

OFFICIAL REPORT OF PROCEEDINGS

Wednesday, 20th January 1971

The Council met at half past Two o'clock

[MR PRESIDENT in the Chair]

PRESENT

HIS EXCELLENCY THE GOVERNOR (*PRESIDENT*)
SIR DAVID CLIVE CROSSBIE 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
SIR JOHN JAMES COWPERTHWAITTE, KBE, CMG, JP
THE HONOURABLE ROBERT MARSHALL HETHERINGTON, DFC, JP
COMMISSIONER OF LABOUR
THE HONOURABLE DAVID RICHARD WATSON ALEXANDER, MBE, JP
DIRECTOR OF URBAN SERVICES
THE HONOURABLE JAMES JEAVONS ROBSON, JP
DIRECTOR OF PUBLIC WORKS
THE HONOURABLE DONALD COLLIN CUMYNN LUDDINGTON, JP
DISTRICT COMMISSIONER, NEW TERRITORIES
THE HONOURABLE JOHN CANNING, JP
DIRECTOR OF EDUCATION
DR THE HONOURABLE GERALD HUGH CHOA, JP
DIRECTOR OF MEDICAL AND HEALTH SERVICES
THE HONOURABLE PAUL TSUI KA-CHEUNG, OBE, JP
COMMISSIONER FOR RESETTLEMENT
THE HONOURABLE JACK CATER, MBE, JP
DIRECTOR OF COMMERCE AND INDUSTRY
THE HONOURABLE KAN YUET-KEUNG, CBE, JP
THE HONOURABLE WOO PAK-CHUEN, OBE, JP
THE HONOURABLE SZETO WAI, OBE, JP
THE HONOURABLE WILFRED WONG SIEN-BING, OBE, JP
THE HONOURABLE WILSON WANG TZE-SAM, OBE, JP
THE HONOURABLE HERBERT JOHN CHARLES BROWNE, JP
DR THE HONOURABLE CHUNG SZE-YUEN, OBE, JP
THE HONOURABLE LEE QUO-WEI, OBE, JP
THE HONOURABLE OSWALD VICTOR CHEUNG, QC, JP
THE HONOURABLE GERALD MORDAUNT BROOME SALMON, JP
THE HONOURABLE ANN TSE-KAI, OBE, JP
THE HONOURABLE LO KWEE-SEONG, JP

ABSENT

THE HONOURABLE ELLEN LI SHU-PUI, OBE, JP

IN ATTENDANCE

THE CLERK TO THE LEGISLATIVE COUNCIL
MR RODERICK JOHN FRAMPTON

Papers

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

	<i>Subject</i>	<i>LN No</i>
Subsidiary Legislation:—		
	Hong Kong Airport (Control of Obstructions) Ordinance.	

Hong Kong Airport (Control of Obstructions) (Amendment) Order 1971 ..	1
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Sessional Papers 1970-71:—

No 37—Annual Report by the Postmaster General for the year 1969-70
(published on 20.1.71).

No 38—Annual Report by the Secretary for Home Affairs for the year 1969-70
(published on 20.1.71).

Oral answers to questions

Profits tax on public light buses

1. MR P. C. WOO asked:—

How does Government assess the profits tax of operators of public light buses, as no tickets are issued for fares by these operators?

THE FINANCIAL SECRETARY (SIR JOHN COWPERTHWAIT):—Sir, the Commissioner of Inland Revenue obtains information on public light bus operators from the Transport Department's record of licence holders and cross-checks this with the Business Registration Office. Notices requiring returns for purposes of profits tax assessment are then issued in the normal way.

In practice, it has been found that records kept by these operators are generally poor and a high percentage of the returns received are unsatisfactory. Consequently the Commissioner has found it necessary, in many instances, to resort to estimated assessments. The quantum of estimated profits is based largely on information received from the Transport Department.

Difficulties of this kind are associated, of course, with all businesses receiving payment in cash.

Divorce Reform Act 1969

2. MR WOO asked:—

The Divorce Reform Act 1969 came into operation in England on the 1st of this month. Is it the intention of Government to adopt the provisions of this Act in Hong Kong?

THE ATTORNEY GENERAL (MR D. T. E. ROBERTS):—Yes, Sir. However, the Government considers it advisable to delay the introduction of the necessary legislation for some months. Any practical difficulties disclosed by experience of the working of the English Act can then be dealt with in our bill.

Cigarette advertising and smoking in public places

3. DR S. Y. CHUNG asked:—

In view of increasing control over cigarette advertising and smoking in other countries, particularly in the UK and the USA, has Government considered in the interests of public health (*a*) any control over or a total ban on cigarette advertising and (*b*) any restriction on smoking in public places?

DR G. H. CHOA:—Sir, the present relationship between cigarette smoking and the incidence of lung cancer is statistically beyond doubt. There has been a marked increase in the incidence of lung cancer throughout the world and in Hong Kong deaths from lung cancer have risen from 449 in 1964 to 787 in 1969.

Smoking is not only associated with a high incidence of lung cancer but has also been proved to be an important factor in the cause of chronic bronchitis and cardio vascular diseases. From a medical point of view any measure aimed at the reduction of smoking must therefore bring about improvement in the community's health. There are however many facets and approaches to this problem and the reduction of cigarette smoking cannot be brought about by any single measure. Our main aim is to educate the next generation on the hazards of smoking and to ensure that, thus enlightened, they do not fall prey to the habit which is causing so many deaths in the present generation of parents and grandparents.

It is with this in mind that health education is carried out in schools aimed at warning the young against the danger of becoming addicted to smoking with its consequent health hazards. Pamphlets on the subject prepared by my Department have recently been distributed

[DR CHOA] **Oral Answers**

through the schools to pupils and their parents. The personal examples of teachers and parents and the public in general is, of course, paramount in the teaching of the young.

Referring directly to my honourable Friend's suggestion that smoking should be restricted in public places, there can be no doubt that this, if successfully implemented, would be a step in the right direction and the suggestion should be given further thought and consideration.

As regards my honourable Friend's other suggestion regarding control over, or total ban on, cigarette advertising in Hong Kong, the approach so far has been to encourage voluntary restrictions on cigarette advertisers and two of the television companies have co-operated in voluntarily curtailing advertisement of cigarettes in close proximity to children's programmes. It is hoped that voluntary restriction will be enlarged and extended to other media including the press, and other mass communications media.

Finally, Sir, in view of the importance of this issue from the stand-point of the public's health, I am now taking a fresh look at whether any further action is called for, particularly in regard to developments in other countries.

DR CHUNG:—Sir, my honourable Friend, Dr CHOA, in answering my question said "the approach so far has been to encourage voluntary restrictions on cigarette advertisers and two of the television companies have co-operated in voluntarily curtailing advertisement of cigarettes in close proximity to children's programmes." Is Government aware that cigarette advertising is being carried out in one of the most popular TVB programmes called "Enjoy Yourself Tonight" which is watched by a large number of children?

DR CHOA:—Sir, I will watch it tonight. (*Laughter*).

MR Y. K. KAN:—Will my honourable Friend consider adopting the practice which has been, I believe, adopted for a long time elsewhere in the case of cinemas, where no smoking is allowed on the upper floors and simply on the ground floor?

DR CHOA:—Sir, my honourable Friend's suggestion is certainly worthwhile considering.

Pilot scheme for Urban Renewal

4. MR SZETO WAI asked:—

As regards the pilot scheme for Urban Renewal in Western District, would Government say:—

- (a) what progress has been made in the scheme in general;
- (b) what is its final planning;
- (c) when can the final planning be made known to the public; and
- (d) when implementation of the scheme is expected to commence?

MR J. J. ROBSON:—Sir, with your permission I will deal with the first and last parts of this question together, since a description of the progress made on the Urban Renewal Pilot Scheme will give the information on its implementation which my honourable Friend requires.

As honourable Members will be aware, the Urban Renewal Pilot Scheme lies in the western district of Hong Kong. It covers an area of 13 acres between Queen's Road and Hollywood Road and involves some 360 leased lots and the rehousing of some 13,000 people.

The scheme has been sub-divided into 4 stages and an interdepartmental committee has been established to co-ordinate the work. Our tentative programme is to complete the resumption of Stage I, comprising 97 leased lots and involving some 2,400 people, by the end of this year and the demolition of buildings and construction of the associated engineering works during 1972 and the first half of 1973. If this goes according to plan, redevelopment of that portion of the area can then start whilst further stages are being acquired and cleared. It is hoped to complete redevelopment of all 4 stages in some six or seven years, *i.e.* by the end of 1977 but, of course, difficulties could arise to prevent this timetable being met.

However, I am glad to be able to report that considerable progress has been made in putting the scheme into effect. Negotiations started early in 1970 with the owners of various lots most of which were vacant and to date a total of 16 have been acquired and agreement has been reached in respect of a further 16—that is 32 in all. However, there are six vacant lots still in private hands and the resumption of these lots was therefore notified in the *Government Gazette* on 8th January this year. Further resumptions of tenanted properties are planned to take place at roughly six weekly intervals until all lots in Stage I have been acquired.

[MR ROBSON] **Oral Answers**

On the question of its final planning and when this can be made known to the public, the Pilot Scheme area forms part of the draft Urban Renewal District Outline Zoning Plan published by the Town Planning Board on the 20th of March 1970. Twenty-one objections to this plan were received and, having considered these, the Board has submitted its recommendations to the Governor in Council.

Subject to the approval of the Governor in Council the plan provides for a new road, linking Hollywood Road with Queen's Road West, so as to improve traffic circulation in the area and to enable better scavenging, fire fighting and other services to be introduced. The scheme also provides 13 sites totalling over 3 acres for high rise commercial/residential buildings, 1 acre of open space and 2 primary school sites, totalling just under one acre, together with space for a hawker bazaar and for the parking of motor vehicles. The plan will be published as soon as approved by the Governor in Council.

MR SZETO:—Sir, are there any plans to resettle the large number of people affected before actual clearance?

MR ROBSON:—Sir, a scheme is under consideration to see whether this can be achieved—in other words whether Government can offer resettlement, or perhaps low cost housing, for the persons involved.

MR KAN:—Sir, I am concerned with the approval of plans for development of properties within the area concerned. I know in one case, in fact, approval of plans has been pending for over a year. What I would like to know, Sir, is what steps are being taken with a view to expediting the approval of these plans?

MR ROBSON:—Sir, if plans have not been approved, it means they must be in contravention with the draft plan which was published and, until the formal plan is approved by the Governor in Council, that must remain the same.

MR KAN:—Does he mean therefore, Sir, that owners who submit plans will have to be left in a state of uncertainty? The plans are not actually rejected, they are simply lying somewhere in the Public Works Department.

MR ROBSON:—Sir, I think it is difficult to comment on specific cases but generally if a plan has not been approved it must be in contravention of the draft plan. This does not apply to every property in this whole area. In fact, most properties are not affected.

Immigration Department

5. MR T. K. ANN asked:—

Will Government make a statement on the outcome of the secondment to the Immigration Department of an experienced administrative officer to assist in a reorganization exercise, to which the Colonial Secretary referred in this Council on 8th October 1969?

THE COLONIAL SECRETARY (SIR HUGH NORMAN-WALKER):—Yes, Sir. A staff grade Administrative Officer was seconded to the Immigration Department from May to September last year. His remit required him to examine and review, in conjunction with the Director, the procedures, staffing and control measures of the department, with a view to improving the speed and efficiency of the service to the public, and at the same time plugging loopholes in control arrangements and reducing to a minimum the opportunities for corruption.

During the period of his secondment, the officer closely examined all sections of the department, and, following his advice, the Director proposed or introduced a number of organizational changes. A proportion of these proposals involved staff changes and increases, and have already very largely been implemented. Honourable Members will, I believe, recall that over the last three months the Finance Committee of this Council has approved additional staff for the sub-offices, for internal checking teams, for the Airport, for training, for answering enquiries from the public, and for an operational and leave reserve. In addition, the upgrading of interviewing and counter staff in the Chinese, Aliens, and British Sections of the department has also been approved.

A number of procedural changes have also been made within the department.

And as I mentioned in reply to a question at the last meeting of this Council, approval in principle has been given for the opening of additional sub-offices in Mong Kok and Kwun Tong. A small number of other proposals concerning additional staff are still being investigated.

I believe that the measures to which I have referred above, together with other changes, the expansion and reorganization of the Airport terminal building for example, will improve the efficiency of the department and its service to the public, despite the continuing increase in its work-load.

It is early days yet to assess the impact of the changes made, particularly as they depend in part for their results on increases in staff, some of which have only recently received Finance Committee

[THE COLONIAL SECRETARY] **Oral Answers**

approval, and many of which are not yet in position. I am however hopeful that the objects of the exercise have been achieved.

MR KAN:—Is there a report submitted to Government on the re-organization of this department and, if so, can copies be supplied to members of the Finance Committee?

THE COLONIAL SECRETARY (SIR HUGH NORMAN-WALKER):—There is no one report, I am afraid. The object of the secondment was not to produce reports but to get a job of work done. There is, however, a whole list of recommendations made, some group recommendations and some individual recommendations, and also at our request before the seconded officer left the Department, he submitted to the Director, who sent on to me, two summarizing reports. I would be very glad to circularize these to all Members of the Legislative Council.

First reading

TUNG WAH GROUP OF HOSPITALS BILL 1971

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

Second reading

TUNG WAH GROUP OF HOSPITALS BILL 1971

THE SECRETARY FOR HOME AFFAIRS (MR D. R. HOLMES) moved the second reading of:—"A bill to repeal and replace the Tung Wah Hospital Ordinance."

He said:—Sir, this bill is based upon the report of a Working Party set up by Your Excellency in 1965, but already for some considerable time before that date it had been widely felt that this legislation ought to be revised and brought up to date.

The Working Party, under the Chairmanship of the Honourable FUNG Ping-fan (now Sir Kenneth FUNG) made its valuable report in 1969 with the recommendation that a new Ordinance, incorporating a new formal constitution for the Tung Wah Group of Hospitals Corporation, should be introduced. The bill now before Council is the result of that recommendation. During the drafting process the Tung Wah Group's Board of Directors has been consulted on many points and has

made many valuable suggestions which have been accepted and incorporated in the bill. The final product has the unanimous agreement and support of all concerned.

I should like to refer briefly to some of the main points in the new constitution, that is to say in the First Schedule. First, the Working Party's recommendation that the objects of the corporation should include the provision of free medical services to the people of Hong Kong but that the Board of Directors should be enabled to impose charges if it so wished, is reflected in paragraph 1 of the constitution.

Second, the Medical Committee has so far existed and operated under an exchange of letters between Government and the Board of Directors. These *ad hoc* arrangements will shortly be replaced by a formal agreement, now in the final stages of preparation, which is specifically provided for in paragraph 18 of the constitution. This new agreement will cover in detail the functions of the Committee and the financial arrangements including the Government subvention which, subject to the approval by this Council of the necessary funds, will bridge the gap between the Group's resources and its total annual expenditure.

Third, I would refer to paragraph 2 of the Schedule, which sets out the powers of the Corporation. It will be seen that these are wide and comprehensive and reflect the very full degree of confidence which this deficit-subvented organization commands.

I would like to refer also to the changes introduced by paragraphs 4 and 6 with regard to membership of the Corporation and the election of Directors to the Board. Under the existing Ordinance there is only one category of member, and since it is easy to acquire membership and with it the right to influence the corporation's affairs, and, in particular, to have a say in the election of the directors, the Working Party saw the need to make some change in these provisions. They therefore recommended that there should be two categories of members, namely ordinary and voting members. Paragraph 4 of the Schedule gives effect to this recommendation. The same paragraph provides for the laying down of qualifications for the two categories of membership, whilst paragraph 6 confines participation in the electoral proceedings to the voting members of the corporation. I hope honourable Members will fully endorse these provisions which are intended to safeguard the responsible direction of the Corporation's affairs and to ensure continuity in the valuable work which it carries out on behalf of the community.

Finally I would like to pay a tribute to the past and present Chairmen and Directors for the assistance they have given in the preparation

[THE SECRETARY FOR HOME AFFAIRS] **Tung Wah Group of Hospitals Bill—
second reading**

of this legislation, and to take also the opportunity of congratulating the Tung Wah Group on the very successful centenary year which they are at present celebrating.

MR KAN:—Sir, it is, I think, most fitting that one of our leading charitable institutions, and certainly the oldest, should begin the next 100 years of its existence with a new charter.

The Tung Wah Hospital, or the Tung Wah Group of Hospitals as it is now called, was founded in 1870 by a small group of public-spirited Chinese business men whose aim was "to found a Chinese hospital for the care and treatment of the indigent sick, to be supported by voluntary contributions".

The first so-called "Rules" made by the Hospital make interesting reading. It is stated that "The Hospital is established chiefly for the relief of poor and helpless sick Chinese, and secondarily for the convenience of employees who are not without support. Therefore medical treatment will be offered to the helpless free of charge, but medical expenses will be recovered from employees who have friends to support them. This is to make a distinction between what is serious and what is not, and not to confound pearls with fish-eyes After all, the object of this rule is to allow no poor sick left unaided and to give indiscriminate charity to no person who has support." The translation, Sir, is not mine.

Such then was the object for which the Hospital was founded and has been so for the past 100 years—the provision of free medical services to the people of Hong Kong. From a humble beginning with a munificent donation of \$15,000 from public funds and the grant of a piece of land from the Hong Kong Government, the Hospital now provides free medical services in three hospitals, an infirmary, a convalescent hospital, six free primary schools and two secondary schools, besides, relief and other charitable work. It now receives from the Government an annual subvention—the amount was \$34 million for the financial year 1970-71, more than half of Government's total medical subventions.

My honourable Friend, the Secretary for Home Affairs, has drawn our attention to the new constitution of the Hospital as set out in the First Schedule and specifically to the objects of the Hospital contained in paragraph 1. This paragraph has been drawn up after considerable discussions in the Working Party and I am glad its recommendation in this respect has been accepted by Government. The provision of free

medical services should, in my view, remain always the fundamental object of the Hospital as it has been throughout 100 years of its history.

I wish to associate myself with the tribute paid by my honourable Friend to the past and present Chairmen and Directors, particularly for their unstinting efforts in the management of the affairs of the Hospital which have earned for themselves and the Hospital the high respect and enthusiastic support of the entire community.

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 seeks to make further provision with respect to the Tung Wah Group of Hospitals.

2. Clauses 1 and 2 contain the short title and interpretation provisions respectively.

3. Clause 3 provides for the continued incorporation of the Tung Wah Group of Hospitals (referred to as the corporation).

4. Clause 4 specifies the matters in respect of which the constitution of the corporation set out in the First Schedule is to have effect.

5. Clause 5 provides for the continued vesting of property in the corporation.

6. Clause 6 enables the board to exercise the powers of the corporation.

7. Clause 7 provides for the keeping of proper books of account of all transactions of the corporation and for the periodical submission to the Colonial Secretary of signed and audited statements of account.

8. Clause 8 indemnifies directors of the corporation against liability for any acts of the corporation.

9. Clause 9 enables the constitution of the corporation to be amended by resolution of the board with the approval of the advisory board.

10. Clause 10 contains a provision saving the rights of the Crown.

11. Clause 11 repeals the Tung Wah Hospital Ordinance.

12. Clause 12 makes consequential amendments to other Ordinances.

CRIMINAL PROCEDURE (AMENDMENT) BILL 1971**Resumption of debate on second reading (2nd December 1970)**

Question again proposed.

MR WILSON WANG:—Sir, I do not belong to the school of thought which maintains that to spare the rod is necessarily to spoil the child. However, at the present moment, I cannot turn a deaf ear to the wide-spread outcry at the crime-wave in this community nor to the demand that the law should provide stern measures to combat it.

Having said this, I remain convinced that there are some cases and some circumstances in which the award of a suspended sentence would—to quote Gilbert—"make the punishment fit the crime". I refer particularly to cases in which first offenders with crime-free records and a good family background become involved in offences against the law through circumstances beyond their own control, sudden provocation or perhaps the influence of bad company.

It is more than likely that in such a case, such a person will have learned his lesson the moment the crime is committed or at least as soon as he is made aware that a second offence committed during the term of the suspended sentence will result in the first punishment being added to the second. This salutary threat hanging over his head should serve to deter him from further transgression.

Besides, there is everything to be said for keeping such a person out of prison and out of contact with the bad elements with whom he would otherwise perforce come into contact during his sojourn behind prison walls. For it is unfortunately a fact before us that the rate of return to prison has been very high.

Nevertheless, I must say that it would not be right to extend such treatment to those young thugs who carry offensive weapons and deliberately use violence to terrorize other people.

I would not like any youngster to believe that he can always get away with crime of any kind on the first count. For this reason, it may not be wise to allow this new clause providing for suspended sentences to go without the proviso that it shall not apply to certain specified crimes of violence which would be listed in a Schedule to this Ordinance, that Schedule being subject to amendment from time to time by a resolution of this Council. Such a flexible arrangement would mean, for example, that if there were suddenly to be a spate of a new type of crime, that crime could speedily be added to the Schedule by resolution of this Council without the need for the passage of a further amending bill.

Sir, it has also been suggested that one of the reasons for the increase in juvenile crimes of violence—or at any rate one of the obstacles to preventing that increase—has been the addition of section 109A of the Criminal Procedure Ordinance introduced by Ordinance No 66 of 1967. That new section provides that "no Court shall sentence a person of over 16 and under 21 years of age to imprisonment unless the Court is of the opinion that no other method of dealing with such a person is appropriate". Whilst this section does in fact leave it open to the Court to send such a young person to prison, it has been often taken for granted that such a sentence would be a rare and unusual one, and young people can always escape punishment for crimes of any kind as long as they are under 21 years of age.

Sir, this section was introduced at a time when we could afford to be optimistic in view of the low rate of crimes of violence by young persons. In the light of the present crime-wave I feel that we need now to do some rethinking. I suggest we should modify this section by excluding from its operation those same crimes of violence to be listed in the Schedule to which I have already referred and to which suspended sentences could not be applied. In such cases the court should sentence such a person of over 16 and under 21 years of age to imprisonment unless the court is of the opinion that another method of dealing with such a person is appropriate.

MR OSWALD CHEUNG:—Sir, I don't think anybody will disagree with me when I say that one of the principal objects of criminal legislation should be the prevention of crime, or that our immediate object in this Council should be to contain crime within the limits of the early 1960's, to which I drew attention a fortnight ago. Now in considering, Sir, whether suspended sentences should be introduced into our law at all, I would submit that our test should be whether they will effectively achieve that object.

I am not so sanguine as to think that all crime can be eradicated.

The problem is how to hold the small minority of criminals vigilantly in check, so that they do not acquire a degree of power and intimidation which can hold the majority of citizens to ransom.

They were held in check 8 to 10 years ago: they are now breaking out of check.

I ask therefore will suspended sentences have a tendency to hold them tightly in check, or will they not?

I can say at once that no Unofficial Member of this Council would be prepared to enact clause 11 of the bill in its present form, and allow suspended sentences to be passed for all manner of crime, be it wounding,

[MR CHEUNG] **Criminal Procedure (Amendment) Bill—resumption
of debate on second reading (2.12.70)**

robbery, manslaughter, corruption or large scale trafficking in dangerous drugs. The idea is unthinkable.

My honourable Friend, Mr Wilson WANG, has proposed that we accept suspended sentences in principle, but would exclude from their operation the more heinous offences. He would also amend section 109A, which concerns young persons, the same way.

That this proposal would be made has been known to me for some time, in fact, ever since this bill was first read in Council. I have given long and anxious consideration to it. I have considered the arguments in its favour from all quarters, including arguments from those who hold different views about punishment from myself. I have taken into account public opinion.

In my judgment, the course advocated by Mr WANG may, with luck, level off crime. It may not. It certainly will not reduce crime and I therefore would go further than my honourable Friend.

As I am asking that more severe punishment be provided for by this Council, and as I realize that, although this is what the public demands, more severe punishment is repugnant to some highly intelligent and sensitive minds, I will state at some length the reasons which have led me to advise Council to take this course.

I ask, first, what are the causes for the sharp increase in crime, and especially violent crime, since 1960?

It is said that the increase is to be attributed to drug addiction. There may well be an element of truth in this. One newspaper has advocated that large scale traffickers be whipped; I would support that. I would support also any legislation to increase the maximum sentence for large scale trafficking from 15 to 30 years imprisonment, so that those in this nefarious traffic will realize that if caught they will spend the rest of their natural lives in a prison. I would also support any proposal to increase the maximum fine from \$100,000 to \$10,000,000, so that the traffickers may know that the law can also reach their ill-gotten gains.

It is next said that the increase is brought about by the bad conditions of our urban development, by overcrowding in resettlement and low cost housing estates. I wholly disagree. I should have thought that even the most passionate advocates of better housing would agree that the housing that this Government has provided in the publicly financed sector is an improvement upon the squalid and even more overcrowded squatter areas that they have replaced, and that there has

been an amelioration in housing conditions, not a deterioration. If the criminologists would also cast their eyes on Great Britain, they will find that crime has risen notwithstanding greatly improved housing conditions.

Thirdly, the increase is attributed to unemployment. It is perfectly true that in times of depression and unemployment, crimes against property, including robbery, increase, as do suicides. But the last 3 years in Hong Kong have been characterized by rising employment and rising wages. I cannot therefore accept that theory. Allied to those who advance employment or unemployment as a cause are those who would blame the increase, vaguely, on poverty or economic conditions. I ask them again to look at Britain where there has been unprecedented betterment of conditions for the poor, and where crime including violent crime has nevertheless generally increased.

Fourthly, there are those who would blame the increase on lack of education. Again, I say to them, has not the number of primary school places increased proportionately more than the increase in the number of those of primary school age? Has not the number of secondary school places kept up with those in that age group? Has education, even compulsory education, reduced crime in Great Britain?

I am not opposed to better housing or more housing, nor to an improvement in the urban environment. I am not opposed to better social conditions, nor to more school places. There are cogent reasons for having all these improvements. They would require much time, effort and money. But I would beg to differ that if implemented they would have much effect except marginally on the crime rate, or that the crime rate would be reversed except in the very long term. Experience elsewhere leads me to think so.

Whilst we are waiting for these improvements to be brought about, are we to sit down and do nothing? Are we not to take more direct action against crime whilst these improvements are brought about?

My Friend, the Solicitor General, a fortnight ago exhorted the public to report crimes and to come forward as witnesses. I wish to say nothing to detract from that. However, it must be remembered that the police detection rate of crime has increased in the last ten years; it has increased from 69% in 1960 to 76.6% last year. I have no statistics to show the proportion of reported crime to unreported crime, nor indeed does anyone else: but I would suggest that a rising detection rate is not an argument that would support the linking of the steep increase in crime to an increasing lack of public co-operation.

Next, some commentators blame it upon the display of violence on mass media. Again, there may be an element of truth in this. The censors, I know, are taking action about it.

[MR CHEUNG] **Criminal Procedure (Amendment) Bill—resumption
of debate on second reading (2.12.70)**

Public opinion and I judge the principal causes to be different from those to which I have so far referred. We attribute a sharp increase in crime to two causes:—

- (a) the fact that for some years corporal punishment was not inflicted;
- (b) I regret to say this—it is the fact that this Council enacted section 109A of the Criminal Procedure Ordinance in 1967.

Now that the Courts have restored corporal punishment to its rightful place, I refer to it only for one reason, which is that a Working Party had recommended its abolition in the teeth of public opinion that it should be retained. Public opinion was right.

Section 109A was introduced into this Council in the belief that it was essentially sound, that its enactment would be beneficial and that it might be approached without fear of untoward consequences. It was backed by the belief that young offenders, involved even in serious crime, might be more effectively rescued from embarking upon a lifetime of crime if contact with hardened criminals through imprisonment were avoided.

That belief moved from benevolent motives. Events have shown it to be unsound. If I were to ask 100 members of the public whether removal of the deterrent of imprisonment has contributed significantly to the increase in serious crime among young offenders, I have no doubt 99 would answer yes. And in a matter of this kind the public is apt to be right.

I accept that the reformation of the criminal has a place in the administration of our criminal law. But I entirely dissent that the reformation of the criminal is the primary consideration in inflicting punishment. I wholly disagree that the sole test of whether any particular sentence is appropriate is whether it has any reformatory value on the delinquent.

If reform of the criminal is the primary object of a sentence I could think of half a dozen solutions to the problem that are better to sending a juvenile to a training centre, or putting a man on probation, or binding him over, or giving him a suspended sentence. But it is not.

The object of punishment is the prevention of crime. The object is twofold. It should prevent the criminal from offending again, but much more important, it should deter others from committing crimes.

If you keep your eyes only on the task of reforming a delinquent, and ignore that it is essential to deter others, you are apt, in my judgment, to encourage half a dozen others to break the law.

I am sufficient a reformer to align myself with one of the great reformers of all time, Jeremy BENTHAM.

"General prevention", he said, "ought to be the chief end of punishment. If we could consider an offence which has been committed as an isolated fact, the like of which would never recur, punishment would be useless. But when we consider that an unpunished crime leaves the path open not only to the same delinquent, but also to those who may have the same motives and opportunities for entering upon it, we perceive that the punishment inflicted on the individual becomes a source of security for all.

"Punishment is an indispensable sacrifice to the common safety."

Viewed in that light, and against the events which have happened, I think, with respect, that section 109A is a great mistake. I say this with the utmost respect to those on this Council in 1967 who were moved, by the best of motives, to give it a trial. Suspended sentences on top of section 109A would in my opinion be a worse mistake.

Why do I say that?

Let us assess section 109A from the delinquent's point of view. He is not certain to be caught, the case against him has to be proved against reasonable doubt. If the crime is serious enough, he will have legal aid. If, notwithstanding all those advantages, he is convicted, he can still pray in aid section 109A, which enjoins the Courts not to send him to prison unless some other method cannot be found to deal with him.

And if we adopt suspended sentences, he won't be punished at once, or indeed, at all, if he takes care not to transgress the law again within a short period.

I shudder to think how suspended sentences can be exploited by organized crime. True, a criminal so sentenced may be reformed. Organized crime however will set out to recruit those who have clear records.

To sum up, with the law in that state criminals will find the game worth the candle.

The evidence contained in the statistics of crime constrains me to conclude that the operation of section 109A has not vindicated the faith or hopes of those who introduced it.

[MR CHEUNG] **Criminal Procedure (Amendment) Bill—resumption
of debate on second reading (2.12.70)**

What, then, do I propose, we do?

- (i) I would repeal section 109A altogether. I would re-enact in a different form, retaining its provisions requiring investigation into the antecedents of an offender.
- (ii) I would also reject clause 11 of the bill.
- (iii) I would go further and exclude from the operation of those sections of the Ordinance which provide for probation and binding-over those same serious offences which Mr WANG proposes should not come within the purview of section 109A or of suspended sentences.

In short, I will leave no room for hope, among those who commit crimes of violence, that they will not be dealt with by the full rigour of the law. I would make the odds so heavy and the stakes so high that crime will not be worth committing. I would make it plain to those who so transgress that they will be visited with dire consequences.

- (iv) I would urge Government to adopt a very valuable suggestion made by the honourable the Chief Justice a year ago, and that is to establish detention centres for young offenders, centres where life is hard, unpleasant and uncomfortable, and where the inmates would be put on hard manual labour of a useful and constructive kind, and from which the young offender will come out with a very real sense of relief and a determination not to go inside again. I quoted His Lordship's own words. I would differ from His Lordship, however, with great respect, on one point. We should provide that a young offender who is guilty of a serious offence be sent there at once, and not wait until the third or even the second serious offence.

I think that what I propose might reverse the trend of crime. We will see how we get on. But if the crime rate does not quickly reverse itself, I for one will not hesitate to come back and ask for more draconian measures. Our object, if I may repeat myself, should be to confine the depredations of our criminals within the bounds of 10 years ago.

It is always said to me, severity of punishment alone will not reduce crime. I am told to look at the example of England 150 years ago, when capital punishment was inflicted for something like 160 offences, but which failed to reduce the crime rate. The opponents of severity then had a point. But at the time there was no efficient police force in England, nor did public opinion approve severity of punishment

as such. It has never been proved to me that given an efficient police force, and given public opinion strongly in favour of law enforcement, severity does not deter criminals. Our experience in the 1950's proves otherwise. And our experience in the last few years is that, given those twin supports to law enforcement—an efficient police force and public opinion in its favour—leniency on the other hand encourages crime.

THE ATTORNEY GENERAL (MR ROBERTS):—Sir, when moving the second reading of this bill, the Acting Attorney General emphasized the fact that the provisions in the bill for suspended sentence are not intended to provide a soft way of dealing with criminals. The purpose of the suspended sentence is to give the courts a wider choice of methods of dealing with offenders and, in many cases, a suspended sentence will be imposed where at present only a fine or probation order is ordered.

Nevertheless, the Government appreciates that it is not easy to persuade the public of this and that there is a widespread feeling among Members of this Council and among citizens generally that the increase in violent crime has been such that it would be unwise, at this juncture, for legislation to be passed which might appear to be advocating leniency towards offenders who resort to violence and indeed this point of view has been eloquently argued by the honourable Mr CHEUNG.

Although I believe that the treatment of offenders is a field in which it is generally right for a Government to attempt to lead public opinion, I recognize that it is dangerous to attempt to do so to a degree which suggests that the Government is out of touch with reality or with the strongly held and not unreasonable views of the majority of the citizens. I concede that the average man in Hong Kong is seriously concerned about the growth of violence and I can assure him that the Government is equally anxious. We shall continue to try to devise means of dealing with it, though as I am sure honourable Members will agree, severe punishments, though they may be of considerable deterrent value in appropriate circumstances, will not by themselves provide a solution and I think that perhaps the honourable Mr CHEUNG relies rather too heavily on the possible dividends from mere severity, though perhaps I may assure him that the Government is always willing to examine any particular offence to see whether the maximum punishment provided for it is adequate in the particular circumstances of the time.

I welcome the support expressed by the honourable Mr CHEUNG for the establishment of detention centres, where offenders can be sent for short periods under conditions as unpleasant as can be designed short of brutality. I am authorized to say that a paper seeking the approval, in principle, to the setting up of such a centre is to be put before Executive Council in the near future.

[THE ATTORNEY GENERAL] **Criminal Procedure (Amendment) Bill —
resumption of debate on second reading (2.12.70)**

Taking into account the factors to which I referred, the Government concedes that, in our present circumstances, it would be appropriate to exclude from the operation of the provisions which empower the courts to impose suspended sentences those kinds of offence which are causing particular concern.

I agree with the honourable Mr WANG that this could best be achieved by the addition to the principal Ordinance of a Schedule in which the excepted offences are listed. It would, I consider, be wise to provide for the amendment of this Schedule either by the order of Governor in Council or by resolution of this Council, so that the list can be quickly amended when necessary. Indeed, I hope that it might not be long before it is possible to do away with it.

If certain offences are to be excluded in this manner, then I agree that it is appropriate that the same offences should also be excluded from the operation of section 109A, the effect of which, at present, is to lay down a principle that young offenders shall only be sent to prison if the court is satisfied that no other method of dealing with the offender is suitable. The effect of excluding some offences from the operation of this section would be to restore imprisonment as a punishment, on parity with other ways of dealing with offenders. This amendment will, I hope, make it clear that the Government, and this Council, have come to the conclusion, though with considerable regret, that for the time being, where crimes involving violence are committed by persons between 16 and 21, more emphasis must be given to deterrent punishments as opposed to reformative measures.

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).

MAGISTRATES (AMENDMENT) BILL 1971

Resumption of debate on second reading (2nd December 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(1).

JURY (AMENDMENT) BILL 1971**Resumption of debate on second reading (6th January 1971)**

Question again proposed.

MR KAN:—Sir, I should like to speak briefly on two of the proposals in the bill.

First, the proposal to exempt ordinary members of the Urban Council from jury service. In proposing this, the Acting Attorney General remarked that "Unofficial Members of this Council and of the Executive Council are at present exempt, and it is intended that ordinary members of the Urban Council should enjoy a similar immunity."

Sir, I am anxious that the Acting Attorney General's remark, correct as it is, should not give rise to any misunderstanding that Members of this Council and of the other two Councils enjoy or seek privileges which others do not have. Honourable Members will no doubt recollect some such misunderstanding did occur not long ago.

The list of persons exempt from jury service is, as pointed out by the Acting Attorney General, a long one and extends to wives of judges, civil servants, members of the armed forces and their wives, members of the consular corps, barristers and solicitors, doctors, teachers, clergymen, newspaper editors, and so on. In England, the list is even longer and extends even to "Keepers of public mental hospitals".

Members of the three Councils, like many of the other classes of persons that I have just mentioned, are exempt from jury service, not as a matter of privilege, but because it is considered their duties should take precedence over the duty to render jury service.

The second point I wish to deal with is payment of jurors. At present only jurors in civil cases are paid—\$10 per day for common jurors and \$25 per day for special jurors. Jurors in criminal cases are not paid. It is now proposed to pay all jurors, that is to say, jurors in both civil and criminal cases, an allowance at such rate as the Governor may prescribe and the Acting Attorney General has intimated that this will be \$25 a day and a further additional allowance limited to a maximum of \$25 a day as may be awarded by the Chief Justice or the Trial Judge.

In England, jurors are compensated for their services to the extent of their actual loss of earnings plus out-of-pocket expenses such as subsistence and travelling expenses. On this basis, \$25 a day (or for that matter even the maximum of \$50 per day) is, in my opinion,

[MR KAN] **Jury (Amendment) Bill—resumption of debate on second reading (6.1.71)**

hardly adequate compensation for any person (other than a wage-earner who presumably will not lose his salary by attendance in court) who has a business to take care of, or is practising a profession—this is particularly so where a case sometimes lasts several days or weeks. In this connexion I may point out that the \$25 award was fixed some 40 years ago when the value of money was worth considerably more. It is also true that persons at present performing other public services are being paid much more generously.

Furthermore, jury service is not a voluntary service; it is compulsory for those who possess the qualifications laid down, and there is a penalty for its evasion. It is, therefore, right and proper that those who are called upon, indeed compelled, by law to perform this service should be adequately compensated. I think we all agree that nothing must be done to discourage jury service, a system which I for one am anxious to see preserved.

THE ATTORNEY GENERAL (MR ROBERTS):—Sir, perhaps I might confirm the honourable Member's statement that the reason why members of Councils are exempt is because it is thought that their duties as such should take precedence over service as jurors. A similar exemption applies to those holding equivalent positions in the United Kingdom and in many other Commonwealth countries.

If we have occasion, in the future, to revise the list of persons exempt from jury service we will certainly not forget the pressing claims of public mental hospital keepers in spite of the fact that an occasional jury appears to contain a majority of their patients. (*Laughter*).

I appreciate the force of the argument that up to \$25 a day (or \$50 in cases under section 31(2)) is inadequate compensation for the loss of earnings of some professional or business men. However, full compensation would in some cases be very expensive and the proposed figure thus appears adequate to cover a substantial part of the loss of the majority of jurors. I suggest that the proposed scale which is, after all, a great improvement on the present position should be given a fair trial, and that the rates be later re-examined if there is evidence of substantial hardship resulting from them.

Question put and agreed to.

Bill read the second time.

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

Committee stage

Council went into Committee.

INTESTATES' ESTATES BILL 1971

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 3 were agreed to.

Clause 4.

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

The amendment proposed adds two new subsections to the proposed section 4 to enable this Council by resolution to amend the amounts of \$25,000 which are specified in subsection 3 and \$100,000 in subsection 4. The first amount is, as honourable Members will recall, the net sum which is to be paid to the surviving spouse if a deceased leaves a spouse and issue. And the second amount is the net sum which is to be paid to the surviving spouse if the deceased dies, leaving a spouse and no issue but other relatives. It is convenient where specific sums of money are mentioned in an Ordinance to be able to amend them without the necessity for a bill each time, and provision for amendment in a similar manner is to be found in the English Act.

Proposed Amendment

Clause

4 That clause 4 be amended by adding the following subclauses—

"(13) The Legislative Council may, from time to time, by resolution vary either or both of the net sums charged by subsections (3) and (4), and any reference in this Ordinance, or in any other Ordinance, to either of such net sums shall have effect as a reference to the corresponding net sum as varied under this subsection.

(14) Any resolution under subsection (13) varying the amount of either of such net sums shall have effect in relation to the estate of any person dying after the coming into force of the resolution."

Intestates' Estates Bill—committee stage

The amendment was agreed to.

Clause 4, as amended, was agreed to.

Clauses 5 to 9 were agreed to.

Clause 10.

THE ATTORNEY GENERAL (MR ROBERTS):—Sir, I move that clause 10 be amended as set forth in the paper before honourable Members. This is purely an alteration of wording and does not affect the substance of the clause at all.

*Proposed Amendment**Clause*

10 That clause 10 be amended in subclause (2) by deleting "enactments relating to the distribution of effects of intestates which were" and substituting the following

—

"law relating to the distribution of effects of intestates which was".

The amendment was agreed to.

Clause 10, as amended, was agreed to.

Clauses 11 to 14 and the Schedule were agreed to.

INLAND REVENUE (AMENDMENT) BILL 1971

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

Clause 1.

THE FINANCIAL SECRETARY (SIR JOHN COWPERTHWAIT):—Sir, I move that clause 1 be amended as set forth in the paper before honourable Members.

The first part of the proposed amendment has the effect of omitting clause 46 from the new sections which are to come into effect from 1st April 1971, and to apply to assessments for the year 1971-72 onwards as clause 46 amends section 80 which deals with penalties and offences

which should clearly come into effect from the date of assent to the bill, not by reference to a particular year of assessment.

The second part of the proposed amendment deals with clause 32. As this clause is designed to correct an error in the 1970 amending Ordinance, the section dealing with allowances and to extend deductions for charitable donations to wives' donations, both with retrospective effect, it is not related to a year of assessment.

The effect of the third part is to meet a point raised by my honourable Friend, Mr BROWNE, and give so called "non-resident" corporations time to arrange the appointment of a resident individual to be answerable to the Commissioner. The clause is not to come into effect until 1st April 1972.

I take this opportunity to say that the answerability of the representative does not extend to personal liability for tax due by the corporation. This is not the *intention*; and there has been a judicial decision in Australia (where there is a similar provision) determining that it is in law not the *effect* of the provision.

Proposed Amendment

Clause

- 1 (1) That subclause (2) be amended by deleting "and 46 to" and substituting the following—
"47 and".
- (2) That subclause (3) be amended by deleting "and shall apply to assessments for the year of assessment commencing on 1st April 1971 and to subsequent years of assessment".
- (3) That the following new subclause be inserted after subclause (3)—
"(4) Section 35 shall come into operation on the 1st April 1972."

The amendment was agreed to.

Clause 1, as amended, was agreed to.

Clause 2.

THE FINANCIAL SECRETARY (SIR JOHN COWPERTHWAIT):—Sir, I move that clause 2 be amended as set forth in the paper before honourable Members.

[THE FINANCIAL SECRETARY] **Inland Revenue (Amendment) Bill—committee stage**

This is merely a minor amendment to the existing definition of "person" in section 2 of the principal Ordinance which at present reads—

"Person" includes a company, partnership or body of persons." Since "body of persons" is also defined as including, *inter alia*,

"any company whether corporate or not"

it would be appropriate to use the word "corporation" rather than the word "company" in the definition of "person", "corporation" being itself defined in section 2 of the principal Ordinance.

Proposed Amendment

Clause

2 That clause 2 be amended—

(a) by deleting the full stop at the end of paragraph (b) and substituting a semicolon; and

(b) by inserting after paragraph (b) the following new paragraph—

"(c) by deleting "company" in the definition of "person" and substituting the following—
"corporation"."

The amendment was agreed to.

Clause 2, as amended, was agreed to.

Clauses 3 and 4 were agreed to.

Clause 5.

THE FINANCIAL SECRETARY (SIR JOHN COWPERTHWAITTE):—Sir, I move that clause 5 be amended as set forth in the paper before honourable Members.

This amendment is in three parts.

First, it would extend sub-paragraph (i) of paragraph (b) of section 8(1A) to remove any doubt about the exclusion of crews of ships and aircraft from the ambit of this paragraph. It is intended that relief for them should be specially provided on a different basis by new paragraph (5) to section 8(2), which is in the original amending bill. I spoke at some length on this point when winding up the second reading debate.

Second, the insertion of a new subsection (1B) in replacement of the words in sub-paragraph (b)(ii) of the bill is purely a drafting refinement which makes no change to the effect of the amendment to section 8 in the bill.

Third, the amendments to paragraph (5) of section 8(2) are designed for uniformity between this paragraph and subsection (1B) of section 8 in the words used in connexion with the 60 day test.

Proposed Amendment

Clause

- 5 (1) That new subsection (1A) in paragraph (a) be amended by deleting new paragraph (b) and substituting the following—
- "(b) excludes income derived from services rendered by a person who
-
- (i) is not employed by the Government or as master or member of the crew of a ship or as commander or member of the crew of an aircraft; and
- (ii) renders outside the Colony all the services in connexion with his employment.";
- (2) That the following new subsection be inserted in paragraph (a) after new subsection (1A)—
- "(1B) In determining whether or not all services are rendered outside the Colony for the purposes of subsection (1A) no account shall be taken of services rendered in the Colony during visits not exceeding a total of sixty days in the basis period for the year of assessment."; and
- (3) That new paragraph (j) in sub-paragraph (iii) of paragraph (b) be amended—
- (a) by deleting "for less than" and substituting the following—
- "on not more than"; and
- (b) in new sub-paragraph (i), by inserting before "sixty" the following—
- "a total of".

The amendment was agreed to.

Clause 5, as amended, was agreed to.

Clauses 6 to 9 were agreed to.

Clause 10.

Inland Revenue (Amendment) Bill—committee stage

THE FINANCIAL SECRETARY (SIR JOHN COWPERTHWAIT):—Sir, I move that clause 10 be amended as set forth in the paper before honourable Members.

I referred to this proposed amendment when I introduced the bill. I then spoke as follows:—

"I have referred already to the proposal to eliminate separate treatment of profits made by corporations and other persons. A consequential change is the deletion, by clause 10, of the word "business" in section 15A. It appears that, in consequence of this amendment, a parent company with subsidiaries might be able to claim that the profits or losses of the corporations should be aggregated. At paragraphs 248 to 250, however, of their Report the Committee rejected representations that allowable deductions be given in respect of subvention payments between associated companies in a group. Application of the aggregation provisions of section 15A would be in conflict with the Committee's views."

The amendment I am now moving is designed to prevent the effect I have described.

Proposed Amendment

Clause

10 That clause 10 be deleted and the following substituted—

"Amendment of section 15A.	10. Section 15A of the principal Ordinance is amended in subsection (1) by deleting "chargeable to business profits tax" and substituting the following— ", other than a corporation,"."
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The amendment was agreed to.

Clause 10, as amended, was agreed to.

Clauses 11 to 13 were agreed to.

Clause 14.

THE FINANCIAL SECRETARY (SIR JOHN COWPERTHWAIT):—Sir, I move that clause 14 be amended as set forth in the paper before honourable Members.

As I said when winding up the second reading debate, defects in clause 14 concerned with manufacture for sale abroad have been

pointed out by the General Chamber of Commerce and we have seen others ourselves. This amendment removes the clause from the bill. There is, however, evidence that we are losing substantial revenue and we shall be considering the problem further.

Proposed Amendment

Clause

14 (1) That new section 21A be amended by inserting, after "paragraph (b)", the following—

"of subsection (1)".

(2) That new section 21B be deleted.

The amendment was agreed to.

Clause 14, as amended, was agreed to.

Clauses 15 to 21 were agreed to.

Clause 22.

THE FINANCIAL SECRETARY (SIR JOHN COWPERTHWAIT):—Sir, I move that clause 22 be amended as set forth in the paper before honourable Members.

Sir, the present clause exempts licensed banks from the new requirement to issue to the recipient of interest a certificate containing an acknowledgement by the Commissioner of the receipt of interest tax deducted. This amendment would empower the Commissioner by order to extend exemption to non-banks for the purposes of the section. It is desirable that exemption be accorded to any other persons making many interest payments who are of such standing that the protection given by the certificate is not really necessary.

Proposed Amendment

Clause

22 That new section 29 be amended, in subsection (2)—

(a) in paragraph (a), by deleting "of a bank licensed under the Banking Ordinance" and substituting the following—

"where paragraph (b) applies"; and

(b) in paragraph (b), by inserting after "Ordinance" the following—

"or any other corporation specified by the Commissioner by notice in the *Gazette* for the purposes of this paragraph".

Inland Revenue (Amendment) Bill—committee stage

The amendment was agreed to.

Clause 22, as amended, was agreed to.

Clauses 23 to 41 were agreed to.

Clause 42.

THE FINANCIAL SECRETARY (SIR JOHN COWPERTHWAITTE):—Sir, I move that clause 42 be amended as set forth in the paper before honourable Members.

Sir, this clause is merely a machinery provision relating to the grant of power to the Board of Review to allow late appeals in certain circumstances.

*Proposed Amendment**Clause*

42 That new subsection (1A) be amended by adding at the end of the following—
"This subsection shall apply to an appeal relating to any assessment in respect of which notice of assessment is given on or after 1st April 1971."

The amendment was agreed to.

Clause 42, as amended, was agreed to.

Clauses 43 to 48 were agreed to.

Council then resumed.

Third reading

THE ATTORNEY GENERAL (MR ROBERTS) reported that the Intestates' Estates Bill 1971 had passed through Committee with certain amendments and moved the third reading of the bill.

Question put and agreed to.

Bill read the third time and passed.

THE FINANCIAL SECRETARY (SIR JOHN COWPERTHWAITTE) reported that the Inland Revenue (Amendment) Bill 1971 had passed through Committee with certain amendments and moved the third reading of the bill.

Question put and agreed to.

Bill read the third time and passed.

3.43 p.m.

HIS EXCELLENCY THE PRESIDENT:—I wonder if honourable Members would like a break at this point. If so, I will suspend the sitting of Council until 4 o'clock.

3.59 p.m.

HIS EXCELLENCY THE PRESIDENT:—Council will resume.

Adjournment

Motion made and question proposed. That this Council do now adjourn—THE COLONIAL SECRETARY (SIR HUGH NORMAN-WALKER).

4.00 p.m.

Community requirements in new industrial townships

MR K. S. LO:—Sir, during the past 15 years as the result of our rapid industrialization, several new industrial townships such as Kwun Tong, Tsuen Wan and Kwai Chung have sprung up. But owing to their rapid growth, all kinds of community requirements are sadly lacking. Up to this date, the Government has all along been concentrating in the provision of bare essentials, such as more land, more roads, more housing and more water supply.

Sir, you spoke of the changing conditions of our social needs in your opening speech to this Council last October. You said that as the numbers of our long-term residents increased, our social policy must take recognition of this change by undertaking the provision of more and better services for the increased numbers. In the case of public housing, you said that the time was ripe to think in future in terms of better standards by making better provisions for ancillary facilities such as schools, restaurants, welfare premises and markets.

In the light of Your Excellency's speech, it is time that we take another look at our new industrial townships with the view of stepping up the provision of schools, public clinics, recreational grounds and other welfare amenities.

I shall take Kwun Tong as an example. But what is true of Kwun Tong is equally true to all other industrial towns, such as Tsuen Wan, Kwai Chung and San Po Kong.

[MR LO] **Community requirements in new industrial townships**

The district I wish to focus my attention on stretches from Ngau Tau Kok to Lam Tin Resettlement Estates, commonly known as Kowloon Planning Area 14. It covers an area of approximately 1,320 acres and has a population of 380,000. It also has 800 registered factories. In terms of population, it is slightly smaller than the City of Bristol, but larger than the City of Coventry.

Education. Although the provision of primary schools is adequate at the present, it must be pointed out that most of them are located on the rooftops of resettlement estates. They have neither play-grounds nor recreational facilities, and it is generally agreed that the standard of these schools is lower than the annex primary schools.

When it comes to secondary schools, the position is quite different. There are at present only three secondary schools which have classes up to Form V. They are hopelessly inadequate to take care of the present day needs, let alone the future. According to the white paper on education adopted in 1965, even without taking into account the recently adopted policy to provide ultimately three years' post-primary education for all, the minimum standard is one classroom for every 600 persons in the case of secondary schools. On this basis, Kwun Tong should have 26 secondary schools of 24 classrooms each. At present we only have 10% of this minimum requirement, and I should like to find out from the Government how long will it take to provide the other 90%?

I am aware that students can and do go to schools in other districts. But that will only add to our problem of public transport and create additional cost to working parents for their children's education.

In the case of technical schools, the picture is even more bleak. There is only one vocational training school in the whole of Kwun Tong. As it is one of our largest industrial districts, the emphasis should be on the provision of post-primary vocational training schools. I personally would like to see the ratio of one vocational school to every two grammar schools. In other words, there should be at least 8-9 post-primary vocational training schools in Kwun Tong alone. It is useless for us to talk about getting our youths into industry unless we can provide them the training facilities.

Medical facilities. The existing medical facilities are confined to one urban clinic. The facilities offered are so inadequate that every day there is a long queue of people waiting outside and many of them are turned away without receiving treatment. One doctor is forced to attend to no less than 20 out-patients per hour.

The Government has a declared policy of establishing one clinic for every 100,000 population. On this basis, there should be at least four clinics in Kwun Tong. There is also a need for a polyclinic and a district general hospital. But let us have at least a couple more clinics first before we talk about the others.

Recreational grounds and open space. Although the town-planning plan shows there are 33 acres of land set aside for open space in this district, yet most of them are bits and pieces of unusable land tucked away in the resettlement estates. In reality, there is not one single park where people can go and get some fresh air and relaxation. The standard adopted by the Town Planning Board is to provide 30 acres of land for recreational use per 100,000 persons. Hence, Kwun Tong should have at least 114 acres of recreational land, and even accepting the 33 acres consisting of bits and pieces, it is still short by 81 acres. In the case of old districts such as Kennedy Town, the Government has the excuse of not finding the land required, but Kwun Tong is a new town and there can be no excuse whatsoever.

I am aware that there is a football pitch and a swimming pool now under construction. But the immensity of the young working population calls for much more by way of open space and parks. We have here a very large population which are shut up in overcrowded factories during the day and cooped up in overcrowded rooms at night. We need to provide them with some place to stretch their legs and rest their minds if nothing other than just for the preservation of their sanity. There is already a piece of land situated between Tsun Yip Street and How Ming Street which I understand has been set aside for a park and playground. Nothing is being done for years, and it has now become one huge rubbish dump with a fringe of unlicensed cooked food stores around the edges. And yet all it requires is just some fencing, some turfing and a few benches and it would have been transformed into a beautiful place for rest and recreation for the thousands.

Other amenities. Other essential facilities such as permanent markets and refuse collection points within the industrial area are still absent.

Sir, I am afraid I have painted a rather gloomy picture of our new industrial town of Kwun Tong as far as community facilities go. I would have been less concerned if Kwun Tong had been an exception. But other industrial towns such as San Po Kong, Tsuen Wan and Kwai Chung are no better. If we are concerned for the better welfare of our working population, for the better quality of the lives of our younger generation, then we must be able to provide them with proper schools, better recreational facilities and some communal civic centres for them to grow their grassroots.

[MR LO] **Community requirements in new industrial townships**

Perhaps the Government would like to disclose to this Council its plans for the next five years in the development of community facilities for these new towns and also to indicate when these will be implemented. More particularly, I would be interested to know what is in store for Kwun Tong in the year 1971.

DR CHUNG:—Your Excellency, my honourable Colleague, Mr LO, has spoken very realistically about the severely inadequate provision of community requirements in industrial townships. He has very ably described the urgent need for greater educational, medical and recreational facilities in Kwun Tong and other industrial towns. I want to voice the extreme inadequacy of physical infrastructure for eating, parking, loading and unloading, and refuse collection in almost every industrial township.

Instead of Kwun Tong, I shall however take San Po Kong as an example. Like my honourable Colleague, I can also say without fear of contradiction that what is true of San Po Kong is generally true of Kwun Tong and other industrial townships. First, I would like to touch on the provision of eating facilities. According to my estimate, less than 10% of the two hundred odd factories in San Po Kong have canteens and therefore the majority of the 40,000 workers have to take their lunches outside the factory premises. It is recognized that some of the workers living nearby go home for their lunches and that there are restaurants and teahouses in the area. Nevertheless, the existing proper facilities for eating are totally inadequate. As a result, the whole area in San Po Kong including the main thorough-fare Tai Yau Street is completely filled with hawkers and illegal cooked food stalls and of course their customers during the period between about 12 o'clock at noon and 2 o'clock in the afternoon.

About two weeks ago, the Urban Services Department and the Royal Hong Kong Police Force dispatched a combined patrol on the spot every day to prevent illegal on-street hawking along Tai Yau Street. The result I must say is commendable. However, I do not know how long this combined patrol can remain there to keep the hawkers off Tai Yau Street because I anticipate that once the patrol is not there the hawkers will within days again jam the thorough-fare of Tai Yau Street in San Po Kong.

Secondly, I want to say a few words about parking facilities. During six days of the week, cars and lorries are parked both legally and illegally along both sides of the main thorough-fare and side streets in San Po Kong. Only a limited number of factories, mainly the larger ones, have parking facilities within their own boundaries whereas the majority have none. With the increasing number of new factory buildings

and increasing affluence of the people working and living in that area, the already serious situation of parking will further deteriorate.

Next, Sir, I come to the loading and unloading facilities. Although loading and unloading are supposed to be done in scavenging lanes, the conditions of sale of the industrial lots did not prohibit loading and unloading on the streets. Many industrial buildings were allowed to be constructed in such a way so that loading and unloading can, and in some cases must, be carried out on the road side rather than in the scavenging lanes. Many scavenging lanes are blocked by illegal cooked food stalls and squatter teahouses and therefore some factory operators are compelled to use street exits for loading and unloading. It is not uncommon to see that lorries stop in the middle of the streets for loading and unloading. Oftentimes, San Po Kong is in a state of confusion and chaos and traffic in that area is at a complete standstill.

The fourth and final point is about refuse collection. As far as I know, Government does not provide the service of collecting industrial refuse from factory premises, nor there is provision of refuse collection centres in San Po Kong for factory operators to dispose their industrial waste. As a result, some scavenging lanes are partially blocked with heaps of refuse. Not only the flow of traffic is impeded but there is also the problem of hygiene for the nearby illegal cooked food stalls.

The gloomy state of affairs in San Po Kong and for that matter in many other industrial districts caused by the serious inadequacy of industrial township infrastructure is really shameful. I presume that we have acquired sufficient bitter experience from San Po Kong and Kwun Tong during the past decade and hope that we will not commit the same mistakes in our new industrial townships such as Kwai Chung and Castle Peak. Too much emphasis has been placed on short-term gains and too little on long-range benefits in the planning of our industrial townships.

4.15 p.m.

MR ROBSON:—Sir, I welcome the opportunity to report on what has been done over the last 15 years in establishing new industrial townships. Unfortunately the time available in an adjournment debate does not enable me to do justice to what has been achieved. However, I will follow the approach of my honourable Friend and focus my attention on Kwun Tong—an area of 1,320 acres which has been created from nothing to a prosperous and lively town of 380,000 people in less than 15 years.

My honourable Friend has compared this with Bristol and Coventry. And in this very comparison is the key to the problems to which he

[MR ROBSON] **Community requirements in new industrial townships**

has referred. These English cities—one slightly larger and the other slightly smaller in terms of population—have each developed over several centuries and are built over an area many times greater than that available for the development of Kwun Tong. Fifteen years ago, Kwun Tong consisted of the Shell Oil Installation and a refuse dump. It would therefore be a little surprising if, at any time during its growth, certain aspects of its development were not out of phase with others.

The space standards adopted for community uses in our land use planning have, not unnaturally, changed over the last 15 years. But at present the planning standards for the main categories of community uses to which my honourable Friend, Mr Lo, has referred are as follows:—

Primary Schools	:	1 classroom for every 450 residents with 1,000 <i>sq. ft.</i> of site area per classroom.
Secondary Schools (Aided and Private)	:	1 classroom for every 600 residents with 2,000 <i>sq. ft.</i> of site area per classroom.
Medical and Health Services	:	1 urban clinic with a site area of 17,400 <i>sq. ft.</i> for every 100,000 residents
	plus	: 1 polyclinic with a site area of 50,000 <i>sq. ft.</i> for every 500,000 residents.
Public Open Space	:	an allocation of 30 acres per 100,000 residents—half as local and the other half as district open space.

In addition, space standards are laid down for many other equally important uses including hawker bazaars, retail markets, restaurants and cooked food stalls, estate welfare buildings, police stations, magistracies, fire stations, ambulance stations, civic centres, off-street car parking, bus terminals and refuse collecting points.

The ultimate population of Kwun Tong is expected to reach 500,000 persons. For this population 42 primary schools, 7 retail markets, 2 police stations, 5 urban clinics, one polyclinic, 13 cinemas, 7 welfare buildings, 150 acres of open space, 3 fire stations, and hospital facilities to provide 2,125 beds would be required. Virtually all the site reservations needed for these uses have been provided for. In addition land has been designated for a stadium and a civic centre, and undesignated sites have been set aside in recognition of the probability that yet more land may be required for community uses.

As far as the basic land planning is concerned, therefore, my honourable Friend need have no cause for concern. The actual provision of services at this point in time is however not so satisfactory though it is, I think, by no means so bleak as Mr Lo suggests.

My colleague the Director of Education advises me that there are at present in this area a total of 70,000 primary school places only 5,600 of which are in roof-top schools. A further 10,800 places in annexe schools are planned bringing the provision to a level sufficient for a population of 404,000—rather more than the present population.

As far as secondary schools are concerned there are at present 5 subsidized schools, one Government school and 9 private schools with total accommodation of 4,700 places in Form 1 to Form 5. Two of these schools offer secondary technical education. 5 new subsidized secondary schools accommodating 4,200 pupils and two private non-profit making secondary schools with accommodation for 1,560 pupils are in an advanced stage of planning.

However, my colleague the Director of Education has asked me to stress that the needs of secondary education in Kwun Tong cannot be regarded in isolation from those of the rest of Kowloon in particular or from those of the Colony in general.

Turning now to the question of medical facilities my colleague the Director of Medical and Health Services advises me that patients at the Royal Hong Kong Jockey Club Health Centre are not turned away without treatment though some of the morning patients may be asked to return in the evening when pressures are less. There are 3 doctors available at this clinic each seeing an average of 120 patients per day which is no more than the number usually seen at other clinics.

In addition to this Government clinic there are within the various housing estates 7 welfare clinics and 14 low cost clinics staffed by private doctors. Also as honourable Members will no doubt be aware, land is being made available to the Hong Kong Christian Council for the erection at Kwun Tong of the United Christian Hospital. This is planned to provide some 380 beds and work is expected to commence in April and to be completed by 1973.

Here again it is necessary to have regard to the overall provision and staffing of medical facilities in the Colony as a whole. A tremendous effort is being made in this direction. The site formation and foundations for the new Lai Chi Kok Hospital are completed and tenders for the construction of the building are now being called. This single project, which is bigger than the Queen Elizabeth Hospital, will provide 1,320 beds and is but one of 43 projects which appear under the heading of Medical Department in the Public Works Programme.

[MR ROBSON] **Community requirements in new industrial townships**

Regarding open space, recreation grounds and other amenities, the greater concentration of population in existing areas, such as San Po Kong, has necessitated greater priority being given to those areas but nevertheless 39 acres of local open space have been developed at Kwun Tong. As regards district open space, the swimming pool referred to by my honourable Friend is in fact a complex of 9 pools being built by Government with funds provided by the Royal Hong Kong Jockey Club, and this will be completed in a few months time. In addition 2 further district recreation grounds are in the Public Works Programme and in all a total of 94 acres of open space are in the pipe-line for development.

In the case of Tsuen Wan/Kwai Chung, both the DCNT and I consider that the new town is considerably better off than Kwun Tong although further marketing facilities and hawker bazaars are required.

However, while Government can fairly take pride in its post-war development record, I would not like honourable Members to conclude that we are by any means wholly satisfied. Dr CHUNG'S descriptions of the conditions in San Po Kong illustrate that without proper control and enforcement the best of planning can be frustrated. The lack of canteens and restaurants is largely due to the fact that they are unable to sell food at the low prices offered by the scores of illegal cooked food stalls which have no rent and overheads to meet. These hawkers in turn create filth, block traffic and obstruct the factory loading bays. The completion of the 450 space multi-storey car park now under construction at San Po Kong and new traffic arrangements, which include more metered parking, should ease the parking and traffic problems but strict enforcement of the lease conditions governing the provision of loading and unloading bays within the boundaries of industrial lots and the prohibition of parking and hawking on the public road is the only long term solution.

Clearly however much remains to be done. Government is fully alive to this fact and to this end has recently established an interdepartmental committee to foster the expansion of community facilities in newly developed areas, particularly those where large Government housing estates have been built. This committee will be under the chairmanship of the Deputy Secretary for Home Affairs and include representatives of the relevant departments. Sub-committees chaired by individual City District Officers are also proposed. The terms of reference of this committee require it to "make recommendations to the Colonial Secretariat on the future action necessary to achieve balanced and integrated social and economic development in each district". The committee's area of responsibility is Hong Kong Island, Kowloon and

New Kowloon. An official management committee chaired by the Deputy District Commissioner, NT, already deals with Tsuen Wan.

Eventual responsibility for redressing the deficiencies which exist rests, of course, with the departments concerned and with the Finance Committee of this Council. I am sure, however, Members will join me in welcoming this committee and wishing it every success.

Question put and agreed to.

Next sitting

HIS EXCELLENCY THE PRESIDENT:—Accordingly I now adjourn the Council until 2.30 p.m. on Wednesday 10th February 1971.

The Council adjourned at twenty-five minutes past Four o'clock.

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