

Revised Title Page

# **Government Transport-land Use Planning and Development by Implicit Contract for Franchised Buses and Ferries in Hong Kong: 1933 to 1972**

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# **Government Transport-land Use Planning and Development by Implicit Contract for Franchised Buses and Ferries in Hong Kong: 1933 to 1972**

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## **Abstract [Rewritten, per Editor Point 2; Referee 2 Point 4]**

As a contribution to policy research on monopolies in planning for public utilities and the role of the state in ordering the coordination of land use and transport in a market economy, this paper evaluates a couple of hypotheses informed by the Coasian economic concept of an implicit contract. This states that there have been public subsidies to franchised bus and ferry companies in Colonial Hong Kong in the form of concessions in land premiums and discusses its spatial land use-transport implications. The hypotheses were evaluated by a comprehensive archive survey and documentary analysis of the clauses in relevant franchise documents, Crown Leases, government memoranda, and expert writings on buses and ferries. The findings revealed that there was no real land price subsidy provided for within or outside the franchise or lease documents, but there were substantial indirect subsidies during the study period. These were provided not only in terms of the free provision of bus terminals and piers, but also their planned combination on government land, as well as the strategic positioning of bus terminals in newly-developed government housing estates and new towns. The land use-public transport planning strategy shaped the urban structure of Hong Kong prior to the takeover of the companies by developers. The critical role of the government vis-à-vis developers as a super landlord was discussed.

**Keywords:** Implicit contract, franchised monopoly, bus terminal, ferry, developer [Revised, per Referee 2 Point 5]

**Preamble** [Added, per Editor Point 2; Referee 2 Points 4 & 7]

In order to formulate better policies for public transport, researchers have sought to review the history of regulations. Good examples are the works of Coase (1974), Hey (2004) and Mulley (1983, 1998). This paper is, in a sense, in the same genre as these studies, but has a specific theoretical focus on economics and planning.

The original purpose of this paper was to investigate if there was any implicit pecuniary consideration that was outside the remit of written franchise licences by the state for franchised buses and ferries it regulated. The motivation for this investigation stemmed from such practical planning issues as the proper regulation of public utilities that are legally protected, the privatization of government monopolies (proponents of which rely on the findings of constant, if not decreasing, returns to scale), the efficient pricing of decreasing costs or natural monopolies (Coase 1946), and far more abstract theoretical issues, such as the genesis of government-protected monopolies in the first place (Coase 1959; Lai and Yu 2002) and the choice of their modes of pricing (Lai et al 2008a, 2008b).

In the process of searching for pecuniary considerations that did not fall within the terms of the franchise agreements, we discovered that the real subsidies were not monetary, but non-pecuniary and spatial, and that the state had contributed greatly to supporting the franchised public utilities through physical planning under a leasehold land system. The morphology of such planning and some implications of this peculiar system of land tenure for the planning of public bus and ferry transport systems were discussed.

**Background** [Added, per Editor Point 2; Referee 2 Points 4 & 7]

Consider this criticism of the land administration of lease modifications in *Land and the Ruling Class* in Hong Kong:

Through the workings of the lease modification system, developer conglomerates that acquired utility or public service companies have been able to exploit land assets in those companies. Idled utility sites or public bus depots have been converted into lucrative residential or commercial properties via using that system. This brings out the question of social justice and efficient use of land, the single most valuable natural resource that Hong Kong possesses (Poon 2006: p.111).

There has been a growing local public concern in Hong Kong over the takeovers of franchised public utilities by consortia controlled by private development oligarchs and the conversion of government land allocated many years ago to these public utilities on leases for depot and plant use into private office, commercial, and residential developments. It has been suspected that such takeovers were just a means to obtain cheap land for quick profit via real estate redevelopment rather than being socially beneficial long term investments in public utilities. Regarding franchised public bus transport, which is Hong Kong's dominant mode of domestic public transportation (by 2009, franchised buses still claimed 33% of all internal transport trips, whereas heavy railways captured an equal percentage), Kowloon Motor Bus (KMB); New World First Bus (NWFB) and its predecessor, the China Motor Bus (CMB), which lost its franchised routes on 1 September 1998; and CityBus (CB) are all owned either by developers or have a strategic partnership with a developer. The same applies to the public ferries – Star Ferry (SF) and New World First Ferry – of which the latter took over the bulk of the passenger fleet from Hong Kong Ferry (originally called Hong Kong & Yaumati Ferry (HYF)) in 1998.

Critics considered the control of franchised public utilities by developers to be not only harmful to the proper operation of these utilities, but also unfair to the public, as the land assets involved were obtained at a low cost. Public suspicion of the oligarchic structure of the

developers fuelled occasional protests against the monopolistic control of the land and transport markets, as well as “collusion” between the government and big business.

The looming criticism of developers in relation to the use of the land assets of bus operators should not be viewed in isolation, but interpreted from a public policy development point of view in the wider constitutional context of post-colonial Hong Kong, now witnessing “rising public mistrust of the government and intensifying grassroots grievances” (Lau and Kuan 2000: p.1024). It is hoped that our project will provide the public and policymakers with a better-informed picture of a key dimension of everyday life in Hong Kong – bus transportation – as well as its real estate implications.

Interestingly, there has never been any suggestion by critics that the bus franchises, which have, since 1933, always been granted on a geographical, or bundled, route basis to private firms, be nationalized or replaced by a public corporation, as in the case of London Transport in the past, or “liberalized” into an unprotected competitive market with a lot more operators, as in the case of Britain today. They simply want them to keep fares low and run more and newer buses on all the routes allocated. However, they also keep an eye on how the land holdings of public utilities are transformed into real estate developments, a process which has apparently also happened to British bus garages.<sup>(1)</sup> Besides, there is a body of international literature that generally praises the Hong Kong economy as a successful case of a *laissez faire* system – a characterization that was seriously disputed by Poon (2006) and questioned by the late Milton Friedman (2006) shortly before he passed away – and that its bus market is among the most open in the world (Hibbs 1985, 1986). In addition, overseas observers (for instance, Rowlands 2009) generally found the local bus industry to be admirably profitable without the need for direct government subsidies and excellent in terms of service quality. The same could have been said about the two franchised ferries up until the opening of the first tunnel across Victoria Harbour in 1972.

The rest of the paper is organised into 6 sections. The transport and planning research issues and context are discussed, followed by a general exposition of the general hypothesis and approach to the subject matter. Then, a statement of the specific hypotheses to evaluate and of the methodology and data used is made. Next, the history of franchised bus and ferry operations in Hong Kong is reconstructed prior to a presentation of the findings for the specific hypotheses and their interpretation. The conclusion recapitulates on the nature and contribution of this paper.

### **The Research Issues and Context [Added, per Editor Point 2; Referee 2 Points 4 & 7]**

The question is: was there any real government concession in land cost beyond the terms of the franchise agreements and, if yes, what actually was the concession? This question pertains to a basic area of public policy and theoretical concern, namely legally created or franchised monopolies. These involve such policy issues as the proper regulation of public utilities that are legally protected, privatization (proponents of which rely on the findings of constant returns to scale), efficient pricing for decreasing costs or natural monopolies (Coase 1946), and theoretical issues like the genesis of government-protected monopolies in the first place (Coase 1959; Lai and Yu 2002) and their efficient pricing (Lai et al 2008a, 2008b).

The theoretical issue that this paper engages in is the notion of *implicit consideration*, which is derived from the theory of an implicit contract first developed in labour economics to explain why employers do not reduce wages when there is a slump. Neo-institutional economists have found “implicit institutions” and “implicit relation contracts,” or “implicit contracts,” to be significant phenomena in economic life (see, for instance, Kasper and Streit 2001: pp. 99-100, 207). While these institutions and contracts are generally conceived within organizations, it is possible to expand their concept to cover relationships between contracting parties, as in the case of labour economics or franchise agreements, which is a subject matter of this project. The benefits of such contracts are not legally enforceable, as there is no explicit oral or written rule stating that they must be, but they are experienced by parties to a contract to the extent that if

such benefits are discontinued, then a party may seriously reconsider its intentions to renew any contract. The idea of an implicit contract has been adopted by public economists to deal with the practical issue of compensating regulated utility companies for sunken investment costs lost when the government opens up a market. It has been argued that under these circumstances, an implicit contract exists in that compensation is warranted (Boyd 1998). This paper seeks to transfer this application to public bus and ferry franchising under the terminology of implicit consideration.<sup>(2)</sup>

The concept of implicit consideration advanced here can be considered “Coasian” in the sense that it is a means of reducing transaction costs to better achieve the terms of an existing contract, or the explicit franchise agreement. The Hong Kong Government enforces the bus franchises in favour of the franchisees, while it prosecutes the operators of unauthorized private bus services and other types of authorized bus service that pick up or drop off passengers in franchised bus parking zones. What implicit benefits besides such explicit contractual protections were provided by government?<sup>(3)</sup> Prior to examining this factual question, there is a need to elaborate on the relevant research on transport and land use planning to better position this paper.

Economic research on public transport, notably bus franchising, has accumulated a rich corpus of knowledge on the question of *economies of scale* with a view to evaluating the efficiency implications of regulating or de-regulating public bus and equivalent services (Hibbs 2003, 2007); and on the question of the economic nature of *franchising*. Interestingly, these two intimately-related questions are seldom jointly treated.

As regards the first question, instances of constant returns to scale, not to mention diseconomies of scale, are generally held as grounds for supporting the privatisation of state transport monopolies. A classic example is the case of UK bus operators in the 1920’s, which were found to have enjoyed no more than constant returns (Mulley, 1983, p. 8). Scale economies

are basically an empirical question. Constant returns to scale was the finding in the studies by Koshla (1972) and Lee & Steedman (1970). Diseconomies of scale can be found in the studies by Wable & Cole (1975), Koenker (1977), Obeng (1985), and Filippini & Prioni (2003). Moreover, good examples of diseconomies can be found in the studies by Williams (1979), Viton (1981), and Berechman (1983).

As regards the second question, the focus has been on the evolution of the grounds for and structures of franchises as well as the means of granting or capturing such franchises in the past. A well-known recent development informed by property rights economic reasoning is to conceive of the state as a monopoly of “curb (kerb) rights” (Klein *et al.*, 1997), which kindles the need for a neo-institutional economic model of bus and ferry franchises. The common ground of various lines of research is that the state is allocating a bundle of legally protected rights and/or economic concessions via the franchise agreement to public bus or ferry operators in return for some fiscal revenue as well as whatever social considerations may be seen to be in line with prevailing public policy. This way of abstraction has two salient features. First, the generalization is one of *pure exchange* because the role of the state is merely as an auctioneer of monopoly rights. It is not conceived as being involved in any *planning* or *coordinated production* activities. Second, the model is *a-spatial* as land use is not factored into it.

This paper is a pioneering attempt to evaluate the second theoretical question using Hong Kong historical data and experts (operators and officials) in the field to examine the potentially active involvement of the state in *investment* decisions (i.e. makes forward looking and innovative decisions under uncertainty) as well as in activities with a *land use planning and development* dimension. Though not being expressly promised entitlements, these state endeavours can be understood as ingredients of an *implicit contract* that forms part and parcel of the formal public transport franchise.

In this connection, it is worth noting that while there have been few planning articles specifically dedicated to bus transport since the 1950s and 1960s (Green, 1952; Dickinson, 1961) except Bell & Cloke (1991) and Martin *et al.* (2008), the role of buses in land use planning policies and research has not waned, as can be seen from the chain of work by Smeed (1964), Proudlove (1968), Banister (1994), Sim *et al.* (2001), Bunker & Searle (2007), Jenks & Dempsey (2007), Ji & Gao (2010). Research on ferries has recently gathered momentum in planning, as exemplified by the articles of Gitlesen & Thorsen (2000) and Pooley *et al.* (2006). However, research on the role of land use planning in supporting the actual operations of franchised buses and ferries as part of a covert state undertaking is rare. This is interesting, as the relationship between land use and transport is cardinal in planning policy formulation. The landmark works of Buchanan (1956) and the famous “Buchanan Report” *Traffic in Towns* (Buchanan & Crowther, 1964) remain standard references for subsequent reviews, such as those by Batley (1996), Pharoah (1996), and Ward (2007). Yet Buchanan’s emphasis between land use and transport has not stimulated examination of how district or even site level planning of bus depots and terminals could influence bus operations.

The concept of implicit contract was first developed in labour economics to explain why employers do not reduce wages when there is a slump. It has been subsequently adopted by public economists to deal with the practical issue of compensating regulated utility companies for sunken investment costs lost when the market is opened by government. It is argued that in the circumstances there is an implicit contract or “implicit compact”, such that compensation is warranted (Boyd 1998).

## ~~The Hypothesis~~ **General Hypothesis and Approach**

Applying the concept of an implicit contract to regulated transport operators, it could also be argued that the state has always been doing something implicit in favour of any franchised monopoly since its genesis, as in the case of the employer tacitly undertaking not to reduce the employee's wage in less profitable times. In this paper, we seek to examine if there is any similar implicit help given by government infrastructural planning and development directly related to the operation of privately run ferries and buses. Granted that UK bus operators in the 1920's enjoyed no more than constant returns (Mulley, 1983, p. 8) if not decreasing returns to scale *ceteris paribus*, nonetheless such an implicit contract should help create a decreasing cost environment for the franchisees who, in a *quid pro quo*, would be capable of practising efficient multiple pricing (Coase, 1946). This would also serve a social transfer objective as an alternative to nationalisation or other forms of controlling a public utility for efficiency or equity reasons.

The foregoing consideration of argument was evaluated by a case study of the provision of public bus and ferry services in colonial Hong Kong up to the opening up of the first harbour tunnel in August 1972. This event opened a new chapter in public transport for the British colony in terms of technology and economics as well as in governance. The opening up of the harbour tunnel (amazingly without a rail line) saw the beginning of the initially slow demise of the ferries and coincided with the end of the *de facto* geographical monopoly of the two franchised bus companies. Public buses and ferries ceased to be purely complimentary goods and started competing with, and at the same time serving as feeders for each other. This case study of franchised buses has to be tied-in with franchised ferries – because together they were a single public solution to the problem posed by the natural barrier of the bridgeless, but strategically vital Victoria Harbour.

An important idiosyncratic institutional feature of this case study is that the Hong Kong ~~Government~~ had no local government and [Referee 1 Point 2] Government was the landlord of all land (and water) and, given its constitutional status, had an absolute say in land and planning

matters not easily found on other jurisdictions. However, the analysis should not therefore be regarded as no more than an Aristotelian accident. That is not least because public investment in transport infrastructure can hardly be justified as being theoretically separable from public transport franchising. In addition, there is the need to jointly consider that land use and transportation in transport theory had intellectual roots in the work of Sir Patrick Abercrombie (Abercrombie, 1933), which predates the classic “Buchanan Report” (Buchanan & Crowther, 1964). The former has now been receiving renewed interest under the auspices of ‘sustainable development’ (Haywood, 2005).

Furthermore, this inquiry should contribute to the better re-interpretation of the source of the most important version of the Coase Theorem, “The Federal Communications Commission” written by Nobel laureate Ronald Coase (1959). This version, formulated by Cheung (1992) can be stated as “the delineation of property rights is the prelude to market transactions.” In this less well known work, Coase examined the US Navy fostered genesis of American regulation of the use of radio frequencies. This case of invisible overcrowding is directly comparable to visible traffic congestion on highways as a good example of an externality in which there is no particular culprit as every user is a source of the problem of interference and jamming. Coase argued that auctioning radio frequency bands to the highest bidder is a better solution than discretionary non-price allocation by the Federal Communications Commission (FCC). Had Coase examined the ways in which bus and ferry franchises in 1950s Hong Kong were dealt with, and related these to his historical study of the lighthouse in 1974 (Lai, Davies and Lorne, 2008a, 2008b), we would have seen a much better argued Coase Theorem. In any event, the Coase Theorem is a pure exchange model that does not accommodate production or investment.

In our case study, the history of Hong Kong public bus and ferry regulation is reconstructed with the focus on the periods of franchises; the nature of key express contractual arrangements; and the government efforts in providing land for ferry piers in tandem with bus termini as well as

for operator yards and depots. These infrastructural facilities are hypothesised to be the main implicit contract consideration provided by the government.

This Hong Kong study should be interpreted in the light of the findings that the franchised ferries and buses did complement each other in terms of turnovers and enjoyed *positive* returns to scale in the period.

Why is Hong Kong so interesting for transport research? The reasons are many, but the prime consideration is that while its bus and ferry fleets are among the largest in the world, they have always been able to operate as private concerns without direct public subsidies, and yet they are franchises that have to pay the government royalties and/or taxes. Hibbs (1985) also found that Hong Kong's bus industry was highly open on a comparative basis. While ferries were mainly locally built, as Hong Kong was one of the best ports of the British Empire, most buses were imported from the UK and run on highways following traffic regulations modelled after British laws. This means that Hong Kong is an ideal case for a debate over libertarian transport policies.

### **The Hypotheses, Methodology, and Data [Methodology added, per Editor Point 2 and Referee 2 Point 8]**

To find out whether or not there have been public subsidies to franchised bus and ferries companies in Colonial Hong Kong in the form of land premium concessions during the period January 1933 to August 1972, we formulated two hypotheses to inform our evaluation:

Hypothesis 1: The *conditions of the franchises* of KMB, CMB, SF, and HYF from 1933 onwards did guarantee government concessions regarding their land acquisitions for garages, depots, shipyards, and workshops.

Hypothesis 2: The *Crown (Government) Leases* (or other title documents) for KMB and CMB's garages, depots, and workshops and SF and HYF's shipyards were obtained by way of private treaties rather than by auction or tender.

The start year was the first time public buses were regulated by government franchise, while the end time marked the opening of the first tunnel across Victoria Harbour – an event that fundamentally transformed the relationship between the bus and ferry from a complementary into a competitive one as “tunnel bus” routes were introduced.

The methodology for evaluating Hypotheses 1 and 2 was a comprehensive archived survey of three major categories of relevant public information: franchise conditions, government memoranda, and Crown Leases relating to the land assets of bus and ferry companies. Photocopies of the first two categories of documents were obtained from the Public Record Office (PRO), while those for the third were purchased from the Lands Registry.

The first step in the data mining and interpretation process was to obtain the franchise documents from the PRO. To do so, there is a need to identify the number and years of each franchise grant and renewal. This was taken after a careful reading of the following sources of public information: the government’s annual reports, the annual reports of each franchisee, and specialist books on the bus and ferry companies by expert authors, notably Chan (1999), Davis (1994, 1995 ) and Johnson (1998 ).

The second step was to identify the locations of the land assets of the franchisees devoted to construction, maintenance, and repairs of buses and ferries. This was taken after a careful reading of the same sources of public information mentioned in step one above.

The third step was to obtain the land documents for these assets from the Land Registry or the PRO. These documents could be Crown Leases, under which land parcels were directly obtained from the Crown or Assignments, from which they were purchased from other individuals.

The third step involved the identification of the lot numbers of the land parcels according to the Lot Index Plans maintained by and deposited in the Lands Department for public inspection. Where the land parcels used as depots or yards have not been redeveloped, the Crown Leases or

assignments could be purchased from the Land Registry. Where the sites have been redeveloped and, hence, resulted in the execution of new lot numbers and Conditions of Exchange (which were deemed to be Crown Leases when all positive covenants were fulfilled under the *Conveyancing and Property Ordinance*) then the old Crown Leases and Assignments had to be obtained from the PRO, which keeps all superseded Crown Leases and Assignments.

The last step was lease interpretation. Hypothesis 1 would be refuted if: (a) there is no government promise of any type of concession in the land supply for depots and yards in terms of location, time, or premium and/or (b) there are, in fact, burdens imposed on the franchisees in order to obtain land for bus terminals, ferry piers, depots, and yards.

Hypothesis 2 can be easily verified by reading the applicable Crown Leases to see if they were obtained by way of private treaty grants (PTGs), auctions, or tenders. Land parcels obtained by PTGs under Hong Kong's land administrative system always attract concessionary, if not token, premiums, especially if there is no open competition in the market. If such land parcels were obtained from the government using any method other than a PTG, Hypothesis 2 would be refuted. In case land parcels are obtained second hand by way of assignment, this hypothesis would also be refuted.

Hypothesis 1 is not refuted if there were government guarantees for the provision of cheap land, which would be a pecuniary benefit for the franchisees. In that case, there would be factual support for the criticism that developers that control the public utilities unfairly converted such land for other uses.

If Hypothesis 1 is refuted, then the idea of an implicit pecuniary benefit would be out of the question if Hypothesis 2 is also refuted. (The land administrative system of Hong Kong's leasehold system sells land at market prices through open auctions or tenders and at a concession

by way of private treaty.) However, this would not rule out any non-pecuniary benefit, the existence of which is a matter of speculation.

Prior to presenting the findings for the specific hypotheses, produced below is the history of government franchising of bus and ferries reconstructed according to our documentary study.

### **The State in the Formation and Regulation of Transport Monopolies in Hong Kong**

Narratives of Hong Kong public transportation typically (as can be found in such research endeavours of transport students and officials as Chow (2006), Wong (1995), Pang (2001), Su (2001), and Wong (2001)) commence with the year 1933 when government franchises were granted to the China Motor Bus Company Limited (CMB) and Kowloon Motor Bus Company Limited (KMB) to complete a process of regulating public passenger conveyances that had begun with the control of ferries, namely the “Star” Ferry and those run by the Hong Kong and Yaumatei Ferry Company Limited (HYF). Academic research on public transport in Hong Kong approached the question of transport policy from an administrative, or a user, angle (Barden, 1986; Barden & Runnacles, 1986; Hills, 1984; Cullinane, 2003; Lau & Chiu, 2004; and Lam *et al.*, 2005) and rarely dealt with specific transport planning infrastructure or land supply.

The former two companies obtained a *geographical monopoly* of running public buses, respectively, on Hong Kong Island and on the mainland (Kowloon and the New Territories). “Star” Ferry got an exclusive right to use a pier at Central and another at Tsimshatsui in 1912, whereas HYF obtained exclusive rights to operate passenger ferry services linking other designated spots in the Harbour in 1923 initially on 3 routes and later also a vehicular-passenger service in 1928, which commenced operation in 1933.

The history of franchising public bus transport in Hong Kong, particularly the relationship between what happened in the colony and in the United Kingdom under the *London Traffic Act*,

1924; *Road Traffic Act*, 1924 and the *London Passenger Transport Act*, 1933, is an under-researched area. While the formative years of bus franchises in Hong Kong happened to be the same as those for London buses (Hibbs, 1972), there is no evidence that the Hong Kong model aimed at protecting the interests of franchised *trams* as researchers have identified for UK (Mulley, 1983). Indeed in 1919 the Government had turned down an application made in 1913 for duplicating on the Kowloon side of the harbour the existing tram service along the Hong Kong Island shoreline (Leeds, 1986, p. 29). Furthermore, an analysis of franchised buses in Hong Kong would be defective if it was divorced from the franchised ferries (and any substitutes), and vice versa, due to the geographic nature of urban Hong Kong since 1860 as one separated by the natural barrier of Victoria Harbour.

### *Buses*

According to the historical survey of Leeds (1986, p. 24), a Commissioner for Transport, the earliest record of regulating buses in Hong Kong can be traced to 1921 when an amendment was made to *The Vehicles and Traffic Regulation Ordinance* “with the intention that exclusive rights for running a motor bus service in Kowloon and New Kowloon would be granted in the near future.” It was said by the Attorney General, speaking in the Legislative Council, that “A monopoly for a term of years is thought best for two reasons. In the first place, it will enable the Government, by control of vehicles, and fares and other things, to secure a better service, generally, for the public. It will also enable the Government to secure that there shall be a service to certain outlying districts, from time to time, which would probably would not be served under a system of free competition.” Prior to 1933, the bus operators on Hong Kong island included the Hong Kong and Shanghai Hotels Limited; Hongkong Tramways Limited (operation commencing in 1927, buses sold to CMB in 1933); and the Aberdeen ‘Kaifong’ Association (Davis, 1994, p. 4; Leeds, 1986, p. 23). Those across Victoria Harbour on the Kowloon side included the KMB (founded in 1921 with 9 lorry buses), Kai Tack Motor Bus Company

(founded in 1923 and brought by Hong Kong Tramways Co. in 1928), CMB (commencing 1924), Nam Hing Bus Company (service between Yuen Long and Sheung Shui from 1922 till 1933), Cheung Mei Bus Company, Chun Hing Bus & Co. and Hong Kong and Cowloon Taxicab Co. (Davis, 1995, p. 2-11; Leeds, 1986, p. 23). Tenders were called for by Government in September 1932 and monopoly rights were awarded to CMB and KMB to operate respectively on Hong Kong Island and the rest of Hong Kong.

Our study period covers 4 franchise periods. From licences discovered in the Public Records Office, the first franchise cycle for both bus companies ran for 15 years from 11 June 1933 under *The Vehicles and Traffic Regulation Ordinance 1912* (the 1912 ordinance). This was interrupted by the Battle of Hong Kong and Japanese occupation from 8 December 1941 to 15 August 1945. The second period ran from 15 February 1947 under another licence that followed the 1912 ordinance, followed by the third, also under the 1912 ordinance, which was a brief transitional period till 13 August 1959. The fourth started according to licence under the *Road Traffic Ordinance 1957* on 14 August 1959 to end 15 years later in 1974. In September 1969, the Government officially regularised the status of minibuses which, in violation of the franchises, had been illegally competing with the franchised buses. As a quid pro quo, the Government paid compensation to the two franchised companies: HK\$5.2 million to KMB and HK\$4.3 million to CMB and structured a “financial package” which permitted their profit to be 15% of net fixed assets with a great reduction in royalties from 20% to 15% of gross receipts and finally, in 1970/1971, to zero.

### *Ferries*

As regards ferries, our study period covers two regulatory cycles for the “Star Ferry” and three for HYF. As regards the “Star Ferry”, the first period started in 1933 and ended in 1948 after a period of 15 years. The second commenced in 1949 and lasted 30 years to end on 31 January

1979 (Johnson, 1998, p. 98). As regards HYF, the first one started in 1933 and ended in 30 June 1948 (Leeds, 1986); the second, as shown on a licence found in the Public Records Office, lasted from 1 July 1948 for 15 years under *The Ferries Ordinance 1917*; and the third went beyond our study period and ended in 1979 .

The history of the public ferries in Hong Kong could be traced back to 1880 and the first regular harbour crossing ferry service <sup>(4)</sup> The “Star” Ferry Company took the service over when the company was formed in 1898. The only specialist study on regulation of ferries in Hong Kong by Leeds (1986) traced the history of control back to 1893. “By 1893 there were 61 steam launches licensed to carry passengers plus 53 private launches, [and] Government regulation of the ferry services was minimal except through the conditions relating to the *lease of piers*.” (Leeds, 1986, p. 14 *Italics authors*) We have reasons to believe that the colonial inception of ferry regulation could have happened much earlier. Johnson (1998) referred to the introduction of new vessels in 1900-01, “In the meantime the wrangle with government over passenger licences was settled...” In short, there was obviously a regulatory layer covering the standards required for vessels to be licensed to carry passengers for a fare. Johnson mentioned further (p.34) “survey and safety rules” being tightened in 1891/92. ~~Johnson and noted~~-(p.42), **[Referee 1 Point 3]** anent ordering a third double-ender in 1898, “When the rules for licensing passenger-carrying vessels were written...” without specifying clearly when that had been. <sup>(5)</sup> Apart from the “Star” Ferry, empowered in 1902 by the “Star” Ferry Company Ordinance to make by-laws to regulate its service, it was not until 1917 with the enactment of the *Ferries Ordinance* that the cross harbour services were brought under full and specific government regulatory control. This Ordinance prescribed that ferries operating in specified areas had to be licensed by the Governor-in-Council and provided powers of licensing and regulating ferries as well as for prescribing fees or any premium payable for a licence.

“In 1916, there were 16 ferry companies providing ferry services between two shores of the Harbour. Competition was very keen. Touting for passengers always resulted in serious fightings (sic)” (Kwan, 1999, p. 21).

In 1918, tenders were invited by Government for ferry services between Hong Kong Island and three districts on west Kowloon, i.e., Yau Ma Tei, Mong Kok and Shamshuipo (to the north of Tsimshatsui, which had been and remained the monopoly of the “Star” Ferry due to the land holdings by Wharf at that strategic location: across the Harbour narrows). The Four Districts Kaifong Company captured the 5-year rights to these services. In 1923, these rights fell into the hands of the newly created Hongkong and Yaumatei Ferry Company (HKF) which started operation with 11 ferry boats. New ferries routes were opened, by the HKF between Kowloon City, Hung Hom and Shau Kei Wan in 1928 (Chiu, 1973, p. 45).

#### *Harbour Bridge, Ferries, and Buses*

However, the true story of the planning for Hong Kong franchised bus-ferry services must begin with the mysterious decision of the Colonial Hong Kong Government to abandon in the idea of a harbour bridge, proposed by the Harbour Master in 1902 (Hong Kong Government, 1903). This was not a swift decision since the choice of a vehicular ferry link was not proposed by the Director of Public Works until 20 October 1926. It was to run between Murray Road (eventually Jubilee Street) and Jordan Road (Hong Kong Government, 1928) and was only discontinued when the Chek Lap Kok airport railway reclamation was in place just before 1997.<sup>(6)</sup> In any event, the 1924 Report on the Commercial Development of the Port of Hong Kong by the Port Engineer recommended a vehicular ferry link. The consulting engineers, Coode, Fitzmaurice, Wilson and Mitchell, stated, “We have given consideration to the provision of better facilities for traffic between Hong Kong and the mainland, particularly for vehicular traffic. The only feasible method without great expenditure of money is the provision of ferry boats...We consider the

cross harbour traffic between Hong Kong and Kowloon is growing sufficiently to warrant the provision by Government of a good vehicular and passenger ferry service” (Leeds, 1986, p. 31).

It was this 1926 decision that saved the ferries and shelved the concept of building a road link across Victoria Harbour until the 1940s. The decision was then retrieved and concretised in the visionary post war Abercrombie Report of 1946 (Lai, 1999), that shaped the geographical and functional relationship between public ferries and buses in colonial Hong Kong up to the end of July 1972. Government was slow in implementing the Report. The decision to build a tunnel (but minus the proposed rail) was made in 1954. The Victoria City Development Ltd. (VCD) was formed and published a consultant proposal in 1961 (Bristow, 1984). In 1966, VCD invited HYF to invest up to 25% of the venture, then new to the world, but the latter declined to accept – a serious commercial mistake that would cost the company a lot, though that matter is outside our study period. In 1969, the Transport Department was formed to coordinate all transport matters.

*A key question: was franchising a mere predatory tax machine?*

The terms of the franchise licences for KMB, CMB, and HKF found in the Public Records Office and the story of the “Star Ferry” by Johnson (1998) make it tempting for the uninformed to say that the Government was promoting British interests, as buses had to be of “British Empire (later simply British and then British Commonwealth) manufacture”; all ferries had to be “British ships” and the majority of the directors of the companies had to be “British subjects”. On a close analysis, these terms simply were expedient in ordering affairs as Hong Kong traffic laws were modelled on British equivalents and hence British buses would easily fit the local traffic regulations. There was no rule against Hong Kong making her own buses or ferries as these would be British by virtue of her status as a British colony. British subjects include locally born Chinese and indeed KMB, CMB and HKY were the businesses of three local Chinese

families. British ships, on the other hand, meant no more than that the ferries would be built in Hong Kong by Hong Kong yards and fitted with locally constructed engines of British or local design. The record indicates that this is what happened.

It was not unreasonable to deduce from the wordings of the pre-war financial reports of Hong Kong Government that franchises were merely a form of tax. The pre-war reports mentioned that franchised companies paid royalties based on gross receipts but did not disclose the rates of levy for any company. The account in such authoritative works as Hibbs (1985, 1986) notes fares on ferries and buses in Hong Kong “had been controlled by the administrators of the government and remained unchanged from 1949 to 1970” (p.120). From Public Records Office archive materials, we discovered the actual rates of royalties and other franchise terms for KMB and CMB. There was virtually no government promise of any form of assistance to the operators. Some terms could even be regressive as for instance double deckers were generally disallowed for CMB. So, to conclude that Government was a *benevolent dictator* interested in tapping the rent reaped by the franchisees from the monopolies it had created, while also capping their charges (i.e., imposing price controls) so that they could not fully exploit their monopoly power would not be amiss. For indeed it is true that the franchised companies and thus Government did reap profits, which grew slowly over the pre-war years as percentages of total revenue, as can be seen from the figures for three of the involved companies in **Table 1**.

After the war, there was an interlude in which the Government, influenced by the new British Socialist government’s strongly Keynesian thinking, sought to control profit. However, finally this was not practised and Government observed the royalty terms agreed with the operators. These terms varied with operators. For KMB, royalty during the study period was defined as a percentage of [Referee 1 point 4] by reference to gross annual receipts which grew to 20% in

1959. For CMB, royalty was charged on the basis of gross annual receipts till 1959 when the basis of levy became one of net profits.

Furthermore, one noteworthy feature of the Hong Kong bus market in the 1960s was how government was striking a balance between keeping regulated bus fares low and ensuring that alternative modes of transit were available, to the detriment of the franchised operators, as best demonstrated by the tacit police toleration of “pirates”. ~~which~~ These had emerged with government permission in 1961 as “dual-purpose vehicles (DPV)” to supplement the services of the KMB in the remote areas of the New Territories. These 9-seater PDV soon went out of their supposed village catchments and intruded into urban Kowloon. During the Communist Riots of 1967/1968, during which normal bus operation was hampered by strikes and sabotage, these 9-seater pirates also appeared on Hong Kong Island. The concept of DPVs, not to mention the outright 1969 regularisation by government of these vehicles and their transformation into 14-seater “public light buses” (PLB), patently infringed the monopoly rights of KMB and CMB. Charging uncontrolled prices which usually far exceeded the regulated bus fares, these PLBs paid government a considerable licence fee (approx. US\$500 per annum each) and triad societies “protection money”.

But would it be reasonable to suppose that the Government was simply a passive protector of British interests, a revenue/profit sharer, a price regulator, or an arbiter of monopolies? As the contractual arrangement was basically either a revenue or profit sharing scheme it follows, even though it would be wrong to equate the colonial government with a mere commercial dealer, that it would make no economic sense for government not to act positively to enlarge the grantee’s income so as to enlarge its own income. Indeed, as the landlord of all lands in Hong Kong, transport operations could be regarded as a use of land of the kind government depended on for revenue.

### *Government's Involvement in Planning and Developing Transport Infrastructure*

From 1933 onwards, a dominant civic design feature of urban Hong Kong was the combination of ferry piers with bus termini, with the Jubilee Street-Jordan Road Vehicular ferry route being the first transport hub. On the harbour map, one can see the Jubilee Street and Jordan Road pier-bus terminal as two prominent protrusions into the Harbour. The Tsimshatsui pier did not have the benefit of a vehicular ferry but equally had the advantage of a major bus terminal as well as the terminal of the government owned and run Kowloon-Canton Railway (KCR). It less clear, however, how this second complex arose since it was clearly not from a 'one off' decision to create such a hub of the kind exemplified by the vehicular ferry example. Where the "Star" Ferry is concerned the process was more sequential, with the ferry coming first, bus traffic second and finally the railway. On the Hong Kong Island side, in contrast, the creation of any sort of public transport interchange for the "Star" Ferry had to wait for the pier to be relocated in late 1957. It was said that as early as 1920 the Tsimshatsui pier, located right outside the terminus of the newly built KCR, had by 1920 a yard for buses.

This land use planning design geared towards inter-modal change, which was obviously to facilitate cross harbour passenger transport movement, was to be replicated in other areas as the city continued to expand along the waterfront on either side of the Harbour.<sup>(7)</sup> ~~Table 2~~ Good infrastructure for modal change must be critical. Indeed, a significant stumbling block for the efficiency of transport operation by the 1960s was neither the fleet size of ferries nor the buses per se but the interface between them. As Johnson (1998, p. 85) comments, "Now there was a new form of congestion...The concourse...couldn't cope with the number of passengers, Ferries...could move in and out of the piers faster than the Kowloon Motor Bus fleet could feed passengers in the mornings or take them away at night."

Looking at old maps, we established that since the 1960s, bus terminals according to the latest highways standards were also planned and built inside all government public housing estates.<sup>(8)</sup> These were located in the study period in the foothills of the Kowloon Range or remote areas on the Island and outside major new private developments, such as Mei Foo San Tsuen.<sup>(9)</sup> ~~Tables 3A & 3B.~~

After the war, new vehicular ferry piers were added to the Central route and in the 1960s, more still to serve the HYF North Point-Kowloon City<sup>(10)</sup> and North Point-Kwun Tong (commencing beyond the study period) lines.

All ferry piers we found were built on government land and all HYF piers were designed, built, and maintained by government. All bus termini were designed, built and maintained by the Government for use by franchised operators. They were used by the franchisees without the need of any payment.<sup>(11)</sup> Buses were often completely full when they departed their quay side or housing estate bases during rush hours and profits were guaranteed.<sup>(12)</sup> The bus terminals had such basic facilities as covered bus-passenger platforms and control rooms for bus inspectors. Public toilets could only be found in the tolled area of ferry piers and were not a feature of bus terminals during the study period. Alan Cheung's photo in Johnson (1998, p. 65) shows that a covered waiting platform for public transport access had been available at Star Ferry's Tsimshatsui Pier as of the 1930s. However, most bus termini in Hong Kong had no bus platforms, not to mention canopies, till the 1960s. At the time when the Tsimshatsui bus terminus had got its concrete covered bus platforms, the Jordan Road Ferry bus terminus remained very Spartan in design (Photo 1), which can be compared with the much better designed North Point Passenger Pier and Ngau Tau Kok bus termini (Photo 2). Basic as they were, these were generally considered adequate by planning and social standards at the time. However, bus and ferry terminals serve many pivotal purposes in transport operations (Steer 1979), particularly because

they allow “traffic recovery time”<sup>(13)</sup> for the vehicles or vessels so that the latter could better keep to their planned schedules. Besides, bus terminals are easily-guarded locations for the overnight parking of buses that could not be accommodated in bus depots.<sup>(14)</sup> Although these general benefits of bus terminals should be viewed in light of their actual designs (Thrower, 2009), until the 1980s, the combination of ferry piers and bus terminals worked well for operators and passengers.

Besides piers and terminals, the Government also leased at a premium to HYF<sup>(15)</sup> and the two franchise bus operators’ yards for the construction, maintenance, repair and storage of ferries and buses as well as quarters and even schools for staff and dependents. (**Table 1**) The locations of the depots and yards over the years were identified from an exhaustive search of all available old telephone directories, government annual reports, and the lease terms – the last of which was accomplished through a search of the title documents at the Land Registry and the Public Records Office (in the case of HYF/HKF).<sup>(16)</sup> The small fleet of the “Star” Ferry, being a member of the Hongkong and Kowloon Wharf & Godown Company, was built and serviced at the Hong Kong & Whampoa Dock Company facilities at Hung Hom.

It is an interesting discovery, to the amazement of the authors accustomed to the norm of “private treaty grants” of government land to regulated public utilities, that not KMB, CMB, nor HKF obtained these yards free. They had purchased them from the government in land auctions during the study period when the economy of Hong Kong was still very fragile. Land for the facilities was hardly cheap. In any event, these depots and staff quarters were to become the most valuable company asset for the franchisees as land prices escalated with economic and population growth.<sup>(17)</sup> At the time they were purchased, they served the immediate operational and staff needs of transport operators.

An additional key government facility for ferries in sub-tropical Hong Kong often visited by typhoons in the summer was the reservation for ferries, at some point in the post-war period, of guaranteed mooring spaces in publicly provided typhoon shelters during periods when the No. 8 signal was in force.<sup>(18)</sup> Given the crowding in typhoon shelters (and the rental government charged for a space), ensuring that sufficient space was always ready for the ferry fleet would have been a huge foregone rental by government, since the ferries would have been the largest vessels accommodated and, even moored up side by side (as they were) would have taken up a lot of space.

The first depot KMB constructed for buses was begun in 1955 at To Kwa Wan and was completed in 1958. Another depot at Lai Chi Kok broke ground in July the same year and was planned to be ready for occupation by the middle of 1958. Later in 1961, as services expanded, land at Kwun Tong with a total area of approximately 200,000 square feet was purchased by KMB with the intention of constructing two multi-storey depots. By the end of 1965 two three-storey bus depots had been commissioned while a third was nearing completion. These depots, which accommodated over 1,000 buses, were believed to be the first multi-storey double-decker bus depots in the world.

CMB also began depot construction in January 1957 at North Point, where the Company also set up its staff quarters and welfare centre. For garaging of vehicles at night, the stores department, machine shops, and component overhaul sections were all located on the upper storeys of the building. At a public auction in the latter part of 1958, CMB acquired a further site of 20,000 square feet for garaging its expanding fleet. By 1961, CMB also provided low cost housing for some 250 employees and their families and planned additional housing units at its new King's Road Depot.<sup>(19)</sup>

With regard to the construction of depots by both companies, the government carried out a review with public participation to examine the cost effectiveness of the companies' operations including bus depots. It began in April 1981, and was completed in June 1982, though exactly what was concluded has not yet been found by research.

As far as buses were concerned, the availability of depots enabled two technical innovations that should be conducive to scale economies. First, they allowed the import of buses from the UK as parts (basically chassis, bus body parts and engines), which could be locally assembled and reassembled in various combinations, taking advantage of much lower labour costs in Hong Kong. Second, they allowed major modification to and upgrading of buses in-situ. Modifications (especially to the locations of doors and staircase) were required to enable the move to "one-man" or "driver-only" operation<sup>(20)</sup> and upgrading, typically by replacing old engines with new and more powerful engines. The most dramatic example was the CMB's double-decking programme directed by Lyndon Rees commencing 1971 to finish in 1975 (Davis, 1994, p. 60).<sup>(21)</sup>

Furthermore, the availability of depots meant that major overhauling, regular cleaning, repair and mounting of advertisements (a major source of non-passenger revenue) could be done in house under centralised supervision.<sup>(22)</sup>

From 1945 to 1972, 672 buses of 12 new models and 1447 buses of 19 models were imported new by Hong Kong from the UK for CMB and KMB.<sup>(23)</sup> As a base for comparison, 35 second hand UK buses were exported to Macau in the study period during which not a single bus was purchased first-hand.<sup>(24)</sup> From 1945 to 1972, the new ferries built by "Star" Ferry and HYF were respectively 12 and 63.<sup>(25)</sup> This shows the local franchised companies were responsive to growth in demand.<sup>(26)</sup>

At this juncture, it is worth noting that the “Hong Kong Passenger Transport Survey: 1964/1966” by E. Dalby of the UK Road Research Laboratory (the Dalby Report), as a trip-origin and traffic management analysis in the tradition of the Buchanan Report, did not recommend public investment in such infrastructure as termini and depots but did mention the “absence of parking spaces” for buses (Leeds, 1986, p. 52), an observation which surely had a bearing on the government reservation of land on town plans and subsequently the actual construction of purpose-built bus termini suitable for overnight parking<sup>(27)</sup> and bus depots in the 1960s.

The Hong Kong Shipyard (HKS) owned by HYF at Tai Kok Tsui was the basis for HYF to construct most of its modern triple deckers on its own. In 1968 and 1969 government allowed a significant lease deal to HYF/HKS for the building and repair of HYF vessels as well as for the building of a multi-storey flatted general industrial building.<sup>(28)</sup> This valuable “surrender and regrant” exercise, executed when the decision to build the Harbour Tunnel was made, was likely to enable HYF to operate more efficiently with a stronger base.

A pure exchange model of franchising cannot accommodate such government efforts as locating, designing, building, and maintaining the passenger/vehicular ferry piers and bus terminals, and selecting and leasing at nil or nominal rent sites for depots and quarters for use by franchisees: all were transfer payments in kind to franchisees. Above all, in the original franchise agreements, the bus, and to a different and lesser extent the ferry companies were actually expressly required to provide repair plants, buildings and land as government saw fit prior to the commencement of the franchises.<sup>(29)</sup> The provision by government of land is obviously something “consideration past” in the law of contract and is in any event not actionable as it is not a term of the franchise contract.

However, the main theoretical significance of such payments is that they were allocated and/or developed at different time periods and thus should not be regarded as a one-off fixed cost expenditure. Instead they should have the benefit of lowering the long run operational costs of the operators by removing fixed factors such as limited curb space in old built up areas. Furthermore, the non-monetary terms for the bus depots and ship yards were not standard but negotiated, suggesting that there was a decision making process.

Besides, there had to be economies of scale not only because of improved fare collecting technologies,<sup>(30)</sup> but also because franchise operators invested in better passenger carrying technologies impossible to achieve without working yards.<sup>(31)</sup> This is particularly relevant with the “Star” Ferry given the frequency of its services which, by the 1950s, were running at a ferry every 2.6 minutes at rush hour. The two franchised bus companies [Referee 1 Point 6] continued to import new British bus chassis and bodies of various types mostly in completely knocked down (“ckd”) kits and assembled them in their depots.<sup>(32)</sup>

### **Findings and Interpretation: the Presence and Nature of Implicit Consideration**

Having thus pictured an informed history of franchised bus and ferry transport, we may now turn to the findings to our hypotheses.

#### *Key Findings*

The locations of all identifiable KMC and CMB bus depots and HYF shipyard and the methods by which their leases or land titles were obtained are recorded in **Table 1**.

We found that there was no sign of land price subsidy provided within or outside the franchise or lease documents. The franchise terms did not mention any government guarantee to supply

land, not to mention its provision at concessionary prices. The government rather imposed many burdens for the bus companies, including the purchase of buses of certain standards and the satisfactory maintenance of its fleet. This required KMB and CMB to buy land for the purpose of assembling, overhauling, or repairing their buses. Thus, Hypothesis 1 was refuted.

We found that all 8 depot sites for KMB and CMB were held under Crown Leases. From the Leases, land premiums were clearly paid for 5 of these and none of the rest showed any “non-assignment clauses”, which suggests that they were not PTG. Further search at PRO, the conditions of sale which show the land prices paid after public auctions for the other three bus depot sites were also found. A 1958 Colonial Secretariat memo addressed to the District Commissioner, New Territories, advised the latter that unlike a utility company facility which “must be sited in a particular place”, a bus depot terminus could be sited anywhere and “should be sold at auction”.<sup>(33)</sup> ~~Granted that this was policy as early as 1958, then at most only one CMB depot could be obtained by PTG but that possibility was reduced by the absence of any non-assignment clause typical of land obtained by PTG.~~ The shipyard for HYF was developed on sites acquired by the company via assignments from private individuals for cash considerations though, as mentioned in the historical narrative, there was a surrender and exchange exercise in 1968/1969, which produced a site under one title document. This means that Hypothesis 2 was also refuted.

Together, these results point towards the credibility of the presence of an implicit consideration as a valid research proposition for further investigation, which is reported immediately below. However, prior to that, there was a need to record the reason for suspecting the existence of government concessions as part of an implicit consideration. That consideration was twofold.

First with historical hindsight, we can infer a political compensation for the gradual loss of the full protection of franchised interests during the study period. Over the years, the government's safeguards against competition for franchised buses companies, which initially enjoyed near-exclusive franchises by region, KMB on the Kowloon Peninsula and outlying islands and CMB on Hong Kong Island, have been successively attenuated by the legalization of "public light buses" (PLBs) and the introduction of franchised maxicabs ("green minibuses"). The most persuasive evidence of the deterioration of a bus company's full monopoly status is a formal shift from a geographical franchise to a route-based franchise. Further analysis, however, is beyond the scope of this paper.

Second and more fundamentally, according to the theory of implicit contracts there was from the outset a quid pro quo for government to jointly invest in public transport for the public interest. One important form of implicit consideration recognized by transport planning experts such as Runnacles (1998) is the free provision of bus terminals and ferry piers designed and built by ferry companies. These infrastructures were essential not only for the efficient handling of passengers, but where bus terminals were concerned, useful as overnight bus storage in case depots were full and for traffic recovery purposes.

Government developed a transport plan piecemeal in response to economic and demographic change, only in loose consort with housing development planning. Four stages to this can be distinguished. The embryo of subsequent integrated transport plans in the 1930-1946 period.

The first more systematic planning stage was 1946-59 with the marked growth in termini and piers. In this period, a total of 10 ferry piers and 17 bus terminals (8 for CMB and 9 for KMB) were built by government throughout Hong Kong. The land use-public transport structure of this era is conceptualized in Figure 1.

Then the massive growth in the 1960s where aims at reducing the density of urban development took place without ensuring a concomitant coherence of satellite town job/housing matches, thus creating increased public transport demand. The government implemented the Abercrombie Report (Lai 1999) in two ways. First, it situated many high-rise, high-density public housing estates by terracing Crown Land at the foothills of the Kowloon Range each with a major bus terminus. Second, the government also started developing the first generation new towns (Kwun Tong and Tsuen Wan) with waterfront industries on the mainland side by reclamation following certain principles of new town planning in Britain. “These new towns were used as laboratories in the search for satisfactory design relationships between the increasing traffic requirements of the day and an appropriate urban form” (Bristow 1989: 22). Accordingly, there was a deliberate “routing of the busway through the centre of each neighbourhood cell” (Bristow 1989:23), and right from the beginning, ferry terminals were constructed together with bus terminals, which were very prolific in Kwun Tong. The bus routes from these terminals linked to all major terminals in other parts of the mainland. On Hong Kong Island, new rental public estates of a smaller scale and intensity were also built with similar bus or even ferry terminals (like North Point). The primacy of the Central, Jordan Road, and Tsimshatsui ferry terminals was diluted due to the proliferation of secondary bus terminals in the new towns and resettlement housing estates, but the absolute number of passenger trips handled by these three magnets grew because for one thing, they were at the heart of Hong Kong’s CBD, so white collar workers commuted to their jobs in these areas from elsewhere in Hong Kong. To cross the harbour, they had to ride the ferry.

Note that this simple land use transport planning strategy of pairing ferry piers with bus terminals near major housing and industrial clusters reflected the pragmatism of expatriate planners towards the imported notion of “self-containment” or a balance between the blue collar

workforce and industrial job supply within a new town. The idea was to minimize external traffic, but the reality, given the laissez faire policy of Hong Kong, was that these new towns never became self-contained, as many industrial workers on both sides of Victoria Harbour had to cross it to reach their jobs as well. In an attempt to catch up with ever-rising passenger trip demands, both the bus and ferry companies experimented with new models of bigger buses and ferries. The bus companies bought land from the government to build new depots to allow for the experimentation to take place. HYF used its own docks at Tai Kok Tsui to build larger triple decker ferries and SF relied on Whampoa to supply and maintain its fleet. From 1960 to 1969, a total of 13 ferry piers and 36 bus terminals (8 for CMB and as many as 25 for KMB) were built by government overall Hong Kong. The land use-public transport structure of this era is conceptualized in Figure 2.

Finally the last growth period during which new transport strategies (tunnels, MTR) became embedded, initially complementing the final surges of the previous fast-growing demands, only finally undermining the basis of the old incrementally developed system in the 80s and later. From 1970 to 1972, three more ferry piers and 13 bus terminals (2 for CMB and 11 for KMB) were completed by government. The land use-public transport structure of this era is presented in Figure 3.<sup>(34)</sup>

Throughout the key element in the state's ability to adjust and adapt lay in its role as ultimate landlord. This ensured government was able to provide implicit consideration to public transport franchisees. In its turn that helped government to maintain social harmony in a low labour cost economy by keeping transport fares low and providing a relatively multi-modal and efficient public transport network.

## **Conclusion**

This study in the history and economics of franchised buses and ferries of early post-war colonial Hong Kong drew attention to the role played by the government as franchisor-landlord in providing essential infrastructural support. The key infrastructural support we considered significant was government planning, granting and development of as many as 83 bus termini each being more than 1 ha, 26 ferry piers, and 8 bus depots and 1 shipyard in tandem with new town and public housing development according to the Abercrombie Report. More than just building bus terminals and ferry piers, the government made a great contribution by planning the timely combination of bus terminals and piers on government land, as well as strategically positioning the bus terminals in newly-developed government housing estates and new towns.

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### Notes

1. The story of the famous Aldenham Overhaul Work of London Transport, opened in 1956, is a case in point.
2. The term “implicit contract” is not used to refer to specific benefits to avoid entangling the analysis, which is qualitative, with high mathematical expositions in the literature for implicit contracts. A contract must have “consideration,” but not vice versa.
3. A well-known example of an implicit benefit granted to franchisees is that IN PRACTICE (I.E. BY WAY OF INFORMAL CONVENTION) traffic police will not prosecute bus drivers when they carry too many passengers, do not park their buses quite within the authorized bus parking zones by bus stops, or when their buses emit too much smoke, which is a favour that has never been granted to taxis or non-franchised red maxicabs.
4. Organised by Dorabjee Nowrojee, which started in 1880 with 4 vessels named *Morning Star*, *Evening Star*, *Rising Star* and *Guiding Star*.
5. It would be reasonable to suppose that it would have been sometime in the 1860s, possibly as a sideshow to the implementation of the *British Merchant Shipping Act*. There is also the matter of the licensing of the drivers (in ferries, coxswains). We read in Johnson (1998, p. 33) that, following an accident in 1891, the coxswain of the *Morning Star* “lost his certificate for six months.”
6. It is not clear [Referee 1, Point 5] whether this apparently irrational decision was indeed forced upon the Government by the dictates of defence strategy that cumulated in the 1936 Hong Kong Defence Scheme or indeed was simply the result of successful anti-bridging lobbying of the ferry operators.
7. Jubilee Street after the Second World War (HYF ferries to Kowloon (Mongkok) from 18 November 1964 at the new harbour routes pier; Silvermine Bay-Ping Chau, Cheung Chau and Tai O at the new outlying islands pier from 27 August 1966), Wanchai (HYF ferries

upon reprovisioning of the new waterfront, ferries to Jordan Road and Hung Hom commencing 10 March 1968) and North Point (HYF ferries to Hung Hom and Kowloon City commencing 1 September 1963, later also to Kwun Tong) [and, outside the study period, later to Sai Wan Ho on the Hong Kong Island side]; Tsuen Wan (HYF ferries commencing on 3 July 1958), Tai Kok Tsui (replacing Mongkok pier, HYF ferries to Central commencing 23 April 1972), Hung Hom (HYF ferries to old Wanchai pier commencing 12 November 1963 and, outside our study period, “Star” ferries from 1986 from the new pier), Kowloon City (HYF ferries to Tonnochy Road, Wanchai waterfront, commencing July 1956), Kwun Tong (new pier for HYF ferries to North Point commencing 12 February 1972, to Jubilee Street 1 May 1972, to Sai Wan Ho 11 May 1972), [and Sam Ka Tsuen (HYF ferries) to Sai Wan Ho commencing 11 May 1972] on the Kowloon side. See Hong Kong Government (various years, 1947-1959; 1960 to 1973); Wah Kiu Yat Po (various years 1948-1973); Ho (2004: Table 3.5, pp.172-173)

8. Chan (1999); Wah Kiu Yat Po (various years 1948 to 1972); Zheng (2000a, 2000b); 1:600 Ordnance Survey Maps (inspected at Surveying and Mapping Office, Lands Department, Hong Kong)
9. This estate was built on a former Standard Oil depot, the “Caltex” Oil Depot, before the Second World War.
10. Commencing 27 January 1965, doubled decked on 5 October 1970.
11. Information confirmed in an Interview with Dr. Dorothy Chan and other government planning officials. (P.28) In para. 2 of memo BL 5/3096/58 from Colonial Secretariat to District Commissioner, New Territories, dated 12 April 1958, the Colonial Secretariat stated, “Terminus areas are retained as Crown land and not leased to Companies using them. Government is responsible for the maintenance of such terminal areas, as regards road surfacing etc.”
12. Bus riders who wanted to catch a bus between terminals had to wait a long time. If they were lucky, they might be able to squeeze onto one and get only a standing place till getting off.
13. The authors are grateful for the advice of Mr. Lyndon Rees on this point.
14. Information obtained from an Interview with Mr. Lyndon Rees.
15. Which owned the Hong Kong Shipyard, incorporated in 1948.
16. In 1950, the Government paid HYF a sum of HK\$1.637 million as indemnity for loss of vessels requisitioned during the Battle of Hong Kong (Hongkong & Yaumatei Ferry, 1973, p.21)
17. It is an interesting question whether this ‘windfall’ increase in asset value enabled the companies to finance ferry/bus expansion and/or replacement on more favourable terms than might have been available had they no such assets with which to back the financing required.
18. The critical point being that to be safe in typhoons the ferries had to be in such shelters (there are photographs of what happened to ferries in the 1920s that used the ferry piers for typhoon berths). Their freeboard was too low and windage too high to have survived on a mooring in the harbour proper.
19. In addition, at the end of 1975 CMB completed a multi-storey depot at Chai Wan capable of accommodating 450 large capacity double-deck buses.
20. This was a major cost-saving move by eliminating conductors, who issued tickets, etc.
21. This happened in 1971 CMB, once it obtained a government relaxation of bus height limits for hilly routes, started to add an extra deck to each of its relatively new and over-powered 106 (25 feet 1 inch) Guy Arab Mark V single-deck buses; reducing the length of its 40 single-deck “Long Dragon” (also of Guy Arab Mark V stock) from 36 feet to 30 feet before adding an extra deck. From an Interview with Mr. Lyndon Rees, we learnt that the cutting work was done in CMB’s Chai Wan depot and the re-bodying work at North Point’s Java Road workshop.

22. During the communist riots in the 1950s and 1960s, some buses not kept inside depots were burned out by sabotage and more than 20 Daimler “Jumbo” aluminium-body buses of CMB were burned down by arson in the 1970s.
23. Davis (1994, pp. 5-7, 225 to 236; 1995, pp.18, 290-295, 298 to 301).
24. Davis (1996: p.17).
25. Hong Kong and Yau Ma Ti Ferry Co. Ltd. (1973); Johnson (1998); Hong Kong Annual Reports, Hong Kong Government (various years from 1946 to 1960); Hong Kong Government (various years: 1961 to 1972).
26. It was most unfortunate that the period immediately after the opening of the harbour tunnel coincided with the Bus Grant and union activism and “three-day-weeks” in the UK (Davis 1994:138), which taxed her new bus production capacity, so that both CMB and KMB had to rely on second hand buses, such as the Guy Arab IV double deckers and the Leyland Titan PD3/4, which were often older than the stock on hand.
27. Mr. Mike Davis informed the authors that overnight parking of CMB buses at Aldrich Bay Street bus station, which could allow kerb side parking, was discontinued by the Transport Department.
28. The detail involved the surrender of 2 pieces of adjoining individual marine lots (Kowloon Marine Lots Nos. 42 and 77) acquired by HYF and HKS at Tai Kok Tsui. For this the companies were regranted a much larger consolidated industrial site together with three other marine lots (78, 79 and 80), including an additional 11,700 sq. feet of land extended seawards. These 5 lots remained governed by 5 separate Crown Leases instead of one Crown Lease. This favourable practice permitted piecemeal resale or redevelopment no longer possible today.
29. A special condition laid down was that if any company operating a bus service so desired, the successful tenderers might be required by the Governor in Council to purchase at such time as the Governor in Council may direct, under some method of valuation to be determined by the Government, all or any suitable vehicles, repair plant and machinery, lands and buildings and materials used by the company for the purpose of undertaking prior to the 10th June, 1933 (Passage entitled “Omnibus Services: Confirmation of Local Monopolies for Fifteen Years”, of unknown source, as quoted in Davis (1994, p.10))
30. CMB made the first successful move to a one-man operation as, unlike KMB which retained the rear doors of their preferred Daimler models, the Guy buses had doors close to the drivers’ cabins.
31. HYF replaced coal-fired with diesel-powered ferries and began to build a fast, partly air-conditioned three-storey fleet in the late 1960s. It was also a pioneer in the use of hovercraft when services were extended to Tsuen Wan and speed of service became essential to remain competitive after the opening up of the Harbour Tunnel. Equally, with such things as double-ended vessels, with which “Star” Ferry were an early pioneer, double decks, diesel-electric drive (as early as 1933), and various ways to improve docking, including guiding spring piles, and experiments with berthing parallel to the shore vis-à-vis alongside jetties at right angles to the shore. The “Star” Ferry company also constantly innovated to keep pace with steadily increasing traffic.
32. Trial models, however, were fully assembled in UK and often imported in complete units. In the 1978 trial of Metro Cammell Weymann ‘Metrobus’ 9.7MDR buses, UK engineers came to Hong Kong to make evaluations for CMB.
33. Memo BL 5/3096/58 from Colonial Secretariat to District Commissioner. New Territories, dated 12 April 1958. See note 11, ante.
34. Figures 1 to 3 supplement the land use classification models used by such experts in geography as Drakakis-Smith (1979: p.33) by adding in an element of transportation. **In terms of bus networking, the KMB system was circuitous and can be conceptualised as two triangles with their common apex the Jordan Road Ferry bus terminus. The base angles of the**

Deleted: paralysed expansion in

urban triangle were Tsuen Wan in the west and Kwun Tong in the east. The other triangle had their base angles in rural towns of Yuen Long and Sheung Shui. The CMB network did not have a complete circuit round the island and consisted of a east-west coastal urban axis from Shaukiwan to Kennedy Town, punctuated by four major ferry termini (Macau Ferry, Central, Wanchai and North Point) which sub-urban routes to the hilly areas on the north and the coastal spots on the south of the Island. Compare this to the a-historical networks proposed in Wang and Po (2001: p.267).

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**Table 1: Royalties paid to government by franchised buses and HYF prior to 1941**

<b>Financial Report Year</b>	<b>CMB (% government revenue)</b>	<b>KMB (% government revenue)</b>	<b>HYF (% government revenue)</b>
1934	101,510 (0.343%)	128,094 (0.433 %)	90,631 (0.306%)
1935	118,275 (0.416 %)	117,505 (0.413 %)	99,782 (0.351 %)
1936	124,088 (0.413 %)	116,613 (0.388%)	101,609 (0.338%)
1937	128,708 (0.388 %)	140,991 (0.425 %)	126,901 (0.382%)
1938	194,703 (0.530 %)	225,672 (0.614 %)	222,496 (0.606 %)
1939	257,874 (0.622 %)	382,282 (0.922 %)	429,120 (1.035 %)

Source: Financial Report of the Hong Kong Government (various years 1934 to 1939)

**Table 2: Details of land title documents for depots and repair yards granted to KMB, CMB and HYF 1950 to 1971**

**a) Buses**

<b>Year of Grant (execution date)</b>	<b>Grantee (KMB/CMB)</b>	<b>Lot Number</b>	<b>Site Area (sq. ft)</b>	<b>Lease Term</b>	<b>Land Use Restrictions</b>	<b>Purchase Price i.e., Premium [PTG?]</b>	<b>Crown Rent (per annum)</b>
1950	CMB	Inland Lot No. 5532	63,400	75 years (renewable) from 03/07/1939	Offensive trades excluded	<del>\$0.0634M [No] [Uncertain but no non-assignment clause]</del>	\$1,164
1953	KMB	KIL 6393RP 94 To Kwa Wan Road (Currently Merit Industrial Centre)	59,660	75 years renewable for 75 years from 05/10/1953	Industrial purpose only	\$67M  [No]	\$2,192
1961	KMB	KTIL 240 98 How Ming St	95,830	21 years renewable for 15 years from 01/07/1961	Industrial purposes except offensive noxious noisome/ unhealthy business or manufacture	<del>\$3.623M [No] [Unlikely and no non-assignment clause]</del>	\$55,000
1962	CMB	Inland Lot No. 7178 Kings' Road (Currently part of the Island Place)	36,374	75 years (renewable) from 24/05/1954	(a) Industrial purposes and (b) non-offensive trade only	<del>0.811M [No] [Unlikely and no non-assignment clause]</del>	\$1,670
1966	KMB	KTIL 192 81 How Ming St (Currently under re-construction)	102,000	21 years renewable for 16 years from 01/07/1960	Industrial purpose only	\$3.71M  [No]	\$61,500
1969	CMB	Aberdeen Inland Lot No. 338 (Wong Chuk Hang)	13,000	75 years (renewable) from 13/10/1969	Industrial and/or godown purposes excluding offensive trades	\$0.65M  [No]	\$298

1969	CMB	Inland Lot No. 7550 625 King's Rd (Currently a commercial building)	20,000	75 years (renewable) from 14/07/1958	<p><u>Before Modification</u>  (a) Industrial purposes or  (b) Mechanical transport service station and/or petrol filling station and/or garage with showroom and/or offices ancillary; and  (c) Non-offensive trade</p> <p><u>After Modification</u>  (a) Non-industrial (excl. residential, hotel, service apartment, petrol filling station &amp; godown);  (b) GFA not less than 179,759 sf (16,700 sm); and  (c) Building height restricted in the Hong Kong Airport (Control of Obstructions )</p>	\$430.23M  [No]	\$1,838

					(Consolidation) Order		
1970	CMB	Aberdeen Inland Lot No. 339 (Wong Chuk Hang)	12,500	75 years (renewable) from 25/05/1970	Industrial and/or godown purposes excluding offensive trades	\$0.62M [No]	\$286

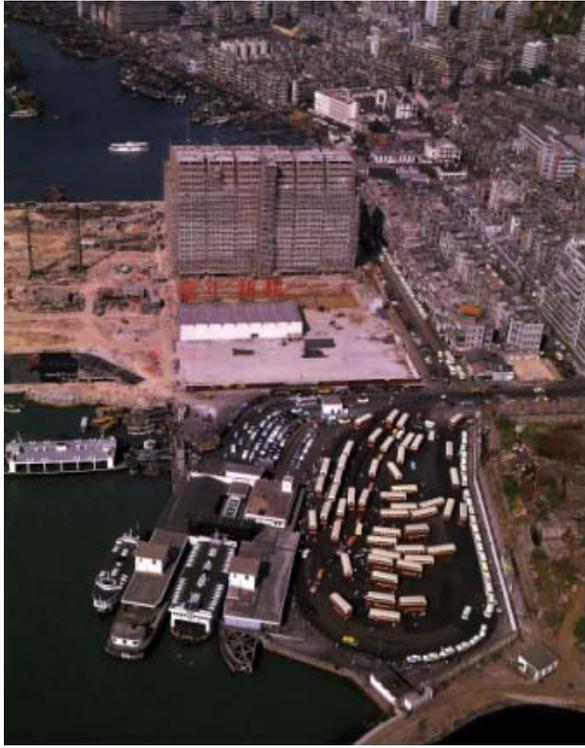
**b) HYF**

Year of grant (purchase)	Lot number	Site Area (sq. ft)	Lease term	Land Use Restrictions	Purchase price (Premium) [PTG?]	Crown rent (per annum)
1969	KML 42 (Tai Kok Tsui)	43,235	75 years from 01/01/1900	Industrial purpose only and no offensive trades	- [No, part of surrender and re-grant of all 5 sites in this table]	\$1,986.00
1968	KML 77 (Tai Kok Tsui)	18,093	75 years from 01/01/1900	Industrial purpose only and no offensive trade	- [No, part of surrender and re-grant of all 5 sites in this table] [Yes]	\$304.00
(1950)	KML 78 (Tai Kok Tsui)	8,281	75 years from 01/01/1900	No offensive trade	\$252,440.00 [No]	\$58.00
(1950)	KML 79 (Tai Kok Tsui)	9,336	75 years from 01/01/1900	No offensive trade		\$64.00
(1950)	KML 80 (Tai Kok Tsui)	7,627	75 years from 01/01/1900	No offensive trade		\$52.00

Sources:

Lands Registry, Hong Kong

\*Conditions of Sale, as found in Public Records Office, Hong Kong



**Photo 1: Jordan Road HYF vehicular and passenger ferry piers and bus terminus**  
Source: Information Services Department (first appearing in *Hong Kong 1963*)



**Photo 2 Ngau Tau Kok KMB bus terminus in 1970**

Source: Information Services Department