

**OFFICIAL REPORT OF PROCEEDINGS****Wednesday, 13th October 1971****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 DONALD COLLIN CUMYNN LUDDINGTON, JP  
THE HONOURABLE THE FINANCIAL SECRETARY  
MR CHARLES PHILIP HADDON-CAVE, JP  
THE HONOURABLE DAVID RICHARD WATSON ALEXANDER, MBE, JP  
DIRECTOR OF URBAN SERVICES  
THE HONOURABLE JAMES JEAVONS ROBSON, JP  
DIRECTOR OF PUBLIC WORKS  
THE HONOURABLE JOHN CANNING, JP  
DIRECTOR OF EDUCATION  
DR THE HONOURABLE GERALD HUGH CHOA, JP  
DIRECTOR OF MEDICAL AND HEALTH SERVICES  
THE HONOURABLE DENIS CAMPBELL BRAY, JP  
DISTRICT COMMISSIONER, NEW TERRITORIES  
THE HONOURABLE PAUL TSUI KA-CHEUNG, OBE, JP  
COMMISSIONER OF LABOUR  
THE HONOURABLE IAN MACDONALD LIGHTBODY, JP  
COMMISSIONER FOR RESETTLEMENT  
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 ELLEN LI SHU-PUI, 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, OBE, JP

**ABSENT**

THE HONOURABLE JACK CATER, MBE, JP  
DIRECTOR OF COMMERCE AND INDUSTRY

**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: —                          |              |
| Places of Public Entertainment Ordinance.          |              |
| Film Censorship (Amendment) Regulations 1971 ..... | 127          |
| Interpretation and General Clauses Ordinance.      |              |
| Specification of Public Office .....               | 128          |

Sessional Papers 1971-72: —

No 7—Annual Report by the Director of Information Services for the year 1970-71 (published on 13.10.71).

No 8—Annual Report by the Government Printer for the year 1970-71 (published on 13.10.71).

No 9—Annual Report by the Sir Robert Black Trust Fund Committee for the year from 1st April 1970 to 31st March 1971 (published on 13.10.71).

No 10—Tenth Annual Report by the Social Work Training Fund Trustee for the period ending 31st March 1971 (published on 13.10.71).

No 11—Hong Kong Narcotics Progress Report for the year from 1st April 1970 to 31st March 1971 (published on 13.10.71).

No 12—First Annual Report by the Trustee for the Sir David Trench Fund for Recreation for the year 1970-71 (published on 13.10.71).

Report: —

White Paper on the Urban Council (published on 13.10.71).

## Statement

### Reform of the Urban Council

THE COLONIAL SECRETARY (SIR HUGH NORMAN-WALKER): —Sir, the White Paper which is tabled today envisages a fresh start for a new form of Urban Council. An Urban Council from which all Official Members will be withdrawn. An Urban Council whose responsibilities have been brought together and defined in a single piece of legislation for the first time. An Urban Council with the fullest possible measure of financial autonomy.

These are major changes; they will go further than some would wish and they will lag behind what others will wish but they are changes which should, I think, promote the well-being of the whole community. Honourable Members will therefore wish to consider them with care as we all will. The changes will mark a major step forward; further steps may follow later but our first task must be to give the Council all possible help in establishing itself firmly on its new basis.

In due course, when reasonable time has been allowed for the study of these proposals, it is the intention to put them before this Council in the form of a motion for the adoption of the White Paper. Should the proposals prove acceptable, then legislation will be introduced and it should be possible to put the proposals into effect early in 1973.

### **Government business**

#### **Motion**

#### **ADDRESS OF THANKS TO HIS EXCELLENCY THE GOVERNOR**

#### **Resumption of debate on motion (6th October 1971)**

*Question again proposed.*

MR D. R. W. ALEXANDER: —Sir, I shall deal with the problems of pollution and recreation raised by a number of honourable Members.

In his penetrating and enlightening remarks against pollution and for conservation, my honourable Friend, Mr SZETO Wai, suggested that it may be time to consider new legislation for Hong Kong similar to Britain's Civic Amenities Act of 1967, and also that because they are a contributory cause of land and water pollution, littering offences should be treated by everyone with greater severity. Indeed, I have heard litter recently referred to as our "GNP"—"our grossest national product"! (*Laughter*).

The responsible officials of the departments affected, which include the Education Department, and the members of the Urban Council's "Keep Hong Kong Clean" Campaign Committee welcome every show of support for their own concern in this subject, now that the groundwork is being prepared for the major anti-litter campaign planned for 1972. The Urban Council and my department see their primary role as being to ensure that Hong Kong does not choke itself in an enveloping

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morass of litter and refuse generated by rising affluence and living standards, and our planning in cleansing, refuse disposal and hawker control is directed to this end.

As my honourable Friend said, there have been many regional and international discussions in recent years and we must expect that the United Nations Conference on the Human Environment, to be held in Stockholm next June, will have messages for even such compact territories as ours. But by then we should have shown that we are capable of grappling with at least some of our problems from our own resources.

For example, Mr SZETO has asked that the work of the Committee on Air Pollution should be continued and its recommendations implemented. This Committee submitted its final report to Government in August 1969 and in December 1970 the Committee was reconstituted as a permanent advisory body under the chairmanship of Mr J. L. MARDEN for the purpose of keeping the state of air pollution under constant review.

Many of the recommendations contained in the report have already been accepted and implemented. An Air Pollution Control Unit has been established in the Labour Department and the necessary staff recruited and trained. The recommended target of 50 parts per hundred million has been accepted as the maximum permissible level of sulphur dioxide concentration and, in this respect, honourable Members may wish to know that such concentration in Hung Hom, the worst polluted area, has been reduced from 70 parts per hundred million in April 1967—when the monitoring programme was first started—to 26 parts per hundred million in July 1971. The proposal to control emission from motor vehicles is being further examined by the Motor Vehicles Sub-Committee of the new Advisory Committee on Air Pollution while the further proposal to declare the Colony a smoke control area has been accepted in principle, and the mechanism for implementation is now being worked out. In addition, amendments to the Clean Air Ordinance will shortly be introduced into this Council to permit of more effective control of smoke emission.

Consideration is also being given at present to establishing a Committee to look into the problems of land and water pollution. We have also initiated action to be taken against the first of the small colonies of offensive industries that have ruined some New Territories streams, and to ensure that some of the mess they have left and will leave behind them is cleared up.

My department, and in the urban areas the Urban Council, will inevitably play a central part in Government's attack on pollution and future moves to preserve and improve our environment, because our responsibility is for environmental public health and for provision of amenities, and these subjects lie at the heart of the matter. But no one Hong Kong department can possibly cover all the aspects of the problem, and we will be brought close together with our colleagues in practically every other department whose work impinges on the physical quality of our people's lives.

While Government can control, and impose negative sanctions, it does also recognize that education and inspiration are rather more constructive long term philosophies to follow, and I hope that every influence will be used in the private sector as well to teach, to inform and to attract the masses, and the developers, so that urbanized Hong Kong becomes steadily a more pleasant place to live in, and that our rural areas remain beautiful and fit for humans to live in even after the touch of technological progress or population spread can no longer be held off. As I say, we shall do our part, but so must the press, the broadcasters, the commercial houses and associations, the leaders of industry, the seats of education, the churches, the service clubs and traditional societies, and every other organ of social life, particularly those that may pride themselves on not being creatures of government. We are mutually interdependent but at this stage, in the Urban Council and in my own department at least, the feeling is that persuasion and education, tried out over the years, have failed and that the time has come for the lessons—however inadequately learned—to be driven home by prosecution.

The British Civic Amenities Act which my honourable Friend, Mr SZETO mentioned is an act to make further provision for the protection and improvement of buildings of architectural or historic interest and of the character of areas of such interest; for the preservation and planting of trees; and for the orderly disposal of disused vehicles and equipment and other rubbish.

We shall most certainly take a close look at this piece of legislation but, in fact, some of the provisions of Part I of the Act relating to the preservation of historic interest overlap the draft Antiquities Bill at present under discussion after publication in the *Gazette*. The duties imposed on local planning authorities in Britain by Part II to preserve and to plant trees are to some extent carried out by my department's Tree Section and divisions of the Public Works Department and the Agriculture and Fisheries Departments; but we shall consider whether further powers to preserve or require replacement of trees are necessary. As to Part III, concerned with the disposal of abandoned vehicles and other refuse, I am alive to the imminence in

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Hong Kong of developed countries' problem of piles of old and unwanted motor cars. Proposals are in an advanced stage of preparation to seek powers for the disposal of goods and matter left or collected on Crown land. But as with ordinary domestic refuse, it is much simpler to enact legal powers for disposal than to find practical and economic methods of effecting it. We are always on the lookout for more efficient ways of collecting and getting rid of rubbish, but there are narrow limits to mechanization in the collection procedure.

On the hawker front, I regret that progress has not been as rapid as I personally would have liked. Revised by-laws are under way and additional staff are being sought, but even with the limited number of staff available during the past nine months, 9 major and difficult operations involving 2,500 hawkers were carried out—in addition to numerous minor and cleaning-up operations. The problem of securing off-street sites is still with us but the proposal to build modular markets in resettlement estates and the energetic pursual of the conventional market building programme bring hope that considerable improvements will take place soon in many of the bad hawker areas.

We have also been reminded that it is to some extent the recreation explosion—as my colleague the honourable Colonial Secretary recently termed it—that has brought the more careless aspects of pollution to our countryside. In this respect, Government would look to the two Advisory Committees for Recreational Development and Nature Conservation to provide the answer and I believe that the New Territories Committee has already submitted a Five Year Plan for Government's consideration.

My honourable Friend, Mr Wilson WANG, has referred to the use of leisure and posed a "simple question": "When" he asks "are we going to have our covered games halls, Kowloon Civic Centre, indoor stadium, football stadium and a Government-supported Council for Physical Recreation?" My colleague, the honourable Financial Secretary, will deal with the Civic Centre, but regarding the other multi-million dollar projects, the position is that tenders for piling for the prototype multi-purpose games hall at Kai Tak East were invited in the *Gazette* last week—and, of course, this is only the precursor of the many envisaged by the Urban Council—while both the indoor stadium at Hung Horn and the football stadium at Ho Man Tin are in Category B of the Public Works Programme and will now take their normal course towards construction.

As to the Museum, I think that it is generally known that the Urban Council recommended early this year that a new low-rise building to house the new Museum—and probably also the Art Gallery—should be erected on a site in the area between the present KCR Terminus and Holt's Wharf. Government has recognized that there is merit in having the museum sited in Kowloon. But honourable Members will realize that even if the site were to be approved—which I hope it will—it will still be some time before the project can proceed as it is dependent, among other things, on removal of the railway terminus. The Urban Services Department has included the new museum building in its proposals for the Public Works Programme of 1972-73 so that the suggestion may be investigated more fully, and this will be considered in accordance with the procedure laid down for the Public Works Programme.

Mr WANG also presses for more opportunities and facilities for young people to make the best use of their leisure time. His colleague, the honourable Mr LEE, similarly stresses this need and also advocates some sort of advisory body for sport.

As to the request for opportunities and facilities for young people to make the best use of their leisure time, honourable Members may be interested to know that over the past twelve months 78 more acres have been added to developed open space in Hong Kong, resulting in more public gardens, children's playgrounds, games pitches, swimming pools than ever before—the more important (Urban Council) projects completed being the Shek O Headland Picnic Area (18.5 acres), Aberdeen Sports Ground (14 acres) and Morse Park, Kwun Tong and Lei Cheng Uk Swimming Pools (for which we are again indebted to the Royal Hong Kong Jockey Club). And the Urban Council is pushing on with plans for even more and better facilities as fast as sites can be allocated to it. In addition, the Council has been pressing for a very considerable time for the establishment of a section in the Urban Services Department to ensure that more organized and meaningful use is made of its active recreation facilities, particularly by young people who are not at school. My honourable Friend, the Director of Education, and I have had discussions on this need and I am hopeful that it will soon be possible to put our proposals to the Select Committee concerned.

Then, of course, there are the many and varied youth recreation programmes organized by voluntary agencies, the Urban Council, and Government departments throughout the year, particularly during the summer months. This year hundreds of schools, voluntary agencies, youth organizations, district associations, community groups, local churches, business concerns, families, private individuals, the Armed Forces and many Government departments worked very hard for an

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extensive programme of youth recreation and service projects. Activities included numerous physical recreation opportunities, visits and tours, sport contests and coaching schemes, holiday and work camps, interest group and youth seminars, music and variety shows, art exhibitions and competitions and other social and cultural functions. It is estimated that this programme reached no less than 800,000 children and young people and involved some 30,000 volunteers, both young and not so young.

Nor must we forget the cultural services rendered to the public at the City Hall and by the Urban Council's expanding library service—with its coverage next month to be extended to Yau Ma Tei and shortly, we hope, to Ping Shek and thereafter eventually to Shau Kei Wan and Sham Shui Po. The New Territories are not being forgotten in this connexion and I hope that plans for an adequate library service there will materialize soon.

On the subject of physical recreation and sport, Government has always taken a keen interest in promoting healthy sports in Hong Kong by way of giving free land at nominal rents to sports clubs, making substantial loans to certain football clubs, and building and maintaining many swimming pools, mini-soccer pitches, tennis courts, squash courts and other sports facilities.

Financial assistance is also given in the form of recurrent subventions to the Schools Sports Associations and grants made towards the cost of Hong Kong's participation in overseas games such as the Olympic, Commonwealth and Asian Games. For three consecutive years, Government has met the full cost of the annual festival of sport and, just over a year ago, removed the entertainment tax on sporting events. It would therefore be fair to say that Government is already providing the basic infrastructure in the field of sport.

However, there is still much that could be done. For some time the departments concerned have been giving thought to the future development of physical recreation in Hong Kong. A general consensus has now emerged in favour of formulating a physical recreation policy and establishing a central advisory body to ensure the proper co-ordination of the voluntary and Government efforts in this field. Government is also considering the possibility of creating a central vote to facilitate contributions towards the cost of Hong Kong participating in overseas games or staging local sports events. All these ideas are now being actively examined and we hope to arrive at some definite proposals before long.

Sir, I support the motion.

MR J. CANNING: —Sir, several Members have spoken during the course of this debate on the importance of technical education and the benefits that will accrue to Hong Kong through increasing the facilities available at the higher levels of training. The Director of the Hong Kong Polytechnic has been appointed and is now in Hong Kong. Discussions are proceeding with him on the lines of expansion that are necessary and it is hoped to submit in the near future detailed plans for an extension to the existing Technical College. The intention is that the expansion plans for the college will optimize the existing facilities and fit the college into the overall plan for the Polytechnic as a whole. The plans for the extension are now in an advanced stage and I hope it will not be too long before a submission can be made.

The two Technical Institutes which we are to build also attracted comment. My honourable Friend, Mr BROWNE, has asked what progress has been made on planning these institutes, when is building to start and what are the target dates for opening. It is hoped to put proposals before the Finance Committee of this Council very shortly and if they are approved both institutes will be placed in Category B of the Public Works programme. I cannot say at this point when building will start or when the institutes will be completed but I am confident that the experience gained in planning our first Technical Institute will help very considerably in reducing the time taken for the next two and I shall be even more disappointed than my honourable Friend if they take as long to complete as the Morrison Hill Technical Institute.

My honourable Friend, Mr Wilson WANG, as indeed are all of us in this chamber, is very concerned about the rising crime rate among our young people. In that context he went on to say that our proposed expansion plans for post-primary education while progressive, were not nearly ambitious enough. I am afraid I must disagree with him on that point. Our aim is to provide nine years of education for all with government assistance with an intermediate aim of providing for fifty per cent of the age group by 1976. This will mean that by 1976 we shall have to provide some 50 standard plan secondary schools plus 30 of the new type of schools in which the majority of places will be in Form 1 to Form 3. This means finding the sites, suitable sponsors and the necessary funds. The greatest single difficulty however will be training the teachers needed for this expansion. It is my firm conviction that the present programme is extremely ambitious and if we can meet our target by 1976 this community can congratulate itself on a truly splendid achievement.

During her speech the honourable Mrs Ellen LI referred to three categories of children who warrant special consideration when I exercise

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the powers given to me by this Council to order attendance at primary school. The three categories are: the overage children and children who are a year or a few months below the age-limit; the children kept at home to look after younger children while their parents are at work; and the children of fishing families who go to sea for months.

Children who are overage for a class of their appropriate level can be placed in a special class for slow learning children. There are at present 30 of these classes in 16 government primary schools and proposals are under consideration which, if approved, will increase the number of these classes considerably in the next few years. These classes use special curricula, remedial methods and techniques designed to suit the needs of the individual child. Children who are a year or a few months below the age-limit of 11 years can also be admitted to these classes provided that it is in the best interests of the child and circumstances warrant it. A regular check will be made on all these children and as soon as they have made enough progress to join their own age group they will be transferred to an ordinary class.

With regard to children who are kept at home to look after younger children while their parents are at work, arrangements have been made with the Social Welfare Department to investigate any such cases and to render what assistance is necessary in order to ensure that no child need be deprived of schooling. Children of fishing families who have missed schooling can also be referred in this way. Such children can be placed in ordinary classes or special classes if necessary.

As you indicated yourself, Sir, in your address to this Council at the opening of last year's session, that while Government's very large commitment to education proper does not permit us as yet to aid kindergartens and day nurseries generally to any great extent, we do nonetheless have an agreed programme for increasing the number of nursery places and we can and are assisting non-profit making organizations interested in running nurseries to a limited degree by helping them to find premises and to train staff.

As I have said before in this Council, I shall, in the exercise of the powers I have been given to ensure attendance at primary school, work in the closest co-operation with my colleague, the Director of Social Welfare, and the intention is to be as positive in our approach as is possible.

Sir, with these remarks I support the motion before Council.

MR I. M. LIGHTBODY: —Sir, I am greatly encouraged by the interest shown by several honourable Members in conditions in our resettlement estates and by the increasing awareness that many of these estates, which were once symbols of Hong Kong's determination to solve its problem of people, are now, alas, something which we are no longer proud to show to visitors from overseas. My honourable Friends, Mr SZETO and Mr SALMON both displayed a close knowledge of the realities of the situation which we face in the older resettlement estates, and I accept as entirely justified their description of conditions there as intolerable and appalling. Mr SALMON wondered whether Government even now appreciates the magnitude of the problem, and I hasten to reassure him on this score.

Perhaps, Sir, I may be allowed to give a brief analysis of the position as it affects our various estates. These fall into two main groups, and the first group comprises the Marks I, II and III estates built between 1954 and 1964. These are the blocks with communal bathrooms, either shared or communal toilet facilities, and no individual water supplies in Marks I and II. They were built on a crash basis to meet an emergency situation and now, seven to fifteen years later, they are, as my honourable Friend, Mr Wilfred WONG, has pointed out, grossly overcrowded. To make matters worse, these estates were built without markets and undisciplined hawkers soon arrived to fill this gap. Fortunately, these early Mark I and II estates were designed with a view to their eventual conversion to self-contained flats, and the time has come to convert them; depending on the circumstances of each estate, more or less blocks might be converted while others should be demolished, and provision made for decent shopping, commercial and marketing facilities. As Your Excellency said, the first step in this direction has been taken recently with the decision to modernize the Shek Kip Mei Estate, now the home of almost 60,000 people; and comprehensive proposals are now being prepared for conversion or redevelopment of all the other Mark I and II blocks, housing almost 500,000 people. This programme, if approved, will represent a massive investment in public housing over and above the continued output needed to cater for the 100,000 or so persons who each year qualify for resettlement under one or other of the various approved categories. This is quite apart from the need to provide some allocation for waiting list candidates seeking low cost housing. Only by action on this grand scale can we hope to restore decent and reasonably dignified living conditions to the many, many families now living in such squalid surroundings in these old estates.

The second group of estates comprises those with Mark IV, or newer, blocks built since 1965. It is to our credit that over the years we steadily improved standards in the domestic rooms, and the units in this groups are all self-contained, that is, they have individual toilets

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and water taps. In the more recent of these blocks, we use an allocation standard of 35 square feet per adult, compared with 24 square feet in the older estates, which is a marked improvement. But here again we did not provide community facilities or markets, although we did earmark space for hawkers. In these estates, Mark IV onwards, we can hope to restore decent living conditions by building the necessary marketing facilities and bringing the hawkers under control.

More recently, my department has been very conscious of the need to improve its management methods in the estates, and as from about 11 months ago new techniques, derived from Housing Authority practices, have been adopted in the new estates. In these new estates conditions are better—but still in much need of improvement—and we are determined to hold the line there against hawkers and others who seek to profit themselves regardless of the comfort or convenience, or even the safety, of the tenants.

My honourable Friend, Mr SALMON, referred to the department's lack of professional staff. He clearly believes that the deployment of professional Housing Managers in the Resettlement Department at this juncture would solve all the problems to which he has drawn attention, but I suggest that he might profitably discuss this view with my colleague, the Commissioner for Housing. The Commissioner would, I am sure, be the first to agree that no Housing Manager could begin to make any impression on the majority of our estates. The problems in these estates are essentially administrative problems requiring the working out of strategies, tactics and detailed programmes of action. Once these physical and psychological problems have been resolved, then I have every hope that my staff will be able to manage them effectively thereafter, just as they are now managing our newer estates. Having said this, let me say that I do believe that we have need of professional housing management skills, to assist in planning new estates, to advise on improvements in old estates, and to advise generally on management in the newer estates, where we have not lost control. From time to time the Commissioner for Housing has seconded experienced Housing Managers to the Resettlement Department, but he has his own staffing problems, and no such officer is seconded at present. However, we hope in the near future to have once again the services of an experienced housing manager.

My honourable Friend, Mr SALMON, doubted whether there were sufficient estate staff to manage effectively. At the block officer level, that is, the Resettlement Assistant level, the ratio is fairly close to Housing Authority ratios; however, the gross overcrowding in resettlement

estates, the myriad problems arising in the open spaces between blocks, and the generally inadequate facilities generate complaints and disputes galore and far too much time is spent on dealing with these, often to no avail since many of the problems are incapable of solution. We are now looking into the duties of estates staff and we may have to seek more posts.

The plain fact is, Sir, that as Hong Kong's people become more prosperous and enjoy a steadily rising standard of living, so too do their expectations rise as regards living accommodation. What was acceptable 15 years ago is not acceptable today, and I am sure that very many of our resettlement tenants would gladly pay a higher rent for better accommodation.

I hope that what I have said will show that I share the concern expressed about the unsatisfactory conditions in many of our resettlement estates, and I can reassure honourable Members that I am determined to do my utmost to restore order and decent living conditions in them as rapidly as possible. In particular, the proper control of hawkers in the estates is already one of our primary targets and while the solutions are likely to be expensive, I am confident that I can look to this Council for its support in these efforts. To reach these objectives I may well have to seek additional statutory powers for resettlement staff, to enable them to deal more effectively with illegal hawkers and all who persist in anti-social behaviour in these crowded estates.

As to the public housing building programme, the target of which is 700,000 places in the six years 1970 to 1976, this is geared primarily to meeting our heavy and continuing development clearance commitments, as well as such categories as victims of natural disasters, compassionate cases recommended by the Social Welfare and Medical Departments, and overcrowded families in the older resettlement estates. This is a very substantial building programme by any standards, and one which has to be implemented at a time when the building industry is stretched to the limits of its capacity. Add to this the possible additional commitments that will flow from any future decision to convert or redevelop all Mark I and II blocks, and one begins to appreciate that we are after all thinking big.

The honourable Mr Wilfred WONG urged the need to look to the New Territories for the creation of new townships. Certainly, so far as the provision of public housing is concerned, there can be no doubt that we will have to do so in the second half of the seventies if we are to continue a substantial building programme once the currently planned estates have been completed. But we all know what great reluctance there is to move out to these areas, and it will be necessary to pay close and continuous attention to making these outlying

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townships as attractive and convenient and viable as possible. In talking of new townships in the New Territories one's mind goes back to our experience with Kwun Tong; this was initially considered a remote area but only four or five years later it became a boom town, where land was hard to come by. There seems to be every likelihood that the same cycle will happen in due course in the New Territories' townships. Perhaps I might mention here, Sir, that detailed proposals for a much improved type of public housing estate at Shatin are currently under study, proposals which finally aim at the sort of accommodation and facilities which have been so sadly lacking in past estates. The switching of our building activities to the New Territories will of course bring into sharper focus the housing problems of New Territories residents, problems which have tended to be overlooked in the stress and strain of coping with the much greater problems of the urban areas.

Finally, I am glad to be able to reassure my honourable Friend, Mr SALMON that very close consideration is being given at the highest levels to future organization in the field of public housing, and to say that there is general agreement with his view that the time has come to rationalize our arrangements in the housing field.

Sir, I support the motion.

MR J. J. ROBSON: —Sir, while one of the most significant events of the past decade has been the remarkable drop in our population growth, the problems, as far as the Public Works Department is concerned, have not diminished. This is not unwelcome as it is increasing affluence of the mass of the people which has more than offset the reduction in population growth. This is most clearly demonstrated in the realms of water and traffic and all the associated problems which follow in their train. Despite the fact that the population has not increased as rapidly as the consultants expected when they produced the Long Term Road Study Report and despite a clear check to our car ownership in 1967, car ownership has nevertheless increased 7% faster than expected.

I therefore agree with Mr SZETO Wai that some means are necessary to control private cars in our busy areas, together with an acceleration in road construction, if congestion is to be checked. I am satisfied that, once road construction contracts have been let, then in most cases the work proceeds with reasonable speed. Notable exceptions are contracts let at rock bottom prices about 18 months ago and in

these cases it is to the contractors' credit that they are at least completing the works at the contract rates. It is the administrative delays which occur before the actual commencement of works and which are necessary to ensure that the private rights of property owners and tenants are not unreasonably interfered with, that take the time. At least 4 of our most important road links have been held up for long periods for this reason. I am sure that Mr SZETO Wai also realizes that another controlling factor on the rate at which new roadworks can be carried out is the need to ensure that adequate road capacity exists while the works are actually being constructed. For the last 4 years at least we have looked at Kowloon as a whole as I have had to ensure we did not undertake so many roadworks at one time that the whole of the traffic was brought to a halt.

Mr SZETO welcomed the planned construction by a big property owner of elevated walkways linking the waterfront and Des Voeux Road and hoped that Government would follow this up afterwards. The Public Works Department has for years wished to construct such footbridges in the Central District to improve pedestrian circulation and has in fact made one or two attempts in previous years in connection with other developments. None of these, however, has come to fruition and owing to lack of space and excessive resumption or compensation costs they have had to be considered as an ideal to be aimed for but unlikely to be accomplished.

In the present case the Company was willing to co-operate because in connection with the development of their very valuable site on the Central Reclamation, they wished to have concessions which are permitted under the Buildings Ordinance when part of the site is dedicated for public use. The opportunity was therefore seized to establish a significant system of elevated footways which can, it is hoped, be extended later to other parts of the city. I hope that with the implementation of this privately constructed system, together with our own, property owners in other parts of Hong Kong and Kowloon will in future be prepared to co-operate in a similar fashion.

I agree with my honourable Friend, Mr SZETO Wai, that the treatment of sewage and industrial wastes prior to their discharge into our seas and harbours must now be given a degree of priority approaching that given to augmenting our water supplies and in fact the two problems are associated as, I am sure honourable Members appreciate, the volume of discharge is directly related to the volume of liquid consumed. The present pollution by the general public of stream and water courses is one of the most significant causes of pollution at our bathing beaches and a reduction in such pollution in the low-lying waterworks catchment areas draining towards the River Indus flood

[MR ROBSON]     **Motion**

pumping station would certainly be beneficial to the waterworks. Mr Wilfred WONG has indicated how, as a regular swimmer, he has observed the increased pollution of our beaches over the last 24 years and suggests that because of this I should "think big" on sewage treatment. Sewage treatment, however elaborate and expensive, will not remove the present visible pollution from the beaches; most of this, apart from the sea borne rubbish, I am convinced, is mainly a matter for the users of the beach themselves. The invisible bacteriological pollution at the beaches is checked by regular tests and has not yet reached the level where it poses a health problem.

The tests indicate a very considerable increase in pollution during the summer months when both the rainfall and the use of the beaches also increase. It seems that the major sources of pollution are:

- (a) the waters from the Pearl River;
- (b) the land and water courses from which filth is washed by the summer rains; and
- (c) bathers themselves.

But I agree with Mr WONG that we must "think big" in order to keep this pollution down to its present level; indeed, in certain areas in the harbour which have now been identified, it must be reduced. The report from the consultants who have been looking into these problems has now been received and is being studied. This indicates the expenditure of \$1,000 million mentioned by Mr SZETO Wai and towards the end of the current 5-year period the rate of expenditure on sewage treatment works will have to increase very substantially and approach that on the more obvious road improvement programme.

In respect of the suggestion that the provision of refuse disposal facilities in multi-storey buildings should become a statutory requirement, this was considered in great detail by an inter-departmental committee in 1968 who recommended against it. Briefly the experience both here and in Singapore is that, without proper management, refuse chutes create more problems than they are intended to solve and it was in the light of this experience that it was decided not to alter Hong Kong's present Building Regulations. Under these regulations a private developer is able to adopt disposal systems most suited to any particular type of development and is permitted to plan for refuse chutes if he so wishes.

My honourable Friend, Mr Q. W. LEE complains of delays as long as 9 to 12 months in obtaining approval of modifications of Crown leases, but the fact of the matter is that such modifications are not

straight-forward and each has to be carefully considered—especially as they bestow special and valuable privileges to private individuals and often involve payment of large sums of money. In the light of Mr LEE's complaint, however, I asked that 6 recently completed relatively straight-forward cases be examined and these indicate that it takes 14 weeks to process the application in the Public Works Department and suggest terms to the applicant, 13 weeks for the applicant to accept or reject the terms, only 7 weeks to obtain Secretariat approval (except when the approval of Executive Council is required when a much longer time is required) and 28 weeks for the preparation and completion of the Deed of Variation by the Registrar General and the applicant. Much of the latter time is absorbed in legal arguments on wording and while I realize that the applicant may have difficulty in disposing of shares in the development until this final stage in the proceedings has been completed, I can see little hope of it being speeded up. It seems likely therefore that modifications will continue to take upwards of 12 months and developers would be wise to plan their operations on this assumption.

Mr SALMON has drawn attention to the delay which has occurred in dealing with the objections to the Urban Renewal Outline Zoning Plan for the Western District of Hong Kong. This is unfortunate as I know that a number of proposals for redevelopment, two of them very large, have been held up because they were in conflict with the planning proposals for the particular area. Much of the delay which has occurred is, however, due to the fact that substantial claims for compensation have been made which have had to be evaluated and independent petitions have been submitted to the Governor in Council. These have had to be considered outside the context of Town Planning considerations but it is hoped that the draft plan and the many objections to it can shortly be submitted for consideration by Executive Council.

Sir, with these remarks I have pleasure in supporting the motion.

MR PAUL K. C. TSUI: —Sir, my honourable Friend, Mr BROWNE, enquired about the progress made in considering the recommendations of the Industrial Training Advisory Committee and also about the date that the report might be published. Sir, on 31st March of this year, the ITAC formally presented its final report to Government. I should perhaps make it clear at this stage that, of the sixteen committees which constitute the ITAC complex, fifteen have submitted recommendations in their respective fields. Many of the recommendations have been accepted and carried out but some of the more important ones are still being considered by Government. Recommendations for technical

[MR TSUI]     **Motion**

courses alone number in excess of one hundred, of which 80 have been implemented.

Chapter III of the ITAC Final Report makes recommendations relating to matters such as the setting up of a statutory training council, the expansion of the Labour Department to service the proposed council, the question of division of responsibility for the cost of industrial training, the necessity of supporting education, the translation of terminology into Chinese, and the availability of qualified training staff. Sir, these involve questions of principle with far-reaching implications; they demand the most careful consideration before decisions can be reached. A Steering Committee has been set up to expedite examinations of the proposals in detail with a view to early implementation.

It has also been decided to publish the Final Report of the Industrial Training Advisory Committee in both English and in Chinese for the benefit of interested organizations and for general information. The English version is already printed. The translation of the weighty document into Chinese was a considerable task but I am happy to report that the printing of the Chinese version is now in hand. It is hoped that both versions will be ready within a month.

My honourable Friend, Mr K. S. Lo, also expressed the hope that the larger concerns in industry would take the lead in instituting craft and technician apprenticeship programmes as soon as a scheme is introduced. I welcome this timely advice and I trust that managements in industry will heed the words of my honourable Friend, who is himself a leader in the development of management.

I must stress that proper training schemes can be started now. There is no need to await the introduction of legislation. Indeed, the Senior Training Officer (Apprenticeship) in my department has already drawn up an apprenticeship scheme which includes all the elements of effective training and which industry can operate at negligible cost and with a minimum of disruption in production; and this scheme has been accepted by many firms. It is known that some 60 are now operating a modern apprenticeship training scheme for craftsmen or technicians. In addition, because on-the-job training must be complemented by theoretical training, there are now 27 related part-time day-release courses being run at the Hong Kong Technical College and the Morrison Hill Technical Institute. Many of these were started during the last year and they constitute an important step forward in technical education in Hong Kong.

To achieve the harmony about which my honourable Friend, Mr Lo, also spoke it is important for management to establish an effective channel of communication with workers. To this end the Labour Department encourages by-persuasion the establishment of joint consultative committees. Such encouragement, coupled with practical advice and the free distribution of a guide in English and Chinese on joint consultation, will continue as part of the day-to-day work of the Labour Relations Service of my department.

My honourable Friend, Mr Lo, stressed the need for a speedy settlement of industrial disputes. Government is conscious of this need and has considerably expanded the establishment of the Labour Relations Service of my department and widened its scope. I have no doubt at all that prompt action by hard-working and devoted conciliation officers of that service is one reason why the number of man-days lost by strike action remains extremely low in Hong Kong. Their task is not made any easier by the problems of dealing with unorganized labour and, to a lesser extent, unorganized management. To complement the work of the conciliation officers of the Labour Relations Service, you, Sir, have indicated in your opening address less than a fortnight ago that legislation for the setting up of special courts to deal with specific claims arising from employment disputes will shortly be introduced to this Council. I am glad to report that the drafting of the necessary bill, now known as the Summary Claims Tribunal Bill, is well advanced.

My honourable Friend also referred to disputes arising out of termination of services due to redundancy. About 25% of the cases handled by the Labour Relations Service concerned redundancy. By this I mean the retrenchment of surplus labour due to decline of business or diminishing needs, complete closure of businesses, or prolonged lay-off due to fluctuation of production. These are very complex problems and involve detailed research. This research revealed that practices elsewhere cannot be transferred without considerable modification to meet the needs of Hong Kong. As my honourable Friend will see, much work has been done on this topic, which will continue to receive close attention, but it is too early for me to state when legislation will be introduced to this Council.

As a step towards the prevention of further pollution, my honourable Friend, Mr SZETO, suggested the setting of a target date for the removal of factories of a certain capacity, presumably by force if necessary, from non-industrial buildings; a measure which I have no doubt would also help to reduce disastrous fires often caused by the presence of such manufacturing workshops operating in these buildings. Returns on dangerous occurrences, required under the Factories and Industrial Undertakings Ordinance, made over the past six months,

[MR TSUI]     **Motion**

show that 13 industrial fires occurred in provisionally registered factories in these buildings, as opposed to 19 fires in fully registered factories accommodated in industrial buildings. The Director of Fire Services has informed me that over approximately the same period, 7% of all fires in domestic buildings were attributable to factories.

Honourable Members may recall the co-ordinated dual system of control now in force, described by my predecessor in office in his answer to my honourable Friend, Mr T. K. ANN's question two months ago. Under this system my department imposes certain measures designed to minimize fire-risks within premises as prerequisite conditions for their provisional registration as industrial undertakings in non-industrial buildings, whilst the Director of Fire Services, acting independently under the Fire Services Ordinance and the Dangerous Goods Ordinance, takes additional measures to abate fire hazards and otherwise to prevent fires from occurring. To augment these measures, an intensive fire prevention publicity campaign was mounted as from January this year. Steps have been taken since the end of July to enforce abatement notices issued against those factories which presented intolerable fire risks.

We have to bear in mind the fact that of the 18,220 registered and recorded industrial undertakings, only 5,155 are at present fully registered and accommodated in properly constructed industrial premises. The population census conducted in March this year revealed that there were some 35,000 manufacturing premises. To be effective, any relocation scheme along the lines envisaged by my honourable Friend, Mr SZETO would have to be of a scale which would disturb the livelihood of the workers employed in these establishments; and if all manufacturing premises within the non-industrial buildings were to be closed, then hundreds of thousands of workers employed in some 30,000 manufacturing establishments would be very seriously affected. Very careful consideration must first be given to the socio-economic consequences of such an upheaval, and also to the possible measures needed to alleviate such consequences. It could lead to a phased programme of clearance and resettlement of a nature not unsimilar to our methods of dealing with squatters. For this purpose land would first have to be found and the related question of financing and other considerations would have to be resolved. The difficulties should not be underestimated but I assure honourable Members that all these points will continue to be examined carefully, in conjunction with other Government departments involved and in consultation with the many public bodies concerned.

Sir, with these remarks I support the motion.

THE SECRETARY FOR HOME AFFAIRS (MR D. C. C. LUDDINGTON): —Sir, it seems that there is some danger that it will become a tradition that the Secretary for Home Affairs in this debate will deal with the vices. At least this year only three of the vices have been mentioned and my honourable Colleague, the Attorney General, has agreed to deal with one of them. (*Laughter*).

In dealing with the subject of pornography, I think I must emphasize that in most parts of the world attitudes towards sex and pornography have changed. Hong Kong is an international sea and airport and to maintain itself must be in close contact with its trading partners and accept visitors from all over the world. Thus foreign attitudes and behaviour, good or bad, are bound to influence the local scene. The questions which Government must keep in mind are not only whether such changes are good or bad but, also, how far should repression be used as a means of resisting such changes as Government does consider are bad for the community or particular sections of it. Existing law and its application concentrate on those who exploit people and pornography for profit rather than those who indulge themselves in what are sins rather than crimes. Moral behaviour must surely be the result of education rather than repression.

My honourable Friend, Mr WONG, has again recommended that legislation be introduced to eradicate the so-called "topless" trend before it damages the fabric of local family structure. I can assure him that I personally agree with him that this tasteless import from the west serves no good purpose. I am also aware of a strong body of opinion amongst kaifongs and other responsible spokesmen that Government should eradicate this blatantly advertised and degrading exploitation of young women. There is some evidence that this fad may spread and I will raise the subject again with the Liquor Licensing Board. To date we on the Board have been against imposing conditions that attempt to define the extent to which employees and customers in licensed premises should be properly dressed.

I am well aware that there are many much more licentious establishments which also advertise themselves, albeit sometimes a little more subtly than our topless bars. These are probably a greater threat to moral standards and to local family solidarity. The Police already do much to try and control such establishments by prosecution where they have evidence of breaches of the law and, in conjunction with the Social Welfare Department, by protecting young girls from exploitation—tasks in which they get little help from landlords and others who should be more concerned at the uses to which premises are being put.

[THE SECRETARY FOR HOME AFFAIRS]     **Motion**

However, I would like to see a stricter control on advertisements and will examine this problem further in conjunction with my honourable Colleague, the Attorney General. One might have hoped that the managements of organizations which accept advertising would be prepared to exercise more taste and discretion without the need for such legislation.

May I now turn to the problem of extending the legal forms of gambling on which my honourable Friend, Mr Lo, spoke at some length. Not everyone regards gambling as a vice but certainly there are strong traditional opinions against the idea of Government taking any lead in the encouragement of gambling. Mr Lo urges that we accept that the existence of widespread illegal gambling, which gives rise to other evils such as corruption and protection gangs, justifies an extension of the existing legal forms of gambling which cannot deal with the demand. He also accepts that the subject is a controversial one. A brief study of Hansard reveals how very controversial this subject has always been. The doubt in many people's minds is whether an extension of legal gambling would in fact cure the other evils associated with present illegal gambling. One can predict that if there is to be any tax and control imposed on gambling then there will continue to be illegal gambling.

Many responsible leaders still oppose any extension of legal gambling, to which local people are regarded as particularly likely to become addicted. Our present increased prosperity means that there is more spare money available for gambling but I never cease to be amazed at the trust gamblers have in the illegal syndicates which profit so handsomely from this apparently blind addiction.

Government's position on gambling has not changed since it accepted the main recommendations of the 1966 Advisory Committee on Gambling Policy. However although Government has not altered its basic position, this does not mean that it is either blind to the existence of illegal gambling or deaf to the many opinions that this stand should change in the light of modern conditions.

Sir, I support the motion before Council.

THE ATTORNEY GENERAL (MR D. T. E. ROBERTS): —Sir, several honourable Members have, very understandably, expressed their deep concern about the increasing number of violent crimes. This is a particularly unwelcome development because in the past our record has compared so favourably with that of other countries, whether in Asia or in Europe.

It is, I know, little consolation to be reminded that it is probable that the rate of violence per head of population in Hong Kong is still well below that found in many other countries. Nevertheless, I suggest that this should be borne in mind so that a natural indignation does not mislead us into regarding the problem as more serious than it really is.

Members have expressed views as to the possible causes of this unfortunate development and I shall leave it to the honourable Colonial Secretary, and others more experienced in this subject, to speak of its likely origins. I shall limit my remarks to those comments which have suggested amendments to the law or have contained criticisms of the sentencing policy of the Judiciary.

Honourable Members have urged that section 109A of the Criminal Procedure Ordinance should be repealed, or totally suspended in its operation. It will be recalled that it was only in January of this year, during the committee stage of the Criminal Procedure (Amendment) Bill which was then before Council, that all the major offences which involve violence were specifically excluded from the operation of section 109A. It does not seem to me therefore that any further restriction of the operation of this section is necessary, insofar as this might be directed to giving the courts a wider discretion in dealing with this particular kind of offence.

I must take issue with honourable Members to the extent to which they may have suggested that the courts are unwilling in proper cases to impose heavy punishment or are unmindful of the need to pass sentences which may serve as a deterrent.

Whenever there is an upsurge of violence in a community, it is to be expected that the law-abiding citizen should demand harsher penalties for offenders since in his mind the primary consideration is that he and his friends should be properly protected against criminals. But it is the duty of a judge to take other factors into account and he must approach the difficult task of assessment of sentence in a dispassionate manner which it is difficult for the ordinary citizen to achieve.

It is essential for a judge, when deciding upon sentence, to give full weight not only to the interests of the community but also to the background and motives of the particular offender and the circumstances in which the crime took place. One of the factors which he takes into account is the deterrent value of the sentence, but he must take care that he does not give such weight to this consideration as would involve an injustice to the individual accused.

[THE ATTORNEY GENERAL]     **Motion**

Another aspect of the matter which requires careful consideration is the fact that the forms of punishment which a judge or magistrate can impose are limited and I think it is true to say that all of them have some undesirable side effects. Even disregarding the interests of the offender altogether—which the judge cannot do—one must not overlook the possibility that a heavy sentence which the public might today consider desirable to meet present trends may well lead to greater problems for the community at a future time when an offender himself is subsequently discharged from prison.

As I have said on a number of occasions, a member of the public should be cautious in his criticism of the sentence imposed in a particular case since he is often unaware of the factors which have influenced the judge when he was deciding upon the appropriate penalty. Furthermore, it must not be forgotten that judges pass sentences everyday and have a far greater experience of this difficult process than anybody else.

I have no doubt that judges and magistrates are well aware of the uneasiness of the community at the growth of crimes of violence in Hong Kong and will continue to impose, as they have certainly done in many cases in the past, deterrent sentences in appropriate cases.

Sir, I support the motion.

THE FINANCIAL SECRETARY (MR C. P. HADDON-CAVE): —Sir, my honourable Friend, Mr Q. W. LEE, has pointed out that the Finance Committee of this Council has frequently been invited to approve expenditure of only a few thousand dollars on items that have not been included in the annual Estimates. He proposed that appropriate authority be delegated to heads of departments, and to me and the Deputy Financial Secretary when larger amounts are involved. With rising prices in recent years, I consider there *is* a case for raising the present ceiling of \$75,000 for additional expenditure which may be sanctioned by the Financial Secretary against existing subheads pending covering approval of the Finance Committee of this Council. I also consider that, to reduce the number of occasions on which the Finance Committee is asked to approve individual increases in expenditure, the ceiling should be raised to a level higher than is necessary simply to meet rising prices. Accordingly, a resolution will shortly be introduced into this Council seeking to amend the present schedule of delegated

powers exercisable by the Financial Secretary and the Deputy Financial Secretary. However, Sir, I do not consider that authority to sanction expenditure on *new* services should be delegated, but perhaps there is scope for our interpreting more liberally the limiting phrase in Colonial Regulation 223 on which the delegation of financial powers resolution is based. This phrase does not allow the use of delegated powers when a question of a new principle is involved. We are considering whether we stick too closely to the letter of the law, so to speak, but it is a difficult question.

As regards delegations to heads of departments, this is confined at present to the creation of supernumerary posts in very limited circumstances. While I would not wish to see this delegation extended at the present time, I shall be considering the possibility of giving heads of departments a greater degree of flexibility than they now have by raising the limit for non-recurrent items of expenditure that may be included under Annually Recurrent Other Charges. This limit was raised from \$2,000 to \$5,000 in the context of this year's Estimates of Expenditure. A further increase to, say, \$10,000 would reduce the number of occasions on which supplementary provision need be sought for Special Expenditure items not included in the Estimates.

Currently, an exercise is also in hand to update various administrative authorities for public works in order to facilitate and simplify the conduct of business.

But, all this said, I must take issue with my honourable Friend when he argues that the present system involves a very considerable loss to both the Government and the community in terms of labour and money. I do not believe that such "loss" as there may be can properly be described as "very considerable". Nor do I believe that it is anything but out-weighted by the disciplines the present system imposes on expenditure. And disciplines there must be, particularly and ironically enough, when our financial position is buoyant. For when revenue is tending to lag behind expenditure, financial control is a relatively simple matter; in such circumstances, we are in a position to argue, in respect of any *particular* project, that it simply cannot be afforded. We cannot do this, except in a few cases, when revenue is surging ahead of expenditure, and yet we are duty bound, in our vulnerable circumstances, not to let the rate of growth of expenditure generally get out of hand.

My honourable Friend, the Colonial Secretary, will be dealing with the alleged defects in the organization and performance of the Secretariat, but may I, Sir, just make two points in defence of the Finance Branch? In the first place, without wishing to suggest we are as

[THE FINANCIAL SECRETARY]     **Motion**

imaginative as we might be, we *do* pay attention in the Finance Branch to the organizational and procedural requirements of our changing circumstances. The same is true of the much smaller Economic Branch. Secondly, when Unofficial Members hear, to quote my honourable Friend, Mr SALMON's words, that "such and such a matter has been bogged down in the Colonial Secretariat for months", the underlying reference is, I fear, frequently to the Finance Branch. Sometimes, generally during our particularly busy season (namely the Estimates season), we take rather longer than we should to process applications for supplementary provision and other papers. But we do put through a very great deal of business. The size of the annual budget has increased by over \$1,100 million or by 66% in the past five years and the size of the public service by 21,000 posts or by 30% in the same period. Furthermore, not only do departments have the opportunity of having their applications put to the Finance Committee twice a month for the greater part of the year, but also—and this is not at all surprising—departmental submissions are not always entirely comprehensible or the argumentation immediately self-evident. If they were, the flow of paper to the Finance Committee might be even greater than it is now.

Several Members have brought forward a number of examples in support of my honourable Friend, Mr Q. W. LEE's allegations of delay in the Secretariat, and I shall deal with these seriatim. To begin with, the new *General Post Office*. My honourable Friend, Mr SALMON criticized its siting. Although listed as "New General Post Office" in the Public Works Programme, it might be referred to more appropriately as the main Post Office for Hong Kong Island. It is "General" only in the sense that it will, for convenience and operational efficiency, also house the office of the Postmaster General. Kowloon already has its Central Post Office, opened in 1968; and—again to achieve operational efficiency—the Transit Mail Office and the Sorting Office for Hong Kong as a whole will be in Kowloon rather than on Hong Kong Island.

The new Post Office building to be sited on the reclamation near the Star Ferry Pier was upgraded to Category A of the Public Works Programme last year. My honourable Friend's point was, however, that it had been in Category B since 1962. The reason for the lapse of time before upgrading was that the detailed planning which is implied in upgrading to Category B was not possible until the development plans for the Central Area as a whole were settled. In any case, it would have been unwise to have started building on the reclaimed area on the site reserved until last year at the earliest. But, in the meantime,

work has been going on to decide on other users of the building and on the mechanical equipment necessary to meet the modern requirements of the Postmaster General. I hope that the provision of new buildings and equipment will go a long way towards alleviating the Postmaster General's current problems and improving morale and efficiency in the Post Office.

My honourable Friend, Mr SALMON, also mentioned the *Civic Centre for Kowloon*. Civic buildings of this nature are expensive to build and to operate. To give a very rough idea of the sort of capital expenditure with which we may be concerned, the capital cost of the present City Hall was \$20 million or at least \$40 million at present day prices. Nor are such buildings all that easy to justify. One can assess the number of, say, hospitals or schools required in terms of the size of the population. The cultural facilities people want (and of course I don't mean the cultural facilities that other people think they ought to want) are more difficult to determine; but my honourable Friend, the Director of Urban Services, has now completed a survey of users of the City Hall to get some idea of the facilities which might be required in Kowloon and to what extent. I personally would also like to know something about the recurrent expenditure involved and how it would be financed. My honourable Friend has now, I understand, prepared a costing. I look forward to seeing this and if it is sufficiently persuasive it should be possible to seek the approval of the Finance Committee in principle to the proposal with a view to an item being put in the Public Works Programme.

As far as *new office accommodation for departments housed in older buildings* is concerned, I am sure my colleagues the Director of Commerce and Industry and the Director of Marine will appreciate the concern expressed on their behalf. There are currently two items for Government office blocks in Category B of the Public Works Programme—a second block on the Murray Barracks site and a block above the Jubilee Street Ferry Concourse. Space in new offices is not normally allocated until about a year before completion of the buildings, but both departments are likely to get new accommodation when these two new blocks are built. I entirely take my honourable Friend's point about the importance of suitable accommodation for departmental efficiency, but conditions in Fire Brigade Building have improved since the Preventive Service moved out to new premises and plans are in hand for further renovation. The department cannot stay there indefinitely, but I myself do not think the modest image conveyed to overseas visitors harms our standing with the Governments of our overseas trading partners. And perhaps, Sir, I may assure my honourable Friend, Mr BROWNE, at this point that the Government is very conscious of the vital importance for Hong Kong's continuing prosperity of a close and constructive relationship

[THE FINANCIAL SECRETARY]     **Motion**

with the industrial and commercial community. Such a relationship has been developed over the years via the Trade and Industry Advisory Board, the Textiles Advisory Board and other instruments and I believe that such success as we have achieved, for example in the negotiation and management of bilateral trade agreements, has been largely due to this relationship.

*Welfare for seamen* was another item on my honourable Friend Mr SALMON'S rather long list of delays. The Director of Marine, with the Consultative Committee on Shipping Personnel Management, has drawn up draft terms of reference and a possible membership for the Working Party which the Port Welfare Committee some time ago proposed should examine welfare facilities in Hong Kong for Hong Kong seamen.

Like my honourable Friend, Mr K. S. Lo, I am also pleased to see the Productivity Centre has established a *Low Cost Automation Unit*. I am hopeful that industry will take full advantage of the consultancy services, technical assistance services and training courses offered by it. My predecessor saw difficulty in implementing the proposal for a *Loans for Small Industries Scheme* which the Trade and Industry Advisory Board recommended in conjunction with the proposal for a Low Cost Automation Unit. He made a number of suggestions and offered guidelines along which he thought the scheme might work and might be worthwhile. On the basis of his comments, the Loans for Small Industries Committee has submitted a revised scheme, which I am now examining. Unfortunately, I have been unable to accord these papers a very high priority in recent weeks, and for this I apologize.

As regards the *underground railway*, whilst it is true that the proposal to construct the railway was initially made in the Mass Transport Study Report completed by our consultants in 1967, a very great deal has happened since then. The consultants subsequently produced a Supplementary Report to take account of revised population estimates based on the 1966 By-Census. A Working Party considered these Reports in detail and its conclusions and recommendations were in turn considered by Executive Council in February 1969. As a result of the advice tendered by Executive Council, the consultants were commissioned to undertake further detailed investigations into certain aspects and possible modifications of the original scheme. These further studies were completed in August 1970, when the consultants submitted their Final Report in which they recommended an initial system which, with progressive additions, would constitute a complete underground railway system for Hong Kong and Kowloon.

After the consultants' Final Report was considered by the Transport Advisory Committee and a comprehensive analysis of the commercial viability of the proposed system using the consultants own figures had been prepared by the Cost Control Division of Finance Branch, an inter-departmental Working Group chaired by the Deputy Economic Secretary was established at the end of May this year to formulate a Government view on the consultants' recommendations and to prepare a draft of the necessary memorandum for Executive Council. The Working Group is examining the likely movement problem in all its aspects over the next 10-20 years; considering the various repressive and constructive ways of dealing with it and, if an underground railway seems to be a necessary element in an adequate solution of this movement problem, the Group will go on to analyse all the technical, economic and financial implications of the consultants' initial and complete systems. By and large, all the necessary "facts and figures", to quote my honourable Friend, Mr SALMON's phrase, *are* now readily available to the Working Group but this does *not*, of itself, mean that what we should do is self-evident. The Working Group is holding frequent and regular meetings and expects to complete a draft of the submission to be put to Executive Council by the end of this year.

This chronological summary of developments has, I hope, Sir, gone some way to satisfy honourable Members that we are dealing with the problems of public transport policy in the 70's and 80's in a systematic and reasonably expeditious manner. The proposed new element in the public transport system, an underground railway, is a most ambitious project involving colossal capital expenditure over a period of years of no less than \$6,650 million for the complete system (or \$2,800 million for the initial system); and would involve also extremely difficult problems of recurrent financing.

Leaving aside projects that have been under consideration for some time and turning to new ideas put forward in the course of this debate, my honourable Friend, Mr Wilfred WONG, suggested raising the income limits in respect of eligibility for public housing generally and for low-cost housing in particular. I have no doubt the Housing Board will consider my honourable Friend's suggestions when they know more about the distribution of household incomes as a result of the census. Preliminary figures which have just become available to me indicate that about 42% of households have an income of \$600 or less compared with 72% in 1966—a quite dramatic improvement. About 73% of households have an income of less than \$1,000, which is the limit my honourable Friend suggested for eligibility for public housing generally. This figure of 73% compares with 88% in 1966—again a very substantial improvement. But a substantial proportion of these households are already in public housing and we already have a substantial housing programme planned for the five years ending 1975-76. The Housing

[THE FINANCIAL SECRETARY]     **Motion**

Board's recommendation of a target involving housing a further 700,000 people over the next five to six years has been accepted; and much of the accommodation will be used to house people under resettlement programmes *regardless* of their income levels. The extent to which public housing can be increased beyond this ambitious target depends as much on sites and building capacity as it does on the availability of funds. Even so capital expenditure on housing will be close to \$100 million a year over the next few years and we have yet to tackle the problem of converting the old Mark I and Mark II estates containing, as my honourable Friend, the Commissioner for Resettlement has just said, about half a million people, and we have yet to convert these estates to up-to-date standards at a very rough order of cost of no less than \$650 million at current prices.

My honourable Friend, Mr Q. W. LEE, has asked me to consider tax exemptions on moneys donated to sports associations. He suggested that donations of this nature could be treated as an extension of the sections of the Inland Revenue Ordinance under which tax relief is provided in respect of donations to charities. Provision is made under the Inland Revenue Ordinance in respect of approved charitable donations under the sections dealing with Salaries Tax, Profits Tax and Personal Assessment; and my honourable Friend's reference raises the important question of where the line should be drawn.

My view is that we should be placing ourselves outside the conventional area to which relief could be justified were we to extend the scope of allowances further to include donations to sporting activities. My predecessor probably achieved as much as can be done to help sport through tax relief when he sought the approval of this Council for the abolition of Entertainment Tax on all live entertainment, other than race meetings at which totalizator or pari-mutuel betting is conducted. In terms of revenue in 1969-70, this move has relieved sporting bodies of about \$730,000 in taxation.

As regards my honourable Friend's other point that tax exemption should be given to moneys employers expend to provide sports activities for their employees, the Commissioner of Inland Revenue assures me that such expenditure of a recurrent nature being spent on the welfare of staff engaged in earning assessable profits would normally rank as a deduction for the purpose of Profits Tax. Additionally, the definition in section 40 of the Inland Revenue Ordinance of industrial buildings includes buildings or structures provided by employers engaged in a wide range of trades for the welfare of workers. Thus, for example, a sports stadium might well rank for an initial allowance of 20% and an annual allowance of 4% of the cost of construction.

All in all, Sir, I feel confident that the assistance available to sporting bodies in Hong Kong through the fiscal system compares most favourably with that available in other countries, particularly given our low standard rate of taxation. Any further assistance must, in my view, be offered in the form of subventions out of vote provision rather than tax allowances.

Sir, I support the motion.

THE COLONIAL SECRETARY (SIR HUGH NORMAN-WALKER): —Sir, I should like first to refer to crime which you yourself, Sir, raised and about which several honourable Members have spoken. My honourable Friend, the Attorney General, has commented on the legal amendments suggested and the factors influencing sentences by the courts. Concern about crime is general in Hong Kong, and it is right that that concern should be reflected in this Council. Our latest figures show again a substantial increase in the number of reported crimes of violence during the past year. While the rate of detection remains satisfactorily high, nevertheless the increasing tendency of criminals, particularly young criminals, to use violence is a pressing and disturbing feature of the situation.

We have been engaged in assembling and analyzing statistical information, and I have noted the valuable suggestion of my honourable Friend, Mr Wilson WANG, of an Advisory Committee in this field. Nevertheless, I must make it clear that Hong Kong is not facing this problem alone; it is worldwide and also it is not static. It is a problem which needs examination internationally.

I think though that in one area the problem in Hong Kong is specialized. The Commissioner of Prisons has, as honourable Members are aware, reported that no less than 83% of persons committed to prison are to a greater or lesser degree addicted to the use of drugs, and it is impossible to escape the conclusion that a very high proportion of our crime is motivated by the desire of addicts to procure the wherewithal to purchase drugs. Because the permanence of the cure of a drug addict is so often in doubt, the degree of recidivism among the criminals remains proportionately high for this reason. In 1970 a total of 26,885 prisoners were discharged from prison, and of this total during the same year 11,636 or over 43% were readmitted.

It would therefore appear obvious that in Hong Kong at least the energetic tackling of drug supply, distribution and rehabilitation must take a high priority in our efforts to combat crime.

[THE COLONIAL SECRETARY]     **Motion**

It is, as honourable Members are aware, the desire of the Chief Justice, and of many others, to widen the scope of the correctional procedures available to the courts. I hope that the first detention centre—designed to give a short sharp shock to the first offender—will be opened early next year. If the treatment provided at this centre proves effective, and if the courts find it necessary to make increased use of this form of detention—new to Hong Kong—then other similar institutions could follow.

But one point I would like to make, and that is that the necessity for this new type of detention centre is by no means necessarily a reflection on our present training centre system, which since its inception in 1953 has shown a degree of success which rates among the highest in the world.

I cannot let this opportunity pass of urging, as the Commissioner of Police has repeatedly urged, the public to co-operate in the detection and apprehension of criminals. Quite recently a daring robbery was carried out in a prominent shopping centre and was watched by a small crowd of onlookers. As the robbers appeared to be armed, I cannot blame any member of the public for not intervening personally and physically, but I can and do deplore the fact that no single member of the crowd was moved to slip away into a shop near by and telephone the Police.

My honourable Friend, Mr Q. W. LEE, has raised pertinent questions on the Public Assistance Scheme. In the first six months of the financial year expenditure was five million dollars, over one million dollars of which was spent in September. It will thus be seen that, as I forecast in this Council in July, the level of expenditure is rising steadily, partly as a result of the vigorous publicity campaign which has been undertaken by the Social Welfare Department. Applications are now running at the level of over a thousand a month, as compared with an average of 690 applications a month in the first three months. The present administrative cost of the Scheme is running at about \$2½ million a year. In the initial stages of a scheme, which is necessarily empirical in character, I cannot regard this as disproportionate in relation to the outgoings, which are likely to be between 13 and 14 million dollars for the complete financial year. The cost is constant for a given number of cases whatever level of assistance is paid, and naturally the proportionate cost will fall if the level of assistance is raised. In this connection the Government, in accordance with its promise to keep the scheme under review, is at present revising the scale

of assistance and it is expected that proposals will be presented to honourable Members for consideration within this financial year.

Two honourable Members have called for greater Government participation in family planning, planned parenthood or birth control, whatever you wish to call it. My own personal view is that the use of the facilities to this end are a matter for the individual decision of the family, but I do think that it is the duty of the Government to ensure that all people are made aware of the facilities available and to ensure that they are available for those who wish to make use of them. The financial assistance given to the Family Planning Association by the Government has approximately quadrupled over the last 10 years. At present family planning services are provided in 28 Government maternal and child health centres and in two Government hospitals. In the near future 6 additional clinics will provide similar services.

As a result, although this administration has not adopted family planning as part of a formal departmental programme, we have been able to achieve, only next to Japan, the lowest birth rate in South East Asia. According to current statistics, the birth rate for Japan is 18.9 per 1,000 population as compared with 19.4 per 1,000 for Hong Kong, 23.3 per 1,000 for Singapore, 25 per 1,000 for the Philippines, 35.3 per 1,000 for Malaysia, 44.7 per 1,000 for Korea, 46 per 1,000 for Thailand and 49 per 1,000 for Indonesia. So we have not been doing so badly. There are many reasons for the decline in the birth rate in Hong Kong but, in the main, the dramatic decrease must reflect the excellent work done by the Hong Kong Family Planning Association and other voluntary agencies. It also reflects, in my personal opinion, the increase in the standard of living, and the fact that the prospective possession of a car or other symbol of a more affluent society has encouraged the limitation of family responsibilities.

Proposals from the Family Planning Association for further assistance will receive sympathetic consideration.

My honourable Friend, Mr Wilfred WONG, has suggested that the term of the rent increases control legislation should be extended beyond the end of May next year when it is due to expire; a review is currently being carried out, so that a decision on whether there is a continuing need for the legislation can be taken in good time.

My honourable Friends, Mr Q. W. LEE, Mr SALMON and Mr BROWNE have referred to delays in the Colonial Secretariat.

There are delays in the machinery of Government, and the Colonial Secretariat is no exception to this. The principal reason, as I have had occasion to say before in this Council, is the fact that Hong Kong, and so necessarily its Government, has expanded at an almost unexampled

[THE COLONIAL SECRETARY]     **Motion**

rate, and we do lack experience at the mid and lower levels of the various services. As I said once before, it is easy to recruit men and women but very much more difficult to recruit experience. One answer to this is an improvement and extension of our training facilities which are, as always, under review. Another answer—and I am afraid again this is an old hobby horse of mine—there is an idea among junior officers that there is a loss of reputation and a confession of failure in bringing to the attention of their senior officers problems with which they do not know how to deal, and which in the nature of things they are not equipped to deal. I must beg junior officers never, because they are at a loss, to sit on a problem but to take it straightaway to a senior officer.

Having said that, I will also admit—indeed I will assert—that there are delays in Hong Kong in any matter involving land, and the Secretariat is not the only branch of Government by any means involved in land matters. We face enormous difficulties over the allocation of land for various desirable and even essential purposes, and in making such allocations one has to be absolutely certain that one is right and that one's priorities are right. Had our forefathers of three or four generations ago been less precipitate, our problems might be less now.

I would also like to clear up a misconception which is that the Secretariat organization, like Moon rocks, never changes and that both the honourable Financial Secretary and I are responsible for virtually everything. My predecessors long ago gave up trying to approve every paper before it went to Executive Council or Finance Committee, and most decisions and indeed many policies are made or formulated in the departments of Government and in the various Branches of the Secretariat. One might liken the Branch Heads and certain heads of organizations such as the honourable Attorney General and the honourable Secretary for Home Affairs to the Overlords which Mr SALMON advocates; two of the Branch Heads, that is the Establishment Secretary and the Deputy Financial Secretary have been upgraded to major Head of Department status to permit them to take more responsibility and to relieve the Financial Secretary and myself as well as the Deputy Colonial Secretary (whose post incidentally has also been upgraded to relieve me). Other proposals are afoot. The process of decision making is constantly being sifted and changed and the level must be kept at the lowest possible level consistent with good judgment. Indeed, the vast and complex machinery of Government, including consultation with numerous unofficial bodies, would have ground to a halt long ago if this were not so. It is a process of gradual evolution rather than radical change; on the whole, despite lapses which of course get the

headlines, it works efficiently and I would not wish to swop it for systems in vogue elsewhere but not necessarily suited to Hong Kong.

I admit, and indeed I again assert, that the decision making machinery of Government involving, as it does, consultation with numerous advisory bodies—to whose members I once again pay tribute for their unrewarded efforts on behalf of the community—is usually a long one, although it is flexible and capable of moving very fast in an emergency. The pipeline is usually long, but there is a great deal in it, and I would rather we were judged by the flow from the end of the pipeline, which is substantial and of which we have no reason to be ashamed, rather than by the time taken along the line.

But, Sir, to conclude, I should like to emphasize and to agree with my honourable Friend, just how important it is going to be, in the years ahead, that we should achieve the very highest possible standards of public administration. The great cities of the world—and Hong Kong is one of them—are rapidly becoming such complex organisms that it requires a highly efficient organization to administer them for the benefit of those who live or work there. We are familiar with some of the appalling problems that beset such cities as London, New York and Tokyo; our problems are not much, if at all, easier and I believe that the most important step we can usefully take to ensure that Hong Kong does not suffer what is sometimes called the "crisis of the city" is to set ourselves the highest possible standard of public administration.

This is not just a question of adopting sound policies, nor even of investing adequately in facilities and services. Something more is needed; this I might define as scrupulous and imaginative attention to ensuring that our policies, facilities and services function effectively, particularly at the point of contact with members of the public.

It is necessary to inculcate throughout the public service a real sense of personal commitment to the community. We should insist on higher standards of supervision and inspection, as well as encourage staff generally to aim at higher standards of performance. The belief that it is a virtue merely not to blot one's copybook is one which we must strive to eradicate by recasting civil service procedures in a more positive mould and by encouraging initiative and rewarding achievement. Despite the difficulties I am sure that we must strive towards a sense of personal responsibility, rewarding those who measure up to their responsibility and replacing those who do not.

The problems I have referred to are by no means peculiar to the public service, but I believe that if we, the Government, will give a firm lead the result will be higher standards of performance and administration throughout Hong Kong.

*Question put and agreed to.*

4.25 p.m.

HIS EXCELLENCY THE PRESIDENT: —I think honourable Members might like a break at this point and so I will suspend the sitting of Council for fifteen minutes, that is to say until twenty minutes to five o'clock.

4.42 p.m.

HIS EXCELLENCY THE PRESIDENT: —Council will resume.

### **First reading**

**CRIMINAL PROCEDURE (AMENDMENT) (NO 2) BILL 1971**

**CORONERS (AMENDMENT) (NO 2) BILL 1971**

**APPLICATION OF ENGLISH LAW (AMENDMENT) BILL 1971**

**LION ROCK TUNNEL (AMENDMENT) BILL 1971**

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

### **Second reading**

**CRIMINAL PROCEDURE (AMENDMENT) (NO 2) BILL 1971**

THE ATTORNEY GENERAL (MR ROBERTS) moved the second reading of: —“A bill to amend the Criminal Procedure Ordinance.”

He said: —Sir, this bill empowers the Chief Justice to make rules providing for the payment of allowances to witnesses appearing in criminal proceedings before any court.

The rules would, since expenditure is involved, be subject to the approval of this Council.

*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 the principal Ordinance so as to enable the Chief Justice to make rules providing for the payment of allowances to witnesses in criminal proceedings.

**CORONERS (AMENDMENT) (NO 2) BILL 1971**

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

He said:—Sir, this bill adds a new clause to the Coroners Ordinance empowering the Chief Justice to make rules providing for the payment of allowances to witnesses who give evidence in enquiries by coroners.

Again, these rules, since expenditure is involved, will be subject to the approval of this Council.

*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 the principal Ordinance so as to enable the Chief Justice to make rules providing for the payment of allowances to witnesses in death inquiries. Clause 3 provides accordingly.

Clause 2 makes certain consequential amendments to section 21 of the principal Ordinance.

**APPLICATION OF ENGLISH LAW (AMENDMENT)  
BILL 1971**

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

He said:—Sir, section 3 of the principal Ordinance applies the common law of England and the rules of equity to Hong Kong, with certain modifications and exclusions.

[THE ATTORNEY GENERAL] **Application of English Law (Amendment)  
Bill—second reading**

It has however been held, in a Supreme Court case, that modifications to the common law and rules of equity effected by English Acts of Parliament which do not extend to Hong Kong were nevertheless automatically applicable in the Colony, by virtue of the present wording of section 3 of the Application of English Law Ordinance.

If this decision were left undisturbed, it would mean that the law in force in Hong Kong would be altered by virtue of provisions contained in an English Act, which were never intended to have effect here.

This bill therefore is intended to make it clear that common law and equity will not, in their application to Hong Kong, be affected by any English enactment unless the latter is by its terms specifically made applicable to Hong Kong.

Consequently, if common law or equity is altered by an English Act, it will be for Executive Council and this Council to decide whether or not to pass legislation here to keep our law in conformity with that in England.

*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*

Section 3 of the Application of English Law Ordinance applies to Hong Kong the common law of England and the rules of equity, with certain modification and exclusions.

In a recent Supreme Court case, it was held that modifications of the common law or rules of equity effected in England, by enactments which do not extend to Hong Kong, were nevertheless automatically applicable in Hong Kong.

The object of this Bill is to make it clear that common law and equity, in their application to Hong Kong, should not be affected by English enactments which are not specifically applied to Hong Kong.

**LION ROCK TUNNEL (AMENDMENT) BILL 1971**

MR ROBSON moved the second reading of:—"A bill to amend the Lion Rock Tunnel Ordinance."

He said:—Sir, honourable Members will doubtless recall that when the Cross-Harbour Tunnel Bill was introduced into this Council in 1969, provision was included for the Cross-Harbour Tunnel Company Limited to permit the installation of electric and telephone cables within the tunnel on payment. Payment was necessary because the Company had to incur expenditure on providing the necessary space and ducting for the cables. The Lion Rock Tunnel Ordinance at present contains no provision whereby Government can make similar charges although Government has had to expend money in the same manner as the Cross-Harbour Tunnel Company Limited. This defect in the current Ordinance was due to an oversight which the bill now before Council seeks to correct.

*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 object of this new section is firstly, to prevent any person from laying a pipe, conduit or cable in the Lion Rock Tunnel without the consent in writing of the Director of Public Works and secondly, to enable the Director to give such consent subject to the payment of such charges and to such conditions as he may impose.

**IMMIGRATION BILL 1971****Resumption of debate on second reading (21st July 1971)**

*Question again proposed.*

MR P. C. WOO:—Sir, since the first reading of this bill on the 21st July last there have been many adverse comments and criticisms in the press and by local organizations. Some of these comments and criticisms arose from misunderstanding of the explanatory memorandum of the bill. The vast majority of local residents know no more of the bill than what has been published in the Chinese press based on the Chinese version of the explanatory memorandum. This memorandum

[Mr Woo]      **Immigration Bill—resumption of debate on second reading  
(21.7.71)**

refers to Hong Kong belongers but the phrase is nowhere defined in the bill itself. It is a word used in immigration parlance defining the particular status of those persons who, because of incidence of birth in the country or otherwise, have an absolute right to remain there. But there is, of course, a wider meaning to the word "belong". The Oxford English Dictionary says it means "to be resident", "connected with", and it gives the meaning of "belong here" as "to live here; be rightly placed under this heading, *etc.*" This is the meaning which applies to the large numbers of Chinese people at present in Hong Kong, who have now for many years "belonged here" in the normal sense of these words and who indeed cannot, at the present time, belong to anywhere else. It is unfortunate that they have been specifically labelled in the explanatory memorandum as *not* "belongers" in the strict immigration sense of the word.

As a matter of fact the Immigration Department almost invariably extends to these people the rights of a belonger although they remain subject to deportation. The Director of Immigration in a letter of the 12th August last to the South China Morning Post, said this: —

"I should also like to point out that anyone in Hong Kong who cannot obtain a national passport, may apply for a Hong Kong Certificate of Identity if they wish to travel abroad. This document . . . confers upon the holder the right to return to the Colony so long as the Certificate is valid . . . A similar right of entry is conferred upon the holders of our Re-entry Permits . . . used for visits to China and Macau. So you will see that these two types of travel document confer permission to re-enter Hong Kong."

A very different public reaction to this bill might have resulted if, instead of drawing distinction between those who are and those who are not—in the strict immigration sense of the word—"belongers", the explanatory memorandum had contained the aforesaid assurance now given by the Director of Immigration.

This matter is very important in the sphere of "closing the gap" between the Government and the people and demonstrating Government's real concern for the *de facto* Chinese residents of Hong Kong. It is the opinion of my Unofficial colleagues, as a matter of great importance and principle, that their status should be clearly defined. We therefore suggest that the following categories of persons should be given statutory recognition in this bill.

*Firstly.* Persons who are born in Hong Kong, persons who are naturalized in Hong Kong and British subjects registered in Hong Kong under section 7(2) of the British Nationality Act 1948 together with their wives, widows and children. These persons should have the right to remain in Hong Kong and they shall be free to live in and to come and go into and from Hong Kong without let or hindrance and are not liable to deportation or refusal of re-entry into Hong Kong. I am glad to know that my honourable Friend, the Attorney General, will at the committee stage amend the bill by incorporating a definition of "Hong Kong believer" to define this category of persons.

*Secondly.* Chinese who have ordinarily resided in Hong Kong continuously for not less than 7 years should have the right to remain in Hong Kong permanently, and should not be liable to deportation except under certain defined and limited circumstances, for example, when the person concerned has committed a serious offence or for political or security reasons. I am also glad to know that my honourable Friend has agreed to amend clause 18(1) accordingly.

*Thirdly.* United Kingdom believers, that is to say, persons who are citizens of the United Kingdom and Colonies by reason of their birth, adoption or naturalization in the United Kingdom who have been residing in Hong Kong for not less than 7 years should be treated as Hong Kong believers and should have the same rights and privileges as persons in the first category except that they should be liable to deportation for security and political reasons.

*Fourthly.* All other immigrants including citizens of the Commonwealth and other Colonies, if allowed to stay in Hong Kong, are subject to deportation and also subject to refusal of re-entry into Hong Kong for valid reasons.

The Unofficial Members have had a number of discussions on this bill with my honourable Friend. They have been informed that Government will accept their recommendations on these four categories and that the bill will be amended accordingly at the committee stage. On this understanding, Sir, the Unofficials will vote "Aye" on the motion for the second reading of the bill.

MR OSWALD CHEUNG: —Sir, this is probably the most important measure that has come before this Council in the past few years. It has required prolonged consideration and discussion of the underlying principles, as well as of its details, over many weeks and, at the repeated requests of Unofficial Members, the resumption of the debate

[MR CHEUNG]     **Immigration Bill—resumption of debate on second reading  
(21.7.71)**

has been adjourned, gratifyingly, until today. What will emerge after the extensive amendments that will be moved by my Friend, the honourable Attorney General, later today will, we think, be a rational and a fair Ordinance. Unofficial Members, and I in particular, feel most grateful to the Government for responding so readily to the advice that we have offered.

The most significant change in the law concerns the position of the persons defined as Chinese residents, that is those who have been ordinarily resident in Hong Kong continuously for 7 years. The definition has been cited already by my Friend, Mr Woo, and in using the phrase "Chinese resident" in the rest of what I have to say today, I shall be doing so in the strict sense of that definition. The privileges to be given to such Chinese residents will, we trust, give widespread public satisfaction, and meet public opinion which has been expressed since the bill was first published.

Such a Chinese resident will have the right in law to remain here and, concomitant with such right, might leave and re-enter Hong Kong freely without let or hindrance. These rights will only be abrogated if, for some serious reason, Your Excellency in Council makes an order of deportation against him under the conditions defined in the completely new subclauses (2) and (3) to clause 18 which will be introduced by the Attorney General.

There will be 3 grounds upon which such a deportation order might be made by Your Excellency in Council:

*First*, if you, Sir, certify that the case concerns the security of Hong Kong or the relations of Her Majesty's Government in the United Kingdom with another country. This power may be exercised without reference to some other body.

*Second*, if the Chinese resident has been found guilty in Hong Kong of an offence punishable with imprisonment for not less than two years.

*Third*, if Your Excellency in Council deems it to be conducive to the public good.

The second and third grounds are to be invoked only on the recommendation of a Court of Justice, or after consideration of a report of a Deportation Tribunal, as to both of which I shall have more to say presently.

In these circumstances, I believe that the privileges which will be accorded to Chinese residents will be found to be most valuable, and

the grounds and processes prescribed under which, and only under which, they may be deprived of such privileges, eminently fair and reasonable and consonant both with good sense and our own security.

The power conferred on a Court to recommend deportation of a convicted person already exists. In future it will, however, only apply to someone who has passed his 16th birthday, and only in relation to offences which are punishable by at least 2 years' imprisonment. Also, seven days' notice is to be given to the person against whom a recommendation is sought, to allow him time to prepare his answer to the application, and the Court will be required to consider representations that he might wish to make and any evidence which he might wish to adduce as to his character and circumstances, before a recommendation can be made by the Court. A recommendation does not constitute a deportation order, which can only be made by Your Excellency in Council. These matters will be dealt with in an amended clause 19.

The alternative process which has to be invoked is an enquiry by a Deportation Tribunal. Its constitution will be defined in a new clause 19B. Such a Tribunal will be presided over by a Judge of the Supreme Court or of the District Court and will consist of two other members appointed by the Chief Justice from a panel to be appointed by Your Excellency, and will be set up on the application of the Attorney General. Its functions will be to enquire whether a person has been convicted of an offence of the gravity to which I have referred, or whether facts exist which show that it is conducive to the public good to deport the man subject to the enquiry; and, after due enquiry, the Tribunal will make a report to Your Excellency in Council.

The Tribunal will conduct its inquiry in camera. The pros and cons of this have been most carefully considered by both Official and Unofficial Members of this Council, and the point has not gone by default; the factor that finally determined that it should be in camera is the harm that might befall a man if no deportation order in the end is made. We contemplate that the rules of procedure will provide for legal representation before the Tribunal.

The phrase "conducive to the public good" may appear to be somewhat lacking in precision, yet it expresses correctly what in our view is a proper ground for deportation. The safeguards however lie in *first*, the character and constitution of the Tribunal; *second*, the fact that the Crown has to serve notice of the grounds on which the application is made 7 days before the hearing; *thirdly*, availability of legal representation; and *last*, but not least, in the provision that the order of deportation itself is to be made by Your Excellency in Council. I may add a further word on the constitution of the Tribunal. Our experience with tribunals of this sort—for example, tribunals which

[MR CHEUNG]     **Immigration Bill—resumption of debate on second reading  
(21.7.71)**

hear exemption proceedings—have been happy: they seem to make laws which a legal jurist would regard as unworkable work, and to make decisions which are widely regarded as being fair and reasonable.

I have spent a long time today, Sir, speaking on the position of Chinese residents because of its manifest importance, and the change in the law that will be made is a good illustration—if I may respectfully say so of the statement that you, Sir, recently made—that this Government governs by consensus and not by fiat.

I turn now to the persons who are defined as "United Kingdom belongers" in an amendment to be introduced by the Attorney General, and presently to "resident United Kingdom belongers", that is those who have been ordinarily resident here continuously for 7 years.

In the original bill a United Kingdom believer was classified as an immigrant, and subject to the provisions which applied generally to all immigrants.

Unofficial Members were of the opinion that on principle they could not accept that a United Kingdom believer should be governed by such general provisions applicable to all immigrants. They have long felt that legislation passed in recent years in the United Kingdom has not dealt satisfactorily with Hong Kong belongers, in that this legislation has abrogated the long established and fundamental privilege of a Hong Kong believer to enter the United Kingdom as of right; and whilst Unofficial Members have recognized that Her Majesty's Government have been faced with exigencies which made such legislation necessary, they have respectfully but assiduously petitioned Her Majesty's Government in this regard, and live in the hope that one day this privilege of Hong Kong belongers, who after all are citizens of the United Kingdom and Colonies, might be restored. Accordingly, it would have been quite inconsistent with principle to deprive a United Kingdom believer of the right to enter Hong Kong freely, and Unofficial Members are gratified that the Government has accepted their views in this regard.

Not only may a United Kingdom believer enter, but he may remain and freely re-enter on the same terms as Chinese residents, and the provisions as regards deportation which apply to a Chinese resident, and which I have already dealt with at great length, will apply to him.

The category defined us a "resident United Kingdom believer", that is, one who has lived here for 7 years is not to be subject to deportation unless Your Excellency in Council deems it to be conducive

to the public good and necessary in the interests of the security of Hong Kong or where Her Majesty's Government's relations with a foreign country are affected. This power, as I earlier said, might also be exercised in respect of Chinese residents and United Kingdom belongers of less than 7 years' residence.

A deportation order might remain in effect for such period of time as Your Excellency in Council might specify and, while in effect it will abrogate the right of a Chinese citizen or a United Kingdom belonger to re-enter Hong Kong, it is to be contrasted with a removal order, dealt with in clause 17, in that it will be possible for a person merely removed subsequently to apply for permission to re-enter Hong Kong.

A removal order, it is to be noted, cannot be made against a Chinese resident as strictly defined.

My honourable Friend, the Attorney General, will also propose an amendment to clause 17 which would have the effect of limiting the circumstances under which a removal order might be made against a United Kingdom belonger; broadly speaking the circumstances are the same that would give rise to the making of a deportation order.

Section 21, as originally drafted, gave rise to a possible interpretation that the dependants of a person subject to a removal order or a deportation order might also be removed or expelled along with him by the Director. The Attorney General has assured Members that such was never the intention of Government, and accordingly will propose an amendment to that clause which removes the doubt and makes it clear that dependants might not be removed or deported, and that a removal order or a deportation order only applies to the person against whom it is specifically made.

The Government has also agreed to a number of other changes concerning the administration of the Ordinance suggested by Unofficial Members which I am sure my honourable Friend, the Attorney General, will deal with in detail at the committee stage. I need only mention four:

- (a) Clause 5, under which any immigration officer of whatever rank was empowered of his own accord to impose on any immigrant such conditions of stay as he thought fit, is to be amended to provide that such conditions are to be conditions authorized by the Director of Immigration. It is to be renumbered clause 11.
- (b) In clause 22, the power of detention for enquiries given to a chief immigration officer or assistant superintendent of police is to be limited to 48 hours, and further detention up to a further 5 days has to be authorized by an officer of the rank

[MR CHEUNG]      **Immigration Bill—resumption of debate on second reading (21.7.71)**

of principal immigration officer or above (of which there are at present only 7 in the establishment including the Director, the Deputy Director and the Assistant Director) or an officer of the rank of Assistant Commissioner of Police or above. Similarly the indefinite period of detention for examination under clause 23 is limited to 24 hours in the first instance, and a further 24 hours pending a decision whether an immigrant is to be permitted to land.

- (c) Under clause 42, an immigration officer who seizes a document for detention is required to supply a photo-copy of it to the person from whom it is seized, such copy to be made in the person's presence.
- (d) Under clause 43, which concerns the forfeiture of ships and motor cars used in connection with breaking the immigration laws, notice of the seizure is to be published in the *Government Gazette* and through newspapers.

Finally, we are to be deprived of the entertaining spectacle of the Government computer dealing with arrival and departure cards filled in and furnished by children over 7 not accompanied by adults. I had visions of that monster's trials and tribulations dealing with cards filled in by unaccompanied and possibly irreverent children returning by the plane-load for their vacations and departing thereafter, but I see that my honourable Friend, the Attorney General, will remove such possible causes of indigestion.

Sir, I support the motion.

THE ATTORNEY GENERAL (MR ROBERTS): —Sir, as has been indicated, there has been a number of consultations between myself and Unofficial Members since the second reading of this bill was moved in July. During these meetings we took into account various representations which had been received from public bodies and comments which had been contained in editorials and in the correspondence columns of newspapers.

The Government fully realizes that the right to enter and live in Hong Kong is a matter which is of the greatest importance to the individual. Therefore, we have re-examined the bill with great care to see whether it can be improved and I shall move a number of substantial amendments at the committee stage, to achieve the objects which have been referred to by the honourable Mr P. C. Woo and the honourable Mr Oswald CHEUNG.

These amendments seek to give a greater feeling of security to people who belong to Hong Kong yet to retain in the executive sufficient powers to get rid of those who abuse the welcome which Hong Kong has traditionally extended to those who have come here to contribute to, and to share in, our progress and prosperity.

I should perhaps make it clear that, on balance, no category of persons will be worse off as a result of these amendments except those citizens of the United Kingdom and Colonies who are neither Hong Kong belongers nor of United Kingdom origin, and that most categories of persons will be substantially better off, so far as the right to enter Hong Kong and safeguards with regard to deportation from the Colony are concerned.

I hope that the amendments which will be proposed strike a reasonable balance between the conflicting considerations which have had to be taken into account. If we have, then much of the credit goes to the Unofficial Members of this Council, who have quickly grasped the intricacies of a highly technical subject and have brought humanity and understanding of the feelings of the individual to the difficult problems involved. I have no doubt that the bill as amended will, if I may quote my honourable Friend, be a more "rational and fair" one than it was before.

*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.

### **IMMIGRATION 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 was agreed to.

Clause 2.

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THE ATTORNEY GENERAL (MR ROBERTS): —Sir, I move that clause 2 be amended as set forth in the paper before honourable Members. In my comments on the various amendments, I shall to some extent mention matters which have already been covered by my honourable Friend, but in a matter of such importance I hope I may be forgiven for a certain amount of repetition.

The main alterations to clause 2 to which I would like to draw attention are those which introduce the new definitions of "a Hong Kong believer", "a Chinese resident", "a United Kingdom believer" and "a resident United Kingdom believer".

As amendments to be introduced to other clauses of the bill will make it clear that certain classes of persons belong to Hong Kong, in the sense that they have a right to enter and leave at will, it was thought desirable to include a definition of the phrase "Hong Kong believer", which in fact closely follows the previous definition of a person who was not an immigrant, but it has the advantage of saying positively what it means.

A "Chinese resident", which is a new definition, is defined as a person who is wholly or partly of Chinese race who has been ordinarily resident in Hong Kong for a continuous period of 7 years or more. Such a person, as honourable Members have said, will have a right to enter Hong Kong at will, though he will remain subject to deportation under the proposed new clause 18(2) but only on the recommendation of a court or after the report of a Deportation Tribunal, except in those cases in which the security of Hong Kong, or political reasons affecting the relations of the United Kingdom Government with another country, are involved.

A "United Kingdom believer" is a person who is a citizen of the United Kingdom and Colonies by virtue of his connexion with the United Kingdom and a "resident United Kingdom believer" is a United Kingdom believer who has been ordinarily resident in Hong Kong for a continuous period of at least 7 years.

A resident United Kingdom believer will be protected from deportation under clause 18, save only in security cases of the kind I have already described.

A United Kingdom believer, that is to say a person of United Kingdom origin who has not been ordinarily resident here for a continuous period of seven years, will be subject to deportation in the same circumstances as the Chinese resident.

Finally, a new subclause is added to clause 2 to make it clear that ordinary residence in Hong Kong does not include any time spent in prison, or any period during which a person is illegally in Hong Kong after the commencement of the Ordinance. This is an important provision since its effect, when read with clause 17(2), is to give persons who have entered Hong Kong illegally in the past and been ordinarily resident for at least 7 years, a right to remain subject only to a limited right of deportation. In the future, an illegal entrant will have to regularize his position before his residence or further residence here can count towards the seven years, and I hope that this may prove an incentive to illegal entrants to do so.

*Proposed Amendment*

*Clause*

2 That clause 2 be amended—

(1) in subclause (1) —

(a) by inserting after the definition of "alien" the following definition—

““approved immigration anchorage” means a place designated as an approved immigration anchorage by order under section 56;”;

(b) in the definition of "approved landing place", by inserting after "designated" the following—

“as an approved landing place”;

(c) by inserting after the definition "child" the following definition—

““Chinese resident” means an immigrant who—

(a) is wholly or partly of Chinese race; and

(b) has at any time been ordinarily resident in Hong Kong for a continuous period of not less than seven years;”;

(d) in the definition of "deportation order", by deleting “(1)”;

(e) by inserting after the definition of "examination" the following definition—

““Hong Kong believer” means—

(a) a British subject who was born in Hong Kong;

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- (b) a British subject by naturalization in Hong Kong;
  - (c) a British subject by registration in Hong Kong under section 7(2) of the British Nationality Act 1948;
  - (d) a British subject who is or has been married to, or is the child of, a person mentioned in paragraph (a), (b) or (c);
- (f) by deleting the definition of "immigrant" and substituting the following—
- ““immigrant” means a person who is not a Hong Kong believer;”
- (g) in the definition of "limit of stay", by deleting "an immigrant" and substituting the following—
- “a person”;
- (h) by inserting after the definition of “removal order” following definition—
- ““resident United Kingdom believer” means a United Kingdom believer who has at any time been ordinarily resident in Hong Kong for a continuous period of not less than seven years;”
- (i) in the definition of “travel document” —
- (i) by deleting "valid"; and
  - (ii) by deleting the full stop and substituting a semicolon;
- (j) by inserting after the definition of "travel document" the following definition—
- ““United Kingdom believer” means a person who is a citizen of the United Kingdom and Colonies by reason of his birth, adoption, naturalization or registration in the United Kingdom and the wife and child of any such person. ”;

(2) by inserting after subclause (3) the following subclause—

"(4) For the purposes of the Ordinance, a person shall not be treated as ordinarily resident in Hong Kong—

(a) during any period after the commencement of this Ordinance in which he remains in Hong Kong—

(i) without the authority of the Director, after landing unlawfully; or

(ii) in contravention of a limit of stay; or

(b) during any period, whether before or after the commencement of this Ordinance, of imprisonment or detention pursuant to the sentence or order of any court."

The amendments were agreed to.

Clause 2, as amended, was agreed to.

Clauses 3 to 11.

THE ATTORNEY GENERAL (MR ROBERTS): —Sir, I move that clauses 3 to 11 be deleted and replaced by the new clauses 3 to 11B which are set forth in the paper before honourable Members. These are to be found in pages 4 to 19 of the paper which has been circulated.

Because a number of new phrases have been introduced into clause 2, and into other provisions of the bill, it was necessary to make some alteration to most of the clauses which appear in Parts II and III, though the majority of these changes are verbal and do not introduce amendments of real substance. It was thought therefore to be more convenient to delete these two Parts and replace them with new provisions and I will confine my remarks to the major changes which are contained in this block of new clauses.

The new clause 5 amends the old clause 4 by providing that the Director may require the owner of a ship or aircraft, or his agent, to produce arriving or departing passengers for examination. The previous presumption that a requirement of this nature was deemed to have been made to the captain of the ship or aircraft if made to the owner or his agent has been removed, since this might in theory at least have caused an injustice to the captain.

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The new clause 5(5) deals with the production of travel documents and arrival or departure cards for persons over the age of 7 and under the age of 16. Previously, as my honourable Friend has indicated, a child between 7 and 15 was obliged to furnish an arrival or departure card if he was not accompanied by an adult, and the burden of producing such a card for an unaccompanied young child is now put on the owner of the ship or aircraft in which the child arrives or departs.

The new clause 8 states in clear terms that certain classes of person shall have the right to land in Hong Kong, that is to say that they shall be able to come and go as they please, subject only to a residual liability to deportation, except of course in the case of Hong Kong belongers who have no liability at all to deportation. The 3 classes of person with a right to land are Hong Kong belongers, the resident United Kingdom belongers and the Chinese residents. Of course, Hong Kong belongers have enjoyed this right in the past, though it has not been specifically stated, and the other two categories of person did not enjoy this right in law, though I think it was in practice extremely rare for anyone in either of these categories to be refused re-entry after leaving Hong Kong.

The new clause 11 reproduces the old clause 5 and the only alteration of substance is to be found in clause 11(2)(b) which limits an immigration officer to imposing only such conditions of stay as have been authorized by the Director, either generally or in any particular case. Previously, under the bill, an immigration officer could have imposed any conditions which he thought fit.

*Proposed Amendment**Clause*

Parts II and III be deleted and replaced by the following—

II and  
III

## “PART II.

## IMMIGRATION PROCEDURE.

Arriving  
ships and  
aircraft.

**3.** (1) Subject to subsections (2) and (6), the captain of a ship shall, on the arrival of the ship in Hong Kong—

- (a) anchor or moor the ship at an approved immigration anchorage and keep the ship in such anchorage as long as may be necessary for the purposes of this Ordinance; and

(b) hoist the prescribed immigration examination signal and keep the same hoisted until an immigration officer permits him to lower it.

(2) An immigration officer may, on the arrival of a ship in Hong Kong, require the captain—

- (a) to anchor or moor the ship at such place as he may specify, being a place at which the captain considers that the ship may safely be moored or anchored;
- (b) to keep the ship in such place so long as may be necessary for the purposes of this Ordinance,

but a requirement under this subsection shall cease to have effect if the captain is required by or under any other Ordinance to move the ship to another place.

(3) Except with the permission of the Director, no person other than a pilot or health officer in the course of his duty shall—

- (a) board or leave a ship which has arrived in Hong Kong; or
- (b) be within thirty yards of any such ship, otherwise than on a wharf or pier, until the immigration examination signal is lowered.

(4) Except with the permission of the Director, nothing shall be removed from or taken or placed on board a ship which has arrived in Hong Kong until the immigration examination signal is lowered.

(5) The captain of an aircraft arriving in Hong Kong shall not land the aircraft except at an approved landing place.

(6) The Director of Immigration may exempt from subsection (1) the captains of such ships, or of ships of such class or description as he thinks fit.

Examina-  
tion of  
persons.

**4.** (1) For the purposes of this Ordinance, an immigration officer may—

- (a) subject to subsection (2), examine any person on his arrival in or prior to his departure from Hong Kong;
- (b) examine a person at any time if he has reasonable cause for believing that such person is committing or has committed an offence under section 33(1)(b) or section 37.

and a person who is so examined may be required by an immigration officer to submit to further examination.

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(2) A person who satisfies an immigration officer that he is a serviceman shall not be examined further under subsection (1)(a) on his arrival in or prior to his departure from Hong Kong.

Powers of Director and requirements in relation to examinations under section 4.

5. (1) The Director may require—

(a) the owner of a ship or aircraft or his agent; or

(b) the captain of a ship or aircraft,

to produce in such manner as the Director may specify for examination under section 4(1)(a) —

(i) the passengers arriving or departing in that ship or aircraft; and

(ii) the members of the crew of that ship or aircraft.

(2) A requirement under subsection (1) —

(a) may relate to all or any of the passengers or all or any of the members of the crew or to all or any of both;

(b) may be made generally for all occasions or, without prejudice to any general requirement which may be in force, for any particular occasion.

(3) An immigration officer may require a person to proceed to such place as he may specify for the purpose of examination under section 4(1).

(4) Any person of or over the age of sixteen years, other than a serviceman, being examined under section 4(1)(a) shall—

(a) produce a valid travel document, entry permit or re-entry permit; and

(b) subject to subsection (9), furnish an arrival or departure card in the prescribed form, duly completed.

(5) Where a person being examined under section 4(1)(a) is of or over the age of seven years and under the age of sixteen years and—

(a) is accompanied by an adult, the adult shall—

(i) produce a valid travel document, entry permit or re-entry permit relating to such person; and

(ii) subject to subsection (9), furnish in respect of such person an arrival or departure card in the prescribed form, duly completed;

(b) having arrived or being about to depart in a ship or aircraft, is not accompanied by an adult, the owner of the ship or aircraft shall—

(i) produce a valid travel document, entry permit or re-entry permit relating to such person; and

(ii) subject to subsection (9), furnish in respect of such person an arrival or departure card in the prescribed form, duly completed.

(6) An immigration officer may require any person, other than a serviceman, being examined under section 4(1) to—

(a) declare whether or not he is in possession of any documents of any description specified by that officer, being a description relevant for the purposes of the examination; and

(b) produce to the officer any such documents which are in his possession.

(7) An immigration officer may require a person being examined under section 4(1) to furnish to him such information as he may require for the purposes of this Ordinance.

(8) An immigration officer may give such directions as he considers necessary for preventing any person from evading examination under section 4(1).

(9) The Director of Immigration may exempt from subsection (4)(b), (5)(a)(ii) or (5)(b)(ii) any person or any class or description of persons.

Returns to  
be furnished  
by captains  
of ships and  
aircraft, etc.

**6.** (1) Subject to subsection (5), the captain of a ship small, on the arrival of the ship on Hong Kong—

(a) furnish to an immigration officer—

(i) three copies of a notice containing the prescribed particulars of the crew; and

(ii) two copies of a notice containing the prescribed particulars of the passengers; and

(b) if so required by an immigration officer, produce the ship's papers.

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(2) Subject to subsection (5), the captain of a ship shall, immediately before the departure of the ship from Hong Kong—

(a) furnish to an immigration officer—

(i) two copies of a notice containing the prescribed particulars of the crew; and

(ii) two copies of a notice containing the prescribed particulars of the passengers; and

(b) if so required by an immigration officer, produce the ship's papers.

(3) An immigration officer may, on the arrival of an aircraft in Hong Kong and immediately prior to the departure of an aircraft therefrom, require the captain of the aircraft to furnish to him a notice containing the names and nationalities of the crew and a notice containing the prescribed particulars of the passengers.

(4) A passenger on board a ship or aircraft arriving in or departing from Hong Kong shall furnish to the captain of the ship or aircraft any information required by him for the purpose of furnishing a notice under this section.

(5) The Director of Immigration may exempt from this section the captains of such ships, or of ships of such class or description, as he thinks fit.

**PART III.****CONTROL OF IMMIGRATION.**

General provision as to immigration control.

**7.** A person may not land in Hong Kong without the permission of an immigration officer unless—

(a) he has the right to land in Hong Kong by virtue of section 8; or

(b) he may land in Hong Kong without such permission by virtue of section 9(1) or section 10(1).

Right to land in Hong Kong and to remain free of conditions of stay.

**8.** (1) The following persons shall have the right to land in Hong Kong, that is to say—

(a) Hong Kong belongers;

(b) resident United Kingdom belongers but subject to section 18(6); and

(c) Chinese residents but subject to section 18(6).

(2) A condition of stay, whenever imposed, shall have no effect in respect of a person who has the right to land in Hong Kong by virtue of subsection (1).

Special provisions as to members of crew of aircraft.

**9.** (1) Where a person who does not have the right to land in Hong Kong by virtue of section 8(1) arrives in Hong Kong as a member of the crew of an aircraft under an engagement requiring him to leave within seven days on that or another aircraft as a member of its crew, then unless—

- (a) a deportation order is in force in respect of him;
- (b) he has at any time been refused permission to land in Hong Kong and has not since then been given permission to land in Hong Kong; or
- (c) he is examined under section 4(1)(a) otherwise than for the purpose of establishing that he is such a member of the crew of an aircraft.

he may land in Hong Kong without the permission of an immigration officer and remain until the departure of the aircraft on which he is required by his engagement to leave.

(2) For the purposes of this Ordinance, any such person who, having lawfully landed in Hong Kong without the permission of an immigration officer by virtue of subsection (1) —

- (a) seeks permission to remain in Hong Kong beyond the time allowed by subsection (1); or
- (b) remains in Hong Kong without the permission of an immigration officer beyond the time so allowed or is reasonably suspected by an immigration officer of intending to do so,

shall thereupon be deemed to be a person seeking to land in Hong Kong; and an immigration officer may examine him under section 4(1)(a) within twenty-eight days thereafter or, if at that time he is detained in pursuance of the sentence or order of any court, within twenty-eight days after his discharge from detention.

(3) Any such person who, having lawfully landed in Hong Kong without the permission of an immigration officer by virtue of subsection (1) —

- (a) remains in Hong Kong without the permission of an immigration officer beyond the time allowed by subsection (1); and

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- (b) does not submit himself to examination under section 4(1)(a) within the period during which in accordance with subsection (2) he may be examined by an immigration officer under that section,

shall on the expiry of that period be deemed for the purposes of this Ordinance to have landed in Hong Kong without the permission of an immigration officer.

Special provisions as to servicemen

**10.** (1) A serviceman may land in Hong Kong without the permission of an immigration officer.

(2) For the purposes of this Ordinance, any such person who ceased to be a serviceman shall thereupon, unless he is a person who has the right to land in Hong Kong by virtue of section 8, be deemed to be a person seeking to land in Hong Kong; and an immigration officer may examine him under section 4(1)(a) within twenty-eight days after—

- (a) he ceased to be a serviceman; or  
 (b) if at the time he ceased to be a serviceman he was detained in pursuance of the sentence or order of any court, his discharge from detention.

(3) Any such person who does not submit himself to examination under section 4(1)(a) within the period during which in accordance with subsection (2) he may be examined by an immigration officer under that section shall on the expiry of that period be deemed for the purposes of this Ordinance to have landed in Hong Kong without the permission of an immigration officer.

Permission to land and conditions of stay.

**11.** (1) An immigration officer may, on the examination under section 4(1)(a) of a person who by virtue of section 7 may not land in Hong Kong without the permission of an immigration officer, give such person permission to land in Hong Kong or refuse him such permission.

(2) Where permission is given to a person to land in Hong Kong, an immigration officer may impose—

- (a) a limit of stay; and  
 (b) such other conditions of stay as an immigration officer thinks fit, being conditions of stay authorized by the Director, either generally or in a particular case.

(3) Subject to subsection (9), the permission given to a person to land in Hong Kong shall be deemed to be subject to the prescribed conditions of stay in addition to any conditions of stay imposed under subsection (2).

(4) In the case of a person who is a member of a party in the charge of a responsible person, notice of any condition of stay shall be deemed to be given to such person if it is given in writing to the person in charge of the party.

(5) The Director may at any time by notice in writing to any person other than a person who has the right to land in Hong Kong by virtue of section 8(1) —

- (a) cancel any condition of stay or vary any condition of stay (other than a limit of stay) in force in respect of such person;
- (b) impose any condition of stay (other than a limit of stay) in respect of such person;
- (c) vary any limit of stay in force in respect of such person by enlarging the period during which such person may remain in Hong Kong.

(6) The Governor may at any time vary any limit of stay in force in respect of any person by curtailing the period during which such person may remain in Hong Kong, and the Director shall in writing notify such person of any such variation.

(7) The Governor may by order applying to all persons or to any class or description of persons, other than persons who have the right to land in Hong Kong by virtue of section 8(1) —

- (a) cancel or vary any condition of stay in force in respect of such persons;
- (b) impose any condition of stay (other than a limit of stay) in respect of such persons.

(8) Whenever a condition of stay is in force in respect of a person, the Director may—

- (a) require such person; or
- (b) if such person is a member of the crew of a ship or aircraft, require the captain of the ship or aircraft or the owners or agents of the ship or aircraft,

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to enter into a recognizance in the prescribed form in such amount and with such number of sureties as the Director may reasonably require.

(9) The Director of Immigration may exempt any person or any class or description of persons from compliance with all or any of the prescribed conditions of stay.

Special provisions as to giving of permission to land to members of ship's crew. **11A.** An immigration officer may permit an immigrant who is a member of the crew of a ship and does not have the right to land in Hong Kong by virtue of section 8(1) to land in Hong Kong notwithstanding that he has not been examined under section 4(1)(a); and in any such case notice of any condition of stay imposed in respect of such person shall be deemed to have been given to that person if it is given to the captain of the ship or the owners or agents of the ship.

Authority for illegal immigrant to remain. **11B.** The Director may at any time authorize a person who landed in Hong Kong unlawfully to remain in Hong Kong, subject to such conditions of stay as he thinks fit, whether or not such person has been convicted of that offence, and section 11(5) and (6) shall apply in the case of any such person as it applies to a person who has been given permission to land in Hong Kong under section 11(1).”.

The amendments and additions were agreed to.

Clauses 3 to 11, each as amended, and new clauses 11A and 11B were agreed to.

Clauses 12 to 15 were agreed to.

Clause 16.

THE ATTORNEY GENERAL (MR ROBERTS): —Sir, I move that clause 16 be amended in subclause (1) by deleting the words "an immigrant" wherever they occur and substituting in each case the words, "a person".

*Proposed Amendment**Clause*

16 That clause 16 be amended in subclause (1) by deleting “an immigrant” wherever it occurs and substituting the following—

“a person”.

The amendment was agreed to.

Clause 16, as amended, was agreed to.

Clauses 17 to 19.

THE ATTORNEY GENERAL (MR ROBERTS): —Sir, I move that clauses 17 to 19 be deleted and replaced by the new clauses 17 to 19B which are set out in pages 20 to 26 of the paper of amendments.

I would like to draw attention to clause 17(2) which provides that a removal order may not be made against a person who has the right to land in Hong Kong. Nor may one be made against a United Kingdom believer on the ground that he is an undesirable immigrant unless either the Governor has considered a report of a Deportation Tribunal or the Governor certifies that the departure of the immigrant is necessary for security reasons.

Clause 18(1) empowers the Governor in Council to make a deportation order against any immigrant (other than a Chinese resident, a United Kingdom believer or a resident United Kingdom believer) if the person has been found guilty of a serious offence punishable with imprisonment for not less than two years or the Governor in Council deems this to be conducive to the public good. It is to be noted that previously a conviction for any offence would have been sufficient but this has now been restricted to offences punishable with two years' imprisonment or more.

By clauses 18(2) and (3) a deportation order may be made against a United Kingdom believer or a Chinese resident only if there has been a recommendation of a court, or consideration by the Governor in Council of a report of a Deportation Tribunal or the Governor certifies that the case concerns the security of Hong Kong.

Clause 18(4) enables the Governor in Council to make a deportation order against a resident United Kingdom believer on security grounds.

Clause 19 empowers a court to make a recommendation for deportation against a United Kingdom believer or a Chinese resident who is aged 16 or more and who has been convicted of an offence punishable by at least two years' imprisonment.

The new clause 19A provides for the establishment of the Deportation Tribunal, which will report on a removal order to the Governor proposed to be made against a United Kingdom believer and will report on deportation orders proposed to be made against United Kingdom

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belongers or Chinese residents to the Governor in Council, except in those cases where the Governor certifies that the security of the Colony is involved.

It is proposed that the Tribunal should consist of a Supreme Court or a District Court Judge and two other members selected by the Chief Justice from a panel appointed by the Governor, and it is the intention that these other members should be members of the public and not public officers.

MR Y. K. KAN: —Sir, I would like to make a few comments on the new clause 18(2).

Under this sub-clause the Governor in Council may make a deportation order against a Chinese resident or a United Kingdom believer if such person has been found guilty in Hong Kong of an offence punishable with imprisonment for not less than 2 years, or the Governor in Council deems it to be conducive to the public good. Now, this means that however long a Chinese immigrant or, for that matter, a so called United Kingdom believer may have resided in the Colony he could be deported on those two grounds notwithstanding that he has made Hong Kong his permanent home. I do not quarrel with this policy for I maintain that it is good and sound policy for this Government, as for any Government, to be able to say to any person whoever he may be (other, of course, than a person born here) or wherever he may come from, who has been convicted of a serious offence or whose presence is not conducive to the good of this Colony, that he must go.

I find it difficult, however, to understand why a resident United Kingdom believer is expressly excluded from this provision. The effect of such exclusion is that a United Kingdom believer who has at any time been ordinarily resident in Hong Kong for a continuous period of not less than 7 years cannot be deported on the two grounds I have just mentioned. His Chinese counterpart does not enjoy the same immunity. I am not suggesting that the latter should have the immunity. I am suggesting that the power of expulsion under this section should be equally applicable to a so called resident United Kingdom believer. If, as I anticipate my honourable Friend, the Attorney General, will say, the difference in treatment is historical in that a United Kingdom resident has always enjoyed the right to come and go and that the legislation before this Council has already taken away some of that right, let me remind him, as my honourable Friend, Mr Oswald CHEUNG, has just indicated, we who are born in Hong Kong have hitherto, I believe, enjoyed the same right of free entry into the

United Kingdom, but that right, as my honourable Friend, Mr Oswald CHEUNG, has pointed out, has been abrogated. My honourable Friend, the Attorney General, will, I anticipate, also say that Hong Kong citizens also enjoy similar immunity under the new Immigration Act. If it is indeed so, all I can say is that the United Kingdom Government is unwise, as we will be if we were to allow the present sub-clause to pass.

Sir, unless I may be misunderstood, I have no objection to anyone, least of all a United Kingdom resident who is law abiding, to stay here and come and go as he pleases. What I find it difficult to understand is why we must suffer the presence among our midst of a convicted criminal, whose stay in Hong Kong is deemed to be contrary to our interest, just because he happens to have come from the United Kingdom and has lived here continuously for 7 years. Sir, I was not in Hong Kong when the discussions took place between my honourable Friend, the Attorney General, and my Unofficial colleagues on the amendments now being proposed. From my conversations with some of them since my return, I have reason to believe that the significance of this sub-clause has not engaged the attention of at least some of the Members as it should. I shall not vote against the sub-clause as it now stands at this late stage, but I feel I must voice my objection to it.

THE ATTORNEY GENERAL (MR ROBERTS): —Sir, I note the honourable Member's feeling that it should be possible to deport resident United Kingdom belongers on grounds other than purely security ones. However, as the honourable Member predicted that I would say, we must bear in mind the fact that such a person is not liable at present to deportation at all after 7 years residence in Hong Kong, whereas the bill does make him subject to deportation in future on security or political grounds. Admittedly, this will not enable the Governor in Council to deport a resident United Kingdom belonger on the ground that he has committed serious crimes of a non-political nature; but in practice such cases are extremely rare and I suggest that the power to deport on security grounds will be adequate to deal with those few persons in this group who may cause us real concern.

It is also relevant, I think, to mention that a Hong Kong immigrant into Britain will, under the new Immigration Act, be completely immune from deportation from the United Kingdom after he has been resident there for 5 years. Thus the resident United Kingdom belonger can be said to be in a less secure position in Hong Kong than a Hong Kong immigrant would be in Britain.

However, I appreciate the force of Mr KAN's argument that, in our circumstances, the Governor in Council must retain the right to get rid

[THE ATTORNEY GENERAL] **Immigration Bill—committee stage**

of immigrants whose activities are injurious to our society. If the bill proves, in practice, to be inadequate for this purpose, the Government will be ready to reconsider the relevant provisions in due course, and I hope that this will satisfy honourable Members and that they will feel able to support the amendments which are proposed in their present form.

*Proposed Amendment**Clauses*

17 to 19 That clauses 17, 18 and 19 be deleted and replaced by the following—

"Power of Governor to order removal. **17.** (1) Subject to subsection (2), the Governor may make a removal order against a person, requiring him to leave Hong Kong, if it appears to the Governor that such person is—

- (a) a person who might have been removed from Hong Kong under section 16(1) if the time limited by section 16(2) had not passed;
- (b) a person who has committed or is committing an offence under section 33(1) or section 37, whether or not he has been convicted of that offence; or
- (c) an undesirable immigrant who has been ordinarily resident in Hong Kong for less than three years.

(2) A removal order shall not be made under subsection (1)(b) against a person who has the right to land in Hong Kong by virtue of section 8(1).

(3) A removal order shall not be made under subsection (1)(c) against an immigrant who is a United Kingdom believer except after consideration by the Governor of the report of a Deportation Tribunal under section 19B, unless the Governor certifies that the departure of the immigrant from Hong Kong is necessary in the interest of the security of Hong Kong or for political reasons affecting the relations of Her Majesty's Government in the United Kingdom with another country.

(4) A removal order made against a person shall invalidate any permission or authority to land or remain in Hong Kong given to that person before the order is made or while it is in force.

Power to  
deport.

**18.** (1) The Governor in Council may make a deportation order against an immigrant, other than a Chinese resident, a United Kingdom believer or a resident United Kingdom believer, if—

- (a) the immigrant has been found guilty in Hong Kong of an offence punishable with imprisonment for not less than two years; or
- (b) the Governor in Council deems it to be conducive to the public good.

(2) Subject to subsection (3), the Governor in Council may make a deportation order against a Chinese resident or a United Kingdom believer, other than a resident United Kingdom believer, if—

- (a) such person has been found guilty in Hong Kong of an offence punishable with imprisonment for not less than two years; or
- (b) the Governor in Council deems it to be conducive to the public good.

(3) The Governor in Council shall not make a deportation order against a Chinese resident or a United Kingdom believer under subsection (2) except—

- (a) on the recommendation of a court under section 19;
- (b) after consideration of the report of a Deportation Tribunal under section 19B; or
- (c) where the Governor certifies that the case concerns the security of Hong Kong or the relations of Her Majesty's Government in the United Kingdom with another country.

(4) The Governor in Council may make a deportation order against a resident United Kingdom believer if the Governor in Council deems it to be conducive to the public good on the ground that the departure of such person from Hong Kong is necessary in the interest of the security of Hong Kong or for political reasons affecting the relations of Her Majesty's Government in the United Kingdom with another country.

(5) A deportation order shall require the person against whom it is made to leave Hong Kong and shall prohibit him from being in Hong Kong at any time thereafter or during such period as may be specified in the order.

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(6) If a deportation order is in force against a person who has the right to land in Hong Kong by virtue of section 8(1), such right shall cease while the deportation order is in force.

(7) A deportation order made against a person shall invalidate any permission or authority to land or remain in Hong Kong given to that person before the order is made or while it is in force.

(8) For the purposes of this section and section 19, the question whether an offence is one for which a person is punishable with imprisonment shall be determined without regard to any Ordinance restricting the imprisonment of young offenders.

Recom-  
mendation  
by court  
for deport-  
ation.

**19.** (1) Where an adult United Kingdom believer who is liable to deportation under section 18(2) or an adult Chinese resident has been found guilty of an offence punishable with imprisonment for not less than two years, any court having power to sentence him for that offence may recommend that a deportation order be made against him.

(2) A court shall not recommend that a deportation order be made against a person unless that person has been given not less than seven days notice in writing stating that such person will be given an opportunity to make to the court representations with respect to the making of such a recommendation; and, for the purpose of enabling a notice to be given under this subsection or, if a notice was given less than seven days previously, for the purpose of enabling the required seven days to elapse, the court may adjourn the proceedings and, if such person is not detained pursuant to the sentence or order of any court, may remand such person in custody.

(3) Notwithstanding any rule of practice restricting the matters which ought to be taken into account in dealing with an offender who is sentenced to imprisonment, a recommendation for deportation may be made in respect of an offender who is sentenced to imprisonment for life.

(4) A recommendation that a deportation order be made against a person shall be treated as a sentence for the purpose of any Ordinance providing an appeal against

sentence; and where a court recommends or purports to recommend that a deportation order be made against a person, the validity of the recommendation shall not be called in question except on an appeal against the recommendation or the finding of guilty on which it was made.

(5) A deportation order shall not be made on the recommendation of a court so long as an appeal or further appeal is pending against the recommendation or against the finding of guilty on which it was made; and for this purpose an appeal or further appeal shall be treated as pending (where one is competent but has not been brought) until the expiry of the time for bringing that appeal.

(6) A person shall be treated as an adult for the purposes of this section if he is of or over the age of sixteen years.

Appoint-  
ment of  
Deport-  
ation  
Tribunal.

**19A.** (1) Where it is proposed that—

- (a) a removal order should be made under section 17(1)(c) against an immigrant who is a United Kingdom believer; or
- (b) a deportation order should be made against a United Kingdom believer or a Chinese resident,

and the Governor has not certified that the departure from Hong Kong of such person is necessary in the interest of the security of Hong Kong or for political reasons affecting the relations of Her Majesty's Government in the United Kingdom with another country, the Chief Justice shall, on application by the Attorney General, appoint a Deportation Tribunal to hold an inquiry under section 19B.

(2) Every Deportation Tribunal shall consist of a judge or a district judge, who shall be the president of the Tribunal, and two other members selected by the Chief Justice from the panel appointed under subsection (3).

(3) The Governor may appoint such person as he thinks fit to be members of a panel for the purposes of this section.

Inquiry by  
Deportation  
Tribunal.

**19B.** (1) A person in whose case a Deportation Tribunal is to hold an inquiry under this section shall, not less than seven days before the day appointed for the holding of the inquiry, be served with a notice in writing—

- (a) notifying him that a Deportation Tribunal is to hold such inquiry and of the day on which it will be held; and



This paragraph is reworded to remove the previous power of the Director to order the owner of a ship to remove the family of a person being deported.

*Proposed Amendment*

*Clause*

21 That clause 21 be amended in subclause (2) by deleting paragraph (a) and substituting the following—

“(a) to the captain of any ship or aircraft about to leave Hong Kong requiring him to remove such person from Hong Kong to a specified country;”.

The amendment was agreed to.

Clause 21, as amended, was agreed to.

Clause 22.

THE ATTORNEY GENERAL (MR ROBERTS): —Sir, I move that clause 22 be amended as set forth in the paper before honourable Members.

This clause at present provides for detention for up to 7 days by immigration or police officers. The re-drafted clause limits the initial detention of a person for enquiries for the purposes of the Ordinance to 48 hours. The position will then have to be reviewed and detention for up to a further 5 days may be authorized, but only by a few specified very senior officers of the Immigration Department or the police.

Perhaps I might mention to honourable Members that there was a misprint in the paper as it was circulated and that the word “chief” should be replaced by the word “principal” in the second line of paragraph (b) of the proposed new clause 22.

*Proposed Amendment*

*Clause*

22 That clause 22 be deleted and replaced by the following—

"Power to detain for inquiry.

**22.** Without prejudice to any other provision of this Ordinance—  
 (a) where any member of the Immigration Service of or above the rank of chief immigration officer or any police officer of or above the rank of assistant superintendent is satisfied—  
 (i) that inquiry for the purposes of this Ordinance, other than the provisions relating to deportation, is necessary in the case of any person; and

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(ii) that such person may abscond if he is not detained,

such person may be detained for not more than forty-eight hours; and

(b) where any member of the Immigration Service of or above the rank of principal immigration officer or any police officer of or above the rank of assistant commissioner of police is so satisfied, such person may be detained for not more than a further five days."

The amendment was agreed to.

Clause 22, as amended, was agreed to.

Clause 23.

THE ATTORNEY GENERAL (MR ROBERTS): —Sir, I move that clause 23 be amended as set forth in the paper.

The object of the new clause is to restrict the time during which a person may be detained under the authority of an immigration officer for examination when he applies to land to 24 hours pending his examination, and a further 24 hours pending a decision as to whether or not the immigrant should be allowed to land. This replaces the old clause which did not limit the time during which a person might be detained for these purposes.

*Proposed Amendment**Clause*

23 That clause 23 be deleted and replaced by the following—

"Detention pending examination and decision as to landing. **23.** A person who may be examined under section 4(1)(a) or is required to submit to further examination following an examination under section 4(1)(a) may be detained under the authority of an immigration officer—

(a) for not more than twenty-four hours pending the examination; and

(b) for not more than a further twenty-four hours pending a decision to give or refuse him permission to land."

The amendment was agreed to.

Clause 23, as amended, was agreed to.

Clause 24 was agreed to.

Clause 25.

THE ATTORNEY GENERAL (MR ROBERTS): —Sir, I move that clause 25 be amended as set forth in the paper before honourable Members.

The only change of substance here is that the clause would empower the Governor to order the further detention of a person who is already in custody under a detention warrant for the purposes of enquiry into activities of a security or political nature which, in the opinion of the Governor, should be carried out before proceedings for deportation are completed.

*Proposed Amendment*

*Clause*

25 That clause 25 be amended by deleting subclause (2) and substituting the following—

"(2) If it appears to the Governor that it is desirable that a person detained under a detention warrant should be further detained—

- (a) for the purposes referred to in subsection (1);
- (b) for the purpose of inquiries into activities, whether of that person or another person, which are prejudicial to the security of Hong Kong, being inquiries which in the opinion of the Governor should be conducted before the proceedings for the deportation of such person are completed; or
- (c) while proceedings for his deportation are completed.

the Governor may from time to time issue further warrants in the prescribed form authorizing the detention of such person for periods of seven days."

The amendment was agreed to.

Clause 25, as amended, was agreed to.

New clause 25A.

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THE ATTORNEY GENERAL (MR ROBERTS): —Sir, I move that new clause 25A as set forth in the paper before honourable Members be added to the bill.

This clause is intended to cover the uncommon situation of a court recommending the deportation of a person not sentenced to imprisonment. The clause provides in those circumstances that the convicted person may be detained for a maximum of 28 days pending a decision as to whether or not he should in fact be deported.

*Proposed Amendment**Clause*

New clause 25A That the following new clause be added after clause 25—

"Power to detain following recommendation of court for deportation. **25A.** Where a court has recommended that a deportation order be made against a person, and such person is not detained pursuant to the sentence or order of any court, he may, unless the court by which the recommendation is made otherwise directs, be detained for not more than twenty-eight days pending the decision of the Governor in Council as to whether or not a deportation order should be made against him."

The addition of the new clause 25A was agreed to.

Clause 26 was agreed to.

Clause 27.

THE ATTORNEY GENERAL (MR ROBERTS): —Sir, I move that clause 27 be amended as set forth in the paper before honourable Members.

This amendment is designed to delete and replace clause 27(1). The new subclause limits the time during which a person, who has been refused permission to enter Hong Kong, may be detained to 48 hours pending his removal under the authority of an immigration officer and thereafter only under the authority of the Director.

*Proposed Amendment**Clause*

27 That clause 27 be amended—

(a) by deleting subclause (1) and substituting the following—

"(1) A person who is to be removed from Hong Kong under section 16—

(a) may be detained until he is so removed, and may be so detained for not more than forty-eight hours under the authority of an immigration officer and thereafter under the authority of the Director; and

(b) may, if he is on board a ship or aircraft, be removed therefrom under the authority of an immigration officer for detention under this subsection.";

(b) in subclause (2)(b), by inserting before "pending" the following—

"for not more than a further fourteen days".

The amendments were agreed to.

Clause 27, as amended, was agreed to.

Clause 28 was agreed to.

Clause 29.

THE ATTORNEY GENERAL (MR ROBERTS): —Sir, I move that clause 29 be amended as set forth in the paper before honourable Members.

This clause deals with a person against whom a deportation order has already been made and suspended subject to conditions. The new clause would allow him to be detained by a police officer for 48 hours and for a further 28 days pending the Governor in Council's decision as to whether or not the suspension of the deportation order should be rescinded. Previously there was no time limit under this clause for the detention of a person arrested under clause 50(3).

**Immigration Bill—committee stage***Proposed Amendment**Clause*

29 That clause 29 be deleted and replaced by the following—

"Detention of person arrested under section 50(3).      **29.** A person who is arrested under section 50(3) may be detained—

(a) by any police officer for the purpose of inquiries for not more than forty-eight hours; and

(b) under the authority of the Colonial Secretary for not more than a further twenty-eight days pending the decision of the Governor in Council as to whether or not the suspension of the deportation order made against him should be rescinded."

The amendment was agreed to.

Clause 29, as amended, was agreed to.

Clause 30 was agreed to.

Clause 31.

THE ATTORNEY GENERAL (MR ROBERTS): —Sir, I move that clause 31 be amended as set out in the paper.

The main amendment is designed to make it clear that the Director or police officer concerned must act reasonably when requiring sureties for a person detained under the Ordinance.

*Proposed Amendment**Clause*

31 That clause 31 be amended—

(a) in subclause (1) by deleting "sureties as the Director or such police officer may specify" and substituting the following—

"number of sureties as the Director or such police officer may reasonably require";

(b) in subclauses (1) and (2), by inserting the following after "24," —

"25A, ”.

The amendments were agreed to.

Clause 31, as amended, was agreed to.

Clause 32 was agreed to.

Clause 33.

THE ATTORNEY GENERAL (MR ROBERTS): —Sir, I move that clause 33 be amended as set forth in the paper. These are purely verbal amendments.

*Proposed Amendment*

*Clause*

33 That clause 33 be amended—

(a) by deleting subclause (1) and substituting the following—

"(1) Subject to subsection (2), a person who—

(a) being a person who by virtue of section 7 may not land in Hong Kong without the permission of an immigration officer, lands in Hong Kong without such permission; or

(b) having landed in Hong Kong unlawfully, remains in Hong Kong without the authority of the Director,

shall be guilty of an offence and shall be liable on conviction to a fine of five thousand dollars and to imprisonment for three years.";

(b) in subclause (2), by deleting "Notwithstanding subsection (1), an immigrant" and substituting the following—

"A person".

The amendments were agreed to.

Clause 33, as amended, was agreed to.

Clause 34 was agreed to.

Clause 35.

THE ATTORNEY GENERAL (MR ROBERTS): —Sir, I move that clause 35 be deleted. The provisions of this clause are no longer needed in view of the amendment to clause 3, which requires ships to anchor at approved immigration anchorages.

**Immigration Bill—committee stage***Proposed Amendment**Clause*

35 That clause 35 be deleted.

The deletion was agreed to.

Clauses 36 to 42 were agreed to.

Clause 43.

THE ATTORNEY GENERAL (MR ROBERTS): —Sir, I move that clause 43 be amended by adding a new subclause (4) as set out in the paper.

This new subclause provides for notices of the seizure of a ship or vehicle which has been used in the commission of offences under the Ordinance to be published in the *Gazette* and in two newspapers.

*Proposed Amendment**Clause*

43 That clause 43 be amended by inserting after subclause (4) the following subclause—

"(4A) Within seven days after the service under subsection (3) of a notice of seizure, notice of the seizure of the ship or vehicle shall be published—

(a) in the *Gazette*; and

(b) in one newspaper published in Hong Kong in the English language and in one newspaper so published in the Chinese language."

The amendment was agreed to.

Clause 43, as amended, was agreed to.

Clause 44.

THE ATTORNEY GENERAL (MR ROBERTS): —Sir, I move that clause 44 be amended as set forth in the paper.

These are purely verbal amendments of no substance.

*Proposed Amendment**Clause*

44 That clause 44 be amended in subclause (3) —

(a) in paragraph (b), by deleting “, and” and substituting a comma;

(b) by deleting paragraph (c);

(c) by inserting before "the magistrate shall" the following—

"and the magistrate is satisfied that the ship or vehicle is liable to forfeiture,".

The amendments were agreed to.

Clause 44, as amended, was agreed to.

Clauses 45 to 48 were agreed to.

Clause 49.

THE ATTORNEY GENERAL (MR ROBERTS): —Sir, I move that clause 49 be amended by inserting a new subclause (7) as set out in the paper.

The subclause reproduces an existing provision, which has been omitted in error, whereby the lodging of an objection by a person does not give the objector any right to land in or remain in Hong Kong pending a decision on that objection.

*Proposed Amendment**Clause*

49 That clause 49 be amended by inserting after subclause (6) the following subclause—

"(7) For the removal of doubt, it is hereby declared that the lodging of an objection does not give the person by whom or on whose behalf it is lodged any right to land or remain in Hong Kong pending the decision on the objection of the Governor or the Governor in Council. ".

The amendment was agreed to.

Clause 49, as amended, was agreed to.

Clauses 50 and 51 were agreed to.

Clause 52.

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THE ATTORNEY GENERAL (MR ROBERTS): —Sir, I move that clause 52 be amended as set forth in the paper.

The first amendment in this clause is designed to make it clear that a person who has a right to land in Hong Kong shall not be subject to search, and the second amendment adds a new subclause providing that where a document is detained under clause 52(1)(c), the person from whom it is taken is to be supplied with a copy at his expense and on his request.

*Proposed Amendment**Clause*

52 That clause 52 be amended—

(a) in subclause (1), by deleting paragraph (b) and substituting the following—

"(b) search any person being examined under section 4(1), other than a person who has the right to land in Hong Kong by virtue of section 8(1), and any property belonging to such person or under his control;"

(b) by inserting after subsection (3) the following subclause—

"(4) Where a document is detained under subsection (1)(c), the person by whom it was produced or on whom it was found shall be supplied with a photographic copy of such document if he so requests and makes payment therefor, and the copy so supplied to a person shall be made in his presence. "

The amendments were agreed to.

Clause 52, as amended, was agreed to.

Clauses 53 to 55 were agreed to.

Clause 56.

THE ATTORNEY GENERAL (MR ROBERTS): —Sir, I move that clause 56 be amended by inserting the words "approved immigration anchorages and" before the words "approved landing places". This is consequential on an amendment in clause 5.

*Proposed Amendment**Clause*

56 That clause 56 be amended by inserting before "approved landing places" the following—

"approved immigration anchorages and".

The amendment was agreed to.

Clause 56, as amended, was agreed to.

Clause 57 was agreed to.

Clause 58.

THE ATTORNEY GENERAL (MR ROBERTS): —Sir, I move that clause 58 be deleted and replaced as set out in the paper.

This results from new expressions which have been used in the Ordinance but contains no real alterations of substance.

*Proposed Amendment**Clause*

58 That clause 58 be deleted and replaced by the following—

"Presump-  
tions.       **58.** (1) For any of the purposes of this Ordinance, if a person who by virtue of section 7 may not land in Hong Kong without the permission of an immigration officer does not produce an identity card relating to himself when required to do so by an immigration officer or police officer, such person shall be deemed, until the contrary is proved, to have landed in Hong Kong unlawfully.

(2) For any of the purposes of this Ordinance, if a person who by virtue of section 7 may not land in Hong Kong without the permission of an immigration officer is on board a ship proceeding through the waters of Hong Kong, such person shall be deemed to be seeking to land in contravention of section 33(1)(a) unless it is proved that—

- (a) he was a member of the crew of the ship;
- (b) he was ordinarily resident in Hong Kong;
- (c) he was in possession of a travel document, entry permit or re-entry permit; or
- (d) the ship was leaving Hong Kong."

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The amendment was agreed to.

Clause 58, as amended, was agreed to.

Clause 59 was agreed to.

Clause 60.

THE ATTORNEY GENERAL (MR ROBERTS): —Sir, I move that clause 60 be deleted and replaced by the new clause which is set out in the paper.

This clause is replaced because the introduction of the new classes of person, *i.e.* "United Kingdom belonger", the "Chinese resident" and the "resident United Kingdom belonger", makes it necessary to place on a person who claims to belong to any of these categories the burden of establishing his claim.

*Proposed Amendment**Clause*

60 That clause 60 be deleted and replaced by the following—

"Burden  
of proving  
certain  
matters.

**60.** If—

- (a) in any proceedings for an offence under this Ordinance or in any other proceedings under this Ordinance; or
- (b) in any proceedings with reference to any act done or proposed to be done under this Ordinance,

a person claims that he—

- (i) is a Hong Kong belonger;
- (ii) is not an alien;
- (iii) is a United Kingdom belonger;
- (iv) is a resident United Kingdom belonger;
- (v) is a Chinese resident;
- (vi) has been ordinarily resident in Hong Kong for three years or more than three years;
- (vii) is exempt from any provision of this Ordinance or belongs to a class or description of persons who are exempt from any provision of this Ordinance;

(viii) is an alien to whom section 12(1) or section 14(1) does not apply;

(ix) is a person to whom section 33(1)(a) does not apply by virtue of an order under subsection (3) of that section,

the onus of proving the same shall lie on that person."

The amendment was agreed to.

Clause 60, as amended, was agreed to.

Clauses 61 to 63 were agreed to.

First Schedule.

THE ATTORNEY GENERAL (MR ROBERTS): —Sir, I move that the First Schedule be amended as set forth in the paper before honourable Members. This corrects an oversight.

*Proposed Amendment*

First That the First Schedule be amended, in the third column against  
Sched- Chapter 224—  
ule

(a) by inserting after paragraph 3 the following—

"3A. Section 6 is amended in the proviso to subsection (1) by deleting "the Governor, " .";

(b) by inserting after paragraph 4 the following—

"5. Section 17 is amended by deleting "the Colonial Secretary," wherever it occurs. ”.

The amendments were agreed to.

First Schedule, as amended, was agreed to.

Second Schedule.

THE ATTORNEY GENERAL (MR ROBERTS): —Sir, I move that the Second Schedule be amended as set out in the paper.

The various amendments which are included here are consequential upon the other amendments which have already been approved.

**Immigration Bill—committee stage***Proposed Amendment*

Second That the Second Schedule be amended—  
Sched-  
ule

- (a) in item 2, by deleting “3” and substituting the following—  
“4”;
- (b) by deleting item 3 and substituting the following—  
“3. The references in section 5(4)(a) and 5(5)(a) to an entry permit and a re-entry permit include references to an entry permit and a re-entry permit issued under the Immigration (Control and Offences) Ordinance.”;
- (c) in item 4—
- (i) by inserting after “shall” in the first place where it occurs the following—  
“, subject to section 8(2).”.
- (ii) by deleting “5” and substituting the following—  
“11”.
- (d) in item 5, by deleting “6” and substituting the following—  
“9”;
- (e) in item 6, by deleting “8” and substituting the following—  
“10(2)”;
- (f) in item 9, by inserting after “person” in the first place where it occurs the following—  
“, not being a person who has the right to land in Hong Kong by virtue of section 8(1),”;
- (g) in item 10, by inserting after “effect” the following—  
“, except in the case of a person who has the right to land in Hong Kong by virtue of section 8(1),”;
- (h) in item 12, by inserting after “Ordinance” in the first place where it occurs the following—  
“, not being a person who has the right to land in Hong Kong by virtue of section 8(1),”;
- (i) in item 15, by inserting after “person” the following—  
“, not being a person who has the right to land in Hong Kong by virtue of section 8(1),”;

- (j) in item 16, by deleting "continue to be detained under section 22 of this Ordinance" and substituting the following—  
 “, if any member of the Immigration Service of or above the rank of chief immigration officer or a police officer of or above the rank of assistant commissioner of police is satisfied as to the matters referred to in section 22(a), be detained on the authority of such member or police officer for a total period of seven days, taking account of the period for which such person had been detained before the commencement of this Ordinance”;
- (k) in item 20, by inserting after "may" the following—  
 “, unless he is a person who has the right to land in Hong Kong by virtue of section 8(1),”;
- (l) in item 21, by inserting after "person" in the first place where it occurs the following—  
 “, not being a person who has the right to land in Hong Kong by virtue of section 8(1), ”;
- (m) by inserting after item 27 the following item—
- "Police Supervision Ordinance— s. 3(1) & (2).      **28.** Any police supervision order made under section 3(1) or (2) of the Police Supervision Ordinance and in force immediately before the commencement of this Ordinance shall continue in force and have effect for all purposes of the Police Supervision Ordinance as if it were made under section 3(1) or (2) of that Ordinance as amended by section 62. "

The amendments were agreed to.

Second Schedule, as amended, was agreed to.

Council then resumed.

### Third reading

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

*Question put and agreed to.*

Bill read the third time and passed.

### Farewell address by the President

HIS EXCELLENCY THE PRESIDENT: —Honourable Members of the Legislative Council, it only remains for me now, before I adjourn this sitting, to take my leave of Council and to thank all Members, past and present, for the help and assistance that they have given me over the past 7½ years.

It has been a pleasure and an honour to preside over our sittings here. It has also been of great interest to watch Council change and develop over the years. A very early change, of course, during my presidency of Council was the enlargement of Council during 1964: and further changes have come with the modernization of our Standing Orders a few years ago. These new Standing Orders have, I think, worked out well although they are now due for a measure of revision in the light of experience and, perhaps, in the light of any decisions that may be come to arising from the reports of the Chinese Language Committee. No doubt these revisions will be put to you before too long.

But I think there is no question that the proceedings of Council are of considerably more interest these days than they used to be. We have had very many useful debates here in recent years, and I must thank Unofficial Members particularly for the helpful and constructive suggestions which have emanated from them on many occasions.

Nevertheless I am happy to say that the essential character of Council has not changed and we remain a forum for the serious and constructive discussion of Hong Kong affairs conducted without partisanship and in a spirit of mutual co-operation, having no object other than the good of this community.

May I finally say that I know this Council will support Sir Murray MACLEHOSE, when he arrives, as ably and, if I may say so, as generously as Council has supported me. Sir Murray, as you all know, is no stranger to Hong Kong and this region; and his wide knowledge and experience coupled with the detailed knowledge of the local situation that Members of this Council always have will, I am certain, form a very strong combination for the good government of Hong Kong.

I thank Council therefore for all the help and assistance Council has generously given to me, and I would like to thank in particular all Unofficial Members of this Council and of the Executive Council also, if I might take this opportunity of mentioning them here too, for all the very great amount of additional work they do outside this Chamber itself. I really am most sincerely grateful; and, once again, I do wish honourable Members every continuing success in their deliberations in future. Under their guidance may the Colony continue to flourish and prosper; and continue to provide an increasingly happy haven for all who live here. Thank you all very much.

MR KAN: —Your Excellency, this has indeed been a day of speeches but nevertheless my Unofficial colleagues wish me on this occasion, the last time that you will preside over this Council, to express to you on their behalf something of what is deep, very deep in our hearts.

First of all, I would say that all of us here, indeed, all of the people of Hong Kong, regret that your tenure of office here has come to an end and that you are about to leave us. You have, during your many years in Hong Kong, met and mingled with more people in more walks of life possibly than any other Governor this Colony has had, and you have—if I may take the liberty of putting it in these words—*belonged* to Hong Kong in a way that not many of the holders of your office have in the past.

Secondly, I should like to express the thanks of the community for what has been accomplished under your leadership during the past seven years. When you were sworn in as Governor on the 15th April 1964, you said that we must ensure that Hong Kong continues to provide an environment of faith and confidence in which our people can get on with the affairs of today without dwelling unduly on the regrets of yesterday or the fears of tomorrow. The continuing upsurge in our welfare and prosperity in the succeeding seven years reflects both the satisfactory manner in which this faith and confidence has been maintained and also the gratifying success with which, ably led by you, our people have got on with the affairs of today.

I shall not attempt to review in detail what has been done under your guidance during the past seven years. I shall only mention a few outstanding features. There has been a great surge forward in all aspects of public housing and public works. Our low-cost housing programme has attracted worldwide attention. In the sphere of education not only has a universal primary education become an accomplished fact—a goal which only a few years ago seemed impossible of fulfilment so soon—but the scene has also been set for a vast expansion in secondary and technical education. The establishment of the public assistance scheme has been an important step forward, as has the enactment of labour legislation for the protection of workmen, and other measures taken to promote better employment practices and safeguards for the livelihood of workers.

This Council too has, under your leadership, striven to keep pace with the needs of the community. More legislation, I believe, has been passed in recent years than at any time in our history, and the new Standing Orders have afforded us greater opportunities for debates on matters of public importance than ever before.

The notable dimensions of the achievements that have been brought about should not, of course, blind us to the manifold tasks and

[MR KAN] **Farewell address**

Herculean labours that remain ahead. We continue to face the same challenge that we have faced throughout the last two decades; no matter how much we do, very much more remains to be done.

This, however, does not in any way detract from the extremely important and valuable strides forward that have taken place in all fields of public activity during your tenure of office. And therefore I would repeat, Sir, that all of us in this community offer you our heartfelt thanks for your leadership during these memorable years. We would also express our gratitude to Lady TRENCH for all she has done, particularly in the field of social welfare. We are very sorry that she is at present unwell and we wish her a full and speedy recovery.

Finally, Sir, I would like to express our sincerest good wishes to Lady TRENCH and yourself for a well-earned, long and happy retirement. Wherever you go, you may rest certain that the people of Hong Kong will keep you in their hearts. We wish you, Sir, God speed.

THE COLONIAL SECRETARY (SIR HUGH NORMAN-WALKER): —Sir, I should like on behalf of my Official colleagues to associate myself with everything that the honourable Mr KAN has said. He has referred to what has been achieved during your term of office and which I do not think could have been done without your wise guidance and leadership. He has also referred to the tasks which remain to be done. I do not think I can say more than that in carrying out those tasks we shall miss you.

### **Adjournment and next sitting**

HIS EXCELLENCY THE PRESIDENT: —In accordance with Standing Orders I now adjourn the Council until 2.30 p.m. on Wednesday the 3rd of November.

*Adjourned accordingly at five minutes to six o'clock.*