

OFFICIAL REPORT OF PROCEEDINGS**Wednesday, 1st March 1972****The Council met at half-past Two o'clock**

[Mr PRESIDENT in the Chair]

PRESENT

HIS EXCELLENCY THE GOVERNOR (*PRESIDENT*)
SIR CRAWFORD MURRAY MACLEHOSE, KCMG, MBE
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, CBE, JP
DIRECTOR OF URBAN SERVICES
THE HONOURABLE JAMES JEAVONS ROBSON, JP
DIRECTOR OF PUBLIC WORKS
THE HONOURABLE JOHN CANNING, JP
DIRECTOR OF EDUCATION
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 ERNEST IRFON LEE, JP
DIRECTOR OF COMMERCE AND INDUSTRY
THE HONOURABLE SIR YUET-KEUNG KAN, 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, OBE, JP
DR THE HONOURABLE CHUNG SZE-YUEN, OBE, JP
THE HONOURABLE LEE QUO-WEI, OBE, JP
THE HONOURABLE OSWALD VICTOR CHEUNG, OBE, QC, JP
THE HONOURABLE GERALD MORDAUNT BROOME SALMON, JP
THE HONOURABLE ANN TSE-KAI, OBE, JP
THE HONOURABLE LO KWEE-SEONG, OBE, JP

ABSENT

DR THE HONOURABLE GERALD HUGH CHOA, JP
DIRECTOR OF MEDICAL AND HEALTH SERVICES

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: —	
Dangerous Goods Ordinance.	
Dangerous Goods (Shipping) (Amendment) Regulations	
1972	40
Road Traffic Ordinance.	
Road Traffic (Construction and Use) (Amendment)	
Regulations 1972	41
Employment Ordinance.	
Employment Ordinance (Amendment of Part II of	
the Second Schedule) Order 1972	48
Sessional Papers 1971-72: —	
No 42—Annual Report of the Li Po Chun Charitable Trust Fund for the	
period 1st September 1970 to 31st August 1971 (published	
on 1.3.72).	
No 43—Draft Estimates of Revenue and Expenditure with Explanatory	
Memoranda for the year ending 31st March 1973 (published	
on 1.3.72).	
No 44—Hong Kong Annual Report 1971 (published on 1.3.72).	
No 45—Report of the Establishment Sub-Committee of Finance Committee	
for the year 1971-72 (published on 1.3.72).	
No 46—Report of the Public Works Sub-Committee of Finance Committee	
(1971 Reviews leading to the 1972-73 Programme)	
(published on 1.3.72).	

Estimates of expenditure referred to a committee of the whole Council pursuant to Standing Order No 54(3) and also referred to the Finance Committee of the Council pursuant to Standing Order No 60(8).

Oral answers to questions**Chong Ring Mansion**

1. MR WILFRED S. B. WONG asked: —

When will the reports of the Chong Hing Mansion inquiry be published?

THE COLONIAL SECRETARY (SIR HUGH NORMAN-WALKER): —Sir, the reports of the Committee of Inquiry into the affair of the Chong Hing Mansion will be published—and will be published as soon as possible. In fact, arrangements for their printing are already in hand. Before the papers are laid and published, it is desirable that you, Sir, obtain the advice of Executive Council on certain recommendations of the Committee.

Census Report 1971

2. MR K. S. LO asked: —

When will the 1971 Census Report be published?

THE FINANCIAL SECRETARY (MR C. P. HADDON-CAVE): —Sir, it is hoped that the first results, comprising 20 basic tables dealing with the personal, economic and housing characteristics of the population, will be printed and put on sale to the public by May or June this year. The main report, consisting of about 60 tables with a commentary, should be ready in October or November and other more detailed reports, containing full cross-tabulations on the results, will be made available later this year. A more popular publication entitled "The Census and You", which will provide an illustrated guide to the main findings of the census, will be on sale in June or July.

Post office boxes

3. DR S. Y. CHUNG asked: —

At which post offices offering the facility are there waiting lists for private boxes and when does Government estimate that there will be sufficient boxes to meet demand?

THE COLONIAL SECRETARY (SIR HUGH NORMAN-WALKER): —Sir, of the 29 post offices which provide private boxes there are waiting lists at 14 and I am tabling a list of these together with the number of persons on the waiting list for each as at 23rd February 1972, or a week ago.

[THE COLONIAL SECRETARY] **Oral Answers**

There are altogether 19,785 boxes and just over 1,900 applicants on the waiting lists. Nearly three quarters of the applications on the waiting lists are for private boxes at the General Post Office and at Tsim Sha Tsui—at both of which space is the restricting factor. There will be space for 13,000 boxes in the new General Post Office which is expected to be completed in three to four years time and additional boxes will also be provided at the new Tsim Sha Tsui Post Office.

From the paper which I have tabled it can be seen that there are altogether 1,030 vacant boxes though these are not, of course, at those post offices for which there is a waiting list. Additional boxes will be provided in the post offices at Causeway Bay, Mong Kok and North Point during the coming financial year and the Postmaster General is looking into the possibility of providing additional boxes in the temporary accommodation which is to be built on the reclamation in front of the General Post Office, which is where the shoe pinches most.

SIR YUET-KEUNG KAN: —Sir, can my honourable Friend tell us how long has this list of applications been outstanding generally?

THE COLONIAL SECRETARY (SIR HUGH NORMAN-WALKER): —I cannot possibly give the time for which any particular application has been outstanding. There has been a waiting list for, I should think, about 17 or 18 years.

DR CHUNG: —Sir, is my honourable Friend aware that persons who apply to certain post offices for private boxes are advised not to apply for they will not be able to get a post office box for a number of years?

THE COLONIAL SECRETARY (SIR HUGH NORMAN-WALKER): —From the reply that I originally made I would have thought that it was apparent that, unless we can make some temporary arrangement on the new reclamation, that reply would have been given to applicants and would have been correct.

Fire hazards in factories in domestic buildings

4. MR T. K. ANN asked: —

Further to the answer given by the Commissioner of Labour to my question on 18th August 1971, would Government say what progress has been made in the elimination of fire hazards in factories located in non-industrial premises?

MR PAUL K. C. TSUI: —Sir, on page 143 of the Hong Kong Annual Report for the year 1971, which has just been tabled in this Council, a statement reads as follows:

"In the constant struggle to prevent fires, the Fire Prevention Bureau's staff of 120 officers this year carried out a total of 242,167 inspections of all types of premises. One of the main targets was the abatement of fire hazards created by factories in domestic premises."

My colleague, the Director of Fire Services, informs me that from 1st April 1971 until the end of January 1972, his department has dealt with 3,704 cases involving factories in domestic buildings. Of these—

1,330 were found to possess tolerable fire hazards, and fire services safety certificates were issued to the proprietors;

1,026 were found to present intolerable fire hazards and 949 fire hazard abatement notices were issued. As a result, 516 factories ceased operation and 510 factories took action to remove the existing fire hazards and are now allowed to continue in operation;

1,198 cases are still being investigated;

150 factories have closed down for a variety of reasons, including removal to more suitably designed premises elsewhere.

In the process of dealing with these cases, the Director of Fire Services has had to take out 422 summonses. 342 cases have been heard in the courts and the proprietors were convicted. The fines ranged from \$50 to \$750: the average is about \$450 per case.

In the same ten months' period, there were 69 fires in factories in premises not designed for industrial use, that is domestic buildings, as compared with 268 fires which occurred in factory buildings. These 268 fires are estimated to have caused damage valued at approximately \$37 million.

MR OSWALD CHEUNG: —Sir, for what offences were the summonses taken out?

MR TSUI: —For failure to comply with the requirements of fire hazard notices under the Fire Services Ordinance.

MR CHEUNG: —Sir, in view of the potential damage that can be done—268 fires causing damage of \$37 million—will my honourable Friend re-examine the position and see whether the summonses are brought under the right sections of the Ordinance, for they seem to result in quite inadequate penalties which would not deter?

Oral Answers

MR TSUI: —Sir, I am in fact examining the very question; I am most grateful to my honourable Friend for having raised the point.

MR SZETO WAI: —Sir, in the last part of my honourable Friend's reply he said that fewer fires occurred in factory buildings operated in domestic buildings than fires which occurred in factory buildings. Does he imply that the danger of fire is less in factories operated in domestic buildings than in those in buildings designed for factory use?

MR TSUI: —I am only stating a fact, Sir; I am not implying anything.

Urban Renewal Outline Zoning Plan

5. MR G. M. B. SALMON asked: —

Will Government now make an announcement about the Urban Renewal Outline Zoning Plan for the Western District, which was to have been considered by the Executive Council at the end of last year or very early this year?

MR J. J. ROBSON: —Sir, I am glad to be able to say that the Urban Renewal Outline Zoning Plan for the Western District of Hong Kong Island is under consideration by Executive Council.

SIR YUET-KEUNG KAN: —I think I am right in saying that the Town Planning Board considered the objections between June and September of 1970, that is about a year and a half ago. Can my honourable Friend explain the delay in publishing the result either on the part of the Town Planning Board or on the part of the Executive Council?

MR ROBSON: —Sir, this question was asked in fact by Mr SALMON in October last year and the situation is as I explained then—I quote from my reply given then—"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 the town planning considerations, but it is hoped that a draft plan and the many objections to it can shortly be submitted for consideration by the Executive Council." In the event it took longer to get to the Executive Council from October than had been thought, but it is now with the Council.

SIR YUET-KEUNG KAN: —Sir, what has the question of compensation got to do with the objections to the town plan which was under consideration by the Town Planning Board?

MR ROBSON: —Sir, the Town Planning Board, when it considers its plans, naturally has to evaluate in its own mind whether the proposals for a plan which is going to cost a tremendous amount of money are in fact sensible—can we not meet the same problems in some other way. When you do have substantial claims for compensation, and then when there are separate petitions to the Governor in Council, these all I am afraid do delay the plan.

SIR YUET-KEUNG KAN: —Sir, is my honourable Friend aware that as a result of this delay a great deal of developments have of necessity been postponed to the detriment of the property owners?

MR ROBSON: —Sir, I am well aware of that situation but only in the case of those properties which are required to implement the town plan—no other properties.

MR CHEUNG: —Have individual objectors, or any of them, been informed of the decision of the Town Planning Board on their objections ?

MR ROBSON: —In this case, no, Sir; we have been awaiting the decision of the Governor in Council.

Government business

Motions

FACTORIES AND INDUSTRIAL UNDERTAKINGS ORDINANCE

MR TSUI moved the following motion: —

It is hereby resolved that the Factories and Industrial Undertakings (Chromium Plating) Regulations 1972, made by the Commissioner of Labour on the 3rd February 1972, be approved.

He said: —Sir, honourable Members will recall that my predecessor, in a statement made in this Council in February 1968, expressed his intention to ensure a safer working environment for employees engaged in certain selected industries. The Factories and Industrial Undertakings (Chromium Plating) Regulations 1972, to which this resolution refers, are a continuation of that intention.

[MR TSUI] **Factories and Industrial Undertakings Ordinance**

The trade of electrolytic chromium plating is hazardous because it involves the extensive use of cyanide, chromic acid, chromium salts and caustic solutions. These substances can cause dermatitis, ulcers and burns. The fine mists from chromic acid solutions irritate the eyes, nose and throat and often lead to perforation of the nasal septum. The trade has been listed as a dangerous trade in the First Schedule to the principal Ordinance since its enactment in 1955.

By these regulations, proprietors are required to make provisions for the safety of employees who are required to comply with certain safety requirements. The regulations are based on the Chromium Plating Regulations made in 1931 under the United Kingdom Factories Act, but have been modified to suit local conditions.

Part I of the regulations contains definitions.

No preventive measures for safety can be successful without the full co-operation of both employers and employees, and a clear demarcation of their responsibilities could only facilitate such cooperation. Hence the duties of the proprietors and of employees are clearly set out in separate parts of these regulations.

Part II sets out the duties of proprietors of industrial undertakings in which an electrolytic chromium plating process is carried on. They include the provision and maintenance of an even and impervious floor; an efficient exhaust draught on the vapour or spray given off from the process; protective clothing for the use of employees and the storage and drying of such clothing; adequate washing facilities; and the display of a notice in Chinese and in English as to the effect of chrome on the skin.

Part III of the regulations sets out the duties of employees engaged in the process. These duties are in regard to the wearing and proper use of protective clothing and equipment and depositing them, when not being worn, in the place provided for their storage. This is necessary to prevent contamination. Moreover, the protective clothing and equipment would quickly deteriorate without suitable arrangements for their storage and drying.

Part IV sets out the offences and provides for fines of up to \$5,000 for proprietors and \$2,000 for employees.

The proposed regulations have been sent for consultative purposes to the Labour Advisory Board, the Federation of Hong Kong Industries, the Chinese Manufacturers' Association and the Office of the UMELCO. They were considered and approved by the Labour Advisory Board on 18th November 1971.

The Chinese Manufacturers' Association informed me on 12th November 1971 that it agreed to the proposals. The Federation of Hong Kong Industries first expressed certain minor reservations but after further explanation accepted the regulations.

Honourable Members will see that it is the intention of the Labour Department to give six months' notice of the coming into operation of the regulations. This lengthy period will permit both the proprietors and the employees to familiarize themselves with the requirements of the new regulations and to make the necessary preparations before their coming into force. In addition, because I am aware that many small factories may be affected by these regulations, I propose, by means of an explanatory memorandum in Chinese and English, to notify all known factories operating chromium plating processes of their obligations under the regulations.

DR CHUNG: —Sir, I move that the Factories and Industrial Undertakings (Chromium Plating) Regulations 1972 be amended as set forth in the paper before honourable Members.

In welcoming the introduction of the Factories and Industrial Undertakings (Chromium Plating) Regulations 1972 into this Council, I would like first to dispel any possible misinterpretation by honourable Members that these regulations are introduced because employees engaged in chromium plating process are presently working in an unsafe and uncontrolled environment. This is not so, as the existing Factories and Industrial Undertakings Ordinance as well as the prevailing Factories and Industrial Undertakings Regulations have adequate provisions to empower my honourable Friend, the Commissioner of Labour, and his officers to ensure that any process or work in an industrial undertaking is carried out in a safe and hygienic manner. The proposed regulations are, of course, an improvement over the existing general regulations in that they give more exact and specific requirements which will help both the factory inspectors of the Labour Department and the management of industrial undertakings.

Secondly, I fully agree with my honourable Friend that no preventive measures on industrial safety can really be successful without the full co-operation of both employers and employees and, in this regard, I wish to compliment my honourable Friend in making a clear demarcation of responsibility between employers and employees in the proposed regulations. There were many industrial accidents and hazards which could have been avoided if only the employees concerned had followed faithfully the safety instructions given by the employers. I am confident that this new approach to the prevention of industrial accidents and hazards would prove successful

[DR CHUNG] **Factories and Industrial Undertakings Ordinance**

and recommend that, in drafting future regulations on industrial safety for other selected industries, this principle of bipartite responsibility should be followed.

Sir, coming to the two amendments as set out in the paper before honourable Members, I shall deal with the second one first. It concerns regulation 2 and in particular the definition of electrolytic chromium process. The present definition only includes electrolytic plating and electrolytic oxidation of articles wholly or partly made of metal by the use of an electrolyte containing chromic acid or other chromium compound. The function of electrolytic plating is to deposit a thin pure metallic film on the surface of an article and that of electrolytic oxidation is to form a thin oxide film on the surface of an article. However, there is a third function of electrolytic chromium process, namely electrolytic polishing or sometimes known as electrolytic brightening, which is neither plating nor oxidation. I therefore suggest that the word "polishing" should be added to the definition of electrolytic chromium process in order to cover the full spectrum of the process concerned.

The other amendment concerns the title of these regulations. The present title, namely "Factories and Industrial Undertakings (Chromium Plating) Regulations 1972", which is derived from a UK Factory Act made in 1931, is out of date and rather misleading as it implies that the regulations only apply to the process of chromium plating. As I said earlier, the regulations govern not only electrolytic chromium plating but also electrolytic chromium polishing and electrolytic chromium oxidation. Therefore, I suggest that the title of these regulations should more appropriately be amended to read "Factories and Industrial Undertakings (Electrolytic Chromium Process) Regulations 1972".

Proposed Amendments

1. In *regulation 1*, delete the words "(Chromium Plating)" and substitute the following—

“(Electrolytic Chromium Process)”.

2. In *regulation 2*, insert in the definition of "electrolytic chromium process", after the words "electrolytic plating", the following—

", polishing".

MR TSUI: —Sir, I am indebted to my honourable Friend, Dr CHUNG, for the improvement which will be made to these regulations

by his proposed amendments, which were special measures designed to protect persons involved in manufacturing processes of a particularly hazardous nature. It gives me much pleasure to endorse the amendments.

My honourable Friend's amendments, if approved, will not only have the effect of giving a wider degree of protection but also of bringing our local safety regulations up to a standard more in keeping with the advancement of technological knowledge, thus considerably enriching these statutory provisions.

I am grateful to my honourable Friend for his general comments on the regulations which I have made, and I acknowledge his kind remarks about the clear demarcation of responsibilities between the parties concerned as set out in these regulations. May I take this opportunity to assure this Council that I shall make every effort to follow this pattern in the drafting of future regulations of a similar nature, for which my department is responsible.

Sir, I support the amendment motion before the Council.

Question put on subsidiary motion and agreed to.

Question put on main motion, with Regulations as amended, and agreed to.

WHITE PAPER ON THE URBAN COUNCIL

Resumption of debate on motion (9th February 1972)

Question again proposed.

THE COLONIAL SECRETARY (SIR HUGH NORMAN-WALKER): —Sir, on the 13th October last year the White Paper on the future of the Urban Council was tabled, and a debate thereon began on the 9th of last month. This Paper has had a prolonged period of gestation, and during that period a diversity of views has been expressed. However, in the end, and with reservations on some particular points, there has been a sufficient degree of acquiescence in the proposals put forward in the Paper to enable the great deal of detailed work, which is necessary before its proposals can be put into effect, to be started.

I am very grateful to my colleagues in this Council for the very thorough and careful consideration which they have given to this subject. I know that the Working Group, which they formed, went to considerable trouble to obtain the views of both the elected and the

[THE COLONIAL SECRETARY] **White Paper on the Urban Council—resumption of debate on motion (9.2.72)**

appointed members of the Urban Council, before speaking in this Chamber.

I am also grateful for the very careful consideration which has been given to the proposals by the present members of the Urban Council.

The target date for putting into effect the proposals made is the 1st April next year, and before then a great deal of new legislation, a great deal of administrative settlement of points of detail, and a great deal of financial planning has to be done, and financial details settled. Nevertheless I, Sir, and I know you yourself, regard the hitting of the target date as a must, and every necessary priority will be given to the work. The time for debate has now passed, and the time for action has now arrived.

If only for that reason, I am winding up this debate with a very short speech. I will only assure honourable Members that careful note has been made of all the points brought out in the debate, and all of them will be taken into account in framing the detailed proposals which will, of course, have to go before Finance Committee and come back eventually to this Council in the form of legislative proposals. Therefore I do not propose at this stage to delay matters, or to trespass on the time of my honourable Friend, the Financial Secretary, by going into detail. Though there was from outside this Council and the Urban Council very little public reaction to the proposals, and though on many of them a substantial concensus of divergence did not, I am glad to say, emerge, there was one particular point on which all interested parties expressed the same view. The proposal that the Standing Orders of the Urban Council should be subject to the approval of this Council was the subject of criticism from all sides. That proposal will therefore be dropped.

As I have said, the time for debate is now over. The Urban Council has in its present sphere and its future sphere, and in both these spheres, many urgent tasks with which they wish to get on and we, on our part, have the task of clothing the bare bones of the proposals in the White Paper with flesh.

I beg to move therefore, Sir, without further ado, that this Council welcomes the White Paper on the Urban Council which was tabled on the 13th October last year.

Question put and agreed to.

First reading**APPROPRIATION BILL 1972****LIMITATION (AMENDMENT) BILL 1972****CORPORAL PUNISHMENT (AMENDMENT) BILL 1972****MERCHANDISE MARKS (AMENDMENT) BILL 1972****OFFENCES AGAINST THE PERSON (AMENDMENT) BILL 1972****MATRIMONIAL CAUSES (AMENDMENT) BILL 1972**

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

Second reading**APPROPRIATION BILL 1972**

THE FINANCIAL SECRETARY (MR HADDON-CAVE) moved the second reading of:—"A bill to apply a sum not exceeding three thousand six hundred and fifty-six million, eight hundred and seventy-eight thousand, four hundred and twenty dollars to the Public Service of the financial year ending the 31st day of March 1971."

He said:—Sir, I move that the Appropriation Bill 1972, which was published in an issue of the *Gazette Extraordinary* at 2 o'clock today, be read the second time.

Sir, the final outturn for the year 1970-71 was very close to that predicted by my distinguished predecessor, Sir John COWPERTHWAIT, in his speech winding up last year's budget debate: the surplus was \$619 million (compared with Sir John's prediction of \$600 million), revenue breaking through the \$3,000 million barrier to reach \$3,071 million and expenditure exceeding the original estimate by \$59 million to reach a figure of \$2,452 million. Thus revenue and expenditure increased by 24% and 21% respectively on the previous year (1969-70), this being the first time ever that both revenue and expenditure have increased by more than 20%. In 1960-61 we enjoyed a very similar experience in that revenue increased by 29% and expenditure by 19% over the previous year (1959-60), admittedly from a base one quarter the size of 1969-70; but I regard this as a good omen for the future, for 1960-61 was the year on which Sir John built his first budget for 1962-63 and I have the 1970-71 accounts as my starting point for the 1972-73 budget.

In his last budget, for the current year 1971-72, Sir John COWPERTHWAIT estimated revenue at \$3,118 million and expenditure at \$2,862 million to yield a surplus of \$256 million. We shall do very

[THE FINANCIAL SECRETARY] **Appropriation Bill—second reading**

much better than this: the revised estimates of revenue and expenditure as shown in the Draft Estimates for 1972-73 are put at \$3,468 million and \$2,930 million respectively, yielding a surplus of \$538 million. However, I have a distinct feeling that when the accounts are closed the surplus will be around \$700 million for I expect revenue to be higher than presently estimated by some 2-3% and expenditure lower by 1-2%. But at this stage it is difficult to know precisely which individual heads and subheads of revenue and expenditure to adjust to take account of this feeling.

Although the rate of growth of *revenue* in 1971-72 at 13% is less than in the two previous years, 1970-71 and 1969-70, when it was 24% and 19% respectively, it is still higher than in any other year since 1962-63; and, in absolute terms, the increase at \$397 million is the third largest on record and \$90 million more than total revenue twenty years ago in 1951-52. Clearly, we are continuing to enjoy a flush of revenue as our economy continues its post 1967-68 surge movement. Whether we can expect this surge movement to continue in the coming months and, if so, at what rate, is a question I shall be considering later in this speech.

The most significant features of the revenue picture in 1971-72 may be summarized briefly. First, as regards recurrent revenue, which broke through the \$3,000 million barrier to reach \$3,164 million only one year after total revenue had done this. As we might expect, revenue derived from taxes levied on the basis of income earned in 1970-71—in other words, earnings and profits taxes—increased faster than revenue arising from activities during the current year: by 17% compared with 15%. The 1971 stock market boom has brought a significant increase in revenue from stamp duties of no less than \$78 million or 61%. The yield from motor vehicle taxes will exceed even last year's record figure of \$39.7 million by \$4.3 million as a result of record registrations of new vehicles (no fewer than 30,000), a larger proportion of which came from non-Commonwealth sources. The yield from excise duties, whilst up overall by \$31 million on 1970-71, was a little disappointing as regards hydrocarbon oils, table waters and locally manufactured liquor. The revenue from rates is expected to exceed the original estimate of \$352 million by \$12 million. Thus, at \$364 million, rates revenue has increased by \$28 million on 1970-71 thanks to higher assessed rateable values for new premises. Post Office revenue has been disappointing, for the expected increase in postal traffic has not materialized and the revised estimate is down on the original estimate by \$26 million and, at \$162 million, represents an increase of less than \$2 million on actual revenue in 1970-71. Our interest earnings this year are expected to be a remarkable \$207 million, a 32% increase on 1970-71, thanks to the buoyancy of revenue collections

during the year and the employment of a relatively higher proportion of our balances than hitherto in sterling investments which yield more than local deposits. One aspect of our strong reserve position which is perhaps sometimes overlooked is the contribution which earnings on our investments make to our recurrent revenue: this year it is no less than 6% or equal to the contribution made by stamp duties. Put another way, earnings on our investments this year financed no fewer than 34 out of the 65 heads of expenditure.

Secondly, as regards capital revenue: total collections this year are likely to be down on the record 1970-71 figure of \$327 million by some \$23 million. However, the demand for land in the urban areas, especially for domestic and commercial development, the availability for sale of more sites than originally expected, premia on regrants of 75 year non-renewable leases and revenue from the early renewal of renewable leases have meant that the revised estimate, at \$263 million, is not far short of the record 1970-71 figure of \$272 million.

The rate of growth of *expenditure* this year has been well maintained. For the second year running it seems that actual expenditure at \$2,930 million will exceed the original estimate, which was \$2,862 million. This represents an almost 20% increase on actual expenditure in 1970-71. This continuation of the sharp upward trend is due in large part to a recovery in public works and other capital expenditure which fell away from \$735 million in 1965-66 to \$372 million in 1969-70 as certain large projects were completed and as contract prices declined with the recession in the building and construction industry. Capital expenditure, as defined in Appendix III of the Estimates, increased by nearly 50% in 1970-71 to \$552 million and by another 43% in 1971-72 to \$787 million. Higher works contract prices began to bite by the beginning of 1971 and so the Public Works Programme element in these figures must be discounted by about 25% to arrive at some idea of the real volume of additional work undertaken. But I am laying some stress on capital expenditure because it is not, and should not be, surges in recurrent expenditure (or even in recurrent revenue) which dictate surges in total expenditure, but rather the incidence of capital expenditure and, in particular, expenditure on projects in the Public Works Programme. Throughout the sixties, for instance, expenditure on recurrent services increased steadily year by year at an average rate of 12½%, despite the fact that in five years out of ten recurrent revenue increased at a slower rate than recurrent expenditure. For some years to come in the seventies we face the prospect of having to finance an enormous programme of public works, and at contract prices which will probably be 50% higher than those prevailing in 1970-71, whilst our recurrent services will continue to expand and become more costly.

There are several other points in the revised estimates of expenditure to which I should draw honourable Members' particular attention:

[THE FINANCIAL SECRETARY] **Appropriation Bill—second reading**

in the first place, they do not reflect the full impact of the cost of implementing the recommendations of the Salaries Commission in respect of 1971-72. Approximately 4/7ths (say \$76 million, excluding teachers) will fall in the 1972-73 year of account for which I propose to seek supplementary provision as and when required so as not to complicate the presentation of the 1972-73 Draft Estimates. This commitment is best considered, anyway, as a charge on this year's surplus. The pay out to disciplined services and staff remunerated from Model Salary Scale 1 amounting to \$61 million has been absorbed, or largely so, in existing votes. Secondly, the conclusion in September 1971 of a new 5-year Defence Costs Agreement with Her Majesty's Government is reflected in an increase under Head 35—Defence: Miscellaneous Measures of \$78 million. In a full year, as honourable Members are aware, this Agreement will cost about \$35 million as a cash contribution and an average of \$49 million by way of capital works and \$30 million for maintenance and minor works. Thirdly, the revised estimate for Head 51—Miscellaneous Services is \$11 million up on the original estimate due mainly to higher limits for hotel accommodation, the new scheme for private tenancy allowances for local officers and the new scheme for subsidizing the cost of student travel on KMB buses. Fourthly, although the original estimate for Head 63—Public Works Recurrent at \$143 million, was a 37% increase on actual expenditure in 1970-71, this has proved inadequate by \$8 million due largely to higher maintenance contract prices. Fifthly, taken together, the revised estimates for the three main Public Works Non-Recurrent heads is up by \$29 million on the original estimates of \$509 million (which, in turn, exceeded actual expenditure in 1970-71 by \$126 million). This is more than accounted for by the High Island Scheme. Finally, 1971-72 has been an unusually busy year for Finance Committee and this has naturally had the effect of boosting the rate of expenditure. Taking only those agenda items which sought specific sums by way of supplementary provision, the total amount approved to 9th February last was \$364 million compared with \$301 million for the whole of 1970-71 and \$191 million for 1969-70. I must warn heads of departments that, in 1972-73, the Finance Branch will have to look at applications for supplementary provision rather more stringently for the ratio of supplementaries to original estimates is getting a little out of hand.

Thus we shall enter 1972-73 in a strong position for, assuming this year's surplus is of the order of \$700 million the balance in the General Revenue Account will be about \$2,900 million (although this should be reduced by \$76 million for salary adjustments in respect of 1971-72 not yet paid). To this figure of \$2,900 million must be added an estimated \$110 million for the appreciation of investments and a further

\$913 million for the free surplus in the Exchange Fund, (*i.e.* the excess of assets over 105% of liabilities). Thus at 1st April 1972 our total reserve position should be of the order of \$3,923 million. It is noteworthy that the surplus available for transfer to the General Revenue Account in the Exchange Fund has increased from \$270 million when the accounts for 1970 were closed to an estimated \$913 million at the end of 1971, thanks to the strength of the gilt edged market and careful management of our portfolio by the Crown Agents in London and the Accountant General acting within broad guidelines laid down by the Exchange Fund Advisory Committee, one of the many advisory committee, Sir, working quietly behind the scenes to provide the Administration with expert advice.

Our estimated reserve position at the end of this financial year of \$3,923 million represents an advance of \$1,448 million on the position a year ago when it was \$2,475 million, compared with \$1,726 million two years ago and \$1,173 million at 31st March 1968 after we had borne the strain of the devaluation of sterling.

Sir, in considering our reserve position there is an important point to be made. The main, and indeed the primary, determinant of incomes and hence of revenue yields, is the economy's export performance over which we can exercise but a limited degree of control. This exposed external position means that we must maintain a strong reserve position in relation to annual expenditure. Obviously, should our trade and hence the growth of our revenue ever slacken off seriously we must be in a position to maintain recurrent services and the level of capital expenditure *either* until the rate picks up gain *or*, if this takes too long and our reserves are in danger of being rapidly depleted, until we can cut the rate of growth of expenditure methodically. This would not be easy: a cutback of our plans for a steady expansion of our recurrent services could only be achieved at a social and administrative cost; and to slow down expenditure on capital works would probably be costly in the sense that nugatory expenditure would be involved and it would certainly be difficult to organize, not only because of the problem of selecting the projects to be slowed down, but also because of the sheer size of the Public Works Programme. As at 9th February this year the expenditure commitment in respect of Category A projects in the Public Works Programme was a massive \$3,424 million compared with only \$1,736 million about the same time a year ago.

So much for our present financial position. But, before coming to next year's estimates, I must review the economic background against which they have been prepared.

As I said earlier we have continued to enjoy in 1971-72 the flush of revenue which is associated with the post 1967-68 surge movement

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of our economy; and the question is this: what are our prospects for the immediate future, taking into account, of course, the various lags between, for example, incomes and profits and revenue yields? Using preliminary estimates of Hong Kong's national income (for the experts the particular aggregate used is Gross Domestic Product at current market prices) for the six year period 1966-71 prepared for me by the Census and Statistics Department, it seems that the effect of the 1967 disturbances was most marked in 1968, when the overall growth rate was of the order of 4-5% only. In the previous year, 1967, the rate was 14-15%, despite the disturbances, because the process of recovery from the difficulties experienced in 1965 and 1966 by the banking and construction sectors was beginning to get under way. But by 1969 a surge movement was beginning to build up, the Gross Domestic Product increasing by 20% in that year and by rather more than 20 % in 1970. But there was an easing off in this remarkable movement in 1971 to around 10% and I do not think we can expect to do better than this in 1972 or in the early months of 1973.

But I predict that it will begin to pick up again within 18 months, that is, in the second half of 1973 as the income and employment levels of the major economies of Europe and North America begin to rise and world trade again begins to expand; and this prediction is on the assumption that undue discrimination will not be exercised against us by the governments of our major trading partners, either in the context of particular sectors of our trade or in the context of the Generalized Preferences Scheme for developing countries. This prospect of a slower advance over the next 12-18 months is entirely due to the outlook for export earnings: external demand for our products was so strong in 1968 and 1969 that our earnings increased by 25% in each of these years, eased off a little to 17½% in 1970 and to 11½% in 1971; and there may be a further easing—though not a very great one—in 1972 before a resurgence of the rate of growth in 1973.

But, although the manufacturing sector is dominant in our economy, contributing about 43% to the Gross Domestic Product, the economy's strong external liquidity position means that there need be no brake for the time being on the present high level of activity of other sectors such as building and civil engineering; and the earnings of tourism and services should be well maintained. Thus the rate of growth of imports, other than that element associated with the easing in the rate of growth of domestic exports, should be maintained for there will be no need for the banking system to reduce credit facilities. Net balances due from banks abroad stood at \$6,400 million at the end of 1971 compared with \$4,900 million at the beginning. At the same time, the Government's strong reserve position, a legacy of Sir John COWPERTHWAITHE'S wise and firm handling of our affairs during

the past 10 years, will enable honourable Members to contemplate the Draft Expenditure Estimates for 1972-73 with equanimity.

So far, I have been discussing our future prospects in overall terms. I would like now, Sir, briefly to consider three particular aspects: employment, investment and the monetary sector. First, employment: our position today is in marked contrast to the fifties when large tranches of unemployed and underemployed resources were available to be drawn into the productive system for use on an intensive basis and this is the way the economy expanded. Today the growth of our economy is dependent upon the annual increase in the size of the economically active sector of the population, the skills with which it is equipped and the increase in productive capacity through new investment. We are now much more dependent on investment for increased productivity. Nevertheless, the question is: will the easing of our growth rate in 1972-73 lead to any pockets of unemployment appearing or will it involve, *via* an easing of the tight labour market of recent years, no more than a falling off in internal inflationary pressures and a reduction in labour turnover? As regards industrial employment, we recorded increases in every quarter since 1947 until September of last year when the total stood at 613,000, but the growth of registered industrial employment has been levelling off, in fact, in recent years: from 14% in 1968 to 11% in 1969 to 5% in 1970 and to 3% in 1971. This has occurred despite improved coverage of our statistics and despite the growth of domestic exports in the period: by total value they increased by \$5,321 million or by 63% between 1968 and 1971 and the price factor did not account for more than 22% of this increase. The fact that there has been a marked slowing down in the growth of industrial employment at a time when exports and the economy as a whole have been growing much faster indicates that productivity per man has improved. There was an actual decline in registered industrial employment in December 1971 of 8,000 from 613,000 in September to 605,000 in December: I believe this to have been largely seasonal coupled with the recession in the wig-making industry and relatively minor cutbacks in plastics, woollen knitting and cotton spinning and the disruptive effects of the dock strike in the western seaboard ports of the United States. Increases in non-industrial employment in the second half of 1971 more than offset this decline and by the end of 1971, anyway, industrial employers had notified the Labour Department of 17,600 vacancies. So, although industrial employment is unlikely to increase more than marginally in 1972, there is no prospect in my view of pockets of unemployment building up. On the other hand, we must not forget that the age structure of the population is such that each year a large number of young persons comes on to the labour market. Thus, preliminary results of the 1971 Census indicate that the economically active population consists now of over one million men

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and half a million women, a total of over 1,500,000, of whom 42% are in manufacturing. This figure of 1,500,000 is expected to rise to 1,700,000 in 1973.

Secondly, investment: we must not be too complacent about our growth performance in recent years, at any rate before satisfying ourselves that adequate provision is being made for depreciation and additions to our stock of fixed capital assets. Our performance in the past seven years has been somewhat erratic: after reaching a peak of over \$3,000 million in 1965 gross investment in fixed assets declined continuously down to less than \$2,000 million in 1968, but this trend was sharply reversed in the following three years as confidence was re-established. In 1969 the figure rose to \$2,500 million, in 1970 to \$3,500 million and possibly to \$4,000 million last year. The rate of growth of investment is now slowing down, but more so in plant, machinery and equipment than in land, buildings and other construction (the rising trend of expenditure on the Government's public works programmes being signification here). In the last three years, gross investment has been running at about 21% of Gross Domestic Product. This is on the low side: in Japan it is 35% and in Taiwan and Korea it is said to be 23% and 27% respectively. So I suggest that we should keep a watchful eye on this aspect of our economic position during the next few years, although it should be borne in mind that, for the most part, our investment has been directed to the most productive purposes and that the capital assets created have been very intensively and efficiently used. On the other hand, it is possible to argue that, compared with some other countries, we have devoted a smaller proportion of our investment to the development of the infrastructure.

Thirdly, the monetary sector: here we do have cause for satisfaction, for the general position revealed by the basic statistics is one of great strength and, if I may say so, a tribute to the banking community. Currency in circulation at the end of 1971 was \$2,932 million, an increase of nearly 14% on December 1970 when it was \$2,578 million. Extra currency issues for the 1971-72 Christmas and Lunar New Year holidays amounted to \$638 million compared with \$615 million in 1970-71 and \$459 million in 1969-70. As Sir John COWPERTHWAITHE said in his last budget speech this is "remarkable evidence. . . of the growth of our wealth (and) of its wider distribution among the people". Bank deposits at the end of 1971 stood at \$7,878 million or 2 million to which they fell in September 1967, having risen in 1971 more sharply, at 26%, than in any recent year since the post-emergency year of 1968 when currency flowed back to the banks as confidence was re-established.

Loans and advances in 1971 could hardly be expected to keep pace with this rapid widening of the banks' credit base; but, nevertheless, they increased by 22% to a record high of \$11,836 million representing 63% of deposits. So the banking system as a whole was well lent up, though the pattern of advances shifted marginally away from manufacturing in favour of other sectors, including finance houses, private individuals and inter-bank lending. I am not entirely satisfied that the banking system is able adequately to meet the legitimate credit needs of all types and sizes of manufacturing enterprises and I shall therefore have more to say on this later on.

It is true that even such a simple analysis of the monetary sector as this must be qualified by reference to the price level, but the Consumer Price Index, after rising by 3% in 1969 and 7% in 1970, registered only a 4% increase in 1971. I anticipate that the rise in 1972 will be about the same for I would hope, in particular, that our decision last December to maintain the gold parity of the Hong Kong dollar will mean that import prices will be relatively stable thus protecting both industrial costs and the cost of living.

To turn, Sir, now to the main business of the day. The form of the Draft Estimates of Expenditure follows the usual pattern. They have been admirably printed, as usual, by the Government Printer and his hardworking and patient staff. For simplicity's sake we have not shown actual salary scales against each post in brackets, but simply the code number of the new class scale applicable. Actual scales are shown in Appendix I. We have persevered with our efforts to ensure that the layout of each estimate reflects the administrative organization of the department concerned so as to indicate the manner in which the funds provided by this Legislature will be spent, but we are not yet satisfied that the layout is entirely satisfactory in every case.

The interleaved Memorandum Notes, which first appeared in the 1970-71 Estimates, together with the General Memorandum Note on pages 27-31, should provide honourable Members with adequate supporting information but, of course, I shall be happy to provide any additional information required in advance of the Finance Committee's examination. The Memorandum Notes are in the same form: that is to say, the ambit—or the permitted scope—of each head is defined in the opening paragraph; and actual expenditure in 1970-71, the original and revised estimates for 1971-72 and the estimate for 1972-73 are then summarized in tabular form. The second and possibly subsequent paragraphs briefly describe the Government's policy objectives in respect of the particular service concerned, events and achievements in the current year and plans for the coming year. The department's approved establishment is then summarized and frequently broken down functionally. This is followed by details of

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changes approved by Finance Committee during the current year in the department's establishment and of additional posts required in 1972-73. Finally, details of the main changes proposed under the Annually Recurrent: Other Charges and the Special Expenditure subheads, together with appropriate policy references, are set down in brief note form. I have described the scope and content of the Memorandum Notes at this length, not so much for the benefit of honourable Members, but to stimulate the interest of the public in this compendious study of the Government's activities and plans and the organization of the public services. It is the end result of 3-4 months of intensive work by the Finance Branch, beginning with the processing of departmental draft estimates, and I should like to express my gratitude to my colleagues in all divisions of the Finance Branch for their loyal and painstaking efforts and to heads of departments for their help and understanding during what is always a hectic and difficult period.

But the estimates volume is prepared essentially for this Council, for internal use within the Government and as a reference for serious students of particular services—at \$55 the whole Estimates volume has never been exactly a best seller! To assist those members of the public who are more interested in our affairs generally, I have arranged for additional copies of the opening statements on our financial position (pages 3-8) and the statistical analyses of revenue and expenditure contained in Appendices II—XVI (the green pages at the end of the Estimates) to be printed and bound separately. In addition, and as an experiment (which, if it proves successful, we shall try to develop further in future years) we have prepared a simple Budget Booklet, in both English and Chinese, which attempts to describe with a few simple charts and diagrams the main features of the budget, with particular reference to the pattern of expenditure. Copies of this booklet are now before honourable Members with the abstract and this year at least they will be available to the public free of charge. Both documents have been speedily and attractively prepared by the Information Services Department assisted by the Finance Branch and the Census and Statistics Department and printed by the Government Printer.

The Revenue Estimates have been, as usual, printed in the same volume as the Draft Estimates of Expenditure. There are no changes in format, but I would draw honourable Members' attention to the Memorandum Note on pages 19-24 which contains explanations for the differences between the estimates for 1972-73, the revised and original estimates for the current year and actual revenue brought to account in 1970-71.

Sir, I am sure honourable Members will have noticed that both Sir John COWPERTHWAIT and Mr CLARKE always dealt with the revenue estimates before the expenditure estimates and for obvious reasons: in our circumstances, there are severe limits to the range of indirect taxes which can be imposed (*e.g.* a customs tariff, such an important revenue raiser elsewhere, would be quite inappropriate in our circumstances); and there are severe limits also to the marginal rate of direct taxation. By and large, therefore, we must fit public expenditure to available public resources and not extend those resources to fit expenditure; though I would not wish to suggest that we do not have reserves of taxable capacity *or* that our reserves should not be called upon in certain circumstances—and I might add here in view of the recent press comments that we have complete freedom to spend our reserves if we so wish—and finally I would not wish to suggest that, for self-liquidating projects, we should not seek loan finance.

This year, however, I propose to reverse this traditional order for I have certain revenue proposals to put to honourable Members and it will simplify my presentation of these proposals if I can deal with them immediately after the revenue estimates.

The Draft Estimates of Expenditure provide for expenditure amounting to \$3,657 million. In absolute terms this represents an increase of \$727 million over the revised estimate for 1971-72 and is by far the largest increase ever. In relative terms at 25% it has only been exceeded in 1948-49 and 1950-51, hardly comparable years inasmuch as the Government of the day was then in the process of re-establishing services after the war. Furthermore, an increase of 25% on the revised estimate for 1971-72 follows upon increases of 20% on actual expenditure in 1970-71 which in turn was an increase of 21% on 1969-70. Put another way, whereas the average level of actual expenditure in the three years ending 1969-70 was \$1,890 million, the average level of expenditure for the three years ending 1972-73 works out at just over \$3,000 million. I would, in some ways, like to be able to say that the main element in this increase is the recovery of capital expenditure, but it is only one element. It is true that average capital expenditure in the three years ending 1969-70 was, at \$403 million, well down on the previous three years when it was running at an average level of \$635 million; and so an increase in the three years ending 1972-73 as actual spending on the Public Works Programme began to get under way again was to be expected (and at \$823 million the increase is substantial). But the increase on recurrent account is an important element in the situation also: average recurrent expenditure in the three years ending 1969-70 was \$1,487 million and will rise to \$2,189 million in the three years ending

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1972-73. This is an increase of no less than 47% which may be compared with the increase of 104% in capital expenditure.

Indeed, when one looks at the differences between the draft estimates for 1972-73 and the revised estimates for 1971-72, the role of expenditure on recurrent services begins to look even more significant: of the overall increase of \$727 million, \$384 million is on recurrent account and \$343 million (only) on capital account. This means that, in the coming year, recurrent expenditure as a proportion of recurrent revenue will reach the dangerously high level of 73%, compared with 68% this year. We should aim to keep 30% of recurrent revenue available to finance the deficit on capital account and I hope, therefore, the margin between recurrent revenue and expenditure will widen again in 1973-74.

The two main elements in this increase of \$384 million in recurrent expenditure are civil service emoluments (\$218 million) and recurrent subventions (\$73 million). As regards civil service emoluments: the approved establishment of the civil service at 1st April this year will be, if the Draft Estimates are approved, 90,656 permanent posts and 7,809 supernumerary posts, representing together a 4.3% increase on the establishment a year ago. A statistical summary of the proposed increases in relation to approved departmental establishments is at Appendix XVI of the Estimates. A 4.3% increase is the fourth lowest since 1960-61, but the additional provision required for Personal Emoluments at \$218 million represents a record 22½% increase and this despite the fact that the Finance Branch has taken care to estimate the provision required realistically. Thus, Personal Emoluments as a percentage of total recurrent expenditure is estimated to be just under 47%, but will rise to 50% or so later on if the Salaries Commission's recommendations have the effect of reducing our present 10-11% vacancy ratio. Of the increase of \$218 million for Personal Emoluments, \$40 million is accounted for by new posts (making due allowance for the fact that many will not be filled for some months), \$41 million is accounted for by incremental creep and \$137 million is accounted for by the new scales introduced as a result of the 1971 Salaries Commission's recommendations. The personal emoluments bill for the Education Department will *eventually* increase by about \$6 million in a full year if and when the new salary scales for teachers are agreed upon and implemented.

The 1971 Salaries Commission has proved to be a costly exercise, but the restructuring of the civil service, including the introduction of the class structure, should lead to more effective management; the identification and inter-relation of posts by occupation is clearer than the previous groupings in model scales and should assist us in

analysing organizational and structural problems and in determining levels of responsibility and salaries. In this connection, my honourable Friend, Mr BROWNE, will be glad to hear that we have combined that part of the Organizational Surveys Unit dealing with organization and methods with the Complementing and Gradings Division of the Finance Branch so as to evaluate departmental staffing needs more effectively. The OSU staff manning the Computer Centre will remain as a separate unit.

As regards recurrent subventions: these now account for 23% of total recurrent expenditure, the 1972-73 estimate being no less than \$579 million representing an increase of \$73 million on the revised estimate for 1971-72. Some \$47 million of this increase is for aided schools (including nearly \$700,000 for the Polytechnic, the first instalment in an expensive project and I have no doubt my honourable Friend, the Director of Education will have something to say on the \$15 million worth of recurrent expenditure to be devoted to technical education as a whole next year and, I hope, on industry's responsibility in this field). If the new salary scales for the teaching service are applied to the aided sector in 1972-73, extra provision required for recurrent subventions will be of the order of \$28 million. Another \$10 million of the increase of \$47 million is required for aided medical institutions subvented on a deficiency grant basis and later on, if salary scales are adjusted, a further \$8 million will have to be sought. For full details of what is proposed I would refer honourable Members to the Memorandum Notes on these and related heads of expenditure, that is to say, Head 36 for education, Heads 50 and 77 for medical services and Head 82 for the universities.

At this point I should make a brief reference to social welfare subventions and, in doing so, to express my thanks to the Director of Social Welfare and the members of the Social Welfare Advisory Committee for the time and effort they have spent on examining more than 70 applications and formulating recommendations on each one of them. The estimate for Head 78 Subventions: Social Welfare is almost \$20 million. This represents an increase of over \$3.6 million, or 22% on the revised estimate for 1971-72 and of \$7.6 million, or 61%, on actual expenditure in 1970-71. With several unimportant exceptions, the estimate for next year amounts to acceptance *in toto* of the recommendations made by the Social Welfare Advisory Committee.

Dealing now with the capital account: of the increase of \$343 million, \$27 million is for departmental special expenditure, \$36 million for capital subventions and \$280 million for the Public Works Programme. The 1972-73 estimate for departmental capital expenditure is, at \$90 million, twice actual expenditure in 1970-71, but our

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experience in recent years has been that only two thirds of the estimate is actually spent because of ordering procedures and delivery delays.

The 1972-73 estimate for capital subventions is \$134 million compared with the revised estimate for this year of \$97 million, despite an expected decline of \$8 million in spending by the universities. The \$42 million required for aided schools is explained in detail in the Memorandum Note on Head 36—Education (it is, of course, mainly for the expanded secondary school programme), but the \$34 million required for hospital development (an unprecedented figure as a quick look at Appendix IX will show) is worth a special mention: it is due to the incidence of payments in respect of the United Christian Hospital at Kwun Tong and the Centenary Block of the Tung Wah Hospital. In fact, \$11 million of the \$29 million sought for these two projects is for revotes.

As regards the Public Works Programme: I would ask honourable Members to study the Memorandum Note on pages 372-4 and the analysis of the programme at Appendices X, XI, XII and XIII; and particularly Appendix XIII which not only summarizes the outstanding commitments against project estimates at 9th February last, but also shows at a glance how heavily the balance of the programme is weighted in favour of water supplies (by the dictate of circumstances) and by roads, housing, medical facilities, urban amenities and airport development, in that order. I fear I must sound a warning on the main project in the water programme: the cost of the High Island Scheme is escalating rapidly and the Public Works Sub-Committee will shortly be asked to consider recommending a very substantial increase in the approved project estimate of \$968 million. Perhaps there is some slight consolation to be found in the fact that I am optimistic about our chances of raising a loan from the Asian Development Bank towards the cost of our 40 million gallon a day single purpose desalting plant estimated to cost \$460 million.

Finally, I would draw honourable Members' attention to Appendix V in which the Draft Estimates are analysed by function and Appendix VII which analyses the changing pattern of expenditure by function for the 11 years ending 1971-72 compared with the expenditure proposals for 1972-73 and the forecast of expenditure for the three years ending 1975-76. These tables, I suggest, deserve close study for they reveal the success with which we have kept the relative cost of basic services (such as general administration and law and order) steady at around 17% of total expenditure thus enabling expenditure on our developmental and social services to increase so substantially. The forecast for 1973-74 is for a total expenditure of \$4,505 million, a \$848 million increase on 1972-73, largely due to a

leap forward of \$557 million in capital expenditure; in later years the forecast show smaller increases but of course these forecast figures are subject to many qualifications.

Although decisions have been taken in principle there are two proposals, provision for which has not been included in the Draft Estimates. They have not yet been put to the Finance Committee of this Council for consideration, but they will be very shortly and I trust honourable Members will bear with me if I mention them now.

The first of these proposals concerns the public assistance scheme: the estimate for the Social Welfare Department includes no provision for changes in the arrangements approved by Finance Committee in June 1970, but the Director of Social Welfare has put forward proposals for improving the system generally and for increasing the monthly rates in the sliding scale of assistance by about 60% to take account both of increases in the cost of living since 1970 and of certain essential items of expenditure for which no account is taken in the present levels of assistance. My predecessor, while advocating for some years improvements to the old pre-1970 public assistance scheme, did so with two qualifications which I must now endorse without reservation. The first is that the rates of assistance should not be such as to have an adverse effect on employment and wages. Because they take account of additional essential items of expenditure, the revised rates, if approved, will be closer to wages prevailing today than the present rates were to wages in 1970. But I am reasonably satisfied, from the results of the scheme so far, that the gap between the rates of assistance and wages will be sufficient. The second qualification is that, to guard against abuse and malpractice, public assistance should be carefully controlled and administered. To achieve this end, we have had the benefit of the services of an officer experienced in public assistance from the British Civil Service; and this Council has approved substantial increases in the establishment of the Public Assistance Division of the Social Welfare Department. This means also that we can be reasonably sure that the scheme is helping those who are least able to support themselves and, in particular, the elderly, the widowed, the sick and the disabled; and that it is not, as a result of inadequate administration, affecting the incentive to work and to be self-supporting. Payments in public assistance in 1971-72 are likely to be \$12 million. To the estimate of \$17.5 million for 1972-73 will have to be added some \$13 million in respect of the present 14,000 to 15,000 cases if Finance Committee endorses the new rates of assistance and the other refinements now proposed.

The second proposal not included in the Draft Estimates concerns small industrial enterprises which have played, and will continue to

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play, such an important part in our economy. It is essential that these small enterprises should participate in the process of upgrading our industry and increasing its productivity through the installation of more efficient machinery and equipment and the adoption of more up-to-date management practices. A Committee appointed by the Trade and Industry Advisory Board has prepared a scheme designed to make loans more easily available, at reasonable rates of interest, through the banking system to small firms to assist them in purchasing machinery and equipment. The Committee has defined small firms as firms employing less than 200 workers and having not more than \$600,000 in proprietors' funds; and I might add here that firms of this size account for more than 95% of all factories registered with the Labour Department. As the loans envisaged are not of the kind which the banking system has traditionally undertaken, except for a few customers well-known to them, the scheme provides for some degree of government guarantee of such loans, to be given after a thorough appraisal by the Productivity Centre of the technical feasibility of each project. I am happy to say that the Government has now agreed to a pilot scheme providing for loans ranging between \$50,000 and \$250,000 and totalling up to \$30 million. This scheme will be put into operation as soon as the necessary arrangements can be finalized by my honourable Friend the Director of Commerce and Industry provided, of course, Finance Committee accepts the contingent liability involved and approves funds for administrative overheads.

The Revenue Estimates anticipate recurrent revenue at \$3,440 million, representing a 9% increase over the revised estimate for 1971-72 and capital revenue at \$287 million representing a 6% decline on the revised estimate for 1971-72. Thus total revenue at \$3,727 million is put at 7½% higher than the revised estimate for 1971-72. As I mentioned earlier, the revised estimate for 1971-72 is 13% up on 1970-71 which, in turn, was 24% up on 1969-70. In other words, I expect the rate of growth of revenue to ease off again, but I believe this to be consistent with the view I have taken of our immediate economic prospects, remembering that the yields from earnings and profits taxes will be determined by earnings and profits recorded in the year 1971-72. Nevertheless, to be able to estimate for an increase in revenue of \$259 million, making a total increase in the three years ending 1972-73 of \$1,246 million, or just twice the increase of \$663 million achieved in the three previous years ending 1969-70, is very satisfactory particularly as we must again forego additional revenue from rates and property tax because of the postponement of the revaluation of property values.

As regards recurrent revenue: I estimate that the yield from earnings and profits taxes will increase by \$110 million to \$1,019

million or by 12%; and from taxes and charges on activities during the year by \$167 million to \$2,421 million or by 7%. Water Revenue is put at \$167 million or \$43 million up on this year because of the new price of \$4 per thousand gallons to be paid by non-domestic consumers from 1st April next and assuming supply restrictions are not necessary. The estimate of \$222 million for interest earnings is \$15 million up on this year's figure because additional sums will become available for investment but, of course, it is difficult to predict the trend of interest rates though the likelihood is, I think, for some reduction.

As regards capital revenue: the estimate for land sales is down by \$39 million on this year's revised estimate for fewer lots will become available for auction and premia in respect of regrants of expired leases may not reach this year's figure of \$45 million. The only other item worthy of particular mention is the \$30 million expected from the sale of taxi concessions.

Finally, I would draw honourable Members' attention to Appendices IV and VI which analyse revenue by source over the 12 years 1961-62 to 1972-73. There has been a growing dependence on direct taxation (from 21% to 28%). This has been coupled with the maintenance of the contribution by various fees and charges (at around 20%), despite the difficulty of keeping them in step with rising costs. At the same time, the role of indirect taxes has declined (from 41% to 34% of total revenue). These trends reflect the underlying philosophy of our fiscal policies and are highly appropriate to our circumstances, though I can foresee the day when certain indirect taxes assume a more important role for reasons which are partly non-fiscal.

With total expenditure of \$3,657 million and revenue of \$3,727 million the Draft Estimates show a surplus of \$70.3 million. But this figure is simply the difference between the revenue and expenditure estimates and does not take into account further commitments likely to be approved in respect of teachers salaries, medical subventions, increases in pensions and public assistance, amounting in all to \$100 million, of which \$42 million may be considered a fair charge against this year's surplus. Adding the \$76 million yet to be paid to the civil service (in respect of 1971-72) and this \$100 million to the expenditure estimate of \$3,657 million, there is an excess of expenditure over revenue of \$106 million. But, I do not think 1972-73 will be a deficit year. Although in the 11 years 1960-61 to 1971-72 we have *under*-estimated revenue 10 times out of the 11 I am fairly confident—touch wood—that this year we have not *under*-estimated it by more than a small margin, if at all. Expenditure we have *over*-estimated eight times in the last 11 years even after taking into account additional expenditure authorized by Finance Committee during each year and

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to budget for an increase in expenditure of \$727 million as shown in the Draft Estimates, plus another \$176 million, making \$903 million in all, does seem to be a little optimistic. However, the expenditure estimates are as realistic as we can make them, without cutting them back arbitrarily; and this we have refrained from doing.

As I believe, indeed, that 1972-73 will be another surplus year, I have carefully considered whether any revenue concessions ought to be made. Should we, Sir, in other words, make some gesture in good times towards balancing the budget from the revenue side? Certainly, even if we could, we should not artificially boost the level of expenditure for, if our export earnings were to turn down sharply for reasons outside our control, revenue would turn down, as well, but our expenditure commitments would not. Furthermore, there are four other points to be made: first, such an artificial boosting of public expenditure would be at the expense of the present generation of taxpayers (and would put our financial stability in later years at risk). Secondly, the present generation of taxpayers has contributed very substantially in recent years to the financial resources available for spending in future years on capital works or, in certain circumstances, on recurrent services. Their contribution in the five years 1967-68 to 1971-72 has been over \$2,000 million, even without taking account of the benefits which have accrued from the employment of this money in interest bearing deposits and securities. Thirdly, the lower our tax rates and the simpler our tax system the more scope we have for raising rates and/or new taxes in bad times, not to spend the economy out of a recession (we could not do this, obviously, without putting our balance of payments at risk), but to maintain the level of public expenditure. Fourthly, tax reforms are more easily managed when the public accounts are in surplus and, where opportune, we should seek to modernize our fiscal system (and, of course, close loopholes and end anomalies too).

Accordingly, I have concluded that it would be appropriate to put to honourable Members four proposals for reducing or abolishing present taxes with immediate effect or with effect from 1st April next, together with a proposal for immediate reform of a tax ordinance with no revenue implications; one major tax reform with certain revenue implications; one major tax reform with certain revenue implications in favour of taxpayers to be brought into effect in 1973-74; and one concessionary proposal to take effect on 1st April 1973, together with a minor proposal for tightening up the administration of the tax ordinance concerned. I fear I have also a proposal to increase a particular charge with effect from 1st April 1972.

Now as regards my four proposed tax concessions for 1972-73: the first concerns salaries tax. I believe the tax burden on the middle income group, particularly those whose annual gross assessable incomes fall between \$40,000 and \$80,000 is out of proportion to the burden borne by the lower income groups who, quite rightly, get off very lightly indeed, and it is also out of proportion to the higher income groups who enjoy the reducing impact of the low standard rate of 15%. I propose, therefore, that the rates specified in the Second Schedule to the Inland Revenue Ordinance should be reduced so that the first step is 2½% or 1/6th of the standard rate and each of the 11 steps thereafter up to the maximum marginal rate of 30% is likewise a multiple of 2½%, thus achieving an even gradation of the tax structure. The effect of this recasting of the schedule, assuming for the sake of simplicity personal allowances only, will be to push the point at which net chargeable income reaches the standard rate up from \$54,500 to \$62,000 in the case of a single man, from \$61,500 to \$69,000 in the case of a married man and from \$65,500 to \$73,000 in the case of a married man with two children. This proposal seeks to recognize that, with the inflation of incomes in recent years, the 30% rate is now catching people it was never intended to catch. A married man with two children will be afforded relief over a range of net chargeable income extending from \$5,000 to \$70,000 as follows: at \$5,000 the relief will be \$12.50 or 9.1% of his present tax liability; at \$35,000, the relief will be \$425 or 10.8% of his present tax liability; at \$55,000, the relief will be \$1,125 or 12% of his present tax liability; and at \$70,000, the relief will be \$450 or 3.4% of his present tax liability. The cost to the revenue in 1972-73 will be \$7.1 million. This will eventually increase to about \$9.5 million when all assessments in a year are made on the basis of the revised schedule.

My second concession concerns estate duty. For some years it has been our intention to equate the maximum rate of estate duty with the standard rate of earnings or profits tax. In 1970 when Sir John COWPERTHWAITTE reduced the maximum rate from 25% on estates the principal value of which was \$4 million or over to 20% on estates valued at \$2 million or over, he was of the view that there was little point in reducing the rate below what he considered to be the maximum rate of earnings and profits tax which could be imposed without danger to the economy, namely, 20%. But as the need to impose such a rate is some time away, I propose to introduce into this Council a bill to reduce the maximum rate of estate duty in respect of deaths occurring on or after 1st April 1972 to 15% and to amend the present 14 steps ranging from \$200,000 to \$2,000,000 to 11 steps ranging from \$200,000 to \$1,000,000. The new scale will provide worthwhile relief to all estates exceeding \$30,000: for example, the rate applicable to estates of \$500,000 will be reduced from 10% to 7% representing relief of \$15,000 in duty. It will also help to discourage

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Hong Kong residents from taking avoidance action by transferring assets overseas before death. The annual cost to the revenue is very difficult to estimate, but is likely to be between \$1.5 million and \$3.5 million. For 1972-73 I am assuming it will be \$3 million.

Whilst on the subject of estate duty I should mentioned one measure of reform I have in mind: the Commissioner of Inland Revenue has represented to me very strongly that the sections in the Estate Duty Ordinance aimed at protecting the revenue by freezing a deceased person's assets until estate duty, if any, is paid involve a great deal of unproductive work for the Inland Revenue Department and delay in the next of kin getting access to these assets. Accordingly, I propose to introduce into this Council shortly a bill to amend the Estate Duty Ordinance to enable small estates under \$100,000 to be dealt with summarily.

My third concession concerns duties on hydrocarbon oils other than furnace oil, aircraft spirit, motor spirit and automotive diesel oil used by road vehicles: these oils cover a wide range of light oils used in industry such as benzene, turpentine and solvents; treated automotive diesel oil used by restaurants, food stalls, certain industries, harbour launches and ferries and the fishing fleet; various mixtures of diesel oils used in small quantities by restaurants, a few industries and marine vessels with old type diesel engines; sludge oil used for the manufacture of putty and waterproofing compounds; lubricating oil; light oils and diesel oils used in various admixtures ranging from floor polishes to paints to insecticides; and, finally, kerosene and liquefied petroleum gas used mainly for cooking and heating by domestic households, but by restaurants and food stalls also. All these oils attract at present a duty of 10 cents per gallon and liquefied petroleum gas is dutiable at 2 cents per pound. These are low rates, but it must be, in my view, a cardinal rule of our indirect tax system that it does not bear on industrial costs or on the basic cost of living. Clearly, the duties on these oils offend this principle and I propose, therefore, that they should be abolished and Your Excellency signed this morning an order under the Public Revenue Protection Ordinance to effect this as from 6 o'clock this evening. In due course, a resolution will be put to honourable Members for their consideration. Under section 30 of the Dutiable Commodities Ordinance distributors of the various oils concerned are obliged to pass on to their customers the full benefit of this relief.

The total cost to the revenue in 1972-73 will be of the order of \$16.2 million, of which about \$6.7 million will be in respect of kerosene and liquefied petroleum gas, \$1.6 million in respect of diesel

oil used by launches, ferries and the fishing fleet and the remainder (\$7.9 million) in respect of the various oils used by industry. I would expect that the relief accorded to those households which use kerosene and liquefied petroleum gas for cooking will reduce the monthly fuel bill of the average household by 7% and 4% respectively. The annual saving on the fuel bills paid by fishermen will range from \$70 to \$3,000 depending upon size of craft. Thus fishermen operating craft of under 60 tons net register will be put on the same footing as those operating the larger so-called deep water craft who draw duty free fuel as they are reckoned to operate ocean-going vessels. Yet the 4,600 vessels in the fishing fleet of under 60 tons net register are responsible for landing about three quarters of the total catch.

I am advised that the widening of the present differential between the duty of \$1.30 per gallon paid on automotive diesel oil used by road vehicles and the present duty of 10 cents per gallon paid on treated diesel oil will not make duty evasion significantly more attractive; and my honourable Friend the Director of Commerce and Industry has assured me that the abolition of the 10 cents duty will not involve the Preventive Service in control difficulties. Furthermore, the Preventive Service will be relieved of the administrative burden of collecting relatively small amounts of duty on a miscellany of products; and will be able to concentrate their resources on other more profitable revenue protecting tasks. At the same time, and I shall revert to this subject later on, it would be a fair assumption to make that, in the context of an overall traffic and transport policy, the rates of duty payable on motor spirit and automotive diesel oil will have to be raised before very long.

My fourth concession concerns the duty on methyl alcohol: a resolution was made by this Council on 20th March 1957 imposing a duty on methyl alcohol at the rate of \$7 per gallon and, in addition, 28 cents for every 1% by which the strength by volume exceeds 25%. This rate was increased in 1962 to \$7.50 per gallon and, in addition, 30 cents per gallon for every 1% by which the strength by volume exceeds 25%. The need for such a duty arose originally from an epidemic of cases of adulteration of liquor with methyl alcohol, a dangerous poison, causing deaths and injuries. It was considered necessary to remove the financial inducement to use methyl alcohol for adulteration of liquor by subjecting it to duty at the same rate as for ethyl alcohol. When introducing this resolution in 1957, Mr CLARKE emphasized that the purpose of the resolution was not to increase revenue, but to protect the public. It is now the considered view of my honourable Friends, the Secretary for Home Affairs, the Director of Medical Services, the Director of Urban Services and the Director of Commerce and Industry, that, due to changed circumstances, the likelihood of methyl alcohol being used for the manufacture of

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liquor rather than for duplicating fluids, printers' ink and such products is no longer of real concern. There is no justification, therefore, for the continued imposition of a duty on this substance. Accordingly, it is to be abolished as from 6 o'clock this evening by Your Excellency's order and a resolution will be introduced into this Council, in due course, to give permanent effect to this. The loss of revenue will be approximately \$100,000 a year.

These four concessions will together involve a surrender of revenue in 1972-73 of \$26.4 million thus reducing the difference, between the printed revenue estimates and the Draft Estimates of Expenditure to \$43.9 million.

I shall deal next with my proposal to increase a particular charge with effect from 1st April 1972 for this will have the effect of restoring the budgeted surplus for 1972-73 by \$3 million to \$46.9 million. The proposal concerns car parking charges: one of the most difficult problems Hong Kong faces today is what to do about the ever increasing volume of traffic on our roads. In 1961 there were about 56,000 motor vehicles of all kinds in the Colony, of which 36,000 were private cars. Now the numbers have tripled to over 166,000 and 107,000 respectively. The numbers of goods vehicles has also roughly trebled during this period and public transport trips have doubled. Despite all our efforts at road building and improvements—and we spent \$422 million in the 11 years ending 1971-72 and we have \$475 million worth of expenditure still to come on projects currently in hand—and despite also the adoption of better traffic management techniques, the evidence of the increasing strain being placed on our road system is there for all to see. Furthermore, the number of new vehicles being registered each year—and remember it has reached 166,000—is increasing at a rate of almost 15%; and there is no sign as yet of any slackening in this rate of growth. So the problem is getting worse and unless something is done to contain it we shall face more and more severe traffic congestion in the urban areas as time goes on.

Let me say at this point that this problem of congestion arises from the increasing prosperity of our population coupled with the fact that the demand for transport always tends to increase more rapidly than incomes, and income per head (at current prices) is getting on now for twice what it was in 1961. The problem is not peculiar to Hong Kong and is present in most large cities around the world. But it is becoming especially acute in Hong Kong because of our high densities and our peculiar geographical circumstances.

Even to begin to cope with this problem we have to have a traffic and transport policy which recognizes that there is only a given amount

of road space available in relation to the increasing numbers of vehicles of all kinds demanding to use it. This increasing demand must somehow be restrained and those vehicles which use road space inefficiently must be made to accept a greater part of the cost of the congestion they cause in relation to efficient users, such as large double decker buses. In other words, whether we like it or not, we shall be forced into a policy of restraints, whether by fiscal means or other means, on the inefficient and less necessary use of road space in order to prevent the system clogging up.

Despite our general financial position at the moment we cannot afford to delay the introduction of a restraints policy on the private motorist. And we believe we should begin now with a new parking policy, for a large part of the congestion at peak hours is caused by commuters who then take up parking spaces all day. Charges for the 3,600 spaces in Government multi-storey car parks in the Central urban areas have remained unaltered since 1966 (and there are a further 900 under construction). At present the charges do not even recover historical costs, let alone historical costs and recurrent expenses, let alone equate the demand for spaces with their supply. Certainly, present charges do not achieve the established policy objective of a 15% vacancy at peak hours. As a consequence, there is no control of priorities and there is additional congestion as drivers search for scarce parking spaces. These car parks are filled day after day with cars driven in by commuters in the morning and driven out after work in the evening. During the day only a few short term parkers can utilize these facilities because they are always filled with commuter vehicles. The same applies to open air car parks (which provide at present about 1,000 spaces).

I propose, therefore, that charges for the use of car parks should be raised by about 50 % this year. I also propose that the new tariff should be so constructed as to load more of the increased charges on to the commuter whose demands add to the congestion on the roads at certain times of the day. To this end, the cost of a monthly ticket for multi-storey car parks will be increased from \$120 to \$200. The full rate hourly charge will also be increased from 60 cents to \$1 with a minimum charge of \$2 instead of \$1.50. In the cheap periods, however, when there is space available and the roads are less crowded, the charge will in future be 50 cents per hour instead of 40 cents and the minimum charge during these periods will remain at \$1. In the case of open air car parks, charges will be increased from \$1.50 to \$2.50 per half day. These new charges will take effect from 1st April next; and appropriate amendments to the Road Traffic (Parking and Waiting) Regulations and the Road Traffic (Temporary Car Parks) Regulations will be made shortly. They should increase revenue by at least \$3 million a year.

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I should emphasize, Sir, that this is a modest beginning to what is going to be inevitably a continuing process. Given the physical limitations on the provision of parking facilities in the urban areas, it is reasonable to require the motorist to pay a higher price than at present for those parking spaces which can be provided. We certainly cannot guarantee, therefore, that these charges will not be raised again in future years; indeed, it is probable that they will be. Charges for on-street parking will also need to be raised. At present there are, in the down town areas, 18,000 free on-street parking spaces and 3,000 free spaces for goods vehicles, compared with 7,000 metered spaces only. We are at present ordering more meters and the aim will be progressively to extend meter charging to all parts of the urban area where on-street parking can be permitted, to extend the hours of operation and to charge the appropriate rate in each area according to the demand. In due course, this should ensure that parking spaces, whether on the street or in multi-storey or open air car parks, are available for those wishing to park and to pay for the privilege. This policy will also provide, I hope, a tariff base which should encourage the building of car parks by private developers and land will be made available for this purpose.

But we cannot be content with a restraints policy alone to cope with the movement problem of the 70s and 80s. We are pushing ahead with a vast road reconstruction and development programme; and we are considering very carefully the proposal for an underground railway. Since last summer a small working group of Government officers most closely concerned has been meeting weekly to examine every aspect of this proposal and to consider it in the context of an overall traffic and transport policy for Hong Kong. The group has now completed the first draft of a memorandum for Executive Council and this is now being considered in the Colonial Secretariat.

I hope honourable Members will understand that, because of this, I cannot say a great deal more about transport policy at the present time. What I can say, however, is this: even if the underground railway is built it will certainly not be a panacea. The problem of congestion from the growing numbers of vehicles on the roads, particularly private cars, will still have to be tackled. It is also a fact that an underground railway cannot be provided by simply waving a magic wand for there are simply enormous problems to be overcome before a start can be made. Even the first stage of it—the so-called "Initial System"—will take at least six years to build and will involve formidable engineering and technical problems. During this period also the building works will add to, rather than relieve, congestion on the roads, while traffic volumes will still be increasing year by year.

Finally, there are the problems involved in financing the project, that is to say, of raising very large sums of money to be paid off over periods of time which are long indeed by the normal standards of Hong Kong.

So there is no doubt that the underground railway is a complex and difficult project and the Government certainly cannot at this stage say whether it will or will not be built. What can be said, however, is that other aspects of Hong Kong's growing traffic and transport problem will need to be tackled resolutely in the coming years and I must give due warning that unpopular measures will before long be necessary and will have to be adopted for the good of the community as a whole.

That completes my proposals for 1972-73: the net effect of these proposals will be to reduce the difference of \$70.3 million between the printed revenue estimates and the Draft Estimates of Expenditure by \$23.4 million to \$46.9 million, representing the surplus I am actually budgeting for, excluding the \$176 million worth of as yet unprovided for commitments which I mentioned earlier, which are partly in respect of unpaid bills in 1971-72.

Turning now to my two proposals for the future: the first concerns the last remaining major recommendation of the 1968 Report of the Inland Revenue Ordinance Review Committee, namely, to switch over from the present inexact and artificial basis of assessing tax for the current year with reference to income or profits earned in a preceding year to a system of assessing tax for the current year on the actual income or profits earned in the current year. This particular recommendation was not included in the Inland Revenue Ordinance (Amendment) Bill 1971 because of opposition from several trade and accounting bodies as regards the application of this recommendation to profits tax. These bodies recognized that the present system leads to very considerable complications, connected mostly with commencements and cessations of income from different sources, for both taxpayers and the Inland Revenue Department, and the present system also leads sometimes to inequities. They recognized all these but they disliked the feature of the system recommended by the Committee whereby tax is payable provisionally for a current year. They proposed instead that tax should be paid each year in arrears on the actual income of the preceding year. We for our part could not accept the risk of widespread default in meeting tax assessed on this basis, which offends a fundamental principle of direct taxation on income, namely, that tax payments should be kept in step with the income being earned year by year (or the so-called pay-as-you-go principle).

After further consideration we have now decided to proceed with the change in basis, but for salaries tax only for the time being, that is to say, deferring further its application to profits tax. The target

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date for the change-over will be 1st April 1973. The income of the year ending 31st March 1973 will be used provisionally to calculate the tax payable for the year 1973-74. It will only be a provisional payment and not the tax assessment for that year. When the income for the year 1973-74 is returned a year later the tax assessment will be made and the provisional payment set off against the tax assessed. An important feature of the transitional arrangements is that it is proposed to drop out of charge the incomes of most taxpayers for the year ending 31st March 1973. That is to say, if a taxpayer's income for this year, the year ending 31st March 1973, exceeds the income for the year ending 31st March 1972, by no more than 15% the excess will be disregarded. Amounts in excess of this 15% margin will be liable to tax, but the Commissioner of Inland Revenue will arrange payment of the additional tax by instalments if necessary. I should interpolate here that these proposed transitional arrangements are more generous than those recommended by the Inland Revenue Ordinance Review Committee and I hope the Commissioner of Inland Revenue and I will get some credit for this!

This dropping out on increases of up to 15% will represent a loss to the revenue in 1973-74, but only in the sense that there will be less gain *via* additional assessments. And certainly there will be no actual loss in terms of the total collection in 1973-74 under the new system compared with what the collection would have been in 1973-74 under the present system, for taxpayers will be required to pay by way of provisional tax the same amount which they would have paid on the present preceding year basis in order to satisfy their liability for 1973-74.

In the second year after transition (*i.e.* 1974-75) and subsequent years, a new feature of the taxpayer's annual notice of assessment will be the adjustment required when tax assessed for a year is more or less than the provisional tax paid. Provisional tax for a year is a progress payment of tax which, in the normal case of annually increasing income, is something less than the tax due on the income of that year. Except in the case of *permanent* cessation of employment, a taxpayer will receive only one salaries tax assessment notice each year. If a taxpayer can show that his income has been substantially reduced during a year, he will be able to apply for a stand over of tax. Under the present artificial preceding year basis of assessment the taxpayer cannot claim relief for a reduction in income and must pay tax out of his current year's income computed on the preceding year's income. This can cause difficulty where a bonus payment, for instance, in the current year is considerably less than that for the preceding year.

A bill to change the basis of assessment to a current year basis will be drafted and introduced into this Council within the next 2-3 months and, if it is passed into law, the Commissioner of Inland Revenue will then issue a pamphlet explaining the new system. I am sure the taxpaying public will be as persuaded of its logic and simplicity as the Inland Revenue Ordinance Review Committee.

My second proposal for 1973-74 concerns rates. With the general increase in rentals since the last valuation list was prepared, most assessed values are likely to increase, some very substantially, as a result of the revaluation to be carried out this year. This would be so even if there were a tendency for rents to decline this year; and the 1972 Property Review indicates there may well be some downturn in rents, particularly for flatted factories and also perhaps for large flats. Nevertheless, re-assessed rateable values will, in most cases, exceed those determined in 1968. There are a fair number of shop premises vacant at the present time, but rents for shops generally show little sign of falling. Nor do I think that new office accommodation coming on to the market this year will lead to any significant reduction in rentals. It is not possible at this stage to estimate accurately the resulting increase in revenue for 1973-74, and thereafter, but the Commissioner for Rating and Valuation is now of the view that even the substantial increases he estimated in the middle of last year for the purposes of the 1971 Five Year Forecast of Revenue and Expenditure were on the low side. I have, therefore, had to consider whether the values as they may appear in the new list have any implications for rating policy (though essentially, of course, the purpose of the revaluation—of any revaluation—is to adjust values and re-apportion the rate burden).

As honourable Members are well aware, rates in Hong Kong are charged at 17% on assessed values in the urban areas and at 11% in that part of the New Territories presently rated, with reduced percentages in a few cases where premises do not have the benefit of a filtered water supply or where no mains water is available. Formerly, rates were charged at varying percentages based on the estimated cost of providing certain local services such as Police, water, street lighting and Fire Services. In 1888 one consolidated rate was introduced, although this varied by district according to the services available. The highest rate was for the City of Victoria where the consolidated rate was 13% including 2% for water. The present 17% rate for the urban area was set forty years ago in 1931 and the 11% rate for the New Territories in 1954. The stability of our rating system is in sharp contrast to the system, for example, in the United Kingdom where rate charges are varied by local authorities almost annually as a means of balancing their budgets; and rate charges in most areas in England are now over 50% of assessed values. Such frequent changes have not proved necessary in Hong Kong for two reasons: first, we have not linked certain

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local government type services to rate revenue this century and so the Colony's general budgetary position has dictated whether or not the rate need be raised; secondly, in post-war years, the several building booms, particularly in the mid-sixties, have provided our rating system with a built-in buoyancy. Rates revenue increased from \$27 million in 1950-51 to \$100 million in 1960-61 and to \$336 million in 1970-71.

As I have just said, Sir, it is now the view of the Commissioner for Rating and Valuation that, with valuations of new premises continuing at the present level and the likely increase in values as a result of this year's revaluation exercise, revenue from rates in 1973-74 could rise very substantially, probably to \$500 million or even more. This is a rough estimate and must be treated as such; but the question does arise: does it have any implications for rate charges?

Rates are basically a charge on the occupation of premises. Any increase in rates payable, either by way of increased assessed values or an increase in the rate percentage charged, is an increase for tenants. It is true that rent and rates are usually reckoned together when a tenant is considering the amount he can afford to pay for premises and, for most of the lower rental domestic accommodation, rents traditionally include rates. If the rates payable are comparatively low, landlords get more proportionately in rent; and this is what has happened as a result of deferring the revaluations which were due to come into effect from 1st April 1971 and 1st April 1972. Because of the tight property market and, in the case of domestic premises, of increases allowed under the Rent Increases (Domestic Premises) Control Ordinance, many landlords have enjoyed higher rents over the past two years, which have included a proportion attributable to rates. Such landlords have, as it were, anticipated an increase in rates; and there is no reason why they should seek to raise rents further in 1973-74 as a result of higher rates (not that there is any provision in the Rent Control Ordinance for them to do so in the case of controlled domestic premises). However, over one quarter of the private domestic accommodation in the urban areas is now occupied by owners for their own use and there are many owners who have drawn up long term tenancy agreements at high rents where the rate liability rests with tenants. The increases likely to result from re-assessed values would weigh rather heavily on such occupiers.

However, it is in the case of business premises that increased rates could prove a particularly heavy burden to occupiers. Over the last two years, some of the largest increases in rentals have occurred in business tenancies. The categories affected are primarily shops, offices and factories. There has been much public comment regarding rentals

for shops and factories, though the 1972 Property Review indicates that there was a considerable amount of such accommodation vacant in January of this year. In the aggregate, rents for *shops* now stand some 30% above those in 1968, but this figure conceals the larger increases in the tourist shopping areas. For *flatted factories* many rents are over 50% up on 1968 and, although a great deal of such accommodation is to be completed in 1972, rents seem likely to stay well above the previous levels which, of course, determined existing rateable values. New lettings of *offices* are generally over twice what was being paid in 1968 and here again rateable values are likely to increase very substantially.

Although rates may not be a particularly large item in the accounts of most factories, business houses or retail establishments, everyone in the urban areas is affected in some degree. Some concession on the rate charge would help to mitigate the effect of revaluation on the community as a whole. It is my present intention, therefore, to put to this Council for consideration later this year a resolution under section 29 of the Rating Ordinance providing for a reduction from 1st April 1973 in the present rate charge from 17% to 15%. The fact that this will make the rate the same as the standard rate for earnings and profits taxes is quite coincidental. Such a reduction will, on present figures, reduce the forecast revenue from rates by \$55-60 million. Assuming average increases in rateable values of say 25-30% for domestic premises, this reduction in the rate charged will bring the increased rates that would otherwise have been payable down to about 10-15%. For business premises where average increases in rateable values might be in the order of 50%, a reduction in the rate charged to 15% will bring the increased rates that would otherwise be payable down to around 32%.

Lower rate charges for tenements in the urban areas where only an unfiltered mains water supply is available or where no mains water supply is available will be provided for in this resolution at 14% and 13 % respectively.

So much for the urban areas: in those parts of the New Territories, mainly Tsuen Wan and Kwai Chung, presently assessed to rates, the standard rate is 11%. This lower rate charge was determined in 1954 when legislation was introduced to bring these areas into rating and was related, *in a very general kind way*, to the local government type services then available. Having regard to the rapid development in these areas since then, there is a very strong case for bringing the rate up to that applicable in the urban areas proper; but, for the moment, I propose that no such change should be made and, therefore, the rate will remain at 11%. Eventually the rate should be in line with that applicable in the urban areas. But this latter objective can best be

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achieved, I think, by a phased programme so as not to disrupt unduly landlord/tenant relationships.

I hope that a start can also be made to bring other areas in the New Territories into rating with effect from 1st April 1974 benefiting the revenue by about \$43 million; the areas I have in mind are Tai Po, Yuen Long, Clear Water Bay Road and Tsing Yi. Preliminary surveys were in fact carried out by the Rating and Valuation Department in 1969, but this work had to be abandoned in favour of the administration of rent control.

Whilst I believe we can afford to make a substantial concession in the rate charge applicable with effect from 1973-74 in view of the increased assessed values resulting from this year's revaluation, this does *not* mean that the new rate can remain unchanged for yet another 40 years. As a result of the downward revaluations of 1967-68 and 1969-70, the total of rateable values and thus the growth of revenue from rates was rather less than previously. We were able to accept this in the general financial situation then prevailing but, should there be any downturn in rents which is reflected in the revaluation scheduled for 1975-76 resulting in a slower growth of revenue from rates, we may have to consider raising the rate charge again. I hope not; but by that time the Urban Council will be taking a share of the general rate to help cover expenditure on the functions it is to assume and I cannot forecast the Council's view of their needs. And I should add that the changes I am now considering will obviously have no effect on the arrangements for the Urban Council envisaged in the White Paper.

Whenever a reduction in a tax or a levy is contemplated one should consider whether any tightening up of administrative practice or the provision of the law is desirable. At present, rates charged on unoccupied premises are refunded; but there are two compelling reasons why we should at least charge a proportion of the rate on unoccupied premises: first, they enjoy various services (the Fire Services, for example) to the same extent as those occupied: secondly, the administrative cost of actually refunding rates paid and inspecting vacant premises is fairly substantial. While rates are basically a charge on the occupation of premises, in Hong Kong there is a dual liability, and I cannot see why a landlord, even when premises are vacant, should not make *some* contribution to local services. I propose, therefore, that section 32 of the Rating Ordinance should be amended to provide that with effect from 1st April 1973 only one half of the rate charged on unoccupied premises be refunded. This would save the revenue about \$1.25 million even at the present time. As a side effect, the charging of rates on unoccupied premises may deter landlords from keeping domestic premises vacant.

Sir, I believe that the revenue estimates and the revenue proposals for this year and next, which I have just described, are consistent with financial and economic realities; and that the recurrent and capital expenditure provided for in the Draft Estimates of Expenditure for 1972-73 are appropriate to our emerging needs and circumstances. Accordingly, I commend them to honourable Members for their due consideration.

Question proposed.

Debate adjourned *pursuant to Standing Order No 54(2)*.

5.03 p.m.

HIS EXCELLENCY THE PRESIDENT: —I think at this point Members might like a short break. Council will resume in 15 minutes.

5.17 p.m.

HIS EXCELLENCY THE PRESIDENT: —Council will now resume.

LIMITATION (AMENDMENT) BILL 1972

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

He said: —Sir, the law in Hong Kong governing the time within which civil actions may be brought in the courts has normally followed English law on the subject. This bill, which reproduces Part I of the Law Reform (Miscellaneous Provisions) Act 1971 of the United Kingdom, will maintain that policy.

At present an injured person must bring a claim for personal injuries within 12 months after the date on which he acquires knowledge of the relevant facts relating to the cause of action. It is said that this limit, which is far shorter than the usual period of six years for other actions in tort, has caused hardship in a few cases, and clause 3 therefore extends this maximum period of 12 months to one of 3 years.

A corresponding extension from 12 months to 3 years of the period within which a claim under the Fatal Accidents Ordinance on behalf of the estate of the dependants of a deceased person must be brought is also made by this clause.

The remainder of the bill contains consequential amendments and transitional provisions.

Limitation (Amendment) Bill—second reading

Question put and agreed to.

Bill read the second time.

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

Explanatory Memorandum

This Bill extends the period within which a claim for personal injuries, or a claim in respect of a person's death, may be instituted. It follows Part I of the English Law Reform (Miscellaneous Provisions) Act 1971.

2. At present, an injured person must bring a claim for personal injuries within 12 months after the date on which he acquired knowledge of the relevant facts relating to his cause of action. Clause 2 substitutes a period of 3 years for that of 12 months.

3. Clause 3 makes corresponding provision for a claim on behalf of the estate or the dependants of a deceased person. Such a claim may in future be brought within three years (instead of twelve months) after the person's death or the date on which his personal representative or his dependants acquired knowledge of the relevant facts.

4. Clause 4 makes a consequential amendment to section 31.

5. Clause 5 and the Schedule set out transitional provisions, the effect of which is that the longer periods allowed will apply to causes of action accruing before the commencement of the Bill as well as after this date.

CORPORAL PUNISHMENT (AMENDMENT) BILL 1972

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

He said:—Sir, at present section 5 of the Corporal Punishment Ordinance provides for a sentence of caning imposed on an offender under the age of 16 to be administered on the court premises.

Recently, when a sentence of corporal punishment was imposed by the Supreme Court, photographs were published in several newspapers on the following day, showing a flogging horse being taken

into the Supreme Court building before the caning and also showing the young offender leaving the court after it.

In order to prevent photographs of this kind, which I believe will be generally accepted as undesirable, this bill confers on a court, after consultation with the Commissioner of Prisons, the power to order that the caning of a young offender may be administered either in the court premises or in a prison.

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 5 of the Corporal Punishment Ordinance provides that, where a sentence of corporal punishment is imposed by a court on an offender under the age of sixteen, the caning shall be administered in the court premises.

The Bill confers power on the court, after consultation with the Commissioner of Prisons, to order that such a sentence shall be carried out either at the court or in prison.

MERCHANDISE MARKS (AMENDMENT) BILL 1972

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

He said:—Sir, honourable Members will recall that, in November of last year, in reply to a question put by the honourable Mr SALMON, I indicated that it was the Government's intention to introduce legislation designed to protect members of the public against inaccurate hallmarks on gold articles.

This bill provides that a mark on an article which purports to show that the article contains a proportion of gold shall fall within the definition of a "trade description" in section 2 of the Ordinance.

Consequently, anybody who falsely marks an article containing a number of carats of gold will be liable to be charged with an offence against section 3 of the Ordinance, which makes it an offence to apply a false trade description to goods.

[THE ATTORNEY GENERAL] **Merchandise Marks (Amendment) Bill—
second reading**

It will also be an offence to sell, or to expose or have in your possession for sale, an article bearing a false description of its gold content, though it will be open to the person charged to show that he had no reason to suspect the genuineness of the mark.

The proposed new section 2A, which is contained in clause 2, also provides that articles containing less than 8 carats of gold, which means less than one-third gold, may not be described as gold unless they bear a mark indicating the exact amount of their gold content.

Furthermore, a mark purporting to indicate gold content may not appear on an article which consists partly of gold alloy and partly of other metal unless the mark clearly refers to that part of the article which does consist of gold alloy.

It does not, I think, do our reputation as an honest trading centre any good if a visitor buys a gold article here and subsequently finds that its gold content has been mis-described. It is to be hoped that this bill will make it less likely that this sort of thing will happen in the future.

Question proposed.

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

Question put and agreed to.

Explanatory Memorandum

The purpose of this Bill is to ensure that the public will be able to rely on marks which purport to indicate the gold content of an article. The Bill therefore states that such marks are trade descriptions and, if false and inaccurate, false trade descriptions. The Bill also provides—

- (a) that articles of less than 8 carat gold shall not be described as gold unless they bear a mark indicating the exact amount of their gold content;
- (b) that no mark purporting to indicate the gold content shall appear on an article consisting partly of gold alloy and partly of some other metal, e.g. rolled gold, unless the mark clearly refers to the part of the article which consists of gold alloy.

OFFENCES AGAINST THE PERSON (AMENDMENT) BILL 1972

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

He said:—Sir, by sections 46 and 47 of the Offences Against the Person Ordinance, it is an offence for a person to attempt to procure a miscarriage. A doctor who performs an abortion for medical reasons is obliged to rely on the common law defence that the operation was carried out to save the life of the mother or to prevent her from being reduced to a physical or mental wreck.

This defence is based on an English case which was decided in 1939 but leaves some room for doubt as to the degree of risk to the mother's health which will justify an abortion. Both the Medical Association of Hong Kong and the British Medical Association have asked that the position of a doctor who performs a therapeutic abortion should be made clear in law and this is the object of the bill which is before honourable Members.

Subsections (1) and (2) of the proposed new section 47A of the principal Ordinance (which is to be found in clause 2 of the bill) provide that a pregnancy may be terminated if two medical practitioners (who will normally, but not necessarily, be the doctor performing the operation and a colleague) are of the opinion that the continuance of the pregnancy will involve a greater risk to the life or physical or mental health of the woman than if the pregnancy were ended.

It should be noted that subsections (3) and (4) require an abortion to be carried out in a Government hospital or clinic or in a hospital or clinic approved by the Director of Medical and Health Services. Only in an emergency, if two doctors agree that this is necessary to save the life of a mother or to prevent grave permanent injury to her, may an abortion be performed elsewhere.

Subsection (5) of the new section empowers the Governor in Council to make the necessary regulations to give effect to these provisions. These regulations are likely to deal with the certificates to be provided by doctors and the reporting to the Director of all legal abortions by those who carry them out.

Subsections (6) and (7) make it clear that nobody is obliged to take part in an abortion if he has a conscientious objection to doing so, though this will not affect his general obligation to give such treatment as may be necessary to prevent death or grave permanent injury to a pregnant woman.

I should like to emphasize that this bill is not intended to legalize abortion in any general way. It is very limited in its scope and it is

[THE ATTORNEY GENERAL] **Offences against the Person (Amendment) Bill—
second reading**

intended to do no more than protect doctors who undertake therapeutic abortions in specified circumstances in Government or approved hospitals or clinics. Subsection (8) of the new section 47A makes it clear that any abortion which does not satisfy the conditions to which I have referred will continue to be unlawful and a very serious criminal offence.

Question proposed.

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

Question put and agreed to.

Explanatory Memorandum

Before the Abortion Act 1967, the common law position in England was that the procuring of a miscarriage was unlawful, unless done for the purpose of preserving the life or physical or mental health of the woman concerned, and this is still the law in Hong Kong.

However, common law leaves some aspects of the matter in doubt and it is considered essential that medical practitioners should know, with certainty, exactly what the law permits or prohibits and this Bill reproduces common law in statutory form, with such modifications as are thought desirable to remove doubts.

Clause 2 adds a new section 47A to the principal Ordinance setting out the circumstances under which a medical practitioner may lawfully terminate a pregnancy. Subsection (1) of the new section empowers him to do so only if two medical practitioners (normally the person performing the operation and a colleague) are of the opinion that the continuance of the pregnancy would involve a greater risk to the life or physical or mental health of the woman than if the pregnancy were terminated.

This provision follows the Abortion Act, 1967, except that it does not permit a medical practitioner, when determining whether or not a pregnancy should be terminated, to take into account the likelihood of injury to the physical or mental health of any of the existing children of the pregnant woman.

Subsection (2) enables the medical practitioners to take into account the pregnant woman's actual or reasonably foreseeable

environment when determining whether or not the pregnancy should be terminated under subsection (1). This provision follows the English Act.

Subsections (3) and (4) provide that (except when in the opinion of two medical practitioners, an immediate abortion is necessary to save the life or prevent grave permanent injury to the mother) an abortion must be carried out in a hospital or clinic maintained by the Crown or declared by the Director of Medical and Health Services by notice published in the *Gazette* to be an approved hospital or clinic for the purposes of the section.

Subsection (5) empowers the Governor in Council to make regulations requiring a medical practitioner to certify his opinion in such form and within such time as may be prescribed.

Regulations may also oblige a medical practitioner who terminates a pregnancy to give notice thereof to the Director of Medical and Health Services. This is to ensure that the law is observed and that accurate statistics of abortions may be compiled.

Subsections (6) and (7) relieve any person (in practice, mainly medical practitioners and nurses) from the risk of being exposed to criminal or civil action by refusing to terminate a pregnancy, if his refusal is based on a religious or other conscientious objection.

MATRIMONIAL CAUSES (AMENDMENT) BILL 1972

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

He said:—Sir, this bill, which adds a new Part IX to the Matrimonial Causes Ordinance, deals with the recognition in Hong Kong of divorces and legal separations obtained in other countries.

It follows closely the Recognition of Divorces and Legal Separations Act 1971, which gave effect in the United Kingdom to the Hague Convention on the Recognition of Divorces and Legal Separations. It is, I think, generally agreed that there should be as much uniformity as possible in the laws of different countries on the laws on this subject, since it is clearly undesirable for a divorce to be recognized in one country but not in another.

The effect of the new section 55, which is contained in clause 2, is that a divorce or legal separation obtained in judicial or other proceedings in a country outside Hong Kong will be recognized as valid here if one of the spouses was either habitually resident or domiciled

[THE ATTORNEY GENERAL] **Matrimonial Causes (Amendment) Bill—second reading**

in or a national of the country in which the degree of divorce or separation was obtained.

It should be noted that, by virtue of the new section 61, recognition may be refused if, in the obtaining of the decree, there was any infringement of natural justice or if it would, for some other reason, be contrary to public policy to recognize it.

It is proposed, by virtue of clause 1, that the bill should be brought into operation as from the 1st April 1972. However, the bill will have effect with regard to any divorces or separations which were obtained before that date as well as those obtained after it.

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 inserts in the Matrimonial Causes Ordinance the similar provisions of the Recognition of Divorces and Legal Separations Act 1971 (1971 c. 53), with only necessary minor modifications. This Act implemented in the United Kingdom the Hague Convention on the Recognition of Divorces and Legal Separations.

Clause 2 of the Bill adds a new Part IX to the Ordinance containing eight new sections.

The new section 55 describes the types of overseas divorces and separations which shall be recognized in Hong Kong. These are divorces and legal separations which have been obtained in judicial or other proceedings in any country outside Hong Kong and are effective under the law of that country.

By the new section 56, an overseas divorce or separation will be recognized only if either spouse was habitually resident, or domiciled in, or a national of the country in which the decree was obtained at the date of the institution of the proceedings.

New section 57(1) provides that if there were cross-proceedings it is sufficient if one of the jurisdictional tests is satisfied at the date of the institution either of the original or the cross-proceedings. The new section 57(2) provides that, in

relation to countries where a separation can be converted into a divorce at the end of a prescribed period, the requirements as to jurisdiction of section 56 need only be satisfied at the date of the institution of the separation proceedings.

Under the new section 58, for the purpose of deciding on the recognition of an overseas divorce or legal separation, the court will be bound by any finding of fact made in the proceedings under which the divorce or separation was obtained. If both spouses appeared in the proceedings the finding will be conclusive evidence of the fact found, and in other cases it will be sufficient proof of that fact.

The new section 59 retains certain other grounds for the recognition of divorces and legal separations.

It is provided in the new section 60 that where a divorce obtained in any country is recognized under the provisions of the Bill, either spouse may re-marry in Hong Kong even if the validity of the divorce would not be recognized in some other country.

The new section 61 provides that an overseas divorce or legal separation will not be recognized if under the law of Hong Kong at the time it was granted or obtained there was no subsisting marriage between the parties. Also, the recognition of a divorce or legal separation obtained outside Hong Kong may be refused if it was obtained by one spouse without having given reasonable notice of the proceedings to the other or without the other spouse having been given reasonable opportunity to take part in the proceedings. No other reasons for refusing recognition are allowed under the section.

The new section 62 contains interpretation and transitional provisions.

LABOUR TRIBUNAL BILL 1972

Resumption of debate on second reading (9th February 1972)

Question again proposed.

DR CHUNG: —Sir, I believe both management and, in particular, labour would welcome the establishment of labour tribunal which, as pointed out by the honourable Attorney General, should serve as a quick, simple, cheap and informal method of settling some of the more usual and simple types of labour-management disputes. In rising to give my support to this bill, I would like to make a few observations.

[DR CHUNG] **Labour Tribunal Bill—resumption of debate on second reading (9.2.72)**

First, the right of audience before the labour tribunal. One of the most salient features of the proposed labour tribunal is the prohibition of legal representation in any proceedings with the purpose not only to make the tribunal proceedings as simple, informal and cheap as possible but, I believe, also to avoid an employee, who is a claimant or a defendant and has little or no experience in court, being confronted with and questioned by an experienced and eloquent legal practitioner. However, clause 23 gives the right of audience to an officer or servant of an unincorporated or incorporated company. It is not uncommon in Hong Kong for a practising barrister or solicitor to hold office in a company as a director, and I believe clause 23 in its present form will not preclude a director, who is a legal practitioner by profession, appearing before the labour tribunal. I suggest that clause 23 be suitably amended so that a legal practitioner does not have the right of audience unless he is personally a claimant or a defendant.

Secondly, on clause 13(1)(a). This clause stipulates that the registrar shall, when a claim has been filed, fix a place and date for hearing of the claim which shall, unless the parties otherwise agree, be not earlier than ten days from the filing of the claims. However, the date for hearing could possibly be many months after the filing of the claim. Sir, the clause therefore does not appear to be consistent with the spirit of the bill which is to provide a quick solution to some common and simple labour-management disputes. I think a time limit of, say, not later than 30 days should also be fixed for any case to be heard but, of course, not necessarily to complete the hearing.

Last Monday, some Unofficial Members received a representation from a Hong Kong Christian Industrial Committee and had a meeting with workers' representatives. The workers considered that the right of audience granted to legal practitioners in their capacity as officers of a company is not fair to labour and suggested that a practising lawyer be barred from appearing in the labour tribunal unless he himself is personally a claimant or a defendant. The workers further wish to see a time limit within which a case must be heard. These two points, of course, have already been dealt with by me earlier.

The workers are also concerned about clause 15(1) which states that the labour tribunal shall not hear a claim until a certificate signed by a tribunal officer or an authorized officer is filed to show that conciliation has been attempted but no settlement has been reached. They consider that this provision is not necessary and request that the requirement of such a certificate be deleted. They are under apprehension that, if clause 15(1) remains unchanged, a worker would not be permitted to put his case to the labour tribunal until he has been

to the conciliation section of the Labour Department and until conciliation has failed and proved failed. I think the workers have cause for anxiety and recommend that Government clarify the situation and dispel the fear which may or may not be founded.

There are also some other points raised by the workers' representatives and I understand they will be dealt with by my other Unofficial colleagues and in particular by Mr CHEUNG.

Finally, Sir, I wish to say a few words about redundancy pay, which is a major cause of labour disputes in Hong Kong. There are increasing numbers of employees, particularly those lower-grade employees, who have been working for more than 5, 10 or 20 years with the same employers and whose services could be terminated by the employers, for no fault of the employees themselves, with 7 days' notice or payment in lieu of notice without any further legal obligation on the part of the employers. This certainly is a serious social injustice, especially when we in Hong Kong do not have any public system on social security. Furthermore, the majority of workers here have practically no effective labour union to stand up for their own rights. At present there is no legislation for redundancy pay on the one hand and any redundancy pay dispute is outside the proposed jurisdiction of the labour tribunal on the other. Sir, in my humble opinion, I consider that this state of affairs is very unsatisfactory and that our social progress does not match with our economic progress. I would therefore urge Government, once again, promptly to look into this matter and give a much higher priority to the introduction into this Council of a bill governing redundancy compensation. It has been almost five years since Government first put this piece of redundancy legislation on the drafting board and, perhaps, Government could inform this Council the reasons for such a long delay.

With these remarks, Sir, I have pleasure in supporting the motion before Council.

MR CHEUNG: —Sir, the aim of the bill, as I understand it, is to establish a Court where an employee may obtain quick and effective redress from his employer for money due. It will have inquisitorial powers; the proceedings will be conducted in the language best suited to the occasion; red tape and pettifogging will be eschewed; justice will neither be denied nor postponed.

Without subscribing in any way to any view that the rules, practice and procedure in our civil Courts are not designed for the same ends, and indeed asserting that, properly administered, they ensure that justice is done and right prevails, I nevertheless welcome the establishment of this Court. At the committee stage I may well have to refer to some of the points already raised by my Friend, Dr CHUNG, and to raise some other queries on the details of the bill and ask

[MR CHEUNG] **Labour Tribunal Bill—resumption of debate on second reading (9.2.72)**

whether they are best designed to achieve the objects to which we all subscribe, and today I confine myself to speaking on a number of matters of principle.

Now, whilst I appreciate that you, Sir, under clause 4 may appoint more than one presiding officer, I gather from what the honourable the Attorney General has said that, to start with, only one such presiding officer will be appointed; whether or not, in the light of assessment of need, this view will change I do not know; but nevertheless, if the object of securing quick and effective redress is to be achieved, I think it will be necessary to exclude from the Court's jurisdiction, so as not to clutter up its business, individual claims of a magnitude which can well afford to take advantage of the facilities offered in our other courts. My honourable Friend, Mr ANN, has been good enough to tell me of some proposals of his in this regard on which he is going to address the Council and, knowing what he is going to say, I content myself by expressing agreement with him in advance.

Again, though I think in this respect the jurisdiction set out in the schedule is too wide, in one other respect I think it is too narrow. As drafted, the Court's jurisdiction includes cases where the claimant is actually employed by another person but, as I construe the schedule, if he contracts personally to execute any work or labour, so that he is self-employed, for example, if he is an odd job coolie or perhaps a worker in the building construction trade, he will find himself excluded from access to this Court. To persons who are not lawyers this distinction may well prove infuriating, but this is going to be a court of law, and the schedule will be construed in accordance with law. I don't think it is our intention but it should not be our intention to exclude workers of that kind from these courts because of legal doctrine, and I would urge therefore that the court's jurisdiction in this respect be extended. I am also a little concerned with paragraph 3 of the schedule which excludes the court from considering claims in tort, and I am left wondering whether the proceedings in this court might founder because of it, and I would suggest to my Friend the Attorney General that a little more consideration be given to that paragraph in the schedule before we enact it.

I am also a little perturbed by clause 10. We say on the one hand that this Court is to have exclusive jurisdiction for 6 months over certain money claims and on the other, by clause 10, we say that the court, for reasons which we do not specify, might say "I won't deal with this case". I would suggest that this is not entirely satisfactory, and that we should make up our minds as to what, over what, the court is to have jurisdiction, and then entrust the court with the job of getting on with it.

Next, I find myself, regarding the phrase "penal costs" in clause 29, with a little misgiving; that is a clause which empowers the court to award penal costs against a claimant whom it regards as being frivolous or vexatious. It may be only a matter of terminology; but it may be worth our while to give this particular phrase and what is behind it a little more thought.

Fourthly, whilst I subscribe to the view that this court should give effective redress, I am not at all sure that it is right to import the criminal law into the proposed set up, as is done in clause 14(8), which makes it an offence for a party not to comply with certain requests of the tribunal officer. In civil courts a party in contempt can be effectively dealt with under fairly well established rules, and I would ask that this proposal be reconsidered.

Finally, whilst I agree that lawyers ought to be kept out of this tribunal and I agree with my Friend, Dr CHUNG, that we must not allow solicitors who are company directors to go in under the guise of a company officer, I am left to wonder whether there are any presiding officers who might not one day, faced with a legal conundrum, devoutly wish that we had not thought that lawyers could be omniscient. I think we ought to authorize the presiding officer if he considers that he needs help on a legal problem to be able to summon lawyers before him to argue the point of law—only to argue the point of law, not to cross examine, nor to address the Court on the facts—and in order to hold the balance fairly between employer and employee, I ask, if it is agreed that the presiding officer might summon help in these circumstances, whether provision for legal aid ought not be included in the bill.

There are, as I said earlier, a fair number of details in the bill which would require further examination at the committee stage, and as we are going to be preoccupied by the budget for the next fortnight, my honourable Friend, the Attorney General, might consider postponing the committee stage of this bill to a date later than the 15th March.

MR ANN: —Your Excellency, the idea of a labour tribunal was discussed by the General Committee of the Federation of Hong Kong Industries as far back as 1969. It was felt then that such a Tribunal would, in principle, be desirable for Hong Kong.

Apart from two minor points, the general provisions of the bill laid before the Council conform with the principles supported by industry.

The first point I would like to raise here, Sir, is that when the idea of a labour tribunal was first discussed, the general opinion was

[MR ANN] **Labour Tribunal Bill—resumption of debate on second reading**
(9.2.72)

that such a tribunal had the decided advantage of reaching rapid decisions for the benefit of both labour and management with regard to "claims of statutory rights".

The schedule to the present bill, however, covers not only claims arising out of the Employment Ordinance or the Industrial Employment (Holidays with Pay and Sickness Allowance) Ordinance, but also those arising from all contracts of employment, and thus the bill goes beyond the scope originally envisaged.

It would be preferable, I feel, that the jurisdiction of the tribunal be confined to hearing cases within a limited income bracket, as it is likely that the parties litigant for claims in respect of the higher income bracket would take their grievances to the Supreme Court or the District Court with more elaborate grounds and counter arguments requiring legal representation.

A second point; my honourable Friend, the Attorney General, in introducing the bill, gave assurance that the presiding officer of the tribunal will be a judicial officer. This is very appropriate, as I feel that such an officer would be the most qualified person to sit at such hearings.

However, it would also be desirable for the tribunal officers to be also permanent members of the Judiciary, for this experience would be invaluable to the continuing smooth and efficient functioning of the tribunal. May I have the assurance of my honourable Friend, the Attorney General, that these tribunal officers would not be appointed temporarily on secondment from other Government departments?

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

MR LO: —Sir, I welcome this bill which is to establish a labour tribunal where a claim arising out of a breach of contract of employment can be heard expeditiously in an informal manner.

In an industrial society, disputes between management and labour are sometimes inevitable. But it is important that when such a dispute arises, it should be resolved as quickly as possible. The setting up of this labour tribunal will meet this long felt need.

Although the scope within the jurisdiction of the tribunal is at present limited, under clause 8, this Council is given the power to amend the schedule by resolution. So it is presumed that after the tribunal has been in existence for some time, its scope can be broadened as and when it is necessary.

I am wondering, however, whether we shouldn't even now add another item to the schedule for a claim against loss of personal property and tools by employees at the place of work through fire or other accidents? I have in mind the recent case of the "Seawise University" where a large number of workmen lost their tools on board the ship in the course of fire.

I welcome clause 15 where the parties concerned are required to conciliate through the tribunal officer before appearing before the tribunal. But it is important to ensure that there is nothing to prevent either party from having the case heard before the tribunal if he chooses to do so.

Clause 19 says that the hearing can be conducted in such language as the tribunal may think fit. There can be only two possible languages, that is English and Chinese. If it is conducted in Chinese, then it must be in the Cantonese dialect, in which case it is hoped that interpreters will be provided for those who do not speak Cantonese.

Finally, Sir, in the case of appeal to the District Court, where the parties must be represented by legal counsel, I take it that where an employee does not have the means to employ one, legal aid will be made available to him.

With these remarks, Sir, I beg to support.

THE ATTORNEY GENERAL (MR ROBERTS): —Sir, while I see considerable force in the suggestion which has been put forward by honourable Members that the jurisdiction of the tribunal should be limited to claims by persons whose salaries or wages do not exceed a specified upper limit, I think that we should be rather cautious before we adopt this.

I am sure that honourable Members will agree that, as far as possible, it is desirable that in law all employees should be dealt with in the same manner. It would be unfortunate if it could be said, however unfairly and inaccurately, that we had prevented the poor man from having access to the ordinary courts but had left the rights of the better paid employee untouched. Unless there are compelling reasons for drawing a distinction of this kind, I feel it would be wiser not to amend the bill in this respect.

However, clause 10 of the bill, which is the one enabling the tribunal to decline jurisdiction in any particular case, could be used by the tribunal if, in practice, it turned out that a very high proportion of its time were used up in dealing with claims by very well paid employees.

[THE ATTORNEY GENERAL] **Labour Tribunal Bill—resumption of debate on second reading (9.2.72)**

I can understand that honourable Members might also feel a general anxiety about the purpose and effect of clause 10. The main reason for including it was, I think, to deal with the occasional claim which may involve difficult questions of law. In such a case, particularly if an appeal to the District Court is likely, it would save time if the claim were immediately transferred to the courts, where it could be argued by counsel.

Furthermore, there may also be occasions on which it would be wiser for an employee not to pursue his claim before the tribunal but to institute or take part in bankruptcy or winding up proceedings. In such cases the presiding officer would be able to advise the employee accordingly and decline to deal with the claim under clause 10.

I therefore suggest that this clause is of some value and ought to be retained, though if honourable Members wish to suggest ways in which its operation might be clarified I would be very pleased to consider them.

As I indicated when moving the second reading, it is certainly intended that the presiding officer of the tribunal will be a permanent member of the Judiciary. However, the suggestion is at present that the tribunal officers should be members of my department and should be specialists in this work. I think that there are advantages in the presiding officer being obviously independent of his tribunal officer; the tribunal officer's task being, of course, to interview the parties and to furnish a report to the presiding officer on his findings. If in practice this arrangement proves to be unsatisfactory, then the Government would certainly be prepared to reconsider it, but on balance I think the arguments are in favour of the tribunal officers not being part of the Judiciary as well as the presiding officers.

The appearance before the tribunal of a director or representative of a company or of a trade union with a legal qualification, I concede, might place an unrepresented person at a disadvantage and therefore could perhaps be said to offend against the spirit of the bill.

On the other hand, of course, the right of a person who is legally qualified to pursue and defend a claim which is made by or against him in his personal capacity would need to be protected. However, I think it should be possible to amend the bill so as to achieve both these objects.

I agree with the honourable Dr CHUNG's suggestion that there should be a maximum period within which the date for the hearing of a claim should be fixed since, as he said, that it is essential that claims must be dealt with as quickly as possible. However the presiding

officer may not always be able to begin a hearing within the period of thirty days which has been proposed, perhaps because it is a particularly difficult case and the tribunal officer has not yet completed his report, or perhaps because there is a considerable pressure of work from time to time. To cover these possibilities, the fixing of a date for hearing within thirty days would have to be subject to a discretion conferred on the presiding officer to postpone the initial hearing if this became necessary.

With regard to the operation of clause 15(1), I hope I can allay the anxiety of those workers who are uneasy about it. This clause does not oblige a worker to take part in conciliation. He can refuse to take part in it and, I think, paragraph (a) of clause 15(1) does make this clear. The object of the clause is to ensure that the possibility of conciliation is brought to the attention of a claimant, but not to oblige him to accept it. I will certainly ensure that the tribunal officers, if they continue to be, as it is proposed, a part of my department, do not put any unfair pressure on workers to agree to conciliation. However, if honourable Members think that it is important that this should be stated more clearly in the bill, then certainly I would include an additional paragraph to make it clear that conciliation is optional and not compulsory.

The tribunal would have jurisdiction to deal with a claim for redundancy if the contract of employment provided for this. I understand, however, that such provision is not yet common in Hong Kong, but I would prefer to leave it to the honourable Commissioner of Labour to deal, on a more suitable occasion, with the desirability of legislation providing for redundancy in Hong Kong.

I will certainly consider the honourable Mr K. S. Lo's suggestion that the schedule should be amended to allow the tribunal to deal with claims for loss of property by employees. However, I think it may well prove on closer examination not to be desirable to amend it in this way because claims of this kind are liable to give rise to quite difficult questions of law, because there are a number of persons, apart from the employer, who might be liable in these circumstances. Furthermore, a loss of this kind may result from negligence, and actions in tort are specifically, and I think really quite rightly, excluded from the jurisdiction of tribunal.

The honourable Mr CHEUNG has suggested that claims arising out of the performance of what perhaps I might describe as personal services should also be subject to the jurisdiction of a tribunal, but this would involve something of a departure from the bill, which essentially bases jurisdiction on contracts of employment. May I suggest that it might perhaps be wiser to limit the work of the tribunal as is proposed in the bill for the present and any extension of the jurisdiction

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on the lines advocated by the honourable Member could then be looked at after the bill has been in operation for a few months.

I can certainly confirm that, if there is an appeal to the District Court, legal aid would be available to any worker who satisfies the necessary means test and can show that his case has some merit.

Some anxiety has been expressed at the presence of a penalty for those who fail to produce records when required to do so under clause 20. This is a new kind of tribunal, and I am afraid that it would not have any inherent power to deal with contempts and disobedience to its orders, and that therefore some clause on the lines of clause 14 seems to be necessary, though I would welcome any proposals from the honourable Member for the improvement of this provision.

It has also been represented that it should be an offence to threaten or insult the presiding officer or to disrupt the proceedings before a tribunal and I shall put forward a clause, at the committee stage, to deal with this problem.

The bill has been widely welcomed and a number of helpful comments, in addition to those made by honourable Members, have been received, and these will be carefully considered before the committee stage, which I propose should be taken in four weeks' time, when I shall move a number of amendments which I hope will improve the bill. In the preparation of these I shall, of course, consult with those honourable Members who have commented on the bill.

Question put and agreed to.

Bill read the second time.

Bill committed to a committee of the whole Council pursuant to Standing Order No 34(1).

DETENTION CENTRES BILL 1972

Resumption of debate on second reading (9th February 1972)

Question again proposed.

MR WONG: —Sir, in speaking on the Detention Centres Bill 1972, I am impressed with this entirely new method of dealing with young offenders under the age of 21. Any measure which would deter the rising number of young offenders from further criminal activities is worth a trial.

However, noble as the original concept be, a word of caution should be exercised.

In this day and age, there is a tendency to over-emphasize individual rights and justice and to neglect the general interest of the community in the way of deterrent against crime.

The time will come when a decision has to be made whether individual justice is paramount or subservient to social justice.

According to Chinese custom, the number one crime is murder and number two is robbery. In Christian civilization the number one crime is breaking the 6th commandment and the number two crime is breaking the 8th commandment. In ancient times, the punishment for both could be the death sentence.

The deterrents during the last century were corporal punishment and long prison sentences under conditions of great discomfort. For humanitarian reasons, prison conditions have improved in most developed countries. In this proposal, it was also envisaged that emphasis in these centres will be placed on hard work and exercise. But let us make sure that there will actually be hard work and long daily exercises and not merely transfer a person for a period of a month into living conditions roughly equivalent to that of a resettlement estate.

In the administration of justice, the anomaly lies in the fact that what we consider to be a punishment here is only equivalent to a phase of disciplinary treatment in countries behind the curtain.

When defining hard work in detention centres, we should take into its meaning the idea of "disutility" as expounded by Alfred MARSHALL.

It may be noted that in certain neighbouring countries, the standard treatment for the training of a good cadre or rehabilitation of an errant comrade is 6 months of hard work and exercise. For that reason, I was not in favour of reducing the minimum period of detention originally proposed from 3 months to 1 month. I still hope that the Commissioner of Prisons, in his wisdom, will not invoke the minimum sentence and thus minimize the deterrent effect which was originally intended and to keep protecting this society, which is beginning to suffer a spate of crimes, from young criminals.

With these remarks, I support the bill.

MR WILSON T. S. WANG: —Sir, since the bill was published for general information in the *Government Gazette* on 4th February, it has received prominent comments and widespread support. There are,

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of course, some who would doubt as to whether the conditions in a detention centre will really be tough enough to have the intended deterrent effect on young criminals. However to the comfort of all who have shared such concern, we have the assurance given by the honourable the Attorney General that it is the intention of the Commissioner to make them so. In supporting this bill, therefore, I express the hope that the detention centre will soon convince all youngsters that the law does not treat offences lightly.

Sir, to me the worse evil of the imprisonment of young first offenders arises from bringing them into contact with adult and professional criminals, and the hard-core and long-time prisoners. It is through such a contact that they can be tempted, bullied and victimized into joining the "gangs" and, as a result, they leave the prisons only to become involved in more serious crimes. The greatest improvement arising from setting up a detention centre for the young first offenders is the avoidance of such a contact. The limitation of the maximum detention periods to six months will have two advantages. First, it will make it unsuitable for the more hardened criminals whose proper places should still be the prison and, secondly, none of the detainees will have a chance to establish themselves as the "big brothers" of the centre. It is for this reason that I do not consider it advisable to extend the period to one year as some might have suggested. For the same reason, also, I would rather see the advantage of enabling the Commissioner to release a detainee after a minimum period of one month. It will be an inducement to those who try to be co-operative. I am relieved to hear that the Commissioner is appreciative of the administrative and disciplinary problems that may arise by allowing too wide an age bracket among the detainees and that the initial entry might be limited to a rather smaller age bracket or the detention centre sub-divided into different areas, catering for the needs of different groups within the 14-20 age bracket. I wish to emphasize here the importance of such sub-divisions and, unless this can be achieved, it would be more advisable that the age bracket be narrowed down initially, say, to 14-18. In fact I, for one, do not share the same optimism on the deterrent effect on the higher age group and would consider it not worth taking the risk of exposing the younger ones to their bad influence. I would be inclined to favour a separate and even tougher centre such as a hard labour centre to be established for offenders in the high-age category.

I welcome this new method of treatment for young criminals. I too believe that we cannot allow them to escape from punishment fit for the crimes they commit, but we must remember it is also our responsibility to ensure that they are not turned from bad to worse

by the sentence they serve. I believe that a well administered detention centre will serve the desired purpose, and I express the hope that we will build the centre but no one will use it.

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.

FATAL ACCIDENTS (AMENDMENT) BILL 1972

Clauses 1 and 2 were agreed to.

Council then resumed.

Third reading

THE ATTORNEY GENERAL (MR ROBERTS) reported that the Fatal Accidents (Amendment) Bill 1972 had passed through Committee without amendment and moved the third reading of the bill.

Question put and agreed to.

Bill read the third time and passed.

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 15th March 1972.

Adjourned accordingly at twelve minutes past six o'clock.