

OFFICIAL REPORT OF PROCEEDINGS**Wednesday, 31st July 1974****The Council met at half past two o'clock**

[Mr PRESIDENT in the Chair]

PRESENT

HIS EXCELLENCY THE ACTING GOVERNOR (*PRESIDENT*)
MR DENYS TUDOR EMIL ROBERTS, CBE, QC, JP
THE HONOURABLE THE FINANCIAL SECRETARY
MR CHARLES PHILIP HADDON-CAVE, CMG, JP
THE HONOURABLE THE ATTORNEY GENERAL
MR JOHN WILLIAM DIXON HOBLEY, QC, JP
THE HONOURABLE THE SECRETARY FOR HOME AFFAIRS
MR DENIS CAMPBELL BRAY, JP
THE HONOURABLE JOHN CANNING, JP
DIRECTOR OF EDUCATION
DR THE HONOURABLE GERALD HUGH CHOA, CBE, JP
DIRECTOR OF MEDICAL AND HEALTH SERVICES
THE HONOURABLE DAVID HAROLD JORDAN, MBE, JP
DIRECTOR OF COMMERCE AND INDUSTRY
THE HONOURABLE LI FOOK-KOW, JP
SECRETARY FOR SOCIAL SERVICES
THE HONOURABLE DAVID AKERS-JONES, JP
SECRETARY FOR THE NEW TERRITORIES
THE HONOURABLE LEWIS MERVYN DAVIES, CMG, OBE
SECRETARY FOR SECURITY
THE HONOURABLE WILLIAM COLLINS BELL, JP
DIRECTOR OF PUBLIC WORKS (*Acting*)
THE HONOURABLE ALAN THOMAS ARMSTRONG-WRIGHT
SECRETARY FOR THE ENVIRONMENT (*Acting*)
DR THE HONOURABLE CHUNG SZE-YUEN, OBE, JP
THE HONOURABLE WILSON WANG TZE-SAM, OBE, JP
THE HONOURABLE LEE QUO-WEI, OBE, JP
THE HONOURABLE OSWALD VICTOR CHEUNG, OBE, QC, JP
THE HONOURABLE ROGERIO HYNDMAN LOBO, OBE, JP
THE HONOURABLE JAMES WU MAN-HON, OBE, JP
THE HONOURABLE HILTON CHEONG-LEEN, OBE, JP
THE HONOURABLE LI FOOK-WO, OBE, JP
THE HONOURABLE JOHN HENRY BREMRIDGE, JP
DR THE HONOURABLE HARRY FANG SIN-YANG, OBE, JP
THE HONOURABLE MISS KO SIU-WAH, MBE, JP
THE HONOURABLE LO TAK-SHING, JP
THE HONOURABLE FRANCIS YUAN-HAO TIEN, OBE, JP
THE HONOURABLE HUGH MOSS GERALD FORSGATE, OBE, JP

ABSENT

THE HONOURABLE DAVID RICHARD WATSON ALEXANDER, CBE, JP
DIRECTOR OF URBAN SERVICES

THE HONOURABLE IAN MACDONALD LIGHTBODY, CMG, JP
SECRETARY FOR HOUSING

THE HONOURABLE MRS CATHERINE JOYCE SYMONS, OBE, JP

IN ATTENDANCE

THE CLERK TO THE LEGISLATIVE COUNCIL
MR KENNETH HARRY WHEELER

Papers

The following papers were laid pursuant to Standing Order 14(2): —

| <i>Subject</i> | <i>LN No</i> |
|---|--------------|
| Subsidiary Legislation: | |
| Hong Kong and Yaumati Ferry Company (Services) Ordinance. | |
| Hong Kong and Yaumati Ferry Company (Services) (Cancellation) Order 1974 | 147 |
| Hong Kong and Yaumati Ferry Company (Services) Ordinance. | |
| Hong Kong and Yaumati Ferry Company (Fares and Charges) Notification (Cancellation) Order 1974 | 148 |
| PO Leung Kuk Ordinance 1973. | |
| Resolution | 150 |
| Legal Practitioners Ordinance. | |
| Solicitors (General) Costs (Amendment) Rules 1974 | 151 |
| Public Health and Urban Services Ordinance. | |
| Public Swimming Pools (Amendment) By-laws 1974 | 152 |
| Import and Export Ordinance. | |
| Import and Export (General) Regulations (Amendment of First Schedule) Order 1974 | 153 |

| <i>Subject</i> | <i>LN No</i> |
|---|--------------|
| Port Control (Cargo Working Areas) Ordinance 1974. | |
| Port Control (Cargo Working Areas) Ordinance 1974 (Commencement) Notice 1974 | 154 |
| Port Control (Cargo Working Areas) Ordinance 1974. | |
| Port Control (Cargo Working Areas) Regulations 1974 | 155 |
| Port Control (Cargo Working Areas) Ordinance 1974. | |
| Port Control (Public Cargo Working Area) Order 1974 | 156 |
| Dutiable Commodities Ordinance. | |
| Dutiable Commodities (Amendment) Regulations 1974 | 157 |
| Crown Land Ordinance. | |
| Authorization by the Secretary for the New Territories | 158 |
| Crown Land Ordinance. | |
| Delegation of Powers | 159 |
| Sessional Papers 1973-74: | |
| No 66—Statement of Accounts of the Chinese Temples Fund for the year ended 31st March 1973 (published on 31.7.74). | |
| No 67—Statement of Accounts of the General Chinese Charities Fund for the year ended 31st March 1973 (published on 31.7.74). | |
| No 68—Supplementary Provisions for the Quarter ended 31st March 1974 (published on 31.7.74). | |

Oral answers to questions

Loss of revenue

1. MR F. W. LI: —

Sir, is Government losing potential revenue because of a shortage of tax assessors and investigators and, if so, what urgent steps are being taken to recruit additional staff?

Oral answers

THE FINANCIAL SECRETARY: —Sir, there are at present six vacancies out of an operational establishment of 88 posts in the departmental grade of assessor and the Inland Revenue Department does find it difficult to recruit suitable persons experienced in tax administration and accountancy to that grade. The department has not been able to find local candidates with the necessary experience and as a result recruitment exercises conducted recently in the United Kingdom and Australia were approved, but they were not very successful either.

The department's policy is mainly to recruit candidates to the assistant assessor rank in the grade and to provide departmental training courses and financial assistance to enable them to obtain professional accountancy qualifications, thereby producing in this way its own supply of possible promotees to the fully professional rank of assessor in the grade. This policy I believe still provides the best solution to the supply of qualified staff, although its effectiveness is reduced by the fact that a number of officers trained at public expense leave for positions outside the Government each year.

While the staff position will inevitably determine the extent to which cases are examined and investigated, I must repeat what I said this year in the budget speech, namely, that a necessary step is to strengthen the investigation powers and penalty provisions of the Inland Revenue Ordinance and thereby provide the department with adequate legal powers. An amending bill containing provisions designed to do just this is now in an advanced drafting stage and will, I hope, be introduced into this Council later this year.

MR F. W. LI: —With respect, Sir, will my honourable Friend the Financial Secretary answer whether Government is losing potential revenue or not?

THE FINANCIAL SECRETARY: —No tax system, Sir, is at any time as perfect as it should be.

Retirement at 60

2. MR BREMRIDGE: —

Sir, when does Government expect to reach a decision on the proposal of the Unofficial Members put forward in this Council eighteen months ago on 17th January 1973, that

subject to commonsense provisions Government officers should be allowed upon application to continue working in the Public Service until the age of 60?

SECRETARY FOR HOME AFFAIRS: —Sir, the question of the retirement age for civil servants has been under discussion in the Senior Civil Service Council for some time. However it has not yet been possible to reach agreement with the Staff Side, which wishes that the extension of the normal retiring age to 60 be combined with a right for a public officer to retire with his earned pension at 45. Discussions are continuing in an effort to reach an agreed solution, and I would not like to forecast when they will be concluded.

The present regulations governing extensions of service beyond the age of 55, which have been in force for many years, do enable officers to continue working in the Public Service until the age of 60, and indeed beyond that age in some cases, provided that they are physically fit and fully efficient and that the promotion prospects of promising but less senior officers are not unduly blocked. Several hundred such officers over 55 are at present employed in the Public Service.

Cross Harbour Tunnel shares

3. DR CHUNG: —

Sir, is there any safeguard in the terms of the Cross Harbour Tunnel Franchise to ensure that the minimum 25% shares be offered to the public at a fair market price?

THE FINANCIAL SECRETARY: —The short answer is, Sir, no, but as my honourable Friend is rarely satisfied with a short answer, perhaps I should offer some explanations by way of background. Section 8 of the Cross Harbour Tunnel Ordinance provides that the Cross Harbour Tunnel Company shall ensure that its shares are listed and quoted on the Hong Kong Stock Exchange within two years of the opening date of the tunnel or such later date as may be allowed by the Governor in Council. The tunnel was opened on 3rd August 1972 and, as no request for deferment was made by the company to the Governor in Council, this provision had to be complied with by early August this year.

As the shares of the company were listed and quoted on the Hong Kong Stock Exchange yesterday, the 30th July, I would myself say that the requirements of the ordinance in this respect have been met.

[THE FINANCIAL SECRETARY] **Oral answers**

The ordinance of course makes no reference to "a fair market price", whatever that may mean, for this can vary according to the circumstances of the market. Nor does the ordinance refer to a minimum of 25% of the shares of the company being offered to the public. But I think I should make at this point two remarks: in the first place, a resolution was adopted by this Council on 11th August 1965 to approve in principle the grant of a franchise to construct a tunnel across the harbour on certain basic conditions laid down in a Schedule attached to the resolution. Although I should emphasize that this resolution has no legal effect in determining the conditions of the franchise offered to the company, in that it was superseded by the Cross Harbour Tunnel Ordinance, paragraph 11(b) of the Schedule I have just referred to did say that the public should be given an opportunity to participate in not less than 25% of the issued capital of the company. The second remark I would like to make is this, the Rules of the Hong Kong Stock Exchange also provide that normally a company's shares shall not be listed or quoted on the exchange unless 25% of its issued capital has been offered to the public. I should add however that, in at least one case of a very large issue, the exchange accepted that an offer to the public of as little as 10% of the issued capital of the company was sufficient to establish a proper market in the shares concerned and this has subsequently proved to be the case.

In the case of the Cross Harbour Tunnel Company, the company did offer to the public—the company did offer to the public—25% of its issued capital, or a total of 31,625,000 shares. The price at which this offer was made was, in the opinion of the professional advisers to the company, pitched at the right level for the issue to be successful in the market conditions prevailing at the time the prospectus was issued. Subsequently, however, market conditions changed, due mainly to the upward shift in interest rates which occurred in June and early July. The result was that investors were less concerned with the long term worth of the shares than with the immediate dividend yield and price/earnings ratio and so the greater part of the issue was left with the underwriters and sub-underwriters. The vendors' reaction to this situation was to come to an arrangement among themselves whereby they offered to repurchase at the offer price any shares held by sub-underwriters and members of the public. At the same time, the Hong Kong Stock Exchange agreed that the shares should be listed and quoted from 30th July as originally intended.

Although most of the shares held by sub-underwriters were handed back, a not insignificant number of shares are still in the hands of the public and sub-underwriters as well and it is the firm intention of the original shareholders of the company to place more shares with the public as and when market conditions permit this and warrant this. But, at present, monetary conditions are somewhat uncertain everywhere and, of course, our somewhat volatile stock market is now influenced as much by international as by local factors. But the Government as a shareholder and the Securities Commission will see to it that there is no undue delay in the creation of a wider market than is possible at present.

DR CHUNG: —Sir, is Government aware that unless there are effective safeguards, there is no assurance that the company in reality would meet the spirit of the franchise of having a 25% or a reasonable portion of its shares in the hands of the general public?

THE FINANCIAL SECRETARY: —I believe that such safeguards, Sir, exist.

DR CHUNG: —Sir, does Government realise that because of its self-interest due to its ownership of 25% of the company, not only such safeguard should be made, but be made effective and to be seen to be made?

THE FINANCIAL SECRETARY: —Is the honourable Member asking a question, Sir? I'm quite certain but he seems to be making a statement . . .

DR CHUNG: —Does the Government realize . . .

HIS EXCELLENCY THE PRESIDENT: —Would you like to rephrase it, please?

DR CHUNG: —Yes, Sir. Does the Government realise that because of its self-interest due to ownership of 25% of the company, not only must such safeguards be made, but effective safeguards be made and have to be seen to be made?

THE FINANCIAL SECRETARY: —I think, Sir, the answer to all my honourable Member's questions—his series of questions—the answer in every case is "yes"; and I would also add that Government's so-called self-interest is identical with the public interest.

Oral answers**School textbooks**

4. MR LO: —

Sir, is the Government satisfied that textbooks recommended from time to time for use by students are not amended unnecessarily or too frequently thus denying the savings that students can make by using second hand copies?

MR CANNING: —Sir, it is true to say that in past years publishers have made frequent amendments to their textbooks. This has resulted in difficulties in the use of second-hand textbooks. My department has in the past made representations to publishers on this point and I am happy to say that the number of minor textual amendments has been considerably reduced over the past few years.

At present the Education Department is keeping a careful watch on the school textbooks situation, the aim being to ensure that pupils use educationally acceptable textbooks at a reasonable cost. In this connection, heads of schools will be informed that where the alterations in a new edition of a textbook are of a minor nature, they should tolerate the use of an older edition in the classroom, with the teachers making appropriate alterations to the text in the course of a lesson. School authorities will also be encouraged to organize second-hand book sales by pupils on school premises.

MR LO: —Sir, will school authorities be informed and encouraged effectively in time for the new school year?

MR CANNING: —Yes, Sir, we propose to issue a circular containing this kind of information. It is in the course of preparation and will be issued shortly; and there are officers who at the beginning of the school year will take care to get round as many schools as possible to give advice.

Subventions to welfare agencies

5. MISS KO: —

Sir, what is Government's policy on increasing subventions to voluntary welfare agencies when Government salaries are increased?

SECRETARY FOR SOCIAL SERVICES: —Sir, Government's policy on this matter was dealt with by the Financial Secretary in his speech in

this Council on 27th March 1974 in winding-up the debate on the Appropriation Bill 1974.

In short, the answer to my honourable Friend's question is that an immediate corresponding increase is made in subvention in respect of agencies subvented on a deficiency grant basis but this is not done in respect of agencies subvented on a discretionary grant basis. However, the Financial Secretary did say that he would be willing to consider seeking supplementary provision for additional grants provided that the voluntary agencies subvented on a discretionary grant basis can persuade the departments concerned, and they in turn can persuade the Secretariat, that substantial increases in costs during a financial year are affecting the agencies' ability to provide the services for which they are subvented. It was stressed, however, that this could not be taken as imposing an obligation on the Government to provide supplementary grants which, in all cases, would depend on the budgetary position of the moment.

MISS KO: —Sir, will Government confirm that it will stand behind these subvented voluntary social welfare agencies financially, at least to the extent that there will be no cut back in their services?

SECRETARY FOR SOCIAL SERVICES: —Sir, this will be done as far as possible. Of course, the sources of income of agencies relying on discretionary grants do not solely arise from Government.

Escape of prisoner

6. MR CHEONG-LEEN: —

Will the Government make a statement concerning the investigation into the escape from the Sheung Shui Police Station on July 13th last of a woman who was arrested in connection with a \$1 million heroin seizure?

SECRETARY FOR SECURITY: —Sir, although I would like to make a statement regarding this incident, the fact that certain court proceedings are pending, and certain disciplinary proceedings may result from this issue, precludes me from going into detail at this stage.

The Commissioner of Police has instituted an enquiry into the escape of the woman from Sheung Shui Police Station on 13th July. She had been arrested by Preventive Service officers in connection with

[SECRETARY FOR SECURITY] **Oral answers**

a heroin seizure and was subsequently handed over to the Royal Hong Kong Police Force. Sheung Shui Police Station is a rural station and at the time there were four members of the Uniform Branch on duty under the command of a sergeant.

This enquiry is being conducted by a senior police officer from Police Headquarters and the object is to establish the facts and cause of the escape. If necessary, relevant proceedings will be instituted against any person or persons for negligence or any other irregular or unlawful involvement. So far the husband of the woman concerned has been charged with aiding and abetting her escape from the police station.

MR CHEONG-LEEN: —Sir, will a full statement then be made later at an appropriate time?

SECRETARY FOR SECURITY: —Sir, depending upon the outcome of the inquiries which are now being made I should like to see both the report and the result of the court action before deciding as to whether a further statement would be necessary bearing in mind that the Council goes into recess on the 14th August and therefore will not be meeting again until October.

Rehabilitation Programme Plan

7. DR FANG: —

Sir, is Government prepared to invite representatives from voluntary agencies to assist in the implementation of a programme plan for the rehabilitation of the physically and mentally disabled? If not, why not?

SECRETARY FOR SOCIAL SERVICES: —Sir, my honourable Friend Dr. Harry Fang took a very active part in the *ad hoc* Joint Working Group on Rehabilitation last year. This group produced a very useful working paper which summarizes a large number of concepts and recommendations on rehabilitation. I have recently established a Government planning team to prepare a programme plan using the techniques now adopted by Government. The objective is to carry forward present plans in the light of the work done by the Ad Hoc Group, to identify the manpower and other resources that will be needed and to develop a co-ordinated and comprehensive programme which can reasonably be expected to be undertaken over a number of year.

Sir, my judgment is that we now have to do our own home work on the preparation of this programme plan, but I can assure my honourable Friend that the voluntary sector will not only be invited to assist in the implementation of the plan when it is completed and approved, but will also be consulted at an appropriate stage in the course of its preparation.

DR FANG: —Sir, will my honourable Friend the honourable Secretary for Social Services signify when this co-ordinated and comprehensive programme can be made known to the public? I ask this, Sir, because the report of the *ad hoc* Joint Working Group was submitted to Government exactly a year ago.

SECRETARY FOR SOCIAL SERVICES: —Sir, I am afraid my answer is going to be shorter than the question. I suspect it will be early next year before it is ready.

Conversion of taxi meters

8. MR WU: —

Sir, when will the conversion of taxi meters to register the new approved fares be completed?

SECRETARY FOR THE ENVIRONMENT (ACTING): —Sir, the meters of virtually all former Hong Kong taxis have been re-calibrated, tested and sealed to register the new fares. However, some former Kowloon taxis have yet to be re-calibrated. The number of these is quickly dwindling because no taxi can pass the regular six-monthly inspection by the Transport Department unless its meter has been re-calibrated. On this basis I expect the conversion of all taxi meters to be completed at the latest by the beginning of September this year.

Additional typhoon shelters

9. MR FORSGATE: —

Sir, what steps are being taken to provide additional typhoon shelters to meet the agreed shortage of 113 acres in 1977?

SECRETARY FOR THE ENVIRONMENT (ACTING): —Sir, the situation is fully recognized and it is clear that additional typhoon shelter space will have to be provided.

[SECRETARY FOR THE ENVIRONMENT (ACTING)] **Oral answers**

The Port Committee has recently recommended the construction of a typhoon shelter in the southwest approaches, probably on Lantau or Cheung Chau, and this is now being investigated.

Bus accident

10. MR CHEONG-LEEN: —

In view of the serious double-decker bus accident on July 12th at Kwai Chung in which three persons were reported killed and many others injured, what steps will be taken to ensure tighter checking of the mechanical condition of the buses, more careful driving on the part of the drivers, and a regular review of the routes using double-decker buses?

SECRETARY FOR THE ENVIRONMENT (ACTING): —Sir, this accident is still under investigation and it would not be appropriate for me to make any comment at this time.

Government business

Motions

INLAND REVENUE ORDINANCE

THE FINANCIAL SECRETARY moved the following motion: —

In exercise of the powers conferred by proviso (a) to section 28(1) of the Inland Revenue Ordinance, that, with effect from 1st August 1974, the said proviso be amended by deleting "four" and substituting the following —

“five”.

He said: —Sir, under a proviso to section 28 of the Inland Revenue Ordinance, no tax is charged on any interest paid, or payable, by Government by a bank licensed under the Banking Ordinance, or by certain public utility companies, which accrues at a rate not exceeding 4% per annum or such other rate as may from time to time be declared by resolution of this Council.

The main effect of the rate declared is to set a maximum for the rate of interest paid by banks on savings accounts. There is no legal connection, but if the banks paid a higher rate there would be serious problems, both for them and for the Commissioner of Inland Revenue, in dealing with tax on well over a million small interest payments, the recipients of which would almost all be eligible for refunds under the provisions for personal assessment.

The tax exempt rate was raised from 3½% to 4% with effect from 1st September last year. Bank interest rates, except on savings accounts, are now 3 percentage points higher than they were then. I hope that it will not be too long before changed conditions make some reduction in these rates possible. But there is at present a case for a further rise in the tax exempt rate so that small savers can benefit from the generally higher level of interest rates. The Exchange Banks' Association would like to increase the interest rate on savings accounts from the present 4% to 5% and the purpose of this motion is to make that possible by a similar increase in the tax exempt rate with effect from tomorrow. At the standard rate of interest tax that represents an increase in the rate grossed up for tax from 4.71% to 5.88%; but this gross rate is, of course, not relevant to the majority of account holders.

Question put and agreed to.

SCHEDULE OF WRITES-OFF FOR THE FINANCIAL YEAR 1973-74

THE FINANCIAL SECRETARY moved the following motion: —

That the Writes-Off for the financial year 1973-74, as set out in the Schedule, be approved.

He said: —Sir, the purpose of this motion is to seek the covering approval of this Council to those writes-off approved by the Finance Committee during the financial year 1973-74 and which are listed in the Schedule.

There are five items, Sir, which deserve some explanation for the record.

The first item is for the write-off of an outstanding amount of \$72,650 which was not previously included in the schedule of writes-off in 1971-72. On 23rd June 1971, Finance Committee approved the

[THE FINANCIAL SECRETARY] **Schedule of Writes-off for the Financial Year
1973-74**

introduction of free primary education and, at the same time, approved the waiver of the unpaid balances of loans estimated at \$23.5 million made to sponsors for the construction of primary school buildings. In one case, the loan was for the construction of a school with both primary and secondary classes. The loan of \$281,550 written-off in 1971 was calculated on the basis of a hypothetical division of space in the school into primary and secondary sections. The school building has now been completed and the Director of Education has advised that, as the actual space used by the primary section is larger than estimated, the loan to be written-off for the primary section should be increased by \$72,650 to \$354,200. The amount is still within the \$23.5 million approved by Finance Committee in 1971.

The second item is for the write-off of two unknown amounts arising from the free use of Government transport by officers of the Police and the Prisons Departments. Officers in the Police Force were given free transportation from Queen's Pier to the Police Training School at Aberdeen, and officers in the Prisons Department from their quarters at Kennedy Town to the Victoria Reception Centre. According to Government regulations, these officers should have been charged for this service. The two cases were brought to light by audit inspections and the free services ceased from July and August 1973 respectively. As no records were kept of the names of officers using the free service, it was not possible to recover the charges which should have been made for the period up to the end of June and July 1973 respectively.

The third item concerns the write-off of mesne profits amounting to \$28,258.39. A permit was issued jointly to two permittees for occupying Crown land at Nam On Street, Shau Kei Wan, as a timber yard, sawmill and workshop. The annual fee was \$10,780. When the permittees failed to pay the permit fees for October 1966 onwards and ignored repeated demands, the Legal Department took court action to recover mesne profits of \$28,595.64 for the period 16th October 1966 to 29th July 1969 during which time the permittees continued to occupy the permit area until they were forcibly evicted. Judgment for the mesne profits, plus legal costs, was obtained against one of the permittees who could be located. He paid only \$800 towards the settlement of the judgment debt, and then promptly disappeared. All efforts to trace him and the other permittee have been unsuccessful.

The fourth item is in respect of an under-assessed premium of \$17,000 in the regrant of Kowloon Inland Lot No. 9354. The error arose from the Crown Lands and Survey Office following the usual practice in calculating the premium which excluded the corner "splay" areas (areas at the corners of a building rounded off as a road traffic requirement), these "splay" areas were excluded from the calculation of premium. In this case, the corner splay areas should have been included because buildings can be erected over these areas if they are 16½ feet above ground floor level. This came to light during a routine audit inspection. As the conditions of regrant had been completed and only the reduced amount of premium was contractually due, it was no longer possible to require the regrantee to pay the amount under-assessed. The Crown Lands and Survey Office has since reviewed the procedures for calculating premium.

The fifth item I wish to mention concerns the write-off of \$55,201.44 due to the Government by a construction company in connection with the re-entering and re-letting of Public Works Contracts Nos 115 of 1965, 126 of 1965 and 144 of 1965. Under the general conditions of contract, the original contractor is held liable for liquidated damages from delay in completion plus the extra cost incurred in completing the work under the re-let contracts. However, the Government was not able to make a claim against the contractor until all the works and the re-let contracts were completed and the accounts finalized. It was not until October 1968 that the amount of \$112,811.44 was established as the construction company's liability to the Government under these three re-entered contracts. Although the construction company ceased business sometime before 10th September 1967 the Government has made every attempt to recover the amount due. A writ of summons was subsequently issued by the Supreme Court against the company and its partners at the addresses given by the Commissioner of Registration. However, the partners could not be traced and all efforts to effect service have been unsuccessful.

Question put and agreed to.

TEMPORARY RESTRICTION OF BUILDING DEVELOPMENT (POK FU LAM AND MID-LEVELS) ORDINANCE

Resumption of debate on motion (17th July 1974)

MR WU: —Sir, on the two previous occasions, as on this one, when the extension of the moratorium was sought the honourable

[MR WU] **Temporary Restriction of Building Development (Pok Fu Lam and Mid-levels) Ordinance-resumption of debate on motion (17.7.74)**

Director of Public Works argued traffic grounds. In order to bring ourselves up to date on the situation, a Umelco group asked to be taken for a visit to the area concerned. We started at 8.30 a.m. on the 18th July, proceeded along Des Voeux Road Central, Douglas Street, Connaught Road Central, thence up Cotton Tree Drive, Robinson Road, Bonham Road, Pokfulam Road and reached Queen Mary Hospital in 15 minutes at 8.45 a.m.

There was no traffic jam in our way or from the opposite direction. In another 10 minutes we were in Wah Fu Estate where we turned back and proceeded along Victoria Road. We never saw a vehicle in front of us until we reached Cadogan Street in Sai Wan, where the congestion was due mainly to road works, obstruction on pavement forcing people to walk on the streets, hand-push carts, the like of any other crowded area in Hong Kong and Kowloon. Yet we were pleasantly surprised to be back to the Umelco office within an hour at 9.30 a.m. To be fair, I must say that this was not unexpected by the PWD engineers as the itinerary for our visit was so scheduled as I later discovered.

Several days later I made another trip at 8.15 a.m. along the same route to Third Street and Water Street, and am pleased to report equally pleasant experience.

We did have in mind two points: that the Bus Priority Scheme introduced had improved traffic flow; and that whilst the trip was made during the rush hour for office, it was done at school vacation time. For the first one, the DPW and his planners must be commended for having taken the initiative with consequent improvement. For the second point, I tend to surmise that schools normally begin at 8 a.m. or earlier, and whilst it would prolong the rush hours, it would not necessarily aggravate the congestion.

Nor could we accept without reservation the rather pessimistic "Guesstimate" put forth by my honourable Friend when he said that the traffic situation would become untenable when a total of 55,000 people inhabit the Mid-levels area. Hong Kong has 4¼ million people crowding into a territory of 400 square miles of which only about 20% are habitable. The Mid-levels area has to accommodate more people. It will however always remain a choice residential area if the size of the flats being built there is any guidance. I wish also to point out that owing to the geographical proximity to the central business area,

the traffic problem tends to be self-regulating. At 8.30 a.m. on 27th July I experienced that a leisurely stroll from the junction of Robinson and Seymour Roads to Pedder Street via Peel Street and Wellington Street took only 12 minutes. I understand that even in today's conditions increasingly more people living in the area are doing this as a sensible and healthy way of starting the day's work.

Many of us do not realize that as large cities go, Hong Kong is a compact and efficient place to do business. Foreign executives and visitors are the first ones to appreciate this after their experience in their home countries of some real traffic jams or one to two hours' train ride to work, or rushing 10 to 20 miles across town for visits to conduct business.

We have just read that yet more skyscraper office blocks are to be built in the central area of Hong Kong. It is more than likely that increasing numbers of merchants, executives and office workers will want to locate their homes nearby. This in effect might be desirable as otherwise it would provide additional load to and aggravate the congested traffic arteries like Nathan, Princess Margaret, Chatham and Salisbury Roads and the ferries. Failure to provide more flats nearby would, in addition, inflate the cost of travel, to build, to buy or to rent with the well known effects and frustrations.

Sir, much wisdom had been shed on this issue in previous debates. When addressing this Council on the same subject last January, my honourable colleague Mr CHEUNG said and I quote: "Let us be under no misapprehension about the gravity of imposing a moratorium. It delays the provision of much needed housing. It is nothing less than a derogation from grant: a derogation of the rights granted by the Crown lease to the private owner to build in accordance with the conditions of the lease. A moratorium, if it does nothing else, cuts down the number of years during which the private owner might enjoy the fruits of his land."

We have found in our recent discussions with the honourable Director of Public Works and his engineers that they are more receptive to suggestions. We agree that the proposals they submitted are feasible and essential, and worthy of every support and encouragement. In fact we suggest that the all-important Water Street Flyover Scheme might be implemented immediately on a less grandiose scale and avoiding resumption delays by following from Pok Fu Lam Road through Third Street thence to Water Street accommodating two lanes of traffic. Undoubtedly a comfortable and efficient bus service will discourage the use of private cars. It is lamentable that the Commissioner for

[MR WU] **Temporary Restriction of Building Development (Pok Fu Lam and Mid-levels) Ordinance-resumption of debate on motion (17.7.74)**

Transport should find himself so helpless in getting the bus company to use alternative British-made buses with quick delivery (like the tourist buses) to give immediate improvement. Perhaps they should be reminded that any application for fare increases would only be favourably considered subject to an acceptable standard of service having been first provided. Surely this Council's recent endorsement of a fare increase for the Yaumati Ferries is ample indication.

Sir, I have been authorized by my Unofficial colleagues to say that, on the assurance by my honourable Friend that he will move to lift the moratorium on building restrictions in the Pok Fu Lam area by December this year, we will unanimously support the motion.

In the meantime, we would like to see expedited efforts in road improvements and traffic management in the areas concerned.

MR BELL: —Sir, when moving the resolution seeking an extension to the restrictions imposed under this ordinance, I mentioned that, in the case of the Pok Fu Lam area, it was hoped that it might be possible to lift the restrictions by the end of this year. I also stressed however that the completion of further residential development in this area might give rise to a further degree of congestion but considered that this risk should be taken because of development needs.

My honourable Friend has now asked for an assurance from Government that such restrictions will be lifted by the end of the year. I now give this Council such an assurance. I would add that, following the lifting of these restrictions, in the submissions of plans to the Building Authority for approval, the extent of redevelopment to be allowed will be limited to that permitted under existing lease conditions and within present planning controls. Despite the views expressed by my honourable Friend on traffic, I feel I must warn Members however that if traffic conditions do become chaotic in future, and we are talking really about two years from now, it may be necessary to introduce severe traffic control measures and, if all else fails, to reconsider ways of limiting the amount of traffic.

My honourable Friend has paid me the compliment of being more receptive to suggestions. I hope it can always be said that I am willing to discuss and investigate any matter which is put to me. His suggestion concerning the Water Street Flyover is a case in point and this is now being studied within my department. I am particularly pleased

to note that the proposals we have in mind for alleviating traffic conditions generally, have the support of my Unofficial colleagues, and I should like to take this opportunity to thank them for their unanimous support for the motion.

Question put and agreed to.

Motion (Committee)

Supplementary provisions for the quarter ended 31st March 1974

Council went into Committee, pursuant to Standing Order 58(2), to consider the motion standing in the name of the FINANCIAL SECRETARY.

THE FINANCIAL SECRETARY moved the following motion: —

That this Council approves the proposals set out in Paper No 68.

He said: —Sir, the schedule of supplementary provision for the fourth quarter of the financial year 1973-74, that is for the period 1st January to 31st March 1974, covers a total of \$609.6 million. This is a very substantial increase compared with \$192.3 million for the previous quarter and compared with \$114.2 million for the corresponding quarter in 1972-73, these increases are due mainly to two items: first, a further \$300 million for the Mass Transit Fund to bring it up to \$800 million being the Government's equity contribution to the Mass Transit Railway Corporation; and, secondly, \$120.9 million for payments to the public service as a result of the salaries revision in 1973.

Other items in the schedule are of a more conventional nature. They include, for example, \$154.6 million for Public Works Non-Recurrent, of which \$145.8 million was required because of more rapid progress than expected on a number of existing projects and \$8.8 million for projects upgraded to Category A of the Public Works Programme and new Public Works Non-Recurrent projects outside the Public Works Programme. The major projects requiring supplementary provision include the building of one additional incinerator each in Kowloon and Hong Kong, the airport runway extension, Sha Tin New Town Stage I (Phase I), the Aberdeen Tunnel investigations, and works in connection with the High Island Water Scheme.

The Finance Committee, Sir, has approved all the items in the schedule and the purpose of this motion is to seek the covering approval of this Council.

[THE FINANCIAL SECRETARY] **Motion**

Question put and agreed to.

Council then resumed.

THE FINANCIAL SECRETARY reported that the motion had been agreed to in committee without amendment.

Question agreed by the whole Council pursuant to Standing Order 58(4).

First reading of bills

BIRTHS AND DEATHS REGISTRATION (AMENDMENT) BILL 1974

BANKRUPTCY (AMENDMENT) BILL 1974

COMPANIES (AMENDMENT) (NO 2) BILL 1974

HONG KONG TOURIST ASSOCIATION (AMENDMENT) BILL 1974

COMPANIES (AMENDMENT) (NO 3) BILL 1974

MAGISTRATES (AMENDMENT) (NO 2) BILL 1974

TOWN PLANNING (AMENDMENT AND VALIDATION) BILL 1974

URBAN COUNCIL (AMENDMENT) (NO 2) BILL 1974

PUBLIC HEALTH AND URBAN SERVICES (AMENDMENT) BILL 1974

Bills read the first time and ordered to be set down for second reading pursuant to Standing Order 41(3).

Second reading of bills

**BIRTHS AND DEATHS REGISTRATION (AMENDMENT)
BILL 1974**

THE FINANCIAL SECRETARY moved the second reading of: —"A bin to amend the Births and Deaths Registration Ordinance."

He said: —Sir, the purpose of this bill is to increase the fees collected by the Births and Deaths Registry of the Registrar General's Department under the Births and Deaths Registration Ordinance.

The existing fees were introduced in 1965 and have remained unchanged since then. As part of the overall revision of fees and charges to which I made reference in this year's budget speech, the Finance Branch has undertaken a cost study of the Births and Deaths Registry and has found that, at the present level of fees, the Registry is running at a substantial loss.

The Government's policy on fees for services which are not considered to be a fair charge to general revenue is that, wherever possible, they should at least be sufficient to recover costs. Again, wherever possible, the less well-off are catered for by means of a remission system.

To recover costs in the case of the Births and Deaths Registry, fees would have to be raised by an average of rather more than 10 times. As the object of the Births and Deaths Registration Ordinance is to provide for registration rather than to raise revenue and since the Government has an interest in ensuring that the registration of births and deaths is as complete as possible, a lesser increase might be justified, but there are no good reasons why those registering births and deaths should not contribute realistically towards at least a part of the cost of the Registry.

Having regard to the fact that a remission system would not be practicable for fees of this nature and without causing undue hardship or encouraging evasion of the requirement to register, the conclusion we come to at the present time is that the fees should be doubled, and then reviewed fairly soon thereafter to see whether or not a further increase is necessary and in practical terms possible. So the fee for a certified copy of an entry in registers maintained by the Registrar of Births and Deaths is to be increased from \$1.50 to \$3; that for copies sent by post to an addressee outside Hong Kong from \$3 to \$6; and that for obtaining from the Registrar a shortened form of birth certificate from 50 cents to \$ 1.

Similar fees under the Births Registration (Special Registers) Ordinance and the Deaths Registration (Special Registers) Ordinance will also be doubled by Orders made by the Governor to come into effect simultaneously with the revised fees under this bill.

Finally, Sir, I should stress that the initial registration of births and deaths is still free and it is only for the copies of the certificates that charges are to be made and are made now.

Births and Deaths Registration (Amendment) Bill—second reading

Motion made. That the debate on the second reading of the bill be adjourned—THE FINANCIAL SECRETARY.

Question put and agreed to.

BANKRUPTCY (AMENDMENT) BILL 1974

SECRETARY FOR SOCIAL SERVICES moved the second reading of: —"A bill to amend the Bankruptcy Ordinance."

He said: —Sir, the Employment (Amendment) (No 2) Bill 1974 amends the Employment Ordinance to provide for the making of severance payments by employers to employees who, in specified circumstances, are dismissed by reason of redundancy or are laid off.

This bill seeks to amend the Bankruptcy Ordinance to provide for the priority of such severance payments.

Clause 2 provides that in the event of bankruptcy of the employer, severance payments due shall enjoy the same priority accorded to outstanding wages and salary subject to a maximum amount of \$6,000 in respect of each severance payment.

Motion made. That the debate on the second reading of the bill be adjourned—SECRETARY FOR SOCIAL SERVICES.

Question put and agreed to.

COMPANIES (AMENDMENT) (NO 2) BILL 1974

SECRETARY FOR SOCIAL SERVICES moved the second reading of: —"A bill to amend the Companies Ordinance."

He said: —Sir, the Employment (Amendment) (No 2) Bill 1974 amends the Employment Ordinance to provide for the making of severance payments by employers to employees who, in specified circumstances, are dismissed by reason of redundancy or are laid off.

This bill seeks to amend the Companies Ordinance to provide for the priority of such severance payments.

Clause 2 provides that in the event of the winding-up of the employing company, severance payments due shall enjoy the same priority accorded to outstanding wages and salary subject to a maximum amount of \$6,000 in respect of each severance payment.

Motion made. That the debate on the second reading of the bill be adjourned—SECRETARY FOR SOCIAL SERVICES.

Question put and agreed to.

HONG KONG TOURIST ASSOCIATION (AMENDMENT) BILL 1974

THE FINANCIAL SECRETARY moved the second reading of:—"A bill to amend the Hong Kong Tourist Association Ordinance."

He said:—Sir, the Hong Kong Tourist Association (Amendment) Bill 1974 and the Companies (Amendment) (No 3) Bill 1974 seek to accomplish three objectives related solely to the name and insignia of the Hong Kong Tourist Association.

The first objective is the prohibition of the unauthorized use of the association's name, in either English or Chinese. This is not prohibited at present, and experience has shown that it should be. For example, an association in the tourist trade has been using a Chinese name similar to the Chinese name used by the Hong Kong Tourist Association and that could have led, at least, to some confusion.

If the proposed bills are enacted there could well be other companies in breach of the new section 25 which provides that the unauthorized use of the title of the association or any title closely resembling that of the association shall be an offence. Accordingly, to ensure that any offending company has time to amend its title so that it does not conflict with that of the association, it is proposed to delay the commencement of this particular provision until 1st day of January 1975.

This second objective of these two bills is to enable the Governor, by order, to amend the Schedule to the ordinance instead of the Governor in Council. The Schedule contains only the badges of the association and the amendment will obviate the need to bother Governor in Council.

The third objective is to add two further badges of the association to the Schedule to the ordinance, in accordance with existing procedures.

Hong Kong Tourist Association (Amendment) Bill—second reading

Motion made. That the debate on the second reading of the bill be adjourned—THE FINANCIAL SECRETARY.

Question put and agreed to.

COMPANIES (AMENDMENT) (NO 3) BILL 1974

THE FINANCIAL SECRETARY moved the second reading of: —"A bill to amend the Companies Ordinance."

He said: —Sir, I have already explained the purpose of this bill in the speech I just made when moving the second reading of the Hong Kong Tourist Association (Amendment) Bill 1974.

Motion made. That the debate on the second reading of the bill be adjourned—THE FINANCIAL SECRETARY.

Question put and agreed to.

MAGISTRATES (AMENDMENT) (NO 2) BILL 1974

THE ATTORNEY GENERAL moved the second reading of: —"A bill to amend the Magistrates Ordinance."

He said: —Sir, under the Criminal Procedure Ordinance, a custodial sentence imposed on a convicted person who is detained in custody pending the hearing of an appeal normally runs from the date on which it was imposed. As the Magistrates Ordinance stands, time spent by an appellant in custody pending the hearing of his appeal is not normally taken into account and the sentence runs from the date on which the appeal is determined.

The object of this bill, Sir, is to amend the Magistrates Ordinance so as to bring the provisions for calculating sentence under that Ordinance into line with those in the Criminal Procedure Ordinance.

Motion made. That the debate on the second reading of the bill be adjourned—THE ATTORNEY GENERAL.

Question put and agreed to.

**TOWN PLANNING (AMENDMENT AND VALIDATION)
BILL 1974**

THE ATTORNEY GENERAL moved the second reading of:—"A bill to amend the Town Planning Ordinance and to validate certain plans prepared thereunder."

He said:—Sir, the Town Planning Board has always found it necessary to include in draft town plans notes which are either explanatory of matter shown on the plans or are of themselves declaratory of planning policy. The notes are eventually approved by the Governor in Council as part of the approved town plans. I do not think that anyone will find the need for such notes surprising. It is, of course, quite impossible to deal with all aspects of town planning in plan form.

This procedure is of long standing and is not considered to have occasioned any real practical problems. The position has always been well understood by developers and their advisers.

Recently, however, the validity of the notes was challenged in proceedings against the Crown. The challenge was successful, though the Crown succeeded in the action on another ground. The Supreme Court held that the Town Planning Ordinance does not authorize the inclusion of notes in town plans and also held that some of the notes are invalid anyway by reason of uncertainty.

The legal proceedings concerned the Wanchai Outline Zoning Plan, but there is no doubt that the court ruling applies equally to other draft or approved town plans.

The result is that all town plans must now be regarded as ineffective. In consequence, past decisions of the Building Authority under the Buildings Ordinance refusing approval of building plans on the ground that development proposals do not conform with a town plan must also be regarded as invalid.

The significance of this will be apparent to honourable Members and I do not propose to take time in elaborating on the matter. The public interest clearly requires that remedial steps be taken at once, and that is the purpose of this bill. I assure honourable Members that no other course is available. Time would not permit of an appeal to the Full Court in the legal proceedings because of the rule that building plans which are not validly disapproved within a short statutory period are deemed to have been approved, but, as I have said, the Crown was successful in the proceedings on another ground and possibly could not appeal in any event.

[THE ATTORNEY GENERAL] **Town Planning (Amendment and Validation) Bill-second reading**

The bill deals with the past and the future.

With respect to the past (which means any time before the bill becomes law), it does two things. Firstly, it says that town plans shall be treated as having been valid from the outset notwithstanding the inclusion of notes or any uncertainty in them. Secondly, it provides that past refusals of the Building Authority to approve building plans on the ground that they do not conform with a town plan shall also be regarded as having been valid notwithstanding the now established in. validity of the town plan.

For the future, Sir, the bill does a number of things. It says that the existing town plans shall continue to be treated as valid notwithstanding the notes or any uncertainty in them. At the same time, it introduces a new provision specifically authorizing the Town Planning Board to include any matter in a future plan by means of notes, diagrams, illustrations or other descriptive matter and also enables the Board, for the purpose only of removing uncertainty, to modify the notes in existing plans. I am assured that the Board will proceed with the utmost urgency with its clarification of the notes in the existing plans, but this will take a while and the public interest will be protected in the meantime by the general provision requiring such plans to be treated as valid. I should perhaps add that clarification of the notes will, of course, have no effect on building plans already approved.

It is, I think, appropriate for me to mention one particular aspect of the Board's power to clarify notes in the existing plans. I have referred on a number of occasions already to the court ruling that there is uncertainty in some of the notes. The "uncertainty" with which the court was concerned was a legal uncertainty. Though I do not here question the court's legal ruling, I do question whether in fact anyone has ever been in any real doubt as to the purport of the notes. On the contrary, I believe that laymen, whose minds are fortunately not confused by these legal niceties, may be wondering to themselves what the uncertainty is said to be. In the firm belief that this is indeed the case, the Government proposes that there should be no right to object to a re-statement by the Board, for the purpose of clarification only, of the legally uncertain notes.

Sir, one ground on which the court held some of the notes to be uncertain is that they say that certain developments, not strictly conforming to a town plan, may be permitted, without saying from whom

or by what means the permission is to be obtained. This bill introduces a procedure for obtaining permission in such cases. The permission required will be that of the Town Planning Board. It is intended that applications for permission for development proposals involving a departure from a town plan will be considered by the Board initially in the absence of the applicant. This is thought to be in everyone's interest in that many applications can be granted without difficulty and there is no need for the applicant to attend to argue his case. Where, however, an application is refused, the applicant will be entitled to require the Board to re-consider its decision, when he must be given an opportunity to appear. This procedure follows the procedure which has long been in force for dealing with objections to draft town plans.

Sir, the situation in which the Government finds itself has been described as a vintage lawyers' muddle. I think that a trifle unfair, but in a general sense it can be said to be true. I make this point because the introduction of validating legislation in so important a context as this may properly be a cause for concern. However, the Government considers that in real practical terms there has been no difficulty in the past, no one has been misled and no hardship has been caused. There is, nonetheless, a serious legal problem. It is that which the bill seeks to cure for the past and the future.

Motion made. That the debate on the second reading of the bill be adjourned—THE ATTORNEY GENERAL.

Question put and agreed to.

URBAN COUNCIL (AMENDMENT) (No 2) BILL 1974

SECRETARY FOR HOME AFFAIRS moved the second reading of: —"A bill to amend the Urban Council Ordinance."

He said: —Sir, the Urban Council Ordinance requires proficiency in the English language as one of the qualifications for membership of the Urban Council. During the second reading of the Ordinance exactly a year ago today, Sir Hugh NORMAN-WALKER, the then Colonial Secretary, stated that the need for this qualification would be removed as soon as enough interpreters could be made available. There are now sufficient interpreters and translators, and it is therefore time to change the language requirement of the Urban Council Ordinance. Clause 2 of the bill now removes all reference to language qualifications for members. Honourable Members may think that this is taking an undue risk for even persons who are otherwise qualified but are

[SECRETARY FOR HOME AFFAIRS] **Urban Council (Amendment) (No 2) Bill—
second reading**

capable of speaking nothing but Double Dutch will be eligible for election or appointment to the Council. The risk is there but the alternative of providing for tests of spoken Cantonese in this city of strange half dialects was even more fearsome. Whatever language members speak they will however find the Urban Council is empowered under the ordinance to make standing orders requiring the use of a limited and practical range of languages for Council business.

The opportunity has also been taken to effect two minor amendments to the ordinance. Clause 3 of the bill gives validity to assumption papers, and clause 4 makes minor changes to the First Schedule to the ordinance.

Motion made. That the debate on the second reading of the bill be adjourned—SECRETARY FOR HOME AFFAIRS.

Question put and agreed to.

**PUBLIC HEALTH AND URBAN SERVICES (AMENDMENT)
BILL 1974**

SECRETARY FOR THE ENVIRONMENT (ACTING) moved the second reading of:—"A bill to amend the Public Health and Urban Services Ordinance."

He said:—Sir, the main purpose of this bill is to enable better control to be exercised over ventilating systems for restaurants, dancing establishments, theatres, cinemas and funeral parlours.

The inadequacy of the present provisions for controlling ventilation in scheduled premises such as these has been a matter of concern to the Director of Urban Services for some years; and also there have been complaints from the public about the discomfort caused by the lack of adequate air-conditioning, especially in cinemas. Another source of annoyance and inconvenience arises from air-conditioners which emit hot air and drip water onto passers-by.

The cause of these various complaints may be improper installation, poor maintenance or faulty operation of the air-conditioning plants. Under the present law, since there is no reference to air-conditioning as such—only to ventilating systems—very little can be done to remedy the situation and persuasion has often proved to be ineffective.

To correct this state of affairs, the bill re-defines "ventilating system" to include air-conditioning plants, and empowers the Authority to make regulations for the control of ventilating systems in the scheduled premises. These regulations will provide for all the technical and detailed measures necessary to improve the situation.

I should also like to mention in particular that the clause which is designed to prevent the emission of hot air or the dripping of water from air-conditioners in such a manner as to cause a nuisance applies to all premises, not merely scheduled premises.

If this bill is enacted it is intended to give the owners of the premises concerned ample time in which to put their ventilating systems and air-conditioners in order. Also it is proposed that the Urban Services Department would advise on ways in which particular problems in meeting the regulations could be overcome.

Finally, the opportunity has been taken to make other amendments to the principal ordinance. These are of a minor nature and incidental to the purpose of the main bill.

Motion made. That the debate on the second reading of the bill be adjourned—SECRETARY FOR THE ENVIRONMENT (ACTING).

Question put and agreed to.

FIXED PENALTY (CRIMINAL PROCEEDINGS) BILL 1974

Resumption of debate on second reading (17th July 1974)

Question Proposed.

MR CHEONG-LEEN: —Sir, my Unofficial colleagues and I would like to support this bill with one amendment which will be moved at the committee stage.

It will be recalled that the previous Fixed Penalty (Criminal Proceedings) Bill was withdrawn following representations from the Unofficial Members of this Council. The main objection to the previous bill was the proposal to introduce the demerit points scheme, which was criticized by a wide cross-section of the community.

At the second reading of this new bill, on 17th July, the honourable Attorney General averred that the demerit scheme was "basically sound" and that further consideration would be given to it at a suitable

[MR CHEONG-LEEN] **Fixed Penalty (Criminal Proceedings) Bill—resumption of debate on second reading (17.7.74)**

time. Perhaps the demerit scheme is basically sound, but the fact remains that a wide cross-section of the community firmly believe that the scheme is not at all practical under current conditions in Hong Kong and should not be introduced. Therefore, Government prudently decided to withdraw the first bill.

This new bill without the demerit scheme is comparatively more acceptable, although many professional drivers still feel that the terms of the bill are somewhat harsh and not particularly tolerant towards professional drivers as a group. At the same time, if this new bill can alleviate traffic problems to some extent, and also effect a valuable saving of police time so that more policemen can concentrate on fighting serious crime, it will be serving a useful and productive purpose.

The amendment which will be moved at the committee stage has to do with clause 3(4) of Part II of the bill. This clause as it stands empowers the police to issue a notice demanding payment of the fixed penalty within a period of as long as six months after the commission of the offence. In the opinion of the Unofficial Members six months is normally too long and it is proposed to reduce it to one month in every case where the identity of the driver is immediately established.

We are given to understand that in such cases where the driver's identity is immediately established, and it is decided to proceed against him, the demand for fixed penalty payment will usually be issued within seven days.

However, when the identity of the driver cannot be immediately established, the procedure may take longer than one month, and for such cases, the Unofficials have agreed that the time limit can be extended to a maximum period of six months.

THE ATTORNEY GENERAL: —Sir, I still hope to persuade my honourable Friend that his suggested amendment is unnecessary. I can assure him that normally a demand for payment of the fixed penalty will be made very soon after the offence. It is true that the amendment he proposes seeks only to recognize that, but it will in fact Place on the Crown an additional matter to prove where the demand is delayed, albeit for good reason. It seems a pity to impose this additional burden when it is not really necessary to do so.

Question put and agreed to.

Bill read the second time.

Bill committed to a committee of the whole Council pursuant to Standing Order 43(1).

**MULTI-STOREY BUILDINGS (OWNERS INCORPORATION)
(AMENDMENT) BILL 1974**

Resumption of debate on second reading (17th July 1974)

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 43(1).

HONG KONG ARTS CENTRE BILL 1974

Resumption of debate on second reading (17th July 1974)

Question proposed.

MR LEE: —Sir, although my honourable Friend, the Secretary for Home Affairs, had fully covered all the points that need be covered for what seems to be a simple bill, I feel I should say a few more words in my capacity as one who is involved in some modest way in the Arts Centre, because of its significance and specific benefit to the community as a whole.

The object of the Centre is to provide all walks of life in Hong Kong with the opportunity to indulge in and develop cultural pursuits as an essential element of life and not as a luxury over and above the level of simple economic existence.

The original idea, though occasioned by the very great demand on the City Hall, is a courageous ambition of the promoters. Ambitious though it may be, the community is fortunate to have His Excellency Sir Murray's keen personal interest together with Lady MACLEHOSE as one of the Honorary Patrons, in that great encouragement has been given to inspire wide support.

[MR LEE] **Hong Kong Arts Centre Bill—resumption of debate on second reading (17.7.74)**

The substantial donations of Mr Run Run SHAW of the Shaw Foundation HK Ltd, Mr Y. K. PAO himself and his organizations and the widow of the late Sir Shouson CHOW as well as many other members of the public should hereby be gratefully acknowledged. They reflect the usual generosity and public minded spirit of the people of Hong Kong. Without their substantial donations, the initial construction stage of the building of the Centre could not have now been underway. Upon full completion, scheduled in July 1976, the building will stand 200 feet high on 10,000 square feet of land granted by the Government on the waterfront of Wan Chai. It will be one of the most complicated and outstanding buildings ever put up in Hong Kong for which we can be proud.

The Centre aims to give not only physical but also organizational facilities. Local and overseas experts who have rendered invaluable advice have described the project as a unique concept world-wide. My honourable Friend, the Secretary for Home Affairs, mentioned in his speech that the Centre would serve all aspects of arts of both western and eastern traditions. In fact, the centre has already started its activities sometime ago and their programmes for June, July, August and September illustrate this admirably. We can be sure that when the building is completed very much more can be done for the people of Hong Kong.

However, financially, construction can only be proceeded with by stages as the centre has so far in hand just under half of the \$29 million actually required to complete the building fully equipped and furnished as planned. This project deserves the widest publicity to enable further donors to know about it and to come forward with their assistance to this worthy and necessary cause for Hong Kong.

Sir, I have pleasure to support the motion.

MR CHEONG-LEEN: —Sir, I rise to support the Hong Kong Arts Centre Bill 1974.

With the passing of this bill, there will be set up an important institution for the development of the visual, musical and performing arts in Hong Kong.

A small number of dedicated people have for the past 2 or 3 years worked indefatigably towards the establishment of the Arts Centre. Together with this bill and the anticipated completion of the

12-storey Arts Centre building by 1976, their labour will have come to fruition.

As the Chairman of the Hong Kong Arts Centre said at the Annual General Meeting on 10th July this year, the Centre is actively engaged in fostering Hong Kong, Chinese and Far Eastern arts. It seeks an inter-fusion between Chinese and Western arts for the benefit of the community as a whole. It is for this reason that he has stressed the need for a wider range of constituent societies—particularly Chinese constituent societies—to join the Arts Centre.

Already there is a noticeable quickening of the pace of cultural activity in Hong Kong. The keen support of the Governor and Lady MACLEHOSE has given a tremendous fillip towards creating a more civilized image of Hong Kong, not simply as an industrial city, a financial and shipping centre, but equally as a growing centre of culture and the arts.

For example, with the support of the Urban Council, the Hong Kong Philharmonic Orchestra is on the way to becoming a professional orchestra of which the community may well be proud.

The annual Hong Kong Arts Festival will increasingly become a major international cultural event, which in turn should encourage our own local artists towards achieving higher standards of performance and competence.

Hong Kong despite the depressing state of the world economy is on the threshold of an era of exciting cultural growth, especially for our young people.

The Arts Centre could, I am sure, play a most stimulating role in the formation of a music conservatory, a Hong Kong ballet company, and perhaps even a school for Chinese opera.

Without doubt, the passage of time will witness a wider participation by more Chinese art groups in the activities of the Hong Kong Arts Centre which will make it an inspiring instrument for the interfusion of Chinese and Western art forms.

SECRETARY FOR HOME AFFAIRS: —Sir, I am grateful for my honourable Friends' support for this bill and should like to join them in expressing admiration and gratitude to the donors who have made a start on the Arts Centre possible. As my honourable Friend, Mr LEE, has said further capital donations are still required and I hope these will be forthcoming to enable this quite remarkable building to be

[SECRETARY FOR HOME AFFAIRS] **Hong Kong Arts Centre Bill—resumption
of debate on second reading (17.7.74)**

completed in one go. My honourable Friend when speaking in this Council on 14th November last year referred to traditional Chinese thinking that "what is taken from the community should also be used in it." I feel confident that his assertion that this community does have people prepared to give of their wealth will prove well founded, especially in view of the success achieved so far.

Question put and agreed to.

Bill read the second time.

Bill committed to a committee of the whole Council pursuant to Standing Order 43(1).

LANDS TRIBUNAL BILL 1974

Resumption of debate on second reading (3rd July 1974)

Question proposed.

MR CHEUNG: —Sir, the Lands Tribunal, to be established by this bill, will take the place of the variegated boards and tribunals which have arbitrated upon compensation due to the subject for the resumption of land and various curtailment of his rights. It is to be welcomed. A tribunal staffed with a permanent President and other permanent members should result in consistency in the principles to be applied. We have been assured that the President and the other members will become part of the Judiciary, and independent of executive inference and control.

Under section 7 the Governor is enabled to appoint a panel of persons whom he considers suitable to assist the tribunal. This is, if I may say so with respect, a very wise and useful provision, for if the panel is anything like the fair, hardworking and knowledgeable members of the panel of the tenancy tribunal, who have rendered signal service in the determination of compensation payable to tenants in exemption cases, then I think we have added cause to look forward to the exercise of the lands tribunal jurisdiction with a quiet confidence.

I need hardly say that as a lawyer I welcome the replacement of several different code of procedure under the old tribunals with one standard and uniform set of rules in this one tribunal.

My colleagues and I wish the new tribunal every success in its endeavours.

Question put and agreed to.

Bill read the second time.

Bill committed to a committee of the whole Council pursuant to Standing Order 43(1).

CROWN LANDS RESUMPTION (AMENDMENT) BILL 1974

Resumption of debate on second reading (3rd July 1974)

Question proposed.

MR CHEUNG: —Sir, this bill will make improvements to land resumption matters which will be broadly welcomed, and I rise to raise only two points.

First, by clause 13, it is provided that interest on the compensation awarded is to be paid at a rate to be determined by the Financial Secretary. Without in any way suggesting even mildly that my honourable Friend will not act with probity, my Unofficial colleagues have some misgiving in conferring unilateral powers on the Government, who will be in position of owing money, to determine what interest it will pay for the use of money; some provision a little less loaded would seem to us to be desirable.

The same subject will arise over compensation payable under the mass transit scheme.

My colleagues wished to have an opportunity to discuss this point further with Government, and are grateful to you, Sir, in agreeing to postpone the committee stage a fortnight to see if an amendment can be agreed.

The second point I raise is this. Umelco has received a number of complaints that compensation agreed or awarded under the ordinance has not been paid to the person to whom it is due for six or even nine months, which causes my colleagues some surprise. We have investigated individual complaints and I am informed that the Umelco Secretariat has drawn the attention of Government to these individual cases, but the allegation is that this state of affairs is widespread, and indeed, universally prevalent. Government would agree that delay in

[MR CHEUNG] **Crown Lands Resumption (Amendment) Bill—resumption of debate on second reading (3.7.74)**

payment might work considerable hardship, and my colleagues will be grateful if Government will make enquiry and let us know what the position is and see if this can be ameliorated.

SECRETARY FOR THE ENVIRONMENT (ACTING): —Sir, I should be quite glad to look into these points in consultation with the Financial Secretary and have no objection to deferring the committee stage and the third reading until the next sitting on the 14th of August. The Lands Tribunal Bill 1974, which is connected, will also have to be deferred.

Question put and agreed to.

Bill read the second time.

Bill committed to a committee of the whole Council pursuant to Standing Order 43(1).

ROAD TRAFFIC (AMENDMENT) (NO 2) BILL 1974

Resumption of debate on second reading (17th July 1974)

Question proposed.

MR CHEONG-LEEN: —Sir, the intention of this bill, according to the explanatory memorandum, is to have replaced gradually the present form of driving licence by a laminated driving licence card.

As the new laminated card will be about the same size as an identity card, bearing the photograph of the holder and other particulars, I hope that the two types of cards will not look too similar, and that they will be readily distinguishable one from the other.

However, this is a minor point. What is more important is for Government to ensure that these new laminated driving licence cards will replace all the existing driving cards within a reasonable time—say within 12 months—and not gradually as mentioned in the explanatory memorandum.

The Acting Secretary for the Environment said in his speech on 17th July last that the new laminated licence card will be much more convenient to carry. Undoubtedly it will be, and it is desirable that,

when the bill comes into operation, a definite date be set by Government by which time all the existing driving licences will have been replaced by the new laminated licence cards.

Finally, can an assurance be given that an efficient and quick procedure will be worked out to replace lost or stolen laminated driving licence cards? As records of driving licences are now processed and stored by computer, I would suggest that the issuance of a replacement licence card ought to take no more than 7 to 10 days after an application has been made.

SECRETARY FOR THE ENVIRONMENT (ACTING): —Sir, I can assure my honourable Friend that it will be quite easy to distinguish between new laminated driving licences and identity cards: they will be quite different in detail and layout.

I agree that there is a need to replace all the old type driving licences within a reasonable time and, in fact, the Commissioner for Transport has worked out an accelerated programme to complete the conversion process in about seven months. The cost implications of this are now being considered.

On the question of speeding up the replacement of lost or stolen licences, under the new system it should take no longer than the 7 to 10 days that my honourable Friend has suggested.

Question put and agreed to.

Bill read the second time.

Bill committed to a committee of the whole Council pursuant to Standing Order 43(1).

ROAD TRAFFIC (AMENDMENT) (NO 3) BILL 1974

Resumption of debate on second reading (17th July 1974)

Question proposed.

DR CHUNG: —Your Excellency, on behalf of my Unofficial colleagues I rise to give support to this bill and to say that we welcome the establishment of a Corps of Traffic Wardens in Hong Kong.

[DR CHUNG] **Road Traffic (Amendment) (No 3) Bill—resumption of debate on second reading (17.7.74)**

Some of my colleagues, both past and present, have on a number of occasions during the last few years asked questions and made speeches in this Council designed to encourage just such a move forward. I say "a move forward" because I believe it will be advantageous in many aspects to remove from the regular uniformed Police Force the work of traffic control. It has always seemed to me and many others to be inappropriate and indeed wasteful that these less demanding tasks in traffic control should be carried out by regular police personnel who are trained to perform the primary and more important tasks of fighting crime and vice.

As honourable Members are well aware, the Police Force has for some years now not been able to recruit sufficient men to fill its establishment; consequently it has been working much under strength. The introduction of a Corps of Traffic Wardens will ultimately release hundreds of and possibly even a thousand or more regular police sergeants and constables whose sole concern at present is traffic control. With the present violent crime wave in Hong Kong, this indirect way of increasing the strength of regular Police Force so as to intensify our fight against crime and vice is much to be welcomed.

Clause 4 of the bill specifies, among many other things, the various duties of the uniformed traffic wardens. These are the enforcement of the law on parking as well as the control and regulation of vehicular traffic and pedestrians. However, there is no reference made on the enforcement of the Fixed Penalty (Criminal Proceedings) Bill concerning moving traffic offences which is also completing its second reading this afternoon. Will my honourable Friend, Mr DAVIES, confirm that the traffic wardens will also be made responsible for the enforcement of the law of moving traffic offences?

There is one final point which I would like to make on these traffic wardens. Human nature being what it is, traffic offenders are bound to resent the actions of traffic control officers, whether they are regular police officers or traffic wardens. It is too much to expect that, simply because the new traffic wardens will wear a different uniform (or in the case of the female wardens will look much prettier) than the regular Police Force, their presence in the streets will be welcomed. I must say that this will be far from it. But there may be less resentment against the traffic wardens if they show more courteous and helpful attitude towards the public, exercise greater degree of

patience and restraint, and most important, take preventive action rather than prosecution in carrying out their duties. These traffic wardens should possess adequate knowledge on both technical and legal aspects of traffic control and legislation.

Sir, this therefore brings me to the point that there must be adequate training of these traffic wardens before they are put on duty in the streets. This aspect is extremely important and I trust it will not be overlooked or under-emphasized. It is for this reason that I have some doubts whether the proposed five-week training, intensified as it may be, is really adequate.

With these words, Sir, I support the motion before Council.

MR CHEONG-LEEN: —Sir, like my colleague, Dr S. Y. CHUNG, I welcome the setting up of a traffic warden system in Hong Kong.

Government has wisely decided to establish the system on a trial basis, initially for a period of six months. During this trial period, the Corps of Traffic Wardens, which will be under the control of the Commissioner of Police, will be primarily responsible for enforcing the law under the Fixed Penalty (Traffic Contraventions) Ordinance, and will be able to issue parking tickets, otherwise known in legal parlance as "Notices of opportunity to pay fixed penalties". They will also be required to assist in the control and regulation of traffic, including pedestrians.

Traffic wardens will not be allowed to arrest, detain or search a member of the public. This is a desirable restriction that will be welcome by the general public at this time. Traffic wardens will therefore have to exercise patience, restraint, courtesy and discipline when they are called upon to control and regulate traffic, especially pedestrian traffic.

Many traffic accidents are caused not only by careless driving but very much so by indiscriminate jay-walking as well. The traffic warden system should in the long run aim to reduce the number of traffic accidents in Hong Kong, apart from the immediate aim of releasing more policemen to combat violent crime.

It would be interesting to know whether the Commissioner of Police will be establishing a plan to station traffic wardens during peak hours of traffic at traffic "black spots" on Hong Kong Island and in Kowloon and the New Territories which have a history of high accident rates.

[MR CHEONG-LEEN] **Road Traffic (Amendment) (No 3) Bill—
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(17.7.74)**

In the course of time, the public could come to recognize and appreciate the value of having traffic wardens, not just to relieve the shortage of regular policemen, but equally to help cut down the rate of traffic accidents and thus to save human lives.

SECRETARY FOR SECURITY: —Your Excellency, I am grateful to my two honourable Friends for their support and for the visions which one of them conjured up before our eyes.

There are three points, I think, which need elaboration. Firstly, I have been asked to confirm that the traffic wardens will also be made responsible for the enforcement of the law on moving traffic offences.

Honourable Members will know and recognize that the scheme is at the moment a trial scheme. From the remarks made some Members inferred that it is already a success—indeed they may be speeding. We obviously want to ensure the scheme gets off to a good start, is not unnecessarily complicated, or, indeed, controversial. And I am told that traffic has a habit of attracting differing views. And so clause 4 of the bill limits wardens' duties to the enforcement of the Fixed Penalty (Traffic Contraventions) Ordinance. That is to say parking offences in the main. It also gives wardens powers to control and regulate vehicles and pedestrians and so the jay walker should beware. At a later date, if the trial proves successful, further consideration can be given to the issue of fixed penalty tickets for moving offences, but first I suggest we should see how the wardens deal with parking offences and the control and regulation of traffic, to which their duties are initially restricted and hence the shortness of the training period.

It takes, Sir, six months to train a police constable initially and the Commissioner of Police believes that a warden can be trained in 5 weeks or one-fifth of this time—again we shall see whether this estimate is correct and adjust the training period, if this seems desirable. We are hoping for a good quality of intake and the training period has been carefully worked out by the Traffic Branch and the training will be undertaken at the Traffic Training Wing by traffic instructors.

And next the point whether the Commissioner of Police has a plan to station traffic wardens at traffic "black spots". As their duties do not involve moving offences wardens will not specifically patrol such places but the police do in fact control them and these checks and controls will be maintained.

And lastly, Sir, the point about courtesy—I referred to this point in moving the second reading. I agree that traffic wardens' qualities should include patience and restraint with that mixture of firmness and tact which will get the work done. The Commissioner of Police has reiterated to me that the training period will provide emphasis on the need for courtesy in dealing with the public. I hope that the public in its turn will react in a responsive fashion when the wardens appear on duty later this year. I hope too that the public will heed their exhortation—which is an important element of their work.

Question put and agreed to.

Bill read the second time.

Bill committed to a committee of the whole Council pursuant to Standing Order 43(1).

**FIXED PENALTY (TRAFFIC CONTRAVENTIONS) (AMENDMENT)
BILL 1974**

Resumption of debate on second reading (17th July 1974)

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 43(1).

EMPLOYMENT (AMENDMENT) (NO 2) BILL 1974

Resumption of debate on second reading (3rd July 1974)

Question proposed.

DR CHUNG: —Your Excellency, "an employee may have been working for his or her employer for 5, 10 or even 20 years and suddenly his or her employment could be terminated by the employer for no fault of the employee's own but for reason of redundancy. The existing labour legislation gives the employee no more protection or compensation than a period of notice, ranging generally from seven days to one month, from the employer prior to termination. At present, any compensation for such loss of employment due to redundancy is left to both the employer and the employee concerned to make their

[DR CHUNG] **Employment (Amendment) (No 2) Bill—resumption of debate on second reading (3.7.74)**

own bargains. I am sure honourable Members will agree with me that this state of affairs is not satisfactory and needs more cogent attention. Recently my Unofficial colleagues of this Council have had a discussion on this important matter and it is our unanimous view that the Government should . . . enact legislation for severance pay on redundancy which should greatly help reduce the number and gravity of labour-management disputes in Hong Kong." Sir, these were my words in this Council three years ago in July 1971 and they are equally applicable to this occasion.

Since this bill was published on 7th June 1974, there have been many public comments and the Umelco Office has also received a sizable number of representations both from employers associations and labour organizations. Naturally, these representations from employers and employees hold diametrical views on some of the clauses, although they all express general support of the bill in principle.

The most controversial issue is the retrospective period of five years for which severance payment is payable as contained in subsection (3) of section H of the bill. A few large industrial employers associations argue that this amending bill once enacted would impose an immediate liability on those employers who started business two years ago and express grave concern that this instant liability could seriously affect credit facilities of manufacturers as the banks might reduce their credit limits in the light of their clients' new financial obligations. If most of the banks take this line of action, it could cause disruption in industry and the economy of Hong Kong. Accordingly, these employers associations request that the retrospective period should be reduced at least to two years.

On the other hand, the labour unions contend that the limitation of severance pay retrospective to five years (in other words, any service prior to August 1969 will not count if this amending bill is enacted by you, Sir, next month) is unfair and unjust to those employees who have worked more than five years for their employers. This particular section of the amending bill, they allege, will only provide excuses for those unscrupulous employers to deprive the rights of those employees who have given long services to their employers.

The Unofficial Members were informed that Government had originally proposed to make the retrospective period for which a severance payment was payable as long as ten years but that this was

reduced to five years after consultation with employers associations. My Unofficial colleagues generally support this 5-year retrospective period but sympathize with the employers in their concern on the adverse effect of banking facilities. It is therefore hoped that the banks in Hong Kong will, for the interests of Hong Kong as well as of their own, take into account gradually this new liability of their clients created by the enactment of this amending bill and will not over-night impose restrictions on credit facilities and loans as a result of this new labour legislation.

Another controversial issue is the timing of this legislation on severance pay. Several employers' associations have questioned whether the present timing was appropriate in view of the state of the economy and the tight money situation. The labour unions, however, have expressed their opinion very strongly that redundancy legislation is only meaningful when there is threat of unemployment and my Unofficial colleagues support this view.

There is one strong representation from employers' associations on section 20F dealing with lay-off. The employers, in particular the garment manufacturers, have drawn to the attention of UMELCO that there are bound to be lay-off periods during the slack season or when shipments of raw materials are unexpectedly delayed. This situation does occur not infrequently especially in the smaller factories. The meaning of lay-off as defined in section 20F is not really practicable and realistic in Hong Kong. As a result of discussion between Unofficial Members and the Acting Secretary for Social Services and the Commissioner of Labour, it was agreed that there was some justification for re-defining the term lay-off so that an employee shall be taken to be laid-off where his employer fails to provide work for him up to an aggregate of twelve normal working days in any period of four consecutive weeks.

Another strong representation from employers is about the right for an employee to claim severance pay when his employer moves business premises. It is recognized that when an employer moves his factory say from Chai Wan to Tuen Mun, it would be only fair and reasonable for an employee to receive a severance payment if his home is in Chai Wan and if he does not wish to work in Tuen Mun. On the other hand, it would be wrong for an employee to claim severance payment if his employer moves his factory from one block to another in the same or nearby area or even from one floor to another in the same building. After all, Hong Kong is a small place and it is not uncommon for a person who lives say in North Kowloon to go to office

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in Victoria City, or for a worker who resides say on Hong Kong Island to work in a factory in Kwun Tong. The Unofficial Members feel that the employers have a case in this issue and suggest that sub-paragraph (a)(ii) in paragraph (2) of section 20C be deleted. In case of dispute, either the employee or the employer could bring his case to the Labour Tribunal which, as my honourable Friend the Acting Secretary for Social Services has indicated, would soon be granted jurisdiction to hear and determine claims for severance payment.

It was explained to the Unofficial Members that the purpose of section 20G(c) is to exclude civil servants as a class of employee from a right to severance payment, since civil servants are eligible for various benefits under the Pensions Ordinance. Some employers have taken the view that since provident funds are more common than pensions in the private sector, an employee should be given an option to choose between severance pay and employer's contribution in a provident fund but should not be allowed to receive both benefits on redundancy. My Unofficial colleagues believe that this seems in line with the spirit of the amending bill and wish to see that an appropriate amendment would be made to section 20J.

Among a number of representations made to UMELCO by the Hong Kong Woollen Knitting Manufacturers Association there is one in section 20C(1) dealing with qualifying right for an employee to receive severance pay. It is proposed by this employers' association that the 20-month qualifying period be extended to 36 months. On the contrary, the Hong Kong Christian Industrial Committee, in their submission to UMELCO, raise objection to section 20C(1) because, in their opinion, this provision defeats the purpose of the bill which is to protect employees who lose their employment through no fault of their own. They suggest that the qualifying period be reduced to 6 months. The Unofficial Members consider that, in the present circumstances, the 24-month qualifying period as contained in the amending bill is probably the best compromise and lend their unanimous support.

The Hong Kong Christian Industrial Committee also criticize the rate of severance payment, which is one-third of a month's pay or 10 days wages for each completed year of service, as being low by both local and international standards. In moving the second reading of this amending bill on 3rd July 1974, my honourable Friend, the Acting Secretary for Social Services, has explained fully the reasons behind the proposed rate as far as domestic practice is concerned.

As for international standards, honourable Members may be interested to hear some of the rates of severance pay in other countries. In the United Kingdom, the rate varies from $\frac{1}{2}$ week to $1\frac{1}{2}$ weeks' wages for each year of service. In Kenya and Uganda, the rate is 10 days' wages for each year of service. In Aden, India, Mauritius, Tanganyika and Turkey, the rate is about 15 days' wages for each year of service. If we take some nearby countries, Singapore provides $\frac{1}{4}$ to $\frac{1}{2}$ month's wages for each year of service and Taiwan one month wages per year for the first three years and thereafter 10 days wages each year.

Based on these international comparisons, the Unofficial Members feel that the proposed rate of one-third of one month's pay or 10 days' wages for every year of continuous service is generally in line with overseas practice and should be supported.

Sir, in discussing Part II of the Third Schedule of the amending bill, the Unofficial Members feel that where an employee dies from a cause in respect of which the provisions of the Workmen's Compensation Ordinance does not apply, some form of death benefit should be payable to the employee's estate. My Unofficial colleagues, however, recognize that this is really not within the term of redundancy but is an entirely new concept of social benefits in Hong Kong. It is therefore suggested that this matter be given further consideration when an opportunity arises.

Apart from the above, there are a few more minor amendments which will be moved at the committee stage but I do not wish to take up any more of honourable Members' time on these less important issues today.

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

MR WU: —Sir, I rise to lend support to the bill on which my honourable colleague Dr CHUNG the Senior Unofficial Member has so ably summed up our views, and the representations and negotiations UMELCO members have had with interested parties of the community.

Honourable Members might also have read from newspapers that in general, employee and employers' organizations accept the bill in principle. That this is so is most gratifying, and gives one the impression that a spirit of harmony and understanding truly exists in the community to carry us through these turbulent and difficult days in the world economic scene. I like to think that the compromises arrived at as elaborated by Dr CHUNG Will further cement the united strength

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and concerted efforts working, for our economic well-being and social stability.

Hong Kong is going through a changing phase of industrialization when our traditional labour-intensive manufacturing operations are finding it increasingly difficult to compete in the low-end products with other lower-wage countries. A moving up to more sophisticated products, improved methods and mechanization is clearly indicated. During the process, redundancy is unavoidable, and in this one sense the bill is timely in that it will provide relief and breathing space for finding alternative employment or for re-training.

Sir, it has been mentioned that one of the main worries of employers would be that the bill would adversely affect banks' decisions in extending facilities to industrialists because of increased potential liabilities resulting from the bill. In this regard, I would like to call attention to and place on public record that our local bankers' forceful argument against the setting up of an industrial bank has been that no well-managed or well-planned viable projects had been or would be deprived of assistance. A fortnight ago, the chairman of our quasi-central bank was reported to have said that more funds and resources should be channelled into our manufacturing industries for the common good. This no doubt is reassuring news to our industrialists and it is hoped that other Hong Kong bankers will rally to this call to further allay the fears. After all, this would be in the long term interests of our financial institutions as it is overtly apparent that in the present situation the injection of funds to increase productivity, production and employment would help to offset further inflation and a possible depression.

MR TIEN: —Sir, Hong Kong in the last two decades has made phenomenal strides in its industrial and economic growth. Among the many contributing factors to this success not least of all is the role played by the working population who are not only industrious but are also able to adjust themselves quickly to the demand for higher skill and aptitude of a competitive world.

We cannot lose sight of the fact that such advantages are commensurate with the degree of security employers are able to give to their employees in return.

This amending bill will provide a statutory formula to protect the security of the employees in stipulating the amount of severance pay they can receive on redundancy. In assuring them of some monetary compensation when they are displaced from work through no fault of their own, it is to be expected that industrial relations will be improved and the turnover of workers will be reduced.

Although legislation on severance pay on redundancy is still young in most countries, it may be said that many local employers have been operating their own schemes and some are generous. The provisions made in this bill prescribe only the minimum statutory right of workers to severance payments and it is only to be hoped that those employers who are able to be more generous in their payments will make every effort to be so.

Together with other Unofficial Members, I will support the bill subject to the amendments which will be moved at the committee stage.

I would also like to submit that the time may come one day to consider whether, as a matter of principle, benefits should be payable to employees who cease working on attaining "retirement age". It is appreciated that this would involve many considerations and that some organizations—including the Civil Service—already have their own schemes of pension or provident fund. But if Hong Kong is to move progressively towards the direction of fuller employment benefits, I suggest that the matter may be given further thought in the future.

SECRETARY FOR SOCIAL SERVICES: —Sir, I am most grateful to honourable Members for their valuable comments and support on this bill.

As was expected in a matter which is of concern to both employers and employees, directly opposing views have been expressed on the proposals since the bill was first published for public comment. Comments from employers' and employees' associations, the press and individuals have been received and examined in close consultation with Unofficial Members. The main conclusion from these discussions was that the original draft, on the whole, provided, and still provides, for a medium path between these diverse views.

For the reasons already stated so clearly by my honourable Friend Dr S. Y. CHUNG, it is not considered that the main provisions of the bill should be altered. These include the rate of severance pay at one third of a month's pay for each year of service, the qualifying period of two years' continuous service with the same employer and the inclusion

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of service up to five years prior to the introduction of the bill in the calculation of entitlement. Also it is not intended that the introduction of this bill should be delayed, since, as my honourable Friend Mr James WU has pointed out, viable and well-managed business concerns should have no fear of credit restrictions.

However, some of the comments received do show cause for reconsideration in certain respects and these include the other points made by my honourable Friend Dr S. Y. CHUNG in respect of lay-off, place of work and provident funds. I propose therefore to move a number of amendments at the committee stage at the next meeting of this Council which I hope will serve to improve the bill and make the proposals more acceptable to all concerned.

In conclusion, Sir, I should like to assure honourable Members that further and careful consideration will be given to their helpful suggestions regarding the payment of benefits on the retirement or death of an employee.

Question Put and agreed to.

Bill read the second time.

Bill committed to a committee of the whole Council pursuant to Standing Order 43(1).

EMPLOYMENT (AMENDMENT) (NO 3) BILL 1974

Resumption of debate on second reading (17th July 1974)

Question proposed.

MR CHEONG-LEEN: —Sir, I rise to support this bill which seeks to clarify the position of employees as members of trade unions in relation to their employers.

The bill is designed to protect the right of a worker or employee to be a member or officer of a trade union and to participate in its legitimate activities.

I accept this bill as an earnest of Government's policy to encourage responsible trade unionism. Apart from having the moral obligation

to do so, the Government is in a uniquely favourable position to introduce at all times updated and improved legislation in regard to the rights and responsibilities of both workers and employers.

Hong Kong is fortunate in being able to avoid serious economic disruption or public disturbances caused by irresponsible trade union activity. This situation can in some degree be attributable to the role of the Labour Department, whose declared aim is to impartially resolve problems or introduce new legislation that is fair and just to both workers and employers.

In Hong Kong, both economic viability and social justice are equally desirable goals. For the good of the community as a whole, more industrial efficiency and productivity should be strengthened by enlightened attitudes on the part of employers and employees, leading to greater mutual understanding and co-operation, and a fair division of the fruits of mutual effort.

Question put and agreed to.

Bill read the second time.

Bill committed to a committee of the whole Council pursuant to Standing Order 43(1).

BUILDINGS (AMENDMENT) BILL 1974

Resumption of debate on second reading (17th July 1974)

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 43(1).

Committee stage of bills

Council went into Committee.

**MULTI-STOREY BUILDINGS (OWNERS INCORPORATION)
(AMENDMENT) BILL 1974**

Clauses 1 and 2 were agreed to.

HONG KONG ARTS CENTRE BILL 1974

Clauses 1 to 13 were agreed to.

ROAD TRAFFIC (AMENDMENT) (NO 2) BILL 1974

Clause 1

SECRETARY FOR THE ENVIRONMENT (ACTING): —Sir, I move that clause 1 be amended as set out in the paper before honourable Members.

This is purely a question of renumbering necessitated by one of the bills in the series being deferred.

Proposed Amendment

Clause

1 That clause 1 be amended by deleting "(No 2)".

The amendment was agreed to.

Clause 1, as amended, was agreed to,

Clauses 2 to 6 were agreed to.

ROAD TRAFFIC (AMENDMENT) (NO 3) BILL 1974

Clause 1

SECRETARY FOR SECURITY: —Sir, I move that clause 1 be amended as set out in the paper before honourable Members.

This is consequential to the amendment earlier moved by the Secretary for the Environment on the other bill.

DR CHUNG:—Sir, this amendment is to delete the words "No 3" and replace them by the words "No 2". This is because we are passing this Road Traffic (Amendment) (No 3) Bill and the other Road Traffic (Amendment) (No 2) Bill through this Council this afternoon whereas we are deferring the consideration of the Road Traffic (Amendment) (No 1) Bill. Whilst I support this amendment, I find the present style and wording of the short title rather confusing especially when a number of amending bills for the same principal Ordinance are introduced into this Council at the same time, such as the three Road Traffic amending bills and the two Employment amending bills during these two sittings of the Council.

It is for this reason, Sir, that I rise to make this comment and to ask my honourable Friend, the Attorney General, to give some thought to this matter with a view to improving the style and wording of the amending bill short titles in the future (laughter).

Proposed Amendment

Clause

1 That clause 1 be amended by deleting "(No 3)" and substituting the following—

" (No 2) ".

The amendment was agreed to.

Clause 1, as amended, was agreed to.

Clauses 2 to 5 were agreed to.

**FIXED PENALTY (TRAFFIC CONTRAVENTIONS) (AMENDMENT)
BILL 1974**

Clauses 1 to 3 were agreed to.

EMPLOYMENT (AMENDMENT) (NO 3) BILL 1974

Clause 1

SECRETARY FOR SOCIAL SERVICES:—Sir, I move that clause 1 be amended as set out in the paper before honourable Members.

Employment (Amendment) (No 3) Bill—committee stage*Proposed Amendment**Clause*

- 1 That clause 1 be amended by deleting "(No 3)" and substituting the following—

"(No 2)".

The amendment was agreed to.

Clause 1, as amended, was agreed to.

Clauses 2 and 3 were agreed to.

BUILDINGS (AMENDMENT) BILL 1974

Clause 1 was agreed to.

Clause 2

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

Following representations from the Institution of Structural Engineers, many of whose members are currently included in the List of Architects or Engineers, is proposed that List 2 of the Authorized Persons Register should include civil, municipal and structural engineers.

*Proposed Amendment**Clause*

- 2 That clause 2(a) be amended by inserting after "civil" in paragraph (b) of the proposed new definition of "authorized person" the following—

", municipal or structural".

The amendment was agreed to.

Clause 2, as amended, was agreed to.

Clause 3 was agreed to.

Clause 4

MR BELL: —Sir, I move that clause 4 be amended as set out in the paper before honourable Members.

My remarks concerning clause 2 also apply in respect to subsection 2(b) of this clause. In the case of subsection 5(b)(iv) of the proposed new section 3, since these particular nominations to the registration committee are to be named by the Engineering Society of Hong Kong which body does not represent structural engineers, it is proposed that a more general terminology of "engineer" be used in this subsection. (*Laughter*)

Proposed Amendments

Clause

4 That clause 4 be amended—

(a) by inserting after "civil" in subsection (2)(b) of the proposed new section 3 the following—

", municipal or structural";

(b) by deleting "civil" in subsection (5)(b)(iv) of the proposed new section 3;

(c) by deleting subsection (5)(c) of the proposed new section 3 and substituting the following—

"(c) the Registration Committee shall meet at such times and places as the Building Authority shall appoint:

Provided that the Building Authority shall call a meeting of the Registration Committee within 21 days of the receipt by him of a request in writing signed by 2 members of the Registration Committee."; and

(d) by inserting in the proposed new section 4 the following new subsection—

"(4) A structural engineer may not be appointed as a consultant under subsection (1)(b) unless he is registered in the structural engineers' register."

The amendments were agreed to.

Clause 4, as amended, was agreed to.

Clauses 5 to 14 were agreed to.

Building (Amendment) Bill-committee stage

Clause 15

MR BELL: —Sir, I move that clause 15 be amended as set out in the paper before honourable Members.

The amendments in paragraphs (a) and (b) are required to cover the publication of additional lists of architects, engineers and surveyors, which will in future be compiled. The amendments also provide for persons presently registered as architects to be included in List I, II or III and for engineers to be included in List I or II according to their qualifications. A few practising architects and engineers are at present on both lists. Under the new provisions, it is not intended to derogate their position in this respect.

*Proposed Amendments**Clause*

15 That clause 15 be amended—

(a) in paragraph (a), by deleting "shall be deemed to be included in list I" and substituting the following—

"and added to that list by any subsequent Government Notice shall be deemed to be included in list I, II or III, as the case may be according to their qualifications,"; and

(b) in paragraph (b), by deleting "Government Notice shall be deemed to be included in" and substituting the following—

"Government Notice (S.) 12 of 1974 and added to that list by any subsequent Government Notice shall be deemed to be included in list I or II, as the case may be according to their qualifications, of the authorized persons' register and".

The amendments were agreed to.

Clause 15, as amended, was agreed to.

Council then resumed.

Third reading of bills

THE ATTORNEY GENERAL reported that the

Multi-storey Buildings (Owners Incorporation) (Amendment) Bill 1974

Hong Kong Arts Centre Bill 1974

Fixed Penalty (Traffic Contraventions) (Amendment) Bill 1974

had passed through Committee without amendment and that the

Road Traffic (Amendment) Bill 1974

Road Traffic (Amendment) (No 2) Bill 1974

Employment (Amendment) (No 3) Bill 1974

Buildings (Amendment) Bill 1974

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.

Tribute to Mr Dhun RUTTONJEE

HIS EXCELLENCY THE PRESIDENT: —This concludes the business on the Order Paper, but I am sure that it is the wish of Members that, before Council is adjourned, we should pay our respects to the late Dhun RUTTONJEE, who served in this Council with great distinction for 15 years, the longest period of service of any Member since the war.

Dhun RUTTONJEE was a member of a distinguished Hong Kong family, which came here from India in the last century, and for many years he was rightly regarded as the spokesman of the Indian community, which has made such a substantial contribution to the life and economy of Hong Kong in the past hundred years.

Those of us who were privileged to know him, will remember him as a wise and tolerant man, firm in his opinions and courageous in the defence of his principles.

He was invariably courteous and good humoured, whatever the pressures, and he attracted, and held, the friendship of men and women of all races.

[HE THE PRESIDENT] **Tribute to Mr Dhun RUTTONJEE**

Above all, he was a Hong Kong man, experienced in its problems, devoted to its welfare and dedicated to its success. In the turbulent days of 1967 he set an example of courage, leadership and faith in the future of Hong Kong which were of inestimable worth.

We offer our sympathy to his widow and family and hope that they may take consolation from the certainty that this was a good man, who led a fine life and will long be remembered by the community with affection and respect.

DR CHUNG: —Your Excellency, on behalf of my Unofficial colleagues and myself, I wish to associate myself with the tribute which you, Sir, have paid to the late Mr Dhun RUTTONJEE.

We are all conscious that our former colleague and Senior Unofficial Member was a very special type of person. He was a man of achievement, a man of honour, a man of compassion and a man of moral courage. He was most out-spoken and at times very controversial. Those of us, who had the privilege of serving with him in this Council, benefited greatly from these special characteristics and he led us into many new areas of thinking.

The late Mr RUTTONJEE was in the vanguard of the anti-tuberculosis movement in Hong Kong. His personal effort and philanthropy contributed very substantially to our present ability to control this disease.

His outstanding work in this Council, his significant contribution towards the well-being of this community, and his personal style as exemplified by the colourful "tiger orchid" he usually wore on his lapel will long be remembered by his friends and the people of Hong Kong.

To Mrs RUTTONJEE and her family we, the Unofficial Members, offer our deepest sympathy.

Adjournment and next sitting

HIS EXCELLENCY THE PRESIDENT: —In accordance with Standing Orders I now adjourn the Council until 2.30 p.m. on Wednesday the 14th of August.

Adjourned accordingly at ten minutes to five o'clock.