

**OFFICIAL REPORT OF PROCEEDINGS****Wednesday, 6th May 1970****The Council met at half past Two o'clock**

[Mr PRESIDENT in the Chair]

**PRESENT**

HIS EXCELLENCY THE GOVERNOR (*PRESIDENT*)  
SIR DAVID CLIVE CROSBIE TRENCH, GCMG, MC  
THE HONOURABLE THE COLONIAL SECRETARY  
SIR HUGH SELBY NORMAN-WALKER, KCMG, OBE, JP  
THE HONOURABLE THE ATTORNEY GENERAL  
MR DENYS TUDOR EMIL ROBERTS, CBE, QC, JP  
THE HONOURABLE THE SECRETARY FOR HOME AFFAIRS  
MR DAVID RONALD HOLMES, CMG, CBE, MC, ED, JP  
THE HONOURABLE THE FINANCIAL SECRETARY (*Acting*)  
MR CHARLES PHILIP HADDON-CAVE, JP  
DR THE HONOURABLE TENG PIN-HUI, CMG, OBE, JP  
DIRECTOR OF MEDICAL AND HEALTH SERVICES  
THE HONOURABLE ROBERT MARSHALL HETHERINGTON, DFC, JP  
COMMISSIONER OF LABOUR  
THE HONOURABLE TERENCE DARE SORBY, JP  
DIRECTOR OF COMMERCE AND INDUSTRY  
THE HONOURABLE DAVID RICHARD WATSON ALEXANDER, MBE, JP  
DIRECTOR OF URBAN SERVICES  
THE HONOURABLE GEORGE TIPPETT ROWE, JP  
DIRECTOR OF SOCIAL WELFARE  
THE HONOURABLE JAMES JEAVONS ROBSON, JP  
DIRECTOR OF PUBLIC WORKS  
THE HONOURABLE DONALD COLLIN CUMYN LUDDINGTON, JP  
DISTRICT COMMISSIONER, NEW TERRITORIES  
THE HONOURABLE JOHN CANNING, JP  
DIRECTOR OF EDUCATION  
THE HONOURABLE TSE YU-CHUEN, OBE, JP  
THE HONOURABLE KENNETH ALBERT WATSON, OBE, JP  
THE HONOURABLE WOO PAK-CHUEN, OBE, JP  
THE HONOURABLE SZETO WAI, OBE, JP  
THE HONOURABLE WILFRED WONG SIEN-BING, OBE, JP  
THE HONOURABLE ELLEN LI SHU-PUI, OBE, JP  
THE HONOURABLE WILSON WANG TZE-SAM, JP  
THE HONOURABLE HERBERT JOHN CHARLES BROWNE, JP  
DR THE HONOURABLE CHUNG SZE-YUEN, OBE, JP  
THE HONOURABLE MICHAEL ALEXANDER ROBERT HERRIES, OBE, MC, JP  
THE HONOURABLE LEE QUO-WEI, OBE, JP  
THE HONOURABLE ANN TSE-KAI, OBE, JP  
THE HONOURABLE OSWALD VICTOR CHEUNG, QC, JP

**IN ATTENDANCE**

THE DEPUTY CLERK OF COUNCILS  
MR RODERICK JOHN FRAMPTON

### Papers

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

<i>Subject</i>	<i>LN No</i>
Subsidiary Legislation: —	
Dutiable Commodities (Amendment) Ordinance.	
Dutiable Commodities (Amendment) Ordinance 1970 (Commencement) (No 2) Notice 1970 .....	57
Dutiable Commodities Ordinance.	
Dutiable Commodities (Liquor) Regulations 1970 .....	58
Nurses Registration Ordinance.	
Enrolled Assistant Nurses (Enrolment and Disciplinary Procedure) Regulations 1970 .....	59

### Oral answers to questions

#### Legislation for the control of rent increases

1. MR P. C. WOO asked: —

When will Government be able to present to this Council the main legislation mentioned by the Honourable the Colonial Secretary in his speech on the second reading of the Security of Tenure (Domestic Premises) Bill 1970 (now known as the Security of Tenure (Domestic Premises) Ordinance 1970)?

THE COLONIAL SECRETARY (SIR HUGH NORMAN-WALKER): —Sir, when I introduced the Security of Tenure (Domestic Premises) Bill 1970 into this Council in January, I said that it was the intention as soon as possible to replace that bill, which imposed a rent freeze on most post-war domestic premises, with more substantive legislation imposing specific rent increase controls. A new bill for this purpose has now been drafted and considered by you, Sir, in Council; this bill will be published in the *Government Gazette* on Friday, the day after tomorrow, and I hope to introduce it to this Council at the next meeting on the 20th of this month.

#### Establishment of further Technical Institutes

2. DR S. Y. CHUNG asked: —

Will Government state what action has been taken on the Industrial Training Advisory Committee recommendation made in August 1969 for the establishment of two

Technical Institutes in 1971 and a further two in 1972? Is Government aware that there is a most urgent need for these to be completed by the dates stated and, in view of the importance and pressing needs of this level of technical education, will Government give the utmost priority to these projects?

MR J. CANNING: —Sir, on 26th August 1969, the Industrial Training Advisory Committee forwarded to Government an Interim Report by its Committee on Technical Institutes which recommended that Government should construct four Technical Institutes, two to be opened by September 1971 and two by September 1972. I should explain that these Technical Institutes would be additional to the Morrison Hill Technical Institute which was then already under construction and is now nearly complete.

In accordance with normal procedure these items were considered by the Building Priorities Committee of Government in October 1969. The Committee agreed that an investigation into possible sites might be carried out. This has been done and sites are available.

Subsequent to this, a comprehensive paper dealing with all aspects of the proposed Technical Institutes, including a forecast of the likely need for places, the order of costs and other aspects of the problem, has been worked out and Government will, it is hoped, be in a position to take a policy decision in the near future.

I would say further that although I regret the time that it has taken to complete the examination of the policy for Technical Institutes, the matter is by no means a simple one and considerable expenditure will be involved if Government decides to accept the Industrial Training Advisory Committee's recommendations. The Technical Institute at Morrison Hill will cost \$6,667,000 for building and equipment and when fully functioning will require \$3.7 million per annum for recurrent expenditure. I do not therefore think it unreasonable that the matter should be examined in some detail. I would also say that the target date put forward by the Industrial Training Advisory Committee, namely for the opening of two Technical Institutes by September 1971 and two by September 1972, was a very optimistic one and, even with the highest priority, it is doubtful if the first project could be completed by September 1972. It is also extremely doubtful whether staff could be provided for four Institutes within the very short span recommended by the Advisory Committee. The staffing of the Morrison Hill Technical Institute has been proceeding during recent months, and this experience shows that difficulties are to be expected in certain fields. In conclusion, I appreciate the reasons which have caused the members of the Industrial Training Advisory Committee to press for the earliest possible construction of additional Technical Institutes but I feel that

[MR CANNING]     **Oral Answers**

the targets which they have recommended may not be altogether realistic. It is not for me to anticipate Government's decision at this stage but I should say that, in my opinion, if they are to be constructed, it may be more realistic to construct them in succession and at regular intervals rather than on the basis proposed.

May I say, finally, that once a policy decision has been taken Government will do all in its power to avoid any unnecessary delay in the construction of the Technical Institutes.

DR CHUNG: —Sir, in view of the difficulty of staffing, which I fully understand, what steps is Government taking to overcome this difficulty?

MR CANNING: —In this Council, Sir, at the third meeting during the Budget debate, I indicated to Members that we were increasing the already existing courses for the training of technical teachers and that we ought to double the courses being made available in September 1970. The policy for training technical teachers is under constant review and these needs will be borne in mind.

DR CHUNG: —Sir, will the plan for doubling the output be sufficient for this purpose?

MR CANNING: —I said at the time, Sir, that I anticipated that the output from these training courses and the other sources of recruitment was, we thought, sufficient to meet the immediate needs.

DR CHUNG: —Thank you.

### **First reading**

**PAWNBROKERS (AMENDMENT) (NO 2) BILL 1970**

**LEGAL AID (AMENDMENT) BILL 1970**

**HONG KONG TOURIST ASSOCIATION (AMENDMENT) BILL 1970**

**RADIATION (AMENDMENT) BILL 1970**

**IMPORT AND EXPORT BILL 1970**

**PROTECTION OF NON-GOVERNMENT CERTIFICATES OF ORIGIN  
(AMENDMENT) BILL 1970**

*Bills read the first time and ordered to be set down for second reading pursuant to Standing Order No 41(3).*

**Second reading****PAWNBROKERS (AMENDMENT) (NO 2) BILL 1970**

THE ATTORNEY GENERAL (MR D. T. E. ROBERTS) moved the second reading of: —“A bill to amend further the Pawnbrokers Ordinance.”

He said: —Sir, honourable Members will recall that when the Pawnbrokers (Amendment) Bill 1969 was presented to this Council in November of last year, a number of representations were put forward to the Government by the Hong Kong and Kowloon Pawnbrokers Association.

One of the proposals put forward by that Association was that the protection afforded by the Ordinance should be extended to cover loans up to \$5,000 and clause 2 of the bill amends the Ordinance to effect this change. At present a pledge for a sum exceeding \$2,000 falls outside the Ordinance, which confers protection primarily on the borrower but also on the pawnbroker and this amendment will therefore bring loans for larger amounts within the scope of the Ordinance.

The Association also asked that consideration should be given to extending the hours during which pawning is permitted on Lunar New Year's Eve and the amendment proposed by clause 3 of the bill will allow goods to be pawned or redeemed on this day up till 12 o'clock midnight, instead of only until 8 o'clock in the evening, which is the normal limit.

*Question put and agreed to.*

Bill read the second time.

*Bill committed to a committee of the whole Council pursuant to Standing Order No 43(1).*

*Explanatory Memorandum*

This Bill makes two minor amendments to the Pawnbrokers Ordinance.

2. Clause 2 raises the limit of loans to which the principal Ordinance will apply from \$2,000 to \$5,000, thereby extending the protection of the Ordinance to a borrower of a sum not exceeding \$5,000. Clause 3 permits pawnshops to remain open until midnight on the eve of the Lunar New Year.

**LEGAL AID (AMENDMENT) BILL 1970**

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

He said:—Sir, I think it can reasonably be claimed that the scheme for legal aid in civil cases has been working very well and is seldom abused. However, unfortunately, a few cases have occurred in which applicants for legal aid have deliberately disposed of their capital or income in order to qualify for legal aid, which, as honourable Members will recall, is only available to persons with capital resources and income below a certain level.

The object of clause 2 of this bill, therefore, is to empower the Director of Legal Aid to refuse to grant a certificate if he is satisfied that the applicant has disposed of any capital or income for the purpose of satisfying the means test which is imposed by the Ordinance.

At present, by section 15 of the Ordinance, where a party to litigation which has been instituted applies for legal aid during the course of the action, the Director has to notify the other party of this application and file in the court a memorandum of such notification. The effect of filing this memorandum is to stay all proceedings in the litigation for a period of 42 days, in order to enable the Director to ascertain whether or not the applicant shall be granted to legal aid.

It has been found in practice that a period of 42 days, while necessary in some cases to enable the Director to complete the necessary enquiries, is too long in others, particularly, for example, where there is an application for an emergency certificate.

The amendment proposed by clause 3 of the bill therefore will enable regulations to be made by the Governor in Council prescribing such periods of stay in actions of this kind as may be appropriate, though this will not in any case be less than 14 days.

*Question put and agreed to.*

Bill read the second time.

*Bill committed to a committee of the whole Council pursuant to Standing Order No 43(1).*

*Explanatory Memorandum*

This Bill amends sections 10 and 15 of the Legal Aid Ordinance.

2. Instances have occurred where applicants for legal aid have deliberately disposed of their capital or caused their income

to cease in order that they might become eligible for legal aid under the Ordinance. Clause 2 amends section 10 of the Ordinance so as to give the Director a discretion to refuse to grant a certificate in such cases.

3. Clause 3 amends section 15 of the Ordinance so as to provide that the period during which proceedings are suspended by virtue of that section may be prescribed by regulations but shall not be less than fourteen days. This period during which proceedings are suspended by virtue of section 15 was originally fourteen days and was extended to forty-two days by the Legal Aid (Amendment) Ordinance 1967. It was found that the longer period was necessary to enable the Director to make proper inquiries as to the applicant's means and the merits of the case.

4. It is now felt that in the case of an application for an emergency certificate under regulation 7 of the Legal Aid Regulations this period of forty-two days is too long and that, to meet such a case, the Ordinance should enable the period of suspension of proceedings to be prescribed by regulations.

## **HONG KONG TOURIST ASSOCIATION (AMENDMENT)**

### **BILL 1970**

THE ACTING FINANCIAL SECRETARY (MR C. P. HADDON-CAVE) moved the second reading of: —"A bill to amend the Hong Kong Tourist Association Ordinance."

He said: —Sir, this bill gives the Hong Kong Tourist Association power to borrow money for furthering its own purposes. Other statutory organizations such as the Trade Development Council and the Productivity Council already have such powers and the present bill merely puts the Tourist Association in a similar, though not identical, position. As the Association's annual estimates—unlike those of the Trade Development Council and the Productivity Council—do not have to be approved by Your Excellency, it is considered appropriate that the Financial Secretary's approval of each and every loan proposal should be sought by the Association. In the case of the Trade Development Council and the Productivity Council, the only loan proposals which require the Financial Secretary's approval are those which would bring total outstanding borrowings to a figure in excess of 10% of approved annual expenditure, including unallocated balances and surpluses if any.

In the first instance, the Association wishes to raise a loan for the purchase of accommodation for some members of its staff and this would appear to be an entirely prudent idea, particularly in present circumstances.

**Hong Kong Tourist Association (Amendment) Bill—second reading**

*Question put and agreed to.*

Bill read the second time.

*Bill committed to a committee of the whole Council pursuant to Standing Order No 43(1).*

*Explanatory Memorandum*

The purpose of this Bill is to enable the Hong Kong Tourist Association Board, with the approval of the Financial Secretary and subject to such conditions as he may determine, to borrow money for the purposes of the Association and for the purpose of such borrowing to charge all or any part of the property of the Board.

**RADIATION (AMENDMENT) BILL 1970**

DR P. H. TENG moved the second reading of: —"A bill to amend further the Radiation Ordinance."

He said: —Sir, the amendments in this bill are being introduced on the recommendation of the Radiation Board in the light of experience gained since the Ordinance and its subsidiary regulations came into effect in 1965.

Clause 2 of the bill amends the definition of irradiating apparatus by widening the expression to cover any apparatus, other than a television set, which is *intended* to emit or produce ironizing radiation and not only, as at present, apparatus which is capable of producing or emitting such radiation. This amendment is considered necessary to avoid a technical defence that at the material time the apparatus in question was not capable of emitting such radiation as it was not connected to a power supply, or that at the material time there was a technical fault in the apparatus which rendered it not capable of such emissions. The same clause deletes the definition of the licencing authority in consequence of an amendment to section 6 of the principal Ordinance to which I shall shortly be referring.

Clause 3 empowers the Commissioner of Labour and the Director of Commerce and Industry to nominate representatives to take their places on the Radiation Board, and clause 4 authorizes the Radiation Board to delegate certain of its powers under section 6 to any public officer by notice in the *Gazette*. At present the licencing authority is any *ex-officio* member of the Radiation Board to whom the power to



grant or refuse licences has been delegated. This amendment will enable the Board, with the approval of the Governor, to delegate licencing powers to other officers, and it is intended to recommend that certain powers be delegated to the Senior Industrial Health Officer of the Labour Department to enable him to deal with the licencing of radioactive substances in affected industrial undertakings. It is consequential on this amendment that the definition of the licencing authority has been deleted from section 2.

Section 14 of the principal Ordinance gives the Radiation Board power, subject to the approval of this honourable Council, to make regulations to provide for the carrying out of the provisions of the Ordinance, and the Board intends to make amendments to the Radiation (Control of Irradiating Apparatus) Regulations and the Radiation (Control of Radioactive Substances) Regulations to impose further restrictions on the disposal of irradiating apparatus, to make further provisions regarding licences for irradiating apparatus and radioactive substances, and to make minor technical amendments found necessary by the Board. These amending regulations will be submitted to this Council for approval in due course if the present bill becomes law.

A detailed explanation of the provisions of the bill is given in the Explanatory Memorandum appended to the bill.

DR CHUNG: —Sir, with the rapid advancement of electronic technology and fast development of electronic testing, the use and application of cathode ray tubes in testing apparatus such as oscilloscopes is becoming increasingly popular in Hong Kong. The irradiating power of these oscilloscopes generally speaking is similar to that of television sets. Since television sets are excluded in the definition of irradiating apparatus, it is my intention, Sir, to seek the agreement of honourable Members at the Committee Stage also to exclude oscilloscopes in the definition of irradiating apparatus in clause 2 of the bill.

With this particular comment, Sir, I beg to support the motion.

DR TENG: —I am grateful to my honourable Friend for drawing attention to the question of oscilloscopes and I shall move an appropriate amendment at the Committee Stage.

*Question put and agreed to.*

Bill read the second time.

*Bill committed to a committee of the whole Council pursuant to Standing Order No 43(1).*

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

This Bill seeks to amend the Radiation Ordinance (Cap. 303), to give effect to recommendations of the Radiation Board.

2. Clause 2 deletes the definition of "licensing authority", which is no longer required in consequence of the proposed new section 6. It also widens the present definition of "irradiating apparatus".

3. Clause 3 empowers the Commissioner of Labour and the Director of Commerce and Industry to nominate representatives to take their places on the Radiation Board.

4. Clause 4 of the Bill replaces section 6 of the Ordinance in order to enable the Radiation Board to delegate some of their powers and duties by notice in the *Gazette* to a public officer, with the consent of the Governor.

**IMPORT AND EXPORT BILL 1970**

MR T. D. SORBY moved the second reading of:—"A bill to provide for the regulation and control of the import of articles into Hong Kong, the export of articles from Hong Kong, and any matter incidental to or connected with the foregoing."

He said:—Your Excellency, the bill, whose second reading I move on behalf of the Government today, is in principle a comprehensive revision of the existing Importation and Exportation Ordinance first enacted fifty-five years ago. Those who drafted that Ordinance could scarcely have foreseen the changes it has been necessary to make in the law to meet constantly changing external political and economic patterns and internal economic developments that have characterized the new era which began for Hong Kong in 1945. The existing bill has frequently, and sometimes at short notice, been amended to permit effective control of strategic commodities, origin certification, measures concerning public health and safety, international commercial obligations and matters which involve some peripheral derogation from free trading policy, with the object of ensuring that that policy itself should survive inviolate.

The cost in terms of legal confusion has been not inconsiderable, but the good sense of traders and industrialists and, I believe, well informed departmental attitudes have assisted in the solution to problems which have from time to time arisen because of this confusion. I believe my department has in practice very rarely, if ever, availed itself unfairly of the considerable powers the existing Ordinance confers

on the Director, or relied to get its way on possible uncertainties in the law which it might have been expensive for small businessmen to contest.

It is, I think, worth emphasizing that the underlying philosophy and the particular purpose of the bill is not to give the Director of Commerce and Industry power to influence positively the course of external commerce; rather it is to enable him to carry out effectively such minimal supervision as the Administration considers essential or desirable in the public interest. The Director must have power to control some imports and exports which implies that he must first of all be in a position to ascertain what is being imported and exported by sea, air and land. To do this he must have access to adequately informative cargo manifests and the bill so provides.

All goods may in principle be imported or exported freely, unless there is a positive prohibition on any particular goods specified in regulations made by the Governor in Council. (Although I should mention that any legislation concerned with levies on persons required to furnish information for the purpose of compiling statistics of external trade, and any executive action connected therewith, must be confirmed by resolution of this Council.)

So much for the philosophy and the principles underlying the bill. Its substance is concerned with the ground rules. First, when and to whom and by whom and under what conditions goods may be imported and exported and especially of course prohibited articles which require to be specially licensed; second, how and by whom the legislation will be enforced; and third, legal procedures connected with attempts, successful or otherwise, at evasion of the law. I should add that the Preventive Service, established by separate Ordinance, and with its primary function the protection of excise revenue from dutiable commodities, is effectively the enforcement arm for most, if not all, the provisions of the Ordinance; and it is the intention that it will continue to be so. I should also perhaps mention here that most of the articles mentioned in the regulations are prohibited for reasons other than commercial, industrial, or even broadly economic; and the Director of Commerce and Industry is in this respect merely the agent of the Central Administration and a number of departments.

Sir, the bill is not a mere revision of Chapter 50 of the existing laws; it will, if this honourable Council approves it, be a completely new law in the sense that some material to be found now among the regulations made under Chapter 50 is transferred to the Ordinance itself, and certain provisions from some five other Ordinances or regulations made under them are incorporated in the new bill, as reference to the comparative table appended to the bill will disclose.

But the bill can be regarded largely as a revision in the sense that it contains little that is novel. It is for this reason and because the

[MR SORBY]     **Import and Export Bill—second reading**

bill has been under constant scrutiny by the Trade and Industry Advisory Board and the principal trade and industrial associations—it is for these reasons that I propose not to take up honourable Members' time by expounding the bill clause by clause. The explanatory memorandum attached to the bill does just this sufficiently and, if I may say so, with a very decent sobriety. But honourable Members may wish to note those main features of the bill which differ from existing provisions.

Firstly, under the new bill, any person aggrieved by a decision of the Director or a public officer may appeal to the Governor; the present Ordinance gives no such general right of objection, other than in forfeiture decisions. Secondly, the wide powers of search and arrest conferred upon members of the Preventive Service and authorized officers under the existing Ordinance have been restricted in the bill to the extent that domestic premises may only be entered under a specific warrant issued by a magistrate or on authority in writing by a senior member of my staff. Thirdly, the present mandatory forfeiture provisions would be relaxed to confine forfeiture to offences connected with articles listed in the Schedule, that is to say, gold, acetic anhydride, strategic commodities and goods traded with Rhodesia.

In respect of other articles seized and liable to forfeiture, for instance vehicles and vessels under 250 gross tons, the magistrate would in future have discretion to order forfeiture or not. At present the law gives him no discretion. The Governor would be specifically empowered to allow moral claims for the return of forfeited articles, vessels or vehicles, whereas under the existing law appeal lies only to the Governor in Council.

Finally, the bill consolidates the Governor in Council's powers to make regulations at present scattered throughout Chapter 50 and other legislation. Certain new powers are also conferred to make regulations authorizing various controls for which legislative sanction in the past or at present might be thought inadequate or doubtful.

To sum up, the new bill has been drawn up to facilitate the administration of those few trade controls which we must adopt for economic, social, or international political reasons; for the proper discharge of accepted international obligations; and to uphold the integrity of our control systems in the eyes of our trading partners. The last mentioned is particularly important as any lack of confidence in our origin certification or export restraint arrangements could have serious and far reaching consequences for our economy.

Sir, I mentioned in the course of the 1968 Budget debate that one of my objectives at that time was to get this bill before Council within

the next twelve months, that is to say, before April 1969. I have obviously failed in this objective, but not through any want of purpose or through shortage or inadequacy of departmental or legal drafting staff. Nor does the delay arise in consultation with or through the Trade and Industry Advisory Board; indeed, quite the contrary. I should particularly wish to say how much I am indebted to the lively interest and perception of the legal draftsmen, but the extra year I am sure been well spent in ensuring that merchants' and manufacturers' interests are properly safe-guarded from narrow sectional enthusiasms. The enactment of this bill, and in due course, consolidated and modernised subsidiary legislation, should not only strengthen the hands of those who have to enforce the law but clarify the rights of individual merchants and manufacturers in relation to statutory import and export controls. I do not claim that the bill is perfect—only time will put it to the test—but I do believe it strikes a sensible balance between the ideal and what is practicable and realistic.

It will be two weeks before the resumed debate on this bill and another two before the committee stage is scheduled. There will be reasonable opportunity, I think, for public scrutiny and comment, apart from what has already been given to the bill in the Trade and Industry Advisory Board and by the trade and industrial associations.

*Question proposed.*

*Motion made (pursuant to Standing Order No 30).* That the debate on the second reading of the bill be adjourned—THE COLONIAL SECRETARY (SIR HUGH NORMAN-WALKER).

*Question put and agreed to.*

#### *Explanatory Memorandum*

The purpose of the Bill is to provide for the regulation and control of imports and exports and overseas trade generally. It seeks to repeal and replace the Importation and Exportation Ordinance (Chapter 50).

2. Clause 2 of the Bill defines the more important terms which are used in the Bill. Many of them have no equivalent in the existing Ordinance.

3. Clause 3 empowers the Director (defined in clause 2 to include the Director of Commerce and Industry, any Deputy Director, any Assistant Director, the Commissioner of the Preventive Service and any Deputy or Assistant Commissioner) to issue licences (subclause (1)). These may be issued subject to such conditions as the Director may impose and may be cancelled, revoked or suspended by him (subclause (2)). The

**Import and Export Bill—second reading***[Explanatory Memorandum]*

Director's discretion to cancel, revoke or suspend a licence is limited, where there has been no fraudulent misrepresentation, by subclause (3) unless the article in respect of which the licence was issued is a strategic commodity specified in regulations made under the Bill and the Director considers it necessary to take action under subclause (2) in the public interest. The form of licences to be issued will be determined administratively by the Director (subclause (8)); this will enable necessary changes in their form to be made expeditiously.

It is intended that the Director will, in most cases, delegate his powers under subclause (9) of this clause to authorized officers, who are defined in clause 2 of the Bill.

4. Clause 4 empowers the Director, before issuing a licence, to require that the applicant therefor shall deposit with him a specified sum of money. If the licence holder fails to comply with any condition on which the licence was issued to him, the Director may, after giving notice, apply to a magistrate for an order forfeiting to the Crown the money deposited with him.

5. Clause 5, which empowers the Governor to give directions to the Director or any public officer in the exercise of any function or duty under the Bill, other than the function of a court, is in common form.

6. Clause 6 provides for an appeal to the Governor by any person aggrieved by the decision, act or omission of the Director or any public officer (other than a judge, District Judge or magistrate). Notice of the objection is to be lodged in triplicate with the Colonial Secretary within fourteen days; and no appeal shall lie from the decision of the Governor after his consideration of the objection.

7. Prohibited articles imported must remain in the possession of the owner of the vessel, etc. in which they were brought into Hong Kong until the importer produces to him a valid import licence issued in respect of the prohibited articles or until the Director issues a direction order in respect of the articles (clause 7).

8. The person to whom an import licence has been issued must present it to the carrier within seven days after the article has been imported. The carrier must present it to the Director, with a certified copy or extract of the manifest, within seven days after receiving the licence from the licensee (clause 8).

Clause 9 specifies the procedure to be followed in the case of part shipment of cargo.

9. Clause 10 prohibits a carrier from receiving any prohibited article for export, unless there is presented to him a valid export licence.

10. By clause 11(1) the owner of an article, in respect of which an export licence has been issued, must deliver the licence to the carrier before it is exported. Under clause 11(2), the carrier must submit to the Director, within fourteen days after the export of the article, the export licence and a certified copy of the manifest of the vessel.

11. Clause 12 deals with the inspection and storage of prohibited articles. By subclause (1), the Director, authorized officers and senior members of the Preventive Service are authorized to require the owner of any article, which has been imported within a period of six months or is intended to be exported, to produce it for inspection for the purpose of determining whether or not the article is a prohibited article. Subclause (2) provides for the determination of whether or not the article is a prohibited article.

Under subclause (3), if the article is determined to be a prohibited article, the Director or an authorized officer may direct the owner to store it in a specified place; it may not be removed therefrom without the authority of the Director or an authorized officer (subclause (4)). By subclause (5), the Director or an authorized officer may impose conditions on the removal of a prohibited article from a specified storage place.

12. Clause 13 deals with claims to ownership, and the disposal, of prohibited articles. By subclause (1), prohibited articles found without an apparent owner are to be stored in a place specified by the Director or an authorized officer. Subclause (3) provides that public notice shall be given of the storage of prohibited articles. By subclauses (4) and (5), the Director or an authorized officer may authorize the removal of prohibited articles from the specified storage place, subject to the payment of all accrued storage charges by the owner.

The Director may, if no claim of ownership of the prohibited goods is received by him, apply to a court for an order for their disposal; and the court, if satisfied that the provisions of this clause have been complied with, may order that the articles be forfeited to the Crown.

13. Clause 14 provides for the offence of smuggling. Where any vessel, etc., suspected on reasonable grounds of being used

**Import and Export Bill—second reading***[Explanatory Memorandum]*

for smuggling, is found to have a false bulkhead or compartment, etc., the fittings, fabric or structure of the vessel, aircraft or vehicle shall be presumed to have been altered for the purpose of smuggling.

14. The master of a vessel, etc., may, on entering or leaving Hong Kong, be required to furnish a manifest of the cargo on the vessel to a senior member of the Preventive Service and to allow any member of the Preventive Service to board the vessel, inspect the cargo and search the vessel for contraband (clause 15).

15. Clause 16 prohibits cargo being placed in vessels, etc. without the consent of the owner, etc. Subclause (1) refers to vessels and aircraft, and subclause (2) to vehicles which may leave Hong Kong. Clause 17 requires all cargo imported or exported to be recorded in manifests, which shall contain such particulars as may be prescribed from time to time by the Director of Commerce and Industry by notice in the *Gazette*.

It is intended that, where it is the usual practice not to record particulars of the import and export of cargo in a manifest, (such as cargo brought into Hong Kong by rail or by barrow across the border of China), such particulars of the cargo shall be recorded in a document as are prescribed from time to time by the Director of Commerce and Industry by notice published in the *Gazette*. The procedure provided for in this clause is designed to meet existing practice.

Clause 18 makes it an offence to import or export any unmanifested cargo.

16. Clause 19 requires the owner of a vessel, when called upon, to produce particulars of the ports of call of the vessel within the period of three months preceding its arrival in Hong Kong, in order to assess the possibility of smuggling.

17. Clause 20 vests general powers of investigation in members of the Preventive Service and authorized officers.

18. Clause 21 sets out the special powers of members of the Preventive Service and authorized officers where they suspect offences under the Bill. These include powers of entry, search and seizure, though they are qualified by clause 22, which seeks to prevent their arbitrary or unnecessary use. Clause 23 vests the power of arrest of suspected offenders in authorized officers and members of the Preventive Service and clause 24 confers on them additional ancillary powers of investigation.



19. Clause 25 empowers members of the Preventive Service and authorized officers to place locks or seals on premises, vessels, aircraft or vehicles. By subclause (2) it is an offence for any unauthorized person to remove such a lock or seal, save in limited circumstances.

20. The obstruction of any member of the Preventive Service, or of any authorized officer, is made an offence by clause 26.

21. Clause 27 prescribes the procedure to be adopted for the forfeiture to the Crown of articles, vessels not exceeding two hundred and fifty gross tons and vehicles. These powers of forfeiture may be exercised whether or not any person has been convicted of an offence in respect of the contravention. The order for forfeiture to the Crown is made by a magistrate. Clause 28 provides for the hearing of an application for an order for forfeiture if the owner of the seized object has given notice of claim under subclause (5) of clause 27. If the application for forfeiture is made in respect of an article of the type of articles specified in the Schedule or in respect of a vessel or vehicle used in connexion with such an article, it is mandatory for the magistrate to order forfeiture if he is satisfied that the article, vessel or vehicle is liable to forfeiture. In other cases it is discretionary (subclause (7) of clause 28).

Clause 29 empowers a magistrate to order the release of a seized vessel or vehicle upon payment of its value. The former owner may apply to the Governor for the return of the forfeited article, vessel or vehicle, on moral grounds. Such a claim will be considered by the Governor and may be dealt with by him or referred by him to the Governor in Council (clause 30).

22. Clause 31 empowers the Governor in Council to make regulations under a wide variety of headings prescribed in subclause (1). Existing regulations, made under the Importation and Exportation Ordinance, will be deemed by the Interpretation and General Clauses Ordinance (Chapter 1) to have been made under the Bill. Regulations made or deemed to have been made under clause 31 may impose penalties for their contravention to a maximum fine of one hundred thousand dollars and imprisonment for two years (subclauses (2) and (3)).

23. Clause 32 empowers the Legislative Council to provide by resolution for the imposition of a levy upon persons required to furnish the Director with information for the purpose of compiling statistics of overseas trade.

24. Clause 33 provides for evidentiary presumptions in proceedings under the Bill.

**Import and Export Bill—second reading***[Explanatory Memorandum]*

25. Clause 34 provides for the onus of proof which will apply in forfeiture and criminal proceedings under the Bill.

26. By clause 35, the Bill will apply to any article contained in a postal packet, except that a postal packet contained in a sealed mail bag will not, if the mail bag is itself listed in a manifest, be considered as cargo for the purposes of the Bill. A postal packet may be opened and examined by an authorized officer or a member of the Preventive Service in the presence of, and under the direction of, an officer of the Post Office.

27. Clause 36 makes it an offence to give false information in respect of an application for any licence to be issued under the Bill or to make any unauthorized alteration of such a licence. By clause 37, a prosecution for an offence under the Bill may be commenced at any time within two years after the offence was committed.

28. By clause 38, the name and identity of an informer and any information furnished by him is protected from publication except where, in the opinion of the court, justice requires that it be revealed.

29. Clause 39 empowers the Governor to amend the Schedule (which prescribes the types of articles in respect of which, if they are liable to forfeiture, an order for their forfeiture is mandatory) by notice published in the *Government Gazette*.

30. Clause 40 repeals the Importation and Exportation Ordinance and section 11 of the Summary Offences Ordinance.

**PROTECTION OF NON-GOVERNMENT CERTIFICATES  
OF ORIGIN (AMENDMENT) BILL 1970**

MR SORBY moved the second reading of: —"A bill to amend the Protection of Non-Government Certificates of Origin Ordinance."

He said: —Sir, this bill is to close a loophole in an Ordinance which protects the system under which certificates of origin are issued by the four organizations listed in the Schedule to the Ordinance.

Honourable Members are aware, I think, of the importance of certification of origin to our economy. At the present time nearly 90% of all our exports of Hong Kong products and a large proportion of our

re-exports are supported by certificates issued either by the Commerce and Industry Department or by the four scheduled non-Government organizations.

The minor revision proposed in the bill will close a loophole discovered when a non-Government certificate of origin was revoked but subsequently utilized as a supporting document to obtain payment for the consignment to be exported. Although in that case, the revoked certificate was probably used innocently, it is advisable to provide that revoked certificates must be returned and for penalties if they are not. The revision now proposed will accomplish this.

*Question put and agreed to.*

Bill read the second time.

*Bill committed to a committee of the whole Council pursuant to Standing Order No 43(1).*

#### *Explanatory Memorandum*

This Bill amends section 4 of the principal Ordinance by inserting two new subsections.

2. Under clause 2, a chamber of commerce or other body which has revoked a non-government certificate of origin is required to give notice in writing of the revocation to any person who it has reason to believe may have in his possession or control the revoked certificate or a copy thereof. A person receiving such a notice will be guilty of an offence if he is in possession of it and fails to surrender it.

### **COMPANIES (AMENDMENT) (NO 3) BILL 1970**

#### **Resumption of debate on second reading (22nd April 1970)**

*Question again proposed.*

*Question put and agreed to.*

Bill read the second time.

*Bill committed to a committee of the whole Council pursuant to Standing Order No 43.*

**BANKRUPTCY (AMENDMENT) (NO 2) BILL 1970****Resumption of debate on second reading (22nd April 1970)**

*Question again proposed.*

*Question put and agreed to.*

Bill read the second time.

*Bill committed to a committee of the whole Council pursuant to Standing Order No 43.*

**Committee stage**

Council went into Committee.

**CENSUS (AMENDMENT) BILL 1970**

Clauses 1 to 7 were agreed to.

**COMPANIES (AMENDMENT) (NO 2) BILL 1970**

Clauses 1 and 2 were agreed to.

**BANKRUPTCY (AMENDMENT) BILL 1970**

Clauses 1 and 2 were agreed to.

**CROWN RENT AND PREMIUM (APPORTIONMENT) BILL 1970**

HIS EXCELLENCY THE PRESIDENT: —With the concurrence of honourable Members we will take the clauses in blocks of not more than ten.

Clauses 1 to 28 were agreed to.

**CROWN RIGHTS (RE-ENTRY AND VESTING REMEDIES)  
BILL 1970**

HIS EXCELLENCY THE PRESIDENT: —With the concurrence of honourable Members we will take the clauses in blocks of not more than five.

Clauses 1 to 7 were agreed to.

Clause 8.

THE ATTORNEY GENERAL (MR ROBERTS): —Under the Crown Rights (Re-entry) Ordinance, which is repealed and replaced in an expanded form by the bill before Council, petitions against re-entry by the Crown under that Ordinance may be made either to the Supreme Court or to the Governor in Council. The number of such petitions to the Governor in Council has greatly increased in recent months and is likely to increase even further on the enactment of this bill, which is in wider terms than the present law since it introduces a novel procedure whereby the Crown can re-enter a flat.

The amendments to clauses 8, 9, 11 and 12, which are before honourable Members, are designed to simplify and speed up the procedure for dealing with petitions against re-entry by the Crown or against the vesting of what are called relevant interests in the Colonial Treasury incorporated. The solution proposed is modelled on that contained in clause 30 of the Import and Export Bill 1970, which has already been considered by Council this afternoon.

The effect of the proposed changes is that where a memorial of re-entry or a vesting notice has been registered in the Land Office, the owner concerned will have a choice—either he can petition the Governor to grant him relief against the re-entry or he can apply to the Supreme Court for such relief. If a petition is addressed to the Governor, then the Governor may either order the cancellation of the memorial of re-entry or vesting notice, subject to the imposition of such terms as to costs, expenses and otherwise as he may think fit or he may direct the petition to be referred to the Governor in Council. In simple terms this means that the Governor may say "yes" to a petition but must otherwise refer it to the Executive Council, and then the Governor in Council, when a petition is referred to him, may either accede to it or reject it.

I think that the amendments proposed will provide a quicker procedure which will be of some benefit to property owners and I therefore move that clause 8 be amended by deleting the words 'in Council' wherever they occur in that clause.

*Proposed Amendment*

*Clause*

8 That the words "in Council" be deleted wherever they occur.

The amendment was agreed to.

Clause 8, as amended, was agreed to.

Clause 9.

THE ATTORNEY GENERAL (MR ROBERTS): —Sir, I move that clause 9 be amended as set forth in the paper before honourable Members.

**Crown Rights (Re-entry and Vesting Remedies) Bill—committee stage***Proposed Amendment**Clause*

9 That clause 9 be deleted and the following substituted—

- "Power of Governor or Governor in Council to order cancellation of memorial of re-entry or vesting notice.
9. (1) Upon consideration of a petition under section 8, the Governor may—
- (a) order the cancellation of the memorial of re-entry so far as it affects the lands and tenements in respect of which the petition was made or the cancellation of the vesting notice so far as it affects the relevant interest in respect of which the petition was made, upon such terms as to costs, expenses, damages, compensation, penalty or otherwise as he shall in his discretion think fit; or
- (b) direct that the petition be referred to the Governor in Council.
- (2) The Governor in Council, upon considering a petition referred to him under subsection (1), may—
- (a) order the cancellation of the memorial of re-entry so far as it affects the lands and tenements in respect of which the petition was made or the cancellation of the vesting notice so far as it affects the relevant interest in respect of which the petition was made, upon such terms as to costs, expenses, damages, compensation, penalty or otherwise as he shall in his discretion think fit; or
- (b) dismiss the petition."

The amendment was agreed to.

Clause 9, as amended, was agreed to.

Clause 10 was agreed to.

Clause 11.

THE ATTORNEY GENERAL (MR ROBERTS): —Sir, I move that clause 11 be amended by inserting the words "Governor or" before the words "Governor in Council" in subclause (1) of clause 11.

*Proposed Amendment**Clause*

11 That the words "Governor or" be inserted before "Governor in Council" in subclause (1).

The amendment was agreed to.

Clause 11, as amended, was agreed to.

Clause 12.

THE ATTORNEY GENERAL (MR ROBERTS): —Sir, I move that the words "Governor or" be inserted before the words "Governor in Council" in subclause (1) of clause 12.

*Proposed Amendment**Clause*

12 That the words "Governor or" be inserted before "Governor in Council" in subclause (1).

The amendment was agreed to.

Clause 12, as amended, was agreed to.

Clauses 13 to 15 were agreed to.

**STREETS (ALTERATION) BILL 1970**

HIS EXCELLENCY THE PRESIDENT: —With the concurrence of honourable Members we will take the clauses in blocks of not more than five.

Clause 1 was agreed to.

Clause 2.

MR J. J. ROBSON: —Sir, I move that clause 2 be amended as set forth in the paper before honourable Members. The definition of "claim for compensation" has been included simply to facilitate the drafting of amendments to clause 6 subsection (1) paragraph (d) and clause 7 subsection (1). It has been explained in the paper that the words "affixed to land" which qualify "property" in clauses 4 and 11 may have too restrictive a meaning. To overcome this difficulty it has been decided to delete in those clauses the words "affixed to land"

[MR ROBSON] **Streets (Alteration) Bill—committee stage**

and to define "property" in such a way as to make it clear that "property" means land and any buildings on the land held under a Crown lease. It follows that the owner or occupier of land held under a Crown lease, whether or not there are buildings on that land, may claim compensation if that land is affected by an undertaking under the bill.

*Proposed Amendment*

*Clause*

2 That clause 2 be amended—

(a) by inserting before the definition of "Director" the following definition—

“ "claim for compensation" means a claim for compensation which—

(a) has been made under subsection (2) of section 4 or subsection (3) of section 11; and

(b) is not withdrawn, or deemed to have been withdrawn under subsection (6) of section 4;"; and

(b) by inserting after the definition of "Director" the following definition—

““property” means land and any building thereon;”.

The amendment was agreed to.

Clause 2, as amended, was agreed to.

Clause 3 was agreed to.

Clause 4.

MR ROBSON: —Sir, I move that clause 4 be amended in subclause (2) by deleting therefrom the words "affixed to land". I have already explained the reasons for this amendment which are as set out in the paper.

*Proposed Amendment*

*Clause*

4 That clause 4 be amended in subclause (2) by deleting therefrom the words "affixed to land".



The amendment was agreed to.

Clause 4, as amended, was agreed to.

Clause 5 was agreed to.

Clause 6.

MR ROBSON: —Sir, I move that clause 6 be amended as set forth in the paper before honourable Members. The first amendment is simply to clarify the wording of paragraph (b) of subclause (1) of clause 6. The second amendment is to make it clear that if the Governor in Council defers for further consideration an objection to an undertaking, he may refer the claim for compensation in respect thereof to a tribunal for assessment.

*Proposed Amendment*

*Clause*

6 That clause 6 be amended in subclause (1) —

(a) in paragraph (b) by inserting the word "proposed" after the word "the"; and

(b) by deleting paragraph (d) and substituting the following—

"(d) defer for further consideration any objection to a proposed undertaking until any claim for compensation in respect of the proposed undertaking has been determined by a tribunal in accordance with section 7, and refer the claim to the tribunal for that purpose."

The amendment was agreed to.

Clause 6, as amended, was agreed to.

Clause 7.

MR ROBSON: —Sir, I move that clause 7 be amended by deleting subclause (1) and substituting therefore a new subclause as set forth in the paper before honourable Members. The first part of this new subclause is to make it clear that when a tribunal is required to determine compensation in relation to an undertaking which has been authorized, the determination will be in relation to the undertaking as authorized and not in relation to the undertaking as originally proposed. The object of the second part of the new subclause is to enable a tribunal to determine a claim for compensation in relation to an

[MR ROBSON] **Streets (Alteration) Bill—committee stage**

undertaking as originally proposed when such a claim is referred to it by the Governor in Council under paragraph (d) of subclause (1) of clause 6, *i.e.* in respect of an undertaking which the Governor in Council has deferred for further consideration.

*Proposed Amendment*

*Clause*

7 That clause 7 be amended by deleting subclause (1) and substituting the following—

"(1) There shall be a tribunal to hear and determine any claim for compensation—

(a) in relation to an undertaking authorized under paragraph (a) or (c) of subsection (1) of section 6, as so authorized; or

(b) referred to it by the Governor in Council under paragraph (d) of subsection (1) of section 6."

The amendment was agreed to.

Clause 7, as amended, was agreed to.

Clause 8.

MR ROBSON: —Sir, I propose that clause 8 be amended by adding after "Colony" the words "if the undertaking is authorized by the Governor in Council". This amendment is to make it clear that compensation will only be payable if the undertaking is authorized by the Governor in Council.

*Proposed Amendment*

*Clause*

8 That clause 8 be amended by adding after "Colony" the words "if the undertaking is authorized by the Governor in Council".

The amendment was agreed to.

Clause 8, as amended, was agreed to.

Clauses 9 and 10 were agreed to.

Clause 11.

MR ROBSON: —Sir, I move that clause 11 be amended in subclause (3) by deleting therefrom the words "affixed to land". This is another amendment which is included for similar reasons to those which I have explained in relation to the amendment to subclause (2) of clause 4.

*Proposed Amendment*

*Clause*

11 That clause 11 be amended in subclause (3) by deleting therefrom the words "affixed to land".

The amendment was agreed to.

Clause 11, as amended, was agreed to.

Clause 12.

MR ROBSON: —Sir, I move that a new subclause (2) be added to clause 12 as set forth in the paper before honourable Members. The reason for this amendment is to enable any objections pending under the existing Streets (Alteration) Ordinance to be dealt with under that Ordinance.

*Proposed Amendment*

*Clause*

12 That clause 12 be amended by adding the following new subclause (2) —

"(2) Notwithstanding the provisions of subsection (1), if the provisions of section 3 of the Streets (Alteration) Ordinance (hereinafter in this subsection referred to as the repealed Ordinance) have been complied with before the date of commencement of this Ordinance, the repealed Ordinance shall continue to have effect in all respects and for all purposes consequential upon the publication of a notice under the said section 3, as if the repealed Ordinance had not been repealed. "

The amendment was agreed to.

Clause 12, as amended, was agreed to.

The Schedule was agreed to.

**PUBLIC RECLAMATIONS AND WORKS (AMENDMENT)**  
**BILL 1970**

Clause 1 was agreed to.

Clause 1A.

MR ROBSON:—Sir, I move that a new clause 1A be added after clause 1 as set forth in the paper before honourable Members. This is a drafting change required in view of the references in the principal Ordinance and in the bill before Council to the expression “claims for compensation”. The effect of the amendment will be to require a person who, in response to a notice of a proposed undertaking, published under the principal Ordinance objects, or makes a claim of private right, to make at the same time a claim for compensation containing an estimate of his loss.

*Proposed Addition*

*Clause*

1 A That the following new clause 1A be added after clause 1—

"Amend- ment of section 2 (Cap. 113.)	1A. Section 2 of the principal Ordinance is amended in paragraph (b) of subsection (2) by inserting after "with" the following—  “a claim for compensation containing”.”.
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The addition of the new clause was agreed to.

Clause 2.

MR ROBSON:—Sir, I move that the proposed new section 3 of the principal Ordinance be amended in sub-paragraph (d) of subclause (2) by adding at the end of this paragraph the words "and refer the claim to the tribunal for that purpose". The reason for this amendment is to make it clear that if the Governor in Council defers for further consideration an objection to an undertaking he may refer a claim for compensation in respect thereof to a tribunal for assessment.

*Proposed Amendment*

*Clause*

2 That the proposed new section 3 be amended in paragraph (d) of subclause (2) by inserting after “section 7” the following—

"and refer the claim to the tribunal for that purpose".

The amendment was agreed to.

Clause 2, as amended, was agreed to.

Clause 3 was agreed to.

MR ROBSON:—Sir, I move that new clauses 4, 5 and 6 be added after clause 3 as set forth in the paper before honourable Members. The new Clause 4 effects an amendment to subsection (2) of section 6 of the principal Ordinance and is intended to make it clear that a person who has submitted a claim for compensation is entitled to have it referred to a tribunal after the undertaking has been authorized.

Clause 5 amends section 7 of the principal Ordinance so as to make it clear that a tribunal appointed by the Chief Justice shall hear and determine any claim for compensation referred to it by the Governor in Council under paragraph (d) of subsection (2) of section 3, in relation to the undertaking as originally proposed. In the case of an undertaking which is authorized by the Governor in Council the tribunal will determine the amount of compensation payable in relation to the undertaking as authorized.

Clause 6 inserts a new section 7A in the principal Ordinance and makes it clear that any compensation awarded by a tribunal will be paid out of the general revenue of the Colony only if the undertaking is authorized by the Governor in Council.

HIS EXCELLENCY THE PRESIDENT:—With the concurrence of honourable Members we will take the addition of these three new clauses in a block. The question is that new clauses 4, 5 and 6 stand part of the bill.

### *Proposed Additions*

#### *Clauses*

- 4 "Amend-  
ment of  
section 6.
- 4.** Section 6 of the principal Ordinance is amended in subsection (2) by deleting "submit a claim for compensation in respect of the extinguishment of such private right" and substituting the following—

"require that his claim for compensation be referred to a tribunal by the Governor, who shall so refer it".

**Public Reclamations and Works (Amendment) Bill—committee stage***Proposed Additions**Clauses*

5 "Amend-  
ment of  
section 7.

**5.** Section 7 of the principal Ordinance is amended by deleting subsection (1) and substituting the following—

“(1) There shall be a tribunal to hear and determine any claim for compensation which has been referred to it—

(a) by the Governor in Council under paragraph (d) of subsection (2) of section 3; or

(b) by the Governor under subsection (2) of section 6, in relation to the undertaking as authorized under paragraph (a) or (c) of subsection (2) of section 3.

(1A) The tribunal shall consist of a judge of the Supreme Court or of the District Court to be appointed by the Chief Justice as occasion may require. The Chief Justice may further appoint one or more assessors to advise the tribunal on any matters requiring professional knowledge. ". "

6

"Addition  
of new  
section 7A.

**6.** The principal Ordinance is amended by adding after section 7 the following new section 7A—

"Compensa-  
tion payable  
out of  
general  
revenue.

**7A.** Any compensation awarded by a tribunal under section 7 shall be paid out of the general revenue of the Colony if the undertaking is authorized by the Governor in Council."."

The addition of the new clauses was agreed to.

**FORESHORES AND SEA BED (AMENDMENT) BILL 1970**

Clause 1 was agreed to.

Clause 2.

MR ROBSON: —Sir, I move that clause 2 be amended as set forth in the paper before honourable Members. This amendment is to enable

the Governor in Council to refer a claim for compensation to a judge for assessment when he has deferred for further consideration any objection to a proposed Crown lease of the foreshore or sea bed.

*Proposed Amendment*

*Clause*

- 2 That clause 2 be amended in the proposed new paragraph (b) by adding after the words "that section" the following—  
 “and refer the claim to a judge for the purpose of such determination”.

The amendment was agreed to.

Clause 2, as amended, was agreed to.

Clause 3 was agreed to.

MR ROBSON: —Sir, I move that new clauses 4 and 5 be added to the bill as set forth in the paper before honourable Members. The reason for the proposed new clause 4 is to enable a judge to determine a claim referred to him by the Governor in Council when the claim for compensation has been deferred for further consideration under the proposed paragraph (b) of subsection (3) of section 5 of the principal Ordinance.

The new clause 5 adds a new section 7A to the principal Ordinance so as to make it clear that "any compensation awarded by a judge under section 7 shall be paid out of the general revenue of the Colony only if the Crown lease is granted by the Governor in Council".

HIS EXCELLENCY THE PRESIDENT: —With the concurrence of honourable Members we will take the addition of these two new clauses in a block. The question is that new clauses 4 and 5 stand part of the bill.

*Proposed Additions*

*Clauses*

- 4 "Amendment of section 7.  
 4. Section 7 of the principal Ordinance is amended by adding after subsection (2) the following new subsection—

"(2A) A claim for compensation referred by the Governor in Council under paragraph (b) of subsection (3) of section 5 shall be determined by such one of the judges as the Chief Justice shall in each case nominate for the purpose.".

**Foreshores and Sea Bed (Amendment) Bill—committee stage***Proposed Additions**Clauses*

5

"Addition of new section 7A. 5. The principal Ordinance is amended by adding after section 7 the following new section 7A—

7A. Any compensation awarded by a judge under section 7 shall be paid out of the general revenue of the Colony if the Crown lease is granted by the Governor in Council."."

"Compensation payable out of general revenue.

The addition of the new clauses was agreed to.

**ROAD TRAFFIC (AMENDMENT) BILL 1970**

Clauses 1 and 2 were agreed to.

Council then resumed.

**Third reading**

THE ACTING FINANCIAL SECRETARY (MR HADDON-CAVE) reported that the Census (Amendment) Bill 1970 had passed through Committee without amendment and moved the third reading of the bill.

*Question put and agreed to.*

Bill read the third time and passed.

THE ATTORNEY GENERAL (MR ROBERTS) reported that the

Companies (Amendment) (No 2) Bill 1970

Bankruptcy (Amendment) Bill 1970

Crown Rent and Premium (Apportionment) Bill 1970

had passed through Committee without amendment and that the Crown Rights (Re-entry and Vesting Remedies) Bill 1970 had passed through Committee with certain amendments 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.



MR J. J. ROBSON reported that the

Streets (Alteration) Bill 1970

Public Reclamations and Works (Amendment) Bill 1970

Foreshores and Sea Bed (Amendment) Bill 1970

had passed through Committee with certain amendments and that the Road Traffic (Amendment) Bill 1970 had passed through Committee without amendment and moved the third reading of each of the bills.

*Question put on each bill and agreed to.*

Bills read the third time and passed.

### ADJOURNMENT

Council adjourned *pursuant to Standing Order No 8(5)*.

3.24 p.m.

### NEXT SITTING

HIS EXCELLENCY THE PRESIDENT: —Council will accordingly adjourn. The next sitting will be held on 20th May 1970.

*Adjourned accordingly at twenty-four minutes past Three o'clock.*