

OFFICIAL REPORT OF PROCEEDINGS**Wednesday, 6 June 1979****The Council met at half past two o'clock****PRESENT**

HIS EXCELLENCY THE GOVERNOR (*PRESIDENT*)
SIR CRAWFORD MURRAY MACLEHOSE, GBE, KCMG, KCVO

THE HONOURABLE THE CHIEF SECRETARY
SIR JACK CATER, KBE, JP

THE HONOURABLE THE FINANCIAL SECRETARY
MR CHARLES PHILIP HADDON-CAVE, CMG, JP

THE HONOURABLE THE ATTORNEY GENERAL
MR JOHN CALVERT GRIFFITHS, QC

THE HONOURABLE THE SECRETARY FOR HOME AFFAIRS
MR LI FOKK-KOW, CMG, JP

THE HONOURABLE DAVID HAROLD JORDAN, CMG, MBE, JP
DIRECTOR OF TRADE, INDUSTRY AND CUSTOMS

THE HONOURABLE DAVID AKERS-JONES, CMG, JP
SECRETARY FOR THE NEW TERRITORIES

THE HONOURABLE LEWIS MERVYN DAVIES, CMG, OBE, JP
SECRETARY FOR SECURITY

THE HONOURABLE KENNETH WALLIS JOSEPH TOPLEY, CMG, JP
DIRECTOR OF EDUCATION

THE HONOURABLE DAVID GREGORY JEAFFRESON, JP
SECRETARY FOR ECONOMIC SERVICES

THE HONOURABLE EDWARD HEWITT NICHOLS, OBE, JP
DIRECTOR OF AGRICULTURE AND FISHERIES

THE HONOURABLE THOMAS LEE CHUN-YON, CBE, JP
DIRECTOR OF SOCIAL WELFARE

THE HONOURABLE DEREK JOHN CLAREMONT JONES, CMG, JP
SECRETARY FOR THE ENVIRONMENT

DR THE HONOURABLE THONG KAH-LEONG, JP
DIRECTOR OF MEDICAL AND HEALTH SERVICES

THE HONOURABLE ERIC PETER HO, JP
SECRETARY FOR SOCIAL SERVICES

THE HONOURABLE JOHN MARTIN ROWLANDS, JP
SECRETARY FOR THE CIVIL SERVICE

THE HONOURABLE JAMES NEIL HENOERSON, JP
COMMISSIONER FOR LABOUR

THE HONOURABLE GERALD PAUL NAZARETH, OBE
LAW DRAFTSMAN

THE HONOURABLE WILLIAM COLLINS BELL, OBE, JP
DIRECTOR OF PUBLIC WORKS (*Acting*)

THE HONOURABLE DONALD LIAO POON-HUAI, OBE, JP
SECRETARY FOR HOUSING (*Acting*)

THE HONOURABLE OSWALD VICTOR CHEUNG, CBE, QC, JP

THE HONOURABLE HILTON CHEONG-LEEN, OBE, JP

THE HONOURABLE LI FOOK-WO, CBE, JP

DR THE HONOURABLE HARRY FANG SIN-YANG, OBE, JP

THE HONOURABLE LO TAK-SHING, OBE, JP

THE HONOURABLE FRANCIS YUAN-HAO TIEN, OBE, JP

THE HONOURABLE ALEX WU SHU-CHIH, OBE, JP

THE REV. THE HONOURABLE JOYCE MARY BENNETT, OBE, JP

THE HONOURABLE CHEN SHOU-LUM, OBE, JP

THE HONOURABLE LYDIA DUNN, OBE, JP

DR THE HONOURABLE HENRY HU HUNG-LICK, OBE, JP

THE HONOURABLE LEUNG TAT-SHING, JP

THE REV. THE HONOURABLE PATRICK TERENCE McGOVERN, OBE, SJ, JP

THE HONOURABLE PETER C. WONG, JP

THE HONOURABLE WONG LAM, OBE, JP

DR THE HONOURABLE RAYSON LISUNG HUANG, CBE, JP

THE HONOURABLE CHARLES YEUNG SIU-CHO, JP

DR THE HONOURABLE HO KAM-FAI

THE HONOURABLE ALLEN LEE PENG-FEI

THE HONOURABLE DAVID KENNEDY NEWBIGGING, JP

THE HONOURABLE ANDREW SO KWOK-WING

ABSENT

THE HONOURABLE JOHN CHARLES CREASEY WALDEN, JP
DIRECTOR OF HOME AFFAIRS

THE HONOURABLE ROGERIO HYNDMAN LOBO, CBE, JP

THE HONOURABLE JAMES WU MAN-HON, OBE, JP

THE HONOURABLE JOHN HENRY BREMRIDGE, OBE, JP

IN ATTENDANCE

THE CLERK TO THE LEGISLATIVE COUNCIL
MR STEPHEN TAM SHU-PUI

HIS EXCELLENCY THE PRESIDENT:—I should like to welcome the new Attorney General to this Council.

Papers

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

<i>Subject</i>	<i>LN No</i>
Subsidiary Legislation:	
Evidence Ordinance.	
Evidence (Authorized Persons) (No 5) Order 1979	132
Evidence Ordinance.	
Evidence (Authorized Persons) (No 6) Order 1979	133
Public Health and Urban Services Ordinance.	
Hawker (Permitted Place) (No 3) Declaration 1979	134
Buildings Ordinance.	
Building (Administration) (Amendment) Regulations 1979	135
Immigration Ordinance.	
Immigration (Places of Detention) (Amendment) (No 10) Order 1979 ...	136
Country Parks Ordinance.	
Kiu Tsui and Plover Cove (Extension) Country Parks (Designation) Order 1979.....	137
Road Traffic (Protective Equipment) Regulations.	
Road Traffic (Protective Equipment) (Amendment of Schedule) (No 2) Order 1979.....	138
Sessional Paper 1978-79:	
No 55—Annual Report by the Commissioner of the Independent Commission Against Corruption 1978 (published on 6.6.79).	

Oral answers to questions**EEC textile quotas**

1 MR TIEN asked:—*Sir, will Government confirm that cut-backs on EEC textile quotas imposed on Hong Kong in 1977 in order to provide access for other developing countries have, in fact, been taken up by other developed countries and, in particular, by other Member States of the EEC?*

DIRECTOR OF TRADE, INDUSTRY AND CUSTOMS:—Sir, Mr TIEN's question reminds us that in 1977 the EEC tried to justify its textiles policy by saying that it was necessary to stabilize imports at the 1976 level to keep them 'within limits bearable for the Community textile industry'. From this they proceeded to the novel and in our view unjustifiable proposition that it was necessary to cut back the quotas of some principal suppliers, including Hong Kong, to provide opportunities for other developing countries, particularly the small suppliers and the so-called newcomers.

We said at the time that this policy would in fact result in an increase in imports from other developed countries and from countries associated with the EEC.

We have only just received the 1978 textile import statistics for the EEC as a whole. I cannot today comment on the overall EEC position because we have not yet analyzed these figures. However we got the 1978 import statistics for the United Kingdom some time ago. They tend to provide the confirmation that Mr TIEN seeks.

But first I should like to take the point of 'stabilization' of imports. British imports of textiles and clothing, which had increased by only two hundred and ninety-one million pounds sterling in 1977, increased by four hundred and ninety million pounds sterling in 1978, the first year of application of the new policy.

The lion's share of that increase—just under eighty per cent of it—was taken by the other developed countries and the Mediterranean associates of the EEC. The developing countries' share of the United Kingdom import market dropped from thirty-three per cent to thirty per cent.

In value terms, imports from developing countries increased by sixteen per cent from six hundred and eighteen million pounds to seven hundred and fifteen million but from the other developed countries and those Mediterranean associates imports increased twice as fast, from one thousand two hundred and five million pounds to one thousand five hundred and ninety million. Seventy per cent of this increase came from the other Member States of the EEC.

MISS DUNN:—*Sir, given that the cut-backs on Hong Kong have neither stabilized imports nor benefitted newcomers, does the Government agree it is*

now even more unjustified for these cut-backs to be continued, and the EEC should be asked to restore Hong Kong's former access rights?

DIRECTOR OF TRADE, INDUSTRY AND CUSTOMS:—Yes, Sir.

Hong Kong/EEC textile agreement

2 MR TIEN asked:—*Bearing in mind the recent statement in the House of Commons on 15 May 1979 that Her Majesty's Government were fully aware of their responsibilities and obligations towards Hong Kong and would fulfil them, will Government make representations to Her Majesty's Government to press for the review of the Hong Kong/EEC Textile Agreement which was promised by the former British Government in December 1977?*

DIRECTOR OF TRADE, INDUSTRY AND CUSTOMS:—Sir, towards the end of a debate on textiles in the House of Commons on 14 December 1977, Mr Hal MILLER said to Mr Michael MEACHER, then Under-Secretary of State for Trade, that he was asking him for an assurance that there would be a review at the end of a period to see what had happened to the gap that had been left for newcomers by the cut-backs on textile imports from Hong Kong and some other suppliers and to see which others had filled that gap and, if so, whether there would be any redistribution.

Mr MEACHER replied: ‘It is British industry that will fill it if it is not taken up by new suppliers. I can give the assurance that it is our understanding that there will, if necessary, be a review.’

As I have just explained in my answer to the previous question, the United Kingdom's import figures for 1978 show that, in that first year of application of the European Community's new textile policy, imports grew faster, in value terms, than in the previous year and that the lion's share of that increase was taken by other developed countries and the Community's Mediterranean associates.

During the same year, the United Kingdom production indexes for both textiles and clothing hardly moved.

So it seems fair to say that, at least in this first year, the cut-backs on Hong Kong have not benefitted the UK industry and that the developed countries and the Mediterranean associates are in the British market the principal beneficiaries of the Community's textile policy.

When I was in London in March this year I took the opportunity to draw these figures to the attention of MPs, officials, and others. I drew the conclusion that they already justified a review.

However, our Agreement is with the European Community. Even if we were to succeed in convincing Her Majesty's Government in London that a

review is necessary, they would still have to convince their fellow-members of the Community.

So I think the next step is for us to analyze the import statistics for the whole Community. Now that we have got the figures we shall get on with that review.

When we have done that we shall be in a position to decide what formal representations should be made.

MR TIEN:—*Sir, in view of what my honourable Friend has said, will Government make a further statement in this Council, after it has completed analyzing the statistics just referred to?*

DIRECTOR OF TRADE, INDUSTRY AND CUSTOMS:—Yes, Sir.

Cultural activities in NT

3 MR ALEX WU asked:—*Sir, will Government ensure that adequate staff and finance shall be provided for organizing and promoting cultural activities in the New Territories, particularly for the Tsuen Wan Auditorium which is scheduled to open in January 1980?*

SECRETARY FOR THE NEW TERRITORIES:—Sir, the Director of New Territories Services has been provided with \$850 000 in this year's estimates for the organization and promotion of public recreation activities which include cultural programmes in the New Territories. Out of this provision, \$225 000 has been earmarked for presentation of cultural programmes for the first three months of the operation of the Tsuen Wan Town Hall after it opens in February next year. In addition, District Advisory Boards in the New Territories have also been provided with funds for the promotion of cultural activities within their districts.

The Director of New Territories Services has asked for additional staff including ten posts for the Tsuen Wan Town Hall for the organization and presentation of cultural activities in the New Territories. Consideration of these requests has been held up pending clarification of the policy on Government's role and extent of involvement in the active promotion of cultural activities in the New Territories.

MR ALEX WU:—*How soon would Government be able to clarify the policy on its role and extent of involvement?*

SECRETARY FOR THE NEW TERRITORIES:—Within the next few weeks, Sir.

MR ALEX WU:—*Sir, what percentage of programmes will be presented by Government and what percentage by the private sector, and whether prices*

will be in keeping with the policy of making activities more accessible to the general public?

SECRETARY FOR THE NEW TERRITORIES:—Taking the last part of the question first, Sir, of course we will try and follow that policy in respect of pricing but with regard to the first part of the question, it will be a few more weeks yet before we can answer that.

Illegal extensions in private buildings

4 MR SO asked in Cantonese dialect:—

政府已採取甚麼行動，管制及取締在私人樓宇外的違例擴建部份及鐵籠，以保障居民及行人的安全？

(The following is the interpretation of what Mr SO asked).

Sir, what action has the Government taken to restrict and eliminate the addition of illegal extensions and cages to private buildings in order to safeguard residents and pedestrians?

DIRECTOR OF PUBLIC WORKS:—Sir, in response to questions of a similar nature raised in this Council on 11 January and 7 June 1978, I indicated that, because of the very large number of buildings involved, and to keep the removal of illegal structures, extensions and the like to within practical proportions, it has been necessary to limit such removals to those works which are a risk to life and limb in respect of all buildings completed before August 1975.

For buildings completed after that date it was intended to take action against all works which contravened the Buildings Ordinance, but regrettably the pace of development has out-stripped the ability of the Buildings Ordinance Office to carry out the necessary inspections and deal adequately with the problem.

The Buildings Ordinance Office receives some 300 - 400 complaints every month concerning illegal building works and all of these must be investigated to see whether there is a possibility of danger. Altogether the Buildings Ordinance Office is currently making some 400 - 550 inspections every month, including the inspection of buildings completed since 1 August 1975, but this performance falls substantially short of meeting the requirements of the policy I have stated. In the period August 1975 to the end of April this year a total of 2 355 new buildings comprising over 105 000 individual units of accommodation have been completed.

The Building Surveyors who are responsible for the inspections of buildings following complaints and the periodic inspections of buildings completed since

1 August 1975 have, as their primary task, the duty of processing applications in connection with new buildings including the approval of plans, the issue of consents to commence work and the issue of occupation permits, all of which are subject to statutory time limits. Additionally they are required to inspect new buildings under construction. Since all of these duties must take precedence, the lack of sufficient resources is felt most noticeably in the area of post-occupation permit inspections.

Clearly this is an unsatisfactory situation and proposals for additional staff to help deal with the problem of unauthorized work have already been submitted to Government. Only when these proposals have been approved and the additional staff recruited can an improvement in the rate of inspections, and consequently in dealing with this massive problem, be expected.

In addition to inspections, a campaign has been launched to inform those occupying new buildings of the dangers of carrying out work illegally, by displaying in the buildings and distributing to the parties concerned, a series of posters depicting the most common type of unauthorized work. This measure appears to be meeting with some success as evident from the continuing demand for the posters, and display boards have been seen in the entrances of new buildings.

DC-10 flights

5 MR CHEN asked:—*Sir, what measure, if any, is being taken by Government to temporarily suspend DC-10 flights over Hong Kong, which could be disastrous should an accident similar to the recent one in Chicago happen in our densely populated city, pending satisfactory outcome of the world-wide investigation into the reported defects of the aircraft?*

SECRETARY FOR ECONOMIC SERVICES:—Sir, immediately after the recent tragedy in Chicago, the United States Federal Aviation Administration (USFAA) issued an emergency airworthiness directive to all US registered airlines flying DC-10 aircraft, directing them to carry out certain safeguards to protect the airworthiness of that aircraft. The Administration copied the directive to all operators of that aircraft in all other parts of the world.

The Director of Civil Aviation HK immediately contacted all airlines operating scheduled services into Hong Kong with DC-10 aircraft to ascertain whether they too were following the directive. In all cases, he was told that either the aircraft had been grounded for inspection or they had already been inspected and returned to service.

With regard to non-scheduled flights, before the Chicago tragedy, the Director of Civil Aviation had issued a permit to one operator who proposed to use DC-10 aircraft. The Director immediately contacted that operator who confirmed that he had followed the directive in respect of the aircraft.

concerned. In respect of future applications for non-scheduled flights involving DC-10s, the Director will not issue a permit until he is satisfied that the operator has complied with the Federal Aviation Administration's directive.

In the circumstances, the Director of Civil Aviation sees no cause to suspend flights DC-10 aircraft operating to Hong Kong.

MISS DUNN:—*Sir, in view of the grounding of American DC-10's ordered by the Courts, does the Government intend to reconsider its decision?*

SECRETARY FOR ECONOMIC SERVICES:—Yes, Sir, if the Authority in America has issued a further directive, grounding all DC-10 aircrafts for a specific purpose, then the Director of Civil Aviation will again contact the operators of scheduled flights using DC-10's into Hong Kong and make sure that they too are following this directive.

MR CHEN:—*What assurance does the Director of Civil Aviation get from the airline operators that they are fully complying with the FAA requirements?*

SECRETARY FOR ECONOMIC SERVICES:—Sir, under the Chicago Convention on International Civil Aviation, the Director of Civil Aviation is obliged to accept certificates of airworthiness issued by the country in which the aircraft was registered, so he can only go on the word he is given by the authority in the country concerned.

MISS DUNN:—*Sir, I'm sorry—going back to my first supplementary, isn't it true that America has already ordered the grounding of all DC-10's? It was announced yesterday, I believe.*

SECRETARY FOR ECONOMIC SERVICES:—Sir, I am afraid I am not aware of such an announcement but as soon as this session is over, I will ask the Director of Civil Aviation whether there has been such a grounding and what its status in fact is.

Oysters in Deep Bay

6 DR HO asked:—*Sir, will Government make a statement on the extensive loss of oysters in Deep Bay and say whether it has any plans to help reestablish the oyster-growing industry?*

DIRECTOR OF AGRICULTURE AND FISHERIES:—Sir, the recent massive kill of oysters in Deep Bay was first reported to the Department of Agriculture and Fisheries on the 16 May 1979 by the Chairman and representatives of the New Territories Oyster Industry Association. A specialist team of investigators from the Department was despatched to the area the following day, May 17. Investigations and monitoring of the situation continue to date and I would

like to record my thanks for the assistance received from specialist staff of the University of Hong Kong who are complementing the work of my own officers. The situation investigated is extremely complex, and has necessitated the acquisition of information, samples and data to cover a wide range of parameters. Our investigations have not been helped by the fact that, apparently, the first symptoms of the kill were noted by oyster growers in February 1979 and not reported.

It is now known that the extensive loss of oysters is due to a parasitic protozoan. Infestation by similar parasites has caused extensive oyster kills in other parts of the world, notably in the USA but this is the first time that the parasite has been detected in local waters. Mortalities vary from 90% in the outer bay area to much less than 50% in the inner portion of the bay between Yuen Long Creek and the Shum Chun River.

Very little is known about the circumstances and conditions which predispose oysters to susceptibility to such attack. Extensive work in the United States has only been able to attribute susceptibility to the exposure of oysters to 'environmental and physiological stresses'. It must be noted, however, that as this parasite is now present in Deep Bay it is likely to recur whenever conditions are favourable to it.

Regarding the second part of the question, Sir, may I say that the major limiting factor governing the re-establishment of the industry will be the recruitment of oyster spat from the wild. The recent high mortality of mature oysters will seriously and adversely affect that recruitment; and I can only predict that recovery will be a slow process.

The situation is exacerbated by the fact that for several years now productivity in Deep Bay has been steadily declining; and thus the time period to maturity and spat production has been prolonged. Nevertheless, the staff of my department has already had discussions with representatives of the industry and made advice and equipment available to assist in determining the optimum time and conditions for spat recruitment.

DR HO:—*Sir, can the Agriculture and Fisheries Department do something to curb the infestation of the parasitic protozoan that is responsible for killing the oysters?*

DIRECTOR OF AGRICULTURE AND FISHERIES:—Sir, I regret that we can do nothing to curb the attack, insufficient is known, but I would say that the crisis period of attack is now over.

Electrification of Kowloon-Canton Railway

7 MR ALEX WU asked:—*Has Government considered the economic implications of delaying the upgrading and electrification of the outer suburban*

portion of the Kowloon-Canton Railway (Hong Kong Section), bearing in mind the growing trade with China, and the population build-up in the New Territories?

SECRETARY FOR THE ENVIRONMENT:—Sir, the original timetable for the modernization and electrification of the Hong Kong Section of the KCR envisaged completion of the works by mid-1981. This was, however, an ambitious target and delay in placing certain contracts, coupled with financial stringency this year, has meant that a new timetable has had to be drawn up.

The most pressing need is for an electrified service to be provided to Sha Tin New Town, as far as Fo Tan, as quickly as possible, together with the interchange with the MTR at Kowloon Tong. This inner suburban service is now planned to be provided by the end of 1981 or early 1982.

The outer suburban service, beyond Fo Tan to the border at Lo Wu, will hopefully open at the end of 1982, or 18 months after the original planned date.

I accept that this breaking of the programme into two parts will cause some problems for passengers travelling on the Railway. Services are already stretched and demand is continually increasing. Furthermore, once the inner suburban service is operating, passengers travelling to or from the outer section will need to change from diesel to electric trains at Fo Tan or Sha Tin until the whole line is electrified. The service will, nevertheless, still be more frequent and faster than before and the need to change trains should only last for about 12 months.

The double-tracking and electrification will also result in something like a trebling of the potential freight capacity of the Railway and there will be improvements in freight traffic even when only the inner suburban passenger service is electrified.

Overall, I consider that the standard of service will be adequate if the revised target of the end of 1982 for the completion of electrification can be met. But, given the build-up of population along the railway corridor and the continuing growth in freight traffic, any further slippage in the programme would have serious consequences.

MR ALEX WU:—Sir, in view of the considerable increase in potential freight capacity as stated by my honourable Friend, will Government consider stepping up the completion of the outer suburban section in order to get the economic benefit at an earlier date?

SECRETARY FOR THE ENVIRONMENT:—Sir, I think it is the case that even if we switch back to one project instead of two stages we would not get the whole electrification finished before the end of 1982 so the position now is that we will be going as fast as we can to have the Outer Suburban

Service finished by the end of 1982 and we will have the further benefit of having the Inner Suburban Service ready about nine or twelve months earlier than that.

REV. JOYCE M. BENNETT:—*Sir, why will it not be possible to change engines rather than have the passengers change trains, as is customary on similar southern suburban lines in and out of London?*

SECRETARY FOR THE ENVIRONMENT:—Sir, the answer to that is that electric trains are electric multiple units which means that you don't have an engine. You have a drive on all three units. They are in blocks of three and they are joined together in blocks of three—you can have up to twelve coaches and there is a drive on each one of these but there is not an engine and it is linked up to a pantheon above. (*laughter*).

Soko Islands for Vietnamese Refugees

8 MR CHEONG-LEEN asked:—*Will Government consider utilizing the Soko Islands as a temporary settlement for Vietnamese refugees and, in order to deter more of them from coming to Hong Kong, ensure that only the minimum standard of services and facilities are provided?*

SECRETARY FOR SECURITY:—Sir, with your permission and the agreement of the Hon. WONG Lam, I propose to answer this question and question No 9 at the same time.

In our search for sites on which to accommodate Vietnamese refugees consideration has been given to the possible use of small islands.

It is the Government's policy wherever refugees are accommodated to provide only the minimum standard of services and facilities at as high a density as is consistent with basic public health standards. Steps are being taken to increase the numbers accommodated in existing camps.

The Soko Islands are almost devoid of water and to provide it would be expensive. Its remoteness would also add to the cost of the provision of food and make the provision of the necessary forces to ensure some law and order and that persons did not disperse from the island difficult and time-consuming.

Accordingly the Government is making accommodation available in places in which the presence of refugees will not dislocate existing Government programmes, where so far as possible Hong Kong people will not be inconvenienced, where the refugees will add to the labour force and where its management can be most economically effected.

So far such facilities have been found mostly within urban areas or at Chi Ma Wan. As the number of refugees increases it will be necessary to look again at remote areas, including islands, despite the cost and problems of development and the inconvenience of sustaining refugees on them.

Turning now to deterrents and tougher measures. The Chief Secretary referred to the root of the problem when answering a question on the 23 May and I also referred to the action which Hong Kong was taking in the Debate on the Second Reading of the 1979/80 Appropriation Bill of 1978/79.

The ethnic Chinese population in Vietnam is being systematically forced either into the new economic zones or to leave the country by means which Mrs THATCHER in her recent letter to the Secretary General, United Nations refers to as 'inhuman'. These people feel so oppressed that they are determined to leave despite the risks inherent in the sea voyage in small overcrowded vessels. The losses in this exodus have been estimated at 50% and they may well be higher. Such persons leave even though they know that if they reach certain shores within the region they will be diverted from landing and towed away. This treatment however has *not* deterred them from attempting to go to the countries which adopt this practice. The fact that very large numbers are now accommodated in overcrowded godowns and in their junks in anchorages in Hong Kong has not deterred them either. So I do not believe that the choice of the sites in which to accommodate refugees will have more than a possibly marginal influence on them in considering whether to come to Hong Kong.

Nor has the Administration been able to devise any tougher measures than are being applied to provide a greater deterrent than now exists from crossing the South China Sea in small open boats.

MR CHEONG-LEEN:—*Sir, in view of the recent announcement by the Vietnamese Government of a more orderly exit of refugees from Vietnam to other countries, will representations be made through proper channels for new arrivals to Hong Kong to be returned to and accepted by the Vietnamese Government?*

SECRETARY FOR SECURITY:—Sir, representations have already been made by HMG urging the Vietnamese Government to ensure that the refugee exodus is controlled. Until there is evidence that Vietnam has ceased to persecute large numbers of its citizens, we do not expect that many refugees who have already left will be willing to return nor, if they were, that the Vietnamese Government would accept them back.

Vietnamese refugees—measures of control

9 MR WONG LAM asked in Cantonese dialect:—

閣下，鑑於廣大市民對數量龐大之越南難民不斷湧入本港日益關注及憂慮，請問政府能否採取較過往更強硬之措施以應付此問題？

(The following is the interpretation of what Mr WONG Lam asked).

Sir, as most of the people in Hong Kong are very concerned about the large influx of Vietnamese refugees into Hong Kong can Government take tougher measures?

SECRETARY FOR SECURITY:—Sir, as I have explained, tougher measures are not easily devised for small boat people. In the ultimate this means really towing or committing men, women and children to their death. To argue that this was what public opinion would like would not salve my conscience in these circumstances and I do not really think that it is in the ultimate what Hong Kong really wants.

MR CHEONG-LEEN:—*Sir, are strong representations being made to the UNHCR to increase both manpower and funds to enable the UNHCR to accept full responsibility to care for Vietnamese refugees immediately upon arrival in Hong Kong?*

SECRETARY FOR SECURITY:—Yes, Sir, representations have been made on many occasions in recent weeks by the UK mission in Geneva and we are following up those representations here with the local representative of the United Nations High Commission for Refugees.

Influx of illegal immigrants

10 MR CHEONG-LEEN asked:—*Are all available resources being deployed to prevent illegal immigrants from slipping into Hong Kong, and can additional manpower resources be deployed for this purpose?*

SECRETARY FOR SECURITY:—Sir, the answer to both questions is Yes, Sir. It is however necessary, perhaps helpful, to set these answers in perspective.

The principal available resources are—

- (a) The Garrison as agreed by the Defence Costs Agreement 1976. This comprises 4 Infantry battalions, a Gurkha Engineer Squadron (plus a training element), 5 Royal Navy patrol craft and one Helicopter Squadron of 8 aircraft (unfortunately temporarily reduced to 7 as a result of an accident), plus such support elements as are necessary to sustain the teeth arm elements.

- (b) The Royal Hong Kong Police.
- (c) The Royal Hong Kong Auxiliary Police, the Royal Hong Kong Regiment (comprising 5 reconnaissance squadrons) and aircraft of the Royal Hong Kong Auxiliary Air Force, and
- (d) Physical barriers such as fencing etc.

In deploying these forces on illegal immigration duties it is necessary to provide levels which can be sustained, and in the case of the Police Force to maintain its normal law and order coverage of Hong Kong.

The current deployment of the Garrison in respect of illegal immigration is as follows:

- (a) Until recently 2 battalions and 2 companies of a third battalion were engaged in anti-illegal operations and this has now been increased to 4 battalions. Support troops provide additional effort whenever they can be made available.
- (b) The Royal Navy has augmented its 5 patrol craft by one auxiliary vessel. Until recently 2 vessels have been on patrol with a 3rd and 4th at short notice. This has now been increased: the vessels on patrol are 3 with others at short notice in reserve.
- (c) The Royal Air Force and Army Air Corps Helicopters are providing the maximum effort possible for support of anti-illegal operations.

The Police are deploying nearly 2 000 officers on anti-illegal immigration operations. At sea they are operating 24 of their own launches, reinforced by 4 vessels from other departments and an additional 6 Government vessels are at present assisting the Police in short-term intensive operations.

The Royal Hong Kong Regiment provides two squadrons for patrolling primarily at weekends and the Auxiliary Air Force is operating both fixed wing aircraft and helicopters in support of anti-illegal operations and the Auxiliary Police also deploy nearly 900 men daily in the urban areas, thus releasing regular policemen for other duties.

I can assure the Honourable Members that the deployment of existing resources has already been greatly increased and that additional requirements of manpower and equipment are currently under very active consideration. Deployments are kept under constant review by operational commanders and are altered to meet changes in the situation. In addition the Commander British Forces and the Commissioner of Police are keeping very close watch on force levels in order to ensure that we can maintain and sustain the operations against illegal immigrants.

MR CHEONG-LEEN:—*Sir, what more needs to be done to ensure that the number of illegal immigrants caught and returned to China exceeds the number who slip through daily?*

SECRETARY FOR SECURITY:—We shall, Sir, at the very least need to maintain the efforts we are now making for an appreciable period and consider the acquisition of additional resources. We shall obviously also have to remain alert and responsive to any new developments. The numbers evading arrest have already dropped from an estimated three for every one person arrested in the latter part of last year and there are indications that this figure is now being improved upon and may have fallen to about two to every one. I do believe that at the current level of operations an increasing number and percentage of those who attempt to enter Hong Kong are being apprehended and it is our intention to ensure that that number is increased by substantial efforts which are now being made by the armed forces and by the security forces in general.

MR CHEONG-LEEN:—*Sir, what is the latest information as to the steps which the Chinese authorities have taken to significantly reduce the heavy flow of legal and illegal immigrants entering Hong Kong and is there any sign that such heavy flow will soon abate?*

SECRETARY FOR SECURITY:—Sir, the reference to ‘legals’ introduces a somewhat new feature into the question. In response to representations made in Peking, London and Hong Kong there are indications that the Chinese authorities have adopted some measures which have had the effect of lowering the level of legal immigration. Figures for legal immigrants, that is persons who remain here, are showing a welcome reduction from about 9 700 in December to about 5 600 in May and we hope that that reduction will continue. From figures, however, of those persons, who are now being apprehended, in Hong Kong illegally, which were over 14 000 last month, it is manifest that far greater effort will be required on the Chinese side of the border to prevent the large numbers of persons leaving China.

First reading of bills

LAW AMENDMENT AND REFORM (CONSOLIDATION) (AMENDMENT) BILL 1979

LABOUR TRIBUNAL (AMENDMENT) BILL 1979

TEMPORARY RESTRICTION OF BUILDING DEVELOPMENT (MID-LEVELS) BILL 1979

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

Second reading of bills.**LAW AMENDMENT AND REFORM (CONSOLIDATION) (AMENDMENT) BILL
1979**

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

He said:—Sir, the Hong Kong Court of Appeal in the case of Gail Stevenson and Another v the Chartered Bank held in 1977 that a joint account in a bank cannot be debited by the bank in respect of a claim against one of the holders of the account on his separate obligation to that bank.

In reaching this decision, the Court applied the old Common Law rule that a promise cannot be made to several persons both jointly and severally. This rule was abolished in England in 1881 by section 60 of the Conveyancing Act and the abolition was maintained by section 81 of the Law of Property Act 1925. However this provision has never been extended to Hong Kong.

The Exchange Banks’ Association has proposed to Government that, in this respect, the law in Hong Kong should be brought into line with that in England.

This proposal has been accepted after consideration by the Government Monetary Affairs Branch, the Registrar General’s Department and the Attorney General’s Chambers and following consultation with the Bar Association and the Law Society both of whom agreed the reform to be desirable.

To give effect to it, clause 2 of the Bill before this Council adds a new section to the Law Amendment and Reform (Consolidation) Ordinance.

The new section follows, with minor modification, section 81 of the Law of Property Act 1925, the English statute.

Briefly, in this context it provides that an agreement in writing, made with two or more persons jointly, to pay money or to do any other act, shall be construed as being also made with each of those persons.

The new section will apply only so far as a contrary intention is not expressed in the agreement and will have effect subject to the provisions of the agreement.

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

Question put and agreed to.

LABOUR TRIBUNAL (AMENDMENT) BILL 1974

THE ATTORNEY GENERAL moved the second reading of:—‘A bill to amend the Labour Tribunal Ordinance.’

He said:—Sir, in 1972 the Labour Tribunal was brought into being by the Labour Tribunal Ordinance. The object of the legislation was to provide a Court with special expertise in labour matters, whose procedures would be quick and informal and inexpensive, to try disputes about contracts of employment or apprenticeship and related matters.

By section 9 of that Ordinance claims have to be brought within 6 months of the cause of action arising. The reason for this was to maintain the principles of simplicity and swift justice. Delayed claims tend to take longer to investigate and become more difficult to prove.

Experience has shown that there are a small but significant number of cases in which hardship has been caused by this section: in particular claims involving arrears of wages or especially commission, or disputes about annual holiday pay, both of which are subject to a natural delay before they can be presented to the Tribunal.

Following a study tour of other Jurisdictions arranged under the auspices of the International Labour Organization in 1978, the presiding officer of the Tribunal recommended that section 9 be amended so as to extend the time allowed for making claims.

The purpose of this short Bill is to give effect to that recommendation. Accordingly it is proposed by clause 2 of the Bill to extend the period for filing claims from 6 months to 12 months from the date of the cause of action.

It is difficult, Sir, to forecast exactly how many extra claims will result because there are no complete records in existence of out-of-time claims. On present indications it is not thought that the number of additional cases will be large nor that their number will materially affect the efficiency and speed with which the Tribunal does its business. To guard against this danger, it has been decided that the actual number and type of claims will be monitored henceforth so that the results of this amendment can be reviewed in about twelve months’ time.

I would like to emphasize that this Bill does not open up a new category of claims. It will simply mean that some labour claims will now be heard by the Tribunal rather than by any other Court. Previously such claims could have been brought either in the Small Claims Tribunal or the District Court if they were out-of-time for the Labour Tribunal. It is considered however that they are much more appropriately brought in the Labour Tribunal which is the most expert, convenient, appropriate and swift Tribunal.

It is only proper and fair that a person whose claim is already barred by an existing limitation period is not suddenly given a second chance to bring his claim by reason of the extended time limit proposed by this amendment. For this reason clause 3 of the Bill provides that the extended time limit shall not apply for claims which are already out-of-time when the amendment takes effect, unless of course both parties agree to the claim being heard.

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

Question put and agreed to.

TEMPORARY RESTRICTION OF BUILDING DEVELOPMENT (MID-LEVELS) BILL 1979

THE DIRECTOR OF PUBLIC WORKS moved the second reading of:—‘A bill to provide for the restriction for a limited period of building works in the Mid-levels area of Hong Kong.’

He said:—Sir, the object of this Bill is to introduce temporary restrictions on certain building works in the Mid-levels area of Hong Kong. These restrictions are necessary to maintain the present safety of the area, and to enable comprehensive investigations of the hill-side slopes to be carried out. The Government’s concern is not so much the effect of a single development at an individual site, but the cumulative effect of a large number of such developments. The detailed information made available from these investigations will allow an assessment and professional judgment to be made as to whether constraints need be placed on future building works.

Clause 1 of the Bill makes it retrospective to 22 May 1979.

Clause 3 requires the Building Authority to refuse to approve plans and to refuse to consent to the commencement of certain building works in the Mid-levels area unless the Governor otherwise directs, and in such cases he may require the Building Authority to impose such conditions as he considers necessary in the public interest.

The need for the Governor’s direction arises from the fact that a number of applications for development are already under consideration by the Building Authority and it is intended that this limited number of developments should be further processed so that, subject to a detailed and careful examination of the excavations proposed, work on these specific building sites may proceed with safety. The plans for these building works will be considered by a Committee which will include the Heads of the Geotechnical Control and Buildings Ordinance Offices of the PWD on behalf of the Building Authority.

Clause 4 of the Bill excludes the operation of section 15 of the Buildings Ordinance, which deems consent to have been given to building plans and for the commencement of building works unless such approval or consent is refused within certain prescribed periods.

Clause 4(2) provides that, where consent to commence certain building works was deemed to have been given by virtue of section 15 of the Buildings Ordinance between 12 noon on 22 May 1979 and the date of enactment of the Bill, such consent shall be invalid and of no effect.

Clause 5 of the Bill empowers the Governor in Council to amend the Schedule, which specifies the area which is subject to the restrictions, by substituting a plan showing a smaller area. This provides a measure of flexibility in that if, during the course of investigations it is found that the restrictions no longer need to be applied to a certain part or parts within the area, an amended plan may be produced to demarcate this reduced area.

By clause 6, the Bill will expire on 31 December 1981 unless extended by a resolution of this Council.

The Government is concerned about the need to impose these restrictions at a time when the type of accommodation which might be produced by redevelopment schemes in this area is in exceptionally high demand and short supply. To alleviate the shortage, Government plans to accelerate the provision on sale of sites suitable for high class development. Sites are already under examination to determine the measures necessary to make them available and every effort will be made to put them on the market at an early date. The sites in question are situated in a number of localities including Pok Fu Lam, Shouson Hill, Repulse Bay, Red Hill and Shek O on Hong Kong Island, and Lung Cheung Road, Kowloon Tsai and Jats Incline in Kowloon. The estimated development potential is over 2 000 large flats, although it is possible that subsequent investigation may reduce this number.

In addition to the foregoing it is proposed to lift the restrictions on lease modification and new land sales in the Pok Fu Lam area. When these restrictions were introduced in 1972, it was explained that they would remain in force until such time as works proceeded on various road improvements, including the Aberdeen Tunnel and the Water Street link (now the Hill Road flyover). Since both these projects are now in hand these restrictions may now be lifted releasing an estimated potential of some 1 200 additional flats from redevelopment schemes alone.

Motion made. That the debate on the second reading of the Bill be adjourned—THE DIRECTOR OF PUBLIC WORKS.

Question put and agreed to.

REGISTRATION OF BIRTHS, DEATHS AND ADOPTION (MISCELLANEOUS AMENDMENTS) BILL 1979**Resumption of debate on second reading (23 May 1979)**

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).

LANDLORD AND TENANT (CONSOLIDATION) (AMENDMENT) BILL 1979**Resumption of debate on second reading (9 May 1979)**

Question proposed.

MR CHEONG-LEEN:—Sir, I would like to speak briefly on some of the points raised by the Secretary for Housing when he introduced this Bill on 9 May.

He said that a review has shown that the general level of increases for most uncontrolled flats built after 1973 is not significantly above the level allowed under rent control legislation. He did not, however, say how much above or whether it was an accelerating tendency.

It seems that in recent months there has been a strong tendency for rents for post 1973 uncontrolled small and medium sized flats to be increased by anything between 25% and 100%. This has been caused by the laws of supply and demand. More newcomers are arriving in Hong Kong, many of whom either cannot find or afford de luxe flats, and so they are opting to pay much higher rents for the immediate occupancy of medium and small size flats.

Such a situation is perhaps tacitly recognized by the Secretary for Housing who proposed that any notice served after 4 May 1979 should not take effect until 12 months after the date of service instead of the present 6 months, as required under Part V of the Ordinance.

Although the Secretary for Housing said that the production of both private and public sector housing will be 65 000 units a year for the next two years, he did not give a breakdown of how many small and medium-sized flats will be made available in the private sector annually. With the trend

towards increasing home ownership, it would be advisable to closely monitor both the rent increases and the supply situation in this particular area.

Government home ownership schemes and public housing are now available for families whose incomes are equal to or less than \$5 000 per month. Due to the current shortage of deluxe and even medium-sized flats, rents for medium and small sized flats in the private sector have been rising at a faster pace than that allowed under rent control legislation. Upper medium-income families earning, say, between \$5 000 to \$10 000 a month are therefore facing the prospect of having to pay between 35% to 50% of their income on rent alone.

I therefore welcome the statement by the Secretary for Housing that he will continue to keep a close watch on housing production and rent levels and if necessary propose further measures to the Legislative Council.

I hope he will be able to advise this Council as to the latest position in the next Legislative Session some time in October or November of this year.

REV. McGOVERN:—Sir, for a more complete expression of my views on Landlords and Tenants I refer Members to Hansard Pages 340 to 344 containing my speech on the predecessor of this Bill in 1977. There is no need for me to go over all that ground again as events in the real estate industry since then speak for themselves. I confine myself to making a summary of the present situation in a series of what I can only call statements of the obvious.

The price of land, for residential, commercial and industrial building is too high. The fact that land is scarce is given as the reason for the high price. To me the scarcity of land is not an argument to justify a high price which has become the base of the inflationary spiral. The scarcity for me is an argument which would justify control of that price as the first step in controlling inflation. A better system than auctioning to the highest bidder could be devised when we are dealing with a commodity which is essential to life and the supply of which does not equal the demand.

It is also clear that in the whole chain of operations from leasing land, to building, to selling or renting a flat, there is too much room for speculation and profiteering. For whatever reasons, the end result of the process is that rents are too high in the private sector. By too high I mean that they cost too big a proportion of a wage-earner's income. Statistics which could no doubt be devised to prove a slow growth in the rise of rents or a poor return for poor landlords' investment would do nothing to disprove that fact. Control of speculation in land and property is needed. Also needed is more rent control, not less rent control as proposed in this Bill.

Today's amendment is another step in the direction of allowing rents to reach the so-called 'fair market rent', a phrase which, I was sorry to note, was used no less than seven times in the Secretary for Housing's speech introducing this Bill. As I stated before, and will no doubt state again, there is in Hong Kong no such thing as a fair market rent. The

ultimate objective of this Bill can therefore only be described as allowing as even more unfair market rent.

It is true that the production of land is being doubled in two consecutive years. It is true that the building programme in the New Towns is rapidly producing more housing. But the question remains as to whether or not this is enough for our needs. I always had doubts that supply would catch up on demand and bring about a situation where so called free market forces are supposed to be able to work—work that is if speculators and profiteers would allow them to work.

Since I last spoke on this subject another factor beyond our control has entered the picture. We have had, and it looks as if we will continue to have for some time, a massive inflow of both ‘legal’ and illegal immigrants from the Mainland. They are coming in what can best be described as ‘several estates full annually’. That is another reason why it is only realistic to doubt the possibility of the supply of housing catching up on the demand, the goal by which the decontrol of rent is justified.

Rent control is said to be a temporary measure for abnormal times. With greater reason than ever I repeat what I said in 1977, namely, that since the early 1950’s the housing situation in Hong Kong has been permanently abnormal. Therefore rent control is necessary and should be strengthened rather than weakened.

I do not intend to go into the details of this Bill. It is rather like the famous curate’s egg. The original expression was, I believe, ‘excellent in parts’. I would not put it so strongly and would prefer to say ‘not too bad in parts’.

Part I on prewar housing does not worry me too much. There are only 8 820 units involved and they will not be free to reach the unfair market rent until 1984. Given normal rainfall it would be safe to guess that by 1984 all or most of these will have fallen down and the legal problem will thus disappear. The problem of the homeless tenants will of course remain. The extention of Part II, inadequate as it is, by three years, is another part which is not too bad.

But, like the curate’s egg, which was a rotten egg, and from its nature as an egg had to be eaten as a whole, one cannot divide this Bill into parts and must vote on it as a whole. For the reasons given:

- a free market which is not free,
- a fair market which is unfair,
- the fact that rents are already too high and need more control and not less control as proposed by reducing the factor from 3 to 2 in the Bill, and finally the ever hidden trap,
- the fact that if rents continue to rise, then, because the method of calculating rateable values is based on the unfair market rent, rates will also rise unless the poundage is reduced. It should be noted

that under the present system this will affect not only the overburdened tenants in private housing, but also tenants in public housing.

For these, and other connected reasons, it is with pleasure that I logically maintain my 1977 lone position among my Unofficial Colleagues, and oppose the motion.

SECRETARY FOR HOUSING:—Sir, it is a great temptation for me, having been asked by the Rev. McGOVERN to re-read his speech on 21 December 1977, to reply simply by referring Honourable Members to the speech made by the Secretary for Housing on the same day, or alternatively, to take comfort in the disarmingly frank admission that the Rev. Member is in lone opposition to the Bill. It was the Rev. McGOVERN who likened the Bill to a curate's egg; however, his views on landlord and tenant matters do require to be unscrambled.

As regards the 150 000 controlled domestic premises occupied before December 1973, the Rev. McGOVERN is concerned about the reduction of the factor between the existing and market rent from 3 to 2. I would like to reiterate that the 21% ceiling for rent increases over a period of 2 years will remain. This will ensure that these tenants will not be faced with severe rent increases.

Rev. McGOVERN seems mainly concerned with the 28 000 or less than 7% of private domestic flats occupied since December 1973 and therefore not subject to rent control. To answer Mr CHEONG-LEEN's concern on the same point, a review carried out in April this year showed on renewal of lease of uncontrolled small flats over the preceding 3 months, rent increases ranged from 21% to 25% for 2 years, that is, slightly over the increases permitted if the premises had been controlled. Undoubtedly, there are individual cases, particularly in respect of medium and large flats in prime residential areas where higher percentage increases are obtained by the landlord, due mainly to the severe imbalance of supply and demand for such accommodation.

Although rent control may act as a temporary palliative for sitting tenants, it has never, either here or elsewhere, proved successful as a long term solution to housing problems. On the contrary, this measure often exacerbates housing shortages by discouraging new building and reducing the stock of property available for rent.

The best way of stabilizing rent is to make a substantial increase in the supply of housing. Government policy of gradual and regulated decontrol together with exclusion of new premises from controls has undoubtedly directly contributed to this end. The Rating and Valuation Property Review 1979 shows that the supply of small flats is at its highest ever level. Completion of small flats is forecast to be 27 470 flats in 1979 and 28 450

flats in 1980, representing 91% of the over-all supply in the private sector for these years. In addition, public housing production in 1979 and 1980 consisting entirely of small flats is expected to reach a record total of 70 000.

As for medium flats, the supply in 1978 improved considerably at 1 430 flats but completions are likely to be 1 160 and 615 in 1979 and 1980 respectively. However, the supply picture in this category could change significantly if the initiative taken by Government to increase the supply of land for medium and large flats as described by the Director of Public Works earlier this afternoon, shows its impact.

The reference to rates raised by the Rev. McGOVERN needs to be clarified. Although rateable values are re-assessed from time to time on the basis of market rents, the burden of rates is determined by the rates percentage charged. In this connection, following previous revaluations, the percentage charged was reduced in 1973 from 17% to 15% and in 1977 from 18% to 11%.

Sir, in winding up the debate, I believe that Government policies are along the right lines in recognizing the realities of the situation and I think a continuation of these policies is in the long-term public interest.

Sir, I beg to move.

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.

REGISTRATION OF BIRTHS, DEATHS AND ADOPTION (MISCELLANEOUS AMENDMENTS) BILL 1979

Clauses 1 to 3 were agreed to.

LANDLORD AND TENANT (CONSOLIDATION) (AMENDMENT) BILL 1979

Clauses 1 to 26 were agreed to.

Schedule was agreed to.

Council then resumed.

Third reading of bills

THE ATTORNEY GENERAL reported that the

REGISTRATION OF BIRTHS, DEATHS AND ADOPTION
(MISCELLANEOUS AMENDMENTS) BILL 1979

LANDLORD AND TENANT (CONSOLIDATION) AMENDMENT) BILL 1979

had passed through Committee without amendment, and moved the third reading of each of the two Bills.

Question put on each Bill and agreed to.

Bills read the third time and passed.

Adjournment and next sitting.

HIS EXCELLENCY THE PRESIDENT:—In accordance with Standing Orders I now adjourn the Council until 2.30pm on Wednesday 20 June.

Adjourned accordingly at twenty-two minutes to four o'clock.