Ordinance piecemeal. At the same time, the Opportunity has been taken to provide for a proportion of the rate to be paid to the reconstituted Urban Council and to put into effect two proposals on rates which I made in my 1972 budget speech.

I shall begin, Sir, with these budget proposals: *first* the proposal to reduce from 17 to 15 the percentage rate charge for the urban areas from the 1st of April 1973. This proposal *is* related to the recent revaluation. As most ratepayers are by now aware, rateable values for 1973-74 will be substantially higher than those in the current valuation list. This is because rateable values are based on market rents and existing rateable values were assessed in 1968 when rents were very much lower than they are today. Since revenue from rates for 1973-74 seemed likely to be substantially more than previously estimated, I came to the tentative conclusion about 12 months ago that we were in a position to make a concession and mitigate to some extent the effect of increased assessments. I shall deal with the revenue implications of the revaluation in my 1973 budget speech next month. But, having regard to the results of the revaluation now available, I am satisfied that the 2% reduction in the rate is justified, and provision for this will be found in clause 18 of the bill. Reduced percentage charges in the case of premises where the supply of mains water is from an unfiltered source and where no such supply is available are also included. No corresponding reduction is proposed in respect of the rate charges for the New Territories where present charges are substantially less than in the urban areas.

My *second* budget proposal related to refunds of rates. In the bill, provision has been made, again with effect from the 1st of April 1973, for the refund of only half rates on unoccupied premises, in place of the full refund allowed under the present Ordinance. As I said in my budget speech, unoccupied premises enjoy various services (the Fire Services, for example) to the same extent as those occupied; and the administrative cost of refunding rates is comparatively high. With the present demand for accommodation in all sectors of the property market, there would seem little need for owners to keep premises vacant for any length of time. I do not, therefore, consider that these proposals will bear harshly on property owners though, as a side issue, I hope they may deter landlords from keeping domestic premises vacant. In recognition of the comments of honourable Members in the budget debate, new premises, if vacant, will not be assessed to rates until six months after the issue of the occupation permit. And I should also mention that the bill provides for *full* refunds of rates in the case of vacant land and where premises are unoccupied because of a Government order.

Turning now to the clauses in the bill providing for both general rates and Urban Council rates: the White Paper of October 1971

[THE FINANCIAL SECRETARY]     **Rating Bill—second reading**

on the Urban Council, which was adopted by this Council on the 1st of March 1972, expressed the intention to grant the Urban Council substantial financial autonomy by giving it its own separate rate offset by a corresponding reduction in the present general rate. Clause 18 of the bill lays down that the general and Urban Council rates shall not together exceed 15%; and clause 20 that this percentage may be changed by resolution of this Council. Clause 18 also provides that the two rates shall each be such proportion of the rateable value as this Council may determine by resolution. The White Paper envisaged that the Urban Council would be free to raise its rate. With clause 18 of the bill this will normally mean two resolutions, one to raise the sum of the rates (now 15%) and the other to re-apportion the revised rate in such a way as to increase the Urban Council rate without changing the general rate. Rates will continue to be collected by the Accountant General, to be designated Collector of Rates, who will pay to the Urban Council rates lawfully demanded on its account. The initial Urban Council rate has yet to be determined; but a resolution will be put to this Council as soon as the necessary detailed calculations have been completed.

Now as regards the bill generally, there are several points worth special mention. *First*, although no change is proposed in the general basis of rating in Hong Kong, clause 7 subclause 3 introduces what is known as "tone of the list". This means that when new premises are assessed to rates, the rateable value must be in line with, and not exceed, the general level of values of comparable premises already assessed to rates and included in a valuation list in force. Thus, even if rents continue to rise, assessments of new premises will not be above the existing general level, and new ratepayers will not have to bear an undue proportion of the rate burden.

*Secondly*, I have for long been concerned that in a taxing statute such as the Rating Ordinance no avenue is open for a ratepayer to challenge the Commissioner's assessment, other than by appeal to the District Court. Accordingly, Part IX of the bill provides for the making of formal objections and proposals in regard to rating assessments and these must be dealt with at a senior level in the Rating and Valuation Department. Thus ratepayers will have the opportunity of airing fully any grievances without the expense and effort of an appeal. However, if agreement is not possible at this stage a ratepayer still has his right of appeal to the Court.

*Thirdly*, as regards rating practice generally, by clause 8 the treatment of working expenses on machinery included as part of a tenement has been clarified, and by clause 9 the Commissioner's position has been strengthened in regard to the assessment of advertising stations.

By clause 10 the Commissioner is given wider powers in regard to the assessment of several tenements as a single tenement and also for splitting such assessments when and where circumstances change. The effect of subclauses (5), (6), (7) and (8) of clause 21 is to enable the Commissioner, in those cases where several tenements are assessed as one, to provide an official apportionment of the rateable value, though separate demand notes will not be issued. These provisions are necessary to deal with complex situations in our large modern multi-storey developments where divisions and sub-divisions of accommodation occur frequently.

*Fourthly*, the introduction of computerized rate billing by the Treasury has necessitated a careful re-appraisal of administrative procedures. The main change proposed in Part IV of the bill is where we provide for the abandonment of the annual declaration of the valuation list by the Commissioner. In future, a valuation list will continue in force until a new one is prepared. It must not, however, be assumed that regular reviews of rateable values will not be carried out in future although, in practice, the Commissioner has rarely been able to carry out an annual valuation. The correction of errors in a valuation list is to be simplified and ratepayers given the right to challenge any such correction proposed, unless it is just a matter of a change of a street name or house number.

*Fifthly*, other minor changes, generally intended to benefit ratepayers, include a proposal to allow a rather longer period of time for the submission of returns. By clause 6 the Commissioner is given power to extend the time for the submission of returns as he sees fit, rather than being restricted to 28 days as at present. In the case of refunds of rates on account of vacancy, subclause (4) of clause 30 provides that a claim may be submitted up to 12 months after such rates are payable, as compared with the 15 days following the end of the quarter which is the arrangement under the present Ordinance. In addition, the fact that rates are paid late will no longer be a bar to claiming a refund, though I hasten to add that clause 34 lays down that the surcharge itself will not be refundable. As regards the 5% surcharge, it has been suggested that some less punitive sanction might be introduced on the lines of a cumulative charge related to the length of delay in payment. But, as a revenue protection provision, the single 5% surcharge rate has been very effective in ensuring prompt payment of rates and is simple to administer. Since the Government is also to pay the Urban Council all rates lawfully demanded on its behalf, any loss resulting from late payments would accrue to the Government. In all the circumstances no change in present practice is proposed.

*Finally*, Sir, it is worth noting first that it is not proposed to re-enact section 20 of the existing Ordinance. Thus failure to make

[THE FINANCIAL SECRETARY]     **Rating Bill—second reading**

a return or the submission of false information, while still constituting an offence which may be prosecuted as such, will no longer be a bar to an appeal against an assessment. And, secondly, it is worth noting that the present provisions for imprisonment in certain circumstances are to be removed, though fines generally are to be increased.

*Motion made.* That the debate on the second reading of the bill be adjourned—THE FINANCIAL SECRETARY (MR HADDON-CAVE).

*Question put and agreed to.*

*Explanatory Memorandum*

The purpose of the Bill is to repeal and replace the existing Rating Ordinance. The Bill includes the new rating proposals contained in the 1972 Budget and allows for the payment of a percentage of rates to the Urban Council. The Bill also brings rating administration into line with current practice and generally improves and strengthens existing provisions.

2. Clause 2 contains a number of definitions, including that of the "Collector of Rates" who is to be the Accountant General.

3. Clause 3 empowers the Governor to specify areas of the Colony for the purposes of the Ordinance.

4. Clauses 4, 5 and 6 deal with the appointment of the Commissioner of Rating and Valuation and his officers, and their powers.

5. Clause 7(2) contains the basic formula for ascertaining the rateable value of a tenement. This follows the definition of "rateable value" in the repealed Ordinance. Clause 7(3) is new and, following the practice in the United Kingdom, provides that where a tenement is valued between general valuations, it is to be valued according to the "tone of the list" instead of on current values. This means that where there is a delay in carrying out a general revaluation and rental values have increased during that delay, the rateable values of newly assessed buildings will be in line with, but not exceed, rateable values in a valuation list already in force.

6. Clause 8 deals with the ascertainment of the rateable value of a tenement containing machinery and generally follows the present law.

7. Clause 9 is a new provision dealing with the rating of advertising stations. In the past, the rating of advertising structures

and the right to exhibit advertisements has not been clear. This clause is based on similar provisions in the United Kingdom.

8. Clause 10 permits the Commissioner in certain circumstances to rate separate tenements together as a single tenement e.g. a flat in a multi-storey block and a car-parking space in the grounds thereof.

9. Clauses 11, 12, 13, 14 and 15 deal generally with the preparation, verification and inspection of valuation lists. In future a new list will be prepared only when a valuation is ordered by the Governor. Valuation lists will no longer be declared each year, although they will still be open for inspection by the public. Clause 16 permits the Commissioner to correct clerical errors in the lists, although if the correction is not related to a change or allocation of house number or street name, he must give notice of the correction to the owner or occupier of the tenement concerned. Clause 17 requires the Commissioner to give notice to the owner or occupier of a tenement when that tenement is first included in a valuation list or an alteration to the valuation list concerning that tenement is made.

10. Part V deals with the amount of rates, their payment and the persons who are liable to pay rates. Clause 18 deals with the rates payable on tenements in the urban areas. The amount payable is 15% of the rateable value of the tenement. This figure is reduced where premises do not have the benefit of a filtered water supply or where no main water is available (clause 18(4)). Clause 18(2) empowers the Legislative Council to apportion the rates between general revenue and the Urban Council. It is envisaged that a ratepayer will receive one demand note, showing an apportionment of the rates between the Government and the Urban Council. Clause 19 provides for rates in the New Territories. Rates will be paid to the Collector of Rates, who will pay the Urban Council rates to the Urban Council and the general rates into general revenue (clause 23). Clause 21(1) makes the occupier of a tenement primarily responsible for rates, although both the owner and occupier can be liable. Clause 21(2) and (3) deals with the positions where premises are let inclusive or exclusive of rates. Clause 21(4) deals with the payment of rates where two or more tenements valued together as a single tenement are in sole or multiple occupation. Clause 21(5), (6) and (7) deals with the apportionment of rates where tenements are valued together.

11. Clause 22 deals with the payment and recovery of rates.

12. Part VI contains provisions relating to the deletion of a tenement from the valuation list and the making of an interim

**Rating Bill—second reading***[Explanatory Memorandum]*

valuation, when the rateable value of a tenement falls to be assessed between general valuations. Clause 24(b) allows the Commissioner to delete an existing assessment where for instance parts are sold, e.g. a car-parking space. Separate assessments can then be made under clause 25. Under clause 26 notice of any proposed deletion or interim valuation has to be given to the owner or occupier of the tenement concerned, so as to give such persons an opportunity of objecting to the deletion or valuation. Clause 27 deals with the effective date for deletions while clause 28 provides that where there has been an interim valuation of a tenement in a new building, that valuation shall not take effect until 6 months from when the tenement was ready for occupation or until it is, in fact, occupied, whichever is the earlier. Clause 29 deals with the time for payment of rates following an interim valuation.

13. Part VII deals with refunds of rates. Clause 30(1) provides that where a tenement in a building is unoccupied for the whole of any month in a quarter for which rates have been paid, a refund of half the amount paid in rates can be made. This stems from the proposals made by the Financial Secretary in his 1972 Budget regarding the charging of half rates on empty premises. However if the tenement is unoccupied because of a Government order (e.g. a closure order) or if the tenement is not part of a building (e.g. vacant land), a refund of the whole amount can be made. Clause 31 deals with refunds of overpayments. Clause 32 enables executors, trustees and receivers to make claims for refunds, while clause 33 enables an appeal against a refusal to refund to be heard in the District Court even where the amount claimed exceeds \$10,000. Penalties added to rates in default cannot be refunded (clause 34). Clause 35 gives the Governor a general power to order a refund.

14. Clause 36 exempts a number of classes of tenements from assessment to, or payment of, rates. The clause also enables the Governor in Council to exempt any tenement or class of tenement from assessment to rates, while the Governor can exempt any tenement from payment of rates.

15. Part IX contains new provisions dealing with proposals to alter the valuation list, objections and appeals. At present, a person who does not agree with a valuation or who thinks that his tenement should not be rateable must appeal to the District Court. There is no statutory method of approaching the Commissioner with a view to resolving these grievances. The result

is that the District Court has to deal with a considerable volume of work, (much of it concerned with giving consent judgments where the Commissioner and a ratepayer have agreed a new value) which could be avoided by having a procedure for objections. To this end, clause 37 provides that a person aggrieved on certain grounds can make a proposal for an alteration of the list. This proposal is served on the Commissioner and the owner and occupier of the tenement, if the person making the proposal is neither the owner nor occupier. Where all the persons involved and the Commissioner agree that an alteration is necessary, an agreement to that effect is signed and the alteration is made (clause 38). Where agreement cannot be reached, the Commissioner considers the proposal and can either decide to make an alteration or leave the list unaltered (clause 39). Clause 40 enables a person aggrieved by a correction under clause 16, a deletion or an interim valuation to make an objection to the Commissioner. Clause 42 enables an appeal from a decision of the Commissioner under clause 39 or clause 40 to be brought in the District Court. Clauses 43 and 44 are procedural.

16. Part X deals with offences and penalties and Part XI contains miscellaneous provisions. Clause 56 is a saving provision.

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

### **ROAD TRAFFIC (AMENDMENT) (NO 2) BILL 1973**

THE FINANCIAL SECRETARY (MR HADDON-CAVE) moved the second reading of:—"A bill to amend the Road Traffic Ordinance."

He said:—Sir, this bill has two main purposes. The *first* is to extend the scope of section 3 of the principal Ordinance to enable regulations to be made requiring motor cyclists and their passengers to wear crash helmets. Honourable Members may recall that in reply to a question by my honourable Friend Mr P. C. WOO in this Council on the 1st of December 1971, my honourable Friend, the Colonial Secretary, expressed concern regarding a significant increase in the number of fatal and serious injury accidents involving motor cyclists. The Colonial Secretary assured this Council that the Government was prepared to consider introducing legislation to make the wearing of crash helmets compulsory for motor cyclists and their passengers.

Since that time the number of serious motor cycle accidents has continued to increase and further evidence has accumulated to show

[THE FINANCIAL SECRETARY]     **Road Traffic (Amendment) (No 2) Bill—second reading**

that fatalities are largely caused by head Injuries and that the absence of a crash helmet is thus a major factor involved. Despite repeated advice from the police and other sources to motor cyclists and their pillion riders to wear protective helmets, too few of them appear to be taking this sensible precaution and the Government has reached the conclusion that legislation should be enacted to make the wearing of helmets compulsory.

I should perhaps add at this stage that the Government is also considering other measures to improve the safety of those using the roads, such as the compulsory wearing of safety belts by those travelling in passenger cars. It is intended that all these measures will eventually come under a new set of regulations, to be called the Road Traffic (Protective Equipment) Regulations, to be made under the amended section 3 of the principal Ordinance.

The *second* purpose of this bill is to remove certain difficulties being experienced by the police in enforcing sections 29 and 30 of the principal Ordinance. Section 29 enables police officers, in the event of an alleged summary offence being committed under the Road Traffic Ordinance, to require the registered owner of the vehicle and other persons involved to furnish particulars of the driver of the vehicle at the time of the alleged offence. In addition, under section 30, if a statement furnished to a police officer by the registered owner of the vehicle under section 29 states that he was the driver of the vehicle at the time of the alleged offence, and the statement is signed by the owner, it is admissible as evidence if proceedings are taken in court against the owner.

There are, however, a number of ways of avoiding the operation of these two sections which are widely known and utilized by traffic offenders in Hong Kong. For instance, some registered owners of vehicles, who are required under section 29 to furnish information in respect of the drivers of their vehicles at the time of an alleged offence, provide the required information in writing but fail to sign the statement. This means that the statement is not admissible under section 30, even if the owner states that he himself was driving the vehicle at the relevant time.

As another example, the existing requirement, under section 29(1)(c), for the police to serve a notice to the registered owner within 14 days after the date of an alleged offence, has proved to be too short where lengthy inquiries are involved (for example, in "hit and run" cases). Some offenders, knowing of this 14 day limitation, are believed to have deliberately absented themselves until this period has elapsed.

Finally, it would appear that many traffic offenders have been encouraged by the low maximum fine of \$500 for contravening the provisions of section 29 to ignore them in cases where compliance would render the driver of the vehicle liable to a much higher penalty for a serious traffic offence.

Sir, in order to remedy these defects clause 3 of the bill seeks to repeal and to replace sections 29 and 30 of the principal Ordinance with wider and simpler provisions. More specifically it seeks to extend to 3 months the present statutory time limit of 14 days after the date of an alleged offence within which the police can require particulars to be given of the driver of the vehicle.

The new section 29 also empowers a police officer to require a person to supply to him his name, address, driving licence number and his relationship (if any) to the person driving a motor vehicle at the time of an alleged offence. If the demand is made by means of a notice, a signed written statement giving the required particulars must be furnished to a specified police officer within 21 days after the date of the notice. Failure to comply with such a demand will be an offence carrying a maximum fine of \$2,000 and imprisonment for 6 months.

Likewise, under the revised section 30, a signed statement given by an accused person in summary proceedings for an offence under the principal Ordinance in compliance with a demand made under section 29 shall be admissible against that person as *prima facie* evidence that the accused person was the driver of the vehicle at the time of the alleged offence. Formerly, such a statement was only admissible if it were made and signed by the registered owner of the vehicle and it was the owner who was accused of the alleged offence.

Sir, as I have said before in this Council, our overall transport policy for the 70's and 80's must contain three elements, namely:

*first*, the expansion of our network of roads and rail and water links;

*second*, the improvement of public transport facilities; and

*third*, the optimization of use of road space.

This last element in turn breaks down into three aspects: *first*, the restraint of private transport so as to accord priority to those vehicles which are the most efficient passenger carriers in relation to road use. *Secondly*, the policing of the road worthiness of all vehicles on the roads so as to minimize the risk of mechanical failures and, therefore, interruption to traffic flows. *Thirdly*, the supervision of drivers so as to ensure that high driving standards are observed and, if they are not, to detect and prosecute offenders. The present bill

[THE FINANCIAL SECRETARY]     **Road Traffic (Amendment) (No 2) Bill—second reading**

is concerned with this aspect of optimizing the use of road space as well as being concerned with safeguarding life. In the increasingly crowded conditions on Hong Kong roads it is becoming more and more necessary for a high and courteous standard of driving to be maintained at all times and for the perpetrators of traffic offences to be brought to justice. It is the Government's hope that these new provisions will go some way towards improving the situation in this respect and I hope that they will find favour with honourable Members.

*Motion made.* That the debate on the second reading of the bill be adjourned—THE FINANCIAL SECRETARY (MR HADDON-CAVE).

*Question put and agreed to.*

*Explanatory Memorandum*

The Bill amends the principal Ordinance in two respects.

2. Clause 2 empowers the Governor in Council to make regulations, under section 3 of the principal Ordinance, requiring or permitting the use of specified equipment or apparatus by persons driving, riding in or on, or using any class of motor vehicle and controlling the sale, hiring out or possession of such equipment or apparatus. The main purpose of this is to enable regulations to be made to oblige motor cyclists to wear helmets.

3. Clause 3 repeals and replaces sections 29 and 30 of the principal Ordinance with wider and simpler provisions. The new section 29 empowers a police officer to require, within 3 months after the date of an alleged offence under the principal Ordinance, any person to supply to him his name, address, driving licence number and his relationship (if any) to the person driving a motor vehicle at the time of an alleged offence. This demand may be made orally, or by means of a notice to the registered owner of the vehicle or to any other person, including the person suspected of driving the vehicle at the time of the alleged offence. If the demand is made orally the person to whom it is made is required, if he is the driver at the time of the alleged offence, to give immediately his name and address and to furnish within 21 days the number of his driving licence. If the person to whom the oral demand is made is not the driver of the vehicle at the time of the alleged offence he is required to give the information referred to in subsection (1) of the revised section 29 to a specified police officer, either orally or in writing, within 21 days after the

date of the demand. If the demand is made by means of a notice, a signed written statement giving the required particulars must be furnished to a specified police officer within 21 days after the date of the notice. Failure to comply with such a demand will be an offence carrying a maximum fine of \$2,000 and imprisonment for 6 months.

4. By the new section 30, a statement (signed by a person accused of an offence under the principal Ordinance) furnished in accordance with a notice served on him under section 29(2) and stating that he was the driver of a specified vehicle at the time of the offence shall be admitted as *prima facie* evidence that the accused person was the driver of the vehicle at the time of the offence.

### IMPORT AND EXPORT (AMENDMENT) BILL 1973

MR JORDAN moved the second reading of:—"A bill to amend the Import and Export Ordinance."

He said:—Sir, about 50% of Hong Kong's domestic exports are covered by certificates of origin issued by the Commerce and Industry Department. We do not have precise figures for the value of exports covered by certificates issued by the Hong Kong General Chamber of Commerce, the Federation of Hong Kong Industries, the Chinese Manufacturers Association and the Indian Chamber of Commerce, but we estimate that their certificates cover another 30%. In other words, in 1972 the total value of exports involved was probably about twelve thousand million dollars.

This figure alone is, I think, sufficient evidence of the importance of our certification system. If we are to preserve our access to the markets of the world we must continue to satisfy our trading partners that we maintain an honest and reliable system. This means that anyone who attempts to cheat the system does not risk only his own business: he puts other people's legitimate business at risk too.

This is why we have and must continue to enforce legislation to protect the origin certification system, in the interests of the whole community.

While the certificates of the five bodies I have already mentioned are all protected by law, the Commerce and Industry Department is responsible for the investigation and prosecution of all offences.

Section 20 of the Import and Export Ordinance already provides that we may enter and search any non-domestic premises registered

[MR JORDAN] **Import and Export (Amendment) Bill—second reading**

under the Ordinance and occupied by a person registered under or holding a licence issued under the Ordinance.

We have found however that some people who are registered for the purpose of certification of origin produce goods at unregistered premises and attempt to pass them off as produced in their registered factory and entitled to a certificate of origin. Documents containing evidence of such offences are also kept in the unregistered premises.

This bill therefore proposes to extend the power to enter and search unregistered premises—but only when such premises are occupied by a person who has been registered or who holds a licence under the Ordinance. And the power would of course be exercised only when we had reason to believe that an offence had been committed and that the evidence of it was to be found in the unregistered premises concerned.

Clause 2(a) of the bill would make this change by the simple device of replacing "and" with "or".

Clause 2(b) of the bill would slightly extend our power to require the production of documents.

At present, we can require the production of and may examine any documents or records which relate to the origin or nature of any article or which are relevant to the investigation of a suspected offence. However, it is not always possible to know beforehand which documents or records come within these categories and it is therefore proposed to empower authorized officers to examine *any* of the records or documents that must be kept by a registered person under the Ordinance.

I should like to emphasize that this clause would not give us any general power to examine manufacturers' records and documents: indeed we would not wish to have nor to exercise such authority. The power would be extended only to those records and documents that the Import and Export Ordinance requires a registered manufacturer to keep. He has to keep them of course only so long as he is registered under the Ordinance so that he can satisfy the Department that he is entitled to the certificates of origin that he asks us to issue.

There is one further small amendment in this bill. The Export (Certificates of Origin and Commonwealth Preference Certificates) Regulations made by the Governor in Council in 1961 under the old Importation and Exportation Ordinance require persons registered for certification purposes to keep certain records of raw material intakes,

production, sales and so forth. These regulations continued in force under the present Ordinance. It is not considered that they are ultra vires, since the Ordinance includes the usual coverall phrase "generally for the better carrying out of the provisions and purposes of this Ordinance". However, my honourable and cautious Friend, the Attorney General, considers that, in order to put the matter beyond any doubt a twenty-fourth paragraph should be added to section 31(1) of the present Ordinance to provide specific authority for the requirements set out in the 1961 regulations. This is done by clause 3 of the bill.

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

*Question put and agreed to.*

*Explanatory Memorandum*

Clause 2 amends section 20(1) of the principal Ordinance—

- (a) so as to authorize the search of premises occupied by persons who are registered under the Ordinance or hold licences issued thereunder, notwithstanding that the premises are not registered; and
- (b) to enable members of the Preventive Service and authorized officers to require the production of records or documents required to be kept under the Ordinance.

Clause 3 empowers regulations to be made requiring a person to whom a licence has been issued to keep such records or documents as may be prescribed, or required by the Director of Commerce and Industry.

**ROAD TRAFFIC (AMENDMENT) (NO 2) BILL 1972**

**Resumption of debate on second reading (13th December 1972)**

*Question proposed.*

MR SZETO: —Sir, with your permission, I would like to comment briefly on the bill in Chinese because most of these special and propitious registration marks are in the possession of Chinese car owners, with the exception of the very few which include those which adorn the cars of my two honourable neighbours in this Council.

*(From this point Mr SZETO completed his address in the Cantonese dialect. The following is the interpretation of what he said.)*

[MR SZETO] **Road Traffic (Amendment) (No 2) Bill—resumption of debate on second reading (13.12.72)**

I believe many car owners would welcome this amending bill and the one passed earlier by this Council last July for the reason that they will be able to obtain for their cars a special and propitious registration mark through proper channel, and in achieving this they will be automatically accorded the opportunity of contributing to charity or a good cause which they would not normally have done with the same degree of generosity and determination. This is like killing two birds with one stone and is indeed a most rewarding exercise.

Many months have elapsed since the first amending bill was passed, and I have no doubt that with our increasing affluence many car owners have been looking forward rather impatiently to the auctions promised by Government for the sale of special and propitious numbers to satisfy their long cherished desire. The present amendment goes one step further in the right direction enabling Government to recall previously issued numbers under certain circumstances. It is both logical, as registration marks are not personal property, and is a popular way to promote good causes.

With its passage today, the Ordinance shall come into operation on the first day of next month when in the midst of the auspicious Spring festivities, philanthropic gestures will no doubt generate immense pleasure for the giver. It is my hope, Sir, that those of my Unofficial colleagues of this Council who pride among their possessions such favoured registration marks will themselves set a good example by giving up their much coveted accessories to enhance charity and thus multiplying their many good deeds.

*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).*

**WORKMEN'S COMPENSATION (AMENDMENT) BILL 1973**

**Resumption of debate on second reading (13th December 1972)**

*Question 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 of bill**

Council went into Committee.

### **ROAD TRAFFIC (AMENDMENT) (NO 2) 1972**

Clause 1.

THE ATTORNEY GENERAL (MR ROBERTS): —Sir, I move that clause 1 be amended as set forth in the paper before honourable Members.

#### *Proposed Amendment*

##### *Clause*

1 That clause 1 be amended by deleting “(No. 2) Ordinance 1972” and substituting the following—

"Ordinance 1973".

The amendment was agreed to.

Clause 1, as amended, was agreed to.

Clauses 2 and 3 were agreed to.

Council then resumed.

### **Third reading of bill**

THE ATTORNEY GENERAL (MR ROBERTS) reported that the

Road Traffic (Amendment) Bill 1973

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 2.30 p.m. on Wednesday 17th January.

*Adjourned accordingly at six minutes past four o'clock.*