

OFFICIAL REPORT OF PROCEEDINGS**Wednesday, 13 February 1980****The Council met at half past two o'clock****PRESENT**

HIS EXCELLENCY THE GOVERNOR (*PRESIDENT*)
SIR CRAWFORD MURRAY MACLEHOSE, G.B.E., K.C.M.G., K.C.V.O.

THE HONOURABLE THE CHIEF SECRETARY
SIR JACK CATER, K.B.E., J.P.

THE HONOURABLE THE FINANCIAL SECRETARY
SIR CHARLES PHILIP HADDON-CAVE, K.B.E., C.M.G., J.P.

THE HONOURABLE THE ATTORNEY GENERAL
MR. JOHN CALVERT GRIFFITHS, Q.C.

THE HONOURABLE THE SECRETARY FOR HOME AFFAIRS
MR. LI FOOK-KOW, C.M.G., J.P.

THE HONOURABLE DAVID AKERS-JONES, C.M.G., J.P.
SECRETARY FOR THE NEW TERRITORIES

THE HONOURABLE LEWIS MERVYN DAVIES, C.M.G., O.B.E., J.P.
SECRETARY FOR SECURITY

THE HONOURABLE DAVID WYLIE McDONALD, C.M.G., J.P.
DIRECTOR OF PUBLIC WORKS

THE HONOURABLE KENNETH WALLIS JOSEPH TOPLEY, C.M.G., J.P.
DIRECTOR OF EDUCATION

THE HONOURABLE DAVID GREGORY JEAFFRESON, J.P.
SECRETARY FOR ECONOMIC SERVICES

THE HONOURABLE ALAN JAMES SCOTT, J.P.
SECRETARY FOR HOUSING

THE HONOURABLE THOMAS LEE CHUN-YON, C.B.E., J.P.
DIRECTOR OF SOCIAL WELFARE

THE HONOURABLE DEREK JOHN CLAREMONT JONES, C.M.G., J.P.
SECRETARY FOR THE ENVIRONMENT

DR. THE HONOURABLE THONG KAH-LEONG, J.P.
DIRECTOR OF MEDICAL AND HEALTH SERVICES

THE HONOURABLE ERIC PETER HO, J.P.
SECRETARY FOR SOCIAL SERVICES

THE HONOURABLE JOHN CHARLES CREASEY WALDEN, J.P.
DIRECTOR OF HOME AFFAIRS

THE HONOURABLE JOHN MARTIN ROWLANDS, J.P.
SECRETARY FOR THE CIVIL SERVICE

THE HONOURABLE JAMES NEIL HENDERSON, J.P.
COMMISSIONER FOR LABOUR

THE HONOURABLE GERALD PAUL NAZARETH, O.B.E.
LAW DRAFTSMAN

THE HONOURABLE WILLIAM DORWARD, O.B.E., J.P.
DIRECTOR OF TRADE, INDUSTRY AND CUSTOMS

THE HONOURABLE OSWALD VICTOR CHEUNG, C.B.E., Q.C., J.P.

THE HONOURABLE ROGERIO HYNDMAN LOBO, C.B.E., J.P.

THE HONOURABLE LI FOOK-WO, C.B.E., J.P.

THE HONOURABLE JOHN HENRY BREMRIDGE, O.B.E., J.P.

DR. THE HONOURABLE HARRY FANG SIN-YANG, C.B.E., J.P.

THE HONOURABLE LO TAK-SHING, O.B.E., J.P.

THE HONOURABLE FRANCIS YUAN-HAO TIEN, O.B.E., J.P.

THE HONOURABLE ALEX WU SHU-CHIH, O.B.E., J.P.

THE REVD. THE HONOURABLE JOYCE MARY BENNETT, O.B.E., J.P.

THE HONOURABLE CHEN SHOU-LUM, O.B.E., J.P.

THE HONOURABLE LYDIA DUNN, O.B.E., J.P.

DR. THE HONOURABLE HENRY HU HUNG-LICK, O.B.E., J.P.

THE HONOURABLE LEUNG TAT-SHING, O.B.E., J.P.

THE REVD. THE HONOURABLE PATRICK TERENCE McGOVERN, O.B.E., S.J., J.P.

THE HONOURABLE PETER C. WONG, O.B.E., J.P.

THE HONOURABLE WONG LAM, O.B.E., J.P.

DR. THE HONOURABLE RAYSON LISUNG HUANG, C.B.E., J.P.

THE HONOURABLE CHARLES YEUNG SIU-CHO, J.P.

DR. THE HONOURABLE HO KAM-FAI

THE HONOURABLE ALLEN LEE PENG-FEI

THE HONOURABLE DAVID KENNEDY NEWBIGGING, J.P.

THE HONOURABLE ANDREW SO KWOK-WING

THE HONOURABLE HU FA-KUANG, J.P.

THE HONOURABLE WONG PO-YAN, O.B.E.

IN ATTENDANCE

THE CLERK TO THE LEGISLATIVE COUNCIL
MRS. LORNA LEUNG TSUI LAI-MAN

Papers

The following papers were laid pursuant to Standing Order No. 14(2):—

Subject *L.N. No.*

Subsidiary Legislation:

Public Health and Urban Services Ordinance. Civic Centres (New Territories) Regulations 1980	22
Legal Aid Ordinance. Legal Aid (Assessment of Contributions) (Amendment) Regulations 1980	23
Holidays Ordinance. General Holidays Order 1980.....	26
Merchant Shipping (Amendment) (No. 2) Ordinance 1979. Merchant Shipping (Amendment) (No. 2) Ordinance 1979 (Commencement) Notice 1980.....	29
Public Health and Urban Services Ordinance. Public Health and Urban Services (Civic Centres) (Amendment of Thirteenth Schedule) Order 1980	30
Public Health and Urban Services Ordinance. Public Health and Urban Services (Public Markets) (Designation and Amendment of Tenth Schedule) Order 1980.....	31
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Registration of Persons Ordinance. Registration of Persons (Amendment) Regulations 1980.....	33
Merchant Shipping Ordinance. Merchant Shipping (Forms) Regulations 1980.....	34

Sessional Papers 1979-80:

No. 34—Supplementary Provisions approved by the Urban Council during the third quarter of the fiscal year 1979-80 (published on 13.2.80)

No. 35—Eighteenth Annual Report by the Social Work Training Fund Trustee for the year ending 31 March 1979 (published on 13.2.80)

No. 36—Li Po Chun Charitable Trust Fund Annual Report for the period 1 September 1978 to 31 August 1979 (published on 13.2.80)

Oral answers to questions

Movements of Vietnamese refugees

1 MISS DUNN asked:—*Would the Government state:*

- (a) *the number of Vietnamese refugees resettled overseas since the influx began, and what proportion does this represent of the total number of refugees who arrived;*
- (b) *how does this proportion compare with the proportion of the total number of Vietnamese refugees in S.E. Asia resettled overseas during the same period;*
- (c) *how many Vietnamese refugees still remain in Hong Kong; and*
- (d) *at what rate are they expected to be resettled in 1980?*

SECRETARY FOR SECURITY:—

- (a) 27,765 Vietnamese refugees were resettled overseas from 1 January 1979 to 8 February this year. This represents 36.3% of the 76,412 refugees who were in Hong Kong on 1 January 1979 plus those who arrived between that date and 8 February 1980.
- (b) This percentage of 36.3% compares with a total of about 105,000 *boat* refugees resettled from South-east Asian countries during the year 1979, which represents about 57.6% of the total number of boat refugees who were in these countries on 1 January 1979 plus those who arrived during 1979. Resettlement figures for South-east Asian countries for January 1980 are not yet available for comparison; and because these figures sound a little confusing when spoken, I have added a table (Appendix) which I have circulated to honourable Members setting out the figures and percentages of boat refugees in the countries in the region at 1 February 1980.
- (c) On 8 February 1980 there were 49,630 Vietnamese refugees still remaining in Hong Kong.
- (d) This is difficult to estimate because the monthly figures of departures to resettlement countries vary in accordance with factors such as the quota actually allocated, travel arrangements, speed of processing and progress with actual resettlement. Few resettlement countries make definite commitments more than 3 months ahead. With these reservations in mind I assess that departures this month and for the next 2 months

will be between 3,000 and 4,000 each month. We hope to maintain this rate for the rest of the year but any firmer prediction would be premature.

Appendix

	A	B		C	
	Country/Territory	Boat Refugee Population at 31.12.78 plus 1979 Arrivals*		Resettlement in 1979* (as percentage of B)	
1	Hong Kong	76,000		24,000	(32%)
2	South-east Asia				
	Malaysia	103,000		69,000	(67%)
	Indonesia	51,000		19,000	(37%)
	Thailand**	15,000	9,000	(60%)	
	Philippines	9,000		4,000	(44%)
	Singapore	4,000		4,000	(100%)
	Sub-total	<u>182,000</u>		<u>105,000</u>	<u>(57.6%)</u>
3	Total (i.e. 1 and 2)	258,000		129,000	(50.0%)

* To the nearest 1,000.

** Excluding land refugees.

MISS DUNN:—*Sir, what representations are being made to governments and UNHCR in Geneva about the low rate of resettlement from Hong Kong compared with the off-take from the region as a whole?*

SECRETARY FOR SECURITY:—*Sir, we have a very close dialogue with UNHCR here in Hong Kong regarding the progress of resettlement, and this is a continuing process. We also maintain a very close dialogue with the three countries most closely associated with our resettlement programmes, that is to say the United States Administration, whose Ambassador at large dealing with refugees was here last week, with the Canadian Government and also with the United Kingdom Government. This is an on-going dialogue and includes discussions with other governments who have notified their intention to accept refugees from Hong Kong.*

MISS DUNN:—*The rate of resettlement at 32% for Hong Kong on the table which the Secretary for Security provided, being the lowest of all the countries on the table, would the Government agree that Hong Kong is being discriminated against?*

SECRETARY FOR SECURITY:—Certainly the figure is the lowest. I have said on previous occasions that the reasons which decide governments to participate in a resettlement programme are many and varied. Under the present arrangements we appear to be getting less share than governments apply to other countries, but they have their reasons for allocating resettlement places to those countries and I can assure the honourable Member that we never miss an opportunity for representing Hong Kong's claims.

MR. YEUNG:—*On the refugees, about the allocation of places by the other countries, I understand the America has said that it is not going to increase the quota for Hong Kong because of the Kampuchea refugees in Thailand. I do not know whether the American Government has been given the facts that the Hong Kong refugees are not the same type of refugees as those in Thailand/Kampuchea because those in Hong Kong are persecuted and are of Chinese ethnic origin, while those Kampuchean refugees in Thailand were only involved in a civil war and they are actually seeking temporary shelter, so the resettlement question is different from Hong Kong. I don't know whether this has been brought to the notice of the American Government or not?*

SECRETARY FOR SECURITY:—The American Government have never said to Hong Kong that existence of refugees in Kampuchea would result in a lower off-take from Hong Kong. In fact the American Administration provided 50% of all resettlement places in 1979, about 12,000 out of 24,000. In addition they are currently continuing to accept 2,000 a month. This was the figure which was allocated to Hong Kong after the Geneva Conference in July when the American Administration announced they would take 14,000 refugees a month from the region. This figure of 2,000 is being maintained though it is true that they are not all going direct to the United States; some will be going to a processing centre in the Philippines. It is true also, as Mr. YEUNG has said, that the refugee problem in Kampuchea is of a different type, none the less there are very large numbers of people in Thailand, in particular, land refugees who are seeking resettlement overseas and it is this group the American Government are taking into account.

Temporary housing areas

2 DR. HENRY HU asked:—*To ease the housing situation will Government speed up the provision of housing estates on existing suitable temporary housing areas?*

SECRETARY FOR HOUSING:—Sir, there are now 47 temporary housing areas, occupying about 300 acres of temporarily allocated land, which is zoned for various eventual permanent uses. These permanent uses include industrial purposes, district or local open space, swimming pools, secondary schools,

hospitals and other community uses. Some of these areas are zoned for permanent housing, for example a site at Ap Lei Chau, which is about to be cleared for the construction of a public housing estate. Another at Chai Wan will later this year make way for a home ownership scheme project; and a public housing estate is to be built on such a site at Tai Po in 1985, and so on. In the continuing search for sites for the housing programme, we regularly examine the possibility of rezoning existing temporary housing area sites, but I regret that it is unlikely that any more of these existing sites can be rezoned for permanent housing estates.

DR. HENRY HU:—*Is it correct that out of 47 temporary housing sites, only 3 sites, two on Hong Kong side and one in the New Territories, are allocated for public housing?*

SECRETARY FOR HOUSING:—I don't have the exact figures but I think it is probably four. I will write to the honourable Member if I may, Sir.

(THE FOLLOWING WRITTEN REPLY WAS PROVIDED SUBSEQUENTLY)

The following intended permanent housing sites are located, either wholly or in part, on existing THAS:

- Chai Wan 'D'—Home Ownership Scheme (part of Chai Wan V THA)
- Tai Po Area 17—Rental and Home Ownership Scheme (Yue Kok THA)
- Ap Lei Chau West—Rental
- Mei Lam Phase II, Sha Tin Area 4—Rental
- Ma Chai Hang—Home Ownership Scheme
- Chuk Yuen (existing cottage area)—Rental
- Ngau Tau Kok East (existing cottage area)—Rental

Street-sleepers

3 DR. HO asked:—*Will Government state:*

- (a) *the number of street-sleepers known to the Government and,*
- (b) *the measures being taken to help them?*

DIRECTOR OF SOCIAL WELFARE:—Sir, (a) the number of street-sleepers currently being assisted by the Social Welfare Department is 155. Obviously, the total number of street-sleepers is larger than this, because many are unwilling to accept help. To obtain an accurate overall figure is difficult, largely because of the considerable seasonal fluctuation in numbers; but on the basis of estimates from surveys recently carried out by the Social Welfare Department in various districts in Hong Kong and Kowloon, I believe there may be between 500 to 1,000 street-sleepers of various kinds. The Department intends to carry out a more detailed survey covering the whole territory later this year, and I would be happy to provide Dr. HO with a more accurate figure when this survey has been completed.

(b) The standard procedure for helping street-sleepers is that, when the Department hears of a case, either through our own staff or through information from another department or a member of the public, a social worker from the nearest family service centre is assigned to visit the street-sleeper, to assess his needs and to offer appropriate assistance. This may include public assistance, old age allowance, temporary shelter or a grant from charitable funds, or, in the longer term, compassionate rehousing or admission to a day or residential centre. But I must emphasize that our ability to help street-sleepers depends primarily on their willingness to be helped, and this is by no means always the case. On account of the recent cold weather, special measures have been taken to help street-sleepers. Since 31 January, a total of 2,872 blankets have been distributed through SWD community centres and offices or by departmental staff in the streets. In addition, since 8 February, 5 community centres of the Department have been kept open overnight as temporary shelters to those who need them.

DR. HO:—*Sir, will the Government consider plans which aim at ultimately removing the willing street-sleepers from the streets and placing them in a proper institution?*

DIRECTOR OF SOCIAL WELFARE:—The Department has proposed to the Street Sleepers Shelter Society that their three shelters at present managed by the Society should be converted to operate permanently on a 24-hour basis including the provision of meals with costs being met if necessary through subvention.

The Society is, however, concerned that the upgrading of its facilities in this way may encourage people who are not genuinely destitute but merely wish to avoid paying rent to use and continue to stay in the shelter, possibly to the extent that they are constantly full, so that the Society is unable to meet the needs of its real clients.

However the Society has now agreed to consider operating an experimental scheme in one of their shelters, and the details of implementation are being worked out by the Department. It is hoped that if this scheme will prove to be satisfactory the Society will be able to provide a more effective service to at least 200 of such street sleepers.

REVD. JOYCE M. BENNETT:—*Sir, was it true that one of the street-sleepers who died was on public assistance, and is it possible to ascertain whether or not this one or indeed the others who died had refused aid?*

DIRECTOR OF SOCIAL WELFARE:—Sir, in fact there were two out of the four deaths who were on public assistance at one time or another, but unfortunately these two had lost contact with the Department. One of them moved away from the bed space which was arranged for him by a medical social worker, and the other one left hospital and did not re-establish contact with the Department.

Management training of Medical Officers

4 DR. FANG asked:—*Will Government consider giving incremental recognition to Government Medical Officers obtaining approved training and certificates in management studies and give such qualifications due weight when officers are being considered for advancement to consultant status, especially when an officer's career prospects lie in the administrative stream?*

SECRETARY FOR THE CIVIL SERVICE:—Sir, Medical Officers who wish to pursue a career in public health administration and community medicine are encouraged to take one of the post-graduate medical qualifications which cover medical administration and management, for example, the Diploma in Public Health or the Master of Science in Public Health. Such qualifications already attract incremental credit. I understand that the Director of Medical and Health Services is considering recognition of other similar qualifications.

As regards Medical Officers wishing to pursue their careers in the clinical stream, the present view, and I stress present, is that a formal qualification in management is not a prerequisite for advancement. However we have recently begun to encourage Medical Officers to undertake some general management training, but, in line with our policy for the civil service as a whole, such courses do not attract incremental credit. I foresee great difficulty in singling out Medical Officers for special treatment in this respect.

DR. FANG:—*Sir, how many Medical Officers have undertaken some general management training in the past three years if I may ask?*

SECRETARY FOR THE CIVIL SERVICE:—Sir, I do not have that information with me at this time, but I will let Dr. FANG know.

(THE FOLLOWING WRITTEN REPLY WAS PROVIDED SUBSEQUENTLY)

The following table gives the number of Medical/Dental Officers who have attended management courses in the past three years:

<i>Venue</i>	<i>Type of Course</i>	<i>No. of Officers attending</i>
<i>Civil Services Training Division</i>	Directorate Seminar	16
	General Administration	2
	Management Development	1
	Public Speaking	3
<i>Overseas Institutions</i>	Public Health	7
	Industrial Health	7
	Dental Public Health	3
	General Management	2*
	*(One at Birmingham University and one at Henley)	

You will be interested to know that during the coming year the number of general management courses in the Training Division will be trebled, covering a wider range of subjects. Senior officers of the Medical and Health Department will be given every opportunity to attend.

DR. FANG:—Thank you.

MR. PETER C. WONG:—*Will the Secretary for the Civil Service explain why management training, though encouraged in the civil service, does not attract incremental credit?*

SECRETARY FOR THE CIVIL SERVICE:—Sir, if one starts to grant incremental credit for civil servants who receive any form of management training, then we are faced with the problem of equity, for example, as between Police Officers who receive management training as a part of their normal regular training, officers who are selected to attend courses overseas which include an element of management training, and on the other hand officers who apply to take management courses in their own time. The policy we have got at the moment is that except in rare cases where management training is a requirement for the particular grade concerned, we regard management training as something which all officers should be encouraged to obtain at some stage during their service.

Facilities for psychiatric cases

5 MR. SO asked in Cantonese:—

政府可否約畧估計本港需要接受治療的精神病患者共有多少宗？並請說明除瑪嘉烈醫院精神科大樓外，尚有甚麼計劃，以擴展精神病的治療及康復輔導工作？

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

Will Government give a rough estimate of the number of psychiatric cases in Hong Kong requiring clinical attention and state the facilities, apart from the psychiatric wing of the Princess Margaret Hospital, being planned for their treatment and rehabilitation?

DIRECTOR OF MEDICAL AND HEALTH SERVICES:—Sir, according to experience based on attendances at our psychiatric institutions, the estimated number of cases requiring treatment is about 30,000.

In regard to the second part of my friend's question, the facilities being planned for treatment and rehabilitation of such cases are as follows:

- (a) apart from the 1,336 beds which will be operational in the psychiatric wing of the Princess Margaret Hospital later this year, an additional 1,700 beds for psychiatric patients are being planned as part of the development or extension programmes for 5 new general hospitals and 3 existing hospitals by the end of this decade;

- (b) 300 more places in day centres will also be made available to augment the existing 180 places;
- (c) in addition to the 7 existing psychiatric out-patients clinics, another 6 such clinics are also being planned in the next 6-7 years; and
- (d) a new area of psychiatric service, namely, Psychiatric Community Nursing, based at the Princess Margaret Hospital, is expected to be introduced by the end of this year.

Training facilities for the civil service

6 MR. CHEN asked: — *What training facilities are currently being operated by Government or in the planning stage in order to improve the quality and standard of the civil service?*

SECRETARY FOR THE CIVIL SERVICE:—Sir, there are in all 35 Government departments with their own training facilities. They range in size from complex organizations such as the Police or Fire Services Training Schools to the small but very active training section in the Transport Department. The civil service, as a whole, now has 40 separate training sections and 27 training centres or schools employing altogether 870 teaching and administrative staff (620 of them full-time and 250 part-time). The total teaching accommodation now stands at 226 classrooms. I am not sure how many caput schools that would make.

Some 32,000 civil servants are now receiving some formal training each year, an estimated 10,000 on basic or induction courses, and about 22,000 on technical, professional and career development courses. Courses range in duration from one day to several years, examples of the latter being apprenticeship and legal training.

The Civil Service Branch's own Training Division provides central support services such as management and language training and advice on training programmes. It also administers all external training, whether in local education institutions or overseas. This year about 3,000 civil servants are receiving such training locally. Over 300 are receiving training overseas this year, either as part of their career development or to obtain specialist knowledge or professional qualifications not available in Hong Kong.

More training cadres and training officer posts are being created each year. Increasing emphasis is being placed on career development and the provision of more management and administrative training courses. Supervisory management training packages for departments are about to be introduced. There is also a move towards job-related language courses to help improve work efficiency in departments. Sir, our aim is to extend and to improve our training arrangements but in close relation to our training needs.

MR. CHEN:—*Sir, are these training sections or training centres financed and managed through a central organization or separately as departmental facilities?*

SECRETARY FOR THE CIVIL SERVICE:—*Sir, in keeping with the principle of devolving as much responsibility to heads of departments as possible, we tend to leave the responsibility at the departmental level, but at the central level we co-ordinate to the extent of ensuring that there are no overlaps. We also ensure as far as possible that we meet centrally those training requirements which repeat themselves in several departments.*

MR. CHEN:—*Sir, in view of the large numbers of civil servants being trained every year, I think in the case of locals about 3,000 and for those sent overseas about 300, would Government consider it worthwhile establishing a staff college here for that purpose?*

SECRETARY FOR THE CIVIL SERVICE:—*Sir, I have given consideration to the setting up of a civil staff college in Hong Kong but at the present time I believe that the resources that would be needed to get it off the ground could be more usefully employed elsewhere. There are also some difficulties with the staff college concept; perhaps the civil service's greatest need at the upper levels is to provide officers with the opportunity to see the world outside Hong Kong, which is why we are sending such large numbers of people overseas. The staff college concept would tend to keep those people in Hong Kong.*

MR. WU:—*Referring to paragraph 3 of the reply, may I enquire whether civil servants are sent abroad for their career development or to obtain specialist knowledge or professional qualifications only when such facilities are not available in Hong Kong?*

SECRETARY FOR THE CIVIL SERVICE:—*No, Sir. We are sending an increasing number of officers overseas, particularly for career development, primarily in order that they may see the world outside and meet other people.*

Government business

Motions

RATING ORDINANCE

THE FINANCIAL SECRETARY moved the following motion:—*In exercise of the powers conferred by section 18(1) of the Rating Ordinance that, for the period 1 April 1980 to 31 March 1981, for every tenement in a specified area set out in the first column of the Schedule, the general and Urban Council rates shall be computed on the basis of the respective percentage of the rateable value of such tenement set out opposite that area in the second and third columns of the Schedule.*

SCHEDULE

<i>Specified Area</i>	<i>General Rates</i>	<i>Urban Council Rates</i>
A	7½%	4%
BC	7½%	4%
D and D2	11%	Nil
E	11%	Nil
F1, F2, F3, F4, F5, F6 and F7	10%	Nil
G1, G2, G3, G4 and G5	10%	Nil
H1, H2, H3, H4 and H5	10%	Nil
J1, J2, J3 and J4	10%	Nil
K1 and K2	10%	Nil
L1, L2, L4 and L5	10%	Nil
M1, M2, M3, M4 and M5	10%	Nil
N1, N2, N3, N4 and N5	9%	Nil
P	5½%	Nil
Q	5½%	Nil
R	5½%	Nil
S	5½%	Nil

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

In accordance with existing policy for the extension of rating to the developing areas of the New Territories, the general rate for newly assessed areas, from area F onwards, is being phased in, that is to say, in the first year the rate applied is equal to 50% of whatever the general rate for the New Territories might be, in the second year 60%, in the third year 70% and so on up to 100% in the sixth year.

The general rate for the New Territories is 11%. For 1980-81 the percentage to be applied to areas F to M (for their *fifth* year of assessment), is, therefore, 90% of 11%, or 10%, and for area N (for its *fourth* year of assessment) it is 80% of 11%, or 9%, both percentages being rounded up to the nearest half percentage point. For their *first* year of assessment, the percentage in respect of the newly assessed areas P, Q, R and S (Cheung Chau, Peng Chau, Lantau and Ma Wan, and Lamma Islands respectively) is 50% of 11%, or 5½%.

The sole object of this motion is to make a resolution under section 18(1) of the Rating Ordinance to give effect to existing policy on the phasing in of the general rate in the newly rated areas in the New Territories. Nothing else should be read into it, good or bad.

Sir, I beg to move.

Question put and agreed to.

TELEPHONE ORDINANCE

THE SECRETARY FOR ECONOMIC SERVICES moved the following motion:— That the Schedule to the Telephone Ordinance be amended in Part III by adding after item 4 the following—

‘5	For 4 + 10 Gold Star System—		
	(a) Relay set	\$ 840	\$350
	(b) Telephone instrument	\$ 300	\$275
	(c) Exchange line module	\$ 60	Nil
6	For 15 + 40 Gold Star System—		
	(a) Relay set	\$1,380	\$440
	(b) Telephone instrument	\$ 360	\$385
	(c) Exchange line module	\$ 60	Nil.’

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

Part III of the Schedule to the Telephone Ordinance specifies the charges for installation, rental and removal of exchange connected intercommunication systems used by business subscribers who require more than one exchange line, but who do not need the capacity or range of facilities offered by a full private branch exchange.

At present, the Telephone Company offers four types of exchange connected intercommunication system with capacities ranging from 2 exchange lines plus 5 extensions to 10 exchange lines plus 30 extensions. In order to meet the demand by business subscribers for systems with a larger capacity, the Telephone Company will shortly introduce what it calls the ‘Gold Star System’ which will have capacities for 4 exchange lines plus 10 extensions or 15 exchange lines plus 40 extensions.

The Postmaster General has assessed charges proposed for the ‘Gold Star System’ and he considers them fair and reasonable. The purpose of this motion is to seek approval of this Council to amend Part III of the Schedule to the Ordinance to include them.

Sir, I beg to move.

Question put and agreed to.

First reading of bills**EMPLOYMENT (AMENDMENT) BILL 1980****FACTORIES AND INDUSTRIAL UNDERTAKINGS (AMENDMENT) BILL 1980**

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

Second reading of bills

EMPLOYMENT (AMENDMENT) BILL 1980

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

He said:—Sir, I move that the Employment (Amendment) Bill 1980 be read a second time.

The Employment Ordinance (Chapter 57) which was enacted in September 1968 regulates, *inter alia*, general conditions of employment. However, the general conditions of employment of women and young persons in industry are at present governed by the Factories and Industrial Undertakings Ordinance (Chapter 59). The intention has been to rationalize the position so that the Employment Ordinance will deal with all measures of a social nature relating to employment leaving the Factories and Industrial Undertakings Ordinance to deal with safety at work. This has already been done with regard to conditions for the employment of children under the Employment (Miscellaneous Provisions) Ordinance passed by this Council in July 1979. It is proposed to complete this process by transferring those provisions of the *existing* Factories and Industrial Undertakings Regulations governing the conditions of women and young persons in industry to the Employment Ordinance.

Most of the amendments result from the need to transfer appropriate powers and obligations that are already in the Factories and Industrial Undertakings Ordinance to enable the existing regulations made under that Ordinance to be effectively enforced under the Employment Ordinance to which they are to be transferred. Briefly, all the proposed amendments except one minor one which I shall mention later, are in line with existing provisions in the Factories and Industrial Undertakings Ordinance. These include:

(1) *Posting of notices*

For many years the Labour Department has produced posters and notices containing various abstracts of labour legislation for distribution to employers. Under section 4(1)(h) of the Factories and Industrial Undertakings Ordinance, the Commissioner for Labour has the power to require the posting up of any notice in connection with the provisions of that Ordinance. A similar provision in respect of the Employment Ordinance is now proposed in new section 72(1)(h) in clause 6 of the Bill. This will in effect extend this power to cover employing establishments in the non-industrial sector other than of course domestic premises. It would be the intention in practice not to require very small establishments to do this if there were practical difficulties.

(2) *Disclosure of information by public officers and protection for employees who give evidence against their employers*

Certain provisions similar to those in sections 5 and 6 of the Factories and Industrial Undertakings Ordinance are included in clause 7 of the Bill. These include the duty of public officers not to disclose sources of complaint (except in those cases where the consent of the person who has made the complaint has been given) or information on any manufacturing or commercial secret or any working process that comes to their knowledge in the course of their duties, and protection to the employees coming forward to give evidence against their employers.

(3) *Power to make regulations*

Clause 8 simply ensures that some regulations made under the Factories and Industrial Undertakings Ordinance are not made *ultra vires* by the transfer to the Employment Ordinance and clause 9 ensures that all forms and notices made and all current permissions and exemptions granted under the Factories and Industrial Undertakings Ordinance remain valid under the relevant provisions of the Employment Ordinance.

The only new proposal is in respect of employment agencies dealing with domestic servants. Part XII of the Employment Ordinance, which regulates private employment agencies essentially by licensing and which was enacted in 1973, does not apply to those agencies dealing solely with domestic servants. The reason for this exclusion was that at that time such agencies were generally operating on a small scale, mostly under staircases or on the roadside near markets, with no properly identifiable premises. Furthermore, local domestic servants were in such short supply that there was little likelihood of their being exploited by the agencies. However the situation has now changed. In the last few years there has been an influx of domestic helpers from overseas, mainly from the Philippines. With the growing popularity of this source of domestic help, a number of agencies dealing specifically with domestic helpers from the Philippines have been established and because of the absence of any regulatory legislation covering them, various malpractices have sprung up, including poaching, deception and finding low-paid helper jobs for aliens with tourist visas or forged references of working experience. It is therefore felt that fee-charging employment agencies dealing solely with domestic servants should no longer be excluded from the ambit of Part XII of the Ordinance. Accordingly it is proposed in clause 4 of the Bill to delete section 50(3)(d) of the Ordinance.

If honourable Members approve the passage of this Bill, recommendations will be made to the Governor in Council to make a set of regulations called the Women and Young Persons (Industry) Regulations 1980 which will simply be a re-making of the existing regulations other than one small change in definition of 'night' for young persons in industrial employment

only. I must emphasize that no changes are proposed in relation to the *existing* regulations concerning women.

The Labour Advisory Board has been consulted on various occasions with regard to all the proposals set out in the draft legislation and both employers' and employees' representatives have readily supported them.

In order to give employers and operators of employment agencies sufficient time to make any necessary operational adjustments to comply with these changes in the law, I propose to allow a period of 3 months before bringing this legislation into operation on 1 July 1980. A gazette notification will be published nearer the time.

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

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

Question put and agreed to.

FACTORIES AND INDUSTRIAL UNDERTAKINGS (AMENDMENT) BILL 1980

THE COMMISSIONER FOR LABOUR moved the second reading of:—‘A bill to amend the Factories and Industrial Undertakings Ordinance’.

He said:—Sir, I move that the Factories and Industrial Undertakings (Amendment) Bill 1980 be read a second time.

This Bill contains a number of consequential amendments made necessary as a result of the transfer of the provisions in the existing Factories and Industrial Undertakings Regulations governing the conditions of work for women and young persons, to the Employment Ordinance which I have referred to in introducing the previous Bill. No new proposal is introduced.

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

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

Question put and agreed to.

BANKING (AMENDMENT) BILL 1980

Resumption of debate on second reading (30 January 1980)

Question proposed.

Question put and agreed to.

Bill read the second time.

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

SUMMARY OFFENCES (AMENDMENT) BILL 1980

Resumption of debate on second reading (30 January 1980)

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).

LANDLORD AND TENANT (CONSOLIDATION) (AMENDMENT) BILL 1980

Resumption of debate on second reading (30 January 1980)

Question proposed.

DR. HUANG:—Sir, rent control has never been regarded as a solution to the basic problems of housing; it can, as I said in this Council last November, ‘only be a temporary measure to combat the problems at hand: for the longterm there is no alternative solution to an increased production of housing, and to this the Government must without delay address itself’. The issue at present is whether we have reached a stage where this temporary measure has become necessary. I think we have. In the past three years and in particular during the past year, rent has been going up so fast that in some cases increases reach several hundred per cent. This situation is economically unjustifiable and socially undesirable, and if allowed to continue, would lead to serious instability in our society. It is economically unjustifiable because this rapid rise in rent has had only limited effect on stimulating the supply of housing, in view of the fact that land is scarce and is monopolized by Government. Rent level is an effective tool to regulate the housing market only if a free market for housing exists and only if the supply of housing is adequately responsive to the level of rent. According to the economist any increase in return, arising from a situation of increase in demand but inelasticity in supply, is excessive, and such excessive return should, in the view of many, be substantially taxed away. I would therefore regard a large part of the rapid increase in rent in the past few years as excessive in the sense that it is economically unjustifiable. It has resulted

in a transfer of income from tenants to landlords: a direction of income redistribution that is socially undesirable from the point of view of equity. The argument that rent control will interfere with the working of the free market is irrelevant because there has never been a free market for housing in the first place. Under the present circumstances therefore, rent control measures are not only desirable but quite necessary. It will reduce the hardship of many people and give the Government a breathing space to work out long-term solutions. If the disease has already been allowed to develop, surely it is only sensible to alleviate the symptom immediately while dealing with the disease itself, at a time when the symptom is already causing unbearable pain.

Among those against control measures, some have argued that the proposed extension of rent control would bring about the same damaging effects on the Hong Kong economy as the banking crisis did in 1965. I must however point out that with the Banking Ordinance now in force, by which banks are restricted from making excessive loans to any one particular sector (e.g. real estate development), the situation is quite different from that in 1965. In September 1979, bank loans and advances made to individuals for the purchase of residential property constituted only about 10 per cent of total bank loans. Moreover, the level of rent is not the only factor which induces purchase of property, equally important factors are the capital gain and the hedge against inflation. Under the present circumstances, it is most unlikely that rent control will lead to mortgage default and difficulties over the recovery of loans by financial houses, thereby plunging Hong Kong into economic recession.

As to whether luxury flats and premises rented by corporations and governments should be brought under control I should also like to make a comment or two. If these premises are not controlled, there would be, in the first place, a filtering effect which produces greater pressure on the demand for medium and small flats. This effect could, contrary to what a few of my colleagues think, be quite appreciable. The most important consideration, however, is whether the existing level of rent is excessive, i.e. whether the very rapid increase in rent for these premises is economically justifiable. As I said above, any rapid rent increase arising from a situation of rapid increase in demand coupled with an inelasticity of supply is economically unjustifiable. This is unfortunately what is happening in Hong Kong. Some commentators on this issue have, wrongly I think, turned their attention to whether corporations and governments can afford to pay the high level of rent. The fact that they can does not justify their having to pay such economically unjustifiable rents. The question is simply, why should such bodies subsidize the landlords? Similarly, the argument that foreign corporations and governments should not be protected because they are not Hong Kong belongers is questionable. In the highly interdependent world economy today, it is bad policy to adopt a beggar-thy-neighbour attitude. Besides, why should foreign corporations and governments subsidize Hong

Kong landlords some of whom are incidentally not Hong Kong belongers anyway? Furthermore, if corporations have to pay excessively high rents, this expenditure might well be passed on to the consumers resulting in higher prices and hence the general public subsidizing the landlords. Alternatively profits might be squeezed leading to less investment and less efficient resource allocation. It might also lead to a situation in which only businesses with short-term large profits can survive while businesses which contribute greater long-term benefits are eliminated. Similarly, if the Government has to pay excessively high rent, Government expenditure would be increased and this can only be met by increased taxation. Again the net result would be the taxpayers subsidizing the landlords. On these grounds, I support the proposition that all premises, whoever the tenants, should be brought under rent control.

Like many of my colleagues in this Council, Sir, I do question the equity of setting a 21% ceiling of rent increases every two years for all categories of premises. A 21% rise seems reasonable for premises about to be brought under control as from December 18, 1979, since these premises were not under control before and their rent must at least be at the prevailing market level. For premises already under control before December 18, 1979, a higher percentage of increase should be allowed so as to narrow the gap, developed through the years, between the controlled level and the prevailing market rent.

Whilst all would agree that rent control should only be a temporary measure I am not at all sure we shall be in a position to take off all control in two years' time. Increasing the supply of housing is of course a slow process, and no one, however optimistic, would imagine that in two years' time the imbalance in supply and demand will be completely, or even to a large extent, eradicated. Nevertheless, if Government would take immediate steps to improve the supply situation shortage should be eased considerably by the end of two years, and the measures now proposed could then be made less restrictive. The fact that rent control in the past tended to become a long-term measure achieving little success in solving the housing problem does not necessarily mean that it is a futile exercise, but rather that not enough efforts were put into tackling the root of the problem. Let us hope we do much better this time.

With these comments, Sir, I support the motion.

MR. F. K. HU:—Sir, I basically support rent control, especially for low and medium income groups, as the recent excessive rent increase has seriously affected their daily lives.

Since the publication of the draft Landlord and Tenant (Consolidation) (Amendment) Bill 1980, there have been numerous representations from land developers, small landlords, financial institutions, but very few from low and medium income groups, except some opinions expressed on the readers'

columns of newspapers. Therefore, I have carried out a sample survey on rent control among my staff and workers whose income varies between \$1,000 and \$10,000 per month, excluding those earning over \$10,000 per month, in order to test the reaction of low and medium income groups. The general consensus is as follows:—

- a. 90% is in favour of rent control.
- b. 55% is agreeable to the amended Bill in part.
- c. 40% is against control for flats rented by Government or corporations.
- d. 64% is in favour of immediate implementation of this Bill.
- e. 71% states that the introduction of this Bill is favourable to ordinary Hong Kong people. 94% says it is favourable to the present tenants, 50% considers it favourable to the Government and 46% regards it favourable to future tenants.
- f. 71% considers that the implementation of this Bill is unfavourable to the small landlords, 54% feels that it is unfavourable to the big landlords and 52% says that it is unfavourable to the land developers.
- g. 34% of the sample are at present owner-occupiers, 23% live in public housing, 16% being principal tenants, 15% being sub-tenants and 2% being small landlords living in rented flats.
- h. 53% of the sample are married and 44% unmarried.
- i. 66% of the sample live with parents and other family members and 33% live independently.
- j. 65% of the sample mix their income with that of other family members and 33% handle their income independently.
- k. 92% of the unmarried live with their parents and other family members, 61% of the married live separately from their parents and other family members, 81% of the unmarried mix and spend their income with other family members, only 54% of the married mix and spend their income with other family members.

The above study at least gives us some indication of the opinions and reaction of certain sectors of the people of this community.

Commenting on the present Bill in the original form, I am concerned with the procedure for repossessing a flat by a small landlord, who has to satisfy the court on hardship. The procedure should be simplified to allow the small landlord to repossess the flat for his or his immediate family's own use, if he or his immediate family live in rented accommodation as tenants, without the necessity of proving hardship to the court. The Ordinance has already made ample provisions to prevent the landlord from reletting or selling the flat within two years after repossession. I am pleased to note that there will be an amendment to the Bill on this point.

21% increase in two years is on the low side as it could hardly cover the bank prime rate and is below the current inflation rate, a situation which is different from 1973, when 21% increase in two years was introduced. However, in view of the short-term nature of rent control this time, I would go along with 21% in two years, provided this increase in made applicable

to assessed or fair market rent in 1979. It is not fair to allow the same percentage increase for rents fixed before 1979. Allowance must be made for the landlord to adjust rent fixed in 1976 and earlier, 1977 and 1978, to 1979 level before the 21% increase is applied. Based on the increases in the published cost of living index for July 1976, July 1977, July 1978 and July 1979, which are 111, 119, 125 and 140, respectively, I would suggest that rent increase at 8% p.a. should be allowed for rent fixed in 1976 and earlier, 1977 and 1978, subject to the final calculated figure being not more than fair market rent in 1979.

I am in principle against rent control for luxury flats of rateable value over \$60,000 in the 1976 assessment which is equivalent to over \$30,000 in the 1973 assessment, and for flats rented by public bodies, corporations, foreign and the Commonwealth governments, partnerships or firms, as across-the-board rent control would discourage private developers to carry out development, thereby further aggravating the housing shortage problem. However, in view of the possible complications in not effecting across-the-board rent control, I would reluctantly agree to rent control for this group, but would suggest that the rent increase for flats in this group should be at a minimum of 15% p.a. at the 1979 level. Furthermore, I would suggest that rent increase at 12% p.a. should be allowed for rents fixed in 1976 and earlier, 1977 and 1978, subject to the final calculated figure being not more than the fair market rent in 1979.

My colleagues have spoken on the long-term land policy in detail, to which I agree whole-heartedly. The housing problem is a social problem. It is the Government's responsibility to solve it. The Government cannot look at the financial aspect of this problem alone, lest the problem be aggravated. Increase in the supply of land is one solution but we must also consider the capacity of the local construction industry and related building services industries. It is evident that their capacity is already strained at present and additional work will only cause overheating and increase costs without increasing production. The supply of manpower in the construction industry and related building services industries has not increased appreciably, although the population in Hong Kong has increased appreciably due to the influx of legal and illegal immigrants and we should also note that the number of illegal hawkers has also increased appreciably. As a long-term policy, Government should introduce measures to limit or stop the influx of illegal immigrants and to reduce the number of illegal hawkers, who should be persuaded to switch to manufacturing or other productive work, including the construction and related building services industries. In the meantime, local construction industries should intensify the training of workers through training councils and other means, in order to solve the manpower problem as a long-term policy. As a short-term policy the Government should consider relaxing the regulations in the import of labour into Hong Kong in order to solve the manpower shortage problem on a short-term basis.

I mentioned in my speech in this Council on 1 November 1979, that the Government should encourage private developers to participate more actively in the Private Sector Participation Scheme of the Home Ownership Scheme. More sites in urban areas should be released for tender to the private sector for this purpose. Emphasis must be placed on solving the housing problem rather than financial gain or loss on the tender premium. Increasing the supply of land may slow down the increase in flat selling price or rent but it does not necessarily lower the flat selling price or rent for the benefit of the low and medium income groups. Therefore, I would again emphasize the need to release more land in the urban areas for the Private Sector Participation Scheme in order to regulate the selling prices of flats. In the New Territories, I suggested in this Council in my speech of the 1 November 1979, that consideration should be given to combine the Private Sector Participation Scheme and the Letter B exchange scheme. As there could be practical difficulties in such a combination, I would suggest that 25% of land produced in the New Territories should be reserved for auction, only 25%, instead of 75%, be released for Letter B exchange and the remaining 50% should be released for Private Sector Participation Scheme.

The present Home Ownership Scheme allows the successful applicant to dispose of the flat after 5 years' occupation. There may be certain areas where improvement could be made so that the system could be more satisfactory. I would suggest that whenever any of such applicants wants to dispose of the flat after five years' occupancy, for whatever reason, he must offer the Housing Authority the first option of purchasing the flat back at the prevailing selling price for Home Ownership Scheme less depreciation, so that the Housing Authority may re-allocate the flat to other needy person at reasonable price at that time. The seller could have the option of selling the flat in open market if the Housing Authority for any reason declines to exercise the first option. I believe that such an arrangement would ensure more supply of flats at reasonable price and in the meantime reduce the possibility of profit making in five years' time by the present successful applicant for Home Ownership Scheme flat.

I do hope that a comprehensive and long-term housing policy can be agreed upon and published by Government before the expiry of this amended Bill, so that the public may have confidence that the amended Bill is only a temporary measure which will not be extended.

SECRETARY FOR THE ENVIRONMENT:—Sir, a theme which has run through the majority of speeches in this debate has been the call for the Government to put more land on the market to reduce its price and thus to allow private developers to provide more housing more cheaply. I would, indeed, venture to say that it is one theme in support of which all my Unofficial Colleagues who have spoken are united. But, before I rush in to add my voice to this chorus and to explain what the Government is actually doing to supply more

land and to ensure that it is used to the best advantage, I must sound a few notes of caution.

First, the Government is similarly exhorted to provide more land for many other purposes—public housing, industry, commerce, community facilities such as schools, hospitals and police stations and recreation and open space. Likewise, we are urged to increase expenditure on roads, railways and other transport facilities and on other public works, quite apart from the continually increasing recurrent expenditure on social and community programmes and in law and order. In particular, I must emphasize that expenditure on the Public Works Programme, including expenditure on land production, is today at its highest level ever.

Secondly, we must recognize that the total current production of housing, both public and private, which is now running at an annual rate of over 60,000 units a year, is again at record high levels. This is being achieved partly from new land produced several years ago and partly from the redevelopment of old sites under the stimulus of market demand. This development and redevelopment is still going on at a rapid pace and is continuing to add to the housing stock. And the resulting pressure of demand on the construction industry is continuing to push up costs so that, for instance, the P.W.D. Architectural Office's tender price index has increased by as much as 38% over the last year, that is from 238 in the fourth quarter of 1978 to 329 in the last quarter of 1979.

Thirdly, I need hardly point out that Hong Kong has been experiencing an inflationary boom, fuelled by rising incomes and ample supplies of credit. The excesses of this boom—and the speculative fever it inevitably engenders—have been concentrated on the property market. And it may already have reached the stage where the speculative demand has outrun the real final demand for accommodation at the price levels to which property has been driven by the activities of the speculators.

Fourthly, a particular shortage has developed at the top end of the market, partly because developers have been concentrating on producing small and medium sized flats for sale and partly from the increases in demand from overseas executives moving into Hong Kong to participate in our growing economy and the opportunities being opened up in China, as well as the increasing number of local executives in senior positions. There are, however, now signs of increasing production of larger higher class accommodation and I will be saying more later about what the Government is doing to add to this supply.

Fifthly, the obvious point has to be emphasized that the construction of property takes time. The new property now becoming ready for occupation was probably started as long ago as 1977, that is when land and property prices had only just begun their subsequent steep increase. Similarly, land sold for housing development now will not affect the supply until 1983 or

1984. These long lead times, when coupled with fluctuations in effective demand, can lead to cyclical market conditions to which it is very difficult to match the supply of land. But, because of this, they point to a strategy of steady supply to which I will be returning later.

Next, Sir, I need hardly point out again that the explosive growth in immigration that has taken place over the last two years and the influx of Vietnamese refugees last year could not have been foreseen in 1977. The result is that an expected population growth of about 1½ per cent a year has been turned into an increase of 5 or 6 per cent at least. This has naturally put a strain on our supplies of public and other housing, including temporary housing, and it will continue to do so, even if the rate of immigration were to slow down.

Seventh, and finally, while the Government has to meet the costs of all the land it produces, whether these are costs of formation or for the resumption of private land, together with the costs of roads and other services provided, the Government receives no immediate return on the greater part of this land. Thus, land for public housing, schools, hospitals, community facilities and open space is all provided free. And the same, of course, goes for roads. Similarly, land for public utilities and special industries is granted at low premia based on plot ratios, and the industrial estates provide land at cost. The fact that, despite the large quantities of land being sold for private residential and commercial purposes, prices at auction have continued to increase, reflects the much higher level of demand, including speculative demand, that has been generated over the past two years. In such circumstances, if the Government were instead to sell this land at lower fixed prices, it would not reduce the market price of the land or the ultimate price of accommodation built on it. Rather, it would only serve to increase the profits of the developers and speculators.

The Supply of Land

Having said all this, Sir, I nevertheless fully accept that land is a particularly scarce and costly resource in Hong Kong and that one of the most important functions of Government is to ensure that it is supplied in sufficient quantities to meet final demand for occupation. And I also mean by this that the aim of the land administration must be a continuous and improved supply. It is my contention that the Government is now making considerable efforts to improve both its planning and its performance in this regard and that this will be having increasing effects in the years to come.

First, though, I think that we must get our figures right and, by doing so, set the record straight. In 1979, contrary to Mr. NEWBIGGING's assertions, total land sales, at 29.8 hectares, were some 64% higher than the 18.2 hectares sold in 1978. Likewise, sales for residential and commercial/residential purposes, at some 16.8 hectares, were nearly one and a half times more than the 1978 figure of 11.3 hectares. In the 15 months covering the

first quarter of 1980 and the financial year 1980/81 we aim to achieve sales of residential and commercial/residential land totalling about 63 hectares, or about $3\frac{3}{4}$ times more than in calendar year 1979. The exact amount of housing that could be produced on this 63 hectares of land is difficult to estimate, because it will vary with the density zonings at various locations. But, on the basis of average densities, it would produce housing for about 95,000 people over the next 2-5 years as the land is developed. Making allowance, however, for the inevitable slippage in the programme let us assume that only 48 hectares are made available for housing. This should still, when developed, provide housing for some 72,000 persons. The land sales programmes for the following year should on average produce this figure, or more, for land sales for housing, at least until 1985.

And added to this is the public housing programme of 35,000 flats a year, or accommodation for about 175,000 people plus the substantial redevelopment of private land in the urban areas. Altogether it should produce an annual increment of new housing sufficient to accommodate over 300,000 people every year. And this is significantly more than the average of about 230,000 persons a year housed in the public and private sectors combined in the past five years. If market demand were to slacken, however, the Government will be ready, as you, Sir, and the Secretary for Housing have made very clear, to step up the public housing programme, including the Home Ownership Scheme and the Private Sector Participation Scheme.

This is, by any standards, an ambitious programme of housing development significantly in excess of what has been achieved in the greater part of the 60s and 70s. So, if we can achieve it—and I think we can—it will go a long way to meet my Unofficial Colleagues', and especially Mr. BREMRIDGE's, exhortations to improve, as well as refuting Mr. NEWBIGGING's more severe strictures of culpability.

Short-term Improvements

On top of this, however, a number of measures are in hand further to increase the supply of land and/or housing. They can conveniently be divided into short-term measures, mainly (but not entirely) designed to boost housing production as such, and longer term measures directed towards increased land production.

To turn first to the short-term, the Government is now working on the following schemes, some at least of which will either be the subject of very early action or are already being acted upon:

First, measures are already being taken to closely monitor the land sales programme to ensure that all land that can be sold is included in the programme as early as possible and to reduce slippages to the minimum.

Secondly, we plan to modify various restrictive policies on development, including the coverage of density zoning controls. I cannot promise that this

will produce sweeping changes, because the average densities allowed are already very high, and to increase them in a wholesale way could only seriously overload the infrastructure and other community facilities and permanently undermine the quality of the environment. But I am sure that some of the lower density zonings and areas of special control will be capable of greater exploitation. The Director of New Territories Development is also considering more intensive development in some of the lower density zones now being proposed in the new towns.

Third, the Government is now, through the Special Committee on Land production, not only monitoring land production throughout the territory, but is working on targets designed to meet future needs for various purposes, including housing. These targets will be fed into the machinery responsible for the preparation of the Public Works Programme. In other words, we are not only monitoring land production in the short-term, but planning it in the longer term and, in this work, the new Strategic Planning Unit being set up in the Environment Branch will have a crucial part to play.

Fourthly, a series of measures are in hand designed to increase the output of high class and middle income housing over the next few years, that is in areas where there appears to be a critical shortage of supply at present in relation to market demand with consequent pressures on prices. In the first place, as recently mentioned by the Secretary for Housing in this Council, we plan to put more new sites on the market for this type of housing. Some eleven large sites are under consideration and, if exploited, they could produce up to 1,700 new flats.

Next, the Secretary for Housing has also mentioned the programme now being worked out of joint venture projects with the private sector for the redevelopment at higher densities of certain Government quarters sites. These developments will not only provide more private sector flats for sale but should reduce the Government's demands on rented private sector accommodation for housing senior civil servants.

As an additional measure, the Government is also now working on means of achieving, or permitting, the redevelopment at increased densities of sites which were granted mainly in the 50s and 60s on concessionary terms to various firms for worker's quarters. There are some 20 to 30 lots involved which have significant additional housing potential. We plan to be in a position to put policy proposals to Your Excellency in Council on this possibility in the near future.

Finally, Sir, we are looking again at the proposals made by Messrs. NEWBIGGING, YEUNG and others to sell raw land in bulk, unformed and unserviced, for development by the private sector. There are two possible ways in which this can be done. First, isolated areas may on occasion be developed with totally self-contained developments, for which the developer is entirely responsible. A good example is the Discovery Bay scheme. This

is proceeding quite independently of Government's own development plans, and the Government's input to it has been restricted to vetting the planning, so that it can ensure that the eventual development is satisfactory. But opportunities for such developments are rare. In almost every other kind of development scheme the developer is dependent on Government works, at least for a supply of water and in most cases for construction of the connecting main roads and other surrounding infrastructure. Nevertheless, the advancing of development packages in the new towns and elsewhere has in the past been carried out successfully by this method, particularly in Sha Tin, where two large development areas were let by tender in 1974. But this was in a time of recession and the case for acting similarly in boom conditions is probably less strong. Certainly, the arguments in favour will need to be spelt out more fully and they will need to be carefully evaluated before they can be accepted on any large scale. For little would be gained by substituting private sector for public sector development unless to do so adds to total development without adding to inflation.

Longer term Measures

Sir, all the measures which I have outlined so far are designed either to get land which is already being formed, or which can be formed quickly, onto the market as quickly as possible, or to encourage more intensive redevelopment of existing land. Beyond that the supply will depend mainly on 'land production', whether this is done by the Government, or by further sales of new areas to the private sector in the way I have already described, or, as Mr. Charles YEUNG, among others, urges, by permitting new building development on existing agricultural land. This last point I have already covered when I answered two questions from Mr. YEUNG himself, and from Mr. LEUNG Tat-shing in this Council on 30 January this year and I will not elaborate on it further now.

To turn to the Government's own land production, in the past the production of land resulted from the undertaking of a series of individual different developments, or packages of development, included in the Public Works Programme. At that time, however, no deliberate attempt was made to add up the quantities of land so produced or to prepare forward forecasts of land production and to relate them to targets. Because of this there was often a lack of continuity in land production which sometimes led to shortages when development speeded up or demand in the private sector increased. The difference now is that the Government is consciously planning the forward production of land, both to set targets in relation to projections of various requirements and to monitor performance. The programmes being developed recognize the long lead time required for the planning, clearance and formation of land and the provision of services to new land whether this is done by the public or the private sector. The aim is, as far as possible, to look some ten years ahead and, while being reasonably certain of possibilities over the first five years, to have a fairly good idea of what should

be planned for over the second five years, with the whole programme being rolled forward from year to year. Again, while we are specially concerned this afternoon with land for housing, and particularly with the sales programme for private sector housing, it is necessary in the event to consider all the various requirements for land together and to plan them with a view to reasonably balanced development using, where necessary, the standards worked out in the Hong Kong Outline Plan.

I have already indicated that the amount of land likely to be available for sale for private sector housing in the first three months of this year and in the financial year 1980-81 is about 63 hectares. Present projections for production of residential and commercial/residential land in the following four years are as follows:

1981-82	60 hectares
1982-83	43 hectares
1983-84	51 hectares
1984-85	21 hectares

which, over the five years, gives an overall average of about 47 hectares each year. This I consider to be adequate as an average provided it can be achieved. Because of the possibility of slippages, however, it is probably safer to target on a higher production figure of, say, 50-55 hectares over the period. Part of this can be achieved by some of the short-term measures I have outlined already and part by planning now for new land production to come on stream in the latter part of this period and through the rest of the eighties. In this connection, Members will note the much lower figure of 21 hectares to be available for sale in 1984-85 on the basis of forecast production from existing programmes. This is clearly not sufficient and steps have to be taken now to get it up by feeding new land production into the programme.

Up to now the new towns development programmes have concentrated first on the three major towns—that is the Tsuen Wan/Kwai Chung/Tsing Yi conurbation, Sha Tin and Tuen Mun—to be followed by lesser, but still substantial, developments at Tai Po, Fanling/Sheung Shui and Yuen Long. When all these developments are complete, in the latter half of the 1980s, the six towns should have a combined population of about 2½ million people. The projected running down of land production from definite schemes from about 1984-85, which I have already mentioned, reflects the gradual completion of these towns as at present planned. So, from then on, the continued building of new housing and other development will depend increasingly on the opening up of new areas of land for development.

As a first step in this direction, new items have been included in the Public Works Programme for the extension of Sha Tin into the so called Area B on the north side of the Cove and for the development of Junk Bay into a new township which would be very close to the urban area. This should eventually expand the population of Sha Tin to over 650,000 and

provide for housing some 240,000 people in Junk Bay. Both would be a mixture of public and private housing which should begin to come on stream around 1984.

Thereafter, the various possibilities for further development are already being studied in detail by the planning machinery, which will now be augmented by the new Strategic Planning Unit. At the present time an outline study has been conducted on possibilities in the North West New Territories. This will be expanded in the near future into a full scale planning and engineering investigation and will, in addition, take in the North East New Territories. Members will also be aware that a comprehensive in-house study on North Lantau development is now almost complete. This will fit in with the major consultancies on the design of a fixed crossing and on the possible construction of a replacement airport at Chek Lap Kok. These studies could, in due course, lead to major new industrial and residential development all through the north east of Lantau, while another major possibility would lie in the development of the Kai Tak/Kowloon Bay area, in conjunction, perhaps with certain reclamations.

Sir, all this means that the Government means business with its land development policy. We are planning for a high and steady level of production over the next decade and more. Needless to say, this will also entail a continuing high rate of expenditure on other facilities to ensure balanced development, and not least on the essential infrastructure of roads and other communications. Although I cannot emphasize too much that land development, housing, industrial development and transport must be closely related, the transport implications are another story and I have already overstayed my welcome in this debate. I hope, however, that what I have outlined this afternoon, both on the Government's present efforts on land production and sales and on future plans, will convince my Unofficial Colleagues that the Government is already doing a great deal to meet their calls for more land for development and for sale and that it has firm plans to do still more in the future.

Sir, I support the motion.

SECRETARY FOR HOUSING:—Sir, this debate, under your guidance and with the tolerance of the Attorney General as custodian of Standing Orders, has become a veritable conspiracy to travel beyond the strict merits and principles of the Bill which was introduced four weeks ago: nevertheless, it is a necessary and I think a fruitful journey, and has been enlightened and enlivened also by considerable public debate outside this Council.

Housing for Hong Kong

Adequate housing for the people of Hong Kong can only be achieved by sustained and considerable efforts by developers in the private sector and

through the public housing programme. You, Sir, have made abundantly clear in this Council the first of Government's responsibilities: the commitment to the public housing programme—the production of rental flats, the Home Ownership Scheme and associated Private Sector Participation Scheme, and the recently announced intention to aid the middle income group. The Secretary for the Environment has just set out fully and clearly the second of Government's responsibilities—to ensure that land is available for residential development, and Government's plans and intentions in that regard.

The third of Government's responsibilities is to intervene periodically by way of legislation when it is necessary to protect tenants from unreasonable increases in rent and from arbitrary termination of tenancies; in other words, to keep the roof over the heads of tenants, if I may borrow Mr. LOBO's phrase, and to protect them from excessive exploitation.

Mr. Peter WONG, Sir, referred to the first rent control legislation in Hong Kong, which was passed by this Council on 18 July 1921. I have here a rather dog-eared copy of the *China Mail* of the following day, with a very very full report of the proceedings. The issues discussed, the causes advanced and the interests pleaded, Members may not be surprised to know, are virtually the same as those we have heard in this debate. The *China Mail* records that learned legal counsel (in wig and gown) (*laughter*) were permitted to appear before Legislative Council to speak in support of petitions on that occasion. It also records that the Secretary for Chinese Affairs stated that in receiving a petition signed or chopped by over 10,000 tenants, he had discouraged the petitioners from attending with a band. Times have changed, and on this occasion neither learned outside counsel to address us, nor bands to divert us, have been proposed: Members have put their several points of view with eloquence and clarity.

The debate has been noteworthy because nearly all Unofficial Members have expressed their views, and in so doing they have demonstrated their concern and their sensitivity for the aspirations and needs of all sections of this community. They have obviously given much time and thought to the provisions of the Bill itself, and to the many representations made to them since the Bill was published. Their speeches show by and large, I hope I am right in saying, that they support the general purpose of the Bill, although some Members do not wish it to be so comprehensive. Like the Government, they are aware of the theoretical and practical problems inherent in rent control legislation, the undesirability of interfering with the ordinary processes of the rental market, and the argument that development may be discouraged. But they appreciate the Government's view that the situation had become so acute that steady action was necessary.

Provisions of the Bill

May I now, Sir, reply to the disagreement of some Members with certain provisions of the Bill. Several Members, notably Mr. BREMRIDGE and Mr.

NEWBIGGING, considered the rent increase maximum of 21% over the 2-year period, unrealistic in today's circumstances. Mr. Francis TIEN in a witty speech asked how the 'magic figure' had been arrived at. I fear the reply is prosaic. In 1973, when it was decided to limit the increases to 10% per annum, it was considered disruptive to provide for annual increases, so the maximum was fixed at 21% every 2 years, which I believe is 10% compound per annum.

Members will be interested to learn that before the publication of the Bill, we had received no suggestions that 21% every two years was inadequate. It is also significant that rent increases in the last quarter of 1979 as reported by the Commissioner of Rating and Valuation and *voluntarily agreed* between landlords and tenants of premises subject to the Ordinance fell within the range of 21%—25%. At this stage, I would only repeat that Government does have an open mind on this issue, but would prefer not to alter the maximum before the Committee of Review (to which I shall refer later) has had the chance to consider the several different existing levels of controlled rents, and can recommend appropriate formulae of increase. By the way, Sir, capital appreciation of property, an important factor, has been conspicuous by its virtual absence in arguments on behalf of the landlord's financial position.

Government, Consulate and Company Leases

Mr. Oswald CHEUNG, Mr. T. S. LO and Mr. Peter WONG do not agree with the inclusion of tenancies held by governments, consulates and profitmaking corporations, while Mr. Alex WU would wish to exclude the Government of Hong Kong. I shall not repeat their arguments, Sir, nor shall I repeat what I said on 16 January about the need at this time to include such tenancies as an interim measure, while the Committee of Review gets on with its task. The Committee will also examine Mr. Peter WONG's point about protected company tenancies being effectively tenancies *in perpetuo*.

We can also hand to the Committee the difficulties Mr. BREMIDGE and Mr. Alex WU pointed out, that any criteria to differentiate between overseas and local companies, large and small companies, companies of convenience and *bona fide* companies, or even companies and their employees, are inevitably subjective and fiercely argued. Similar problems are I think illustrated by the great difference between Mr. T. S. LO's definition of luxury flats and that of Mr. S. L. CHEN.

Public Housing Tenants

Miss BENNETT and Mr. Charles YEUNG asked why tenants of the Housing Authority and the Housing Society are excluded from rent control. This exclusion goes back to 1963 when it was concluded that public housing tenants were adequately protected in regard to security of tenure and rent increases. For example, the tenancy of a rented public housing flat does not lapse on the death of the tenant; and I hope it is not implied that the

Housing Authority should set new levels of rent whenever tenancies fall vacant or new flats are allocated, in addition to existing periodic reviews.

Sub-tenants

In reply, Sir, to Miss BENNETT and Mr. WONG Lam, I would point out that sub-tenants are protected by the existing law, and will continue to be so protected. The amendment which I shall move at the committee stage will however introduce a distinction in this regard between landlords and principal tenants.

Motels

Mr. Francis TIEN asked with delicate humour about the status of the tenants of certain Kowloon Tong motels. Again, I regret the answer must be prosaic. Section 51(2)(e) of the Ordinance provides that any use of premises as a boarding or lodging house is a use other than as a 'dwelling' for the purposes of the Ordinance and is therefore not subject to Part II controls. It was not clear whether Mr. TIEN was more anxious about the landlords or their temporary 'tenants'; but I am advised that their *status quo ante*, whatever it was or is, will not be disturbed, at least by this Bill (*laughter*).

Possession Orders

Towards the end of my speech on 16 January, Sir, I mentioned my concern over the effects in some cases of the requirement for landlords to prove 'greater hardship' in order to recover their premises for their own use or for their immediate families. This thought found favour with almost all Unofficial Members; and indeed, from some, rather more enthusiasm than I foresaw.

I shall be moving an amendment at the committee stage, to provide that a landlord seeking a possession order will have to show that he has a reasonable case for requiring the premises for himself or his immediate family. Once a landlord has shown a reasonable requirement, it will be open to the tenant to repudiate the landlord's claim, by showing that a possession order would manifestly be not just and equitable in all the circumstances. The new provision would apply as between landlords and tenants only: the existing provision, including the requirement to show 'greater hardship', would continue to apply as between principal tenants and their sub-tenants.

I believe that this amendment to clause 5 of the Bill goes as far as we should at present, to meet the genuine difficulties faced by some landlords wanting possession. The proposal was well received by the public when it was announced a week ago. I do not believe we should move further than this, at this stage: but we should see what in practice results from this amendment before considering whether to go further. Indeed, the Committee of Review may come up with a different way of dealing with this admittedly thorny problem.

Mr. Alex WU asked whether Government has adequate resources to police the new measures. Proposals are in hand to expand the rent control and related services provided by the Commissioner of Rating and Valuation, including an Enforcement Unit to back up the criminal sanctions proposed in this Bill. The Commissioner will establish a register of cases where a landlord has obtained a court order for possession under section 53(2)(b) and (c), and will follow up these cases by regular inspections at the premises and by checks from other sources. The Commissioner will also endeavour to inform any former tenant who may be able to initiate a civil action for damages where a landlord is found to be in contravention of the court order. The Commissioner's responsibilities in this respect will focus on the criminal provisions, while it will be up to a tenant to initiate civil action if he believes that his former landlord has not acted in accordance with the terms of the court order.

Rent Register

Mr. Peter WONG suggested a rent register to provide essential information for the Committee of Review. I think we already in effect have this, as landlords are required under sections 54 and 55 of the Ordinance to notify the Commissioner of Rating and Valuation of rents for new and fresh lettings and of rent increases voluntarily agreed between landlords and tenants. In addition, the Commissioner keeps a record of increases certified under section 58 of the Ordinance. These rental statistics are published in his annual reports. If Mr. WONG had in mind further or different data, I should be grateful if he would let me know.

The Assurance

Sir, the Senior Unofficial Member and Mr. Charles YEUNG, in particular spoke carefully and deliberately of their concern that Government does by this Bill go back on its assurances about non-imposition of rent control, and that for a government to do this in any circumstances may lead to loss of confidence. While appreciating fully their concern, I would reiterate that such a decision can only be taken, and was only taken, after the weightiest consideration of the wider public interest, and that Government stood ready to be judged by the public at large in this decision; and I believe that the public has in the past few weeks endorsed it.

Committee of Review

The Committee of Review of the landlord and tenant legislation, to which I referred several times, will shortly be appointed by Your Excellency, with terms of reference as in the paper which the Clerk has circulated to Members. Its membership will include both Unofficial and Official Members. Written submissions will be invited, and the Committee will be able to invite for discussions any individual or group, whether or not they have submitted written representations. All contributions to this very important work will be welcome, and I hope that the fact that many people have

already written to Government or the media, will not deter them from writing again also to this Committee.

There have been suggestions that the terms of reference of the Committee should include land production for domestic building, the public housing programme, and other more or less related matters. Although the terms of reference cover specifically landlord and tenant legislation, the Committee will be able to refer to the appropriate authorities for information on other matters—such as the Housing Authority and the Special Committee on Land Production to which the Secretary for the Environment referred earlier.

I am sure that Members will agree that the work of the Committee should proceed expeditiously and they will expect some indication of its timetable. The present Bill proposes that Part II of the Ordinance should expire in two years, that is on the 18 December 1981. In good time before then, we must reach the point of putting a fresh bill before this Council for consideration and debate, because a reasonable period of notice must be given to all concerned before bringing into effect the provisions of any new legislation. Bearing in mind the complexity of the problems and the need for full public consultation, which will include the publication of the Committee's recommendations to enable public comment and discussion I hope it will be possible to have the new bill before this Council during the first quarter of next year. If it can be done more quickly, it certainly will be; but may I ask Members to bear in mind that if the Latin tag '*Quot homines, tot sententiae*' ever applied to a matter, it does to rent control: everyone seems to have his own opinion on how it should most fairly be arranged. This is only to be expected when the matter at issue is to balance the rights of property owners to dispose of their property as they see fit, against the rights of the community to shelter at reasonable cost.

A principal object of this Bill, Sir, is to assist in bringing a measure of stability to the domestic property market. It has undoubtedly had that effect already. Whether further measures towards that end are necessary, is a matter which the Government, Sir, continues to keep closely under review.

Sir, I beg to move.

LANDLORD AND TENANT (CONSOLIDATION) ORDINANCE—COMMITTEE OF REVIEW—TERMS OF REFERENCE

Having regard to the substantial demand for housing, the rate of construction of new housing, the need for adequate maintenance of the existing housing stock, and to the interests and needs of developers, owner-occupiers, landlords and tenants and of the community as a whole: To review the provisions of the Landlord and Tenant (Consolidation) Ordinance (Cap. 7) with particular regard to:

(a) its effect on the supply of accommodation;

- (b) the manner in which it impinges on the rights of landlords and principal tenants;
 - (c) the extent to which the rights of tenants and sub-tenants should be protected;
 - (d) whether security of tenure should be limited;
 - (e) the grounds for obtaining possession;
 - (f) its effect on upkeep of buildings by landlords;
 - (g) the need for special provisions for bringing unreasonably low rents up to acceptable levels;
 - (h) the need for, or to alter or provide for variation in, the biennial 21% ceiling on rent increases;
 - (i) the extent to which it should effectively control rents for sub-tenancies;
 - (j) the need for any limitations on possession for redevelopment where this would achieve no material gain in accommodation;
 - (k) the need for more effective measures to deal with harassment of tenants and sub-tenants;
 - (l) the rationalization of judicial functions; and
 - (m) any other relevant matters;
- and to make recommendations to the Governor in respect of changes in the underlying policies and the legislation.

*Housing Branch,
Government Secretariat.*

13 February 1980

(At this point, the Secretary for Home Affairs, the Director of Medical and Health Services, the Secretary for Social Services, Mr. R. H. LOBO, Mr. F. W. LI, Dr. FANG, Mr. CHEN, Miss DUNN and Mr. WONG Lam each declared an interest.)

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).

PUBLIC HEALTH AND URBAN SERVICES (AMENDMENT) BILL 1980

Resumption of debate on second reading (30 January 1980)

Question proposed.

MR. PETER C. WONG:—Sir, the purpose of this Bill is to consolidate and strengthen the control over the displaying of posters which, as the law now

stands, is both limited and ineffective. Any measure to remove environmental nuisance caused by the indiscriminate displaying of posters must be welcome.

The new section 104B requires that a bill or poster shall be maintained in a clean and tidy condition to the reasonable satisfaction of the Authority.

However, it is felt that the duty imposed by the new section on the person displaying the poster is unreasonably onerous. The poster may become dirty and untidy because of inclement weather or acts of vandalism. Unless the person displaying the poster keeps a continuous watch, he will not be able to carry out the duty imposed upon him.

I have had discussions with the Administration and it has now been agreed that to make the new section 104B workable without at the same time placing an almost impossible duty on the person displaying the poster, the following new subsection (3) is suggested for Members' consideration:

‘A person prosecuted for an offence under this section shall not be convicted of that offence unless prior to the commencement of the prosecution the Authority served on him a notice in writing informing him of the condition of the bill or poster and warning him that unless the bill or poster is removed within the period specified in the notice (being not less than 24 hours) he may be liable to be prosecuted.’

In general terms, if prosecution is contemplated, the offender must be given notice of the condition of the poster and adequate time to remove it. The new subsection will have the dual advantage of removing the onerous duty imposed and reducing the need to institute proceedings, which are often time-consuming. The proposed amendment has been generally endorsed by Unofficial Members.

One other point deserves mention. The Bill does not set any criterion as to what is clean and tidy. To do so would be an almost impossible task. The intention, which I support, is to leave it to the good judgment of the Authority. This will not present any problem in most cases. In difficult or exceptional circumstances, the court will be the final arbitrator.

Sir, with these observations, I support the motion.

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).

WASTE DISPOSAL BILL 1979**Resumption of debate on second reading (18 July 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).

4.25 p.m.

HIS EXCELLENCY THE PRESIDENT:—The hour is somewhat advanced. Before we go into committee, perhaps Members would like a short break. Council will resume in fifteen minutes.

4.40 p.m.

HIS EXCELLENCY THE PRESIDENT:—Council will resume.

(Mr. T. S. LEUNG, Mr. Allen LEE and Mr. SO declared an interest on the Landlord and Tenant (Consolidation) (Amendment) Bill 1980.)

Committee stage of bills

Council went into Committee.

BANKING (AMENDMENT) BILL 1980

Clauses 1 and 2 were agreed to.

SUMMARY OFFENCES (AMENDMENT) BILL 1980

Clauses 1 to 3 were agreed to.

LANDLORD AND TENANT (CONSOLIDATION) (AMENDMENT) BILL 1980

Clause 1 was agreed to.

Clause 2

THE ATTORNEY GENERAL:—Sir, clause 2 is the definition clause and the amendments proposed to it are consequential upon those proposed to clause 3 and clause 3A. So it is the feeling of Official and Unofficial Members that it would be more convenient that the substantive clauses be considered first before the interpretation clause. Sir, I therefore move that clause 2 be postponed until clause 3 and the proposed new clause 3A are dealt with.

Question put and agreed to.

Clause 3

MR. LO:—Sir, I would like to make certain general remarks before I move amendment to clause 3 and these remarks apply to all the amendments I move or propose.

The first point is I like to express my thanks to all the efforts of Councils Branch in preparing all the detailed format for these amendments to enable them to be discussed at all. I gather they have been quite unusual and lengthy.

Second, I would like to thank the Law Draftsman for his effort. For although I detected his sympathies were quite against me he nonetheless exercised sufficient objectivity in producing something very professional and workmanlike.

Now, on the particular amendment that I am proposing on clause 3, I would like to explain that the purpose of the amendment is to exclude tenancies which I called in my speech in the second reading debate 'luxury premises'. It has been defined as premises the rateable value whereof exceeds \$100,000 and a floor area exceeds 2,300 sq. ft. Not very many flats are really affected by this. The rateable value is defined to comply with the Ordinance dealing with rateable values, and square footages defined clearly to refer only to net areas. What is of note and which I haven't referred to in my speech is that if a tenant sub-divides the luxury premises into smaller units and sub-lets them to a number of sub-tenants, these sub-tenants will of course get protection and will not be covered by this amendment because the premises which they exclusively occupy will of course be less than the rateable value of \$100,000 and 2,300 sq. ft. as the case may be. The effect of this is produced by (b) in clause 6A 1(b).

I would now like to refer to arguments against the amendment that to exclude luxury flats from control would induce a sort of, I think I recall the words, on filtering effect which would somehow, not quite sure about how that is done, but somehow would produce greater pressure on the demand for medium and small-sized flats. It is my case that quite the contrary is the effect. Indeed to control luxury flats obviously means we will make luxury flats less attractive to builders. Fewer luxury flats would come on the market. The result is a smaller number of flats available and really the final result

is the funnelling or filtering effect producing greater pressure on medium and small-sized flats if these luxury flats are controlled.

Sir, I move that clause 3 be amended as set out in the paper circulated to Members.

Proposed Amendment

Clause 3

That clause 3 be amended by deleting paragraph (b) and substituting the following—

‘(b) in subsection (6) by deleting paragraph (i), (j) and (k) and substituting the following—

“(i) a tenancy or sub-tenancy of any premises in respect of which an occupation permit or temporary occupation permit has been issued by the Building Authority under section 21 of the Buildings Ordinance after 14 December (Cap.123.) 1973, the rateable value of which exceeds \$100,000 and the floor area of which exceeds 2,300 square feet.”;

(c) by inserting after subsection (6) the following—

“(6A) For the purposes of subsection (6)(i)—

(a) the rateable value of any premises shall be determined as follows—

(i) if the premises are a tenement which is included in the valuation list in force on 18 December 1979 or subsequently included in the list following an interim valuation, the rateable value shall be that included in the list in respect of such tenement;

(ii) if the premises are not such a tenement, the rateable value shall be determined by the Commissioner in accordance with section 7 of

(Cap.116.) the Rating Ordinance and the decision of the Commissioner shall be final; and in this paragraph “interim valuation” and “valuation list” shall have the meanings assigned to them in the Rating Ordinance;

(b) “floor area” means the internal floor area of the premises available for the exclusive use of the tenant or subtenant.”.’.

SECRETARY FOR HOUSING:—Sir, I am grateful to Mr. T. S. LO for explaining his amendment so clearly. I note what he says about the sub-division of luxury flats, and bringing such sub-divided tenancies thus inside the Ordinance.

But I would have thought it unlikely that premises of this quality would suffer, if I may use the word, from sub-division.

On the filtering effect which Dr. HUANG, I think it was, has mentioned earlier, I think it is possible that there are two views on this, but it does illustrate why, as I shall be saying later, we really should leave this matter to the Committee of Review to look at with great care. I would point out that the definition now offered by Mr. LO of luxury premises, premises with a rateable value of \$100,000 or above and an internal floor area exceeding 2,300 sq. ft. occupied after 14 December 1973 means less than 500 tenancies. As he says, this is not a very significant number in relation to the some 200,000 odd rented tenancies. But I think I am more concerned about the difficulty of getting at a definition which is acceptable, and I think this is illustrated by Mr. S. L. CHEN's definition which is a long way from Mr. T. S. LO's definition.

Another point I would like to bring up is that I don't fully understand why Mr. LO's definition would exclude post-December 1973 premises, from control that is, but leave under control pre-December 1973 premises.

There may well be an explanation, but I am sorry I don't at the moment see it, it doesn't spring to my mind. Any definition will involve marginal cases, I think Members would agree that. And I would suggest very strongly that such definitions, and probably more important whether we need categorization of this type at all, should be left to the Committee of Review to examine in the context of the whole legislation.

The amendment was disagreed to.

Clause 3, as it stood, was agreed to.

MR. LO:—Sir, with your consent, may I move that Standing Order 46(5) be suspended in order that new clause 3A may be considered now.

Question put and agreed to.

New clause 3A 'Addition of new section 50A'.

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

MR. LO:—Sir, in accordance with Standing Order 46(6) I move that new clause 3A as set out in the paper circulated to Members be read a second time.

I have no doubt after I have explained the principle behind and the technicalities of this amendment, Sir, the Secretary for Housing will point out a few flaws to it. I would merely urge that Members consider referring the Secretary for Housing's points to the Review Committee after we pass the clause (*laughter*). I would also briefly mention, Sir, that I am not a

member of the conspiracy led by the Secretary for Housing, referred to by him at the beginning of the speech, to travel beyond the merits and principles of the Bill. So, there are a number of points that I haven't dealt with and don't intend to at this stage. I would content myself to briefly introducing the new clauses the effect of which is to exclude from control a tenancy, a tenant or sub-tenant or a public body, corporation, foreign or Commonwealth government, partnership or firm, otherwise than a corporation or partnership or firm included in the definition of the tenant or sub-tenant in section 49. The amendment does not exclude from control those companies or partnerships or firms, corporations which are formed subsequent to 1973, or which although formed subsequent to 1973, are subsidiary of companies formed prior to that date. The reason for this exclusion is to counter the proposition that there have been considerable abuse since 1973 of landlords forcing tenants to form themselves into corporations in order to become a tenant, and consequently this amendment would not assist those particular landlords at all. A point was made about subsidizing landlords in Hong Kong, mentioned earlier this afternoon, by pursuing a policy of beggaring somebody's neighbour. The purpose of the amendment of course is directly opposite to that. The purpose of the amendment is to put into equal position already arrived in Hong Kong and discriminate against perhaps hasn't come here to Hong Kong, because it seems to me that there is no logical argument why we should favour some hong or company or corporation already arrived in Hong Kong and discriminate against perhaps another industrial concern or company which hasn't yet come, which might provide greater benefits to Hong Kong. The concept of discrimination against foreign investments is simply not true. Indeed, without this proposed amendment, the effect is to discriminate against all the companies which haven't yet today got a tenancy in Hong Kong, because obviously they will not be in a position of competing fairly with those who are here already. I suspect that the economic arguments used earlier this afternoon relating to the subsidy of landlords and so forth, I think particularly eloquently by Dr. Rayson HUNG, might be quite relevant if we are considering a proposition of fair rents, but it seems to have little relevance on a rent control bill which is designed to control rents on renewal.

Before I finish this, if I might just be permitted to give an example, Sir, it only arrived two days ago, an example of a landlord. She is in trouble with a tenant. The tenant in this case happens to be the Hong Kong Government and the landlord happens to be an old lady.

The series of letters starts in July 1979:

'Dear Madam, As you know, Government's tenancy of the above premises is due to expiry on 9 January next year (1980), and Government would like to renew the tenancy for a period of 3 years on reasonable terms.'

This is a letter written by the Government to its landlord. No doubt conversation took place which a couple of months later led to the second letter from the Government:

‘Dear Madam, I am pleased to learn that you are prepared to renew the tenancy with Government upon the following terms which I have recommended to Government.’

Then comes after some correspondence not relevant to the issue, the following letter:

‘Dear Madam, You are probably aware that a bill has been published and if passed into law, will introduce rent control legislation retrospective to 18 December 1979. On the assumption that legislation will be enacted along the lines of the relevant provisions of the bill, please be advised that Government expects an immediate reimbursement of any sum of money overpaid pursuant to any legislation enacted.’

I feel perhaps that it is difficult not to be slightly offended on simple equitable grounds, by this sort of behaviour on the part of the Government in reliance on its own rent control legislation, and I have nothing further to add to this particular Bill.

New clause 3A

That there be inserted after clause 3 the following new clause—

‘Addition of new section 50A. **3A.** The principal Ordinance is amended by adding after section 50 the following section—

“Non-application of Part II to certain tenancies and subtenancies. **50A.** This Part shall not apply to a tenancy or sub-tenancy where the tenant or sub-tenant is a public body, corporation, foreign or Commonwealth Government, partnership or firm other than a corporation, partnership or firm included in the definition of “tenant” or “subtenant” in section 49.”.’.

SECRETARY FOR HOUSING:—Sir, I am hesitant, as I have said before, to join Mr. LO and Dr. HUANG in the muddy waters of economics, but I am afraid that this amendment would take us into the even muddier waters of the Companies Ordinance, with respect to the Honourable Financial Secretary.

It is not easy to speak quickly and clearly on the various matters which Mr. LO has gone across, but I do think that they illustrate again that these are very complex matters and if you seek to make one change you are liable

to create other anomalies. I have here, and clearly my honourable Friend has already had a quick look at them, a number of illustrations of some of these problems but in view of his willingness to remit these also to the Committee of Review, I will not bore you by reading them. But I would say that I am advised that if these amendments were to be brought in, and I don't often look at these things sympathetically from a landlord's point of view as you well know, this is the sort of headache that will face a landlord considering a company tenant. He would have to find out when the company was incorporated, whether the company was a subsidiary of another within the meaning of section 2(4) of the Companies Ordinance. If the company is a subsidiary of a firm incorporated overseas, in say Timbuktu, he would have to ask the Consul General of that country, if there were one in Hong Kong, to be kind enough to inform him if the incorporation had taken place before 15 December 1973.

The average landlord, Sir, may be a lot of things that people say, but I don't think he deserves that sort of problem. On the case of the Government tenancy which was just mentioned, I suppose the key to this is the first letter which offers to consider renewal on reasonable terms. As for the phrase 'I am pleased to learn' I dare say that Mr. LO himself does occasionally write letters containing such phrases. But I do agree that there is a problem in this Bill that in our attempt to steady matters, to bring in temporary comprehensive control, it can be said that we have done somethings which, perhaps if we had had several months to consider the position, we might not be doing. That is the point of the Committee of Review. That is where these matters can be put straight properly.

Question put and disagreed to.

Clause 2, as it stood, was agreed to.

Clause 4 was agreed to.

Clause 5

SECRETARY FOR HOUSING:—Sir, on this amendment, I would normally be simply moving that clause 5 be amended as set out in the paper circulated to Members.

It is not necessary for me to say more at this point. I understand my friend, Mr. WU, intends to speak. I have in the second reading explained why Government proposes this amendment.

*Proposed amendment***Clause 5**

That clause 5 be amended by deleting paragraph (a) and substituting the following—

‘(a) by deleting subsection (2)(b) and substituting the following—

“(b) the premises are reasonably required by the landlord or principal tenant for occupation as a residence for himself, his father, his mother or any son or daughter of his over the age of 18:

Provided that the court shall not make an order by reason only that the circumstances of the case fall within this paragraph if—

(i) in the case of a tenancy, the tenant satisfies the court that in all the circumstances of the case it would manifestly not be just and equitable to do so;

(ii) in the case of a sub-tenancy, the court is satisfied having regard to all the circumstances of the case, including the question whether other accommodation is available for the principal tenant or the sub-tenant, greater hardship would be caused by granting the order than by refusing it;”’.

MR. WU:—Sir, I believe it would be useful to relate, step by step, the consideration which the Unofficial Members of this Council have given to the amendment proposed by the Secretary for Housing and which led me to submit an alternative amendment to clause 5 of the Bill.

Since it was first tabled the Unofficial Members have held many and lengthy meetings to discuss the whole Bill. During the past two weeks our concern has focussed on clause 5.

A week ago we met with the Secretary for Housing, the Attorney General, and the Commissioner for Rating and Valuation. We were shown an amendment proposed by the Government which removed the obligation for the landlord to prove greater hardship and substituted a provision that the court would not make an order only because the landlord requires the premises for occupation by himself or his immediate family but would take into account ‘all the circumstances’ and determine whether an order would then be ‘just and equitable’.

Some Members felt that this was not satisfactory. It did not seem to simplify the situation as the Secretary for Housing had indicated in paragraph 26 of his speech on 16 January 1980. The unqualified phrase, ‘all the circumstances’, opened the door to factors which could be vague and would be less easy for the courts to determine. Although we were assured that the phrase ‘just and equitable’ would have a particular meaning for the courts I must add that even legally qualified Unofficial Members were among those who found it unsatisfactory.

Clause 5 specifies circumstances in which a landlord may regain possession but recognizes that this natural right may have to be limited. Since the limitations cannot be specified in advance, our intentions must be clear to the courts when they come to apply the law in individual cases. Experience shows that we should make every effort to reduce the room for doubt.

This is a particularly important consideration because we are not only looking at this temporary holding legislation but we are looking into the future and to long-term legislation which will establish clearly and fairly the respective fundamental rights of tenants and landlords.

It can be seen therefore that the intention was primarily to clarify the Bill.

Last Wednesday, after hearing our views on the first proposal, the Secretary for Housing and his colleagues said that they would consider the points we had raised.

Meanwhile the amendment which now stands in my name on the Order Paper was drafted to reflect the views which had been generally expressed at that meeting. The effect of this amendment would be to delete the proviso relating to the repossession order and to rely on the severe penalties prescribed under the Bill to deter any landlord who might be tempted to abuse the repossession provision.

On Friday, we received two new drafts of the Government amendment and the second has now been proposed by the Secretary for Housing. We met again for urgent consideration of the amendment but for procedural reasons it was necessary for my amendment to go forward in the meantime.

The Government amendment, in its latest form, goes some way towards meeting our objections. In particular it distinguishes between the cases of a landlord and a principal tenant. We think this is an important distinction.

The difference between the wording of (b)(i) in respect of tenancies and (b)(ii) in respect of sub-tenancies should also serve to emphasize our concern that even as holding legislation, the wording should convey the intentions of legislature as unmistakably as possible.

I must add that several of my Unofficial Colleagues have urged me to press my amendment and have told me that they would support it. However, I have concluded that the Secretary for Housing's amendment comes close enough to my view, to persuade me that we should not now oppose it: our energies will be better directed to a long-term answer rather than to further refinement of this makeshift measure. Accordingly, Sir, I ask leave to withdraw my amendment.

Nevertheless, I hope that this account of our deliberations indicates the deep concern which Unofficial Members have felt over this legislation and the efforts which have been made to ensure that it meets our present need

but does not frustrate our search for a solution which will be intrinsically just and equitable.

The amendment was agreed to.

Clause 5, as amended, was agreed to.

Clauses 6 to 18 were agreed to.

PUBLIC HEALTH AND URBAN SERVICES (AMENDMENT) BILL 1980

Clauses 1 and 2 were agreed to.

Clause 3

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

Proposed amendment

Clause 3

That clause 3 be amended in proposed new section 104B by inserting after subsection (2) the following—

‘(3) A person prosecuted for an offence under this section shall not be convicted of that offence unless prior to the commencement of the prosecution the Authority served on him a notice in writing informing him of the condition of the bill or poster and warning him that unless the bill or poster is removed within the period specified in the notice (being not less than 24 hours) he may be liable to be prosecuted.’.

The amendment was agreed to.

Clause 3, as amended, was agreed to.

Clauses 4 to 6 were agreed to.

WASTE DISPOSAL BILL 1979

Clause 1

SECRETARY FOR THE ENVIRONMENT:—Sir, I move that clause 1 be amended as set out in the paper circulated to Members.

*Proposed amendment***Clause 1**

That clause 1(1) be amended by deleting '1979' and substituting the following—
'1980'.

The amendment was agreed to.

Clause 1, as amended, was agreed to.

Clause 2 was agreed to.

Clause 3

SECRETARY FOR THE ENVIRONMENT:—Sir, I move that clause 3 be deleted.

The deletion was agreed to.

Clause 4

SECRETARY FOR THE ENVIRONMENT:—Sir, I move that clause 4 be amended as set out in the paper circulated to Members.

*Proposed amendment***Clause 4**

That clause 4(1) be amended by deleting 'Waste Management Advisory Committee'
and substituting the following—
'Environmental Protection Advisory Committee'.

The amendment was agreed to.

Clause 4, as amended, was agreed to.

Clauses 5 to 21 were agreed to.

Clause 22

SECRETARY FOR THE ENVIRONMENT:—Sir, I move that clause 22 be amended as set out in the paper circulated to Members.

*Proposed amendment***Clause 22**

That clause 22 be amended—

(a) by deleting subclause (1) and substituting the following—

‘(1) A person who wishes to apply for a waste collection licence shall apply to the collection authority in the prescribed form.

(1A) A person who wishes to apply for a waste disposal licence shall apply to the waste disposal authority in the prescribed form.’;

(b) in subclause (2) by deleting ‘subsection (1)’ and substituting the following—

‘subsection (1) or (1A)’.

The amendment was agreed to.

Clause 22, as amended, was agreed to.

Clauses 23 to 28 were agreed to.

Clause 29

SECRETARY FOR THE ENVIRONMENT:—Sir, I move that clause 29 be amended as set out in the paper circulated to Members.

*Proposed amendment***Clause 29**

That clause 29(3) be amended by deleting ‘parties’ in both places where it occurs and substituting in each place the following—

‘other party’.

The amendment was agreed to.

Clause 29, as amended, was agreed to.

Clauses 30 to 35 were agreed to.

Clause 36

SECRETARY FOR THE ENVIRONMENT:—Sir, I move that clause 36 be amended as set out in the paper circulated to Members.

*Proposed amendment***Clause 36**

That clause 36(1) be amended by deleting ‘Waste Management Advisory Committee’ and substituting the following—

‘Environmental Protection Advisory Committee’.

The amendment was agreed to.

Clause 36, as amended, was agreed to.

Clauses 37 to 39 were agreed to.

Schedule was agreed to.

Council then resumed.

Third reading of bills

THE ATTORNEY GENERAL reported that the

BANKING (AMENDMENT) BILL AND

SUMMARY OFFENCES (AMENDMENT) BILL

had passed through Committee without amendment and that the

LANDLORD AND TENANT (CONSOLIDATION) (AMENDMENT) BILL

PUBLIC HEALTH AND URBAN SERVICES (AMENDMENT) BILL

WASTE DISPOSAL BILL

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

Question put on each Bill and agreed to.

Bills read the third time and passed.

UNOFFICIAL MEMBER'S BILL

Second reading of bill

**THE HONG KONG ANTI-TUBERCULOSIS AND THORACIC
DISEASES ASSOCIATION INCORPORATION (AMENDMENT) BILL 1980**

Resumption of debate on second reading (30 January 1980)

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

Council went into Committee.

**THE HONG KONG ANTI-TUBERCULOSIS AND THORACIC
DISEASES ASSOCIATION INCORPORATION (AMENDMENT) BILL 1980**

Clauses 1 to 7 were agreed to.

Council then resumed.

Third reading of bill

MR. WU reported that the Hong Kong Anti-Tuberculosis and Thoracic Diseases Association Incorporation (Amendment) Bill 1980 had passed through Committee without amendment, and he moved that this Bill be read the third time.

Question put on the Bill and agreed to.

Bill read the third time and passed.

Adjournment and next sitting

HIS EXCELLENCY THE PRESIDENT:—Before I adjourn the Council may I wish all Members a very happy, healthy and wealthy Year of the Monkey. In accordance with Standing Orders I now adjourn the Council until 2.30 p.m. on Wednesday the 27 February.

Adjourned accordingly at eight minutes past five o'clock.