

**OFFICIAL REPORT OF PROCEEDINGS****Wednesday, 23rd May 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 (*Acting*)  
MR JOHN WILLIAM DIXON HOBLEY, JP  
THE HONOURABLE THE SECRETARY FOR HOME AFFAIRS (*Acting*)  
MR JOHN MARTIN ROWLANDS, JP  
THE HONOURABLE THE FINANCIAL SECRETARY (*Acting*)  
MR DEREK JOHN CLAREMONT JONES, 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 PAUL TSUI KA-CHEUNG, CBE, JP  
COMMISSIONER OF LABOUR  
THE HONOURABLE IAN MACDONALD LIGHTBODY, JP  
SECRETARY FOR HOUSING  
THE HONOURABLE LI FOOK-KOW, JP  
DIRECTOR OF SOCIAL WELFARE  
THE HONOURABLE ERIC PETER HO, JP  
DIRECTOR OF COMMERCE AND INDUSTRY  
THE HONOURABLE IAN FRANCIS CLUNY MACPHERSON, JP  
DISTRICT COMMISSIONER, NEW TERRITORIES  
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  
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 PETER GORDON WILLIAMS, JP  
THE HONOURABLE JAMES WU MAN-HON, JP  
THE HONOURABLE HUGH MOSS GERALD FORSGATE, JP

**ABSENT**

THE HONOURABLE HILTON CHEONG-LEEN, OBE, 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: —	
Import and Export Ordinance.	
Import and Export (Fees) Regulations 1973 (Commencement) Notice 1973 .....	97
Import and Export Ordinance.	
Import and Export (General) Regulations (Amendment of the Second Schedule) Order 1973 .....	98
Supreme Court Ordinance.	
The Rules of the Supreme Court (Amendment) Rules 1973 .....	99

Report: —

The Machinery of Government—A new framework for expanding services  
(published on 23.5.73).

### Oral answers to questions

#### Hong Kong British passports

1. MR WANG asked: —

Will Government state the number of Hong Kong British passports applied for each year, say over the last five calendar years, and what is the normal length of time taken to process each application? Are adequate staff available to deal with these applications?

THE COLONIAL SECRETARY (SIR HUGH NORMAN-WALKER): —Sir, a total of 10,756 British (Hong Kong) Passports were issued by the Immigration Department in 1968, 14,404 in 1969, 18,855 in 1970, 28,018 in 1971 and 34,164 in 1972. I will for the convenience of Members have these figures circulated as they are slightly indigestible.

The processing of straightforward applications normally takes ten working days, depending on the volume of work in the Immigration Department at the time. In the summer months, for instance, when the demand for passports is greatest, it sometimes takes fourteen working days to process an application. But where qualifying documents for the issue of a passport are not initially in order, or doubts exist

as to the applicant's eligibility, processing of these applications may well take longer. Such cases, however, are comparatively few, but even in those difficult circumstances a passport can usually, at the moment, be issued within six to eight weeks of application. If more time is taken, this will be due to an applicant's slowness or inability to establish his eligibility. Even so, delays for these reasons need not prevent an applicant from travelling abroad as he can be issued with a Certificate of Identity for the purpose.

I am, therefore, satisfied that at this moment of time sufficient staff are provided to deal with these applications in the British Passport Section of the Immigration Department. For the summer months, when demand is at its height, relief staff are normally deployed from other sections of the department. But the honourable Member has a very valid point in his question. During the first four months of this year, there were 12,685 passport applications received. This is a substantial upward trend and, if it continues, I will have to approach the Finance Committee of this Council for additional staff.

MR WOO: —Sir, may I ask the honourable Member how long it takes to issue certificates of identity?

THE COLONIAL SECRETARY (SIR HUGH NORMAN-WALKER): — Practically instantaneously if the applicant has the necessary documentation, which would be an identity card and a free crime record.

### **Tai Wo Ping squatters**

2. MR WONG asked: —

What plans have been made to reaccommodate the squatters at Tai Wo Ping? When is this task likely to be completed?

MR LIGHTBODY: —Sir, the honourable Member has in mind, I believe, the clearance in the next few weeks in the Tai Wo Ping Class III licensed area. This clearance will provide some 20,000 square feet of land for the Nam Cheong interchange, at the junction of Nam Cheong Street and Lung Cheung Road.

Class III licensed areas provide sites for trades which require large open storage areas, and in this case some 13 operators, mostly scrap dealers and wooden box makers, will have to be cleared. They were allocated their present sites as recently as 1970.

[MR LIGHTBODY]     **Oral answers**

Class III licensees when cleared are not as a rule entitled to re-provisioning or compensation, and their licence conditions require them to deliver vacant possession of the site on one month's notice. However, this clearance requirement has been known for some time and we have been able to earmark land in a different part of the licensed area for their reprovisioning.

My staff have already reached an amicable agreement with the operators concerned, and their removal will be carried out in two stages. The first stage involving nine undertakings is already in hand and will be completed at the end of this month. The second stage involving four operators will be completed at the end of June.

### **Civil servants in co-operative flats**

3. MRS LI asked: —

Will Government state whether there have been irregularities in the transfer of co-operative flats from one Government officer to another and, if so, what action is being taken to prevent further abuses?

THE ATTORNEY GENERAL (ACTING) (MR HOBLEY): — Sir, when a member of a civil servants' housing co-operative society resigns, a transfer of the flat formerly occupied by him is governed by the by-laws of the society. The by-laws provide for the refund to the resigning member of the capital payment he has made to the society and for the payment by the incoming member of a sum equivalent to the amount so refunded. Unsubstantiated, and usually anonymous, allegations have been made that payments in excess of those required under the by-laws have been made in respect of the transfer of flats. These allegations have been investigated, but it has not, so far, been possible to establish that flats have been transferred otherwise than in accordance with the by-laws.

In these circumstances no other action has been taken by the Government, but the matter is being kept under review.

MRS LI: — Sir, would it not be possible for Government to require the resigning officer to transfer the flat over to the applicant next in line for such accommodation rather than to any officer of their own choosing, or to return it to the co-operative society or to the Government first?

THE ATTORNEY GENERAL (ACTING) (MR HOBLEY): — Sir, that may be a suggestion which merits further examination; I cannot say more than that.

### **Toll tariff for Cross Harbour Tunnel**

4. DR CHUNG asked: —

Referring to an answer given by the honourable Financial Secretary in this Council on 16th August 1972, has the Cross Harbour Tunnel Company made a review of the tolls and, if so, what are the results?

THE FINANCIAL SECRETARY (ACTING) (MR JONES): — Sir, when the present tolls for the Cross Harbour Tunnel were approved last year by the Governor in Council under section 40 of the Cross Harbour Tunnel Ordinance, it was decided that the Company should be asked to review the rates of tolls six months after the opening of the tunnel. The Company has done this and has submitted its recommendations which have recently been considered by the Transport Advisory Committee.

The position now, Sir, is that a submission is being prepared for presentation to Your Excellency in Council and my honourable Friend will understand that, in these circumstances, there is nothing further I can say at the present time. I can assure him, however, that as soon as a decision is made the public will be informed.

### **Arms and drugs in prisons**

5. MR WU asked: —

Will Government state what steps are being taken to avoid the smuggling of arms and drugs into the Colony's prisons?

THE COLONIAL SECRETARY (SIR HUGH NORMAN-WALKER): — Sir, I share the interest of my honourable Friend in these issues and I can assure him that the problem of smuggling items into prison institutions is a matter Government takes very seriously indeed. Honourable Members will however, I am sure, understand that it would not be in the general public interest if I were to state the measures taken. This Council will, I am sure, understand furthermore that this problem, in addition to several others which were highlighted by the recent disturbances in the Prison, are at present under the closest examination.

I can say that contrary to much recent speculation the problem is confined essentially to two institutions, the Victoria Reception Centre

[THE COLONIAL SECRETARY]     **Oral answers**

and, more importantly, Stanley Prison; that it is primarily one of drug trafficking and that on this the prison authorities work in close liaison with the Royal Hong Kong Police Force.

A problem, hitherto prevalent in Stanley Prison, has been the clandestine manufacture of crude weapons consisting of sharpened pieces of metal, wire and bamboo—materials used in the workshops. Intensified searches in recent months have resulted in the discovery of a quantity of such weapons. And additional measures have been imposed to check the movement of these materials inside the Prison. There has been no case of smuggling firearms into a prison for many years.

I would assure my honourable Friend that Government is taking, and will continue to impose, every possible measure to stamp out these practices, both in controlling movements in and out of the institutions and by the use of modern and intensive searching techniques, for which the Finance Committee of this Council voted funds not so long ago.

#### **Fuel oil stocks**

6. MR ANN asked: —

Will Government state what steps are being taken to ensure the maintenance of adequate stocks of fuel oil in Hong Kong?

THE FINANCIAL SECRETARY (ACTING) (MR JONES): — Sir, I can assure my honourable Friend that the Government is concerned at the present level of stocks of fuel oil in Hong Kong. Our community is entirely dependent on oil for its energy needs of all kinds and, being as we are almost at the end of a long haul from the Middle East, we would be in difficulty in the event of a stoppage or serious curtailment of supplies.

The problem has been considered in depth by the Petrol and Oils Advisory Committee under the Chairmanship of the Managing Director of Shell (Hong Kong) Limited, Mr BENTLEY. The Committee has reached the conclusion that measures should be taken to increase stocks and this recommendation is under consideration by Government.

In reaching a decision the Government will have to bear in mind the formidable physical problems to be overcome in implementing any decision to increase stocks, as well as the financial costs, which will be very large, and the extensive consultations which will need to be held

with the oil companies. But, given the importance for our economy of adequate supplies of oil, these problems will be faced in a positive manner.

The problem would, of course, be considerably alleviated if there were an oil refinery in Hong Kong because such a refinery would incorporate large stocks of crude oil. As honourable Members are aware the Government is at present considering in detail a proposal to construct a refinery although no decision has as yet been taken. Even if such a refinery were to be built, however, it would take a number of years to complete and would not solve any immediate problems.

Finally, Sir, we make it our duty as a Government to be aware of the progress of any talks between the oil companies and the Organization of Petroleum Exporting Countries (OPEC). And consideration continues to be given, should there ever be a shortage of supplies, as to how to make the best use of such stocks of oil as are available to us in the interests of the community as a whole.

MR WILLIAMS: —In reaching a decision, would my honourable Friend bear in mind that "black gold", as oil is sometimes called, has appreciated in value and is likely to continue to do so, and so that whilst the cost of holding stocks may be large you could have a more valuable reserve than some of the Colony's other reserves have been in recent years?

THE FINANCIAL SECRETARY (ACTING) (MR JONES): —Sir, the answer to that question is "Yes".

DR CHUNG: —Sir, the honourable Financial Secretary said in his reply that Government is concerned at the present level of stocks of fuel oil in Hong Kong. May I ask my honourable Friend what is the present level of stocks of fuel oil in Hong Kong in terms of number of days consumption?

THE FINANCIAL SECRETARY (ACTING) (MR JONES): —Sir, the answer to that question cannot be given easily because the level of stocks varies from product to product. As my honourable Friend knows, there are various sorts of refined oil, but the short answer is that the number of days stocks available varies between 30 and 40 days.

### **Robberies by illegal immigrants**

7. MR LOBO asked: —

How many of the persons (a) arrested and (b) convicted in 1972 for robberies and thefts were illegal immigrants from China?

### **Oral answers**

THE COLONIAL SECRETARY (SIR HUGH NORMAN-WALKER): —Sir, in 1972, 35 illegal immigrants were prosecuted for robbery and theft. Statistics drawn up at the end of the year indicate that by that time 28 cases had resulted in convictions and two in acquittals, and five were pending.

The overall figures of prosecutions for these offences for the Colony as a whole in 1972 was 6,963. The conviction rate was 98½%.

### **Armed robberies on public transport**

8. MR LOBO asked: —

Will Government state the number of reports made to the Police within the last six months of passengers on board buses or minibuses or the drivers of taxis being robbed at knife point, and the number of cases investigated which resulted in arrests? What steps are being taken to curb this particular type of crime?

THE ATTORNEY GENERAL (ACTING) (MR HOBLEY): —Sir, during the six months from 1st November 1972 to 30th April 1973, the Police received 333 reports of offences of robbery on buses, public light buses or taxis. 33 of the reports concerned robberies on buses, 139 concerned robberies on public light buses and 161 related to robberies in taxis. 31 arrests were made in connexion with these offences.

In its efforts to combat robberies of this kind, the Police Force uses both fixed and random road blocks and checks. These are normally manned or undertaken by uniformed Police officers, but officers of the Criminal Investigation Department assist from time to time. Advice has also been given as to ways in which the Force can be helped in the location of taxis involved in robberies and as to the steps that drivers of vehicles may take in the event of a robbery. The Police Force also uses other methods, but it would not be in the public interest to disclose the nature of these.

### **Rating relief for voluntary agencies and aided schools**

9. MRS SYMONS asked: —

What relief is available to voluntary agencies and aided schools whose properties have been re-assessed for increased rates?



THE FINANCIAL SECRETARY (ACTING) (MR JONES): —Sir, the subventions paid by Government to voluntary agencies for social welfare or medical purposes normally include a sum to meet the cost of rates which is based on the most recent estimates. In addition, rates are refunded to certain non-profit-making medical and social welfare agencies which do not receive a subvention, the amount reimbursed in each case being equal to the actual rates paid.

Rates are also reimbursed in full to all aided primary and secondary schools in accordance with the terms of the codes of aid. So in their cases too, if their rates are increased, the reimbursements made to them will be increased correspondingly.

In other words, Sir, none of the institutions I have mentioned is in practice required to meet the cost of rates from its own resources.

### **Diplomatic immunity**

10. MR SZETO asked: —

Do members of the Consular Corps in Hong Kong enjoy diplomatic immunity from the processes of local laws including traffic laws?

THE ATTORNEY GENERAL (ACTING) (MR HOBLEY): —Sir, with limited exceptions, members of the Consular Corps are obliged to observe local laws in the same way as any other person. The exceptions, which are provided for by the Consular Relations Ordinance, broadly speaking afford immunity in respect of acts performed in the exercise of consular functions, exemptions from payment of customs duties and certain taxes and exemptions from liability for public service. Career consular officers may also not be arrested or detained except in the case of serious crimes.

It follows that, apart from the exemption relating to acts done in the exercise of consular functions, consular officers must abide by the Hong Kong traffic laws, which my honourable Friend has specially mentioned. However, it is customary in Hong Kong, as in most other countries, not to take action against consular officers for minor breaches of the traffic laws—unlawful parking is the commonest case. I must emphasize though that this is a matter of courtesy, and if a consular officer abuses the courtesy, a different situation arises.

MR SZETO: —Sir, since the fine for a parking offence has become a fixed penalty, it has become a civil debt owed by the offender to the Government. Has not a different situation arisen?

### Oral answers

THE ATTORNEY GENERAL (ACTING) (MR HOBLEY): —I think that the same policy has been pursued, Sir, since the introduction of the fixed penalty system as was pursued in the days when these minor traffic offences were criminal. I do not think, Sir, that a different situation has arisen.

### Star Ferry concourses

11. MRS SYMONS asked: —

Will Government consider extending the covered portion of the Star Ferry concourse on Hong Kong Island to the City Hall, and that in Tsim Sha Tsui to the railway terminal?

MR ROBSON: —Sir, although there are no items in the Public Works Programme to cover these particular extensions of the concourse areas at the Star Ferry terminals on Hong Kong Island and Tsim Sha Tsui, considerable thought has been given to future development at both locations.

In the case of the Island terminal, feasibility studies have been carried out to establish not only the alignment of a covered link between the terminal and the City Hall but also further extensions to the elevated pedestrian-ways recently constructed as part of the Connaught Centre project. Such an elevated system would link the Star Ferry piers to areas south of Connaught Road as far apart as the new Hutchison Building to the east and the GPO to the west. Ideally this system should be built in conjunction with a modification to the Star Ferry piers so as to provide first class entrances and exits at the elevated level.

These studies form Part of a general plan for the development of pedestrian-ways through the waterfront and central areas which will be implemented piecemeal as the opportunity presents itself.

As far as the Tsim Sha Tsui terminal is concerned, no extension of the concourse to link with the railway station has been considered as it is hoped to move the railway terminal to Hung Horn by mid-1975. Nevertheless a fairly elaborate and imaginative scheme is being developed for the existing railway terminal site which envisages the provision of two-level pedestrian links to the ferry terminal.

### Ngau Tau Kok clearance

12. MR WU asked: —

How many machine shops, foundries and forges are involved in the forthcoming Ngau Tau Kok clearance? What is Government doing to assist these factories to resume operation as important supporting industries?

MR HO: —Sir, there are 10 machine shops using power driven metal working machinery of varying size in the Ngau Tau Kok clearance area; the largest occupying some 18,000 square feet and the smallest only a few hundred square feet. In addition, there are 7 foundries and 4 forges; making a total of 21 enterprises in all.

There is, of course, a great deal of vacant space in commercial flatted factories and the Commerce and Industry Department has taken steps to provide the operators of the factories at Ngau Tau Kok with information on all commercial flatted factory space in Kowloon known to us to be vacant at the present time. This may help some of them find a more permanent home.

In addition to this, all those factories which were established legitimately before 1966 and which are under 5,000 square feet of working area are entitled to resettlement flatted factory accommodation and are being offered accommodation by my honourable Friend the Secretary for Housing. 8 of the 21 enterprises mentioned by me have already been allocated resettlement factory accommodation. However, some of these enterprises may have to change their trades as their existing operations are unsuitable for flatted factory type accommodation.

The second part of my honourable Friend's question involves a subjective judgement of these enterprises' importance. Every enterprise must, of course, be important to its proprietor, its workers and the users of its products as a source of supply. My honourable Friend the Commissioner of Labour believes there will be no difficulty in the workers finding alternative employment in the Kwun Tong area. As to the factories, their need is for cheap land for purchase or rental but, unfortunately, land is a scarce resource in Hong Kong.

Those factories which have established themselves more recently on land formerly leased to other factories, and those which are too large to qualify for resettlement accommodation, have been advised to seek land in the New Territories. There is undeveloped land suitable for foundries at Junk Bay and it may be possible for others, by obtaining the authority of my honourable Friend the District Commissioner New Territories, to continue their operations on agricultural land in

[Mr Ho] **Oral answers**

certain selected areas of the New Territories. The Housing Department, in conjunction with the City District Officer, has set up a co-ordinating group to interview and assist each industrial factory. On this group are representatives of the departments concerned, including the Commerce and Industry Department and the New Territories Administration, and it will do everything possible to help them find suitable land.

In conclusion, I would like to assure my honourable Friend that Government is concerned that useful and efficient industrial undertakings shall be given as much help as possible to continue in operation.

MR WU: —Sir, is my honourable Friend prepared to agree that with the clearance the greater part of our foundry industry would be gone and at a time when we are attracting foreign investments in engineering industry?

MR HO: —No, Sir. According to the Labour Department's statistics there are over 90 foundries in Hong Kong and the figures I have given earlier indicate that there are only 7 foundries in the Ngau Tau Kok area.

### **Cable and Wireless industrial dispute**

13. MR WU asked: —

Will Government state whether there have been serious delays in the despatch and receipt of telegrams, and whether any action has been taken to mediate in the industrial dispute?

MR TSUI: —Sir, I presume that my honourable Friend's question relates to industrial action occurring within Cable and Wireless Ltd.

Since 2nd May this year, the management of Cable and Wireless has, by way of daily announcements in the press, been advising the public the day to day varying degree of delays or otherwise to their services. As at 18th of May, it was stated that full rate telegrams were delayed up to an average of 12 hours and letter telegrams by 48 hours, in both directions. On the 21st of May, the handling time for all telegrams was normal. According to this morning's announcement, it was again stated that handling times for all telegrams were normal as at noon yesterday.

Officers of the Labour Relations Division of my department have been and are still actively conciliating the dispute.

### Macau Ferry Terminal

14. MR FORSGATE asked: —

What steps is Government taking to improve the disorderly, inefficient and dirty conditions at the Macau ferry wharf?

THE FINANCIAL SECRETARY (ACTING) (MR JONES): —Sir, I agree that the present conditions at the Macau Ferry Wharf are not as good as might be desired. The main reason is that the number of passengers passing through the terminal has increased very considerably in recent years from 2 million in 1968 to more than 3½ million in 1972. And it is expected that the figure will rise further to as high as 5½ million by 1977.

Various steps are being taken to alleviate the position but the more radical ones will inevitably take some time to come to fruition. In the short term every effort is being made to keep the terminal clean. It is cleaned throughout twice daily by a firm of contractors and the Waiting Hall is cleaned three times a day. But the hall is open to the street and litter is deposited not only by passengers but by their friends and by casual visitors. Furthermore, the congestion in the Waiting Hall is usually such as to make it difficult for the cleaners to sweep the area more frequently. Consideration is, however, being given to easing the congestion by introducing a trickle service from the Waiting Hall to the Examination Hall. The whole terminal will also be completely repainted inside and out over the next two months and this should go some way to improving its appearance.

As regards medium term improvements, it may be recalled that on 3rd January this year my honourable Friend Mr HADDON-CAVE in reply to a question from my honourable Friend Dr S. Y. CHUNG outlined improvements to the terminal which will be carried out in two stages. Stage I, on which work is expected to start in September this year, will include an extension to the covered way from the Arrival/Departure Hall to the hydrofoil waiting area and the removal of various offices from the landward side of the passenger area. This will provide a larger covered area of 16,000 square feet for passengers waiting to enter the terminal, as well as other facilities to assist passengers to move more rapidly through the terminal.

I turn now, Sir, to the somewhat longer term and more interesting prospects. The plans for Stage II of the improvements have recently been reconsidered in the light of the larger number of passengers which are now expected to use the terminal. As a result serious thought is being given to scrapping this stage and replacing it with a more ambitious scheme, namely to totally rebuild the terminal at its present location. If this is found to be feasible the opportunity will also be

[THE FINANCIAL SECRETARY (ACTING)]     **Oral answers**

taken to re-provision the Marine Department Headquarters in the terminal area together with additional facilities for the relevant sections of other departments involved in the operation of the terminal.

The departments concerned are working out their space requirements and other needs within a new terminal and it is hoped that the proposal will come before the Public Works Sub-Committee at its Second Review in August this year with a view to including it in Category B.

If this goes ahead it will, of course, be a major task and, on realistic assumptions, we cannot expect a new terminal to be completed before 1976-77 at the earliest. I am afraid that passengers may inevitably have to expect some inconvenience in the interim but every effort will be made to reduce this to a minimum.

MR LOBO: —Sir, is my honourable Friend in a position to say whether in the steps to improve the situation there are included any plans for facilities to be provided in Kowloon as well?

THE FINANCIAL SECRETARY (ACTING) (MR JONES): —Sir, as far as I am aware there are no such plans at the present time.

### **Anti-litter courts**

15. MR FORSGATE asked: —

Have the penalties so far imposed by the anti-litter courts been adequate to deter offenders? If not, will Government introduce a mandatory minimum fine?

MR ALEXANDER: —Sir, I would hope that my honourable Friend does not expect a categorical "yes" or "no" in reply to his question. I believe that the changes in the law which were introduced to facilitate the "Keep Hong Kong Clean" Campaign have encouraged many members of the community to adopt a more responsible attitude towards litter. But the extent to which the improvement in Hong Kong's cleanliness is attributable to these changes, to the Campaign itself, to the fines imposed by the courts, or to the fear of losing face" is difficult to estimate. It may be that in certain cases, the fines (however small) may well have had a deterrent effect, while, in others, the fines (however large) may well have not had such an effect.

Before the amendments to the law were made in 1972 to facilitate the "Keep Hong Kong Clean" Campaign, serious consideration was given to legislating for a mandatory minimum fine, but it was decided not to do so. Nor is it Government's intention at present to reopen this question.

## Statements

### McKinsey final report

THE COLONIAL SECRETARY (SIR HUGH NORMAN-WALKER): —Sir, I laid on the table this afternoon the round-up report of the Management Consultants who have, for the past year, been examining the management machinery of the Government, the way in which policies are formulated and decisions taken, our methods of putting into effect policies, and how we monitor and assess our performance in executing those policies.

When I last referred in this Council to the Consultants' work, on the 15th of November, I informed honourable Members that, up to that time, the Consultants had concentrated on the processes and procedures of Government. They improved a number of those existing — and here I might instance the standardization of requests for resources of staff and equipment, and procedures relating to the recruitment and development of our manpower resources—as well as evolving entirely new ones, based on the conception of management by objectives and output, rather than by the input of resources. The broad aim of this approach is to improve the quality of policy formulation, accelerate its fulfilment and enhance the cost-effectiveness of the Government's activities.

The McKinsey team, in addition, suggested that a number of changes were required in the structure of the Government, and that some longer-term changes deserve consideration.

The overall objective was to diagnose the problems, to determine how Government's current management methods affected performance, and to see what could be done to change and improve them. Above all, the Consultants were seeking the most effective way of ensuring that our scant resources of particularly experienced manpower and skills were deployed to the best advantage.

Since December last year, in the second phase of their work, the Consultants have assisted in putting into effect a number of their recommendations, and have worked with Government staff in trying out the new approaches in some of our most important programme areas, for instance educational, medical and health, police, urban services and public works. These area trials have been, in the main, successful, and we will be spreading the approach more widely in the coming months.

[THE COLONIAL SECRETARY]     **Statements**

The team have also developed further ideas on structural changes. They have, in consequence, taken a close look at the organization and working methods of the Central Government machine, as it became apparent that some changes in these will be required if the full benefits of recommended improvements to processes are to be obtained. The object of the Consultants' proposals, taken as a whole, is to create a smaller but highly powered central machine with a more positive role for the initiation and formulation of policies and programmes, and for the monitoring, control and co-ordination of their implementation. But an essential corollary of these proposals is to reaffirm and strengthen the authority and responsibility of Heads of Departments for the executive and effective operation of their departments, and for the formulation and implementation of departmental policies. At the same time, the departments will continue to contribute expert opinions and ideas to the process of policy formulation, amendment and revision at the Government level.

I would like to stress that the recommendations made by the Consultants are not a single package, or set of proposals, which need to be accepted or rejected in toto. They are, rather, a series of new ideas on ways of doing things, to be tried out and implemented if they are found to be workable and effective. Some have already been adopted with success, some have been adapted, and others will be tried in future. The Consultants consider that some of the changes will take years, rather than months, to work through the system. Others, as I have said, have already been introduced and are proving of positive value in the transaction of Government business.

The report, which is based on massive documentation spread over the past year, supplies us, as its title implies, with a framework within which we can adapt our administrative machinery to take the stresses which increasingly complex problems will impose upon us in the future.

The proposals which we have evolved with the Consultants and which form the basis of their report will, moreover, give us valuable guidelines for the future development and planning of our management systems to meet the changing needs of the years ahead. The report's present proposals are not finite and will, of course, have to be modified and amended as occasion arises, for in Hong Kong's circumstances flexibility and adaptability are as important in Government as in the trade and industry which sustain us.

In conclusion, Sir, may I say that, in my view, we have been very fortunate in the composition and calibre of the team of Consultants which has been working with us during the past twelve months. Their whole exercise has been a valuable one which will, I believe, with



the support and assistance of the Civil Service, provide us with real future benefits far in excess of the cost of the exercise.

### **Compensation for victims of crimes of violence**

THE ATTORNEY GENERAL (ACTING) (MR HOBLEY): —Sir, in its fight against crime, the Government is seeking increased help from members of the community and the vital importance of public participation in various ways is being emphasized. It is very opportune therefore that at this time I am able to announce the introduction with immediate effect of a scheme for the payment of compensation to persons, or to the dependants of persons, who after today are the victims of crimes of violence or are killed or injured in helping to prevent crime or to arrest an offender. The scheme also provides for the payment of compensation where a person is killed or injured by a police officer or other law enforcement officer who is using a weapon in the execution of his duty.

There has for many years been a limited provision for the payment of compensation where a person is killed or injured in the execution of a moral or legal duty to assist in the prevention of crime. The help which law enforcement officers have received from the public in the past is reflected in the fact that this Council has made several awards of compensation under that provision in recent years.

The Government recognizes that the existing provision is too limited since it does not authorize the payment of compensation either to the victim of a violent crime or where a person is killed or injured by a law enforcement officer in the execution of his duty. They or their dependants have only their common law right of action for damages—which obviously cannot be recovered from a criminal without means.

The scheme being introduced is in two parts, which will be administered by separate Boards.

The Criminal Injuries Compensation Board will be concerned with claims for compensation from the victim of a crime of violence or his dependants or from persons, or their dependants, who suffer injury or death in helping to prevent crime or to arrest an offender. The compensation payable in these cases will be the same as the amount payable in respect of injury or death from the Community Relief Trust Fund. The Board may, however, increase the award of compensation by up to double that amount if it considers it right to do so where the victim was injured while preventing or helping to prevent crime or helping to arrest an offender.

[THE ATTORNEY GENERAL (ACTING)]     **Statements**

Compensation for injury will not be payable where the loss of earnings is for less than seven days and the applicant must show that the circumstances giving rise to the injury or death were reported to the Police without delay. The Board may also refuse to make an award if the applicant does not assist it in the discharge of its functions—for example, by providing medical reports when required. Compensation will also not be payable where the victim and the offender live together as members of one family, and the Board is required to take account of the conduct of the victim in relation to the incident and in general terms. All these requirements, Sir, are necessary in order to ensure the reasonable and effective operation of the scheme.

The other Board—the Law Enforcement Injuries Compensation Board—will deal with claims for compensation arising from death or injury caused by the use of a weapon by a law enforcement officer in the execution of his duty. In these cases, the amount of compensation will be that which would be awarded as damages at law, with the proviso that the award shall be not less in any event than the amount payable in respect of injury or death from the Community Relief Trust Fund.

Both Boards will be composed of members of the public, and I am happy to say that my honourable Friend Mr Oswald CHEUNG has accepted Your Excellency's invitation to be Chairman of the Boards.

I would add in conclusion that it is not intended to do away with the existing provision for the award of compensation, and it will continue to be open to this Council to mark special cases by an award of compensation thereunder.

**Night operations at Hong Kong International Airport**

THE COLONIAL SECRETARY (SIR HUGH NORMAN-WALKER): —Sir, since I made my statement on the 29th of March this year on night flying at Kai Tak, there has been speculation about the operations that would be permitted once the work on the Airport had been completed. Perhaps I could correct at once some slight misunderstanding about this, in that there never has been a total ban on operations. Arrangements have had to be made for emergencies.

But yesterday you, Sir, in Executive Council decided that the restrictions on night flying will be continued even when full working at the Airport becomes possible from the end of July.

The completion of work on the runway will, however, permit us to resume our international obligations to aircraft in emergency and in the case of flights unavoidably delayed. The latter categories would have to be allowed in in any case.

But even in the circumstances of delayed aircraft, no aircraft would be allowed to take off over Kowloon after midnight, and any unavoidable landings would be made from the Lei Yue Mun direction, unless exceptional weather conditions made this hazardous to the aircraft in question. Emergency landings must obviously be permitted in accordance with worldwide practice.

The number of aircraft in these circumstances operating after midnight is something that cannot be foretold. It would tend to be higher in summer than in winter—for instance during typhoon conditions—but there would be many nights in which there were no movements at all.

In some ways the restrictions which we can now impose will be more beneficial than previously to those living within the neighbourhood of the Airport. No operator will be permitted to programme flights to arrive or depart after 11.30 p.m. as opposed to the present midnight. The additional half-hour restriction on scheduled flights will enable a high proportion of unavoidably delayed passenger flights to get in before midnight. Flights will be permitted from half past six in the morning but traffic really begins only at about eight o'clock. In addition it is hoped that from the end of 1974 it will be possible further to curtail engine run-ups between half past eleven at night and seven o'clock in the morning—and frankly the running up of engines is more trying to the neighbourhood than actual take-off[s and landings. The precise date depends on the arrival of the necessary equipment.

Your decision, Sir, to continue the restrictions on night operations at Kai Tak will be reviewed after the completion of a long-term study by consultants of Hong Kong's air transport system. As I have said before, the object of this study is to forecast future demand and to assess the ultimate capacity of Kai Tak Airport. When the consultants have submitted their report the Government will review the situation, and this should be about the middle of next year.

DR CHUNG: —Sir, may I seek a clarification from the honourable Colonial Secretary in his statement that only landings and not, and I repeat not, take-offs would be permitted for delays in scheduled passenger flights after midnight.

THE COLONIAL SECRETARY (SIR HUGH NORMAN-WALKER): —I think my statement was perfectly clear. The restriction will be moved back

[THE COLONIAL SECRETARY]     **Statements**

from midnight to 11.30; that is to say take-offs will be permitted to delayed aircraft between 11.30 and midnight—they have half an hour's grace.

### **Government business**

#### **Motion (in Committee)**

#### **Supplementary provisions for the quarter ended 31st December 1972**

Council went into Committee, *pursuant to Standing Order No 58(2)*, to consider the motion standing in the name of the FINANCIAL SECRETARY (ACTING).

THE FINANCIAL SECRETARY (ACTING) (MR JONES) moved the following motion: —

That this Council approves the supplementary provisions for the quarter ended 31st December 1972 as set out in Paper No 3 of 1972-73.

He said: —Sir, the schedule of supplementary provisions for the third quarter of the financial year 1972-73, that is for the period from 1st October to 31st December 1972, covers a total amount of \$171.5 million. Of this sum, Public Works Non-Recurrent accounts for \$80 million. \$29 million of this was required as a result of more rapid progress on a number of existing projects and a further \$19 million to meet payments on clearance and repair work in respect of highways damaged by the summer rainstorms in 1972.

Other items which should be mentioned include \$10.5 million for the payment of arrears of salaries to teachers in Government and aided schools as a result of the revision of salaries in 1971; \$3.9 million for applying the pay scales for Government nurses to the nursing staff of the Tung Wah Group of Hospitals; \$1.5 million as a capital subvention towards the cost of the Yan Chai Hospital; and \$2.7 million towards the expenses of the "Keep Hong Kong Clean" Campaign in 1972.

The Finance Committee has approved all the items in the schedule and the purpose of this motion is to seek the covering authority of this Council.

*Question put and agreed to.*

Council then resumed.

THE FINANCIAL SECRETARY (ACTING) (MR JONES) reported that the motion had been agreed to in committee without amendment.

*Question agreed by the whole Council pursuant to Standing Order No 58(4).*

### **First reading of bills**

**DISTRICT COURT (AMENDMENT) BILL 1973**  
**MAGISTRATES (AMENDMENT) BILL 1973**  
**CRIMINAL PROCEDURE (AMENDMENT) BILL 1973**  
**PUBLIC ORDER (AMENDMENT) BILL 1973**  
**STAMP (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**

#### **DISTRICT COURT (AMENDMENT) BILL 1973**

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

He said: —Sir, a substantial increase in the amount of serious crime inevitably imposes pressure on the Judiciary. The number of criminal trials before the Supreme Court has increased considerably in recent years and the average trial is taking longer because of the number of defendants in each case. Although Commissioners of the Supreme Court have been appointed regularly to assist the Judges with the trial of criminal cases, 26 such cases are awaiting trial at the moment and there is an average interval of about 5 months between the arrest of an accused person and his trial. The number of criminal cases is undoubtedly imposing considerable burdens on the Supreme Court and it must be expected that this pressure will continue for some time.

It is proposed therefore that, if necessary, arrangements should be made for some of the serious cases which are now committed for trial before the Supreme Court to be tried in the District Court. However, it is thought to be essential, if more serious cases are to be tried in the District Court, to confer on it enhanced powers of punishment. This bill proposes to increase the maximum sentence of imprisonment which a District Judge may impose from the present limit of 5 years to 7 years.

I would add, Sir, that since the 1st April this year legal aid has been available to defendants charged in the District Court with offences punishable by not less than 14 years' imprisonment. It has been estimated that this will mean that approximately half of the persons

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

charged before the District Court will be legally represented. In practice, no defendant is likely to be sentenced by a District Judge to a term of imprisonment above the present maximum unless he is legally represented.

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

*Question put and agreed to.*

*Explanatory Memorandum*

The great increase in the amount of serious crime during the past few years has imposed severe burdens on the Supreme Court and the District Court.

It is therefore proposed that some of the more serious cases now tried in the Supreme Court should be tried in the District Court. In order to enable the District Court to deal adequately with such cases this Bill increases the maximum sentence which may be imposed by a District Judge from 5 to 7 years.

**MAGISTRATES (AMENDMENT) BILL 1973**

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

He said: —Sir, I have just referred in moving the Second Reading of the District Court (Amendment) Bill to the pressure imposed on the Supreme Court by the increasing number of serious criminal cases.

There has also been a steady increase in the number of criminal cases tried in the District Court—250 in 1969, 185 in 1970, 247 in 1971 and 470 in 1972. Some 52 criminal cases are awaiting trial at the moment. In order to assist in solving the problems which this has created, the Finance Committee of his Council has recently approved the creation of two additional posts of District Judge.

The possibility of relieving the pressure on the District Court by the trial in the Magistrates' Courts of some cases now being transferred to the District Court has also been examined and it is proposed that, if necessary, that course should be followed. It is, however, considered that the existing powers of sentence of the magistrates will not be adequate in relation to some cases which may in future be tried in their courts, and the object of this bill is to increase the maximum power

of sentence of selected magistrates from the present maximum of two years (or three years for consecutive sentences) to four years (or five years in the case of consecutive sentences).

The bill proposes that a new class of magistrate, to be called a principal magistrate, should have this enhanced power of sentence and the Chief Justice will appoint a sufficient number of the existing permanent magistrates as principal magistrates.

To ensure that these enhanced powers are exercised only by magistrates of considerable experience, the Chief Justice has applied for the appointment of additional superscale posts of principal magistrate and it is intended that initially five magistrates of this grade would be available to deal with more serious cases.

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

*Question put and agreed to.*

#### *Explanatory Memorandum*

The great increase in the amount of serious crime during the past few years has imposed severe burdens on the Supreme Court and the District Court.

It is therefore proposed to arrange for more indictable offences to be tried summarily before the magistrates' courts.

In order to enable magistrates to deal adequately with the more serious cases which may come before them, it is proposed to empower the Chief Justice to appoint permanent magistrates to be principal magistrates.

A principal magistrate, who will be a magistrate of considerable experience, will have an enhanced power of punishment. He will be able to impose a maximum sentence of four years' imprisonment and a fine of ten thousand dollars, as opposed to the maximum of two years' imprisonment and ten thousand dollars which can be imposed by a permanent magistrate. The maximum aggregate total of consecutive sentences, which can be imposed, is at present three years for a permanent magistrate; this will be increased to five years for a principal magistrate.

#### **CRIMINAL PROCEDURE (AMENDMENT) BILL 1973**

THE ATTORNEY GENERAL (ACTING) (MR HOBLEY) moved the second reading of: —“A bill to amend the Criminal Procedure Ordinance.”

**Criminal Procedure (Amendment) Bill—second reading**

He said: —Sir, honourable Members will recall that, during the debate on Your Excellency's address on the 15th November 1972, the Attorney General said that the Government was considering the introduction of a system of preventive detention, the object of which is to remove habitual criminals from society for long periods.

The Criminal Procedure (Amendment) Bill 1973 is designed to give effect to this proposal and generally follows the provisions of the United Kingdom Criminal Justice Act 1948. This Act was repealed in the United Kingdom in 1967 and replaced by a somewhat similar system of what is called "enhanced sentences".

It is fair to point out that this form of preventive detention does not seem to have been particularly successful in the United Kingdom. This may well have been due to the reluctance of the courts in some cases to pass a sentence of imprisonment for longer than that which was appropriate for the offence of which the accused had just been convicted. The bill, however, seeks to avoid this objection by providing that an ordinary sentence shall be passed for the offence for which the accused is in front of the court and that a sentence of preventive detention shall be added thereafter.

The failure of preventive detention in the United Kingdom may also be attributable to the fact that it was sometimes used by the courts in cases not intended by the legislature. It is a system which ought obviously to be used only against hardened criminals who are a positive menace to society. For example, it is not appropriate in the case of a persistent petty thief, however hardened a criminal he may be. This possible difficulty will be met by the provision of the new section 109J(1) that a sentence of preventive detention may be passed only if the Attorney General makes application accordingly within thirty days after the supporting conviction.

The proposed new section 109I prescribes the conditions which must be satisfied before an application can be made to the Supreme Court or the District Court for the passing of a sentence of preventive detention. These conditions are: firstly, that the person shall be not less than 25 years old; secondly, that he has just been convicted of an offence punishable by at least two years' imprisonment; thirdly, that he has been convicted on at least three previous occasions since the age of 17 of offences punishable with at least two year's imprisonment; fourthly, that he was sentenced to a custodial sentence on at least two of these three previous occasions, and, fifthly, that he has previously been sentenced in the aggregate to not less than two years' imprisonment.



If these conditions are satisfied, it will then be open to the Attorney General to apply to the court before which the person was last convicted for the passing of a sentence of preventive detention. On such an application, the court may pass such a sentence if, but only if, it is satisfied that it is expedient for the protection of the public that the person concerned should be detained in custody for a substantial time. A sentence of preventive detention will be for a term of not less than 5 nor more than 14 years.

It will be necessary to make special arrangements for the reception of offenders of this kind. Since they are not being punished for any particular offence, but being removed from society for a long period because they are a menace to it, they need to be provided with more recreational facilities, better accommodation and food and less discipline than the ordinary prisoner. This bill will therefore not come into force until such time as the necessary arrangements have been made for the accommodation of this new class of prisoners.

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

*Question put and agreed to.*

#### *Explanatory Memorandum*

This Bill seeks to introduce a system of preventive detention for persons convicted of serious crimes on 4 or more occasions.

The provisions are based on those of the English Criminal Justice Act, 1943, and will apply to an offender aged not less than 25 years, with not less than four convictions.

It will be open to the Supreme Court or the District Court to sentence an offender to not less than 5 nor more than 14 years' preventive detention, if the conditions set out in section 109I are satisfied. Such a sentence will be in addition to any sentence imposed for the offence of which the accused has just been convicted.

The conditions under which a prisoner serving a sentence of preventive detention shall be kept will be specified by rules made under the Prisons Ordinance. Since the object of this kind of detention is to keep him in custody because he is a menace to society, and not to punish him, it is intended to provide, in these rules, for appropriate conditions of confinement in a special institution.

**PUBLIC ORDER (AMENDMENT) BILL 1973**

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

He said: —Sir, honourable Members will recall that the Public Order (Amendment) (No 2) Ordinance 1972, which came into force on the 15th December last year, provided for a mandatory sentence of not less than 6 months' imprisonment or a detention centre order to be imposed on a person convicted under section 33 of the Public Order Ordinance of the offence of having an offensive weapon in his possession in a public place.

Since that date, a substantial number of persons has been convicted of offences under that section, which, generally speaking, seems to have had a helpful effect in restraining the carriage of dangerous weapons in public. However, experience of the working of the section has shown that it needs to be clarified and improved in some respects.

In particular, the provision for a mandatory sentence only becomes effective on summary conviction. Section 36 of the Magistrates Ordinance and section 3 of the Probation of Offenders Ordinance enable a magistrate, even where he is satisfied that the charge is proved, to make an order discharging an offender, or to make a probation order, without proceeding to conviction. It is thought desirable to make it clear that these two sections may not be used where a person is charged with an offence under section 33 of the Public Order Ordinance.

It has been argued that a loophole of this nature might be useful since it could be employed in those rare cases in which an offender might be convicted in circumstances in which a prison sentence might be unreasonably oppressive. However, if these sections were used frequently, it would destroy the main deterrent effect of section 33, which is that severe punishment is certain if an offence under it is proved.

Section 11(2) of the Juvenile Offenders Ordinance provides that no young person shall be sentenced to imprisonment if he can be suitably dealt with in any other way. It is proposed in this bill to make it clear that this section has no application to a person convicted of an offence under section 33.

The tightening up of this section, to ensure that a mandatory sentence is imposed on anyone convicted of an offence under it, makes it important that there should be a clear and consistent policy in deciding which persons are to be charged under it. It is felt that this can best be achieved by including a requirement that the consent of the Attorney General shall be necessary before a prosecution under this section may be instituted. This provision is contained in the new section 33(5).

There has been some criticism of the fact that a detention centre has not been made available for persons over 17 and under 21. However, as announced by my honourable friend the Colonial Secretary earlier in the year, a wing at Ma Mo Ping Addiction Treatment Centre is being converted for this purpose and it is expected that it will be able to take its first inmates, who will be offenders within that age group, within the next few weeks.

The Chief Justice has suggested that the powers of punishment which are open to the courts in dealing with those convicted under section 33 should be widened. Consequently, it is proposed in the bill that a person who is over 13 and under 17 may be sentenced to detention in a training centre, if the Commissioner of Prisons has informed the court that the offender is suitable for detention in a detention centre but that no place is available for him there. This new provision will avoid the need to send to prison a youngster who is suitable for a detention centre but cannot go there because a place is not available.

As a further alternative, the bill provides that an offender of any age, convicted under section 33, may be sentenced to corporal punishment.

Sir, these amendments will provide a wider range of penalties for use by the courts in accordance with the circumstances of the individual case, while at the same time maintaining the principle that severe punishment is unavoidable for any person found guilty of this particular offence.

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

*Question put and agreed to.*

#### *Explanatory Memorandum*

The object of this Bill is to repeal and replace section 33 of the Public Order Ordinance which deals with the offence of possession of an offensive weapon in a public place.

The Public Order (Amendment) (No. 2) Ordinance, 1972, introduced a mandatory sentence of not less than six months' imprisonment or a detention centre order for any person convicted of an offence under this section.

Practical experience of the working of this section, since its enactment last year, has made it desirable to remove certain doubts which have arisen as to its effect and to widen the scope of the powers of punishment available to the courts when dealing with a person convicted under this section.

**Public Order (Amendment) Bill***[Explanatory Memorandum]*

The new section 33(2) sets out, in detail, the ways in which a court may deal with a person convicted under the section. The main changes introduced are as follows:

- (a) a person over 13 and under 17 years may also be sentenced to corporal punishment or to detention in a training centre, if there is no room for him in a detention centre, as alternatives to imprisonment or a detention centre order;
- (b) a person aged 17 or more may also be sentenced to corporal punishment, as an alternative to imprisonment or a detention centre order.

The opportunity has been taken to make it clear that section 36 of the Magistrates Ordinance and section 3(1) of the Probation of Offenders Ordinance, which enable a magistrate to make an order discharging an offender or putting him on probation without proceeding to conviction, and section 11(2) of the Juvenile Offenders Ordinance, do not apply where a person is charged with an offence under this section (new section 33(3) and (4)).

In order to ensure that a careful control is kept over the operation of this section, the new section 33(5) provides that the consent of the Attorney General is required before a prosecution under it is instituted.

**STAMP (AMENDMENT) BILL 1973**

THE FINANCIAL SECRETARY (ACTING) (MR JONES) moved the second reading of: —"A bill to amend the Stamp Ordinance."

He said: —Sir, the purpose of this bill is to give legislative effect to the proposals made by the Financial Secretary in his budget speech on 28th February this year to increase, reduce or abolish stamp duties in respect of various documents.

I do not think it is necessary for me to repeat before this Council the arguments in favour of these proposals. They were cogently presented by my honourable Friend in paragraphs 93 to 96 and 100 to 102 of his budget speech.

The abolitions and reductions of duty he then proposed are provided for in clause 12 of the bill which amends the schedule to the principal Ordinance. The first and more important relief relates to

stamp duty on conveyances of low valued property. It provides for the standard rate of duty of 2 per cent to be waived completely for properties up to \$75,000, instead of \$20,000 as previously; and for the rate to be halved to 1 per cent for properties of over \$75,000 but under \$150,000 instead of for those over \$20,000 but under \$40,000. The other proposals provide for the abolition of stamp duty on receipts given for amounts of \$20 or more, as well as on a number of documents such as bills of landing, policies of insurance, affidavits and so on, which were yielding only small amounts of revenue.

The increases of duty are provided for in clauses 12(d) and 12(k). The former provides for an increase in the *ad valorem* duty on contract notes from 20 cents on every \$100 or part thereof to \$4 for every \$1,000 or part thereof; while the latter increases the duty on transfers of shares and marketable securities, other than on purchase and sale, from \$5 and 40 cents for every \$100 or part thereof to \$5 and \$8 for every \$1,000 or part thereof.

The opportunity has also been taken to delete certain minor provisions in the principal Ordinance which have become redundant.

I should perhaps add that, by clause 1(3), the bill is deemed to have come into operation on 1st April 1973, except for the increases provided in clauses 12(d) and (k) which, under clause 1(2), will be deemed to have come into operation on 1st March 1973.

In conclusion, Sir, honourable Members will be glad to know that, although it is yet too early to forecast the full effects on home ownership of the relief given on stamp duty for conveyances of low valued properties, I have been advised by the Commissioner of Rating and Valuation that the first effects have been favourable in encouraging persons of moderate means to buy their own properties. The Commissioner of Inland Revenue has also reported that the abolition of minor duties has not only been welcomed by the public but has relieved the Stamp Office of a considerable administrative burden and enabled it to render a quicker and more efficient service in other directions.

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

*Question put and agreed to.*

#### *Explanatory Memorandum*

In his Budget Speech on February 28th the Financial Secretary proposed increases of stamp duty on some documents and the abolition or reduction of stamp duty on others. This Bill gives effect to those proposals.

## **Stamp (Amendment) Bill**

### *[Explanatory Memorandum]*

Clause 12(d) increases the duty payable on contract notes from 20 cents for every \$100 or part thereof of the amount or value of consideration for the contract to \$4.00 for every \$1,000 or part thereof of the amount or consideration for the contract.

Clause 12(k) increases the duty payable on a transfer affecting the beneficial interest in shares or marketable securities from \$5.00 and 40 cents for every \$100 or part thereof of the value of the shares or marketable securities at the date of transfer to \$5.00 and \$8.00 for every \$1,000 or part thereof.

These increases are deemed to have come into operation on 1st March 1973 and will effect any transaction entered into on or after that date (clause 1(2)).

Clause 12 also gives effect to the abolitions and reductions of stamp duty proposed by the Financial Secretary. Most of the remaining clauses make consequential amendments.

The opportunity has been taken to delete the following provisions, which are redundant—

- (i) the reference to auditor in section 25(1) (clause 7(a));
- (ii) head 31 in the Schedule (clause 12(a)); and
- (iii) the reference to letter of renunciation in head 33 in the Schedule (clause 12(j)).

Subject to clause 1(2), the Bill is deemed to have come into operation on the 1st April 1973 (clause 1(3)).

## **MENTAL HEALTH (AMENDMENT) BILL 1973**

### **Resumption of debate on second reading (9th May 1973)**

#### *Question proposed.*

MR WONG: —Sir, when my colleagues suggested that two of us should speak on the Mental Health (Amendment) Bill we suspected some *double entendre*. Consequently, one of us declined to speak. (*Laughter.*) I don't mind speaking on mental health because if the speech proves to be illogical, I will plead that this is due to mental health.

Those of us who have read the bill carefully will note that this bill concerns only prisoners which includes those who are sentenced and those who are on remand.

The initial purpose of this bill is to separate the goats from the sheep; that is, to take out of the mental hospital those who have criminal tendencies and put them in the custody of the Prisons Department Psychiatric Centre. These persons are of the type referred to in Part IV of the Mental Health Ordinance or Part IV of the Criminal Procedure Ordinance. Although the modern trend is overwhelmingly toward behaviourism, in other words human beings are affected only by environment, it is a matter of record that certain persons are endowed with criminal tendencies and that those mentally affected people who are devoid of criminal tendencies should not be subject to abuse by those who have criminal tendencies.

Apart from transferring those prisoners who are in the mental hospital to the Prisons Department Psychiatric Centre, a hospital order may be made for the detention in the Prisons Department Psychiatric Centre of a convicted adult and an adult against whom an offence punishable by imprisonment has been proved.

Clause 6 empowers a court or magistrate to authorize the detention in the Prisons Department Psychiatric Centre of a person who is in custody awaiting trial, if it is proved before the court or magistrate that he is mentally unsound. This provision gives greater safeguard against those who are able to fake mental derangement because I believe the nursery staff, that is the Psychiatric Nurses in the Prisons Department Psychiatric Centre, are trained specially for the purpose of dealing with certain mentally disturbed persons and they would be better qualified in finding out those who actually do not belong to the genuine mental cases.

On the other hand, if I have any sympathy with prisoners, they are those who are mentally deranged as a result of tension and stress of modern living. The dividing line between sanity and insanity is thin, and a definite demarcation is difficult to draw. Many of the world's geniuses have been mad, and some mad men display genius during their occasional periods of normality. Some of the acts committed by the insane are beyond the knowledge of the conscious mind. When the famous Dutch painter, Van GOGH, was frustrated by his lady friend, he cut off his own ear without feeling any pain and sent it, still warm and wet, to his girl friend. Beatrice WEBB, famous sister of her equally famous brother, Sidney WEBB, was afflicted with periodic fits of mental disorder, and during a period of clarity she would say to her brother "I'm going through periods during which I am not responsible for my actions. I place myself entirely in your hands to do whatever is necessary." This rational treatment of a psychiatric case continued throughout life without mishap, and is a demonstration of fraternal love such as is rarely witnessed.

[MR WONG] **Mental Health (Amendment) Bill—-resumption of debate on second reading (9.5.73)**

The Prisons Department Psychiatric Centre is now well staffed and well equipped to give psychiatric care to mentally deranged prisoners, and it is hoped that some of them may be cured of the mental disease with a view to rehabilitating them back into society.

I have much pleasure in supporting this bill.

*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).*

**MIDWIVES REGISTRATION (AMENDMENT) BILL 1973**

**Resumption of debate on second reading (9th May 1973)**

*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 bills**

Council went into Committee.

**REGISTRATION OF PERSONS (AMENDMENT) BILL 1973**

Clauses 1 to 5 were agreed to.

**MENTAL HEALTH (AMENDMENT) BILL 1973**

Clauses 1 to 7 were agreed to.

**MIDWIVES REGISTRATION (AMENDMENT) BILL 1973**

Clauses 1 to 3 were agreed to.



**EMPLOYMENT (AMENDMENT) (NO 2) BILL 1973**

HIS EXCELLENCY THE PRESIDENT: —We will take the clauses in blocks of not more than five.

Clauses 1 to 10 were agreed to.

Council then resumed.

**Third reading of bills**

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

Registration of Persons (Amendment) Bill 1973

Mental Health (Amendment) Bill 1973

Midwives Registration (Amendment) Bill 1973

Employment (Amendment) (No 2) Bill 1973

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

*Question put on each bill and agreed to.*

Bills read the third time and passed.

**Adjournment and next sitting**

HIS EXCELLENCY THE PRESIDENT: —In accordance with Standing Orders I now adjourn the Council until 2.30 p.m. on Wednesday the 6th of June.

*Adjourned accordingly at one minute past four o'clock.*