

OFFICIAL REPORT OF PROCEEDINGS**Wednesday, 19th November 1975****The Council met at half past two o'clock****PRESENT**

HIS EXCELLENCY THE ACTING GOVERNOR (*PRESIDENT*)
SIR DENYS TUDOR EMIL ROBERTS, KBE, QC, JP
THE HONOURABLE THE FINANCIAL SECRETARY
MR CHARLES PHILIP HADDON-CAVE, CMG, JP
THE HONOURABLE THE ATTORNEY GENERAL
MR JOHN WILLIAM DIXON HOBLEY, QC, JP
THE HONOURABLE THE SECRETARY FOR HOME AFFAIRS
MR DENIS CAMPBELL BRAY, CVO, JP
THE HONOURABLE JAMES JEAVONS ROBSON, CBE, JP
SECRETARY FOR THE ENVIRONMENT
THE HONOURABLE IAN MACDONALD LIGHTBODY, CMG, JP
SECRETARY FOR HOUSING
THE HONOURABLE DAVID HAROLD JORDAN, CMG, MBE, JP
DIRECTOR OF COMMERCIAL 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 OSWALD VICTOR CHEUNG, OBE, QC, JP
THE HONOURABLE ROGERIO HYNDMAN LOBO, OBE, JP
THE HONOURABLE MRS CATHERINE JOYCE SYMONS, OBE, JP
THE HONOURABLE PETER GORDON WILLIAMS, OBE, JP
THE HONOURABLE JAMES WU MAN-HON, OBE, JP
THE HONOURABLE HILTON CHEONG-LEEN, OBE, JP
THE HONOURABLE LI FOOK-WO, 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 FRANCIS YUAN-HAO TIEN, OBE, JP
THE HONOURABLE ALEX WU SHU-SHIH, OBE, JP

ABSENT

DR THE HONOURABLE GERALD HUGH CHOA, CBE, JP
 DIRECTOR OF MEDICAL AND HEALTH SERVICES
 THE HONOURABLE LEE QUO-WEI, OBE, JP
 THE HONOURABLE LO TAK-SHING, 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>
Subsidiary Legislation:	
Legal Practitioners Ordinance. Solicitors (General) Costs (Amendment) Rules 1975.....	244
Companies (Amendment) (No 2) Ordinance 1975. Companies (Amendment) (No 2) Ordinance 1975 (Commencement) Notice 1975	245
Carriage by Air Acts (Application of Provisions) (Overseas Territories) Order 1967. Carriage by Air Acts (Application of Provisions) (Overseas Territories) (Hong Kong Dollar Equivalent) Order 1975	246
Carriage by Air (Overseas Territories) Order 1967. Carriage by Air (Overseas Territories) (Hong Kong Dollar Equivalents) Order 1975.....	247
Interpretation and General Clauses Ordinance. Specification of Public Office	248
Sessional Papers 1975-76:	
No 15—Annual Report of the Hong Kong Trade Development Council for the year ended 31st March 1975 (published on 19.11.75).	

No 16—Report of the Commission of Inquiry into the Hong Kong Telephone Company Ltd 1975 (published on 19.11.75).

Oral answers to questions

Antiquities and Monuments Ordinance

1. MR LOBO asked:—

Sir, when will the Antiquities and Monuments Ordinance, enacted by this Council on 1st December 1971, be brought into operation?

SECRETARY FOR HOME AFFAIRS:—Sir, one month after the fifth anniversary of the enactment of this ordinance by this Council, in fact, on 1st January 1976.

When I answered a question by Mr Wilson WANG in this Council on 19th June 1974, I said that we were being held up because we could not recruit a suitably qualified full-time executive secretary. I said we had an eye on a serving officer and had hoped to appoint him before he became an antiquity (*laughter*). Unfortunately, it was subsequently decided that his services were more urgently required in a new town than among the antiquities.

We still do not have the staff necessary to undertake any study of the buildings and places which might be declared as monuments under section 3 nor do I expect that such staff will be provided soon. But the ordinance goes further than providing for the preservation of monuments and it is worth bringing it into force to preserve to the Government the ownership of relics which may be discovered and to prohibit the excavation of antiquities except in accordance with a licence.

Regulations prescribing the form of licence for excavating and searching for antiquities have been drafted and will be submitted to the Governor in Council before the ordinance comes into force.

I am grateful to the honourable Member for raising this matter again for although we were moving in the right direction, he has encouraged us to move faster.

Oral answers**Legal aid—applications for**

2. Miss Ko asked:—

Sir, (a) will Government state what is the normal period of time required for processing an application for legal aid, and

(b) what is the current backlog of applications awaiting processing in the Legal Aid Department?

THE ATTORNEY GENERAL:—Sir, I assume that the question relates to legal aid in both civil and criminal cases.

In relation to legal aid in civil cases, the answer to the first part of the question is that the time normally required for the processing of an application for legal aid depends on the urgency of the case and the type of proceedings, a fairly obvious proposition. Where there is urgency, as is sometimes the case, for example, where workers seek to present bankruptcy or winding-up petitions against their employers, applications must be, and are, dealt with very speedily. Likewise, an application for legal aid to continue a pending action or to defend civil proceedings must be, and is, dealt with on an urgent basis, and a decision is usually taken within a month.

In non-urgent cases, the period for processing an application varies considerably, and it must be remembered that the Director of Legal Aid has a statutory duty to satisfy himself that an applicant has a reasonable case, whether as plaintiff or defendant. Inquiries to this end inevitably take time in some cases.

The normal period, Sir, for processing applications for legal aid in criminal cases is between two to six weeks and this depends on whether the application is for the purposes of a trial or an appeal and on the court of trial.

The answer to the second part of the question is that there is no "backlog" of "applications awaiting processing". I think, Sir, that the honourable Member is asking about the number of applications for legal aid now being processed. The answer is that at the 31st October this year, 5,745 applications for legal aid in civil cases were being processed and on the same day 102 applications for legal aid in criminal cases were under consideration.

Martial arts

3. MR JAMES WU asked:—

Sir, has Government decided whether there is any requirement for legislation to control martial arts bodies?

SECRETARY FOR SECURITY:—Sir, not yet, though it is the intention that this matter should be considered by Your Excellency in Council shortly.

Revenue from multi-storey car parks

4. MR ALEX WU asked:—

Sir, what is the present position on multi-storey car parks in respect of

- (a) revenue receipts as compared with last year; and
- (b) the average rate of occupancy in the period following the increase in car park fees?

SECRETARY FOR THE ENVIRONMENT:—Sir, as regards my honourable Friend's first question, the revenue receipts from multi-storey car parks were \$1.157 million in the month of September 1974, that is before the increase in parking charges, and \$1.150 million in the month of September 1975, that is after the increase which incidentally approximately doubled the charges. So the fall in receipts has been marginal.

As regards the second question, a "before and after" survey, carried out in the three months immediately after the increase in charges, introduced on 1st October 1974, indicates that the reduction in occupancy for all seven Government multi-storey car parks between the hours of 8 a.m. and 7 p.m. was 54%. As the car parks were at about capacity usage before the doubling of the charges, I think that it is true to say that the average occupancy now is about 50% of capacity between the hours of 8 a.m. and 7 p.m.

From my honourable Friend's interest in this matter I feel sure he would like to know that it is shortly hoped to publish a new scale of parking charges which will be graded according to the car parks, popularity. It is hoped that these new charges will result in better patronage of the car parks without, I hope, any loss in total revenue.

Oral answers**Metrication**

5. MR JAMES WU asked:—

Sir, will Government inform this Council of the progress made in the implementation of metrication?

MR McDONALD:—Sir, in a statement in this Council on 26th May 1971* the then Colonial Secretary announced that the Government had accepted certain of the recommendations of the Metrication Committee. In the first place, the Government decided firmly in principle to adopt the metric system in certain fields in which it had a direct responsibility, such as education, public works and legislation. Secondly, it decided that the Director of Public Works should start planning immediately to introduce metrication into public works and into the Buildings Ordinance.

The Colonial Secretary went on to say that these decisions did not mean that the Government was necessarily committed to metrication across the board, nor that the changeover should be implemented at the same time and at the same speed in all sectors. Furthermore, no compulsion would be put on the private sector to follow suit, although it was expected that large parts of the private sector would follow a Government lead and, indeed, much of industry already utilized the metric system in response to the demands of its overseas customers.

Following this statement of the Government's intentions, immediate steps were taken in the Public Works Department to plan the changeover to the metric system in all areas of the department's activities. In the first place, a full time Metrication Unit was established to work under a steering group consisting of representatives of all PWD offices, the University of Hong Kong, the Hong Kong Institute of Architects, the Building Contractors Association and the Colonial Secretariat, with the responsibility for planning, programming, co-ordinating and implementing metric working throughout the department. Secondly, a PWD target programme was conceived in three phases—induction and conversion, acquisition of data and equipment, and implementation. I can report that the target programme is being adhered to and the target dates are being met.

As from 1st June 1974 all new design projects in the architectural and engineering disciplines have been produced in metric terms and the calling of tenders has progressively moved in favour of metric contracts

* Hansard 1970-71 p. 642-644.

rather than imperial contracts. The preparation of maps in metric scales has been introduced and the sale of Crown land exclusively in metric terms will be conducted as from June 1976.

The Buildings Ordinance Office is about to issue Practice Notes and a Schedule of Metric Equivalents which will enable Authorized Persons to seek approval of plans and documents prepared on the prescribed metric system. Authorized persons will as from 1st January 1976 have the option of making submissions for approval in either imperial or metric terms, and it is intended that as from 1st January 1977 submissions in metric terms will be mandatory subject, of course, to the passage of appropriate legislation.

Our Metrication Officer has represented Hong Kong at two international conferences on the subject of metrication and upon each has prepared and submitted reports setting out guidelines for the planning, co-ordination and implementation of metrication on a community-wide scale. The Metrication Unit continues to liaise with overseas metricating countries such as the United Kingdom, Australia, New Zealand, Singapore and South Africa.

The services of the Public Works Department in matters of metrication have been made available to other Government departments and all requests from the private sector for advice on metric matters have been met.

A working party, including representatives of both Government and the private sector, is now engaged on translatory works relating to Government documents, and a very basic English/Chinese Glossary of SI Terminology together with the Chinese version of Metric Instructions has been made available for sale through the Government Information Services.

Turning now to education, metric units were introduced into the school syllabus initially, alongside other systems of measurement and, more recently, particular emphasis has been given to the metric system. SSE examinations have been conducted in metric terms since 1974. The Hong Kong Polytechnic, in particular, now runs its courses exclusively in SI Terminology.

The Royal Observatory also has completely metricated its work and other Government departments are working towards this end.

All this indicates that considerable progress has been made by Government departments in moving towards the adoption of the metric

[MR McDONALD] **Oral answers**

system. But I must confess that, in the community as a whole, the metric system is not being adopted as quickly as either the Government or the Metrication Committee had intended. The original intention had been that a full time metrication secretariat would be established to work in conjunction with the Metrication Committee. But, with the onset of the recession, it was felt that it might not be the best or the most prudent time to force the pace of conversion, since this might impose additional financial burdens on the business community and would certainly involve the Government in significant expense which it could ill afford in the present economic climate.

Nevertheless, further thought is now being given within the Government to the question of how best to proceed in present circumstances. A draft bill has been prepared to give legislative effect to the metric system, using SI units and to provide for the replacement of non-metric units in existing legislation. It is intended that the bill will be submitted to this Council as soon as a number of organizational and other issues have been resolved.

To conclude, Sir, significant progress has undoubtedly been made over the last three years in moving towards the metric system in a number of important fields of activity. And the Government intends to continue the process with deliberate caution. For it should not be forgotten that the process of metrication is bound to involve many people in changing lifelong ways of thinking as regards mensuration; and experience, for instance, in the United Kingdom has demonstrated that this cannot always be rapidly achieved.

Statement

Report of the Commission of Inquiry into the Hong Kong Telephone Company Ltd 1975

THE FINANCIAL SECRETARY:—Sir, the report of the Commission of Inquiry into the Hong Kong Telephone Company Limited has been laid on the table today and is now available in both English and Chinese for sale to the public. I shall with your permission, Sir, briefly trace the sequence of events leading to the appointment of the Commission before dealing with the substance of the recommendations made by the Commission.

Honourable Members will recall that, in August last year, the Telephone Company applied to the Government for increases in telephone rental charges amounting to some 70% and for increases in certain other charges. Following consideration of this application by the Government, I explained to this Council on 22nd January* this year that the company was undoubtedly facing a serious cash flow problem and that an increase in rental charges and other charges was inevitable if the continued expansion and efficiency of our telephone network was not to be impaired. But I added that the Government was not satisfied that an increase of the order of 70% in rental charges was required; and I announced that the Governor had decided to appoint a Commission of Inquiry into the affairs of the Telephone Company.

Immediate action was nevertheless required to safeguard and maintain the efficiency of the telephone service and the Government proposed an interim package which provided, among other measures, for an increase of approximately 30% in rental charges with effect from 1st March 1975. A resolution was made by this Council on 5th February† approving these increases, subject to the reservation that they should be provisional pending the outcome of the commission of inquiry. Other measures included in the interim package were the abolition of royalty for the years 1974 and 1975, a proposal that the board of the company should recommend to shareholders that no dividend payment should be made in respect of 1974 and by way of an interim dividend in 1975 and the appointment of a Government director to the board.

A six-member Commission of Inquiry was subsequently appointed on 21st February, with Sir Alastair BLAIR-KERR as Chairman. The Commission was required to examine the company's management and organization, its debt liabilities and its profitability; the causes of its cash flow problems; the financial implications of its expansion plans; and the adequacy, efficiency and quality of its services. Based on this examination, the Commission was further required to recommend what steps should be taken to render the company financially viable. Finally, the Commission was required to advise the Government on the measures necessary to ensure adequate public control over the operations of the company, having regard to its character as a private company providing, on a monopoly basis, a public utility service.

The Commission spent some six months on this complicated and onerous task and, before going any further, Sir, I must express the Government's deep appreciation of the way in which the Commissioners

* Hansard 1974-75 p. 364-367.

† Hansard 1974-75 p. 419-444.

[THE FINANCIAL SECRETARY] **Statement**

undertook their task. Their comprehensive and penetrating report of more than 900 pages stands as a tribute to their sense of public duty, diligence and thoroughness in dealing with a highly technical and complex range of issues.

The Commission conducted a series of hearings, both in public and in camera. Many private individuals, members of the Board and staff of the Telephone Company, Government officials and others who had been involved with the company's affairs, appeared before the Commission to give evidence. In addition, numerous written representations from people in all walks of life were received and considered by the Commission.

Sir, in its report the Commission has covered a great deal of ground relating to the Telephone Company: its history, its technical standards, its finances, its achievements and its failures; and the Commission also analyzed the company's relations with the Government generally, with various Government departments and with the Advisory Committee on Telephone Services. But I think that all the Commissioners would agree with me when I say that the most important chapters in their report are those which deal with the steps which should be taken in the future:

first, to render the company financially viable so that it cannot again find itself in a predicament similar to that which it has recently been facing; and

secondly, to ensure that it meets its obligations to the public as an enfranchised utility undertaking.

These steps are described in chapters 22 and 23 of the report.

I shall deal first, Sir, with the several steps the Commission considers necessary to secure the financial viability of the company in the immediate future. The decision to appoint the Commission stemmed largely from public disquiet over the need to increase rental charges a second time within twelve months. The Commission has pointed out, however, that, at 31st December 1974, the company's total debt liabilities to deferred creditors and banks was \$632 million and that, without the provisional increases in rental charges, this figure of debt liabilities would have needed to rise even higher. Because of this the Commission recommends that the provisional increases should be confirmed and the Government accepts this recommendation. But this will not, in itself, be sufficient to restore the company's financial

viability and so the Commission has laid considerable stress on the role the shareholders must play and have suggested that at least \$150 million should be raised from them at the earliest opportunity.

At the same time, the Commission recommends that the installation charge, now set at \$400, should be reduced to \$250 with a view to stimulating demand for telephone services, given the capacity presently available. Although it is not altogether certain whether demand will be significantly stimulated by a lower installation charge as such, as opposed to other economic and social factors, the Government is nevertheless prepared to accept this recommendation. But, in addition, the Government considers that the removal charge, now set at \$350, should be, at the same time, reduced to \$250. Otherwise, subscribers could simply not request removal, but terminate their existing subscription and apply for a new service at a new address. A motion to amend the Schedule to the Telephone Ordinance reducing both installation and removal charges to \$250 will be introduced into this Council shortly and the company will be asked to refund the excess charges to subscribers who have been given service on or after 1st March 1975.

The Commission has also recommended that payment of royalty by the company should cease henceforth and that a second Government director should be appointed to the board of the company to help safeguard the public interest. The Government accepts these recommendations and an amending bill to give effect to them will be introduced shortly.

One of the elements of the interim package was that no dividend should be paid by the company to shareholders in 1975 in respect of 1974 or by way of an interim dividend for 1975. It was subsequently realized that this would adversely affect the company's shares as trustee investments and this certainly was never intended. The Government agrees, therefore, with the Commission's recommendation that a nominal dividend should be paid during this calendar year in order to maintain the company's trustee status.

So much, Sir, for the immediate financial situation of the company. Before considering the Commission's view as to the longer term financial viability and needs of the company, I shall deal with the Commission's recommendations for the protection of the public interest. The key recommendation here is that the company should, in future, operate under a scheme of control. This would provide for a maximum permitted return and for the establishment of a reserve within the company's accounts called a development fund into which excess profits

[THE FINANCIAL SECRETARY] **Statement**

over the permitted return would be placed. The company would be required to pay interest on the balance in the development fund out of net profits. The Government accepts these recommendations.

Subject always to a monitoring procedure to which I shall refer in more detail in a moment, the Commission recommends that the excess profits retained in the company, and shown in the development fund, may be utilized to assist in the financing of capital expenditure and to maintain or reduce rental charges. The Commission has stressed, however, that there should be no automaticity as regards drawings on the development fund for any of these purposes: that is to say, before the company embarks upon capital expenditure, the capital expenditure programme itself must be agreed under the monitoring procedure. Likewise, any proposal to reduce rental charges must have regard to the company's longer term cash flow and profitability prospects, both of which would be monitored appropriately. And, certainly, any proposal to increase rental charges would need to be justified in its own right for the Commission has stressed that the onus will be on the company to *earn* its profits, for the company has no automatic right to its permitted rate of return. If an increase in rental charges were, at any time, justified to enable the company to reach its permitted return, then it would be for decision whether subscribers were called upon directly through an increase in rental charges, or indirectly by a transfer from the development fund. The decision taken, in any particular instance, would depend on the circumstances of the time.

The Commission, Sir, has made several recommendations relating to the actual form of the scheme of control. The Government accepts these and intends to discuss with the Telephone Company only the details of their implementation. To be more specific: the Commission recommends that the permitted return should be calculated as a percentage of shareholders' funds, to be defined as "total shareholders' capital at the end of the year including retained profits for the previous year but excluding retained profits for the current year". This represents, Sir, a departure from the base used previously by the company for calculating its return, which has been average capital employed (that is to say, the total of the funds available to the company for any purpose). It represents also a departure from the base which has been used for other schemes of control which have been introduced for utility companies in the past, that is to say, average net fixed assets which base the Commission, however, criticizes as not being conducive to efficiency. The Commission also feels that both these bases could

make external borrowings too attractive and, indeed, it is the very level of such external borrowings which has led to the company's cash flow problems. Accordingly, the Commission recommends that the permitted return should be based solely on shareholders' funds. The Commission also recommends that any profit made in 1975 in excess of the permitted return on shareholders' funds should be transferred *in toto* to the development fund, notwithstanding that the scheme of control will not be in existence during this year.

The Commission has recommended that the permitted rate of return on shareholders' funds, the rate of interest on the development fund and the level of rental charges should be reviewed every two years and that, meanwhile, to ensure that the Scheme of Control is effective, the company's financial activities in all aspects should be regularly monitored by the Government. For this purpose, the company should be required to supply to the Government regularly, profit and loss accounts, balance sheet projections, cash flow statements and its capital budget. Both these recommendations are also acceptable to the Government together with the related recommendation that the monitoring machinery available to the Economic Services Branch of the Colonial Secretariat should be strengthened; as it must be, in any case, as its responsibilities now extend to no fewer than eleven public utility companies. The Commission has also made reference to the strengthening of the technical staff of the Postmaster General so that monitoring of the rapidly developing technology in the field of telecommunications can be effective. This will also be done.

As I mentioned earlier, Sir, the Government proposes to discuss with the company the detailed implementation of a scheme of control embodying these principles, which would be incorporated in a suitable new piece of legislation. As part and parcel of their recommendations, the Commission suggests what the permitted rate of return on shareholders' funds should be, what the rate of interest on the development fund should be and what the desirable ratio of shareholders' funds to borrowed funds should be, together with a formula for determining an apportionment of excess profits above the permitted return between the company and the development fund. This formula is designed to provide an incentive to the company to earn profits over and above the permitted return. However, the exact figures to be inserted in the scheme of control have yet to be determined by the Government following further consideration of the Commission's recommendations and consultation with the company.

Turning now to the longer term financial needs of the company: as I have already said, the 30% increase in rental charges introduced on

[THE FINANCIAL SECRETARY] Statement

1st March this year will not, in itself, be sufficient to solve the longer term financial problems of the company. It is clear from the Commission's report that, notwithstanding fresh capital injections from shareholders, a further increase in rental charges for residential and business lines is likely to be needed within the next two or three years in order further to reduce the level of the company's cash indebtedness. Although the calculations made by the Commission appear to be reasonable, the Commission itself has recognized that it is too early, at this point in time, to be precise as to whether the increase of 15% in rental charges suggested by it will be required and, if so, precisely when. The exact level and timing of any increase that may prove to be necessary will become clearer later on, as the strengthened Government monitoring machinery is put into operation.

I should emphasize, Sir, that the Commission certainly does not suggest that subscribers should be asked to shoulder the whole burden of the company's future financing arrangements. Indeed, as I have already mentioned, it has recommended an immediate role for shareholders as well by way of an offer of convertible subordinated loan stock or a rights issue. I believe that the company does, in fact, intend to pursue the question of a rights issue when the market is sufficiently receptive. Moreover, the concept of the scheme of control, together with a development fund, is designed to protect the interests of the subscribers. It will ensure that excess profits are retained within the company to facilitate future expansion and to minimize future increases in rental charges.

In its report the Commission has also made a number of other recommendations which relate purely to internal matters concerning the Telephone Company itself. I do not intend to go into these in any detail except to say that some of them have already been, or are in the process of being, implemented. For example, the Board of Directors of the company has already prescribed the level of the General Manager's financial authority and a Public Relations Department has been set up. I am confident that the company will study the other recommendations made by the Commission which relate to its internal administration and policies, such as the appointment of executive directors to its board, with an open mind and with a view to their adoption where appropriate.

To conclude, Sir, after careful study of the Commission's report, the Government has accepted almost all the recommendations which

fall within its own purview. I share the confidence of the Commission that, as these recommendations are implemented, the Telephone Company will "quickly regain financial viability" and, in turn, the community will continue to benefit from having an efficient and cheap telephone service.

DR CHUNG:—Sir, in accordance with Standing Order 20(2), may I ask a question for the purpose of elucidation? My honourable Friend said that the Government accepts the several recommendations relating to the actual form of the scheme of control and intends to discuss with the Telephone Company only the details of their implementation. Does my honourable Friend imply that the Telephone Company must accept the scheme of control as proposed by the Commission in total without any modification, and that the details of implementation are related to timing and technicalities only?

HIS EXCELLENCY THE PRESIDENT:—Yes, Dr CHUNG, I allow the question.

THE FINANCIAL SECRETARY:—Yes, Sir.

Government business

Motion

"STAR" FERRY COMPANY (SERVICES) ORDINANCE

Resumption of debate on motion (5th November 1975)

DR CHUNG:—Your Excellency, I am a regular user of the "Star" ferries and according to the experience gained in my overseas travels I can say without fear of contradiction that the service provided by the "Star" Ferry Company is one of the best and cheapest in the world. The first class fare was 20 cents in 1946 and remained unchanged until 1966 when it was increased by 5 cents to the present-day fare of 25 cents. The second class fare has however remained unchanged at 10 cents for nearly 30 years since 1946. It is a remarkable record of achievement that the management of any public utility would be proud of.

Sir, whilst I support the proposed increase of fares as outlined by my honourable Friend, the Secretary for the Environment, in his speech

[DR CHUNG] **Motion**

a fortnight ago*, I would like to make a few observations. First, it is about the average annual profit for the projected five years 1974-1978 inclusive. My honourable Friend said that with the propose new fare structure and without any payment of royalty, estimated profits over the five years 1974-1978 would be less than \$800,000 *per annum*. My honourable Friend further said that this profit might be considered low when compared with the previous five years 1969-1973 when profits averaged \$1.4 million *per annum*.

Sir, I should like to say that in assessing the profitability of an enterprise we must relate profit with shareholders' investment, be it in the form of net fixed assets, or capital employed, or shareholders funds. A large company making \$8 million profit may find its profitability low whereas a small company having a profit of \$800,000 may already achieve a very high degree of profitability. I have no knowledge of the capital employed and shareholders funds for the "Star" Ferry Company. However, I do know that the average net fixed assets for the five years 1974-1978 amount to \$2.69 million. With the estimated profits of \$800,000 *per annum*, this would give a net return on average net fixed assets of almost 30% *per annum*, which is very high indeed by any standards.

My honourable Friend, the Secretary for the Environment, also said that the fixed assets of the Ferry Company were diminishing rapidly and without the need for further capital investment it was inappropriate to assess return based upon a percentage of fixed assets as this would limit the allowable profit to lower and lower levels hardly justifying the managerial effort required to run the company. Sir, with respect, I beg to differ in this view because we cannot mix up the return on shareholders investment with the return on managerial effort. These are two different issues. Return on shareholders investment is in the form of profit made for the shareholders whereas the return on managerial effort is in the form of job security, salaries and fringe benefits paid or awarded to the managerial staff.

When all the fixed assets of the Ferry Company have been written down and the investment of shareholders repaid, the so called shareholders can hardly claim that they still own the company. It would therefore be inappropriate and indeed illogical for the Government and the travelling public to allow the so called shareholders, who in fact have no investment at all in the company, to perpetuate their right for making profits year after year from the travelling public. It is a matter

of principle and I hope the Government will settle this matter fairly and justly before further fare increases are considered in the future.

With these observations, Sir, I support the resolution before Council.

MR CHEONG-LEEN:—Sir, I am a firm advocate of the spirit of free enterprise and of the view that Government should not directly control or operate a public utility wherever this is possible.

A specific case in point is the Star Ferry which is one of the most efficient in the world. I do not believe that the Government could do a better job than the present Star Ferry management, for the bureaucratic flavour would be all too overwhelming. However, I question whether Government has chosen the right time to introduce the fare increases as set out in the Appendix I.

There is as yet no genuine sign of an upswing in the world economy and I consider it premature for Government to implement now such increases, particularly since Hong Kong's economy is so highly export oriented. I quote from the Business News page of the *South China Morning Post* of November 17th:

"A new upswing of the economy still does not seem to be in sight in most West European countries and their foreign trade will decline more strongly than economists anticipated only a short time ago, the United Nations Economic Commission for Europe predicts.

It warns the current downturn follows a pattern that does not correspond to that of previous cyclic postwar recessions and said there was little sign of the trade recovery widely expected to start in the second half of this year.

Estimates of changes in trade have in fact once again been revised downward ..."

The effect of these fare changes now would be to increase the financial burden of white collar and lower income families, who represent I dare say over 80% of our population.

Granted that Government has a commitment to ensure that the public utilities receive a fair return on their capital investment. Granted too that Government has the responsibility to ensure that such utilities have the resources to continue operating efficiently in the public interest. But in the difficult and extraordinary economic conditions that all of

[MR CHEONG-LEEN] **Motion**

us are now experiencing, which is the more pressing need: the interest of the great majority of the people who are very much concerned with rising costs without rising income, or the immediate recognition of the claims for fair returns to public utilities which play a significant role in keeping living costs stable?

While all sections of the Hong Kong community have tightened their belts in order to survive the present difficult times, would it not be more appropriate for the public utilities to act in similar vein and be content with smaller returns now and to postpone temporarily any increase to such time as the economy shows a more definite upswing and movement forward?

I have no objection to the waiving of royalty for the years 1974 and 1975 and 1976, but I am not in favour of the proposed fare increases coming into effect from 1st December 1975. Instead I would prefer that such increases be introduced as of 1st July 1976, at which time the world economy and the Hong Kong economy could be regarded with a brighter and clearer degree of hope and anticipation.

I shall therefore abstain from voting on this resolution today.

SECRETARY FOR THE ENVIRONMENT:—Sir, I am most grateful to my honourable Friend Dr S. Y. CHUNG for his support of the resolution which stands in my name. I understand and share his concern which he has expressed for fairness to the public in setting the level of profits to be permitted by the "Star" Ferry Company. But I am sure he will agree that there must also be fairness to the company, and I think that it would be unreasonable not to allow profits to both reward managerial effort and risk-taking and not to allow shareholders a fair return on their investment.

Perhaps, Sir, all I need to say at this stage is that my honourable Friend's knowledge in these matters is widely recognized, his comments will be borne very much in mind during discussions which I will hold with the company regarding its profitability.

Question put and agreed to.

First reading of bills**COMPANIES (AMENDMENT) (NO 4) BILL 1975****POST OFFICE (AMENDMENT) BILL 1975****RATING (AMENDMENT) (NO 2) BILL 1975****SUPPLEMENTARY APPROPRIATION (1974-75) BILL 1975****ARBITRATION (AMENDMENT) BILL 1975****LANDLORD AND TENANT (CONSOLIDATION) (AMENDMENT) (NO 4) BILL
1975****UNIVERSITY OF HONG KONG (AMENDMENT) BILL 1975****EMPLOYMENT (AMENDMENT) (NO 2) 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**COMPANIES (AMENDMENT) (NO 2) BILL 1975**

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

He said:—Sir, over the past year or so it has become apparent that an increasing number of companies are adopting the practice of issuing shares at a small nominal amount but at a substantial premium. At the present time, there is no provision for payment of fees on the paid up capital of a company. The Eighth Schedule of the Companies Ordinance only provides for payment of *ad valorem* fees on the nominal capital of a company or on any increase in the nominal capital. Accordingly, the device adopted by certain companies, while perfectly legitimate, results in a loss of revenue.

The purpose of this bill is to eliminate this opportunity for avoiding the payment of fees on any increase in the nominal capital of companies and, under clause 5, new paragraphs are introduced into the Eighth Schedule of the principal ordinance to provide for the payment of *ad valorem* fees on premium paid or payable on the issue of a company's authorized share capital. The rate is the same as that payable on the nominal share capital or any increase in it. Clauses 2, 3 and 4 amend the requirements in the principal ordinance relating to returns of allotment and annual returns to enable the Registrar of Companies to identify cases in which the proposed fees are payable.

Companies (Amendment) (No 2) Bill—second reading

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

Question put and agreed to.

POST OFFICE (AMENDMENT) BILL 1975

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

He said:—Sir, the Universal Postal Union decided last year to alter the basis of charging for the handling of unpaid or underpaid international mail with effect from 1st January 1976. The bill retains the principle of the surcharge but leaves the actual amount to be prescribed by regulations as it is not considered necessary to have such details written into the principal ordinance. Honourable Members may wish to know, however, that the surcharge for unpaid or underpaid international mail is intended to be fixed at \$1 plus the deficiency compared with double the deficiency as at present. The proposed new surcharge is slightly below the maximum limit specified by the UPU. The surcharge for local mail will remain unchanged for the present, that is to say, double the postage or double the deficiency as the case may be.

Perhaps I should add that if Hong Kong is to fulfil its international obligations, this bill will need to be enacted before the end of this year and in advance of the Post Office Bill 1975 which was introduced into this Council as long ago as 5th February and which honourable Members are still considering (*laughter*).

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

Question put and agreed to.

RATING (AMENDMENT) (NO 2) BILL 1975

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

He said:—Sir, the main purpose of the bill is to exempt agricultural dwellings in the New Territories, and village houses situated within such areas in the New Territories as may be designated by Your Excellency, from assessment to rates. When a form of rating was applied to the New Territories in 1937, specific provision was made for exempting small village houses by means of a minimum assessed value. It was not, however, possible to continue with such a system when rating on urban principles was introduced into the New Territories in 1956 covering the Tsuen Wan district without, at the same time, exempting many residential and commercial properties which it was never intended to exempt. Nevertheless, in keeping with assurances given, small village dwellings have not been brought into assessment. With the change in pattern of development in the New Territories and the progressive bringing into assessment to rates of more areas of the New Territories, it is considered by the Government necessary to put these exemptions onto a proper footing.

The proposals now put forward in the bill before Council generally meet the assurances given in the past on exempting small village dwellings from assessment to rates. The proposals follow fairly closely the Buildings Ordinance (Application to the New Territories) Regulations which provide for the exemption of small houses in the New Territories from various provisions of the Buildings Ordinance. They should, therefore, be readily understood by New Territories residents.

The bill also amends the provision relating to the valuation of tenement in a newly specified rating area. Where new valuations lists are being prepared for existing rating areas, the level of values assessed in any newly specified area is to be at that level and not at the level of the old lists. This change will provide for all the values assessed in respect of all the lists to relate to the same point in time; it still accords of course with the established "tone of the list" principles.

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

Question put and agreed to.

SUPPLEMENTARY APPROPRIATION (1974-75) BILL 1975

THE FINANCIAL SECRETARY moved the second reading of:—"A bill to authorize a supplementary appropriation to defray the charges of the financial year ended the 31st day of March 1975."

[THE FINANCIAL SECRETARY] **Supplementary Appropriation (1974-75) Bill — second reading**

He said:—Sir, this bill seeks to give final legislative authority to the supplementary expenditure authorized by resolutions of this Council, and is the last stage in disposing of expenditure incurred during the financial year 1974-75.

The original estimates were given legislative form in the Appropriation Ordinance 1974, which authorized a specific sum under each head of expenditure. It is necessary now to legislate further in respect of those heads of expenditure where the net effect of supplementary provision and of underspending has resulted in an excess over the original sum authorized against those particular heads in the Appropriation Ordinance 1974. The total supplementary expenditure requiring this further legislative authority is over \$723 million under 53 heads. This supplementary expenditure is partially offset by savings of \$215 million under other heads. These figures imply rather less additional spending and rather more savings than I expected when I forecast final expenditure for 1974-75 in paragraphs 24 and 25 of my budget speech* where I also set out the main reasons for the net increase in expenditure.

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

Question put and agreed to.

ARBITRATION (AMENDMENT) BILL 1975

THE ATTORNEY GENERAL moved the second reading of:—"A bill to amend the Arbitration Ordinance to give effect to the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards."

He said:—Sir, the purpose of the bill is to enable the New York Convention on the Recognition of Foreign Arbitral Awards to be extended to Hong Kong. That convention requires that provision be made for the recognition and enforcement in a country to which it is extended of an arbitral award made in another convention country.

The bill follows the English Arbitration Act 1975, which was itself passed so that the United Kingdom might accede to that convention, with minor modifications to meet local circumstances.

* Hansard 1974-75 p. 473.

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

Question put and agreed to.

**LANDLORD AND TENANT (CONSOLIDATION) (AMENDMENT)
(NO 4) BILL 1975**

SECRETARY FOR HOUSING moved the second reading of:—"A bill to amend the Landlord and Tenant (Consolidation) Ordinance."

He said:—Sir, this piece of legislation has more significance than its slim outlines would suggest, in that it provides for an increase in permitted rents for pre-war properties for the first time in over 20 years. These increases, to take effect not earlier than next January, will affect business as well as domestic tenancies but the amount of increase is modest and should be acceptable to those tenants who have for many years enjoyed a highly privileged rental situation. This is particularly true of tenants of pre-war business premises, whose selling prices for their goods ensure that the benefit of their low rents remains with the tenants, and is not passed on to the customers. It is a basic principle of our legislation for regulating rents in post-war premises that rents for business tenancies should not be protected, and the sooner we remove this anomaly for pre-war premises, the better. Present permitted rents can be as little as one-fifteenth of the fair market rent. Meantime, this increase of 40% in the permitted rents for pre-war business premises will have a much milder effect than would appear because average rents actually passing are often significantly higher than the permitted rent; so that the increase for pre-war business tenancies will range from nil to 40%, depending on the level of the current rent actually paid. The average permitted increase for a ground floor shop might be of the order of \$74, whereas the estimated fair average market rent is likely to be around \$1,600. The increase is to be permitted only where the current rent is less than the new permitted rent.

For domestic tenancies in pre-war buildings the permitted rent will increase by about 32% and here, too, the increase will range from this percentage down to nil. Taking a typical domestic tenement floor with a present monthly rent of \$70, the permitted monthly rent increase would be a modest \$22.50. This produces a new monthly rent of \$92.50, for premises with a fair market rent of about \$570 a month. Here, too, a tenant already paying as much as or more than the new level of permitted rent will not have to pay the increased rent. A

[SECRETARY FOR HOUSING] **Landlord and Tenant (Consolidation) (Amendment) (No 4) Bill—second reading**

landlord will be required to get a copy of his notice of increase endorsed by the Commissioner of Rating and Valuation before the increase can be enforced. The Commissioner will take particular pains to ensure that pre-war tenants fully understand what is involved, for their own protection.

The rest of this bill is more routine in character, and mainly concerns post-war premises. Clause 17 amends the rent-increase factor from 5 to 4 to maintain the steady forward move to reduce the gap between present regulated rents and fair market rents. Today, many controlled rents for pre-1970 tenancies are still less than half fair market rents, while those for post-1970 tenancies brought under control in December 1973 are on average only 65% of fair market rents. However, for premises with a rateable value below \$30,000 *per annum*, any increase due will continue to be subject to the overriding limit of 21% of the present rent and, of course, a period of two years must have elapsed before a landlord can obtain a further increase under the ordinance.

The bill also removes protection from post-war tenancies created by long leases, and tenancies entered into by corporations, companies and foreign or Commonwealth governments. In the disorderly market conditions obtaining in 1973 it was felt necessary to protect such lettings but the time has now come to leave these tenants to look after their own interests in today's more settled conditions, when substantial numbers of premises are empty and rent levels are much more stable. This protection will therefore be withdrawn after the 31st December, although such tenants will be entitled to the six months' notice of termination required by Part V of the ordinance.

A further change proposed in this bill is for rent increases where the landlord of post-war premises spends \$50,000 or more on improvements, other than decoration, maintenance or repairs. In such cases the rent can be increased by 20% *per annum* of the amount spent. Such a provision exists in Part I of the ordinance for pre-war premises, but the 12% rent increase allowed in that part has failed to stimulate landlords in this direction.

For the rest, the proposals in the bill are adequately set out in the explanatory memorandum to the bill.

Motion made. That the debate on the second reading of the bill be adjourned—
SECRETARY FOR HOUSING.

Question put and agreed to.

UNIVERSITY OF HONG KONG (AMENDMENT) BILL 1975

SECRETARY FOR SOCIAL SERVICES moved the second reading of:—"A bill to amend the University of Hong Kong Ordinance."

He said:—Sir, the object of this bill is to reorganize the senior administrative structure at the University of Hong Kong.

The expansion of the university in recent years has resulted in an increased amount of detailed work in the day to day administration of the university falling personally upon the Vice-Chancellor. The main contributory factor to this state of affairs, over and above the steady growth of the university, is that four principal administrative officers, namely the Registrar, the Secretary to the Council, the Bursar and the Estates Officer, all report directly to the Vice-Chancellor. In order to remedy this situation the Vice-Chancellor presented to the University Council in August 1974 recommendations for the re-organization of the administrative structure. The council has advised that the administration should be divided into two main spheres: one under the Registrar and the other under a new post of Secretary.

Motion made. That the debate on the second reading of the bill be adjourned—
SECRETARY FOR SOCIAL SERVICES.

Question put and agreed to.

EMPLOYMENT (AMENDMENT) (NO 2) BILL 1975

MR PRICE moved the second reading of:—"A bill to amend the Employment Ordinance."

He said:—Sir, a recent court case revealed that section 57(a) of the Employment Ordinance does not give effect to the original intention that an employment agency should not be able to charge a job-seeker for any expenses over and above the fees and commission prescribed by the Employment Agency Regulations. The proposed amendment merely clarifies the law in this respect and in no way affects the right of an employment agency to recoup agreed expenses from potential employers.

Employment (Amendment) (No 2) Bill—second reading

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

Question put and agreed to.

PENSIONS (INCREASE) BILL 1975**Resumption of debate on second reading (5th November 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).

INLAND REVENUE (AMENDMENT) (NO 6) BILL 1975**Resumption of debate on second reading (5th November 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).

PEAK TRAMWAY (AMENDMENT) BILL 1975**Resumption of debate on second reading (5th November 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).

TRAMWAY (AMENDMENT) BILL 1975**Resumption of debate on second reading (5th November 1975)**

Question proposed.

DR CHUNG:—Your Excellency, when I spoke during the debate on the last increase of tram fares in June 1972* I proposed, among other things, that the Government should abolish altogether the royalty payments and that the Tramway Company should establish a "profit equalization fund" for the regulation of its profits. I was therefore very pleased indeed to hear from my honourable Friend, the Secretary for the Environment, two weeks ago when he introduced to this Council the Tramway (Amendment) Bill 1975, that the Government is finally acting on my advice (*laughter*).

One of the two objectives of the bill is to seek the approval of this Council to repeal, with retrospective effect from 1st January 1974, section 49 of the principal ordinance to pay any royalty to Government so that the Tramway Company will in future not be required to pay any royalty to Government for the operation of the tramways. Naturally, I support this amendment of the principal ordinance.

We were also informed by the Secretary for Environment that the Tramway Company has agreed to the establishment of a profit equalization fund for the regulation of its profits so that the company would not in any financial year take profits in excess of 15% of its average net fixed assets for that particular year. Through the operation of this profit equalization fund coupled with the abolition of royalty, the interval between fare increases can be significantly prolonged. Take the present case in point as an example. Had there been no changes at all, another fare increase would probably be necessary early in 1978 if the company is to maintain its profit of 15% on net fixed assets. The abolition of royalty and the establishment of a profit equalization fund would likely be able to delay the next fare increase to about mid-1980.

The other objective of this bill is to seek the support of this Council for an increase of tram fares from 20 to 30 cents as from 1st December 1975. Although no one really welcomes inflation, nevertheless, in the light of rising costs particularly of petroleum products and electrical power, I believe there is a case for this increase.

However, in supporting this fare increase, I would like to make two points. First, the Hong Kong Tramways Limited since early in

* Hansard 1971-72 p. 864-868.

[DR CHUNG] **Tramway (Amendment) Bill—resumption of debate on second reading (5.11.75)**

1974 ceased to be a direct public company and is now a subsidiary of the Hong Kong and Kowloon Wharf and Godown Company Limited. Their financial statements are no longer available to the general public although the Government, I presume, can have access to their accounts, if required. As the company is now virtually guaranteed with a profit after tax of 15% on net fixed assets, it is essential, in my opinion, that the Government should regularly and frequently monitor both the company's operating efficiency and financial position. To achieve this aim, I suggest that the Government should consider the appointment of one or two appropriate Government officials to the Tramway Company's Board of Directors, as it does on the two bus companies.

The other point is about the company's net fixed assets on which the profitability of the company is assessed. More than \$22 million or two-thirds of the total fixed assets of the company are in its holdings of land at the Russell Street depot situated at the commercial and residential area of Happy Valley. This piece of land was revalued in 1965 and the Government has apparently accepted the principle of revaluation of fixed assets. With this precedent there is a likelihood that the company will again further revalue its land holdings in the light of rising land prices since 1965. When this happens the net fixed assets of the company could be doubled overnight and consequently there could be another submission from the company for further fare increases in order to bring its return or profit on net fixed assets to the permitted level of 15%.

I recognize that there is no easy solution to this problem. However, I am sure one day the company will ultimately develop or sell this valuable piece of land and when that day comes I hope the Government will be able to provide a parcel of inexpensive land under restrictive use at the extreme east end of the tramway (that is, far out from the urban area) for the company to re-site its depot there. This move, I am sure, will be beneficial to and hence should be welcome by both the company and the travelling public.

With these remarks, Sir, I support the motion.

MR CHEONG-LEEN:—Sir, for the broader reasons in regard to the state of our economy and the public concern over stable living costs that I have already stated earlier on this afternoon, I would have preferred

that the increase in the authorized fare from 20 to 30 cents be introduced on July 1st, 1976 and not on December 1st, 1975.

I think my point of view is not an unreasonable one, particularly since I am prepared to accept Government's proposal to waive all royalties for 1974 and 1975. This would bring the company's rate of return for each of these years to 13.24% and 10.73% respectively, assuming there is no increase on December 1st, 1975.

There should be no great hardship if the proposed fare increase from 20 to 30 cents were to be delayed until July 1st, 1976, especially since on Government's present proposal to introduce the increase as from December 1st, 1975, the company's rate of return for 1976 is expected to be 32.11%.

Therefore, since I believe that the proposed increase could have commenced from July 1st, 1976 and not from December 1st, 1975, I shall abstain from voting on this bill.

SECRETARY FOR THE ENVIRONMENT:—Sir, I am most grateful to my honourable Member Dr S. Y. CHUNG for his support of the bill.

I have taken note of the two points, he made, namely, the appointment of Government officials to the Tramway Company's Board of Directors and the basis for placing a value on fixed assets employed. Consideration will be given to both points in the forthcoming discussions to be conducted between the Tramway Company and the Government. Whilst I share my honourable Friend's recognition that there will be no easy solution to the problem of asset valuation, I am confident that a mutually satisfactory agreement can be reached between the Government and the company.

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.

PENSIONS (INCREASE) BILL 1975

Clauses 1 to 7 and the First and Second Schedules were agreed to.

INLAND REVENUE (AMENDMENT) (NO 6) BILL 1975

Clause 1

THE FINANCIAL SECRETARY:—Sir, I move that clause 1 be amended as set out in the paper before honourable Members.

*Proposed amendment**Clause*

- 1 That clause 1 be amended in subclause (2) by deleting "6 and 7" and substituting the following—
"6, 6A, 6B and 7".

The amendment was agreed to.

Clause 1, as amended, was agreed to.

Clauses 2 to 7 were agreed to.

New clauses 6A "Amendment of section 9." and
6B "Amendment of section 16."

Clauses read the first time and ordered to be set down for second reading pursuant to Standing Order 46(6).

THE FINANCIAL SECRETARY:—Sir, in accordance with Standing Order 46(6), I move that new clauses 6A and 6B as set out in the paper before honourable Members be read a second time.

Question put and agreed to.

Clauses 6A and 6B read the second time.

THE FINANCIAL SECRETARY:—Sir, I move that clauses 6A and 6B be added to the bill.

Proposed addition

New 6A and 6B That the following new clauses be added after clause 6—

"Amendment of section 9. **6A.** Section 9(2) of the principal ordinance is amended in paragraph (b) of the proviso by deleting "the rateable value arrived at in accordance with section 5" and substituting the following—

"the assessable value ascertained in accordance with section 5A".

Amendment of section 16. **6B.** Section 16(1)(b) of the principal ordinance is amended—

(a) by deleting "the rateable value of the land or buildings as determined under the Rating Ordinance:" and substituting the following—

"the assessable value of the land or buildings as ascertained in accordance with section 5A."; and

(b) by deleting the proviso."

The addition of the new clauses was agreed to.

PEAK TRAMWAY (AMENDMENT) BILL 1975

Clauses 1 to 3 were agreed to.

TRAMWAY (AMENDMENT) BILL 1975

Clauses 1 to 3 were agreed to.

SMALL CLAIMS TRIBUNAL BILL 1975

Clauses 1 to 3 were agreed to.

Clause 4

THE ATTORNEY GENERAL:—Sir, I move that clause 4 be amended as set out in the paper before honourable Members.

[THE ATTORNEY GENERAL] **Small Claims Tribunal Bill— committee stage**

As subclause (2) stands barristers would not be eligible for appointment as adjudicators in the tribunal unless they have been admitted to practice in Hong Kong under the Legal Practitioners Ordinance. This was not intended. Members of the public service who are to be eligible for appointment are not always eligible for or do not seek admission in Hong Kong under that ordinance.

*Proposed amendment**Clause*

4 That clause 4 be amended by deleting subclause (2) and substituting the following—

"(2) No person shall be appointed to be an adjudicator unless he is qualified to practise as a barrister, solicitor or advocate in a court in Hong Kong, England, Scotland, Northern Ireland, or some other part of the Commonwealth, or the Republic of Ireland, having unlimited jurisdiction either in civil or criminal matters.";

The amendment was agreed to.

Clause 4, as amended, was agreed to.

Clause 5

THE ATTORNEY GENERAL:—Sir, I move that clause 5 be amended as set out in the paper.

This amendment makes it clear that the tribunal's jurisdiction extends to claims arising before the bill, if passed, is brought into operation.

*Proposed amendment**Clause*

5 That clause 5 be amended by inserting after subclause (3) the following—

(Cap. 347.) "(4) Subject to the Limitation Ordinance, the jurisdiction of the tribunal shall extend to a claim which arose before the commencement of this ordinance.";

The amendment was agreed to.

Clause 5, as amended, was agreed to.

Clauses 6 to 18 were agreed to.

Clause 19

THE ATTORNEY GENERAL:—Sir, I move that clause 19 be amended as set out in the paper.

Proposed amendments

Clause

19 That clause 19 be amended—

(a) in subclause (1)(b) by deleting "company" wherever it occurs and substituting in each case the following—

"corporation"; and

(b) by deleting subclause (2) and substituting the following—

"(2) No barrister or solicitor, including a barrister or solicitor who is a public officer whether or not qualified to practise in a court in Hong Kong, shall have a right of audience before the tribunal unless he is acting on his own behalf as a claimant or defendant.";

The amendments were agreed to.

Clause 19, as amended, was agreed to.

Clauses 20 to 38 were agreed to.

New clause 37A "Application to Crown."

Clause read the first time and ordered to be set down for second reading pursuant to Standing Order 46(6).

THE ATTORNEY GENERAL:—Sir, in accordance with Standing Order 46(6), I move that new clause 37A as set out in the paper before honourable Members be read a second time. This amendment provides specifically that the bill binds the Crown which was always intended.

Small Claims Tribunal Bill—committee stage

Question put and agreed to.

Clause read the second time.

THE ATTORNEY GENERAL:—Sir, I move that new clause 37A be added to the bill.

Proposed addition

New clause 37A. That there be added after clause 37 the following new clause—

"Application to Crown. **37A.** This ordinance binds the Crown."

The addition of the new clause 37A was agreed to.

New clause 37B "Duration of Ordinance."

Clause read the first time and ordered to be set down for second reading pursuant to Standing Order 46(6).

Mr. CHEUNG:—Sir, in accordance with Standing Order 46(6), I move that new clause 37B as set out in the paper before honourable Members be read a second time.

The effect of the amendment, Sir, to use the same words you used on another occasion about the labour tribunal, is to give a sufficiently long period for us to be able to judge whether this experiment has been worthwhile, and should be continued, or whether it has not been a success and the ordinance should be allowed to lapse.

I am gratified that I have the support of all honourable Members.

I delay Members a little longer only because I wish emphatically to say that when I intimated a fortnight ago that I would introduce this new clause, I was not prompted by any thought that the Small Claims Tribunal might become an instrument for oppressing the poor or the weak.

In the course of his speech during the debate on the second reading, the honourable Hilton CHEONG-LEEN said "it has been suggested that the Small Claims Tribunal could all too easily become, in the eyes of

the small man, just another tool for Government agencies and business companies to extract every cent that is due from the lower income sections of the community."

Who made the suggestion I do not know, because the honourable Member used the passive voice. I can only feel sure that the suggestion is not the honourable Member's own.

Nevertheless I think this Council is indebted to the honourable Member for bringing such a suggestion to light, for it shows that there are elements in our community who are prepared to impute sinister and, indeed, monstrous, motives to this Council. To be as charitable as possible, the least I can say of it is that the suggestion must have been based on a complete misunderstanding of the purpose for which the tribunal is being set up: which, namely, is to facilitate the enforcement of claims that persons of modest means wish to pursue in a lawful, peaceful, effective, and a more economical way.

As Mr CHEONG-LEEN has been away from Hong Kong I have not been able to consult him over the text of what I have said, but my other Unofficial colleagues have asked me to say, on their behalf, that the thought that this new tribunal would be, or would become, an instrument of oppression, never crossed their minds, and also to say that, having now had the opportunity of seriously and thoroughly considering the honourable Member's speech, they forcefully reiterate their belief that the new tribunal would be nothing of the kind.

Question put and agreed to.

Clause read the second time.

MR CHEUNG:—Sir, I move that new clause 37B be added to the bill.

Proposed addition

New 37B That the following new clause be added after clause 37A—
"Duration **37B.** This ordinance shall expire at the end of 3 years
of from the commencement of the ordinance, unless continued in
Ordinance. force by a resolution of the Legislative Council."

The addition of the new clause 37B was agreed to.

First and Second Schedules were agreed to.

Council then resumed.

Third reading of bills

THE ATTORNEY GENERAL reported that the

Pensions (Increase) Bill the

Peak Tramway (Amendment) Bill and the

Tramway (Amendment) Bill

had passed through Committee without amendment and that the

Inland Revenue (Amendment) (No 6) Bill and the

Small Claims Tribunal Bill

had passed through Committee with 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.

Unofficial Member's bill

First reading of bill

THE HONG KONG INSTITUTION OF ENGINEERS 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 bill

THE HONG KONG INSTITUTION OF ENGINEERS BILL 1975

DR CHUNG moved the second reading of:—"A bill to provide for the establishment of the Hong Kong Institution of Engineers and for matters connected therewith."

He said:—Your Excellency, in 1974 the professional engineers in Hong Kong established the Engineering Society of Hong Kong with objects to promote the general advancement of engineering science and practice and to encourage collaboration amongst members of the engineering profession. In 1971, the Engineering Society amalgamated with the only other major body of professional engineers in Hong Kong, namely, the Hong Kong Joint Group of the Institution of Civil Engineers, the Institution of Mechanical Engineers and the Institution

of Electrical Engineers of the United Kingdom. At the end of the 1974-75 session, that is, May 1975, the total membership of the Engineering Society stood at 1,635 and embraced practically all branches of engineering and technology.

With the encouragement of the three major institutions of engineers in the UK, the Engineering Society considers that the time has come for it to become a body by statute so that it will achieve its objects as set out in clause 4 of the bill more effectively. After incorporation, it is the intention of the institution to admit to corporate members and hence professional engineers status, without reference to any overseas authority, candidates educated and trained in Hong Kong provided they have followed the approved courses and achieved the required standards in academic studies, practical training and industrial experience. In the light of the rapid expansion of technical education in Hong Kong, I am sure honourable Members will welcome the introduction of this bill.

Sir, I do not wish to repeat the explanations as given in the attached memorandum for the various clauses of the bill. However, I would like to mention that the bill was drafted in a most simplified form and with the greatest flexibility in order to enable the institution to meet the changing needs and circumstances in the future without bothering too often honourable Members of this Council.

Motion made. That the debate on the second reading of the bill be adjourned—DR CHUNG.

Question put and agreed to.

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 3rd of December.

Adjourned accordingly at four o'clock.

Price: \$16.00
Code No.: G412075

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