

OFFICIAL REPORT OF PROCEEDINGS

Wednesday, 13th July 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
MR CHARLES PHILIP HADDON-CAVE, CMG, 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 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, CBE, 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*)
THE HONOURABLE DAVID T. K. WONG, JP
SECRETARY FOR ECONOMIC SERVICES (*Acting*)
THE HONOURABLE COLVYN HUGH HAYE, JP
DIRECTOR OF EDUCATION (*Acting*)
DR THE HONOURABLE CHUNG SZE-YUEN, CBE, JP
THE HONOURABLE OSWALD VICTOR CHEUNG, CBE, QC, JP

THE HONOURABLE ROGERIO HYNDMAN LOBO, OBE, JP
 THE HONOURABLE JAMES WU MAN-HON, OBE, JP
 THE HONOURABLE HILTON CHEONG-LEEN, OBE, JP
 THE HONOURABLE LI FOOK-WO, OBE, JP
 THE HONOURABLE JOHN HENRY BREMRIDGE, 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 FRANCIS YUAN-HAO TIEN, OBE, JP
 THE HONOURABLE CHEN SHOU-LUM, JP
 THE HONOURABLE LYDIA DUNN, JP
 DR THE HONOURABLE HENRY HU HUNG-LICK, OBE, JP
 THE HONOURABLE LEUNG TAT-SHING, JP
 THE HONOURABLE PETER C. WONG, JP
 THE HONOURABLE WONG LAM, JP

ABSENT

THE HONOURABLE LEE QUO-WEI, CBE, JP
 THE HONOURABLE PETER GORDON WILLIAMS, OBE, JP
 THE HONOURABLE ALEX WU SHU-CHIH, OBE, JP
 THE REV THE HONOURABLE JOYCE MARY BENNETT, JP
 THE REV THE HONOURABLE PATRICK TERENCE MCGOVERN, SJ, JP

IN ATTENDANCE

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

Papers

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

	<i>Subject</i>	<i>LN No</i>
Subsidiary Legislation:		
	Agricultural Pesticides Ordinance 1977.	
	Agricultural Pesticides Regulations 1977	140
	Dutiable Commodities Ordinance.	
	Dutiable Commodities (Amendment) Regulations 1977	141
	Import and Export Ordinance.	
	Import and Export (General) (Amendment) Regulations 1977.....	142

<i>Subject</i>	<i>LN No</i>
Preventive Service Ordinance.	
Preventive Service (Amendment of Second Schedule) Order 1977.....	143
Summary Offences Ordinance.	
Summary Offences Ordinance (Exemption from Section 13) (No 4) Order 1977	144
Juvenile Offenders Ordinance.	
Juvenile Offenders (Forms) (Amendment) Rules 1977	145
Probation of Offenders Ordinance.	
Probation of Offenders (Amendment) Rules 1977	146
Country Parks Ordinance.	
Shing Mun, Kam Shan and Lion Rock Country Parks (Designation) Order 1977	148
Revised Edition of the Laws Ordinance 1965.	
Revised Edition of the Laws (Correction of Error) Order 1977.....	149
Revised Edition of the Laws Ordinance 1965.	
Annual Revision 1976	150
Professional Accountants (Amendment) Ordinance 1977.	
Professional Accountants (Amendment) Ordinance 1977 (Commencement) Notice 1977	151
Professional Accountants Ordinance.	
Professional Accountants (Amendment) By-laws 1977 (Commencement) Notice 1977	152
Public Health and Urban Services Ordinance.	
Hawker (Permitted Place) Declaration No 10/1977.....	153
Prisons Ordinance.	
Prison (Amendment) Rules 1977.....	154
Miscellaneous Licences Ordinance.	
Miscellaneous Licences (Amendment) (No 2) Regulations 1977	155
Metrication Ordinance.	
Metrication Amendments (Miscellaneous Ordinances) Order 1977.....	156
Factories and Industrial Undertakings Ordinance.	
Factories and Industrial Undertakings (Protection of Eyes) (Approved Specifications) Notice 1977.....	157
Interpretation and General Clauses Ordinance.	
Specification of Public Office	158

<i>Subject</i>	<i>LN No</i>
Sessional Papers 1976-77:	
No 50—Statement of Accounts of the Preventive Services Welfare Fund for the year ended 31st March 1977 (published on 13.7.77).	
No 51—Statement of Accounts of the Hawker Control Force Welfare Fund for the period from 1st April 1976 to 31st March 1977 (published on 13.7.77).	
Report:	
A Review by the Chairman of the Committee for Scientific Co-ordination and Policy for Science and Technology in Hong Kong 1962-1977.	

Oral answers to questions

Kowloon Walled City

1. MR CHEONG-LEEN asked:—

Sir, has Government any plans to improve the general environment of the Kowloon Walled City, in particular the drainage system?

THE CHIEF SECRETARY:—Sir, the Government provides a number of services within this area.

Among these are the collection and removal of nightsoil and refuse, the provision of latrines, inspection of food premises, pest control, chlorination of wells, the provision of stand pipes, the clearance of drains and the maintenance of order.

These services will continue to be improved as far as this is practicable.

MR CHEONG-LEEN:—Sir, is there any need to expand and enlarge the drainage system and, if so, when can this be done?

THE CHIEF SECRETARY:—It may be possible to improve the drainage in this area as part of general improvements to drainage which are being considered in the adjoining area of Sai Tau Village.

Accounts for 1976-77—surplus

2. MISS DUNN asked:—

Sir, will the Government

- (a) explain why the actual surplus in the accounts for the financial year 1976-77 is over \$902 million rather than \$850 million predicted by the Financial Secretary in his budget speech this year; and
- (b) state whether this larger than predicted surplus has any implications for budgetary policy in 1977-78?

THE FINANCIAL SECRETARY:—Yes, Sir, as regards the first part of Miss DUNN's question I would like to say this: my prediction of a surplus of \$850 million was based on the state of the Treasury's cash book at 16th February, a fortnight before Budget Day. This prediction was based on a forecast of expenditure at \$6,600 million and of revenue at \$7,450 million. In the event, actual expenditure for 1976-77 turned out to be \$6,591 million, that is lower than my prediction by only \$9 million, an error of 0.1% only. Actual revenue turned out to be \$7,494 million or \$44 million more than my prediction of \$7,450 million, an error of 0.6% only. This error is accounted for by higher than expected yields from bets and sweeps tax and from earnings and profits taxes. I cannot explain away human frailty, but I can offer a part explanation for the higher than predicted yield from earnings and profits taxes: some 90,000 salaries taxpayers met their liabilities in full before 31st March 1977 instead of taking advantage of the instalment system which allows them to defer one quarter of their liabilities.

As regards the second part of the question, Sir, paragraphs 105 to 107 of my Budget Speech defined the relationship which our fiscal reserves should bear to General Revenue Account Expenditure. The slightly larger than predicted surplus put our fiscal reserves at 1st April 1977 at \$3,713 million instead of the \$3,660 million I assumed in the preparation of the 1977-78 budget. The difference of \$53 million represents only 0.32% of total estimated turnover in 1977-78 of \$16,500 million. Put another way, our fiscal reserves at the beginning of this financial year, after setting aside \$2,500 million to secure our contingent liabilities, are still less than 15% of estimated expenditure this financial year. So the actual outturn for 1976-77 has no implications for budgetary policy in 1977-78.

MISS DUNN:—Sir, while accepting the Financial Secretary's general contention that the larger than predicted surplus is not all that significant

[MISS DUNN] Oral answers

in terms of overall budgetary policy, would he agree that \$53 million is a substantial sum of money, almost sufficient indeed to finance the cost of the Government Secretariat for one year?

THE FINANCIAL SECRETARY:—Of course, Sir, up to a point, Miss DUNN has a point, I agree that \$53 million is a substantial sum of money.

MISS DUNN:—Would he then agree that the present state of our fiscal reserves is such as to make it possible for him to consider new expenditure proposals sympathetically?

THE FINANCIAL SECRETARY:—Sir, as far as I am aware, the Estimates of Expenditure recently approved by this Council will enable the Government to implement its policies and programmes in 1977-78 in accordance with agreed timing. I am not suggesting that the Estimates in detail will not have to be amended during the year. That is inevitable. But our supplementary provisions procedure, linked as it is with the unforeseeable commitments vote of \$100 million, provides for this. Given the present satisfactory state of our finance, I would not regard this figure of \$100 million as a rigid limit of net additional provision, always provided that we constantly bear in mind the important value-for-money criteria. But I would like to say that the Estimates list authorities for expenditure and reflect the Government's intentions to the fullest extent possible having regard to fiscal and economic considerations. Sir, may I suggest that we should concentrate on using up, as it were, those authorities and fulfilling those intentions. Surpluses (or deficits for that matter) which arise from genuinely unexpected flushes (or shortfalls) of revenue in any year are one thing, surpluses (or deficits for that matter) due to failure to spend or, alternatively, failure to control spending, are quite another. Except in 1974-75 our record in respect of expenditure control is, I think, quite commendable. But we have not met approved limits of expenditure on some votes in the past two years and in my view we should all be concerned, Officials and Unofficials alike, to try to do better this year.

DR CHUNG:—Sir, in giving part explanation for the extra surplus the Financial Secretary said that "some 90,000 salaries taxpayers met their liabilities in full before 31st March 1977 instead of taking advantage of the instalment system". Will the Financial Secretary disclose how much advance payment was received by Government from these 90,000 salaries taxpayers?

THE FINANCIAL SECRETARY:—I assume Dr CHUNG is asking to what extent were the one quarter payments which were brought forward worth in total. I have not got a figure off hand, but it represent a large proportion of the additional and unexpected receipt in the year 1976-77. I would accept that when we have some years of experience of the instalment payment system we should be able to make a judgment as to people's behaviour and make allowance for the fact that a number do tend not to take advantage of it.

Football matches—radio and TV commentators (1)

3. MR CHEUNG asked:—

Sir, will Government specifically draw the attention of radio and TV commentators on football matches to the provisions of section 26 of the Public Order Ordinance, whereby the making of any comment or statement intended or likely to incite persons at a public gathering to do physical injury to any person or damage any property constitutes a serious offence?

SECRETARY FOR HOME AFFAIRS:—Yes, Sir.

Football matches—radio and TV commentators (2)

4. MR CHEUNG asked:—

Sir, will Government prosecute radio and TV commentators who act in breach of section 26 of the Public Order Ordinance?

THE ATTORNEY GENERAL:—Sir, where there is evidence of an offence under section 26 of the Public Order Ordinance consideration would always be given in the normal way to the need for prosecution.

Football matches—law and order

5. MR CHEUNG asked:—

Sir, what steps does Government intend to take to ensure that law and order is maintained both during and after football matches?

Oral answers

SECRETARY FOR SECURITY:—Sir, in accordance with long established practice the Commissioner of Police, at the request of the Hong Kong Football Association, supplies police to assist with crowd control duties and the maintenance of order at major football matches. Normally, for important matches the Police deploy one company of the Police Tactical Unit and two platoons of auxiliary police, comprising a total of 143 men plus some 10 CID officers. At less important matches a reduced strength is deployed.

Following incidents at two recent football matches, the Commissioner has reviewed the arrangements in an endeavour to ensure that disorder does not occur, or that if it does, it is contained either inside the stadium or within its immediate vicinity. The Commissioner has decided to deploy a second company of the Police Tactical Unit (108 men) as a reserve to cover matches when large crowds are expected: in other words, a doubling of strength. In addition, officers of the CID will, as at present, be deployed among the crowd, but in greater numbers than in the past, depending on the importance of the match.

Numbers of traffic police are also deployed, both before and after matches, on the approach roads to the stadium for traffic and crowd control purposes. They are later joined by four manned vehicles of the Emergency Unit deployed at strategic spots to monitor the movement and behaviour of the crowd at the close of a match. The reserve company of the Police Tactical Unit will in the future be used to support the control of departing crowds, as well as providing a reserve for the police deployed within the stadium. These revised arrangements will be watched to see if any further adjustments are necessary in the light of experience.

Temporary matshed and bamboo stands

6. MR WONG LAM asked:—(Asked in the Cantonese dialect. The following is the interpretation of what he asked).

Sir, for the sake of public safety, will Government tighten over the use of temporary matshed and bamboo stands constructed for public performances?

DIRECTOR OF PUBLIC WORKS:—Sir, control over the erection of temporary bamboo matsheds and stands for public entertainments is exercised under the provisions of the Places of Public Entertainment Regulations.

Following the collapse in 1968 of a stand accommodating members of the public, tighter control over the erection of such structures was called for and the Regulations were subsequently suitably revised.

The control which the present Regulations give over the construction of temporary matsheds and stands for public entertainments is considered to be adequate and no further revision of the Regulations is proposed at this time.

Legislative Council—supplementary questions

7. MR JAMES WU asked:—

Sir, in view of the importance of supplementary questions and answers in this Council, will the Government Information Services arrange for reports of these questions and answers to be handed out for the use of Chinese newspapers?

THE CHIEF SECRETARY:—Yes, Sir. From the beginning of the next session, reports of supplementary questions and answers will be issued by Government Information Services in both English and Chinese.

MR JAMES WU:—Sir, will Government ensure that the name of the questioner be mentioned in the GIS despatch?

THE CHIEF SECRETARY:—Yes, of course.

DR CHUNG:—Sir, may I seek the assurance of the Chief Secretary that the issuance of the report to the press be made in good time so that they could be published in the following morning?

THE CHIEF SECRETARY:—It will be our object always to issue it in sufficient time for that. But there may be occasions on which we are not able to meet this dead-line because the number of supplementary questions and answers is very great, or because it has not been possible to check the record with the Members concerned which we would prefer to do if possible.

Child Care Centres Regulations—review

8. MISS KO asked:—

Sir, (a) will Government state what progress has been made in reviewing the Child Care Centres Regulations and Code of Practice, which came into operation on 1st June 1976; and

Oral answers

- (b) what specific guidelines are being followed by the body undertaking the review?

DIRECTOR OF SOCIAL WELFARE:—Sir, in my reply to Miss KO's supplementary question on the 18th of May, I informed the Council that the Social Welfare Advisory Committee had agreed to a review of the requirements of the Child Care Centres Regulations in the light of experience gained during the first year of their implementation which was to be in three stages.

The Advisory Committee at its meeting two weeks ago appointed a working group to do this review and asked for a report to be submitted by early October this year. This working group consists of three members of the Advisory Committee and is to be chaired by one of them; other members appointed include three from voluntary organizations engaged in child care work, two from the Social Welfare Department and one experienced operator of a private child care centre.

The terms of reference indicate that the working group should focus their attention primarily on standards and requirements in relation to space, manning scale and staff qualifications. The working group will also consider whether implementation of certain regulations should be spread over a longer period of time or in more than three stages. These would no doubt serve as guidelines for the working group.

Temporary Housing Areas

9. DR HU asked:—

Sir, will Government state what progress has been made in improvement to living conditions and rehousing of residents following the adjournment debate on Licensed Areas in this Council on 11th February 1976?

SECRETARY FOR HOUSING:—Sir, in the debate referred to, my predecessor said that the remaining Mark 1—the oldest type—Licensed Areas would disappear over a period of about 15 months. Except for a small area in Tai Po, these areas have been demolished, and over 10,000 residents have been rehoused in estates. I should mention, Sir, in passing that Licensed Areas are now known as "Temporary Housing Areas".

Most of the old Licensed Areas have been redeveloped as Temporary Housing Areas with part-built structures, concrete platforms, proper electricity, domestic water supply, flush toilets, playgrounds, sitting areas and in some cases, welfare services and shopping facilities. I think we can now confidently say that they are satisfactory, that is as temporary housing.

There are now altogether 17 modern Temporary Housing Areas with a capacity for over 23,000 residents. In 1977-78, it is expected that another 40,000 persons will be accommodated in 15 new Temporary Housing Areas.

Furthermore, Sir, \$2 million has been spent in the past year in improving the older Temporary Housing Areas. Of the 16 areas without part-built structures still in use, all now have a proper electricity supply; seven have domestic water supply, and nine have been provided with flush toilets.

Finally, Sir, since 1st April this year, 180 families, that is 840 persons, from these areas have been allocated public housing.

MR CHEONG-LEEN:—Sir, will sufficient steps be taken to ensure that all Temporary Housing Areas will be kept free from vermin, particularly rats?

SECRETARY FOR HOUSING:—Every effort will be made to achieve this, Sir.

Public housing—enquiries from applicants

10. MR LEUNG asked:—

Sir, will Government ensure that written enquiries by applicants for public housing about the position of their applications are answered and answered promptly?

SECRETARY FOR HOUSING:—Sir, written enquiries by applicants for public housing are answered in writing within one week, or at most two weeks, from receipt of the enquiry. Applicants are also encouraged to visit or to telephone the Applications Section of the Housing Department, because personal contact is obviously more useful than correspondence.

[SECRETARY FOR HOUSING] **Oral answers**

As to the volume, Sir, the Housing Department receives each day between 500 to 700 enquiries about applications for housing. Over half of these are in writing. Because of this considerable volume of business, and because correspondents do not always give full or accurate return address, written replies will on occasion be I think, unavoidably delayed. It is however considered that the arrangements generally work well.

Films

11. MR CHEONG-LEEN asked:—

Sir, in view of the large proportion of films shown in local cinemas which are labelled not suitable for children, will Government examine the possibility of encouraging film producers and distributors to show more films which are considered suitable for children so as to provide them with a greater choice of wholesome films?

SECRETARY FOR HOME AFFAIRS:—Sir, the Commissioner for Television and Entertainment Licensing meets film producers and distributors informally once or twice a year to discuss matters of mutual interest. I shall ask the Commissioner to raise this matter at the next meeting which will take place either in August or September this year.

MR CHEONG-LEEN:—Sir, will Government see what can be done to encourage the production and/or showing of more films which would serve social problems of the community and promote the moral education of the young?

SECRETARY FOR HOME AFFAIRS:—Sir, during the discussion the Commissioner certainly will make this point to the film producers and distributors. In addition, Government together with the Urban Council are also doing a lot of films for entertainment and information and I certainly will draw the attention of these departments and the Urban Council to the point made by my Friend.

MR CHEONG-LEEN:—Sir, will Government investigate or review the situation as regards cinema and even TV violence as a source of heightened aggressiveness leading to harmful social effects among children and young people of Hong Kong?

SECRETARY FOR HOME AFFAIRS:—Sir, this is a question of very high order. I don't think it is possible to do a research on one thing and come to the conclusion that this one thing has an effect on certain other things. It must be a combination of things. If the report on social causes of crime does not cover this aspect, I shall raise this for discussion at the Fight Violent Crime Committee.

Lamma Island

12. MR CHEN asked:—

Sir, what plans does Government have in hand for the development of Lamma Island as an industrial and/or recreational area?

SECRETARY FOR THE NEW TERRITORIES:—Sir, there are no plans for the development of Lamma Island for industry although a plan which is in the course of preparation zones certain small areas for industry to take account of existing activities and leases. As for recreation, the two principal beaches on the west of the island have been gazetted and are provided with lifeguards. But, generally speaking, it is envisaged that the open country of the island will be preserved as it is for its general recreational and amenity value. The plan being prepared will also show in broad terms certain areas for residential development. Little or no actual development of the island can take place until the water supply is improved.

MR CHEN:—Sir, are there any plans to improve the water supply there?

SECRETARY FOR THE NEW TERRITORIES:—Sir, there has been an item in the Public Works Programme since 1957 to investigate and improve the water supply. I am hopeful that we would be able to bring this item forward within the next few months.

MR CHEUNG:—Would it by then have come of age, Sir. (*laughter*)

Drug addicts—half-way houses

13. DR FANG asked:—

Sir, has Government any plans to build more Half-way Houses for drug addicts who are released under a Supervision Order from a Drug Addiction Treatment Centre but who still need reasonably close guidance?

Oral answers

SECRETARY FOR SECURITY:—Yes, Sir. A project for such a centre to accommodate 120 inmates is included in the Public Works Programme. Given the present priorities it will probably be ready in 1981.

DR FANG:—Sir, may I seek clarification of the word "centre" used by my Colleague whether it refers to Half-way Houses or actual Drug Addiction Treatment Centre? If he does mean Half-way Houses, must these be so elaborate as to need five years to build? Can we not make use of available spaces in the public housing estates?

SECRETARY FOR SECURITY:—I apologize, Sir. I did not mean "centre". I meant a Half-way Centre or a Half-way House. (*laughter*) The honourable Member is right in saying that it is taking a long time. The project was originally due for upgrading in 1974. It got caught that time in the restrictions which were imposed. The site chosen is, I am afraid, a difficult one to develop because the demands for such sites are considerable. We should not therefore, I am afraid, be able to do much more than to achieve this target date, hopefully by 1980 rather than 1981.

DR FANG:—Sir, will my honourable Friend try to investigate the possibility of using public housing estates?

SECRETARY FOR SECURITY:—Certainly, Sir. The honourable Member is well placed himself to talk to the Secretary for Housing on this subject. (*laughter*)

Water supply—Sheung Yuen Ling

14. MR JAMES WU asked:—

Sir, (a) is it correct that residents in the Sheung Yuen Ling area cannot obtain a piped water supply as a result of water restrictions and the near-by MTR construction drying up the wells;

(b) if so, will Government take immediate steps to alleviate the situation?

DIRECTOR OF PUBLIC WORKS:—Sir, it is not correct that the residents of Sheung Yuen Ling cannot obtain piped water as a result of water restrictions. These residents draw water from 10 public

ADDENDUM

OFFICIAL REPORT OF THE LEGISLATIVE COUNCIL SITTING HELD ON 13TH JULY 1977

Page 1098 Before "**WATER SUPPLY—SHEUNG YUEN LING**"—
Question No 14 asked by Mr James Wu.

Add:—

(The following written reply was provided subsequently by Secretary for Security)

"After consultation with the Secretary for Housing, the Director of Housing and the Commissioner of Prisons, we have concluded that the proposal is not feasible at the present time. The acute shortage of housing continues and top priority must be given to living accommodation for the general public. Accordingly it is not possible for the required area of between 2,500 and 4,000 square feet to be diverted for use as a halfway house for a selected group of persons in existing estates suitably located near industrial areas. The Director of Housing has told me however, that this project may be possible when estates are built in new towns, but the prospect is some years away.

Although we have not been successful with your proposal, we are going ahead with a project for 120 inmates, which is included in the Public Works Programme."

standpipes. As a result of a complaint received on the 23rd June, that the two highest standpipes failed to supply water in sufficient quantity, an inspection was made and revealed illegal tapings of the service main supplying the standpipes. The illegal connections were removed and normal output from the standpipes resumed on 25th June. There have been no subsequent complaints of lack of supply, but a recent request from the City District Office for an additional standpipe has been approved and it will be installed in about a week's time.

The exact number of wells in the area is unknown, although it is claimed that there may be as many as 50. Six of the larger wells in the neighbourhood of the MTR construction works were inspected on 8th July. These wells are approximately 1 metre in diameter and range in depth from 13.2 metres to 8.5 metres. At the time of inspection, the depth of water ranged from about 10 metres in the deepest well to 2 metres in the shallowest.

The wells had been recharged as a result of favourable rainfall in the preceding days which indicates that the previous lack of water was almost certainly due to the exceptionally dry weather conditions. It is considered that the MTR works have not significantly affected the yield from the wells.

Crime black spots

15. MR JAMES WU asked:—

Sir, are the police taking effective steps to prevent recurrence at known black-spots of muggings and robberies in order to earn public confidence and co-operation in fighting crime?

SECRETARY FOR SECURITY:—Yes, Sir. There has been a steady drop in the incidence of this type of reported crime since December 1974. In that month a peak of 1,274 reported incidents was reached. The monthly average in 1975 was 926; this dropped to 742 in 1976. So far for 1977 the monthly average is down further to 551. I trust it will be lowered yet further.

There are still known black spots and these are given special police attention, others also emerge. CID Intelligence Units plot violent crime according to place, time of day and month. Fresh black spots are thus identified and action squads are deployed in targetted areas primarily for preventive purposes, though, of course, they also make arrests.

[SECRETARY FOR SECURITY] **Oral answers**

Police strategy and tactics are proving more effective. More police are being employed in plain clothes and periodically vulnerable areas are saturated on a preventive basis. The Beat Radio Scheme has already produced good results by way of arrests, and its introduction has had a significant deterrent effect which cannot be quantified.

The Police also seem to be earning increasing confidence of the public. For example, robbery victims are becoming less reluctant to report to the police, judging from the number of minor cases which are now coming to our attention which were only rarely reported hitherto.

In summary—the police are far from complacent about the present incidence of robberies, even though the reported figures reflect a marked improvement. However, the present counter measures are proving effective and give grounds for guarded confidence.

MR JAMES WU:—Sir, is the police aware that it is a practice of thugs and robbers to wait outside banks and to follow people coming out of them to certain places where they feel that they would be successful to make a robbery?

SECRETARY FOR SECURITY:—Yes, Sir. They do take steps to try to pre-empt this type of activity. The honourable Member has already given me details of one case of this type, which I am pursuing with the Police, a splendid example of taking action and participating in crime reporting.

Waterworks road—cyclists

16. MR LOBO asked:—

Sir, will Government state the conditions under which cyclists are allowed to ride on roads in areas to which vehicular access is restricted for waterworks purposes?

SECRETARY FOR THE ENVIRONMENT:—Sir, as a general rule, cyclists are not allowed on roads in waterworks areas where vehicular access is restricted. The only exception is where villagers are permitted to use these roads to obtain access to their homes.

These narrow roads are in regular use by hikers and the presence of cyclists could cause an unnecessary hazard to the many walkers who enjoy and value the relative freedom from wheeled traffic which the areas provide. They are also, in many cases, steep and tortuous and dangerous for inexperienced riders to negotiate.

I should add that the Country Parks and Special Areas Regulations 1977, which will come into force in September this year, will apply to many waterworks areas now under consideration for inclusion in Country Parks. Under the regulations, no one will be permitted to take into a country park or a special area any vehicle or bicycle except in cases where the user is resident in the area or where the Authority designates any particular road for selected vehicular use.

Waterworks areas—bicycle-hiring shops

17. MR LOBO asked:—

Sir, will Government state the conditions under which bicycle-hiring shops are allowed to operate in areas to which vehicular access is restricted for waterworks purposes?

SECRETARY FOR THE ENVIRONMENT:—Sir, as cyclists are not generally allowed on waterworks roads there is no need for bicycle-hiring shops in these areas and they are not permitted to operate there.

MR LOBO:—In view of the previous reply and this very concise reply, will the Secretary for the Environment take steps to ensure that in fact, no bicycle-hiring shops exist in these restricted areas?

SECRETARY FOR THE ENVIRONMENT:—Yes, Sir. This will be very much easier when we have these areas designated and operated as Country Parks because the Director of Agriculture and Fisheries will then have his Forest Wardens available to control these activities.

MR CHEUNG:—Sir, to encourage people to take young children into these restricted areas, is there any intention to exclude shops hiring perambulators at the entrance to these walk ways? (*laughter*)

SECRETARY FOR THE ENVIRONMENT:—Sir, there is no such intention but I doubt whether they will do a great deal of business.

Oral answers**Elderly—services for the**

18. DR FANG asked:—

Sir, what plans does Government have to improve services for the elderly, in such areas as geriatrics, homes and hostels, care and attention homes, public housing and community nursing and home help services?

SECRETARY FOR SOCIAL SERVICES:—A Programme Plan on Services for the Elderly is at an advanced stage of preparation in the Social Services Branch. This Programme Plan which is being drawn up in consultation with the Hong Kong Council of Social Service and all interested departments and branches of the Government, will cover the needs of the elderly for social security, health services, social work services in the community, housing, employment, transport, leisure, care within institutions as well as funerals.

A Green Paper on these services will be published early in the next session for public comment. Thereafter a White Paper will be published stating Government's policy on the provision of services for the elderly over the next decade.

Clerical Officers

19. MR LEUNG asked:—

Sir, (a) how many Senior Clerical Officers, Clerical Officers I and Clerical Officers II are at present on the maximum point of their respective salary scales; and

(b) what is the average number of years that they have been drawing maximum salary?

SECRETARY FOR THE CIVIL SERVICE:—Sir, there are 38 Senior Clerical Officers, out of a total strength of 154, on the maximum point of their salary scale; 357 Clerical Officers Rank I, out of a total strength of 837, on the maximum point of their salary scale; and 778 Clerical Officers Rank II, out of a total strength of 4,800, on the maximum point of their salary scale.

The average number of years they have been drawing maximum salary is 2.7 years for Senior Clerical Officers, 3.7 years for Clerical Officers Rank I, and 3.6 years for Clerical Officers Rank II.

Government business

Motions

INTERPRETATION AND GENERAL CLAUSES ORDINANCE

THE SECRETARY FOR HOME AFFAIRS moved the following motion:—

That—

1. the functions exercisable by the Commissioner of Police by virtue of section 22(1)(a)(i), (ii) and (iii) and (1)(b) of the Gambling Ordinance 1977 with respect to—
 - (a) authorizing by licence—
 - (i) the promotion and conduct of any lottery for the purposes of a club, association or other body of persons approved by the Commissioner of Police;
 - (ii) the organization and conduct of a game of tombola by a society which is registered or exempted from registration under the Societies Ordinance or is a person to whom that Ordinance does not apply;
 - (iii) the organization and conduct of a game of amusement with prizes to be conducted on premises licensed under section 4 of the Places of Public Entertainment Ordinance;
 - (b) the approval of a club, association or body of persons for the purposes of subsection (1)(a)(i) of that section; and
 - (c) the licensing of premises for the playing therein of games in which mahjong or *tin kau* tiles are used,

be transferred to the Commissioner for Television and Entertainment Licensing;
2. the Gambling Ordinance 1977 and the Gambling Regulations 1977 be amended to the extent and in the manner set out in the second column of the Schedule.

SCHEDULE

[para. 2.]

- | | |
|-------------------------------|---|
| Gambling
Ordinance
1977 | Section 22 is amended— |
| | (a) in subsection (1)— |
| | (i) by inserting after "Commissioner" in both places where it occurs the following— |

Motions

"for Television and Entertainment Licensing; and

- (ii) by deleting sub-paragraph (iv) of paragraph (a);
- (b) by adding after subsection (1) the following new subsection—

"(1A) The Commissioner of Police may by licence authorize the organization and conduct of a trade promotion competition by a person engaged in trade or business.";

- (c) in subsection (2) by inserting after "subsection (1)" the following—

"or (1A)";

- (d) in subsection (3) by inserting after "Commissioner" the following—

"for Television and Entertainment Licensing or the Commissioner of Police, as the case may be,";

- (e) in subsection (4) by inserting after "Commissioner" the following—

"for Television and Entertainment Licensing or the Commissioner of Police, as the case may be,";

- (f) in subsection (5) by inserting after "Commissioner" in both places where it occurs the following—

"for Television and Entertainment Licensing or the Commissioner of Police".

Gambling
Regulations
1977

1. Regulation (2) is amended in column A by deleting "Section 22(1)(a)(iv)" and substituting the following—

"Section 22(1A)".

2. Regulation 4 is amended by inserting after "Commissioner" the following—

"for Television and Entertainment Licensing or the Commissioner of Police, as the case may be,".

3. Regulation 5 is amended by inserting after "Commissioner" the following—

"for Television and Entertainment Licensing or the Commissioner of Police, as the case may be,".

4. Regulation 6 is amended by inserting after "Commissioner" the following—

"for Television and Entertainment Licensing".

5. The First Schedule is amended—

(a) in Forms 1, 2, 3 and 5 by inserting after "Commissioner" in the first place where it occurs in each form the following—

"for Television and Entertainment Licensing";

(b) in Form 4 by inserting after "Commissioner" in the first place where it occurs the following—

"of Police";

(c) in Form 6 by deleting "Commissioner" and substituting the following—

"Commissioner for Television and Entertainment Licensing/Commissioner of Police";

(d) in Form 7 by deleting "Commissioner" and substituting the following—

"Commissioner for Television and Entertainment Licensing/Commissioner of Police";

(e) in Form 8 by deleting "Commissioner" and substituting the following—

"Commissioner for Television and Entertainment Licensing/Commissioner of Police".

Motions

6. The Second Schedule is amended—

(a) in Forms 1A, 2A, 3A and 5A by inserting after "Commissioner" wherever it occurs in each form the following—

"for Television and Entertainment Licensing"; and

(b) in Form 4A by inserting after "Commissioner" wherever it occurs the following—

"of Police".

He said:—Sir, this motion seeks to transfer the authority vested in the Commissioner of Police under section 22 of the Gambling Ordinance to the Commissioner for Television and Entertainment Licensing in respect of Lottery and Tombola Licences, Amusement with Prize Licences as well as Mahjong and Tin Kau Licences, and to amend the Ordinance and Regulations accordingly.

Sir, the Commissioner of Police has historically inherited a number of licensing functions which are non-constabulary in nature. The present policy is to transfer these functions to other departments so that the Police Force can devote more resources to fight against crime. A number of departments have already accepted some of the licensing functions and the proposed transfers under this Resolution are in accordance with the present policy.

This transfer of authority will not result in any change in the existing licensing policy related to gambling, which will still be controlled by the relevant policy branches in the Government Secretariat. Furthermore the Police will continue to be responsible for the enforcement of the conditions specified in the licences and to combat illegal gambling.

Question put and agreed to.

**TEMPORARY RESTRICTION OF BUILDING DEVELOPMENT
(MID-LEVELS) ORDINANCE**

THE DIRECTOR OF PUBLIC WORKS moved the following motion:—

That—

Pursuant to section 5 of the Temporary Restriction of Building Development (Mid-Levels) Ordinance, the said Ordinance shall expire on the 30th April 1978.

He said:—Sir, I rise to move the motion standing in my name on the Order Paper. This motion has the effect of further extending the period of statutory restrictions on building development in the Mid-Levels area to 30th April 1978.

On 2nd July 1975 when moving the resolution to extend these restrictions until 31st July 1977 I indicated that to lift them would mean that under existing lease conditions and planning controls, building development could take place which would result in an increase in population in Mid-Levels to about 55,000, or nearly double the 1973 figure. I also stated that the removal of the statutory restrictions in the Pok Fu Lam area at the end of 1974 could bring the population there to around 75,000. A more recent assessment of the Pok Fu Lam development potential under these conditions shows that the population could increase to more than 110,000.

The lifting of administrative restrictions on lease modifications and new land sales would mean a possible further increase in population of about 7,000 in Mid-Levels and nearly 92,000 in Pok Fu Lam.

During the debate on the resolution on 16th July 1975 I said that I could give no absolute assurance that further extensions of the period of statutory restrictions in the Mid-Levels area would not be required as the easing of restrictions would depend on the progress made on essential highway works being sufficiently advanced so that completion and occupation of new development projects would coincide approximately with the completion of the highway works.

Although several of these highways schemes are progressing well, a few of the most critical projects are insufficiently far advanced to allow for coincidental completion with private developments. It is therefore necessary to defer the acceptance of building plans for private development schemes in Mid-Levels for a further period of nine months. Although the administrative restrictions on lease modifications and new land sales for both Mid-Levels and Pok Fu Lam will remain in effect, I can confirm that no further extensions of the statutory restrictions on building development will be required after 30th April 1978.

MR JAMES WU:—Sir, I am disappointed to hear of the proposal by the Director of Public Works for yet another extension of the period of statutory restrictions on building development in the Mid-Levels area to 30th April 1978.

It will be recalled that the original ordinance was first introduced into this Council and passed on 1st August 1973 for what was to be a

[MR JAMES WU] Motions

temporary restriction of six months. There were however 3 subsequent extensions escalating from six months to two years. In the process, four Members of this Council expressed reservations on Government's argument on the point of traffic congestion, and their reluctance to accept the ordinance.

Sir, when I spoke on the resolution introduced into this Council two years ago, I said that the Mid-Levels being no more than 12 minutes by foot from the Central area, any traffic congestion would tend to be self-regulating. I also called attention to what my Friend Mr Oswald CHEUNG had said in January 1974 on the gravity of imposing a moratorium which was a derogation of the rights granted by the Crown lease to build in accordance with the conditions of the lease. Two years ago I said that I could only support the resolution with reluctance for the last time. With prices and rentals of flats in this area having doubled during the past two years, aggravated no doubt by the effect of this moratorium, I cannot in fairness support this resolution and shall abstain from voting.

DR CHUNG:—Your Excellency, on behalf of my other Unofficial Colleagues I rise to say a few words on this motion regarding the Temporary Restriction of Building Development (Mid-Levels) Ordinance.

Some of the Unofficial Members are not happy with Government's proposal to extend further the period of statutory restriction on building development in the Mid-Levels area by another 9 months to the end of April 1978. They consider the traffic congestion in this area which is the main reason given for this building restriction is no worse than in some other areas of Kowloon and Hong Kong or, for that matter, some other big cities of the world. On the other hand, they recognize the urgency of increasing the supply of residential accommodation in this prime residential area of Hong Kong in order to meet demand and stabilize rentals and prices.

Nonetheless, the majority of my Unofficial Colleagues accept the cautious approach of Government as explained by the Director of Public Works and support the motion before Council on the clear understanding that there will be no further extension of the statutory restriction on building development in the Mid-Levels area beyond 30th April 1978.

Sir, with these remarks, I support the motion.

DIRECTOR OF PUBLIC WORKS:—Sir, I appreciate Mr James WU's concern on this issue but I can assure him that the further extension of the period of restriction on building development is absolutely necessary to avoid chaotic conditions developing in the Mid-Levels area.

I should like to thank Dr CHUNG and other Unofficial Members for their support for the motion.

Question put and agreed to.

Second reading of bills

JUBILEE SPORTS CENTRE BILL 1977

Resumption of debate on second reading (29th June 1977)

Question proposed.

MR CHEUNG:—Sir, I query whether the bill as drafted covers sports and recreation which have to be carried out in or under water. Clause 4 speaks of "land" vested in the Board. In all the papers which I have read on the subject, the intention seems to be to vest reclaimed land up to the sea wall in the Board and none of the papers have betrayed an intention to vest in the Board the foreshore and seabed adjoining thereto, nor perhaps would it be desirable to vest the foreshore and seabed in the Board to the total exclusion of the public.

Nevertheless, boating, sculling, canoeing, rowing, sailing and water-skiing all require the use of water and the construction and provision of boathouses, hards and other amenities.

Unofficial Members think that these activities should be within the Board's purview and should be encouraged by the Board. Perhaps it may be possible to draft the grant in such a way that easements or rights of some kind, non-exclusive in nature, over the foreshore and seabed could be vested in the Board. And I shall be very grateful if the Land Branch or the Environment Branch responsible for drafting the deed will have this point in mind.

SECRETARY FOR HOME AFFAIRS:—Sir, clauses 5(1)(b) and 5(2)(d) of the bill refer to "sporting and other related facilities" and "sports or recreation generally" respectively and these clauses therefore cover those sports which have to be carried out in water. These clauses were

[SECRETARY FOR HOME AFFAIRS]

**Jubilee Sports Centre Bill—resumption of debate
on second reading (29.6.77)**

specifically left vague to enable the Board to provide facilities and coaching and training programmes for as wide a range of sports and recreation activities as possible and as it sees the need and demand arising.

The question of access for water sports to the waters adjoining the Sports Centre will be dealt with in the context of the land grant. The land grant may well include an area of foreshore and seabed as part of the site and these would thus fall within the terms of clause 4(1) of the bill as "land" vested in the Board by the Government. Moreover I can confirm that it is the Government's intention in accordance with the provisional Board's wishes to grant access to and use of the water adjoining the Sports Centre. However the exact terms of such a grant and the question of exclusive use are subject to discussion between the Government and the Board.

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).

SALE OF GOODS (AMENDMENT) BILL 1977

Resumption of debate on second reading (1st June 1977)

Question proposed.

MR T. S. LO:—Sir, I wholeheartedly welcome this bill which amends the existing legislation which originally came into force in the United Kingdom in 1893. The 1893 Act was based on the concept that parties to a contract were free to decide the terms upon which contracts were to be made. For the ordinary consumer, freedom of contract is largely a dream in modern society. For example, if I wish today to buy a car on terms that all defects in manufacturing must be cured and made good by the seller no matter when such defects may be discovered, I would not be able to find a seller. There are rights which every buyer would want to have and which every seller would want to restrict, for example, in sales by sample the right that the bulk shall correspond with the sample in quality, in a sale by description that the goods shall correspond with the description and shall generally be of merchantable

quality and in a case where the buyer makes known a particular purpose for which the goods are required the right that the goods supplied shall be reasonably fit for the purpose. These consumer rights have over the years been whittled away or denied almost entirely by sellers by the operation of carefully worded exclusion clauses. The most obvious examples are contained in the so-called manufacturers' guarantees supplied with goods sold. The present bill will limit very severely this undesirable practice. Consequently, the bill does make a valuable contribution towards protecting the consumer.

However, the effect of the protection afforded by this bill will be vastly reduced unless its provisions are made widely known to consumers. Accordingly, I would urge the Consumer Council to regard it as its responsibility to publicize by every possible means the new protection that this bill gives to consumers when it comes into force.

This new protection is particularly valuable in Hong Kong because we are fortunate enough to have a Small Claims Tribunal. If the fault complained of in goods bought can be rectified by payment of an amount not exceeding HK\$3,000 the Tribunal will have jurisdiction to hear the complaint. I have no personal knowledge of how well the procedure is functioning there but from the pamphlet that it has issued it is clear that the Tribunal has the capacity to assist even the illiterate to make claims as it is part of the duty of the staff to assist the parties in every possible way. Consequently, I would also urge that the Consumer Council publicize the existence of the Small Claims Tribunal as well as its convenient procedure. If members of the public can be educated to use the Small Claims Tribunal whenever they have a claim which comes within its jurisdiction there will, I have no doubt, be an increase of cases going before the Tribunal and I shall be glad to hear from the Government that it is satisfied that the Tribunal will have adequate staff both in quantity and in quality to deal with them.

I support the motion.

DR HU:—Sir, as a member of the adhoc group formed to study the Sale of Goods (Amendment) Bill 1977, I would like to join Mr T. S. LO, the convener of the group, in supporting the bill. The group has discussed it with the Solicitor General and is generally satisfied that it will provide better protection for consumers. However, the group considers that its enactment may lead to an increase in the work load of the Small Claims Tribunal and, like Mr T. S. LO, I look forward to an assurance from Government that the machinery of the Tribunal will be improved and adequate staff provided for it to cope with this

[DR HU] **Sale of Goods (Amendment) Bill—resumption of debate on second reading (1.6.77)**

expected increase. I also hope that the Chairman of the Consumer Council will take heed of Mr LO's plea that the Consumer Council should give full publicity to the new protection that this bill gives to consumers when it comes into force.

With these remarks, Sir, I support the motion.

THE SOLICITOR GENERAL:—Sir, the call to the Consumer Council by Mr LO and Dr HU to publicize the Small Claims Tribunal and its easy procedure is well directed. It may well be that as yet many Hong Kong people are not aware that this Tribunal determines in an informal way, inexpensively and in Cantonese, monetary claims not exceeding \$3,000.

Mr LO and Dr HU ask if the Government is satisfied that the Tribunal will have adequate staff both in quantity and quality to meet the demand and I have had the benefit of discussion on these matters with the Registrar of the Supreme Court who is responsible for the administration of the Small Claims Tribunal.

The Tribunal commenced operations on 1st October 1976 and is thus still in its infancy. Infancy is generally accompanied by teething troubles and the Small Claims Tribunal has not been immune.

The nature of the Tribunal is such as to impose particularly demanding challenges on the adjudicators and their supporting staff. I have in mind that the Ordinance requires the supporting staff to reduce to writing claims made orally. Also, adjudicators are given a positive duty of considering what is relevant whether or not raised by one of the parties. These are somewhat novel duties which, if the Tribunal is to achieve all that is hoped, must be performed with patience and enthusiasm as well as skill.

To extract the essential elements of a claim from perhaps a long and tangled tale may be time consuming and far from easy but this Tribunal will succeed only if the Tribunal staff can earn the respect and confidence of the public they serve.

The Registrar is of course aware of this and is monitoring the progress of the Tribunal. He has had discussions with the adjudicators concerning their administrative responsibilities. In addition he is considering whether the counter staff needs strengthening, perhaps by Judicial Clerks.

The Registrar is also keeping his eye on the level of work. At present there are 2 Small Claims Tribunals, one in Kowloon and one on Hong Kong Island. If it becomes necessary, arrangements can be made for a third Tribunal to be set up.

Question put and agreed to.

Bill read the second time.

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

**FIXED PENALTY (TRAFFIC CONTRAVENTIONS)
(AMENDMENT) BILL 1977**

Resumption of debate on second reading (29th June 1977)

Question proposed.

DR CHUNG:—Your Excellency, in the introduction of computers into the daily life of mankind there is a general view that human beings must remain the master of computers and not vice versa. The computer should be the tool of mankind and its application and limitation should not be used as an excuse to dictate the ways of life of the general public. In this respect, I regret to say that the use of computer in processing the fixed penalty for a traffic contravention violates this basic principle. (*laughter*)

Sir, I refer to clauses 10(b) and 15 of the bill which legalize the following procedure. If a defendant for some reason, such as oversight or absence from Hong Kong, does not pay his fine by the due date, he is unable to do so until he receives a summons issued automatically by the computer. The defendant or, I presume, his agent can then go and make payment to the court designated in the summons not less than 72 hours before the specified date of hearing. The payment will be the sum of the fine plus an additional \$15 for court costs.

If a defendant sends only the fine to the Government after the due date but before he receives the summons automatically issued by the computer, his payment will be rejected, I presume without any explanation. Similarly, if he forwards both the fine plus the \$15 for court costs to the Government after the due date but again before he receives the summons, his payment will again be refused without comment. This implies that once a defendant fails to pay by the due date, he

[DR CHUNG] **Fixed Penalty (Traffic Contraventions) (Amendment) Bill—resumption of debate on second reading (29.6.77)**

has to sit tight and wait for the summons automatically issued by the computer.

Honourable Members will recall that for the payment of other Government dues, such as rates and salaries tax, a surcharge is added to the amount owed if not paid on or before the due date. One really fails to understand why such an established and accepted procedure could not be followed for the payment of a fixed penalty. In other words, why does Government not arrange to print a footnote on the fixed penalty ticket, similar to that which appears on the demand note for rates, saying that a surcharge or court costs of \$15 will be added to the fine if not paid by the due date specified on the ticket.

Subject to the payment of the fine and surcharge (that is, \$45 in total) being made 72 hours before the specified date of hearing, the summons automatically issued by the computer will be cancelled and the proceedings shall thereupon terminate. Alternatively, subject to the payment of the fine and surcharge being made after the due date but prior to the issue of the summons by the computer, no summons shall automatically be issued by the computer. This procedure is logical and in line with the intention and spirit of both the principal ordinance and this amending bill which is to provide convenience to the motoring public.

Sir, I am given to understand that such a logical procedure could not be adopted due to the limitation of the computer now being used by Government for this purpose. Under the circumstances, Sir, I regret that I cannot lend my support to amending the law to suit the computer at the expense of individual members of the public. Unless I am convinced by the reply of the Secretary for the Environment, it is my intention to vote against clause 10(b) of the bill now before Council on the principle that mankind will not be dictated to by a machine, let alone an inferior machine. (*laughter*)

MR LO:—Sir, irrespective of whether Dr CHUNG wins his celebrated fight against the computer, and in this fight I tend to sympathize with the computer. (*laughter*)

Clause 16 of the bill allows far too great a flexibility to the authorities to put up traffic signs different to those laid down in legislation.

All too frequently one sees ambiguous traffic signs, signs which face a direction from which no traffic can come, as well as traffic signs pasted over with sheets of paper which motorists need powerful binoculars to read. By way of example, I lay on the table a photostat of a photograph of a fairly common movable "No Waiting" sign on which is pasted just such an instruction sheet which, so far as I know, is not provided for in the Ordinance. Motorists may be forgiven for feeling aggrieved when penalized for contravening such an unauthorized sign. Accordingly, I shall be moving an appropriate amendment in committee which I hope has the support of this Council.

DR HU:—Sir, I rise to support the remarks made by my honourable Friend Dr S. Y. CHUNG on this bill.

To enact legislation to suit computers at the expense of the general public is quite wrong and I therefore urge Government to review its computer services in order to avoid any waste of public funds or a loss in administrative efficiency.

I also support Dr CHUNG's suggestion that the public would be better served if a footnote could be printed on the fixed penalty ticket, similar to that appearing on the demand note for rates, saying that a surcharge will be added if the fine is not paid on time.

I should be grateful, Sir, if the points raised by Dr CHUNG could be considered before the bill goes to committee.

SECRETARY FOR THE ENVIRONMENT:—I am grateful to Dr S. Y. CHUNG and Dr Henry HU for raising the points they have this afternoon on the computer because it enables me to correct a fundamental misapprehension about the role of the computer in this process of issuing fixed penalty tickets. As regards Mr T. S. LO's intervention, I can assure him that the Government will accept his amended clause 16 when he moves it at the Committee Stage.

As regards the computer, Sir, the fact is that the procedures would be the same whether or not they were undertaken by the computer or by an army of clerical workers and the reason is that, once a summons is issued, the matter then becomes one for the court rather than for the Government. These procedures have been in force ever since 1971 and they were agreed by the then Chief Justice and the Attorney General as being essential for the system to work. The purposes of clauses 10(b) and 15 of the bill are to put the vires of two requirements in the procedures beyond doubt, namely

[SECRETARY FOR THE ENVIRONMENT] **Fixed Penalty (Traffic Contraventions) (Amendment) Bill—resumption of debate on second reading (29.6.77)**

First—the "cut off" date for payment to the Treasury of the fixed penalty; and

Second—the late payment of fixed penalty plus court costs.

Perhaps it would help my honourable Friends to withdraw their objections if I were to explain in a little more detail how the procedures actually work. First of all, the motorist who commits an offence finds on his car a parking ticket which allows a period of seven days for payment. If this is not met, a demand note for the same amount is issued which demands payment by the expiry of twenty-one days from the date of issue of the parking ticket or ten days from the date of issue of the demand note, whichever is the later. The motorist consequently has a reminder plus a considerable period in which to pay the penalty, and there should normally therefore be no legitimate reason for non-payment.

The way in which this process fits in with the computer, by sequence of days, is as follows:—

- Day 1 — the fixed penalty ticket is issued.
- Day 4 — a copy is received in the Data Processing Division and the computer process is initiated.
- Day 16 — the computer prints a demand note.
- Day 18 — the demand note is issued by the Police.
- Day 28 — this is the last official date for payment to the Treasury of the fixed penalty.
- Day 33 — the summons is issued by the computer.

There is therefore a five-day "period of grace" before the summons is made, and, during this interval, all late payments are notified by the Treasury to the Data Processing Division and fed into the computer. Payment is therefore accepted by the Government after the due date. But it cannot be accepted after the summons is issued, because the amount is then due to the courts, not to the Treasury (I might remind the Council that the Courts are different from the executive) and the amount has also then become the \$30 fixed penalty plus \$15 court

costs. Payment of the summons may then be made to the courts in person, by agent, or by registered post and is due by day 51, that is 72 hours before the hearing in Court.

I hope I have by now made clear (*laughter*) that offenders have ample time to pay, that once the summons is issued, a different payment is due to the Courts and not to the Government and payment of the original penalty must be rejected, and that the system operates as fairly as any system can.

Whilst it is true that, if the penalty and the court costs are paid before the summons is received by the offender, this has to be rejected because the summons must be available for cancellation, such cases of payment are rare in the extreme. I repeat that the summons has to be available for cancellation by the Courts.

I should add that without the computer all these procedures would have to be carried out by hand and a large number of staff would be required. The computer is therefore no more than the tool of its execution and it is quite untrue to say that what is done is dictated by computer procedures.

In view of what I have said, Sir, I am afraid that the Government cannot consider amending clauses 10(b) and 15 of the bill which do no more than confirm the practice of the last six years. I hope, however, that, having heard my explanation, my honourable Friends will no longer feel called upon to vote against these clauses.

DR CHUNG:—On a point of clarification, will the Secretary for the Environment explain more clearly to the Members and the general public what is the difference between the Courts and the Treasury as far as receipt of money is concerned?

SECRETARY FOR THE ENVIRONMENT:—Sir, they are two different organizations. The Treasury, as I have said, is part of the Government, that is the executive; and the Courts are part of the Judiciary. The two operate separately. This is a fundamental constitutional principle.

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) (NO 3)
BILL 1977

Resumption of debate on second reading (15th June 1977)

Question proposed.

MR PETER C. WONG:—Sir, the existing law relating to the throwing or dropping of things from buildings to the danger of the public is contained in section 4(26) of the Summary Offences Ordinance, Chapter 228. It reads as follows:—

"Any person who without lawful authority or excuse wilfully or negligently in or near any public place drops or allows to fall any building material or other things to the damage or danger of any person shall be liable to a fine of five hundred dollars or to imprisonment for three months."

The Summary Offences Ordinance came into force on 1 January 1933 and for nearly 45 years section 4(26) has remained virtually unchanged, although the ordinance itself has been amended no less than 38 times.

With the increase in population and high rise buildings, the provisions of this section have proved to be inadequate in dealing with this particular type of offence which in recent years has become a positive threat to public safety. In 1976 several people were killed and a number of persons injured as a result of objects dropped from buildings.

The Summary Offences (Amendment) (No 3) Bill 1977, which seeks to strengthen the existing law, is therefore to be welcomed.

The main changes proposed are:—

1. The bill imposes a strict liability. There will be no necessity to prove either wilfulness or negligence.
2. A substantial increase in the maximum penalty. For dropping things from a building, the offender will be liable to a fine of \$10,000 and imprisonment for 6 months. For dropping objects from a building under construction, repair or decoration, the offender will be liable to a fine of \$50,000 and imprisonment for one year.
3. The principal contractor on the site and the contractor carrying out the construction, repair or decoration will be jointly liable for any offence committed and subject to the same penalty as the actual offender.

4. The occupier of premises where an offence is committed will be similarly liable and subject to the same penalty.
5. It will not be necessary to prosecute the actual offender before action may be taken against the contractor or the occupier.
6. The occupier or the contractor will not be able to plead that the offence was committed without his knowledge or consent. But he may be exonerated if he can prove that he had taken all reasonable preventive measures and could not reasonably have prevented the offence.

The adhoc group set up by the Unofficial Members wholeheartedly supports most of the changes proposed. The substantial increase in penalty is necessary and appropriate, and may prove to be a deterrent. It is fair to make the contractor liable, because, very often, by taking quite simple precautions danger to the public could be avoided. Most of the other changes are measures introduced to strengthen the effectiveness of the law.

However, the group is not convinced that it would be justified to extend liability to the occupier of premises, even considering the exigencies of the moment. It is more politic than just and on balance justice must override expediency. The group would therefore like to see the occupier's liability deleted from the bill and, in this, it has the support of the other Unofficial Members of this Council. I am pleased the Attorney General has agreed to drop this questionable provision.

We are faced with a worrying situation to which there is no simple solution. The basic problem lies in the difficulty in identifying the offender and in pinpointing the exact location from which the object is dropped. It is hoped that this bill, when it becomes law, will reinforce the efforts now being made through the mass media to discourage this type of offence. People who are prone to commit the offence contemplated by this bill must be taught to behave. Perhaps the most effective way is to encourage responsible social behaviour through well planned campaigns commensurate with the gravity of the situation.

Sir, I support the motion.

THE ATTORNEY GENERAL:—I readily recognized Unofficial Members' concern about the proposal that occupiers as such should be liable if things are dropped or fall down from their premises. I have accepted their advice and I confirm that in Committee I shall move the deletion of the relevant provisions. Perhaps, Sir, I may be permitted

[THE ATTORNEY GENERAL] **Summary Offences (Amendment) (No 3) Bill—resumption of debate on second reading (15.6.77)**

to add that in my view the defences which I considered it necessary to provide would have limited the effectiveness of the proposal in any event.

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.

JUBILEE SPORTS CENTRE BILL 1977

Clauses 1 to 27 were agreed to.

SALE OF GOODS (AMENDMENT) BILL 1977

Clauses 1 to 10 were agreed to.

**FIXED PENALTY (TRAFFIC CONTRAVENTIONS)
(AMENDMENT) BILL 1977**

Clauses 1 to 15 were agreed to.

Clause 16

MR T. S. LO:—Sir, I move that clause 16 be amended as set out in the paper before honourable Members.

Proposed amendment

Clause

16 That clause 16 be deleted and there be substituted the following—

"Amendment of section 21. **16.** Section 21 of the principal Ordinance is amended by inserting after subsection (2) the following new subsection—

"(2A) In any proceedings in respect of a contravention of section 9 any sign, being a sign in accordance with a diagram in the First Schedule to the Road Traffic (Parking and Waiting) Regulations, erected in any place shall be deemed to have been lawfully erected until the contrary is proved, and the fact that such a sign differs slightly in size, colour or type from a sign prescribed in the said First Schedule shall not affect the validity of such sign so long as the general appearance of the sign is not thereby materially impaired.".

The amendment was agreed to.

Clause 16, as amended, was agreed to.

Clauses 17 to 19 were agreed to.

Council then resumed.

Third reading of bills

THE ATTORNEY GENERAL reported that the

Jubilee Sports Centre Bill 1977

Sale of Goods (Amendment) Bill 1977

had passed through Committee without amendment and that the

Fixed Penalty (Traffic Contraventions) (Amendment) Bill 1977

has passed through Committee with an amendment and he then moved the third reading of each of the bills.

Question put on each bill and agreed to.

Bills read the third time and passed.

Unofficial Member's Bill

First reading of bill

ZETLAND HALL TRUSTEES INCORPORATION (AMENDMENT) BILL 1977

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

Second reading of bill**ZETLAND HALL TRUSTEES INCORPORATION
(AMENDMENT) BILL 1977**

MR LOBO moved the second reading of:—"A bill to amend the Zetland Hall Trustees Incorporation Ordinance."

He said:—Sir, the purpose of this bill is to amend certain provisions of the principal ordinance so as to give wider power to the Zetland Hall Trustees of investment of its funds and to make provision for the distribution of the assets of the trustees in the event that the trustees can no longer serve any purpose for the benefit of the freemasonry in Hong Kong.

The necessary changes are summarized in the Explanatory Memorandum to which there is nothing I can usefully add.

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

Question put and agreed to.

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 27th of July.

Adjourned accordingly at ten minutes to four o'clock.

