

**OFFICIAL REPORT OF PROCEEDINGS****Wednesday, 25 April 1979****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 JACK CATER, KBE, 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, CMG, JP  
SECRETARY FOR THE NEW TERRITORIES

THE HONOURABLE LEWIS MERVYN DAVIES, CMG, OBE, JP  
SECRETARY FOR SECURITY

THE HONOURABLE DAVID WYLIE McDONALD, CMG, JP  
DIRECTOR OF PUBLIC WORKS

THE HONOURABLE KENNETH WALLIS JOSEPH TOPLEY, CMG, JP  
DIRECTOR OF EDUCATION

THE HONOURABLE DAVID GREGORY JEAFFRESON, JP  
SECRETARY FOR ECONOMIC SERVICES

THE HONOURABLE ALAN JAMES SCOTT, JP  
SECRETARY FOR HOUSING

THE HONOURABLE 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, CMG, 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 JOHN MARTIN ROWLANDS, JP  
SECRETARY FOR THE CIVIL SERVICE

THE HONOURABLE JAMES NEIL HENDERSON, JP  
COMMISSIONER FOR LABOUR

THE HONOURABLE OSWALD VICTOR CHEUNG, CBE, QC, JP

THE HONOURABLE ROGERIO HYNDMAN LOBO, CBE, JP

THE HONOURABLE JAMES WU MAN-HON, OBE, JP

THE HONOURABLE HILTON CHEONG-LEEN, OBE, JP

THE HONOURABLE LI FOOK-WO, CBE, JP

THE HONOURABLE JOHN HENRY BREMRIDGE, OBE, JP

THE HONOURABLE LO TAK-SHING, OBE, JP

THE HONOURABLE ALEX WU SHU-CHIH, OBE, JP

THE REV. THE HONOURABLE JOYCE MARY BENNETT, OBE, JP

THE HONOURABLE CHEN SHOU-LUM, OBE, JP

THE HONOURABLE LYDIA DUNN, OBE, JP

DR THE HONOURABLE HENRY HU HUNG-LICK, OBE, JP

THE HONOURABLE LEUNG TAT-SHING, JP

THE REV. THE HONOURABLE PATRICK TERENCE MCGOVERN, OBE, SJ, JP

THE HONOURABLE PETER C. WONG, JP

THE HONOURABLE WONG LAM, OBE, JP

DR THE HONOURABLE RAYSON LISUNG HUANG, CBE, JP

THE HONOURABLE CHARLES YEUNG SIU-CHO, JP

DR THE HONOURABLE HO KAM-FAI

THE HONOURABLE ALLEN LEE PENG-FEI

THE HONOURABLE DAVID KENNEDY NEWBIGGING, JP

THE HONOURABLE ANDREW SO KWOK-WING

**ABSENT**

THE HONOURABLE DAVID HAROLD JORDAN. CMG. MBE, JP  
DIRECTOR OF TRADE, INDUSTRY AND CUSTOMS

THE HONOURABLE JOHN CHARLES CREASEY WALDEN, JP  
DIRECTOR OF HOME AFFAIRS

DR THE HONOURABLE HARRY FANG SIN-YANG, OBE, JP

THE HONOURABLE FRANCIS YUAN-HAO TIEN, OBE, JP

**IN ATTENDANCE**

THE CLERK TO THE LEGISLATIVE COUNCIL  
MR STEPHEN TAM SHU-PUI

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**Papers**

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

<i>Subject</i>	<i>LN No</i>
Subsidiary Legislation:	
Shipping and Port Control Ordinance 1978	
Shipping and Port Control (Amendment) Regulations 1979.....	98
Public Order Ordinance.	
Marine Closed Area (Revocation) Order 1979 .....	99
Public Order Ordinance.	
Marine Closed Area (No 4) Order 1979 .....	100
Maintenance Orders (Reciprocal Enforcement) Ordinance.	
Maintenance Orders (Reciprocal Enforcement) (Designation of Reciprocating Countries) (Amendment) Order 1979.....	101
Immigration Ordinance.	
Immigration (Places of Detention) (Amendment) (No 8) Order 1979 .....	102
Public Health and Urban Services Ordinance.	
Public Health and Urban Services (Public Markets) (Designation and Amendment of Tenth Schedule) Order 1979 .....	103
Public Health and Urban Services Ordinance.	
Declaration of Markets in Urban Areas .....	104
Public Revenue Protection Ordinance.	
Public Revenue Protection (Interest Tax) (No 2) Order 1979.....	105
Inland Revenue Ordinance.	
Inland Revenue (Interest Tax) (Exemption) (Amendment) (No 4) Notice 1979.....	106

Sessional Papers 1978-79:

No 49—University and Polytechnic Grants Committee of Hong Kong—Report July 1976 to June 1978 (Published on 25.4.1979)

No 50—Mass Transit Railway Corporation Annual Report 1978 (Published on 25.4.1979)

No 51—Report of the Finance Committee on the Draft Estimate of Expenditure 1979-80 (Published on 25.4.1979)

White Paper—Social Welfare into the 1980's (Published on 25.4.1979)

**Oral answers to questions**

**Congestion at Immigration Offices**

1 MR WONG LAM asked in Cantonese dialect:—

近數月來，人民入境事務處和辦事處，大排人龍，情況擠擁，請問政府原因何在，並採取何種措施以改善此種情況？

(The following is the interpretation of what Mr WONG Lam asked:)

*During recent months, there have been long queues at Immigration Offices, will Government state what are the main causes of such congestion and what steps will be taken to alleviate the situation?*

SECRETARY FOR SECURITY:—Sir, the cause of congestion in Immigration Offices is the unprecedented increase in the number of people travelling to and from Hong Kong, including tourists and those coming here from Vietnam all of whom require either processing or some form of travel document. This increase was not foreseen and there has been severe pressure on accommodation and staff as a result. This has been exacerbated by the need to provide additional staff at entry points into Hong Kong.

I have attached to the written version of this reply and for the information of Honourable Members some details of the demand for travel documents and the increased number of people travelling to and from Hong Kong. (*Appendix*)

The measures already taken or being taken to relieve congestion are as follows:—

- (a) additional accommodation is being provided in 5 branch offices as a matter of urgency. A new office in Victoria Barracks to process all immigrants from China will be opened in May;

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- (b) 115 additional officers have been appointed to the Department so far this year;
  - (c) 70 casual workers have been appointed to supplement the work force;
  - (d) staff have been redeployed to increase counter facilities; and
  - (e) procedures have been reviewed and streamlined to speed up the work, but without any lowering of standards.

## APPENDIX

**STATISTICS ON TRAVEL TO AND FROM HONG KONG AND TRAVEL DOCUMENTS ISSUED  
FOR 1977, 1978 AND THE FIRST QUARTER OF 1979**

	1977		1978		1979 (to 31 March)	
	Average Monthly		Average Monthly		Average Monthly	
	Total	Rate	Total	Rate	Total	Rate
(a) Passengers travelling to and from China at Lo Wu	2 195 143	182 929	2 808 783	234 065	1 424 996	474 999
(b) Legal immigrants from China	26 449	2 204	71 571	5 964	32 084	10 695
(c) Illegal immigrants from China registered with ROP office	7 912	659	23 382	1 949	19 239	6 413
(d) Illegal immigrants from China processed for return	1 779	148	8 192	683	10 898	3 633
(e) Passenger traffic through Kai Tak (arrivals and departures)	5 092 276	424 356	5 460 345	455 029	1 370 377	456 792
(f) Passenger traffic through Macau Ferry Terminal (arrivals and departures)	5 160 803	430 067	5 418 584	451 549	1 523 911	507 970
(g) Passports issued	70 744	5 895	90 538	7 545	24 068	8 023
(h) Re-entry Permits issued	624 569	52 047	720 803	60 067	274 824	91 608
(i) Entry Permits for visits from Taiwan	109 755	9 146	158 710	13 226	89 259	29 753
Revenue collected	45 376 618	3 781 385	57 528 552	4 794 046	19 493 839	6 497 946

## Public Housing for boat dwellers

2 MR SO asked in Cantonese dialect:—

請問本港水上居民共有多少，其中已向房屋署申請並等候入住公共房屋的又有若干？

(The following is the interpretation of what Mr So asked:)

*What is the total number of boat dwellers in Hong Kong and how many of them have applied to the Housing Department for public housing?*

SECRETARY FOR HOUSING:—Sir, the 1976 By Census figure for the marine population was 59 050. Of these, it is estimated that 25 000 people are living in 2 400 dwelling boats—as opposed to working craft—at various locations on the shores of Hong Kong.

I regret, Sir, that I cannot answer the second half of the question without examining each of the 144 000 live applications for public housing, as it is not possible otherwise to determine how many boat dwellers have applied using a for-warding address, that is, not giving their boat number, 557 families who have applied, however, have given a boat number as their address.

The Clerk to the Legislative Council, Sir, has provided copies for Honourable Members of my reply in October 1977 to Mrs KWAN KO Siu-wah when I explained that the opportunities for rehousing are the same for boat squatters as for land squatters. If they are affected by development clearances, they are automatically offered housing; if they are not so affected, they may register on the Housing Department's waiting list in the normal way; and if at any time their boats for any reason become unsafe, they are offered immediate temporary accommodation.

For the reason already stated, Sir, it is not possible to say exactly how many boat families have been rehoused through the waiting list. However, 80 000 boat dwellers have been rehoused as a direct result of development works since 1960; and since November 1977, following Marine and Housing Department inspections, more than 1 000 others have been rehoused.

Mr So asked in Cantonese dialect:—

閣下，政府有沒有安置艇戶的政策，如果有的話，在這些政策之中，有沒有考慮油麻地避風塘艇戶的惡劣居住環境及他們的安全？

(The following is the interpretation of what Mr So asked:)

*Sir, has Government any policy to re-settle boat dwellers and if there is, are the bad living condition and safety of the boat dwellers in Yaumati Typhoon Shelter taken into consideration under such policy?*

SECRETARY FOR HOUSING:—Yes, Sir, the situation is that the boat dwellers are considered in the comprehensive Housing Policy of the Government

which aims to ensure that we will in due course provide adequate housing for all who need it. I hope that I have made it clear in my earlier reply that boat people are included within the scope of this policy on equal terms with other people living on land. I think, perhaps, the question suggests that boat people as a group somehow should be lifted out and given preferential treatment and this assumes that their living conditions are perhaps worse than other unfortunate groups. I have to point out, however, that their living conditions, although they are bad, they are not worse than many squatters or people living in overcrowded conditions, deplorable as all these conditions are. And I would last add on this point that during the wet season last year, 474 families, that is 1 654 people, were rehoused as a result of land structures being rendered unsafe by storms. During the same period it was necessary to rehouse only 28 families as a result of their boats being rendered unsafe by storms.

## **Statements**

### **Report of the Finance Committee on the Draft Estimates of Expenditure 1979-80**

THE CHIEF SECRETARY:—Sir, on 28 February 1979, the draft Estimates of Expenditure for 1979-80 were referred to the Finance Committee for examination under Standing Order No 60(8).

The Committee has completed its examination and its Report is laid on the table today.

I would like to take this opportunity of placing on record the Government's appreciation of the very considerable time and effort that Members of Finance Committee have devoted to the scrutiny of public expenditure, both at the special meetings at which they examined the draft Estimates of Expenditure and at regular meetings held throughout the year when requests for supplementary provision are considered.

### **White Paper—Social Welfare into the 1980's**

DIRECTOR OF SOCIAL WELFARE:—Sir, included among the papers laid on the table today is the White Paper on Social Welfare entitled 'Social Welfare into the 1980s'.

This White Paper has been developed from the three Green Papers on Social Security, Services for the Elderly and Personal Social Work among Young People which were published in 1977. However, the opportunity has been taken also to include in it statements of Government's policy for future development in the other social welfare areas covered by the 1973 White

Paper 'The Way Ahead', with the exception of rehabilitation services, for which a separate White Paper has already been published in 1977. Subject to this qualification, the White Paper which is tabled today is a comprehensive statement of the Government's broad aims and priorities in the development of social security and social welfare services in Hong Kong.

In the preparation of the White Paper, careful consideration has been given to the large number of comments on the three Green Papers that were received from interested organizations and members of the public, and in particular to the points raised in the debates held in this Council in April, May and June 1978. Further consultations have been held with the voluntary sector through the Hong Kong Council of Social Service, and the advice of the Social Welfare Advisory Committee has been obtained. I would like to take opportunity to express the Government's thanks to all these individuals and organizations for their help.

In the Social Security field, a number of the proposals made in the Green Paper have already been implemented. On 1 April 1978, a long-term supplement and an old age supplement were included into the Public Assistance Scheme, and the system of disregarded income was introduced. In May 1978, the Social Security Appeals Board was established, and in October the qualifying age for the Old Age Allowance was lowered from 75 to 70. This Council has already approved the Traffic Accident Victims (Assistance Fund) Ordinance, and the Traffic Accident Victims Assistance Scheme will come into effect next week on May 1.

The Green Paper also proposed the introduction of a non-means-tested Chronic Sickness Allowance. The Social Welfare Advisory Committee expressed a preference for a means-tested allowance at this stage of Hong Kong's social development, and also expressed concern over the difficulty of defining and certifying chronic sickness, particularly for people over 60. It therefore suggested that this proposal should be reconsidered, and the Government has accepted this suggestion.

However, in the light of the public's response to the Green Paper, the Government has decided to extend the Disability Allowance to cover the profoundly deaf, and to introduce a Disability Supplement under the Public Assistance Scheme. The Disability Supplement will benefit the partially disabled who are unable fully to support themselves, but who are not covered by the existing Old Age Supplement or Disability or Old Age Allowance. As additional staff will be required to implement these proposals, particularly in connection with the medical assessment and certification aspects, the Government intends to introduce them with effect from 1 April 1980.

The Green Paper also made a tentative proposal for a voluntary contributory sickness, injury and death benefit scheme. This is still under consideration and a further announcement will be made later.

In the field of elderly services, the Government proposes to replace the existing pilot community nursing services by a fully integrated scheme, with direct government participation, within the overall medical and health services of Hong Kong. Expansion will be phased in over the next 5 years starting this month. Priority will be given also to the expansion of care and attention homes providing personal nursing care for old people, and the Government is now examining the best means of playing a more direct role in the provision of these facilities. Otherwise, the White Paper generally follows the programme for expansion of services that was proposed in the Green Paper. This is also true for the proposals on Personal Social Work among Young People.

The expansion of social welfare services since the publication of the 1973 White Paper has been dramatic, but I must sound a note of caution for the future. One of the major constraints on development over the next few years is likely to be the shortage of trained social workers. The Government is, however, actively taking steps to increase the supply of trained manpower, for example by an increase in the number of students in the schools of social work at the Universities and the Polytechnic, and to ensure that the manpower available is used in the most effective way. I believe, therefore, that the proposals made in this White Paper are realistic goals that take into account this and other possible limiting factors. There is, moreover, well-established machinery for reviewing and adjusting all social welfare planning targets annually in the light of changing needs and improved planning information. Taking into consideration all these factors, I believe that the White Paper laid on the table today provides a sound and positive basis for the development of social welfare services in the 1980's.

### **University and Polytechnic Grants Committee of Hong Kong—Report July 1976 to June 1978**

MR BREMRIDGE:—Your Excellency, I commend to you and this Council the Sixth Report of the University & Polytechnic Grants Committee, which is being tabled today. These Reports are published every two years, the first being published in December 1968. The Fifth Report was a special one reviewing progress from the inception of the Committee in October 1965 up to the end of June 1976. The present Report covers the two years since then.

The size and scope of the three institutions—that is, the Hong Kong University, the Chinese University, and the Polytechnic—are such that we cannot deal with every change or development; but we deal with all the main ones, and there are comments and observations on others as well.

A major issue of great complexity, affecting all three institutions, is the development of facilities for additional medical education, the introduction |

of dental education, and for a large expansion of para-medical and para-dental education and training. These areas are inter-connected in themselves, and also require close co-ordination with the always helpful Secretary for Social Services, the Director of Medical and Health Services, and a variety of hospitals and clinics. We have therefore devoted some space in this report to outlining the nature of the problems.

Some of these developments are very expensive, and notably so medical and dental education. I would like therefore to make some comments on the question of costs. We aim to keep capital and recurrent costs to reasonable levels consistent with the purposes for which the funds are being spent. The largest part of total expenditure is on the recurrent accounts, and capital expenditure rarely rises above 25% of the total. Our system of assessing grants ensures that whenever possible total recurrent costs, and therefore total recurrent grants also, expand at a slightly lower rate than the expansion in student numbers. This trend cannot however be maintained indefinitely, nor can it apply when there are large new developments. The fact that we can do it at all, however, illustrates the closeness of the UPGC's concern with costs. That concern will continue.

Nevertheless we are dealing with two Universities and a Polytechnic of which Hong Kong can and should be proud. They have standards appropriate to the future development and prosperity of Hong Kong, and although many would like the number of students to be larger, these are the number targets set by the Government as prudent, and which the community can afford. The point I want to make, Sir, is a point made in the Report. Standards have to be paid for. Given sound and economical management in the first place radically reduced costs will mean radically different—and lower—standards. There are no cheap and easy routes to good education. It could indeed be argued that we have already been too conservative on the question of costs, and have perhaps pressed the institutions too closely to keep them down. I do not myself think this is so, but I believe that we have for the time being probably gone as far as is reasonable. The University & Polytechnic Grants Committee has obligations to the three institutions as well as to Government, and we have to hold a difficult balance between these obligations. I am concerned, and my Committee is concerned, that no one should think that the good, soundly based, education we need can by some sort of magic be obtained more easily, and more cheaply, in Hong Kong than anywhere else. It cannot.

I have two further points I am much concerned myself at leaping capital costs of the major new building programme at Hong Kong University, which reflect not only the known escalation in building costs which affects all such projects in Hong Kong, but also the very difficult sites made available to the HKU by Government. Secondly there must always be a fair even if not generous provision for true learning and research, the end products of which cannot be quantified by a cost accountant.

The price of this stimulating booklet has been set at a surprising \$38.00. It is for you, Sir, and my colleagues to decide whether this is a golden price for run of the mill stuff, or a run of the mill price for a nugget of gold. It nevertheless appears to me fortunate that Members receive it as a gift, (*laughter*) because I must doubt if it will earn itself a deservedly wide circulation.

May I say finally how much I appreciate and I really appreciate the help and understanding of the Finance Branch particularly at a juncture which is difficult both for them, for the institutions, and for the UPGC.

## **Government business**

### **First reading of bills**

#### **Estate Duty (Amendment) Bill 1979**

#### **Inland Revenue (Amendment) (No 4) Bill 1979**

#### **Motor Vehicles (First Registration Tax) (Amendment) Bill 1979**

#### **Road Traffic (Registration and Licensing of Vehicles) Regulations (Amendment) Bill 1979**

#### **Crimes (Amendment) (No 2) Bill 1979**

#### **Determination of Age (Miscellaneous Amendments) Bill 1979**

#### **Education (Amendment) Bill 1979**

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

### **Second reading of bills**

#### **ESTATE DUTY (AMENDMENT) BILL 1979**

THE FINANCIAL SECRETARY moved the second reading of:—‘A bill to amend the Estate Duty Ordinance.’

He said:—Sir, the Bill seeks to give legislative effect to the proposal described in paragraph 183 of the Budget Speech to lift the present exemption limit of \$5 000 on gifts *inter vivos* to \$50 000. *Clause 2* of the Bill amends section 6(1)(c) of the principal Ordinance to provide that, for the purpose

of assessing estate duty, gifts *inter vivos* made by the deceased which, in the case of any one donee, did not exceed, in the aggregate, \$50 000 will be exempted. *Clause 1(2)* of the Bill states the amendment shall apply to the estates of persons dying on or after 1 April 1979.

The cost to the revenue of this proposal is estimated \$200 000 a year.

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

*Question put and agreed to.*

### **INLAND REVENUE (AMENDMENT) (NO 4) BILL 1979**

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

He said:—Sir, this Bill seeks to give legislative effect to two proposals described in paragraphs 173 to 177 of the Budget Speech to amend the terms of the supplementary personal allowances, and to reduce the maximum marginal rate of salaries and personal assessment tax.

Supplementary personal allowances of \$2 500 for a single person and \$5 000 for a married person were introduced for the first time in 1977. They have been subject to a reduction by 15% of the amount by which the taxpayer’s net chargeable income exceeds \$12 500 for a single person and \$25 000 for a married person, until the entire supplementary allowances are eliminated. *Clause 2* of the Bill provides that the rate of reduction shall be 10% instead of 15%.

At present the top marginal rate applicable to net chargeable income in excess of \$50 000 a year is 30%. It is proposed to abolish this 30% rate so that, in future, 25% will be the top marginal rate on net chargeable income in excess of \$40 000 a year. *Clause 3* of the Bill amends the Second Schedule of the principal Ordinance to provide for a new maximum rate of 25% for salaries tax assessments and for personal assessments.

The effect of these two proposals, taken together, will be to lift the level of income at which the standard rate applies, to stretch the progression of effective rates and to reduce the effective rate of tax payable by a taxpayer. These proposals will apply for the year of assessment 1978-79 (other than assessments of provisional salaries tax for that year) and all subsequent years of assessments at a cost to the revenue in 1979-80 of \$57 million.

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

*Question put and agreed to.*

**MOTOR VEHICLES (FIRST REGISTRATION TAX) (AMENDMENT) BILL 1979**

THE FINANCIAL SECRETARY moved the second reading of:—‘A bill to amend the Motor Vehicles (First Registration Tax) Ordinance.’

He said:—Sir, this Bill seeks to increase the rates of first registration tax on private cars, motor cycles and motor tricycles as proposed in paragraph 197 of the Budget Speech. The revised rates are set out under clause 2 of the Bill which amends the Schedule to the principal Ordinance.

The provisions of the Bill became effective from 1 March 1979 as a result of an Order signed by Your Excellency under the Public Revenue Protection Ordinance.

The estimated yield to the revenue from the new rates is \$35 million for 1979-80.

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

*Question put and agreed to.*

**ROAD TRAFFIC (REGISTRATION AND LICENSING OF VEHICLES) REGULATIONS (AMENDMENT) BILL 1979**

THE FINANCIAL SECRETARY moved the second reading of:—‘A bill to amend the Road Traffic (Registration and Licensing of Vehicles) Regulations.’

He said:—Sir, this Bill seeks to implement the proposal for increases in annual vehicle licence fees for certain classes of vehicles described in paragraphs 202 to 210 of the Budget Speech. Fees for motor vehicle licences were deliberately tax loaded in 1974, that is to say, they are designed not only to cover the administrative costs of the licensing process but also to include a tax element. *Clause 2* of the Bill amends the Schedule to the principal Ordinance, and the new fees are designed both to restore the full tax-loading, and to remove certain anomalies.

An Order has been made by Your Excellency under the Public Revenue Protection Ordinance, giving full force and effect of law to the provision of this Bill so long as the Order remains in force.

The estimated yield to the revenue from the new rates is \$41 million for the financial year 1979-80.

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

*Question put and agreed to.*

**CRIMES (AMENDMENT) (NO 2) BILL 1979**

THE ATTORNEY GENERAL moved the second reading of:—‘A bill to amend the Crimes Ordinance.’

He said:—Sir, during the past 18 months, I have been reviewing with the Secretary for Security and the Commissioner of Police the nature and the extent of the association of persons in gangs for criminal purposes. The review was carried out with the help and advice of the Fight Crime Committee. The Crimes (Amendment) (No 2) Bill arises out of that review. I move its second reading.

Gang activity, Sir, in the criminal field has long been a problem in Hong Kong, as in nearly all large cities everywhere. The problem is more sinister here because of the association in the public mind of gangs with the old style triad societies, which were a source of great terror.

The review has confirmed that the current problem is not the old style triad problem as such. The current problem is one of a large number of separate gangs, varying in size but not usually having more than about 20 members. Nevertheless, the gangs take the name of one or other of the former triad societies and there is usually, but not invariably, a minimum process of triad style initiation when a new member joins a gang. It is this that perpetuates the image of the former triad societies, and thus the fear which triad societies engendered. There are however no longer any large or powerful triad societies dominated by a sinister central management. The relationship between one gang taking the name of a particular triad society and another gang taking the same name is not established. It is considered that there is generally no significant link.

However, the changed nature of the modern triad gang does not mean that they pose less of a threat to law and order. They pose a very real threat. Part of their strength is their association in the minds of the public with the triad societies of the past, but as in other countries the effect of groups of gang members behaving in a menacing or bullying or insulting or offensive way is in itself considerable. The physical presence of a gang is a source of fear. Numbers give strength. It is numbers that cause fear. These are the foundations on which gangs achieve dominance—whether in the street or, for example, on one floor of a housing estate. The combination of the menace presented by numbers and the link which the modern triad gangs profess to have with the old style triad societies plainly presents a special problem in Hong Kong.

So, although the old style triad societies have for some time ceased to pose any threat, they have been replaced by a gang problem which is no less serious.

The gangs are involved, either directly or by way of protection, in a range of illegal activities, and sometimes in the protection of lawful activity. The ordinary law is generally adequate to enable the Police Force to cope with gangs where they are directly involved in crime or protection rackets. It is in the crime prevention field that there is some weakness in the law. This is partly because the Societies Ordinance is not as effective a weapon in the crime prevention field as it formerly was in different circumstances, though I would emphasize that prosecutions will continue to be brought for offences under that Ordinance whenever appropriate. The Police Force has also found it difficult to cope adequately with groups of thugs or bullies skulking around in the street or public parts of buildings, behaving in an offensive or menacing way without actual aggression. This is a very real day to day problem for some sectors of the community, and it is no exaggeration to say that the inability of the Police Force to act effectively has sometimes created an appearance of impotence on the part of the authorities, which can only work to the advantage of the gangs.

What this Bill seeks therefore is the introduction of an enlarged loitering law which will help in crime prevention and generally help the Police Force to minimize the public manifestations of the association of thugs or bullies. The aim must be to obtain mastery of the gangs, which is essential in order to obtain the public co-operation which is needed if the real activities of the gangs are to be tackled successfully.

The Bill, Sir, proposes the following changes in the law.

First, the current loitering offence is limited to loitering between sunset and 6am and requires the defendant only to give a satisfactory account of himself. The proposed provision omits the time restriction and, in addition to requiring the defendant to account for himself, specifically requires him to account for his presence in the place where he was loitering.

Second, the proposed provision makes it an offence to loiter in a way which obstructs the use of public places and the common parts of buildings by others.

Third, subsection 1(c) of the proposed section 160, which is of particular significance, is aimed at the menace which gangs present even though their behaviour on any particular occasion may be passive. It makes it an offence if the presence of a person who loiters in a public place or the common parts of a building, either on his own or with others, gives another person cause to be concerned for his safety or well-being.

A difficulty in devising a law in the crime prevention field is to make it sufficiently 'real' to induce the right response from the courts. An offence which is designed to prevent crime, and to strike at people at a stage when their mere association together may provide a stimulus for crime, is inevitably somewhat imprecise. However, the concept of loitering is one which is well-known to the courts and it is my belief that the proposed enlargement of the offence of loitering will be understood and accepted.

Sir, since the Bill was published a few days ago, quite a bit has been said and written about the danger of abuse. There is always some risk of abuse with an offence of this kind, but as I have said loitering is not a new legal concept. The Government's view is that the proposed enlargement of the loitering offence is necessary. To combat abuse we must plainly rely on the major steps that have been taken in the past two years with the development of the CAPO and the vital monitoring role performed by the UMELCO Group.

I anticipate that the Bill will receive close scrutiny from Members. I commend it to them.

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

*Question put and agreed to.*

#### **DETERMINATION OF AGE (MISCELLANEOUS AMENDMENTS) BILL 1979**

THE ATTORNEY GENERAL moved the second reading of:—‘A bill to amend certain Ordinances to make better provision for the determination by courts of the ages of children, juveniles and other persons.’

He said:—Sir, it is in response to a suggestion made by Mr Peter C. WONG in a speech during the debate in June 1978 on the Detention Centres (Amendment) Bill. Mr WONG then emphasized the importance, in relation to the sentencing and treatment of young offenders, of establishing their age with due regard to all available evidence. While it is undoubtedly true to say that a court would consider the available evidence as a matter of course, Mr WONG drew the Council's attention to section 80(3) of the English Criminal Justice Act 1948 and urged the introduction of similar provision here. That subsection specifically requires a court to have regard to the available evidence of an offender's age and then provides that once a court has determined age the finding is conclusive notwithstanding that it may subsequently transpire that the offender's actual age is different.

This Bill, Sir, seeks to introduce into the Criminal Procedure Ordinance a provision following section 80(3) of the English Act. The new provision will apply to all courts, and is of general application.

The Bill also proposes specific amendments to the Reformatory Schools Ordinance and the Juvenile Offenders Ordinance so as to insert provisions requiring courts dealing with young offenders under either of those Ordinances to have regard to the available evidence as to age. Those Ordinances already contain a provision making a court's determination of age conclusive.

The opportunity is being taken to amend the Protection of Women and Juveniles Ordinance to add to that Ordinance also a provision following section 80(3), which will apply where a court is dealing with juveniles who are in need of care and protection.

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

*Question put and agreed to.*

### **EDUCATION (AMENDMENT) BILL 1979**

THE DIRECTOR OF EDUCATION moved the second reading of:—‘A bill to amend the Education Ordinance.’

He said:—Sir, the main object of this Bill is to extend by two stages the Director of Education’s powers to enforce school attendance: for the 1979-80 school year, these powers would be extended to 12 and 13-year-old children and, from 1 September 1980, they would be extended further to cover 14-year-olds.

Part VII of the present Education Ordinance (Chapter 279) enacted in 1971 gives the Director of Education power to order attendance at primary school of a child between the ages of 6 and 12 years, where it appears to the Director that the parent of a child is withholding the child from attending primary school without any reasonable excuse. Following from the Government’s stated intention to provide 9 years of education for all Hong Kong children of the relevant age group from September 1978, it is considered that wherever circumstances permit, children should take advantage of educational opportunities that are provided for them, and that the Director of Education’s powers to order school attendance should therefore be extended to include children between the ages of 6 and 15 years; the normal-ages ages of children entering primary schools and leaving secondary schools on the completion of Form III.

The Director of Education’s authority to issue a school attendance order will continue to be discretionary and be confined to circumstances where it appears to him that the parent is withholding the child from attending primary or secondary school without reasonable excuse. He will not therefore be required to serve a school attendance order where family circumstances make school attendance especially difficult.

It may be necessary to exercise discretion in the case of mentally retarded children. Estimates of need and scale of provision of school places for these children are under constant scrutiny by the Rehabilitation Development Coordinating Committee. The majority of these children can be provided for in

special schools, in special classes in ordinary schools or in other institutions such as Children's Training Centres. More places in special schools are needed. Even so, where a full-time place is not available, part-time attendance is possible. Such part-time attendance would call for exercise of discretion under the legislation now before us.

Another difficulty is posed by the children of boat people and here I am glad to say that useful work has been done by my department in co-operation with the Agriculture and Fisheries Department, in collecting evidence about the size of the problem. But as I have mentioned before in this Council, it is not necessarily fishing or living afloat which creates problems of school attendance but rather remoteness and the itinerant home. The factor of remoteness particularly can apply to non-fisher folk. So there are here two overlapping problems: education for children living in isolated areas; and education as one aspect of the wider socio-economic problem presented by the people living afloat. Each problem calls for, and is receiving, a concerted approach by various departments of Government; and I am confident that they will yield to this approach.

Certain children within the age-group will be exempt. The Director's power will not apply to children who have completed Form III. Although most children who complete Form III before reaching the age of fifteen are likely to continue their education in the senior secondary forms, any such child will be free to leave school upon completing the junior secondary course and will not be required to remain at school until his fifteenth birthday. Registered apprentices under the Apprenticeship Ordinance will also be exempt: this group is also likely to be small, for although a person may become a registered apprentice from the age of fourteen, the related technical education which the apprentice will take usually assumes completion of Form III. Finally, there are some children in institutions not classified as schools, such as those in Children's Training Centres, residential care centres or correctional institutions run by the Social Welfare Department, and children in long-term care in hospitals. The Director of Education's powers will not be applied to them provided he is satisfied that the non-school institution is suitable.

The Bill seeks to define 'primary school' and 'secondary school', in order to remove any doubt about the meaning of these terms. Registered evening schools would be regarded as equivalent to registered day schools, and children attending them would be deemed to meet the school attendance requirements under section 74, since such schools meet the definition of a school under the Ordinance.

The parent on whom an attendance order is issued retains, as under the present Education Ordinance, a right of appeal to the Board of Review. Procedure on appeal remains unchanged.

As regards enforcement through the secondary school placement and allocation records, the Director of Education is already able to identify those children who do not proceed to the secondary school to which they were allocated. The appointment of Student Guidance Officers began in 1978 and when fully implemented by 1980 the scheme should administer satisfactorily compulsory attendance at the primary level, and may be extended eventually to the junior secondary forms. The Social Welfare Department's School Social Workers together with the Family Services Division officers are concerned with cases of disturbed behaviour or social hardship affecting a student and his family, which may be important factors in the child dropping out from school attendance. With participation also by the voluntary sector, it is intended that the school social work scheme should achieve comprehensive coverage at the primary level by the end of 1980 and at the secondary level by the end of 1981. The strengthening of the Education Department on a regional basis has also assisted in enabling cases of non-attendance to be detected.

Enforcement of school attendance at the secondary level may be particularly difficult because of the greater opportunities for employment that are available to the 12-14 year olds. Accordingly, it is proposed to extend by stages the prohibition on the full-time employment of children to fourteen year olds and to non-industrial undertakings. A separate bill for this will be submitted later for Members' consideration.

The Government's intention to extend compulsory education up to the age of 15 was first announced by you, Sir, in your address to this Council in October 1977. The proposed Bill was published in the *Gazette* on 12 April this year.

It is my belief, Sir, that this Bill will, if enacted, provide adequate measures to ensure that children are not withheld unreasonably from primary and secondary school by their parents.

*Motion made. That the debate on the second reading of the Bill be adjourned—*THE DIRECTOR OF EDUCATION.

*Question put and agreed to.*

## **EXCHANGE FUND (AMENDMENT) BILL 1979**

### **Resumption of debate on second reading (11 April 1979)**

*Question proposed.*

MR F. W. LI:—Sir, a fortnight ago when the Financial Secretary moved the second reading, he said this Bill will require banks holding balances from

the Exchange Fund on demand, at call or at short notice to hold specified liquid assets equivalent to 100% of those balances. He indicated that the average level in February of the banks' total deposit liabilities (excluding inter-bank borrowings) came to \$68 851 million, and that their liquid assets (after deducting their 100% cover on inter-bank borrowings) were no less than \$31 366 million or 45.6% of their deposit liabilities, as compared to the statutory minimum liquidity requirement of 25%.

He explained in detail that, even if all of the balances of the Exchange Fund together with those of the Treasury were to be converted to call or short notice deposits, the maximum potential extra liquid assets requirement would only be a further \$4 700 million approximately. That would be roughly 7% of total deposit liabilities, and would raise the liquid assets which must be held by the banks to about 32%. In other words, if those balances were held by the generality of licensed banks, the enactment of this Bill would be an exercise in futility.

However, since the balance are deposited with only a few banks, the potential impact of this Bill will be much larger. The question which remains to be answered is: will that impact be strong enough to be really effective?

Sir, when I spoke in this Council on 28 March, I expressed some doubts regarding the adequacy of the measures suggested by the Financial Secretary in his Budget Speech. The further decline in the exchange value of the Hong Kong Dollar and the continuing growth rate in imports appear to confirm that it will not be sufficient, merely by imposing restrictions on public expenditure and limitations on the extent to which the Government's balances could be used as a base for the creation of domestic credit, to restrain current inflationary trends. The Financial Secretary has now admitted that the growth rate of domestic demand does not seem to be slowing down, and that the growth rate of bank loans and advances actually accelerated during the months of January and February this year.

Sir, in concluding the debate on the Appropriation Bill 1979, the Financial Secretary explained that between the end of February and 10 April this year, the import-weighted index of the Hong Kong Dollar has decreased by 2.9% and that the export-weighted index has also dropped by 4.3%. While this could be helpful for our exports if this trend continues, it is no comfort to the man in the street as the value of his savings continues to be eroded. I remain convinced that something much more radical than this Bill will be necessary before the general situation shows the improvement so anxiously awaited by everyone in this community.

It is, of course, conceivable that coupled with the recent increases in lending rates, the enactment of this Bill will provide the physical and psychological impact to slow domestic demand. I appreciate that any such measures will naturally take some time to become effective and I think it is reasonable

that this Bill be given a trial. Meanwhile, I shall refrain from further comments.

With these observations and reservations, Sir, I support the motion.

MR JAMES WU:—Sir, I have pleasure to support this Bill which I believe will give the Financial Secretary additional strength to handle our present financial and economic situation with my following comments:

During the past two months since the Financial Secretary presented his Appropriation Bill there has been a lot of debates and discussions on our economy and the Hong Kong Dollar inside and outside this Council, and the trend of events that since occurred have indeed been turbulent as well as worrying. Yet there has also been encouraging signs to show that the basic elements of our economy are as strong as ever and that given the determination leadership and imaginative remedial measures by those responsible, it might not be too difficult for us as a resilient community to overcome our present adversity.

I refer to reports on our recent trade figures for the months of January and February 1979 whereby the increases over similar period of 1978 have been 36% for total trade, 30% for domestic exports, 59% for entreport trade and 35% for imports. It is however noticed that value of imports stood at HK\$11 048 million and we have a trade deficit over of \$2 000 million, which, in my opinion, much too high for our comfort.

Sir, I had mentioned in this Council that Hong Kong had always had visible trade deficits even at times when the Hong Kong dollar was one of the strongest currencies in the world, as our invisible exports had always helped. However, during the course of the last two years, events have developed to our disadvantage, and I believe we will agree that the following have been contributory causes:—

- (1) Greatly increased public expenditure particularly in public works projects.
- (2) Huge expenditure in real-estates development due to real demand as well as speculation in the private sector.
- (3) Increased propensity to spend on expensive imported food and goods by the population, due to improved earnings and aspiration for better living.
- (4) Big increase in travel due to increased and longer holidays by practically every sector of the community. For example, the Immigration Department reported that during the months of January and February 1979, more than 500 000 people, and during the Easter Holidays more than 120 000, left for China from Hong Kong. On the basis that each would spend a minimum of HK\$2 000, including bring along money and such items as TV sets for relatives *etc*, there would have been an outflow of HK\$1 240 million in just 4 months, compared this figure with our trade deficit of \$2 000 million for the same period.

- (5) The pressure on the Hong Kong dollar with China's increased purchases for the 4-Modernization programme with US dollars exchanged with Hong Kong dollars which it earned from exports to Hong Kong.

The indicated remedial measures would therefore have to be cutting down on spending, and increasing on earnings through exports of goods and services to finance the basic import that we require. In the process, people would expect those concerned, and in particular the Government machine to play an important role with effective financial and other administrative measures for the general good.

I wish therefore to draw attention to the following statement on finance for industry made by the Financial Secretary when he concluded the budget debate in this Council on the 12 of April 1979. 'I must confess that I am not aware that the manufacturing sector of our economy is presently experiencing any difficulty in obtaining funds for commercially viable projects. Nor could I be easily persuaded that there is a case for subsidizing a particular industry by the provision of finance at preferential rates of interest, whether the subsidy is paid for by bank shareholders or, as is more likely, by the general public through the Government'

Sir, as is generally known, prime interest rates have gone up from 4.75% in September 1978 to the 13% today. If an industrial project was considered viable at 4.75% interest for investment, it could fall far short of being so at today's rate. In the meantime, investment would be inhibited, export earning power decreased and productive jobs lost.

In addition, if the Financial Secretary at the present state of our economy would not differentiate financial facilities to real estate speculation and hire-purchase loans for cars *etc* with investment in export-earning industries, could he still earn our respect and praise for his usual good sense of priority?

Sir, it is for these compelling and urgent reasons that I advocated in my speech on the Budget Debate that we should be extending preferential loan treatment to the manufacturing industries, as was generally done by our competitors. I am grateful to the support given me by Mr LI Fook-wo and Mr CHEONG-LEEN although I must say we have come to this same idea independently.

I also said that the increase in interest rates was hurting industry more than other trades and I am glad to learn that at least one of our leading banks is now listening and planning for an immediate relief. I am also glad that my confidence on their judgment and business sense has not been misplaced, when I suggested that Government leave it to them, at least temporarily to administer the role of an industrial development bank for our immediate need.

Sir, with these comments, I support the Bill before Council.

MR YEUNG:—Sir, on moving the second reading of this Bill the Financial Secretary has spoken succinctly on the objectives which this Bill seeks to achieve.

The Financial Secretary has honoured me by devoting 6 paragraphs of his 15-paragraph speech on the apparent loophole which was mentioned by me in my speech on the budget debate on 29 March. Such a loophole *may* but not necessarily *will* frustrate the measure introduced here.

I note that the Financial Secretary has not attempted to dispute the existence of the loophole but he trusted the goodwill and co-operation of the banking community in achieving the objective of this Bill. I do sincerely *hope* that his trust is well-rewarded but I cannot help feeling that we are perhaps one step short of achieving the objectives of the Bill if we allow the loophole to exist. In my mind, it would be a case of great mischief if, on the one hand, the Bill sets out to tighten the money supply, but on the other, its effects are capable of being frustrated in whole or in part by those members of the banking community who have had to rely on the inter-bank market for Hong Kong dollar funds with which to on-lend to their non-bank customers. In spite of what the Financial Secretary has said in this connection, I still consider that this matter is one which deserves careful re-thinking by Government.

As I have said earlier in this Council that the measures to be introduced by Government to strengthen the Hong Kong dollar and our economy should be supported, it remains for me, Sir, to express my support of this motion and to wish the Financial Secretary success in his counter-inflationary attempts.

THE FINANCIAL SECRETARY:—Sir, I do not think, I have anything further to add on the Bill itself except perhaps to stress, for Mr Charles YEUNG's benefit, that I *do* believe the banks concerned, that is to say, the banks with whom the Exchange Fund's balances are placed, I do believe those banks will co-operate with the Government to ensure that the credit creation potential of these balances is limited in future in the way and to the extent intended.

Nor do I think, Sir, I can add to my response to Mr James WU's speech in the budget debate. This is not to say that I did not listen carefully today to his renewed pleas for subsidized loan finance for manufacturing industries, but carefully should not, I am afraid, be construed to mean too sympathetically. I noted also his modified reference to the attitude of members of the Country Study Sub-Committee of the Advisory Committee on Diversification and if I misunderstood him I, of course, do apologize. Be that as it may, as Mr MU knows, the report of the Country Study Sub-Committee has been completed and submitted to the Advisory Committee.

But I would, Sir, like to say a few words today in response to Mr Li Fook-wo's doubts about the likelihood of the measures proposed in the budget speech being adequate to slow down the growth rate of domestic demand so as to contain the inflationary pressures which have been building up for some time.

As regards the *public sector* component of domestic demand: in winding up the budget debate a fortnight ago, I stressed that the Government has every intention of ensuring that Controlling Officers keep within their cash limits whatever adjustments may be necessary during the financial year as between subheads; and I remain of the view that the slowing down of the growth rate of public expenditure provided for in the Estimates *will* make an effective contribution to stabilising the economy.

As regards the *private sector* component of domestic demand: we cannot expect the higher interest rates now prevailing for both depositors and borrowers, let alone this measure designed to change the status of short term deposits of the Exchange Fund, to be reflected immediately in a marked slowing down of the growth rate of the money supply and of loans and advances. But both will have an appropriate influence in due course. Furthermore, should their influence prove to be insufficient, I shall soon be in a position to raise the minimum liquidity ratios of banks and, later on, of deposit-taking companies. In the unlikely event of yet further measures being required, I am confident that they could be devised. But I do hope they will *not* be required for the effects of such measures could be uneven and some-what unpredictable. Although I have been rather beseiged recently with calls for the introduction of radical measures, I have no intention of being rushed into what are peddled as instant cures; and I would remind my critics in the press and elsewhere that not only would most of the measures proposed certainly not effect an instant cure, but also would involve an unusual and irreversible degree of interference on our part in the conduct of banking business.

In any case, I remain of the view that the strategy set out in the budget speech remains valid. An objective look at our current economic situation supports this view. The most publicised recent development has been the depreciation of the Hong Kong dollar which has occurred in chaotic and, to some, almost unnerving trading conditions on the foreign exchange market: the trade-weighted exchange rate index stood at a little under 95 between the end of February and the 17 of March when it began to slip in two phases to a low of 89.9 on the 17 of April. It has since recovered to between 90 and 91 and yesterday, for instance, it was 90.5. Quieter trading conditions now seem to have been re-established in the market and I trust that we shall not see a repetition of the speculative short selling and the taking of defensive trading positions which, together, exerted such erratic pressure on the rate in the market place.

Of course, leaving aside the actual behaviour of the foreign exchange market recently, the depreciation of the Hong Kong dollar is not entirely unhelpful for our export-competitiveness, particularly when interpreted in terms of the relative movements of the import-weighted and export-weighted exchange rate indexes. Between end of February and the 24 of April the import-weighted index, depreciated more slowly at 3.8% than the export-weighted index at 5.4%. Thus the rate at which the prices of our exports in foreign currency terms are falling as a result of the depreciation of the Hong Kong dollar is faster than the rate at which the Hong Kong dollar cost of our imports is rising for the same reason.

The trade statistics for March will be released later this evening. They will show that the growth rate of total exports in money terms in the first quarter of 1979, compared with the first quarter of 1978, at 38% has overtaken the growth rate of total imports at 30%; and that the growth rate of domestic exports at 31% has overtaken the growth rate of retained imports at 28%. These figures are even better than I estimated they would be two weeks ago using incomplete data for March. As I said then, this is the reverse of the situation we experienced in 1978 compared with 1977, when the growth rate of total imports at 30% was significantly higher than the growth rate of total exports at 20%; and when the growth rate of retained imports at 28% was very much higher than the growth rate of domestic exports at 16%.

This is not to say that the trade deficit is not continuing to widen in absolute terms, but the deficit for the first quarter of 1979 at \$3,233 million was only 18.4% of total imports. This may be compared with the deficit for the first quarter of 1978 of \$2,725 million which was as much as 20.8% of total imports. This decline in the ratio of the trade deficit to total imports—in other words, in the proportion of the cost of total imports not covered by earnings from exports—this decline in the ratio of the trade deficit to total imports is encouraging and reverses the trend of the post-recession years: in 1976, the ratio was at an all time low of 4% thanks to the unprecedented surge of export earnings in that remarkable year; in 1977, it doubled to 8%; and in 1978, with the economy continuing to grow very rapidly for the third year running it nearly doubled again to almost 15%. Even at this level the ratio was within the range of 10%—15% experienced in the late 1960s and in early 1970s but, clearly, the trade deficit so measured could not go on widening indefinitely. In 1979, the rate at which it is widening must slow down; and it must be helped to slow down if the more unpleasant consequences of the operation of the adjustment process under a floating exchange rate regime are to be avoided. There is now evidence that the rate at which the trade deficit is widening *is* beginning to slow down, but this trend must be really well established before we can be really confident that the growth rate of total final demand and the growth rate of the economy's output are moving back into balance.

There is further possible evidence that the adjustment mechanism, suitably aided, is bringing the economy back into balance and that, therefore, inflationary pressures are beginning—and I stress *beginning*—to be contained. For this, I would refer back to the guess I hazarded for Mr LI Fook-wo's benefit a fortnight ago that the annualized growth rate of M2 was beginning to approach the forecast growth rate of GDP in money terms in 1979 of 16%. Recent weekly statistics compiled from special returns informally provided by the banks suggest—and I repeat *suggest*—an annualized growth rate of M2 of around 20% in 1979. This represents a substantial reduction from the growth rate of M2 in 1978 of 26% which was well in excess of the growth rate of the GDP in money terms for that year of just over 16%. The annualized growth rate of loans and advances, again calculated from weekly statistics, seems to be around 40% which is not a really significant improvement on the growth rate in 1978 of over 43%. However, the trend at least seems to be downward and the effect of the five increases in lending rates since the beginning of this year must begin to bite harder soon.

To sum up, Sir, I do not share Mr LI Fook-wo's doubts about the adequacy of the budgetary strategy, for presently available evidence does not, in my view, invalidate the forecasts and the assumptions on which that strategy was based. I would not wish to sound complacent, particularly as the world trading environment is best with so many uncertainties, but I do believe that our prospects will be best secured if we quietly persevere with that strategy.

Sir, I beg to move.

*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).*

## **BANKING (AMENDMENT) BILL 1979**

### **Resumption of debate on second reading (11 April 1979)**

*Question proposed.*

*Question put and agreed to.*

Bill read the second time.

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

**DEPOSIT-TAKING COMPANIES (AMENDMENT) BILL 1979****Resumption of debate on second reading (11 April 1979)**

*Question proposed.*

*Question put and agreed to.*

Bill read the second time.

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

**CRIMINAL PROCEDURE (AMENDMENT) (NO 2) BILL 1979****Resumption of debate on second reading (11 April 1979)**

*Question proposed.*

MR OSWALD CHEUNG:—Sir, I support this Bill, but it would seem to me that it is at least debatable whether or not the Court of Appeal will be drawn into academic fields if it should be asked by the Attorney General to review a sentence when a convicted person cannot be found or is outside the jurisdiction; when it has to proceed not only in his absence, and without the benefit of submissions from him, but when he has not even had notice of the Attorney General's application. I agree, of course, that the proceedings should not be frustrated if he chooses not to appear, but neither practical necessity nor logic requires us to extend it to the case when he does not even know the Attorney General has made an application. I can well understand the absence of support from the Judiciary for paragraph (b) of the new section proposed by clause 5. The Attorney General has taken the point, and I welcome his intimation that he will propose to delete it at the Committee Stage.

THE ATTORNEY GENERAL:—Sir, the combined weight of Unofficial Members and the Chief Justice is too much for me. I confirm, therefore, that I have agreed to the amendment of which Mr CHEUNG has spoken, I do indeed take the point.

*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).*

**BANKRUPTCY (AMENDMENT) BILL 1979****Resumption of debate on second reading (11 April 1979)**

*Question proposed.*

*Question put and agreed to.*

Bill read the second time.

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

**LEGAL PRACTITIONERS (AMENDMENT) BILL 1979****Resumption of debate on second reading (14 March 1979)**

*Question proposed.*

MR PETER C. WONG:—Sir, as a member of the Law Society, I must declare an interest.

In moving the second reading of the Legal Practitioners (Amendment) Bill 1979, the Attorney General succinctly summed up the reasons for seeking amendments to the principal Ordinance. I shall not repeat them.

Basically, the Bill seeks to introduce three amendments—

- (1) To make it clear that a solicitor seeking an unconditional practising certificate must have been *bona fide* employed in the practice of a solicitor in Hong Kong for at least 2 years (the first amendment).
- (2) To restrict the classes of persons who may be enrolled as students by the Law Society to those who hold either recognized law degrees or the Post Graduate Certificate in Law (PCLL) awarded by the University of Hong Kong (the second amendment).
- (3) To reconstitute the Advisory Committee on Legal Education (ACLE) and broaden the scope of its activities (the third amendment).

The second amendment, Sir, is by far the most important as it has been the subject of a number of adverse criticisms. And rightly so, as it seeks to restrict the classes of persons who may enrol as students and by implication restrict ways which up to now are opened to enrolled students to qualify as solicitors.

Perhaps it would be appropriate at this stage to mention that under the new training system in England there will be four categories of entrant into the profession, namely—

- (1) law graduates;
- (2) non-law graduates;
- (3) non-graduates over the age of 25;
- (4) non-graduates under the age of 25.

Details of the new system of training in England are contained in the Appendix.

Unofficial Members of this Council have shown great interest in this Bill. A special meeting, with the Attorney General and the Deputy Law Draftsman in attendance, was held on 21.3.79 to discuss the Bill.

Views expressed at the meeting include—

- 1 The first amendment was considered fair and reasonable.
- 2 Non-law graduates and non-graduates should not be barred from enrolling as a student by the Law Society.
- 3 The University of Hong Kong should be asked whether it would be prepared to provide Extra-Mural law courses leading to an external law degree.
- 4 The Polytechnic should be asked whether it would be prepared to provide law courses for non-law graduates and non-graduates.
- 5 It might not be entirely desirable that the only way to qualify as a solicitor is via the PCLL, thus giving the University of Hong Kong the monopoly of training and examining the final part of a law student's training. Alternate ways should be introduced such as the provision of recognized law courses by the Polytechnic and the setting up by the Law Society of an Examination Board comprising both overseas and local examiners. The line of thinking here incidentally coincides with that of the English Law Society's Committee on Education and Training. It would be helpful to quote two passages from a report by the Committee:
  - 1 'Paragraph 6(2)—The Committee, however believe that preferably the College of Law should not have a monopoly in respect of the provision of courses and they hope that recognized courses will be available at a limited number of other institutions, possibly polytechnics working in collaboration with a University and the Local Law Society ...'
  - 2 'Paragraph 7(1)—This examination (under the new system) will be conducted externally, that is to say by The Law Society itself rather than by the College of Law and those other institutions providing courses ...'

These recommendations have been adopted in principle by the English Law Society. For further information, please refer to Appendix.

Members agreed that the Attorney General should convey the views of the Unofficial Members to the ACLE, and that the Legislation Scrutiny Group of the Unofficial Members should meet with the Attorney General and the Law Society to discuss the provisions of this Bill.

The Legislation Scrutiny Group and the Senior Unofficial Member held 2 meetings with the Attorney General and 1 meeting with representatives of the Law Society. These meetings proved to be useful and fruitful.

I am pleased to report, Sir, that the following amendments to the Bill have been agreed to by the Attorney General and endorsed by the Unofficial Members—

- 1 In addition to the 2 categories of persons who may be enrolled as students by the Law Society as provided by clause 3 of the Bill, the following 3 categories should be added to the list:
  - (a) Those who have passed Part I of the qualifying examination set by the English Law Society;
  - (b) Those who have passed the new Common Professional Examination (CPE) in England; or
  - (c) Those who have obtained exemption from the English Law Society from taking the examination referred to in (a) or (b).
- 2 The second amendment should only be a temporary holding measure and the moratorium should expire on 31.12.79, unless extended by resolution of the Legislative Council. This will give the reconstituted ACLE sufficient time to examine more thoroughly the very complicated issues involved, and to report to you, Sir, its recommendations before the end of this year.
- 3 A slight change in the composition of the ACLE. The University of Hong Kong will have 2 members while the Law Society will have 3.

Before I conclude, Sir, I would like to express some personal views. The question of allowing non-graduates to enrol as law students should be carefully considered. Hong Kong law is mainly based on English law and it is thus inevitable that English is used in our Courts. In my opinion, the average non-graduate, particularly 'school-leavers', may not have the necessary command of the English language to enable him to perform his duties as a solicitor satisfactorily, bearing in mind that the mother tongue in Hong Kong is Chinese. Furthermore, the average young non-graduate may not have a sufficiently broad educational background and knowledge of the society, which are essential for a solicitor to advise his clients properly. As the Bar in England does not admit school-leavers, the CPE is not opened to school-leavers. A new examination, similar in conception to the CPE has, therefore, been designed by the English Law Society for school-leavers and will be called the Solicitors' First Examination (SFE). In fact, in many countries, only graduates are accepted for entry into the legal profession. If non-graduates are to be permitted to enrol as law students, then a high standard of training is absolutely essential. Surely, our aim must be twofold. On the one hand, we should try our very best to increase the number of lawyers; on the other the quality of the profession should be maintained and improved from time to time. Although it is important to find ways and means to increase the number of lawyers, we must not, in our endeavour to do so, sacrifice quality for quantity.

Finally, Sir, we are grateful to the Attorney General for spending so much of his valuable time to discuss this Bill with Unofficial Members. This again demonstrates that Government is not unwilling to listen and concede where proposals by Unofficial Members are sound and reasonable.

Sir, with these remarks. I support the motion.

## APPENDIX

### COUNCIL NEWS

#### EDUCATION AND TRAINING

##### *The New System of Training*

**1** Last December, the Education and Training Committee circulated for discussion draft proposals for the future training of the 'school-leaver'. As a result of the comments received and of further discussion, the original proposals have been modified and the revised proposals set out in para. 9(d) below have now been approved by the Council and will come into effect in August 1980.

**2** During the year the Education and Training Committee have also reconsidered the training proposals for the non-law graduate. It was originally proposed that all graduates should take the new final course before entering articles. The course have been specifically designed to prepare the entrant for his service under articles as well as for his work after admission and an important part of the benefit of the course would be lost if it were taken after articles. The law graduate will go on the course immediately after leaving university but the non-law graduate must first attend a year's course for the CPE in order to learn his basic law. It has been strongly argued that for some non-law graduates the necessity to attend a second course for a further year before entering articles imposes an unreasonable burden and that the present difficulty of obtaining a grant for both courses, and in some cases for either course, would make it financially impossible. Because of these problems the Council have decided that non-law graduates shall have the option of taking the final course either before or after articles. It is hoped that grants will eventually become available to all and that the necessity for this option will then cease. In the meantime, because of the considerable benefits to be gained by taking the course first, the Council hope that non-law graduates will exercise the option only when absolutely forced to do so.

**3** The recent Council decisions affect only the non-law graduate and the school-leaver but as the new training scheme is now complete a summary is given below of the whole of the new system of training for entry into the profession and of the transitional arrangements between the old and the new systems. It must be emphasized that the following is only a summary

and that anybody seeking to enter the profession or concerned with admission entrants should obtain the detailed requirements from The Law Society.

**4** Excluding barristers and solicitors from Scotland and Northern Ireland, for whom there are special arrangements, there will be four categories of entrant into the profession, namely:

- (1) law graduates;
- (2) non-law graduates;
- (3) non-graduates over the age of 25;
- (4) non-graduates under the age of 25.

Non-graduates over the age of 25 include Fellows of the Institute of Legal Executives, holders of the Diploma for Justices' Clerks' Assistants and 'mature students'. 'Mature students' are, broadly speaking, persons with another professional qualification or experience in business or administration or commissioned service in the armed forces.

Non-graduates under the age of 25 are generally referred to as 'school-leavers' but the category is not confined to those who start their legal training immediately after leaving school.

**5** Before summarizing the training requirements for each category a note on the main features of the new training programme may be helpful.

**6** Common Professional Examination (CPE) This examination replaces, as from September 1978, the old Part 1 for all non-law graduates and non-graduates over the age of 25. The examination will also be taken by all entrants to the Bar other than law graduates. The examination is controlled by the CPE Board which comprises representatives of the Bar, The Law Society and law teachers. Courses for the examination are held at the College of Law and at polytechnics approved by the CPE Board. There will not be one central examination. The teaching institutions will set their own examination papers—in the same way as they would for a law degree—but the CPE Board will approve the syllabus and monitor the examinations.

The syllabus will comprise the six 'core subjects', namely: (1) constitutional and administrative law, (2) contract, (3) torts, (4) criminal law, (5) land law and (6) trusts—AND two other legal subjects from a wide range of options. The CPE Board acting through The Law Society and the Council of Legal Education will decide for each category of entrant the number of subjects to be taken and the length of the course. The examinations will be held once a year in the summer, but there will be opportunity to re-sit in the autumn. Not more than three attempts will be permitted at any paper except in special circumstances.

**7** Solicitors' First Examination (SFE) Passing the CPE will satisfy the academic law requirements of both the Bar and The Law Society but, as the Bar does not admit school-leavers, the CPE

itself is not open to school-leavers. A new examination, similar in conception to the CPE has, therefore, been designed for school-leavers and will be called the Solicitors' First Examination. This will replace the old Part 1 for all non-graduates under 25 after September 1980.

The examination will consist of the six core subjects plus two other legal subjects from a wide range of options.

Courses for the examination will be provided at polytechnics approved by The Law Society. It will not, initially at least be possible for courses to be provided at the College of Law. As with the CPE the examination itself will be set by the teaching institutions, but The Law Society will approve the syllabus and monitor the examination. It will be held once a year in the summer with an opportunity to re-sit in the autumn.

Not more than three attempts will be permitted at any paper, except in special circumstances. The first courses will commence in September 1980 and the first examination will be held in the summer of 1981.

**8** New Final Course and New Final Examination. The first course for the new final will start in September 1979, and the first examination will be held in July 1980.

The course will last for approximately 36 weeks and will be held at the College of Law and at polytechnics approved by The Law Society.

The following polytechnics have been approved—Birmingham, Bristol, City of London, Leeds, Manchester, Newcastle and Trent.

The new course will be entirely different in content, nature and teaching methods from the present Part II. The object of the course is to ensure that every prospective articled clerk has a common knowledge of the areas of substantive law which are of the greatest practical importance and to integrate this substantive law with practical instruction so that the articled clerk is familiar with the more important procedures and practices which he is likely to encounter in the office.

An important function of the course is to act as a bridge between the entrant's academic study at university or polytechnic and his training under articles in the office. This new approach is reflected by the way in which the course will be divided. Instead of the traditional subject classifications *eg* conveyancing, commercial law and family law, the subject division in the new course will be:

- Head A—The Solicitor and his Practice;
- Head B—The Solicitor and his Business Client;
- Head C—The Solicitor and his Private Client;
- Head D—Litigation.

The content of the courses provided by all the teaching institutions will be the same and will have been approved by The Law Society. The final

examination itself will be set on the contents of the course and will be conducted by The Law Society.

It is intended to be a stiff examination designed to test not only the applicant's knowledge of law and practice but also his aptitude for the profession.

The examination will be held once each year in July or August and it is hoped that there will be a further opportunity for a re-sit in the following January or February.

Save in exceptional cases, no person in future will be permitted to attempt any paper in the final more than three times.

## 9 Training Requirements for each Category of Entrant.

### (A) The Law Graduate

1. Law degree.
2. New final course of 36 weeks.
3. Final examination.
4. Two years' service under articles.

### (B) The Non-law Graduate

1. Non-law degree.
2. One year course for CPE in six core subjects.
3. New final course of 36 weeks.
4. Final examination.
5. Two years' service under articles.

*Notes:* (a) As an alternative, the non-law graduate may serve two years' articles after completing the CPE and before taking the final course and final examination; (b) in cases of exceptional hardship, full-time attendance at the CPE course may be excused.

### (C) Non-graduate over 25

#### (i) Mature Student

1. Two-year course for CPE in 8 subjects.
2. New final course of 36 weeks.
3. Final examination.
4. Two years' service under articles.

*Note:* In cases of exceptional hardship, the mature student may be excused attendance on the CPE course.

#### (ii) FILEX

1. Pass or obtain exemption for CPE core subjects.

*Note:* Exemption may be given from not more than three subjects on the basis of subjects passed in the Fellowship examination.

2. Either attend final course or serve two years under articles.
3. Final examination.

## (iii) Holders of the Diploma for Justices' Clerks' Assistants

1. Pass or obtain exemption from CPE core subjects.
2. Attend final course.
3. Final examination.
4. Two years' service under articles.

## (D) Non-Graduates under 25

1. Attain required standard of general education

(a) Pass in five subjects in GCE of which two are at 'A' level or in four subjects of which three are at 'A' level.

(b) One pass at either 'A' or 'O' level must be in English, English language or English literature.

- (c) Minimum 'A' level grades.

The following table is used to calculate the grades required:

Grade A—10 points.

Grade B— 8 points.

Grade C— 6 points.

Grade D— 4 points.

Grade E— 1 points.

At present a minimum of 12 points from 2 subjects or 13 points from 3 subjects is required.

From 1 August 1980, the minimum requirements will be:

14 points from 2 subjects taken at 1 sitting, or

18 points from 3 subjects taken at 1 sitting, or

20 points from 3 subjects taken at not more than 2 sittings.

2. Attend approved polytechnic for one year to take first four of the core subjects in SFE.

3. After passing four subjects in SFE enter into articles for minimum period of five years, one of which will be spent on the new final course.

4. Take remaining four subjects in SFE during first two years of articles by part-time study at a polytechnic or correspondence course. If the last four subjects are not passed during the first two years of articles the period of articles may be extended by one year to permit further attempts.

5. After passing eight subjects in SFE and after minimum of two years' articles attend new final course.

6. Final examination.

7. Two years' service under articles after passing the final examination.

**10 Transitional Provisions**

1. No non-law graduate or mature student may take the Part I examination after 1 September 1978 unless he has attempted it before that date.

2. No school-leaver may take the Part I examination after 1 September 1980 unless he has attempted it before that date.

3. No person may take the Part II examination after 1 September 1979 unless he has attempted it before that date.

4. The last Part II examination, will be held in February 1981.

5. The last Part I examination will be held in February 1982.

6. A person, other than a school-leaver, who has not disposed of the Part I examination at or before the last examination in February 1982 will be eligible to enter for the CPE. He may be granted exemption from heads of the CPE. He may be granted exemption from heads of the CPE on the basis of subjects already passed in the Part I.

7. A school-leaver who has not disposed of the Part I examination at or before the last examination in February 1982 will be eligible to take the SFE. He may be granted exemption from heads of the SFE on the basis of subjects already passed in Part I.

He must complete the SFE by not later than September 1984.

8. If a person has not disposed of the Part II examination at or before the last examination in February 1981.

(a) If he has not already entered into articles he must attend the new final course, take the final examination and serve two years under articles. (b) if he has entered into articles, he must complete his service under articles and may then take the new final examination without being required to attend the new final course.

9. As it is not possible to cover all the situations which may arise in the transitional period, The Law Society has reserved a power to grant exemptions from or vary the provisions where they will in any particular case operate inequitably or result in hardship.

**11 Improvement of Training Under Articles.** There has not been sufficient time for discussion within the profession of the draft proposals for improving training under articles which were recently circulated. They do not, therefore, yet form part of the new system of training. It is hoped that, if approved, they will be passed next summer so that they can come into effect before the conclusion of the first new final course.

## **12 Conclusion**

The new system of training has been the subject of intense debate within the profession. The final scheme reflects a number of modifications and improvements which have been made as a result of that debate. It must now be given a reasonable chance to prove itself. It will be kept under review by the new Standing Committee of The Society on Entry and Training, and suggestions for improvements and amendments will be carefully considered by that committee and by the Education and Training Committee which bears the final responsibility. The new final course is nearly ready to begin. It is the result of intense and arduous work by the College of Law, who have planned this major re-orientation of our training with skill, insight and enthusiasm and with ready co-operation from the polytechnics. The new course is a most exciting venture and the profession owes much to the College of Law for the dedicated work which has made it possible and will ensure its success.

The (English) Law Society's gazette 13.12.1978.

THE ATTORNEY GENERAL:—Sir, MR Peter C. WONG has explained very clearly the amendments which have been agreed, and which he will move in Committee. There is nothing that I can usefully add, except to confirm the very detailed discussions which I have had with Unofficial Members.

They will however wish to know that the Advisory Committee on Legal Education is making good progress with its consideration of the future training of lawyers and the methods by which students might qualify for admission to practise.

*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).*

## **AUXILIARY FORCES PAY AND ALLOWANCES (AMENDMENT) BILL 1979**

### **Resumption of debate on second reading (11 April 1979)**

*Question proposed.*

*Question put and agreed to.*

Bill read the second time.

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

## **BUILDINGS (AMENDMENT) BILL 1979**

### **Resumption of debate on second reading (11 April 1979)**

*Question Proposed.*

MR CHEN:—Sir, the proposed amendment to the Buildings Ordinance as detailed in the Buildings (Amendment) Bill 1979 is an attempt to cope with a situation where substantial building works have been deliberately carried out in defiance of the law thus undermining the basic principle of the Ordinance to safeguard the safety of the public. The amendment seeks to substantially increase penalties to reflect the seriousness of these offences.

At first sight, heavier penalties should have some effect in preventing violation of building regulations. However, as the proposed increase in fines, though five-fold from \$50,000 to \$250,000, is relatively insignificant in comparison with the huge sum involved in the construction of a building, the new regulation is unlikely to have much effect on the determined offenders. Nevertheless, as a punitive measure I am happy to support the motion before Council although I feel that there is a need for an overall review of the existing Ordinance in order to find a more basic solution to this very serious problem. In this connection, I have a few points for Government's consideration.

Firstly, in the principal Ordinance there are provisions for disciplinary proceedings against the offender as set out in section 7 in respect of an 'Authorized Person' or 'Registered Structural Engineer' and section 13 in respect of 'Registered Contractors'. If the offences listed in sub-sections (2A), (2B) and (2C) of section 40, which is the subject of the proposed amendment, are serious enough then on conviction, disciplinary proceedings must be brought against the offender and his name should be removed from the statutory register, either temporary or permanently depending on the seriousness of the case. This in my opinion would be a more effective deterrent than heavier fines.

Secondly, under section 4 of the principal Ordinance dealing with the appointment and duties of 'Authorized Person' and 'Registered Structural Engineer', individuals so appointed are required according to subsection (3)(a) to *supervise* the carrying out of the building works in the prescribed manner. It can be expected therefore that if *adequate and proper supervision* is given, the quality of the material used and the workmanship in the execution of the building work at all stages of progress would have been accurately recorded whereby the quality of the building work is being constantly monitored and controlled. Strict enforcement of subsection 3(a) of section 4 of the principal Ordinance such that the 'Authorized Person' or 'Registered Structural Engineer' is required to maintain and submit on request a complete record of his supervision given to the building works would contribute much to the solution to the problem of unsafe buildings.

Thirdly, the responsibility of the various people involved in any building work must be put in correct perspective. There is the 'Authorized Person' or 'Registered Structural Engineer' responsible for the planning and design of the building and the supervision of the construction work; there are the 'Registered Contractors' responsible for the execution of the building construction work in accordance with the approved plans and details; there are Government officials in the Building Authority responsible for the checking and approval of plans and the subsequent inspection of the building works as a final attempt to ensure that the building is properly constructed. Clearly each party must have a share in the overall responsibility for the building work. Both the 'Authorized Person' and the 'Registered Contractors' are

accountable for their professional work and failure on their part will be subject to severe penalties under the provisions of the Ordinance, but there is no similar legal obligations on the part of the Government official for their professional performance. It is only fair to suggest that Government should also be required to take a share in the overall responsibility and this would make a further contribution towards finding an effective solution to the difficult problem which we are confronted with.

Fourthly, since public safety is the main consideration in proposing amendments to the Buildings Ordinance, I am tempted to ask: 'Are the provisions in the existing Ordinance adequate from the public safety point of view?' Take the case of modern high-rise buildings, where the architectural planning and the design of the foundation and the structure are safeguarded by statutory requirements, the design of the building services such as fire service installation, electrical power distribution, ventilation and air-conditioning, *etc.*, is not. With the advent of advanced technology and sophisticated utilization of materials, building services form an important and integral part of a building, and from the point of view of safety, health and environmental considerations, the integrity of these services is as important and vital as the soundness of the foundation and the structure of a building.

A person responsible for the planning and design of building works is required by law, under the provisions of the Buildings Ordinance, to register as an 'Authorized Person' or 'Registered Structural Engineer', but a person responsible for the planning and design of the building services is not. Although in the Buildings Ordinance there are provisions for the requirement of registration of contractors for building services works, such as lifts and escalators, fire installations, *etc.*, there is no guarantee that the service provided is adequately designed, and planned particularly since the contractor himself has a vested interest in the supply of equipment, the less ethical ones may even sacrifice quality in order to secure the business. Obviously there is a need for an independent professional service in this field and I therefore suggest that a statutory register should be established of persons recognized as 'Building Service Engineers' in their respective areas of expertise, similar to the register of 'Authorized Persons' and 'Registered Structural Engineers' required under the Buildings Ordinance.

Sir, with these remarks I support the motion before Council.

DIRECTOR OF PUBLIC WORKS:—Sir, I would like to thank Mr CHEN for supporting the motion before Council.

I am sure that he will be pleased to hear that an overall review of the Buildings Ordinance has been in hand for some time now and many of the points he has raised today have been or are being considered in the review process.

*Question put and agreed to.*

Bill read the second time.

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

## **REGISTRATION OF UNITED KINGDOM PATENTS (AMENDMENT) BILL 1979**

### **Resumption of debate on second reading (14 March 1979)**

*Question proposed.*

MR PETER C. WONG:—Sir, I am not an expert in the field of patent law, but my attention has been drawn to two significant deficiencies in the principal Ordinance, which should be rectified by adding further amendments to the Registration of UK Patents (Amendment) Bill 1979.

First, the definition of infringement in the proviso to section 7 of the principal Ordinance is too narrow and would not embrace acts which would be considered infringements under the provisions of the UK Patents Act 1977. It has therefore been suggested that the words ‘manufacture, use or sale of the invention’ in the proviso to section 7 of the principal Ordinance should be deleted and substituted by the words ‘act done’. Both the Attorney General and the Registrar General consider this proposal fair and reasonable, and amendments to this effect will be moved at the Committee Stage.

Second, under the Patents Act 1977, prior secret use is now no longer a bar to obtaining a patent. Hence a person who has secretly used an invention cannot use this as a basis for attacking another’s patent. Section 64 of the Patent Act 1977 gives a person the right to carry on doing what he has done or made preparations to do so before the priority date of a patent.

Both the Attorney General and the Registrar General are not keen to adopt the proposal that the essence of section 64 of the Patents Act 1977 be incorporated in the principal Ordinance for the following reasons:—

- 1 Section 6 of the principal Ordinance states that registration in Hong Kong would confer on the applicant the privileges and rights of the UK patent.
- 2 Adopting section 64 would not be desirable at this stage as it would require very careful thought and drafting. The matter will be referred to the Working Party on Patents. At any rate, section 6 of our Ordinance would take care of the UK provision.

I concur with the Attorney General and the Registrar General. The intention of the present Bill is merely to offer protection to those who would wish to apply for the new European Patent (UK). For this purpose, I think the Bill has achieved its aim.

Sir, with these remarks, I support the motion.

SECRETARY FOR ECONOMIC SERVICES:—Sir, I would like to thank my honourable Friend Mr Peter C. WONG, and others outside this Council, for their careful consideration of this Bill and for their critical and helpful comments on it.

As the Acting Secretary for Economic Services stated in this Council on 14 March 1979, the Bill provides for the registration in Hong Kong of both ‘new’ United Kingdom patents *and* patents ‘granted under the Convention on the Grant of European Patents and designating the United Kingdom’. It proposes only those changes to the Registration of United Kingdom Patents Ordinance necessary for this registration process. I can confirm to my honourable Friend that, as it is directly relevant to the objects of the Bill, I shall be moving an amendment to clause 8 at the Committee Stage as he suggested to bring the terminology in section 7 of the principal Ordinance into line with that of the 1977 Patents Act.

I can also confirm that I shall be referring my honourable Friend’s other suggestions relating to infringement to the Patents Working Party.

*Question put and agreed to.*

Bill read the second time.

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

## **EMPLOYMENT (AMENDMENT) (NO 2) BILL 1979**

### **Resumption of debate on second reading (11 April 1979)**

*Question proposed.*

*Question put and agreed to.*

Bill read the second time.

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

### **Committee stage of bills**

Council went into Committee.

**APPROPRIATION BILL 1979**

HIS EXCELLENCY THE PRESIDENT:—We shall consider the Schedule first in accordance with Standing Order 55. The question is that the sums for the following Heads stand part of the Schedule.

Heads 21-31 were agreed to.

Head 32

MR CHEONG-LEEN:—

*Education subventions*

Sir, legislation is before this Council to amend section 74 of the Education Ordinance for the enforcement of a form of compulsory education up to Junior Secondary standard or up to the age of 15.

There is not enough provision for school places for retarded children and I would urge that a special programme be prepared to provide all retarded children who are suitable with a school place up to the age of 15 or 16 not later than the mid-1980's rather than just having the situation kept under constant scrutiny as mentioned by the Director of Education a while ago. I hope that a proper survey of the number of school places actually needed for retarded children will take place very soon so that sufficient school places can be provided for this particular group by the mid-1980's.

Head 32 was agreed to.

Heads 33-37 were agreed to.

Head 38

MR CHEONG-LEEN:—

*Housing Department*

Sir, the mountainous influx of immigrants will make it extremely difficult to achieve the goal of providing decent homes for all Hong Kong families by 1985.

The Housing Authority needs to revise its policy so that families in normal clearances will not be allocated public housing unless or until the identity card of the head of the household shows that he or she has been living in Hong Kong for at least 5 years.

Rising rents in the private sector has been a factor in the heating up of domestic inflation. As rent control legislation is due for review at the end of the year, it is time to take another look at the overall housing situation both in the public and private sectors, and to anticipate the direction in which we are heading. Certainly the opportunities for closer co-operation

and complementary effort between Government and private enterprise in providing more home ownership schemes to middle-income families have yet to be fully exploited.

Perhaps a debate in this Council in the coming months on the housing situation could command some public interest.

Head 38 was agreed to.

Heads 39-44 were agreed to.

Head 45

MR CHEONG-LEEN:—

*Labour Department*

Sir, in order to facilitate the integration of immigrants into the industrial labour force at a quicker pace, the industrial associations in the Housing Authority flatted factory estates could be consulted and their assistance sought in organizing short-term industrial training programmes.

This approach, if successful, could relieve some of the labour shortages existing in the thousands of small factories and workshops within the Authority's factory estates, and even outside these estates as well.

Coming as they do from a different environment, immigrant workers from the mainland will be given the opportunity to better understand the local industrial system, geared as it is to hard work, incentive and more income for higher productivity.

No time should be lost in exploring this suggestion, in view of pending legislation designed to bring up the age of compulsory education to 14 this year and to 15 next year.

Head 45 was agreed to.

Heads 46-82 were agreed to.

Head 83

MR CHEONG-LEEN:—

*Trade Industry and Customs Department*

Sir, I am concerned at the high interest rates which small factories have to pay to borrow money for their legitimate production needs.

Established factories are able to borrow at the prime rate while the small industrial establishments have no such facility.

When plastic raw materials was in easy supply, for example, the small plastic factory was given credit of one month or more. The Iranian crisis

has been a main cause for plastic raw materials to double in price recently, and many small manufacturers no longer can obtain credit. Not only that, they have to borrow money at anywhere between 14% to 18% a year for operational requirements.

They fail to understand why Government is unable or unwilling through the banking system to find some way to help them in their hour of need.

It is all too painfully obvious that Government has not yet acquired the art of 'fine tuning' in the industrial sector of the economy, in so far as the needs of small industry is concerned.

The Financial Secretary in his speech concluding the Budget Debate said that a subsidiary working group of the Advisory Committee on Diversification was examining sources of finance for industry, and that he would prefer to withhold any definitive reply on the subject for a few months. Without any indication of how long the current high interest rate of 13% prime will last, one can only hope that not many small factories will fold up until the time that Government comes up with some concrete proposals.

Meantime, it is to be hoped that the members of the Exchange Bankers Association, with every encouragement from the Government, will make loans available to small and medium-sized factories at current prime rate for their operational needs to the maximum extent possible.

Head 83 was agreed to.

Heads 84-88 were agreed to.

*Question put that the Schedule stands part of the Bill was agreed to.*

Clauses 1 and 2 were agreed to.

#### **EXCHANGE FUND (AMENDMENT) BILL 1979**

Clauses 1 to 3 were agreed to.

#### **BANKING (AMENDMENT) BILL 1979**

Clauses 1 to 4 were agreed to.

#### **DEPOSIT-TAKING COMPANIES (AMENDMENT) BILL 1979**

Clauses 1 to 3 were agreed to.

#### **CRIMINAL PROCEDURE (AMENDMENT) (NO 2) BILL 1979**

Clauses 1 to 4 were agreed to.

**Clause 5**

THE ATTORNEY GENERAL:—I move that clause 5 be amended as set out in the paper circulated to Honourable Members.

*Proposed amendment***Clause 5**

That clause 5 be amended by deleting the proposed new subsection (2A) and substituting the following—

‘(2A) The Court of Appeal may hear and determine an application for the review of a sentence notwithstanding that the respondent is not present, if the respondent has been served with an application or notice of it.’.

The amendment was agreed to.

Clause 5, as amended, was agreed to.

Clauses 6 to 10 were agreed to.

**BANKRUPTCY (AMENDMENT) BILL 1979.**

Clauses 1 to 3 were agreed to.

**LEGAL PRACTITIONERS (AMENDMENT) BILL 1979.**

Clauses 1 and 2 were agreed to.

**Clause 3**

MR PETER C. WONG:—I move that clause 3 be amended as set out in the paper circulated to Honourable Members.

*Proposed amendment***Clause 3**

That clause 3 be amended—

- (a) by renumbering proposed new section 26A as section 26AA;
- (b) in subsection (1) of proposed new section 26AA—
  - (i) by deleting ‘or’ at the end of paragraph (a);

- (ii) by deleting the full stop at the end of paragraph (b) and substituting a semicolon; and
- (iii) by inserting after paragraph (b) the following—
  - (c) has passed Part I of the qualifying examination set by the English Law Society;
  - (d) has passed the Common Professional Examination recognized by the English Law Society; or
  - (e) has obtained exemption from the English Law Society from taking the examination referred to in paragraph (c) or (d).’;
- (c) by inserting after subsection (3) of proposed new section 26AA the following—
  - ‘(4) This section shall expire on 31 December 1979 or on such other later date as the Legislative Council may, by resolution, appoint.’.

The amendment was agreed to.

Clause 3, as amended, was agreed to.

Clause 4

MR PETER C. WONG:—I move that clause 4 be amended as set out in the paper circulated to Honourable Members.

*Proposed amendment*

#### **Clause 4**

That clause 4 be amended in proposed new section 74A(2)—

- (a) in paragraph (c)(i) by deleting ‘2’ and substituting the following—
  - ‘3’; and
- (b) in paragraph (c)(iii) by deleting ‘3’ and substituting the following—
  - ‘2’.

The amendment was agreed to.

Clause 4, as amended, was agreed to.

### **AUXILIARY FORCES PAY AND ALLOWANCES (AMENDMENT) BILL 1979**

Clauses 1 to 4 were agreed to.



**Third reading of bills.**

THE ATTORNEY GENERAL reported that the

APPROPRIATION BILL

EXCHANGE FUND (AMENDMENT) BILL

BANKING (AMENDMENT) BILL

DEPOSIT-TAKING COMPANIES (AMENDMENT) BILL

BANKRUPTCY (AMENDMENT) BILL

AUXILIARY FORCES PAY AND ALLOWANCES (AMENDMENT) BILL

BUILDINGS (AMENDMENT) BILL and

EMPLOYMENT (AMENDMENT) (NO 2) BILL

had passed through Committee without amendment and that the

CRIMINAL PROCEDURE (AMENDMENT) (NO 2) BILL

LEGAL PRACTITIONERS (AMENDMENT) BILL and

REGISTRATION OF UNITED KINGDOM PATENTS (AMENDMENT) BILL

had passed through Committee with amendments and moved the third reading of each of the eleven Bills.

*Question put on each Bill and agreed to.*

Bills read the third time and passed.

**Adjournment and next sitting**

HIS EXCELLENCY THE PRESIDENT:—In accordance with Standing Orders I now adjourn the Council until 2.30pm on Wednesday, 9 May 1979.

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