

**OFFICIAL REPORT OF PROCEEDINGS****Wednesday, 27th November 1974****The Council met at half past two o'clock****PRESENT**

HIS EXCELLENCY THE GOVERNOR (*PRESIDENT*)  
SIR CRAWFORD MURRAY MACLEHOSE, KCMG, MBE  
THE HONOURABLE THE COLONIAL SECRETARY  
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 JAMES JEAVONS ROBSON, CBE, JP  
SECRETARY FOR THE ENVIRONMENT  
DR THE HONOURABLE GERALD HUGH CHOA, CBE, JP  
DIRECTOR OF MEDICAL AND HEALTH SERVICES  
THE HONOURABLE IAN MACDONALD LIGHTBODY, CMG, JP  
SECRETARY FOR HOUSING  
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, JP  
SECRETARY FOR SECURITY  
THE HONOURABLE KENNETH WALLIS JOSEPH TOPLEY, JP  
DIRECTOR OF EDUCATION  
THE HONOURABLE IAN ROBERT PRICE, TD, JP  
COMMISSIONER FOR LABOUR  
THE HONOURABLE WILLIAM COLLINS BELL, JP  
DIRECTOR OF PUBLIC WORKS (*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 MRS CATHERINE JOYCE SYMONS, OBE,  
THE HONOURABLE PETER GORDON WILLIAMS, 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 MRS KWAN KO SIU-WAH, MBE, JP  
THE HONOURABLE FRANCIS YUAN-HAO TIEN, OBE, JP

**ABSENT**

THE HONOURABLE LO TAK-SHING, JP

**IN ATTENDANCE**

THE CLERK TO THE LEGISLATIVE COUNCIL

MR KENNETH HARRY WHEELER

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**Papers**

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

<i>Subject</i>	<i>LN No</i>
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<i>Subject</i>	<i>LN No</i>
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Sessional Papers 1974-75:	
No 15—Supplementary Provisions for the Quarter ended 30th June 1974 (published on 27.11.74).	
No 16—Urban Council: Estimates of Revenue and Expenditure for the year ended 31st March 1976 (published on 27.11.74).	
No 17—Statement of Accounts of the Prisons Department Welfare Fund for the year ended 31st March 1974 (published on 27.11.74).	

### **Oral answers to questions**

#### **Retirement age of Government servants**

1. DR FANG asked: —

Sir, has any further progress been made since the Secretary for Home Affairs spoke in this Council on 31st July 1974 regarding raising the retiring age of an officer in the public service from 55 years to 60 years?

THE COLONIAL SECRETARY: —Sir, I am afraid we have been unable to reach agreement with the Staff Associations on what changes should be made to the present retirement arrangements.

However, the Secretary for the Civil Service has recently informed the Staff Associations that our present regulations for extending service beyond the age of 55 will be more extensively and positively used.

There are already about 850 officers over the age of 55 employed in the public service.

**Oral answers****City District Officers—joint accommodation with  
community and youth officers, etc.**

2. MR WANG asked: —

Sir, will Government consider accommodating in one office the City District Officers, the Community and Youth Officers, and the proposed Recreation and Sports Officers, both to reduce costs and to ensure better co-ordination of effort?

SECRETARY FOR HOME AFFAIRS: —Sir, it is Government policy to do so wherever possible. The five Recreation and Sports Officers are all accommodated in City District Offices. Unfortunately—due to lack of space—only two of the ten Community Youth Officers can so be accommodated at present. I stress that it is purely a question of space and the fact is that many of our City District Offices are already very crowded. We should very much like to have combined offices—with a decent amount of space for everyone—but this will take time.

**Ferry piers—construction of and improvements to**

3. MR LOBO asked: —

Sir, will Government give approval without delay for ferry companies to construct new piers or improve existing piers at their own expense, in cases where the need for such piers is acknowledged to be an urgent necessity for the improvement of public transport facilities?

SECRETARY FOR THE ENVIRONMENT: —Sir, my honourable Friend's suggestion that the ferry companies build their piers have my full support.

There are now four items concerned with the construction or extension of ferry piers in Category A II and four others in Category B of the Public Works Programme. Preliminary discussions have already commenced between the Hong Kong and Yaumati Ferry Company and the Government about the possibility of the company undertaking some of this construction work at its own expense. But I must stress that these discussions are at a very early stage. My honourable Friend will appreciate that, before it can commit itself, the company has to ascertain

the viability of embarking upon such expensive and extensive projects, paying particular attention to the type of commercial development which it can associate with the piers concerned.

The Hong Kong and Yaumati Ferry Company is, at present, looking into the possibility of constructing a second North Point Ferry Pier. My honourable Friend may be assured that once firm proposals have been formulated and presented to the Government regarding this or any other ferry piers, they will be promptly dealt with.

### **Hei Ling Chau—future of**

4. MR F. W. LI asked: —

Sir, will Government make a further statement on the future use of Hei Ling Chau?

SECRETARY FOR THE ENVIRONMENT: —Sir, it is expected that proposals for the future use of Hei Ling Chan will be put to Executive Council in the very near future.

These will include a scheme for the conversion of the majority of the present mission buildings for the use as a drug addiction treatment centre. Although the Government would prefer to use the island for recreational purposes, the acute shortage of prison accommodation has made it essential to find additional facilities for the treatment of drug addicts at very short notice.

### **Sugar—stabilizing price of**

5. DR CHUNG asked: —

Will Government take steps to stabilize the price of sugar such as by entering into long term contracts with producing countries at producers' prices?

MR JORDAN: —No, Sir. The Government could stabilize the domestic price of sugar or of any other commodity only by direct intervention in the market, subsidizing supplies when the world price is high—and of course taxing them when the price is low—or, as my honourable Friend suggests, by entering into long term contracts at fixed prices. Any such intervention would of course involve the Government in controlling import and export and the smuggling that would

[MR JORDAN] **Oral answers**

follow the imposition of control. The Government has no intention of setting foot on this slippery path with all its attendant risks.

**Water heaters—warning notices**

6. MRS SYMONS asked: —

Sir, will Government introduce legislation to prescribe that warning notices must be attached to all water heaters which are sold locally, irrespective of whether the fuel used is town gas or liquid petroleum gas?

FINANCIAL SECRETARY: —Yes, Sir. Legislation is now being drafted on trade descriptions and I anticipate a provision being included which would allow orders to be made requiring specified information to be marked on goods sold. Such an order could then be made in respect of the appliances mentioned by my honourable Friend and I undertake to see that this is considered.

**Registration of "Tsau Lim"**

7. MR CHEONG-LEEN asked: —

Sir, what steps are being taken to register and inspect so-called "wine-shops" (TSAU LIM 酒帘)?

SECRETARY FOR SECURITY: —I understand that "wine-shops", like many of the so-called "music parlours" and "massage establishments" are often vice establishments masquerading under an apparently innocuous name. Registration would not be an appropriate method of control but it is hoped that new legislation now being considered will, on enactment, enable the police to exert more effective control over such establishments, especially in relation to the protection of women and juveniles.

**Technical institutes in Kowloon**

8. DR CHUNG asked: —

(a) Will Government inform this Council about the progress on the establishment of the four technical institutes in Kowloon and

- (b) Will Government give an assurance to this Council that these four technical institutes will be operational on the dates as planned, that is, two in 1975, one in 1976 and one in 1977?

MR TOPLEY: —Sir, the four technical institutes referred to by my honourable Friend are those to be provided at Kwai Chung, Kwun Tong, Cheung Sha Wan and San Po Kong respectively. I shall deal with each of them in turn.

Both the Kwai Chung and Kwun Tong Technical Institutes are under construction and both have reached an advanced stage towards completion. I am confident that they will both start operating classes in September 1975 as planned. The principals for these two institutes have been appointed. The principal for the Kwun Tong Institute is already in post and the Kwai Chung principal will be able to take up his duties on a full time basis in January 1975. Also some of the senior staff for both institutes have been appointed and are now engaged in planning, ordering and advising on the installation of equipment and the planning of curricula. In addition certain junior members of staff have been appointed and are now undergoing training at the Technical Teachers College. Both these technical institutes will run courses in mechanical and electrical engineering, textiles and garment making. In addition Kwun Tong Technical Institute will also operate courses in printing and Kwai Chung Technical Institute in commerce. For both these institutes it is expected that evening courses will be advertised in April 1975 and full- and part-time day courses in July 1975.

The Cheung Sha Wan Technical Institute is in Category A of the Public Works Programme with priority A1. Tender documents and bills of quantities for all the project are now in the course of preparation and it is proposed to go to tender soon in order that the contract for the project can be signed early in the 1975-76 financial year and work commence on its construction. If this schedule is maintained then it will be possible for the institute to be ready by mid-1977.

Finally, the San Po Kong Technical Institute is at present in Category B of the Public Works Programme with priority B2. It could not be included in the list of items recommended for upgrading to Category A at the last review because of its large total estimated cost of \$36 million. The inclusion of this sum in the Building Programme would have led to the annual allocation of funds earmarked for this purpose in the five-year forecast of expenditure being exceeded. The building plans for this institute are therefore now being reconsidered

[MR TOPLEY] **Oral answers**

in order to ascertain whether or not the institute can be built in two phases in order to keep its cost within the financial resources calculated to be available at the appropriate times and without significant damage to the usefulness of the project. If this phasing can be achieved and no special difficulties are met in relation to the site, then the institute could be ready in 1978.

I can assure my honourable Friend that I consider the provision of these four technical institutes to be very important and an integral part of the programme for the expansion of secondary technical schooling following the proposals of the recently published White Paper. I can further assure my honourable Friend that I shall do everything I can to see that these institutes will open their doors on dates as near as possible to those originally planned.

**Martial arts bodies**

9. MR CHEONG-LEEN asked: —

Sir, will steps be taken to oblige all martial arts bodies to register with the police?

SECRETARY FOR HOME AFFAIRS: —Sir, there are no powers to enable anyone to oblige all martial arts bodies to register with the police nor do I believe such powers should be sought without very careful thought.

Martial arts are immensely popular. Most of those participating in martial arts regard it as a vigorous and exciting form of recreation. They spend their own time and money and anyone who watches the concentration of energy and skill involved must recognize here an activity of great potential for youth. One would like to see such popular activity among young people encouraged.

There is however a less desirable side to some activities associated with some martial arts bodies and this should be eliminated.

The problem lies in how to apply encouragement to the healthy and idealistic aspects of martial arts without lending any support to those who use these bodies to subvert the enthusiasms of youth for their own undesirable ends.



MR CHEONG-LEEN: —Sir, will my honourable Friend explain what could be done by Government to eliminate the more undesirable and anti-social aspects of martial arts bodies?

SECRETARY FOR HOME AFFAIRS: —No, Sir, I am afraid I can't. This is the purpose of the very careful thought to which I referred.

MR CHEONG-LEEN: —I assume, Sir, that careful thought is being given to what should be done.

SECRETARY FOR HOME AFFAIRS: —Yes, Sir.

### **Hovercraft—production and operation of**

10. MR WU asked: —

Sir, what action is Government taking in regard to the application for facilities for the production of hovercraft and their operation in Hong Kong?

SECRETARY FOR THE ENVIRONMENT: —Sir, the production of hovercraft is the kind of industry involving a high degree of technology, which we would wish to encourage in Hong Kong. I understand that an application has been received in the Commerce and Industry Department for land for these purposes and provided that the application is genuine, we will certainly do our best to make available a suitable site.

We do not, yet, have legislation specifically to cover hovercraft of the Sealand types which have been recently brought to Hong Kong and if they are to be used operationally in Hong Kong waters, as opposed to being used for demonstration purposes, such legislation will be necessary. However, at present it is possible for the Director of Marine to permit the operation of a specified hovercraft provided it is appropriately certificated in the United Kingdom.

I must warn, however, that it is by no means certain that such craft will prove suitable for extensive operational use in Hong Kong as they are, for instance, known to be extremely noisy and it is felt that they may prove to be unsuitable for use in either recreational or harbour waters.

**Oral answers****Roof top spaces in public housing estates**

11. Miss Ko asked: —

Sir, (a) How many vacant roof top spaces are there in the older type public housing estates which were formerly occupied by schools for other organizations?

(b) What are the plans of Government to make use of them?

SECRETARY FOR HOUSING: —Sir, there are about 70 roof top structures in old estates which were formerly used by schools and have now been vacated. Some of these will be demolished in the estate redevelopment process; some have been offered to the Hong Kong Council of Social Service; and plans are being drawn up for the Housing Authority's consideration to convert the remainder into self-contained flats, to help relieve overcrowding in the estates.

**St Teresa's Church tower—stability of**

12. MR LOBO asked: —

Sir, in the interest of public safety, will Government accept responsibility for ensuring the stability of the tower of St Teresa's Church?

MR BELL: —Sir, I can assure my honourable Friend that I as the Building Authority have the question of public safety very much in mind in connection with the tower of St Teresa's Church. The condition of the tower is being monitored and if any action becomes necessary to ensure the public safety it will be taken. Such action has already been taken, in May this year, but no further action is necessary at the present time.

**Government business****Motions****EX-GRATIA AWARD TO MADAM TSE SHUM SHUI-MUI  
UNDER SECTION 95(1) OF THE INTERPRETATION  
AND GENERAL CLAUSES ORDINANCE**

THE ATTORNEY GENERAL moved the following motion: —

Pursuant to section 95(1) of the Interpretation and General Clauses Ordinance that the sum of \$22,650 as compensation

from the general revenue of the Colony be awarded to Madam TSE SHUM Shui-mui of Flat 1028, Block 8, Ho Man Tin Estate, Kowloon as compensation from the general revenue of the Colony on behalf of herself and the dependants of Mr TSE Yuen Cheung who died as a result of injuries sustained in the execution of a duty to assist in the prevention of crime and that the said sum be paid through the Director of Social Welfare.

He said: —Sir, Sergeant Tse of the Royal Hong Kong Police Force was shot through the head by one of a gang of men robbing a bank in Kowloon on 27th March 1973. His death took place before the introduction of the Criminal and Law Enforcement Injuries Compensation Scheme and it is accordingly proposed that an *ex-gratia* award be made to his widow under section 95 of the Interpretation and General Clauses Ordinance. The amount of the award has been determined as if the case fell within the scheme.

Sir, there has been some delay in bringing the matter before this Council on account of uncertainty as to the basis on which the amount of the award should be assessed. It is fortunate that this has not caused any hardship and I take this opportunity to say that the speed with which compensation is paid is one of the strongest features of the Criminal and Law Enforcement Injuries Compensation Scheme under the chairmanship of the honourable Mr CHEUNG.

*Question put and agreed to.*

## **RADIATION ORDINANCE**

DR CHOA moved the following motion: —

That the Radiation (Control of Irradiating Apparatus) (Amendment) Regulations 1974 made by the Radiation Board on the 29th August 1974, be approved.

He said: —Sir, the object of this slight amendment is to simplify the procedure for renewing irradiating apparatus licences. Under the present regulations, a new licence has to be issued every year but it is proposed that a licence shall be issued on a once and for all basis to remain in force subject to the payment of an annual fee but without the necessity for issuing a new licence. If any licensee does not pay his annual fee then his licence would be cancelled.

[DR CHOA] **Radiation Ordinance**

There will be no diminution of control under the proposed revised system, but there will be a considerable saving of time in terms of clerical work.

*Question put and agreed to.*

**Motion (in Committee)**

**Supplementary provisions for the quarter ended 30th June 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 15.

He said: —Sir, the schedule of supplementary provision for the first quarter of the financial year 1974-75, that is to say for the period from 1st April to 30th June 1974, covers a total amount of \$184.8 million. Of this sum, Public Works Non-Recurrent accounts for \$171.3 million, \$40 million of which was required for the construction of Tuen Mun Road—Stage I.

Other items worth mentioning include \$7.02 million to discharge the Government's liability for a claim from a contractor for loss and damage suffered by him in respect of a contract for the supply of sand; \$355,000 to meet the cost of equipment and services required for administering the Wan Chai Public Cargo Working Area; \$250,000 to meet the initial expenses required in setting up the Consumer Council.

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

When I concluded the debate on this year's Appropriation Bill, I anticipated many of these supplementary provisions in my estimated outturn of a surplus of \$12 million for the year. But to give a fuller picture of the position as it had developed by the end of the first quarter—that is to say by the end of June—I should add that supplementary provisions amounting to a further \$89 million were by then in the final stages of processing making a total of \$274 million. On

the other hand, provision of \$189 million in the Estimates had been frozen administratively to offset part of the additional provision voted. So by the end of June, we had revised the original estimate of expenditure for the year of \$5,747 million to \$5,831 million. Compared with the original estimate of \$5,845 million for revenue, which we had no cause at that time to revise, the revised estimate of the outturn at the end of the first quarter was thus a surplus of \$14 million. But we also knew at the end of June that we had received further requests for supplementary provisions amounting to \$204 million; and that an increase in civil service salaries at a cost of about \$250 million was being discussed. Also relevant to the financial position as it was then developing was the possibility of a refund of \$130 million this financial year from the Mass Transit Railway Provisional Authority. In other words as at the end of the first quarter a deficit of about \$300 million for the year was beginning to take shape. By way of interest the actual cumulative deficit at the end of June was \$282 million, a normal seasonal occurrence, and financed, as usual, by simply drawing down our Hong Kong dollar bank accounts.

*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**

**INLAND REVENUE (AMENDMENT) (NO 3) BILL 1974**

**PUBLIC REVENUE PROTECTION (AMENDMENT) BILL 1974**

**LAW REVISION (MISCELLANEOUS REPEALS) BILL 1974**

**FORESTRY (AMENDMENT) BILL 1974**

**HONG KONG PRODUCTIVITY COUNCIL (AMENDMENT) BILL 1974**

**CHILD CARE CENTRES 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

### INLAND REVENUE (AMENDMENT) (NO 3) BILL 1974

THE FINANCIAL SECRETARY moved the second reading of: —“A bill to amend the Inland Revenue Ordinance.”

He said: —

#### *Introduction*

Sir, the day after my honourable Friend Mr BREMRIDGE's memorable speech on the Helena May Institute for Women (Amendment) Bill 1974, you enjoined some of us to follow his example and rely on a brief reference to the explanatory memoranda when moving second readings. I fear, Sir, that, if I did so on this occasion, honourable Members would be none too satisfied.

#### *Main purpose of bill*

The main purpose of this bill is to change the method of calculating assessable profits for profits tax purposes from a preceding year base to an actual current year base, without departing from the pay-as-you-go principle. This will bring profits tax into line with all other taxes on earnings and profits, that is to say, property tax and interest tax, which have always been on the actual current year base, and salaries tax, which was changed over to an actual current year base with effect from 1st April 1973. At the same time, this new method of calculating assessable profits will mean that the unduly complicated commencement and cessation provisions of the present system will be avoided.

#### *Background*

The origins of the bill lie in Part II of the Report of the 1966 Inland Revenue Ordinance Review Committee which was published in March 1968. The review committee had received many representations for the reform of profits tax. It was a result of these representations that the committee recommended that the pay-as-you-go principle (that is to say, the principle whereby tax for the year of assessment should be payable within that year) should be retained; but that the normal basis of assessing profits tax and salaries tax for continuing businesses and employments should be changed from a final assessment on the income of the preceding year to a final assessment on the income of the current year. The committee proposed a system of provisional tax (that is to say, a provisional payment based on the income, of the preceding year) in order to preserve the pay-as-you-go principle.

In my budget speech in 1973, in the context of revenue proposals for the future, I said that those paragraphs of the committee's report dealing with the taxation of profits and all the comments received on them from various bodies at the time were being re-studied with a view to seeing how the problem of changing the method of calculating assessable profits to an actual year basis could best be resolved. My target date at that time for the change-over was 1st April 1974. In the event, it was not possible to meet that target date. As I reported again to this Council in my budget speech this year, our re-study of the relevant paragraphs of the committee's report, and the comments received on them, had taken time and the drawing up of drafting instructions has required a great deal of attention to detail, especially in relation to the transitional proposals. A working draft of the bill was sent to the Hong Kong Society of Accountants for comments earlier this year and the Council of the Society advised us that they support the idea of calculating assessable profits on an actual current year basis and the introduction of a provisional tax system. All the points made by the Society on the draft of the bill shown to them were carefully considered and were either dealt with satisfactorily in correspondence or incorporated in the version of the bill now before Council.

*Proposed method of calculating assessable profits*

I shall begin, Sir, by explaining how the new method of calculating assessable profits will work and then go on to deal with the preservation of the pay-as-you-go principle, the effects of the new tax system on the cash flow position of businesses, the transitional adjustment arrangements and their general effect and finally I shall deal with the stand-over provisions. As I go along I hope I shall allay various fears expressed recently about the proposals in the bill generally.

At present, in order to assess and collect the current year's tax, the law provides that the assessable profits shall be the amount of the profits of the preceding year. This is simply a method of quantification; but, of course, it is an artificial method and at some earlier stage the profits of one year will have had to be used twice. For example, a business commencing on 1st April 1971 will have had the profits earned in the year ending 31st March 1972 used as the measure of its assessable profits for both 1971-72 and 1972-73. Should the business cease trading in, say, the year ending 31st March 1975 its assessable profits for 1974-75 will be calculated on the profits earned from 1st April 1974 up to the actual date of cessation, but its assessable

[THE FINANCIAL SECRETARY]     **Inland Revenue (Amendment) (No 3)**  
**Bill—second reading**

profits for the penultimate year of assessment, namely 1973-74, will be calculated on the profits for the year ending 31st March 1974 or on the profits for the year ending 31st March 1973, whichever are the higher. The double use of a year's profits at commencement and the dropping out of a year's profits on cessation means that there is an inexact relationship over the life of the business between total profits earned and total tax paid. This frequently means that total assessable profits are less than total profits earned and a cessation can easily be timed to produce this effect.

*Pay-as-you-go principle*

Under the new method of calculation, assessable profits for any one year of assessment will be those earned in that same year of assessment. In order to preserve the pay-as-you-go principle, the taxpayer will have to pay a provisional tax during the year of assessment, based on the profits of the preceding year, but this will be finally adjusted when the actual profits for that year are known.

Payment of tax for the current year of assessment within the year of assessment—that is to say, the pay-as-you-go principle—has been a feature of the tax system in Hong Kong since 1974. Tax has always been payable before the end of the fiscal year, so a certain element can be said to have been always payable in advance of the profits being earned. But, whereas under the present system this payment is the final tax for the year of assessment, under the new system it will be a provisional payment subject to later adjustment to accord with the actual profits earned in that year. It is true that the final adjustment up or down will take place in the year following—it can hardly happen otherwise. But it is not true to say that payment of provisional tax is an advance payment for the next year of assessment. It is a payment on account for the current year of assessment, that is to say, on assessable profits of the current year which, in many cases, will have already been earned or largely earned.

Thus, in the first year under the new system (that is to say, 1975-76), the provisional tax for 1975-76 payable towards the end of 1975-76 will be calculated on actual profits earned in 1974-75, the final tax for 1975-76 being ascertained in 1976-77 when the actual profits for 1975-76 are known.



*Effects of new system on revenue and cash flow*

To sum up, then: as from the year of assessment commencing 1st April 1975 businesses will be finally taxed for each year of assessment on their actual profits earned for that year of assessment. So, in future, their tax liability will always have an exact relationship with their actual profits earned, both in the short term and over the life of a business.

The main effect of the new system will be that, in a situation of rising profits, there will be a quicker flow of revenue; on the other hand, a situation of declining profits will be reflected more quickly by a smaller yearly demand on businesses and, where there is evidence that profits in a current year are likely to be less than 80% of profits on which provisional tax has been calculated, provisional tax can be adjusted by the Commissioner to reflect the decline in profits. Under the present system, an actual loss has to be established for the purpose of an offset before the Commissioner is in a position to recognize that a cash flow problem has arisen as a result of a decline in profits.

The only effect of the new tax system on the cash flow situation of a continuing business is the amount of the adjustment to provisional tax based, for the sake of reckoning, on the previous year's assessable profits to convert it into the correct figure of tax on actual profits earned. The adjustments required will be greater where there are large fluctuations of profits. But for a continuing business with a steady profit record there will be only relatively minor adjustments. And for all businesses the new system will mean that, from the year of assessment commencing on 1st April 1975, their tax liability will be no more and no less than the standard rate of tax applied to their actual profits. The erratic effects of the present commencement and cessation provisions will no longer be there.

*Transitional adjustment*

As a continuing business is at present assessed on a preceding year base, the change-over to an actual current year base will involve the dropping out of the profits of one year as the base for an assessment. Thus, the final tax liability for 1974-75 (the transitional year) will be calculated on the basis of either the actual profits of 1974-75 or the profits of 1973-74 (the preceding year), whichever are the greater. It is the year of smaller profits that will drop out. This method of changing over from a preceding year base to an actual current year base for calculating assessable profits has been chosen on the recommendation of the 1966 Review Committee, because it is the method

[THE FINANCIAL SECRETARY]     **Inland Revenue (Amendment) (No 3)**  
  **Bill—second reading**

already used when assessable profits are calculated on an actual current year base for the final year of assessment on cessation of trading. Honourable Members will recall that this was the approach adopted when the method of calculating salaries assessable to tax was changed to a current year base with effect from 1st April 1973.

The need for a transitional adjustment for 1974-75 is particularly apparent in the case of an established business coming into profitability for the first time, or into exceptional profitability in 1974-75. In the years of assessment 1973-74, 1974-75 and 1975-76, let us assume the profits of such a business were nil, \$2 million and \$200,000 respectively, making a total of \$2.2 million. In 1973-74, let us also assume the business carried forward accumulated losses of \$400,000. If there was no transitional adjustment for 1974-75 the profits of \$2 million earned in that year would drop out completely. There would be a nil assessment for 1974-75 (based on nil profits in 1973-74) and the loss of \$400,000, carried forward being unrelieved, would be carried forward to 1975-76 would more than cover the actual profits of \$200,000 in that year. Thus, on the final adjustment for 1975-76 (in 1976-77), there would still be a balance of loss of \$200,000 to be carried forward to 1976-77. No tax would have been paid, although the business had earned profits up to 31st March 1976 of no less than \$1.8 million. But the transitional adjustment proposed in the bill will bring the profits of \$2 million earned in 1974-75 into the calculation of assessable profits (and rightly so).

*General effect of transitional adjustment*

I have just mentioned that the transitional adjustment involves dropping out the smaller of the profits for 1973-74 or 1974-75. As 1973-74 was generally a more profitable year than 1974-75, it will be 1974-75 profits which will tend to drop out from assessment. Inasmuch as, under the present system, tax for the transitional year 1974-75 will already have been assessed and paid by reference to the preceding year's profits (that is to say the larger profits in 1973-74), there will be no transitional adjustment for many businesses.

Furthermore, as originally drafted the bill proposed that provisional tax for 1975-76 should be calculated by reference to 1974-75 assessable profits. This would have meant that a business earning less in 1974-75 than in 1973-74 would have had to pay provisional tax on the higher figure of 1973-74 and the subsequent adjustment for final

tax in 1976-77 might have involved a credit. So, in order to mitigate any possible cash flow effects, it was decided that provisional tax for 1975-76 should be based on actual profits in 1974-75, that is to say, the actual profits of the preceding year and not assessable profits in 1974-75.

But this does present the problem of what to do with capital expenditure incurred in the dropped out year. Under the present law, any capital expenditure in an interval between base periods would be regarded as expenditure in the subsequent base period and would rank for initial allowance with the capital expenditure of that period. It is proposed not to follow this provision in the transitional arrangements. With initial allowances now at 25%, we cannot afford to give initial allowance on two years' expenditure in one year. So capital expenditure incurred in the dropped out year will not qualify for an initial allowance, although it will qualify for annual allowance. I must stress that we are not departing from the principle that capital expenditure on industrial buildings and plant and machinery, less any monies recovered on disposal, is allowed as a deduction over a period of time or over the working life of the plant, as the case may be. The transitional adjustment will not affect the total allowances over the life of the asset. Failure to qualify for an initial allowance will mean higher amounts of annual allowance.

*Stand-over of provisional tax*

I have already mentioned the provision for the stand-over of payment of the whole or part of the provisional tax where actual profits are likely to be less than 8% of the sum on which provisional tax was calculated. There are other provisions for stand-over which seek to recognize possible cash flow problems and to try to avoid temporary over-payments and subsequent credits. These provisions relate to the following situations:

- where there is a reduction of profits because of cessation of business;
- where there are claims for personal assessment which would substantially reduce liability to tax;
- where there is an omission or error in the amount of any loss brought forward for set-off;
- where the preceding year's assessment to profits tax is under objection.

[THE FINANCIAL SECRETARY]     **Inland Revenue (Amendment) (No 3)**  
**Bill—second reading**

*Summary*

To sum up: Sir, under this bill it is proposed to bring profits tax into line with taxes on other earnings in that the profits finally assessed for any one year of assessment will be those current to that year of assessment. They will, in most cases, be the profits for the actual year of assessment, but there will be a permitted variation where a business substitutes its accounting date ending on a date within the year of assessment for the 31st March. The tax rates for any year will be applied against the profits of that year and not against the profits of some notional period. Because of this, reserves for taxation can be calculated accurately and set aside from the profits of any one year. As the proposed new system incorporates the long standing pay-as-you-go principle and keeps tax payments abreast of the profits liable to tax, the taxpayer will have less opportunity to avoid payment

Having dealt so clearly, Sir, with the main purpose of this bill and its effects, I am now in a position to emulate my honourable Friend Mr BREMRIDGE and simply refer honourable Members to the explanatory memorandum for an analysis of the actual technical details of the bill.

*Other changes*

But, before sitting down, I must draw honourable Members' attention to two further proposals in the bill which are not directly connected with the new method of calculating assessable profits.

The first proposal concerns the treatment of losses. In future, a corporation will be able to set off a share of a partnership loss in the computation of its assessable profits, or to set off a loss in its own business against its share of the assessable profits of the partnership. In like manner, an individual incurring a loss as a sole proprietor of a business or a share of loss as a partner in a partnership will be able to set off these future losses in calculating his total income for personal assessment. The 1966 Review Committee recommended these changes as part of their proposals for reforming profits tax. We have tailored them to fit the new system.

The second proposal implements a suggestion which I made in the budget speech earlier this year in the context of allowances for charitable donations. The bill provides for the permitted 10% of assessable income or profits now allowed in respect of charitable

donations, to be calculated on income or profits before reduction for previous losses rather than on the reduced amount after deducting such losses.

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

*Question put and agreed to.*

### **PUBLIC REVENUE PROTECTION (AMENDMENT) BILL 1974**

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

He said: —Sir, the Public Revenue Protection Ordinance is designed to protect the revenue of the Hong Kong Government in certain circumstances. It is used mainly during the period between the announcement of a revenue proposal in the budget speech and the enactment of the necessary legislation giving full legal effect to it. Under section 2 of the ordinance, you, Sir, may make an Order which gives full legal force and effect to the provisions of the relevant bill you approve for later introduction into this Council.

Section 2 as worded at present refers only to imposing or changing the actual duty, tax, fee rate or item of revenue. It does not explicitly cover changes to allowances or to general provisions related to taxes, or protect the revenue in the event of such changes. The amendment proposed in this bill is to remedy this defect by introducing a minor extension to section 2 of the ordinance.

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

*Question put and agreed to.*

### **LAW REVISION (MISCELLANEOUS REPEALS) BILL 1974**

THE ATTORNEY GENERAL moved the second reading of: —"A bill to repeal certain ordinances."

He said: —Sir, I move the second reading of the Law Revision (Miscellaneous Repeals) Bill 1974, which seeks to repeal the Lighting Control Ordinance and the Public Servants (Liabilities) Ordinance.

[THE ATTORNEY GENERAL] **Law Revision (Miscellaneous Repeals)****Bill—second reading**

The Lighting Control Ordinance was enacted in 1936 and enables the Governor in Council to order a blackout. It is considered that the ordinance may now safely be laid to rest.

The Public Servants (Liabilities) Ordinance, which was enacted in 1917, prohibits certain legal proceedings against civil servants with salaries of less than \$500 per month. The prohibited actions are actions for recovery of loans or on promises to be answerable for another's debts and actions on bonds, bills of exchange and promissory notes. It is considered that the protection which this ordinance affords to this group of civil servants is no longer necessary.

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

*Question put and agreed to.*

**FORESTRY (AMENDMENT) BILL 1974**

SECRETARY FOR THE ENVIRONMENT moved the second reading of: —"A bill to amend the Forestry Ordinance."

He said: —Sir, in moving the second reading of the Forestry (Amendment) Bill 1974 I am conscious of the grave threat posed by fire in the countryside, a threat which is becoming more serious with the ever-increasing number of people who now have the opportunity and the means to spend their leisure hours in the open. Over the last ten years, the average incidence of hill fires has been in excess of 500 per dry season, with the 1973-74 fire season being one of the worst on record with more than 1,100 outbreaks being reported. These fires, which are usually the result of human carelessness, cause severe, and sometimes irreparable damage to the natural vegetation and wild life, and reduce the value of the areas affected for recreational and water-gathering purposes.

In order to counteract this threat, it is now proposed that the Forestry Ordinance should be amended to widen its scope so as to bring within its protective umbrella open countryside where most of the hill fires are started. Such an amendment in itself would not, however, provide the means to reduce the threat to acceptable proportions because of another fundamental weakness in the existing

ordinance, in that the present offence of lighting a fire wilfully or negligently is virtually impossible to prove. Consequently, it is proposed that the lighting or use of fires without reasonable excuse or care by either an individual or a member of a group should be made an offence. It may be argued that to impose group responsibility in this manner would be an erosion of the liberty of the individual; however, it is a matter of fact that people who visit the countryside often do so in large groups. It would, therefore, be logical for them to accept responsibility as a group for any action on their part which results in a fire that in turn causes damage to the countryside. But the important point is that there is no other way of applying the law in such situations since it would be impossible to prove who actually lit the fire.

In making these proposals to amend the legislation, I am also conscious of the need to educate the public so that they know how to use the countryside without endangering it. The Director of Agriculture and Fisheries, with the advice of the Advisory Committee on Recreational Development and Nature Conservation, has embarked on an imaginative five-year programme for the provision of recreational facilities in the countryside which will include all facilities required for picnicking and barbecues in suitable locations. In conjunction with this programme he is producing a range of pamphlets describing nature trails and what may be seen on them in the way of plant and wild life. The Crown Lands and Survey Office is also producing a series of countryside maps showing footpaths, forested areas and picnic spots, and incorporating a Country Code which lays down guidelines for the proper use of the countryside. Two of the maps in this series have already been produced and are on sale, while another is in the production stage.

All this will have little value, however, unless private organizations which take large parties to the countryside, such as schools and firms, ensure that their members are conscious of the need to prevent hill fires. Government on its part will be launching a full scale fire prevention campaign starting on 1st December this year and while the scope of the campaign will cover all aspects of fire prevention, due emphasis will be given to the dangers of hill fires and to the need to take proper precautions in discarding cigarette ends or in lighting fires in the countryside.

Apart from the two principal amendments I have just described, the other proposed amendments are of a minor drafting nature.

[SECRETARY FOR THE ENVIRONMENT] **Forestry (Amendment)**  
**Bill—second reading**

In closing, I should like to underline the point that the object of the present bill is not to restrict the use of the countryside but to help to safeguard it from the thoughtless or careless actions of the few so that it may be preserved and enjoyed by the many.

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

*Question put and agreed to.*

**HONG KONG PRODUCTIVITY COUNCIL (AMENDMENT)**  
**BILL 1974**

MR JORDAN moved the second reading of:—"A bill to amend the Hong Kong Productivity Council Ordinance."

He said:—Sir, I rise with even more than my usual diffidence to move the second reading of the Hong Kong Productivity Council (Amendment) Bill 1974. I am a mere member of the Hong Kong Productivity Council, speaking under the critical eye of my chairman, my honourable Friend Dr S. Y. CHUNG, and indeed of our deputy chairman Mr James WU behind him.

The purposes of this bill are to remove the limitation of the Productivity Council's power to delegate the appointment of its employees, to provide for greater flexibility in the constitution of the Council and of its Executive Committee; to reduce the number of civil servants on these bodies; and to protect the Council's emblem.

Ten of the twenty-one members of the Council are at present civil servants. The Council feels—and the Government agrees—that this number could well be reduced to six, and that there should be more flexibility in the numbers appointed to represent management, labour, and professional or academic interests. The bill provides for similar flexibility in the constitution of the Executive Committee.

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

*Question put and agreed to.*



## CHILD CARE CENTRES BILL 1974

SECRETARY FOR SOCIAL SERVICES moved the second reading of:—"A bill to provide for the registration, control and inspection of child care centres and for purposes connected therewith."

He said:—Sir, I mentioned in my speech to this Council a fortnight ago that I am conscious of the need to increase the number of subvented places in day care centres and of the necessity of improving and maintaining standards to ensure the health, welfare and safety of the young children in both subvented and commercially-operated child care centres.

This bill seeks to establish a system of registration, control and inspection over the operation of these establishments. It will be supported by regulations laying down the standards to be followed in respect of staff responsibilities and qualifications, structural requirements, fire precautions and health and sanitation.

The scope of this bill is governed by the definition of child care centres. The phrase "received and cared for" would exclude casual gatherings of children meeting for some innocent purpose such as a birthday party or playing in the premises while their parents are visiting friends or playing mah-jong. Some doubts have been expressed on the clarity of this definition. Consequently, I intend to move certain amendments, at the committee stage, to remove any possible doubts. What I have in mind, Sir, is to re-define "child care centres" to mean any premises at which more than five children who are under the age of six years are habitually received for the purpose of care and supervision during part of the day or for longer periods. At the same time, I also intend to propose adding to clause 3 of the bill, a subclause stating that the ordinance does not apply where the only children in the premises are members of families ordinarily residing in them.

There are 86 subvented child care centres and these are generally of an acceptable standard. In the commercial sector, the number is estimated at about 200 and they vary considerably in their mode of operation. Concern over the lack of legislative control has been expressed previously in this Council and in the press and it is hoped that the measures now proposed will eliminate the poor conditions prevailing in those badly-run establishments operated on a purely commercial basis.

Sir, honourable Members are aware that we are now in the middle of a programme to expand the number of subvented places in child

[SECRETARY FOR SOCIAL SERVICES] **Child Care Centres Bill—second reading**

care centres by 1,000 a year. However, there is a danger that the beneficial effect of this increase would be lost if, at the same time, the number of places in the profit-making centres were to decline significantly as a result of legislative provisions being so restrictive as to force many operators out of business. Therefore, although certain minimum requirements are stipulated and offences provided to eliminate the worst abuses, clause 18(3) of the bill allows the Director of Social Welfare discretion in enforcing this legislation by waiving the requirements of any regulations in any particular case. It is envisaged that the Director of Social Welfare will normally exercise his authority under this subclause by waiving certain requirements temporarily. Initially, however, this would be done on a general basis so that operators of child care centres can meet the requirements in stages over a number of years.

Briefly, the first stage will take place within one year of enactment. This will involve compliance with all structural, fire safety and health requirements. During the same year, some progress must also be made towards adequate training and staffing of the centres, and a satisfactory dietary scale and programme of activities must be introduced. A year later, the ratio of staff to children and the floor area allotted to each child must be up to the standard prescribed and further progress must be made towards achieving the target of trained staff. Within three years, all staff must have obtained the required minimum academic qualifications and, in the final stage, they must all have had relevant training in child care work before the requirements of the legislation are fully applied at the end of the fourth year.

These stages are described in detail in a comprehensive code of practice which will be distributed to all known child care centres to advise and guide supervisors in the efficient operation of their centres. A simple leaflet will also be prepared advising parents of the standards they should expect in selecting a centre for their children; this will be available at City District Offices, district offices of the New Territories, housing estates, community centres and other appropriate places.

Sir, I hope those people operating child care centres will appreciate that, in introducing this legislation, Government has fully taken into account the difficulties facing those who wish to operate nurseries but who are inevitably governed by the economic circumstances of life in Hong Kong. I therefore trust that the requirements of this legislation and particularly the phased implementation will not be an unbearable

burden for those who wish to operate child care centres for the benefit of the community. Some commercial child care centres might well be forced to cease operation, but this is not necessarily a bad thing as I am sure honourable Members will agree that the safety and welfare of the children in all these centres must be of paramount importance. Provided there is sufficient demand, I believe that any shortfall will be made good by new centres capable of providing acceptable standards in suitable premises.

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

*Question put and agreed to.*

#### **COMWANIES (AMENDMENT) (NO 4) BILL 1974**

##### **Resumption of debate on second reading (13th November 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).*

#### **CROSS-HARBOUR TUNNEL (AMENDMENT) BILL 1974**

##### **Resumption of debate on second reading (13th November 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).*

#### **FIRE AND MARINE INSURANCE COMPANIES DEPOSIT (AMENDMENT) BILL 1974**

##### **Resumption of debate on second reading (13th November 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).*

#### **LIFE INSURANCE COMPANIES (AMENDMENT) BILL 1974**

##### **Resumption of debate on second reading (13th November 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).*

#### **SUPPLEMENTARY APPROPRIATION (1973-74) BILL 1974**

##### **Resumption of debate on second reading (13th November 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).*

#### **MERCHANT SHIPPING (AMENDMENT) BILL 1974**

##### **Resumption of debate on second reading (13th November 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).*

**CHARITIES (LAND ACQUISITION) (REPEAL) BILL 1974****Resumption of debate on second reading (13th November 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).*

**CLEAN AIR (AMENDMENT) BILL 1974****Resumption of debate on second reading (13th November 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).*

**LION ROCK TUNNEL (AMENDMENT) BILL 1974****Resumption of debate on second reading (13th November 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).*

**TEMPORARY RESTRICTION OF BUILDING DEVELOPMENT  
(POK FU LAM AND MID-LEVELS) (AMENDMENT)  
(NO 2) BILL 1974****Resumption of debate on second reading (13th November 1974)**

*Question proposed.*

**Temporary Restriction of Building Development (Pok Fu Lam and Mid-levels) (Amendment) (No 2) Bill—resumption of debate on second reading (13.11.74)**

MR CHEUNG: —Sir, my Unofficial colleagues welcome the lifting of the temporary restriction on building development in Pok Fu Lam and I am grateful to my honourable Friend Mr BELL for having moved the second reading of this bill to honour assurances he gave to this Council last summer. We are glad also to see that measures to improve traffic in Pok Fu Lam are in hand.

The widening of two further sections of Pok Fu Lam Road should begin in the next financial year, one of which should be completed in 1976 and the other in 1977. They have been accorded a grading and priority of A1 in the Public Works Programme at a cost estimated at nearly \$15 million. These two sections cover the road from Pokfield Road Bus Terminus to Pok Fu Lam Village.

It leaves only the section between the University and Pokfield Road to be widened; and that section is, I gather, a headache, and investigation is still going on into the various permutations and combinations possible.

The Public Works Sub-committee will shortly recommend to Finance Committee the creation of two new items in Category A of the programme; one is the site investigation, design and land acquisitions in connexion with the Pok Fu Lam Road/Connaught Road West link through Water Street at a cost of \$27.5 million. The actual construction of this item is in Category B.

The second item that we shall recommend is to engage consultants to undertake the site investigation and design of the elevated road, from Harcourt Road all the way down to Water Street. The consultants' work should be completed within two years, and it is my hope, personally, that construction work may thereafter start on it without delay.

Lastly, it is anticipated that work on the pilot tunnel for the Aberdeen Tunnel may be completed next month, and the tunnel itself completed within five years. I have used such powers of persuasion as I have to induce my honourable Friend the Financial Secretary to accelerate completion of these projects but with his exquisite courtesy he has regretted that it's not been possible to do everything the day before yesterday.

The problems relating to the Mid-levels have still to be solved, but I hope that the measures which I have just referred to in relation to Pok Fu Lam will largely restore general confidence.

Sir, I support the bill.

*Question put and agreed to.*

Bill read the second time.

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

## **COMPANIES (AMENDMENT) BILL 1974**

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

*Question proposed.*

MR LEE: —Sir, as a developing economy Hong Kong, like all other countries, has to face many challenges. One of such challenges is for our business and industry to raise money in the form of capital and loans, both locally and internationally, to meet their financial needs. To do so, it is essential that nothing short of the highest standard of accounting and auditing should be observed by the companies concerned in order to command the confidence of investors, be they shareholders or creditors or potential suppliers of money. The Companies (Amendment) Bill 1974 now before Council is designed to serve this very purpose.

The various clauses of the bill are well explained by its accompanying explanatory memorandum as well as the clear introduction of the honourable Financial Secretary when he moved the second reading of the bill on 3rd July 1974. By its very nature, the bill is somewhat complicated and technical. Its significance and complexity may be noted from a remark by the Companies Law Revision Committee following their study of the changes in the United Kingdom law in 1948 and 1967 on the subject. This remark was already recognized by the honourable Financial Secretary, but I'd like to quote it here: "there is no part of company law in which more sweeping changes have been made in Britain than the statutory provisions relating to company accounts". To the layman, suffice it to say that the bill is intended to give better protection to the shareholders and the creditors of a company by requiring it to raise its standard of accounting and auditing

[MR LEE] **Companies (Amendment) Bill—resumption of debate on second reading (3.7.74)**

as well as to provide for its directors to give fuller information to its shareholders in a prescribed form.

In view of the importance of the bill, the Unofficial Members formed an *ad hoc* committee to study the proposals in it. I shall move to amend some of the clauses at the committee stage. It is gratifying that Government has accepted the proposed amendments and, while supporting the bill, I think it may be useful if the reasons for such amendments are now given.

I now begin with the commencement date of the new requirements. The bill proposes to give six months' notice from its publication to apply to accounts for the current financial year ending on or after 31st December 1974. In order to allow more time for companies to comply with the new requirements, and this is further necessitated by the delay of almost four months in the second and the third readings of the bill, it will be proposed that the commencement date be amended to 1st October 1975. That is, the new requirements should begin to apply in respect of accounts covering the financial year ending on or after 30th September 1975.

The second point is the despatch of annual reports and accounts to members and other persons. The bill prescribes that not less than seven days before an annual general meeting, reports and accounts should be sent to members and other persons entitled to receive them. In the United Kingdom the equivalent statutory period is 21 days. The Companies Law Revision Committee had recommended 14 days which would seem to be more logical period because the period of seven days is by any measurement a bit short for shareholders and other interested parties to study the reports and accounts. It will therefore be proposed that section 129G(1) in clause 12 should be amended to read 14 days instead.

I now go to the auditors' report. Part III of the new Tenth Schedule gives banking companies, insurance companies and shipping companies certain exemptions from the full accounting requirements. These exemptions are mainly concerned with the maintenance of inner reserves which are not at issue.

The point that arises is: if any such exemptions are availed of, the auditors are only required to report whether the company's accounts and group accounts where applicable have been properly prepared in



accordance with the Companies Ordinance. As nothing need be said about the "true and fair view" of the state of affairs and the profit or loss shown by the accounts, the absence of those words may be taken to imply, to the lay public if not to the informed few, that such a view is not presented. It is therefore suggested to amend section 141(3)(a) in clause 13 that, in all such cases, auditors be required to report in positive terms whether the accounts give a true and fair view on the basis that the accounts have been prepared in accordance with the relevant provisions of the Companies Ordinance.

Now about accounts of certain private companies. Section 141D in clause 13 provides that a private company which has no subsidiary and which is not a bank may avail itself of exemptions from most of the new requirements if all the shareholders so agree at their general meeting. This has created much controversy because, with the prime object of the bill being to raise the general standard of accounting, it seems ironical that certain private companies are given such exemptions, even though under some conditions.

As all companies, whether public or private, enjoy limited liabilities, it is not unreasonable that, in return for such privilege, they should comply with the uniform requirements such as now provided in the bill. However, it has been suggested that consideration should at the same time be given to the fact that there are many private companies in Hong Kong with only a small family type business. The application to them of full requirements would serve no useful purpose because of the nature of their organization and business. Furthermore, private companies are not required to file accounts with the Registrar of Companies; consequently their accounts are not accessible to the public. However, in order not to infringe on the interest of the general public, for those private companies whose nature of business is such that liabilities are necessarily incurred from the public, it is important that they should not be allowed to avail themselves of the advantage of exemption under this section.

On this basis and as a compromise, amendments will be proposed that banking companies, deposit-taking companies, insurance companies, international cargo-carrying companies and stockbroking companies should be denied the exemption under section 141D, as should a private company with a subsidiary or a company which is the subsidiary of another corporate body.

My last point is publicity. When introducing the bill, the honourable Financial Secretary expressed the hope that financial commentators in the press would readily seize the opportunity which would now

[MR LEE] **Companies (Amendment) Bill—resumption of debate on second reading (3.7.74)**

be afforded them of objectively assessing the merits of different companies and conveying the results in a comprehensible form to their readers now that such full information would be required to be disclosed if the bill becomes law. I had immediately echoed by asking a question on 14th August this year in this Council on the publicity of this bill and Government replied that it would take some positive action. In these days when there are so many uncertainties in the financial, industrial and business fields, as well as in the stock market, recently involving the accounts and state of affairs of certain companies, it is all the more necessary that company law in Hong Kong should be updated to protect the interests of the public in general. Therefore, the importance of publicity to this bill cannot be over-emphasized.

Sir, I thank the indulgence of this Council for my rather long speech, but it is thought necessary in order to reflect the feelings of the Unofficial Members on the conflicting views expressed to them by the various bodies.

With these remarks, Sir, I support the motion.

MR F. W. LI: —Sir, I rise to support the Companies (Amendment) Bill 1974.

My honourable colleague Mr Q. W. LEE has just remarked on the importance of this bill. The *ad hoc* group has spent considerable time on it. All the differences are now resolved and at the committee stage suitable amendments will be moved.

Sir, I am fully aware that this bill is only the first of a series of bills designed to give effect to the recommendations of the Second Report of the Companies Law Revision Committee. I do not propose to take up time in repeating what has been said; but I should like to touch upon two issues which I feel are worthy of consideration.

The first issue concerns ownership information. Perhaps the most disappointing feature of the bill is that it omits the disclosure requirements regarding directors' shareholdings and substantial holdings. In this respect, it follows the recommendation of the majority of the Companies Law Revision Committee on one point on which that Committee publicly disagreed. I, for one, am in agreement with the opinion of the minority on this point but I will not restate the arguments. I would, however, make the following observations: —

- (1) In the modern financial world it is now generally recognized that secrecy and public ownership of companies cannot exist together.
- (2) There are two different points at issue which are not clearly separated in the Committee's discussions. They are, disclosure of "insiders" dealings and disclosure of major shareholdings. If these were separable (which I presume they are not), it might be possible to accept the arguments against the former without accepting those against the latter.
- (3) Information about major shareholdings is essential investment information at least as important as information about company's historical profits. Without it, the investor or potential investor cannot assess the true size and nature of the market in the shares or the extent to which the company's policies might be influenced by pressure groups.
- (4) The Committee's report was written in circumstances very much different from those prevailing today and there is reference to "present boom conditions", "a great deal of overseas money which is already here" and "large numbers of small investors". Today there are no longer boom conditions, much overseas money has been withdrawn and virtually the only small investors remaining are those who have been "locked in" in a falling market; following the excesses of the closing stages of the boom and the subsequent collapse. It is not too much to say that Hong Kong's investment market now stands in disrepute both locally and internationally.

I do not believe that investors will return either from overseas or within the Colony until they can do so on sound investment advice based on full knowledge of the relevant facts; one such fact is the ownership of substantial shareholdings in public companies. I consider therefore that it is of the greatest importance to the Hong Kong stock market as a whole, and to the very people whose secrecy is at present protected, that the beneficial ownership of substantial holdings in public companies should be disclosed.

The second issue concerns the place where books of account are kept. Section 147(3) of the UK Companies Act 1948 directs that books of account shall be kept at the registered office of the company or at such other place as the directors think fit. It then provides for appropriate returns to be made in cases where the books of account are kept at a place outside Great Britain. This subsection is repeated

[MR LI] **Companies (Amendment) Bill—resumption of debate on second reading (3.7.74)**

virtually verbatim in section 121(3) of the new bill. It seems to me that the position in Hong Kong is completely different from that of the United Kingdom in that Hong Kong offers considerable attractions to companies to become registered here even though they are not going to do much or even any business in the Colony. It is argued that Hong Kong gains a benefit from this in the shape of the provision of employment and inflow of funds that result. This is not quite true if the company's books are not kept in Hong Kong and I can see no reason why a company carrying on business outside of Hong Kong should be permitted to register itself in Hong Kong while retaining the whole management and direction and the keeping of its books elsewhere. No benefit whatsoever results to us here. I suggest that this subsection should be amended at a later stage to direct that the books shall be kept at the registered office of the company or at such other place within the Colony of Hong Kong as the directors think fit.

This is particularly important in view of the recent events when it was found necessary to investigate into the affairs of certain public companies.

THE FINANCIAL SECRETARY: —Sir, I am grateful to my honourable Friend Mr Q. W. LEE and the *ad hoc* group of which he was the convener for the very careful study they have made of this complicated but important measure, and I confirm that the Government will support the amendments he proposes to move at the committee stage.

As regards the two points made by my honourable Friend Mr LI Fook-wo concerning disclosure of interests and the places where books of accounts are kept, I can only say at this time that the Government is alive to the need to have company legislation continually updated to reflect prevailing opinion. I undertake therefore to have the views expressed by the Companies Law Revision Committee re-examined.

*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.

**COMPANIES (AMENDMENT) (NO 4) BILL 1974**

## Clause 1

THE FINANCIAL SECRETARY: —Sir, I move that clause I be amended in the important way that is described in the paper set out before honourable Members.

*Proposed Amendment**Clause*

- 1 That clause I be amended by deleting "(No. 4)" and substituting the following —  
" (No. 3)".

The amendment was agreed to.

Clause 1, as amended, was agreed to.

Clause 2 was agreed to.

**CROSS-HARBOUR TUNNEL (AMENDMENT) BILL 1974**

Clauses 1 and 2 were agreed to.

**FIRE AND MARINE INSURANCE COMPANIES DEPOSIT  
(AMENDMENT) BILL 1974**

Clauses 1 and 2 were agreed to.

**LIFE INSURANCE COMPANIES (AMENDMENT) BILL 1974**

Clauses 1 and 2 were agreed to.

**MERCHANT SHIPPING (AMENDMENT) BILL 1974**

Clauses 1 to 12 were agreed to.

**CHARITIES (LAND ACQUISITION) (REPEAL) BILL 1974**

Clauses 1 to 3 were agreed to.

**CLEAN AIR (AMENDMENT) BILL 1974**

Clauses 1 and 2 were agreed to.

**LION ROCK TUNNEL (AMENDMENT) BILL 1974**

Clauses 1 to 4 were agreed to.

**TEMPORARY RESTRICTION OF BUILDING DEVELOPMENT  
(POK FU LAM AND MID-LEVELS) (AMENDMENT)  
(NO 2) BILL 1974**

Clauses 1 to 4 were agreed to.

Council then resumed.

**Third reading of bills**

THE ATTORNEY GENERAL reported that the  
Cross-Harbour Tunnel (Amendment) Bill  
Fire and Marine Insurance Companies Deposit (Amendment) Bill  
Life Insurance Companies (Amendment) Bill  
Merchant Shipping (Amendment) Bill  
Charities (Land Acquisition) (Repeal) Bill  
Clean Air (Amendment) Bill  
Lion Rock Tunnel (Amendment) Bill and the  
Temporary Restriction of Building Development (Pok Fu Lam and Mid-  
levels) (Amendment) (No 2) Bill

had passed through Committee without amendment and that the  
Companies (Amendment) (No 3) Bill

had passed through Committee with amendment and that the Supplementary  
Appropriation (1973-74) Bill having been read the second time was not subject  
to Committee Stage proceedings in accordance with Standing Order 59 and he  
then moved the third reading of each of the bills.

*Question put on each bill and agreed to.*

Bills read the third time and passed.

**Unofficial Member's bill****Second reading of bill****HELENA MAY INSTITUTE FOR WOMEN (AMENDMENT)****BILL 1974****Resumption of debate on second reading (13th November 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 bill**

Council went into Committee.

**HELENA MAY INSTITUTE FOR WOMEN (AMENDMENT)****BILL 1974**

Clauses 1 to 7 were agreed to.

Council then resumed.

**Third reading of bill**

MR BREMRIDGE reported that the Helena May Institute for Women (Amendment) Bill 1974 had passed through Committee without amendment and moved the third reading of the bill.

*Question put and agreed to.*

Bill read the third time and passed.

**Adjournment and next sitting**

HIS EXCELLENCY THE PRESIDENT: —In accordance with Standing Orders I now adjourn the Council until 2.30 p.m. on Wednesday the 18th of December.

*Adjourned accordingly at five minutes past four o'clock.*