

OFFICIAL REPORT OF PROCEEDINGS**Wednesday, 2nd April 1975****The Council met at half past two o'clock****PRESENT**

HIS EXCELLENCY THE GOVERNOR (*PRESIDENT*)
SIR CRAWFORD MURRAY MACLEHOSE, KCMG, MBE
THE HONOURABLE THE COLONIAL SECRETARY
MR DENYS TUDOR EMIL ROBERTS, CBE, QC, JP
THE HONOURABLE THE FINANCIAL SECRETARY
MR CHARLES PHILIP HADDON-CAVE, CMG, JP
THE HONOURABLE THE ATTORNEY GENERAL (*Acting*)
MR GARTH CECIL THORNTON, QC
THE HONOURABLE THE SECRETARY FOR HOME AFFAIRS
MR DENIS CAMPBELL BRAY, JP
THE HONOURABLE JAMES JEAVONS ROBSON, CBE, JP
SECRETARY FOR THE ENVIRONMENT
DR THE HONOURABLE GERALD HUGH CHOA, CBE, JP
DIRECTOR OF MEDICAL AND HEALTH SERVICES
THE HONOURABLE IAN MACDONALD LIGHTBODY, CMG, JP
SECRETARY FOR HOUSING
THE HONOURABLE DAVID HAROLD JORDAN, MBE, JP
DIRECTOR OF COMMERCE AND INDUSTRY
THE HONOURABLE LI FOOK-KOW, CMG, JP
SECRETARY FOR SOCIAL SERVICES
THE HONOURABLE DAVID AKERS-JONES, JP
SECRETARY FOR THE NEW TERRITORIES
THE HONOURABLE LEWIS MERVYN DAVIES, CMG, OBE, JP
SECRETARY FOR SECURITY
THE HONOURABLE DAVID WYLIE MCDONALD, JP
DIRECTOR OF PUBLIC WORKS
THE HONOURABLE KENNETH WALLIS JOSEPH TOPLEY, JP
DIRECTOR OF EDUCATION
THE HONOURABLE IAN ROBERT PRICE, TD, JP
COMMISSIONER FOR LABOUR
DR THE HONOURABLE CHUNG SZE-YUEN, CBE, JP
THE HONOURABLE WILSON WANG TZE-SAM, OBE, JP
THE HONOURABLE LEE QUO-WEI, OBE, JP
THE HONOURABLE OSWALD VICTOR CHEUNG, OBE, QC, JP
THE HONOURABLE ROGERIO HYNDMAN LOBO, OBE, JP
THE HONOURABLE JAMES WU MAN-HON, OBE, JP
THE HONOURABLE HILTON CHEONG-LEEN, OBE, JP
THE HONOURABLE JOHN HENRY BREMRIDGE, JP
DR THE HONOURABLE HARRY FANG SIN-YANG, OBE, JP
THE HONOURABLE MRS KWAN KO SIU-WAH, MBE, JP
THE HONOURABLE LO TAK-SHING, JP

ABSENT

THE HONOURABLE MRS CATHERINE JOYCE SYMONS, OBE, JP

THE HONOURABLE PETER GORDON WILLIAMS, OBE, JP

THE HONOURABLE LI FOOK-WO, OBE, JP

THE HONOURABLE FRANCIS YUAN-HAO TIEN, OBE, JP

IN ATTENDANCE

THE CLERK TO THE LEGISLATIVE COUNCIL

MR KENNETH HARRY WHEELER

Papers

The following papers were laid pursuant to Standing Order 14(2): —

<i>Subject</i>	<i>LN NO</i>
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Proclamation No 1 of 1975	72
Arms and Ammunition Ordinance.	
Arms and Ammunition (Exemption) Order 1975	75
Legal Practitioners Ordinance.	
Students (Amendment) Rules 1975	76
Factories and Industrial Undertakings Ordinance.	
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Regulations 1975 (Commencement) Notice 1975 ...	77
Factories and Industrial Undertakings Ordinance.	
Factories and Industrial Undertakings (Cargo Handling)	
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Public Health and Urban Services Ordinance.	
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<i>Subject</i>	<i>LN NO</i>
Import and Export Ordinance.	
Import and Export (Fees) (Amendment) Regulations 1975	81
Lion Rock Tunnel Ordinance.	
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Merchant Shipping Ordinance.	
Merchant Shipping (Fees) (Amendment) Regulations 1975	83
Post Office Ordinance.	
Post Office (Amendment) Regulations 1975	84
Waterworks Ordinance 1974.	
Waterworks (Amendment) Regulations 1975	85
Public Revenue Protection Ordinance.	
Public Revenue Protection (Banking) Order 1975	86
Public Revenue Protection Ordinance.	
Public Revenue Protection (Betting Duty) Order 1975	87
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Public Revenue Protection (Entertainments Tax) Order 1975	89
Public Revenue Protection Ordinance.	
Public Revenue Protection (Entertainments Tax) (No 2) Order 1975	90
Public Revenue Protection Ordinance.	
Public Revenue Protection (Rating) Order 1975	91
Public Revenue Protection Ordinance.	
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Societies Ordinance.	
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<i>Subject</i>	<i>LN NO</i>
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Government business

Motion

CORPORAL PUNISHMENT ORDINANCE

THE ATTORNEY GENERAL (ACTING) moved the following motion: —

That the Schedule to the Corporal Punishment Ordinance be amended
in Part I by inserting after item 11 the following new items—

"12. Any offence against section 17(a) of the Prisons
(Cap. 234.) Ordinance.

13. Any offence contrary to section 17 of the Summary
(Cap. 228.) Offences Ordinance."

He said: —Sir, the resolution adds two items to Part I of the Schedule to the Corporal Punishment Ordinance. This Schedule lists the offences for which a court may, in addition to or in lieu of other punishment, sentence an offender to be caned.

The first item is section 17(a) of the Prisons Ordinance—escaping from prison or legal custody.

During 1974 there were ten incidents of escape from prison institutions and five attempts, involving a total of 59 prisoners. In three of the incidents violence was used against prison staff. Under the existing law the only penalty which can be imposed on a person convicted of escape from a prison is a further sentence of imprisonment of up to two years. In practice the sentence imposed is normally between three and fifteen months. This does not appear to provide an effective deterrent to escape attempts, particularly when those convicted are already serving long determinate sentences, or indeterminate sentences such as imprisonment for life, or detention during Her Majesty's pleasure. It is hoped that the possibility of corporal punishment may prove to be a greater deterrent.

The second item proposed to be added to the list is section 17 of the Summary Offences Ordinance which relates to the possession of offensive weapons with intent to use them for an unlawful purpose or being unable to give a satisfactory account of possession.

Honourable Members will recall that the Attorney General in moving the second reading of the Summary Offences (Amendment) Bill 1975, on the 20th March expressed the view that the existing maximum penalty for offences against section 17 of one thousand dollars fine and 3 months' imprisonment is much too low. That bill, the resumed debate of which is on the present Order Paper, increases that maximum to a fine of five thousand dollars and two years' imprisonment and the present proposal to add the option of corporal punishment is part of the same exercise. The gravity of offences under section 17 differs widely and it is felt that the courts will be assisted by having at their disposal the additional option of imposing a sentence of corporal punishment in suitable cases.

Question put and agreed to.

First reading of bills

COMPANIES (AMENDMENT) BILL 1975

INLAND REVENUE (AMENDMENT) (NO 2) BILL 1975

STAMP (AMENDMENT) BILL 1975

MASS TRANSIT RAILWAY CORPORATION BILL 1975

MOCK AUCTIONS BILL 1975

Bills read the first time and ordered to be set down for second reading pursuant to Standing Order 41(3).

Second reading of bills

APPROPRIATION BILL 1975

Resumption of debate on second reading (19/20th March 1975)

MR TOPLEY: —Sir, I share the disappointment of honourable Members at having to relinquish however temporarily our plans for the immediate and dramatic expansion of our secondary education

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system. I know this disappointment is widespread. I fully appreciate my honourable Friend Mrs SYMONS' point that having announced the White Paper plans the people of Hong Kong are expecting their Government to produce something substantial, even if imperfect in their eyes, by way of educational advance and that serious delay will be unacceptable. I also understand her point about stretching the educational dollar.

But the dilemma is real. Whether to hold firmly to our plans and activate them immediately finance is available, or to modify them in such a way that an earlier and more massive progress is much more easily achieved. One may disappoint and the other may confuse the public. As my honourable Friend Mrs SYMONS says most careful and intensive thought and consultation will be required to balance the demands of quantity, quality and quick action. I shall need encouragement and support from all sides including all the Members of this Council if we are to find ways to make the educational dollar go further. And we cannot certainly stretch the dollar to an extent or in a direction that leaves classes of pupils with no teacher standing in front of them. We shall not however be standing still. Ten subsidized secondary schools and one private non-profit making secondary school receiving capital assistance will open in September. We shall also be buying more than 8,000 additional places in private schools for Forms I - III.

Very satisfactory progress is being made with the technical institutes at Kwai Chung and Kwun Tong and they will be ready for the academic year starting 1975-76.

Current restrictions on recruitment of staff will be mitigated by the careful redeployment of existing technical staff and will enable the technical institutes at Kwai Chung and Kwun Tong to open on a useful scale.

However the long-term disadvantage of the deferment of the White Paper cannot be denied. It takes 3-5 years to build a school and the school building programme of Government and, above all, of sponsors on whom I so greatly rely cannot be turned on and off. It should, however, be feasible to rephrase the programme and this I am endeavouring to do, not, however, without some disappointment to sponsors to whose understanding and forbearance I should like to give public testimony.

Curriculum Development

In the field of curriculum development I feel some actual advantage can be derived from the postponement of the White Paper.

The advisory syllabuses for Forms I-III will shortly be issued to the schools. Every syllabus has been worked out and monitored by broadly based committees and they are not just drawn up by Education Department staff working in isolation. I personally think these syllabuses are good. They certainly have the capacity to give our education system the new look it really needs. But no syllabus can or ever will be fully satisfactory from its inception. It needs the interplay of the inspectorate, the teachers and the pupils to validate it. My intention is, therefore, not to impose these syllabuses by decree but to give an opportunity for schools to assess and evaluate them together with my inspectors. Indeed, I anticipate changes in the substance and perhaps also in the time scale.

A further important point that I must emphasize is the chicken and egg relationship between syllabuses and textbooks. Which comes first? Obviously the syllabus but the syllabus cannot become effective without the necessary textbook back-up. I am glad to see that publishers are showing real interest in playing a positive part in these vital developments. The deferment of the White Paper should enable the necessary textbooks to be written and will give the schools very desirable breathing space to consider and adapt to the new syllabuses. It will also enable me to consider the consequential changes in the Forms IV-V syllabuses and in the Certificate of Education Examinations.

Independent Examination Authority

I have long been of the opinion that in the area of exams we should make early and vigorous proposals to set up an Independent Examination Authority. It is no longer appropriate for the Education Department to be responsible for organising and running the Secondary School Entrance Examination, the Certificate of Education and a host of external examinations including the General Certificate of Education while the Universities have the burden of running the Advanced Level Exam and the Matric Exam. Such a measure—disestablishment of the Examinations Division—would have two major advantages. It would relieve my department, increasingly hard-pressed, of an increasingly complex body of tasks and it would emphasize the essential unity of education. I am convinced that we have reached a stage in educational development that makes such an advance entirely beneficial.

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Much consultation will be required but I hope to put forward this year substantial proposals for the establishment of an Independent Examination Authority within a relatively short time period. I would not like to under-state the complexity of the task, particularly during the transitional period.

Quality of Education

It is of course in the Colleges of Education and in the Technical Teachers' College that the key to improvement of quality is to be found. The department took action to provide sufficient trained non-graduate teachers to enable the White Paper to be implemented from September 1975, and is now taking measures to ensure that as many vacancies as possible can be made available to the students leaving the colleges in July this year. I am also instituting a third year general course of training. Its purpose is to improve quality by providing further training in teaching skills as well as giving a deeper, more thorough knowledge of the subjects to be taught, particularly important in the context of the new provisional syllabuses for Forms I-III. The course is also designed to assist the students by offering further opportunities for training, timely because of the more restricted employment prospects this year. Other developments include in-service training courses in design and technology at the Technical Teachers College. Design and technology is one of the practical courses devised to carry out the White Paper proposal for a stronger practical element in secondary school syllabuses.

Another significant contribution to educational quality is being made by the Languages Centre which has units in Hong Kong and Kowloon. The recently opened language laboratory will be of great value in improving the standards of fluency of teachers of English. The Hong Kong and Kowloon units are also developing as social as well as resource centres for teachers. These are first steps towards what I hope will become eventually a teacher's centre in the true sense of the word.

Fees

My honourable Friend Mrs SYMONS has rightly stressed the frustration and disappointment of both public and educators if the White Paper is to be delayed beyond 1976 and suggests that school fees should be increased to make more financial resources available. This means

that fees should be re-imposed in the public primary schools, presumably at a considerably higher level than the old rate of \$20 per year. I fear that such a decision would be a harmful example of the stop-go policy that my honourable Friend Dr S. Y. CHUNG deploras. The introduction of Free Primary Education was recommended in the White Paper of 1965, and implemented in 1971.

Such a decision, welcomed by the public, is consistent with the terms of Article 13 of the United Nations Covenant on Economic, Social and Cultural Rights, which require, among other things, that primary education shall be compulsory and available free to all. The Covenant is recognized as representing a wide consensus as to the aims and objects of social advancement. Clearly, any return to fee-charging at primary level would be directly contrary not only to the spirit, but also to the specific terms, of the Covenant, and would appear in Hong Kong and internationally as a socially retrograde step. Furthermore if primary education is to be compulsory it should be free. The power given to the Director of Education to direct parents to send a child to primary school can only be fully effective as a sanction in the context of free primary education.

My honourable Friend also recommends an increase in the secondary school fee and is critical of the generous upper limits of fee remission. The levels of fees in this sector are kept under review and of course it is never a good time to raise school fees. It would be particularly difficult to do so in the light of the difficult economic circumstances which many families in Hong Kong are facing now. When the economic situation improves and *pari passu* with the start of the White Paper large expansion, I think it would be more difficult to object to the introduction of modest and reasonable increases in secondary school fees in the public sector.

As regards the present upper levels of fee remission, I can provide no detailed argument to support the exact levels of fee remission which have been approved and are now in use. These levels were recommended by the Education Commission of 1963 in the context of fee increases and were approved by this Council in 1965. They represent upper limits designed, I believe, to ensure that no pupil would be deprived of a public secondary place for which he has been selected because he lacks the necessary financial resources. A secondary pupil will have many other items of expenditure in addition to fees, as parents well know to their cost, textbooks, uniforms, *tong fai*, sports and library fund, P.E. gear, all that. It was, I think, because of these considerations that the present limits were pitched at their present levels. But schools

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are under no obligation to remit fees up to the maximum level and a great many do not do so.

Fee remission costs more than \$18 million a year to the revenue. Existing schemes therefore stand for re-appraisal. Are these schemes fully equitable and economical? These are criteria of the highest importance. But in applying them with appropriate rigour we should not overlook the purpose of making fee remission in the first place which is to enable children who should go to school to go to school. And in practical terms we must not under-estimate the difficulties of and resources consumed in checking the financial data provided by the families of actual and potential pupils.

Channels of Communication with Teachers

Finally, I am convinced that many of the complications which bedevil the relationship of my department with the teachers and which appear pretty regularly in the press could be reduced if better channels of communication could be established with the teachers. The problems are complex and in no way susceptible of easy solution.

To this end I have re-established the Departmental Consultative Council and I hope that a council for non-Government teachers in the aided sector can be established shortly on which school managements will also be represented. If my resolution that these councils should succeed in their task is matched by an equal resolution on the part of teachers and managements, I am optimistic enough to believe that a new and more favourable climate for discussions will be achieved.

Sir, I have much pleasure in supporting the motion.

DR CHOA: —Sir, I am grateful to those honourable Members who expressed interest and concern about the effects of the restrictions on Government spending and recruitment on the Medical and Health Department's projects and plans. I should like first to discuss the Princess Margaret Hospital, for which a sum of \$9.9 million has been included under annually recurrent other charges in the Medical and Health Department's estimates. It is intended that the hospital should open in phases and although many posts have already been provided, mainly in the nursing and medical grades, a much larger establishment, including para-medical and other grades, will be required to operate all

the services for which the hospital has been designed. The department is still in consultation with the Finance Branch on the question of the new posts which will be needed to staff the hospital in 1975-76. In this connection I would like to explain that the 56 posts of Medical and Health Officer earmarked for the hospital as shown in the Estimates represent only the present number in the Lai Chi Kok Hospital which is 6, plus 50 posts which were created in 1972 for training purposes. The final establishment of medical posts when the hospital is fully commissioned will be very much larger. I should also make it clear that the scope to which the hospital will become operational this year will not only depend upon the creation of new posts but also on the extent to which authority is given for the department to recruit staff, having regard to the restrictions placed upon the growth of the Public Service in 1975-76.

Honourable Members will understand from what I have said that I am not yet in a position to confirm that the hospital will be opened in July this year. However, I assure them that every effort will be made to have at least part of the hospital functioning within this financial year. If at all possible I would prefer not to make large-scale re-deployment of staff from other institutions in order to open the Princess Margaret Hospital for this would mean reduction of other services. We are already hard-pressed and indeed we expect more people to turn to us under the present economic circumstances and I would not wish to deprive them of any services they may need from us. Nevertheless, the need to relieve the overcrowded conditions in our major hospitals and clinics will be constantly borne in mind.

As regards the Tang Chi Ngong Specialist Clinic and the polyclinics at South Kwai Chung and East Kowloon, the last-named will not now be completed during the current financial year. Because the first priority must be the opening of the Princess Margaret Hospital, and given the need to allocate to that hospital most of the additional staff the department will be permitted to engage, it does not seem likely that the other two projects will become operational until 1976-77. However, existing specialist clinics on the Island will continue to provide patients with necessary services, and temporary arrangements will be made for specialist sessions to be held at the general clinic at South Kwai Chung until staff become available to man the polyclinic which is the second stage of the South Kwai Chung project now under construction.

Looking further into the future the implementation of the proposals contained in the medical White Paper will undoubtedly be affected by the present financial restraint. Apart from those items which are already

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in Categories A and B in the Public Works Programme and other approved capital items, no contractual commitment has been made for others which are in various stages of planning, nor can it be made within this financial year. There will therefore be a delay of at least one year, but I hope it will be possible to initiate some preliminary work in respect of certain recommendations where it can be done with existing resources. Sir, I would like to inform the honourable Member on my right that the practice of magic has long been abandoned by the medical profession. Recently, the well-known saying that no skilful housewife can cook without rice was quoted in this Council. Without being presumptuous I rather fancy myself in that role instead of pulling rabbits out of my hat.

Turning to the Lamb Report may I first deal with shortages of equipment and essential supplies in Government hospitals. Of course, one must strike a balance between what is considered ideal and what can be achieved within financial limitations but I can say unequivocally that the treatment of patients is not generally handicapped through lack of necessary equipment or supplies, even if occasionally, in some areas where pressure is extremely heavy, temporary shortages occur.

In regard to the recommendations made by Miss Lamb in her report those which concern the Government nursing service are being followed up, and in some cases action had already begun on the lines recommended or has subsequently been taken. For instance a lower intake of student nurses into the training schools was introduced last September in order to improve the tutor: student ratio. I am afraid that in certain areas, such as the proposals for more senior posts in particular branches of the nursing service, the current financial situation and concomitant restrictions on the creation of new posts in 1975-76 will mean a deferment, but the department is nevertheless proceeding with a submission to the Finance Branch and it is hoped that agreement can be reached on the numbers and gradings of these posts for their inclusion in the 1976-77 Estimates.

I appreciate the concern about the training of nurses, both at preand post-registration levels, and although unfortunately it will not now be possible to introduce a local training course for tutors, as was originally hoped, in September this year, overseas training is continuing and three officers left in February to undertake the Nurse Tutor Diploma Course in Melbourne. It is proposed to send another three officers on

this course next February. An officer has also been selected to attend a clinical teachers course in Britain later this year so that on his return he can assist in organising in-service training courses in this field which we hope to start next spring. The continuing intakes of student and pupil nurses during this financial year will depend entirely on whether the department is allowed to recruit in these grades. Unless the training programme can be maintained at its present level a decrease in the output of trained nursing personnel will occur in two or three years' time but to what extent this will affect the staffing of the projects contained in the medical White Paper I am unable to say at this juncture as it is dependent upon many other factors.

There are other recommendations in this report which concern the Nursing Board of Hong Kong. In my capacity as its Chairman, I have recently appointed a sub-committee of five members of the board to study them. Any suggestions which will improve the functions of the Board will I am sure be welcomed by its members and the department will do what it can to help streamline its administration.

Sir, I spoke at some considerable length at the debate in this Council on the White Paper on the Problems of Dangerous Drugs in Hong Kong in July last year, on various aspects of treatment of drug addiction with particular reference to methadone maintenance. I know that there are still opponents to this form of treatment but I think its adoption in Hong Kong has been justified by events. A few months ago, when the availability of heroin was severely reduced as a result of several big seizures, many addicts were unable to obtain the drug, except at greatly inflated prices, which gave rise to fears of an upsurge in crime by them in order to finance their habit. The response to the immediate establishment of three more clinics was indeed gratifying and in my opinion this move played no small part in dealing with the situation. Although the Finance Committee of this Council approved the establishment of these additional clinics, I have been running them with such resources as at my disposal and without additional staff. It is correct that methadone can be used in decreasing doses for detoxification within a short period of three or four weeks. Dr Robert NEWMAN, who was here as a consultant for two months recently, has recommended that we should next offer this as another treatment programme which will certainly be welcomed by some addicts. He and I are both aware that short-term detoxification treatment does not necessarily lead eventually to complete abstinence, and elsewhere this has been achieved in only a small percentage of addicts. The important point is that, as in the case of methadone maintenance clinics, here is yet another programme which will be kept open to those who seek it whether for the first time or

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whenever they go back on drugs. It will be understood that repeated courses of detoxification treatment for relapse cases differ little from methadone maintenance, in fact, some will have to be transferred to maintenance in the end. The concept of achieving total abstinence has been found to be unattainable elsewhere. Hence, I have always advocated different types of treatment programmes being run concurrently and I regard methadone maintenance as still the lesser evil which at least can help to curb the illicit drug traffic. The fact that unlike other places there has so far been no sign of primary methadone addiction in Hong Kong, possibly due to our very tight control in dispensing the drug to our addicts, is in my view another argument which I can use to advance in defence of methadone maintenance. I must repeat, however, that I believe in multiple approaches and I am willing to try all reasonable methods bearing in mind, of course, not to squander the taxpayers' money. But the amount spent on drug treatment programmes is well worth it because this problem with its medical, social and economic implications must be regarded as one of the most urgent that we have to deal with in Hong Kong.

In early 1969 when the department was faced with a difficult staffing situation arising from the departure of a number of doctors during the previous one or two years, it was suggested by the Hong Kong Medical Association that Government might consider employing private practitioners on a sessional basis. This was also recommended by the Hartwell Committee whose "Report on a Review of the Doctor Problem in the Hong Kong Government" was published in May that year. Subsequently, negotiations were held with the Hong Kong Medical Association which lasted until 1971 when the staffing situation improved. In a letter which I addressed to the President of the Hong Kong Medical Association in April 1971, I pointed out that our negotiations had been going on for quite some time and that an impasse had been reached. In proposing a fresh approach I said in conclusion: "I may add that if at the end of June a reasonable number of graduates joined the department, the staffing situation may so improve that the implementation of my new proposals would have to be postponed. Let me assure you however that the negotiations should nevertheless be kept open and I would like to express once more my appreciation of the efforts made by you and members of your Association". A year later in 1972 I wrote again to put on record that the scheme might be considered as shelved. The amount of \$115,200 which was approved by the Finance Committee in October 1969 as a supplementary provision

under Head 47 has however remained in the Estimates until this year. I do apologise if this has given the wrong impression that the matter was still being pursued up to the end of the last financial year. Despite not putting this recommendation into practice I believe that our out-patients clinics have operated at maximum economy and efficiency. I have several times explained that the long queues outside our clinics are not due to vacant consulting rooms but rather to the fact that there are not enough of these, and also because the waiting halls have now become too small for the increasing numbers who use them.

Sir, I beg to support the motion.

SECRETARY FOR SOCIAL SERVICES: —Sir, the first chapter of the latest Hong Kong Annual Report states that, despite world economic uncertainties, the Government is determined to push ahead with its plans for the provision of social services and improve the general standard of life in Hong Kong during the next ten years. But the progress of such plans must be governed by the unique financial and economic factors which influence our economy. There are bound to be limits in the amount of financial resources that are available; limits which are more severe at certain times than others. We must therefore strive to employ our limited resources economically, judiciously and prudently. We must ensure that they are directed to the areas of the greatest need and that they are employed to benefit those for whom they are intended.

My honourable Friend Miss KO raised several points regarding the prudent employment of our resources. But before turning to them I would like to comment on my honourable Friend Mr Oswald CHEUNG's concern in the same direction that recipients under the Public Assistance and Disability and Infirmity Allowance Schemes should not continue to receive these benefits once they fall outside the defined criteria. My honourable Friend may be assured that these schemes have been tightly administered and the possibility of abuses has been kept in mind. Each case is reviewed regularly at intervals of three to six months, depending on the circumstances of the case and if assistance is found to be no longer justified, the case is closed. Over the past 12 months an average of 1,300 public assistance cases have been closed each month and for disability and infirmity allowances, an average of 600 per month. A working party last year carried out a detailed examination of the administration of both schemes. It came to the conclusion that there was no evidence to suggest that people not really in need were able to abuse the schemes and that the schemes were providing the right kind

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of assistance to those members of the community most in need. Sir, the working party's report was submitted to Finance Committee on 13th November last year.

My honourable Friend Miss Ko has emphasized the need for flexibility so that resources might be directed to the areas of most urgent need. I fully endorse that view. Indeed when the Social Welfare Five Year Plan was first introduced the need to keep it flexible to meet the changing needs of the community and the availability of resources was fully recognized. Provision was accordingly made for an annual review and extension of the plan to cover a rolling five-year period. The current planning review, started last October before the full effect of the present financial situation was known, is primarily concerned with the year 1976-77 and subsequent years. However, some planned projects for this year will not materialise on time for various reasons, but not solely financial reasons. Consequently, this plan will be examined again at the end of this year to determine priority between these projects and those originally envisaged for 1976-77 and the following years. In conducting these planning reviews the need for and the advantages of flexibility will be very much borne in mind. In accordance with the principle of flexibility I would add that voluntary agencies may, if they so wish and subject to consultation with the Social Welfare Department, change their functions and activities within the general framework of the policy laid down in the Five Year Plan. Furthermore, I certainly agree that more attention should be paid to phasing out services which become out-dated, and cutting back in areas where programmes overlap.

This leads me to my honourable Friend's point about the need for self-evaluation. As a general principle to be followed, I agree that a more self-critical approach would increase efficiency and ensure the maximum use of available resources. Such an approach is always invaluable. However, the evaluation of services to assist the Social Welfare Advisory Committee to decide on the allocation of resources must continue to be carried out by the Social Welfare Department in co-operation with the Hong Kong Council of Social Service. For this purpose the Advisory Committee has established a sub-committee on evaluation to monitor progress in this field and to provide general guidance and advice to the agencies.

I also agree with Miss Ko that the use of volunteers in the social welfare field should be encouraged. They can make a useful contribution

to our limited resources. I venture to suggest that trained social workers who are not working at present, possibly because of the demands of a full-time job or other reasons, should also be encouraged to return to their profession by doing perhaps part-time voluntary work.

Sir, I would like to take this opportunity to stress the importance of personal participation by members of our community in social welfare services. It is not only a question of the valuable assistance they can render. Equally important is that they will gain first hand knowledge and experience of the problems of those in need. The voluntary agencies as institutions have always played an important and indeed vital role in the provision of social services in Hong Kong and their continuous co-operation is essential in the implementation of our ambitious social services plans. However, I would like to emphasize the importance of practical involvement and of personal commitment by members of our community. Sir, I believe it would be a grave weakness and indeed a failing of these plans if, in their implementation, we failed to instil into our community a feeling of compassion for those who through no fault of their own cannot stand on their own feet, and a spirit of concern for the social progress of our society.

Sir, I have much pleasure in supporting the motion before Council.

SECRETARY FOR THE ENVIRONMENT: —Sir, I am glad that in his speech my honourable, Friend, Mr Oswald CHEUNG, drew attention to the conditions which prevail at the Macao Terminal and the need for improvement there because this is an area in which we may be able to make a fair amount of progress—in spite of the lack of Government funds. I hope before the end of May to place proposals before Executive Council for the redevelopment of the existing terminal by one of the present ferry operators. Under these proposals, finger piers would be provided for the berthing of the large traditional Macao ferries and a multiple berthing facility for the hydrofoils. The developer would also provide all the offices, restaurants, bonded warehouses, traffic facilities, *etc*, necessary to serve the Macao trade, and in return would be allowed to develop multi-storied office blocks above the complex to the extent required to make the scheme commercially viable. Provided final agreement can be reached on the proposed conditions of redevelopment I hope that a start can be made on the reconstruction of the existing terminal early next year.

This project has been included in the priority scheme which I outlined to honourable Members in this Chamber at the opening of this session. Briefly, the scheme ensures that projects which can be most

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beneficial to Hong Kong go ahead as fast as possible and that our efforts are concentrated on furthering those projects for which finance is likely to be available. Priority is granted sparingly, and only for a few major projects, and only after a full and detailed discussion by a fairly high-level committee under my chairmanship.

I cannot pretend at this stage that this procedure has produced a series of lightning solutions to difficult problems, but it has made possible a reduction of many months in the time normally taken to sort out complicated land and building matters and to prepare the necessary lease conditions.

My honourable Friend Mr WILLIAMS spoke of the sharp drop in revenue following higher Government charges for running a car and my honourable Friend Mr Hilton CHEONG-LEEN mentioned the decline in income for all Government off-street car parks.

In fact, while revenue from the Commonwealth preference and first registration tax for motor vehicles declined from a level of \$57 million in 1973-74 to \$32 million last financial year, revenue from drivers and vehicle licences shot up from \$93 million in 1973-74 to \$150 million in 1974-75. Thus, whilst due to the recession which started last year, first registration and Commonwealth preference tax revenue lost more from the decline in vehicle registrations than it gained from the higher rate charged, this was not the case for far more important revenue from driving licences and vehicle licences, and the net increase in revenue from both these sources was over \$30 million.

Turning to off-street parking charges, which were sharply increased on 1st October 1974, income has declined from a total of \$7.15 million for the five months October 1973 to February 1974 to a total of \$5.94 million in the corresponding five months last financial year. I would not therefore disagree with my honourable Friend, Mr Hilton CHEONG-LEEN'S estimate of a possible loss of income, at present, of about \$2 million *per annum*. However, revenue increased at the Star Ferry and Garden Road car parks and I do not think that it will be very long before all the car parks start to be better patronized.

But while the increase in parking fees did not produce an increase in revenue, it did produce other worthwhile results.

One consequence has been to discourage the day-long parking of cars by the owner/driver who previously brought his car into car parks

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gallons per unit and the 14 unit level for the lower charge of \$3 per unit will be multiplied by the number of individual flats for the purpose of computing water charges in a multi-storey building using a common water meter for all flats. Communally metered residential buildings have, in fact, been treated in this way for the purpose of calculating the free allowance ever since this was introduced in 1971.

My honourable Friend expressed fears that the proposed differential pricing system could cause hardship in cases where flats with separate meters are occupied by more than one family and where, because of the high occupancy, the total water consumption is high and consequently water charges could reach the third level. My honourable Friend Mr Hilton CHEONG-LEEN voiced similar fears. It must be remembered that the Government's decision in 1965 that in future all flats be individually metered was intended to place the responsibility for meeting the charges for water consumed fairly and squarely upon the occupiers of individual dwellings so enabling them to regulate their consumption in accordance with their ability to pay, and thereby serving to reduce the rate of escalation in the demand for water. I can, however, assure honourable Members that an allowance system is currently under study which will ensure that genuine hardship cases will not occur.

It has been suggested that an unfair comparison has been given between an industrial consumer and a domestic consumer. The industrial sector represents about 9% of all consumers and is responsible for about 30% of Hong Kong's total water demand.

The hard fact remains that trade consumption has been increasing at a rate very much greater than domestic consumption. Should this trend continue the point could be reached at which, in the event of a need to impose restrictions, either the trade sector would have to be restricted equally with the domestic, or the domestic consumer would be faced with unacceptably harsh restrictions. Industrialists, therefore, must in due course bear responsibility for exercising economy in the use of water, either by restraint or by recycling or by a combination of both. It is interesting to observe that if an alternative scheme were to be introduced whereby all present charges, domestic and non-domestic, were to be increased by \$1, it would have the same revenue effect as the differential pricing system proposed this year for the domestic sector only. I must therefore support my honourable Friend, the Financial Secretary's proposal that the situation whereby non-domestic users will

be subsidized should not in all fairness be allowed to remain for too long.

Sir, I support the motion.

SECRETARY FOR HOUSING: —Sir, there has understandably been some expression of concern about the effects of current financial stringencies on the public housing programme, and I would like to take this opportunity to say that the Housing Authority is building and will continue to build on a very large scale. It is, I believe, quite remarkable that in difficult times like these, we are able to find funds not only to finance the ten new estates now in hand at a total estimated cost of \$620 million, but also to let new building contracts for a further nine housing estates which will cost about \$385 million in total. These new estates when completed will house up to 300,000 people and the last ones should be ready in 1978. If we can focus on public housing in this way in bad times, what cannot we do when times are good? Of course the housing programme—like all other social programmes—has had to trim its sails in the short term; but let us keep our eyes on the vast amount of positive work that is going on, and not allow ourselves to be obsessed with the spectre of the might-have-been.

My honourable Friend, Mr Hilton CHEONG-LEEN, wondered whether redevelopment standards for the old Mark I and II public housing estates would be acceptable in 5 to 10 years' time. The major issue here is whether to convert these blocks as they stand to provide fully self-contained flats, or whether to demolish and rebuild. In terms of surrounding environmental standards, complete redevelopment is clearly preferable and seems to have the most supporters. Whichever arrangement is followed, I can reassure my honourable Friend that we do try to look ahead in fixing accommodation standards, and we believe that today's schemes will continue to be acceptable 10 years hence. Like everyone else, of course, the Housing Authority has to take difficult decisions on standards, and has always to be mindful that the more spacious each flat is, the fewer families can benefit in any given period from its new building programme. Even so, I believe that the Authority's standards are realistic and strike a sensible balance between quality and quantity, while still leaving the door open for such improvements as are found necessary and economically viable.

My honourable Friend Mr LOBO suggested that the time had come for a look at the desirability of organizing housing lotteries, as a way of stepping up the supply of housing. I imagine that he had in mind the sale of tickets at the hallowed figure of \$2 or thereabouts, with

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Housing Authority flats offered as prizes. This is an interesting idea—a natural for Hong Kong, one might say—and we will certainly look into it. But, the attractions of generating additional cash for the Authority's building programme in this way will have to be weighed against several factors, including the longstanding policy of reserving public housing for those in the lower income groups whose housing need is most acute, as well as the dangers of introducing a new lottery in competition with the established Government lotteries. It is true that the Lotteries Fund is restricted to social welfare capital requirements, and has no bearing on housing, but in the final analysis Government is the banker and we should be sure that in solving one problem we don't create another one. The prize concept might perhaps be linked to a local equivalent of United Kingdom premium bonds, with depositors acquiring numbered certificates and being eligible to compete in a periodic draw for a number of prizes. Perhaps any scheme of this type for raising funds would be best linked to a general scheme for limited sales of public housing, perhaps to a slightly higher income group than is now eligible for rented public housing.

Sir, I cannot leave the subject of our housing plans without saying something about the private sector's contribution. We look to private developers to play a substantial part in meeting Hong Kong's housing needs and to help satisfy the growing demand for home-ownership. Here as elsewhere, that demand has been reduced under the stresses of high interest rates, shortage of ready money for down payments, and repayment periods that are too long to allow the lower income groups to take on the burden of a mortgage loan. Government established the Hong Kong Building and Loan Agency about ten years ago with just these problems in mind, but I think it would be fair to say today that the number of borrowers assisted by that Agency has proved to be small in relation to the growing private sector output of new flats. If some way can be found to make mortgage funds more readily available to a larger number of borrowers, this in itself would probably go a long way towards encouraging more activity in the private housing sector, and I can say that this question will be studied in depth in the context of current work on the housing programme plan. At the same time we will look into the possible scope for new incentives to encourage more private investment in the housing field.

Sir, I have much pleasure in supporting the motion.

SECRETARY FOR THE NEW TERRITORIES: —Sir, I rise to speak to-day not because thus far in this debate the New Territories have inspired a wealth of words, but because they have not been mentioned at all! (*Laughter*). Honourable Members' speeches this year were pre-occupied with matters of broad policy and principle and, above all, with finance. There has been no analysis of the Public Works Programme in general, nor of the works and building programme in the New Territories, which is my particular concern. I would like to say something, Sir, about what is going on in the land beyond the Kowloon foothills; about work that is actually in progress; about things that are happening and changes taking place; and about things which, at the moment, are only words on paper or a gleam in the eye.

The general strategy for expenditure on capital works, described a year ago by my honourable colleague, the Financial Secretary, envisaged maintaining expenditure in areas outside the New Towns at current levels, leaving any surplus to be spent in the New Towns. This year we enter the first year of what was then the forecast period, and the problem of finding funds for the full, balanced programme of expenditure in the New Towns has required us to reduce the programmes to their essentials. They are not bare essentials: if we compare them with what we were doing two years ago, they comprise an impressive, confident and resolute total of expenditure, which has risen from \$100 million in 1973-74 to \$450 million in 1975-76. Contracts now running include the remaining housing estates being built by the Public Works Department at Kwai Chung, Tuen Mun and Sha Tin providing homes for about 150,000 people; they include water supplies; roads and drainage works for areas of future development; a polyclinic; a divisional police station; and moreover new contracts will be let during the new financial year involving a total expenditure of \$111 million, principally on a further expansion of the infrastructure of capital works which are needed before we build the housing estates of tomorrow at Tsing Yi, Tsuen Wan, Sha Tin and Tuen Mun.

This year we will investigate the further development of Tai Po and other New Territories' towns. But, without waiting for the final details of how it is to be done, the Housing Department is already designing the housing to be built at Tai Po in which the boat squatters of Yuen Tsau Tsai just as soon as funds can be made available can move. I personally regard the present condition of the area as quite intolerable and unacceptable. I am reminded of it every day; there is nothing I want more than to see these poor people provided with proper homes. However, this is only an example of what we have to do in many places throughout the New Territories, and I mention it

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today because it has been mentioned before in these debates; I have not lost sight of our plans for rural housing: I would like my honourable Friends and colleagues, too, to remember them.

The trimming down of the works programme inevitably will mean that some desirable but not absolutely necessary buildings will have to be omitted, but let me emphasise that our present estates are a world apart from what we were building only a year or two ago; they include welfare buildings, markets, commercial centres, playgrounds and schools. However I am particularly concerned that we should establish sufficient secondary schools not only in the New Towns but conveniently located throughout the New Territories. We are moving in the right direction: of the 13 secondary schools of various kinds currently being built throughout Hong Kong, seven are in the New Territories. Two at Tai Po will cut down the numbers of students who travel to Kowloon everyday; another is being built at Tuen Mun; a secondary technical and a prevocational school are being built at Kwai Chung; another secondary school is being built at Tai O on Lantau. We have also decided, in principle, that a secondary school should be built at Sai Kung, and another on Lantau. Honourable Members will agree that this is not a description of standstill. But I believe that the wholly private secondary school, or the aided school for that matter, if land were available could help to a greater extent than at present contemplated in the White Paper and in our New Town programmes, to solve the need for schools and for school places which, in fact, might eventually become bought places. I believe that we should be prepared to make land more easily available on acceptable terms to properly run private schools. These schools have helped in the past, they provide more than half of all secondary places at present. In today's circumstances, I believe, we need to re-assess the contribution they can make to providing a properly balanced provision in the New Towns in the future.

Sir, the change taking place in the weekend occupations of the people of the metropolitan area is extraordinary and beyond all reckoning (*laughter*). Between October and December last year 196,000 people visited the Brides Pool as against 54,000 a year ago. During the same three months 130,000 visited Shing Mun country park as against 87,000 a year before. Simple but admirable facilities for barbecues, country walks and picnics have helped to trigger off this explosion. The Hong Kong and Yaumati Ferry Company this year is further expanding its services. The membership of the Youth Hostels Association for the

facilities currently available has overflowed, and it is against this background and this popular upsurge that the proposals from consultants for recreational development of Lantau and Sai Kung have to be read. However financial constraints this year have already required the Director of Agriculture and Fisheries to cut back and adapt his recreational development plans, and I am therefore working with various departments to see whether we can generate revenue by providing for private recreation and leisure in Sai Kung and Lantau which would in turn, I trust, lead to the freeing of further funds to expand and develop public facilities. To give you an example of what I mean—if we can sell sites for say 50 country villas on Lantau, this would, I hope, help to persuade those who decide these matters that installation of a water supply to South Lantau was a worthwhile investment, and arising from this we would be able further to expand work for the recreational benefit of the general public.

The announcement that the groups interested in building an oil refinery and petrochemical plant have withdrawn was in some ways a disappointment. But there are many other projects in the pipeline: some I hope will come off, others we are trying to stimulate. The keen interest being shown by Hong Kong's real estate developers in the prospect of developing 40 acres of seabed at Sha Tin in return for the reclamation of a further 90 acres for public use is encouraging. The Environment Branch, the Public Works Department and my department are working closely together to ensure that there is no default on the Government side in trying to move this and a number of private development schemes forward.

I have mentioned before in this Chamber the need regularly to review and update our land compensation policies. During the last twelve months we have revised compensation payments for clearance of temporary buildings, livestock and trees, but no change has yet been made with regard to payment for land resumed within the boundaries of the New Towns. Recently I have held a series of meetings of a Working Party on Land Policy with the Heung Yee Kuk, and this has resulted in the formation of specific proposals as an alternative to the land exchange system. In addition, the total outstanding land exchange commitment has been established and estimates made of future requirements for exchange; plans have also been prepared of what land is available for exchange now and in future years. These facts have been made available to the Heung Yee Kuk, and plans will be posted up in District Offices for the benefit of the public. As a result of this activity and these discussions, I hope that we are in

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reach of an acceptable compensation system as an alternative to land exchanges.

Sir, George Bernard SHAW with characteristic, startling and perverse logic wrote "the reasonable man adapts himself to the world: the unreasonable man persists in trying to adapt the world to himself. Therefore all progress depends upon the unreasonable man." By this definition, Sir, either Shaw was wrong or Hong Kong is full of unreasonable men (*laughter*), for I believe that by and large we continue to make remarkable progress.

Sir, I support the motion.

Motion made. That the debate on the second reading of the bill be adjourned—THE COLONIAL SECRETARY.

Question put and agreed to.

COMPANIES (AMENDMENT) BILL 1975

THE FINANCIAL SECRETARY moved the second reading of:—"A bill to amend the Companies Ordinance."

He said:—Sir, this bill has been drafted to implement my budget proposal to increase the fees payable on registration of companies having a share capital and on the registration of increases in nominal share capital. The bill provides for these fees to be increased as indicated in my budget speech; namely, to triple the fee for registering companies from \$100 to \$300 and to change the additional charge for each \$1,000 of nominal share capital (or increase in share capital) from \$2 to \$4. The proposed increases are estimated to yield additional revenue of \$17 million a year. Your Excellency signed the Public Revenue Protection (Companies) Order 1975 imposing these increases with effect from 27th February 1975. The purpose of the bill now before Council is simply to give legislative effect to this order.

Motion made. That the debate on the second reading of the bill be adjourned—THE FINANCIAL SECRETARY.

Question put and agreed to.

INLAND REVENUE (AMENDMENT) (NO 2) BILL 1975

THE FINANCIAL SECRETARY moved the second reading of:—"A bill to amend the Inland Revenue Ordinance."

He said:—Sir, during the course of my 1974 budget speech I said that the present investigation powers and penalty provisions in Parts IX and XIV of the Inland Revenue Ordinance needed strengthening. The bill at present before Council is intended to achieve just this. Honourable Members will no doubt recall that in 1969, following the recommendations of the last Inland Revenue Ordinance Review Committee, extended powers, which included the right to impose an administrative penalty in cases of tax evasion, were given to the Commissioner of Inland Revenue. These amendments, coupled with the establishment of a special Investigation Section in the Inland Revenue Department, have certainly had their effect—the total amount of tax and penalties imposed in the five years since 31st March 1969 amounted to \$35 million, which, of course, excludes the unquantifiable, but nevertheless known, effect that action of this sort has on the accuracy of current returns. Nevertheless, it is the view of the Commissioner that there is still a lot that can be done in this field but he is hindered by the fact that first this is proving an expensive and time-consuming operation and that secondly the penalties are not sufficiently high to act as a deterrent to some would-be evaders. As recently as the year ended 31st March 1974, the average understatement of earnings and profits in the cases finalized by the Investigation Section was as high as 79 per cent. This is a frightening figure, particularly at a time when we need every cent we can lay our hands on—legitimately lay our hands on—to meet the ever increasing demands on General Revenue.

Whilst some of the amendments are of a comparatively minor nature—some of the amendments proposed in this bill—and are adequately explained in the explanatory memorandum, there are two which do call for particular comment.

Under section 51A of the Inland Revenue Ordinance, the Commissioner is given power to call for a statement of assets and liabilities where he is of the opinion that incorrect returns have been made. This stemmed from a recommendation by the Inland Revenue Ordinance Review Committee. The Committee's recommendations did not include the right of objection and appeal by the taxpayer against such a request but, nevertheless, to satisfy the fears that were expressed in certain quarters that indiscriminate use would be made of these powers,

[THE FINANCIAL SECRETARY] **Inland Revenue (Amendment) No 2) Bill—
second reading**

this right was written into the law. This has had two unfortunate side effects. The first is that the right of objection can be and is used by the taxpayer to delay the finalization of a case. In some cases this delay can amount to well over a year. Secondly, because the Commissioner is required to inform the appeal tribunal of the grounds on which he has formed his opinion that returns are incorrect the taxpayer is made fully aware of the precise extent of the Commissioner's knowledge of his evasion at an early stage of the proceedings. This places the Commissioner at a serious tactical disadvantage in his subsequent handling of the case. So clause 3 of the bill removes the provision relating to objection and appeal by the person on whom a notice has been served.

The other amendment or really group of amendments which merits elaboration is the increase in the penalties which the courts may impose from \$2,000 plus a fine equal to the amount of tax undercharged, to \$2,000 plus treble the amount of the tax undercharged. This is provided for in clause 6 and it should also be noted that by clause 7 the Commissioner is empowered, subject to a right of appeal by the taxpayer, to impose an administrative penalty known as "additional tax". These amendments also bring into the net for the first time the case where the taxpayer just sits back and quietly fails to submit a return at all.

Clearly these amendments are intended as a deterrent and also as a punishment to the guilty. It will be evident from the figures I have already given to honourable Members that the existing penalty is simply not sufficient as a deterrent. As regards punishment, it will I hope be readily appreciated that, because of high interest rates and inflation, even where the maximum penalty of 100 *per cent* is imposed as it is in the worst type of case, the taxpayer is often no worse off than if he had paid the tax in due time. Furthermore, it must be remembered that with a standard rate of 15 *per cent*, except for corporations where the rate is now happily 16½ *per cent*, the worst that can happen to an offender if he is caught is to pay tax at 30 or 33 *per cent*—to put it at its lowest level it is worth taking a sporting chance, although let me say at once that I consider there is nothing sporting about the tax evader (*laughter*). His action, if undetected, simply shifts the burden of the tax on to those who are honest enough to contribute according to law. He deserves no sympathy from this Council and I trust he will get none. I would also remind honourable Members that, in some neighbouring countries, the penalties when

added to the tax are confiscatory in that in some cases they can exceed the amount of income on which they are levied. Even the maximum 300 *per cent* penalty now proposed will still not be anywhere near confiscatory in Hong Kong.

An additional motive behind the increase in the penalty is to give the Commissioner a greater degree of flexibility in fixing the amount of the penalty. At present, as I have already indicated, if one does no more than recover what one should have paid to the Exchequer in the first instance, the penalty would very often have to be close to the 100 *per cent* margin. There is very little therefore that the Commissioner can offer by way of inducement to a taxpayer to make a clean breast of things and submit corrected returns. Furthermore, it has been the Commissioner's experience that once having been caught out, the taxpayer often sits back and leaves it to the department to build up the necessary statements from which his true profits can be ascertained. This is a laborious, painstaking task and it is ironic that this should be done at Government's expense when the fault lies entirely with the taxpayer. There is however an insufficient range of penalties for the Commissioner to hold out some inducement to the taxpayer at this stage to pay his own accountant to do his own work at his own expense.

In this connection, I should like to place on record what the Commissioner's practice in relation to the full voluntary disclosure of tax evasion is. Where offences under the Inland Revenue Ordinance have been committed, the Commissioner may institute prosecution under Part XIV of the ordinance. He is, however, also given power to compound these offences, that is to say, to accept a monetary settlement instead of sanctioning the institution of a prosecution. Alternatively, he is given the power to impose additional tax in lieu of prosecution. Although no undertaking can be given as to whether or not the Commissioner will refrain from prosecution in the case of any particular person, it is the practice of the Commissioner to be influenced by the fact that a person has made a full confession of any offence to which he has been a party and has given full facilities for investigation and has provided corrected returns accompanied by detailed statements in support of these returns. These facts will also have a favourable bearing on the amount of the penalty or where applicable, additional tax, in settlement.

Motion made. That the debate on the second reading of the bill be adjourned—THE FINANCIAL SECRETARY.

Question put and agreed to.

STAMP (AMENDMENT) BILL 1975

THE FINANCIAL SECRETARY moved the second reading of:—"A bill to amend the Stamp Ordinance and the Stamping and Denoting of Documents Regulations."

He said:—Sir, in my budget speech I mentioned that there was scope for raising additional revenue through the Stamp Ordinance. To this end, I put forward two proposals. One of these concerned the fixed duty on cheques and allied instruments. While travellers' cheques are now chargeable at 25 cents, other cheques drawn within Hong Kong, and cashier orders and dividend warrants, are all chargeable at only 20 cents. These rates were fixed in 1969 and no longer relate to current values. I proposed, therefore, that the rate of duty should be increased to 30 cents in all these cases. This will yield an extra \$5 million revenue in 1975-76.

To protect the revenue, it was necessary to introduce the increase on blank cheques immediately after budget day and in advance of the increases on allied instruments. Your Excellency therefore signed the Public Revenue Protection (Stamp) Order 1975 imposing 30 cents duty on all blank cheque forms issued in Hong Kong after 26th February 1975. The purpose of the bill now before Council is simply to give legislative effect to this order.

Motion made. That the debate on the second reading of the bill be adjourned—THE FINANCIAL SECRETARY.

Question put and agreed to.

MASS TRANSIT RAILWAY CORPORATION BILL 1975

THE ATTORNEY GENERAL (ACTING) moved the second reading of:—"A bill to establish a corporation for the construction and operation of a mass transit railway in Hong Kong, to assume the functions, assets and liabilities of the Mass Transit Railway Provisional Authority and for connected purposes."

He said:—Sir, honourable Members will recall the enactment of the Mass Transit Railway Provisional Authority Ordinance in March of last year and the Mass Transit Railway (Land Resumption and Related Provisions) Ordinance in August of last year. The bill now before Council, which provides for the establishment of the Mass Transit Railway Corporation, is the remaining significant step from

the legislative point of view towards the goal of constructing and operating a mass transit system.

Before I speak as to the contents of the bill, may I first say a few words concerning its timing. In broad terms, the present position is that as the Government believe that an underground mass transit railway is a vital necessity in order to afford maximum relief from congestion on the roads in the years ahead, it has been agreed in principle to proceed with the Modified Initial System on a multi-contract basis and tenders are now being invited. It is important that prospective contractors and potential lenders should see the kind of body with which they are to contract and be aware of that body's powers and duties and its relationship with the Government. It is important also that the legislation should be on the statute book ready to be brought into operation immediately the stage is reached that contracts are ready to be let. I am therefore introducing the bill now.

It will be recalled that the Government took the view in January after careful evaluation that the Modified Initial System appeared to be financially viable. It was decided that after tenders had been received and analyzed the Provisional Authority would report back to Your Excellency in Council in order to confirm that the Modified Initial System was a feasible proposition. When this stage is reached Your Excellency would be invited to bring the ordinance into operation. The first contracts would then be let immediately with the intention of the system being fully operational by mid-1980. Until the ordinance comes into operation the Mass Transit Railway Provisional Authority will remain in being, partly to evaluate tenders and financial offers and partly to direct the efforts of the chief officers designate of the future Corporation towards further developing its capabilities.

The Mass Transit Railway Corporation will be the first public statutory corporation of its type in Hong Kong and I propose now to spend a little time discussing the essential purposes and duties of the Corporation and its relationship to and control by the Government.

The very core of the bill is found in clause 3(2), in which the purpose of the Corporation is stated to be "to construct the mass transit railway and to operate it *having regard to the reasonable requirements of the public transport system of Hong Kong*". These last words are highly important because the underground railway will be at the heart of Hong Kong's public transport system in the 1980s

[THE ATTORNEY GENERAL (ACTING)] **Mass Transit Railway (Corporation)**
Bill—second reading

and it is essential that the Corporation take cognizance of the Government's public transport policies.

The requirement to have regard to the reasonable requirements of the public transport system is also important in relation to clause 13(1) of the bill. This clause obliges the Corporation to conduct its business according to "prudent commercial principles". The Corporation is not therefore only to be concerned with providing a public transport system. It must do so on a commercial basis and seek to earn enough revenue to service its debts, meet its operating and other costs and eventually to make a reasonable profit.

The Corporation will be a *public* corporation and all its issued share capital will be held, initially at least, by the Government. Because it will be a public corporation the nature of the relationship of the Corporation to the Government and the degree of exercise of control over the Corporation by the Government are of considerable significance.

In the first place, there will be control through the Board which will be the governing body of the Corporation. Honourable Members will have observed from clause 4(1) of the bill that in addition to the Chairman and the Managing Director, provision is made for the appointment to the Board of not less than 4 nor more than 8 other members, to be appointed by Your Excellency. It is envisaged that the members of the Board will include both public officers and Unofficials drawn from the private sector.

Secondly, under clause 7 there is control of the appointment of the Chairman and the Managing Director of the Corporation.

Thirdly, there is a power of direction conferred upon Your Excellency by clause 20. Under this clause the Governor may "if he considers the public interest so requires, give directions in writing of a general character to the Corporation". But if such a direction were to require the Corporation to act contrary to prudent commercial principles then the Government must fully compensate the Corporation.

The constitution and powers of the Corporation are contained in Part II of the bill. The Corporation is of course to be a body corporate with the usual powers of a body corporate, and clause 4 provides for a Board which will be the governing body. Clause 7

provides that the Chairman of the Board shall be the chief executive of the Corporation. General powers are set out in clause 6 and clause 6(3) is of interest in that it empowers the Corporation to develop property for purposes other than those directly associated with the railway. Thus the Corporation would be able, if it so wished, to develop to the full any land granted to it (for example, by building a commercial/residential block on top of a station site). Accordingly, the price to be paid by the Corporation in exchange for land granted to it will take account of the type of development permitted by the terms of the lease.

I turn now to the financial provisions contained in Part III of the bill. Clause 10 provides an initial capital structure for the Corporation with an authorized capital of \$2,000 million. This figure which is that recommended by the Provisional Authority takes into account Government's equity contribution of \$800 million in cash and also future equity issues in respect of grants of land, tax liabilities, etc.

Honourable Members will recall that the Mass Transit Fund was established by resolution of this Council in March 1973 and the sum of \$800 million has since been credited to that Fund by this Council. The Corporation will draw from the Mass Transit Fund in exchange for its equity and clause 10 provides for the issue of shares to the Colonial Treasurer Incorporated to be held in trust on behalf of the Government. In addition to this direct cash investment, the Government will also exchange, in return for the Corporation's equity, the price of any Crown land assigned to the Corporation for the purpose of establishing and protecting the route of the railway and securing sites for depots, stations and other works.

Clause 17, which deals with the Corporation's initial debt to the Government, is also important. It provides for the Corporation to reimburse the Government in respect of expenditure incurred by the Government in relation to the investigation, planning, construction and operation of the railway. This will include expenditure incurred on salaries and other administrative overheads involved in planning the railway, fees paid to the consulting engineers and various advisers, the salaries of staff being recruited for the Corporation, the cost of investigations, additional public works, the diversion of public utility apparatus, and some of the compensation arising from claims in relation to land. It is envisaged that, as the initial debt is determined, the Corporation will draw down various sums from the Mass Transit Fund to reimburse the Government. It is expected that the whole of this reimbursed expenditure will be carried by the Corporation in its balance sheets

[THE ATTORNEY GENERAL (ACTING)] **Mass Transit Railway (Corporation)**
Bill—second reading

under the title "preliminary expenditure". A note in the accounts will explain what proportion of this expenditure represents tangible assets.

The borrowing powers of the Corporation are set out in clause 11. The Corporation is to be able to charge its property as security for its borrowing and will also be empowered to create and issue bonds, notes and other securities,

It may be that at some stage a Government guarantee of part of the Corporation's borrowing will be necessary and for this reason clause 12 would authorize Your Excellency in Council to give such a guarantee in respect of any of the Corporation's debts. The provision in clause 12(2) that any sum required for fulfilling a guarantee should be charged on general revenue is important to both the Corporation and potential lenders. If the Government should be obliged to pay off a creditor of the Corporation pursuant to such a guarantee, the sum so paid plus interest would be payable by the Corporation to the Government and the Government would be entitled to the same security and priority in ranking as that creditor had.

The Corporation is of course to be required to keep proper accounts and records and have annual accounts prepared promptly and audited. Honourable Members will note that under clause 16(4) the Corporation must forward to the Financial Secretary each year a report on its affairs for the year, a copy of its accounts and the auditor's report. The Financial Secretary will lay these documents on the table of this Council.

Not surprisingly in a complex exercise of this kind, the bill establishing the Corporation necessarily contains a variety of general and transitional clauses. Some of these deserve a few words of explanation, the effect of clause 18 for example. This clause says that the Corporation is not the servant or agent of the Crown and does not enjoy any immunity or privilege of the Crown. Although the Corporation can in one sense be said to be an instrument of Government's transport policies it is not to be Government's agent in law. In law its position will be the same as that of other commercial bodies—it will be bound by legislation, its staff will not be public officers, it will be liable to pay taxes and so on.

Clause 21 disapplies or amends the application of certain laws which are not considered suitable to the circumstances of the Corporation.

Insofar as the Buildings Ordinance is concerned, clause 21(3) provides for the Building Authority to exempt any works, directly connected with the construction or operation of the railway, as he thinks fit. However, where the Corporation wishes to develop property for purposes other than constructing the railway, for example, constructing commercial buildings on station sites, the Buildings Ordinance will apply.

The disapplication of section 13 of the Summary Offences Ordinance, by clause 21(4) will enable works to be carried out at night. The contract documents will however provide for the restriction of certain types of piling to particular hours and the limitation of noise at every site to tolerable levels. These levels will be determined having regard to the general level of noise under normal conditions obtaining in the general location of each site.

Finally, there are in Part VI transitional provisions under which the Mass Transit Railway Provisional Authority Ordinance will be repealed and all the Authority's staff, assets, contracts, obligations and liabilities will be transferred to the Corporation. This will happen by operation of law immediately the bill is brought into operation.

As I mentioned earlier, it is intended that the bill will be brought into operation when the Provisional Authority has evaluated tenders and the Governor in Council is satisfied with the viability of the project. The bringing into operation of this law will mark a notable point in the development of the Government's hopes and plans for the radical expansion of Hong Kong's public transport system by the construction and operation of the mass transit railway, thereby relieving future road congestion.

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

Question put and agreed to.

MOCK AUCTIONS BILL 1975

THE ATTORNEY GENERAL (ACTING) moved the second reading of:—"A bill to prohibit certain practices relating to sales purporting to be sales by auction."

He said:—Sir, the purpose of the Mock Auctions Bill 1975 is to plug a small loophole in the criminal law which became apparent last

[THE ATTORNEY GENERAL (ACTING)] **Mock Auctions Bill—second reading**

year during certain police investigations resulting in an unsuccessful prosecution.

The bill now before Council is based on an English statute, the Mock Auctions Act 1961.

Under clause 3 of the bill it would be an offence for a person to promote or conduct a mock auction of any of the articles prescribed in the schedule. These include clothing, household appliances, electrical appliances, antiques, jewellery and ornaments.

An offence under clause 3 would be committed if a prescribed article were sold to a bidder at a purported auction—

either at a price lower than the amount of the highest bid—or

if part of the price paid by the bidder were subsequently refunded—or

if part of the purchase price were provided by the person conducting the auction.

It would also be an offence under clause 3 if—

the right to bid for a prescribed article was restricted to persons who had already bought articles at the auction—or

articles at the auction were given away or any lot in a container or wrapper is auctioned without the contents being disclosed.

Clause 4 of the bill supplements the criminal sanction by providing a civil remedy. A person who conducts a mock auction in contravention of clause 3 will be liable to pay compensation by way of damages to any purchaser who has suffered pecuniary loss as a result of his purchase.

There is one important qualification to the application of this bill. Clause 3(4) provides that if a sale is held by or for the purposes of any charity then the bill will not apply. The aim of the bill is to deter the confidence trickster; its enactment would not inhibit or restrict in any way the holding of mock auctions for charitable purposes.

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

Question put and agreed to.

PUBLIC ORDER (AMENDMENT) BILL 1975**Resumption of debate on second reading (20th March 1975)**

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 43(1).

SUMMARY OFFENCES (AMENDMENT) BILL 1975**Resumption of debate on second reading (20th March 1975)**

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 43(1).

CORONERS (AMENDMENT) BILL 1975**Resumption of debate on second reading (20th March 1975)**

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 43(1).

TRUSTEE (AMENDMENT) BILL 1975**Resumption of debate on second reading (20th March 1975)**

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 43(1).

**CHINA FLEET CLUB INCORPORATION (AMENDMENT)
BILL 1975**

Resumption of debate on second reading (20th March 1975)

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 43(1).

Committee stage of bills

Council went into Committee.

PUBLIC ORDER (AMENDMENT) BILL 1975

Clauses 1 and 2 were agreed to.

SUMMARY OFFENCES (AMENDMENT) BILL 1975

Clauses 1 to 3 were agreed to.

CORONERS (AMENDMENT) BILL 1975

Clauses 1 to 3 were agreed to.

TRUSTEE (AMENDMENT) BILL 1975

Clauses 1 to 7 were agreed to.

**CHINA FLEET CLUB INCORPORATION (AMENDMENT)
BILL 1975**

Clauses 1 and 2 were agreed to.

Council then resumed.

Third reading of bills

THE ATTORNEY GENERAL (ACTING) reported that the

Public Order (Amendment) Bill

Summary Offences (Amendment) Bill

Coroners (Amendment) Bill

Trustee (Amendment) Bill and the

China Fleet Club Incorporation (Amendment) Bill

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.

Suspension of sitting

HIS EXCELLENCY THE PRESIDENT: —In accordance with Standing Orders I now suspend the Council until 2.30 p.m. tomorrow afternoon when debate on the second reading of the Appropriation Bill will be resumed.

Suspended accordingly at a quarter past four o'clock.