

OFFICIAL REPORT OF PROCEEDINGS

Wednesday, 1st June 1977

The Council met at half past two o'clock

PRESENT

HIS EXCELLENCY THE GOVERNOR (*PRESIDENT*)
SIR CRAWFORD MURRAY MACLEHOSE, GBE, KCMG, KCVO
THE HONOURABLE THE CHIEF SECRETARY
SIR DENYS TUDOR EMIL ROBERTS, KBE, QC, JP
THE HONOURABLE THE FINANCIAL SECRETARY (*Acting*)
MR DAVID HAROLD JORDAN, CMG, MBE, JP
THE HONOURABLE THE ATTORNEY GENERAL
MR JOHN WILLIAM DIXON HOBLEY, CMG, QC, JP
THE HONOURABLE THE SECRETARY FOR HOME AFFAIRS
MR LI FOOK-KOW, CMG, JP
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 DAVID GREGORY JEAFFRESON, JP
SECRETARY FOR ECONOMIC SERVICES
THE HONOURABLE ALAN JAMES SCOTT, JP
SECRETARY FOR HOUSING
THE HONOURABLE GARTH CECIL THORNTON, QC
SOLICITOR GENERAL
THE HONOURABLE EDWARD HEWITT NICHOLS, OBE, JP
DIRECTOR OF AGRICULTURE AND FISHERIES
THE HONOURABLE THOMAS LEE CHUN-YON, JP
DIRECTOR OF SOCIAL WELFARE
THE HONOURABLE DEREK JOHN CLAREMONT JONES, JP
SECRETARY FOR THE ENVIRONMENT
DR THE HONOURABLE THONG KAH-LEONG, JP
DIRECTOR OF MEDICAL AND HEALTH SERVICES
THE HONOURABLE ERIC PETER HO, JP
SECRETARY FOR SOCIAL SERVICES
THE HONOURABLE PETER BARRY WILLIAMS, JP
COMMISSIONER FOR LABOUR
THE HONOURABLE WILLIAM DORWARD, OBE, JP
DIRECTOR OF COMMERCE AND INDUSTRY (*Acting*)
THE HONOURABLE JOSEPH CHARLES ANTHONY HAMMOND, JP
SECRETARY FOR THE CIVIL SERVICE (*Acting*)
DR THE HONOURABLE CHUNG SZE-YUEN, CBE, JP
THE HONOURABLE LEE QUO-WEI, CBE, JP
THE HONOURABLE OSWALD VICTOR CHEUNG, CBE, QC, JP
THE HONOURABLE ROGERIO HYNDMAN LOBO, 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 JOHN HENRY BREMRIDGE, OBE, JP
 DR THE HONOURABLE HARRY FANG SIN-YANG, OBE, JP
 THE HONOURABLE MRS KWAN KO SIU-WAH, OBE, JP
 THE HONOURABLE LO TAK-SHING, OBE, JP
 THE HONOURABLE ALEX WU SHU-CHIH, OBE, JP
 THE REV THE HONOURABLE JOYCE MARY BENNETT, JP
 THE HONOURABLE CHEN SHOU-LUM, JP
 DR THE HONOURABLE HENRY HU HUNG-LICK, OBE, JP
 THE REV THE HONOURABLE PATRICK TERENCE MCGOVERN, SJ, JP
 THE HONOURABLE PETER C. WONG, JP
 THE HONOURABLE WONG LAM, JP

ABSENT

THE HONOURABLE LI FOOK-WO, OBE, JP
 THE HONOURABLE FRANCIS YUAN-HAO TIEN, OBE, JP
 THE HONOURABLE LYDIA DUNN, JP
 THE HONOURABLE LEUNG TAT-SHING, JP

IN ATTENDANCE

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

Oath

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

HIS EXCELLENCY THE PRESIDENT:—May I welcome Mr HAMMOND to this Council.

Papers

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

<i>Subject</i>	<i>LN No</i>
Subsidiary Legislation:	
Immigration Ordinance.	
Immigration (Amendment) (No 2) Regulations 1977	107

<i>Subject</i>	<i>LN No</i>
The Scout Association (Amendment) Ordinance 1977.	
The Scout Association (Amendment) Ordinance 1977 (Commencement) Notice 1977	111
Legal Aid Ordinance.	
Legal Aid (Assessment of Contributions) (Amendment) Regulations 1977	112
Road Traffic Ordinance.	
Road Traffic (Temporary Car Parks) (Amendment) Regulations 1977	113
Summary Offences Ordinance.	
Summary Offences Ordinance (Exemption from Section 13) (No 3) Order 1977.....	114
Consular Relations Ordinance.	
Consular Relations (Privileges and Immunities) (Commonwealth Countries and Republic of Ireland) (Amendment) Order 1977.....	115
Evidence Ordinance.	
Evidence (Authorized Persons) (No 4) Order 1977.....	116
Factories and Industrial Undertakings Ordinance.	
Factories and Industrial Undertakings (Cartridge-operated Fixing Tools) Regulations 1977 (Commencement) Notice 1977	117
Factories and Industrial Undertakings Ordinance.	
Factories and Industrial Undertakings (Cartridge-operated Fixing Tools) (Amendment of Schedule) Notice 1977.....	118
Road Traffic (Parking and Waiting) Regulations.	
Temporary closure of car parks	119
Sessional Paper 1976-77:	
No 48—Supplementary Provisions for the Quarter ended 31st December 1976 (published on 1.6.77).	
No 49—University and Polytechnic Grants Committee of Hong Kong—Special Report October 1965 to June 1976 (published on 1.6.77).	

Oral answers to questions**Life Insurance Companies**

1. MR WONG Lam asked: —

(Asked in the Cantonese dialect. The following is the interpretation of what Mr WONG Lam asked)

Sir, for the better protection of life insurance policy holders, will Government consider increasing to appropriate levels the amounts of deposit required under the Life Insurance Companies Ordinance, which amounts have remained unchanged since the Ordinance was first brought into force in 1907; or alternatively, increasing the amounts of paid-up capital required?

THE FINANCIAL SECRETARY: —Sir, the Registrar General is reviewing the whole question of the legislation controlling insurance business in Hong Kong with a view to rationalizing it and bringing it up to date.

In the meantime the Government does not propose to increase the deposit required under the Life Insurance Companies Ordinance.

I assure Mr WONG that this is only because it seems to us very doubtful whether such deposits are a good way of protecting the policy holders.

The present legislation includes no requirements as to paid-up capital. We agree—and representatives of the industry with whom the Registrar General has discussed this also agree—that the new legislation should include such requirements.

MR CHEUNG: —Sir, how does paid-up capital assist the policy holder?

FINANCIAL SECRETARY: —I don't think I can answer that question off the cuff, Sir. But, I would be glad to obtain advice and produce a considered reply for my honourable Friend. I think the main point is that if you don't have any minimum requirements you can set up an insurance company with practically no capital at all, with no backing whatever, when it starts. Later on, I think, when it is an established one, the amount of paid-up capital is less relevant I would agree.

(The following written reply was provided subsequently)

Experience, both in Hong Kong and overseas, has shown that one of the most effective ways of protecting policy holders is to prevent

inadequately financed companies undertaking insurance business at all. Existing insurance legislation attempts to do this by requiring insurance companies to lodge deposits with the Government. But this has been only partly effective and has several practical disadvantages, principally that the funds deposited are not available to the company for its operations, something which could prejudice the attempts of a company in difficulties to re-establish itself.

The United Kingdom, which originally required deposits, adopted minimum paid up capital requirements in their place in 1946. This approach, together with close supervision by the Government to ensure minimum standards of solvency, is now one of the main foundations of insurance companies law in the United Kingdom.

Convicted drug traffickers

2. DR HU asked:—

Sir, will Government introduce amending legislation to provide for the sequestration of the assets of convicted drug traffickers which are held by their near relatives and nominees?

THE ATTORNEY GENERAL:—Sir, consideration is being given to the possibility of providing that the assets of convicted drug traffickers, including assets held by others on their behalf, should be liable to forfeiture unless a court is satisfied that the assets were acquired honestly.

DR HU:—May I know when the decision on this matter can be made?

ATTORNEY GENERAL:—I am not in a position to say. The problem is a difficult one. I had hoped to avoid on this occasion saying that, but the fact is it is a difficult question.

Shek O—Water Supply

3. DR FANG asked:—

Sir, are there any plans to provide a metered water supply to Shek O, in particular to the one and only health clinic run by the local residents?

Oral answers

DIRECTOR OF PUBLIC WORKS: —Sir, there are no immediate plans to implement a comprehensive metered water supply to Shek O.

Preliminary studies indicate that such a scheme would require the enlargement of facilities and the possible advancement of service re-servoir construction in Chai Wan from where the water would have to be supplied. In addition, the cost of a scheme to convey water from Chai Wan to Shek O would be in the order of five to six million dollars.

Further studies are necessary to assess the overall implications and define requirements prior to submitting an item to the Public Works Sub-Committee for consideration of its inclusion and priority in the Public Works Programme.

The existing system provides standpipe supplies to the villages of Tai Long Wan and Shek O and metered connections to the Police Post, First Aid Post and USD Depot. The City District Officer (Southern) has recently requested a metered connection from this system for the health clinic run by local residents and this is currently being processed.

DR FANG: —Sir, can we be told when this connection can be made?

DIRECTOR OF PUBLIC WORKS: —Yes, Sir. If the request is supported by the Director of Medical and Health Services, the supply can be made available to the clinic within about 2 to 3 weeks' time.

DR FANG: —Thank you.

Permitted Teachers—Qualifications

4. REV JOYCE M. BENNETT asked: —

Sir, will Government consider raising the minimum qualification of future permitted teachers in order to improve the standard of education in private schools so that teachers whose sole qualification is Form V can only teach in primary schools, those whose highest qualification is Form IV can only teach up to Forms I-III, and those whose highest qualification is Form VII can only teach up to Form V?

DIRECTOR OF EDUCATION: —Sir, the Education Department has already begun a review of the arrangements related to the issue of teaching permits.

The suggestion made by the Rev Joyce BENNETT will be considered during the course of this review.

REV JOYCE M. BENNETT: —Sir, do you have any date for the completion of the review?

DIRECTOR OF EDUCATION: —I hope, Sir, it would be completed by the end of the year.

Cross-Harbour Tunnel—Tolls

5. MR WONG Lam asked: —

(asked in the Cantonese dialect. The following is the interpretation of what Mr WONG Lam asked)

In view of the Company's ability to repay its investment loan later this year and its continuing high returns on capital, will Government consider reaching an agreement with the Cross-Harbour Tunnel Company Ltd. to reduce the rate of tolls collected from motorists?

SECRETARY FOR THE ENVIRONMENT: —Sir, the question of tolls to be charged for the use of the Cross-Harbour Tunnel is not a matter that can be considered only in relation to the financial position of the Company. Regard must also be given to other very important transport requirements.

At the present time there is a high and growing demand from motorists and other traffic to use the tunnel. The design capacity of the tunnel is about 70,000 vehicles a day. When it was opened in August 1972 it was used by not much over 20,000 vehicles a day. By 1975 average daily usage was about 42,000, in 1976 it was 50,000 and in the first four months of this year it was more than 56,000 vehicles a day. During the Chinese New Year this year demand reached a peak level of 71,000 vehicles a day and the tunnel and its approach roads, particularly on the Hong Kong side, demonstrably neared saturation.

[SECRETARY FOR THE ENVIRONMENT] **Oral answers**

There is thus a limit to the demands that can be placed on the tunnel and, if tolls were lowered now, this would only result in yet more vehicles seeking to use it. This would not only bring about congestion and queues but would cause an undesirable diversion of demand from the vehicular ferries which are, once again, beginning to experience a growth in usage.

As regards the Company's profits, Sir, I would remind Mr WONG Lam that, before the tunnel was built, it was considered by many to be a risky venture. Indeed, at that time it was even called a white elephant in certain quarters. The fact that the risk has paid off is to the credit of those who had the foresight to put their money into it. I would also add that $12\frac{1}{2}\%$ of the Company's profits is paid to the Government as royalty and $17\frac{1}{2}\%$ in Corporation Profits Tax. Of the remainder, roughly 25% accrues to the Government as a shareholder. So the taxpayers and the community at large are considerable beneficiaries from the success of this enterprise.

MR WONG Lam: —

(Asked in the Cantonese dialect. The following is the interpretation of what Mr WONG Lam asked)

Sir, will Government suggest to the Tunnel Company to establish a development fund?

SECRETARY FOR THE ENVIRONMENT: —Sir, I understand the question to be whether the Government will consider setting up a development fund for this company on the same lines as the bus companies. I would remind Mr WONG Lam that the Cross Harbour Tunnel is run under the Cross Harbour Tunnel Ordinance and this gives a franchise to the Company up to the 1990s. Sometime in the 1990s, I believe the Tunnel reverts to the Government. The ordinance does not provide any means by which it can be amended to provide for a profit control scheme. Instead it provides that the Government shall receive $12\frac{1}{2}\%$ as royalty.

MR T. S. LO: —Sir, is the Government a subscriber to the general concept that where public facilities are limited only the rich will be able to use them or does it limit the application of this concept merely to the Tunnel Company?

SECRETARY FOR THE ENVIRONMENT: —No, Sir, when there is a limitation of supply, normally either that supply has to be rationed by some means or it has to be regulated by price. In most cases in Hong Kong we find that it is more efficient to use the price mechanism, in some cases we don't. But the Tunnel Company or the Cross Harbour Tunnel is not the only case where this actually happens.

DR CHUNG: —Sir, will Government consider using the excessive profits made by the Cross Harbour Tunnel Company due to inflated prices to cross-subsidize other cross harbour ferry services?

SECRETARY FOR THE ENVIRONMENT: —Sir, as I explained it is not possible under the Cross Harbour Tunnel Ordinance which is in effect a contract, between the Government and the Company to vary the financial conditions without the consent of the company.

New public housing estate—services in

6. MISS KO asked: —

Sir, is Government satisfied there is adequate overall co-ordination to ensure that all essential services, including transport, police stations, post offices, public utilities, community facilities and social welfare services, are operational or are ready to be operational by the time a new public housing estate in the New Towns is ready for occupancy?

SECRETARY FOR HOUSING: —Sir, in both the planning stage and the development stage, there is central co-ordination, and close liaison is maintained between the Government departments involved and public companies so as to ensure that necessary services—such as transport, security measures, public utilities and marketing facilities—are indeed operational before tenants move into a new estate.

MISS KO: —Sir, is the Government satisfied with the outcome of the co-ordination effect?

SECRETARY FOR HOUSING: —I think, Sir, we can say that we are reasonably satisfied, but we should never be "satisfied fullstop."

Oral answers**Container Vehicles—Lights On**

7. DR CHUNG asked: —

Sir, will Government introduce for safety reasons appropriate legislation to ensure that all container lorries install front and rear red lights at the top of the lorries and containers, and that such lights are switched on at night-time when the lorries are on the road?

SECRETARY FOR THE ENVIRONMENT: —Sir, the short answer is "yes". The comprehensive revision of the Road Traffic Ordinance, which is now being drafted, will contain a requirement for additional corner and side marker lamps to be fitted to long articulated vehicles for use at night.

DR CHUNG: —Sir, while thanking the Secretary for the Environment for his positive reply, I am apprehensive of the words he used "comprehensive revision" because they implied a long drawn process. Will the Secretary for the Environment indicate when such legislative requirement will be introduced into this Council?

SECRETARY FOR THE ENVIRONMENT: —Sir, a lot of work has already been done on the preparation of this revision of the Road Traffic Ordinance and I think I can promise Dr CHUNG that the legislation will be introduced in the next session of this Council.

MR CHEUNG: —Would it be more simply dealt with by regulation to be made by His Excellency in Council?

SECRETARY FOR THE ENVIRONMENT: —Sir, I think that it is a legal matter which I would need time to consider and to take legal advice on. I am not sure whether it would need to be done under legislation or through regulations. I will write to Mr CHEUNG about this.

(The following written reply was provided subsequently)

I am now advised that an amending bill will not be necessary to effect this and it can, as you suggested, be dealt with by regulation made by the Governor-in-Council.

The Attorney General is consequently drafting amending regulations which will be presented to the Executive Council in the near future.

Coroners

8. DR FANG asked:—

Sir, (a) is Government satisfied that there are enough full-time coroners at the moment?

(b) if not, will Government consider recruiting more such officials particularly from those with medical qualifications?

THE ATTORNEY GENERAL:—Sir, the answer to the first part of the question is, "Yes".

The number of death enquiries is such that the full-time services of even one coroner are not generally required. The state of business is constantly monitored and arrangements can readily be made for a second coroner to sit if that is ever necessary. This is because the Coroners Ordinance enables the Chief Justice to appoint any magistrate as a coroner, and it is in fact the Chief Justice's practice to appoint all magistrates as coroners.

MR T. S. LO:—Sir, what is the average time lag between a death and a coroner's inquest?

ATTORNEY GENERAL:—I cannot answer that question sufficiently accurately. I will answer Mr LO in writing.

(The following written reply was provided subsequently)

Based on all inquests heard during the last three months the present average time lag between a death and a coroner's inquest is 10 weeks.

Certain categories of deaths are the subject of delayed inquests for the following reasons:—

(a) *Where the death concerned has resulted in any person being charged with murder, manslaughter, infanticide or dangerous driving causing death, no inquiry can be concluded pursuant to section 14(2) of Coroner's Ordinance, Cap. 14. The practical consequences of this provision are that the coroner will await the completion of criminal proceedings before classifying the death.*

(b) *Deaths which are suspected to have been caused by poisoning, overdose of drugs or an intake of any harmful substance require that specimens be sent to the Government Chemist for*

[ATTORNEY GENERAL] **Oral answers**

analysis. Delays of up to two months are at present being experienced in receiving such reports from the Government Laboratories.

Generally, when an inquest is to be held with a jury, the date of hearing is allocated at least three to four weeks in advance to enable sufficient notice to be given to potential jurors of their need to attend.

MR T. S. LO: —Will the Government kindly confirm that delay which has occurred in the past for inquests is not related in any way to the lack of coroners?

ATTORNEY GENERAL: —I can most certainly confirm that, Sir. At the same time, I would agree that there has been some delay in the past. I am quite confident that the arrangements now in force will ensure that there is no delay in the future.

MR T. S. LO: —Thank you.

Land Resumption—Compensation

9. MR CHEN asked: —

Sir, will Government state whether, in the more recent land resumption cases, the new rateable value and assessable value of the premises were taken into account in arriving at the compensation offered to the property owner?

SECRETARY FOR THE ENVIRONMENT: —Sir, the measure of compensation in resumption cases is the open market value of the relevant interest, subject to various rules laid down in the Crown Lands Resumption Ordinance. In arriving at his estimate of market value, the Government valuer wherever possible has regard to recent transactions in comparable properties in the open market. He thus takes account of the new rateable value and assessable value to the extent that they influence those transactions. Where, however, there have been no comparable transactions, or the Government valuer considers that the transactions of which he is aware of do not for some reason reflect current market values, a more detailed study of rents receivable and other factors, such as the current rating valuation, may be appropriate before he decides on the price which the Government should offer. So the short answer to the question, Sir, is therefore "yes".

Princess Margaret Road Flyover—Traffic Accidents

10. DR CHUNG asked: —

Sir, will Government provide a comprehensive list of traffic accidents which occurred along the Princess Margaret Road Flyover in Kowloon during the past three years, giving important details of each accident including date, time and nature of accident, number of injuries incurred (both fatal and non-fatal), etc.?

SECRETARY FOR THE ENVIRONMENT: —Sir, I regret that the requisite data cannot be extracted in time to cover the whole three-year period requested by Dr CHUNG. This is because, prior to 1st January 1976, the data were stored manually rather than on a computer. I am, however, having the earlier figures extracted and will let Dr CHUNG have the complete information as soon as possible in a tabular form giving all the details related to this question.

As regards the 17-month period from 1st January 1976 to 26th May 1977, there were 26 reported traffic accidents on the Princess Margaret Road Flyover. Five of these accidents resulted in death, there were serious injuries in twelve others and the remaining nine involved minor injuries. A total of 12 persons were killed, 28 seriously injured and 34 suffered minor injuries. Of the 26 accidents, 13 occurred during daylight and 13 at night.

I should add that no fewer than 17 of the 26 accidents were caused by head-on collisions. The speed restriction on this flyover is 30 mph and it would appear that many of the vehicles involved were travelling at speeds in excess of this limit. This could lead to drivers having insufficient control of their vehicles and crashing head on with vehicles coming in the opposite direction. Some of the accidents also appeared to result from drivers overtaking on the flyover without proper care.

Finally, Sir, apart from the measures which will be explained by the Director of Public Works in answer to the next question, the Commissioner of Police is setting up a speed detection unit on the approaches to the flyover in such a way that its presence will be made obvious to drivers.

[SECRETARY FOR THE ENVIRONMENT] **Oral answers**

(The following information was provided subsequently)

A comprehensive list, on the lines you requested, has now been obtained and is at Appendix. However, as the Commissioner of Police is unable to provide complete details for the second half of 1974 because seven of the traffic accident files have been destroyed, the list covers the $2\frac{1}{2}$ -year period commencing 1st January 1975 only and not the three-year period you asked for.

The numbers of accidents, causes, casualties and vehicle involvement in traffic accidents on the Princess Margaret Road flyover have been as follows:—

	1975	1976	1977 (5 months)
<i>Number of accidents.....</i>	18	21	6
<i>Number of casualties:</i>			
<i>fatal.....</i>	0	3	6
<i>serious.....</i>	8	26	0
<i>slight.....</i>	12	28	2
<i>Number due to driver's fault.....</i>	14	18	6
<i>Vehicles involved:.....</i>			
<i>private car.....</i>	24	24	5
<i>taxi.....</i>	1	11	6
<i>motor-cycle.....</i>	2	3	1
<i>Government vehicle.....</i>	6	7	0
<i>Other.....</i>	6	2	2
<i>Total.....</i>	39	47	14

The Police advice is, as I stated in my original answer, that the majority of these accidents are caused by drivers' carelessness. Because of this the Police have now set up a visible speed detection unit on the flyover as a deterrent to careless driving and to try to cut down the number of incidents. Although there was, unfortunately, one very serious accident in May of this year, which caused 5 of the 6 deaths reported above, the situation generally has improved considerably in recent months.

Appendix

<i>Date</i>	<i>Time</i>	<i>Brief summary of the circumstance of each accident</i>	<i>Type of vehicle involved</i>	<i>Causation of blame</i>	<i>No. and detail of casualties</i>
15.1.75	0625 hrs.	At the time, it was drizzling and the road surface was wet. An off-duty constable was driving his P/Car along the northbound carriageway of the flyover. When he came to the bend above Argyle St., he slowed down by applying foot brake but his car skidded due to wet and slippery road surface. As a result, the rear mud-guard struck the guardrail, leaving a scratch on the guard-rail of about 4 feet long.	P/C	No one's fault.	Nil.
19.1.75	1215 hrs.	At the time, the weather was fine but the road surface was wet. Vehicle 4 (V. 4) was travelling along the northbound carriageway of the flyover. When it came to the bend above Argyle St., the driver braked to slow but the vehicle skidded and hit the guardrail, the car span around, hitting V. 1 and V. 2 on the opposite carriageway. V. 3 which was following V. 2 could not in time and rammmed into the rear of V. 2.	Vehicle 1—G/V Vehicle 2—P/C Vehicle 3—P/C Vehicle 4—P/C	Driver of V. 4 was to blame as he did not exercise proper care and attention whilst rounding a bend. He was issued with a warning letter.	2 passengers in V. 2 sustained contusion of chest and shoulder respectively. Both treated and discharged.
30.1.75	0230 hrs.	At the time, it was drizzling and the road surface was wet. V. 1 was travelling on the northbound carriageway of the flyover. When it came to the bend above Argyle St., the driver braked to slow down but his car skidded because of the wet and slippery road surface and eventually lied diagonally on the road with the front part on the opposite carriageway. V. 2 which was travelling south, rammmed into it.	V. 1—P/C V. 2—P/C	Driver of V. 1 was driving too fast having regard to condition. He was summonsed for careless driving and convicted.	The driver and a passenger in V. 2 sustained laceration of scalp & multiple laceration over face. Both admitted.
22.3.75	2340 hrs.	At the time, it was drizzling and the road surface was wet. V. 1 was travelling along the northbound carriageway of the flyover. When it came to the bend above Argyle St., the driver braked when the vehicle in front slowed down but V. 1 skidded to the opposite carriageway hitting V. 2 on it head-on.	V. 1—P/C V. 2—P/C	Driver of V. 1 was driving too fast having regard to condition and was summonsed and convicted of careless driving.	2 passengers in V. 1 sustained concussion, abrasion and bruises on right chin. Driver of V. 2 suffered from back ache. All treated & discharged.
25.3.75	1315 hrs.	At the time, the weather was fine and the road surface was dry. V. 1 was travelling on the northbound carriageway of the flyover. When it came to the bend above Argyle St., the driver braked to slow down but to find his vehicle moving in 'zig-zag' manner and eventually skidded to the opposite carriageway hitting V. 2 which was travelling on it.	V. 1—P/C V. 2—P/C	Driver of V. 1 was at fault as he was driving too fast having regard to condition. He was summonsed and convicted of careless driving.	Driver of V. 1 sustained laceration of left index finger. Treated and discharged.
14.5.75	1545 hrs.	At the time, it was drizzling and the road surface was wet. V. 1 was travelling along the northbound carriageway of the flyover. When it came to the bend above Argyle St., the driver braked to reduce speed but found his vehicle swinging to the left. He swerved to the right and rammmed into V. 2 which was travelling on the opposite carriageway.	V. 1—G/V V. 2—G/V	Driver of V. 1 was at fault as he was driving too fast when rounding a bend. He was summonsed for careless driving (result not yet known).	Nil.

<i>Date</i>	<i>Time</i>	<i>Brief summary of the circumstance of each accident</i>	<i>Type of vehicle involved</i>	<i>Causation of blame</i>	<i>No. and detail of casualties</i>
19.5.75	1645 hrs.	At the time, it was drizzling and the road surface was wet. V. 1 and V. 2 were travelling abreast along the northbound carriageway of the flyover. When these vehicles came to the bend above Argyle St., they collided with each other. After a report was made, both drivers settled between themselves.	V. 1—P/C V. 2—P/C	The cause was not known as no statement was taken.	Nil.
17.7.75	1020 hrs.	At the time, the weather was fine but the road surface was wet. V. 1 was travelling on the northbound carriageway of the flyover. When it came to the bend above Argyle St., the driver braked because traffic in front was building up. The vehicle skidded and crossed over the white line, hitting V. 2 which was travelling on the opposite carriageway.	V. 1—P/C V. 2—P/C	Driver of V. 1 was driving too fast having regard to condition. He was summonsed and convicted of careless driving.	Driver of V. 2 suffered from laceration of right hand and contusion of chest. Treated & discharged.
29.7.75	0255 hrs.	At the time, the weather was fine and the road surface was dry. V. 1 was travelling at a speed of 40 M.P.H. on the southbound carriageway of the flyover. When it came to the bend above Argyle St., suddenly it crossed over the white line and hit V. 2 which was travelling on the opposite carriageway.	V. 1—P/C V. 2—P/C	Driver of V. 1 was at fault as he was driving too fast whilst rounding a bend. He was summonsed for careless driving (case not yet concluded).	Driver of V. 1 suffered from laceration of scalp. Treated and discharged.
7.8.75	1135 hrs.	At the time, the weather was fine and the road surface was dry. V. 1 was going up the flyover from its southern end and was heading north. There were 2 lanes on the northbound carriageway of the said flyover and the V. 1 was travelling on the lane dividing line. When the M/cyclist observed that V. 2 was about to overtake from his right, he pulled to the inner lane. Just then the right handle bar was hit by V. 2. As a result, the M/cyclist and his machine was knocked down.	V. 1—M/C V. 2—Private light bus	The driver of the V. 2 was at fault as he did not exercise due care & attention whilst overtaking. He was summonsed and convicted of careless driving.	M/cyclist sustained multiple abrasion over both forearms and legs, & laceration on right elbow. Treated & discharged.
25.8.75	1705 hrs.	At the time, it was raining and the road surface was wet. V. 4 broke down and was stationary on the bend of the southbound carriageway of the flyover, above Argyle St. V. 1 was travelling on the opposite carriageway on the inner lane, and the driver came to the bend, he braked to slow down. When V. 1 was almost stationary and was hit in the rear by V. 2 which was following behind. V. 1 was thrashed forward hitting V. 3 and V. 4 which were travelling on the opposite carriageway.	V. 1—P/C V. 2—KMB Bus V. 3—P/C V. 4—P/C	Driver of V. 2 was at fault as he failed to maintain a safe distance between vehicles. He was summonsed for careless driving but was acquitted.	Nil.
30.8.75	1205 hrs.	At the time, it was raining heavily and the road surface was wet. V. 1 was travelling on the northbound carriageway of the flyover at a speed of 25-30 M.P.H. When it came to the bend above Argyle St., the driver discovered that his vehicle was swerving to the right, so he applied brake but the vehicle skidded to the opposite carriageway hitting V. 2 which was travelling on it.	V. 1—G/V V. 2—P/C	Driver of V. 1 was driving too fast having regard to condition. He was summonsed and convicted of careless driving.	Driver & passenger in V. 1 sustained serious head injuries. Both Admitted. Driver & passenger in V. 2 sustained slight leg and head injuries respectively. Treated & discharged.

<i>Date</i>	<i>Time</i>	<i>Brief summary of the circumstance of each accident</i>	<i>Type of vehicle involved</i>	<i>Causation of blame</i>	<i>No. and detail of casualties</i>
13.9.75	0900 hrs.	At the time, the weather was fine and the road surface was dry. V. 1 was going up the flyover from its northern end and was heading south. When it just entered the flyover, the driver saw an old man crossing the flyover from west to east. The driver immediately applied brake but could not avoid hitting the old man.	V. 1—taxi	The old man should not have walked on the flyover which is prohibited to pedestrian.	Old man sustained serious injury—fracture of skull & admitted.
19.9.75	1620 hrs.	At the time, it was drizzling and the road surface was wet. V. 1 was travelling along the northbound carriageway of the flyover. When it came to the bend above Argyle St., the driver discovered that the vehicle was swerving to the right, so he applied brake but the vehicle skidded to the opposite carriageway hitting V. 2 and V. 3 on it.	V. 1—P/C V. 2—G/V V. 3—P/C	Driver of V. 1 was at fault as he was using a vehicle with worn tyre and was summonsed accordingly and convicted.	Nil.
19.9.75	2145 hrs.	At the time, it was raining heavily and the road surface was wet. V. 1 was travelling on the northbound carriageway of the flyover. When it came to the bend above Argyle St. the driver discovered that the vehicle was swerving to the right, so he steered to the left but the vehicle continued to skid to the right hitting V. 2 which was travelling on the opposite carriageway.	V. 1—G/V V. 2—KMB Bus	No fault of either driver.	4 passengers in V. 2 received slight injury, treated and discharged. 2 passengers in V. 2 sustained concussion and admitted.
29.10.75	1010 hrs.	At the time, it was drizzling and the road surface was wet. V. 1 was travelling on the southern single-lane carriageway of the flyover. When it came to the bend above Argyle St., the driver saw an USD Sweeping Vehicle stationary in front, he ignored the double white line and overtook the said USD vehicle. while he was doing so, he rammed into V. 2 which was travelling on the opposite carriageway.	V. 1— Public Omnibus V. 2— Army vehicle	Driver of V. 1 was at fault as he was overtaking at double white line. He was summonsed for careless driving but acquitted as the magistrate would not grant adjournment for witness to attend court to testify.	Nil.
4.11.75	1400 hrs.	At the time, the weather was fine and the road surface was dry. V. 1 was travelling along the inner lane of the northbound carriageway of the flyover. When it came to the bend above Argyle St., suddenly V. 2 cut into V. 1's path from the outer lane. The driver of V. 1 immediately braked and his vehicle skidded and rammed into the guardrail.	V. 1— P/C V. 2— an unknown P/C	Driver of the unknown P/C was at fault as he was driving without consideration to other road user.	Nil.
8.12.75	0750 hrs.	At the time, the weather was fine and the road surface was dry. V. 1 was travelling along the southbound carriageway of the flyover. When it came to the bend above Argyle St., the M/cyclist suddenly lost control of his machine and collided with V. 2 which was travelling on the opposite carriageway.	V. 1—M/C V. 2—P/C	The M/cyclist was at fault as he was driving too fast whilst rounding a bend. He was summonsed and convicted of careless driving.	The M/cyclist sustained serious leg injury. Treated and admitted.

N.B. w.e.f. 1000 hrs. on 22.2.76, the traffic arrangement on Princess Margaret Road
Flyover was changed from two lanes northbound and one lane southbound to
one lane northbound and two lanes southbound Brief summary of the
circumstance of each accident

<i>Date</i>	<i>Time</i>	<i>Brief summary of the circumstance of each accident</i>	<i>Type of vehicle involved</i>	<i>Causation of blame</i>	<i>No. and detail of casualties</i>
23.1.76	0555 hrs.	At the time, it was drizzling and the road surface was wet. V. 1 was travelling on the northbound carriageway of the flyover. When it came to the bend above Argyle St., the driver found his vehicle moving in a 'zig-zag' manner and eventually rammed into V. 2 which was travelling on the opposite carriageway head-on.	V. 1—P/C V. 2—Taxi	Driver of V. 1 was at fault as he was using a vehicle with defective tyres and was charged and convicted accordingly.	Driver of V. 1 sustained laceration of face & fracture of ribs, and admitted. 2 Passengers in V. 1 sustained laceration of left elbow and fracture of left ankle respectively & admitted. Driver of V. 2 sustained fracture ribs & 1 passenger suffered from concussion, both admitted. 3 passengers sustained laceration of lower lip; epistaxis and abrasion over left knee & lower lip. All treated & discharged.
23.1.76	1740 hrs.	At the time, the weather was fine and the road surface was dry. V. 1 was ascending the flyover from its southern end, and was on the inner lane in a northerly direction. Some 6 M/C's which were travelling in a racing manner and overtook V. 1. When V. 1 has entered the flyover, V. 2 came and overtook V. 1 from its left and cut in front of it. As it did so, it hit the nearside front of V. 1 slightly and V. 2 veered diagonally towards the opposite carriageway, colliding with V. 3 which was travelling on it head-on.	V. 1—P/C V. 2—M/C V. 3—P/C	M/cyclist was at fault as he was driving in a reckless and dangerous manner.	M/cyclist and his pillion passenger died as a result of multiple injuries they received from the impact.
7.2.76	1930 hrs.	At the time, the weather was fine and the road surface was dry. V. 1 was travelling on the northbound carriageway of the flyover. When it came to the bend above Argyle St. it had a head-on collision with V. 2 which was travelling on the opposite carriageway.	V. 1—P/C V. 2—M/C	Both drivers were to blame as they were keeping too close to the double white line.	M/cyclist sustained abrasion over face. Treated & discharged. Driver of V. 2 sustained metatarsal bone 3rd, 4th & 5th (right). Treated & Admitted.
19.2.76	1145 hrs.	At the time, the weather was fine and the road surface was dry. V. 1 was ascending the flyover from the northern end. When it was just entering the flyover, an old woman suddenly ran across the flyover from west to east, and was knocked down by V. 1.	V. 1—P/C	The pedestrian should not have walked on the flyover which is prohibited to pedestrian.	Pedestrian was seriously injured in her pelvis & admitted.

<i>Date</i>	<i>Time</i>	<i>Brief summary of the circumstance of each accident</i>	<i>Type of vehicle involved</i>	<i>Causation of blame</i>	<i>No. and detail of casualties</i>
25.2.76	2050 hrs.	At the time, it was raining and the road surface was wet. V. 1 was travelling on the northbound carriageway of the flyover. When it came near Perth St., suddenly the driver overtook a slow-moving vehicle and collided with V. 2 which was travelling on the opposite carriageway. After the accident, the driver of V. 1 drove away and later went to the hospital when he discovered that his head was bleeding.	V. 1—P/C V. 2—Taxi	Driver of V. 1 was at fault as he was overtaking at a double white line. He was summonsed for careless driving & failing to stop after an accident (result not yet known).	Driver of V. 1 sustained haematoma over forehead.
23.3.76	0150 hrs.	At the time, it was raining and the road surface was wet. V. 1 was travelling along the southbound carriageway of the flyover. When it came to the bend above Argyle St., the driver braked when he was rounding the bend but his car skidded and collided with V. 2 which was travelling on the opposite carriageway.	V. 1—P/C V. 2—Taxi	Driver of V. 1 was at fault as he did not exercise due care & attention whilst driving, and summonsed for careless driving (result not yet known).	Driver of V. 1 sustained multiple injures and admitted.
30.3.76	1500 hrs.	At the time, the weather was fine and the road surface was dry. V. 1 was travelling along the southern carriageway of the flyover on the outer lane. When it came to the bend above Argyle St. and the driver braked in order to reduce speed but the vehicle skidded and collided with V. 2 which was travelling on the opposite carriageway.	V. 1—Police lorry V. 2—G/V	Driver of V. 1 was at fault as he was driving too fast when rounding a bend. He was summonsed for dangerous driving and convicted of careless driving.	Driver of V. 1 sustained fracture right forearm. Treated & admitted. Driver of V. 2 sustained concussion and abrasion of right forearm & discharged. 1 passenger in V. 2 sustained fracture left radius & admitted. 1 passenger in V. 2 sustained concussion, abrasion right arm & elbow. Treated and discharged.
30.3.76	2015 hrs.	At the time, it was drizzling and the road surface was wet. V. 1 was travelling along the southbound carriageway of the flyover, on the outer lane. When it came to the bend above Argyle St., the driver was dazzled by the light of the vehicle from the opposite direction. He braked sharp to stop thinking that vehicle was getting in his travelling lane from the opposite direction. His car skidded and collided with V. 2 and V. 3 which were travelling on the opposite carriageway.	V. 1—P/C V. 2—P/C V. 3—P/C	Driver of V. 1 was at fault as he did not exercise due care & attention whilst driving especially during bad weather. He was summonsed for careless driving (result not yet known).	Driver of V. 1 sustained laceration of ear and admitted. 1 passenger in V. 2 sustained slight head injury. Treated and discharged.
9.4.76	1210 hrs.	At the time, it was drizzling and the road surface was wet. V. 2 was travelling along the southbound carriageway of the flyover on the outer lane. When it came to the bend above Argyle St., the driver lost control over her vehicle and skidded to the opposite carriageway hitting V. 1 and V. 2 which were travelling on it.	V. 1—P/Car V. 2—P/C V. 3—Taxi	Driver of V. 2 was at fault as she failed to exercise due care whilst rounding a bend. She was summonsed for careless driving (result not yet known).	Driver of V. 2 slightly injured her head and left foot. Treated and discharged.

<i>Date</i>	<i>Time</i>	<i>Brief summary of the circumstance of each accident</i>	<i>Type of vehicle involved</i>	<i>Causation of blame</i>	<i>No. and detail of casualties</i>
12.4.76	1140 hrs.	At the time, it was drizzling and the road surface was wet. V. 2 was travelling along the southbound carriageway of the flyover on the inner lane. When it came to the bend above Argyle St., the vehicle suddenly skidded to the opposite carriageway hitting V. 1 which was travelling on it.	V. 1—Taxi V. 2—P/C	Driver of V. 2 was at fault as he failed to exercise due care whilst rounding a bend. He was summonsed for careless driving (result not yet known).	Driver of V. 2 sustained abrasion over left knee. Treated and discharged.
5.5.76	0845 hrs.	At the time, it was raining heavily and the road surface was wet. V. 2 was travelling along the southbound carriageway of the flyover on the inner lane. When it came to the bend above Argyle St., it skidded and rammmed into the guard-rail on its left. Immediately the driver swered to the right and crossed over the double white line, hitting V. 1 first and the V. 2 which were travelling on the opposite carriageway.	V. 1—G/V V. 2—G/V V. 3—P/C	The driver of V. 2 was at fault as he was driving a vehicle with defective tyre and was summonsed accordingly and convicted.	Driver of V. 3 sustained laceration of scalp. Treated and admitted.
2.6.76	0810 hrs.	At the time, it was raining and the road surface was wet. V. 1 was travelling along the southbound carriageway of the flyover on the outer lane. When it came to the bend above Argyle St., an unknown P/C (V. 4) suddenly cut out into V. 1's path from the inner lane. The driver of V. 1 immediately applied brake and his vehicle skidded to the right, hitting V. 2 and V. 3 which were travelling on the opposite carriageway.	V. 1—G/V V. 2—P/Van V. 3—P/C V. 4—unknown P/C	The driver of the unknown P/C was at fault as he failed to exercise due care & attention when overtaking.	Driver of V. 2 died of fracture ribs with injuries to heart and lung. 1 passenger in V. 2 sustained abrasion of thigh. Treated and discharged. Driver of V. 3 sustained abrasion of thigh. Treated & discharged.
13.6.76	0940 hrs.	At the time, it was raining and the road surface was wet. V. 1 was ascending the flyover from its southern end and was travelling in a northerly direction, followed by V. 2. When the driver of V. 1 saw another vehicle squeezed into the flyover from the left, he slowed down to give way. Driver of V. 2 could not stop in time and rammmed into the rear of V. 1.	V. 1—Taxi V. 2—P/C	Driver of V. 2 was to blame as he was keeping too close to the vehicle in front. He was summonsed and convicted of careless driving.	1 passenger in V. 2 sustained laceration of lip. Treated and admitted.
27.6.76	0230 hrs.	At the time, it was raining heavily and the road surface was wet. V. 2 was travelling along the southbound carriageway of the flyover on the outer lane. When it came to the bend above Argyle St., it skidded to the opposite carriageway, hitting V. 3 and V. 1 which were travelling on it.	V. 1—Taxi V. 2—P/C V. 3—Taxi	One of tyre of V. 2 was punctured immediate before the accident which might contribute to the cause of the accident.	Driver of V. 1 sustained contusion of chest, treated and admitted. 2 passengers in V. 3 suffered from concussion and admitted. 1 passenger in V. 3 sustained laceration of right knee and admitted. 2 passengers in V. 1 & 2 passengers in V. 2 were slightly injured, treated and discharged.

<i>Date</i>	<i>Time</i>	<i>Brief summary of the circumstance of each accident</i>	<i>Type of vehicle involved</i>	<i>Causation of blame</i>	<i>No. and detail of casualties</i>
4.7.76	1825 hrs.	At the time, the weather was fine and the road surface was dry. V. 1 was travelling on the southbound carriageway of the flyover on the outer lane. When it came to the bend above Argyle St., an unknown V. 2 suddenly dashed across his path from the opposite direction. The driver immediately swerved to the left to avoid a collision, and rammed into the guard-rail on his left. As a result of the impact, his vehicle bounced off hitting the guard-rail on the right.	V. 1—G/V V. 2—Unknown P/C	It appears that the driver of the unknown P/C was at fault as he failed to exercise proper care and drove on to someone else's path.	Driver of V. 1 sustained abrasion of his right palm and face. 1 passenger in V. 1 sustained slight injury. Both treated and discharged.
8.7.76	1700 hrs.	At the time, the weather was fine and road surface was dry. V. 1 was travelling along Princess Margaret Road southbound. When it came to the approach of the flyover, it drove over a patch of water and skidded. The driver lost control and fell.	V. 1—M/C	The driver lost control of his M/C when driving over a patch of water. No fault on any party.	Driver of V. 1 sustained slight injury with abrasion and slight bleeding on left palm and leg.
19.9.76	1815 hrs.	At the time, it was raining and the road surface was wet. V. 2 was travelling along the southbound carriageway of the flyover on the inner lane. When it came to the bend above Argyle St., the driver found his vehicle moving in a zig-zag manner and he applied brake but the vehicle skidded to the opposite carriageway hitting V. 1 which was travelling on it.	V. 1—Taxi V. 2—P/C	Driver of V. 2 was at fault as he was driving a vehicle with defective tyres. He was summonsed for (a) careless driving and (b) using a veh. with defective tyres and convicted.	1 passenger in V. 1 sustained minor injuries over forehead and thigh. 1 Passenger in V. 1 sustained contusion of chest. 1 passenger in V. 2 sustained contusion of thigh. All treated and discharged.
20.10.76	2356 hrs.	At the time, it was raining and the road surface was wet. V. 1 was travelling along the northbound carriageway of the flyover. When it came to the bend above Argyle St., it skidded and went across to the opposite carriageway hitting V. 2 which was travelling on it head-on.	V. 1—P/C V. 2—G/V	Driver of V. 1 was at fault as he failed to exercise due care and attention whilst rounding a bend on a wet road. He was summonsed for careless driving (result not yet known).	Driver of V. 1 sustained laceration of face & right knee, abrasion over chin & admitted. 2 passengers suffered from laceration of chin and left forehead respectively & admitted 2 passengers in V. 1 suffered minor abrasion & discharged. Driver of V. 2 suffered from concussion and a admitted.
27.12.76	0500 hrs.	At the time, the weather was fine and road surface was dry. V. 1 was travelling in a northerly direction coming down the flyover. Suddenly V. 2 dashed into his path from the opposite direction, the driver immediately swerved to the left to avoid it and rammed into the guard-rail.	V. 1—G/V V. 2—P/C Unknown	It appears that the driver of the unknown P/C was at fault. He did not exercise proper care and thus drove into someone else's path.	1 passenger on V. 1 sustained serious injury on his arm and admitted. 2 passengers suffered minor abrasion and discharged.

<i>Date</i>	<i>Time</i>	<i>Brief summary of the circumstance of each accident</i>	<i>Type of vehicle involved</i>	<i>Causation of blame</i>	<i>No. and detail of casualties</i>
28.12.76	2245 hrs.	At the time, the weather was fine and the road surface was dry. V. 3 was travelling along the northbound carriageway of the flyover. When it came to the bend above Argyle St. The veh. skidded to the opposite carriageway and had a head-on collision with V. 2 which was travelling on it. V. 1 was following V. 2, the driver could not stop in time and rammed into the rear of V. 2.	V. 1—Taxi V. 2—Taxi V. 3—P/C	The driver of V. 3 appeared to be inattentive to the road condition, the volume of traffic and the speed he was in at the time and resulted in the accident. He was summonsed for (a) dangerous driving & (b) using a vehicle with a defective tyre. (Result not yet known).	Driver of V. 3 sustained concussion & admitted. 1 passenger in V. 3 suffered from concussion and admitted. Driver of V. 2 & 1 passenger were suffered from concussion and both were admitted. Driver of V. 1 suffered minor head injury. Treated and discharged.
29.12.76	0645 hrs.	At the time, it was drizzling and the road surface was wet. V. 1 was travelling along the northbound carriageway of the flyover and was descending the slope at the northern end. Suddenly the vehicle skidded and rammed into the guard-rail.	V. 1—P/C	It appears that the driver was not exercising proper care and attention whilst driving especially during bad weather. He was issued with a warning letter.	Driver suffered from bleeding from nose. Treated and discharged.
17.3.77	0915 hrs.	At the time, the weather was fine and the road surface was dry. V. 1 was travelling along the northbound carriageway of the flyover. When it came to the bend above Argyle St., the driver observed that V. 2 was coming from the opposite direction at high speed. When V. 2 was about 30 feet from V. 1, the M/cyclist suddenly lost control of his machine and fell off from it and his body hit against V. 1.	V. 1—Taxi V. 2—M/C	It appears that the M/cyclist was at fault as he was rounding the bend at high speed and lost control.	The M/cyclist died as hemothorax, fracture ribs and injury to lung.
3.4.77	0740 hrs.	At the time, the weather was fine but the road surface was wet. V. 2 was travelling along the northbound carriageway of the flyover. When it came to the bend above Argyle St., it suddenly skidded to the right hitting V. 1 which was travelling on the opposite carriageway.	V. 1—Taxi V. 2—P/C	Driver of V. 2 was at fault as she did not exercise due care & attention whilst rounding the bend. She was summonsed for careless driving (result not known).	Nil.
4.4.77	0030 hrs.	At the time, the weather was fine and the road surface was dry. V. 2 was travelling along the northbound carriageway of the flyover followed by V. 3. When these vehicles came to the bend above Argyle St., V. 1 came from the opposite direction at high speed, lost its track and collided head-on with V. 2. Driver of V. 3 could not stop in time and rammed into the rear of V. 2. As a result, Driver of V. 1 & 2 passengers on board were killed, driver of V. 2 and 1 passenger were killed while another passenger sustained serious injury. No casualty in V. 3.	V. 1—P/C V. 2—Taxi V. 3—Taxi	It was apparent that driver of V. 1 was at fault as he was rounding the bend at high speed.	Driver of V. 1 died of multiple injuries. 1 passenger in V. 1 died of multiple injuries and another died of cerebral laceration & haemorrhage and haemothorax. Driver of V. 2 died of multiple injuries. 1 passenger in V. 2 died of cerebral contusion with subdural and subarachnoid haemorrhage. 1 passenger in V. 2 suffered from concussion and admitted.

<i>Date</i>	<i>Time</i>	<i>Brief summary of the circumstance of each accident</i>	<i>Type of vehicle involved</i>	<i>Causation of blame</i>	<i>No. and detail of casualties</i>
8.4.77	1115 hrs.	At the time, the weather was fine and the road surface was dry. V. 2 was ascending the flyover from the northern end on the inner lane. The driver suddenly braked and his car rammed into the safety island bollard light. As a result of the impact, the vehicle was flung and rested diagonally on the southbound carriageway. V. 1 which was travelling in the same direction on the outer lane and the driver could not stop in time and rammed into the rear of V. 2. Driver of V. 3 who was following V. 2 also braked and swerved to the right but could not avoid hitting both vehicles.	V. 1—Taxi V. 2—P/C V. 3—M/C	All drivers were at fault as they did not exercise proper care & attention whilst driving. All were issued with warning letters.	M/Cyclist sustained abrasion on his right knee. Treated and discharged.
28.4.77	1130 hrs.	At the time, it was raining and the road surface was wet. V. 1 was descending the flyover and was heading south on the inner lane. When it came to the foot of the flyover, it collided with V. 2 which was travelling alongside on the outer lane.	V. 1—Public car V. 2—Army vehicle	Both drivers were in the wrong as they did not exercise proper care and attention whilst driving. Both issued with Warning letter.	Nil.
3.5.77	2120 hrs.	At the time, the weather was fine and the road surface was dry. V. 2 was travelling on the southbound carriageway of the flyover on the outer lane. When it came to the bend above Argyle St., the driver was doing 35 M.P.H. and suddenly his vehicle swerved to the right. He braked but the vehicle continued to skid and hit V. 1 which was travelling on the opposite carriageway.	V. 1—P/Car V. 2—Taxi	Driver of V. 2 was at fault as he was driving to fast whilst rounding a bend. He was summonsed for careless driving (result not known).	Driving instructor in V. 1 sustained abrasion on forehead. Treated and discharged.

Oral answers**Princess Margaret Road Flyover**

11. DR CHUNG asked: —

Sir, (a) in the light of statistics provided in the reply to the above question, does Government agree that there is an urgent need to significantly improve driving safety in Princess Margaret Road Flyover and,

(b) if so, will Government state what positive steps it is taking or contemplating to achieve this?

DIRECTOR OF PUBLIC WORKS: —Sir, although the flyover is adequately designed to accommodate vehicles travelling within the urban speed limit of 30 miles per hour it would appear as the Secretary for the Environment has already stated that many drivers are not staying within the speed limit nor are they exercising due care and are thereby putting themselves and other road users at risk.

In order to improve driving safety a new skid-resistant topping is being applied to the road surface. This work will be completed within the next few days.

In a further attempt to improve the situation very large "SLOW" signs have been installed alongside the carriageway.

It has been suggested that crash barriers should be erected along the middle of the flyover to eliminate the possibility of head-on collisions. Unfortunately the flyover is of insufficient width to allow such a division of the road. A long-term solution is, however, being examined which, if adopted, would add one extra lane to the roadway and would permit the erection of a central divider.

DR CHUNG: —Sir, will the Director of Public Works say that whether the steps taken so far would improve driving safety on that particular flyover significantly or marginally?

DIRECTOR OF PUBLIC WORKS: —By the addition of the topping to the road surface it will improve the skid-resistance of the road by approximately 64%.

DR CHUNG: —Sir, has Government considered closing the middle lane in order to build a dividing kerb or crash barrier between the two remaining lanes which would definitely reduce the head-on collisions?

DIRECTOR OF PUBLIC WORKS: —No, Sir, the double south-bound lanes are required to provide a faster flow of traffic to the south, to reduce the possibility of a traffic back-up which would affect the road junctions in Waterloo Road.

MR CHEUNG: —Has the night time illumination which is at barrier level contributed to any of these collisions?

DIRECTOR OF PUBLIC WORKS: —No, Sir.

DR CHUNG: —Sir, will Government consider giving priority to safety rather than to smoother traffic flow?

DIRECTOR OF PUBLIC WORKS: —Sir, this is what is being considered in the interim and long term solutions.

MR ALEX WU: —Is the Government satisfied that the transverse gradient on bends on that particular road sufficiently safe?

DIRECTOR OF PUBLIC WORKS: —Yes, Sir, the super elevation of the road is designed for a speed of 30 mph which is the correct superelevation for that road.

Theatrical Performances

12. MR ALEX WU asked: —

Sir, will Government state under what safety conditions are theatrical performances and other forms of entertainment permitted in hotels and restaurants?

SECRETARY FOR SECURITY: —Sir, theatrical performances and other forms of entertainment in hotels and restaurants are not subject to any special safety conditions beyond those normally applicable to such premises under the Buildings Ordinance. These conditions cover such matters as structural stability, floor loadings, adequacy of means of escape etc. The installation and maintenance of fire protection equipment such as sprinkler systems, fire hydrants, fire extinguishers, heat and smoke detectors, etc. are prescribed by the Director of Fire Services.

Under the Fire Services Ordinance, the Director of Fire Services is also empowered to inspect such premises at all reasonable hours and where a theatrical performance or any other entertainment creates a fire hazard, the Director of Fire Services may issue a Fire Abatement

[SECRETARY FOR SECURITY] **Oral answers**

Notice prescribing conditions and specifying such remedial measures as he thinks necessary. If the Notice is not fully complied with, the Director may seek an Abatement Order from a Court.

MR ALEX WU: —Sir, do the same normal safety conditions govern all types of entertainment performances irrespective of the nature thereof?

SECRETARY FOR SECURITY: —No, Sir. Each particular entertainment obviously has to be judged by the extent that it represents a fire hazard. To take an example, one particular performance with one person on the stage, with the only prop as a chair is clearly not an increase in the fire hazard. Whereas there may be occasions where a production is of a substantial type which may increase the fire hazard, in which case the Director has to take a judgment on that and in consultation with the producer it is hoped that they will be able to reach agreement as to the modifications which should be made to allow the performance to continue.

Kidney machines

13. MR WONG Lam asked: —

(asked in the Cantonese dialect. The following is the interpretation of what Mr WONG Lam asked)

Sir, are the 16 kidney machines acquired in 1974 at a cost of \$600,000 for the Princess Margaret Hospital less efficient than the kidney machines at the Queen Mary Hospital at the time the former were ordered; if so, why?

DIRECTOR OF MEDICAL AND HEALTH SERVICES: —Sir, first of all, I should like to inform Mr WONG that there are two types of kidney machines in use in the Queen Mary Hospital and the Princess Margaret Hospital.

The essential difference between the two types is that one has dialysers, *i.e.* the element which acts as the artificial kidney in the machine, which is disposable, while in the other the dialyser is reusable.

In the Queen Mary Hospital both the disposable and the reusable types are being used while in the Princess Margaret Hospital the reusable types are in operation.

I should like to reassure my honourable Friend that both types are equally efficient in that they are performing their functions effectively as artificial kidneys for patients who are put on them.

I may add that in deciding on the particular type of machines to be used in a kidney unit, factors such as the effectiveness of the machine, their running cost, as well as the professional preference of the doctors concerned are taken into account.

Vacation leave

14. MR T. S. LO asked: —

Sir, will Government explain in full why overseas officers get a much higher rate of vacation leave than local officers of equivalent rank?

MR SCOTT:—Sir, on a point of explanation, Sir, I am authorized to reply, although 15 hours out of the office of Secretary for the Civil Service; and no precedent is hereby intended.

Sir, I am afraid I have to quote at some length in reply. The present rates of vacation leave for civil servants are based on the recommendations of the 1971 Salaries Commission, paragraph 259 of which says: —

"Our aim has been to provide similar, but not necessarily identical, benefits for all officers. In existing circumstances, we agree it is no longer necessary to provide long periods of leave for overseas officers to enable them to recuperate from the effects of an alien tropical climate; but there is a continuing need for them to visit and to renew contacts with the land that is their home and to which they will return on their retirement. The needs of overseas and local officers are therefore different and we have preserved the present system of different leave rates for them. This follows the general practice among private firms in the Colony; and we recommend that it should equally apply to local officers serving outside Hong Kong. For that reason we have divided leave in two components, basic leave which is applicable to all officers, and an overseas addition applicable to those serving abroad."

These principles, Sir, were accepted by Government after consideration by the Executive Council, and they are embodied in Civil Service Regulations.

Oral answers

MR T. S. LO: —Sir, does Government agree that its authorized but out-of-date reply is no answer to Civil Service Regulation 1210 (1)I where under Government has agreed to give overseas officers an additional 17 days of vacation leave per year when such officer reaches the age of 40, regardless of his length of service, but not give local officers of the same age such additional leave if they are serving in Hong Kong?

MR SCOTT: —Rather a complex question, Sir. I think the nub of it is this: there are 2 rates of leave for overseas and for local officers respectively. The rates are determined in the case of overseas officers by the age, that is the age of 40, at which a higher leave earning rate applies; in the case of local officers, it is determined by a period of 10 years' service. I think that probably the first goes back to pre-war or immediately post-war days, when there were terms of service for overseas officers which applied to all the dependent territories and were administered by the United Kingdom Government, and the assumption was they had people in a career service and that by the age of 40, they had a number of years' service and this was a common rule applied to all then dependent territories. We have a different rule, as I have explained, for local officers in Hong Kong. I think I have answered the point but I am willing to try again.

MR T. S. LO: —Well, I am sorry, Sir. I think the Government should try again because I don't think its reply gives any hints as to why officers over 40 years of age takes longer to renew contacts?

MR SCOTT: —Sir, I don't think that is quite what I said. I imagine it was based on a medical view which goes back as I have said to service in many different types of dependent territories. I would imagine that the higher leave earning rate is on the basis that an order person does need longer leave.

MR CHEUNG: —Is that the current medical opinion? (*laughter*)

MR SCOTT: —I am not sure under the Standing Orders whether another Official Member is able to reply; but I will consult my Colleague the Director of Medical and Health Services and reply later.

MR T. S. LO: —In any event I gather the Government has accepted the policy, Sir, that it is no longer necessary to provide leave in order to enable officers to recuperate from the effects of an alien tropical climate?

MR SCOTT: —I don't think I said that, Sir, with great respect.

MR CHEUNG: —Sir, is it not about time this recommendation of the 1971 Salaries Commission is swept away just as most of its other recommendations have been swept away?

MR SCOTT: —I think the second part of that is a statement which doesn't actually bear supporting. As for the first part, Sir, we do keep a regular check on practice in the private sector and it is a longstanding Government policy that we should have due regard to practice in the private sector. And, it is perfectly clear that practice in the private sector still is to have different leave earning rates for overseas and local persons.

MR T. S. LO: —Sir, is it Government's reply that it will not reconsider this matter?

MR SCOTT: —Again, Sir, words have been put in my mouth. I am always prepared to reconsider the matter, if some evidence is brought forward.

Statement

University and Polytechnic Grants Committee of Hong Kong— Special Report October 1965 to June 1976

MR BREMRIDGE: —Sir, I wish to speak on the Report of the University and Polytechnic Grants Committee for the period October 1965 to June 1976, which has been laid before this Council today. As you, Sir, and all my Colleagues, will appreciate, I can do so without accusation of blowing my own trumpet. In fact even a little squeak would be inappropriate, for I had almost nothing to do with the UPGC during this period. I can consequently at the outset genuinely pay tribute not only to my predecessor as Chairman, Sir Sidney GORDON in whose era so much has been achieved with so much common sense and so little fuss, but also to those eminent public men whose typical Hong Kong combination of foresight and obstinacy was responsible for the development in particular of the Chinese University and the Polytechnic. It is often invidious to name names, but I think reference might fairly be made to the late Dr P. Y. TANG, to Sir Michael HERRIES, to Sir Y. K. KAN, and to Dr S. Y. CHUNG. There are of course many others (some present here today—both Officials and Unofficials) and not

[MR BREMRIDGE] Statement

least the distinguished outside members of the UPGC whose contribution to tertiary education here is seldom remarked.

It always galls me in Hong Kong as indeed elsewhere in free societies that so much strident attention is paid to affairs of moderate import while little is said about great community ventures. To some extent this is because the critic wishes the taxpayer to focus on those issues where he might think his money was being ill-spent; and not on success. I hope therefore in this context alone that Government will seek to publicise this special UPGC Report, because it tells a story of Government success. Of course some mistakes have been made, of course improvement is possible, but the record is good. Ten years ago the full-time student population of the two Universities was 3,912, and the Polytechnic was only a scheme of visionaries. Today Hong Kong University has a full-time student population of 4,036; Chinese University 4,171; and the Polytechnic 7,760 full-time equivalent, counting part-time day students as one third and evening students as one sixth. The total is 15,967—say 16,000. Standards have always been kept high; and this therefore is a remarkable story of growth, and of all that is involved. Let me here specifically note the success of the two Vice Chancellors and the Director, for such explosive increases require the most sensitive handling. Even more remarkable has been the finance that Government has provided over a period when there has been great financial stringency, and when issues of priorities have been difficult. As in many other affairs the always wise if sometimes inevitably horny hand of the Financial Secretary has been applied with great foresight. If I may go back to my ten year comparison again, in 1965/66 total Government expenditure on the two Universities was HK\$33m. In 1975/76 and now including the Polytechnic it was HK\$320m., of which capital expenditure was only about 29%. All this money has been funnelled through the Grants Committee; and it is right to note gratefully that those in Government with ultimate responsibility have always taken that long term view which is particularly essential in education. I emphasize the official side, because the UPGC is really only an advisory body (though with some executive functions) operating amidst shot and shell in the no man's land between the rightly, may I say vehemently, autonomous institutions and the Government; and it is Government which must have the last say in all financial matters—subject of course to the consent of this Council.

I hope this latest Report will be widely read, and give rise to widely differing comment. Tertiary education in Hong Kong is at a

turning point, and there is indeed a senior Committee of Government deliberating now on future policy in this area. There exist for example widely and honestly different views with wide shading on whether education is an end in itself, or whether it is designed to turn out qualified men and women to take their place in a relatively planned community; on whether there should be limitless expansion, or if limited on what percentage basis; on seeming wasteful expenditure; on priorities between institutions; on the controversy as old as time about arts versus vocational studies, and their respective contributions to the common good; on resident versus non-resident accommodation; on cost effectiveness of the various departments; on general standards; on the problems of securing admission; on overall planning and Government's place in it; and so on and so forth—not forgetting Polytechnic degree aspirations. The more these and many other disputatious issues are aired in public, the better. At the end of the day, however, some synthesis must be achieved, and Government will need to reaffirm its policy—perhaps via the normal route of green and white papers. Over the next triennium 1978/81 I believe that the total finance including block grants, capital, and net student loans, sought from Government will probably be of the order of HK\$1,300m., and that the full-time equivalent student population of the two Universities and the Polytechnic will rise to nearly 20,000, while we shall start on a dental school and a new medical school, both very complicated projects.

The importance of all this is clear, for the future of Hong Kong will rest partly on the shoulders of these young men and women. In an almost wholly Chinese community it is at least one of many praise-worthy features that no one will deny a high priority to the claims of advanced education; and it is thus unnecessary for me to argue more in this vein. Let me however underline that staffing, teaching, and research are the direct responsibility of the Universities and of the Polytechnic; not of UPGC, nor of the Government. We must also never forget that learning as an end in itself should not be over-subjected to commercial or political evaluation; though cost is inevitably a major criterion, because education must take its place amongst other community priorities, and because most of the money inevitably comes from the taxpayer.

Finally, Sir, may I say how fortunate it is for the Universities and Polytechnic, for the UPGC, and for the taxpayers themselves, that you yourself take such a direct personal interest, in fact, in what is going on. Much of what we are doing is contentious, and it is a great relief that we have access to you with our problems. Please believe me when I say that there are more to come. (*laughter*)

Government business**Motion****INTERPRETATION AND GENERAL CLAUSES ORDINANCE**

THE SECRETARY FOR HOME AFFAIRS moved the following motion: —

That—

the functions exercisable by the Commissioner of Police by virtue of section 8 of the Places of Public Entertainment Ordinance be transferred to the Commissioner for Television and Films; and
the Places of Public Entertainment Ordinance be amended by deleting "Commissioner of Police" where it occurs in section 8 and substituting the following—
"Commissioner for Television and Films".

He said: —Sir, I move the motion standing in my name on the Order Paper.

The Resolution seeks to transfer the authority vested in the Commissioner of Police under section 8 of the Places of Public Entertainment Ordinance, to the Commissioner for Television and Films, and to amend the Ordinance accordingly.

Public Entertainment Permits are issued by the Commissioner of Police to permit the staging of night club floor shows as well as sporting, cultural and traditional mat-shed events. The permit would be more appropriately issued by the Commissioner for Television and Films who is responsible for other aspects of censorship and standards of entertainment. The transfer of authority will make it easier to apply a consistent set of standards to live entertainment, cinema and television, and also more important enable the Police Force to devote more resources to the fight against crime.

Question put and agreed to.

**HONG KONG AND YAUMATI FERRY COMPANY (SERVICES)
ORDINANCE**

THE SECRETARY FOR THE ENVIRONMENT moved the following motion: —

With the consent of the Company, that—

- (1) the Schedule to the Ordinance be amended in Appendix II under the heading "A. SERVICES OTHER THAN BETWEEN JUBILEE STREET FERRY PIER AND KWUN TONG FERRY PIER"—
- (a) in item (c) by deleting "Adult 30 cents" and substituting the following—
- "Adult40 cents"; and
- (b) by deleting item (o) and substituting the following—
- "(o) monthly tickets (valid for ordinary class and for current calendar month only)
- (i) Adult\$16.00
- (ii) Child under 16 years6.00";
- (2) the amendments to the said Schedule set out in paragraph (1) of this Resolution shall come into operation on the 1st July 1977.

He said:—Sir, I rise to move the motion standing in my name on the Order Paper. The purpose of this motion, under section 5 of the Hong Kong and Yaumati Ferry Company (Services) Ordinance, Chapter 266, is to increase the adult fare on the Company's cross-harbour passenger ferry services from 30 cents to 40 cents and to make a corresponding increase in the price of a monthly ticket from \$12 to \$16. Children's and students' fares on these routes would remain unchanged at 20 cents and \$6 for a monthly ticket.

Sir, twice last year, in August and December, I moved motions in this Council to adjust fares and alter other conditions under which the Hong Kong and Yaumati Ferry Company conducts its services. In August honourable Members agreed a resolution to abolish royalty and monthly fees and to introduce a one class fare on cross-harbour passenger services. In December they agreed to certain increases in fares on the Outlying Districts services. On the latter occasion I said that it was probable that a third round of measures would prove to be necessary and that, if this were so, they would be put to this Council in the course of 1977. The motion I am now presenting comprises this third stage.

The background to all these measures is, of course, the Company's financial position. In 1976 the Company earned some \$2 million from

[THE SECRETARY FOR THE ENVIRONMENT] **Motion**

its ferry operations. This represented a rate of return of only 2% on net fixed assets of some \$100 million employed in ferry operations. And, even then, all this profit and more came from the vehicular services, while the passenger services as a whole made a loss.

The introduction of the single class on cross-harbour services in September 1976 was expected to increase revenue by some \$2 $\frac{1}{2}$ million in a full year. And the adjustments to the outlying districts fares made in January of this year are expected to convert a loss of some \$2 million on these services into a profit of about \$1 million, again on a full year basis. In the meantime, however, costs, especially for fuel and wages, have continued to increase, while the number of passengers carried on the Company's cross-harbour ferries declined by a further 7% in 1976. The result is that six of the eleven cross-harbour passenger ferry routes which are affected by the changes proposed in this motion did not even make enough revenue in 1976 to cover their direct operating costs, let alone make any contribution to the depreciation of their vessels or to general overheads.

Furthermore, it is forecast that, if this situation is allowed to continue, with no further ameliorating action being taken, the Company is likely to make a loss on its ferry operations as a whole in 1977. It would then only be kept going by the profits made on its non-ferry operations which would, in effect, then be subsidizing the ferries.

In these circumstances, the Government and the Company have concluded that the best way to meet the situation is to seek approval for an increase in the adult fare charged on the majority of cross-harbour services from 30 cents to 40 cents and to make a corresponding increase in the charge for a monthly ticket from \$12 to \$16. The fare for children and students would remain at 20 cents and \$6 for a monthly ticket.

If these proposals are approved they will, I hope, lead to the Company making a modest profit on its ferry operations in 1977. On the assumption that the small increase proposed would only deter some 5% of present ferry passengers, the profit on ferry operations in 1977 could rise to about \$3.9 million, or roughly 4% on the next fixed assets employed. Even in these circumstances, however, the larger part of the Company's profits would continue to come from non-ferry operations.

I should, perhaps, draw particular attention to two routes, namely Wan Chai to Jordan Road and Wan Chai to Hung Hom. These made

the worst losses of all the Company's cross-harbour routes last year and serious consideration was given to whether one or both of them should be withdrawn. However, it was felt that on transport grounds they should be continued, especially as the Wan Chai reclamation is now being developed and this should, in due course, lead to an increase in passengers. It was therefore agreed with the Company that one vessel should be removed from the Wan Chai-Jordan Road route. This will slightly reduce the frequency of service but the savings realized, together with the fare increase, should more or less eliminate the direct operating loss on the two routes without causing any significant inconvenience to the travelling public.

Sir, in view of what was said by Mr CHEONG-LEEN when the affairs of this Company were last debated in this Council in December last, I should, before closing, say that discussions are continuing between the Government and the Company on further measures to cut costs or improve the efficiency of ferry services. Since that time three surplus vessels have been sold and savings have been made in administrative costs. Efforts are also being made to sell the water taxis which have proved to be very expensive to run. To date, one of these vessels has been sold and the Company reports that there are good prospects of disposing of others.

(At this point Mr Alex WU stated that he wished to declare an interest as a Director of the Hong Kong and Yaumati Ferry Company and would therefore abstain from voting on this motion.) Question put and agreed to.

Motion (in Committee)

Supplementary provisions for the quarter ended 31st December 1976

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 supplementary provisions for the quarter ended 31st December 1976 as set out in Paper No 48.

[THE FINANCIAL SECRETARY] **Motion**

He said: —Sir, I move the motion standing in my name in the Order Paper.

The schedule of supplementary provision for the third quarter of the financial year 1976-77, that is for the period October to December 1976, covers a total amount of 73.1 million dollars. Of this sum, 12.2 million dollars were required for additional expenditure on public works projects that were already in hand and 8 million dollars for twenty three projects recently upgraded to Category A of the Public Works Programme.

Other items worth mentioning include 20 million dollars as a payment on account made to the Urban Council towards the cost of a salaries revision for staff of the Urban Services Department engaged on Urban Council business, 3.6 million dollars as the first instalment of capital costs involved in replacing an existing computer and 4.7 million dollars for equipment to produce all Government educational television programmes in colour.

The supplementary provision covered by the schedule has resulted in a net increase of only 24.6 million dollars in the expenditure approved for the year, the remainder being offset by savings under other subheads of expenditure, or by the freezing of funds provided in Subhead 100 Additional commitments under Head 50 Miscellaneous Services.

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.

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

DRUG ADDITION TREATMENT CENTRES (AMENDMENT) BILL 1977

POLICE FORCE (AMENDMENT) BILL 1977

MASS TRANSIT RAILWAY CORPORATION (AMENDMENT) BILL 1977**CONSUMER COUNCIL BILL 1977****SALE OF GOODS (AMENDMENT) BILL 1977****PUBLIC HEALTH (ANIMALS AND BIRDS) (AMENDMENT) BILL 1977****ROAD TRAFFIC (AMENDMENT) (NO 2) BILL 1977****EMPLOYMENT (AMENDMENT) (NO 3) BILL 1977****PREVENTIVE SERVICE (AMENDMENT) BILL 1977****Second reading of bills****DRUG ADDICTION TREATMENT CENTRES (AMENDMENT)
BILL 1977**

THE SECRETARY FOR SECURITY moved the second reading of:—"A bill to amend the Drug Addiction Treatment Centres Ordinance."

He said:—Sir, the proposal in this bill is to reduce the period of detention in a Drug Addiction Treatment Centre from a maximum of 18 months to 12 months and from a minimum of 6 months to 4 months. As honourable Members are aware Drug Addiction Treatment Centres provide the courts with an alternative form of sentence for an offender who is a drug addict and who has been found guilty of a minor drug offence or some other relevant offence. The provision of these centres has reduced the number of drug addicts in prison. The treatment programme which pioneered the custodial approach, and has attracted wide overseas interest, is considered most successful.

The length of time between the two limits imposed by the law which an inmate actually spends in a treatment centre is determined by the Commissioners of Prisons in the light of the individual inmate's progress in rehabilitation. Accordingly, different addicts remain in treatment centres for differing periods. However, the tendency since these centres were established has been for the average length of stay to decline. In 1973, it was 10 months and in the last two years it has been $7\frac{1}{2}$ months. Likewise, in 1973, 430 addicts spent more than 12 months in one of these centres whereas in 1975 and 1976, the number had fallen to under 10. Today there are none. This reduction in the average length of stay can be attributed to the experience the department

[THE SECRETARY FOR SECURITY] **Drug Addiction Treatment Centres (Amendment) Bill—second reading**

has gained in conducting the treatment programme and despite the shorter period of stay the success rate has remained high, by comparable standards elsewhere.

In the light of these encouraging circumstances the Commissioner of Prisons has given consideration to the maximum limits of stay and with the support of the Action Committee Against Narcotics the revised limits of a minimum stay of four months and a maximum of 12 are proposed. In arriving at these reductions it has been borne in mind that an addict on admission inevitably focuses his attention on the maximum period which he may have to spend in a centre. Although these centres provide compulsory and rehabilitative treatment rather than custodial punishment, the length of the maximum period that an addict might spend under treatment is thought to have some psychological effect on his attitude to the treatment programme. A reduced period of detention seems justified on the actual average length of treatment, but it should have the additional benefit of encouraging an even more positive response by addicts to the programme.

In the four Centres, at the Centre for Women, Tai Lam, Tong Fuk and the one which is now the largest, Hei Ling Chau, there is certified accommodation for 1,618 addicts. The actual population is 1,775. We are now nearing the stage when all those who are regarded as suitable by the Commissioner of Prisons for this form of treatment can secure a place in one of these centres. It is of course our aim, to have a place for all persons who are found suitable for treatment. One of the supplementary benefits from reducing the maximum and minimum period of detention would be to increase the throughput.

It is not intended to alter the present arrangements by which once an inmate is released from a centre, he remains subject to a Supervision Order for a period of 12 months, during which time he becomes the responsibility of the After-care Service of the Prisons Department.

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

Question put and agreed to.

POLICE FORCE (AMENDMENT) BILL 1977

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

He said:—Sir, the main reasons for this bill are set out in the first paragraph of the explanatory memorandum but I would like to amplify some of these reasons.

In recent years the discipline provisions of the Police Force Ordinance have been found to contain some practical defects and this bill remedies these defects, provides greater flexibility and in conjunction with Regulations to be made under section 45 of the ordinance lays down an improved and more up-to-date code of discipline. This is achieved by retaining within the ordinance only the more fundamental provisions. In addition, Clauses 2, 3, 4, 13, 14, and 15 of the bill seek to update the ordinance in a number of relatively minor ways.

The fundamental disciplinary provisions of the present ordinance are retained in essence by the provisions of the bill, but some changes are introduced. The main ones are as follows:—

- (1) in clause 6 provision is included to permit full-pay interdiction of officers to be imposed for as long as investigations into their conduct are being held; this will bring the interdiction provisions of the principal Ordinance into line with those recently introduced for the Government as a whole;
- (2) under clause 11 it is proposed to allow civilian officers attached to the Police Force to participate in the benefits of the Police Welfare Fund, and under clause 16 the Commissioner is to be empowered to delegate to such civilian officers certain of the powers entrusted to him by the Ordinance. The reason for these amendments is to further the policy of integrating such officers into the Force; and
- (3) in clause 12 provision is also made under which officers who by their negligence cause damage to Government property or to private property in Government custody may be both punished for their negligence and required to repay Government some or all the costs incurred, whether of repair or compensation.

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

Question put and agreed to.

**MASS TRANSIT RAILWAY CORPORATION (AMENDMENT)
BILL 1977**

THE SECRETARY FOR ECONOMIC SERVICES moved the second reading of:—"A bill to amend the Mass Transit Railway Corporation Ordinance."

He said:—Sir, section 12(1) of the Mass Transit Railway Corporation Ordinance provides that this Council may, by resolution, authorize the Financial Secretary, on behalf of the Government, to grant guarantees in respect of the repayment of loans and other indebtedness of the Mass Transit Railway Corporation up to an amount not exceeding the total specified in the resolution.

The first resolution was made on 23rd October 1975 and several resolutions have been made since then. The schedule to the first resolution lists the various financial facilities that are covered by guarantees which may be granted by the Financial Secretary. This schedule has been added to in all the succeeding resolutions.

Each item in the Schedule specifies the form of finance and the country or bank which has granted or arranged each particular facility. It states the sum and currency of the finance involved and in most cases these details are followed by the phrase "and such amounts as may become payable in respect of interest and other charges". These amounts are not quantified because they cannot be quoted with precision at the time the authority for the granting of guarantees is required.

Because the word "specified" is used in section 12(1) of the Ordinance, it has been questioned whether these unquantified amounts in the Schedule are legally covered by the Government's guarantee.

It has always been the intention of the Government that guarantees authorized and granted under the Mass Transit Railway Corporation Ordinance should apply in equal measure to both the quantified and unquantified monies referred to in the Council's resolutions. To remove any doubt on this point, the Mass Transit Railway Corporation (Amendment) Bill 1977 has been introduced into this Council.

The effect of the bill, if enacted, would be to add a subsection (1A) to section 12 of the ordinance simply declaring that guarantees already so authorized and granted are valid in respect of all sums quantified and unquantified, and those made in similar fashion under section 12(1) in the future would be similarly valid.

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

Question put and agreed to.

CONSUMER COUNCIL BILL 1977

THE SECRETARY FOR ECONOMIC SERVICES moved the second reading of:—"A bill to incorporate the Consumer Council, to define its functions and powers, to negative personal liability of members and employees for the Council's or its committees' acts or omissions, and for connected purposes."

He said:—Sir, in his speech in this Chamber on 27th October 1976, Dr S. Y. CHUNG spoke about the Consumer Council and pointed out that the Council was not a legal entity, with the result that it could not enter into contracts, and could not sue or be sued. This meant that individual members of the Council and its staff were personally liable for their official actions.

In my speech in this Chamber on 11th November 1976, I agreed that this state of affairs was unsatisfactory and went on to say that the easiest and quickest way for the Council to become a legal entity would be for it to register as a Society under the Societies Ordinance. I am now advised that this solution would not achieve the objective and that the most appropriate means by which the Consumer Council could become a legal entity would be by incorporation under its own Ordinance. So I must first apologise to honourable Members for having misled them, and second commend to them the Consumer Council Bill 1977.

So the purpose of the Consumer Council Bill is to incorporate the Consumer Council and to give its members and staff the personal immunity the Council has specifically requested in respect of their official actions. The bill has no other purpose and with one minor exception, that is the obligation it places upon the Council to make an annual report on its affairs to this Council, would make no changes to the manner in which the Council conducts its business. The provisions included in the bill reflect the present position as regards the Council's powers and functions.

The only provision on which I would like to elaborate beyond what is included in the Explanatory Memorandum is in sub-clause (3) of clause 4. It sets out those goods and services which are outside the scope of the Council's function. Its purpose is not, as I have had

[THE SECRETARY FOR ECONOMIC SERVICES] **Consumer Council Bill—second reading**

suggested to me outside this Chamber, to limit the Council's freedom of action or its independence. It is to define the area in which the Council may operate. Within this area, the Council may, as provided for in clause 5, "do such things as are reasonably necessary to enable it to carry out its functions". The basic purpose of excluding some goods and services from the scope of the Council is because some are clearly inappropriate for the Council to consider and in respect of others, appropriate watch-dogs exist already. Goods and services provided by the Government are excluded on both counts, the watch-dogs in this case being the honourable Members of the Council. And the non-Government bodies listed in the Schedule to the bill are all subject to Government scrutiny in one way or another. For the Consumer Council also to look into their activities would be a wasteful duplication of effort.

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

Question put and agreed to.

SALE OF GOODS (AMENDMENT) BILL 1977

THE SOLICITOR GENERAL moved the second reading of:—"A bill to amend the Sale of Goods Ordinance."

He said:—Sir, this bill is designed to bring up to date the important consumer protection provisions in the Sale of Goods Ordinance. That ordinance was enacted over 80 years ago and it followed closely the UK Sale of Goods Act 1893 which was a codification of the common law as it had evolved near the end of the 19th century.

In one sense, the ordinance may be said to have passed the test of time. It remains a classic landmark of commercial law, but marketing conditions are today very different from those 80 years ago. Mass production and marketing and the increasing technological complexity of consumer goods have combined to increase the market power of producers in relation to consumers. This bill will in some small way redress the balance.

It is founded on a United Kingdom Act, the Supply of Goods (Implied Terms) Act 1973, and that Act was founded on the First Report of the Law Commissions on Exemption Clauses in Contracts.

The bill is mainly concerned with the terms implied in contracts for the sale of goods by the Sale of Goods Ordinance. The terms which the law implies are either "conditions", breach of which entitles the injured party to treat the contract as rescinded, or "warranties", breach of which gives the injured party the right to claim damages for any loss incurred.

Four particular aspects of the contract are covered in the Sale of Goods Ordinance. First, as to title, there is an implied condition that the seller has a right to sell and implied warranties that the goods are free from any undeclared encumbrance, to use a curious piece of legal jargon, and that the buyer will have quiet possession. Second, where goods are sold by sample, there are implied conditions that the bulk shall correspond with the sample and that the goods shall be free from any defect not apparent from the sample. Third, where a sale is made by description, there are implied conditions that the goods shall correspond with description and be generally of merchantable quality. Finally, if the buyer makes known a particular purpose for which the goods are required, there is generally an implied condition that the goods supplied will be reasonably fit for that purpose.

The problem as it presents itself in modern times arises from the provisions of section 57 of the ordinance. That section allows the statutory rights I have just mentioned to be excluded by agreement between the parties.

The bill has four main objectives.

First, it restates and brings up to date the implied conditions and warranties set out in sections 14 to 17 of the principal Ordinance.

Secondly, the bill makes void exclusion clauses in consumer sales.

Thirdly, in business sales, it makes void exclusion clauses relating to title.

Fourthly, it regulates the exclusion in business sales of the other conditions and warranties implied by the Sale of Goods Ordinance.

The first objective is achieved by clauses 4, 5 and 6 of the bill.

Clause 4 restates section 14, which deals with implied conditions as to title in the sale of goods, and includes provision for sales of limited title.

Clause 5 adds a new subsection to section 15 as a result of which sales in self-service stores will be regarded as sales by description.

[THE SOLICITOR GENERAL] **Sale of Goods (Amendment) Bill—second reading**

Clause 6 imposes, with certain exceptions, an implied condition that goods supplied in any sale made in the course of business shall be of merchantable quality. The term "merchantable quality" is defined, for the first time, in clause 2.

The second, third and fourth objectives, which deal with the exclusion of statutory rights, are really the heart of this bill. These are dealt with in clause 8 which repeals and replaces section 57 of the principal Ordinance.

Subsection (3) prevents the exclusion in any sale of goods, whether to a consumer or in the course of business, of the implied rights relating to title, freedom from encumbrance or quiet possession.

Subsection (4) is a key subsection. It makes separate provision for consumer sales and other sales. It provides in the case of consumer sales that any exclusion of the other implied conditions and warranties of the Sale of Goods Ordinance shall be void. The term "consumer sale" is defined in subsection (7) and subsection (8) provides that the burden of proving that a sale is not a consumer sale will rest on the person so contending.

Subsection (4) also provides that, in the case of sales other than consumer sales, any exclusion of such implied conditions and warranties shall not be enforceable to the extent that this would not be fair or reasonable.

Whether or not it is fair or reasonable will be decided in the light of all the circumstances but guidance has been given to the courts in subsection (5) which sets out various matters to be taken into account.

So far as contracts for international sale of goods are concerned, the position of implied conditions and warranties is not changed by this bill. A definition of "contracts for the international sale of goods" is included in clause 2 and clause 10 in effect disappplies in relation to such contracts the restrictions on exclusion clauses which are introduced by this bill.

There is one further amendment which I should mention and that is in clause 3 which repeals section 6 of the ordinance.

Section 6 provides that a contract for the sale of goods valued at more than \$100 is not enforceable unless a deposit is paid or part of the goods are handed over or a written note of the contract is signed.

From the practical point of view this provision appears to be obsolete and no longer of any value. In England, it was repealed more than 20 years ago and no difficulties resulted.

Finally, a mention of the transitional provision in clause 10. The effect of the new subsection (6) of section 62 will be that the provisions of this ordinance will only apply to contracts entered into after it comes into force.

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

Question put and agreed to.

**PUBLIC HEALTH (ANIMALS AND BIRDS) (AMENDMENT)
BILL 1977**

THE DIRECTOR OF AGRICULTURE AND FISHERIES moved the second reading of:—"A bill to amend the Public Health (Animals and Birds) Ordinance."

He said:—Sir, under section 3(1) of the principal ordinance, the Governor in Council is empowered to make regulations for various matters relating to the handling of animals and birds to protect public health. Such matters include, for example, the transshipment, export, possession and control of animals and birds.

The section does not include any powers to make regulations in respect of importation, landing and removal of animals and birds. Attention has recently been drawn to the fact that regulations 4(1)(c) of the Regulations is therefore *ultra vires* the enabling powers contained in this section. Clause 2 of the bill seeks to regularise the position and to provide the Governor in Council with the powers which it was believed had existed since the regulations were first made in 1936.

Section 4 of the principal Ordinance enables the Governor to restrict the importation by land or sea of animals and birds from disease infected places. To make these control measures more effective, clause 3 of the bill extends such restriction to importation by air.

Motion made. That the debate on the second reading of the bill be adjourned—THE DIRECTOR OF AGRICULTURE AND FISHERIES.

Question put and agreed to.

ROAD TRAFFIC (AMENDMENT) (NO 2) BILL 1977

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

He said:—Sir, this bill has four main purposes. First, it seeks to abolish the present category of public hire car and to provide for these cars to be converted to taxis on payment of a premium if their owners so wish. Secondly, it will provide for the issue of contract hire permits to owners of private cars who wish to operate hire services on a strictly controlled basis, or to public hire car owners who do not wish to convert their vehicles to taxis. Thirdly, it seeks to provide for the temporary suspension of vehicle licences as a sanction for various offences, principally that of plying for hire as if the vehicle concerned were a taxi. Finally, it seeks to establish a new body, to be called a Transport Tribunal, to hear cases concerning proposed suspensions of vehicle licences and to review any cancellations of contract hire car permits by the Commissioner for Transport for breaches of the conditions of issue of a permit.

I would like now to describe these provisions, and the reasons for them, in a little more detail, beginning with the proposed abolition of public hire cars. As I am sure all honourable Members are aware, these cars are distinguishable by the fact that they carry a red number plate. But many of them are painted to resemble taxis and carry some form of meter. Although they are intended to be hired by pre-arranged contract only and it is illegal for them to ply for hire on the streets as if they were taxis, the great majority of them do act as if they were taxis for at least a part of the day. Not being taxis, however, they charge what fares they like and pick and choose the journeys they are willing to undertake. Nevertheless, the public are encouraged to support the illegal operations of these vehicles, partly because they look like taxis and partly because of the shortage of legal taxis in relation to the demand.

At present there are more than 1,300 of these public hire cars and it is obviously wrong that the majority of them should continue to be permitted to ply for hire as taxis, without having paid the proper premium for the privilege and without being subject to the controls which are placed on taxi operators, including the carrying of the appropriate insurance for the protection of passengers. Nevertheless, the success of these illegal operations demonstrates a real public demand for the services which they provide. Having reviewed the situation, therefore, the Government has decided that public hire car operators should be

given the opportunity to convert their vehicles to taxis on payment of a premium of \$75,000. This is provided for in clause 4 of the bill. It is expected that the majority of the operators will take advantage of this opportunity and the conversion should take up to 12 months to complete.

Before this exercise commences, however, it is intended to call for tenders for the issue of further Hong Kong and Kowloon taxi licences at the rate of 100 per month and it is expected that this year some 300 new taxi licences will be issued in this way, in addition to the conversion of public hire cars. The Commissioner for Transport will be calling the first such tender within the next few days. I should add here that over the last several months the Transport Department has issued some 750 licences for a new class of New Territories taxi to operate outside the urban areas. Most of these taxis, which are painted in a distinctive shade of green, are now on the road and are providing a useful service within the New Territories. The provision of this service will be kept under review and further licences may be issued later if a need is shown. And, after the conversion of public hire cars has been completed, it is expected that more urban taxi licences will be issued by tender.

I turn now, Sir, to a further type of illegal operation which it is intended, by this bill, to bring under control. I refer here to the so-called "pak pai" or private car offering itself for hire. While many pak pais perform a useful social function by providing personalized transport on a regular basis between homes, offices and schools, often operating from a particular building or block of flats, others function almost wholly as pirate taxis by plying for hire on the streets. None of them are effectively under any form of control as regards their mode of operation, the mechanical state of their vehicle or the insurance they carry for the protection of their passengers.

Clause 3 of the bill seeks to regularize this situation by providing for the issue by the Commissioner for Transport of contract hire car permits. If this bill is passed into law, draft regulations laying down conditions for the issue of these permits will subsequently be put to the Governor in Council to be made. What is intended, however, is that, for a fee of \$500 per annum, or \$175 for four months, a private car owner, whose vehicle has been inspected and found to be mechanically sound and who is fully insured against third party risks, can be issued with a contract hire car permit. The conditions of the permit will be that the vehicle should only be operated from a designated address, that it should have no distinctive markings and that its permit should be displayed but not be visible from outside the vehicle. The object of these last two conditions will be to discourage

[THE SECRETARY FOR THE ENVIRONMENT] **Road Traffic (Amendment) (No 2) Bill—
second reading**

the driver from plying for hire and the public from hailing the car on the street. Public hire car operators who do not opt to convert to taxis will also be eligible to apply for contract hire car permits. I should add that, in certain cases, for instance cars run by hotels to provide a service for their guests, the Commissioner for Transport will be empowered to permit distinctive markings to be used, as these would not mislead the general public into trying to hail the car.

Having made these changes, Sir, which will effectively give the present operators of illegal taxis the opportunity to regularize their services, it would then seem only reasonable to provide powers for very firm action to be taken against any further illegal taxi operations or against contract hire permit holders who otherwise abuse the conditions of their permit. This is provided for in clauses 5, 6 and 7 of the bill which, *inter alia*, seek to insert into the principal ordinance new Parts IVA and IVB and a new Schedule of offences for which the licence of a motor vehicle can be temporarily suspended.

The sanctions provided for operating a vehicle illegally as a taxi are that the vehicle licence shall be suspended and the vehicle impounded for three months for a first offence and six months for subsequent offences. To ensure that these sanctions are applied fairly and equitably the bill provides for the setting up of a Transport Tribunal. This body would be chaired by the Commissioner or an Assistant Commissioner for Transport and it would contain two other members chosen from a panel of members of the public to be nominated by the Chief Secretary. The proceedings of the Tribunal would be public and it would consider every case for suspension of licence, together with any oral or written representations which may be made by, or on behalf of, the owners of the vehicles involved. The procedure to be followed by the Tribunal is set out clearly in the bill and in the Explanatory Memorandum. I should add that these parts of the bill will only be introduced by order of the Governor in Council, after he is satisfied that the changes I have described earlier have been properly introduced and are operating effectively.

Sir, if this bill is enacted it will, I hope, bring a much needed measure of control and regulation to the operation of hire cars and the taxi trade, to the benefit of the legitimate operators themselves as well as to the general public who make use of their services. As such, I hope that it will be welcomed, not only by this Council but by the public at large.

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

Question put and agreed to.

EMPLOYMENT (AMENDMENT) (NO 3) BILL 1977

THE COMMISSIONER FOR LABOUR moved the second reading of:—"A bill to amend the Employment Ordinance."

He said:—Sir, in Your Excellency's Address to this Council on 6th October 1976, you referred to the intention to introduce legislation during the current session of Council to provide for one week's holiday with pay from 1978. Several Unofficial Members, in their subsequent speeches, gave their support to this further improvement of employment conditions for our work force.

This bill is designed to provide all manual workers, and nonmanual workers, whose earnings are \$2,000 or less, with seven days annual paid leave, in addition to the individual statutory holidays to which they are already entitled by law.

In deciding on the need and extent of these holidays Government was guided solely by what it believed to be in the wide interests of Hong Kong—all Hong Kong both employers and employees alike. However in case it should be suggested that this measure would affect Hong Kong's competitive position, it should be noted, that arrangements prevailing in neighbouring Asian countries vary, but range between six and thirteen days a year. There is no similar community which makes no provision for annual leave. International Labour Convention No 132 recommends annual holidays of at least three working weeks, which must include at least two uninterrupted working weeks, though few countries have yet ratified it.

As I have mentioned, the object of the bill is to require employers to grant seven days annual leave with pay to an employee, who has served a qualifying period of employment of twelve months. The leave must be given within the following twelve months, but the exact timing will be for the employer and employee to decide after consultation between them.

[THE COMMISSIONER FOR LABOUR] **Employment (Amendment) (No 3) Bill—second reading**

One of the most important requirements in the bill is that a worker's entitlement to paid holidays each year should contain an element of consecutivity—and in the bill before you this is put at seven days. This consecutive period of leave may include statutory holidays or rest days. This would mean, for example, that seven consecutive days of leave could be taken at Chinese New Year, made up of the three statutory holidays plus four days of the seven days annual leave, added before or after the Chinese New Year holidays. In such a case, the remaining three days of the annual leave could be taken at some other time of the year either together or separately, by the employee agreed with his employer.

The bill prohibits payment-in-lieu of leave, except where an employee's contract is terminated. In this case, any annual leave earned and not taken can be commuted and the employee will be entitled to annual leave pay on a pro rata basis. The Government believes that employees should receive a rest from work each year for a reasonable period. This object would be defeated if either employer or employee were able to "buy" himself out of the commitment.

The main reason for insisting on a fixed period of consecutive leave is that it contributes to better health and better morale; it gives the worker a holiday rather than just a day off. This is consistent with the spirit of International Labour Convention No 132, which, apart from other considerations, is designed to enable workmen to make good the loss of physical and mental forces. When a man is healthy and content, he works more productively.

If an employer decides that he has to close down his factory or business, in order that his workers can take their annual leave, one month's warning must be given, so that they can make plans for their holidays.

It is proposed that these new arrangements shall come into force on 1st January 1978. Employees who have been in continuous employment during 1977 will, on completion of 12 months' service on 1st January 1978, or thereafter, be eligible for seven days paid leave during the following 12 months.

The Labour Advisory Board and the Employers' Associations have been consulted on the bill. All supported the principle of seven days annual leave with pay, though they differed on other aspects of the proposals. The employees' representatives generally favour a seven

day annual leave—indeed some maintain that it should be longer—also they believe that it should be taken consecutively and that payment-in-lieu should be prohibited. Some employers' representatives, however, consider there should be flexibility as to the allocation of the seven leave days throughout the year and that, when workers desire it, they should receive pay-in-lieu. Some critics have suggested that the Government, by insisting on a period of leave taken consecutively and without pay-in-lieu, would be imposing its wishes on workers, many of whom would prefer to exercise their own choice as to how they should take leave and whether they should receive additional pay instead.

The Government's view is that payment of additional wages-in-lieu of leave would defeat the social objective of giving workers a period of leave so that they may enjoy a reasonable rest from their work, which is inevitably often monotonous, noisy and uncomfortable, and a change from their normal working life. The Government's original proposal was therefore that the whole seven days of paid annual leave had to be taken consecutively. However, to avoid rigidity in the application of these new measures, the bill now proposes that the seven consecutive days' absence from work may be made up partly of days of annual leave and partly of rest days or statutory holidays or both, so long as the employee receives the balance of his annual leave days at some other time in the year.

The bill was published in the Government Gazette on 6th May 1977. I believe that subsequent comment and advertisement in the press and by letter can be fairly summarized by saying that both employers and employees support the provision of seven days paid annual leave, but differ as to how the holidays should be taken. Some employers argue that the introduction of a compulsory consecutive seven days' holiday, at a time when there is a shortage of labour in some sectors of industry and future prospects are not clearly favourable, will damage the economy. I think this is too pessimistic a view. There will of course be some consequential increase in the size of the wage bill. It has been calculated that, if replacement workers are engaged to fill all vacancies caused by annual leave, the wage bill would increase by not more than 2.3%. Against this must be set the fact that many employers already give annual leave to their employees in more generous terms than those proposed in this bill and that the benefits of a period of rest may be expected to improve the productivity of the workers who will benefit.

I do not therefore accept that the economic effects of this measure will be significant, far less serious. But I do assert that these are measures which confer on our workers a benefit which their efforts

[THE COMMISSIONER FOR LABOUR] **Employment (Amendment) (No 3) Bill—second reading**

have surely justified. The prosperity of Hong Kong, as is so often said, is founded upon the efficiency, zeal and adaptability of an intelligent work force. Surely it is right that their conditions of employment should be improved so that they may enjoy something of the increased prosperity which they have done so much to help to create.

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

Question put and agreed to.

PREVENTIVE SERVICE (AMENDMENT) BILL 1977

THE DIRECTOR OF COMMERCE AND INDUSTRY moved the second reading of:—"A bill to amend the Preventive Service Ordinance and to make consequential amendments to other Ordinances."

He said:—Sir, the main purpose of this bill is to bring the Inspectorate of the Service under the disciplinary control of the Commissioner rather than having to deal with them under the procedures laid down in Colonial Regulations.

The Preventive Service Ordinance was first enacted in 1963 and several of its provisions are now out of date, particularly those relating to disciplinary and criminal offences committed by members of the Service. The bill seeks to remedy this situation by replacing Part III of the principal ordinance with new disciplinary provisions which would bring the Ordinance into line with similar legislation recently enacted in respect of other disciplined services.

Most of the remaining amendments are intended either to supplement the new disciplinary provisions or to up-date those sections which require it due to the passage of time. There is little I can usefully add to the explanatory note appended to the bill.

There is one amendment, however, on which I feel I should offer further comment: that is the proposed change of title from Preventive Service to Customs and Excise Service.

The Service can trace its origins back to 1909 when Revenue Officers were employed to protect the newly imposed duty on liquor. Apart from pre-war responsibilities relating to the Government Opium

Monopoly protection of the revenue from liquor, tobacco and the few other commodities which are or have been dutiable remained its chief function until the fifties. The term "Preventive Service" was not in fact employed until 1956, *however*, and was not legally enshrined until the enactment of the Preventive Service Ordinance in 1963.

Ironically the use of this term grew at a time when the service itself was expanding its activities well beyond the prevention of smuggling. It is now involved in aspects of consumer protection; it acts on an agency basis for other Government departments in controlling the import and export of commodities as diverse as antibiotics, animals and birds, telecommunications equipment and imitation firearms; and its excise functions—that is those which relate to duties levied on certain goods produced and sold in Hong Kong—have always been a major part of its commitment.

The rather antiquated term Preventive Service was used to describe the Coastguard in England in the days when children were told to "watch the wall my darling while the gentlemen go by"; in other words, when smuggling was respectable. It was introduced here very largely because it was felt by some at the time that to refer to a Customs & Excise Service, which in effect is what we have had for several years, would not be understood in view of the fact that Hong Kong was a free port.

Experience has shown, however, that far from avoiding misunderstanding the use of the Preventive Service title has tended to cause it. For example, much emphasis has been laid recently on the development of links with overseas Customs Services, particularly in the field of anti-narcotics work, and it has been necessary repeatedly to explain to them the nature of the Service. At points of entry we have been always forced to use the term Customs, for international travellers would not understand any other term. Indeed the name "Preventive Service" has even been confused with family planning. (*laughter*)

In proposing to clarify this situation, I would emphasise to honourable Members that the change of name in no way implies any change in basic Government policy to preserve Hong Kong as a free port in the true meaning of that term.

The confusion has been mainly in the English title for the Service. In Cantonese it has always been popularly known as Hoi Kwan (海關) and if the legal change of English title is implemented it is the intention to adopt that as the official Chinese name in place of the outdated and rarely used Tsap Sze Dui. (緝私隊)

[THE DIRECTOR OF COMMERCE AND INDUSTRY] **Preventive Service (Amendment) Bill—
second reading**

Sir, I move that the debate on this motion be adjourned.

*Motion made. That the debate on the second reading of the bill be adjourned—THE
DIRECTOR OF COMMERCE AND INDUSTRY.*

Question put and agreed to.

**ESTATE DUTY (AMENDMENT) BILL 1977
Resumption of debate on second reading (18th May 1977)**

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 1977
Resumption of debate on second reading (18th May 1977)**

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).*

**RATING (AMENDMENT) BILL 1977
Resumption of debate on second reading (18th May 1977)**

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) BILL 1977
Resumption of debate on second reading (18th May 1977)

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).

PRISONS (AMENDMENT) BILL 1977
Resumption of debate on second reading (18th May 1977)

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).

COMPANIES (AMENDMENT) (NO 2) BILL 1977
Resumption of debate on second reading (18th May 1977)

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).

SUMMARY OFFENCES (AMENDMENT) BILL 1977
Resumption of debate on second reading (18th May 1977)

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).

AGRICULTURAL PESTICIDES BILL 1977
Resumption of debate on second reading (18th May 1977)

Question proposed.

Question put and agreed to.

Bill read the second time.

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

EMPLOYMENT (AMENDMENT) (NO 2) BILL 1977
Resumption of debate on second reading (20th April 1977)

MR PETER C. WONG: —Sir, my Unofficial Colleagues of this Council on 13th April 1977 appointed an adhoc group to study the provisions of the Employment (Amendment) (No 2) Bill, and to receive representations from various organizations. The adhoc group, of which I subsequently became Convener, met no less than 5 times, in the course of which its members received delegations from 18 organizations in addition to numerous written representations.

It is common knowledge that the bill has attracted directly opposing views from those who think that the rate of introducing labour legislation into this Council is much too fast and will therefore have an adverse effect on our export-oriented economy, and those who feel that Hong Kong has made sufficient progress to be able to offer its workers further benefits. As is to be expected, the parties to the issue hold very firm convictions which are genuine and sincere. In my capacity as Convener of the adhoc group, I shall now attempt to summarize the representations made to the group.

The views advanced by the employers' organizations are broadly as follows: —

- (a) Hong Kong's industries have to expand constantly in order to retain their competitiveness. At the moment they are confronted with uncertain world economic trends, rising economic pressure from importing countries and strong competition from neighbouring countries. Any legislation which would have the effect of increasing the already very high production costs would be unwise and would ultimately affect Hong Kong as a whole.

- (b) The increased contingent liability which would result from enactment of the bill would be far beyond the means of many industrial undertakings particularly the small-to-medium ones.
- (c) It is questionable whether there is any need or justification to propose further amendments to the existing legislation only three years after its introduction. The cumulative effect on industry resulting from the provision of a series of labour benefits within a short span of time should not be overlooked by Government.

The employees on the other hand feel that the provisions of the bill do not go far enough to provide them with sufficient benefits, although the good intention of the bill is recognized. Basically, they want

- (a) the retrospective effect of the legislation to be extended further from 8 to 10 years from 23rd August 1974 in order to render justice to long-serving employees; and
- (b) the proposed increased severance payment for the non-monthly rated workers to be brought in line with monthly rated workers so that the rate of 15 days' wages for each year's service would apply to both categories of employees particularly in view of the fact that the basis of calculation excludes good attendance bonus and other benefits which make up a substantial part of the total earnings of non-monthly rated workers.

The Senior Unofficial Member Dr S. Y. CHUNG and several of my Unofficial Colleagues will be speaking this afternoon and I have no doubt they will comment and elaborate on these representations.

Before I sit down I wish to express some thoughts which, I believe, are shared by many members of our community. I believe that social progress should be achieved through the mutual efforts of Government and the community; that legislation which is conducive to better employer and employee relationships and greater productivity is desirable; and that the pace of progressive labour legislation and other social enactments should be such that it would not give rise to unduly adverse effects on the economy.

Sir, I support the motion before this Council.

Employment (Amendment) (No 2) Bill—resumption of debate on second reading (20.4.77)

DR CHUNG:—Your Excellency, despite our success in the industrial development of Hong Kong, we have had only a very short history of industrialization. As a result, many industrial employers find it difficult to accept some of the changes, or I should say developments, in the field of industrial relations. The reluctance of some employers in accepting the legislation on severance pay when it was first introduced into this Council in 1974 and the present amending bill is a good case in point.

Many employers only know and recognize the cost of hiring their employees but do not understand or accept the cost of firing their employees. Severance payment is a major part of such cost of firing an employee. Severance pay in its basic concept is a compensation for short-term financial difficulty of an employee dismissed without any fault of his own, such as due to redundancy, cessation of business, bankruptcy, etc. For this reason, some employers argue that severance pay should not be related to years of service and should only be geared to a fixed sum of money or a fixed number of days of wages. They further claim that severance payment should not be applicable to retirement on age or health grounds and to termination of a fixed period contract of employment.

For a society in which there is a national pension scheme or a national provident fund or in which there is universal practice of retirement benefits in the private sector for all levels of employees, I think we would have quite readily conceded to the argument that severance pay should contain to element of retirement benefits. Unfortunately, Hong Kong is not yet such a society. With the exception of a limited few, most industrial and commercial undertakings do not provide retirement benefits to wage earners and lower-level salaried employees. It is therefore socially desirable that severance pay in Hong Kong should carry some element of retirement benefits. It was on this ground that we in 1974 included in the principal Ordinance section 31 which provides a set-off of gratuity or provident fund payment against severance payment.

It is on this logic that the Government is introducing this amending bill for improving the terms of severance pay. It is also on the same logic that it has been brought to my attention about the restrictive nature of section 31B of the principal ordinance. This particular section specifies the right to severance payment and limits such right to dismissals by reason of redundancy, cessation or relocation of

business, and by certain situations of lay-off. It is argued that section 31B should be extended to cover termination of employment on age or health grounds. Unless such amendment is made to this section, it is further argued, one can hardly justify the method of calculation for severance pay to be based on years of service and the set-off of provident fund against severance pay.

Sir, as I said in this Council two weeks ago, labour legislation by its nature is controversial. It is therefore not unexpected that the UMELCo Office had received during the past few weeks a number of opposing representations from employers' associations and bodies interested in labour matters.

The employers associations, particularly those in textiles, garment, plastic and rubber industries, are voicing very strong objection against this bill. One of their main concerns is the large increase of contingent liability by over 100 percent overnight. This huge increase is derived by comparing the maximum of 11 years at half-month's pay each specified in this amending bill with that of 8 years at one-third-month's pay each contained in the principal Ordinance.

Another major concern of the employers' associations is the fast continuing increase of contingent liability in future years. Honourable Members will find an Appendix tabled before them showing a simple mathematical analysis on the amount of increased contingent liability on severance pay for a particular worker resulting from two factors. The first factor is obviously the increasing number of years of company service and the second the continual trend of rising wages.

The results of such mathematical analysis are plotted in a Diagram, also placed before honourable Members. It will be seen that, if there is no wage increase during a particular year (that is, if "a" is equal to zero in the Diagram), the increased severance pay contingent liability on a particular employer for each employee is 4.4% of the total wage payment during that year irrespective of the employee's years of service. However, if there is a wage increase during a particular year, the increased severance pay contingent liability on a given employee by an employer will be very much greater than 4.4%. The additional amount over 4.4% depends on, as stated previously, the number of years of company service and the rate of wage increase.

Let us take a few examples. First, assuming the wage increase during a particular year is 10% (this is represented by the curve marked "a=10%" in the Diagram), the increased contingent liability for a particular worker with 5 years company service is 6.7% of the total wage paid to him during that year. For another worker with 10 years

[DR CHUNG] **Employment (Amendment) (No 2) Bill—resumption of debate on second reading (20.4.77)**

company service, the increased contingent liability incurred by his employer will amount to 8.8% of the total yearly wage. For a third worker with 20 years company service, his employer will have to make provision equivalent to 13% of this worker's wages.

Secondly, for a given employee, say, with 10 years company service, the increased contingent severance pay liability incurred by his employer will be 6.6% of the total wage paid to that particular worker during that year if the employee's annual wage increase (*i.e.* "a") were 5%. It will be 10.8% if "a" were 15% and 12.8% if "a" were 20%.

Accordingly, it cannot be denied that such increases of contingent liability year after year are not insignificant. However, we must not overlook the practical aspects of the matter. First, this is only a contingent liability. No severance payment is required until an industrial undertaking is closing down or reducing its labour force. Secondly, due to very high mobility of labour in Hong Kong, the average length of service of industrial workers in a given industrial undertaking is, with some exceptions such as in textile spinning and weaving, relatively short. It is not uncommon for factories to have a labour turn-over between 5 to 10 percent per month. Nor is it uncommon to find in a factory that more than one-quarter of its workers have less than two years of company service and more than one-half of its work force have less than five years of company service.

Let us look at some Government statistics to substantiate these observations. The number of persons engaged in the manufacturing industry increased from 600,000 in December 1974 to almost 780,000 in December 1976. This shows that at least 180,000 industrial workers or 23 percent of the present labour force in all the manufacturing industry are not qualified for any severance pay by law. Such a high percentage will further be boosted by the effect of high labour turnover. Consequently, it is not unreasonable to assume that, on average, more than one-quarter of the work force in a factory have not been employed under a continuous contract for a period of 24 months and are therefore not qualified for severance pay. Furthermore, if an employer practises the "principle of last-to-come, first-to-leave" in reducing his labour force in times of business recession (which is a principle generally accepted by trade unions), an employer will not, again on average, be required to pay any severance compensation, at least by law, until his work force is reduced to less than 75 percent.

Furthermore, there is in section 31G of the principal Ordinance a restriction for the maximum severance pay granted to an employee. The limit is 12 months wages which, based on the improved rate of one half of a month's wage per year of company service, will mean that there is a cut-off point at 24 years of company service as shown in the Diagram before honourable Members. In other words, any company service beyond 24 years will not be counted for the calculation of severance pay. This is another relief for employers.

So much has been said about the financial liability of employers. Now, let us look at the amending bill from the viewpoint of employees. From published Government statistics, the nominal average daily wage for industrial workers was HK\$28 in September 1976. Assuming the current average daily wage is HK\$30, a worker who has given his 24 years of service to a company will only be entitled by law today to receive a severance payment of HK\$2,400 on dismissal by his employer for no fault of his own. Even after this amending bill has passed through this Council, only 11 of his 24 years service will be counted and he will get HK\$4,290 severance pay for his 24 years company service. I am sure no honourable Member in this Council will say that such an amount is over generous. Suppose a more sympathetic and benevolent employer recognizes all his 24 years of company service, that particular worker will receive HK\$9,360 severance pay. Even this amount on to-day's standard cannot be considered generous for an employee who has given his 24 working years to an employer.

Certain export-oriented industries whose products are marginally competitive in world markets are voicing their serious concern about rising production costs as a result of this amending bill. It is quite justified for these marginal industries to express their fear and anxiety. They have my sympathy. But we, as legislators, should look at the Hong Kong export-oriented manufacturing industry as a whole and must not limit our vision to a few specific industries. We all know that at present in Hong Kong the demand for labour outstrips supply and overall labour wages continue to rise quite fast. Under the circumstances, I don't think it is right to hold up or even to slow down the social progress and economic development of Hong Kong in order to let a few marginal industries remain marginally competitive. There are other better and more effective ways to help these marginal industries.

Sir, the success of industrialization in a country is generally reflected by rising wages, reduced working hours and hence higher standards of living for the mass of people. As a result, certain industries, no matter how mechanized and automated they may be, will

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invariably and ultimately become non-competitive in either their home or world markets. There are two possible alternatives for the employers of these marginal industries to take. One is to change their business and remain in the high-cost territory. The other alternative is to shift their business to a low-cost territory.

As honourable Members are aware, great efforts are being exerted by both the Government and some trade associations in Hong Kong to persuade employers of those marginal industries in high-cost countries, such as the USA, Australia, Canada, West Germany and the UK, to transfer some of their manufacturing operations to a lower-cost territory like Hong Kong. Similarly, it is expected that the Government and industry of those countries having even lower labour costs than Hong Kong are wooing our marginal industries to their territories. Such a process of transferring marginal manufacturing industries from high-cost to low-cost countries is most desirable and should be encouraged by all nations of the world. This is because it is one of the most effective and efficient ways of increasing world trade as well as of accelerating industrialization in developing countries.

With these observations, Sir, I have pleasure in supporting the amending bill before Council.

APPENDIX TO DR S. Y. CHUNG'S SPEECH

Liability of the Company on Severance Payments

Amount of severance payment to = 13 days' wage based on the daily wage during the which a worker is entitled last month of employment for every year of company service.

Let W_n = Daily wage of a particular worker at end of the n th year.

Liability of the Company at the end of n th year for that particular worker is:

$$13 \times n \times W_n$$

If a = percentage rate of wage increase for that particular worker during the $(n+1)$ th year, liability of the Company at the end of $(n+1)$ th year for that particular worker is:

$$13 \times (n+1) \times \left(1 + \frac{a}{100}\right) W_n$$

Increase in liability of the Company for that particular worker during the year is:

$$[13 \times (n+1) \times (1 + \frac{a}{100})Wn] - (13 \times n \times Wn)$$

$$= 13 \times Wn (1 + \frac{a}{100} + \frac{an}{100})$$

Working days per year

$$= 365 \text{ (calendar days)} - 52 \text{ (rest days)} - 10 \text{ (statutory holidays)}$$

$$- 7 \text{ (annual leave)}$$

$$= 296$$

Wage paid out to that particular worker for the 296 working days during the year is:

$$296 \times \frac{100 + 1/a}{100} \times Wn$$

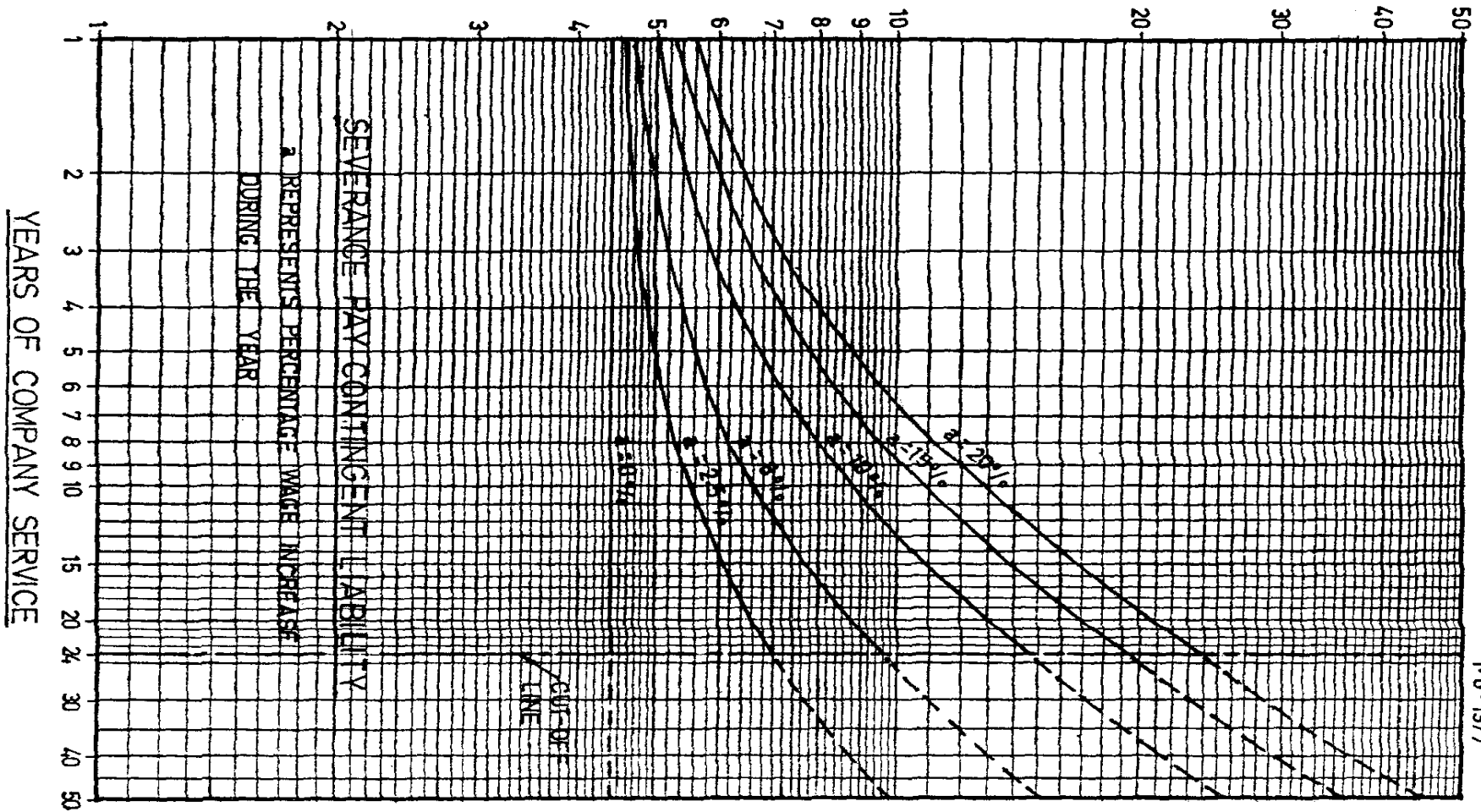
$$= 296 \times Wn \times (\frac{200 + a}{100})$$

Increase in liability of the Company for that particular worker as % of total wage paid out to the same worker for the 296 working days in the year is:

$$\frac{13 \times Wn (1 + \frac{a}{100} + \frac{an}{100})}{296 \times Wn (\frac{200 + a}{100})} \times 100$$

$$= 8.78 (\frac{100 + a + an}{200 + a})$$

INCREASED LIABILITY
AS % OF TOTAL ANNUAL WAGE PAID OUT



S. Y. CHUNG
1.6.1977

MR JAMES WU: —Sir, when the then Acting Secretary for Social Services moved the second reading of the Employment (Amendment) (No 2) Bill 1974 on 3rd of July 1974 he said and I quote: —

"Severance pay on redundancy is the means whereby an employee may be compensated for loss of employment through no fault of his own. It is simply compensation for loss and not a reward for long service or good behaviour such as a gratuity or bonus"—unquote. He also pointed out that I quote: the rate of severance pay should provide adequate relief to a redundant worker but must not be such as to overstrain the smaller employer "who would be unable to meet their resultant legal obligations and would be driven out of business. This in turn would create further redundancy and defeat the object of this legislation."— unquote. He thus proposed a rate of 10 days per year of service dating back 5 years to August 1969.

Sir, to this thoughtful and considerate proposal I lent support by saying, and I quote: —

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

At the time, while the maximum legal liability of the employer for severance pay would be $1/3 \times 5$ or 1.67 months' pay, the contingency to pay was greater because of the recession and reduced demand on Hong Kong products. By August 1977, this liability would have increased to $1/3 \times 8$ or 2.67 months' pay at current wage level which, by conservative estimate, would have now risen by 30%, bringing up, in dollar terms, to $2.67 \times 1.3 / 1.67$ or to 2.08 times that in August 1974.

Sir, the Commissioner for Labour is now proposing to increase the rate to 15 days per year (for monthly workers) and to extend back to August 1966 which would now increase the liability of employers, in dollar terms, to $2.08 \times 1.5 \times 11/5 = 6.86$ times that of August 1974.

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Sir, I do not know whether the then Acting Secretary of Social Services would now say that the smaller employer could face up to this almost 7-fold increase in contingent liability within 3 years and not be driven out of business and thus avoid creating further redundancy and defeat the object of the legislation. It would otherwise show the inconsistency of Government thinking.

Nevertheless, industry still showed its usual co-operation and on 26th January, I wrote, as Chairman and with the concurrence of the General Committee of the Federation of Hong Kong Industries, to the Commissioner for Labour agreeing reluctantly to the proposals but reiterating the need for prudence and the inherent dangers in the cumulative cost effect of such legislation to industry.

It was only when this expression of goodwill and co-operation failed to obtain any favourable response from the Commissioner that prompted the Federation to write again, on 16th March to say that, I quote: —

"Whilst the Federation accepts in principle that severance pay is necessary, particularly in the social context of Hong Kong, many of its members, especially those in the textile spinning, weaving, and garment sectors, feel strongly that the financial burden on them, resulting from the proposed revisions, when calculated on average future earnings of workers, and taking inflationary elements into account, would seriously affect the continued viability and future development of industry because of a sudden increase of contingent liability."—unquote.

The Federation also wrote and reminded Government that too rapid an advancement as in the proposed amendments could be counterproductive in ensuring security and provision of more job opportunities for workers.

Sir, as reported by Mr WONG, and in my speech in this Council on 4th May representatives from more than 16 major trade associations including the whole textile group, the plastics and rubber groups, etc. called at the UMELCO Office and Members learned from first-hand the difficulties and uncertainties our industries were facing, with high wages and overheads at home and increasing competition and protectionism abroad. Some of the largest factories have closed down or curtailed production but are expanding in low-cost areas. It is also well-known that generally workers in Hong Kong choose to have a larger take-home

pay in preference to any deferred benefits, and that in sustained periods of demand exceeding supply, employers have had to pay highest wages with annual increases that out-paced inflation, so that workers generally enjoy higher standards of living and have savings. With severance pay now becoming increasingly a factor, it is apparent that allowance would have to be made for this future benefit to workers at the cost of pay increases. After all, with our present wages now 80% higher than Taiwan and more than double that of South Korea, both of which are catching up with our traditionally strong industries and with a much smaller industrial base, home market and labour source, there is a limit to what we can do in more sophistication and diversification with which to raise wages without pricing ourselves out of the market.

Sir, these are the problems that we as industrialists and exporters see and worry over the vulnerability and precarious position that confronts us. We have in the past enjoyed the best labour relations known and in our close-knit community labour and management work hand-in-hand in perfect understanding and harmony. Management knows the importance of providing for a satisfied labour force and has generally given labour what they wanted within the means and viability of the business. As those in business know, manufacturing industries in Hong Kong call for hard work yet rank low in profitability. We only hope that those in power, and those said to be concerned, would just lend their ears and study market conditions and the long term effects of proposed labour legislations instead of basing their judgement on prejudice or out-dated information. As has been said so many times, Hong Kong owes its success to the manufacturing industry. Let us not tamper unduly with what has proven to be an harmonious and successful formula, as it could bring irreparable damage to our life-line. For success is something to be emulated and not destroyed by a desire to follow blindly the disastrous and outdated systems of some countries.

With these notes of caution, Sir, I support the motion in its present form with the greatest reluctance.

MR CHEONG-LEEN: —No doubt, everyone accepts the principle of this bill, which is to seek improvement in the level of severance payments for employees coming within the ambit of the Employment Ordinance.

Even though the average wage in Hong Kong, with the exception of Japan, is the highest in Asia, Government's social policy is to raise the standard of living and the conditions of labour in a balanced and steady manner.

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This is most laudable and deserves the unwavering support of all sections of the community, providing of course Government does not give too much of an impression that it is force-pacing the rate of labour legislation. Such impression could discourage new investments in the coming years in capital intensive industries and the replacement of outmoded machinery with newer, more expensive and efficient types.

In Hong Kong, the trend for the future is to invest in more expensive machinery, employ fewer workers, aim for higher productivity and better quality products. Only by so doing can Hong Kong entrepreneurs compete with South Korea and Taiwan, where wages are lower.

Some industries in Hong Kong such as footwear, handbags and travel goods, which are now losing out to Taiwan and Korea, will find the passage of this bill onerous and an additional potential risk to their continued survival. Many Hong Kong factories which are facing stiffer competition from supply sources in the Asian region are concerned that should there be a noticeable downturn in world trade in the next 2 or 3 years, their access to bank facilities at that time could be severely restricted. Although Hong Kong entrepreneurs are among the greatest optimists in the world, the possibility of such a downturn in trading conditions with attendant consequences cannot be precluded.

If I were not an optimist by nature, I would not be supporting this bill today, knowing full well the misgivings, concern and worry which have been expressed by a cross-section of industrial and commercial interests on this bill and on the forthcoming bill having to do with 7-days paid annual leave.

As the impact of the economic development plans of our main competitors could be increasingly felt in the coming years, it would be advisable for Government to strengthen its monitoring service of economic conditions within the region as they relate to Hong Kong's economic and industrial future. By so doing, Government would be able to move ahead more confidently with a steady pace of improvement in labour conditions in Hong Kong, without deviating from our primary goal of balanced economic and social growth.

The trade union movement in Hong Kong has characteristics much different from those appertaining to other countries in the region. The Labour Department often finds itself in the unique position of having

to take the initiative to introduce progressive labour legislation into this Council. On the present bill, there are three discernible points of view: the first regards some of the provisions as being too much and too hasty, the second as being too little and too tardy, while the third point of view supports the bill without modification.

On this occasion, I subscribe to the third point of view, that is, I support the bill without modification.

However, the signals are up that labour legislation will from now on come under sharper scrutiny by industrialists, investors, and businessmen alike, with a view to assessing the long-term consequences emanating from such labour legislation.

It would be useful to know if Government will be more systematically monitoring the levels of wage increases and labour benefits, and relate or link them to the annual rise in GDP so as to ensure parallel increases in productivity and economic competitiveness.

Without such increases in productivity, a number of Hong Kong industries could be squeezed out of the international markets by competition sooner than anticipated. Perhaps marginal industries or enterprises will have to go sooner or later, the point is whether or not we should present them on a platter to our competitors.

Our future prosperity will increasingly depend on a better educated and better paid labour force working in harmony with a new generation of enlightened industrial managers and business entrepreneurs. It is Government's responsibility to encourage this trend, and to foster the ethic of hard work and pride of accomplishment as a social virtue of the people of Hong Kong.

I support the bill.

MR T. S. LO:—Sir, I consider that our severance pay legislation, both the original Ordinance and the present bill, to be a clear example of emotive legislation. I will not dwell on the points that it has a tendency to discourage mobility of labour, a tendency to make Hong Kong production less flexible, a tendency to encourage disputes and a tendency to foster big business at the expense of small business and that it will convert a future portion of real wages into a deferred contingent benefit amounting to an unsecured loan to employers, so that our workers, without ever having had the matter properly explained to them, will be denied in future the freedom of choosing what they want to do with that part of their money. I will not dwell on these points partly because they have been made before without any effect on the Government and partly because of my faith in the resilience of Hong

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Kong people and their ability to survive inappropriate imported Government legislation. The one point I want to single out and deal with at this debate is the concept of retrospective legislation.

I consider it wrong in principle to suddenly impose such an unexpected burden on employers who have made no provision for such severance pay. In principle, this is no different from Government introducing a new fiscal measure to increase profits tax or salaries tax by a few per cent and backdating it for, say, twelve years. I am sure honourable Members would not need me to describe the effect of such a proposal.

The mischief of a Government prone to put through legislation with a retrospective element is that it induces a sense of uncertainty in the minds of those who work and live within its jurisdiction and that it makes a mockery of proper planning. Accordingly, and in view of the Government's majority in this Council, I consider it appropriate for Government to disclose the principles in accordance with which it will in future introduce legislation containing a retrospective element.

To underline the seriousness of the principle involved, I intend to vote against the bill.

REV. P. T. MCGOVERN:—Sir, in my first speech in this Council in October 1976 I made a general observation that in labour legislation the benefits offered were too small and the time taken to give them was too slow.

In the past few months some employers have expressed the opposite view. They claim that too much is being given too quickly. If the bill before us today on severance pay can be taken as a yardstick I think it illustrates that my observations were correct. The gist of the bill was made public by the Commissioner for Labour on the 10th of November 1976. From November 1976 to now is more than six months. In the bill before us today we are asked to change three words in the Employment Ordinance. If six months' discussion to change three words is to be taken as an indication of the pace of labour reform in Hong Kong then those of us who demand more haste have good reason to feel justified in doing so.

I do not intend to go into the detailed arguments put forward for and against this bill. One side of the debate has already had saturation

coverage in speeches, letters and full-page advertisements. I will be content to say that I see some inconsistencies. A main argument by some employers has been that the proposed amendment is too much, it is too sudden, competition is so keen and business so bad that they could not afford to pay so much severance pay. I will not be at all surprised if in the next couple of weeks when the chorus against seven days consecutive leave gets into full voice, we hear the same employers claiming that orders are flowing in so rapidly that they could not possibly slow down or disrupt production to give such annual leave. Some, who have no money for severance pay this week, may even offer to pay double time to those workers who give up their annual leave. We must wait and see and evaluate the arguments as they come.

While I support this bill as a small slow step in the right direction, I believe it leaves much more to be done. It confines itself to one section, section 31G, of Part VA of the ordinance. There are 16 other sections in this same part. The workers who presented their constructive observations to UMELCO, observations based on their experience as factory workers, had several valid criticisms pointing out weaknesses in other sections of this Part VA. As they are not directly connected with this present bill I will not enumerate them here. But they are on file. They should be carefully studied and the reforms suggested should be quickly introduced in this Council. As Members have already seen them now before mid-1977 no one should complain that if they are introduced next year it would be too soon and too sudden—even if it means that we might have to exceed the speed limit of three words per six months.

Among the observations made by workers on the present bill there is one in particular on which I would like to comment. It was suggested that for daily-rated and piece-rated workers severance pay should be 15 working days and not the proposed 13 days. At present, monthly rated workers get one third of a month's severance pay and daily-rated get 10 days. That is good mathematics. Three into thirty is ten—at least it was when I was in school. But the proposed amendment is different. Monthly rated workers get one half of a month's wages, daily-rated get thirteen days. Two into thirty is 15, not thirteen—unless it has something to do with the new maths. I am aware that a majority of my Unofficial Colleagues disagree with me on this point. I am aware that there is a question of two unpaid rest days included in the half month, but I would point out that the same rest days apply to the monthly rated also. Daily-rated and piece-rated workers are usually less well paid and rely heavily on overtime for their income. Overtime does not count in calculating severance pay, though I hope that some day it will.

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It has also been pointed out that it is the worldwide practice to legislate for daily-rated workers on the basis of a 26 day month. For once I am happy to join with those employers who, in other contexts, plead that we in Hong Kong should not slavishly imitate the laws of other countries. Why take a 26 day month just because others do it? Let Hong Kong be unique, but this time let it be unique in making what is legal approximate more closely to what is just. It is bad enough to have a class distinction between blue collar and white collar workers. It is worse still to have class distinctions between blue collar workers themselves. The method of payment—daily, by piece or monthly, should not enter into reckoning the amount of severance pay to the disadvantage of some. As in future sessions this law is gradually updated I hope this point will be borne in mind. In the meantime I would call the attention of employers and employees to the proviso at the end of section 31G which has been somewhat overlooked in the recent discussions. By this proviso workers may elect to have their wages averaged over the preceding 12 months. Use of this proviso may well be a better method than counting days in the dying month of a firm going out of business. I commend it to the attention of those who will have the misfortune to have to use this law.

With these observations I support the motion.

ATTORNEY GENERAL: —Sir, I intervene very briefly in this debate and only on Mr LO's point about the retrospective legislation. He asks what principles guide the Government in relation to legislation which has retrospective effect. I can only say that in the time that has been available I cannot possibly give a full general answer to that important question. May I just say, Sir, that I do not consider anything in this bill is retrospective in a way which offends against the principles.

COMMISSIONER FOR LABOUR: —Sir, I am most grateful to honourable Members for their valuable comments on and support of this bill.

Not unexpectedly views in general, some very strongly expressed, from both employers and employees have been conflicting. These, together with informed comments in the press and opinions received from members of the public, have been examined most conscientiously by all concerned.

Mr Peter WONG, the Convener of the Unofficial Members' *ad hoc* group which has been studying the measures in this bill, has very

succinctly summarised the views held by the employers and employees, and I will not go over these again. But it will I hope help if I comment finally on one or two points raised.

An important factor in the calculation of severance pay for time or piece rated employees is the number of days involved. Under the principal ordinance, workers are entitled to one rest day a week. But, these weekly rest days are not by statute required to be paid and an employee may opt to work on his rest day at the request of his employer. Nevertheless within a period of half a month, non-monthly paid workers would normally work and be paid for 13 days. Thirteen days' wages are therefore considered equivalent to half a month's pay for non-monthly paid workers. I am thus satisfied that 26 days, for non-monthly rated workers, properly represent the equivalent of a working month. And this is particularly so, if the four rest days legislation is being correctly observed.

On the employers' side concern has been expressed about the added and unpredictable strains, that may be imposed on their resources, when the new measures in this bill are introduced. The improved provision of severance pay they feel, is likely to impose a too sudden and increased contingent liability on them which could seriously affect the employers' ability to raise additional funds in case of need; too rapid an advance in this way could moreover be counter-productive in ensuring security of employment and providing more job opportunities.

The argument about contingent liability is somewhat speculative since there is no real evidence either to support or to disprove it. A going concern with orders in hand should not normally have difficulty with bank credit. A firm seeking credit would be judged by the lending institutions on its overall capability rather than its contingent liability in case of failure. It is of interest that when severance pay was first introduced and Members debated the Employment (Amendment) (No 2) Bill in 1974, a number of Members referred to employers' concern then about the limitations of credit facilities being made available by banks to industrialists. There has, since the introduction of severance pay, been no problem in this regard. I would at this stage like to refer to the relevance of Dr S. Y. CHUNG's most useful contribution to this and other areas of the debate with his mathematical and practical analyses of the consequences of this amending legislation.

I also think that the apprehension expressed about security of employment and reducing job opportunities is not realistic, because while severance pay obligations may make industrialists think twice before over-extending their labour force, overall employment opportunities would not be affected so long as overall demand is there.

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Indeed, the improvements in severance pay should bring about a more compact and efficient work force inside each establishment.

I would like also to add support to Dr S. Y. CHUNG's reference to section 31I of the Ordinance dealing with an employee's entitlement to severance pay when he is also entitled to a gratuity based upon length of service or the benefit of a provident fund scheme. In such a case the severance payment is reduced by the amount of gratuity or provident fund. Those employers who set up their own provident funds for their employees, thereby diminish any difficulties that might arise over severance pay.

Mr LO Tak-shing referred in his speech to the intention in the bill retrospectively to extend the period of employment to be taken into account from five to eight years before August 1974 when Part VA of the Ordinance came into force. In this regard Government is quite satisfied that it is proper to extend by this amount, the period over which the quantum of severance pay is to be determined. My predecessor said on 20th April that the amendment would provide more equitable and meaningful severance payments for redundant employees and in particular more generous treatment for those with longer service. This latter point was most important because under the existing scheme those employees with more than eight years continuous employment receive an amount of severance pay incommensurate with the length of service.

Finally, Sir, I would say that this piece of legislation is yet another measure of the success of our industrialisation process. The comments made by the Unofficial Members this afternoon will be of considerable assistance to us all in dealing with this process.

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 1977

Clauses 1 to 6 were agreed to.

INLAND REVENUE (AMENDMENT) BILL 1977

Clauses 1 to 3 were agreed to.

RATING (AMENDMENT) BILL 1977

Clauses 1 and 2 were agreed to.

STAMP (AMENDMENT) BILL 1977

Clauses 1 to 6 were agreed to.

PRISONS (AMENDMENT) BILL 1977

Clauses 1 to 5 were agreed to.

Clause 6

SECRETARY FOR SECURITY: —Sir, I move that clause 6 be amended as set out in the paper before honourable Members. This amendment is proposed to give greater flexibility in the choice of an officer to hear appeals that preserves the principle that he should not be below the grade of Secretary.

*Proposed amendment**Clause*

- 6 That clause 6(b) be amended in the proposed new subsection (3) by inserting after "the Civil Service" the following—
", or to a public officer not below the rank of Secretary,".

The amendment was agreed to.

Clause 6, as amended, was agreed to.

Clause 7 was agreed to.

COMPANIES (AMENDMENT) (No 2) BILL 1977

Clauses 1 to 3 were agreed to.

SUMMARY OFFENCES (AMENDMENT) BILL 1977

Clauses 1 and 2 were agreed to.

AGRICULTURAL PESTICIDES BILL 1977

Clauses 1 to 24 were agreed to.

EMPLOYMENT (AMENDMENT) (NO 2) BILL 1977

Clauses 1 and 2 were agreed to.

Council then resumed.

Third reading of bills

THE ATTORNEY GENERAL reported that the

Estate Duty (Amendment) Bill

Inland Revenue (Amendment) Bill

Rating (Amendment) Bill

Stamp (Amendment) Bill

Companies (Amendment) (No 2) Bill

Summary Offences (Amendment) Bill

Agricultural Pesticides Bill and the

Employment (Amendment) (No 2) Bill

had passed through Committee without amendment and that the Prisons (Amendment) Bill

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

Question put on each bill and agreed to.

Bills read the third time and passed.

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 15th of June.

Adjourned accordingly at ten minutes past five o'clock.