

## OFFICIAL REPORT OF PROCEEDINGS

Wednesday, 20th June 1973

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 (*Acting*)  
MR JOHN WILLIAM DIXON HORLEY, JP  
THE HONOURABLE THE SECRETARY FOR HOME AFFAIRS  
MR JACK CATER, CBE, JP  
THE HONOURABLE THE FINANCIAL SECRETARY  
MR CHARLES PHILIP HADDON-CAVE, CMG, JP  
THE HONOURABLE DAVID RICHARD WATSON ALEXANDER, CBE, JP  
DIRECTOR OF URBAN SERVICES  
THE HONOURABLE JAMES JEAVONS ROBSON, CBE, JP  
SECRETARY FOR THE ENVIRONMENT (*Acting*)  
THE HONOURABLE JOHN CANNING, JP  
DIRECTOR OF EDUCATION  
DR THE HONOURABLE GERALD HUGH CHOA, CBE, JP  
DIRECTOR OF MEDICAL AND HEALTH SERVICES  
THE HONOURABLE PAUL TSUI KA-CHEUNG, CBE, JP  
COMMISSIONER OF LABOUR  
THE HONOURABLE IAN MACDONALD LIGHTBODY, JP  
SECRETARY FOR HOUSING  
THE HONOURABLE LI FOOK-KOW, JP  
DIRECTOR OF SOCIAL WELFARE  
THE HONOURABLE ERIC PETER HO, JP  
DIRECTOR OF COMMERCE AND INDUSTRY  
THE HONOURABLE IAN FRANCIS CLUNY MACPHERSON, JP  
DISTRICT COMMISSIONER, NEW TERRITORIES  
THE HONOURABLE ALEXANDER STUART ROBERTSON, JP  
DIRECTOR OF PUBLIC WORKS (*Acting*)  
THE HONOURABLE WOO PAK-CHUEN, CBE, JP  
THE HONOURABLE SZETO WAI, OBE, JP  
THE HONOURABLE WILFRED WONG SIEN-BING, OBE, JP  
THE HONOURABLE MRS ELLEN LI SHU-PUI, OBE, JP  
THE HONOURABLE WILSON WANG TZE-SAM, 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 ANN TSE-KAI, OBE, JP  
THE HONOURABLE ROGERIO HYNDMAN LOBO, OBE, JP  
THE HONOURABLE MRS CATHERINE JOYCE SYMONS, OBE, JP  
THE HONOURABLE JAMES WU MAN-HON, JP  
THE HONOURABLE HILTON CHEONG-LEEN, OBE, JP  
THE HONOURABLE GUY MOWBRAY SAYER, JP  
THE HONOURABLE HUGH MOSS GERALD FORSGATE, JP

### IN ATTENDANCE

THE CLERK TO THE LEGISLATIVE COUNCIL  
MR RODERICK JOHN FRAMPTON

### Oath

MR SAYER took the Oath of Allegiance and assumed his seat as Member of the Council.

HIS EXCELLENCY THE PRESIDENT: —I am very glad to welcome Mr SAYER to this Council.

### Papers

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

<i>Subject</i>	<i>LN No</i>
Subsidiary Legislation: —	
Detention Centres Ordinance 1972.	
Chatham Road Detention Centre Order 1973 .....	110
Training Centres Ordinance.	
Chatham Road Training Centre Declaration 1973 .....	111
Public Transport Services (Kowloon and New Territories) Ordinance.	
Public Transport Services (Kowloon and New Territories) (Variation of Fares) (Amendment) Order 1973 .....	112
Summary Offences Ordinance.	
Summary Offences Ordinance (Exemption from Section 13) (No 4) Order 1973 .....	113
District Court (Civil Jurisdiction and Procedure) Ordinance.	
District Court Civil Procedure (General) (Amendment) Rules 1973 .....	114

Sessional Paper 1972-73: —

No 59—Urban Council: Estimates of Revenue and Expenditure for the year ending 31st March 1974 (published on 20.6.73).

### Oral answers to questions

#### Mail delivery

1. MR WU asked: —

What is the average length of time taken for delivery of mail (a) to Hong Kong Island, (b) to Kowloon and (c) to

the New Territories for letters posted (a) on Hong Kong Island and (b) in Kowloon? Is Government satisfied that there are now adequate staff to avoid delays?

THE COLONIAL SECRETARY (SIR HUGH NORMAN-WALKER): — Statistical sampling, Sir, carried out by the Post Office indicates that about 98% of all correspondence posted throughout Hong Kong Island, Kowloon and the New Territories is delivered in the main urban areas not later than the day following the date of posting, as shown by the postmark. In these main urban areas there are three collections and two deliveries of mail each day, Monday to Saturday inclusive.

The same high standard cannot be achieved in rural areas of the New Territories, the outlying islands and in some housing estates, where the small amount of mail justifies only one delivery a day. Even here, however, the statistical sampling indicates that about 95% of all correspondence is delivered in these areas not later than the day following the date of posting, as shown by the postmark. There are two collections of mail in the rural areas of the New Territories each weekday.

The establishment of the Post Office has been strengthened over the last two years and I am advised is now adequate for the maintenance of the standards I have mentioned.

### **Oil spills in Hong Kong waters**

2. MR FORSGATE asked: —

What arrangements have been made to deal with a major oil spillage in Hong Kong waters?

THE FINANCIAL SECRETARY (MR HADDON-CAVE): —Sir, prevention and control of oil pollution in Hong Kong waters is the responsibility of the Pollution Control Unit of the Marine Department. The Unit has seven tug boats, two of which are fitted with the "five-bar gate" system of oil dispersal, as well as seven twin screw lighters for logistical support and three fast personnel carriers to transport men and equipment. The Unit keeps a stock of 10,000 gallons of chemical dispersant and has facilities for purchasing an additional 2,000 gallons immediately on demand and a further 300 to 500 gallons daily on a prolonged basis. The Unit also maintains 500 feet of oil booms to contain oil spillages and to protect such vital areas as typhoon shelters, beaches and waterfronts and a further 1,600 feet of lightweight oil booms can, where necessary, be provided on loan by local oil companies.

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In addition to these facilities the Fire Services Department maintains three fire boats which are fully manned on a 24-hour basis. These boats are fitted with equipment to disperse oil spillages. The Royal Hong Kong Auxiliary Air Force helicopters are also available for reconnaissance purposes.

Sir, although Hong Kong has never experienced any serious oil pollution, both Government and the industry have been considering all aspects of the problem. A special sub-committee of the Port Executive Committee was formed last year to consider the introduction of suitable legislation and codes of practice and to examine the adequacy of facilities and equipment for combating oil pollution. The sub-committee produced its first report in March of this year and its recommendations are now being considered.

In addition, and without prejudice to the findings of the sub-committee on oil pollution, it is considered that the Pollution Control Unit needs to be strengthened straightaway. To this end the Director of Marine has recommended the purchase of a 70-foot purpose built launch to enable the Unit to enforce anti-pollution legislation more effectively and to assist in meeting a potential emergency that might arise from a large oil spillage. A request for the necessary funds to build and equip this specialized launch will shortly be submitted for approval to the Finance Committee of this Council.

**Applications for identity cards**

3.      MR ANN asked: —

When will Government amend the legislation so as to prevent the need for an applicant for an identity card who is also awaiting immigration clearance from having to go through the application process several times?

THE COLONIAL SECRETARY (SIR HUGH NORMAN-WALKER): —Sir, for all those who arrive in the Colony legally with the right to remain (and to get the figures in proportion, these amounted to nearly 174,000 in 1972-73), identity cards are available after making a single application. Of those who arrive illegally, who apply for identity cards and who, after investigation, are allowed to remain, the great majority also need to apply only once: the number of applicants in this category in the 12 months ended 31st January 1973 was 13,070. In the case of a minority of illegal immigrants, however, it can be a difficult and lengthy process to trace their background, often because

the initial information they provided was false. For this reason, during the same period there were 1,640 applications from immigrants who had already applied previously.

The Government has in hand ways and means of reducing this figure but I am by no means convinced that amendment of the regulations is either the right, the easiest or the quickest way.

### Harbour crossings by vehicles

4. DR CHUNG asked: —

Will Government state the number of vehicles crossing the harbour per month during the ten months since the opening of the cross-harbour tunnel in August 1972 which used the tunnel and the ferries respectively?

THE FINANCIAL SECRETARY (MR HADDON-CAVE): —Sir, the answer to this question is contained in the table of figures laid before honourable Members at the beginning of this sitting.

#### MONTHLY FIGURES OF VEHICLES

FROM AUGUST 1972 TO MAY 1973

	<i>*Cross-Harbour Tunnel</i>	<i>Hongkong and Yaumati Ferry</i>
<i>1972</i>		
August .....	692,862	381,374
September .....	696,283	357,567
October .....	770,692	375,609
November .....	788,156	357,938
December .....	883,242	365,190
<i>1973</i>		
January .....	889,604	367,360
February .....	901,743	302,573
March .....	980,075	370,933
April .....	931,949	342,159
May .....	<u>944,027</u>	<u>358,026</u>
Total .....	<u>8,478,633</u>	<u>3,578,729</u>

*Note:* \* Excluding the buses of the two companies.

**Oral answers****University fees increases**

5. MR LEE asked: —

Will Government give a detailed explanation of the circumstances leading to the recent increase in University fees? What steps are being taken to avoid hardship to existing students and in what circumstances can financial assistance be given to future students to meet these fees?

THE COLONIAL SECRETARY (SIR HUGH NORMAN-WALKER): —Sir, the first part of my honourable Friend's question asks for an explanation of the circumstances leading to the recent increase in University fees.

The range of fees currently in force at the University of Hong Kong was fixed twelve years ago and ranged from \$1,100 to \$1,560 a year. Those at the Chinese University of Hong Kong were fixed ten years ago at a lower range—\$800 to \$1,050 a year.

By 1966 it was apparent that a revision of these fees was necessary and, moreover, it had always been the intention to standardize the fees of the two universities as soon as facilities at both of them were comparable. In 1966, therefore, the Government invited the newly constituted University Grants Committee to advise on this problem. The advice received was that in the absence of an adequate scheme of financial assistance for less well-off students, any increase in fees at that time would adversely affect them—and this argument was accepted.

In 1969 the Council approved the introduction of a large scale measure of financial assistance for university students. The Student Finance Scheme provides grants for meeting tuition fees and loans, repayable after graduation, to meet living expenses. The Student Finance Scheme represents a very considerable step forward, and honourable Members will recall that the provision approved in respect of grants for the current financial year is \$2.8 million, while the revolving fund for interest-free loans to students has been increased by \$6.25 million to \$21.25 million. It is estimated that loans from this fund, processed by the Joint Universities Committee on Student Finance, will reach \$10.5 million for the current financial year.

With the Student Finance Scheme launched, the University and Polytechnic Grants Committee accepted that fee levels should be re-examined, and approached the Universities accordingly.

The levels of fees and financial assistance are determined by joint consultation with the Government, the University and Polytechnic Grants Committee and the Universities themselves.

Members will recall that in May last year this Council gave an assurance that, if fees were raised, the grant requirement would also be re-examined. In the light of this assurance, an appropriate updated fee structure was agreed and the new levels were announced on the 1st June this year.

The second part of my honourable Friend's question refers to steps being taken to avoid hardship being inflicted on existing students. I can assure him that no steps are necessary because the new fees do not apply to any existing students. The new fees apply only to those students who will enrol after July 1974.

Thirdly, the honourable Member asks in what circumstances financial assistance can be given to future students to meet the new fees.

I can reassure this Council that only those students who can afford to do so will have to pay the new fees in full.

Those who cannot afford to pay them, or can only afford part of them, have only to apply for assistance from the Student Finance Scheme which will assist them in full or in part according to their need.

In conclusion Sir, I would add that the paramount and continuing policy in this matter is to ensure that no student who has obtained a place should be denied a university education through lack of financial resources. The revision of fees was therefore accepted in the certain knowledge that the position of less well-off students would continue to be fully protected.

### **Crime reports procedure**

6. MR WANG asked: —

Will Government describe the steps which have been taken to simplify the procedure for reporting crime?

THE SECRETARY FOR HOME AFFAIRS (MR CATER): —Sir, two specific measures have been taken by the Police to simplify the procedure for reporting crime.

Firstly, the Police have set up 15 reporting centres in offices of Kaifong Associations and in low cost housing estates, and in the next month will be establishing 25 similar centres in prefabricated transportable structures in areas where permanent accommodation is not readily available. In addition, police landrovers are deployed in

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strategic locations, and they also serve as mobile reporting centres. Secondly, a new and simplified reporting procedure has been introduced at all reporting centres and at police stations. This procedure is based on the use of a simple *pro forma* which should certainly speed up the processing of reports and cut down considerably the time taken to make a report.

Sir, I would also assure my honourable Friend that there will be a continuing review of all police procedures for receiving and recording reports with a view to reducing still further the time spent in police stations by members of the public.

### **Polytechnic fees**

7. MRS SYMONS asked: —

Are student fees for the Polytechnic to be increased in the near future?

THE COLONIAL SECRETARY (SIR HUGH NORMAN-WALKER): —Sir, the short answer to my honourable Friend's question is "No".

But in fairness to honourable Members I think this has to be qualified. After all the phrase "near future" is a subjective one.

The present fees of \$400 a year have remained the same since 1966 and were, so to speak, taken over by the Polytechnic from the Technical College when the former was set up in August last year. It would therefore be reasonable to expect that the Board of Governors of the Polytechnic and the University and Polytechnic Grants Committee would wish to examine the adequacy of these fees in the light of experience and costs of running the Polytechnic.

MRS SYMONS: —Sir, may I ask if in the future, or near future, fees are to go up, I may assume that needy students will be looked after in much the same way that they are at the two Universities?

THE COLONIAL SECRETARY (SIR HUGH NORMAN-WALKER): —The possibility of extending the scheme of grants and loans for university undergraduates to the less well-off Polytechnic students is under examination. If such an extension is found practicable, then it would replace the existing fee remission scheme which, along with the fees, was inherited from the Technical College.



### **Public light bus fares**

8. Mr WANG asked: —

In view of the increase in fares imposed from time to time by the operators, will Government take steps to control the fares of public light buses?

THE FINANCIAL SECRETARY (MR HADDON-CAVE): —Sir, the question of controlling fares charged by public light buses has been examined by the Transport Advisory Committee and certain recommendations formulated, but the Committee is being asked to look again at this very difficult question. I am afraid, therefore, that until the Government has received and considered the Committee's further advice, there is nothing more I can say at the present time.

### **'Tight Violent Crime' Campaign**

9. Mr CHEONG-LEEN asked: —

What steps are being taken during the "Fight Violent Crime" Campaign to clamp down even further on armed youth gangs, especially those which have been terrorizing the overcrowded public housing estates and other overcrowded districts?

THE SECRETARY FOR HOME AFFAIRS (MR CATER): —Sir, as my honourable Friend will be aware from recent public statements, the Royal Hong Kong Police and the Royal Hong Kong Auxiliary Police will be making an even greater effort during the action phase of the "Fight Violent Crime" Campaign which began on Monday, 18th June. There is now a much greater and visible police presence on the ground, and it is expected that this will have a deterrent effect on the violent criminal.

Since the beginning of the Campaign, the Police have already mounted 796 raids and have stopped and searched over 13,000 people; as a result, 722 have been detained. I can assure my honourable Friend that this is only the beginning, and that these efforts will continue. It would, however, I suggest, Sir, be counter-productive to give detailed information on police operational plans for dealing with particular problems in particular areas, but I can assure my honourable Friend of the determination of the Police, and indeed of this Government, to ensure that everything possible will be done to increase the rate of detection of the violent criminal, and this of course includes effective action against "armed youth gangs".

**Oral answers****Primary school leavers**

10. Mr CHEONG-LEEN asked: —

How many school drop-outs have there been for the last 2 years at the Primary 4, 5 and 6 levels and what were the main reasons therefor? What specific action is being taken by Government to ensure that children complete the full 6-year primary education course?

Mr CANNING: —Sir, the figures for primary school wastage in 1971 and 1972 have been obtained by subtracting the enrolment in, say, Primary 4 in 1971 from the enrolment in Primary 3 in the previous year. These figures do not accurately reflect the drop-out position since repeaters who are not promoted are shown as wastage, as are pupils who leave in order to enter another school. The wastage figures calculated as I have described are as follows:

	1971	1972
Primary 4 .....	5,822 (4.3%)	4,732 (3.5%)
Primary 5 .....	11,966 (9.7%)	11,629 (8.9%)
Primary 6 .....	16,515 (16.3%)	14,726 (13.2%)

The percentages are those of the total enrolment.

These figures give no grounds for complacency but the percentage of the figures indicates that there is a small but significant trend towards a decrease in wastage. The percentage figures, as I have said, exaggerate the position since the statistics available do not identify the number of children who leave school either because they are overage or because they wish for one reason or another to be enrolled in another school, possibly because their parents have gone to live elsewhere. There are a number of reasons why children drop out in the true sense of the word and discontinue their study; they may be required to work at home to help the family either by minding children or by working; they may find school work uncongenial; or they may be slowlearners who feel they are steadily dropping behind.

I have instructed Headmasters to ensure that all children admitted to public primary schools are able to complete the six-year course and pupils should not be dismissed on the ground of academic weakness. The Special Education Section of my Department arranges for the placement of slow-learning children in special schools or special classes. The possible exercise of my compulsory powers is always carefully considered but, as I have said, the real problem is to identify on a

school basis the true drop-outs among the children who leave one school in order to enter another. My honourable Friend may rest assured that I am giving very careful consideration to this difficult problem.

MR CHEONG-LEEN: —May I ask a supplementary, Sir? The first sentence in paragraph 3 of the honourable Director of Education's reply makes reference only to children who are admitted to public primary schools. What is the situation in regard to children in schools other than public primary schools?

MR CANNING: —Children who are in schools other than public primary schools may of course apply for entry to the public primary school system in which there are vacancies for them.

MRS SYMONS: —Sir, may I ask a supplementary? Would the honourable Director of Education be able to find out the breakdown of Primary 6 leavers this July as is done in the case of Form 5 and Form 6 leavers? I know from the school end that we do get a circular asking us to report to the Education Department, wherever possible, just where people have gone from the Form 5 and Form 6 level, and it has just occurred to me that this might be done at the Primary 6 level to get us more relevant information as we continue to formulate plans for the expansion of secondary education.

MR CANNING: —I think, Sir, this is very useful information and I shall discuss with the Board of Education how it can be best achieved.

MR CHEONG-LEEN: —Sir, may I with your permission ask another supplementary? I assume that the Education Department is getting a fair amount of co-operation from the voluntary agencies and the Social Welfare Department in providing the names and addresses of children who would appear to be drop-outs to the Education Department for following-up. Is the Education Department also getting information from other departments, such as the Labour Department and also the Police, in regard to children who would appear to be drop-outs or who are between the 6 to 12 year age group who have not yet completed their primary education?

MR CANNING: —We have received excellent co-operation, Sir, from Government departments concerned and from the voluntary agencies regarding children of primary school age who are not in primary school, and we follow up these cases.

**Oral answers****Supply of rice, vegetables and fish**

11. MR WOO: —Sir, I seek leave to ask a question without having given the requisite four clear days notice. It is:

"Will Government make a statement on the supply position as regards rice, vegetables and fish? What steps are being taken to ensure that adequate supplies will be available to meet Hong Kong's needs and to stabilise prices?"

Sir, I consider the question to be one of urgent public importance and have already informed my honourable Friend the Financial Secretary of my intention.

HIS EXCELLENCY THE PRESIDENT: —The question is in order.

THE FINANCIAL SECRETARY (MR HADDON-CAVE): —Sir, my honourable Friend has doubtless sought Your Excellency's permission to ask this question because he feels that the recent rather rapid increase in the retail prices of rice, vegetables and fish is evidence of an underlying shortage in supplies of these three important foodstuffs. His anxiety is, of course, most understandable, but I can assure him that there is no real cause for alarm.

To deal first with rice: retail prices have for some time now been extremely stable—indeed, if anything, they have tended to fall slightly. It is only in the last ten days or so that prices have been rising and this can be attributed very largely to the considerable prominence that has been given to reports that supplies from Thailand, hitherto our principal source of imports, were expected to be substantially reduced. This, in turn, appears to have given rise to the belief, in spite of assurances to the contrary, that rice will soon be in short supply locally. The result was that sections of the public engaged in a scramble to buy large quantities of rice to build up their household supplies. This, in turn, not only provided the environment in which retail prices could rise, but also put an undue strain on normal distribution channels for a few days, thereby making other consumers even more apprehensive.

In reality, however, there is no shortage of rice in Hong Kong; nor will there be. We are by no means entirely dependent for our supplies on Thailand—China, Australia and the United States are also important suppliers—whilst rice stocks held under the Rice Control Scheme are alone equivalent to our normal needs for something like two months. The maintenance and likely future increase of our imports from these other principal suppliers, together with our reserve stocks

of nearly 70,000 tons, are more than adequate to bridge any shortfall in supplies from Thailand. I am, therefore, satisfied that the rice supply situation is sufficient to supply our normal requirements for many months, and certainly until this year's major rice harvests come on to the market.

The Government's determination to maintain adequate supplies in the retail rice market is evidenced by the fact that during the past week my honourable Friend the Director of Commerce and Industry has released some 12,000 tons of rice from the Control Scheme reserve stock to retail outlets. As a result, those consumers who were buying rice on a large scale when prices were being irrationally bid up a few days ago are probably noting that rice is still plentiful in the shops and that prices are falling back to their earlier levels now that the initial wave of panic buying has receded. My honourable Friend can rest assured that the Government will use its powers under the Import and Export (Reserved Commodities) Regulations to safeguard supplies, and thereby stabilise prices, should there be any further evidence to suggest that the market is not being operated satisfactorily.

As far as vegetables and fish are concerned, prices tend to be higher around the middle of the year than at other times largely because of adverse weather conditions affecting supplies. Recent price increases for these foodstuffs have to a large extent simply been a reflection of this seasonal pattern, and I must emphasize that so far there have been no developments to suggest any long term changes in the supply position. In the case of vegetables, prices are extremely sensitive to even quite small changes in supplies. And there can be no doubt that the rather large price increases for the current month have been due in no small measure to the fact that inclement weather and extensive flooding in Kwangtung Province have delayed imports from China, whilst the hot and humid conditions locally have hastened the process of deterioration of our own cut vegetables. A further factor influencing prices this month has been the Dragon Boat Festival. Local production tends to taper off some three to four days before the Festival and usually does not return to normal for a further three or four days. In addition, demand usually increases at festival time and consequently prices may rise by rather more than would otherwise be the case. Taking all these factors into account, Sir, and even though we are in the season when vegetables tend to be somewhat less plentiful than usual, I would expect some increase in the volume of vegetables coming on to the market during the remainder of this month and a corresponding reduction in prices. I understand, in fact, from the Agriculture and Fisheries Department that this has begun to happen this week.

Adverse weather conditions and the Dragon Boat Festival have also been the principal factors accounting for the rapid increase in fish

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prices this month. A long spell of bad weather a few weeks ago kept most of the smaller fishing vessels in harbour for more than a week and consequently the supply of marine fish fell considerably. The quantity of fish landed also declined because traditionally at the time of the Dragon Boat Festival the fishing fleet spends a few days in port taking on new crews, repairing vessels, and so on, and even after resuming operations it usually takes about 10 to 14 days before the fleet is up to normal strength again. In the case of fish also, therefore, I would expect to see supplies increasing and retail prices falling below their recent high levels in the coming weeks. Indeed here, too, the Agriculture and Fisheries Department has informed me that this is already happening. My honourable Friend can also take comfort from the fact that the so called heavy purchases of local fish by Japanese interests, which received such publicity in the press recently, accounted for only an insignificant proportion of total landings and I do not feel that they have had any noticeable effect on the local supply and price situation.

Sir, I have spoken at some length not only because I know how very sensitive the public is to price increases in essential foodstuffs—and rightly so—but also because I feel that an objective analysis of the facts can improve the situation by helping to dispel unfounded rumours. I hope that my honourable Friend will agree that what has been happening in recent days and weeks, as far as the retail prices of rice, vegetables and fish are concerned, does not reflect any underlying scarcity of essential foodstuffs.

DR CHUNG: —Sir, my honourable Friend has assured this Council that Government will use its powers under the Import and Export (Reserved Commodities) Regulations to safeguard supplies and thereby stabilise prices. Will my honourable Friend confirm that Government has already the power to control the retail price of rice?

THE FINANCIAL SECRETARY (MR HADDON-CAVE): —I am satisfied, Sir, that the Director of Commerce and Industry has adequate powers under these regulations to ensure that the market operates correctly and without rigging.

DR CHUNG: —Sir, may I seek a further confirmation? Does that mean the Government has the power to control the retail price of rice?

THE FINANCIAL SECRETARY (MR HADDON-CAVE): —Within the limits of the world supply situation, Sir, and I have already explained that our present supply and stock position is perfectly adequate.

## Statements

### Renewable Crown leases

THE ATTORNEY GENERAL (ACTING) (MR HOBLEY): —Sir, when the Second Reading of the Crown Leases Bill 1973 was moved in this Council on 28th March, several honourable Members spoke against the motion and urged reconsideration of the basis proposed in the bill for assessing the Crown rent payable under renewed Crown leases. They drew attention to the hardship which would be experienced by the owners of smaller properties; to the great number of associations which had united in opposition to the policy; to the effect high land prices would have on the level of the reassessed Crown rent; and to the fundamentally opposed views which are held with respect to the legal interpretation of the proviso for renewal contained in renewable leases.

Sir, the Government had by then already modified earlier proposals in a number of respects in order to meet objections. The overall level of assessment had been reduced by 20% and arrangements had been made to introduce the reassessed Crown rent in stages so that the full impact would not be felt for some years. Additionally it was proposed that the effective date for the reassessment of Crown rent should be one which would ignore the greatly increased land values of recent months. These changes, honourable Members contended, did not nonetheless sufficiently lighten the impact on property owners and at this point the debate was adjourned.

Since then, the policy has again been re-examined, particularly with a view to meeting the case of the many thousands of owners of smaller flats, and I must say right away that it has not been possible to achieve this principal aim without benefitting all property owners equally; nor without foregoing the major part of the revenue which would have accrued from the reassessed Crown rents.

I am announcing today the general nature of the changes now proposed but the necessary amendments to the Crown Leases Bill have yet to be drafted.

The basis of assessment now proposed is one which some honourable Members have advocated. It will be a percentage of rateable value, a method which has the merit of simplicity and might enable Crown rent to be collected along with the rates payable under the Rating Ordinance.

The percentage to be taken has itself been the subject of very careful consideration, with the needs of owners of smaller properties particularly in mind. It is proposed that the Crown rent should be

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3% of the rateable value at the date of renewal in the case of leases which have yet to be renewed. That will be the rent throughout the term of the lease, except where land is subsequently developed or redeveloped. In that case, the Crown rent will be further reassessed on the same basis when the new rateable value has been determined. Those whose leases have already been renewed may elect to pay Crown rent on the rateable value basis with effect from 1st July if it is to their advantage to do so.

Other details of the new scheme have yet to be worked out.

The basis now proposed for reassessing Crown rent will, as I have already indicated, greatly reduce the revenue which would have been derived from Crown rents under the method of assessment proposed in the bill before Council. Clearly the fiscal and other implications will have to be considered.

Sir, the necessary amendments to the Crown Leases Bill will be prepared as quickly as possible. Meanwhile, I can assure Crown lessees whose leases expire at the end of this month that the legislation will provide that the leases shall be regarded as having been renewed with effect from 1st July.

**Commodity exchanges**

THE FINANCIAL SECRETARY (MR HADDON-CAVE): —Sir, honourable Members will no doubt be aware that considerable public interest has been engendered recently by reports of the possible establishment of one or more commodity exchanges in Hong Kong. I am aware of the existence of at least four separate groups actively pursuing the possibility of setting up such exchanges.

An essential feature of a commodity exchange is the facility for making contracts for the delivery of commodities at a specified later date. These deals are known as futures contracts, and it is customary for only a proportion of the total value of the contract, usually 10 per cent, to be paid at the time of the agreement. Due to the rapid movements of commodity prices, there are possibilities for large gains as well as large losses to be made by persons trading in this way on margins. In other words, operations on a commodity exchange are in many ways more risky even than on a stock exchange and the small man who risks his capital in this way can very easily lose it.

Although, therefore, there could be significant advantages to our economy in the establishment of a well run and properly regulated



commodity exchange, the establishment of a number of unregulated exchanges could well produce a dangerous speculative situation.

There are at present no specific legal controls relating to the establishment and operation of an exchange dealing in commodities. There is nothing comparable with the Stock Exchanges Control Ordinance 1973 which restricts the number of stock exchanges, nor is there anything pending comparable with the proposed Securities Bill which will regulate the operations of the stock exchanges. There is, therefore, nothing in the law at the moment to prevent the immediate establishment of one or more commodity exchanges in Hong Kong with the dangers I have just briefly outlined.

This is not to say that there is no trading in commodities by Hong Kong residents at the present time. Facilities for trading in commodity futures on overseas markets such as London and New York already exist under the aegis of several reputable organizations and the view has been expressed that no advantage to our economy would accrue if actual commodity markets were to be opened here, especially if these markets dealt solely with commodities already traded on established international commodity exchanges.

I do not necessarily accept this view. I feel there may well be benefit to the economy and to our emergence as a sophisticated financial centre from the establishment of a commodity exchange, provided it is well regulated and deals in commodities primarily of interest to this region, in addition to some of those at present being dealt in by the established exchanges overseas. However, given the technical and complex nature of commodity markets and their highly speculative and volatile characteristics, such exchanges should not be permitted to open before adequate regulations so vital to the proper running of a reputable international market have been worked out.

In view of this, and of the efforts being made to set up a number of unregulated exchanges, the Government has decided to ban for the time being, and with immediate effect, the establishment in Hong Kong of commodity exchanges dealing in specified commodities, initially 20 in all. The necessary legislation to give effect to this is now being drafted and will be presented for the consideration of honourable Members at an early date, but this legislation, if passed, will take effect as from today. In other words, no person or persons will be permitted to establish a market to deal or trade in the commodities specified whether in spot or futures contracts as from today. The only exceptions will be those markets or exchanges already in business at the present time, such as the daily rice auction, the Gold and Silver Exchange and those organizations which have an established business on an agency basis in commodity futures traded on overseas exchanges.

[THE FINANCIAL SECRETARY]      **Statements**

I would reiterate, Sir, that it is not the Government's intention to frustrate the development of a properly regulated commodity exchange, or possibly more than one exchange, at a later stage. The intention rather is to ensure that, if and when such an exchange is established, it will operate in a well regulated and orderly manner, and in accordance with internationally accepted practices and standards. This latter point is important inasmuch as the market in commodity futures is a truly international market with dealings in the various centres being interlinked through arbitrage transactions.

**Urban Council: Estimates of Revenue and Expenditure  
for the Year ending 31st March 1974**

MR ALEXANDER: —Sir, as honourable Members are aware, the Urban Council was reconstituted on 1st April when all Officials ceased to be members. Their first budget, which is tabled today and which was formally adopted at their meeting on 10th April, had perforce to be drawn up before the Council was reconstituted. It therefore follows closely the general pattern of revenue and expenditure in the 1973-74 Estimates.

The Council's estimated expenditure for 1973-74 is \$226,154,800, of which \$159.90 million or 70.70% is required for Personal Emoluments and Allowances;

\$40.63 million or 17.97% for Other Charges;

\$24.72 million or 10.93% for Special Expenditure; and

\$0.90 million or 0.40% for Capital Works.

Estimated Revenue is \$266,971,200, of which

\$206.4 million or 77.31% comes from Rates;

\$40.57 million or 15.2% from Fees, Charges and Other Income; and

\$20 million or 7.49% from a non-recurrent grant from the Government.

Estimated revenue therefore exceeds estimated expenditure \$40.8 million.

As honourable Members will have noted, the outstanding feature of this budget is that Personal Emoluments and Allowances are expected to absorb over 70% of gross expenditure.

**Government business****First reading of bills****FIXED PENALTY (TRAFFIC CONTRAVENTIONS) (AMENDMENT AND VALIDATION) BILL 1973****STAMP (AMENDMENT) (NO 2) BILL 1973**

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

**Second reading of bills****FIXED PENALTY (TRAFFIC CONTRAVENTIONS)  
(AMENDMENT AND VALIDATION) BILL 1973**

THE ATTORNEY GENERAL (ACTING) (MR HOBLEY) moved the second reading of: —“A bill to amend the Fixed Penalty (Traffic Contraventions) Ordinance and to validate certain acts done under that Ordinance.”

He said: —Sir, this bill proposes an amendment to the Fixed Penalty (Traffic Contraventions) Ordinance enabling members of the Royal Hong Kong Auxiliary Police Force to assist the regular Police Force in enforcing the parking laws. More precisely, it will authorize members of the Auxiliary Police Force to issue notices under section 15(1) of that Ordinance giving owners of vehicles the opportunity to discharge their liability for a traffic contravention by paying the fixed penalty.

Members of the Auxiliary Police Force have in fact been carrying out this task since June 1972 and a large number of notices under section 15 has been issued by them in the meantime. It is this which has led to the need for the validation proposed by clause 3 of the bill. I regret to have to say that the need for the validation flows from a change in the legal advice given to the Commissioner of Police. The Commissioner sought advice before members of the Auxiliary Police Force were employed on this task and he was then advised that it would be proper for them to be so employed as the principal Ordinance now stands. Further consideration of the matter has established that the Ordinance authorizes only members of the regular Police Force to issue those notices.

It is considered, Sir, that the circumstances are such as to justify the validation proposed by clause 3.

**Fixed Penalty (Traffic Contraventions) (Amendment and Validation)  
Bill—second reading**

*Motion made. That the debate on the second reading of the bill be adjourned*—THE ATTORNEY GENERAL (ACTING) (MR HOBLEY).

*Question put and agreed to.*

*Explanatory Memorandum*

This Bill empowers members of the Royal Hong Kong Auxiliary Police Force to issue notices in respect of suspected contraventions of the Ordinance.

Clause 3 validates notices already given by members of the Auxiliary Police Force.

**STAMP (AMENDMENT) (NO 2) BILL 1973**

THE FINANCIAL SECRETARY (MR HADDON-CAVE) moved the second reading of:—"A bill to amend the Stamp Ordinance."

He said:—Sir, the main object of this bill is to make statutory provision for relief from stamp duty on contract notes in respect of purchases and sales by a broker on his own account when he is, in effect, performing a jobbing function. I gave notice of the Government's intention to do this in the budget speech on 28th February last. The remaining provisions of the bill are designed to tidy up the law relating to duty on contract notes and certain other areas of the law are also updated.

In most respects, Hong Kong's law and its ways of doing business are based on British law and practice and this is so in relation both to our system of stamp duties and to the *modus operandi* of the local stock market. There are, however, areas of differences which lead to difficulties of interpretation and application.

The system of dealing on the London Stock Exchange involves the division of its members into two quite distinct classes, namely brokers and jobbers. Brokers buy and sell securities as agents for the public for a commission, the other party in most transactions being a jobber. Jobbers buy and sell securities as principals on their own behalf; they have no direct dealings with the public and do not charge a commission. Instead they take what is known as the "jobber's turn", that is the difference between the price at which they buy and the price at which they sell. Jobbers can be described as wholesalers of

securities, each of them specializing in securities of a particular type. No member may do business both as a broker and as a jobber. The New York Stock Exchange's "specialists" are in effect jobbers in the London sense.

The jobbers' function is to provide a continuous security market for the public by being prepared to buy and sell at any time any quantity of securities at the prices they quote. In order not to be in surplus in securities in any particular scrip, they adjust their prices in such a way as to strike a balance between the long term supply and demand, thereby minimizing the risk of very short term violent fluctuations in prices. The jobbers' role is thus of benefit to the public and the fact that their "turn" will often be small in percentage terms, or may even involve them in a loss, has for many years been recognized in Britain by allowing them relief from the 1% duty on instruments of transfer, which is otherwise payable on all transactions in securities. To qualify for this relief, a jobber must dispose of the securities for which he seeks it within two months of acquiring them.

In Hong Kong all members of the four stock exchanges are free to deal on their own account in any listed shares as well as to buy and sell as agents for the public. Some of the transactions in which they act as principals can nevertheless be compared with jobbing transactions on the London Exchange; and if such transactions were to be undertaken on a large scale, violent price fluctuations would be that much less likely to occur. No attempt has so far been made to identify jobbing business or to relieve it from the *ad valorem* duty on contract notes which has since 1st March 1973 been payable in all share transactions at 0.8% (that is to say 0.4% by both buyer and seller).

The Collector of Stamp Revenue discovered about two years ago that many brokers were failing to stamp contract notes in respect of all the business they effected on their own behalf. The brokers concerned were under the mistaken impression that duty did not need to be paid on jobbing business, as they themselves chose to define it. When the Collector took steps to enforce the law and recover arrears, the exchanges approached the Government and requested such a relief. The proposed scheme of relief was consequently worked out after considering representations from the Stock Exchanges.

However, as so many complexities are involved, I shall not be surprised to learn that the Exchanges wish to have an opportunity for further consideration and comment before the proposed scheme is put into effect. Such an interval would also allow those brokers who expect to benefit from the proposed relief to make their views known

[THE FINANCIAL SECRETARY] **Stamp (Amendment) (No 2) Bill—second reading**

to their Exchanges as well as to seek any necessary explanation on points of practice from the Collector. There are also one or two points of procedure which the Collector will wish to discuss with the Exchanges before the scheme is put into operation.

As the system of dealing on the local exchanges does not provide a ready made definition of jobbing business, such as is available in London, the law has to supply one and, in so doing, to ensure that the transactions which qualify for relief will be both deserving and clearly identifiable. It would not be possible to include all the purchases and sales of securities which brokers effect on their own account within a two-month or even shorter period, because to do so would result in a serious loss of revenue. On the other hand, it is fair to say that some measure of jobbing is essential to provide an efficient market and that, therefore, a measure of relief is justified. The transactions which it is proposed to relieve are clearly identifiable; they must be completed within a relatively short period and they have the common feature that, in what he does, the broker who gets the relief can be said to be rendering a service to the market as a whole as well as to a client.

Every complete piece of jobbing business involves both a purchase and a sale; but blank transfers of securities circulate freely in Hong Kong, as they always have done. It is, therefore, necessary to take special steps to ensure that relief is confined to those cases where the same shares are both bought and sold and to check that both purchases and sales take place within whatever period is prescribed. Provision must also be made for the maintenance and retention of brokers' records so that checks may be made whenever necessary by the Collector.

The relief provided *in clause 13(a)* of the bill takes the form of a restriction of the charge on contract notes relating to jobbing business to a fixed duty of \$5.

*Clauses 2(c) and 3* of the bill provide for the transactions which constitute jobbing business to be specified in regulations to be made under the Stamp Ordinance. For the information of honourable Members in their consideration of this bill, I should say that it is proposed to confine the relief, at any rate for the time being, to transactions involving *either* overseas clients *or* odd lots.

As regards overseas clients, it can be assumed that an overseas investor who wishes to buy a block of Hong Kong shares would prefer to be able to get them from a single source at a firm price; but brokers are discouraged from holding stock to meet such a situation

by the need to pay full duty on their acquisition and disposal of the shares, so that all a prospective purchaser can do is to instruct his broker to pick up in the market what shares he can, at whatever prices (within the client's range) may prevail. It can likewise be assumed that an overseas investor who wishes to sell Hong Kong shares would prefer to be able to dispose of them to a single purchaser at a firm price; but his broker here is not likely to be prepared to take over the shares, for eventual resale, if full duty has to be paid by the broker on his acquisition and disposal of them. In this case also, the overseas client will be restricted to what can be got, within the limits of his acceptance, in the market. On the other hand, to extend this relief to a wider field would not be practicable or desirable.

It is accordingly proposed to include in the definition of jobbing, transactions which involve either the purchase of shares by a broker (from any source) and their resale within seven working days to an overseas client, or the purchase of shares by a broker from the overseas client and their resale within a like period (to any *bona fide* purchaser).

As regards odd lots, all the local exchanges require transactions in shares to be effected on, and from, a trading board in accordance with board trading rules which require share certificates and transfer deeds to be relivered in board lots. The term "board lot" means the number of a company's shares of a particular class, held on one or more than one certificate, which an exchange specifies as the number of shares in which trading is permitted on its trading board. A board lot is in effect the smallest easily marketable parcel of a company's shares. Shares which are not held in board lots are referred to as odd lots and transactions in them are confined to the exchanges' odd lot boards. They are less easily realizable than board lots and consistently fetch somewhat lower prices, whether they are smaller or larger than a board lot, and even if in the latter case they amount to a multiple of a board lot.

If the owner of an odd lot, or more than one odd lot, of shares wishes to have them put into board lots in order to realize the best price (or to dispose of a part only of his holding), he must surrender the share certificates to the company and apply for new ones. This means that a shareholder may have to wait for up to a month or longer before he receives the new scrip, and during that period he cannot sell his shares, because his broker cannot undertake to give delivery to a purchase within the 24-hour period stipulated in the exchange rules.

Accordingly, it is proposed to include in the definition of jobbing,, transactions which involve the purchase and resale of odd lots. If a broker buys odd lot shares from a client, it is proposed that he

[THE FINANCIAL SECRETARY] **Stamp (Amendment) (No 2) Bill—second reading**

should get relief if he sells them as they stand within seven working days or if he takes steps within that period to obtain new certificates in board lots and sells the shares within seven working days of receiving them. It is also proposed that a broker who buys odd lot shares from someone other than a client (that is to say from or through another broker) should get relief, but only if he takes immediate steps to obtain new certificates in board lots and resells within seven working days of receiving them. It is proposed to provide an overall time limit of six weeks within which shares for which relief is sought on their being put into board lots must be resold.

I shall not weary honourable Members by going into details of the proposed procedures, but I should draw their attention to what is proposed with regard to the method of payment of the duty on contract notes relating to jobbing transactions. Brokers have hitherto been allowed to stamp their contract notes by adhesive revenue stamps purchased from the Stamp Office. This facility will not be available in the case of contract notes which are liable to the new \$5 fixed duty levy only and all notes so liable will have to be taken to the Stamp Office for stamping in the interests of the security of the revenue. Accordingly *clause 9(h)(ii)* of the bill will restrict to *ad valorem* duty all authorities granted by the Collector to other persons (in practice to brokers) to endorse share certificates as to the payment of duty on contract notes. Endorsements as to the payment of fixed (\$5) duty on contract notes are to be made only by the Collector at the Stamp Office on sight of all the documents.

Provision is also made in *clause 10* of the bill for the recovery of *ad valorem* duty with interest in all cases where a contract note has been stamped with fixed duty but the transaction to which it relates is discovered not to have been jobbing business. This may happen when a broker fails to resell the shares within the stipulated period; or if he buys an odd lot of shares and fails to apply within the stipulated period for new certificates; or when he has misrepresented the facts (in which case he is liable to prosecution under section 21 of the Stamp Duties Management Ordinance).

The cost of the relief proposed would indeed be considerable if brokers engaged in jobbing transactions on a large scale. However, the probability is that, without the relief, such transactions are far fewer than they were prior to the Collector's action in 1971. The cost to the revenue is, therefore, unlikely to exceed a minimal percentage of the total receipts from duty on contract notes, or about, I should say, \$3 million. The cost of the additional staff required in the Stamp Office to administer the relief is estimated at \$60,000 a year.



I now turn, Sir, to what is proposed with regard to the tidying up of the law relating to duty on contract notes in general.

The original model for Hong Kong's duty on contract notes was the United Kingdom's duty of the same name. Like that duty, it was a minor charge whose operation was restricted to the stock market field, the main duty on shares being transfer duty, which was designed to be of universal application. However, the fact that blank transfers of shares were permitted (and are still permitted) to circulate in Hong Kong led to widespread avoidance of transfer duty. The duties were, therefore, revised in 1947; the scope was extended to cover all transactions in shares, and transfer duty was reduced to a fixed charge of \$5 whatever *ad valorem* duty was paid on contract notes. However, the terminology applied to duty on contract notes was not revised to reflect fully its wider field of application. This omission is now to be made good by *clauses 2(b) and 9*.

*Clause 4* of the bill declares for the avoidance of doubt that the duty which would have been payable on contract notes, which have not been made as required by the Stamp Ordinance, is recoverable by the Collector in civil proceedings, together with any penalty on payment of which late stamping of the notes would have been allowed under section 19.

*Clause 13(a)* of the bill specifies the time for stamping a contract note to be two days after the sale or purchase to which it relates. Such an amendment is required, in substitution for the expression "before delivery" which now appears in the Schedule to the Stamp Ordinance, because contract notes are not required to be delivered to anyone unless they fall to be made by agents.

Finally, there are three other minor amendments to the Stamp Ordinance to which I should draw honourable Members' attention.

*Clause 6* of the bill allows the Collector to enter into composition agreements for the payment of the duty on letters of allotment. This will make life a little easier for those who have to prepare and issue these documents, as well as for the hard-pressed Stamp Office.

*Clause 8* of the bill clarifies the position with regard to the payment of duty in respect of exchange contracts involving travellers cheques.

Finally, *Clause 12* of the bill makes it an offence for a person to fail to afford to the Collector and his staff the facilities for the inspection of records to which they are entitled under the Ordinance.

**Stamp (Amendment) (No 2) Bill—second reading**

*Motion made. That the debate on the second reading of the bill be adjourned*—THE FINANCIAL SECRETARY (MR HADDON-CAVE).

*Question put and agreed to.*

*Explanatory Memorandum*

This Bill inserts new provisions in the Stamp Ordinance giving relief in relation to jobbing business on recognized stock exchanges in Hong Kong. The opportunity is taken to tidy up the Ordinance in various ways.

Clause 2(c) inserts a definition of "jobbing business" in section 3 of the Ordinance and clause 3 amends section 4 to enable regulations to be made so as to define and control jobbing business.

Clause 13(a) inserts a revised head 18A in the Schedule to the Ordinance. The new head 18A(1) deals with the stamp duty payable on a contract note for the sale or purchase of shares etc. where the transaction is not jobbing business. The new head 18A(2) deals with such a sale or purchase where it does amount to jobbing business.

Clause 10 adds a new section 30A, to provide for the duty payable where a contract note is initially stamped under head 18A(2) in the Schedule as though it were a jobbing business transaction and later it is found not to be a jobbing business transaction.

Clause 2(a), (b) and (e) insert new definitions of "broker", "contract note" and "recognized stock exchange".

Clause 4 inserts a new section 5(4A), providing that a person who does not make and execute a contract note as required by the new section 30(1) (inserted by clause 9(a)) shall be liable for payment of the duty specified and for any amount which may be incurred under section 19 as a penalty where the Collector grants special leave for stamping the contract note.

Clause 6 adds a new section 15B, enabling the Collector to agree for the composition of stamp duty payable in relation to letters of allotment.

Clause 8 revises section 26(10) so as to include relief in relation to travellers' cheques, where duty is paid on them under head 11(5) in the Schedule to the Ordinance.

Clause 9 amends section 30 of the Ordinance—

- (i) by recasting subsection (1) to provide for the execution and stamping of contract notes and for the endorsement of the instruments of transfer relating thereto (clause 9(a) );
- (ii) by requiring every contract note to be stamped within two days after the transaction to which it relates has been effected (clause 9(c) );
- (iii) by stating in subsection (8) that the transactions referred to relate to dealing by persons not resident in Hong Kong (clause 9(f) );
- (iv) by confining endorsements of transfer instruments by persons authorized under subsection (11) to *ad valorem* duty, which will be payable under the new sub-head (1) of head 18A in the Schedule (clause 9(h) ); and
- (v) by recasting subsection (12) to make failure to comply with the new subsection (1) an offence (clause 9(i) ).

The new section 37A (clause 11) provides that, in determining under head 37(1) in the Schedule whether an instrument is the only or principal or primary security, no account shall be taken of any other instrument which is a security for the same payment unless that other instrument is chargeable with stamp duty under the said head 37(1).

A new section 47(5) makes it an offence for a person to fail to accord reasonable facilities to the Collector for the inspection of books of account etc. as required by section 47(4) (clause 12).

Clause 13(b) provides an additional exemption in head 43 in the Schedule in respect of a power of attorney authorizing an agent to collect public assistance under the Social Welfare Department Extended Public Assistance Scheme.

### **EVIDENCE (AMENDMENT) (NO 2) BILL 1973**

#### **Resumption of debate on second reading (6th June 1973)**

*Question proposed.*

*Question put and agreed to.*

Bill read the second time.

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

**DISTRICT COURT (AMENDMENT) BILL 1973****Resumption of debate on second reading (23rd May 1973)**

*Question proposed.*

MR WOO: —Sir, in rising to support this and the other bills concerning crime which are now before this Council, I would like to mention that members of a committee set up by the Bar Association have made to the Unofficial Members certain representations against the provisions of the original four bills.

The Unofficials are much obliged to the committee both for their clearly presented written representations and for the benefit of their views which they heard when the committee attended in the UMELCO Office for the purpose of an interview and further explanation.

The members of the committee explained why they were in doubt as to the wisdom of interfering with the existing limitations of jurisdiction in the District Court and the magistracies. We appreciate the reasons for these views and have given them careful consideration. The Unofficials conclude that the change of jurisdiction proposed in the District Court represents the most effective and immediately practicable way of speeding up the disposition of the backlog of cases now facing the Supreme Court.

We support the bill but recommend that, before the end of two years, a review should be carried out to see whether the bill can be allowed to lapse and the additional jurisdiction relinquished.

There is, however, one more reservation which the Unofficials have. If this bill is to be passed we consider that any person who would have been eligible for legal aid had his case been tried in the Supreme Court must have that right to legal aid preserved when his case is tried in the District Court.

Sir, I support the motion.

THE ATTORNEY GENERAL (ACTING) (MR HOBLEY): —Sir, I am grateful to my honourable Friend Mr P. C. Woo, and his colleagues, for their expression of support for this bill.

The Government fully appreciates the views which have been expressed in opposition to the increase which this bill proposes in the powers of sentence of the District Judges. I can say that the proposal was not put forward lightly and, as I have already said in this Council, the object is to ensure that there is available a suitable means of relieving any pressure which there may be on the Supreme

Court by reason of the increasing number of criminal cases. The Government is fully satisfied that the proposed increase in the sentencing power of the District Judges is appropriate.

Sir, the concern of Members of this Council about the availability of legal aid in the District Court is a very proper one. I referred in my speech when moving the second reading of this bill to the decision earlier this year that legal aid should be provided for any person facing in the District Court a charge which is punishable with imprisonment for not less than 14 years. The effect of that decision is that no one who might have been tried before the Supreme Court but is tried before the District Court following the increase in the sentencing powers of the Judges will be deprived of legal aid. His right to legal aid is, therefore, already preserved.

*Question put and agreed to.*

Bill read the second time.

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

### **MAGISTRATES (AMENDMENT) BILL 1973**

#### **Resumption of debate on second reading (23rd May 1973)**

*Question proposed.*

THE ATTORNEY GENERAL (ACTING) (MR HOBLEY): —Sir, I move that the second reading of this bill, the Magistrates (Amendment) Bill 1973, be further adjourned.

It is essential, Sir, in the interest of accused persons and in the public interest that there should be no avoidable delay in bringing accused persons to trial. It was this consideration which led the Government, in the face of a steady rise in the number of criminal cases, to propose both the increase in the sentencing powers of the District Judges and the increase in the sentencing powers of certain magistrates, so as to provide a means whereby a build-up of cases awaiting trial could be tackled if necessary—I repeat, if necessary—without overburdening the Supreme Court. This Council has just given a second reading to the bill seeking an increase in the sentencing powers of the District Judges and, subject to the further agreement of this Council, that proposal will take effect in the near future.

Will that suffice for the time being? Ought time to be taken to consider further the related proposal to which the Magistrates (Amendment)

[THE ATTORNEY GENERAL (ACTING)]     **Magistrates     (Amendment)     Bill—  
resumption of debate on second reading  
(23.5.73)**

Bill will give effect? These questions have received the most careful examination since the bill was introduced into this Council.

The bill had, as a bill of this nature must have, the general support of the former Chief Justice. A further examination of the proposal has now been conducted, in consultation with the present Chief Justice, against the background of its purpose, that is, the early disposal in particular of more serious cases. This examination suggests that implementation of the proposal may safely be postponed for a while without prejudice to the interest which both the community and accused persons have in the early trial of criminal charges. A number of factors has led to this conclusion. An important one is that time ought to be taken to see whether the recent increase, approved by this Council, in the number of District Judges is sufficient to enable the District Court to deal effectively with any further increase which there may be in the number of criminal cases coming before it.

Sir, in addition, Unofficial Members of this Council have expressed to me their concern that, if some of the cases which under existing policy are tried in the District Court were to be tried before the magistrates' courts, legal aid should be available to the accused in those cases. That is a matter of great importance, but it is one which calls for careful study having due regard to the various, and sometimes conflicting, factors involved.

Sir, much public attention has understandably been focussed, in the context of the "Fight Violent Crime" Campaign, on both of the bills concerned with sentencing powers. They are striking measures and it has been suggested that they will themselves lead to heavier sentences. That is not so. They do not, for example, create new offences; they do not increase the sentence for existing offences. Their object, as I have already said, is to provide a means whereby a build-up of criminal cases awaiting trial could be tackled if necessary. To the extent that the avoidance of delay in bringing accused persons to trial is important in the context of the war against crime generally, the bills are undoubtedly relevant to the "Fight Violent Crime" Campaign, but they are not themselves a weapon in the fight against violent crime. It might, Sir, be thought unnecessary to mention this matter but, at the start of the Campaign, it is clearly vital to dispel any idea that the Government's decision not to proceed immediately with this bill indicates a weakening of its resolve in the fight against crime or any lessening of the high hopes that it has of the outcome of the Campaign.

*Question put on subsidiary motion and agreed to.*

**CRIMINAL PROCEDURE (AMENDMENT) BILL 1973****Resumption of debate on second reading (23rd May 1973)**

*Question proposed.*

MR WOO: —Sir, the Unofficial Members welcome this bill as one more in the series which reflects Government's determination and the determination of the community at large to fight crime.

When the Attorney General introduced this legislation providing for sentences of preventive detention to be passed on habitual criminals he mentioned the disuse into which a similar provision enacted in Britain had since fallen. We do not want the same thing to happen here.

We have been aided in our deliberations on this bill by representations made to us by a Committee set up by the Bar Association.

When this bill reaches the Committee Stage I shall move an amendment to restrict its operation to a list of scheduled offences. This schedule is to be subject to amendment from time to time by resolution of this Council, thus providing flexibility. Furthermore, certain changes will be proposed to the conditions set out in the proposed new section 109I which must be met before a person can be sentenced to a term of preventive detention.

Finally, the provision in the bill which requires the Attorney General to make an application for an additional sentence of preventive detention will help to ensure that the section is not misused. All in all, there should be adequate safeguards against abuse of the section, whilst the new provision for such sentences will be of benefit in removing from society for long periods those who habitually indulge in serious crime.

Sir, I support the motion.

MR WONG: —Sir, commenting on the Criminal Procedure (Amendment) Bill 1973, certain members of the legal profession appear to take the view that preventive detention interferes with justice and that any imprisonment should not exceed the sentence for that particular crime.

As we are aware, preventive detention for criminals who have committed crimes under a schedule will be for habitual offenders over 25 years of age and who have been convicted of serious crimes on four or more occasions. When we apply justice to a habitual criminal, one is bound to define justice. According to PLATO's "Republic", Thrasymachus, the sophist, defines justice as "the interest

[MR WONG]     **Criminal Procedure (Amendment) Bill—resumption of debate  
on second reading (23.5.73)**

of the stronger". This definition paradoxically fits in the description of the modern knife wielder who is strong enough to commit robbery or rape.

In modern jurisprudence, too much emphasis is laid on individual justice and too little on social justice. Fairness to the individual must be weighed against fairness to society. Surely, social justice is based on the effective harmony of the whole and is paramount and not subservient to individual justice. In all logic, society should be entitled to protection from people who have habitually been convicted of crimes. The habitual criminals are a menace to society and should be isolated as long as possible.

In a way for those who do not have the self-respect to earn a decent living, Government is more than generous in providing free room and board for them in a special institution. I hope that the extra expenditure charged to the public purse is worth the price paid to keep these incorrigible people from robbing, raping and mistreating weaker members of society.

A prison authority once told me that 90% of the inmates of a large prison are repeaters or alumni. It appears that reformists are losing the argument against those who believe that criminal tendencies are established in certain people. At any rate, can we afford to expose society to hardened and habitual criminals and let its weaker members continually be the victims. Surely, society need not suffer more than necessary.

I support this bill on preventive detention.

MR CHEONG-LEEN: —Sir, if this bill is passed in the legislature today it will highlight an obvious fact, which is that social conditions are different in Hong Kong from those in the United Kingdom.

It has been pointed out that preventive detention as envisaged in this bill has not been particularly successful in the United Kingdom.

Due to different social conditions here, it is however hoped that such a system, if handled with care and caution and used only against hardened criminals who are a positive menace to society, will be good for the preservation of law and order in Hong Kong.

Also, apart from crimes of violence, the public is very much concerned at the extensive rate of drug trafficking.



Let us hope that the enactment of this bill will enable Government to show more results in clamping down on drug traffickers who are such a menace to social improvement in our society.

Government has the responsibility to ensure that drug traffickers will not be allowed to ensnare young people in particular into the injurious habit of drug addiction.

*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).*

### **PUBLIC ORDER (AMENDMENT) BILL 1973**

#### **Resumption of debate on second reading (23rd May 1973)**

*Question proposed.*

MR WOO: —Sir, the Public Order (Amendment) (No 2) Ordinance 1972 was enacted in December last year in order to introduce mandatory minimum sentences for the possession of offensive weapons in a public place without lawful authority or reasonable excuse.

When I spoke in this Council in December last on the Second Reading of that bill, I said that the measure was introduced in order to correct and restrain a situation which threatened to get out of control. Although the penalties previously in force were suitable for normal times, conditions in Hong Kong so far as violent crime is concerned were not normal. This unfortunately remains the position today. In the circumstances the imposition of a mandatory minimum sentence is not only justified but is indeed essential if some grip is to be obtained on the worsening crime situation.

Since the measure was introduced a considerable number of persons have been charged with the offence of possession of an offensive weapon in a public place. Although I do not have the full statistics to hand, the answer to a question asked in this Council by my honourable Friend Mr Q. W. LEE on 9th May this year was that, during the three months from 16th December 1972 to 15th March 1973, 196 persons had been prosecuted under the Ordinance. This suggests to me that the legislation is very necessary and that there can as yet be no relaxation of its provisions.

There have been, however, one or more isolated cases in which the purpose of the Ordinance has been frustrated because of legal

[Mr Woo]      **Public Order (Amendment) Bill—resumption of debate on second reading (23.5.73)**

loopholes by means of which the imposition of the mandatory sentence can be avoided. It is to prevent this happening again that the measure now before this Council has been introduced.

The Unofficials support the provision in its amended form and welcome the steps being taken to stop up the loopholes. At the same time we also support the provision whereby the courts may impose as alternatives to the mandatory sentence of imprisonment one of detention in a detention centre or training centre or a sentence of corporal punishment. Whilst it is distasteful in this day and age to retain on the statute book provisions for corporal punishment, we are again of the view that this is necessary in the circumstances of Hong Kong today.

For those who still have doubts about the measure, the proposed new section 33(5) will ensure careful control by providing that the consent of the Attorney General is required before a prosecution can be brought.

Sir, I support the motion.

MR CHEONG-LEEN: —Sir, the new section 33(2)(b) in this bill sets out the various ways in which a court may deal with a young person over 13 and under 17 years convicted under that section, one of which is a sentence to imprisonment for not less than 6 months nor more than 3 years.

This is of course a heavy sentence for a young person, even though it may be justified, bearing in mind that the consent of the Attorney General is required before a prosecution under this section can be instituted.

With the serious state of overcrowdedness in our prisons, it would be highly desirable that steps be taken to carefully segregate in prison young persons convicted under this section from the older more hardened prisoners.

Simply put, the purpose of a prison sentence is for a person so convicted to expiate his crime. During the time that he is in prison it is a reasonable enough hope that the prison environment will not be conducive to making him into a worse person than what he is.

This applies especially to young persons over 13 and under 17 years of age. The emphasis should be on reform and not bare punishment; this factor should be borne in mind both from the point of

view of prison routine as well as the kind of company the young convict mixes with daily while in prison.

We must not forget that many of these young people who have gone astray come from broken and unhappy homes, and are the unfortunate victims of our competitive social environment. Apart from making the law, we also have a moral responsibility to search for, and not to overlook, the deeper causes—and the possible solutions—as to why these young people turn away from society into the ways of crime.

*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 of bills**

Council went into Committee.

### **EVIDENCE (AMENDMENT) (NO 2) BILL 1973**

Clauses 1 to 3 were agreed to.

### **DISTRICT COURT (AMENDMENT) BILL 1973**

Clauses 1 and 2 were agreed to.

### **CRIMINAL PROCEDURE (AMENDMENT) BILL 1973**

Clause 1 was agreed to.

Clause 2.

MR WOO: —Sir, I move that clause 2 be amended as set forth in the paper before honourable Members.

There are four amendments proposed. First, this clause applies only to a person convicted before a court of a scheduled offence. Secondly, he commits such an offence less than 3 years after the previous occasion on which he was convicted of a scheduled offence or less than 3 years after his release from serving a custodial sentence, whichever shall be the later. Thirdly, the definition of custodial

[Mr Woo]     **Criminal Procedure (Amendment) Bill—committee stage**

sentence is amended to include an order for detention under section 70 of the Criminal Procedure Ordinance, that is to say a person who has been convicted of murder, but the sentence cannot be passed because he is under the age of 18. Fourthly, to add a provision to enable this Council by resolution to amend the Seventh Schedule.

*Proposed Amendments*

*Clause*

2     That clause 2 be amended in the proposed new section 109I—

(a)   by deleting subsection (1) and substituting—

"(1) Where a person who is not less than 25 years of age—

(a)   is convicted before a court of a scheduled offence (hereinafter referred to as "the present offence");

(b)   committed the present offence less than three years after—

(i)   the preceding occasion on which he was convicted of a scheduled offence; or

(ii)   the date of his release after serving a custodial sentence for that offence,

whichever is the later;

(c)   has been convicted on at least 3 previous occasions (whether before or after the commencement of this section) since he attained the age of 17 of scheduled offences;

(d)   was on at least two of those previous occasions sentenced to a custodial sentence; and

(e)   has been sentenced on one or more of such previous occasions to an aggregate total of not less than 2 years' imprisonment (any sentence which is concurrent with another sentence of imprisonment being disregarded to the extent of such concurrence),

and the court is satisfied that it is expedient for the protection of the public that he should be

detained in custody for a substantial time, the court may pass, in addition to any other sentence imposed for the present offence, a sentence of preventive detention for such term of not less than 5 nor more than 14 years, as the court may determine.";

- (b) by deleting the definition of "custodial sentence" in subsection (4) and substituting the following—

““custodial sentence” means a sentence of imprisonment, a detention order under the Detention Centres Ordinance, a sentence of detention in a training centre under the Training Centres Ordinance and detention under and order for detention under section 70 of the Criminal Procedure Ordinance;”;

- (c) by adding to subsection (4) the following definition—

““scheduled offence” means any offence specified in the Seventh Schedule.”;

- (d) by adding the following new subsection—

"(6) The Legislative Council may by resolution amend the Seventh Schedule. ".

The amendments were agreed to.

Clause 2, as amended, was agreed to.

New clause 3 "Addition of new Seventh Schedule."

*Clause read the first time and ordered to be set down for second reading pursuant to Standing Order No 46(6).*

MR WOO: —Sir, in accordance with Standing Order 46(6) I move that the new clause 3 as set forth in the paper before honourable Members be read a second time.

The purpose of this additional clause is to add a schedule to be called the Seventh Schedule and contain the more violent and serious crimes which I have already referred to as scheduled offences.

*Question put and agreed to.*

Clause read the second time.

MR WOO: —Sir, I move that new clause 3 be added to the bill.

**Criminal Procedure (Amendment) Bill—committee stage***Proposed Addition**Clause*

New That the following new clause be added after clause 2—

"Addition of new Seventh Schedule. **3.** The principal Ordinance is amended by adding after the Sixth Schedule the following Schedule—

**"SEVENTH SCHEDULE**

[s. 109(4).]

1. Murder (the sentence of death having been commuted to one of imprisonment or an order for the detention of the convicted person having been made under section 70 of the Criminal Procedure Ordinance).
2. Manslaughter.
- (Cap. 134.) 3. Any offence against sections 4, 5, 6, 7 and 35 of the Dangerous Drugs Ordinance or conspiracy to commit any such offence.
- (Cap. 210.) 4. Any offence against section 10 or 12 of the Theft Ordinance.
- (Cap. 212.) 5. Any offence against sections 10, 11, 12, 13, 14, 17, 19, 20, 21, 22, 28, 29, 29A, 30, 39, 42 and 43 of the Offences against the Person Ordinance.
- (Cap. 213.) 6. Any offence against sections 5, 6, 7, 8, 9, 10 and 21 of the Protection of Women and Juveniles Ordinance.
- (Cap. 238.) 7. Any offence against sections 4 and 31 of the Arms and Ammunition Ordinance.
- (Cap. 245.) 8. An offence against section 33 of the Public Order Ordinance. ”. ”.

The addition of the new clause was agreed to.

**PUBLIC ORDER (AMENDMENT) BILL 1973**

Clause 1 was agreed to.

Clause 2

THE ATTORNEY GENERAL (ACTING) (MR HOBLEY): —Sir, I move that clause 2 be amended as set forth in the paper before honourable Members.

The amendment seeks to remove any doubt which there may be as to the power of a juvenile court to put on probation, where that is appropriate, a child under 14 who has been convicted of an offence under section 33 of the Public Order Ordinance.

*Proposed Amendment**Clause*

- 2 That clause 2 be amended in the proposed new section 33(3) by inserting after "Where any person" the following—  
“, other than a person under the age of 14 years,”.

The amendment was agreed to.

Clause 2, as amended, was agreed to.

Council then resumed.

**Third reading of bills**

THE ATTORNEY GENERAL (ACTING) (MR HOBLEY) reported that the

Evidence (Amendment) (No 2) Bill 1973

District Court (Amendment) Bill 1973

had passed through Committee without amendment and that the

Criminal Procedure (Amendment) Bill 1973

Public Order (Amendment) Bill 1973

had passed through Committee with amendment and moved the third reading of each of the bills.

*Question put on each bill and agreed to.*

Bills read the third time and passed.

**Unofficial Member's bills****First reading of bill****HOSEINEE SOCIETY OF HONG KONG INCORPORATION  
(AMENDMENT) BILL 1973**

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

**Second reading of bill****HOSEINEE SOCIETY OF HONG KONG INCORPORATION  
(AMENDMENT) BILL 1973**

MR CHEUNG moved the second reading of: —"A bill to amend the Hoseinee Society of Hong Kong Incorporation Ordinance."

**Hoseinee Society of Hong Kong Incorporation (Amendment)**

**Bill—second reading**

He said: —The purpose of the bill is straightforward and is stated in the explanatory memorandum accompanying the bill.

*Motion made. That the debate on the second reading of the bill be adjourned*—MR CHEUNG.

*Question put and agreed to.*

*Explanatory Memorandum*

The purpose of this Bill is to widen the powers of the corporation by including the power to develop immovable properties held by the corporation and the power to borrow money.

Opportunity is also taken to amend section 5 of the principal Ordinance to enable a member of the committee authorized by the committee to sign documents which do not require the seal of the corporation.

**Committee stage of bill**

Council went into Committee.

**SOCIETY FOR THE RELIEF OF DISABLED CHILDREN****INCORPORATION (AMENDMENT) BILL 1973**

Clauses 1 and 2 were agreed to.

Council then resumed.

**Third reading of bill**

MR CHEUNG reported that the Society for the Relief of Disabled Children Incorporation (Amendment) Bill 1973 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

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

4.07 p.m.

### Final Report of Commission of Enquiry on the Rainstorm Disasters 1972

MR SZETO: —Sir, this afternoon perhaps is an appropriate occasion to commemorate the tragic loss of life and property caused by the catastrophic landslides which occurred last June. A year ago today rescue workers were frantically digging and shovelling into the wreckage for victims of the disasters.

On the 11th April this year the Final Report of the Commission of Inquiry appointed by you, Sir, to look into the causes of the disasters was published. In a statement tabling the Commission's Report in this Council that afternoon, and at the approach of what looked like another season of rainstorms, my honourable Friend the then Director of Public Works assured this Council that all possible and necessary measures had been or were in the process of completion in rendering the disaster areas and other potential danger areas throughout the Colony safe against the recurrence of similar disasters.

Sir, within the limitation of an adjournment debate, I shall confine myself to commenting on some of the conclusions and recommendations of the Commission, and the deficiencies of existing legislation governing both the design and supervision of site formation works while leaving the social and moral aspects to my honourable Friend Mrs SYMONS.

The Commission have searched exhaustively into the causes of the disasters, in particular the Po Shan Road landslide, and concluded that while some of these were due to the forces of nature others were caused by a combination of geological and climatic circumstances and the rapaciousness of man coupled with his ignorance. The Po Shan Road disaster is a tragic example that not only points to nonchalance, negligence and procrastination, but also gives rise to speculation of collusion. The history of the development of Inland Lot 2260 and the events that preceded the catastrophic landslide, so clearly set out in the Commission's Report, attest these and leave little doubt in the public's mind.

I say, Sir, nonchalance because Government stands to be criticized for having allowed intensive development in this particular area, not

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so much for the deficiencies in the building regulations as for the random granting of lease modifications to permit such intensive development without regard to the geological formation of the area which consists mainly of potentially unstable volcanic colluvial. Historically, the Western Mid-levels has been an area of tragic occurrences of landslips: Po Hing Fong in 1925; Bonham Road in 1941 and 1950; Robinson Road in 1959 and the Hong Kong University near Lyttleton Road in June 1966. I can speak on the last mentioned landslide with special knowledge as I was subsequently engaged professionally by the University to repair the damage. Unfortunately, the lesson from the many disasters has not been learned and the policy of nonchalance continued, culminating in the worst catastrophe on record.

Negligence can only be described in the case of the Po Shan Road landslide because of the inexplicable manner in which the Building Authority approved the very steep cutting slope at the rear of Inland Lot 2260 with complete disregard of the nature of the soil. Since approval for a 80½ degree cut slope is normally only given to solid rock formation, it can be assumed that in this case a prior inspection of the site by an engineer of this office has not been made to ascertain the nature of the soil which was then exposed. Indeed, we now learn from the Commission that the amended site formation plans were approved without reference to the official file of the project which was missing and untraceable. If the Commission's conclusion that the very steep cut slope executed on I.L. 2260 was a contributing factor to the cause of the landslide is to be accepted—which in my opinion must be accepted since it was based on the expert evidence of two highly qualified and experienced civil engineers—then I regret to say, Sir, that Government is to be criticized for having allowed such a steep cutting slope without having first satisfied itself that it was safe. The officer approving the plans might have been misled intentionally by the authorized architect. But to approve excavation of such magnitude without requiring a site investigation and in such a casual manner is, I submit, Sir, incompetent, negligent and irresponsible to say the least.

Sir, I have suggested procrastination. There is ample evidence in the Commission's Report. There were a number of minor slips in the slope on Inland Lot 2260 during the first eight months in 1971. In May 1971 the contractor withdrew from the site because of danger and I presume this was reported to the Building Authority as regulations required. Ten months before the disaster occurred, the Building Authority noticed an extensive slip on the cut slope after Typhoon "Rose". A month later haircracks were observed in Po Shan Road

together with earth movement near house number 21. In December 1971 the owner of this house found cracks on his garage wall and that the slope below it had become steeper. I assume his concern had been immediately reported to the proper authority. In my view, Sir, the above happenings should have been considered grave enough to justify an immediate investigation by experts of the area in view of its protruding topography and unstable geological conditions.

On June 16th and 17th wider cracks developed in Po Shan Road. The steel sheet piling on Inland Lot 2260 dislocated and buckled severely. These developments together with what had happened in and above Po Shan Road and the continued settlement of the garage should have given ample warning of an imminent major landslide.

On June 18th the half width of Po Shan Road settled some 20 feet in the early afternoon. By mid-afternoon Conduit Road was completely blocked, and at precisely 5.10 in the afternoon number 11 Kotewall Road was partially buried by huge earth and rock falls from Inland Lot 2260. It was unfortunate that these happenings had not been treated as sufficiently alarming to order the evacuation of the ill-fated Kotewall Court despite the fact that it stood in the path of the devastating landslide and only about 70 feet away.

Sir, I would now deal with our requirements for the design and site formation work for building projects. Existing building regulations do not require a person to be equipped with engineering training and experience in designing such works so long as he is an Authorized Architect notwithstanding his training might be entirely limited to the architectural discipline. The Building Authority's requirements, prior to the 1972 landslides, for cut slopes and filled embankments were 50 degrees and 35 degrees with the horizontal respectively without any reference to the nature of the soils. This guideline was used extensively by most architects and rarely any soil investigation was required to ascertain the nature of the soil, its degree of cohesion and its shear strength in order to determine a cut slope rationally.

Although the Commission has found these requirements generally acceptable for conditions in Hong Kong, my view is that in certain areas in the Colony where the soil is volcanic colluvium the requirements should be more stringent. The fact that the undisturbed slope of the migrated colluvium in the Western Mid-levels is generally 36 degrees with the horizontal and that the stability of any slope is affected by climatic conditions justify more stringent requirements in design and in construction.

Rainstorms of long duration as those encountered in Hong Kong are the worst enemy of cut slopes in decomposed granite or decomposed volcanics, and these are the two main geological deposits on our hillsides. Since Government is now spurred by the disasters to

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an early review of the current Building Regulations, I would propose that all site formation works of appreciable magnitude should be handled by qualified civil engineers. I therefore support the proposal of my honourable Friend Mr ROBSON to establish a panel of civil engineers who are by training conversant with the property, characteristics and mechanics of soils.

The failure of the Sau Mau Ping embankment though a disaster of lesser magnitude from an engineering point of view, resulted in a greater loss of life and limb due to concentration of population at the foot of a 130 ft. high filled embankment. The Commission have concluded that the landslide was caused by the exceptionally long and intense rainstorm which softened the fill material and that human error was not a contributing factor. However, the wisdom of siting a licensed area with its many flimsy huts and large population at the foot of such a high man-made slope in the face of Hong Kong's monsoonal climate must be questioned.

Turning now to the Commission's recommendations, my views coincide with those on land policy and rigorous enforcement and maintenance in site formation works.

The Commission recommended that all excavation works should be programmed and be approved by the Building Authority to prevent exposure of large and dangerous cutting faces during wet seasons. I would go further, Sir, that, for all existing developments involving cut slopes of appreciable height, their owners should be required to submit stability certificates by qualified engineers at suitable intervals of time, since most cut slopes lack maintenance after they are formed and the chunam membrane commonly used in Hong Kong is vulnerable to cracks through which rainwater penetrates.

Decentralizing our over-crowded urban areas is not a new cry, but danger of over-building on our hillsides, hitherto disregarded in the intensive development of the Mid-levels, must henceforth be heeded.

Sir, a tremendous price has been paid; it is hoped that a bitter lesson has been learned. May I conclude by quoting Francis BACON:

"Nature, to be commanded, must be obeyed".

MRS SYMONS: —Sir, I am grateful to my honourable Friend Mr SZETO for his very clear contribution to the subject of this adjournment debate.

It is now a year since the dreadful events of June 18th 1972 struck awe into our hearts; a year for some to have forgotten the anguish of so many who lost their loved ones or their homes; a year for others to remain numb from grief, or perturbed at the strange turn of events, or even apprehensive about the likelihood of such a disaster occurring again.

For some days after the devastating rainstorms there was in our city a sense of togetherness or camaraderie. We collected millions of dollars for the victims, we watched with admiration the magnificent and quiet heroism of the rescue workers, and we felt fresh pangs of sympathy as one body after another was excavated. Sir, I do not speak today just to be sentimental or dramatic—this is no anniversary to celebrate.

In the year that has passed the Public Works Department, and especially the Building Authority, have brought more expertise to their work. Remedial work of an expensive and complicated nature has been put in hand. We are told that mid-levels sites have been checked for safety, that there will be early warning systems should fresh landslips occur. We seem braced for fresh disasters. While I do not wish to deprecate these positive steps, I cannot help wishing that they had been put into practice before.

Ours is a tropical and monsoonal climate, a feature of which is heavy rainfall, especially as a result of thunderstorms. Though we are now given warning about these storms, it must be remembered, however, that while some may cancel outdoor activities because of such timely warnings, the average householder may not—no, will not—be able to move his family to a hotel or some other place of refuge each time it pours.

The average citizen, be he a landlord or a tenant, has the inalienable right to expect that the Government has made adequate storm channels, gutters and the like near his home, that the Government has seen to it that adequate foundations and retaining walls have been erected to withstand even the torrential rain we had last year. Generally speaking, this state of affairs is true; so that when the hillside slipped in Po Shan Road and whole buildings moved and collapsed, everyone was completely incredulous; and, indeed, to this day people are still puzzled despite all the excellent material in the final report of the Commission of Inquiry.

There is no doubt whatever that the heavy rainfall in last May and June "played the dominant role in causing the landslips which resulted in such tragic loss of life and property". But to my mind—I hope I am wrong—contributing factors may well have been human weakness. By this I mean carelessness, almost callousness. In an

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area where there had been a landslip in the cutting at the southern end of Inland Lot 2260 in August 1971, the discovery made that the cutting was not of rock composition did, I admit, lead to the temporary suspension of construction work.

But it is quite alarming to read that even before typhoon "Rose" there had been a major cutting on this Inland Lot left unsupported and virtually unmaintained for a period of more than seven years.

Yet this same site was allowed to be redeveloped in another way in early January 1971 to provide an increase of 36 flats, all with car-parks. How else could this have been effected except at the expense of safety for all?

The rock-cutting slope was increased to 80½ degrees. The new architect's statement that the slope was of rock appeared to have been unchecked and unchallenged.

The carelessness of those concerned—the architect, the developers, the relevant staff of the Public Works Department—was in strange contrast to the many expressions of alarm by residents of the Po Shan Road area. One can conjecture why the architect withdrew from the project; as one can sympathize with the concern of the new architect in November 1971.

Another factor of human weakness was the desire to make money quickly by pressing ahead with the development without any consideration for the safety of those helpless people living nearby.

There has to be, in our city of dynamic growth and occasional immaturity concerning public welfare, even more responsibility which Government must assume in the regulations concerning architectural works. In a mixed-up situation the "missing file" element seemed almost a natural corollary.

I fail to understand why the first architect's negligence was not brought to the notice of a Board before he left Hong Kong. I fail to understand why, following the discovery in August 1971 that the major cutting was not of rock composition, a fact contrary to the architect's statement, this was not questioned. The offence of, say, "knowingly misrepresenting a material fact in any plan" could surely have been brought by the Crown against the authorized architect by February 1972.

The catastrophe at Sau Mau Ping was indeed of a magnitude too significant to ignore; but my brief reference to it stems from the

fact that here, more than on the Hong Kong site, there appears from the Report less evidence of human error. Here, the Commissioners concluded that the landslide was due mainly to softening of the material as a result of an exceptionally long and intense rainstorm. Since then, similar sites must have been thoroughly checked and certain precautions will doubtless be taken to safeguard life and limb.

Many people died here, too, and many more were rendered homeless. The tremendously generous donations from the people of Hong Kong were a fitting tribute to the fortitude of these unfortunate people.

In going over some salient facts of a report so painstakingly compiled by the three Commissioners. I am convinced that from the bitter events of June 1972 must be born a new determination never again to let the public down in a matter of such importance. It must be stated categorically by Government and impressed upon all civil servants that negligence, collusion, procrastination, indifference and ineptitude have no place in the Hong Kong of the future.

We must realize as a community that co-operation is the keynote to our common well-being. We exercise this admirably in times of crisis but forget it when life is pleasant and uneventful. When I decided to speak today, it was not my intention to start a campaign against any one individual, but rather to appeal to all in this city to learn from the June rainstorms a vital lesson of consideration for others in our community.

4.28 p.m.

MR ROBERTSON: —Sir, when the honourable J. J. ROBSON presented the Final Report by the Commission of Enquiry to this Council on the 11th April, he explained what action Government had already taken in response to the recommendations of the Commission and the needs of the situation.

I have to report that, in the past two months, action has proceeded satisfactorily along the lines indicated. Firstly, we have now appointed consultants (a) to review the overall problem of identifying areas of potential danger and to recommend remedial action; (b) to prepare a manual of good practice for site formation works; and (c) to advise on the procedures necessary to check that site formation proposals are properly presented and works properly executed. Secondly, the major engineering works at Sau Mau Ping and Po Shan Road have progressed satisfactorily in spite of bad weather, and the areas are now adjudged safe from all but minor mudslips, which would be inconvenient but not dangerous. Thirdly, the civil engineering staff of the Buildings Ordinance Office has been further strengthened by the use of consultants to examine new site formation proposals, and it

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is hoped, very soon, to issue a preliminary guide to authorized architects to assist them in the preparation of such proposals.

In short, Sir, all the immediate actions which can be taken have been taken, and action is in hand to identify areas of the Colony in which site formation work requires special attention, and to provide us with the methods and means to deal with these areas effectively.

I will turn now to some of the particular points made by my honourable Friends Mrs SYMONS and Mr SZETO and say that their remarks alleging carelessness, procrastination, indifference, ineptitude and nonchalance to the staff of the Public Works Department surprise and disappoint me.

The Commission of Enquiry considered a vast amount of evidence before arriving at its conclusions which have been compressed into two slim volumes. Much of that evidence was carefully and frankly prepared by the Public Works Department and all questions raised were freely answered to the recorded satisfaction of the Commission. I can find nothing in the Commission's Report to justify the conclusions drawn by my honourable Friends.

Similarly, the Commission did not find any evidence of collusion and made no reference even to the possibility of collusion. My honourable Friends may have been influenced in their comments by the fact that no action was taken to bring the architect before a disciplinary board between August 1971 (when it was known to the Building Authority that the cutting slope behind Inland Lot 2260 was not rock) and February 1972.

First it should be made clear that there is no time limit on the consideration by the Board of a disciplinary offence, but the maximum penalty for such an offence is to be removed from the register of authorized architects. In fact the architect removed himself in December 1972, before the Commission had completed its report.

On the other hand, any action, other than a disciplinary action, against the architect clearly had to await the deliberations of the Commission.

My honourable Friend Mr SZETO and I are at one on the evident need for Government to tighten up its controls in particular cases of proposed site formation works, but when he refers to our past irresponsibility in accepting the statements of authorized architects. I must differ with him. Authorized architects are a privileged class, licensed to practise their profession in Hong Kong. Their responsibilities



are clearly defined under the Ordinance which licenses them, and the whole system of Government approvals of plans—which Government is under constant pressure to expedite and simplify—will always depend on the authorized professional carrying his proper share of the burden of responsibility. We must trust our authorized architects—but I take the point that we cannot trust all of them all the time. This is where Government's responsibility lies: to ensure that authorized architects as a class are worthy of trust, and that they are generally performing satisfactorily.

Sir, may I make one final point already touched upon by the honourable J. J. ROBSON previously. These terrible landslips were not the results of a deliberate land development policy designed to extract the maximum revenue from land, or to develop hillsides beyond the point of safety.

The science of soil mechanics may be increasingly precise but, as the Commission of Enquiry observed, the soils with which we are dealing are not simple homogeneous materials. This means that we must do two things:

- (a) develop some general empirical method of working safely with these soils; and
- (b) identify those special areas in which the general empirical solution must be refined.

We are on our way to improving our approach to both of these problems, and the solutions adopted will take account of all relevant comments made by the Commission and others. Of one thing I am certain; the hard lessons of June 1972 will not ever be forgotten in Hong Kong.

*Question put and agreed to.*

### **Valedictory to Mrs LI**

HIS EXCELLENCY THE PRESIDENT: —Before we take the adjournment, Members might like to know that Mrs LI has indicated her wish to retire from this Council, so this is the last occasion on which we will see her.

Mrs LI is a redoubtable figure in the public affairs of Hong Kong. She is well known for the value of the work she has done on the Urban Council, Social Welfare Advisory Committee, Po Leung Kuk, Narcotics Advisory Committee and, perhaps, best known indeed for her work on the Family Planning Association. But in this Council she will always be remembered with affection and respect as literally the “first

[HIS EXCELLENCY THE PRESIDENT]      **Valedictory to Mrs Li**

lady". Her knowledge, her vigour and her sincerity will be greatly missed, but above all we will miss Mrs Li for herself.

I should like to wish her very happy and prosperous years ahead.

MR WOO: —Sir, I wish to associate all the Unofficial Members with the tribute which you have paid to our leading lady. We are very sorry to see her go. Mrs Li is the champion of the women's cause. Herself a wife and a mother, she is by no means a Victorian grandmother out of touch with the present generation and behind the times with her thoughts. On the contrary, she is very much with it and the advance guard of "women's lib" in Hong Kong. Women's rights and prerogative have been one of her main concerns. She has had much to do with moves towards equal pay for women and, more recently, pensionability for married women in the Civil Service. She has even infringed on the sacred sphere of men and helped to abolish the status of concubines. (*Laughter*).

Aside from that, Sir, she has been a very charming and spirited colleague, with a real feeling for social equality and progress in the Colony and concern for the ordinary people in their day to day life. Her very many valuable contributions to this community will be remembered by all of us for they are difficult to equal.

My Unofficial colleagues and I wish Mrs Li very success in the future. We know she will continue to be active in community affairs and that the future years will be both fruitful and rewarding.

THE COLONIAL SECRETARY (SIR HUGH NORMAN-WALKER): —Sir, before I go and join battle with Mrs Ellen Li in Finance Committee for the last time (*laughter*) where I shall have something to say, I would like to associate myself with everything that you, Sir, and the honourable P. C. Woo have said.

### **Next sitting**

HIS EXCELLENCY THE PRESIDENT: —I now adjourn the Council until 2.30 p.m. on Wednesday, the 4th July 1973.

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