

OFFICIAL REPORT OF PROCEEDINGS

Wednesday, 9th June 1976

The Council met at half past two o'clock

PRESENT

HIS EXCELLENCY THE GOVERNOR (*PRESIDENT*)
SIR CRAWFORD MURRAY MACLEHOSE, KCMG, KCVO, MBE
THE HONOURABLE THE COLONIAL SECRETARY (*Acting*)
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 (*Acting*)
MR LI FOOK-KOW, CMG, JP
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, CMG, MBE, JP
DIRECTOR OF COMMERCE AND INDUSTRY
THE HONOURABLE DAVID AKERS-JONES, JP
SECRETARY FOR THE NEW TERRITORIES
THE HONOURABLE LEWIS MERVYN DAVIES, CMG, OBE, JP
SECRETARY FOR SECURITY
THE HONOURABLE DAVID WYLIE McDONALD, JP
DIRECTOR OF PUBLIC WORKS
THE HONOURABLE KENNETH WALLIS JOSEPH TOPLEY, CMG, JP
DIRECTOR OF EDUCATION
THE HONOURABLE JAMES NEIL HENDERSON, JP
COMMISSIONER FOR LABOUR (*Acting*)
THE HONOURABLE ALAN THOMAS ARMSTRONG-WRIGHT, JP
SECRETARY FOR THE ENVIRONMENT (*Acting*)
THE HONOURABLE MORRIS CYRIL MORGAN, JP
SECRETARY FOR SOCIAL SERVICES (*Acting*)
DR THE HONOURABLE CHUNG SZE-YUEN, CBE, 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, JP
THE HONOURABLE PETER GORDON WILLIAMS, 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, OBE, 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, OBE, JP
 THE HONOURABLE ALEX WU SHU-SHIH, OBE, JP

IN ATTENDANCE

THE CLERK TO THE LEGISLATIVE COUNCIL
 MRS LOLLY TSE CHIU YUEN-CHU

Oath

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

HIS EXCELLENCY THE PRESIDENT:—I have much pleasure in welcoming Mr MORGAN to this Council.

Papers

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

<i>Subject</i>	<i>LN No</i>
Subsidiary Legislation:—	
Factories and Industrial Undertakings Ordinance.	
Factories and Industrial Undertakings (Goods Lifts) Regulations 1976.....	123
Revised Edition of the Laws Ordinance 1965.	
Revised Edition of the Laws (Correction of Error) Order 1976.....	124
Public Health and Urban Services Ordinance.	
Imported Meat and Poultry Regulations 1976 (Commencement) Notice 1976	125
Labour Tribunal Ordinance.	
Labour Tribunal (Forms) (Amendment) Rules 1976	126
Labour Tribunal Ordinance.	
Labour Tribunal (General) (Amendment) Rules 1976.....	127

Hong Kong Airport (Control of Obstructions) Ordinance.	
Hong Kong Airport (Control of Obstructions)	128
(Amendment) (No 2) Order 1976	
Evidence Ordinance.	
Evidence (Authorized Persons) (No 2) Order 1976	129
Prisons Ordinance.	
Prisons (Stanley Prison Annexe) (Discontinuance)	130
Order 1976.....	

Oral answers to questions

Recreation for youths

1. MR CHEUNG asked:—

Sir, will Government indicate its plans to promote outdoor recreational activities and training courses for young people this summer?

SECRETARY FOR HOME AFFAIRS:—Sir, this year's Summer Youth Programme will consist of over 5,000 events which will be organized by 3 Government departments, the Urban Council, the Army, 32 voluntary agencies and 620 schools.

The outdoor recreational activities include camping, excursions, sport competitions, swimming lessons and a variety of entertainment events. Apart from involving many young people in the planning and organization of these events, there will also be about 200 training courses on youth leadership, canoeing, first aid and special interest groups.

It is expected that over 2 million participants will take part in these recreational events and training courses.

Medicine and drugs in hospitals—obtaining of

2. DR FANG asked:—

Sir, (a) will Government describe the internal procedure in Government hospitals for obtaining medicines and drugs which are immediately needed for emergency treatment?

[DR FANG] **Oral answers**

- (b) are there adequate safeguards to ensure that delay does not occur in obtaining any specific item which is needed in an emergency at any hour of the day or night?

DR CHOA:—Sir, a stock of standard drugs and medicines usually required for the emergency treatment of patients is kept in the wards and casualty departments of Government hospitals; others are obtainable from the pharmacy departments. These pharmacy departments are open on Sundays and public holidays to replenish the supply of drugs and medicines to the wards and casualty departments.

In the major hospitals, after office hours, further supplies of drugs and medicines which are required for emergency treatment can also be obtained from a centralized emergency medicine cupboard which is conveniently situated. In addition, there are pharmacists and senior dispensers on call duties and they are available immediately for any matter concerning the supply of drugs and medicines for emergency treatment.

The procedure as described provides adequate safeguards to ensure that there is no delay in obtaining drugs or medicines for emergency treatment at any time.

Objects thrown out from multi-storey buildings

3. Miss Ko asked:—

Sir, will Government take steps perhaps with the help of Mutual Aid Committees to protect the public, especially in the crowded public housing estates, from injury caused by objects thrown out of high-rise buildings?

SECRETARY FOR HOME AFFAIRS:—Sir, steps have been taken by Police Community Relations Officers in the last few weeks to urge people living in high-rise buildings not to throw objects out of windows; these steps include discussions with Kaifong Associations, publicity in the press and on television through the Junior Police Call programme. I shall also ask City District Officers to seek the help of Mutual Aid Committees in educating their fellow residents in multi-storey buildings to refrain from such inconsiderate and dangerous practices.

MISS KO:—Sir, will Government consider to introduce legislation which carries more severe penalty for persons who throw objects negligently?

SECRETARY FOR HOME AFFAIRS:—Sir, I believe there are already existing legislations for this to be done and I believe a case was taken to the court with an imprisonment for about 3 months about two weeks ago.

Departmental annual reports

4. DR CHUNG asked:—

Sir, will Government ensure that annual reports or at least biennial reports are published by all departments which have substantial links with the public and with the development of public services, for example, the New Territories Administration?

SECRETARY FOR HOME AFFAIRS:—Sir, Government has recently reviewed the requirement for annual departmental reports. This review established that much of the information they contained was readily available in other publications, and in many cases the information was out of date when the reports were ready for publication. It has, therefore, been decided that Heads of Departments should be free to decide for themselves the frequency of publication of their departmental reports or if they so wish to cease publication altogether. This dispensation does not apply to the Director of Audit or the Director of Accounting Services whose annual reports are required by law.

Most departments have opted to continue to produce reports each year, usually in an abbreviated form so that they are available very quickly. Amongst the 12 departments and offices which are not producing reports is the New Territories Administration which has concluded that it is preferable to publicise events in the New Territories as they occur rather than wait many months for the publication of its annual report. Whilst I fully appreciate my honourable Friend's desire to ensure that departmental activities are fully documented, particularly activities of departments in close contact with the public, he will know that progress on departmental activities and developments in the public services are regularly covered in the Hong Kong Annual Report or by press releases, public statements and special publications.

Oral answers

DR CHUNG:—Sir, is my honourable Friend aware that publicising events in the New Territories as they occur and documentation of the reports of events are two different things and they serve different purposes?

SECRETARY FOR HOME AFFAIRS:—I am so aware, Sir, but the documentation of events are available in the Hong Kong annual reports.

MR CHEONG-LEEN:—Sir, in the preparation of such general reports could consideration be given to preparing such reports in as concise, readable and presentable a format as possible?

SECRETARY FOR HOME AFFAIRS:—Sir, I believe when I refer to the the abbreviated form of reports, they already serve those purposes.

MR WILLIAMS:—Sir, if the frequency of annual reports is to be left to the judgment of heads of departments, could they perhaps be given a rather more accurate name than an annual report? (*laughter*)

SECRETARY FOR HOME AFFAIRS:—Yes, Sir, I think the point is well taken but it so happened that only one office, not a department, has opted to produce a report once every two years.

Indecent assault—public housing estates bathroom

5. MRS SYMONS asked:—

Sir, will Government take steps, perhaps with the aid of Mutual Aid Committees, to prevent cases of indecent assault on women using the public bathrooms in the older public housing estates?

SECRETARY FOR HOUSING:—Sir, it is certainly true that the communal toilets and bathrooms in the 250 old Mark I and II estate blocks present problems of the kind described, and in the first four months of this year 3 cases of rapes in these areas and 14 indecent assaults in the estates generally were reported. The Housing Authority took action to reduce such crimes several years ago when it put in hand a major programme for improving doors and security arrangements in these

communal areas, at a cost of \$3 $\frac{1}{2}$ million. This work was completed in 1974 in ten out of the twelve estates involved; Shek Kip Mei and Tai Hang Tung Estates were left untouched only because their redevelopment was either proceeding or was imminent. I understand that these extra safeguards have improved the situation to some extent.

These improvements would give better protection to women and girls using the communal areas if the estates had the caretaker service provided in the Authority's other estates. Unfortunately, the need for economies during the last two years has delayed the introduction of this service into these old estates. However, we hoped to have a substantial number of caretakers in post by the end of the year.

It certainly would be sensible to get the co-operation of estate Mutual Aid Committees in tackling this problem, but so far only 30% or thereabout of the Mark I and II estate blocks have formed such Committees. We will find out what Mutual Aid Committees can do to help and whether the problem is regarded by the tenants themselves as serious enough to warrant forming such Committees where none now exist. The position is worse of course in some estates than in others.

Sha Tsui Detention Centre

6. MR WILLIAMS asked:—

Sir, how many youths from the Sha Tsui Detention Centre have subsequently committed crimes of violence?

SECRETARY FOR SECURITY:—Sir, I do not know how many of those who have been discharged from the centre subsequently have actually committed crimes of violence. Since the Sha Tsui Centre was opened in June 1972, 1,371 persons have been discharged from it and a further 594 persons from the Tong Fuk Centre. Of the total of 1,965 persons discharged from the two centres, 107 (or 5.45%) have been convicted of crimes of violence subsequent to their discharge.

Leakage of exam papers

7. MRS SYMONS asked:—

Sir, will Government tighten security measures so as to prevent leakage of public examination papers?

Oral answers

MR TOPLEY:—I am already reviewing, Sir, the security arrangements for the setting of examination questions in the light of this year's Secondary Schools Entrance Examination and Certificate of Education Examination leakages.

Country parks—management staff

8. MR BREMRIDGE asked:—

Sir, what are Government's plans to provide additional management staff for existing and proposed country parks and other countryside recreational areas?

SECRETARY FOR THE ENVIRONMENT:—Sir, funds have been included in the 1976-77 estimates in order to increase the Agricultural and Fisheries Department countryside management organization from its present staff of about 600 to 722 to cover the existing areas managed and to maintain two additional Management Centres at Sai Kung. The detailed staff requirements are being examined.

Also consideration is being given to the creation of four additional posts of senior and professional officers to help oversee countryside management arrangements.

In addition, proposals for extending countryside management services to cover the remaining areas of scenic countryside in the New Territories are being formulated. If approved and subject to funds being made available the implementation will be phased over a number of years and additional staff will be provided as each phase is developed.

MR BREMRIDGE:—Sir, do these plans include provision for managing some reservoirs for recreational purposes? (*laughter*)

SECRETARY FOR THE ENVIRONMENT:—Sir, the arrangements for the use of reservoirs are being worked out and these will include, of course, consideration of what staff is required for them.

MTR—scheme of advance compensation payments

9. MR F. W. LI asked:—

Sir, will Government institute a system of advance compensation payments to small trades and businesses which lose customers and cannot pay their way due to construction of the Mass Transit Railway?

SECRETARY FOR THE ENVIRONMENT:—Sir, Government has decided in principle to institute a scheme to pay advances to relieve hardship in small businesses seriously affected by construction of the Mass Transit Railway. These advances will be deductible from final claims awarded under the Mass Transit Railway (Land Resumption and Related Provisions) Ordinance. Details of the scheme will be announced as soon as they have been finalised, and provided that funds for advances and administration costs are approved by the Finance Committee of this Council.

DR CHUNG:—Sir, are these advance compensation payments for the account of the MTR Corporation and will Government be eventually reimbursed by the MTR Corporation?

SECRETARY FOR THE ENVIRONMENT:—Sir, the advances and the statutory claims are to be paid by Government. The advances will be recovered from the statutory claims and in due course the Mass Transit Railway Corporation will reimburse the Government.

Police recruitment

10. MR CHEONG-LEEN:—

Sir, in order to ensure that the recruitment programme for policemen continues to keep pace with monthly requirements, will Government take early steps to provide the necessary funds required to enable the Police Recruitment Campaign to be maintained at its present level throughout the remainder of the current financial year?

SECRETARY FOR SECURITY:—Yes, Sir.

Oral answers

MR CHEONG-LEEN:—Sir, I thank the honourable Member for his very short reply which is all the more appreciated because it is unequivocal. May I, with your permission, Sir, ask a supplementary which I hope will evoke an equally unequivocal reply. Will Government confirm that sufficient funds will continue to be made available for the police recruitment campaign while there remains a substantial number of vacancies for policemen?

SECRETARY FOR SECURITY:—Yes, Sir.

Tsim Sha Tsui—revised zoning plan

11. MR CHEONG-LEEN:—

Sir, how soon will it be possible for Government to publish a revised zoning plan for Tsim Sha Tsui?

MR McDONALD:—Sir, a new Outline Zoning Plan for Tsim Sha Tsui will be gazetted for public exhibition within a month's time.

Government business**First reading of bills**

WIDOWS AND ORPHANS PENSION (INCREASE) BILL 1976

CREDIT UNIONS (AMENDMENT) BILL 1976

TELEPHONE (AMENDMENT) BILL 1976

HOUSING (AMENDMENT) BILL 1976

LANDLORD AND TENANT (CONSOLIDATION) (AMENDMENT) BILL 1976

HONG KONG AIRPORT (REGULATIONS) (AMENDMENT) BILL 1976

IMMIGRATION (AMENDMENT) BILL 1976

WILD ANIMALS PROTECTION (AMENDMENT) BILL 1976

ROAD TRAFFIC (AMENDMENT) BILL 1976

EMPLOYMENT (AMENDMENT) BILL 1976

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

Second reading of bills

WIDOWS AND ORPHANS PENSION (INCREASE) BILL 1976

THE COLONIAL SECRETARY moved the second reading of:—"A bill to authorise the grant of increases in Widows and Orphans pensions."

He said:—Sir, on 5th November last year when the Colonial Secretary moved the second reading of the Pension (Increase) Bill 1975, to provide legislative authority for the payment of increases in public service pensions, he gave an assurance that legislation to make similar provision for increases to pensions under the Widows and Orphans Pension Ordinance would be introduced shortly. So this bill, Sir, seeks to give legislative authority for the payment in the future of increases in widows and orphans pensions which have been granted administratively in the past, with the approval of course of the Finance Committee of this Council.

Clause 3 provides that a pension may be increased in accordance with one or more paragraphs of the Schedule as is applicable in any particular case. Clause 4 provides for the increases to be paid from the general revenue, subject to funds being approved by the Finance Committee of this Council. Clause 5 empowers this Council, by resolution, to amend the Schedule. The Schedule is divided into 19 paragraphs. Each paragraph refers to an *ex gratia* increase already granted administratively for a particular period. Percentage increases shown in the paragraphs apply in some cases to the pension calculated on the contributions paid over the stated period and, in other cases, to the aggregate of such pension and any increases in the pension.

I should emphasize that the enactment of this bill will not give rise to fresh financial implications as the bill merely gives legislative effect to increases in pensions already being paid.

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

Question put and agreed to.

CREDIT UNIONS (AMENDMENT) BILL 1976

THE COLONIAL SECRETARY moved the second reading of:—"A bill to amend the Credit Unions Ordinance."

He said:—Sir, the ordinance, which was enacted in 1968, provided for the incorporation and regulation of credit unions and the incorporation of the Credit Union League of Hong Kong. The League's principal functions are to provide advice and assistance to member unions. The League conducts its business from rented premises in Waterloo Road. These are now overcrowded and the League has decided that it would be to its advantage to buy new premises rather than continue to rent, and intends to raise a mortgage for this purpose. However, its powers to do so under the ordinance as it stands are unclear, even to my honourable Friend the Attorney General and this bill seeks to put the matter beyond doubt.

The opportunity is being taken to make a couple of other minor amendments to the ordinance, both of which are set out in the explanatory memorandum.

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

Question put and agreed to.

TELEPHONE (AMENDMENT) BILL 1976

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

He said:—Sir, at the last sitting of this Council on 26th May, the acting Financial Secretary made a full statement on the progress which has been made in implementing the recommendations of the Commission of Inquiry into the Hong Kong Telephone Company. He pointed out that an amending bill to give legislative effect to certain more pressing recommendations of the commission would shortly be introduced—and this is the bill now before Council.

Clauses 1 and 7 provide for the reduction of telephone installation and removal charges from \$400 and \$350 respectively to \$250 in both cases with retrospective effect from 1st March 1975. Clause 7 also provides that all charges not stipulated in the Schedule to the principal ordinance should be subject to prior agreement between the Postmaster

General and the Telephone Company. This mainly refers of course to charges for specialized installations, where it is not practical to list all charges without producing a voluminous Schedule requiring constant amendment. Steps are already being taken to set up procedures whereby the Postmaster General and the Company can agree charges for such installations with the minimum of delay.

Clause 4 of the bill enables the Governor to appoint not more than two persons to be additional directors on the Board of the Telephone Company. There is already one Government director on the company's Board, whose primary responsibility is to watch over the public interest. Clauses 5 and 8 provide for the abolition of the payment of royalty by the Telephone Company with retrospective effect from 1st January this year.

Clause 3 I am afraid requires perhaps a rather more lengthy explanation. It seeks to extend the concession originally granted to the Telephone Company, under section 3 of the Principal Ordinance for a period of twenty years from 1st July 1975 to 30th June 1995. In this connection I should point out that although, in 1968, the Governor in Council agreed in principle to the extension of the company's concession for a further period of twenty years from the date of the expiry of the initial term, that is to say, from 1st July 1975 to 30th June 1995, this decision in principle has not, so far, been given legislative effect. It was intended that it should be incorporated into a revised ordinance, but work on this legislation was put aside last year pending completion of the deliberations of the Commission of Inquiry. As the acting Financial Secretary explained in his statement on 26th May, the form which the new more permanent legislation will take has been considerably altered as a result of the Commission of Inquiry's penetrating recommendations, particularly with regard to the Scheme of Control over the finances of the Telephone Company and provisions for technical monitoring of the company's operations. As all this will take some time to finalize, the opportunity has been taken now with introduction of this bill to provide for the legal extension of the company's concession until 30th June 1995, and also to redefine the concession in more up-to-date language but without any substantive amendment.

Finally, clause 6 of the bill repeals section 37 of the principal ordinance which laid down the procedure to be adopted on expiration of the initial term of the concession and which has now been spent.

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

Question put and agreed to.

HOUSING (AMENDMENT) BILL 1976

SECRETARY FOR HOUSING moved the second reading of:—"A bill to amend the Housing Ordinance."

He said:—Sir, this bill empowers the Housing Authority to terminate a tenancy without notice where the premises are left unoccupied or have been improperly let to another family. About 100 such cases come to light each month, and the Authority should be able to cancel the absentee's tenancy without notice in these circumstances; under the legislation as it now stands one month's notice has to be given, a procedure which allows the absentee time to return and seek to re-establish himself. The demand for public housing greatly exceeds the supply and the Housing Authority is bound to ensure that the available public housing goes to those most in need and this sort of misuse cannot be countenanced. The bill does however give a right of appeal to the absentee tenant.

The rest of the bill is adequately described in the explanatory memorandum and does not call for any elaboration.

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

Question put and agreed to.

**LANDLORD AND TENANT (CONSOLIDATION) (AMENDMENT)
BILL 1976**

SECRETARY FOR HOUSING moved the second reading of:—"A bill to amend the Landlord and Tenant (Consolidation) Ordinance."

He said:—Sir, I move the second reading of the Landlord and Tenant (Consolidation) (Amendment) Bill 1976. The primary purpose of this bill is to extend the life of Part II of the ordinance for a further three years beyond 14th December 1976, that is, to provide a further three years' control of rents and security of tenure to post-war domestic premises covered by that Part. The need for this extension is regrettable but obvious. Average protected rentals, despite the increases allowed every two years, are still less than 65% of open market rentals, and the removal of controls at the end of this year would leave very large numbers of households exposed to sudden and substantial rent increases. Rent controls are undesirable on various grounds but in this situation we must continue to follow the course

charted some years ago, and allow regulated rent increases which do not impose unreasonably on tenants but do serve to narrow the gap between regulated and open market rents. These controls do not affect the rents charged for premises completed after the 14th December 1973, and landlords are free there to charge current market rents for all such new premises.

The bill also provides for a rent increase where the landlord of post-war domestic premises undertakes improvements. The increase is limited to 20% per annum of improvement costs of \$5,000 or more. Tenants are given the right to appeal to the courts against such an increase on various specified grounds. This provision to allow landlords to recoup expenditure on improvements will, I hope, be widely used for there are all too many premises where conditions need to be improved. The word "improvement" includes structural alterations, extensions or additions, as well as the provision or replacement of fixtures and fittings, but it does not include decorative or repair work. The existing provision in Part I of the Ordinance, which applies only to pre-war premises, has been amended to bring it into line with this new provision in Part II.

The bill also provides for the issue by the Commissioner of Rating and Valuation of a certificate as to the primary user of premises, even where there is no dispute and provides for a fee to be charged in such cases.

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

Question put and agreed to.

HONG KONG AIRPORT (REGULATIONS) (AMENDMENT) BILL 1976

SECRETARY FOR SECURITY moved the second reading of:—"A bill to amend the Hong Kong Airport (Regulations) Ordinance."

He said:—Sir, the existing airport permit system and the zoning of the airport restricted areas were introduced administratively by the Director of Civil Aviation under the general authority of regulation 4(2) of the Hong Kong Airport Regulations. Under that regulation it is an offence for any person to enter any part of the airport to which the public are not allowed access, without the permission of the Director or of an authorized person.

[SECRETARY FOR SECURITY] **Hong Kong Airport (Regulations) (Amendment) Bill—second reading**

However it has always been accepted that the permit system needed to be supported by more comprehensive legislation. The bill now before honourable Members provides the necessary statutory provisions, details of which are set out in the explanatory memorandum.

I should however like to make five comments on the bill:

First, clause 3(1) increases the scope of the powers to make regulations covering the access of persons and vehicles from or within the airport in the interests of security. It also provides some necessary flexibility by empowering the Director to exempt certain persons and vehicles from the provisions of regulations.

Secondly, the same clause provides for regulations to be made to impose fees for certain permits.

Thirdly, it provides for better enforcement of control by allowing authorized persons to detain persons reasonably suspected of having contravened the ordinance and by increasing the penalties for offences.

Fourthly, it permits the Director to divide restricted areas of the airport into various parts in order to improve the security arrangements, and

Fifthly, the bill seeks to bind the Crown except for express exceptions which will be included in subsidiary legislation. The effect of such a provision is to require public officers on duty at the airport to comply with the ordinance and the regulations made under it and, in particular, to carry permits whilst at the same time making an exception in the case of certain categories of public officers, HM Forces and vehicles acting urgently in the performance of their duty and who in doing so cannot obviously obtain a permit.

Security, Sir, at Kai Tak relies on three elements:

First it requires the co-operation and commonsense of the travelling public who make almost such insatiable demands on the facilities there. Travellers understandably wish the procedures to cause them minimum inconvenience and the least possible delay while sometimes carrying a great deal of paraphernalia, but they also expect protection.

Second, security is heavily dependent upon the services, help and ready assistance of the airlines and ground services, which have done so much to evolve procedures and provide equipment to allow large numbers of passengers with their baggage to be handled effectively, quickly and efficiently. There is the closest possible working arrangements between the airport authorities, the airport tenants and the airlines whose help and responsible approach to security deserves public acknowledgement.

Thirdly, there is the role of the Government which provides the airport, its buildings, equipment, various control services and the legislation within which they operate.

There are about 8,000 permit holders authorized to work at Kai Tak and this number, together with the large numbers of persons travelling make heavy demands on the security arrangements. Kai Tak has a reputation for its security, but this has only been achieved as a result of careful planning, noting and drawing on experience elsewhere, great attention to detail and continuing vigilance. Security does not just "happen", it has to be built and maintained and this bill is an important element in keeping it in good shape.

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

Question put and agreed to.

IMMIGRATION (AMENDMENT) BILL 1976

SECRETARY FOR SECURITY moved the second reading of:—"A bill to amend the Immigration Ordinance."

He said:—Sir, the Immigration Ordinance came into force on the 1st April, 1972 and experience with its operation has indicated the desirability of proposing five unrelated amendments. Details are set out in the explanatory memorandum attached to the bill. The amendments are aimed, primarily, at tightening up the measures for dealing with illegal immigration.

Clause 2 strengthens the existing provisions of the law under which the Colonial Secretary is already empowered to apply any money belonging to a person who is removed or deported to off-set the cost. It is now proposed that in addition to applying money a person, the subject

[SECRETARY FOR SECURITY] **Immigration (Amendment) Bill—second reading**

of a removal order or deportation order, will also be required to use a travel ticket in his possession for his homeward passage. This will lessen the burden imposed on public funds in the execution of removal and deportation orders.

There is already provision for the detention of an illegal immigrant under section 26 for 7 days and under section 32 for a maximum of 28 days for the purpose of investigation and the making of a removal order. Section 36 also provides that an illegal immigrant may be required to enter into a recognizance for up to a maximum of 28 days in lieu of detention under section 32. Cases do however occur in which it takes longer than these periods to complete investigations and to obtain re-entry facilities. Whilst it is not the intention to extend the powers of detention for longer than 35 days, clause 3 gives the Director power to apply to the Courts for a person who is potentially the subject of a removal order to be placed on recognizance during the period of its investigation. Honourable Members will note that as drafted there is no limit to the period of recognizance. I shall be moving an amendment at the committee stage limiting the maximum period of recognizance.

Section 38(1)(b) of the ordinance makes it an offence for a person who, having landed unlawfully, remains here without the authority of the Director. Section 41 makes it an offence to contravene a condition of stay which has been applied to a person on entry. Under section 46 an illegal immigrant who remains in Hong Kong without authority, or a person who overstays, commits an offence; but he only does so once on the day on which he entered without authority or on which he began to overstay. Experience shows that illegal immigrants and overstayers tend to lie low for some time. As a result they sometimes remain undetected for a long time—sometimes years. Under the law an illegal immigrant who escapes detection for 2 years becomes immune from prosecution. Although such a situation does not prevent a removal order being made against him, it is clearly appropriate that an illegal immigrant or an overstayer should be capable of being prosecuted for being here illegally, even if he comes to notice after two years. It is therefore proposed to make unlawful remaining and overstaying a continuing offence and clauses 4 and 5 of the bill so provide. Clause 8 prevents these amendments having retrospective effect.

Although there is provision in the principal ordinance under section 58 for an officer in command of one of HM ships to detain persons in

certain circumstances, there is no similar provision under this ordinance covering HM Forces on land. Although there are limited powers of arrest under certain other ordinances, clause 6 gives HM Forces the power of arrest of illegal immigrants, power to hand over arrested persons to the Police and creates the offence of resisting and obstructing such arrests.

And finally, as is explained in the explanatory memorandum, clause 7 amends section 65 of the ordinance to provide for the recovery of money due under a recognizance in the District Court, rather than in the Supreme Court notwithstanding that the sum is in excess of \$20,000.

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

Question put and agreed to.

WILD ANIMALS PROTECTION (AMENDMENT) BILL 1976

SECRETARY FOR SECURITY moved the second reading of:—"A bill to amend the Wild Animals Protection Ordinance."

He said:—Sir, when the Wild Animal Protection Ordinance was enacted earlier in the year it omitted to make any provision for the exemption of HM Forces on duty from obtaining a permit to enter the areas listed in the 6th schedule. One of these areas is the Mai Po marshes. From time to time it is necessary for HM Forces to enter such areas on duty and without a permit and clause 3 of the bill provides for this.

The explanatory memorandum gives details of one further minor amendment.

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

Question put and agreed to.

ROAD TRAFFIC (AMENDMENT) BILL 1976

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

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

He said:—Sir, the bill now before the Council amends the principal ordinance by introducing New Territories taxis, as a new class of vehicle.

The purpose of introducing New Territories taxis is to provide a legal taxi service to replace rural "pak pais" which generally operate between remote areas and local market towns. Ordinary taxis rarely operate within these areas and the public has little alternative but to resort to private cars illegally used as taxis.

If the bill passes into law, regulations will be introduced to restrict New Territories taxis to the more rural areas of the New Territories. I would like to stress that these taxis will not be allowed to drive outside their permitted areas except when they have to be driven to a Government inspection centre.

Ordinary taxis will continue to be allowed to operate in the New Territories.

The Commissioner for Transport will, in the first instance, issue 750 New Territories taxi licences by ballot. For this initial issue, the licences will be limited to persons who have held a valid private car vehicle licence since 1st January, 1976 and a valid driving licence to drive a private car for over 3 years prior to their application. This will give present "pak pai" operators an opportunity to take up the licences.

The fares to be charged by New Territories taxis will be \$1 for the first mile and 20 cents for every 1/5 mile thereafter.

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

Question put and agreed to.

EMPLOYMENT (AMENDMENT) BILL 1976

MR HENDERSON moved the second reading of:—"A bill to amend the Employment Ordinance."

He said:—Sir, the amendment bill I am introducing today represents part of the continuous process of reviewing, revising and improving the Employment Ordinance. This legislation is the keystone of the rights and obligations of both employers and employees in matters of

employment. As I have said in the past however it represents minimum acceptable standards, many employers are far more generous than the strict terms of the ordinance, and many employees already benefit from terms of service or employment contracts which allow for the proposed amendments today and better in the matter of paid statutory holidays.

The ordinance applies to all employees engaged in manual labour and non-manual employees who are earning not more than \$2,000 a month. Every employee covered by the ordinance is currently entitled to a minimum of six paid statutory holidays a year. This is I think by any standard a pretty low minimum. Just to take our East and South-East Asian neighbours, the Philippines have ten such holidays, Singapore eleven, Indonesia twelve, Taiwan thirteen, and Japan fourteen.

In the substantive Commissioner's speech at the opening of this session of the Council he stated Government's intention to bring Hong Kong more into line with our neighbours and competitors in the area, and the intention to increase the number of paid statutory holidays under the Employment Ordinance from six to ten. The proposal has had the unanimous support of the Labour Advisory Board. He said too that this proposal would be studied further in the light of the economic situation prevailing. This I am sure all honourable Members would agree has improved very markedly since he spoke. I feel therefore that the time is now ripe for this measure, which it is proposed should become effective from 1st January 1977. Implementing such a measure other than at the beginning of a calendar year could give rise to some confusion and uncertainty. The four new holidays proposed are: the third day of the Lunar New Year, Chung Yeung Festival, the Chinese Winter Solstice or Christmas Day, the first weekday in July or the first Monday in August.

In suggesting in the bill the particular additional holidays, I have been guided by three considerations:—

- (i) that they should coincide with general holidays;
- (ii) that generally speaking either the holiday or its alternative should be one that has a traditional meaning for the vast majority of the population;
- (iii) that other things being equal there was some advantage for workers in trying to space out the statutory paid holidays fairly evenly throughout the year.

With these thoughts in mind consultations were held with the Labour Advisory Board, the Secretary for Home Affairs and staff of

[MR HENDERSON] **Employment (Amendment) Bill—second reading**

the Director of Home Affairs. Subsequently the matter was considered by Your Excellency in Council who advised putting forward the holidays and alternatives specified in the proposed bill. These give very considerable flexibility in the approach to designating holidays, not only because of the alternatives actually listed, but also because the existing legislation enables a substitute holiday to be given with due notice either sixty days before or after the statutory holiday.

Nonetheless a number of alternatives have been suggested and I shall be circulating to honourable Members with an analysis of these for their study, but generally speaking they fall into two main categories. Firstly that the fourth day of the Lunar New Year holiday should replace the suggested holiday in July or August. However, the fourth day of the Lunar New Year is not a general holiday. The argument however runs that the July-August period is usually a very busy one for industry preparing for the Christmas trade.

Secondly, some concern has been expressed about having statutorily laid down alternatives on the grounds that this could be confusing to workers and that sufficient flexibility within the sixty-day leeway already exists. Now it is certainly true that the Chinese Winter Solstice Festival is not a general holiday and thus departs from the guidelines I have referred to. However this day has a very strong traditional appeal, and I should remind honourable Members that this alternative to Christmas Day originally was allowed for under the old Industrial Employment (Holidays with Pay and Sickness Allowance) Ordinance, and its loss under the present Employment Ordinance was on the whole strongly resented by workers. With regard to the July or August holiday both are general holidays, and the arguments to prefer one to the other are not strong either way. However since these are within the period when manufacturers anticipate that an additional holiday may be most upsetting to production schedules, I would see advantage in having specific alternatives. And I think it is extremely desirable that there should be a statutory paid holiday during the hot summer months, which are otherwise rather barren of traditional holidays. I do not myself think that alternative holidays in principle will give rise to much confusion; there is some advantage in workers being able to plan in advance and enforcement is marginally easier when there are specified alternatives.

I am glad to say that there has been general support of these proposals from the employers' associations. One has however suggested

that the increase be carried out in two stages, that is two additional paid holidays in 1977 and two in 1978.

I must say that I am not greatly persuaded by this suggestion, firstly largely because as far as industry is concerned, I suspect that the third day of Lunar New Year is in practice often a paid holiday anyway, and in commerce where there is a greater preponderance of monthly paid staff this general holiday is already a fact of life. Therefore I would assess that in practice for the majority of employees the effect of the increase is going to be three additional holidays anyway. I see little to be gained by staging the proposals before honourable Members and a great deal of labour good-will to be lost.

Secondly, I would not assess the economic impact of these new statutory paid holidays to be very marked. Even speaking theoretically the effect on wage bills for those who are daily-rated or piece-rated would increase at the most by about 1.3%. In practice the effect would be very much less than this because many employers are much more generous than they are painted to be, and are already giving more than the minimum paid statutory holidays. Furthermore there are hidden benefits in better productivity and higher staff morale.

I should add, Sir, that to avoid confusion I will have to propose a small amendment to the bill at the committee stage to section 2(1)(f) since the description of July or August holiday option does not coincide with that of the general holiday legislation. This subsection should refer rather to the first weekday in July and the first Monday in August.

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

Question put and agreed to.

ESTATE DUTY (AMENDMENT) BILL 1976

Resumption of debate on second reading (26th May 1976)

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).

INLAND REVENUE (AMENDMENT) BILL 1976**Resumption of debate on second reading (26th May 1976)**

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).

STAMP (AMENDMENT) (NO 2) BILL 1976**Resumption of debate on second reading (26th May 1976)**

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).

DUTIABLE COMMODITIES (AMENDMENT) BILL 1976**Resumption of debate on second reading (26th May 1976)**

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).

CRIMINAL PROCEDURE (AMENDMENT) BILL 1976**Resumption of debate on second reading (26th May 1976)**

Question proposed.

THE ATTORNEY GENERAL:—Sir, when the debate on the motion for the second reading of this bill was resumed on 12th May, the Honourable Mr BREMRIDGE spoke about the proposals which it makes in relation to witnesses who are considered likely to try to avoid giving evidence. His theme was that the introduction of a provision for the arrest of witnesses, and for their subsequent detention or release on bail, would be unwise, to say the least. It could deter people, he thought, from coming forward as witnesses. Of course, I have no hesitation in agreeing that if that were to be the effect of the provision the consequences would be quite unacceptable.

Since the honourable Mr BREMRIDGE spoke, I have had an opportunity to discuss the proposed provisions with Unofficial Members. They feel strongly in the matter and though they offered a compromise they have urged me to abandon the proposals altogether. Whilst, Sir, I am not fully convinced that they would have the effect feared by Unofficial Members, there can be no doubt of one thing—it is that the Government should not take any steps which even might discourage witnesses from coming forward. I intend therefore to move the deletion of clause 9 when the bill is considered in committee.

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).

MAGISTRATES (AMENDMENT) BILL 1976

Resumption of debate on second reading (12th May 1976)

Question proposed.

THE ATTORNEY GENERAL:—Sir, the honourable Mr LOBO has spoken about the right which it is proposed that the Crown should have to prevent defendants in appropriate cases from pleading guilty by letter to the offences set out in the Third Schedule to the Magistrates Ordinance. As I said when moving the Second Reading, the immediate problem concerns the case in which a defendant will be disqualified from driving if he is convicted of a third speeding offence within the prescribed period. But when considering what should be done to meet that immediate problem, it struck me as wrong that regardless of the circumstances of individual Third Schedule offences

[THE ATTORNEY GENERAL] **Magistrates (Amendment) Bill—resumption of
debate on second reading (12.5.76)**

the choice whether a defendant appears in court or not should rest entirely with the defendant unless the court itself intervenes and I emphasized that the proposed power to require the attendance of defendants would need to be exercised only in rare cases.

I still think, Sir, that I had a point of principle but now I think that the point of principle must give way to practical considerations—the force of which I fully recognize. Accordingly I shall propose an amendment which will, to use the honourable Mr LOBO's words "be of limited scope to deal appropriately with the problem of disqualification on a conviction for a speeding offence".

Among other proposals, Sir, the bill also seeks to include provision for the award of costs not exceeding \$500 against the Crown when proceedings are adjourned in circumstances where the Crown is at fault in some way. The honourable Mr LOBO has argued that the \$500 limit is too low and has proposed that the limit should be \$5,000. I think that \$5,000 is too high and I also think that in the matter of costs no distinction should be drawn between one circumstance and another. Discussion, Sir, with Unofficial Members led to a proposal that the upper limit of costs should be raised from \$500 to \$2,000 in all cases in which costs may be awarded to or against the Crown. I readily accepted this proposal. The present upper limit was set many years ago and the merit of Unofficial Members' proposal to raise the limit generally is clear. I shall move the necessary amendments when the bill is considered in committee.

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).

POLICE FORCE (AMENDMENT) BILL 1976

Resumption of debate on second reading (12th May 1976)

Question proposed.

THE ATTORNEY GENERAL:—Sir, I am not able to accept the honourable Miss Ko's suggestion that an arrested person should have the right to decide whether he puts up a cash deposit or enters into a bond in order to secure his release on police bail.

I have however agreed that clause 2 should be amended so as to specify the main considerations which a police officer must take into account in fixing the amount of cash bail.

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.

ESTATE DUTY (AMENDMENT) BILL 1976

Clauses 1 to 6 were agreed to.

INLAND REVENUE (AMENDMENT) BILL 1976

Clauses 1 to 3 were agreed to.

STAMP (AMENDMENT) (NO 2) BILL 1976

Clauses 1 to 4 were agreed to.

DUTIABLE COMMODITIES (AMENDMENT) BILL 1976

Clauses 1 to 9 were agreed to.

CRIMINAL PROCEDURE (AMENDMENT) BILL 1976

Clauses 1 to 8 were agreed to.

Clause 9

Criminal Procedure (Amendment) Bill—committee stage

THE ATTORNEY GENERAL:—Sir, I move that clause 9 be deleted.

The deletion was agreed to.

Clauses 10 to 18 were agreed to.

MAGISTRATES (AMENDMENT) BILL 1976

Clauses 1 to 4 were agreed to.

Clause 5

THE ATTORNEY GENERAL:—Sir, I move that clause 5 be amended as set out in the paper before honourable Members.

*Proposed amendment**Clause*

5 That clause 5 be amended—

(a) in the proposed new section 18A by deleting "section 18E" and substituting the following—

"sections 18E and 19A(5)";

(b) in the proposed new section 18B by deleting "\$500" in subsection (2) and substituting the following—

"\$2,000";

(c) in the proposed new section 18D—

(i) by deleting the colon and substituting a full stop; and

(ii) by deleting the proviso; and

(d) in the proposed new section 18E by deleting subsection (3) and substituting the following—

"(3) Where a complaint or information is in respect of an offence under section 15(1) of the Road Traffic Ordinance and by virtue of subsection (2) of that section the magistrate will, if the defendant is convicted of the offence, be required to disqualify the defendant from holding or obtaining

a driving licence, a summons in respect of that offence shall be endorsed to the effect that the defendant may not plead guilty by letter, and in such a case the provisions of this section shall thereupon cease to apply."

The amendment was agreed to.

Clause 5, as amended, was agreed to.

Clause 6

THE ATTORNEY GENERAL:—Sir, I move that clause 6 be amended as set out in the paper before honourable Members.

Proposed amendment

Clause

6 That clause 6 be amended in subsections (2) and (6)(a) of the proposed new section 20 by deleting "\$500" wherever it appears and substituting the following—

"\$2,000".

The amendment was agreed to.

Clause 6, as amended, was agreed to.

Clause 7

THE ATTORNEY GENERAL:—Sir, I move that clause 7 be amended as set out in the paper before honourable Members.

Proposed amendment

Clause

7 That clause 7(a) be amended by deleting "\$500" and substituting the following—
"\$2,000".

The amendment was agreed to.

Clause 7, as amended, was agreed to.

Magistrates (Amendment) Bill—committee stage

Clauses 8 and 9 were agreed to.

Clause 10

THE ATTORNEY GENERAL:—Sir, I move that clause 10 be amended as set out in the paper before honourable Members.

*Proposed amendment**Clause*

- 10 That clause 10 be amended by deleting "\$500" wherever it appears and substituting the following—
"\$2,000".

The amendment was agreed to.

Clause 10, as amended, was agreed to.

Clauses 11 to 13 were agreed to.

New clause 5A

Clause read the first time and ordered to be set down for second reading pursuant to Standing Order 46(6).

THE ATTORNEY GENERAL:—Sir, in accordance with Standing Order 46(6), I move that the new clause 5A as set forth in the paper before honourable Members be read the second time.

Question put and agreed to.

Clause read the second time.

THE ATTORNEY GENERAL:—Sir, I move that new clause 5A be added to the bill.

*Proposed Addition**Clause*

- 5A That a new clause 5A be added as follows—

- "Amendment of section 19A.
- 5A.** Section 19A of the principal Ordinance is amended—
- (a) in subsection (4)—
- (i) by deleting "subsection (5) of section 18" and substituting the following—
- "section 18E"; and
- (ii) by deleting "subsection" and substituting the following—
- "section"; and
- (b) by inserting after subsection (4) the following new subsection—
- "(5) Subject to subsection (4), if at the time and place appointed for the hearing of a complaint or information against a corporation only the complainant or informant appears, the magistrate may, if he is satisfied that a summons was served on the corporation a reasonable time before the hearing, order a plea of not guilty to be entered and may thereupon proceed to hear and determine the case as though the corporation had duly entered a plea of not guilty."

The addition of the new clause was agreed to.

POLICE FORCE (AMENDMENT) BILL 1976

Clause 1 was agreed to.

Clause 2

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

Proposed amendment

Clause

- 2 That clause 2 be amended by inserting after "specify" in paragraph (a) of the proposed new subsection (3A) the following—

Police Force (Amendment) Bill—committee stage

"having regard to all the circumstances, including the seriousness of the alleged offence, the circumstances of such person and the day on or the time at which such sum is to be deposited".

The amendment was agreed to.

Clause 2, as amended, was agreed to.

Council then resumed.

Third reading of bills

THE ATTORNEY GENERAL reported that the
Estate Duty (Amendment) Bill 1976
Inland Revenue (Amendment) Bill 1976
Stamp (Amendment) (No 2) Bill 1976
Dutiable Commodities (Amendment) Bill 1976

had passed through Committee without amendment and that the
Criminal Procedure (Amendment) Bill 1976
Magistrates (Amendment) Bill 1976
Police Force (Amendment) Bill 1976

had passed through Committee with amendments 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.

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 23rd of June.

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